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22 August 2017

Attention: Wellington Natural Resources Plan Hearings Panel

**Hearing Stream Three: First Gas Response to s42 Reports
Submitter Reference S145**

This letter is provided on behalf of First Gas Ltd in response to the Wellington Regional Council 'Natural form and function' (dated 7 August 2017) and 'Water allocation' (dated 4 August 2017) s42A reports. First Gas would appreciate the contents of this letter being considered as part of the Panel's decision-making deliberations on Hearings Stream 3.

Water Allocation

In relation to proposed definitions for 'dewatering,' 'geotechnical investigation bore' and proposed Rule R142, First Gas support the recommendations made in the s42a report to generally accept the submission points made by First Gas, and retain the respective definitions and rule.

Bore Definition

The original submission lodged by First Gas (formerly Vector Gas Ltd) supported the definition of 'bore' but for clarity sought a note be included under the definition advising that 'geotechnical investigation bore' has its own definition. The s42A report recommends this submission point be rejected and instead makes a recommendation to either:

- a) amend Rule R146 to refer to part (a) of the definition of bore and delete the definition of geotechnical investigation bore; or
- b) not change the definition, as geotechnical investigation bores are only referred to in Rules R146 and Rule R147 and it is clear they have a separate definition to 'bore'

First Gas submit that retaining a definition which distinguishes the differences between 'bore' and 'geotechnical investigation bore' is important for applicant certainty and correct interpretation.

Rules R146, R147 and R148 - Bore Construction Or Alteration rules

First Gas lodged a submission on the Bore Construction Or Alteration rules R146, R147 and R148 and sought that for each rule, the following change was made; "The use of land and the associated diversion and discharge of water..".

Council has rejected the submission on these matters as they are primarily land use based activities. First Gas acknowledge that this reflects conclusions reached in the Hearing Stream two s42A report relating to Soil Conservation. First Gas sought this change, and are still of a mind, that the rules should be amended to provide certainty for applicants and because the proposed rules provide an enabling framework.

Rule R140: Dewatering – permitted activity

First Gas lodged a submission supporting the intent of Rule R140 to the extent that it enables dewatering as a permitted activity subject to conditions. However, First Gas raised concerns with sub-clause (d) to the extent that dewatering by its nature depletes water (e.g. groundwater resources), meaning that the standard cannot be complied with. Noting that surface waterbodies would likely be ‘dewatered’ via diversions to enable construction works, the submission sought an amendment to reflect the issue raised with dewatering groundwater resources.

The s42a report recommends that permitted activity condition (d) be amended from water takes that not deplete water in a water body to *any* depletion effects on a *surface* water body. First Gas considers this recommended amendment would significantly change the intent of permitted activity condition.

First Gas submit that the rule should be amended as submitted, rather than to result in no permitted dewatering within any waterbody.

Rule R140: Dewatering – permitted activity

The take of water and the associated diversion and discharge of that water for the purpose of **dewatering** a site, including but not limited to, maintenance, excavation, construction or geotechnical testing, is a permitted activity, provided the following conditions are met:

- (a) the take continues only for the time required to carry out the work but does not exceed one month, and
- (b) the take and diversion and discharge is not from, onto or into **contaminated land** or potentially contaminated land, and
- (c) the take does not cause ground subsidence, and
- (d) the take does not permanently deplete water in a **water body**, and
- (e) there is no flooding beyond the boundary of the **property**.

Note

Discharges to water, or onto or into land where it may enter water related to **dewatering** are provided for by Rule R42.

Policy P126: Site Dewatering

First Gas lodged a submission supporting the intent of this policy in the knowledge that it works in areas with high water tables (i.e. the Kapiti Coast). However, as the policy introduces what is in-effect a continual requirement to minimise effects, First Gas submitted that where effects have been avoided, remedied or mitigated to the extent they are acceptable, then there should be no on-going requirement to minimise effects.

As outlined in the s42A report, ‘Policy P126 requires that the effects associated with dewatering are ‘minimised’. Policy P4 guides policies in the proposed Plan that require minimisation of effects, stating that minimise means ‘reducing adverse effects of the activity to the smallest amount practicable’ and providing a

set of criteria to be applied, such as considering alternative locations and methods, avoiding significant sites, and requiring the use of good management practices.’

In terms of the revised wording for P126 provided in the s42a report, we note that the PNRP does not contain a definition for ‘structures’. Due to the potentially serious effect of dewatering in proximity to gas pipelines, we seek to ensure that pipelines are excluded from any definition of structure.

In Hearing Stream One, First Gas submitted on Policy 4 and the minimisation of effects. Policy 4 has been the subject of expert conferencing in terms of its meaning and applicability across the Plan. The Policy 4 conferencing statement concluded that the definition of meaning of ‘minimise’ is ‘reducing the adverse effects to the smallest amount reasonably practicable’. Based on the key relationship between Policies P4 and P126, and the preceding evidence regarding the word ‘minimise’, First Gas refer to the earlier feedback and definition from the conferencing statement.

Policy P126: Site dewatering

Localised land subsidence that ~~affects structures shall be avoided and any more than minor adverse effects of dewatering on existing groundwater users or the lows, levels or quality of surface water shall be minimised~~ the following shall be avoided, remedied or mitigated:

- (a) the ecosystem functioning of connected water bodies, and
- (b) the reliability of supply for existing surface and ground water users, and
- (c) the quality of surface or groundwater, and
- (d) the contamination of land and water.

Note

Structures excludes pipelines for the distribution or transmission of natural or manufactured gas or petroleum

Natural Form and Function

Objective O19

Objective O19 states “*The interference from use and development on natural processes is minimised.*” First Gas lodged a submission which stated it considers the objective is not consistent with effects based planning and that the objective should be deleted. Interference, such as dewatering for example, may be deemed to be interfering with natural processes, but it could be environmentally acceptable from an effects perspective.

The s42a report recommends to reject the submission point and reworded O19 to state the intended outcome sought in terms of ensuring natural elements, patterns and ecological processes continue to occur, and the integrity and functioning of natural processes and forms are retained. First Gas support the revised O19 as below.

Objective 19

Natural processes, is minimised including natural elements, patterns and ecological processes continue to occur, and the integrity and functioning of natural processes and forms are retained

Policy 25 Natural Character

First Gas lodged a generally supportive submission on policy P25 in that overall, it seeks to avoid, remedy or mitigate adverse effects on natural character in the coastal marine area and the beds of lakes and rivers. First Gas submitted that the policy should be simplified, and reworded to apply an effects-based approach (as opposed to the bottom-line approach) and should acknowledge that some development and use may be appropriate. First Gas generally supported the intent of proposed Policy 25(d), but considered its focus should be amended.

The s42 report recommends that First Gas' submission point be rejected ((iii) *Whether the use and development is regionally significant infrastructure*) on the basis that this is duplication of other policies and are already provided for. The s42 a report states that 'use and development' already encompasses 'Regionally significant infrastructure' and that not all regionally significant infrastructure has a functional need to locate in the CMA or the beds of lakes and rivers.

First Gas remains of the opinion that specifically providing for regionally significant infrastructure is important to provide an applicant certainty and to recognise the benefits delivered by that infrastructure. Some First Gas infrastructure does need to locate in the CMA or the beds of lakes and rivers.

Policy 26 The integrity and functioning of natural processes

First Gas lodged a submission to the extent that Policy P26 is not consistent with effects based planning. Development may interfere with natural processes, but may be acceptable from an effects perspective.

The s42a report recommends rejecting First Gas' submission point, and, in summary, stated that whilst 'it is important for the plan to state what 'minimise' means, proposed Policy P4 sets out how 'minimise' will be applied. As set out above, in the context of the regional planning provisions that specifically use the term, 'minimise' means reducing adverse effects of the activity to the smallest amount practicable. Proposed Policy P4 underpins proposed Policy P26 by identifying the matters to be considered to achieve that outcome.'

As above, in Hearing Stream One, First Gas submitted on Policy 4 and the minimisation of effects. Based on the key relationship between Policies P4 and P26, and the preceding evidence regarding the word 'minimise', First Gas refer to the earlier feedback.

If the hearing panel would like any clarification of the above, please contact the undersigned.

Yours sincerely,



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on behalf of

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