

6 November 2019

Committee Secretariat
Environment Committee
Parliament Buildings
WELLINGTON

Sent via email: en@parliament.govt.nz

Dear Vicky

Resource Management Amendment Bill

First Gas Group Limited welcomes the opportunity to comment on the “*Resource Management Amendment Bill*”, released in September 2019.

First Gas Ltd (Firstgas) owns a Gas Transmission and Gas Distribution network that is both regionally and nationally significant under the Resource Management Act 1991 (RMA). It is important the Gas Network, as a critical utility service, is recognised and provided for when proposing changes to RMA and the Resource Legislation Amendment Act (RLAA) 2017.

About Firstgas Limited

Firstgas Limited (“Firstgas”) owns and operates more than 2,500 kilometres of high-pressure gas transmission pipelines and other supporting above and below ground infrastructure that supply natural gas from Taranaki to residential, commercial and industrial consumers throughout the North Island. In addition, Firstgas also operates more than 4,800 kilometres of gas distribution networks. Through these distribution networks, Firstgas provides gas distribution services to gas retailers who sell gas to more than 60,000 customers across Northland, Waikato, the Central Plateau, Bay of Plenty, Gisborne and Kapiti regions.

The collective infrastructure required to supply gas is referred to as the “Gas Network” in our submission. Firstgas’ assets and operations deliver significant benefits to New Zealand. The transmission and distribution of natural gas provides for economic growth, enables communities, business and industry to function, and provides for people’s social well-being and their health and safety.

The Firstgas Group also owns energy infrastructure assets across New Zealand through our affiliate Gas Services NZ Limited (GSNZ). GSNZ is a separate business with common shareholders that owns the Ahuroa gas storage facility (trading as Flexgas) and Rockgas, an LPG business supplying 100,000 customers throughout New Zealand. These businesses were both added to the First Gas Group in the past 12 months.¹

Our interest in the Resource Management Amendment Bill

Firstgas supports the intent of the Resource Management Amendment Bill to reduce complexity, increase certainty, reinstate public participation opportunities and improve freshwater management and outcomes.

Firstgas purchased the Gas Transmission and Distribution Networks in 2016. Up to that point, former owners and operators had relied on the legal easement to protect and enable works on the network.

¹ For more information on the Firstgas Group, visit www.firstgas.co.nz, www.flexgas.co.nz, and www.rockgas.co.nz.

Reliance on this land instrument, as opposed to planning instruments, has not always secured good outcomes for Firstgas. For example, there have been instances where:

- Rural and urban land has been subdivided without consideration of the pipeline easement and the ability to operate critical infrastructure;
- Legal and / or physical vehicular access to maintain pipeline easements have been compromised through subdivision and land use development;
- Activities that are sensitive to the Gas Transmission Network have been authorised to establish and operate in too close a proximity to the network; and
- Land use changes adjacent to or nearby the easement have resulted in increased threats to the pipeline easements.

The RMA is a key enabler for the safe and reliable operation and protection of the Gas Network. Since purchasing the Gas Network, Firstgas has been active through submissions on Council district and regional plan review processes. The outcomes sought have generally been to:

- Enable the safe operation, maintenance, upgrade, development and/ or removal of its assets and operations; and
- Protect its assets and operations from others' land-use activities, land use changes and development either within or adjacent to the Gas Network easements.

To assist this, Firstgas has worked on consistent protection policy provisions to be sought in council planning processes. We have also worked with other linear infrastructure providers to identify some national level planning guidance for network utilities.

Our submission

We provide the following comments on the main areas of Resource Management Amendment Bill:

1. Removing preclusions on public notification and appeals for subdivision and residential activity resource consents, and restrictions on the scope of appeals

Firstgas is required to ensure the protection and integrity of the Gas Network is maintained to ensure the safety of the public, property and the environment. Pipelines are required to meet the safety and operational requirements of the *Health and Safety in Employment (Pipelines) Regulations 1999* and the operating code *Standard AS2885 Pipelines – Gas and Liquid Petroleum (AS2885)*.

Third party interference is one of the main risks to the safety and integrity of the Gas Network. Urban development, subdivision and land use activities in the vicinity of the Gas Network need to be carried out in a way that does not compromise the safe and efficient operation of the network, including the ability to legally and physically access the Gas Network.

Firstgas therefore pro-actively seeks to manage third party interference through district plans and resource consent processes, in particular for a range of “sensitive” land use activities near the Gas Network and the subdivision of land containing, or in close proximity to, the Gas Network. This being the case, it is critical that resource consent processes also address reverse sensitivity effects.

For these reasons, Firstgas therefore strongly supports the proposal to remove the preclusion on public notification and appeals for subdivision and residential activity. Enabling the opportunity to submit on, and if necessary, appeal consent decisions, provides an important safety net for asset owners and operators if reverse sensitivity impacts are not adequately addressed in district plans. In most situations, early engagement with an asset owner can assist with “designing-in” the asset and Firstgas supports this approach.

2. Reversing the change to the subdivision presumption

The 2017 RMA amendments made all subdivision permitted unless restricted by a rule (or a national environmental standard). Firstgas' concern with this is that it sent a signal that subdivision is appropriate in all places at all times and should be allowed.

The presumption that no consent is required has the potential for adverse effects on the Gas Network to be overlooked, especially where the pipeline and other gas related assets are not designated nor protected by easements.

Firstgas supports reinstating the original subdivision presumption that subdivisions are restricted activities to ensure that subdivision activities require resource consent, thereby enabling an assessment of that application inclusive of any assets within the extent of the proposed subdivision

3. Enabling longer time periods to lodge retrospective resource consents for emergency works

The critical function that the Gas Network provides to peoples' well-being and health and safety is such that emergency works can be required to be undertaken under the RMA. The focus in these situations is on the emergency itself and therefore the proposal to extend the RMA timeframe for applying for a resource consent for emergency works from 20 to 60 working days is supported.

4. Enabling the Environment Court to review councils' resource consent notification decisions

Firstgas generally supports the proposal for any person dissatisfied with a council's notification decision on a resource consent to challenge that decision by seeking a declaration from the Environment Court. Noting that much of its Gas Network is not designated nor illustrated on district plan maps, Firstgas has experienced situations whereby proposed land use activities and subdivisions have, in its opinion, potentially adversely affected the safe operation and maintenance of the Gas Network without being notified as an affected party.

Concluding remarks

Firstgas acknowledges the role that the Resource Management Act 1991 has in the planning system in enabling growth and regulating land use. Firstgas generally supports the intent of the Resource Management Amendment Bill, however it seeks to ensure that the Gas Network is recognised and provided for and is not compromised in terms of the ability for the network to be safely operated, maintained, accessed and upgraded. Firstgas seeks that the Resource Management Amendment Bill provides direction for local authorities to appropriately manage the potential reverse sensitivity effects of development on the network.

Firstgas welcomes further discussion around the Resource Management Amendment Bill in relation to the management of the Gas Network. To discuss this submission further or arrange a meeting with Firstgas, please contact Anthony Joines, Firstgas Land and Planning Manager, on 027 606 5633 or email: anthony.joines@firstgas.co.nz.

Yours sincerely



Karen Collins
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