

IN THE ENVIRONMENT COURT  
AT AUCKLAND

I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU

Decision [2025] NZEnvC 173

IN THE MATTER OF

an appeal under clause 14 of the First  
Schedule to the Resource Management  
Act 1991

BETWEEN

FIRST GAS LIMITED

(ENV-2022-AKL-000067)

Appellant

AND

WAIKATO DISTRICT COUNCIL

Respondent

AND

PERRY GROUP LIMITED

FEDERATED FARMERS OF NEW  
ZEALAND LIMITED

HAVELOCK VILLAGE LIMITED

Section 274 Parties

Court: Environment Judge S M Tepania sitting alone under s 279 of the  
Act

Last case event: 30 April 2025

Date of Decision: 29 May 2025

Date of Issue: 29 May 2025

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**CORRIGENDUM**

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**Introduction**

[1] This is an appeal by First Gas Limited (**First Gas**) against decisions of the Waikato District Council on the proposed Waikato District Plan (**PDP**). First Gas'

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appeal sought the inclusion of additional rules to establish setbacks for sensitive activities from the gas network and the inclusion of matters of discretion for each proposed new setback.

[2] On 3 July 2023, the Court issued a consent order granting the relief sought by the parties in their joint memorandum dated 25 May 2023. The Order amended Standards in the GIZ, HIZ, GRUZ and RLZ chapters in the PDP and amended the planning maps to show the Gas network setback.<sup>1</sup>

### **Correction sought to the Order**

[3] On 30 April 2025, the Council filed a memorandum of counsel advising that the Standards do not accurately reflect the agreement between the parties. The six-metre Gas network setback required by the Standards appear to apply in addition to the six-metre Gas network setback identified on the planning maps. This results in an unintended doubling of the setbacks to create a 12-metre Gas network setback.

[4] The memorandum is supported by the affidavit of Melissa Leanne Pearson,<sup>2</sup> the consultant planner managing the appeal. The affidavit sets out the background to the appeal, the agreement reached, and the effect of the erroneous provisions in detail.

[5] The Council requests that the Standards amended by the Order be corrected to reflect the agreement reached by the parties and confirms that all parties support the proposed correction to the Standards.

### **Correction**

[6] In accordance with s 278 of the Act and Rule 11.10 of the District Court Rules 2014, the Court has the power to correct errors including accidental slips or omissions.

[7] Rule 11.10 is set out as follows:

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<sup>1</sup> [2023] NZEnvC 137.

<sup>2</sup> Sworn 15 April 2025.

**11.10 Correction of accidental slip or omission**

- (1) A judgment or order may be corrected by the court or the Registrar who made it, if it —
- (a) contains a clerical mistake or an error arising from an accidental slip or omission, whether or not made by an officer of the court; or
  - (b) is drawn up so that it does not express what was decided and intended.
- (2) The correction may be made by the court or the Registrar, as the case may be, —
- (a) on its or his or her own initiative; or
  - (b) on an interlocutory application.

[8] I am satisfied that making the correction sought is appropriate in accordance with Rule 11.10. The version of the Standards attached to the Order does not reflect the agreement reached by the parties, the correction is therefore necessary.

[9] Accordingly, a corrected version of the Standards is attached.



**S M Tepania**

**Environment Judge | Kaiwhakawā o te Kōti Taiao**



## Appendix A – Proposed minor corrections to GIZ-S8, HIZ-S10, RLZ-S11 and GRUZ-S13

Amendments are shown in red underline and ~~strikethrough~~.

### New standard: GIZ-S8

<b>GIZ-S8</b>	<b>Building setback - sensitive land use</b>
<p><b>(1) Activity status: PER</b>  <b>Where:</b>            (a) Any new building or alteration to an existing building for a sensitive land use must be <u>located outside of set-back-a minimum of 6m from</u> the Gas network setback shown on the planning maps.</p>	<p><b>(2) Activity status where compliance not achieved: RDIS</b>  <b>Council's discretion is restricted to the following matters:</b>            (a) The safe, effective, and efficient operation, maintenance and upgrade of the gas network.</p>

### New standard: HIZ-S10

<b>HIZ-S10</b>	<b>Building setback - sensitive land use</b>
<p><b>(1) Activity status: PER</b>  <b>Where:</b>            (a) Any new building or alteration to an existing building for a sensitive land use must be <u>located outside of set-back-a minimum of 6m from</u> the Gas network setback shown on the planning maps.</p>	<p><b>(2) Activity status where compliance not achieved: RDIS</b>  <b>Council's discretion is restricted to the following matters:</b>            (a) The safe, effective, and efficient operation, maintenance and upgrade of the gas network.</p>

### Amended standard: RLZ-S11

<b>RLZ-S11</b>	<b>Building setback - sensitive land use</b>
<p><b>(1) Activity status: PER</b>  <b>Where:</b>            (a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:            (i) 15m from a national route or regional arterial boundary;            (ii) 35m from the designated boundary of the Waikato Expressway;</p>	<p><b>(2) Activity status where compliance not achieved: RDIS</b>  <b>Council's discretion is restricted to the following matters:</b>            (a) Road network safety and efficiency;            (b) On-site amenity values;            (c) Odour, dust and noise levels received at            (d) the notional boundary of the building;            (e) Mitigation measures; <del>and</del></p>

<ul style="list-style-type: none"> <li>(iii) 200m from an Aggregate Extraction Area containing a sand resource;</li> <li>(iv) 500m from an Aggregate Extraction Area containing a rock resource;</li> <li>(v) 300m from the boundary of another site containing an intensive farming activity;</li> <li>(vi) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site; <u>and</u></li> <li>(vii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; <u>and</u>.</li> <li><del>(viii) 6m from the Gas network setback shown on the planning maps.</del></li> <li>(b) <u>Any new building or alteration to an existing building for a sensitive land use must be located outside of the Gas network setback shown on the planning maps.</u></li> </ul>	<ul style="list-style-type: none"> <li>(f) Potential for reverse sensitivity effects; <u>and</u>;</li> <li>(g) <u>The safe, effective, and efficient operation, maintenance and upgrade of the gas network.</u></li> </ul>
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#### Amended standard: GRUZ-S13

GRUZ-S13	Building setback - sensitive land use
<p><b>(1) Activity status: PER</b> <b>Where:</b></p> <ul style="list-style-type: none"> <li>(a) Any building for a sensitive land use must be set back a minimum of: <ul style="list-style-type: none"> <li>(i) 5m from the designated boundary of the railway corridor;</li> <li>(ii) 15m from a national route or regional arterial road;</li> <li>(iii) 35m from the designated boundary of the Waikato Expressway;</li> <li>(iv) 200m from an Aggregate Extraction Area or Extractive Resource Area containing a sand resource;</li> <li>(v) 500m from an Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area;</li> </ul> </li> </ul>	<p><b>(2) Activity status where compliance not achieved: RDIS</b> <b>Council's discretion is restricted to the following matters:</b></p> <ul style="list-style-type: none"> <li>(a) Road network safety and efficiency;</li> <li>(b) On-site amenity values;</li> <li>(c) Odour, dust and noise levels received at</li> <li>(d) the notional boundary of the building;</li> <li>(e) Mitigation measures; <u>and</u></li> <li>(f) Potential for reverse sensitivity effects; <u>and</u>;</li> <li>(g) <u>The safe, effective, and efficient operation, maintenance and upgrade of the gas network.</u></li> </ul>

<p>(vi) 100m from a site in the Tamahere Commercial Areas A and B;</p> <p>(vii) 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity;</p> <p>(viii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(ix) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; <u>and</u></p> <p>(x) Not to be located within the Te Uku wind farm setback shown on the planning maps; <u>and</u>.</p> <p><del>(xi) 6m from the Gas network setback shown on the planning maps.</del></p> <p>(b) <u>Any new building or alteration to an existing building for a sensitive land use must be located outside of the Gas network setback shown on the planning maps.</u></p>	
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