

Before the Independent Hearings Panel

Proposed Central Hawke's Bay District Plan

Under the Resource Management Act 1991 (**RMA**)

In the matter of A submission by Fire and Emergency New Zealand on the Proposed Central Hawke's Bay District Plan – Hearing Stream 1 – **The Natural and Coastal Environment**

Statement of evidence of Paul William McGimpsey on behalf of Fire and Emergency New Zealand (submitter 57)

Date: 28 February 2022

Qualifications and experience

- 1 My full name is Paul William McGimpsey. I am a Senior Associate in the planning team at Beca Limited (**'Beca'**). I hold the qualifications of a Bachelor of Science (Physical geography) and a Master of Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.

- 2 I have over 14 years' experience in planning practice, during which time I have undertaken a broad range of both consenting and policy planning work including advice in relation to the preparation of policy documents from a national level through to a local authority level. I have also prepared numerous applications for resource consent and notices of requirement for designations.

- 3 Beca has a longstanding contract with Fire and Emergency New Zealand (**'Fire and Emergency'**) to review and respond to all notified plans, plan changes, resource consents and engineering codes of practice that may impact on Fire and Emergency's properties and operations across New Zealand. I have been involved in the delivery of planning advice under this contract since 2008 and, as such, am familiar with Fire and Emergency's role and responsibilities along with the way in which plans provide for the organisation's particular operational needs.

- 4 I was involved with the preparation of the submission and further submission on the Central Hawke's Bay District Council (**'CHBDC'**) Proposed Central Hawke's Bay District Plan (**'Proposed Plan'**). In preparing my evidence, I have reviewed the following documents to the extent that they relate to the relief sought by Fire and Emergency and refer to them where relevant:
 - Resource Management Act 1991 (**RMA**),
 - Section 42A reports by CHBDC,
 - Central Hawke's Bay District Council Water Supply Bylaw (Part 7, 2021) (**Water Supply Bylaw**),

- Fire and Emergency New Zealand Act 2017 (**FENZ Act**),
- Fire and Emergency's Statement of Intent 2020 – 2024 (**SOI**),¹
- Fire and Emergency's Statement of Performance Expectations 2021-2022 (**SPE**), and
- The New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (**Code of Practice**).

Code of conduct

5 While not an Environment Court hearing, I have read the code of conduct for expert witnesses in the Environment Court Practice Note. I agree to comply with this code of conduct. The evidence in my statement is within my area of expertise, except where I state that I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might also detract from the opinions I express.

Scope of evidence

6 My evidence addresses:

- The statutory roles and responsibilities of Fire and Emergency where relevant in an RMA context and therefore Fire and Emergency's interests in the Proposed Plan,
- Fire and Emergency's submission on the Proposed Plan, and
- The recommendations included in the section 42A Hearing Reports that are relevant to the relief sought in Fire and Emergency's submission.

¹ Prepared under the Crown Entities Act 2004

7 Overall, there is a good level of agreement with the Planning Officer's recommendations and Fire and Emergency's submission. My evidence will focus on those matters that are not yet agreed and/or where further clarification has been sought.

8 I have referred to and used as a basis for my evidence discussions with various Fire and Emergency representatives including Mr Ken Cooper, District Manager and Mr Bob Palmer, Fire Risk Management Officer who will also attend the hearing to answer any questions.

Background and statutory considerations

9 Fire and Emergency was established on 1 July 2017 by the FENZ Act. The FENZ Act, among other matters, created a unified fire services organisation for New Zealand.

10 Fire and Emergency is New Zealand's urban and rural firefighting organisation. The FENZ Act combines urban and rural fire and emergency services into a single, unified fire and emergency services organisation for New Zealand with the mandate to provide a wide range of services for communities – a much broader mandate than in the past. These are set out in Fire and Emergency's principal objectives and delivered through their main and additional functions (refer to sections 11 and 12 of the FENZ Act).

11 With a wider mandate, the volume and range of incidents that Fire and Emergency responds to has grown. Fire and Emergency also faces broad challenges, experiencing rapid changes in weather patterns, demographics, and social trends. Together, this makes the environment Fire and Emergency operates in more complex and puts greater demands on Fire and Emergency as an organisation.

12 Fire and Emergency's interest in the Proposed Plan is underpinned by its principal objectives to reduce the incidence of

unwanted fire and the associated risk to life and property and to protect and preserve life; prevent or limit injury; prevent or limit damage to property and land; and to prevent or limit damage to the environment.

- 13 In the remainder of my evidence, I specifically address the relief sought in Fire and Emergency's submission, in respect of matters covered by Hearing Stream 1: Natural and Coastal Environment.

Fire and Emergency's submission

- 14 In seeking to meet its statutory obligations, Fire and Emergency made a comprehensive submission across various sections of the Proposed Plan in support of, or seeking amendments to, existing provisions, and seeking additional provisions.
- 15 I have reviewed Council's section 42A reports relating to the Coastal Environment and Ecosystems and Indigenous Biodiversity chapters and confirm full support and/or agreement to the changes proposed by Council's section 42A Reporting Officer, in so far as they relate to the Fire and Emergency submission for the following provisions:

15.1 Coastal Environment

- Amendment to CE-O3 (S57.081)
- Amendment to CE-P5 (S57.082)
- Insertion of 'emergency service activities' into LLRZ-O2 (S57.099)
- Retention as of LLRZ-P4, LLRZ-P6 and LLRZ-P9 as proposed (S57.100, S57.101, S57.102)
- Amendment to LLRZ-R6 (S57.108)

- Amendment to LLRZ-S8 to except 'emergency service activities' from limits associated with hours of operation (S57.113)
- Amendment to LLRZ-S10 to ensure screening does not obscure or obstruct emergency or safety-related features (S57.114)
- Retention of LLRZ-S12 as proposed (S57.115)

15.2 Ecosystems and Indigenous Biodiversity

- Amendments to ECO-R1, ECO-R2 and ECO-R3 (S57.060, S57.061, S57.062)
- Retention of ECO-R4 (S57.063)

16 The remaining section 42A report recommendations are either not supported or the Reporting Officer has requested additional information to inform the commissioners decisions. These submissions are set out in detail below.

Provision of firefighting water supply

17 Fire and Emergency's main area of concern is the provision of a water supply and access to this supply which will enable Fire and Emergency to operate effectively and efficiently to save lives and property in the event of a fire. This is best achieved through compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ 4509:2008 (the Code of Practice). The Code of Practice sets out minimum water supply requirements required for firefighting water supply to both reticulated and non-reticulated areas.

18 Where a development is unable to connect to the reticulated network, or the reticulated network has insufficient capacity and/or pressure, an alternative firefighting water source is

required by Fire and Emergency. This could be from a dedicated firefighting water supply tank.

- 19 Fire and Emergency has sought through its submission the insertion of a new LLRZ standard requiring all new developments that will require a water supply to be connected to a public reticulated water supply where one is available, or otherwise demonstrate how an alternative and satisfactory water supply can be provided to each lot.

LLRZ-S15 Servicing

1. All new developments that will require a water supply must be connected to a public reticulated water supply, where one is available.

2. Where the new development will not be connected to a public reticulated water supply, or where an additional level of service is required that exceeds the level of service provided by the reticulated system, the developer must demonstrate how an alternative and satisfactory water supply can be provided to each lot.

Note: The above does not replace regional rules which control the taking and use of groundwater and surface water. These rules must be complied with prior to the activity proceeding.

Further advice and information about how an alternative and satisfactory firefighting water supply can be provided to a development can be obtained from Fire and Emergency New Zealand and the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008.

- 20 Fire and Emergency also sought a new assessment matter to apply to activities unable to comply with the new water supply servicing standard sought above. The proposed new assessment matter as follows.

LLRZ-AM12 Servicing

1. The provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008

- 21 This would provide council discretion as to the extent an activity is able to achieve compliance with the Code of Practice.

- 22 As a consequential amendment, Fire and Emergency also sought that that the activities specified in LLRZ-R1, R3, R4, R5, R6, R7,

R10 be amended to refer to the above new water supply standard and subsequent new assessment matter. I note that the same approach has been taken across all zones in the Proposed Plan.

23 The new standard and assessment matter for servicing sought by Fire and Emergency are intended to ensure that new development will be adequately provided with a firefighting water supply.

24 It is the Reporting Officer's view that:

24.1 *"connection to a public water supply is more a technical matter, best dealt with through building / engineering approval processes than through a rule in the District Plan.*

24.2 *In Central Hawke's Bay, connection to the Council water supply system is covered by the 'Water Supply Bylaw' (2018), and draft bylaw dated May 2021), including connections to Council's supply at Kairakau and Pourerere.*

24.3 *And if seeking to include a 'Servicing' standard, then water supply is only one of the 'Three Waters' services – the proposed 'Servicing' standard does not address provision for wastewater or stormwater services.*

24.4 *Further, a standard in a Plan should be certain, effective, and enforceable. Plan users need to be able to determine if they meet a standard or not, and a standard that requires them to 'demonstrate how an alternative and satisfactory supply can be provided to each lot' introduces a level of discretion when determining whether an activity is permitted or not, and therefore considerable uncertainty.*

24.5 ...the wording is more suited to a subdivision standard, which can be considered through the subdivision consent process”.

25 On this basis, the Reporting Officer has recommended rejecting Fire and Emergency’s submission points S57.103, S57.104, S57.105 S57.106, S57.107, S57.109, S57.110, S57.116 and S57.117. It is noted that S57.117 which relates to the new assessment matter was accepted in part in the S42A Report, however later rejected via a errata memo dated 22 February.

26 I disagree with the above recommendation made by the Reporting Officer. I respond to the Reporting Officer’s comments below.

26.1 While I agree that the connection of a public water supply is a technical matter, it is also a resource management issue. Inadequate provision of firefighting water supply has the potential to cause significant adverse environmental effects in the form of the impact a structural fire could have on people and communities, property and the surrounding environment.

26.2 Section 3 of the RMA clearly contemplates probability and consequence within its definition of “effect”. The effects of fire fall within this definition being, ‘(f) any potential effect of low probability which has a high potential impact’, the potential impact being the loss of property and / or life. Therefore, the provision of firefighting water supply is an appropriate matter to manage through a rule in the district plan as part of a resource consenting regime. A firefighting water supply standard will ensure that any proposed new development can provide sufficient water supply in order to mitigate fire risk.

- 26.3 I note there are other examples of other preventative mitigation measures being included within the Proposed Plan such as: ‘LLRZ-S11 Electricity Safety Distances’ which requires “*Any activity, including the establishment of buildings and structures within the vicinity of overhead electric lines must comply with the New Zealand Electrical Code of Practice for Electrical Safety Distances (NZCEP 34:2001)*”. This, like firefighting water supply, are managing a risk and potential adverse effect under the RMA.
- 26.4 The Reporting Officer noted that connections to the Council water supply system is covered by the ‘Water Supply Bylaw’. My understanding from reviewing the purpose of the Water Supply Bylaw is that it is to manage and regulate against or protect from damage, misuse, or loss of, the land, structures or infrastructure associated with the water supply system, and to prevent the unauthorised use of land, structure or infrastructure associated with the water supply system.
- 26.5 I note also that the Water Supply Bylaw (6.4.1.1) states that “there is no requirement for rural premises to provide onsite water storage for firefighting purposes”. I therefore consider that the bylaw does not address the issue of adequate provision of firefighting water supply for new development.
- 26.6 The Reporting Officer also noted that the proposed ‘Servicing’ standard does not address provision for wastewater or stormwater services. Fire and Emergency’s interest is in the adequate provision of firefighting water supply and therefore wastewater or stormwater services did not form part of Fire and Emergency’s submission. Fire and Emergency would not be opposed to a servicing standard that also covered wastewater and stormwater.

26.7 The Reporting Officer further notes that “a standard in a Plan should be certain, effective, and enforceable” and “plan users need to be able to determine if they meet a standard or not, and a standard that requires them to ‘demonstrate how an alternative and satisfactory supply can be provided to each lot’ introduces a level of discretion when determining whether an activity is permitted or not, and therefore considerable uncertainty”. To address this matter, I have considered an alternate wording that would address the resource management issue, while being clear for plan users as well as being enforceable.

26.8 An alternate wording that would provide certainty could be:

LLRZ-SXX Servicing

1. All new development shall be adequately serviced in terms of water supply (including for firefighting purposes), [wastewater and stormwater].

26.9 A new standard for servicing could also cover wastewater and stormwater (as proposed above) noting, again, that this is not an area of specific concern or interest for Fire and Emergency.

26.10 Associated with a new servicing standard, Fire and Emergency also proposed a new assessment matter being:

LLRZ-AM12 Servicing

1. The provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008

26.11 In my view, the meaning and enforceability of this assessment matter could be improved through a minor change to read:

LLRZ-AM12 Servicing

1. Compliance with the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008

- 26.12 In my view, the standard and assessment matter (amended as I have proposed) would be easily and readily understood by plan users as well as being enforceable.
- 26.13 The Code of Practice provides certainty, is effective and enforceable and in my view, no different to a plan user being required to demonstrate compliance with other New Zealand Standard (i.e. noise standards) of the district plan. The Code of Practice is freely and publicly available, and Fire and Emergency personnel are readily available to assist local government and developers free-of-charge in the interpretation of the Code of Practice and to assist in determining how compliance can be best achieved.
- 26.14 Many district plans across the country refer to the Code of Practice through permitted activity standards / conditions and/or assessment matters. In my experience, applicants typically engage with local Fire and Emergency staff in the development of a proposal to discuss options for providing a firefighting water supply in accordance with the Code of Practice. Demonstrating compliance with the Code of Practice (e.g.as part of a resource consent application) is typically by way of an email from Fire and Emergency staff confirming what is proposed will meet the requirements of the Code of Practice.
- 26.15 Finally, the Reporting Officer notes that the Proposed Plan manages the provision of water supply for subdivision activities and *“the wording is more suited to a subdivision standard”*. Through its submission, Fire and Emergency supports SUB-S5 as it requires all new lots to connect to a public reticulated water supply, or when a public reticulated water supply is not available,

the subdivider must demonstrate how an alternative and satisfactory water supply can be provided to each lot.

26.16 The proposed new LLRZ standard has been drafted to align with SUB-S5 as proposed (for plan consistency), however, is intended to apply to new developments that are not subject to subdivision (i.e. such as the construction of a new residential dwelling or the construction of an industrial building). A new development is at no less risk than a new development that is subject to a subdivision. The provision of an adequate firefighting water supply as part of any development is vital in any circumstance and greatly mitigates this risk.

27 Overall, I consider that the inclusion of this new firefighting water supply standard and associated new assessment matter (with wording amended as suggested earlier in my evidence):

- will more fully give effect to LLRZ-O2 and LLRZ-P4,
- is consistent with the priority given to firefighting water supply in section 14(3) of the RMA,
- better enables Fire and Emergency to achieve its statutory obligations under the FENZ Act, and
- achieves the purpose of the RMA by enabling people and communities to provide for their health, safety and well-being by managing a potential adverse effect of relatively low probability but high consequence.

Height standards – Provision for hose drying towers

28 Fire and Emergency sought the inclusion of a specific exemption from the building height standard (LLRZ-S2) and the height in relation to boundary standard (LLRZ-S3) for hose drying towers

associated with emergency service facilities in order to appropriately provide for the operational requirements of Fire and Emergency. While referred to as 'hose drying towers', they serve several purposes being for hose drying, communications and training purposes on station. The need for hose drying towers is dependent on locational and operational requirements of each station.

29 The Reporting Officer is of the opinion, based on the information provided with the submission, that such an exemption is not warranted and may lead to adverse effects that deserve consideration and should be avoided, remedied, or mitigated.

30 Following further engagement with Ken Cooper, he has advised that, should a new station be required in the district, it is unlikely that they will require the establishment of a hose drying tower. As such, Fire and Emergency does not wish to pursue further the relief sought in its original submission and as such, accept the Reporting Officer's recommendation.

Trimming and removal of indigenous vegetation

31 Fire and Emergency supported ECO-R1 – R4 to the extent that these proposed rules provide for the preventative mitigation of fire risk to property and life through providing for the trimming or clearance of indigenous vegetation within specified areas as a permitted activity. This will enable property owners and occupiers to remove flammable vegetation as required. This is particularly important where property is located outside of a reticulated water network.

32 Fire and Emergency therefore sought a new assessment matter be added to ECO-AM1 and ECO-AM2 in order to enable fire risk reduction benefits to be considered when assessing applications to remove Manuka or Kanuka or trim and clear indigenous vegetation, where this is relevant. For clarity, Fire and Emergency did not seek to remove or reduce the need to obtain resource

consent for these activities. I agree with the Reporting Officer that it is not unreasonable that consent may be required on occasion for trimming and clearance of areas of indigenous vegetation.

33 In considering Fire and Emergency's request for two new assessment matters to be added, the Reporting Officer has noted that it would be helpful if Fire and Emergency could provide evidence at the hearing of the need for this in the Central Hawke's Bay context. Fire and Emergency staff attending the hearing will be able to provide this information.

Date:

28 February 2022



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Paul McGimpsey