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23 August 2022

Attention: Hearing Commissioners

Fire and Emergency New Zealand – Letter to be tabled at Hearing Stream 5: Hazards and Risks, Contaminated Land, Hazardous Substances, Natural Hazards, Earthworks, Mining and Quarrying, and Subdivision - General

Fire and Emergency New Zealand (Fire and Emergency) made a submission on the Proposed Central Hawke’s Bay District Plan (Proposed District Plan). Fire and Emergency has opted not to attend Hearing Stream 5, scheduled to commence 7 September 2022 and requests that, in lieu of attendance, this letter be tabled for the Hearing Commissioners’ consideration.

The section 42A reports for Hearing Stream 5 have been received. Overall, there is a good level of agreement with the reporting officer’s recommendations in relation to Fire and Emergency’s submission. The sections below therefore focus on those matters that are not yet agreed and / or where agreement is met in relation to reporting officer’s recommendations within.

Hazardous substances

Fire and Emergency has sought amendments the ‘Major Hazardous Facilities’ definition. This included the addition of: ‘Any facility deemed a Major Hazardous Facility under the Health and Safety at Work Major Hazardous Facilities Regulations 2016’ and ‘The storage and/or treatment of hazardous waste (including reuse and recycling facilities) or hazardous substances awaiting reuse, recycling or treatment’.

This has been supported by the reporting officer.

Fire and Emergency has also suggested a quantity limit be applied to facilities involving the ‘*manufacturing and associated storage of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints)*’ (definition a.(i)). This was raised by Fire and Emergency who noted that many businesses will have some hazardous substances on site and anyone ‘manufacturing’ and storing hazardous substances such as cosmetics, cleaning products, hand sanitiser and other small business activities may unreasonably require consent as a discretionary activity.

The reporting officer considers that definition a.(i) relates to manufacturing and the associated storage of hazardous substance rather than small amounts of storage for use by a small business and for this reason does not support including a limit on this type of facility.

Similarly, Fire and Emergency sought a quantity limit be applied to ‘the incidental use and storage of hazardous substances in minimal domestic-scale quantities’ (definition b.(i)) to provide clarity to plan users.

The reporting officer notes that as Fire and Emergency has not recommended any particular threshold, that a common-sense approach would apply. In the absence of any evidence to support a threshold for domestic scale activities, the reporting officer does not support including a threshold limit.

Notwithstanding this, Fire and Emergency suggests that the Commissioners consider the implications of not applying a quantity limit to (a. i.) and (b. i.) for greater clarity.

Fire and Emergency also sought that 'Emergency Service Activities' be excluded from the definition of 'Major Hazardous Facility' as, Fire and Emergency sometime temporarily stores quantities of fire retardant and foam product, and stocks of petrol and diesel.

The reporting officer considers that it is unclear whether such use and temporary storage of hazardous substances poses potential for significant off-site risks to the environment. The reporting officer has requested that Fire and Emergency confirm if such use and storage of hazardous substances would fall within the definition of 'Major Hazard Facility' ('lower tier' or 'upper tier') under the MHF Regulations. If 'use and storage of hazardous substances for emergency service activities' is deemed not to be a 'Major Hazard Facility' under the MHF Regulations, then the reporting officer would support excluding this from the definition.

In response to the reporting officer's question, Fire and Emergency's firefighting chemicals do not have the types of hazard classifications that are covered by the WorkSafe MHF regulations, so Fire and Emergency sites would never be an MHF because of them. The only substances that Fire and Emergency have that trigger this is oxygen for medical purposes, and Fire and Emergency facilities would never come close to 200 tonne limit for a lower tier MHF.

In liaising with Fire and Emergency on this, another potential issue was raised which Commissioners may wish to consider. Dr Trudy Geoghegan, National Hazardous Substances Advisor for Fire and Emergency has advised that the term 'Major Hazardous Facility' is already defined in other legislation and has its own regulations and definitions. The Proposed District Plan definition of 'Major Hazardous Facility' is significantly different to how the term is defined under the Health and Safety at Work (Major Hazardous Facility) Regulations 2016.

Noting the reporting officer's question that references upper and lower tier MHF (a concept that comes from the WorkSafe regulations), the Proposed District Plan definition is not structured as upper and lower tier. There is only one MHF in Central Hawke's Bay District (Leichesters Waipukurau). To avoid inconsistency and potential confusion, it is therefore suggested the Proposed District Plan adopt a different term such as 'Hazardous Facility' or similar.

WorkSafe MHF guidance for Territorial Authorities is available at: [Information for territorial authorities | WorkSafe](https://www.worksafe.govt.nz/topic-and-industry/major-hazard-facilities/information-for-territorial-authorities/)¹

Natural Hazards and Climate Change

Fire and Emergency sought amendments to Rule NH-R2 relating to BIC 4 which are structures with special post-disaster functions and include 'Emergency service facilities such as fire stations, police stations, ambulance stations and emergency vehicle garages are listed as Building Importance Category'. As notified, any new building or alteration to an existing building within a natural hazard area (specifically a fault avoidance and flood hazard area) for a BIC 4 category structure is a non-complying activity. Fire and Emergency sought that BIC 4 structures are included as restricted discretionary activities. This would ensure

¹ <https://www.worksafe.govt.nz/topic-and-industry/major-hazard-facilities/information-for-territorial-authorities/>

that Council has the discretion over what BIC 4 structures are deemed acceptable to be located in the fault avoidance and flood hazard area on a case-by-case basis. The matters of discretion covering functional or operational need and the nature and extent of the hazard risks to people or property are considered to appropriately address any actual or potential effects on the environment.

A restricted discretionary activity status has not been supported by the reporting officer who considers that the Proposed District Plan approach is entirely appropriate in indicating that these are not anticipated to be located within identified hazard overlays. Fire and Emergency does not agree with this position but will not pursue this matter any further.

Subdivision

Fire and Emergency supports retaining rules that require all new lots to connect to a public reticulated water supply, or when a public water supply is not available, requiring subdividers to demonstrate how an alternative and satisfactory water supply can be provided to each lot. Fire and Emergency also supports assessment matters which enables Council to consider the provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008.

SUB-S5 Water Supply

Fire and Emergency supports in part Standard SUB-S5 Water Supply, 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. Fire and Emergency also requested the following explanatory note be included with this standard to encourage plan users to engage with Fire and Emergency to determine how best to achieve NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008. This is particularly important for new lots that are unable to connect to the public reticulated water supply or require additional water supply. Fire and Emergency also requested that additional text be added to assist plan users in interpreting Rule SUB-R3 in relation to lots for special purposes which does not require the provision of a water supply, including a firefighting water supply.

The reporting officer considers that an explanatory note to this standard would be helpful to plan users, to encourage them to engage with Fire and Emergency to determine how an alternative and satisfactory firefighting water supply can be provided to each lot. The reporting officer also agreed that it would be helpful to clarify for plan users that, where a water supply is not required for activities on lots created for a special purpose, that they be exempt from having to provide a water supply for firefighting, with minor recommended amendments.

This is supported by Fire and Emergency.

Assessment Matters SUB-AM5 and SUB-AM6

Fire and Emergency supports Assessment Matter SUB-AM5(1), (3) and (4) as it requires Council to consider the location and capacity of the reticulated facilities, the ability for a subdivision to effectively and efficiently meet firefighting requirements and the ability to show how the lot(s) will be serviced by a water supply, and the provisions of the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4409:2008 when compliance cannot be achieved with SUB-S5. Fire and Emergency requested that SUB-AM5 be retained as notified.

Fire and Emergency also supports Assessment Matter SUB-AM6(7) as it requires Council to consider the provisions of the NZ Fire Firefighting Water Supplies Code of Practice SNA PAS 4409:2008 with respect to the width of the legal road, right of way, vehicle access lot or vehicle access leg required for fire appliances to access the lot(s) where compliance is not achieved with Standard SUB-S8.

Central Hawke's Bay District Council (CHBDC) (as submitter) requested that the Engineering Code of Practice currently proposed to be assessment matters in relation to water supply, wastewater disposal, stormwater disposal and property access should be guidance notes or methods, rather than as a mandatory matter for consideration. This is because this document could be amended and potentially require a change to the District Plan, which would have cost and efficiency implications for the Central Hawke's Bay District.

Kainga Ora requested deletion of all references to any design guidelines, engineering codes of practice, or land development standards as de facto rules to be complied with. This was opposed by Fire and Emergency (FS15.007) relating to Assessment Matter SUB-AM6.

The reporting officer has agreed with CHBDC that it is appropriate that references to the Engineering Code of Practice in Assessment Matters SUB-AM5 and SUB-AM6 be deleted, and supports CHBDC's request for the addition of a note to each assessment matter, to advise plan users that the Engineering Code of Practice provides detailed technical standards on the design and construction of water supply, wastewater disposal and stormwater disposal servicing which may provide an acceptable means of compliance.

The reporting officer further agrees with CHBDC that removing the references to the Engineering Code of Practice in the assessment matters would not adversely affect nor materially change the extent to which the Proposed District Plan meets the relevant statutory obligations. Based on this recommendation, the reporting officer considers that it would also be appropriate to delete the references to the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008 in Assessment Matters SUB-AM5(7) and SUB-AM6(6) and to retain reference in Method SUB-M2(2) and SUB-M2(3).

The reporting officer supports Kāinga Ora's (S129.112, S129.113) request to make minor changes to the wording of Assessment Matter SUB-AM5(2) and Assessment Matter SUB-AM6(7) (in addition to deleting the reference to the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008) to provide clarification.

Fire and Emergency recognise the intent of this amendment. However, in removing the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008 the ability for Council to require adequate firefighting water supply and appropriately consider fire risk is greatly reduced. Therefore, Fire and Emergency request that reference to the NZ Fire Service Firefighting Water Supplies Code of Practice SNA PAS 4509:2008 be retained in SUB-AM5 and SUB-AM6.

Alternatively, should the reference be deleted, Fire and Emergency requests that the following Assessment Matters be included in its place to retain the ability for Council to assess the impact on fire risk and emergency service response.

SUB-AM5 Water Supply, Wastewater Disposal, Stormwater Disposal

(4) The extent to which the water supply network can effectively and efficiently provide an adequate water supply for firefighting purposes to the lot(s) to be serviced by a public water supply.

SUB-AM6 Property Access

(7) Whether the width and height clearance of the legal road, right of way, vehicle access lot or vehicle access leg required is sufficient for fire appliances to access the lot(s) and associated structures.

Objective and Policies

Fire and Emergency submitted on a number of objectives and policies within the subdivision chapter. A summary of Fire and Emergency's position on the recommended amendments are set out below.

SUB-O3, SUB-O4, SUB-O5 – support recommended amendments

SUB-P4, SUB-P5, SUB-P6, SUB-P7, SUB-P11 - support recommended amendments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. McGimpsey', written in a cursive style.

Paul McGimpsey

Senior Associate - Planning

on behalf of

Beca Limited