

## **Proposed Waikato District Plan – Outline Summary: Hearing 8A Hazardous Substances**

**To:** The Hearings Panel  
**Date:** 28 January 2020  
**From:** Fire and Emergency New Zealand  
**Our Ref:** 4394933  
**Copy:** Ashley Cornor  
**Subject:** Overview of the Statement of Evidence of Craig Sharman on behalf of Fire and Emergency New Zealand on the Proposed Waikato District Plan – Hearing 8A: Hazardous Substances

### **Summary**

My statement of evidence sets out a summary of planning evidence on behalf of Fire and Emergency New Zealand (Fire and Emergency) in relation to Fire and Emergency’s submission points Sub 378.9, 378.14, 378.81, 378.24, 378.84, 378.92, 378.100, 378.104, 378.110, 378.33, 378.41, 378.48, 378.54, 378.75 and 378.78.

The intent of Fire and Emergency’s submission is to ensure that the objectives, policies and rules of the Proposed Waikato District Plan (Proposed Plan) support Fire and Emergency in meeting its statutory obligations under the Fire and Emergency New Zealand Act 2017 (FENZ Act), Fire and Emergency New Zealand’s Statement of Intent 2017 – 2021 (SOI); and Fire and Emergency’s Statement of Performance Expectations 2019-2020 (SPE).

#### **Submission 378.9 on Policy 10.1.2 ‘Location of new hazardous facilities’**

Fire and Emergency supports in part proposed amendments to Policy 10.1.2 on the basis that residual risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable. However, while Fire and Emergency recognise that “sensitive land use” is defined, Fire and Emergency seek clarity around what a sensitive environment includes, as this is not defined in the District Plan as notified.

As outlined in Fire and Emergency’s submission, fire stations must be strategically located within and throughout communities to maximise their coverage and response times so that they can efficiently and effectively provide for the health and safety of people and communities by being able to respond to emergency call outs in a timely way, thus avoiding or mitigating the potential for adverse effects associated with fire hazard and other emergencies. As such many fire stations are located in residential areas that border residential properties.

As a sensitive land use includes residential activity, and Policy 10.1.2 requires hazardous facilities to be separated from incompatible activities (such as sensitive land use and sensitive environments) this could significantly restrict new fire stations from being sited within an urban environment, as otherwise they will be in conflict with Policy 10.1.2. While fire stations located in the urban environment will generally be able to avoid bulk storage of hazardous substances, there will still be the requirement for general storage of hazardous substances on site. As such, Fire and

Emergency is seeking clarity around what a sensitive environment entails, and how that compares to sensitive land use.

### **Submission 378.14 New Definition for 'Non-Hazardous Gas'**

Fire and Emergency requested the addition of a new definition for the term 'non-hazardous gas' to provide clarity as to whether the volumes proposed in Appendix 5 are the compressed or uncompressed volumes held. The Reporting Officer has relied on expert advice sought from Norbert Schaffoener from Resources Consulting. Mr Schaffoener has indicated that the Hazardous Substances and New Organisms Act 1996 (HSNO Act) does not define "non-hazardous gas". Further, Mr Schaffoener points out that the conditions applicable to determine quantity are clearly set out in Rule (2) of Table 5.1 in Appendix 5 and suggests that in order to assist with clarity of the rule, the entry under non-hazardous gases is amended to 'All non-hazardous gases, compressed or liquified', as overpressure is the hazard to be controlled.

The example cited in the Fire and Emergency submission was that a breathing apparatus (BA) cylinder (9L) at 300 Bar has approximately 2.6m<sup>3</sup> of air in it. The definition is important to Fire and Emergency as it will assist in determining whether the District Plan provides for the storage of a sufficient amount of BA cylinders at a station in a residential area. In response to this example Mr Schaffoener highlighted that even for the most sensitive zones (with the lowest threshold of 200m<sup>3</sup>), over 70 BA units can be stored as a permitted activity, which would include what is stored on up to 10 HAZMAT and other response vehicles. Based on the above advice from Mr Schaffoener, the Reporting Officer concluded that a definition for non-hazardous gas is not necessary, as the quantity threshold table included in Appendix 5 adequately covers non-hazardous gas, and in the case of fire stations and associated fire operations, the amounts required would likely be permitted.

Fire and Emergency agree in part to the Reporting Officer's recommendations however also concur with Mr Schaffoener's suggestion that clarity is required for the entry under non-hazardous gases in Table 5.1 of Appendix 5 and therefore request that the table is amended to read 'All non-hazardous gases, compressed or liquified'.

The Reporting Officer also notes that all existing fire stations would have existing use rights; therefore, any concerns regarding compliance with the District Plan requirement would occur with respect to future fire stations or additional activities to those currently undertaken at existing sites. However, Fire and Emergency do not wish to be reliant on establishing existing use rights at fire stations within the district. Whilst the fire station as a facility will have existing use rights, providing evidence of the amount and type of hazardous substances stored and used at each fire station will be problematic and uncertain.

Fire and Emergency instead is seeking an enhanced level of clarity as to the permitted activity thresholds within the District Plan, as it applies to an emergency response organisation such as Fire and Emergency.

### **Submission 378.81 Appendix 5 – Hazardous Substances**

Fire and Emergency supports in part Appendix 5 as while fire stations and associated firefighting activities involve the use and storage of hazardous substances at quantities that are considered minor, it is possible that the thresholds within Appendix 5 for some zones will trigger the need for consent. This could affect Fire and Emergency's ability to operate as easily and smoothly as needed.

As such, Fire and Emergency requested in their submission that the thresholds within Appendix 5 be amended to more effectively respond to particular characteristics of Fire and Emergency operations and facilities. The details of specifically the points raised are as detailed within the Fire and Emergency submission.

The Reporting Officer requested further information from Fire and Emergency regarding the quantities of hazardous substances stored at fire stations and on HAZMAT vehicles. In response, Fire and Emergency confirmed that citric acid (classes 6.1E, 6.3B, 8.3A) and sodium carbonate (classes 6.1D, 6.3, 6.4A) are stored at some fire stations and approximately 120kg of neutralising agents are stored on HAZMAT vehicles.

In response to Council officer requests for information, Fire and Emergency confirmed that there are a number of other class 8.3A products on site such as laundry detergents, bleach, sanitisers, household cleaning products, specialist cleaning product for equipment and domestic workshop products such as CRC and methylated spirits. The 8.3 classification has a relatively low limit in many zones. As some ordinary consumer chemicals used on site are of the 8.3 classification, this would limit and potentially prevent Fire and Emergency having a HAZMAT vehicle based in the zones with significantly lower limits (such as the Residential, Village and Country Living Zones) as they carry neutralising agents which are eye corrosives.

A greater concern is that some of Fire and Emergency's fire retardants and foams also have this 8.3 classification and this limit could potentially require that Fire and Emergency need a resource consent to hold a small amount of these chemicals on site, as a lower limit would be largely taken up by ordinary consumer products.

Fire and Emergency therefore requests that class 8.3A consumer products be excluded from the quantity limits across the District's zones to remove the potential for consumer products to put fire stations over the maximum thresholds and ensure that Fire and Emergency have the ability to operate as easily and smoothly as needed.

Fire and Emergency seek that Council consider removing the more restrictive thresholds in Appendix 5 for hazardous substances in proximity to waterways where the substance is in solid form.

Fire and Emergency also seek further clarity around Rule 1 of Appendix 5. Fire and Emergency consider that this rule is unclear as to whether the use, storage and disposal of hazardous substance sub-classes listed in this rule are exempt from Table 5.1 of Appendix A and are therefore permitted in any quantity or whether they automatically default to a discretionary activity.

**Submission Points [378.24] [378.84] [378.92] [378.100] [378.104] [378.110] [378.33] [378.41] [378.48] [378.54] [378.75] [378.78] Hazardous Substances Rules – All Zones**

Fire and Emergency oppose the hazardous substances rules across all of the zones of the District Plan. Whilst fire stations and associated firefighting activities involve the use and storage of hazardous substances at quantities that are considered minor, it is possible that the permitted provisions may not provide for Fire and Emergency to operate as required and could therefore affect their ability to operate as effectively as needed. Fire and Emergency have therefore sought to exclude fire stations and associated fire service operations from the majority of zone provisions.

The Reporting Officer has recommended that the zone-specific rules for hazardous substances be amalgamated into one rule to align with the national planning standards. This one rule will apply across all zones of the Waikato District. Fire and Emergency support in part the recommended new Rule 10.3.1 – Hazardous Substances in All Zones, however seek clarification of the permitted activity rule (P1) and how it relates with the interpretation of Rule 1 of Appendix 5 and whether the use, storage and disposal of hazardous substance sub-classes listed in this rule are exempt from Table 5.1 of Appendix A and are therefore permitted in any quantity or whether they automatically default a discretionary activity.

While Fire and Emergency generally appreciate the reasoning for not excluding fire stations and associated fire service operations from the permitted activity provisions, Fire and Emergency

remain concerned about the lack of provision for the temporary use and bulk storage of hazardous substances during emergency events. Fire and Emergency often requires the temporary storage of chemicals necessary for providing an emergency response during an emergency and within a short period after the emergency i.e. there may be a small period of time where Fire and Emergency may need a truck to remove a container which has firefighting chemicals in it. Fire and Emergency may need to wait for several working days after the emergency has finished for a contractor to do that work. Not providing for this could restrict Fire and Emergency's ability to respond to bush or other major events e.g. major wildfires (such as occur in Nelson and the Port Hills of Christchurch) or large acid spills and other HAZMAT events.

Another example of circumstances where large quantities of fire retardant and foam may be used is during events such as the Nelson fires in 2019 where 5,600kg of product was being used per day, and the temporary storage of up to 15 – 30,000kg or L of product was needed to be stored on site. In such events, quantities are unlikely to comply with permitted volumes and therefore resource consent would be required. It is noted that in most cases, storage of large quantities of hazardous substances during temporary emergency events are either stored at airfields, aircraft operations or local stations and are set up to achieve the HSW and HSNO standards and therefore remain regulated.

Given that emergency events (such as the Nelson Fires) are unplanned, it is unrealistic and impracticable to expect Fire and Emergency to apply for resource consent for the temporary use and storage of hazardous substances above the permitted thresholds. Reliance on existing use rights in these sorts of circumstances is also considered too uncertain to be tenable for Fire and Emergency.

The District Plan as notified puts Fire and Emergency in a position where responding to large emergency events could result in a breach of the RMA in order to bring in the necessary products to resolve the issue and prevent harm to people or the environment. Consequently, non-compliance with the District Plan provisions could see Fire and Emergency prosecuted, should the District Plan provisions be enforced during temporary emergency events.

This compromises Fire and Emergency's ability to fulfil its statutory objectives and also community expectations, and amongst other matters, the ability to efficiently and effectively respond to emergencies. Fire and Emergency is seeking a level of assurance that they can continue to operate without the risk of infringing statutory requirements in order to meet their own statutory functions under the FENZ Act.

Fire and Emergency therefore request that the panel consider the exclusion of temporary emergency events associated with fire service operations from the provisions of proposed Rule 10.3.1 P1.

Thank you for your consideration.



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