

17 August 2016

Our Ref: LEX17326

Secretariat  
Government Administration Committee  
Parliament Buildings  
Private Bag 18041  
**WELLINGTON 6160**

Dear Committee Secretariat

**FIRE AND EMERGENCY NEW ZEALAND BILL**

Please find attached the Council's submission on the above Bill.

The Council does not wish to appear before the Select Committee in relation to its submission.

Yours faithfully

  
Judith Cheyne  
**Senior Solicitor**  
**Legal Services Unit**

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**17 August 2016**

**To: Secretariat  
Government Administration Committee  
Parliament House  
Wellington**

**SUBMISSION OF THE CHRISTCHURCH CITY COUNCIL ON THE FIRE AND EMERGENCY NEW ZEALAND BILL**

**Introduction**

- 1) The Christchurch City Council (**the Council**) thanks the Committee for the opportunity to make this submission.
- 2) The Council does not wish to appear in support of its submission.
- 3) The Council supports the Bill and, in particular, appreciates the detailed background work that has been done in the preparation of this Bill, including the early involvement of relevant personnel/Councils who will be affected by this Bill. This has resulted in a very thorough Bill, and the Council only has a few suggested amendments to make in its submission, largely to improve understanding and clarify proposals in the Bill.

**Background**

- 4) The Christchurch City Council has invested heavily in establishing a large workforce of fire-fighters within its staff. The Council has done so in order to effectively manage the significant fire risk profile, in terms of vegetation, in the wider Christchurch area. The Council's position, with regard to its internal response capability, is unique nationally in terms of its scale amongst local authority based Rural Fire Authorities (RFAs).
- 5) The reason Christchurch has a significant fire risk profile is due largely to prevailing weather conditions (long hot summers and exposure to strong north-west winds that lead to extended periods of elevated fire danger) combined with a substantial population base and all its associated activities. The topography of the Port Hills and Banks Peninsula also contribute to significant fire development during periods of elevated fire danger.
- 6) The location of substantial recreation opportunities in areas immediately adjacent to the large urban conurbation put significant pressure on resources responding during fire incidents to ensure the safety of the public. The remoteness of communities on Banks Peninsula and their associated heavy influx of visitors during summer peak periods also creates challenges for the fire services.
- 7) Thirty-five Christchurch City Council staff members are currently involved in some form of rural fire management, ranging from Deputy PRFO and RFO responsibilities through to Incident Management Team members and operational fire-fighters. The Council's rural fire team responds in appliances and smoke-chasers based in Council compounds.
- 8) The existing capability of these staff includes detailed knowledge of land ownership, property boundaries, access and water points, and an appreciation of land management practises in the local communities. The loss of this expertise would not easily be replaced.

## Submissions

### Rural fire knowledge and expertise held by staff (not automatically transferred to FENZ)

- 9) The Council is concerned the Bill does not expressly address the position of many of the Council employees who have a wealth of knowledge and expertise in rural fire activities but are not solely employed to carry out rural fire duties. They are not recognised in the Bill, and do not transition to FENZ as a 'transferred employee'.
- 10) The Council wants the Bill to include provisions that will enable the Council to consider ongoing arrangements for the provision of fire-fighting services so that the wider Christchurch communities do not lose the level of service that they currently receive. This would enable continued utilisation of the substantial investment in fire management skills that Council has made on behalf of local ratepayers.
- 11) Their continued involvement needs to be enabled to maintain existing capability for local response to rural vegetation fires as well as retaining the substantial local knowledge they have, as outlined above. It is important to the Council to have an enabling provision within the legislation so there is a clearly identified process to facilitate continued involvement in the provision of these critical community services. As a significant land manager, it should also enable continued involvement in the protection of these assets while maintaining its primary responsibility for the welfare of the communities that it serves.
- 12) The Council's Principal Rural Fire Officer will transfer to FENZ under the Bill (and possibly a .2 FTE officer, although their role is technically a casual position, not a part-time position, so this is not clear). However, as discussed above, there are other staff who have some rural fire duties within their role (e.g. .2 of their fulltime role) and other staff who have rural fire responsibilities/activities in their job description.
- 13) Under the Bill, it appears that none of these staff will be required to carry out any rural fire functions in future, as a Council staff member, as the Council will not be exercising this function.
- 14) The Council notes that the fact sheets prepared by the Department of Internal Affairs states the following:

*"Local authorities have some staff who perform other unrelated work for the local authority and some fire work. A process will be established to work through arrangements for other staff by agreement."*
- 15) However, there is no clause in Schedule 1 of the Bill that references a process to be used for any arrangements to be made for these staff. Council submits there is a need to retain the fire-fighting capacity and capability of these staff, to assist with significant vegetation fire response.
- 16) This can likely be achieved through a fully cost-recoverable Service Level Agreement or other formal arrangement. However, specific recognition of the ability to do so should be included in the Bill, in the same way as there is for negotiating transfer arrangements re response assets (see subpart 2 of Part 1, Schedule 1, clauses 16-19).

### Access to response assets/transfer provisions

- 17) Subpart 2 of Part 1 of Schedule 1 contains provisions relating to response assets, including facilities. Clause 17 specifically requires those in possession of a response asset that is transferred in accordance with clause 16 to give access to the response asset.

- 18) This could create an issue for this Council, where response assets are housed within facilities within operational work compounds. An example is the 2 primary fire depots within the Bottle Lake and Victoria Park Ranger compounds. It may not be appropriate for Council to vest these facilities in FENZ completely, or provide access without any conditions, as the Council has other primary uses for the respective compounds.
- 19) The Council notes that proposed section 155 of the Bill allows for FENZ to acquire or take and hold land under the Public Works Act 1981. Council staff are also aware from presentations and seminars on the proposed changes that FENZ will look to utilise existing facilities as there is no set-up funding to build new facilities. The purchase of new facilities or acquisition of new or replacement plant becomes a 'business as usual' function once FENZ comes into effect.
- 20) Although the Bill does appear to allow transfer arrangements on terms and conditions, which should allow the Council to retain ownership or use of its compounds (and other similar facilities) as is required by the Council, the Bill should be clarified by including a statement 'to avoid doubt' that this subpart does not prevent Councils from retaining facilities that are also response assets, that the Council uses for non-rural fire purposes.

### **Cost Recovery Process**

- 21) Under the current Fire Service Act 1975, the Council as a RFA can complete a claim against the Rural Fire Fighting Fund for grant assistance to recover costs pertaining to a fire response.
- 22) Section 46C (1) (d) currently specifies that a claim for costs of the fire must be lodged with the NRFA within 3 months of the fire. As such, the Council can reasonably expect to be submitting claims for fire-related costs for any significant fire incidents that occur during the period 1 May-31 July, and these would fall due after the commencement of FENZ. A recent example the Council has is a claim with associated costs in excess of \$20,000 that has been submitted for a fire that occurred on 4th May 2016.
- 23) This issue needs to be addressed as a transitional matter in Schedule 1, but it is not entirely clear that it is.
- 24) The Council needs an assurance that it will still be eligible for grant assistance for fire-fighting costs relating to the period in question after 1 July 2017, provided that it still lies within the previously identified 3 month timeframe from date of fire.
- 25) It would also like assurance that any costs incurred by the Council RFA, in any cost recovery actions against a culpable party or landowner, and are recovered in that action, will be paid to the Council RFA, regardless of the timing of the proceedings/cost recovery.

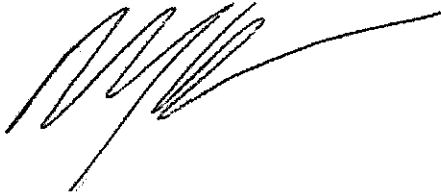
### **Levy**

- 26) The Bill provides that the levy will be charged on all insured property, not just fire insurance, and Council notes that regulations will cover what the basis of this will be, and a discussion document has recently been published that includes seeking answers to questions on the levy proposals. However, the Council would like to make comments on the proposed levy in this submission.
- 27) At the moment Council pays approximately \$530,000 in levies across all its policies. The net cost to Council of its rural fire fighting activity for the 15/16 year was \$466,000 (\$790,579 for this financial year). Any saving to the Council of not carrying out rural fire activities could be outweighed by increased levies, but the impact is unknown at this stage.
- 28) The Bill proposes to retain the exemption for water supply pipe networks on the basis that is a key asset for FENZ to use. The Council supports the continuation of that

exemption, but also submits the exemption should cover reservoirs, as part of the water supply reticulation network, and also the Council's wastewater reticulation network.

- 29) Proposed section 69(c) says the levy should be equitable, so assets such as wastewater treatment plants should be assessed on a 'component' basis. A large part of the value of these assets is for items that are unlikely to require a FENZ response to an event, including underground pipework and oxidation ponds.
- 30) The Council also seeks an exemption for Council's other underground reticulation assets, including stormwater assets. These assets are provided for the public good, and, again are facilities/assets that are unlikely to require a FENZ response to an event.
- 31) If you require clarification of any points raised in this submission, or any additional information, please contact Judith Cheyne (Senior Solicitor, Legal Services Unit, phone 03 941-8649, email: [judith.cheyne@ccc.govt.nz](mailto:judith.cheyne@ccc.govt.nz)) or Alicia Palmer (Head of CDEM & Rural Fire, phone 03 941 8217, email: [alicia.palmer@ccc.govt.nz](mailto:alicia.palmer@ccc.govt.nz))

Yours faithfully

A handwritten signature in black ink, appearing to be 'Mary Richardson', written in a cursive style with a long horizontal stroke extending to the right.

**Mary Richardson**  
**General Manager, Customer & Community**  
**CHRISTCHURCH CITY COUNCIL**