

**Before the Environment Court
At Christchurch
ENV-2018-**

In the matter of an appeal under clause 14(1) of the First Schedule to the
Resource Management Act 1991

And

In the matter of the proposed Second Generation Dunedin City District Plan

Between **Liquigas Limited**
Appellant

And **Dunedin City Council**
Respondent

And **Fire and Emergency New Zealand**
Section 274 Party

Section 274 Notice on behalf of Fire and Emergency New Zealand

Date: 31 January 2019



50-64 Customhouse Quay, Wellington 6011
PO Box 2791, Wellington 6140
DX SP20002, Wellington
Tel +64 4 472 6289
Fax +64 4 472 7429

Solicitor on the record
Contact solicitor

Kerry Anderson
Kate Rogers

kerry.anderson@nz.dlapiper.com
kate.rogers@nz.dlapiper.com

Tel +64 4 474 3255
Tel +64 4 918 3050

To: The Registrar
Environment Court
CHRISTCHURCH

1 **Fire and Emergency New Zealand (FENZ)** wishes to be a party to the following proceedings:

1.1 The appeal by Liquigas Limited (**Liquigas**) against the decision of the Dunedin City Council on the proposed Second Generation Dunedin City District Plan (**Proposed Plan**).

2 The New Zealand Fire Service Commission (**Commission**) made submissions (S945 and FS2323) on the subject matter of the proceedings. The Commission became FENZ under the Fire and Emergency New Zealand Act 2017 (**FENZ Act**) on 1 July 2017. FENZ is the same legal body as the former Commission, which was constituted under section 4 of the Fire Service Act 1975 (FS Act). Accordingly, FENZ is the same submitter.

3 FENZ is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991 (**RMA**).

4 FENZ is directly affected by an effect of the subject of the appeal that:

4.1 adversely affects the environment; and

4.2 does not relate to trade competition or the effects of trade competition.

5 The part of the proceedings FENZ is interested in is:

5.1 All objectives, policies and rules proposed by Liquigas which result in consent being required for the establishment of emergency services, including:

5.1.1 Rule 1.4.1 - Sensitive activities definition.

- 5.1.2 Policy 9.2.2.11 - Manage adverse effects appropriately, including the residual risk associated with the establishment of sensitive uses near sites where hazardous substances are stored.
- 5.1.3 Policy 9.2.2.15 - Avoid the establishment of sensitive activities (including emergency services) in a hazard facility mapped area.
- 5.1.4 Rule 9.3.8 - Any sensitive activity in a hazard facility mapped area to be non-complying.
- 5.1.5 Rule 9.9.1 - Requirement for site management plan, risk assessment and emergency response plan for any non-complying activity under 9.3.8.
- 5.1.6 Rule 18.3.4 - Emergency services to be a non-complying activity within a hazard facility mapped area.
- 5.1.7 Objective 19.2.1; Policy 19.2.1.11, Policy 19.2.2.9, and Objective 19.2.3 - Avoid or minimise reverse sensitivity effects on industrial activities.
- 5.1.8 Any other related provisions.

6 FENZ is interested in the following issues:

- 6.1 The definition of 'sensitive activities' (and the inclusion of 'emergency services' in that definition).
- 6.2 The rule framework relating to emergency services in the proposed hazard facility mapped area overlay.
- 6.3 The strongly worded objectives and policies as they relate to emergency services.

FENZ opposes the relief sought for the following reasons:

- 7.1 The relief sought by Liquigas seeks that any sensitive activity shall be a non-complying activity when located in a hazard facility mapped area overlay. There is an 'avoid' policy in support of that proposed activity classification. This will result in any emergency services facility needing to show minor effects to pass through the section 104D gateway test. That is not the most appropriate framework for vital emergency services facilities.
- 7.2 A sensitive activity is defined to include emergency services, which would include fire stations, resulting in significant restrictions on the establishment of fire stations. The onsite activities are not sensitive in nature and would not typically be affected in terms of reverse sensitivity from other activities. FENZ has a commitment to respond to fire emergencies in a timely manner. This is most effectively achieved through management of fire station locations, which is why FENZ sought to be excluded from the definition of sensitive activities. The proposed restrictions may jeopardise this ability.
- 7.3 FENZ's statutory role includes promotion of fire safety and fire prevention and the response to, and suppression of, fires. The relief sought by Liquigas compromises FENZ's ability to undertake that role in an efficient and effective manner so as to avoid, remedy or mitigate the adverse effects of fire on the environment.
- 7.4 The relief sought by Liquigas is very broad. Liquigas is seeking the insertion of a new 'sensitive activities' definition that states:

The category of activities that are considered to be a "sensitive activity" for the purposes of the national grid setback, new roads or additions or alteration to existing road, natural

hazard provisions, and the hazard facility mapped area.

7.5 It is not clear why the appeal by Liquigas is concerned with the restriction of sensitive activities outside its proposed 'hazard facility mapped area'. The inclusion, for example, of purposes such as the national grid setback and new/altered roads within the definition results in a very wide appeal and may have unintended consequences beyond the relief Liquigas seeks.

7.6 There are more appropriate provisions than those sought by Liquigas which will enable people and communities to provide for their social and economic wellbeing and for their health and safety with regard to fire safety, fire prevention and fire extinction.

8 FENZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.

Date: 31 January 2019



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Kerry M Anderson
Counsel on behalf of Fire and
Emergency New Zealand

This document is filed by Kerry Anderson of DLA Piper New Zealand, solicitor for Fire & Emergency New Zealand.

The address for service on Fire & Emergency New Zealand is at:

DLA Piper New Zealand
Level 5, 50-64 Customhouse Quay
Wellington 6011

Documents for service on Fire & Emergency New Zealand may be:

- left at the above address for service, or
- posted to the solicitor at PO Box 2791, Wellington 6140, or
- transmitted to the solicitor by fax on +64 4 472 7429.

Please direct enquiries to:

Kate Rogers

Tel +64 4 918 3050

Email kate.rogers@nz.dlapiper.com