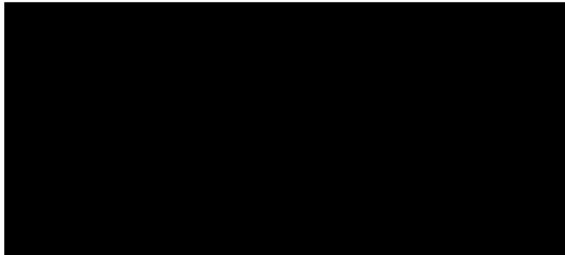




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### Information Request – Development of code of practice for firefighting water supplies

I refer to your official information request of 27 February 2019, in which you asked various questions about the development of a code of practice for firefighting water supplies (**code of practice**) under section 73 of the Fire and Emergency New Zealand Act 2017 (**FENZ Act**).

Answers to each of your questions are set out below.

As general background, section 73 of the FENZ Act operates in tandem with section 72:

- Section 72 empowers the Minister of Internal Affairs to approve a code of practice that is recommended by Fire and Emergency New Zealand. In that regard, the Minister has a discretion rather than a duty.
- Section 73 imposes various duties on Fire and Emergency NZ as to how it goes about developing, consulting on, recommending approval of, and publishing a code of practice. Those duties control *how* a code of practice gets made and approved. However, Fire and Emergency NZ considers that it has discretion as to *whether* it will develop a code of practice, and if so *when* that occurs.

I also note with thanks your comments about the role and interest of the Society of Fire Protection Engineers (**SFPE**) in this area. I understand that SFPE is the New Zealand chapter of the international society with the same name, and also a technical interest group of Engineering New Zealand.

Finally, I record that the current code of practice originally made under the Fire Service Act 1975 – SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice – continues to apply, under Schedule 1, clause 33 of the FENZ Act.

I now turn to your specific questions.

**What is the current status of development of the code of practice?**

Reliable water supplies are critical to Fire and Emergency NZ's fire-related operational activities and we are conscious that requirements around them need to be carefully calibrated, particularly in light of changing environmental conditions and infrastructure resilience issues.

We recognise the importance of this work and that the development of a new code of practice will require the evaluation of a range of risks and issues. It will take time to work through these carefully and thoroughly.

The development of a new code of practice is part of Fire and Emergency NZ's 'Risk Reduction' workstream. It is an enabler of several priorities within our Risk Reduction Strategy. In accordance with that Strategy, Fire and Emergency NZ is striving to lead the development of risk management best practice and to foster a risk reduction culture and capability, as part of the pathway to safer people, communities and environments.

Development of a new code of practice has not commenced at a technical level. Detailed development work will be programmed alongside other aspects of the Risk Reduction workstream, having regard to Fire and Emergency NZ's strategic priorities. The timing of that work will also be influenced by processes in the FENZ Act. In particular, the mandatory requirement to consult with local advisory committees means a new code of practice cannot be formally approved before those committees have been established.

**When will the draft code of practice be available for consultation?**

No timeframe is currently available, save to say that a draft code of practice is unlikely to be available until after local advisory committees have been established.

**Presuming that the code of practice is being developed by a committee, does the committee solely consist of Fire and Emergency NZ staff, or is there a level of diversity/balance in the makeup?**

No decisions have been made about the process that will be used to develop a code of practice, or who it may involve.

At this stage, I can only signal that the process design will ensure – as a minimum – that the requirements of section 73 of the FENZ Act are satisfied. Decisions have not been made about whether and/or when external authorities, organisations, or people may be involved.

**What level of authority will the code of practice have?**

Section 73(7) provides that a code of practice developed under the FENZ Act is a 'disallowable instrument'. Additional information about disallowable instruments can be found on the Parliamentary Counsel Office website at <http://www.pco.govt.nz/other-instruments>. Disallowable instrument status does not of itself mean that compliance with a code of practice is mandatory or that enforcement action can be taken in relation to any breach of it.

**Will Fire and Emergency NZ try and make compliance mandatory, and if so, under what legislation?**

We anticipate that the enforceability (or otherwise) of a new code of practice is a matter that will be considered as part of its development.

As you will be aware, the current code of practice is a New Zealand Standard that is not of itself mandatory, but which is given a degree of force by incorporation into some local authority bylaws, infrastructure guides, and district or regional plans. Whether that occurs is dependent on decisions made by each local authority. While that is the status quo, Fire and Emergency NZ does not at this stage have any view about the approach that will be most appropriate to support a new code of practice: that cannot be evaluated in isolation of the new code of practice itself.

I trust that this response adequately addresses your queries. There will necessarily be public announcements in due course about the establishment of local advisory committees. I expect that information will also be made available to the public about the development of a new code of practice, although it is too early to say when that may happen or exactly what it will involve.

Please note that this response (with your personal details removed) may be published on the Fire and Emergency NZ website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bella Sutherland', with a large, sweeping flourish extending to the right.

Bella Sutherland

Acting Deputy Chief Executive, Office of the Chief Executive