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BY EMAIL

Wattie Watson
National Secretary
NZPFU

Dear Wattie

Response to notification of a dispute

I am writing on behalf of Fire and Emergency NZ in response to your e-mails of 9 August 2019 and 19 August 2019.

To avoid confusion, I will address your e-mails in turn.

9 August 2019 e-mail

1. *At our meeting on 6 August 2019 we requested you clearly outline FENZ's intentions to rank, role and command and any proposed changes to ACL. You have not done that but stated you "will take this feedback on board".*

Following the meeting with Kerry Gregory and Brendan Nally held on 6 August 2019, where they carefully listened to the views of the NZPFU on these topics, Kerry outlined in a letter to you dated 8 August 2019, Fire and Emergency NZ's intentions with regards to rank, role and command and any proposed changes to Authorised Command Levels (ACL). I can advise that the feedback provided by the NZPFU has been taken account in the next draft of the proposal document, and as a result what is proposed has changed. While you have yet to see these changes to the original draft proposal, we intend sharing the updated version with you in advance of the commencement of consultation.

2. *FENZ is yet to provide any evidence-based rationale to support its intention to appoint non-qualified, inexperienced personnel into positions that manage professional career firefighters, or how that approach complies with its statutory principal objectives, functions and operating principles. In contrast, the NZPFU representatives through the Unified Service Delivery group and Tranche 2 group have provided a wealth of evidence that supports the necessary requirements of assessable qualifications and rank in command structures.*

It is not our intent to "appoint non-qualified inexperienced personnel into positions that manage professional career firefighters." Fire and Emergency will always appoint people into management positions who have the required skills, knowledge, experience and qualifications to effectively undertake the position. Our proposal, as it currently stands, will set out that the proposed new positions of District Manager and Group Manager would be ranked positions, requiring individuals to achieve and maintain the required levels of competency to lead fire and emergency response incidents. As is the case now, individuals would only respond to incidents that they are trained and competent to lead.

The proposed transition competency assessment framework that would be implemented to ensure that candidates for the proposed new District and Group Manager roles were trained and competent for the emergency response aspects of their position is detailed below:

Position	Demonstrated Fire and Emergency NZ previous experience	<u>OR</u> equivalent Fire and Emergency NZ experience
District Manager	Demonstrated recent fire and emergency response experience for a period of two consecutive years in a region, district and or/area leadership position. For example, Incident management role at incidents as part of being on the Senior Officer response roster.	Evidence of successfully leading incidents that involved a level of complexity in terms of size, resources, risk or consequence and where: <ul style="list-style-type: none"> • you represented Fire and Emergency and led the engagement with officials, stakeholders, public and media including political engagement • you had significant tactical and strategic response planning accountabilities.
Group Manager	Demonstrated recent fire and emergency response experience for a period of two consecutive years in a region, district and or/area leadership position. For example, Incident management role at incidents as part of being on the Senior Officer response roster.	Evidence of successfully leading incidents that involved a level of complexity in terms of size, resources, risk or consequence and where: <ul style="list-style-type: none"> • you represented Fire and Emergency and led the engagement with officials, stakeholders, public and media including political engagement • you had significant tactical and strategic response planning accountabilities.

It is our intention that these proposed selection criteria and weightings will form part of the proposals for consultation and so we will welcome further feedback from the NZPFU, FECA, UFBA/FRFANZ & RPA, as well as individuals as appropriate.

3. *The current rank, role and command structure ensures that only those appropriately qualified, experienced and skilled have command responsibilities. Your use of the terms such as “appropriate skills and experience” give us no comfort. We assume the absence of any reference to the Authorised Command Level is deliberate and therefore there is no intention to maintain the protections for the community and the firefighters on the incident ground. We also remind you, that the qualifications and experience embedded in the career firefighting ranks and in FENZ’s command system are not restricted to the incident ground. Those requirements are necessary for the appropriate decision-making on operational matters.*

We are not proposing to make any substantive changes to the Interim Command and Control Policy, other than changing the position titles referred to in it. We will continue to ensure we have sufficient experience and capability within fire and emergency response rosters to be able to accommodate all call types.

The absence of reference to the Authorised Command Level (ACL) is deliberate. However, there is no intent to impact the way we maintain protections for the community and firefighters on the incident ground. There is no proposal to change anything about ACLs 1 and 2, and nor are any changes proposed to the rank structures or corresponding visual identifiers that operate for roles up to and including Senior Station Officer within career stations, and up to and including Chief Fire Officer/Controller within volunteer brigades. Any future proposals to change or align rank structures for those positions would be consulted on at the appropriate time in line with unions and associations and in line with any provisions contained within the relevant Collective Employment Agreements.

As you are aware, the ACL Policy for ACLs 3 - 5 has been under development and review, and although agreed by FECA, it was not agreed by the other unions and associations. The development of these proposals provides the opportunity to finalise a new competency assessment framework for proposed new roles.

We agree that the qualifications and experience embedded in the career firefighting ranks and in Fire and Emergency's command system are not restricted to the incident ground and we would expect that career firefighters would perform strongly in any recruitment process for new positions, should the proposal go ahead. The proposed new structure continues to operate on the basis that there will be a range of specialist competencies within all teams to ensure that operational decisions can be made safely and effectively by individuals who are trained and competent to do so.

- 4. The "widening of the mandate" and its implications are overstated. Prior to the establishment of FENZ, the Zealand Fire Service had a statutory responsibility that included rural fire coordination and discharging of responsibilities under the Forest and Rural Fires Act 1977. The NZ Fire Service jurisdiction included areas of vegetation. The primary difference with the establishment of FENZ was the merger of rural fire authorities. There is nothing to suggest the intention of Parliament was to necessitate dismantling of proven safe systems of work that are accepted internationally.*

The NZFS did not have a statutory responsibility that included rural fire coordination and discharging of responsibilities under the Forest and Rural Fires Act 1977. The New Zealand Fire Service Commission had this statutory responsibility in its parallel capacity as the National Rural Fire Authority (NRFA). The NRFA's functions, duties, and powers related to matters that can broadly be described as governance, coordination, funding, and auditing/evaluation, rather than focussed on operational response. Neither did the NZFS jurisdiction include significant areas of vegetation. While the former statutory scheme enabled supportive response activities in both directions across the rural/urban divide, jurisdiction over most of New Zealand's vegetated areas sat with Rural Fire Authorities and Enlarged Rural Fire Districts. Since 1 July 2017, Fire and Emergency has had statutory responsibility for undertaking all of the functions outlined in the Fire and Emergency New Zealand Act 2017 across all of New Zealand. These functions are currently discharged via our dual operational structures, i.e. rural and urban.

There is no intent or proposal to dismantle proven safe systems of work. The aim is to continue to provide and improve consistent and common systems across the organisation to ensure the best service for New Zealand. This applies to both structural and vegetation fires.

- 5. The fact FENZ has "inherited" people with different backgrounds is not grounds to undermine necessary qualifications. Professional career firefighters have the qualifications, skills and experience necessary to safely carry out all of the functions in sections 11 and 12 of the Fire and Emergency New Zealand Act 2017. In contrast those "inherited" people have skills and experience in a portion of those functions; primarily fire control, forestry fire and vegetation fire that was not within the Fire Service response areas.*

The fact that the people who are now part of Fire and Emergency come from different backgrounds is part of the organisation's strength and we will continue to value the qualifications that these people, including career firefighters, bring to Fire and Emergency. As we have stated on multiple occasions, we are not intending to propose any changes to the rank structures that operate up to and including Senior Station Officer within career stations and up to and including Chief Fire Officer/Controller within volunteer brigades.

There are a number of aspects relating to the functions set out within sections 11 and 12 of the Fire and Emergency New Zealand Act 2017 that will require all personnel, regardless of background to expand their knowledge and experience. Examples of this include: s11.2 (a) refers to "... providing guidance on the safe use of fire as a land management tool", which does not currently fall within the required qualifications, skills and experience of career firefighters; s12.3 (b) refers to "responding to maritime incidents", a function which currently cannot be fully undertaken as the organisation does not have the appropriate capability; s12.3 (g) refers to "promoting safe handling, labelling, signage, storage, and transportation of hazardous substances", again a function we do not currently fully undertake. In order to be able to discharge these functions, personnel within Fire and Emergency will need obtain the appropriate skills, knowledge and experience. In summary, the need over time to undertake the expanded set of functions contained within the Act, is one of the key reasons why

the proposed design of new structures and positions is underpinned by teams of individuals working together, who can bring specialist knowledge and skills, rather than all individuals needing to be competent across a broad set of functions.

- 6. It is dangerous to suggest that "inherited" people who do not have the qualifications, skills and underpinning experience are the best suited for management positions that include command and control of all incidents. Current Senior Station Officers have at least 8-10 years of firefighting experience and have completed four promotional programmes and other specialist operational skills. They spend a number of years at that level and accumulate the necessary tacit knowledge before being considered for Assistant Area Manager and Area Manager roles. Any suggestion that personnel that have not met those requirements, and have no experience in managing all types of incidents can be appropriately upskilled and qualified within two years will put the lives of firefighters and the public at greater risk.*

I am not sure who you mean by "inherited people", but it is not our view that people without the necessary qualifications, skills and experience are best suited for management positions that include command and control of all incidents. The proposed selection criteria and required competencies for the proposed new management positions will form part of the proposal for consultation. We will be seeking feedback from affected employees and their unions, as well as other unions and employees, which includes the NZPFU.

Previous experience, training and skills are proposed to be important factors when determining the right people for the right positions. Our proposal will set out that the proposed new positions of District Manager and Group Manager would be ranked positions, requiring individuals to achieve, and maintain through assessment, the required levels of competency to lead fire and emergency response incidents. As is the case now, individuals would only respond to incidents that they are trained and competent to lead and so the lives of firefighters and the public will not be placed at greater risk.

- 7. Your reference to rosters is misleading. The current rosters require the most qualified and experienced personnel to command across all incident types. Current Area Managers and Assistant Area Managers are authorised to command all incidents, that includes vegetation fires. I remind you that professional career firefighters undertake more than 80 percent of all response, including vegetation. The professional career training and qualification framework includes specialist response. They are trained and experienced in vegetation and campaign wildfires but in the recent Nelson fires FENZ chose to restrict the turnout of the professional career firefighters. We agree that there are some personnel who have specific experience such as managing aerial response for wildfires. Those skills currently exist in our professional career, volunteer and rural personnel. The current rank and command systems and structures can provide for designated authorisation for wildfire and campaigns or specialist command.*

It is not proposed to make any changes to the Interim Command and Control Policy, other than changing the position titles. We will continue to ensure we have sufficient experience and capability within fire and emergency response rosters to be able to accommodate all call types

We disagree that professional career firefighters are trained and experienced in campaign wildfires. A small number have rural command qualifications and experience, but this is the exception and not the rule.

We agree that the continued operation of the current Interim Command and Control Policy will provide for designated authorisation for wildfire and campaigns or specialist command.

- 8. Your letter is inconsistent with FENZ's own high level design determined that the rank worn would reflect the firefighters' assessed incident management competency. Any assessed competency framework should have been the first piece of work not the last. FENZ is yet demonstrate any changed incident management competency scheme is achievable or fiscally sustainable.*

We acknowledge that it would be ideal to have the new permanent competency framework in place at the same time as the new organisational structure. When we commenced this work we did not appreciate the level of complexity that would be encountered and this is evidenced by the challenge the USD Working Group have had in making progress despite their best efforts. However, we are comfortable with proposing an interim competency assessment framework as a safe holding position to support progressing the development and implementation of new organisational structures and positions, which we know our people are keen to see implemented. This will enable us to take the time required to co-design the new competency assessment framework with all unions and associations which we believe is achievable. We have no evidence to suggest that this will not be fiscally sustainable.

- 9. We view your statement that FENZ is not proposing any changes to rank at the Senior Station Officer level and below "at this time" as a warning that changes are foreshadowed post the current organisational proposal. Please explain when and what you are proposing to change. We iterate that any change to rank, role and command directly impact on the positions covered in the FENZ and NZPFU collective agreement.*

The reference to "...at this time" was included to set out in good faith that no organisation can rule out changes in the future. However, change in this area is certainly not on the agenda in the foreseeable future. To ensure there is complete clarity, we are not proposing any changes to the rank structures or corresponding visual identifiers that operate up to and including Senior Station Officer within career stations, and up to and including Chief Fire Officer/Controller within volunteer brigades. Any future proposals to change or align rank structures for those positions would be consulted on at the appropriate time in line with unions and associations and in line with any provisions contained within Collective Employment Agreements. You will be aware that potential changes to rank have already formed part of some of our other discussions with the NZPFU, e.g. as part of our discussions on the Auckland issues.

- 10. As your letter has not provided all the information we requested, and we do not agree with the premise you have provided, we request an urgent meeting to discuss these critical matters. As these matters will impact on any organisational proposal, and that the current intention to distribute a proposal to all and sundry is in breach of our contractual consultation rights, we request FENZ provide an undertaking not to release any proposal for consultation. Should we not receive an undertaking sufficient to ensure compliance with contractual obligations we will have no option but to take any necessary action to protect our members' rights and their health and safety.*

The intention of this letter is to respond to the issues raised in your email of 9 August 2019. I would also be very keen to discuss these issues in person with you and this was my intention at the meeting scheduled with Kerry Gregory and myself for 15 August 2019 that you did not attend.

With regards to our approach to consultation, this has changed following the feedback received during the meetings with each of the unions and associations held on 5 and 6 August 2019. Firstly, in order to fully consider the feedback received, we have taken the decision to delay the start date of formal consultation, which will now not commence on 3 September 2019 as originally indicated. We are yet to set another date but are planning to be able to do this very soon. Secondly, we acknowledge the point you have made with regards to consulting directly with the NZPFU and not directly with your members. We will need to work with you about how this will be undertaken practically, however at a minimum it would mean that NZPFU members would be able to view the proposals via the Portal (intranet) but will not have access to ConsiderThis. Your members would be directed to submit any feedback via the NZPFU. We would like to meet with you to discuss this further to ensure we can work through how this will work for you and your members.

It remains our intent to share the proposals with other Fire and Emergency personnel and other unions and associations and seek feedback, at the same time as the proposals are shared with the NZPFU. This is a statutory and contractual requirement as the proposals also could affect and impact these individuals.

18 August 2019 e-mail

11. *"On 29 July 2019 CEO Rhys Jones provided in confidence to the NZPFU a draft "Building Fire and Emergency New Zealand – proposals for our organisational structure and approach to rank - proposals for consultation". In the accompanying email Mr Jones noted "that the section of the document detailing our proposed approach to rank is yet to be updated to reflect the feedback received from members of the USD Working Group over the last week". We have yet to receive any updated document. This timetable included in this proposal demonstrates FENZ' intention to distribute the document "for consultation" widely through its "consider this" electronic tool on 3 September 2019."*

The version of the document shared with NZPFU (and other unions and associations) prior to the meeting of 6 August 2019 was clearly labelled as a draft with the purpose of enabling unions and associations to provide feedback on the initial proposals. We note at the meeting on Tuesday 6 August with Kerry Gregory and Brendan Nally, you explicitly stated that you were not going to discuss or provide feedback on the document at that time.

Since that time, feedback from the USD Working Group has been incorporated into the consultation document along with other feedback gained from the meetings with unions and associations.

Regarding the timetable for the start of consultation, as noted above, we will not be commencing formal consultation on 3 September 2019. It is planned to share the updated proposal document, once it has been signed off by Executive Leadership Team, with the NZPFU and other unions and associations ahead of the start of the consultation period.

12. *In a letter dated 6 August 2019 the NZPFU set out its primary concerns regarding the absence of the protection of the necessary rank, role and command structure that underpins current safe systems of work. At a meeting with national Commander Kerry Gregory and Deputy Chief Executive People Brendan Nally we discussed these matters and Mr Gregory undertook to provide a written response detailing FENZ's intentions regarding rank, role and command.*

In Kerry Gregory's letter dated 8 August 2019, he provided a written response to your letter dated 6 August 2019. His response aimed to address the concerns that you raised in that letter. In addition, I have now provided further information in response to your email of 9 August 2019.

13. *Our letter also detailed FENZ's obligations to consult with the NZPFU and put FENZ on notice that its intentions to distribute the proposal and consult widely with all FENZ employees, contractors, consultants and others would be in breach of our members' rights under the CEA.*

As stated above, we have delayed the commencement of formal consultation following the feedback received at the meetings with unions and associations held on 5 and 6 August 2019.

Also as stated above, we have changed our approach to consultation with NZPFU members and will be consulting directly with the NZPFU and not directly with your members.

We don't accept that there is a statutory or contractual obligation that Fire and Emergency to consult with NZPFU ahead of consulting with other Fire and Emergency personnel and other unions and associations, particularly given that those personnel could be directly affected by proposed changes. It remains our intent to share the proposals with other Fire and Emergency personnel and other unions and associations and seek feedback, at the same time as the proposals are shared with the NZPFU.

14. *In a letter dated 7 August 2019 Kerry Gregory responded in part to our letter of 6 August. This letter did not alleviate our concerns, and for the first time indicated that there was an intention to change rank for Senior Station Officer down albeit not in the current proposal. Mr Gregory did not respond to the issue of consultation.*

For purposes of clarity, I assume that you are referring to Kerry Gregory's letter dated 8 August 2019.

I believe that the reference to “... for the first time indicated that there was an intention to change ranks for Senior Station Officer...” relates to the sentence in the letter that says “I would also like to be clear that we are not proposing any changes to rank at the Senior Station Officer level and below **at this time**”. The reference to “...at this time” was included to make clear that in good faith no organisation can rule out any changes in the future. However, change in this area is certainly not on the agenda in the foreseeable future.

To ensure there is complete clarity, we are not proposing any changes to the rank structures or corresponding visual identifiers that operate up to and including Senior Station Officer within career stations, and up to and including Chief Fire Officer/Controller within volunteer brigades. Any future proposals to change or align rank structures for those positions would be consulted on at the appropriate time in line with unions and associations and in line with any provisions contained within relevant Collective Employment Agreements.

15. *In an email dated 8 August 2019 the NZPFU detailed our concerns and the issues yet to be resolved on the critical issue of rank, role and command. We have not received a response to that email or those matters.*

For the sake of clarity, we assume that you are referring to your e-mail of 9 August 2019.

Please accept my apologies for not responding to this email sooner. As you were aware, Kerry was away on leave from 7-12 August 2019 inclusive. We were also expecting to be able to discuss the issues with you at the meeting with you and Kerry scheduled for 15 August 2019, which you did not attend. The contents of this letter now responds to the points raised.

16. *The “Building Fire and Emergency New Zealand – proposals for our organisational structure and approach to rank - proposals for consultation” included a consultation period of 3-30 September 2019 and that all information regarding the proposal and consultation would be published on the “consider this” online system. The intention is to send an email to each and every FENZ email address with access to the proposal and consultation through the online system. This will be simultaneously provided to NZPFU members, all employees, contractors, volunteers (urban and rural) and in doing so will be simultaneously consulted. This would be in breach of the consultation clause in the CEA.*

With regards to our approach to consultation, this has changed following the feedback received during the meetings with each of the unions and associations held on 5 and 6 August. Firstly, in order to fully consider the feedback received, we have taken the decision to delay the date of formal consultation which will now not commence on 3 September 2019. We are yet to set another date but are planning to be able to do this very soon. Secondly, we acknowledge the point you have made with regards to consulting directly with the NZPFU and not directly with your members. We will need to work with you about how this will be undertaken practically, however at a minimum it would mean that NZPFU members would be able to view the proposals via the Portal (intranet) but will not have access to ConsiderThis. Your members would be directed to submit any feedback via the NZPFU. We would like to meet with you to discuss this further to ensure we can work through how this will work for you and your members.

It remains our intent to share the proposals with other Fire and Emergency personnel and other unions and associations and seek feedback, at the same time as the proposals are shared with the NZPFU. This is a statutory and contractual requirement as the proposals also could affect and impact these individuals.

I hope that the above information provides assurance about our proposals and that we remain committed to ensuring the safety, health and wellbeing of our people and the NZ public. We are genuine in our desire to obtain further feedback from our people and their representatives in order that we can improve our proposals. I would be very keen to discuss any of these issues with you further and would ask that you advise us when you will be available to do this at your earliest convenience.

It is important to keep front of mind that we are about to commence consultation on proposals only. No decisions have been made at this time, and it is important to reiterate that we won't be making decisions

until all interested parties have had the opportunity to provide their feedback and we have taken the time to consider this in good faith. It may be that we decide not to proceed with some or all of the proposals as they have been drafted, or that our proposals are amended as a result of the feedback put forward.

Solution sought

In respect of the solutions you have sought in your e-mail of 19 August 2019, we are prepared to meet with NZPFU to discuss the proposals regarding rank, role and command as set out in the draft proposal document. Further, NZPFU members will have the opportunity to provide feedback on the proposals though the union once the formal consultation process commences. It is important to note that we will also continue to meet our obligations to other unions and Fire and Emergency NZ personnel in respect of consultation.

Yours sincerely



Rhys Jones
Chief Executive