BEFORE THE DUNEDIN CITY COUNCIL

IN THE MATTER OF	the Resource Management Act 1991
AND	
IN THE MATTER OF	Submissions and Further Submissions by the **LPG ASSOCIATION OF NEW ZEALAND** on 2GP Plan Change

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STATEMENT OF EVIDENCE BY PETER GILBERT

19 January 2017

1. INTRODUCTION

1.1 My name is Peter Gilbert. I am the Executive Director of the LPG Association of New Zealand (**"LPG Association**"). My role at the LPG Association is to manage all aspects of running the Association, including monitoring of regulatory regimes affecting LPG operations. I have held this position for 22 years. I hold a qualification in Gas Engineering.

1.2 Prior to becoming the Executive Director of the LPG Association I was the Gas Technical Sales Manager with Hutt Valley Energy Board and prior to that I held various positions with British Gas.

1.3 In my role at the LPG Association I am responsible for collating input on all Regulations having an effect on the LPG Industry and through liaison with the Association Technical Committee produce Industry submissions.

1.4 I prepared the submission on behalf of the LPG Association on Second Generation Dunedin City District Plan (2GP). It is important to note that this evidence is not technical planning evidence and is given in my capacity of an employee of the LPG Association. Ms Hunter will present planning evidence in support of the LPG Association's submission and Mr Ryan will present legal evidence.

Scope of Evidence

1.5 In my evidence I will:

- Provide an overview of the LPG Association responsibilities and duties;
- The management of LPG and approvals required;
- Outline the concerns the LPG Association has with 2GP;
- Outline the LPG Associations experience with other districts throughout New Zealand in dealing with the management of LPG under the RMA.

2. LPG ASSOCIATION OF NEW ZEALAND

2.1 The LPG Association represents all major LPG companies in New Zealand. It was founded in 1977, and in responsible for:

- Setting industry technical and safety standards, and working with members and other stakeholders to promote the safe and efficient use of LPG;

- Working with Government and officials to develop effective and responsible legislative and regulatory environments;
- Producing Codes of Practice and contributing to relevant Standards;
- Ensuring appropriate cylinder filling training is available for industry personnel and producing training materials;
- Support members efforts to promote LPG;
- Gathering statistical information on LPG use in New Zealand;
- Providing a forum for members to share relevant information and keep up with date with developments.

2.2 The LPG Association strives to promote the safe and increased use of LPG throughout New Zealand and works to secure a favourable environment for the production, marketing and distribution of LPG. The Association also serves as the principal voice of the LPG industry to government and the community.

2.3 The LPG Association has been finding that consumers are being adversely affected by the significant variations in District Plan standards promoted between territorial authorities and in the duplication between District Plan standards and those provisions of other statutes as they also relate to the storage and use of LPG.

2.4 Investigations carried out by Good Earth Matters Consulting, on behalf of the LPG Association, revealed that there is significant variation in the permitted activity standards in District Plans for residential areas (ranging from 50kg to 2,000kg) and that there is inconsistency in the interpretation of the relevant statutes, e.g. Hazardous Substances and New Organisms Act ("**HSNO**"), the Resource Management Act ("**RMA**") and District Plans. The inconsistencies and duplication are greatly increasing the complexity and cost for potential users of LPG for space heating, water heating and cooking. When potential consumers discover that a resource consent under the RMA and a location test certificate under HSNO are both required, with their associated time delays and substantial costs, other options such as wood, oil, coal or electricity become more desirable. However, these forms of energy have their own environmental effects, with wood and coal producing particulate emissions, oil burners producing sulphur emissions and increasing loads on electricity networks creating stress on infrastructure. Currently there is no uniform approach to

setting and administering the quantity of LPG that can be stored and used at a residential dwelling or at any premises 'as of right'. This has resulted in vastly different and often ineffective provisions across the country. In response to the above issues, the LPG Association has been seeking to have District Plans provide for realistic and uniform volumes of LPG storage, as a permitted activity, throughout New Zealand. This however has been surprisingly difficult, with some councils still insisting on restrictively low trigger limits for resource consent requirement. The LPG requirements in the existing Dunedin district plan and proposed 2GP plan is a prime example of this for all zones other than residential.

3. MANAGEMENT OF LPG

3.1 As discussed above, the LPG Association is finding that there is significant duplication between District Plan LPG requirements formulated under the RMA and the requirements for location certificates under the HSNO Act. The Association appreciates that territorial authorities have a function under the RMA to control any actual or potential effects of the use, development, or protection of land, including for the purpose of… the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances. However, for LPG it is my opinion that the effects (fire etc) are fully understood and are fully dealt with under HSNO regulations. The HSNO Regulations are the primary control mechanism for hazardous substances.

3.2 Prior to the implementation of the HSNO Act 1996 and associated regulations, LPG installations were largely the domain of the territorial authorities Dangerous Goods Inspectors through enforcement of the Dangerous Goods Act. Since the introduction of the HSNO Act the involvement of territorial authorities in LPG installations ought to have decreased for anything other than bulk, large scale, quantities of LPG.

3.3 There are a number of references in the 42A report and the Chemsafety report that states that that “HSNO provides a minimum starting level, but additional controls may be needed. This is misleading, as the HSNO Regulations are far from being minimum standards for LPG and are in fact a conservative approach based on international best practice. They also very clearly cover all aspects of the potential effects of LPG including the effects on the surrounding land use

and the effects on LPG of the surrounding land use. The evidence presented by the EPA to the Christchurch plan hearings is very clear in this respect.

3.4 LPG is classified as a Class 2.1.1A hazardous substance (i.e. a high hazard flammable gas) under the Hazardous Substances (Classifications) Regulations 2001 The HSNO regulations require that location test certificates be issued for any location using or storing more than 100kg of LPG. The regulations cover all aspects of the effects of LPG, including safety and risk management, through requirements relating to the engineering design of the containers, the separation distances on the site itself and separation distances from the location to other sites. Recent changes to the regulations now mean that LPG suppliers cannot legally deliver LPG to sites that require a location test certificate and do not have one. In effect the LPG supply industry is now part of the compliance regime, ensuring that all installations comply with the HSNO regulations.

3.5 The operations of the LPG Industry have always been tightly regulated, with controls being contained in the Dangerous Goods Regulations, prior to the implementation of the HSNO Act and Regulations. Whilst the DG Regulations made little reference to effects on surrounding areas to LPG storage, the HSNO Regulations clearly identify the effects of LPG (fire and explosion) and deal with the potential effects on surrounding areas through provision of separation distances from areas adjacent to the storage site.

3.6 It is therefore very unclear why the Council would want to continue to impose a resource consent system for all none residential LPG storage over 450kg, when the potential adverse effects are all covered under the HSNO Regulations. What would council planning officers do with an application for LPG storage in excess of 450 kg? On what basis would they impose requirements in excess of the HSNO Regulations. I note that in the summary of the report from Chemsafety they state that “they believe that in some cases for larger facilities and facilities in sensitive areas”, it is important to have council oversite. The imposition of a blanket LPG trigger limit of 450KG across all non-residential areas, can surely not be classed as fulfilling this statement.

3.7 As well as the HSNO Regulations which control the storage of LPG, the Gas Safety and measurement Regulations cover the composition and odorisation of

LPG (including extra requirements for storing unodorised LPG) and the Land Transport Rule: Dangerous Goods 2005 covers the transport of LPG.

3.8 The 42a report refers to the Dunedin planners dealing with an application which wanted to store 50 tonnes of unodorised LPG plus 500.000 litres of aerosols. It states that a full risk assessment was carried out and gas detection and spray cages were incorporated into the conditions of consent. It is important to note that the HSNO Regulations require a spray cage for LPG storage greater than 12,000 litres (approx 6 tonne) and gas detection systems for unodorised LPG storage are required under HSNO and the Gas Safety and Measurement Regulations. Without either of these systems the site could not have been given a location certificate. Also if the site stores more than 50 tonne of LPG it automatically becomes a lower tier Major Hazard Facility and is subject to requirements over and above HSNO.

4. Proposed LPG trigger limits.

4.1 The proposed trigger limit of 450 kg in all non-residential zones, was increased from 180kg in the 2013 plan change, but will still result in a duplication of regulation and expense for a number of potential LPG customers, as well as Industry and Council, with no increase in safety. The cost of a location certificate can start at $300 to $500 for the smaller site to literally thousands of dollars for the larger LPG sites. Adding the cost and complexity of a resource consent, particularly at the low trigger limit of 450kg for all non-residential sites, is an unfair and unjustified imposition on LPG users.

4.2 The imposition of such blanket trigger limits does not comply with the guidance provided by the Quality Planning website. The guidance lists specific instances where additional controls may be necessary. All of these instances are site or area specific and can therefore only be decided upon based on site or area specific requirements. Imposing citywide trigger limits cannot be the correct way to comply with this guidance.

4.3 This duplication of regulation and costs flies in the face of the Government statement on better regulation issued in August 2009. It stated *"We believe that better regulation and less regulation, is essential to assist NZ to become more*

internationally competitive and a more attractive place to live and do business" Imposing unnecessary resource consent requirements is just such a situation which imposes extra regulation and cost, without any increased safety outcomes.

5. LPG ASSOCIATION'S EXPERIENCE IN OTHER DISTRICTS

5.1 The Association believes there is a strong case for Councils not to include LPG in their resource consent system for the reasons mentioned previously, that is - all the adverse effects of LPG are covered by the HSNO Regulations. A number of Councils, including Napier, Hastings, South Taranaki and Christchurch have recently adopted the approach of not including city wide trigger limits for hazardous substances, instead relying on HSNO zoning for type of use, and the use of defined sensitive areas and areas of reverse sensitivity to provide safety for suitable planning oversite.

5.2 The 42a report mentions that the Auckland Unitary Plan and the Hamilton district plan have maintained a similar approach to Dunedin. It is worth noting that the argument not to include hazardous substances in the AUP was not presented by any party including the LPGA, as this preceded the Christchurch decision and the fact that the LPG trigger limits chosen for the AUP, apart from the residential zone, limit are far more reasonable than those proposed for Dunedin. It is also worth mentioning that unfortunately we made no representation at all on the Hamilton plan as the process was missed by the Association. The new Hamilton plan continues to rely on using the Hazardous Facilities Screening Procedure, which has been disowned by the Ministry for the Environment who produced it in the early 90's as overly complex and not well understood even by the councils that use it.

5.3 These examples reinforce that fact that LPG is treated differently by different councils, which has no logic as the effects and hazardous properties of LPG are the same in Auckland Christchurch and Dunedin. It is also worth noting that the approach not to include LPG in district planning considerations until they reach Major Hazard Facility proportions is not an experiment being led by New Zealand. Australian councils do not require resource consents for LPG

installations, instead relying on their hazardous substance regulations until significant quantities of LPG are involved.

P GILBERT
18 January 2016