Insurance Council of New Zealand
P.O. Box 474 Wellington 6140
Level 2, 139 The Terrace
Tel 64 4 472 5230
email icnz@icnz.org.nz
Fax 64 4 473 3011
www.icnz.org.nz

19 April 2017

Fire Services Review
Department of Internal Affairs
PO Box 805
Wellington 6140

Emailed to: FireServicesTransition@dia.govt.nz
Copied to: Steve.Kerr@dia.govt.nz
Toby.Ganley@dia.govt.nz
p.dunne@ministers.govt.nz

RE: proposals for FENZ regulations – transitional levy relief and calculation of levy on insurance covering different property types

Introduction and general comments

1. Thank you for the opportunity to submit. We submit for the Insurance Council of New Zealand ("ICNZ"), which represents 27 general insurers doing business in New Zealand. Our members insure about half a trillion dollars' worth of New Zealand property and liabilities, and are levy collectors for FENZ by way of being levy payers under the new regime.

2. A levy on insurance is the least stable, least universal, least equitable, least predictable and least flexible of the options for funding FENZ. The principles underlying the levy regime in clause 69 of the FENZ Bill are inherently at odds with the detail of the regime itself. We continue to stress the need to replace the levy on insurance with funding from general taxation, which best aligns with those principles. Ironically, on 1 July 2017, when the FENZ Bill begins to take effect, New South Wales will abolish its equivalent insurance levy. New Zealand is falling further behind by funding a first-class emergency service with a third-world funding model.

3. The mere fact that government is consulting for regulations to attempt to make an unfair regime fairer underscores the inequity and complexity of a levy on insurance. The Discussion Document raises irresolvable questions that would not need to be asked if FENZ was funded by general taxation, and does little more than provide an opportunity for policyholders to

argue for a reduction in their levy paying burden in the names of risk, equity, fairness, and reasonableness.

4. As levy payers who act as FENZ' collection agent in this regime, our interest is as stated in our submission of 18 August 2016 on the FENZ Bill – we wish to ensure the clarity, simplicity and ease of administration of the regime. This takes priority over all other principles the regime purports to aspire towards, since government has agreed to a regime that is the most at odds with all of those other principles.

5. We have had the benefit of reading Business NZ's draft submission and agree with it in all respects but one. We say a levy on insurance should only be tailored to reflect risk if it does not detract from the clarity, simplicity and ease of administration of the regime. For example, a granular levy for different types of non-residential property may better reflect the respective risks posed by those types of non-residential property, but would be a nightmare for insurers to administer and create complexity and opportunities for gaming by policyholders not to mention add to the costs of administration.

Transitional relief

6. The following paragraphs outline our views on the transitional relief in the Discussion Document.

7. We agree that a formulaic approach may result in unfairness as outlined in the examples in Appendix B.

8. Government should bear transition costs to the new regime through general taxation, including any difference between the amount a levy payer must pay under the new regime and the degree of any concession such as smoothing. If government does not fund this difference, then transitional relief is merely a cost-shifting exercise between the competing interests of insured policyholders.

9. If transitional relief for larger levy payers proceeds, we believe this will require a regular reset of the FSL rate to ensure the total levy collected matches FENZ requirements. This will in turn require insurers and intermediaries to fund system changes annually to keep pace with the changing levy base for the duration of the transitional period. These additional significant costs will inevitably be passed on to policyholders and will impact the affordability of insurance products for the New Zealand public.

10. We note Cabinet's view from April 2016 that the cost of granting relief for the "unreasonably burdened" larger public and private entities will fall to small-medium businesses. We agree, and in our view this makes an unreasonable burden for small-medium business owners even more unreasonable. Presumably relief to large businesses will be spread thinly over a large population of small-medium businesses such that the marginal increase to individual small-medium businesses from picking up the large business' tab is relatively small. However, we note the risk of underinsurance or non-insurance is higher among the small-medium business

population, whose demand for purchasing insurance is much more susceptible to smaller fluctuations in price. Larger businesses are better placed to absorb greater fluctuations in the cost of insurance, including those caused by additional levies on insurance. In our view, the proposal in the Discussion Document creates a concession for the part of the levy paying population that is most able to bear the increase.

11. Given Cabinet's decision, we are surprised to see one of the consultation options is "no levy relief". The options table on page 15 of the Discussion Document takes a principled approach to weighing up the options, but reaches an unexplained conclusion. Seven principles are listed to weigh up the three options. The "no levy relief" option meets five of the seven principles, and does not meet two of the principles. Option 2 meets one of the seven principles and partially meets six; Option 3 meets two of the seven principles, partially meets four of the seven principles, and does not meet one principle. The principles are not weighted, but based on the table, one would think option 1 (no levy relief) would be the preferred option. That would be contrary to Cabinet's wishes, but would be sound and rational policy advice nonetheless.

12. Finally, comparing levy liability under the new regime with levy liability under the "old regime" is misleading if government's intention is for the old regime to be based on the 2017/2018 levy rates. The levy rates for 2017/2018 are increasing by 40 percent from 2016/2017-2017-2018. Ignoring this increase is, in our view, likely to mislead as to the full extent of the additional burden borne by policyholders. We submit that the comparator year should be the 2016/2017 year, before the new levy rate comes into force on 1 July 2017. The only reason for the rate increase for 2017/2018 under the "old" regime is to fund FENZ' expected costs in the transition to the new regime.

Levy on different property types

13. We stress the need to know the details of the regime as soon as possible so that insurers can begin to gear up for compliance. This includes the need to know what types of property and insurance policy will be exempt.

14. Part 2 of the Discussion Document incorrectly assumes that it is possible to compartmentalise a global sum insured on an insurance policy that covers multiple types of property and multiple risks into neat sums upon which that property can then be levied differently. Many commercial insureds will not take such a compartmentalised approach to risk and risk management through insurance – arbitrary calls may be made – and there is certainly no universal way in which property owners do so.

15. Ultimately, it will be for FENZ to test the declared sum insured value if it is not satisfied with how the policyholder has determined those allocations. From the insurers' perspective as collectors of the levy, we will simply accept the sum insured as declared by the insured, and it must be the insured policyholder who bears the onus of declaring the respective proportions

of amount insured that relate to the exempt and non-exempt property, and residential and non-residential property.

16. Thank you again for your time. If you have any questions please contact our legal counsel Nick Mereu at nick@icnz.org.nz or (04) 495 8008.

Yours sincerely,

Tim Grafton
Chief Executive

Nick Mereu
Legal Counsel