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Committee Secretariat
Environment Committee
Parliament Buildings
Wellington

Emailed to: zerocarbon@parliament.govt.nz

Dear Committee Members,

ICNZ submission on Climate Change Response (Zero Carbon) Amendment Bill

Thank you for the opportunity to submit on the *Climate Change Response (Zero Carbon) Amendment Bill* ('the Bill'), which was introduced to Parliament on the 8th of May 2019.

ICNZ represents general insurers that insure about 95 percent of the New Zealand general insurance market, including about a trillion dollars' worth of New Zealand property and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

We wish to appear before the Committee to speak to our submission.

Please contact Tim Grafton (tim@icnz.org.nz or 04 495 8001) or Andrew Saunders (andrew@icnz.org.nz or 04 914 2224) if you have any questions on our submission or require further information.

This submission is in two parts:

- Overarching comments
- Responses to specific aspects of the Bill

Overarching comments

Adaptation and mitigation focus welcomed

ICNZ welcomes this Bill and the changes and additions it makes to the *Climate Change Response Act 2002* ('the Act').

The Bill creates a framework for mitigation and adaptation over the next several decades and aligns with similar legislation in other jurisdictions such as the United Kingdom (Climate Change Act 2008) and Norway (Climate Change Act 2017). It responds to the commitments New Zealand made in the "Paris Agreement" of 2015 which requires action on both climate change adaptation and mitigation. The agreement is to limit the average rise in global temperatures to well below 2 degrees above pre-industrial (with the aim of limiting the increase to 1.5 degrees). Importantly, the commitment also requires nations to strengthen societies' ability to deal with the impacts of climate change, and to recognise the importance of averting, minimising and addressing loss and damage associated with the adverse effects of climate change.

Climate change is one of the most significant challenges for the world and to New Zealand's economic, social and environmental wellbeing. It requires a long-term systematic, stable pathway to transition to a low carbon economy by reducing greenhouse gas emissions (mitigation).

Equally, as greenhouse gas emissions are cumulative, adverse consequences from climate change are already set, such as sea-level rise or more frequent extreme weather events. The severity of the economic, social and environmental impact will depend on how much the climate changes, but also on society's adaptive capacity and willingness to adapt to change. So, regardless of New Zealand's, and the World's, success in achieving greenhouse gas emissions reductions, which it must do, the country faces significant adaptation challenges. The inevitable adverse impacts of climate change demand a long-term systematic, stable pathway to reduce them via adaptation.

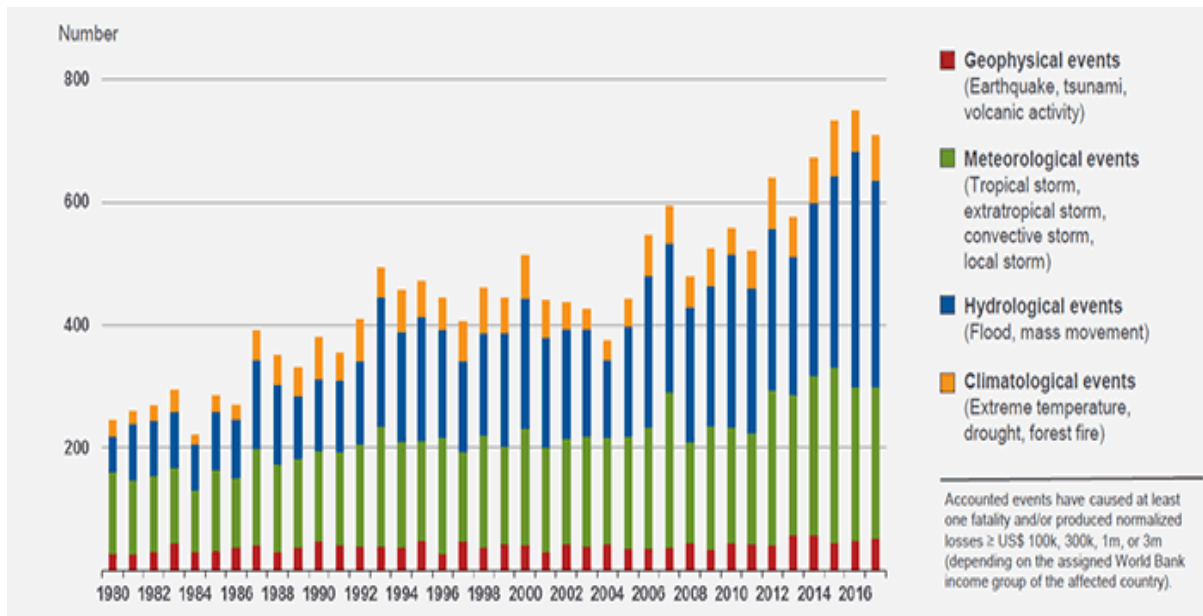
We therefore support this Bill because it acknowledges responding comprehensively to climate change requires joined up action on both climate change mitigation and adaptation. We have been concerned that for a number of years now successive governments have failed to focus on adaptation.

There are greater risks of fragmentation if mitigation and adaptation go down different paths, noting climate change is a national risk issue and much of the decision making around adaptation is made at local government level and implemented through local/regional planning instruments. A joined-up approach to adaptation increases the likelihood that opportunities to maximise co-benefits are taken advantage of, the total costs of climate change are well considered, and a balanced approach is taken to prioritising responses.

Failure to give due weight to adaptation could potentially lead to significant economic loss or disruption, for instance, which in turn could thwart efforts to achieve emissions targets. By the same token, a failure to achieve emissions reductions targets may force the need for more urgent and drastic measures that could potentially adversely impact much needed investment in adaptation. In a sense, adaptation and mitigation are two sides of the same coin.

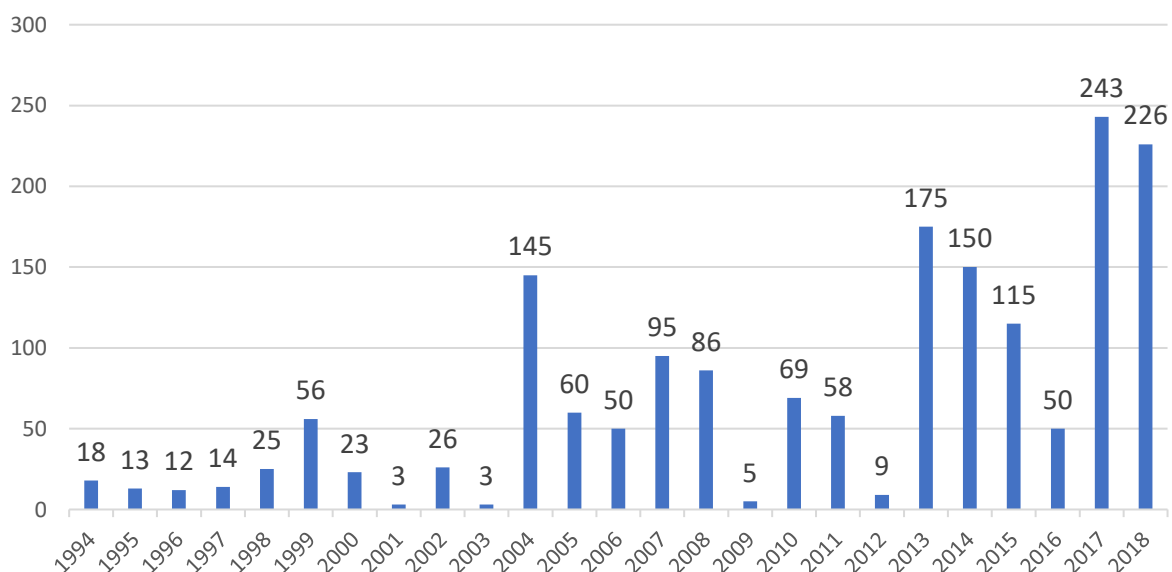
An insurance perspective

The insurance sector has tracked the increasing cost of economic and insured losses arising from extreme weather events for several decades. This chart sourced from the global reinsurer Munich Re shows that globally extreme weather events have tripled in the past 40 years, particularly flood and storms.



The chart below shows that New Zealand is also experiencing more losses from extreme weather events. Insurance losses from major weather-related events in New Zealand over the period 1994 – 2018 are shown in the following chart. The last two years have been the most expensive years on record for weather-related insurance losses in New Zealand and economic losses are likely a factor two or three times above this.

Annual insurance losses from extreme weather events (\$NZ million)



Looking ahead, NIWA has estimated that over 125,000 of New Zealand’s properties are vulnerable to a 1 metre sea-level rise and the replacement costs of these is estimated at about \$38 billion. The most

recent estimates of the Intergovernmental Panel on Climate Change (IPCC) project a global mean sea-level rise of between 0.26 and 0.98 metre in the next 80 years. Damage to property arising from extreme tide-storm events will occur more frequently and well before the sea has reached the property on a consistent basis.

Undertaking appropriate adaptation measures to reduce the adverse impacts of climate change to property and people will be fundamental to ensure the affordability and availability of insurance in areas exposed to frequent losses from extreme weather events. This is critical as the availability of insurance in turn underpins most economic activities and investments as noted at the outset of this submission.

Government and public authorities play a crucial role in enhancing resilience and adaptation measures to enable an affordable transfer of risk to the insurance sector. A holistic approach to adaptation involving central and local government will be necessary, noting the nature of climate change impacts will be local. The involvement of others including climate research agencies and the financial services sector will be essential to assist in determining the prioritisation and allocation of resources for adaptation measures.

Adaptation needs to be considered in a wider sense. There are the cascading effects of a primary events, such as flooding, that can flow through to business and supply line disruption that may impact other areas that are not flooded. Agricultural production losses may also increase in parts of the country. Drought can have significant on an economy dependent heavily on the primary sector with downstream impacts on employment. Warmer sea temperatures not only increase the moisture uptake in the atmosphere but also impact marine life habitats with consequential economic, social, cultural and environmental impacts. Pests and diseases more commonly associated with warmer climate today may become more prevalent in parts of the country. So, climate change adaptation must consider the breadth of risks, their full magnitude and the acknowledgement that future impacts will at least depend on what is done today. We also need to acknowledge the ambiguity and uncertainty of the challenge that goes well beyond traditional planning horizons.

To transition to a low carbon economy, it will also be necessary to identify and disclose long-term exposure to climate change. This will be essential, so informed, sustainable investment decisions can be made to support a smooth transition to a low carbon economy. Although disclosure regimes and sustainable financial roadmaps are emerging, these need to be developed further and formalised. Markets must have the right data to price climate risk and reward innovation to create market led adaptation.

New Zealand must think long-term and act strategically with an ability to deal with inherent uncertainty. This Bill goes a long way to providing our country with a governance framework to do just that.

Responses to specific aspects of the Bill

Part 1

We support the addition to the purpose statement of the Act provided in clause 4 of the Bill but there is also a need to include within the purpose a reference to adaptation. Whilst there is reference to adaptation in limb (b) of proposed new section 5B, the purpose of the Act will otherwise make no reference to adaptation, even though a section of it will be devoted solely to adaptation. This is a significant omission given the critical role adaptation plays in responding to the adverse impacts of

climate change. We recommend clause 4 of the Bill be amended to add a new sub-clause with the following words or similar:

“to provide a framework for identifying and assessing the risks from climate change and planning for adapting to such risks.”

This addition would be consistent and aligned to the Paris commitment, which is the intent of this legislation, and is reflected in the current purpose wording with respect to limiting average global temperature increases.

Part 1A

Establishment and appointments to the Climate Change Commission

We support the establishment of an independent, expert Climate Change Commission (‘the Commission’) that provides recommendations to the Government of the day on mitigating emissions and adapting to the effects of climate change. We also acknowledge that this Bill is a product of cross-party negotiations which inevitably leads in compromise to achieve consensus support. Maintaining ongoing bipartisan support is important.

The perceived integrity and independence of the Commission over the long-term will be equally important. It must be fearless and feel unconstrained in its ability to make independent and expert recommendations to successive Governments. If it is not seen as independent or is politically tainted, then confidence in its recommendations will be undermined and so too will New Zealand’s framework to address the most significant challenges it will likely face this century.

The Commission is created under proposed section 5C of the Act as a Crown entity and its members are appointed by a Minister and the nominating committee. The Commission therefore does not enjoy the level of independence that an Officer of Parliament does.

The explanatory note to the Bill states “An independent Crown entity is considered to be the most appropriate body to achieve the political accountability required for mitigating and adapting to climate change”. There is no further explanation or rationale for the Commission to be politically accountable or indeed what being politically accountable means. At the very least, it must mean that the Commission is not fully independent and that is a shortcoming of the Bill.

If the Commission is not fully independent and potentially vulnerable to a degree of political direction, then the integrity and multi-party support for what this Bill seeks to achieve will likely be undermined. We fully support the elected Government of the day being able to respond to recommendations of the Commission as it sees fit and note this would not be compromised if the Commission was fully independent.

ICNZ has concerns with the process for making appointments to the Commission in proposed section 5E and the nominating committee in section 5F. The nominating committee appears designed to make the appointments more arm’s length from the Government, but as currently conceived it just seems to make the process more complex and if anything reduce accountability and transparency. If it is to be part of the framework it needs to be reworked.

Given this we do not believe this aspect of the framework would, as drafted currently, provide a durable long-term approach to bipartisanship and consider the Bill needs to be revised as follows to address these issues:

- amend new section 5E(1)(c) to include a requirement that the Minister has consulted representatives of all political parties in Parliament, and has obtained the support of parties whose parliamentary members comprise at least 75% of all Members of Parliament before recommending to the Governor General that a person be appointed a member of the Commission; and/or
- include in new section 5F a requirement that before appointing a person to the nominating committee, the Minister must consult representatives of all political parties in Parliament.

There are also some technical issues with the proposed provisions related to the appointment of members to the Commission and the nominating committee that need to be addressed. First, is confirming the tenure of the nominating committee (at establishment only, re-convened as required or ongoing), which has significant ongoing implications on how it is setup and resourced.

Other issues with this aspect of the proposal include a lack of clear criteria that nominating committee members should satisfy, which increases the risk of it having unsuitable members, and a lack of explicit criteria for the nominating committee to follow in making nominations to the Minister. We note also that the Ministry for the Environment will presumably be providing advice on the establishment of the nominating committee while supporting its operation and providing advice to the Minister on its recommendations, putting it in at best an awkward position.

Beyond the appointment process there are other issues with the proposed framework that we are concerned have the potential to erode the Commission's actual or perceived independence. Proposed section 5K provides for the Minister to request the Commission to prepare reports to the Government. Again, this conveys that the Commission's role is not solely to provide independent recommendations, but that it must also act in an advisory capacity to the Government of the day. We understand that the Ministry for the Environment is the lead advisor to Government on climate change policy, using the Commission as an ad-hoc advisor seems to call this into question and we envisage this will create another tension point that is not necessary. Given these factors we consider section 5K should be removed and the Commission focussed on its key statutory tasks.

Although we acknowledge proposed section 5N(1) states the Commission must act independently in performing its functions and duties and exercising its powers, proposed section 5N(2) states the Commission may be directed by the Minister to have regard to Government policy in regard to advice requested under section 5K, should it be retained, or in relation to unit supply settings of the New Zealand emissions trading scheme. While limited in scope these provisions start to create a tension with the need for the Commission to provide independent expert advice and monitoring. We see no good reason for proposed section 5N(2) and recommend its deletion. We note this deletion does not limit the Government of the day from acting as it deems appropriate and enhances the standing of the Commission as independent. Independence is fundamental to the Commission's role.

We have also identified a potential issue with the drafting of subsections (3) and (5) of proposed section 5K, which we have recommended is removed in its entirety. Subclause (4) provides that the "The Commission must make the report publicly available after providing it to the Minister". The Minister must then under (5) present a copy of the report to the House of Representatives as soon as practicable, but within 12 weeks, after receiving it. This begs a question of whether under subclause (4) a report should be made publicly available immediately after providing it to the Minister or at some

later time within or after 12 weeks? If section 5K is retained in the Bill, it would be important to make this clear to ensure that the independence and transparency of the Commission's activities are appropriately maintained.

Part 1B

Emission reductions

We support the emissions target for 2050 as set out in proposed section 5O(1).

ICNZ supports policy that underpins a credible pathway, which starts early and is predictable. We note the uncertainties, assumptions and limitations of the available economic modelling work on the impact of various emissions reduction targets. It is likely that the economy will grow more slowly to varying degrees depending on the target. The modelling that has been done takes no account of the cost of not adapting nor the significant economic, social and environmental benefits of adaptation. This suggests that more work and ongoing consideration is needed, and a degree of flexibility is warranted, but this does not mean delaying action.

While in principle the option for net-zero emissions across all gases is the ultimate aspiration, we support that more information on the impact of stabilising short-lived emissions versus a net-zero position is needed.

Overall given the uncertainties involved we believe the way forward should be principles-based around the following:

- Change must be planned, transparent, predictable and orderly.
- There should be clear price signals to enable as far as possible for market investment responses to avoid both investors risking a lock-in or stranding of their assets, or alternatively investments being delayed in expectation of greater certainty being available in the future.
- Regulatory frameworks should support innovation by removing barriers to uptake of low-emissions technologies.
- Government R&D spending should align with priority mitigation and adaptation areas (e.g. methane vaccines, afforestation, transport, reducing risks to physical assets, and changing land uses).
- Acknowledging the need to assist those heavily impacted by changes (e.g. those on low income, affected sectors etc).

Emissions reduction plan to be prepared

We are supportive of the provisions covering the setting of emissions reduction plans. We believe these provide sufficient transparency about the process and support the widespread consultation that will be required. The ability to make any changes to the emissions budget is tightly constrained and if undertaken requires an explanation of the rationale to Parliament consistent with the limits of the legislation (see below).

Revision of emission targets and budgets

We agree with the Bill's provision in proposed section 5Q(2) to enable the emissions targets to be amended should the circumstances justify it. We support the circumstances under which the Commission may recommend a change to the target. The trigger for this to occur is a "significant change" to one or more of the items listed in 5Q(2)(a) from (i) to (vii).

Section 5Q(2)(b) however only requires the Commission to be satisfied that the significant change justifies the change to the target. We believe the criteria for any change needs to be rigorous and the process thorough and open. A higher threshold should be required of the Commission than to be simply satisfied of the need to change the target. It should be a requirement of the Commission that it provides compelling evidence of the need for a change and (b) should either be amended or an additional clause (c) be added to give effect to that.

We strongly support proposed section 5ZB, which provides that that emissions budgets may only be revised if the Commission recommends the revision and that it must make its advice public. The need to revise emissions budgets will be likely be necessary to reflect better knowledge and science particularly since prospective budgets as far out as 2035 have to be set and notified under proposed section 5U(3) by 31 December 2021. We also support a requirement being placed on the Minister to explain any departure from the Commission's recommendations for change.

We also support the timeframes set out in proposed section 5U for setting and notifying emissions budgets. These set a 10-15 year horizon for budgets which provides sufficiently long-term signals about the trajectory of change to enable sensible planning and adjustment to occur and to support a smooth transition to a low carbon economy. We would not support extending these timeframes out further because it would enter the realm of much greater uncertainty that could adversely impact long-term planning. The ability to amend budgets is essential to reflect changing technological developments, the global situation and other impacts as detailed under proposed section 5W(2). A rigid approach that does not admit the possibility of change could lead to significant adverse consequences.

Although proposed section 5W(2) introduces controlled flexibility to the emissions target and arguably reduces certainty, it is better to be able to make changes subject to known and predictable processes in an orderly manner. Otherwise there is a risk the whole framework is called into question should circumstances start to suggest the prescribed target for 2050 is unachievable, or that ad-hoc legislative changes are made, the prospect of either of which would cause even greater uncertainty. It is also important to recognise that the target is not necessarily an endpoint and that as 2050 approaches it will in any case be necessary to consider how it relates to obligations/policy for subsequent periods.

Banking and borrowing

The provisions for banking and borrowing between budget periods in proposed section 5ZC seem appropriate given the limitation of 1% of a budget that can be banked or borrowed. This provides some albeit a low level of flexibility to manage budgets without endangering the purpose of the Act.

Part 1C – Adaptation

We are largely supportive of Part 1C and offer the following suggested improvements.

National climate change risk assessment

Proposed section 5ZM(1)(a) specifies that a national climate change risk assessment must assess risks to New Zealand's economy, society, environment and ecology. We support the holistic assessment of risk that this seeks to achieve but consider refinement is required to ensure this occurs in practice.

There are several frameworks that could be applied to ensure all capitals are captured for risk assessment purposes. We note that the four capital chosen for the Bill do not align with the four capitals that The Treasury applies in assessing New Zealand's Wellbeing, namely Natural, Social, Human, and Financial and Physical capitals which it deems are the assets used to generate wellbeing

now and in the future. We suggest consideration should be given to amending the Bill to align with The Treasury's framework and note that recommendations made by the Commission will likely be assessed by The Treasury in providing advice to Government. Applying similar frameworks may have benefits for comparative analysis.

We note that proposed section 5ZM(1) captures two natural capitals – environment and ecology – leaving economy and society to capture the remainder. This potentially suggests that natural capital should have a greater focus and limits the extent to which other capitals may not be accorded sufficient focus as they fall under the very broad headings of economy and society. We note for instance that impacts on infrastructure will be a critical aspect and that by way of comparison the UK's Climate Change Risk Assessment contains a section on infrastructure separate from chapters on business and industry. We believe that the economy should be replaced by Physical and Financial capital and that Society be replaced by Human and Social Capital, and that environment and ecology be subsumed under Natural capital.

Not only would this align with the framework adopted by The Treasury, but it would make important distinctions and highlight areas of concern which while related are distinct. Financial stability for instance will be critical in the transition to a low carbon economy with the insurance and banking sectors being fundamental to that change. These sectors are heavily dependent on offshore capital support for New Zealand, so the global extent of climate change impacts will be felt through the financial system here. Physical assets, a large number of which will be affected by climate change, are quite different and pose different sets of risks and challenges. Similarly, distinguishing Human and Social capital provides advantages in better understanding the risks. Social capital addresses community, customs, culture, traditions, common values, interests and civic engagement. These are distinct from Human capital which addresses skills and capabilities, knowledge, education and work among other aspects.

It is noteworthy that in proposed new section 5ZN(2)(a) there is implicit recognition of the need to broaden the aspects that a climate change risk assessment must take into account which would support the changes we recommend above. There is though a glaring omission of any reference to the financial system or physical assets unless the single reference to "economic" in (a) is meant to capture that. The stability of the financial system will be critical in both enabling the transition and potentially being a risk to transition should it become unstable.

We have noted the heavy dependence New Zealand has on offshore capital and how this can be impacted by globally issues arising from climate change. We therefore recommend that specific reference is made to the need to take into account financial and physical assets in the risk assessment. If this is not done, then it is likely that these critical aspects are not given sufficient priority in the risk assessment process which is expected to prioritise risks to inform the national adaptation plan. We note that some financial services entities are already undertaking work in this area and that the Reserve Bank of New Zealand is increasing its focus on climate change related issues. Adding a reference to assessments by 'private entities' in new section 5ZN(2) or (3) would ensure such issues are considered in the development of the risk assessment.

Risk assessment is an area of core expertise to the insurance sector. While it may not be necessary to include in legislation matters that a risk assessment should include, we would point out to the select committee that any risk assessment should:

- **assess risk in relation to objectives** – start from an understanding of what it is we wish to avoid (loss of life, property, business interruption) then assess its likelihood, noting that adaptation goals need to be determined as these are not provided in the Bill;
- **identify the biggest risks** – focus on worst case scenarios in relation to long-term change as well as short-term events, noting long term risks may require nearer term responses;
- **consider the full range of probabilities** – bearing in mind a very low probability may correspond to a very high risk if the impact is catastrophic, and that frequent events with low to moderate impact may cumulatively have a high impact;
- **use the best available information** – proven science or expert judgment, a best estimate is better than none;
- **take a holistic view** – assess system risks as well as direct risks; models are useful but human behaviour and interactions within a system can produce different possibilities (scenario planning helps); and
- **be explicit about value judgments** – they are subjective, so be transparent and subject them to public debate.

We also consider the Bill would benefit from defining or explaining the application of the concept of “most significant risks” in proposed sections 5ZM and 5ZQ to ensure prioritisation does not come at the expense of comprehensiveness.

National adaptation plan

Proposed section 5ZQ(4) sets out matters the Minister must take into account in preparing a national adaptation plan. For the reasons previously given with respect to the need to include financial and physical assets as matters to be taken into account in undertaking a risk assessment, we recommend these be included in the matters to be taken into account for the adaptation plan. An example may illustrate the point. If a coastal community is frequently impacted by extreme weather events and sea-level rise banks may limit the terms of their loans and/or insurers may limit the extent of cover they will provide to those properties. The interaction between the finance system and physical assets at risk send important signals to engage in adaptation and will clearly have implications under section 5ZQ(4)(f).

We support the requirements for the national adaptation plan to be presented to Parliament within the timeframe specified in proposed section 5ZR.

Progress reports

We support proposed sections 5ZS, 5ZT and 5ZU in their entirety as they provide appropriate timeframes for the Commission to monitor and report on progress in the implementation of the adaptation plan and the transparency of the Minister’s response to these progress reports.

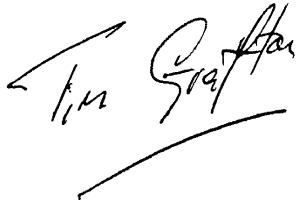
Power to request provision of information

We support the provision of powers to request certain information on climate change adaptation. This will provide important input to inform adaptation risk assessments and adaptation planning.

Conclusion

Thank you again for the opportunity to submit on the Bill. If you have any questions, please contact our Regulatory Affairs Manager on (04) 914 2224 or by emailing andrew@icnz.org.nz.

Yours sincerely,

Handwritten signature of Tim Grafton in black ink, featuring a stylized 'T' and 'G'.

Tim Grafton
Chief Executive

Handwritten signature of Andrew Saunders in black ink, appearing as 'AB Saunders'.

Andrew Saunders
Regulatory Affairs Manager