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Committee Secretariat
Governance and Administration Committee
Parliament Buildings
Wellington 6142

By email: ga@parliament.govt.nz**Fire and Emergency New Zealand (Levy) Amendment Bill**

1. Thank you for the opportunity to provide the Governance and Administration Select Committee the Insurance Council of New Zealand's comments on the Fire and Emergency New Zealand (Levy) Amendment Bill that proposes changes to sections 2, 6, 81, 84, 85, 89, 102, 141, 142 & schedule 1 of the Fire & Emergency New Zealand Act 2017.
2. The Insurance Council of New Zealand/Te Kāhui Inihua o Aotearoa (**ICNZ**) represents general insurers and reinsurers that insure about 95 percent of the Aotearoa New Zealand general insurance market. The majority of our members collect the Fire & Emergency Levy from insured property owners to fund the operations of Fire & Emergency New Zealand (FENZ).
3. We support the proposed amendments in the Bill, in particular the changes to Part 3 of the 2017 Act, which avoid the need for significant changes to insurers' systems, increased compliance costs, and difficulties with definitions and interpretations that would have made it significantly more difficult for insurers to collect the levy in an efficient and effective manner.
4. ICNZ maintains its position that contracts of insurance are not the appropriate mechanism to fund the Fire and Emergency Service for many reasons including because, the purchase of insurance is a discretionary activity. Property owners that do not purchase insurance will still receive the benefit of FENZ services at the expense of all other property owners that have purchased property insurance. As we have submitted previously, we believe that the most appropriate mechanism to the fund Fire & Emergency Service is through general taxation.

ICNZ supports the three key changes provided for in the Bill

5. We provide comments on the **two key changes provided for in the Bill** that that will make it more certain and straightforward for the levy to be collected by insurers, insurance brokers and their customers.

(i) *Charge levy on contracts of insurance for fire damage rather than material damage.*

The 2017 Act originally required the levy to be charged on contracts of material damage rather than contracts of fire insurance as it is presently. This change would have required substantial changes to insurers' IT systems at an estimated cost of \$50 million as at 2020. These extra costs would have been passed on to those that purchase insurance products.

Notwithstanding our view that FENZ should be funded through general taxation, charging levy on contracts of insurance for fire damage is preferred as it aligns with existing practice and will avoid implementation complexities. The Bill now addresses this issue.

(ii) *Calculate levy on sum insured.*

The 2017 Act originally required the levy to be charged on the "maximum amount insured", which was terminology that was not used or understood by the insurance industry. The ICNZ recommendation was for the levy to be charged simply on the sum insured amount shown on the policy schedule. The Bill now addresses this issue.

(iii) *Amend Part 3 commencement date The Bill changes the commencement date of the Part 3 regime in the principal Act to 1 July 2026, or an earlier date set by Order in Council.*

The new commencement date will allow time for levy regulations to be set and for FENZ, insurers, and brokers to implement the new levy system.

ICNZ supports the extended commencement date to 1 July 2026, if all the levy regulations are developed in time for insurers to implement the required changes to their systems as well as to train staff and communicate with their customers about the levy changes. This is estimated to need a period of at least 18 months from finalising in law and regulations all levy design and rate details. If a date other than 1 July 2026 was to be considered, then it would be necessary to consider both the total period provided for implementation as well as recognising the implications of the levy changes. Consideration will be needed of how this action fits with existing

industry patterns and activity levels to ensure that the proposed date does not impose extra cost and cause undue disruption to the insurance sector and its customers.

Further changes are required to the FENZ Act 2017 to ensure the FENZ Levy is straightforward to collect

Clarify how levy applies to motor vehicles

The Bill clarifies the existing policy intent of the principal Act, making it clear that an annual levy rate will apply to both motor vehicles insured against physical loss or damage and persons insured against third party liability.

ICNZ supports the intention to charge a levy on contracts for motor vehicle third party insurance. This will assist with making the levy more universal as more vehicle owners will be contributing to the Fire & Emergency New Zealand funding. We recommend that the “annual levy rate” be a flat amount applying to all motor vehicles (both heavy and light) as this will be simple and efficient to apply.

It will be important for the Levy Regulations supporting this section of the Act to use a bespoke motor vehicle definition that prevents the unintended inclusion of property such as golf carts and ride-on lawnmowers being caught as a motor vehicle for which a levy must be charged as would be the case if the current Transport Act motor vehicle definition was used. ICNZ has developed the following bespoke definition.

“motor vehicle means:

(a) any type of machine on wheels, tracks or rollers (but not rails) that is propelled by, or can be propelled by its own power; and

(b) anything designed to be towed by such a machine, but

(c) excludes any golf carts, ride-on lawnmowers, motorcycles of 50ccs or less designed for use by children and personal mobility devices such as electric wheelchairs, e-bikes, e-scooters, e-skateboards and mobility scooters”

Modifying the Levy design and application in relation to ‘ships’ to make collection more workable and broader based

6. The Bill does not address our concern that the levy currently applying to insurance contracts for marine vessels (boats and ships) is not universal or equitable and in some cases not possible to comply with. In our view, this needs to be reviewed.

7. Presently levy is only collected from insured vessels that are on land such as trailer craft sitting in someone's back yard, being towed on the road or a commercial fishing vessel that is hauled up onto the beach in locations around New Zealand that do not have a harbour.
8. Vessels that are moored or tied to a wharf or in a marina are exempted from paying a levy. This does not make sense. Since the last review, marinas have grown in number and size, as boating has become one of New Zealand's main leisure activities. Vessels on wharves and in marinas are usually high value and a fire spreading in a marina would be catastrophic. FENZ should be correctly funded by a levy applying to all insured vessels.
9. It is not possible to comply with the current legislation concerning levies on vessels. For example, consider a vessel exempted from the levy because it is in the water; when it is lifted out of the water for periodic or annual maintenance (which can last for several months), then a levy should be charged for the time that vessel is out of the water. However, the marine hull contract of insurance does not require the vessel owner to notify the insurer when a vessel is out of the water for maintenance because maintenance operations are automatically covered by the policy. As a result, the insurer will never know when the vessel is out of the water for maintenance and so will not know when a levy should be charged.
10. Any levy charged on all vessels needs to reflect the fact that FENZ will sometimes not be able to attend an emergency event because the vessel is out on the water. On that basis, the levy needs to be set at a level that is reasonable and below that of a comparable private car or commercial vehicle.
11. ICNZ recommends setting a flat levy on all Vessels. It is our view that the levy should be discounted for marine vessels since FENZ will not be able to provide emergency assistance on the water in most cases. Whilst this will keep the levy low for all vessel owners, the number of marina berthed vessels and domestically moored vessels should result in simpler administration, a fairer methodology, and more consistent funding.
12. Currently, vessels on land pay the full commercial property levy rate, and fishing vessels that operate off remote beaches such as in South Wairarapa are paying as much levy as a small commercial building since their vessels are insured for \$2 to \$3 million.

13. ICNZ also recommends that any boat trailers that are currently levied separately from the vessel should be simply included under the vessel levy. This will make calculating and collecting the levy simpler for insurers and their customers.
14. Vessels that are insured under a marine builder's risk contract of insurance because they are being constructed or restored/renovated should be levied at the equivalent property levy rate. It is our view that boat building is really no different to property construction in terms of its associated risks.
15. The ICNZ recommendations for a new levy arrangement for marine vessels will require a minor change to the Levy Amendment Bill. There will need to be a separate mechanism to allow contracts of insurance for marine vessels to be levied at a flat rate.
16. We have highlighted below in yellow the additional clauses that will need to be included in section 81 of the Act to allow a separate levy mechanism for a contract of marine hull insurance.

Section 81 Interpretation in this Part

- (1) In this Part, unless the context otherwise requires,

adjudicator means an adjudicator appointed under section 131

carries on insurance business in New Zealand has the same meaning as in section 8 of the Insurance (Prudential Supervision) Act 2010

contract of insurance means a contract of insurance, within the meaning of section 7 of the Insurance (Prudential Supervision) Act 2010 insuring property located in New Zealand, that is either—

- (a) a contract of fire insurance; or
- (b) a contract of motor vehicle insurance.
- (c) a contract of marine hull insurance.**

It does not include a contract of reinsurance.

contract of fire insurance means:

a contract of insurance relating to property in New Zealand insured against physical loss or damage from fire, whether this contract includes other risks or not.

contract of motor vehicle insurance means:

- (a) a contract of insurance principally relating to one or more motor vehicles under which either or both of the following apply:
 - (i) the motor vehicle is insured against physical loss or damage from fire;
 - (ii) any person is insured against third party liability in connection with the use of the vehicle.

- (b) It may also include cover for a trailer and other ancillary equipment or property used on or in connection with the motor vehicle including but not limited to roof racks, bike racks, rooftop boxes or camping equipment, tray liners.

A contract of marine hull insurance means a contract of insurance principally as defined in section 2 of the Maritime Transport Act. It may also include cover for a trailer for transporting the ship and other equipment or property used on or in connection with the ship including for example navigation equipment, safety equipment, fishing and recreational equipment.

17. Giving effect to this would also require amendments to:
 - a. Create a new section equivalent to section 84 (Levy payable on motor vehicles) that applies to “marine hull insurance”, with a consequential amendment to section 85.
 - b. Section 141 of the Act to mirror those being made in relation to motor insurance to explicitly enable a fixed rate per ship to be charged.

Required refinements to the drafting of the Bill

18. Amend the drafting of “sum insured” to make its application more certain. Specifically, the provisos (i) and (ii) should apply equally to limbs (a) and (b), not just to limb (b).
19. The inclusion of examples under sum insured is strongly welcomed and they could be amended to make the application of the definition of “sum insured” more certain. The current Example 1 is largely self-explanatory and could be more useful if it was adapted to cover the situation of multiple types of property under the same policy. Example 2 is fine if the intent is to treat first loss policies in that way. Example 3 – as with comments on the definition itself, the provisos should apply equally to limbs (a) and (b).

Conclusion

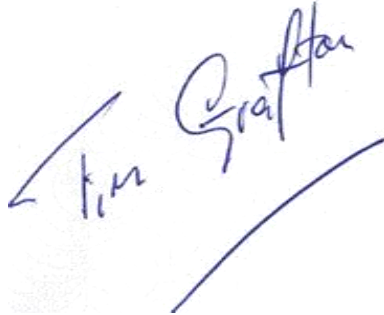
Whilst ICNZ maintains that funding FENZ from the discretionary purchase of insurance is not the correct funding mechanism because among other reasons it penalises those property owners that purchase insurance to protect their investments and allows those that don't insure to receive free service from FENZ, we believe that the current Bill corrects most of what is wrong with the 2017 legislation.

We want to see the FENZ levy system to be fairer, more universal, and simpler to apply and collect. The changes in the Bill help move towards this but as indicated above there are further changes that are also required.

If you have any questions, then please contact John Lucas by email at john@icnz.org.nz or phone him on 0274411283.

We would like to appear before the Governance and Administration Select Committee to discuss our proposals to improve the levy system.

Yours sincerely,

A handwritten signature in blue ink that reads "Tim Grafton". The signature is written in a cursive style and is positioned above a long, sweeping horizontal line.

Tim Grafton
Chief Executive