

3 November 2023

Committee Secretariat  
Governance and Administration Committee  
Parliament Buildings  
Wellington

Dear Committee Members

### **ICNZ SUBMISSION ON THE EMERGENCY MANAGEMENT BILL**

Thank you for the opportunity to make this submission on the Emergency Management Bill.

Te Kāhui Inihua o Aotearoa The Insurance Council of New Zealand (ICNZ) represents general insurers that insure about 95 percent of the Aotearoa New Zealand general insurance market, including well over a trillion dollars' worth of Aotearoa New Zealand property and liabilities.

This submission provides a description of the role that insurance companies have played in past emergencies in New Zealand (with particular emphasis on natural disasters causing damage to personal and commercial property) and how that role fits within the proposed '4 Rs framework' referenced in the Bill.

It also explains why a formal mechanism for allowing insurers access to insured properties that have red placards, or other state of emergency restrictions preventing access, once they have been assessed as safe in accordance with the insurer's own health and safety obligations, will support the Recovery aspect of this framework. We propose that the Bill, or regulations made under the Bill, should provide separate recognition of the role of insurers during an emergency. This recognition would be such that insurers could access properties and information that would increase the efficiency of damage assessments and progress customer claims swiftly.

Given the particular nature of insurers' needs to access properties and information, we do not consider that designating insurers as critical infrastructure entities is an appropriate fit for their role. Under the current Civil Defence Emergency Management Act 2002 entities that are designated 'lifeline utilities' (which will be 'critical infrastructure entities' under the Bill) include infrastructure and network operators in the following sectors:

- Energy (including electricity, gas, and petroleum)
- Transport (including road, rail, ports and airports)
- Water
- Telecommunications (including broadcasting).

Insurers do not appear to fit within the intention of either the existing 'lifeline utilities' or the proposed 'critical infrastructure entities'. We therefore agree that these should not apply to insurers and propose that separate provisions be included in the Bill for insurers to address the issues identified.

## **Emergency management – the role of insurers across the 4 stages of Reduction, Readiness, Response, and Recovery**

### **Access to properties**

Insurers play a vital role in supporting impacted communities in their recovery from an emergency. After experiencing a traumatic emergency, it is vital that families and businesses can return to 'normal' as soon as possible and insurers play a vital role in allowing that. However, time is critical, and insurers and their agents need to access damaged properties as quickly as possible.

The longer the delay in allowing insurers access to properties to assess the damage, undertake mitigation work to prevent further damage (such as silt removal, stripping and drying) and remediate damage to property, the longer homeowners are unable to return home or in the case of businesses the longer they are unable to operate. This places strain on family finances (especially with limits on temporary accommodation assistance), health, wellbeing and relationships and can exacerbate damage to the local economy, or, in the case of a catastrophic event, to the national economy.

After the Auckland Anniversary Weekend flooding event, many properties received red placards. The assessment of the risk these properties posed and whether a placard was required was rapid and sometimes occurred without the Rapid Building Assessor entering the buildings. Red placards indicate a building cannot be used and entry is prohibited because it has sustained moderate or heavy damage and poses a significant risk to health or life. However, in most of these cases (other than landslips) once the water had receded, the risk was significantly reduced. Unless agreed with the local council, insurers were unable to access these properties and it is a very difficult and time-consuming process to have the placard reviewed and removed.

We are also aware of situations after the Canterbury Earthquakes of buildings being knocked down before insurers were able to assess them. This creates difficulties in quantifying a customer's insurance entitlements and these uncertainties can have flow on impacts into pricing.

Currently, during local and national states of emergency, insurers and their agents rely on emergency management officials agreeing on an ad hoc basis to allow access through roadblocks and to remote areas and into properties that have red placards or are subject to other emergency restrictions. For insurers, access is managed differently by different territorial authorities, and in almost all situations is only established or agreed many weeks post-event. There is no formal mechanism for obtaining this access and no consistent approach.

In some situations, councils will agree to allow insurers into these properties, if a structural or geotechnical engineer assesses and provides a report on the property and whether it is safe to enter. Alternatively, insurers may be required to have a geotechnical engineer with them to assess a property. These engineers are very costly for customers and, due to demand after a widespread event, there are often wait times of several weeks or months before availability. We recognise the basis for a red placard being issued can vary greatly. In some situations, being in the building carries material and unmitigable health and safety risks (e.g., unstable hillsides). However, following floods the health and safety risks associated with attending a property may be low and mitigatable.

We consider that the Bill should provide a mechanism authorising insurers' access to buildings following an emergency event. Any risk from providing for such a mechanism is mitigated by the existing health and safety obligations on the insurer as a Person Conducting a Business or Undertaking (PCBU) under the Health and Safety at Work Act 2015. As a PCBU, an insurer has health

and safety responsibilities and obligations, and must ensure that the health and safety of its workers and other people are not put at risk by its work. Hazard identification and risk assessment is one of the critical pillars of a Health and Safety Management system. Risk assessors with appropriate SiteSafe accreditation will undertake a dynamic risk assessment prior to entering the property and properties will only be accessed when it is assessed as safe to do so. Such a mechanism would provide for a consistent approach across local councils and insurers without the need for individual negotiations post-event that further delay recovery efforts.

Under the '4 Rs framework' referenced in the Bill, insurers' role in assessing, mitigating and remediating damage falls within the initial stage of emergency 'Recovery'. Providing for prompt access by insurers to properties and consequently allowing customers to return to their homes and businesses as soon as possible provides benefits including family wellbeing, supporting the economy through enabling businesses to reopen, and supporting community resilience.

### **Recommendation**

**We believe there is significant benefit in providing a formal mechanism within the Bill, or the accompanying regulations, for insurers and their contractors and agents to access properties that have red placards, or are subject to other emergency restrictions, following a robust risk assessment that deems a property is safe to enter.**

This assessment would be conducted by insurer personnel with the required SiteSafe qualifications and subject to their company's health and safety plan. Providing for a more streamlined and consistent process would also benefit councils who would not need to deal with a volume of ad hoc requests from insurers. This is important when the focus should be on responding to an event.

### **Information sharing**

In order to respond effectively to an emergency, insurers require quick access to information about red and yellow placarded buildings. Insurers use this information to triage and prioritise to get to the most affected and uninhabitable homes first. The Bill should include a legal basis for information to be shared between local councils and insurers to facilitate damage assessments and progress remediation activities and customers' claims. This information sharing should be the same whether the emergency is a local or a national emergency.

Insurers need quick access to information about red and yellow placarded properties within days of an event so they can prioritise their assessment and remediation activities. Insurers need to prioritise their resources efficiently. It is important that this information is provided to insurers in an appropriate format, e.g., a GIS shape file, and that changes to the information are regularly updated. Delays in the provision of this information slows insurers' ability to respond to their customers and the uncertainty leads to unnecessary inefficiencies.

Currently the Civil Defence National Emergencies (Information Sharing) Code 2020 applies to any emergency in respect of which a state of national emergency is in force. The Code does not apply to support information sharing under a declared state of local emergency. This meant the Code could not be used to facilitate information sharing during the Auckland Anniversary Weekend flooding, a local state of emergency. It is not clear why local and national states of emergency should be treated differently. The majority of emergencies are local.

There are also circumstances where it is appropriate for insurers to provide information to local and central government. When assessing properties, insurers may identify unsafe properties that do not have red placards and will notify the council that the property is unsafe and poses a risk that requires a placard. Insurers can provide other information to government about claims progress and the distribution of support from insurers to their customers (subject to privacy laws), but it is important that the information sharing is mutual as insurers require information from central and local government to efficiently respond to an emergency on behalf of property owners. Where information is requested from insurers, it is important the purposes it could be used for by respective parties are clearly defined, rather than leaving room for liberal interpretation.

## Recommendation

**We recommend that the Bill should authorise sharing of information between local and central government and insurers that is necessary to facilitate the emergency response, to facilitate damage assessments and to progress remediation activities and customer claims. The Civil Defence National Emergencies (Information Sharing) Code 2020 should also be updated to extend to cover local states of emergency as well as national states of emergency.**

## Additional points

### *Clause 60 (Natural disaster resilience strategy)*

Clause 60 of the Bill requires that the “Minister must, on behalf of the Crown, establish and maintain a current national disaster resilience strategy” and that “the strategy may include statements of the Crown’s goals in relation to emergency management in New Zealand”.

The scope of the “National disaster resilience strategy” (the Strategy) set out in clause 60 is manifestly insufficient to give effect to its name and to implement the Sendai Framework for Disaster Risk Reduction 2015 – 2030.

The Sendai Framework is recognised within the current National Disaster Resilience Strategy (2020) and as correctly outlined in the document – three key ideas are central to the Sendai Framework:

1. A greater effort to understand risk (in all its dimensions), so we can prioritise investment, make better risk-informed decisions, and build resilience into everyday processes.
2. A shift of focus from managing disasters to managing risk, including to reduce the underlying drivers of risk (exposure and vulnerability).
3. A broader whole-of-society approach to risk – everyone has a role in reducing and managing risk.

Insurers strongly support such a focus on resilience, which must go well beyond a focus on emergency management. We recognise that clause 60 does not limit the content of Strategy, however, the statutory underpinnings are important to crafting the Strategy and providing the legal basis for giving effect to it. We also recognise the Bill is an “Emergency Management” Bill.

We nonetheless submit that clause 60 should be amended to better reflect the key elements of the Sendai Framework outlined above so that the content and operationalisation of the *National Disaster Resilience Strategy* is required to meet its name and New Zealand’s international commitments. Alternatively, we suggest the Strategy is renamed as an Emergency Response Strategy to more accurately reflect its scope and make clear that it implements only aspects of the Sendai Framework.

*Clause 120 (Liability for compensation payable under section 119)*

Clause 120(3)(a) of the Bill in relation to liability for compensation under clause 119 (compensation for loss or damage due to exercise of other powers during emergency designations), provides that in the case of insured property, liability is covered by any contract of insurance that covers the property *regardless of how it describes loss or damage*. Whilst it is noted that this section is the equivalent to s109(7)(a)(i) of the Civil Defence Emergency Management Act 2002, it is unclear what the intention of this provision is. The phrase “regardless of how it describes loss or damage” could be interpreted to suggest it overrides the terms and conditions of the policy. We assume this is not the case as this level of uncertainty about the risk would cause significant issues for underwriters. We suggest the intent of this provision is clarified in the Bill.

**Appearance before the Committee**

ICNZ would like to appear before the Committee to speak to our submission. Please contact Susan Ivory ([susan@icnz.org.nz](mailto:susan@icnz.org.nz)) if you have any questions on our submission or require further information.

Yours sincerely

Handwritten signature of Tim Grafton in blue ink, written in a cursive style.

Tim Grafton CMInstD  
Chief Executive

Handwritten signature of Susan Ivory in blue ink, written in a cursive style.

Susan Ivory  
Regulatory Affairs Manager