

Regulatory Impact Statement: Exemptions from the Fire and Emergency Levy

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Coversheet

| Purpose of Document | |
|---|---|
| Decision sought: | This analysis has been produced for the purpose of informing final Cabinet policy decisions. |
| Advising agencies: | Department of Internal Affairs |
| Proposing Ministers: | Minister of Internal Affairs |
| Date finalised: | 13 February 2024 |
| Problem Definition | |
| 1. | The insurance-based levy outlined in Part 3 of the FENZ Act will come into force from 1 July 2026. The FENZ Act includes regulation making power to exempt any class of property, insurance contract or policyholder from payment of the levy. If exemption regulations are not put in place, then all property that fits within the levy framework provided for under the FENZ Act will incur a levy regardless of whether it benefits from the potential to use Fire and Emergency services. |
| 2. | The problem to be addressed is to identify any potential levy exemptions that will improve the consistency of the levy regime with the principles in section 80 of the FENZ Act, in particular the expectation that policyholders who benefit from the potential to use Fire and Emergency services will pay levy, while those that do not benefit do not pay. |
| Executive Summary | |
| The FENZ Act updates Fire and Emergency's funding system | |
| 3. | Prior to the creation of Fire and Emergency in 2017, urban fire services were funded by a levy on insurance contracts. Rural fire services received funding through levies on forest owners, local government rates, Department of Conservation payments and cost recovery, among other sources. The FENZ Act merged New Zealand's existing rural and urban fire services into a single organisation that receives most of its funding from a single source, a levy on insurance contracts. This levy is described in Part 3 of the FENZ Act and is referred to as the Part 3 levy. |
| 4. | The Part 3 levy operates through a combination of the FENZ Act and regulations. The levy will apply to any property insured under a contract of insurance against loss or damage from fire and any motor vehicle with comprehensive or third-party insurance. The levy will be charged as a rate per sum insured against fire damage, and as a flat amount added to any contract of motor vehicle insurance. |
| 5. | The Act includes a regulation-making power to specify exemptions from the Part 3 levy. Specifically, classes of property, insurance contract or insurance policyholder can be made exempt. These are the decisions that are being sought from Cabinet now. Regulations will also set the rate or rates of levy to be applied to insurance |

contracts, following public consultation led by Fire and Emergency. Decisions will be sought on levy rates at a later date.

Fire and Emergency is currently funded by a transitional levy regime, which will expire once Part 3 commences

6. Part 3 of the FENZ Act includes a delayed commencement date of 1 July 2026. Part 3 was set to come into force after the rest of the FENZ Act to allow time to put in place the regulations necessary for the operation of the levy. Further changes to the commencement date have been necessary to take into account matters including delays due to COVID-19. A transitional levy funds Fire and Emergency until the Part 3 levy becomes operational, at which point it will expire.
7. The transitional levy is essentially a continuation of the levy that funded urban fire services under the Fire Service Act 1975. When the FENZ Act was passed, most other funding mechanisms were discontinued and the transitional levy was set at a rate that could meet 97% of Fire and Emergency's revenue needs.
8. The pre-FENZ Act levy system included a set of exemptions that was transferred in full to the transitional levy system. Two additional exemptions were added in 2019. Exemptions from the transitional levy will be automatically repealed when Part 3 commences. If regulations are not put in place, all property that fits within the levy framework provided for under the FENZ Act will pay levy. In some cases, this will mean that property that has not paid levy since an exemption in the Fire Service Act 1975 was granted will pay levy from 1 July 2026 (the commencement date of the Part 3 levy).

The Department of Internal Affairs (the Department) proposes that the following exemptions to the Part 3 levy be made in regulations

9. Most exemptions to the levy are for property that are unlikely to benefit from Fire and Emergency services, including:
 - New Zealand Defence Force property;
 - mines and tunnelling operations;
 - reservoirs, dams, breakwaters, moles, groynes, drains or channels;
 - offshore installations; and
 - cabling and pipelines on the sea floor.
10. We recommend exemptions for several classes of insurance contract in order to avoid cases where levy will be charged multiple times on the same property:
 - insurance for war and terrorism risks, where the property is also insured under an all-risks policy;
 - deductible buydown insurance; and
 - insurance covering existing property as part of a contract works policy.

11. We recommend that some types of property should be exempt, but only when insured for regular travel beyond New Zealand borders. These are:
 - ships that are registered internationally;¹
 - aircraft that regularly fly international routes; and
 - goods insured for import and export.
12. We also recommend exempting art and collection items held by not-for-profit cultural heritage bodies. We consider this property to warrant special consideration because of the nature of the institutions covered by the proposed exemption.

These proposals will have financial impacts for some insurance policyholders

13. All insurance policyholders will face financial consequences when the Part 3 levy commences. We anticipate that transitional financial impacts will be felt most acutely by those who insure property exempt from the transitional levy that will no longer be exempt under Part 3. These impacts are likely to be uneven, as they will only affect property owners who insure their property. The recommendations in this document are likely to result in increased insurance costs for some types of economic activity. This includes:
 - the forestry and farming sectors;
 - commercial shipping and aviation operators; and
 - construction of transport infrastructure.

Stakeholder views

14. In general, insurance policyholders who provided feedback on exemptions supported the principled approach to developing these proposals. They agreed with the idea that there should be few exemptions to ensure the obligation to fund Fire and Emergency was spread over as broad a base of contributors as possible. They also frequently disagreed with individual recommendations that a particular type of property be subject to the levy. Most policyholders who owned property exempt from the transitional levy were concerned about the financial impacts of having levy charges added to the cost of insuring property.
15. Insurers were mostly in favour of continuing the exemptions in place under Part 3. Their primary concern was avoiding additional complications which could be brought about by making changes to the system.

Māori forestry representatives did not raise strong objections to the levy applying to Māori forests

16. Department officials undertook additional targeted consultation with forestry representatives in 2023 to test whether Crown obligations as a Treaty of Waitangi partner required separate treatment under the Part 3 system. Officials heard from a small number of organisations, but submitters mostly agreed with initial departmental analysis (**Appendix A**) indicating that applying the levy to Māori forestry was consistent with Crown obligations as a Treaty partner.² Although adding to the costs of key economic activity on Māori land, the levy funds important services that benefit both the Māori and non-Māori forestry sector.

Limitations and Constraints on Analysis

The FENZ Act outlines the scope of the regulatory options available in response to this policy problem

17. Following a review into funding of Fire and Emergency announced in 2019, Cabinet agreed that a levy on insurance contracts would continue to provide the majority of Fire and Emergency's funding [GOV-21-MIN-0041 refers]. Any other funding options for Fire and Emergency would require further amendments to the FENZ Act and are beyond the scope of this analysis.
18. The FENZ Act provides the regulation-making power to create exemptions to the levy. It allows for regulations to exempt any type of property, class of insurance contract, or any policyholder. Options explored through this analysis are limited to whether a contract of insurance should or should not pay levy. How much levy should be paid will be the subject of subsequent analysis and further regulatory development.

Wider consultation might have widened the range of exemptions considered for analysis

19. Our final set of options was informed by feedback received during targeted consultation, which took place over four weeks in August and September 2022. We included a small number of additional exemptions suggested during consultation. We spoke with peak bodies for commercial sectors we anticipated would be impacted by our proposals. It is possible that wider consultation may have revealed further types of property or insurance contracts warranting consideration for exemption.
20. Iwi and Māori may consider that other property besides forestry requires further Treaty of Waitangi analysis and engagement but we have not identified any specific such property types or insurance classes. The wide scope of property covered by the levy means that we cannot categorically rule out any further potential Treaty implications stemming from decisions on exemptions. However, we consider this unlikely, as no other government agencies or submitters during consultation on forestry raised this as an issue as part of feedback on exemption proposals and our subsequent Treaty analysis.
21. There are several key assumptions underlying the development and assessment of options considered in this analysis:
 - Our framing of the policy problem to be addressed was likely to require fewer exemptions under the Part 3 system than are currently in place under the transitional system. This is due to the expanded range of functions the new levy has been designed to fund, compared to when many of the exemptions were originally created prior to the establishment of Fire and Emergency.

¹ The FENZ Act uses a broad definition of ship that includes marine vessels of any size.

² For simplicity we refer to "Māori forestry" or "Māori forests", by which we generally mean forested land with trees that are being grown for commercial purposes, which Māori have a significant interest in (either owning the land, the trees or both).

- The decision whether to grant an exemption will not affect the overall amount of levy collected. Levy rates will be set at a level needed to collect an overall amount of revenue Ministers determine is appropriate.
- Given the reduction in insurance costs associated with an exemption, policyholders and insurers would be motivated to raise further suggestions for any options not covered by existing transitional exemptions.
- Suitable definitions can be found for proposed exemptions that will give effect to the policy intent.
- Fire and Emergency is able to explore differing levy rates or levy caps when developing levy rate proposals that would reflect differing levels of benefit from the potential to use Fire and Emergency services.

The Treaty of Waitangi settlement between Tūhoe and the Crown limits collection of levy on Te Urewera land

22. The Te Urewera Board (as the voice of Te Urewera, providing governance and management) has immunity from paying specified fire levies on Te Urewera land under the now repealed Forest and Rural Fires Act 1977. This immunity derives from the 2013 deed of settlement between the Crown and Tūhoe regarding Te Urewera land, as implemented in the Te Urewera Act 2014. This immunity is not established through regulation under the FENZ Act and will not be subject to the analysis in this document.

The financial impacts of the levy will be considered further when setting levy rates

23. Consultation informing this analysis was undertaken without knowledge of Fire and Emergency’s proposed levy rates and detailed understanding of their impacts is limited. Policy development following public consultation on levy rates later in 2024 will provide an opportunity to examine these impacts in greater detail. Some levy payers could end up paying at a level disproportionate to their potential to benefit from Fire and Emergency services. It may be necessary to seek policy agreement for further exemptions in 2024 if these cannot be managed through differential levy rates or setting maximum levy amounts.

Responsible Manager(s) (completed by relevant manager)



Jayne Beggs
Acting General Manager, Policy Group
Department of Internal Affairs

Quality Assurance (completed by QA panel)

| | |
|-----------------------------|--|
| Reviewing Agency: | The Department of Internal Affairs |
| Panel Assessment & Comment: | The panel considers that the information and analysis summarised in the RIS <i>partially meets</i> the quality assurance criteria. The RIS clearly summarises the problem and the potential role of exemptions in the levy regime under the Fire and Emergency New Zealand Act 2017. Except as noted below, the options have been given appropriate |

consideration and there is convincing justification for the decisions sought from Cabinet.

However, the panel found the stated justification for recommending a levy exemption for Art and collections held by cultural heritage bodies to be unconvincing and inconsistent with the criteria and analysis set out in the RIS.

The panel notes that the RIS otherwise takes a principle-based approach to proposals as, ahead of levy modelling, it is not yet possible to determine the financial impact of proposals on policyholders and specific population groups. The RIS also notes that levy mechanisms other than exemptions are appropriate to address potentially disproportionate levy liability. With the exception of the instance noted above, these approaches are consistent throughout the document.

John Sutton

Chair of the Department of Internal Affairs' RIA panel

1 / 02 / 2024

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Fire and Emergency was established in 2017 and provides a broad range of critical public services

24. Fire and Emergency New Zealand (Fire and Emergency) was established in 2017, merging urban and rural fire services into a single unified national organisation. This sought to address fragmented governance and funding and service delivery arrangements, among other things, to ensure fire and emergency services could be effectively and efficiently delivered.³
25. A unified Fire and Emergency needs to maintain the capacity for business-as-usual responses across New Zealand, while attending large-scale incidents such as the Tasman wildfires (February – March 2019), the New Zealand International Convention Centre fire (October 2019) or widespread flooding and cyclone damage across the northern and eastern regions of the North Island (early 2023). These incidents require Fire and Emergency to bring firefighters, trucks and equipment from the length and breadth of the country. This ability of Fire and Emergency to surge its capacity to meet any situation that may arise is essential to the safety of New Zealanders.
26. Fire and Emergency is established under the Fire and Emergency New Zealand Act 2017 (the FENZ Act). Fire and Emergency has a broader mandate to deliver critical public services than the New Zealand Fire Service (urban fire services) or the National Rural Fire Authority had under respective legislation. Under section 10 of the FENZ Act, Fire and Emergency's principal objectives are to:
 - reduce the incidence of unwanted fire and the associated risk to life and property; and
 - protect and preserve life, prevent or limit injury, and prevent or limit damage to property, land or the environment.
27. The FENZ Act outlines 'main' and 'additional' functions for Fire and Emergency. 'Main' functions are those that Fire and Emergency must carry out. 'Additional' functions are those that Fire and Emergency can assist with to the extent that it has the capacity and capability to do so and that it retains the capacity and capability to perform its 'main' functions efficiently and effectively. Functions are listed in **Table 1**.

³ Further information about the development of the FENZ Act, including Cabinet papers and Regulatory Impact Statements is available at [Fire Services Transition - dia.govt.nz](https://www.dia.govt.nz/fire-services-transition).

Table 1: Fire and Emergency’s main and additional functions

| Fire and Emergency’s ‘main’ functions ⁴ | Fire and Emergency’s additional functions |
|--|--|
| <ul style="list-style-type: none"> • to promote fire safety, including providing guidance on the safe use of fire as a land management tool • to provide fire prevention, response and suppression services • to stabilise or render safe incidents that involve hazardous substances • to provide for the safety of persons and property endangered by incidents involving hazardous substances • to rescue persons who are trapped as a result of transport accidents or other incidents • to provide urban search and rescue services • to efficiently administer the FENZ Act | <ul style="list-style-type: none"> • responding to medical emergencies • responding to maritime incidents • performing rescues, including high angle line rescues, rescues from collapsed buildings, rescues from confined spaces, rescues from unrespirable and explosive atmospheres, swift water rescues and animal rescues • providing assistance at transport accidents (for example, crash scene cordoning and traffic control) • responding to severe weather-related events, natural hazard events and disasters • responding to incidents in which a substance other than a hazardous substance presents a risk to people, property or the environment • promoting safe handling, labelling, signage, storage and transportation of hazardous substances • responding to any other situation if Fire and Emergency has the capability to assist |

Fire and Emergency will be funded by an insurance-based levy

28. The FENZ Act provides for an insurance-based levy to fund Fire and Emergency. This is contained in Part 3 of the FENZ Act and is known as the Part 3 levy. The levy will be the primary source of funding for Fire and Emergency.
29. A single insurance-based levy for Fire and Emergency replaces the fragmented funding arrangements that were used to fund urban and rural fire services previously. For example, while urban fire services were funded through an insurance-based levy, rural fire services received funding through levies on forest owners, local government rates, Department of Conservation payments and cost recovery, among other sources. A single levy is a more straightforward approach but needs to cover the broad range of services Fire and Emergency provides compared to its predecessors.
30. In 2019, the Government initiated a review of the funding model for Fire and Emergency [CAB-19-MIN-076 refers]. This review was completed in 2021 and the Government agreed to continue with the existing insurance-based levy in the FENZ Act, with targeted changes to address stakeholder concerns. These changes were included in the Fire and Emergency New Zealand (Levy) Amendment Act (the

⁴ Section 11 of the FENZ Act.

⁵ Section 12 of the FENZ Act.

Amendment Act), which received royal assent on 5 April 2023. Analysis in this document was conducted in the context of the legislative framework as amended by the Amendment Act.

There are limitations to the insurance-based funding model

31. None of the options explored through the 2019 funding review were able to resolve all the issues raised by stakeholders. Changes made by the subsequent Amendment Act were intended to improve the simplicity of collecting the levy and avoid significant increases to levy rates for some larger levy payers when Part 3 commences. The insurance-based levy model was the only affordable option for the Government in the short to medium term, but there are limitations with this model.
32. **Free-rider issues** – charging a levy through insurance means that those who do not insure their property contribute nothing to funding Fire and Emergency, but still receive the benefits of its services.
33. **Adds to the cost of insurance** – insurers and brokers are required to collect levy from insurance policyholders and pass the levy on to Fire and Emergency. This adds to the costs of providing insurance, which are ultimately passed on to policyholders. In some cases, attaching levy costs to insurance cover will influence decisions in the market; for example, it may discourage insurance uptake, or encourage policyholders and insurers to structure insurance products to avoid the levy.
34. **Levy paid does not accurately reflect risk level** – commercial property stakeholders believe the non-residential sector should, as much as possible, pay only for the Fire and Emergency services that it uses, or has the potential to use, even if it comes at the expense of some simplicity in administration. For example, these stakeholders would prefer a complex risk-based model, where the levy can reflect measures that mitigate risk, such as sprinklers and new building technology. The FENZ Act contains a regulation-making power to reduce the amount paid by some policyholders but does not contain the complexity to strictly allocate costs according to risk.

The Part 3 levy operates through a combination of the FENZ Act and regulations

35. An insurance-based levy means that the levy is attached to insurance contracts. The insurance sector plays a key role in calculating and collecting the levy on behalf of policyholders in most cases and passing levy payments on to Fire and Emergency.
36. Part 3 of the FENZ Act establishes the broad framework of the levy. The levy applies to any property insured under a contract of insurance against loss or damage from fire and any motor vehicle with comprehensive or third-party insurance. Motor vehicles are levied at a flat amount per annum and property is levied at a rate per amount of sum insured.
37. Regulations can be made under sections 141-143 of the FENZ Act to outline further detail of the Part 3 levy. These regulations can specify what the annual amount of levy is for motor vehicles, as well as the rate of levy for all other property. The regulations can also specify maximum amounts of levy or caps on the amount used to calculate the levy for certain property and discounted rates. These decisions will be sought from Cabinet later, following public consultation led by Fire and Emergency in 2024.
38. Regulations can provide for exemptions from the Part 3 levy. Specifically, classes of property, insurance contract or insurance policyholder can be made exempt from payment. These are the decisions that are being sought from Cabinet now.

39. Whether or not a levy is paid by a property owner does not affect whether Fire and Emergency respond in the case of an incident. Fire and Emergency will always respond, provided it has the capacity and capability to do so.

The Part 3 levy is not yet operational

40. While most provisions of the FENZ Act have come into effect, the Part 3 levy has a delayed commencement date of 1 July 2026 and is not yet in effect. This delayed commencement has been necessary to ensure that the Government can complete the review of the funding model for Fire and Emergency, provide time for necessary regulations to be made and notified, provide time for the insurance sector to implement the levy system, and to account for COVID-19 delays.
41. A transitional levy funds Fire and Emergency until the Part 3 levy becomes operational. The transitional levy essentially uses the urban fire services levy under the Fire Service Act 1975, mentioned in paragraph 29, to fund 97% of Fire and Emergency’s operations. When the FENZ Act passed in 2017, the levy rate was increased by approximately 40% to offset lost revenue from the discontinued rural fire funding mechanisms and cover the one-off costs from the creation of Fire and Emergency.
42. The transitional levy regime also includes exemptions that were transferred from the earlier urban fire services levy. Detailed analysis of these exemptions was not considered necessary at the time as the transitional levy was only intended to be in place for one year. As a result, exemptions currently in place under the transitional regime reflect the different activities that the urban fire services levy was intended to fund.⁶ These exemptions do not take account of Fire and Emergency’s responsibility for both urban and rural areas, as well as the expanded range of incidents they are obligated to respond to. Two further exemptions to the transitional levy, covering Defence Force property and art and museum collection items, were added in 2019 when the transitional period was extended to allow for the funding review.

What is the policy problem or opportunity?

Problem definition

43. The insurance-based levy outlined in Part 3 of the FENZ Act will come into force from 1 July 2026. The FENZ Act includes regulation-making power to exempt any class of property, insurance contract or policyholder from payment of the levy. If exemption regulations are not put in place, then all property that fits within the levy framework provided for under the FENZ Act will incur a levy regardless of whether it benefits from the potential to use Fire and Emergency services.
44. The problem to be addressed is to identify any potential levy exemptions that will improve the consistency of the levy regime with the principles in section 80 of the FENZ Act, in particular the expectation that policyholders who benefit from the potential to use Fire and Emergency services will pay levy, while those that do not benefit do not pay.

⁶ Two additional exemptions, for Defence Force property, and art and collection items held by cultural heritage bodies, were added to the transitional regime in 2018 when Part 3 commencement was initially pushed back. These are discussed in more detail in the options analysis section of this document.

Section 80 of the FENZ Act outlines the purpose of Part 3

45. This purpose is to provide for a levy that is:
- a **stable** source of funding to support Fire and Emergency in the performance of functions and duties and exercise of powers under this Act;
 - **universal**, so that Fire and Emergency's costs are generally shared among all who benefit from the potential to use Fire and Emergency's services;
 - **equitable**, so that policyholders should generally pay a levy at a level commensurate with their use of, or benefit from the potential to use, Fire and Emergency's services and with the risks associated with the activities that policyholders carry out (but without strict apportionment according to use, benefit or risk having to be observed);
 - **predictable**, so that policyholders and levy payers are able to predict the amounts that they will need to pay and Fire and Emergency is able to predict how much levy income it will receive; and
 - **flexible**, so that the levy can adapt to:
 - changes in the use, benefit or risk associated with those who benefit from the potential to use Fire and Emergency's services;
 - variations in Fire and Emergency's costs; and
 - changes to the expectations of the Crown and the strategic needs of Fire and Emergency.

Insurance contracts covering loss or damage from fire can cover a wide range of property, regardless of the potential to benefit from Fire and Emergency services

46. Most property is insured against fire damage in New Zealand. Insurers generally offer policies that cover all perils by default (for example, fire and natural hazards) unless perils are specifically excluded. Policyholders are not generally required to note specific perils to include from the outset. This means that the levy covers a broad range of property. For example, residential homes, offshore wind installations, airport runways, aeroplanes, ships and farm sheds can all be captured.
47. Some policyholders receive very little or no benefit from the potential to use Fire and Emergency services but will still be captured by the Part 3 framework if insured against fire damage. Although Fire and Emergency can respond to incidents related to its functions in the FENZ Act involving most of the property in New Zealand, there are some practical limitations to this. For example, Fire and Emergency is unable to respond to property located at sea or beyond New Zealand's territorial limits. Some organisations also operate separate emergency responses that limit their reliance on Fire and Emergency. The following sections of this document will examine these considerations in detail.

The way insurance contracts are structured means that some property will incur the levy multiple times

48. Insurance contracts are structured around policyholders' needs and the insurance market, not the Part 3 levy. This means that there can be several different types of insurance contract covering fire damage that apply to the same property. This is determined by the risk profiles of property and the extent to which the insurance market can offer particular products across a broad range of providers. For example, the same commercial building can have general insurance cover (covering fire damage

and natural hazard damage) and a separate insurance policy covering terrorism or war perils (which includes fire damage as a result of acts of war or terrorism). Two different policies are required because only certain insurance companies provide cover for war and terrorism damage. While this applies to one building, for the purposes of the framework under the FENZ Act, it would be treated as two different insurance policies and both contracts would attract a levy.

49. An additional contract of insurance that covers risks not included in general insurance cover will apply to property already paying the Part 3 levy (subject to any other exemptions). Levy will be calculated on the sum insured, which represents the value of the property covered. Subsequent contracts do not increase the amount of insured property on which the levy liability is calculated. As a result, they should not attract an additional levy.

Targeted consultation on exemptions took place in 2022

50. The Department conducted targeted consultation with insurers and insurance policy holders likely to be affected by exemption regulations in August 2022. We spoke with peak industry bodies who provided feedback on behalf of members. This consultation took place over a month and invited written feedback on proposed exemptions for the Part 3 levy. We held meetings with stakeholders who requested them. Feedback on specific property types is included later in this document. Broad themes from consultation are listed below:

- Insurers and policyholders generally noted that Fire and Emergency provides critical public services, and it is important that it is well funded to deliver its services efficiently and effectively.
- Stakeholders supported an expansion of the levy base so more types of property contribute to the levy.
- Policyholders generally thought classes of property they owned should be exempt. They argued that they did not receive enough benefit from Fire and Emergency to justify paying levy.
- Insurers were in favour of exemption regulations that were easy to interpret and apply to individual contracts, minimising the administrative burden placed on them.

We have an improved understanding of the impact of the levy on Māori, following additional consultation in 2023

51. We have not achieved high levels of engagement with Māori to date relating to Fire and Emergency. We reviewed consultation summaries from 2015 (on the initial proposals to establish Fire and Emergency) to 2019 (for the Fire Funding Review). No iwi, hapū or Māori organisations submitted on these proposals. The Department organised hui with Māori as part of the 2019 Fire Funding Review consultation, but these were not well attended. We heard from one Māori organisation with an interest in forestry and agriculture during targeted consultation on exemptions in August 2022.
52. The Department led further consultation with Māori organisations which have interests in forestry between April and August 2023. Officials sought feedback on an initial analysis of potential Treaty of Waitangi implications for charging an insurance levy on forests. Four organisations provided written feedback and met with Department officials. Participants in these conversations raised no significant objections to the initial analysis summarised in **Appendix A**.

53. The Department is currently working with Fire and Emergency to build on relationships established through this targeted consultation to strengthen engagement with Māori during Fire and Emergency's wider public consultation on proposed Part 3 levy rates.

Stakeholders raised concerns that are beyond the scope of this analysis

54. Stakeholders were concerned about the amount of levy they would pay on non-exempt property relative to their benefit from the potential to use Fire and Emergency services. At the time we consulted and analysed policy options, Fire and Emergency had not yet completed financial modelling to understand what future levy rates might be, or how certain regulatory tools (for example, caps) could be used to better align levy amounts with how much benefit policyholders could gain from their potential to use Fire and Emergency services.
55. Policyholders frequently expressed dissatisfaction that those who choose not to insure their property do not contribute to funding Fire and Emergency, while insurers raised concerns about levy costs adding to the cost of taking out insurance. Although we aim to mitigate the financial impacts of the levy where possible, these are unavoidable consequences of funding Fire and Emergency through a levy on insurance.

Exemptions will not affect the levy rates Fire and Emergency consults on, but will provide greater clarity for stakeholders during public consultation

56. The decision on exemptions will not change the underlying modelling behind the levy rate proposals. Proposed levy rates are based on broad estimates about the extent of insured property in New Zealand. Fire and Emergency estimates that the extent of insured property covered by the exemption options considered in this analysis is not large enough to have a material impact on the levy rates necessary to meet its revenue needs.
57. Exemption regulations will affect how the levy is distributed by indicating which insurance contracts will have a levy applied and exemptions will also have impacts for individual levy payers. Determining exemptions before consulting on levy rates means that insurance policyholders would know whether the levy applies to an insured property. This clarity will assist stakeholders to make more informed submissions during public consultation, especially about how proposed Part 3 levy rates impact them.

Population effects will be better understood during the levy setting process

58. We do not have detailed information about the effects of our preferred options on specific population groups. Commercial sensitivity concerns limit our ability to link certain types of property or insurance contract with specific groups. Obtaining further information from policyholders about levels of insurance taken out on property that will no longer be exempt when Part 3 commences will be a key aim of levy rate consultation. However, we are reliant on policyholders or the insurance sector to share this information with us and they may not always see it as in their interests to do so.

What objectives are sought in relation to the policy problem?

Our policy objectives have been informed by the purpose of Part 3, outlined in section 80, as well as other guidance included in the FENZ Act

59. The purpose of Part 3 of the FENZ Act is to provide for a levy that meets the principles in section 80 (see paragraph 45). In addition to the principles in section 80, the FENZ

Act requires the Minister of Internal Affairs to have regard to cost-effectiveness and efficiency of the administration of the levy before recommending an exemption.⁷

60. The section 80 principles apply to the whole levy system. Exemptions are a subset of that system, which means they may not be the regulatory mechanism best suited for ensuring the levy gives effect to the overall objective of the levy system. We have derived a simplified list of objectives that reflect the extent to which exemptions in isolation are able to shape the levy system, as well as the extent to which exemption recommendations have regard to cost-effectiveness and administrative efficiency. These are:
- The costs of funding Fire and Emergency will be shared as widely as possible among policyholders who benefit from the potential to use Fire and Emergency's services.
 - Policyholders who do not benefit from the potential to use Fire and Emergency services will not have the levy applied.
 - Exemption regulations are clear about where the levy should be applied, and where it should not.
61. Exemption regulations will align the levy system in particular with the universality and equity principles defined in section 80 of the FENZ Act (see **paragraph 45**). They will do this primarily by identifying where insurance policyholders do not benefit from the potential to use Fire and Emergency services. Questions about how much levy should be paid will be addressed in more detail at the levy rate setting stage, once policyholders have been able to provide feedback on levy rate proposals developed by Fire and Emergency.
62. Exempting property because policyholders would pay too much levy, whether relative to use or benefit from the potential to use Fire and Emergency services, is a blunt approach that prevents policyholders from paying any levy and may be contrary to the universality requirement in section 80. Creating an exemption prevents that property from paying any levy, requiring other levy payers to make up the associated shortfall collected by Fire and Emergency.

Sometimes trade-offs will need to be made between the objectives

63. Ambiguity of where the levy applies undermines the stability and predictability of the system as it creates more opportunities for avoidance and increases the likelihood of unintended consequences. It leads to a less cost-efficient system, requiring insurers to commit more resources to the calculation of levy costs on behalf of their customers and increasing the risk of under- or overpayment.
64. In some cases, the design of insurance contracts may not align with the proposed treatment of the property under regulations, making it unclear for the insurance sector which insured value should have the levy applied. Where there is a trade-off between these objectives, we have prioritised the overall clarity of exemptions regulations. It is critical that the levy system functions in a stable and predictable way to ensure that Fire and Emergency has the necessary funding to deliver their services.

⁷ Section 141(4) of the FENZ Act.

Section 2.1: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

65. We have used two criteria when comparing the option of whether to create an exemption to the Part 3 levy against the option of doing nothing. These criteria are designed to test whether an option meets the objectives of this policy problem, discussed in the previous section. These are:
- **Fairness** – requires that policyholders who benefit from the potential to use Fire and Emergency services will pay levy, while those that do not benefit will be exempt.
 - **Efficiency** – requires that regulations are clear about who or what the levy will apply to and what is exempt, contributing to the overall cost-efficiency of levy collection.
66. We have combined the first two objectives (see **paragraph 60**) into a single criterion (fairness) that will assess whether certain policyholders receive a benefit from Fire and Emergency services. Application of the fairness criterion assumes that a policyholder paying for insurance on property will be the beneficiary of any Fire and Emergency response involving that property.
67. The fairness criterion will assess whether insured property is vulnerable to the types of incidents that Fire and Emergency respond to, and whether it can be expected to respond in the case of an incident. This assessment has drawn on Fire and Emergency response data, but we have also considered the list of functions in the FENZ Act. Benefitting from Fire and Emergency’s services is not determined only by how often firefighters respond to this type of property. More than two-thirds of Fire and Emergency’s expenditure is made up of fixed costs, such as the cost of maintaining capacity to be available in case of an incident occurring. A Fire and Emergency response will include its full range of functions, not just its response to fires.
68. Allocating cost according to potential to use or benefit also requires avoiding situations where an insurance contract covers property that has already had the levy applied. In some cases, levy may be charged multiple times if property owners take out multiple insurance policies that have a fire cover component, even though additional insurance contracts do not reflect any additional potential use or benefit from Fire and Emergency.
69. A second criterion (efficiency) is directly linked to the third objective outlined in the previous section. The efficiency criterion will assess whether an option will add ambiguity to the levy system, increasing administrative costs and increasing the likelihood that levy amounts are calculated and paid incorrectly. A key part of this assessment will be whether exemption options align with the language and design of insurance contracts.

What scope will options be considered within?

This analysis is limited to consideration of exemptions to the Part 3 levy

70. Part 3 of the FENZ Act includes a regulation-making power to set levy rates and determine any types of property, classes of insurance contract, or levy payers that will

be exempt from paying.⁸ There are no constraints on the scope of feasible options for exemption, but this analysis does not consider any regulatory mechanisms beyond whether to grant an exemption.

71. Non-regulatory options are not available in this context. If property is not explicitly exempt through regulations, then it will be liable to pay the levy. Fire and Emergency must apply the levy framework as specified under the FENZ Act and cannot choose to exempt property or waive payment without regulations being set.
72. Relevant experience from other countries and jurisdictions has not been considered because New Zealand is unique in using a levy on insurance to fund most of its fire services. New South Wales partially funds fire services through a levy on insurance. However, this levy system has significant differences to the Fire and Emergency model meaning that there is little benefit from comparison, given the focus in this analysis on exemptions.

Exemption options considered here are based on the transitional levy

73. We have based the range of options considered in this analysis primarily on the exemptions in place under the transitional levy regime. This was a practical decision resulting from our approach to targeted consultation on exemptions in 2022. Transitional exemptions provided a starting point for discussions with stakeholders about what should be exempt when the new levy commences. Given the expanded range of functions the Part 3 levy will fund compared to when many of the exemptions were created prior to the FENZ Act, we started from the assumption that fewer property types would warrant exemption from the Part 3 levy than are currently in place.
74. We also asked for feedback from stakeholders about any further exemptions that we should consider. Most of the feedback we received from stakeholders focused on the transitional levy exemptions. However, we have included three classes of insurance contract not currently exempt under the transitional levy as options in this analysis following feedback from insurers. We have ruled out some stakeholder suggestions for consideration as part of this analysis because we did not see them as raising distinct issues not covered by the options already included. Where relevant, these have been mentioned as part of the following options analysis. We have not identified any further options warranting consideration for exemption.

⁸ Section 141 (3) (e) of the FENZ Act

Section 2.1a: New Zealand Defence Force property

Context and policy problem

75. The Chief of Defence Force has the functions, duties and powers of the Fire and Emergency Board in relation to any defence area.⁹ This means that primary legislative responsibility for responding to fire or other emergency situations in defence areas rests with the New Zealand Defence Force and not Fire and Emergency. The Defence Force provides its own incident and emergency response.
76. Fire and Emergency will still support a New Zealand Defence Force response in a defence area if requested. However, this is offset by the New Zealand Defence Force providing support for a Fire and Emergency response when requested, under an operational services agreement under the FENZ Act.¹⁰
77. New Zealand Defence Force property is exempt from the transitional levy that funds Fire and Emergency.¹¹ The provision that exempts New Zealand Defence Force property from paying the levy will cease to apply from the commencement date of the Part 3 regime.
78. We do not have information about the Defence Force's insurance arrangements but assume that it is commonplace for property to be insured against fire damage. Increased costs would need to be recovered through additional funding from the Crown, or existing budgets would need to be reprioritised. The Defence Force could also choose to alter its insurance arrangements (for example, reducing its level of cover) to reduce costs further.

What options are being considered?

Option One – Counterfactual

79. This option would mean that New Zealand Defence Force property pays levy from the commencement of Part 3. The exemption under the transitional levy would cease to apply from this date.
80. This option is worse for the fairness of the levy. Because of the Defence Force's primary statutory responsibility for incident and emergency response in defence areas, it receives little benefit from the potential to use Fire and Emergency's services. In some cases, the Defence Force does request Fire and Emergency's support. However, given Fire and Emergency and the Defence force are required under the FENZ Act to sign an operational service agreement outlining reciprocal service provisions, we do not consider that charging a levy on the Defence Force would improve levy fairness.
81. This option would be efficient to administer. Defence Force property would pay the levy if it were insured against fire damage, subject to any other exemptions that may apply to specific types of property.

⁹ Section 149 of the FENZ Act.

¹⁰ Section 148 of the FENZ Act.

¹¹ Clause 25B, Schedule 1 of the FENZ Act. An exemption was agreed to by Cabinet in July 2017 [EGI-17-MIN-0195] and included in the transitional provisions of the FENZ Act by Supplementary Order Paper to a previous Fire and Emergency New Zealand Amendment Act in 2018, when the commencement of Part 3 was pushed back for the first time.

Option Two – Exempt New Zealand Defence Force property (preferred option)

- 82. This option would exempt New Zealand Defence Force property from the commencement date of the Part 3 levy. This property would still be exempt under the transitional levy until the commencement date of Part 3, from which a new exemption would apply. This option continues the existing approach under the transitional levy.
- 83. This option improves the fairness of the levy compared to the counterfactual. Because the Defence Force receives no net benefit from the potential to use Fire and Emergency’s services, a lack of contribution through the levy supports this criterion.
- 84. This option would be efficient to administer. It reflects existing practice, and we are not aware of any issues with the current approach. Insurers and brokers simply need to identify whether an insurance contract relates to New Zealand Defence Force property and exclude that property from any levy calculations.
- 85. Stakeholders made limited comments on this option during consultation. The Defence Force and Fire and Emergency both support this option.

How do the options compare to the counterfactual?

Table 2: Multi-criteria analysis for exempting New Zealand Defence Force property

| | Option One – Counterfactual | Option Two – Exempt New Zealand Defence Force property (preferred option) |
|---------------------------|------------------------------------|---|
| Fairness | 0 | + No benefit from the potential to use Fire and Emergency services. |
| Efficiency | 0 | 0 Insurance sector can easily identify when this exemption applies. No more or less difficult than if property paid levy. |
| Overall assessment | 0 | + Improvements for fairness with no effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1b: Mines and tunnelling operations

Context and policy problem

86. The New Zealand Mines Rescue Service is empowered by the Mines Rescue Act 2013 as the organisation responsible for emergency response to incidents at certain mining and tunnelling operations.
87. The Mines Rescue Service is funded through the Mines Rescue Levy (MRL), a levy on mining and tunnelling operations. For the purposes of the MRL, a tunnelling operation is defined as a tunnel under excavation, which is intended to be longer than 150 metres upon completion.¹² The MRL separately allocates costs to the two core functions provided by the Mines Rescue Service of Emergency Preparedness and Emergency Response Readiness (ERR). Levy obligations are calculated according to the size and risk profile of an operation, as a proportion of the entire mining and tunnelling sector in New Zealand.
88. The transitional levy that currently funds Fire and Emergency includes exemptions for “any mine or quarry” as well as “any tunnel or cutting”.¹³ Quarries, cuttings and tunnels that do not meet the above definition of a tunnelling operation are not covered by the Mines Rescue Act 2013. For this reason, we have treated them separately from mining operations and they are discussed further at 2.1m.
89. Existing exemptions made up part of the list of exemptions transferred wholesale from the pre-FENZ Act levy regime. We do not know the original rationale for exempting these property types, but it is likely because few mining operations were located within the jurisdiction of urban fire services.
90. Fire and Emergency confirmed it has a supporting role in responding to mining incidents, but they do not enter mines. The Ministry of Business, Innovation, and Employment (MBIE) confirmed that mining and tunnelling operations were subject to the MRL. Business New Zealand, a peak body representing a wide range of sectors including mining, did not provide any feedback specific to this option.

What options are being considered?

Option One – Counterfactual

91. Under this option, mines, quarries, and tunnelling operations would pay levy from the commencement date of the Part 3 levy. This could lead to a substantial increase in insurance costs for this sector, depending on their insurance arrangements. This would be a change from the current approach under the transitional levy.
92. This option is worse for the fairness of the levy. Mining and tunnelling operations will likely have some potential to benefit from Fire and Emergency services, but this is most likely involving property adjacent to actual mines. Insurance contracts for adjacent property will have the levy applied.

¹² Mines Rescue (Levy) Regulations 2014.

¹³ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

93. We do not have information about insurance for mining operations. This option would not raise any issues for levy efficiency.

Option Two – Exempt mines and tunnelling operations (preferred option)

94. This option would exempt mines, quarries and tunnelling operations from the commencement date of the Part 3 levy. This property would still be exempt under the transitional levy until the commencement date of Part 3, from which a new exemption would apply. The proposed exemption would exclude tunnels that are not subject to the MRL, quarries and cuttings.
95. This option improves the fairness of the levy compared to the counterfactual because the Mines Rescue Service takes a primary role in responding to mining incidents.
96. This option would have little impact on the efficiency of the levy. Insurers did not highlight any issues with the administration of existing exemptions for this property but raised potential issues distinguishing what qualifies as a tunnelling operation. However, given that MBIE figures only identified six operations fitting this description in 2022, we do not consider it a significant barrier to levy simplicity overall.

How do the options compare to the counterfactual?

Table 3: Multi-criteria analysis for exempting mines, quarries and tunnelling operations

| | Option One – Counterfactual | Option Two – Exempt mines and tunnelling operations (preferred option) |
|---------------------------|------------------------------------|--|
| Fairness | 0 | + No net benefit from the potential to use Fire and Emergency services. |
| Efficiency | 0 | 0 Insurance sector can easily identify when this exemption applies. Small number of tunnelling operations may require additional work to identify, but the impact of this on the levy as a whole is likely to be very small. |
| Overall assessment | 0 | + Improvements to fairness with little effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1c: Reservoirs, dams, drains or channels

Context and policy problem

97. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy.¹⁴
98. We heard from electricity generators that many hydro-electric dams are inaccessible to Fire and Emergency, due to their location.
99. Little detailed feedback was received from stakeholders on this type of property. We were not able to gather from available response data whether Fire and Emergency respond to incidents involving this property. Stakeholders generally agreed that, on balance, this property is unlikely to benefit from a Fire and Emergency response. Insurers confirmed that these property types are usually specifically identified within insurance contracts, meaning an exemption can be easily applied.

What options are being considered?

Option One – Counterfactual

100. Under this option, reservoirs, dams, drains, or channels would pay levy from the commencement date of the Part 3 levy. This could lead to a substantial increase in insurance costs for owners of this infrastructure, depending on their insurance arrangements. This would be a change from the current approach under the transitional levy.
101. This option would not improve the fairness of the levy. Fire and Emergency is unlikely to respond to this property, and its benefit from the potential to use Fire and Emergency services is marginal. This option would be efficient to administer.
102. The property would pay the levy if it were insured against fire damage. Feedback from one electricity generator indicates that hydro-electric dams are insured against damage from fire as a result of natural disasters, which would incur a levy.

Option Two – Exempt reservoirs, dams, drains or channels (preferred option)

103. This option would mean that this property will not pay levy when Part 3 commences. It would still be exempt under the transitional levy until this date, at which point a new exemption would apply. The option continues the existing approach under the transitional levy.
104. The option improves the fairness of the levy compared to the counterfactual because this property does not benefit from the potential to use Fire and Emergency services. We have not identified any issues for levy efficiency.

¹⁴ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

How do the options compare to the counterfactual?

Table 4: Multi-criteria analysis for exempting reservoirs, dams, drains or channels

| | Option One – Counterfactual | Option Two – Exempt reservoirs, dams, drains or channels (preferred option) |
|---------------------------|-----------------------------|---|
| Fairness | 0 | <p style="text-align: center;">+</p> Unlikely to benefit from a Fire and Emergency response |
| Efficiency | 0 | <p style="text-align: center;">0</p> Does not raise any efficiency issues |
| Overall assessment | 0 | <p style="text-align: center;">+</p> Improvements to fairness with little effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, **0** no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1d: Offshore installations, cabling/pipelines on the sea floor, breakwaters, moles, and groynes

Context and policy problem

105. Offshore installations and cabling/pipelines on the sea floor are exempt from paying the transitional levy.¹⁵ Fire and Emergency does not have the operational capacity to respond to incidents involving offshore or undersea assets. Fire and Emergency rescuers may occasionally accompany rescue operations offshore, but it is not the lead responder in this context.
106. Little detailed feedback was received from stakeholders on this type of property. There was general agreement that Fire and Emergency is unlikely to be able to respond to this type of property. Fire and Emergency confirmed that they do not have the operational capacity to respond.

What options are being considered?

Option One – Counterfactual

107. Under this option, offshore installations, cabling/pipelines on the sea floor, breakwaters, moles, and groynes would pay levy from the commencement date of the Part 3 levy. This could lead to a substantial increase in insurance costs for owners of this infrastructure, depending on their insurance arrangements. This would be a change from the current approach under the transitional levy.
108. This option would be worse for the fairness of the levy. Because Fire and Emergency lacks the operational capacity to respond to this property, the property receives no benefit from the potential to use Fire and Emergency services. Paying a reduced levy would not improve the fairness of this option.
109. This option would be efficient. This property would pay the levy if it were insured against fire damage. The insurance sector would be able to identify this property just like it would any other property.

Option Two – Exempt offshore installations, cabling/pipelines on the sea floor, breakwaters, moles, and groynes (preferred option)

110. This option would mean that these property types will not pay levy when Part 3 commences. This property would still be exempt under the transitional levy until this date, at which point a new exemption would apply. The option continues the existing approach under the transitional levy.
111. The option improves the fairness of the levy compared to the counterfactual because this property does not benefit from the potential to use Fire and Emergency services. We are not aware of any efficiency issues raised by this approach. Insurers have indicated that this type of property is generally specifically identified within insurance contracts.

¹⁵ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

How do the options compare to the counterfactual?

Table 5: Multi-criteria analysis for exempting offshore installations, cabling/pipelines on the sea floor, breakwaters, moles, and groynes

| | Option One – Counterfactual | Option Two – Exempt Offshore installations, cabling/pipelines on the sea floor, breakwaters, moles, and groynes (preferred option) |
|---------------------------|-----------------------------|--|
| Fairness | 0 | + Fire and Emergency does not have operational capacity to respond to offshore assets. |
| Efficiency | 0 | 0 No efficiency issues identified. |
| Overall assessment | 0 | + Improvements to fairness with little effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1e: Ships

Context and policy problem

112. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy. The exemption covers any ship or anything in a ship, except while the ship is on land.¹⁶ In this context, ship has a broad definition, meaning any kind of water-borne craft.
113. Ships have the potential to benefit from a Fire and Emergency response when located at wharves, marinas, or near to shore. Fire and Emergency is called to incidents involving ships relatively rarely, with approximately 400 recorded incidents in the last 20 years (excluding incidents on land). However, Fire and Emergency is required to be ready for port incidents and it develops tactical plans with local harbourmasters. Firefighters are trained in responding to incidents on ships.
114. New Zealand Maritime Rules require that ships larger than 45 meters in length, which travel beyond 'restricted limits' into open ocean, must meet international requirements for onboard emergency management capability.¹⁷ This regulatory system is funded by a Maritime levy. We heard from the commercial shipping sector that this includes fire suppression capacity, since fire services cannot reach a ship on open ocean. The sector argued that time spent by ships at sea meant that onboard response was necessarily sufficient to deal with any incidents that would usually require a Fire and Emergency response.
115. These safety management requirements only apply to a relatively small number of ships in New Zealand. The Maritime rules apply to larger, sea-going vessels which are likely to be insured for larger amounts. Fishing boats, ferries, and private recreational craft, for example, are not required to operate on-board fire response capacity.
116. In contrast to views from the shipping sector, stakeholders from the fisheries sector were supportive of a change to exemption status. They argued that charging a levy on ships was appropriate, if there was some capacity to reflect the time spent away from shore when levy rates are set. Many fishing vessels in remote areas such as the lower east coast of the North Island are routinely stored on land due to a lack of marinas nearby. As a result, these ships are currently subject to the full amount of levy, while ships docked at marinas are not paying levy. Insurance sector representatives supported the idea of applying a levy to ships, agreeing they generally benefit from Fire and Emergency services.

What options are being considered?

Option One – Counterfactual

117. This option would mean that all ships insured under a contract of fire insurance would pay levy from the commencement date of Part 3. The exemption under the transitional levy would cease to apply from this date.

¹⁶ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

¹⁷ Maritime Rules, Part 21.

118. This option is good for the fairness of the levy compared with creating an exemption. Ships will benefit from Fire and Emergency services, but only if an emergency occurs near the shore. International ships may only spend a small proportion of the duration of an insurance contract within access of Fire and Emergency and therefore any potential to benefit is low.
119. Charging a levy on property insured for regular travel beyond New Zealand borders will add to the complexity of administering the levy. Charging a levy on international ships will also incur an administrative burden associated with levy calculation and collection. International shipping firms maintain very little connection with New Zealand, with owners, insurers and insurance brokers all based overseas. The FENZ Act applies the levy to “insured property in New Zealand,” and applying the levy to international property potentially raises complications about the scope of that definition. Identifying which insurance contracts should have a levy applied, and then collecting that levy, will be a complex process.

Option Two – Exempt internationally registered ships (preferred option)

120. This option would mean that internationally registered ships are exempt from payment of the levy when Part 3 commences. New Zealand ships would be required to pay the levy.
121. There are some marginal losses to fairness compared to the counterfactual because international ships will not pay levy. It avoids the difficulty of collecting levy from international ship owners, who often will not operate in New Zealand, and identifies a levy rate that will reflect the very small amount of time they are likely to spend accessible to a Fire and Emergency response.
122. The definition of an internationally registered ship will also require a trade-off between fairness and efficiency. The distinction between New Zealand and foreign ships, as per the Maritime Transport Act 1994, provides a clear legislative guide that will be familiar with the maritime sector. Using this definition may mean that some foreign registered ships that spend significant amounts of time in New Zealand will not pay levy, but it will provide clarity to insurers and policyholders.
123. Unlike the exemption under the transitional levy, this option will not cover any goods insured for transport on a ship. It does apply to any machinery or equipment used for operation of the ship, which insurers have confirmed is normally covered by marine insurance contracts.

Option Three - Exempt all ships

124. This option would mean that all ships are exempt from payment of the levy when Part 3 commences. Unlike the exemption under the transitional levy, this option will not cover any goods insured for transport on a ship.
125. This option is worst for the fairness of the levy. This property benefits from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.
126. This option would be efficient to administer. Ships are insured under easily identifiable contracts, meaning it would be easy to identify whether one should be exempt and calculate the levy accordingly.

How do the options compare to the counterfactual?

Table 6: Multi-criteria analysis for exempting ships

| | Option One – Counterfactual | Option Two – Exempt internationally registered ships (preferred option) | Option Three – Exempt all ships |
|---------------------------|-----------------------------|--|---|
| Fairness | 0 | 0 International ships only benefit from the potential to use Fire and Emergency services for a small part of the duration of the insurance contract, so any effect on fairness is negligible | -- No ships will pay the levy, despite benefitting from Fire and Emergency |
| Efficiency | 0 | + Avoids complexity of collecting levy on international ships, but requires insurers to distinguish between international and domestic ships | ++ Avoids complexity of collecting levy from international ships and avoids distinguishing between domestic and international ships |
| Overall assessment | 0 | + Very little effect on the fairness of the regime but provides improvements for efficiency | 0 Significant reduction in fairness, but improves efficiency of the levy |

++ much better than counterfactual, + somewhat better than counterfactual, **0** no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1f: Aircraft

Context and policy problem

127. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy. The exemption covers any aircraft or anything on an aircraft.¹⁸
128. For aircraft, potential to use Fire and Emergency services will be primarily during take-off and landing and, in some cases, during emergency incidents over New Zealand land. Emergencies involving aircraft are rare but have potentially very serious consequences when something does go wrong. Fire and Emergency data indicates that emergency services responded to an average of 40 incidents involving aircraft per year between 2012 and 2022. This number is part of the almost 400 incidents recorded at airports per year, including runways and aircraft hangars.
129. Some airports are required under Civil Aviation Authority (CAA) Rules to operate onsite fire brigades. These rules apply to airports that reach a specific threshold of air traffic, which in practise extends to the primary airports in New Zealand's regional centres. CAA guidance outlining requirements for airport emergency planning are clear that they are intended to supplement rather than replace the involvement of local emergency services.¹⁹ Fire and Emergency crews are in frequent communication with airport staff and are called to stand-by when an aircraft registers certain types of error message. The aim of onsite response is to arrive quickly and manage an incident until Fire and Emergency staff reach the scene.
130. Stakeholders pointed out that aircraft incidents involving commercial passenger aircraft requiring a Fire and Emergency response are extremely rare, due to the safety standards already in place, including provision airport funded fire brigades. Fire and Emergency response data reflects that a majority of incidents involve light aircraft or helicopters, suggesting that a large proportion of incidents take place at airfields that do not operate onsite fire brigades. However, as with other safety measures in the aviation sector, most of Fire and Emergency's costs come from ensuring it is ready to respond in case of an emergency.
131. Fire and Emergency is an important part of the overall safety apparatus that ensures confidence in the aviation sector. We did not receive any feedback contesting the position that there is a potential to benefit from a Fire and Emergency response for smaller aircraft at the majority of New Zealand's airfields.
132. We heard from insurers and stakeholders in the aviation sector that all aircraft are typically insured for their full replacement value. Stakeholders were unhappy about the rising costs on the sector in general.
133. Airport operators also argued that an exemption should be granted for general airport property including runways, as this is serviced by airport fire brigades. Airport property benefits from the potential to use Fire and Emergency services for the same reasons outlined in the preceding paragraphs.

¹⁸ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

¹⁹ CAA Advisory Circular AC139-4

What options are being considered?

Option One – Counterfactual

134. This option would mean that all aircraft insured under a contract of fire insurance would pay levy from the commencement date of Part 3. The exemption under the transitional levy would cease to apply from this date.
135. This option improves the fairness of the levy, as aircraft have a potential to benefit from Fire and Emergency services. Fairness gains by including some aircraft will be marginal. International aircraft may only spend a very small proportion of the duration of an insurance contract accessible to Fire and Emergency. In addition, the onsite fire response provided by some airports and funded by aircraft operators, means that they are not solely reliant on a Fire and Emergency response.
136. Charging a levy on aircraft insured for regular travel beyond New Zealand borders will add to the complexity of administering the levy. The marginal increase in fairness gained from removing an exemption for international aircraft will also incur a significant administrative burden associated with levy calculation and collection. International airlines maintain very little connection with New Zealand, with owners, insurers and insurance brokers all based overseas. Similar to international ships, identifying which insurance contracts should have a levy applied, and then collecting that levy, will be a complex process in the context of international aircraft.

Option Two – Exempt aircraft that fly regular international routes (preferred option)

137. This option would mean that aircraft flying regular international routes are exempt from payment of the levy when Part 3 commences. Domestic aircraft would be required to pay the levy, meaning impacts would be similar to option one.
138. This option includes some marginal losses to fairness compared to the counterfactual because international aircraft will not pay levy. However, the majority of aircraft operating in New Zealand will pay levy. The option avoids the difficulty of collecting levy from international aircraft owners, who often will not operate in New Zealand. Further work is needed on a definition of international aircraft that can be easily interpreted by insurers and levy payers, but insurers did not express any concerns whether a workable definition could be found.
139. Unlike the exemption under the transitional levy, this option will not cover any goods insured for transport on an aircraft. It does apply to any machinery or equipment used as part of operating the aircraft, which insurers have confirmed is normally covered by aircraft insurance contracts.

Option Three – Exempt all aircraft

140. This option would mean that all aircraft are exempt from payment of the levy when Part 3 commences.
141. This option decreases the fairness of the levy. This property benefits from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.
142. This option would be efficient to administer. Aircraft are insured under easily identifiable contracts, meaning it would be easy to identify what should be exempt and

calculate the levy accordingly. Unlike the exemption under the transitional levy, this option will not cover any goods insured for transport on an aircraft.

How do the options compare to the counterfactual?

Table 7: Multi-criteria analysis for exempting aircraft

| | Option One – Counterfactual | Option Two – Exempt aircraft that fly regular international routes (preferred option) | Option Three – Exempt all aircraft |
|---------------------------|-----------------------------|---|---|
| Fairness | 0 | 0 International aircraft only benefit from the potential to use Fire and Emergency services for a small part of the duration of the insurance contract, so any effect on fairness is negligible | -- No aircraft will pay the levy, despite benefitting from Fire and Emergency |
| Efficiency | 0 | + Avoids complexity of collecting levy on international aircraft, but requires insurers to distinguish between international and domestic aircraft | ++ Avoids complexity of collecting levy from international aircraft and avoids distinguishing between domestic and international aircraft |
| Overall assessment | 0 | + Very little effect on the fairness of the regime but provides improvements for efficiency | 0 Significant reduction in fairness, but improves efficiency of the levy |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1g: Goods in transit

Context and policy problem

143. Goods in transit are not exempt from the transitional levy when insured against fire damage. However, this property often does not pay levy, depending on the method by which it is being transported. Exemptions for ships and aircraft include “anything on a ship [or aircraft]”.²⁰ This means that goods in transit by air or sea do not pay levy.
144. Fire and Emergency does not collect data on how often they respond to incidents involving goods in transit. We assume that potential to benefit for this property will reflect the method of transportation. If trucks using public highways benefit from Fire and Emergency, so too will the goods they are transporting.
145. Stakeholder feedback agreed that goods in transit should pay a fire levy. Insurers argued that goods insured for export or import should be exempt for the same reason that international ships and aircraft should be; these goods spend only a small amount of time accessible to Fire and Emergency, and that collecting levy from overseas buyers and sellers will be complex.

What options are being considered?

Option One – Counterfactual

146. Option one would mean that all goods in transport insured under a contract of fire insurance would pay levy from the commencement date of Part 3. The de facto exemption under the transitional levy for goods in transport by air or sea would no longer apply due to respective changes to aircraft and ship exemptions. This option will not change how the majority of goods insured for transport within New Zealand are treated compared to the transitional levy. Domestic cargo transported by road and rail is not covered by existing exemptions.
147. This option supports the fairness of the levy, as goods in transport have a potential to benefit from Fire and Emergency services that reflects their method of transportation, or storage location. Goods insured for import or export have only a marginal benefit from Fire and Emergency services, which reflects the period covered by the contract that they are in New Zealand.
148. This option will make the levy more complex to administer. It will be complex to collect levy on insurance contracts that cover goods for import or export because insurers of policyholders may have very little connection with New Zealand.

Option Two – Exempt imports and exports (preferred option)

149. This option will create an exemption for goods insured for import and export. It would have almost the same effect as the status quo under the transitional regime. Imports and exports are de facto exempt from the transitional levy due to existing exemptions covering anything on a ship or aircraft.

²⁰ Schedule 1, FENZ Act

150. The option will mean a minor reduction in fairness of the levy compared to option one. Import and export goods will not be paying levy, even though a small period of the insurance contract will cover the period they are accessible to Fire and Emergency.

151. This option will improve the efficiency of the levy. Insurers have indicated that insurance contracts make a clear distinction between goods covered for international transit and those for transit within New Zealand.

Option Three – Exempt goods in transport

152. This option would mean that goods in transit are exempt from payment of the levy when Part 3 commences. This option is the worst for the fairness of the levy. This property benefits from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.

153. This option would be simple to administer. Goods in transit are insured under easily identifiable contracts, meaning it would be easy to identify whether it should be exempt and calculate the levy accordingly.

How do the options compare to the counterfactual?

Table 8: Multi-criteria analysis for exempting goods in transit

| | Option One – Counterfactual | Option Two – Exempt imports and exports (preferred option) | Option Three – Exempt all goods in transit |
|---------------------------|------------------------------------|---|---|
| Fairness | 0 | 0 International cargo only benefits from the potential to use Fire and Emergency services for a small part of the duration of the insurance contract, so any effect on fairness is negligible | -- Goods in transit will not pay levy, despite benefitting from Fire and Emergency |
| Efficiency | 0 | + Avoids complexity of collecting levy on international ships, but requires insurers to distinguish between international and domestic ships | ++ Avoids complexity of collecting levy on goods insured internationally, this option reflects current practice under the transitional levy |
| Overall assessment | 0 | + Very little effect on the fairness of the regime but provides improvements for efficiency | 0 Significant reduction in fairness, but improves efficiency of the levy |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1h: Hazardous substances

Context and policy problem

154. Hazardous substances are defined in the Hazardous Substances and New Organisms Act 1996 and the FENZ Act as any substance:²¹
- with one or more of the following intrinsic properties:
 - explosiveness;
 - flammability;
 - a capacity to oxidise;
 - corrosiveness;
 - toxicity (including chronic toxicity);
 - ecotoxicity, with or without bioaccumulation; or
 - which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the above properties; or
 - any infectious or radioactive substance that may harm human, animal, or plant health.
155. Hazardous substances are exempt under the transitional levy.²² This exemption dates to the Fire Service Act 1975 when hazardous substance incidents were not part of the fire services statutory remit. In practice, the New Zealand Fire Service responded to these incidents anyway.
156. Responding to incidents involving hazardous substances is one of Fire and Emergency's 'main' functions under the FENZ Act. It is legally obligated to do so. Fire and Emergency's response data shows it responds to an average of 1,100 hazardous substance incidents annually.
157. During consultation, stakeholders agreed that hazardous substances should not be exempt from paying the levy. No stakeholders disagreed that Fire and Emergency plays the primary role in responding to incidents involving hazardous substances.

What options are being considered?

Option One – Counterfactual (preferred option)

158. This option would mean that hazardous substances insured under a contract of fire insurance would pay levy from the commencement date of the Part 3 levy. The exemption under the transitional levy would cease to apply from this date.
159. In practice, we heard that many hazardous substances are waste products and may not be insured, meaning they will not pay the levy anyway. We also heard from stakeholders that hazardous substances are often covered by an insurance policy

²¹ Section 2(1) of the Hazardous Substances and New Organisms Act 1996 and section 6 of the FENZ Act.

²² These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

without being specifically identified. This means that those hazardous substances that are insured have likely been paying levy anyway, despite the existing exemption.

- 160. This option is better for the fairness of the levy. Hazardous substances benefit from the potential to use Fire and Emergency services, clearly shown by the number of incidents Fire and Emergency respond to annually.
- 161. This option is simple to administer and aligns with existing insurance practice not to identify the hazardous substance separately in the insurance contract.

Option Two – Exempt hazardous substances

- 162. This option would exempt hazardous substances from the commencement date of the Part 3 levy. The transitional levy exemption would continue to apply until that date. It continues the existing approach under the transitional levy.
- 163. This option is worse for the fairness of the levy. Under this option, hazardous substances owners that insure this property would not pay any levy, even though Fire and Emergency regularly responds to hazardous substance incidents. In practice, it appears that some levy may still be gained from hazardous substances despite an exemption due to existing insurance practice. There is no guarantee this will continue.
- 164. This option could be more complex. Continuing with an exemption could create an incentive for owners to individually value these items for the purposes of insurance, to enable the levy calculation to exclude this property. This practice adds complexity to the system for insurers and brokers.

How do the options compare to the counterfactual?

Table 9: Multi-criteria analysis for exempting hazardous substances

| | Option One – Counterfactual (preferred option) | Option Two – Exempt hazardous substances |
|---------------------------|---|--|
| Fairness | 0 | -- Clearly benefits from the potential to use Fire and Emergency services. |
| Efficiency | 0 | - Could create incentive to value and itemise hazardous substances in insurance contracts, making calculation more complex. |
| Overall assessment | 0 | -- Reduces the fairness and efficiency of the levy. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1i: Retaining walls, fences, and walls, swimming baths, water tanks, water towers, septic tanks, and water reticulation pipes

Context and policy problem

165. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy.²³
166. There is limited data available about the frequency of Fire and Emergency response to incidents involving fences or walls. Response data records incidents where property use was recorded as “water storage”. Such events are relatively rare at around 150 per year and approximately two thirds of these call outs are false alarms. Water storage is an ambiguous data term that does not clearly correspond to the property discussed in this section.
167. The difficulty in identifying relevant response data points reflects the fact that these items generally make up part of a larger property and are not necessarily associated with any particular type of land use. Similarly, these items most often do not present high fire risks in themselves, but their potential to benefit from Fire and Emergency will depend on where they are located, and the types of property or activity located nearby.
168. Although this property may not always be vulnerable to fire, the expanded range of Fire and Emergency functions means that they are likely to respond to incidents that effect this property. This may include landslips or flooding events which frequently affect fencing as well as water infrastructure.
169. No detailed feedback was received from stakeholders on this type of property. However, insurers indicated that when insured against fire damage, these items are generally covered as part of a policy covering a wider property, and they are not identified individually.

What options are being considered?

Option One – Counterfactual (preferred option)

170. Option one would mean that retaining walls, fences, and walls, swimming baths, water tanks, water towers, septic tanks, and water reticulation pipes would pay the levy from the commencement date of the Part 3 levy. The transitional levy exemption would continue to apply up until this point.
171. Large infrastructure networks, if insured against fire, use fire loss limits which reduce the amount of levy payable. Because this property will often not be specifically identified in an insurance contract, in many cases it will already be paying the transitional levy.
172. This option is good for the fairness of the levy. On balance we think this property benefits from Fire and Emergency services. The option is simple to administer and

²³ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

aligns with existing insurance practice where the property is not identified separately in the insurance contract.

Option Two – Exempt retaining walls, fences, and walls, swimming baths, water tanks, water towers, septic tanks, and water reticulation pipes

- 173. Option two would mean that this property is exempt under the Part 3 levy. This would continue the exemption under the transitional levy.
- 174. This option decreases the fairness of the levy. This property benefits from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.
- 175. This option could reduce the efficiency of the levy. Continuing with an exemption could create an incentive for owners to individually value these items for the purposes of insurance, to enable the levy calculation to exclude this property. This practice adds complexity to the system for insurers and brokers.

How do the options compare to the counterfactual?

Table 10: Multi-criteria analysis for exempting retaining walls, fences, and walls, swimming baths, water tanks, water towers, septic tanks, and water reticulation pipes

| | Option One – Counterfactual (preferred option) | Option Two – Exempt retaining walls, fences, and walls, swimming baths, water tanks, water towers, septic tanks, and water reticulation pipes |
|---------------------------|---|--|
| Fairness | 0 | - Benefit from the potential to use Fire and Emergency services. |
| Efficiency | 0 | - This property will often not be specifically identified in an insurance policy |
| Overall assessment | 0 | - Reduces the fairness and efficiency of the regime |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1j: Electric supply and telecommunications cabling

Context and policy problem

176. The Fire Service Act 1975 included an exemption for “any electric supply, telegraph, or telephone pole, line, or cable” and this property is currently exempt under the transitional levy.²⁴ We do not know the reason why this property was exempted under prior legislation.
177. Fire and Emergency collects data on its responses to incidents involving electrical infrastructure. It responded to an average of approximately 3,000 separate incidents per year between 2012 and 2022 involving either downed power lines, other electrical hazards relating to power lines, or incidents where the property use type was listed as a sub-station, transformer, power line or power pole.
178. We heard from electricity lines companies that an exemption was warranted because Fire and Emergency did not have the technical capacity to repair power lines. However, given the significant fire risk posed by electrical hazard, we see Fire and Emergency as having an important role protecting the public from the risk associated with power infrastructure.
179. Insurers and electrical lines owners pointed out during consultation that electrical infrastructure is rarely insured in New Zealand. When these assets are insured, the sum insured against fire is often much lower than the overall value of the network, as policyholders only seek cover for the value likely from any single incident. The chances of one event affecting a nationwide network are low enough that full coverage uneconomical.
180. Where electrical supply or telecommunications cabling is insured, it is often as part of a policy that covers an entire property. For example, residential insurance will cover the cabling inside a house without necessarily mentioning that in the policy. The potential to benefit from Fire and Emergency in this case is linked to the property use rather than the cabling itself. Although it is uncommon for electrical assets to be specifically valued as part of a property policy, exempting them creates a potential financial incentive to do so to minimise levy costs.
181. Electrical infrastructure owners also argued that an exemption should be granted for underground cabling. We consider the wider arguments outlined here around electrical cabling generally to apply also to underground cables.

What options are being considered?

Option One – Counterfactual (preferred option)

182. This option would mean that electric supply, telegraph, telephone poles or cable would pay the levy from the commencement date of the Part 3 levy. The transitional levy exemption would continue to apply up until this point.

²⁴ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

183. This option is good for the fairness of the levy. This property benefits from the potential to use Fire and Emergency services, shown by the response data above. Although Fire and Emergency responders do not have the technical capacity to fix power lines, they have an important role in minimising the danger to the public presented by electrical infrastructure.
184. This option is simple to administer and aligns with existing insurance practice where electrical cabling is not identified separately in the insurance contract. As most electrical cabling will pay levy as part of a contract covering wider property, there are unlikely to be any significant impacts to policyholders associated with this option.

Option Two – Exempt electric supply and telecommunications cabling

185. This option would mean that this property is exempt under the Part 3 levy. This would continue the exemption under the transitional levy.
186. This option is worse for the fairness of the levy. Property has clear benefit from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.
187. This option could be more complex. Continuing with an exemption could create an incentive for owners to individually value these items for the purposes of insurance, and to enable the levy calculation to exclude this property. This practice adds complexity to the system for insurers and brokers.

How do the options compare to the counterfactual?

Table 11: Multi-criteria analysis for exempting electric supply and telecommunications cabling

| | Option One – Counterfactual (preferred option) | Option Two – Electric supply and telecommunications cabling |
|---------------------------|---|---|
| Fairness | 0 | -- Clear benefit from the potential to use Fire and Emergency services. |
| Efficiency | 0 | - This property will often not be specifically identified in an insurance policy |
| Overall assessment | 0 | -- Reduces the fairness and efficiency of the levy. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1k: Livestock, growing crops, silage, and hay

Context and policy problem

188. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy. One reason for this is that this property tends to be in rural settings. Responding to fires in rural settings was done by rural fire services which was governed under different legislation. Exempting this property under the Fire Service Act 1975 ensured that the property did not pay for fire services twice.
189. Fire and Emergency is responsible for responding to incidents in both urban and rural settings. It is legally mandated to respond to incidents involving this property should an incident occur. Response data indicates that it is regularly called to attend incidents at horticultural farms and orchards, approximately 200 per year since 2017. Responders regularly attend incidents relating to weather events such as floods, something unlikely to show up in response data because it is rarely limited to a specific property, but that does affect horticultural farms.
190. Fire and Emergency does not record the number of incidents it attends specifically involving livestock. However, incidents on agricultural farms are common, with Fire and Emergency having attended approximately 800 incidents per year since 2017. Other livestock-related incidents that may not be captured as part of this figure are vehicle accidents involving trucks carrying livestock, and livestock rescues outside of farm property. Fire and Emergency has indicated that incidents stemming from controlled burns on farms is a common reason for a Fire and Emergency callouts and it takes the lead role in ensuring these fires are put out before they can spread to areas with livestock or crops.
191. We heard from the insurance sector that insurance contracts for crops are designed with a single sum insured, that covers when the crops are growing and when they are harvested and placed in storage. The sum insured is based on the expected market value of the crops. This means that levy is already paid on this sum insured, as the exemption does not cover harvested crops.
192. Insurance sector stakeholders told us that insurance levels for livestock were low, but no specific data was able to be sourced during the time available for consultation. Generally, only high value animals, such as bloodstock, are insured. It was also not explained why this property has low rates of insurance and whether this is because there is a low risk of damage to the property, or because of insurance market factors such as low numbers of companies supplying insurance products at affordable rates. No participants during consultation were aware of insurance for hay or silage.

What options are being considered?

Option One – Counterfactual (preferred option)

193. This option would mean that livestock, growing crops, silage, and hay would pay the levy from the commencement date of the Part 3 levy. The transitional levy exemption would continue to apply up until this point. In the case of crops, there may be little change to how the levy is calculated, given the way these contracts are designed.
194. This option is good for the fairness of the levy. This property benefits from the potential to use Fire and Emergency services, shown by the response data above.

Paying the Part 3 levy supports this criterion. Some stakeholders argued that the remote location of some of this property means it does not receive the same benefit from the potential to use Fire and Emergency services as other property. Because of the equipment and expertise required, responding to incidents on remote land can be a greater expense to Fire and Emergency and this, if anything, heightens the need for this property to contribute through the levy.

195. This option does not raise any efficiency issues.

Option Two – Exempt livestock, growing crops, silage and hay

196. This option would mean that this property is exempt under the Part 3 levy. This would continue the exemption under the transitional levy.

197. This option would reduce the fairness of the levy. This property has clear benefit from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.

198. This option would be simple to administer. This property is insured under easily identifiable contracts, meaning it would be easy to identify whether it should be exempt and calculate the levy accordingly.

How do the options compare to the counterfactual?

Table 12: Multi-criteria analysis for exempting livestock, growing crops, silage, and hay

| | Option One – Counterfactual (preferred option) | Option Two – Exempt livestock, growing crops, silage, and hay |
|---------------------------|---|--|
| Fairness | 0 | -- Clearly benefits from the potential to use Fire and Emergency services. |
| Efficiency | 0 | 0 Property is easily identifiable through specific insurance policies. |
| Overall assessment | 0 | -- Reduces the fairness of the levy, with little effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1I: Art and collections held by cultural heritage bodies

Context and policy problem

199. This property contributed to the levy that funded urban fire services prior to the passing of the FENZ Act in 2017. Initially, cultural heritage bodies paid a levy on collection items under the transitional levy, but an exemption was added to Schedule 1 of the FENZ Act in 2019 [GOV-18-MIN-0056].
200. Art and collection items (referred to here as collection items for brevity) must meet several criteria to be exempted from the transitional levy. The key purpose of these criteria is to ensure that only art and collection items held for the benefit of the public will be exempt. To qualify for an exemption, this property must be in a collection of a cultural heritage body – regardless of whether the art or items are currently present in or on that body’s premises or not – that:
- is a permanent and non-profit making body;
 - is a museum/whare taonga, archive or art gallery;
 - has a primary purpose of exhibiting or conserving cultural heritage items in perpetuity to enable public education, public enjoyment or preservation of cultural heritage items;
 - exhibits or conserves its collection(s) on premises that are usually open to the public or a class of a public (not a private residence).
201. Fire and Emergency is called to attend incidents at museums and galleries about 100 times per year. Most of these callouts, approximately three out of every four, are false alarms. This high rate of false alarms reflects the sensitive monitoring systems employed by these institutions to protect the often-irreplaceable items that make up their collections.
202. The rate of items in collections being damaged by fire is very low but Fire and Emergency incur costs being ready to respond to any incident callout, including false alarms. Institutions taking out insurance on collections have a potential to benefit from a Fire and Emergency response, even if the risk to collection items themselves is low.

Stakeholders in the museums sector expressed concern about financial impacts of the levy while insurers highlighted the complexity of an exemption

203. Officials have heard a range of estimates from the museums sector about the potential impacts of paying levy on their collections, ranging from a 100% to 300% increase in their levy burden. These estimates assume levy would be calculated at a rate similar to the current transitional levy rate. Most cultural heritage bodies operate on tightly managed budgets with limited access to additional funding, and this would lead to a significant increase in their insurance costs. Three large cultural heritage bodies in Auckland, Wellington and Christchurch submitted that applying the levy to their collections would result in an immediate addition of more than \$100,000 to their annual insurance bill. A submission from the Christchurch City Art gallery indicated that this represented an increase of more than what it currently paid in annual premiums. Taking out insurance to cover exhibition of high value loan items or international exhibitions would in some cases mean this levy amount could increase by

at least this much again. Smaller institutions would pay similar amounts of levy on collections relative to their size.

204. Feedback from the insurance sector highlighted the complexity of the current exemption. We heard anecdotal evidence of several cases in which levy had been paid on items covered by the exemption, as well as where insurance brokers had incorrectly informed policyholders that their property was not subject to the levy.

What options are being considered?

Option One – Counterfactual

205. This option would mean that art and collections held by cultural heritage bodies insured under a contract of fire insurance would pay the levy from the commencement date of the Part 3 levy. The exemption under the transitional levy would cease to apply from this date.
206. This property benefits from the potential to use Fire and Emergency services and paying the Part 3 levy supports the fairness criterion. This option will not avoid any of the complexity of determining what property qualifies for exemption if other regulatory mechanisms are needed to address equity concerns. In order to apply a cap or special rate to this property, a similar definition will be needed in order to identify property it applies to.
207. Applying these criteria does not consider the unique characteristics of this property as it is defined in **paragraph 200**, resulting in an undesirable outcome from multi-criteria analysis. This is discussed further from **paragraph 211**.

Option Two – Exempt art and collection items held by cultural heritage bodies (preferred option)

208. Collection items would be exempt under the Part 3 levy. It would continue the exemption as defined under the transitional levy. Cultural heritage bodies would still pay levy on any other property insured against fire. Option two compares unfavourably overall with the counterfactual based on application of the fairness and efficiency criteria. However, this option warrants additional consideration which is provided at **paragraph 211**.
209. This option is worse for the fairness of the levy. This property benefits from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.
210. This option would have no impact on the efficiency of the levy. In some cases, there may be confusion around whether art or collection items qualify for the exemption, but this difficulty will also apply if this property is granted a cap or discounted levy rate through the next stage of the regulation making process.

How do the options compare to the counterfactual?

Table 13: Multi-criteria analysis for exempting art and collection items held by cultural heritage bodies

| | Option One – Counterfactual | Option Two – Exempt art and collection items held by cultural heritage bodies (preferred option) |
|---------------------------|-----------------------------|---|
| Fairness | 0 | - Fire and Emergency will respond to incidents involving this property. |
| Efficiency | 0 | 0 Complicated exemption criteria have led to confusion, if caps or discounts are used this complexity remains |
| Overall assessment | 0 | - Reduces the fairness of the levy system with little effect on efficiency |

++ much better than counterfactual, + somewhat better than counterfactual, **0** no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

An exemption for collection items warrants further consideration of the fairness criterion

211. We do not consider that charging a levy on collection items would improve the alignment of the levy overall with the universality and equity principles in section 80 of the FENZ Act, despite the outcome of the multi-criteria analysis above. This is because collection items should be considered as a special case, where the assumption behind our application of the fairness criterion²⁵ – that the beneficiary from a Fire and Emergency response in regard to property aligns with the insurance policyholder – requires further consideration. In the case of collection items, those who receive a benefit from their protection does not align well with the party paying the levy.
212. Although this property benefits from a FENZ response, the levy payer in this case is not necessarily the beneficiary. Cultural heritage bodies are not-for-profit organisations often tasked with preserving collection items owned by other parties. This might be a museum entrusted with taonga on behalf of an iwi, or a public gallery exhibiting an international art collection. These items are not like other economic assets that are bought and sold by institutions to manage the costs of insuring, storing and displaying them.
213. Cultural heritage bodies will pay levy on non-collection property, and charging the levy on collection items will not improve equity or universality of the regime overall. The definition of equitable in section 80 does not require strict apportionment of levy costs to beneficiaries, reflecting the difficulty of doing this. Given the mixture of private and public benefit derived from protection of collection items, our view is that levy paid by

²⁵ The fairness criterion has been derived from the equity and universality principles, see paragraphs 59 – 69.

cultural heritage bodies on non-collection items represents an equitable contribution to Fire and Emergency funding by the policyholder. Application of a specific levy rate for collection items would not meaningfully improve equity, while charging a standard levy rate risks cultural heritage bodies facing disproportionate levy costs due to the large sums for which these items are often insured.

214. The Part 3 levy may create other situations that we have not identified in which beneficiary and policyholder are similarly misaligned. As was highlighted in the limitations section of this document, further consultation might have identified additional candidates for exemption. However, we consider the assumption underlying the fairness criterion to be appropriate for other options analysed in this document.

Section 2.1m: Transport infrastructure (roads, bridges, streets, paths, tunnels, railway tracks or poles) and quarries

Context and policy problem

216. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy. Since the formation of Fire and Emergency, direct contributions from local government have been discontinued, while the scope of the levy has been expanded to fund Fire and Emergency's nationwide operations. The role of Fire and Emergency has expanded over time beyond responding to fires, and a potential benefit from their services is no longer limited to fire risk.
217. Transport infrastructure is not limited to New Zealand's roading and rail networks. These types of assets are more commonly covered by insurance contracts when they form part of sites like education campuses or sporting stadiums. Here, the potential to benefit from Fire and Emergency services is not easily distinguished from the overall property use. Furthermore, insurance contracts do not usually itemise infrastructure items, and instead include them as part of the sum insured of the total property. As a result, an exemption creates ambiguity over the amount on which the levy should be calculated when a contract is partially made up of exempt property.
218. The New Zealand Transport Agency (NZTA) does not currently insure its transport infrastructure network while it is in operation. During construction, new infrastructure is insured. KiwiRail indicated that it already pays levy on its rail network, because of the way its insurance coverage is structured.
219. Fire and Emergency response data indicates that it is frequently called to attend incidents involving transport infrastructure. Fire and Emergency responded to between 12,000 and 15,000 incidents on roadways per year between 2012 and 2022. Over this period, responses to vehicle accidents have made up an increasing proportion of this number, approximately doubling between 2012 and 2022 to make up two thirds of roadway callouts. Fire and Emergency attended fires on public and private roads approximately 2,000 times per year.
220. During consultation, transport infrastructure owners expressed the view that users of that infrastructure are the beneficiaries of a Fire and Emergency response to transport incidents, with assets such as roads and streets having little vulnerability to fire. Officials agreed that the primary cause and beneficiary of Fire and Emergency presence are users, but that there is significant benefit to owners of these properties in having Fire and Emergency available to limit the damage caused by accidents and other incidents affecting these assets. Fire and Emergency plays a key role in ensuring this property can be restored to a usable condition as quickly as possible.

Quarries benefit from a Fire and Emergency response in a similar way to transport infrastructure

221. The transitional levy that currently funds Fire and Emergency includes exemptions for "any mine or quarry".²⁶ We have recommended an exemption for mines on the

²⁶ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

grounds that the Mines Rescue Service coordinates emergency responses in mines. This service does not cover quarries. Quarrying operations are likely to be affected by many similar incidents as transport infrastructure, particularly while the latter is under construction. Quarrying operations rely on Fire and Emergency to respond when an incident occurs, with data from Fire and Emergency indicating that it has attended an average of 20 incidents at quarries per year since 2017. Fire and Emergency plays an important role in ensuring a quarry can resume operation safely after an accident occurs. We did not receive any feedback about how quarries are insured.

What options are being considered?

Option One – Counterfactual (preferred option)

- 222. This option would mean that transport infrastructure and quarries insured under a contract of fire insurance would pay levy from the commencement date of the Part 3 levy. The exemption under the transitional levy would cease to apply from this date.
- 223. This option improves the fairness of the levy, as this property benefits from Fire and Emergency functions. Although it can be difficult to clearly identify beneficiaries from these types of incidents, there are functions routinely carried out by Fire and Emergency from which the property owner does benefit. This includes cleaning up hazardous substance spills and responding to weather-related incidents such as flooding and downed trees or power lines.
- 224. This option is more efficient to administer than option two. Existing insurance practice means that transport infrastructure is not identified separately in the insurance contract. As a result, we also do not anticipate many property owners would see a significant increase to levy amounts.

Option Two – Exempt transport infrastructure and quarries

- 225. This option would mean that this property is exempt under the Part 3 levy. It would continue the exemption in place under the transitional levy.
- 226. This option reduces the fairness of the levy. This property receives a clear benefit from the potential to use Fire and Emergency services. If it does not contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.
- 227. This option could be more efficient. Continuing with an exemption could create an incentive for owners to individually value these items for the purposes of insurance, to enable the levy calculation to exclude this property. This practice adds complexity to the system for insurers and brokers. Transport infrastructure is often included implicitly by insurance contracts, but we are not aware whether this is the case for quarries.

How do the options compare to the counterfactual?

Table 14: Multi-criteria analysis for exempting transport infrastructure

| | Option One – Counterfactual (preferred option) | Option Two – Exempt transport infrastructure and quarries |
|---------------------------|---|--|
| Fairness | 0 | - Benefits from the potential to use Fire and Emergency services. |
| Efficiency | 0 | - These items often not explicitly identified on insurance contracts, making exemption more complicated |
| Overall assessment | 0 | - Reduces the fairness and efficiency of the levy. |

++ much better than counterfactual, + somewhat better than counterfactual, **0** no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1n: Forests

Context and policy problem

228. This property was previously exempt under the Fire Service Act 1975 and is currently exempt under the transitional levy.²⁷ One reason for this is that forests are generally located in rural settings. The current exemption applies to ‘standing’ forest (trees or bushes that are still growing) and excludes timber or other forest products that have been harvested.
229. Prior to the passing of the FENZ Act, forest owners contributed to rural fire services through a range of other mechanisms such as local government rates, industry specific levies, and cost recovery powers included in rural fire legislation. Since 2017, organisations or individuals taking out insurance on growing forests do not directly contribute to funding Fire and Emergency. Fire and Emergency is responsible for responding to fires in rural and forested areas. This means that forestry stands to benefit from Fire and Emergency services and meets the fairness criterion.
230. Fire and Emergency estimates that by the 2026/2027 financial year almost 28% of its expenses will be dedicated to the response to and risk reduction work for vegetation fires.²⁸ These costs include direct costs of vegetation fire response, readiness costs, and risk reduction costs to prevent fires occurring and educate communities on the risks of wildfires. Vegetation fires are a broad category and include more than just forests, meaning not all these costs are attributable solely to forestry. However, Fire and Emergency invests significantly in fire readiness that enables them to respond, control and extinguish wildfire events quickly. In a particularly large event, the costs can be much higher, such as the Tasman Fires in September 2019 which cost Fire and Emergency \$13.5 million.

Feedback from additional consultation with Māori forestry organisations has informed the options we considered

231. We do not consider separate treatment is warranted for Māori and non-Māori owned forests following additional consultation in 2023. Discussions with other government agencies following targeted consultation highlighted that changes to the current exemption for forests may have significant Treaty implications, due to the significant Māori interests in forestry. Feedback received from this consultation mostly supported our initial analysis which indicated that charging a levy on forests was consistent with Crown obligations as a Treaty partner. A summary of analysis is included at **Appendix A**.

The forestry sector provided vocal support for a continued exemption

232. During targeted consultation and select committee submissions on the Fire and Emergency New Zealand (Levy) Amendment Bill (now enacted), the forestry sector argued that removing the exemption would not improve the fairness of the levy due to the investment they make in providing fire response. The New Zealand Forest Owners’

²⁷ These exemptions are contained in Schedule 3 of the Fire Service Act 1975, which continues to apply for the transitional levy under clause 26(1)(f) of Schedule 1 of the FENZ Act.

²⁸ Fire and Emergency estimates the cost of responding to vegetation fire to reach \$243 million in the 2026/27 period, taking into account readiness costs.

Association and New Zealand Farm Forestry Association (NZFOA/NZFFA) provided information that indicates that their members spent \$10.7m on forest fire protection activities in 2022. In some instances, this investment can include trained personnel and firefighting equipment that can be used as part of a Fire and Emergency response to a fire.

- 233. Not all forestry owners invest in these activities. There is variability depending on the size and use of the forest, as well as financial resources of the owner. We have heard from Fire and Emergency that there is little investment in risk reduction for carbon forests, which often have little day-to-day management.
- 234. Fire and Emergency reimburses forestry operators for any of their crews or equipment used in an incident response. There are also Service Level Agreements in place between Fire and Emergency and major forestry owners that result in Fire and Emergency training forest owner workers at Fire and Emergency's cost.
- 235. The sector's investment reduces the chance of a fire getting out of control and supports a Fire and Emergency response, but ultimately it does not provide the level of resource or expertise to extinguish a wildfire independently. Fire and Emergency deploys resources to a wildfire, undertakes regional fire risk planning, provides training for industry brigades, and coordinates any incident response.
- 236. Forestry operators also argued that an exemption should be granted for forest harvesting equipment. We consider the wider arguments outlined here around forests themselves as applying also to harvesting equipment.

What options are being considered?

Option One – Counterfactual (preferred option)

- 237. This option would mean that growing forests and bushes insured under a contract of fire insurance would pay levy from the commencement date of Part 3. The exemption under the transitional levy would cease to apply from this date.
- 238. This option improves the fairness of the levy. The sector's investment costs are small in relation to Fire and Emergency's overall costs for vegetation fires. The sector relies on the expertise and resources of Fire and Emergency to extinguish and contain wildfires. The exemption under the transitional levy reflects the other ways the forestry sector contributed to rural fire services prior to the passing of the FENZ Act. This will re-establish the funding link that was lost when the FENZ Act was passed.
- 239. This option does not raise any efficiency issues. Forests are covered by specific types of insurance policies which are easy for the insurance sector and Fire and Emergency to identify.

Option Two – Exempt forests

- 240. This option would mean that forests insured under a contract of fire insurance would not pay levy from the commencement date of the Part 3 levy. It continues the existing approach under the transitional levy for forests. Forestry operators that insure their forests will avoid rises to the cost of insurance caused by the levy, but we do not know the effect this will have on decisions to take out insurance.
- 241. This option decreases the fairness of the levy. This property receives a clear benefit from the potential to use Fire and Emergency services. If this property does not

contribute to the levy, Fire and Emergency will still need to respond (and fund that response) meaning other levy payers will need to cover these costs.

242. This option does not raise any efficiency issues. Forests are insured under easily identifiable contracts, meaning it would be easy to identify whether it should be exempt and calculate the levy accordingly.

How do the options compare to the counterfactual?

Table 15: Multi-criteria analysis for exempting forests

| | Option One – Counterfactual (preferred option) | Option Two – Exempt forests |
|---------------------------|---|--|
| Fairness | 0 | -- Clearly benefits from the potential to use Fire and Emergency services. |
| Efficiency | 0 | 0 It is clear to which insurance contracts this exemption would apply. |
| Overall assessment | 0 | -- Reduces the fairness of the regime with little effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, **0** no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.1o: Insurance contracts – terrorism and war risks, contract works, and deductible buy down policies

Context and policy problem

243. There are no classes of insurance contract exempt under the transitional levy regime. Feedback from insurers during targeted consultation in 2022 indicated that some property was paying the existing transitional levy multiple times due to the way that certain insurance products were structured. Double payment of the levy occurs in these cases because certain types of insurance contracts are typically taken out separately from standard fire cover contracts to cover specific situations.

244. Insurers highlighted three insurance classes that often require policyholders to pay levy multiple times:

- **Deductible buydown policies:** where two policies insure the same property but one (the deductible buydown policy) is designed to insure the large deductible often selected when a policy is taken out by a collective. As both policies insure against fire, both policies are currently subject to levy despite insuring the same property, but with different sums insured.
- **Existing property under a Contract Works (CAR) policy:** An existing building undergoing contract works will almost always be insured under a fire policy but, where substantial work on the building is going ahead, the property insurer may not be willing to include the construction risk to the building within that existing policy. To cover any risks of construction to the existing building, including from fire, the building is insured again under a separate CAR policy. Without a specified exemption, there will be levy payable under this CAR policy for the existing building in addition to levy already being paid under the existing fire policy.

A standard CAR policy schedule will include a specific sum insured applying to the existing property. We propose to exempt this sum from having the fire levy applied.

- **Cover against war and terrorism risks:** damage as a result of war or terrorism is specifically excluded from general risks policies. When a policyholder wants cover against war and terrorism, a separate policy must be taken out with separate sum insured that covers the same property.

245. These classes of insurance contracts are technical, but discussions with insurers have indicated that they are concepts well understood within the industry. Making exemptions for these contracts is unlikely to create complexity in levy collection. Generally, exempting types of insurance contract is easier than types of property.

What options are being considered?

Option One – *Counterfactual*

246. This option will mean that a levy will be calculated on the sum insured against fire in these classes of contract. This option continues the status quo under the transitional levy, where some property owners are paying the levy multiple times on the same property.

247. This option will negatively impact the fairness of the levy because these contract types are typically taken out on property already covered by general risk insurance policies. Our interpretation of the fairness criterion outlined earlier in this analysis includes avoiding cases where the levy is charged multiple times on the same property. This option will not affect the efficiency of administering the levy.

Option Two – Exempt three classes of insurance contract (preferred option)

248. This option will mean exemptions are created for the three classes of insurance, to apply once Part 3 comes into effect.

249. This option will improve the fairness of the levy. These three classes of insurance qualify for exemption because policyholders who take out these policies will most likely pay the levy multiple times on the same property. They are almost always taken out in addition to a primary policy covering the same property that will pay levy already.

250. We do not expect these exemptions to add complexity to the levy, because insurers will easily be able to identify the contracts they apply to.

How do the options compare to the counterfactual?

Table 16: multi-criteria analysis for exempting three classes of insurance contract

| | Option One – Counterfactual | Option Two – Exempt three classes of insurance contract (preferred option) |
|---------------------------|------------------------------------|---|
| Fairness | 0 | ++ This option will avoid double charging of the levy. |
| Efficiency | 0 | 0 Minimal impact on efficiency as these contract types can clearly be identified by insurers. |
| Overall assessment | 0 | ++ Improvements to fairness with little effect on efficiency. |

++ much better than counterfactual, + somewhat better than counterfactual, 0 no different to counterfactual, - somewhat worse than counterfactual, -- much worse than counterfactual

Section 2.2: Overview of the preferred exemption options

What package of options is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Table 17: Overview of exemption proposals

| Effect of recommended option when Part 3 commences | Exemption option |
|---|--|
| Exempt from the transitional levy, will continue to be exempt once Part 3 commences. | New Zealand Defence Force property |
| | Mines, and tunnelling operations |
| | Reservoirs, dams, breakwaters, moles, groynes, drains or channels |
| | Offshore installations |
| | Cabling and pipelines on the sea floor |
| | Art and collections held by cultural heritage bodies |
| Exempt from transitional levy, exemption will be limited to property insured for travel beyond New Zealand borders once Part 3 commences. | Any ship |
| | Any aircraft |
| | Any goods in transit |
| Exempt from transitional levy, will pay levy once Part 3 commences. | Hazardous substances |
| | Retaining walls, fences, and walls |
| | Swimming baths, water tanks, water towers, and septic tanks |
| | Water reticulation pipes |
| | Electric supply or telecommunications cable providers |
| | Livestock, growing crops, silage, or hay |
| | Transport infrastructure (roads, bridges, streets, paths, tunnels, railway tracks or poles) and quarries |
| | Forests |
| Pays the transitional levy, will be exempt from the levy once Part 3 commences. | Insurance for war and terrorism risks, where the property is also insured under an all-risks policy |
| | Deductible buydown insurance |
| | Insurance covering existing property as part of contracts works policy |

251. We propose a package of exemptions that will mean a levy is not paid on insurance contracts covering property that has no potential to benefit from Fire and Emergency services, while ensuring the levy is as simple as possible to administer. In most cases, the fairness principle is better met by the counterfactual option, meaning the levy is applied to a particular insurance contract. We have determined that almost all policyholders for property in New Zealand benefit from the potential to use Fire and Emergency services, but have identified several cases where this relationship is minimal or insignificant, for example:

- primary response to an incident will be coordinated by parties other than Fire and Emergency;
- property location means that Fire and Emergency has limited capacity to respond to an incident;
- owners are being charged the levy multiple times on the same property; or
- property will spend significant periods of time outside of New Zealand territory.

252. We also consider collection items held by cultural heritages bodies (as defined at section 2.11) as a special case warranting exemption from the levy. This is due to a misalignment between the party paying insurance on this property and those benefitting from the protection of these items.
253. The chosen options will ensure that the levy is applied to fire insurance covering property that is vulnerable to the types of incidents Fire and Emergency can be expected to respond to. This includes hazardous substance spills, traffic accidents, freeing trapped persons, and responding to damage from severe weather events such as flooding, high winds, and land slips. Fire and Emergency plays a key role in ensuring that many types of property return safely to useability after a range of incidents. In most cases potential impacts of applying the levy have not been significant enough to justify an exemption where property does benefit from a Fire and Emergency response.
254. The joint effect of these proposals will improve the efficiency of the regime by bringing exemptions in line with how property is insured, avoiding uncertainty about where the levy should apply. They avoid exemptions for types of property that are rarely insured individually, and often form part of the larger insurance policy covering a wider property. Where a policy covers these types of assets, they are not often individually itemised and valued. Where possible, exemption regulations under the Part 3 levy will use language and concepts used in insurance contracts.

What are the marginal costs and benefits of the option?

Marginal costs and benefits are dependent on the outcome of upcoming work on Part 3 levy rates, but we note financial impacts are likely to be larger for certain levy payer groups

255. During consultation in 2022, stakeholders raised concerns about the potential financial costs they faced if they were to lose an exemption currently in place under the transitional levy. This analysis has primarily focused on the principle-based argument of whether property benefits from Fire and Emergency services, and we have only been able to provide a discussion of general impacts without information about how much property is insured for.
256. Certainty of the evidence for cost and benefits provided below is low. It relies mostly on hypothetical concerns raised by stakeholders during consultation in 2022. Furthermore, we do not know the extent to which levy costs are an influential factor in determining the extent to which policyholders insure their property.

Comparison with the counterfactual does not fully capture the costs and benefits of the preferred option

257. As has been highlighted earlier in this analysis, if no action is taken before Part 3 commences, all insurance contracts will be subject to the levy. Compared with the transitional levy regime, our proposals will remove some long-standing exemptions, restrict the scope of some, and create a small number of new exemptions.
258. The counterfactual is a hypothetical outcome. It is worth comparing the effects of the changes from transitional levy settings to what we propose. **Tables 18 and 19** outline the generalised costs and benefits to different stakeholder categories of either creating an exemption or doing nothing when Part 3 commences.

259. There are several key assumptions underlying this analysis of costs and benefits, which are:

- exempt property or contracts only make up a marginal proportion of the total levy base and exemption proposals will only have a small impact on the total levy collected;
- large property holders can reduce their levy payments by limiting their sum insured against fire damage; and
- suitable definitions can be found that will give effect to the policy intent.

Table 17: Additional costs and benefits of creating an exemption compared with taking no action

| Affected groups (identify) | Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i> | Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i> |
|---|---|---|
| Additional costs of creating an exemption compared with taking no action | | |
| Policyholders – exempt property | No costs to this group | N/A |
| Policyholders - general | Higher levy costs to cover amount not paid by exempted property. Additional administrative costs of applying exemptions may be passed on to policyholders. | Low – this difference will be very small when spread over the entire levy payer base. |
| Insurers | Exemptions are more complex to administer than doing nothing. Regulating for exemptions required insurers to identify what property is exempt, rather than apply levy to any fire insurance contact | Low – exemptions affect only a small proportion of leviable insurance contracts. Insurers will be familiar with most exemptions as they are similar to those under the transitional regime. |
| Fire and Emergency | Smaller pool of funding from which Fire and Emergency can collect levy. | Low – exempt property is not expected to otherwise bring in a large amount of levy |
| Total monetised costs | N/A | N/A |
| Non-monetised costs | Smaller pool of insurance contracts to draw on. | Low – exempt property makes up a small proportion of the overall levy base |

| Additional benefits of creating an exemption compared with taking no action | | |
|---|---|--|
| Policyholders – exempt property | Cost of insuring property reduced | Medium – extent of saving will depend on insurance arrangements |
| Policyholders - general | No benefits to this group | N/A |
| Insurers | Costs of insuring property is reduced if levy is not applied, making it more attractive to affected consumers | Low – may be significant for individual customers, but exempt property only makes up a small part of the overall insurance market |
| Fire and Emergency | No benefits to this group | N/A |
| Total monetised benefits | N/A | N/A |
| Non-monetised benefits | Insurance costs are reduced for exempt contracts | Low/medium - exempt property makes up a small proportion of the overall levy base, but could be significant for exempt property owners depending on insurance arrangements |

Table 18: Costs and benefits of choosing not to exempt property or types of insurance contracts

| Affected groups <i>(identify)</i> | Comment <i>nature of cost or benefit (e.g., ongoing, one-off), evidence and assumption (e.g., compliance rates), risks.</i> | Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i> |
|---|--|---|
| Additional costs of taking no action compared with creating an exemption | | |
| Policyholders - general | No costs identified | N/A |
| Policyholders – property exempt from the transitional levy that will lose exemptions under Part 3 | Commercial ship and aircraft owners are required to take out fire insurance cover for the full replacement value of the asset, which may mean that policy holders face significant increases in levy payments once the Part 3 levy commences. These costs come in addition to requirements for onboard or onsite emergency response discussed earlier in this analysis. | Medium – insurance costs for domestic commercial shipping and aviation operators may affect their ability to compete with international operators, who will not have the levy applied. |
| | Waka Kotahi and local government stakeholders indicated during consultation that charging levy on transport infrastructure has the potential to add to the cost of investment in New Zealand’s transport infrastructure | Low/medium - However, insurance is only taken out on New Zealand transport infrastructure while under construction, meaning that the amount of levy paid will only reflect part of the overall value of local or national transport networks. Levy paid on transport construction will not be any greater than is already paid on |

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| | | |
|--|---|--|
| | | contract insurance for other construction projects, whether publicly or privately funded |
| | Rural communities are likely to be affected by a removal of exemptions for livestock, crops, and commercial forests. Many in rural sectors already struggling to afford the costs of insuring these property types. | Medium – effects will be uneven across rural sectors as rates of insurance for these property types are low. Insurers raised concerns about increasing unaffordability of insurance for this property, which would be exacerbated by levy costs |
| | Commercial forestry operations are likely to be affected by removal of an exemption for forests, if they insure their forests. Both Māori and non-Māori forestry operators highlight the affordability of insurance as an issue that would be exacerbated by the levy. NZFOA/NZFFA feedback indicated that only about 33% of forests grown by its members was insured against fire. Insurance uptake may decrease further if the cost of insurance increase. | Low/Medium – effects will be uneven across the sector and only affect those who take out insurance. Smaller forest blocks struggling to generate income are rarely insured. Although premiums are increasing, we do not have detailed information about the role the levy will play in forest owners deciding whether to take out insurance. |
| | Electricity and telecommunications providers may see increases to insurance costs as a result of having a levy applied to insurance for cabling. | infrastructure networks do not insure cabling. Infrastructure networks are also able to reduce levy costs because of the very low likelihood of a single event affecting the entire network. |
| Insurers | Higher costs of insurance may discourage insurance uptake in some sectors | Medium – insurers have raised this as an issue given a wider context or raising costs leading to underinsurance. |
| Fire and Emergency | No costs identified | N/A |
| Other government cost recovery regimes | Other government agencies have identified additional levy costs in some sectors (specifically CAA levy reviews and cost recovery work as part of the Emissions Trading Scheme) to have aggregate effects with other cost recovery mechanisms. This will negatively affect stakeholder relationships if costs are seen as overly burdensome. | Medium - Work with these agencies during consultation on levy rates will be necessary to understand the extent of these impacts as they are not currently well understood. |
| Total monetised costs | N/A | N/A |
| Non-monetised costs | Applying a levy adds to the cost of purchasing insurance for policyholders. | Medium – impact of levy will vary significantly between policyholders, depending on insurance arrangements |

| Additional benefits of taking no action compared with creating an exemption | | |
|---|---|--|
| Policyholders - general | Fire and Emergency funding spread over a wider levy base, requiring lower rates. | Low – it is unlikely that this will have a large financial impact on individual policy holders when spread across the payer base. |
| Policyholders – property exempt from the transitional levy that will lose exemptions under Part 3 | No benefits identified. | N/A |
| Insurers | Costs of administering the levy are reduced. Insurers have indicated that fewer exemptions in general means less likelihood they can be misapplied, resulting in penalties for insurers. | Medium – penalties can add significant costs to costs of providing insurance. |
| Fire and Emergency | Fire and Emergency funding spread over a wider levy base means rates can be set lower. Levy payers are not required to cross-subsidise the costs of providing an emergency response to non-levy payers. | Low/medium – exemption options considered here are unlikely to have a significant effect on the overall size of the levy payer base. |
| Total monetised benefits | N/A | N/A |
| Non-monetised benefits | Costs of administering the levy are reduced and levy payer base broadened. | Low/medium – overall impact of payer base will be small. |

Section 3: Delivering an option

How will the new arrangements be implemented?

These policy proposals will be given effect by regulations

260. Exemptions approved by Cabinet will be drafted into regulations under section 141(3)(e) of the FENZ Act. The Part 3 levy provisions in the FENZ Act will come into force on 1 July 2026, replacing transitional levy provisions. To operationalise the levy, further regulations are needed that specify the rates of levy to be paid on contracts of fire insurance for property, the amount of levy paid on contracts of motor vehicle insurance, and additional minor regulations providing guidance on the calculation and collection of the levy.
261. The Department will seek policy approval for regulations relating to Part 3 levy rates in 2024. Following this, a regulations package for both exemptions and rates will be drafted for Cabinet approval. Insurance sector stakeholders have indicated they require 18 months lead-time to update their systems to operationalise these changes after the finalisation of any regulations. To accommodate this, levy regulations need to be in place by December 2024.

Fire and Emergency will lead consultation on Part 3 levy rates

262. Fire and Emergency has developed levy rate proposals that it intends to consult the public on, as required by the FENZ Act. Policy decisions on exemptions will provide clarity to stakeholders about which insurance contracts will be impacted by the levy.
263. The discussion document includes what Fire and Emergency sees as the amount of levy it needs to collect to carry out its functions for the three years following the commencement of Part 3. The document outlines how the total amount of levy Fire and Emergency receives relates to its ability to perform those functions and includes levy rate proposals that allocate revenue needs between levy payer groups according to the cost of responding to different property types. During consultation, Fire and Emergency will request feedback on how it has allocated its expected revenue needs and will ask stakeholders about the anticipated financial impacts of any proposals.

The levy system will continue to be administered by Fire and Emergency

264. Fire and Emergency regulates and has a compliance and enforcement role within the levy system. By drawing on existing internal expertise, implementation can be undertaken efficiently. The Department will continue to work closely with Fire and Emergency and insurers and brokers to ensure that changes to the levy system can be implemented.
265. Fire and Emergency also provides guidance for insurers and levy payers on how to calculate and pay the levy. This guidance will be updated to reflect Part 3 levy provisions once regulations have been finalised.

Implementation risks

266. **Low levels of Māori feedback from engagement:** We experienced low levels of Māori feedback during consultation on the Fire Funding Review in 2019, and during targeted consultation in 2022. Engagement during addition consultation relating to Māori forestry was modest. This could occur again. Fire and Emergency has developed an engagement plan in order to manage this risk, which included building on relationships

established through targeted consultation on a potential exemption covering Māori forestry interests. The Crown should still be able to decide for forestry on Māori land provided the Crown can demonstrate it has made reasonable attempts to engage in good faith and make an informed decision.

267. **Addressing equity concerns through levy rates may add too much complexity to the levy regime:** One of the key assumptions in this analysis has been that many of the equity concerns raised by stakeholders can be addressed through the levy setting process. There is a risk that too great an emphasis on addressing equity by introducing different levy rates or caps into the system will add to its complexity, making it more difficult for insurers and Fire and Emergency to collect. Exemption regulations will not be drafted until after policy work has been completed following consultation on levy rates, to allow additional exemptions to be included, if necessary. This will mitigate concerns around the complexity of the levy regime.
268. **We may not gain sufficient data from consultation to effectively set differential levy rates:** Fire and Emergency lacks insurance data for property exempt from the transitional levy in particular, limiting our ability to assess the impacts of the recommendations in this paper. The commercial sensitivity of this information means that Fire and Emergency is reliant on stakeholders to share insurance details. If Fire and Emergency is unable to obtain sufficient data through consultation that will inform differential approaches to levying different property types, additional exemptions may also be needed to improve the equity of the levy system.

How will the new arrangements be monitored, evaluated, and reviewed?

269. The Department administers the FENZ Act and has a role as a steward of the Fire and Emergency funding system. The Public Service Act 2020 requires the Department to oversee the legislative framework and proactively promote stewardship of the FENZ Act. The FENZ Act and its related regulations will be reviewed regularly as part of the Department's regulatory stewardship strategy.
270. Section 142 of the FENZ Act requires the Minister of Internal Affairs to estimate Fire and Emergency's net costs for the upcoming period and recommend levy rates necessary to meet these costs every three years. This includes a requirement to consult with individuals or groups affected by these recommendations. This consultation requirement is an opportunity to test with stakeholders whether levy exemptions remain appropriate given the stated purpose of the levy regime outlined in the Act. Response data collected by Fire and Emergency provides a further indication of trends in the kinds of property or incident classes that it responds to. Cabinet sets the levy rate and approves any exemption changes on the recommendation of the Minister of Internal Affairs.
271. Given the statutory requirement for regular consultation on levy regulations, it is unlikely that an earlier review of exemptions will be necessary. However, a significant change to the core functions carried out by Fire and Emergency may require urgent review of exemption settings.

Appendix A: Summary of Treaty of Waitangi Analysis – Fire and Emergency Levy Exemption for Forestry

Targeted engagement with Māori forestry organisations

1. Targeted engagement ran from 19 June – 31 July 2023. Officials from the Department of Internal Affairs (the Department) invited approximately 100 iwi, hapū, Māori organisations and Ahu Whenua Trusts to provide feedback.
2. We received feedback in meetings with:
 - Ngāi Tahu Forestry (who also represented views from Te Rūnanga o Ngāi Tahu); and
 - Ngā Pou a Tāne.
3. We received written feedback from:
 - the Tairāwhiti Whenua collective; and
 - the Māori Trustee (Dr Charlotte Severne).

Comment on the Treaty of Waitangi analysis

4. Three of the four organisations we spoke with commented on the Treaty of Waitangi analysis (we included an earlier version of **Table 19** in the consultation material). Two provided feedback suggesting they agreed with the analysis (which suggested that Māori forests paying the levy was consistent with our Te Tiriti obligations):
 - Ngā Pou a Tāne noted the analysis in terms of the Treaty is well considered; and
 - Ngāi Tahu Forestry noted that the analysis was “robust”.
5. The Māori Trustee disagreed with our analysis that the levy overall would not impact on tino rangatiratanga in relation to forests for Māori. They said that “charging levy on insurance rather than the land does not change the fact that any mechanism that places further financial strain of Māori small-block landowners will restrict and limit their ability to exercise their tino rangatiratanga”.

Updated Treaty of Waitangi analysis

6. We looked at whether Māori forests paying the Fire and Emergency levy would be consistent with the Treaty and its principles, and whether there could be a case for different treatment. We drew from a range of sources when looking at the potential Treaty obligations and principles that could be relevant to this issue.²⁹
7. We have made minor changes to the below as a result of consultation, including in response to the Māori Trustee’s comment around the potential impact on tino rangatiratanga.

²⁹ Te Puni Kōkiri (2002), *He Tirohanga o Kawa ki te Tiriti o Waitangi: A Guide to the Principles of the Treaty of Waitangi as expressed by the Courts and the Waitangi Tribunal*; Waitangi Tribunal (2019), *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*; Cabinet Office Circular (2019), *Te Tiriti o Waitangi/Treaty of Waitangi guidance*.

Table 19: Updated Treaty of Waitangi Analysis

| Identified Tiriti principles/obligations | Assessment |
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| <p>Kāwanatanga/article one –right of the Crown to govern and make laws; good government</p> | <p>The Government needs to make sure that Fire and Emergency has enough revenue for it to be able to provide adequate services across the motu, including to Māori forestry. This means any options that help to achieve this would generally be consistent with this obligation. Government agencies are also liable to pay the fire and emergency levy for any insured property, so Treaty partners are being treated consistently.</p> |
| <p>Principle of redress – past wrongs give rise to a right of redress</p> | <p>Redress could be relevant if the fire and emergency levy, potentially in combination with other Government action, substantially undermined the value/quality of previous redress provided by the Crown to iwi.</p> <p>We do not have any evidence to suggest that the fire and emergency levy would impact on the quality of the redress.</p> |
| <p>Tino Rangatiratanga/article two – Article two of Te Tiriti guarantees tino rangatiratanga for Māori</p> | <p>Forests are a taonga that, under article two of the Treaty, iwi and Māori would expect to be able to exercise rangatiratanga over (given forests are directly referenced in the English text).</p> <p>Our view is that the levy will not significantly impact on iwi and Māori exercise of rangatiratanga in relation to their forests, and any negative impact must be balanced against our kāwanatanga obligations. This is because while the levy may influence decisions around insurance, it will not place any limits on what can be done with the land or trees as its not charged directly on the land. We also note that in the event of non-payment, there is no ability for Fire and Emergency to possess the land.</p> <p>However, we acknowledge the Māori Trustee’s view that any mechanism that increases financial strain is negatively impacting on small land-block owners’ ability to exercise their tino rangatiratanga.</p> |
| <p>Principle of active protection - the obligation to take all necessary steps to ensure that Māori tino rangatiratanga and interests are protected (including resources)</p> | <p>We have identified two key potential obligations under this principle:</p> <ul style="list-style-type: none"> • if the combination of this change and other changes to the cost of forestry result in it being unaffordable, the Crown may not be actively protecting Māori economic interests, given that much of the whenua is only suitable for forestry; and • the levy supports Fire and Emergency services to actively protect Māori whenua from the risk of fire. <p>On balance, we think that charging the fire and emergency levy on Māori forests is unlikely to breach our active protection obligations, provided that the levy is set at a reasonable rate.</p> |

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| <p>Principle of equity – Māori achieve equitable outcomes</p> | <p>We do not have any evidence to suggest that the fire and emergency levy is likely to impact on equitable outcomes for Māori. This is for three key reasons, including that:</p> <ul style="list-style-type: none"> • other industries will also need to pay the levy, so the levy itself will not disproportionately fall on sectors with a high proportion of Māori owners; • it will only be paid on insured forests – so we assume that it will only affect land that is generating income; and • Māori forestry benefits from Fire and Emergency’s services, though we note that there is no data or evidence about whether it benefits more or less than other forestry. <p>In saying that, an exemption or partial waiver could be another way to actively protect Māori economic interests and help achieve equitable outcomes more generally. But they may not be the right tool for this, given:</p> <ul style="list-style-type: none"> • it is unlikely to reach Māori involved in forestry that could most benefit from support (i.e. where their land is generating no or very little income from forestry); and • the purpose of the fire and emergency levy is to fund essential mahi, and it has not been designed to provide targeted assistance for Māori forestry. |
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Treaty settlement commitments

8. The only direct reference we found to fire-related levies in Treaty settlement documents or legislation was in relation to Te Urewera land. We did not receive any feedback related to Treaty settlement commitments.
9. We did identify references to fire control in several Treaty settlement commitments between iwi/hapū and the Minister of Conservation, which discussed the Minister of Conservation providing assistance with suppressing fires. These did not appear to be relevant to the treatment of Māori forests under the fire and emergency levy, but we did send the consultation material to the iwi and hapū with these types of references in Treaty settlements (for example, the Central North Island Forests Iwi Collective).