

## NZIF Forest Fire Committee Newsletter No 2

### January 2019 Update

The first NZIF Forest Fire Committee Newsletter was published in January 2018. This is the Second Newsletter and provides an update on the following matters;

1. Forest and Rural Fire Stakeholder Forum Meeting
2. FENZ Fire Levy Amendment Bill,
3. Outstanding Fire Levy Questions,
4. New Fire Infringement Regulations,
5. 2017/18 fire seasons statistics, and
6. Overseas deployments

### DISCUSSION

#### 1) Forest and Rural Fire Stakeholder Forum Meeting

- a) The inaugural Forest and Rural Fire Stakeholder Forum meeting was held with Fire and Emergency NZ (FENZ) on 6<sup>th</sup> November 2018. This newly established Forum will meet twice a year. The Stakeholder Forum includes membership from;
  - i) NZ Forest Owners Association
  - ii) Federated Farmers of NZ
  - iii) NZ Farm Forestry Association
  - iv) NZ Institute of Forestry
  - v) Department of Conservation (Not in attendance at first meeting)
- b) Discussion topics at this first meeting included the following;
  - i) Definition of “Qualified person” contained within the Fire and Emergency NZ Act 2017
  - ii) Drugs and alcohol policy for working on fires in the forest and rural landscape
  - iii) Fire Offences and Penalties Regulation
  - iv) NZ Professional Firefighters Union Command & Control Position Statement
  - v) FENZ draft Operating Model
  - vi) Overseas deployment procedures
  - vii) New Fire Levy regime introduction
- c) Further information on a number of these topics are included in this Newsletters.

#### 2) FENZ Fire Levy Amendment Bill

- a) The Forest Fire Committee lodged a NZIF Submission on the FENZ Fire Levy Amendment Bill before Xmas. The bill’s primary focus is to delay the commencement of the new levy regime until 1 July 2020. In introducing the Bill to Parliament the Minister of Internal Affairs pointed out that a

number of unforeseen problems has prevented an earlier implementation date for the new fire levy regime. It is expected this Bill will be passed into law by Government before 1 July 2019.

- b) In the NZIF submission we took the opportunity to highlight the following concerns regarding the definition of “qualified person” contained within Section 81 of the Fire and Emergency NZ Act 2017. These concerns relate to the list of qualified persons who are able to provide a valuation certificate for insured property. For insurance purposes any standing bush or forest is deemed to be property under the Act. If FENZ considers that the amount set out in a statement by the owner for an insured forest is not fair and reasonable FENZ may determine a declared value by obtaining a valuation certificate from a qualified person.
- c) Under Section 81 of the Act a “qualified person” in relation to any property, currently means any of the following persons who have the qualifications and experience suitable for valuing the property:
  - i) A chartered professional engineer (within the meaning of section 6 of the Chartered Professional Engineers of New Zealand Act 2002):
  - ii) A plant and machinery valuer:
  - iii) A quantity surveyor:
  - iv) A registered architect (within the meaning of section 6 of the Registered Architects Act 2005):
  - v) A registered valuer (within the meaning of section 2 of the Valuers Act 1948).
- d) The NZIF position is that Section 81 of the Act has not defined a suitably qualified person to assess the value of a forest. This is seen as a serious error in the FENZ legislation. The NZIF submission recommends that prior to the commencement of the new fire levy regime that a “Registered Member”, as approved and certified by the NZIF Registration Board, be added and included in the FENZ Act definition of qualified person under Section 81 of the Act.
- e) It should also be noted that if the owner of any standing bush or forest has no insurance cover for those assets they will not be required to pay a fire levy on their standing bush or forest.

### **3) Outstanding Fire Levy Questions**

- a) Many questions remain on the impact of the new fire levy regime on the forest industry. In an attempt to gain a better understanding for a number of potential impacts by the new expanded fire levy regime two questions were submitted to Department of Internal Affairs (DIA), and to FENZ, in November 2018 for a response. They were;
  - i) When a forest owner insures his/her forest for the period, until the trees reach an age when they have a market value, the insurance cover is there to cover the loss of the financial investment involved in the establishment of the forest. It is assumed that during this period when the insurance cover is for a financial loss, not a property loss, that no fire levy under the new fire levy regime will need to be paid by the insurance policy holder until the forest has a market value and is therefore then deemed to be property in respect of the FENZ Act. Can you confirm whether this is correct or not?;
  - ii) When a forest owner is part of the scheme where they sell carbon credits the owner may wish to protect that income stream by a carbon loss insurance policy. This policy would include cover for the repayment of any carbon credits if the forest is destroyed or lost through fire or other threats. The insurance policy covers a financial loss not a property loss. Given this there

is an assumption that this insurance policy holder will not be required to pay a fire levy on this policy. Can you confirm whether this is correct or not?

- b) The following is an outline of the responses from both parties;
  - i) **Department of Internal Affairs** – “The Department does not hold the information in the scope of your request and does not have reason to believe that any other organisation subject to the Official Information Act holds that information. With that in mind, the Department suggests that a more appropriate course of action would be for you to seek legal advice on the issues covered by your queries, to talk to an insurance broker, or potentially, seek some basic guidance from Fire and Emergency New Zealand.”
  - ii) **Fire and Emergency NZ** – “FENZ does not hold the information you have requested. FENZ considered whether your request would be more closely connected with the functions of the DIA, but understands you made a similar request to them that has been refused also.
- c) Detailed policy inputs by both DIA and FENZ officials (during 2016 to 2018) occurred during the writing of the FENZ draft legislation, and the levy regime provisions contained within the Act. For both agencies to respond in the manner outlined above is disappointing and considered less than satisfactory. This point will be made when presenting the NZIF submission to the Select Committee.
- d) From an insurance brokers perspective the attached article at Appendix A (from Jo McIntosh Executive Director – Auckland Corporate Commercial Risk Solutions – Aon) is to be published in the next Farm Forestry Magazine. This article provides a useful brokers overview on the new fire levy regime concerns.
- e) Many concerns remain regarding the implementation of the new fire levy regime and this is demonstrated by the fact that it could take until 1<sup>st</sup> July 2021 before the impacts of the new fire levy regime is fully understood. Until this change is implemented the millions of dollars currently spent by FENZ to cover their costs involved in the management of fire in the forest and rural landscape will be carried by building and vehicle owners who pay a fire levy on these insured assets. For the past year, and the next two and half years, this position will be judged as inequitable by those currently paying the fire levy. They are also unlikely to be silent on this issue.

#### 4) New Fire Infringement Regulations

- a) The new Fire and Emergency New Zealand (Offences) Regulations 2018 came into effect on the 13<sup>th</sup> December 2018.
- b) These regulations outlines offences for the purpose of the Fire and Emergency New Zealand Act 2017. It also prescribes infringement fine and fees for rural fire breaches under relevant sections of the Act. The new strict liability and infringement offences are created for contraventions of certain provisions of the Act. A copy of new Regulation can be found at <http://www.legislation.govt.nz/regulation/public/2018/0229/13.0/whole.html>
- c) For information Section 187 of the FENZ Act sets two levels of penalty for fire offences. These are infringement offences and strict liability criminal offence. The two levels of penalties are;

- i) Lower level penalties – an infringement notice and infringement fee issued by FENZ. The maximum infringement fee is \$750 for an individual, and \$3,700 in any other case; and
  - ii) Higher level penalties – FENZ will file a charging document, and the court will impose a fine as appropriate up to the maximum amounts prescribed in regulations. The maximum fine is \$15,000 for an individual or \$30,000 in any other case.
- d) The following are two rural fire examples of fines and fees for infringement offences under the FENZ Act;
- i) *Lighting or allowing another person to light fire in open air during restricted fire season – Fines - Individual \$2,250, others \$11,250. Fees – Individual \$750, others \$3,750.*
  - ii) *Failure to carry and produce permit for inspection when required - Fines - Individual \$1,500, others \$7,500. Fees – Individual \$500, others \$7,500.*

## 5) 2017/18 Fire Seasons Statistics

- a) The Fire and Emergency NZ Act 2017 (the Act) centralizes the governance, policy and regulatory elements relating to the management of fire in the forest and rural landscape. As there is only one statutory entity now involved in the provision of our fire services this demands a broader accountability in the delivery of effective fire services. Unfortunately the Fire and Emergency NZ (FENZ) 2017/18 Statement of Performance Expectation (SPE) was deficient in providing sufficient details to allow any external interested party to assess the FENZ performance for the FY2017/18.
- b) To help to address this concern the NZIF Forest Fire Committee investigated options associated with development a set of forest fire Key Performance Indicators (KPIs). Prior to the 1<sup>st</sup> July 2017 the National Rural Fire Authority (NRFA) had a list of KPIs which were reported on annually by each Rural Fire Authority. This list was based on extensive work undertaken by the Australasian Fire and Emergency Services Authorities Council (AFAC) and the Australia/New Zealand Forest Fire Management Group<sup>1</sup>. As this provides a sound foundation on which to formulate a list of primary New Zealand forest industry fire management KPIs the NZIF Forest Fire Committee set about to produce a set of KPIs. From our discussions with FENZ on the NZIF list of fire management KPIs at a 6<sup>th</sup> March 2018 meeting FENZ have indicated that most if not all of the information required for the list of NZIF Primary KPIs could be provided by FENZ to the NZIF.
- c) For the 2017/18 years the available information relating to the NZIF Primary KPIs is provided in Appendix B. There are however a number of gaps with the information which was provided by FENZ. We are in ongoing discussions with FENZ re this information. In addition to the information provided by FENZ three graphs have been produced which show a trend on the total annual area burnt from vegetation fires, the annual area of plantations burnt from wildfires, and the fire suppression costs.

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<sup>1</sup> The Forest Fire Management Group (FFMG) is comprised of Australian and NZ land management agencies with responsibility for forest fire management. FFMG reports to the Primary Industries Ministerial Council and its Standing Committee of officials through the Forestry and Forest Products Committee.

## **6) Overseas deployments.**

- a) At the 6<sup>th</sup> November 2018 Forest and Rural Fire Stakeholder Forum meeting discussion was held on international forest fire deployments. It was noted that the industry wants to ensure forest companies continue to have access to deployments for their people who work within the forestry sector. Forest owners consider deployments are an opportunity to grow individual's skill sets from working in that transnational environment. It was also considered vital that the opportunities for forestry fire fighters remains open to all who wish to be involved. It was agreed there is a need to establish a national database of available forestry sector people for FENZ to confirm the final selection.
- b) FENZ agreed that they will work with the forest industry representatives to ensure that ongoing overseas forest fire deployments include suitable representations from the forestry sector.

## **7) NZIF Local Section Proposition**

- a) Given the ongoing changes involving the regulatory management of fire in the forest and rural landscape if NZIF Local Sections would like to gain a greater awareness of these ongoing changes, including those outlined in the NZIF Forest Fire Committee Newsletter, a Local Section presentation/workshop is encouraged. If Local Sections have an interest in this proposition please email the chair of this Committee for further discussion. My email address is MurrayD@supermail.co.nz

Murray Dudfield  
Chair  
NZIF Forest Fire Committee  
31 January 2019

## Death and Taxes

**Jo McIntosh** Executive Director – Auckland Corporate  
Commercial Risk Solutions - Aon

They say that two things in life are guaranteed - death and taxes. Well it seems perhaps another tax, hidden in the form of a 'levy' is on its way. This levy is going to directly impact those of you who insure your trees and crops.

Back in July 2016, Internal Affairs issued a Discussion Document in respect of the introduction of a new Fire and Emergency New Zealand Act. This Act would bring Rural and Urban Fire Fighters together and, in doing so, repeal the Forest and Rural Fires Act. The FENZ Act was duly passed into law 01 July 2017. There were also changes to levy regulations, and the public release of a draft of the regulations including regulations for FENZ's enforcement regime, and fire plans.

The recent amendment bill will delay commencement of the new levy regime to 1 July 2020. The amendment bill is expected to be passed before 1 July 2019. The draft levy regulations are being released to give the public certainty of how the new levy regime will work in the future. These are expected to be finalised when the new levy regime rate is set in 2019.

We therefore don't currently know what the new charging regime for the FENZ levy will be. Based on the draft regulations (a copy can be found here: <https://www.dia.govt.nz/Fire-Services-Transition#August-2018>), forestry insurance will be included and although we do not know the levy rate, I would imagine though that it is safe to say this will be a new cost to forest owners who insure.

For the insurance industry the fact that Fire Services continue to be funded by a levy on insurance continues to be a big disappointment. The Insurance Council of New Zealand and Insurance Broker Associations have consistently advocated that a levy on insurance is grossly unfair - why should only those that insure carry the burden of these costs?

The insurance industry has lobbied hard to get their message across but to no avail. Other parties, such as the New Zealand Institute of Economic Research (NZIER), have also recommended that the government look for a fairer way of funding the Fire Service. After all, no one would expect the Police Force to be funded through insurance levies. Unfortunately, despite all this, the law was passed.

Currently a Fire Service Levy is only paid on property (domestic and business), motor vehicles and inland transit. FENZ are now seeking to apply the levy to other policies including: domestic aircraft, electricity infrastructure, hazardous substances, livestock, crops and forestry.

The government have now realised that this is a complex process and, as a result, the implementation has been delayed. Initially the target for inception was 01 July 2018 but the new Minister has delayed inception to July 2020 and it is expected feedback may be sought in 2019.

The Minister has issued a paper that details things being considered. Reading through this paper raises several questions.

First, as noted above, the rate of the levy under the new fire levy regime has not been set so the cost impact is unknown. For existing policies that currently pay a Fire Service levy, one of the first changes in 2017 was that the levy increased by 40%. Most of you will have noticed this when paying for your home, business and motor insurance.

The interim fire Levy rate changes under the old levy regime came into effect 01 July 2017. The changes saw the following increases:

	Levy (Prior to 1 <sup>st</sup> July 2017)	Levy (From 1 <sup>st</sup> July 2017)
Commercial Property	7.60 cents per \$100 Insured (uncapped)	10.60 cents per \$100 Insured (uncapped)
Domestic House & Contents	7.60 cents per \$100 Insured (insured amounts capped at \$100,000 for residential buildings and \$20,000 for contents)	10.60 cents per \$100 Insured (insured amounts capped at \$100,000 for residential buildings and \$20,000 for contents)
Vehicles over 3.5 tonne	7.60 cents per \$100 Insured (uncapped)	10.60 cents per \$100 Insured (uncapped)
Vehicles less than or equal to 3.5 tonne	\$6.08 per vehicle	\$8.45 per vehicle

This has resulted in a huge increase of fire levy revenue income for FENZ. This increase, over the four year period since 1st July 2017, is expected to be in the range of an additional \$780 million.

Under the new fire levy regime if the rate applied to forestry was set at the same rate as existing property insurance, this would effectively double many people's timber insurance costs. As an example: A forest in Northland with a 'fire only' cover with insured values of \$2 million and a small amount of re-establishment is currently paying \$2,200 in premiums. If the levy rate remains as it is and is (as suggested) applied to the full sum insured, that would result in Fire Service levy of \$2,120. Almost the same as the insurance premium.

The paper notes that the Fire Service Levy will be applied to the full sum insured on any first loss policy. Many larger forest groups have policies that have policy loss limits. For example, if you have a \$100 million estate spread over multiple locations, it would not be unreasonable to have a policy loss limit of say \$20 million. However, if the fire service levy is applied to the \$100 million rather than to the \$20 million policy loss limit, again the cost impact would be significant.

The paper does suggest that there are plans to offer transitional levy relief for large entities facing a significant increase resulting from the legislative changes. It has been suggested this relief will be available to those liable to pay levy payments of \$75,000 or more however the relief is only transitional and the vast amount of policy holders will fall under this limit and potentially be directly impacted by the new levy.

There are a multitude of other questions:

- What about carbon insurance? Is this exempt?
- There is some talk that the forest owner will only be liable when a forest reaches an age that it has a market value and the levy won't apply to any portion of the policy that relates to financial loss. There is a potential argument that all standing timber coverage is about financial loss. A property policy such as home/ building / motor is in place to reinstate the insured e.g. rebuild a house/ repair your car. You cannot pop down to the nearest Bunnings and 'replace or repair' your forest.
- Currently property owners are required to either hold formal valuations or sign a statutory declaration that confirms that the amount the fire service levy is calculated on is fair and reasonable relative to the replacement value of the property. Who will review these values? Will forest owners be required to obtain formal valuations? How often?
- This new regime will also result in a greater level of administration for brokers and insurers who will be responsible to gather and settle this tax. Increased administration almost undoubtedly results in increased cost for forest owners. We want people to be able to afford to be insured. The more tax that is applied to insurance premium the more likely it is that people will under-insure or, even worse, not insure. New Zealand is exposed to natural disaster risk particularly weather events. We do not want the social impact of large levels of people not having insurance.
- Investors and banks will not want to invest in forests that are not insured.

The timing of this, at a time when we are being encouraged to plant trees, seems counter-productive.

Perhaps the biggest question in my mind is what are tax payers getting for our money? FENZ has already seen a huge jump in revenue. Where are the key performance indicators that will give visibility to tax payers that they are achieving a better fire service?

I would encourage you to review how these changes will impact you when this comes up for discussion next year and communicate any concerns appropriately.

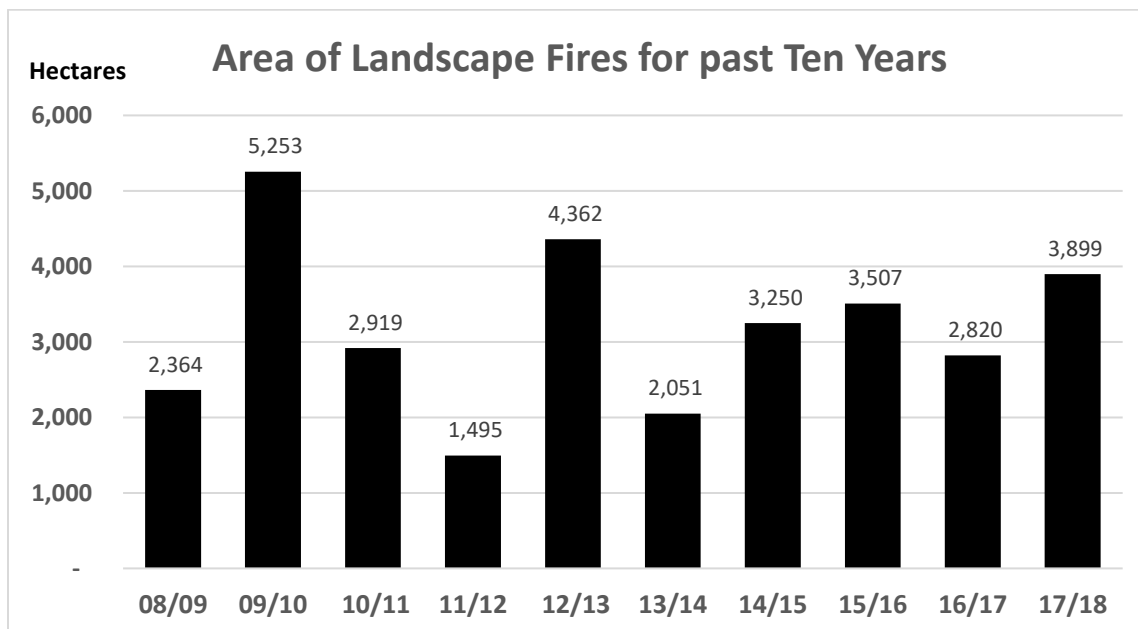


## Fire and rural landscape Fire Statistics for FY2017/18

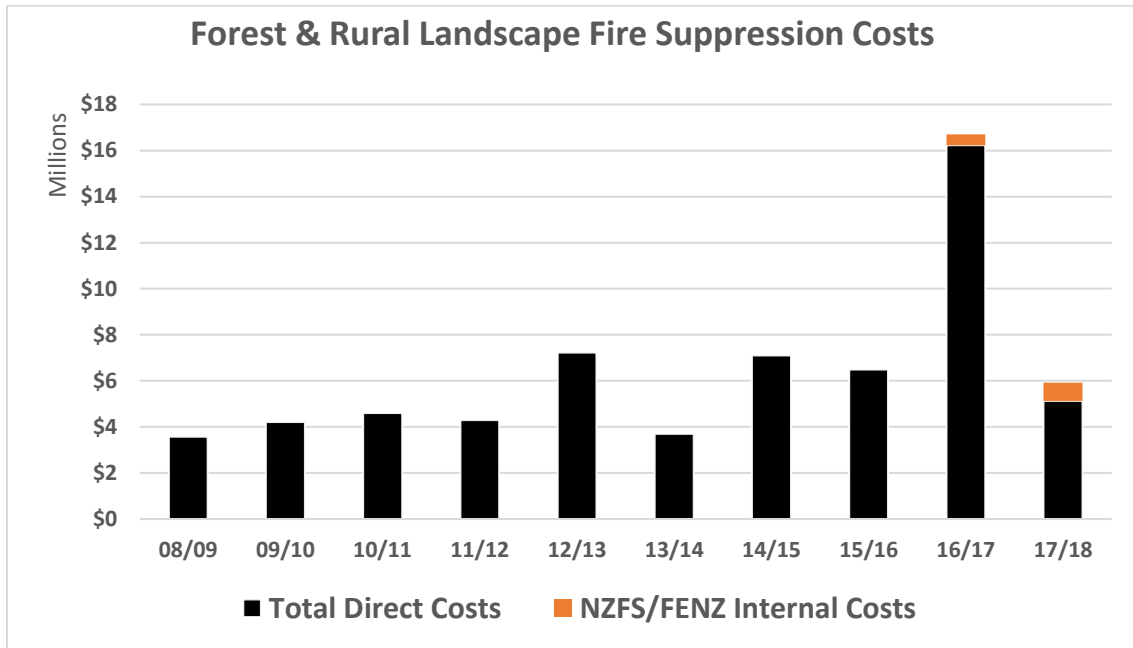
(This following information for the FY2017/18 has been provided by FENZ)

<b>Area Burnt by:</b>	Conservation Land	616 Ha
	Plantation forest Land	189 Ha
	Other Rural Lands	3,899 Ha
	<b>TOTAL</b>	<b>4,704 Ha</b>
<b>FENZ Internal Rural Fire Management Costs by:</b>	Conservation Land	Not yet known
	Plantation forest Land	Not yet known
	Other Rural Lands	Not yet known
<b>FENZ External Vegetation Fire Suppression Costs by: *</b>	Conservation Land	\$86,411
	Plantation forest Land +	Not provided
	Other Rural Lands	\$5,042,382
	<b>TOTAL</b>	<b>\$5,128,793</b>
<b>Number of trained rural firefighters</b>	Rural volunteers firefighters	3,000
	DOC Firefighters	626
	Forest Owner firefighters	Not yet known
<b>Firefighters Injured due to landscape fires</b>		7
<b>Number of primary dwelling damaged by landscape fires</b>		2
<p>* Denote - These costs do not include FENZ internal rural fire management costs which are part of the \$496.3 million total FENZ expenditure for the FY2017/18            + Plantation area burnt currently included in "Other Rural Lands".</p>		

The following graph shows all the annual area burnt from landscape fire for the past ten years:



The following graph shows the ten year forest and rural landscape fire suppression costs. This only includes costs for wildfires exceeding \$1,000 in suppression costs.



The following graph show the annual area of plantations burnt from wildfire for the twenty year period 1999 to 2018

