



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Building and Construction
Title of briefing	Building Consent Levy Review: Release of Consultation Document	Date to be published	9 May 2023

List of documents that have been proactively released

Date	Title	Author
April 2023	Building Consent Levy Review: Release of Consultation Document	Office of the Minister for Building and Construction
April 2023	Building Levy Review Discussion Document	MBIE
5 April 2023	Building Consent Levy Review: Release of Consultation Document DEV-23-MIN-0046 Minute	Cabinet Office

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's and MFAT's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The building levy review discussion document has been publicly released in the link below:

<https://www.mbie.govt.nz/dmsdocument/26383-building-levy-review-discussion-document>

In Confidence

Office of the Minister for Building and Construction

Cabinet Economic Development Committee

Building Consent Levy Review: Release of Consultation Document

Proposal

1. This paper seeks Cabinet's agreement to:
 - 1.1 release a discussion document for public consultation, seeking feedback on proposals to reset the Building Consent Levy (levy); and
 - 1.2 issue drafting instructions to give effect to the preferred levy settings, subject to consideration of the outcome of consultation.

Relation to government priorities

2. This paper does not relate to any government priorities.

Executive Summary

3. The Building Consent Levy (levy) must be reviewed at least every three years with proposals for the new rate consulted on publicly. The levy was last reviewed in 2019.
4. The Ministry of Business, Innovation and Employment (MBIE) holds the revenue generated by the levy in a memorandum account. As at December 2022, the balance of the account was \$71.6 million in surplus. This is despite a reduction in the levy rate in 2019 to try and reduce the surplus. The accumulated surplus is a result of an increase in the volume, and in particular, value of building consents being issued, with building inflation increasing at a greater rate than general inflation over the past three years.
5. MBIE's appropriation is approximately \$50.008 million. Subject to consultation, I also propose to seek an increase in MIBE's appropriation by up to a further \$6.3 million over three years. This will respond to feedback received from industry around improvement in MBIE's engagement and communication of information to support the sector. This will also support the Government's response to the Commerce Commission's market study into residential building supplies.
6. The levy is payable once the total value of building work exceeds \$20,444, at which point the levy is payable on the full value of the work. This threshold has never been reviewed despite the occurrence of inflation. If the threshold were inflation adjusted, the new threshold would be \$65,000. We note this would have a negligible impact on revenue generated by the levy.
7. I propose to consult on a range of options relating to:

- 7.1. levels of capacity investment
 - 7.2. timeframes over which MBIE would aim to reduce the memorandum account surplus, and
 - 7.3. thresholds at which the Building Consent Levy would kick in.
8. My preference is scenarios that reflect the following settings:
- 8.1. Increasing the threshold at which the levy becomes payable to \$65,000, given the small impact on Building Consent Levy revenue and that this will provide some small cost relief for those undertaking building work valued between \$20,444 and \$65,000; and
 - 8.2. Increasing investment in service delivery, to be funded by the \$71.6 million surplus.
9. Under these settings, the levy would reduce from \$1.75 to \$1.48 per \$1,000 of building work. Subject to actual volumes and value of building consents, which are the primary determinant of levy revenue, we estimate that the memorandum account balance will reach zero in December 2026, noting that the next levy review will need to have occurred before 1 October 2026.

Background

10. The *Building Act 2004* (the Building Act) requires the Building Consent Levy (levy) to be reviewed at least every three years. The levy was last reviewed in 2019, with a change in rates coming into effect in December 2019.
11. The levy is collected by building consent authorities (BCA) from consent applicants for building work valued at \$20,444 or more (once work hits this threshold the levy is charged on the full value of work, not just the value of work above the threshold). BCAs keep 3% of levy revenue to fund the costs associated with collecting the levy on MBIE's behalf, this is separate to the BCA costs recovered from applicants for processing building consents.
12. The MBIE chief executive may use the levy to fund activities for, or in connection with, the performance of the chief executive's functions under the Building Act and any other Act that relates to the building sector, and that relate to monitoring, overseeing or improving the performance of the sector or regulatory systems under that other Act.
13. The levy rate is currently \$1.75 per \$1,000 of building work. BCAs hold three per cent of this to fund their administration costs associated with collecting the Building Consent Levy.
14. As at 31 December 2022, the memorandum account is sitting at approximately \$71.6 million. This is an increase of approximately \$19 million since 2019 when the rate was last adjusted.

Managing Building Consent Levy revenue and expenditure

- 15. In 2019, the levy rate was adjusted down from \$2.01 to \$1.75 (12 per cent reduction) as MBIE sought to reduce a surplus of \$51 million that had accumulated.
- 16. However, forecasts did not anticipate the building boom that would occur over the last three years nor the level of inflation pertaining to construction materials. This increased both the quantity of consents and the value of the building work to which each consent applied.

Figure 1: Value of building consents from 2000 to 2022 (\$B)

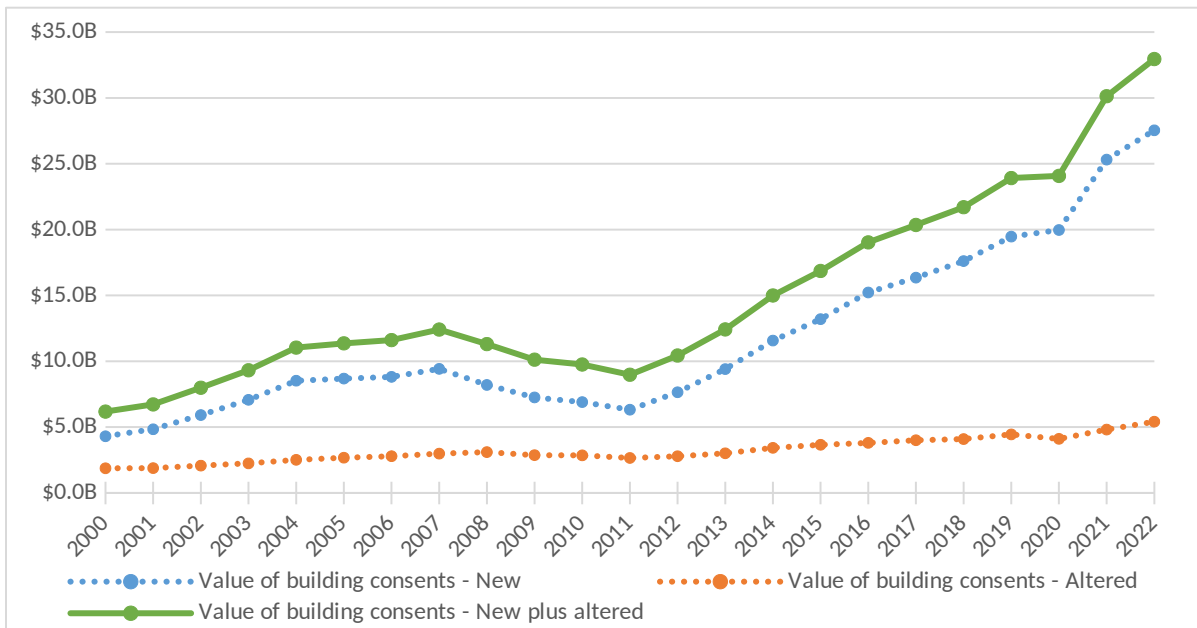
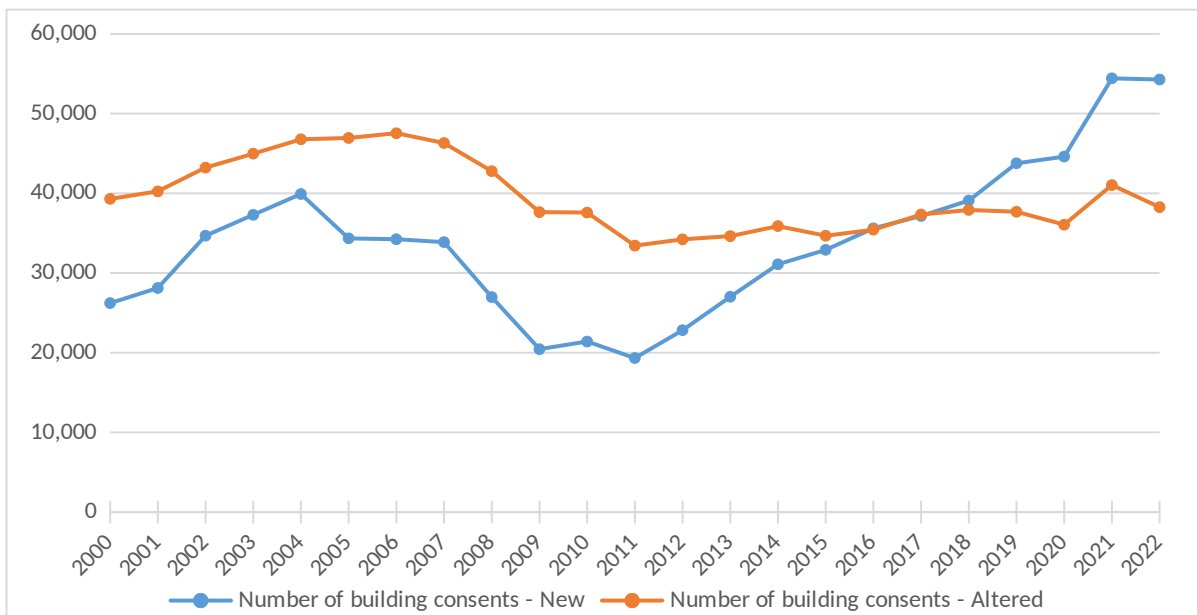


Figure 2: Number of building consents from 2000 to 2022



17. Because of the unexpected impact of the building boom, despite the reduction in the rate, a further \$19 million has accumulated.
18. New Zealand is now experiencing a slow-down in building due to inflation and increasing interest rates. However, the impact of recent extreme weather events and the scale of repairs is unclear.

MBIE is improving its ability to manage the memorandum account

19. Historical forecasts that inform the levy have been undertaken externally. This has left MBIE with little control over the assumptions that underpin the calculation. MBIE is in the process of bringing the modelling for the levy in house. This will enable the MBIE to improve its monitoring of how actual revenue is tracking against forecasts.
20. MBIE is also in the process of developing more regular, better quality internal reporting. In addition to being able to track actual revenue and expenditure against forecasts, improvements in internal reporting will ensure MBIE has a better understanding of what is driving the variance. This will enable MBIE to be more responsive in the future.

Setting the Building Consent Levy rate for the next three years

21. I have identified three key areas for consideration and consultation in setting the levy rate:
 - 21.1. Additional investment might be made to improve services for levy payers;
 - 21.2. The threshold at which the levy becomes payable could be raised; and
 - 21.3. The surplus needs to be reduced in a controlled way.

Additional investment might be made to improve services for levy payers

22. For the 2022/23 financial year, MBIE's appropriation for the levy is approximately \$50.008 million.
23. One of the areas I propose to consult on will be retaining the existing level of investment.
24. However, I also propose to consult on increasing investment of up to \$6.3 million per annum over three years in key areas that I consider will yield benefits for levy payers. If consultation favours increased investment, MBIE will subsequently seek an appropriation increase.
25. I further propose to consult on funding this investment out of the memorandum account surplus rather than building it into the Building Consent Levy rate. This is because the need for permanence in this expenditure is presently unclear. We also consider that a review of the expenditure in three years is appropriate, to determine whether the costs should be baselined or if

they were one-off costs. The particular services I propose further investment in are:

- 25.1. Digital channels and engagement;
- 25.2. Implementation of MBIE's regulatory reform programme; and
- 25.3. Building for Climate Change.

Investment in digital channels and engagement

- 26. MBIE has an obligation to publish guidance, disseminate information and provide educational programmes on the *Building Act*, the building code and matters relating to building control (*section 11(e)* of the Building Act). This function is met through MBIE's current digital channels.
- 27. In 2022, MBIE conducted research to understand how well its digital channels are working for stakeholders and how they can be improved to best provide the information needed for a sustainable and capable sector.
- 28. The research found that the current channels and websites have multiple issues and limitations that present barriers to the access of information. The sector also noted that better information and education would increase capacity, capability, improve confidence and address an education vacuum and misinformation in the sector.
- 29. To strengthen the quality and volume of the information, education, and guidance that is provided, MBIE is now looking to progress a programme of work to lift its digital capability and better support its information, education and operational policy functions to deliver through improved digital channels.

Implementation of MBIE's regulatory reform programme

- 30. MBIE is undertaking a substantial regulatory reform programme that will mean there will need to be an increase in funding and resource for the teams responsible for maintaining the Building Code and compliance pathways and delivering information and education to the sector. MBIE has started to scope the scale of resources required to deliver this work. This work aligns with a recommendation made by the Commerce Commission in its market study into the building supply chain.

Investment in building for climate change

- 31. MBIE's functions relating to building for climate change have also expanded since the last levy review. These costs have largely been met through Crown funding to date. However, MBIE considers that the majority can be covered through Building Consent Levy revenue, particularly once the proposed Building Act amendments building for climate change explicit within the Act. Even with amendments, there will be some costs that will not be able to be funded through the levy, for example, the development of funds to provide financial support to effect desired changes.

The threshold at which the Levy becomes payable could be raised

32. Despite the prevalence of inflation, the threshold at which the levy is payable has not been reviewed in some 30 years.
33. Modelling suggests that the present threshold at which the levy kicks in of \$20,444 of building work could be increased to \$65,000 with minimal impact on levy revenue (approximately a 2 per cent reduction). This would also result in a significant volume of lower value applications no longer attracting the levy and a commensurate administrative benefit for BCAs.
34. It must be noted that once the threshold is reached, the levy is payable on the full value of building work.
35. I propose to consult on an increase in the threshold to \$65,000 as well as leaving it at the current threshold of \$20,444.

The surplus needs to be reduced in a controlled way

36. Reducing the surplus quickly (i.e. over the next three years) would result in a significant reduction in the levy from \$1.75 to \$1.12 or \$1.15 (depending on whether the threshold is adjusted. However, this would not provide headroom for additional investment in service improvement. There would also be little if any additional contingency in the memorandum account if the number and value of building consents reduced lower than expected.
37. In considering these changes, I am mindful that reducing the rate too sharply will create inter-temporal inequity issues as levy payers of the next three years would receive a considerable reduction only for the levy to then have to be raised in the subsequent period to \$2.01 or \$2.04 (depending on whether the threshold is raised).
38. Should no further investment in service improvement be agreed, my preference is that the surplus is run down over two levy periods (i.e. six years) at a levy rate of \$1.39 or \$1.45 (depending on the threshold).
39. However, my preference is for investment in service improvement, in which case I propose a rate of \$1.48 as set out below. Modelling suggests this would see the memorandum account achieve a zero balance in 3.5 years (December 2026). This is because the service improvement will be funded out of the surplus rather than recovered through the levy.

Table one: Building Consent Levy rate options to run down the memorandum account surplus

Investment/Memo account cost recovery scenario	Keep current service levels and reduce the memorandum account down within three years (June 2026)	Keep current services levels and reduce the memorandum account down within six years (June 2029)	Invest in service improvements over three years (June 2026)	Invest in service improvements over six years (June 2029)
Levy rates under a \$20,444 threshold	\$1.12	\$1.39	\$1.44	\$1.99
Levy rates under a \$65,000 threshold	\$1.15	\$1.45	\$1.48	\$2.06

40. The next levy review will need to be completed, and new rate in place by 1 July 2026, hence MBIE will have sufficient funds to see it through the next levy period. The next review will enable MBIE to take stock where the building industry is at and the impact on levy revenue, as well as the capacity impacts associated with the regulatory reform work currently underway.

Implementation

41. I propose the new levy rate should be in place from 1 October 2023. I expect to engage with BCAs during the consultation process to ascertain when they could reasonably update their systems to give effect to the changes.
42. Should consultation necessitate a change in proposed settings, I will come back to Cabinet for policy approvals. However, should consultation support the proposed settings, I seek Cabinet approval to instruct Parliamentary Council Office to draft amendments to the Building (Levy) Regulations 2019.

Financial Implications

43. Depending on the outcome of consultation an appropriation increase of \$6.3 million per annum, over three years may be sought, with approval from joint Ministers.
44. I note that BCAs will lose 3% of levy revenue that it previously recovered for processing building consents under the new proposed \$65,000 threshold. Total revenue loss is estimated at circa \$53,000 (approximately \$800 per BCA) over a three-year period. The impact will vary significantly between BCAs depending on the volume and value of consents they process. I also note that BCAs will no longer incur the costs associated with processing these consents and as such expect the financial impact to be negligible to neutral.

Legislative Implications

45. Changes to the levy rate and threshold will require amendment to the Building (Levy) Regulations 2019.

Impact Analysis

Regulatory Impact Statement

46. Treasury's Regulatory Impact Analysis team has determined that the proposal to release this consultation document is exempt from the requirement to provide a Regulatory Impact Statement (RIS). This exemption is based on advice that the consultation document includes the key features of a Cost Recovery Impact Statement.

Climate Implications of Policy Assessment

47. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

48. There are no population implications associated with the proposals in this paper.

Human Rights

49. There are no human rights implications associated with the proposals in this paper.

Consultation

50. Consultation was undertaken with the Department of Internal Affairs, the Treasury, the Ministry of Housing and Urban Development and Whaikaha.
51. Whaikaha noted that as part of the approach to improve services, consideration could be given to using the surplus to better support outcomes for levy payers, alongside the disability community and other population groups that more commonly experience accessibility issues, including, seniors, Māori and Pacific people. The incidence of disability increases with age, and it is likely that an aging population will put pressure on building standards or legislation. Census 2013 found that Māori and Pacific populations experienced a greater incidence of disability across all age groups in Aotearoa New Zealand than the European population.
52. I expect the Ministry to engage with Whaikaha in the development of information and educational tools and the development of standards to support accessibility.

Communications

53. The discussion document will be placed on MBIE's website and notified to MBIE's building sector stakeholders.

Proactive Release

54. The Cabinet paper and associated Cabinet Minute will be proactively released.

Recommendations

The Minister for Building and Construction recommends that the Committee:

1. **note** the *Building Act 2004* requires that the levy must be reviewed no later than three years from when it was last set, which was 2019;

Investing in capacity uplift

2. **note** the appropriation funded by the levy is presently \$50.008 million;
3. **note** that MBIE has identified the need for further capacity investment at up to \$6.3 million over three years driven by:
 - 3.1. MBIE's ongoing programme of regulatory reform; and
 - 3.2. strong feedback from industry for improvement in the MBIE's digital channels for communication information, education, and advice;
4. **agree** that the preferred option should be for the levy to recover the costs of the current appropriation of \$50.008 million and the \$6.3 million in capacity uplift over three years be funded from the memorandum account surplus;

Reviewing the threshold at which the Building Consent Levy should kick in

5. **note** the Building Consent Levy is payable by building consent applicants once the value of building work exceeds \$20,444;
6. **note** the threshold at which the Building Consent Levy becomes payable has not been adjusted for inflation since provision was made for payment of a Building levy;
7. **note** that adjusting the levy threshold to \$65,000 would have a minimal impact on levy funding;
8. **note** the increase in the threshold would cost Building Consent Authorities circa \$53,000 (approximately \$3,300 per authority) but that this would be offset but reductions in costs associated with collecting and remitting the levy;
9. **agree** that the preferred option in the consultation document should be to adjust the levy threshold to \$65,000;

Managing the reduction of the surplus

10. **note** that MBIE's levy memorandum account is in surplus by circa \$71.6 million as at December 2022;

I N C O N F I D E N C E

11. **note** that under the preferred threshold and investment settings, the memorandum account balance will reduce to zero in December 2026, six months after the next levy review is completed and a new levy rate is prescribed if the rate is set at \$1.48;
12. **agree** that the preferred option in the consultation document should be for a levy rate of \$1.48;
13. **agree** to release the attached consultation document for consultation over April 2023 with the view of having the new levy rate in place by 1 October 2023;
14. **agree** to authorise, subject to the outcome of consultation, issuing of drafting instructions to give effect to the above settings.

Authorised for lodgement

Hon Dr Megan Woods

Minister for Building and Construction