



BRIEFING

Budget 2024: Commerce and Consumer Affairs portfolio summary information for your discussion with Hon David Seymour

Date:	2 February 2024	Priority:	Urgent
Security classification:	Budget - Sensitive	Tracking number:	2324-1674

Action sought		
	Action sought	Deadline
Hon David Seymour Associate Minister of Finance	To inform your upcoming discussion	5 February 2024
Hon Melissa Lee Minister for Economic Development	For your information	5 February 2024
Hon Andrew Bayly Minister of Commerce and Consumer Affairs	To inform your upcoming discussion	5 February 2024

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Andrew Hume	General Manager, Small Business, Commerce and Consumer Policy	Privacy of natural persons	✓
Privacy of natural persons	Policy Director		
	Principal Policy Advisor		

The following departments/agencies have been consulted

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

BRIEFING



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Budget 2024: Commerce and Consumer Affairs portfolio summary information for your discussion with Hon David Seymour

Date:	2 February 2024	Priority:	Urgent
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Purpose

To provide financial information about the Commerce and Consumer Affairs portfolio for your upcoming discussion in the week starting 5 February 2024.

Executive summary

The Commerce and Consumer Affairs portfolio (**CCA portfolio**) brings together the policy, operational and regulatory settings that shape how businesses and consumers trade, invest, and innovate and markets operate.

CCA Expenditure and FTE growth since 2017

CCA portfolio expenditure and FTE has grown significantly since 2017. Most of the growth is in the Commerce Commission and Financial Markets Authority due to new responsibilities. MBIE's operational teams have also grown due to higher demand.

	Actual 30 June 2017 (\$000)	FTE (2016/17)	Forecast FY24/25 (\$000)	FTE (Dec 2023)
CCA Departmental (MBIE)	93,989	341.1	141,217	448.8
CCA Non-Departmental (Crown entities)	74,254	434.6	177,593	872.5

Refer to **Annex One** for a breakdown of CCA portfolio expenditure and FTE growth with core reasons.

CCA Fiscal savings (expenditure and revenue options)

The CCA portfolio has appropriations of \$318.872 million (FY24/25). This includes \$142.257 million of Crown revenue.

Total savings of up to \$33.211 million are proposed in the portfolio as a whole from FY25/26 onwards. This includes expenditure savings of up to \$16.047 million in FY24/25, which equates to 11.3% of eligible Crown funding. This results from a reduction in contractors, vacancies and overheads, some reductions in low-value programmes or programmes that are not a Government priority, and a one-off return of capital reserves.

The extra savings available from FY25/26 onwards are due to new revenue options that take some time to be implemented.

Further savings from the cross-cutting MBIE functions that rely on CCA funding are anticipated and will be reported on separately to the Minister for Economic Development, Hon Melissa Lee.

Refer to **Annex Two** for a summary of fiscal savings.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **note** the information set out in the briefing, to inform a ministerial discussion about current funding and savings in the Commerce and Consumer Affairs portfolio. Noted
- b **note** a package of potential savings totalling up to \$16.047 million has been identified for the CCA portfolio for FY24/25, which equates to 11.3% of eligible Crown funding of \$142.257 million allocated for FY24/25. Noted
- c **agree** to the following \$0.847 million departmental baseline savings for the CCA portfolio:

\$ million	Total Savings (FY24/25)	Consult with Ministers	Decision
Departmental Expenditure Savings Options			
MBIE reduction in back-office functions and other overheads/discretionary savings (savings on contractors, vacancies and overheads):	0.847	N/A	Yes/No
Total Departmental Savings Options by Financial Year	0.847		

- d **note** further departmental savings from the cross-cutting MBIE functions that rely on CCA funding are anticipated and will be reported on separately to the Minister for Economic Development, Hon Melissa Lee
- e **agree** to the following up to \$13.100 million non-departmental baseline savings (FY24/25) for the CCA portfolio:

\$ million	Total Savings (FY24/25)	Total Savings (FY25/26)	Consult with Ministers	Decision
Non-Departmental Expenditure Savings Options				
Reduced contractor and consultant spend and reduced discretionary spend across CCA Crown entities:	7.100	4.200	N/A	Yes/No
<i>Commerce Commission</i>	4.900	2.000		
<i>Financial Markets Authority</i>	1.300	1.300		
<i>External Reporting Board</i>	0.700	0.700		
<i>Retirement Commission</i>	0.200	0.200		
One-off return of cash reserves from:	5.600			
<i>Commerce Commission</i>	4.500			
<i>External Reporting Board</i>	1.100			No
Retirement Commissioner scaling programmes (not priority)	0.400	0.400	N/A	Yes/No
Total Departmental Savings Options by Financial Year	13.100	4.600		

agree to \$10.100 million non-departmental baseline savings (FY24/25) with ComCom returning 1.500 million cash reserves

Budget - Sensitive (rather than 4.500)

Confidential advice to Government

\$ million	Total Revenue (FY24/25)	Total Revenue (FY25/26)	Consult with Ministers	Decision
Departmental Revenue Options				
Confidential advice to Government				
			Cabinet	Yes/No
			Cabinet	Yes/No
			Cabinet	Yes/No
			Cabinet	Yes/No

g **agree** to deliver a fiscal saving of \$1.600 million to the Crown from either (decision on approach to be taken by Minister of Commerce and Consumer Affairs in consultation with Minister of Energy):

a. levy funding the Consumer Advocacy Council from FY25/26 onwards

OR

b. disestablishing the Consumer Advocacy Council in FY24/25

Agree / Disagree

h **note** that savings against cross-cutting MBIE functions that rely on CCA funding will be separately provided to the Minister for Economic Development, Hon Melissa Lee;

Noted

i **note** that additional revenue options require Cabinet approval and some regulatory or legislative change, and most will only be available from FY 25/26 onwards.

Noted

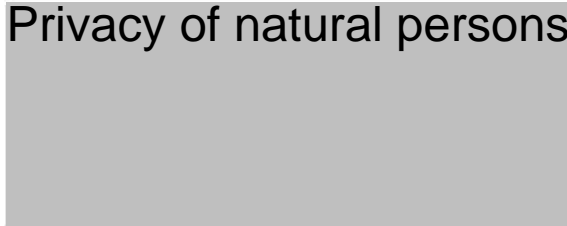
Andrew Hume
Group Manager
Small Business, Commerce and Consumer
Policy Group, MBIE

02/02/2024

Hon David Seymour
Associate Minister of Finance

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Privacy of natural persons



Hon Melissa Lee
Minister for Economic Development

...../...../.....

Hon Andrew Bayly
**Minister of Commerce and Consumer
Affairs**

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Background

1. This briefing outlines how the Minister of Commerce and Consumer Affairs, Hon Andrew Bayly, is looking to effect savings in the Commerce and Consumer Affairs portfolio (**CCA portfolio**) in response to the direction from the Minister of Finance for MBIE to reduce its baselines by \$233.9 million (7.5%) and to consider growth in FTE numbers since 2017.
2. Hon Seymour has written requesting a meeting to discuss fiscal sustainability options. He also requested summary information about portfolio expenditure, FTE growth, savings options and revenue options. This briefing responds to that request.

The Commerce and Consumer Affairs portfolio

Summary of CCA portfolio functions and expenditure

3. The CCA portfolio brings together the policy, operational and regulatory settings that shape how businesses and consumers trade, invest, and innovate and markets operate.
4. Key work within the portfolio includes:
 - a. Regulation of financial markets. The Financial Markets Authority (**FMA**) and Retirement Commissioner have functions in this area.
 - b. Regulation of competition and consumer policy. MBIE has operational consumer functions. The Commerce Commission (**Commission**) has functions in this area.
 - c. Companies law and corporate governance requirements. MBIE delivers services to businesses. The External Reporting Board and Takeovers Panel have functions in this area.
 - d. Intellectual property policy and operations including patents and trade marks. Intellectual Property Office (**IPONZ**) has functions in this area.
 - e. Technical standards (such as ensuring accurate weights/measures).
 - f. Trade and regulatory co-operation including trans-Tasman mutual recognition and tariffs/trade remedies.
5. A large amount of the CCA portfolio's resource is dedicated to operational or regulatory activity by Crown entities or operational units within MBIE.

Breakdown of expenditure and FTE growth since 2017

6. **Annex One** contains a summary of expenditure and FTE growth in the CCA Portfolio.

Commentary on expenditure growth

7. The CCA portfolio appropriations total \$318.872 million in FY24/25.
8. Expenditure has grown by about \$150.5 million over the past six years. About \$64 million of this has come from new Crown funding while the remainder has come from other sources such as growth in fees or levies.
9. Much of the new funding has gone to the Commission and FMA. There has also been funding growth in high demand services provided by IPONZ, which is funded by fees.

10. The table below shows the new Crown funding within the portfolio.

	New Funding since 2017 (FY24/25, \$m)
New Budget funding for MBIE (Departmental, Crown)	
Consumer Advocacy Council (2021)	1.600
Expansion of MBIE's competition policy function (2022)	2.700
Fast-tracked launch of NZ Claims Resolution Service (2023)	6.465
New Budget funding for Crown entities (Non-departmental, Crown)	
Commerce Commission <i>Funding for more enforcement and litigation in competition and consumer regulatory functions. Also funding for new functions such as CCCFA, criminal cartels, competition studies, retail payment system regulation, fuel industry regulation, grocery industry regulation.</i>	38.351
Financial Markets Authority (83% third-party funded) <i>Funding for more enforcement and litigation. Also funding for new functions such as financial adviser regime and conduct of financial institutions regime</i>	7.400*
External Reporting Board <i>Funding for the Climate Reporting Function</i>	4.548
Retirement Commissioner <i>Funding to improving Financial Capability through Sorted in Schools programme</i>	2.840
Total	63.904
* \$7.400 million is the estimated Crown revenue portion of new funding. The total additional funding to the FMA was \$43.401 million	

Commentary on FTE growth

11. The CCA portfolio currently has 1321.2 FTE. These are split between MBIE (448.8 FTE) and Crown entities (872.4 FTE).
12. FTE numbers have grown by 537.5 since 2017.
13. MBIE has 107.7 more FTE, most new staff are in operational teams. IPONZ has approximately 70 more FTE due to intellectual property applications (fee recovered).
14. Crown entities within the CCA portfolio have grown by 429.8 FTE since 2017. The majority of this growth is in the Commission (288 FTE) and FMA (119 FTE) due to new regulatory functions. The External Reporting Board and Retirement Commissioner have grown by 10 and 15 FTE each, also due to new regulatory functions.

	FTE	
	2017	2023
MBIE (Departmental)		
Operational FTE		392.9
CCA Policy	341.1	55.9
Crown entities (Non-departmental)		
Commerce Commission <i>(note: FTE numbers include some non-CCA functions like telecommunications)</i>	222	510
Financial Markets Authority	170	289
Te Ara Ahunga Ora Retirement Commission	27	37
External Reporting Board	15.6	29.4
Takeovers Panel	7.8	7

	FTE	
	2017	2023
Total CCA Non-departmental	442.6	872.4
Total	783.7	1321.2

Recent return of underspend in Budget 2023

15. The CCA portfolio recently returned underspent funding. In Budget 2023, the FMA made a one-off return of \$3.000 million while the Commission's litigation funding was reduced by \$2.000 million per year.

Alignment of current expenditure with Government priorities

16. Key portfolio priorities have been set out in **Ministerial priority letters** (to the Prime Minister). These are:
- reforms to financial markets regulation intended to improve efficiency and consumer access to credit
 - increasing competition in markets focusing primarily on the banking industry and the grocery sector
 - developing a fulsome economic regulation regime for water to support the Government's 100-day plan priority to implement 'Local Water Done Well'
 - reform of the Companies Act to modernise, digitise and simplify companies regulation as well as addressing presenting issues around directors duties and 'phoenixing' companies to avoid paying creditors
 - enhancing the effectiveness of capital markets to grow the economy, building on the Capital Markets 2029 Report and other measures to support investment in productive and sustainable long-term assets and infrastructure.
17. The above priorities can be delivered through the CCA portfolio's current funding, noting that policy resource may require the timing of work to be staged.
18. The reforms of financial markets will make changes to regulation of consumer credit (CCCFA) and conduct of financial institutions regime (CoFI). This may provide an opportunity to deliver efficiency benefits and cost savings in the future.

Revenue and expenditure options

19. A package of potential savings totalling up to \$16.047 million has been identified for the CCA portfolio for FY24/25. This exceeds 7.5% of the Crown funding in the appropriation, which is \$10.65 million against eligible Crown funding of \$142.1 million allocated for FY24/25.

20. **Confidential advice to Government**

21.

22. **Annex Two** contains a summary of the fiscal savings package, including the revenue and expenditure options.

Expenditure (savings) options

Savings on contractors, vacancies and overheads

23. MBIE and Crown entities have identified options for reducing or stopping non-essential back-office functions including **contractor and consultant spend**. The table below outlines these options.

	Saving (FY24/25, \$m)	Saving (FY25/26 and outyears, \$m)	Commentary
MBIE reduction in back-office functions and other overheads/discretionary savings	0.847	0.847	MBIE will reduce contractor spend and other non-essential functions across the policy and operational teams. This will result in some scaling or slowing of work but will have minimal frontline impact.
<i>Policy Advice savings)</i>	0.117	0.117	
<i>Insurance claims resolution savings</i>	0.570	0.570	
<i>Trading standards savings</i>	0.100	0.100	
<i>Registration and provision of statutory information savings (Companies office)</i>	0.060	0.060	
Crown entity savings	7.100	4.200	The Commission will contractor spend and deliver efficiencies in FY24/25, this may involve slowing some low-priority work. Savings will reduce to \$2 million in FY25/26 as new revenue is available to the Crown and funds are needed to address cost pressures
<i>Commerce Commission</i>	4.900	2.000	
<i>Financial Markets Authority</i>	1.300	1.300	
<i>External Reporting Board</i>	0.700	0.700	
<i>Te Ahu Retirement Commission</i>	0.200	0.200	Confidential advice to Government does not anticipate slowing down or stopping any work. The Retirement Commission will reduce contractors spend and overheads.
Total	7.947	5.047	

24. The Takeovers Panel will receive \$1.444 million of Crown funding allocated for FY24/25, and also \$0.25 million of third-party funding. MBIE has not recommended the Takeovers Panel make savings, as they are currently operating at deficit and any savings carry risks to frontline services and market confidence from less scrutiny of public takeovers.

Confidential advice to Government

Identification of programmes that can be scaled or stopped

25. The following table shows the **low value programme** that potentially does not align with **Government priorities**.

	Saving (FY24/25, \$m)	Commentary
Retirement Commissioner scaling programmes	0.400	There is an option to slow or scale some activity that will impact Sorted.org and Sorted in Schools as well as marketing, engagement and research.
Total	0.400	

26. Seeking the \$0.400 million saving from the Retirement Commission is likely to have some impact on frontline programmes like Sorted.org and Sorted in Schools by slowing or reducing content creation and marketing/engagement, including insights for audience targeting.

One-off return of capital reserves

27. Two Crown Entities have capital reserves that could be returned to the Crown:

	Saving (FY24/25, \$m)	Commentary
Commerce Commission	4.500	The Commerce Commission has total reserves of \$18 m, including \$4 m for improvements that could be deferred.
External Reporting Board	1.100	The External Reporting Board has additional capital reserves from less travel and delayed recruitment.
Total	5.600	

Cross-MBIE savings

28. All policy and operational areas of MBIE are initially targeting the 7.5% savings from their baselines. They are on track to achieve the approximately \$45m in savings that this represents. Once Ministers have made final decisions, these corporate and technology functions will seek further operational efficiency savings to support these decisions.

Confidential advice to Government, Constitutional conventions

<i>review and increase Insolvency and Trustee service fees recovering</i>			Cabinet approval will be required.
MBIE new levy funding for the Insurance Claims Resolution	0	7.294	The Insurance Claims Resolution service supports New Zealanders dealing with home insurance settlements in the event of a natural hazard. This could be levy funded from the industry.

	Fiscal saving (FY24/25, \$m)	Fiscal saving (FY25/26 and outyears, \$m)	Commentary
Additional revenue for Commerce Commission from levies <i>Groceries Fuel Retail payment system</i>	0	16.810 7.300 4.400 5.110	The Commission's fuel, groceries and retail payment system functions are candidates for levy funding. Fuel and groceries can be advanced relatively promptly while a retail payment system levy may take longer due to complexity.
Additional revenue for Takeovers Panel from changes to fees	0	TBC	Currently users – those involved in takeovers – pay fees to the Takeovers Panel. These could be adjusted to reduce the reliance on Crown revenue.
Total	0.500	26.164	

31. Hon Bayly proposes to develop the new revenue streams outlined above, noting that Cabinet approvals and occasionally legislative change will be required.

Other savings

32. Hon Bayly is considering options to either levy fund or disestablish the Consumer Advocacy Council (**Council**) to deliver \$1.600 million of savings. Disestablishing the Council will impact 3 FTE and deliver the saving in FY24/25 whereas levy funding will allow the Council to continue its work and deliver the saving in FY25/26.

Plans for future reprioritisation

33. Confidential advice to Government, Constitutional conventions

- 34.

Next steps

35. Further info for portfolio meetings available on request.

Annexes

Annex One: breakdown of CCA Departmental funding

Annex Two: breakdown of CCA Non-departmental funding

Annex One: breakdown of CCA portfolio expenditure and FTE growth

The CCA portfolio Departmental appropriations include a number of operational teams. Below are those that have received additional funding or had significant change in FTE numbers (greater than 10).

	FTE (2017)	24/25 funding (Crown)	FTE growth (2017 to 2023)	Crown funding increase	Core reasons for expenditure and FTE growth
Intellectual Property Office <i>Registration and Granting of Intellectual Property Rights</i>	85.3	38.678 (0.244)	+70 (approx.)		IPONZ funding grew by just under \$20 million and FTE rose by about 70 due to demand for trade marks and increased complexity assessing patent applications. IPONZ is third party funded and the extra funding came from fee revenue.
Consumer Advocacy Council	0	1.599 (1.599)	+ 3	1.600	The Consumer Advocacy Council was established to provide an advocacy function for residential and small business electricity customers due to the technical nature of electricity pricing and regulation.
Insurance Claims Resolution	0	7.294 (7.294)	+ 16.6	7.294	The New Zealand Claims Resolution Service was launched in 2023 to assist homeowners with insurance claims. 6 of the FTE are fixed term contractors due to the nature of the service's work and large number of claims after the North Island weather events.
CCA Policy Advice	43.8	15.762 (15.762)	+ 12.1	2.700	MBIE's competition policy function was expanded in 2022.
Total CCA Departmental	341.1	141.216 (43.907)	+ 107.7		Note, other operational costs, not shown above are included in the total CCA Departmental FTE and funding figures.

The table below shows the expenditure growth in CCA portfolio Non-Departmental funding by Crown entity from 2016/17 to 2024/25 and indicates the eligible Crown revenue in FY24/25 where savings may be sought. FTE growth and reasons for it is also indicated.

	FTE 2017	24/25 CCA funding (Crown)	FTE growth (2017 to 2023)	Crown funding increase	Core reasons for expenditure and FTE growth
Commerce Commission	222	79.859 (65.424)	+288	38.351	The Commission's funding and FTE growth is driven by new work it has been required to undertake, including: fuel regulation, retail payment system regulation, grocery regulation, competition studies, increased work in consumer and competition regulation, ongoing regulation of fibre infrastructure, extension of credit regulation and enforcement.
Financial Markets Authority	170	78.424 (17.482)	+119	7.400*	FMA's funding and FTE growth is also due to new work, in particular the new financial advice regime (74 FTE) and the new conduct of financial institutions regime (currently approximately 35 and will grow to about 92 FTE by FY25/26). The FMA is 83% Third party funded.
Te Ara Ahunga Ora Retirement Commission	27	8.622 (8.662)	+10	2.840	Retirement Commissioner has grown by 10 FTE. Work on Sorted in Schools counts for 5 of these FTE while most of the rest are to replace contractors for statutory reviews.
External Reporting Board	15.6	8.994 (5.337)	+15	4.548	External Reporting Board has grown by around 15 FTE. Around 10 FTE are for climate/greenhouse gas accounting/reporting requirements, and the rest are to reduce reliance on external contractors for IT, HR and communications.
Takeovers Panel	7.8	1.694 (1.444)	-0.7	-	The Takeovers panel has reduced its FTE count from 7.8 FTE to 7 FTE.
Total CCA Non-Departmental	434.6	177.59 (98.35)	431.3	89.14	
* \$7.400 million is the estimated Crown revenue portion (17%) of new funding. The total additional funding to the FMA was \$43.401 million, with the majority (83%) coming from new levies.					

Annex Two: Summary of proposed fiscal savings for CCA portfolio

	Fiscal Savings (FY24/25, \$m)	Fiscal Savings (FY25/26, \$m)	Commentary
Departmental Expenditure Savings Options			
MBIE saving on contractors, vacancies, back-office functions and overheads	0.847	0.847	MBIE will make a reduction in contractor and consultant spend and other non-essential functions across the policy and operational teams.
Non-Departmental Expenditure Savings Options			
Reduced contractor and consultant spend and reduced discretionary spend across CCA Crown entities:	7.100	4.200	
FMA	1.300	1.300	Reduced contractor and consultant spend and reduced discretionary spend
Commerce Commission	4.900	2.000	Reduced discretionary spend and anticipated efficiency gains and slowing lower priority work. This saving is expected to have minimal impact on lower-priority work at the Commission.
External Reporting Board	0.700	0.700	Reduced contractor and consultant spend and reduced discretionary spend
Retirement Commission	0.200	0.200	Reduced contractor and consultant spend and reduced discretionary spend

	Fiscal Savings (FY24/25, \$m)	Fiscal Savings (FY25/26, \$m)	Commentary
Commerce Commission Return of capital reserves	4.500	0.000	The Commerce Commission has total reserves of \$18 m, including \$4 m for improvements that could be deferred.
External Reporting Board Return of capital reserves	1.100	0.000	The External Reporting Board has additional capital reserves from less travel and delayed recruitment.
Retirement Commissioner scaling programmes (not priority)	0.400	0.400	The Retirement Commission could reduce spending that will impact frontline services by reducing spend on the Sorted.org website and Sorted in Schools. Other reductions include a 38% reduction in marketing and reduced sector engagement and research which may impact potential users.

Departmental Revenue Options

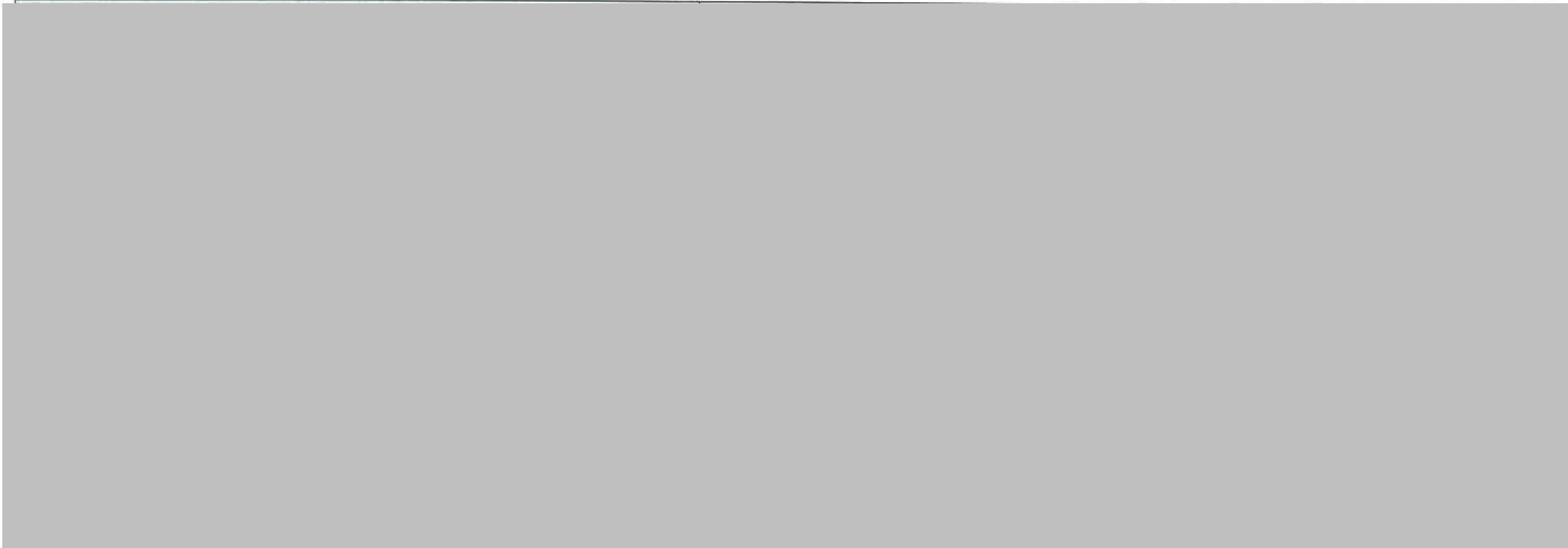
MBIE additional revenue

MBIE will:

- develop a levy on all companies through the annual return fee to fund the costs in handling liquidations with no funds (timing may be dependent on legislative change); and
- review Insolvency and Trustee service fees to ensure they are cost recovering.

Confidential advice to Government

Confidential advice to Government. Constitutional conventions



Consumer Advocacy Council Fiscal Savings Options			
Disestablish Consumer Advocacy Council	1.600	1.600	The Consumer Advocacy Council is a Ministerial advisory committee that was established in 2020 in response to the electricity price review which found that that residential and small business customers were struggling to make their voice heard within the electricity sector.
OR			
Levy fund Consumer Advocacy Council	0.000	1.600	A fiscal saving can be delivered by either disestablishing the Consumer Advocacy Council, or by implementing levy funding from the industries that it advocates for – electricity and possible water services in the future.
Total Departmental Savings Options by Financial Year	14.447- 16.047	33.211	