



## COVERSHEET

<b>Minister</b>	Hon Chris Penk	<b>Portfolio</b>	Building and Construction
<b>Title of Cabinet paper</b>	Building (Levy) Amendment Regulations 2024	<b>Date to be published</b>	9 May 2024

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
March 2024	Building (Levy) Amendment Regulations 2024	Office of Minister for Building and Construction
21 March 2024	Building (Levy) Amendment Regulations 2024 LEG-24-MIN-0035 Minute	Cabinet Office

### Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE'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.

In Confidence

Office of the Minister for Building and Construction

Chair, Cabinet Legislation Committee

## **Building (Levy) Regulations 2024 Proposal**

### **Proposal**

1. I am proposing to raise the threshold at which building and construction projects are liable to pay the Building Levy (the levy). Currently the threshold is \$20,444, (including GST). I propose to raise it to \$65,000 (including GST). This will mean that projects costing less than \$65,000 (including GST) are exempt from the levy. A regulatory amendment to give effect to this change has been drafted. The Committee is asked to agree to its submission to Executive Council.

### **Relation to Government Priorities**

2. This proposal supports this Government's commitment to increase the supply of housing by reducing the cost of building and construction.
3. I signalled my intention to raise the specified value above which the levy is payable from \$20,444 to \$65,000 (including GST) in a recent Cabinet paper [ CAB-24-Min 0069 refers] on my work programme in the building and construction portfolio.

### **Policy**

4. The building levy is payable by building owners or developers on successful building consent applications for projects over a specified value. The Levy is collected by building consent authorities (BCA), on behalf of the Ministry of Business, Innovation and Employment (MBIE), and can be used only for building regulatory functions performed by MBIE.
5. The Building (Levy) Regulations 2019 currently set the levy rate at \$1.75 (\$1.52 excluding GST) per \$1,000 of the estimated value of a successful building consent application. The threshold at which the levy is payable (the specified value) is set at \$20,444 (including GST). Funds are held in a memorandum account and must be appropriated before MBIE can access them.
6. Treasury guidelines require that the levy rate is managed to ensure that the account balance trends towards zero over time. For this reason, the levy rate is reviewed on a three-year cycle and is adjusted if necessary. The building levy rate was last reviewed in 2022/23. Although there have been changes in the levy rate, the specified value threshold has remained unchanged since it was first set.
7. On 5 April 2023, the Cabinet Economic Development Committee [DEV-23-MIN-0046] agreed to public consultation on a reduction of the Levy rate to \$1.48 per thousand dollars of building work and an increase in the specified value to \$65,000. The Minister of Building and Construction was authorised to take amendment regulations to Cabinet Legislation Committee, subject to successful consultation.

8. A majority of stakeholders was supportive of the increase in the threshold. However, 46 percent of submitters expressed a preference that the levy rate remain at \$1.75 (excluding GST) to fund improvement in the regulatory services offered by MBIE. A summary of submissions is attached as an appendix to this paper.
9. I propose to implement an increase in the threshold to \$65,000. This will provide a meaningful cost reduction to building owners undertaking smaller projects such as bathroom or kitchen renovations and it will eliminate a compliance burden for consenting on smaller projects. This increase will adjust the value of the threshold for inflation over the period since it was set. The proposed increase would come into force on 1 July 2024.
10. I am proposing not to implement a reduction in the levy rate at this time. Economic conditions have slowed somewhat since the review took place and building consent application numbers are falling, indicating that the balance within the building levy memorandum account will trend down without an adjustment to the rate (from an estimated \$71.6 million at present to approximately \$32 million in 2027 and \$17 million in 2028). I wish to avoid the risk that a sudden large increase in the levy rate is needed when the levy is next reviewed in three years' time.

### **Timing and 28-day rule**

11. A waiver of the 28-day rule is not sought.

### **Financial Implications**

12. As at June 2023, the balance was \$71.6 million. MBIE estimates the extent of the annual revenue loss from the threshold increase as being circa \$680,000, which will reduce the account balance if expenditure remains constant.
13. It should be noted however, that the revenue concerned can only be used for building regulatory purposes. Levy revenue has sufficiently funded the building regulatory function as evidenced by the account balance increase since 2019. The proposed change therefore has an overall net neutral impact on the Government's fiscal strategy in returning the operating balance before gains and losses (OBEGAL) to a surplus.

### **Compliance**

14. The proposed Regulations comply with each of the following:
  - 14.1 the principles of the Treaty of Waitangi
  - 14.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - 14.3 the principles and guidelines set out in the Privacy Act 1993
  - 14.4 relevant international standards and obligations
  - 14.5 the Legislation Design and Advisory Committee's Legislation Guidelines (2021 edition).

## **Regulations Review Committee**

15. There are no anticipated grounds for the Regulations Review Committee to draw the Regulations to the attention of the House under Standing Order 327.

## **Certification by Parliamentary Counsel**

16. The Regulations were prepared and certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

## **Regulatory impact analysis**

17. When Cabinet agreed to consult on a \$65,000 levy threshold and a \$1.48 rate for the Building Consent Levy [DEV-MIN-0046], an MBIE QA panel confirmed that the discussion document included the key features of a Cost Recovery Impact Statement. Cabinet also authorised drafting, subject to the outcome of consultation. Cabinet's impact analysis requirements therefore do not apply to the proposals in this paper.

## **Publicity**

18. MBIE will publicise the new Regulations on its website. MBIE will also directly notify Building Consent Authorities of the changes to enable them to update their systems before the amendments come into force.

## **Consultation**

19. Treasury was consulted during the development of this paper.

## **Proactive release**

20. I propose that this paper, along with the Cabinet minute and supporting documentation, is proactively released on MBIE's website within 30 working days of the final decision being made by Cabinet. The release of the information is subject to redactions consistent with the Official Information Act 1982. The Cabinet paper, which sought agreement on the policy changes, and the associated minute have already been proactively released.

## **Recommendations**

I recommend that the Cabinet Legislation Committee:

1. **note** that in April 2023, the Cabinet Economic Development Committee (DEV) agreed that the preferred Building Levy settings in the discussion document should be a \$65,000 (including GST) Levy threshold and a \$1.48 Levy rate (including GST) [DEV-MIN-0046 refers];
2. **note** that the Minister of Building and Construction was authorised to take amendment regulations to Cabinet Legislation Committee, subject to successful consultation.
3. **note** that I signalled my intention to raise the specified value above which the levy is payable from \$20,444 to \$65,000, including GST in a recent Cabinet paper [ CAB-24-Min 0069 refers] on my work programme in the building and construction portfolio
4. **note** that economic conditions have changed since the decisions in paragraph 1 were made, meaning that the changes to the Levy rate are not necessary at this time;
5. **note** that the Building (Levy) Amendment Regulations 2024 will;
  - 5.1 amend the threshold above which the Levy is payable to \$65,000, including GST
  - 5.2 come into force on 1 July 2024.
6. **authorise** the submission of the Building (Levy) Amendment Regulations 2024 to the Executive Council.

Authorised for lodgement

Hon Chris Penk  
Minister for Building and Construction