

**BUILDING
PERFORMANCE**

Building Levy

GUIDANCE

Guidance for Territorial and Building Consent Authorities



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa
New Zealand Government

Ministry of Business, Innovation and Employment (MBIE)

Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

The Building Levy guidance document is produced by the Building System Performance branch.

This document is issued as guidance under section 175 of the Building Act 2004 and may be updated from time to time. The latest version is available from MBIE's website at www.building.govt.nz

Information, examples and answers to your questions about the topics covered here can be found on our website: www.building.govt.nz or by calling us free on: 0800 24 22 43.

Disclaimer

This document is a guide only. It should not be used as a substitute for legislation or legal advice. The Ministry of Business, Innovation and Employment is not responsible for the results of any actions taken on the basis of information in this document, or for any errors or omissions.

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1. Purpose

The purpose of this guidance is to support the understanding of the building levy – its function, uses, and how to calculate and submit returns for the Ministry of Business, Innovation and Employment (MBIE)

The building levy must be paid at a prescribed rate by applicants who are granted a building consent for building work with an estimated value above a prescribed threshold. It is collected through the building consent application process administered by building consent authorities.

The revenue from the levy is used to fund a range of the Ministry of Business, Innovation and Employment (MBIE) functions and activities under the Building Act 2004 that monitor, oversee and improve the building sector.

2. Who is this guidance for?

Councils, building consent authorities and regional or territorial authorities who calculate and collect building levy payments and submit returns to MBIE.

3. About MBIE

MBIE is the over-arching regulator of Aotearoa New Zealand's building system providing policy and technical advice on New Zealand's building system, rules and standards, and implementing building legislation and regulations to meet New Zealand's current and future needs.

Our role is to work with stakeholders to deliver fit-for-purpose, performance-based building regulation that protects public safety and property and helps lift the sector's performance. We work with a range of people across the building sector to ensure they understand their roles and responsibilities. We do this by providing clear and effective guidelines, information, and education.

We have a range of statutory responsibilities in relation to the building system and administer Aotearoa New Zealand's building legislation. We also work with other regulators whose legislation has an impact on the building sector.

Our work includes:

- educating and informing people on building compliance
- monitoring and evaluating the overall performance of New Zealand's building system
- reviewing and updating building policy, laws and regulations
- occupational regulation (for example, Licensed Building Practitioners)
- oversight of the Building Code and setting and developing standards
- earthquake building-related guidance
- supporting investigations into building or product failures
- determinations and product assurance.

4. The purpose of building levy

The building levy is a charge on the value of building work and is imposed by central government.

The levy is payable by building owners or developers on successful building consent applications that are worth more than the minimum estimated value.

The revenue from the levy is used to fund a range of MBIE functions and activities under the Building Act.

The Building Act allows for the building levy collected to be used to fund MBIE functions and activities related to the building sector in other Acts. These functions must be related to monitoring, overseeing or improving the performance of the building sector or regulatory systems under that Act.

Levy payers benefit from the service level offered through MBIE's regulatory functions and activities. This is because these building related services help protect people constructing, renovating or buying homes or other types of buildings.

The building levy must be reviewed by MBIE every three years. This review includes consideration that:

- › the building levy is set at a rate that is appropriate for meeting the costs of the activities performed by MBIE, and
- › any surplus or deficit is consistent and within the Treasury's levy guidelines on memorandum accounts.

What does the law say?

The legislation that applies to the building levy is:

- › Section 53-66, Building Act 2004, [Building levy](#)
- › Section 53(1)a, Building Act 2004, [Use of the levy for activities under the CE's functions](#)
- › [Building \(Levy\) Regulations 2019](#)
- › Section 66, Building Act 2004, [Chief executive must review levy.](#)

5. Building levy payment and collection

Payment by the applicant

The building levy is paid by applicants who are successfully granted a building consent by a building consent authority for building work with an estimated value above a prescribed threshold.

Building consent authorities are usually local and district councils, however, they can also be regional councils and private organisations. The applicant is usually the building owner or the developer.

The building levy payment must be based on the minimum estimated value of the total building work for the building consent.

The building levy is one part of the overall charges collected by building consent authorities as part of the building consent application process. There are other charges including:

- › a building research levy, which is paid to BRANZ, and

- › fees for building inspections and the issuing of a Code of Compliance certificate, which is retained by the building consent authority.

Building consent authorities must advise applicants of the amount of the levy that they need to pay before they grant the building consent. They typically invoice the applicant once they accept the building consent application ie when they deem that the application is complete and the estimated value of building work appears correct for the project.

The building levy must be paid by the applicant at the time the building consent is granted.

Where building work is completed in stages, the total building levy payment must be calculated on the full cost of the building work, using the building levy rate applicable at the date the original building consent was granted.

The building consent authority collects the building levy, but it is the territorial authority that is responsible for paying the building levy and submitting the return to MBIE.

What does the law say?

The legislation that applies to payments of the building levy is:

- › Section 53(1), [Applicant for building consent liable to pay levy when a building consent is granted](#)
- › Section 54, [Building consent authority must advise applicant of amount of levy payable](#)
- › Section 59, [Liability to pay levy: territorial authority](#)
- › Section 57, [Payment of levy if building work completed in stages.](#)

Private building consent authorities

There is currently one private building consent authority, Consentium, which is not associated with its own territorial authority.

Consentium is a standalone and independent organisation within Kāinga Ora. Consentium must provide details of their building consents and the building levy to the local territorial authority, for inclusion on their return (the territorial authority is able to retain three per cent of the building levy as it does with all other consents).

6. Calculating the building levy

Building levy rate

The levy is calculated using the minimum estimated value of the total building work for the building consent and the building levy rate applicable at the date the building consent is granted.

Table 1 – building levy rates

Calculation	Prescribed rate of levy
Building consents granted on or after 1 July 2020	\$1.75 (including GST) per \$1,000 and part \$1,000
Building consents granted prior to 1 July 2020	\$2.01 (including GST) per \$1,000 and part \$1,000

The Building Levy Regulations 2019 refer to the levy rate being \$1.52 plus GST (if any) from 1 July 2020, however for consistency, the GST inclusive rates have been used throughout this guidance document.

The Building Levy Regulations 2019 refer to the levy rate being \$1.97 (inclusive of GST) for any building consents granted on or after 1 April 2005 and before 1 July 2020. However, when the GST rate changed from 12.5 per cent to 15 per cent on 1 October 2010, the rate charged became \$2.01 to reflect the 2.5 per cent increase in GST.

Appendix 3 shows historical rates of building levy rates.

Threshold from which to calculate building levy

The total value of the building work must be over the prescribed minimum estimated value for the levy to be charged. This threshold is currently \$20,444 including GST.

Table 2 – building levy rates

Calculation	Prescribed threshold
Building consents granted on or after 1 July 2020	\$20,444 (including GST)
Building consents granted prior to 1 July 2020	Generally*, \$20,444 (including GST)

* The prescribed threshold rate of \$20,444 has generally been used by building consent authorities. The Building Levy Regulations prescribed the minimum estimated value as \$20,000 (inclusive of GST) but when the GST rate changed from 12.5 per cent to 15 per cent on 1 October 2010, some building consent authorities did not review the threshold, so continued to use \$20,000, rather than \$20,444.

Value of building work to use in calculation

The building levy rate applies to every \$1,000 (or part of \$1,000) of the estimated value of building work over the threshold. If the value of building work includes part thousands, the value must be rounded up to the next \$1,000.

Table 3 – formula

Value of building work	Rounded value	Building levy rate (including GST) per \$1,000	Building levy payable
\$126,569	\$126,569 rounded up to the next \$1,000 (\$127,000) and divided by \$1,000 = 127	\$1.75	127 x \$1.75 = \$222.25

Table 4 – rounding and threshold examples

Value of building work	Rounded value	Building levy rate (including GST)	Building levy payable
\$19,500	Not required as under threshold	\$1.75	Nil
\$26,023	\$27,000 divided by \$1,000 = 27	\$1.75	27 x \$1.75 = \$47.25
\$502,500	\$503,000 divided by \$1,000 = 503	\$1.75	503 x \$1.75 = \$880.25
\$301,000	\$301,000 divided by \$1,000 = 301	\$1.75	301 x \$1.75 = \$526.75

The total value of the building work must be over the prescribed minimum estimated value for the levy to be charged.

Part 6 of this guidance provides a range of examples and scenarios to assist with the calculation of the building levy in different situations.

What does the law say?

- › [Section 53](#) of the Building Act 2004 imposes a levy on a person to whom a building consent is granted.
- › Section 3, Building (Levy) Regulations 2019, [rate of building levy and minimum estimated value](#).

Payment by territorial authorities to MBIE

Building consent authorities must pay the levy to a territorial authority, who in turn pay it to MBIE. In practice, a territorial authority performs the functions of a building consent authority for its own city or district.

As MBIE is unable to calculate the value of the building levy collected each month, most territorial authorities have sought and received approval from the Inland Revenue Department to issue a Buyer Created Tax Invoice to accompany their payment.

Each territorial authority enters data for the previous month into their Buyer Created Tax Invoice with a worksheet detailing the building consents.

The territorial authority emails the Buyer Created Tax Invoice and their worksheet to MBIE and the levy payments are paid into MBIE's bank account.

For more information Buyer Created Tax Invoices see <https://www.ird.govt.nz/gst/tax-invoices-for-gst/buyer-created-tax-invoices>

See Appendix one for an example of a Buyer Created Tax Invoice.

If territorial authorities make their building levy payment to MBIE by the 20th of the month following the date the building consent was granted, they may retain three per cent of the levies collected. This is generally referred to as an administration fee.

The administration fees may not be retained by the territorial authority if payment is not paid into MBIE's bank account by the due date and MBIE may choose to charge interest.

Table 5 – example of building levy amount paid to MBIE from a territorial authority

Calculation of final balance	
Total of all estimated values of building consent applications	\$15,300,000
Total of estimated values of building consent applications of \$20,444 or more	\$15,000,000
Total levies collected	\$26,250
Less administration fee (three per cent)	\$787.50
Levy amount payable to MBIE	\$25,462.50

The Table 5 figure includes \$300,000 of building consent applications that are under the threshold of \$20,444, which would not incur a levy.

The territorial authority must keep a copy of records relating to building consents including the:

- › estimated value of the total building work to which each building consent relates
- › amount of any building levy payable, and
- › date of payment of the building levy from the applicant.

This information is to be made available to MBIE for the purposes of review or audit as and when requested.

What does the law say?

- › [Section 60](#) states that a territorial authority may retain 3 per cent of the levies for which the territorial authority is liable.
- › [Section 63](#) states that the chief executive of MBIE may obtain information in order to assess amount of levy payable.

Amendments to the value of building work

If the value of building work changes after the building consent has been granted (but before the code compliance certificate has been issued), the building consent authority must recalculate the building levy based on the new amended value of building work.

The building levy rate used in the new calculation is the rate that applied as at the date the original building consent was granted.

Sufficient information must be provided to MBIE in the monthly return to show the date and value of building work of the original consent, any subsequent changes to the value of building work and the current change. This is to allow MBIE to check that the correct amount of building levy has been calculated.

Examples of how to recalculate the building levy if the value of building work changes

Example 1: Value of building work to increase by \$20,000

Geoff decides to add an enclosed deck to the house he is having built, which means the value of the building work will increase by \$20,000. As a building consent has previously been issued based on the previous estimated value of work (but a code compliance certificate has not yet been issued), the applicant must apply to the building consent authority for an amendment to the building consent.

Original value of building work	Date Consent granted	Levy paid	Amendment to building consent	Calculation of building levy based on amendment
\$450,000	10 January 2022	\$787.50 450 x \$1.75	Increased by \$20,000	\$35.00 additional building levy payable 20 x \$1.75 = \$35.00

Although the amendment amount in the example is for \$20,000, which is below the threshold of \$20,444, the building levy must be calculated on the overall value of building work.

Example 2: The original value of building work was under the threshold, so building levy was not charged for the original consent.

Melanie is planning an alteration to her house and a building consent for the work has previously been granted. As the value of the building work was under the threshold of \$20,444, building levy was not payable. Melanie has now decided to change the materials being used for the alteration, increasing the value of the building work by \$7,000.

Original value of building work	Date Consent granted	Levy paid	Amendment to building consent	Calculation of building levy based on amendment
\$15,000	21 March 2022	Nil	Increased by \$7,000	\$38.50 building levy payable $22 \times \$1.75 = \38.50

As the amendment has increased the value of building work to over the threshold, building levy is now payable on the whole value of building work.

Example 3: This calculation demonstrates both an amendment and rounding of building work value.

Oliver was granted building consent for a carport. As the original value of the building work was \$16,000 (under the threshold of \$20,444), building levy was not payable. Oliver has subsequently decided to choose a larger carport, increasing the value of the building work to \$20,500.

Original value of building work	Date Consent Granted	Levy paid	Amendment to building consent	Calculation of building levy based on amendment
\$16,000	19 April 2022	Nil	Increased by \$4,500	\$36.75 building levy payable $\$16,000 + \$4,500 = \$20,500$ $21 \times \$1.75 = \36.75

Building levy is now payable as the amended value of building work is over the threshold of \$20,444. As the new value of building work includes a part \$1,000, the value of building work needs to be rounded up to \$21,000 for the building levy calculation.

Example 4: Using the building levy rate applicable when the original building consent was granted

Cameron’s building consent was granted in 2019 and he has been building his house on his weekends and holiday time. He has now decided to alter the design of the house, resulting in an increase in the value of building work of \$22,000.

Original value of building work	Date Consent granted	Levy	Amendment to building consent	Calculation of building levy based on amendment
\$350,000	30 September 2019	\$703.50 Based on \$2.01 per \$1,000 levy rate at the time the building consent was granted	increased by \$22,000	\$44.22 additional building levy payable $22 \times \$2.01 = \44.22

This building consent was granted when the building levy rate was \$2.01 per \$1,000, so this rate must be used when recalculating the amended value of building work.

Example 5: The new value of building work decreases to under threshold

Annabel has decided to reduce the size of the garage she is having built. The value of the building work is being reduced by \$8,500. As the original value of building work was over the threshold, building levy was calculated and paid, however now that the project has reduced in value to under the threshold, Annabel is due a refund of the building levy previously paid.

Original value of building work	Date Consent granted	Levy paid (based on \$1.75 including GST)	Amendment to building consent	Calculation of building levy based on amendment
\$27,700	4 October 2021	\$49.00 (28 x \$1.75)	Decreased by \$8,500	No building levy payable as amended value of building work is now \$19,200, under the threshold of \$20,444.

In this instance the applicant is to be refunded the \$49.00 building levy previously paid.

Example 6: A building consent that has been amended several times

Aroha was granted a building consent in 2018 for an extension to her house. She paid building levy calculated at the applicable rate as at the date the consent was granted. Aroha subsequently added an additional toilet and updated the layout of the plans, resulting in an increase of \$26,000 to the estimated value of building work.

In September 2020 Aroha changed some of the building materials being used for the extension, resulting in an increase to the value of the building work. In January 2022 Aroha decided to reduce the size of her extension, reducing the overall value of building work. For each amendment, the building consent authority calculated the building levy using the applicable building levy rate at the date the original consent was granted.

Original value of building work	Date	Levy paid (based on \$2.01 including GST)	Amendment to building consent	Calculation of building levy based on amendment
\$150,000 Consent granted 4 October 2018	Consent amended 5 February 2019	\$301.50	Increased by \$26,000 (amendment 1)	Additional building levy of \$52.26 payable $26 \times \$2.01 = \52.26 Based on the rate as at the time the original building consent was granted
	Consent amended 30 September 2020		Increased by another \$10,000 (amendment 2)	An additional \$20.10 building levy payable

	Consent amended 26 January 2022		Decreased by \$15,500 (amendment 3)	Refund of \$30.15 payable to applicant. Value of building work: \$150,000 + \$26,000 + \$10,000 - \$15,500 = \$170,500 171 X \$2.01 = \$343.71 levy payable Original levy paid plus previous amendments \$301.50 + \$52.26 + \$20.10 = \$373.86 \$373.86 - \$343.71 = \$30.15 refund
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Every time there is a change in the value of the building work, the new total value of building work must be considered. In the example 6, building levy is payable on amendment 2, as the total value of building work must be considered (not just the amount of the amendment).

Refunds

If an applicant requests a refund of building levy due to the building consent lapsing, the value of building work reducing, or the building work no longer going ahead, the refund should be paid by the building consent authority, as they are best placed to note any amendments to the building consent, and to be able to verify the amount of the refund.

The territorial authority then includes the refund information on their next monthly return, reducing their payment to MBIE accordingly.

Sufficient information must be provided to MBIE to show the date and value of building work of the original consent, any subsequent changes to the value of building work and the refund calculation.

If a territorial authority makes an error on their return that does not relate to a building consent application (such as a calculation error on the Buyer Created Tax Invoice), resulting in an overpayment of building levy, MBIE may issue a Credit Note, rather than asking the council to adjust their next return.

Example 7: Building work is no longer going ahead

Alex was granted a building consent for a sleepout to accommodate his growing family. His son has now decided to go flatting, so the sleepout is no longer required. Alex advises the building consent authority and requests a refund.

Original value of building work	Date Consent granted	Levy paid (based on \$1.75 including GST)	Change	Calculation of building levy refund
\$35,000	18 August 2021	\$61.25 (35 x \$1.75)	Building work is no longer going ahead	Refund of \$61.25 payable to applicant.

Example 8: The value of the building work has reduced

Reuben and Natalie were granted a building consent for an extension to their house, including an ensuite. After a change in circumstances, they have decided to forgo the ensuite in favour of more space in another area, reducing the value of building work.

Original value of building work	Date Consent granted	Levy paid (based on \$1.75 including GST)	Amendment to building consent	Calculation of building levy refund
\$120,000	17 July 2020	\$210.00 (120 x \$1.75)	Decreased by \$15,000	Refund of \$26.25 payable to applicant.

On rare occasions a territorial authority may need to submit a Credit Note Tax Invoice to MBIE. This would only happen when the refund of a large building levy is more than the total of building levies collected in the previous month.

When a refund is being requested, the 'Tax Invoice' must be updated to read 'Tax Invoice/Credit Note'. This is an IRD requirement and MBIE cannot accept the return without it.

See Appendix two for an example of a Credit Note.

7. Responsibilities

Building consent authorities are liable to the territorial authority for the levy payable to MBIE. In practice, the building consent authority is usually also the territorial authority.

The territorial authority is responsible for paying the building levy (by the 20th of the month following the date the building consent was granted) to MBIE and providing a certificate stating that the payment is correct.

If the territorial authority is late with their payment, MBIE may choose to charge interest.

The territorial authority must keep a copy of records relating to building consents including the:

- › estimated value of the total building work to which each building consent relates
- › amount of any building levy payable, and
- › date of payment of the building levy from the applicant.

This information is to be made available to MBIE for the purposes of audit as and when requested.

What does the law say?

- › Section 58, [liability to pay levy: building consent authority](#)
- › Section 59, [liability to pay levy: territorial authority](#)
- › Section 61, [liability to pay levy: Chief Executive may recover unpaid levies from territorial authority](#)
- › Section 64, [audit of issue of building consents for the purpose of ascertaining payment of the levy.](#)

8. Building levy compliance

MBIE's approach to achieve compliance objectives is to enable and ensure the performance of building consent and territorial authorities. MBIE has suite of activities that aim to do this. These activities include:

- › promoting compliance (engage, educate and enable)
- › developing a picture of risk using monitoring and analysis, and
- › identifying and respond to non-compliance.

Penalties and offences in the building regulatory system are to deter poor or illegal behaviour and strengthen the enforcement of the building regulatory system. They are used as a last resort following non-compliance.

For building levy compliance, MBIE can enforce penalties if a:

- › person fails to comply with a requirement to provide information about the estimated value of building work
- › building consent authority fails to pay building levy to the territorial authority, or
- › building consent authority or a territorial authority fails to provide information to MBIE in the situation where MBIE is trying to assess the amount of building levy payable based on estimated value of building work.

The maximum fine upon conviction is:

- › for an individual for the offences above, is \$5,000, and
- › for a building consent authority or a territorial authority is \$25,000.

Appendix one: example of a buyer-created tax invoice

The table below shows a buyer-created tax invoice (after 1 July 2020):

Territorial authority: (Organisation name) (Address 1) (Address 2) (Town/city) GST number - -	Tax Invoice	
	Buyer-created tax invoice	
	IRD approved	
	Invoice number:	
	Monthly levy period:	
Invoice date:		
Ministry of Business, Innovation and Employment building consent levy (Building Act 2004)		<u>Amounts inclusive of GST</u>
Total of all estimated values of building work in building consent applications		\$8,041,598.00
Total of all estimated values of building work in building consent applications over the threshold		\$8,031,598.00
Total levies collected		\$14,056.00
Total of all estimated values of building work in building consent applications over the threshold - refunds		\$0.00
Total levies refunded		\$0.00
Total levy liability to MBIE		\$14,056.00
Less retention (3 per cent) <i>(If payment is made by the 20th of the month following consent issue date)</i>		\$421.69
Levy amount payable to (or refundable from) MBIE		\$13,634.31
<i>The amount payable (or refundable) includes GST at 15 per cent of \$1,778.39</i>		

Appendix two: Example of a credit note to MBIE

The table below shows an example of Credit Note:

Territorial authority: (Organisation name) (Address 1) (Address 2) (Town/city) GST \number - -	Tax Invoice	
	Buyer-created tax invoice / <i>credit note</i>	
	IRD Approved	
	Invoice Number:	
	Monthly Levy Period:	
Invoice Date:		
Ministry of Business, Innovation and Employment building consent levy (Building Act 2004)	<u>Amounts</u> <u>inclusive of GST</u>	
Total of all estimated values of building work in building consent applications		\$9,687,235.00
Total of all estimated values of building work in building consent applications over the threshold		\$9,687,235.00
Total levies collected		\$16,954.00
Total of all estimated values of building work in building consent applications over the threshold - refunds		-\$10,000,000.00
Total levies refunded		-\$17,500.00
Total levy liability to MBIE		-\$546.00
Less retention (3 per cent) (<i>If payment is made by the 20th of the month following consent issue date</i>)		-\$16.38
Levy amount payable to (or refundable from) MBIE		-\$529.62
<i>The amount payable (or refundable) includes GST at 15 per cent of \$69.08</i>		

Appendix three: Historical levy rates

List of building levy rates and dates they applied:

From	To	Levy rate incl GST	Threshold incl GST
1 July 2020	Current	\$1.75	\$20,444
1 October 2010	30 June 2020	\$2.01*	\$20,000**
1 April 2005	30 September 2010	\$1.97	\$20,000
1 December 1995	31 March 2005	\$0.65	\$20,000
1 November 1994	30 November 1995	\$0.80	\$20,000
1 January 1994	31 October 1994	\$1.00	\$20,000

*This was not a change in the building levy rate, it was as a result of GST changing from 12.5 per cent to 15 per cent. The GST exclusive rate was \$1.75 + GST at 12.5 per cent = \$1.97, when GST changed it became \$1.75 + GST at 15 per cent = \$2.01

** Councils commonly used a threshold of \$20,444 from the date GST increased from 12.5 per cent to 15 per cent, however the threshold was not updated in the Building (Levy) Regulations until 2019.

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