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Big Build is a quarterly publication tracking legislative and regulatory reform and other developments affecting the construction and infrastructure sector.

CONSTRUCTION

Government and regulatory

Retention scheme changes

The Government will amend the Construction Contracts Act to address weaknesses identified by the recent review of the retentions regime.

The proposed changes include:

- introducing a new offence under which failure to comply will attract maximum penalties of \$50,000 for company directors and \$200,000 for firms
- strengthening how retention money is held to prevent firms from using it as working capital, and
- requiring those holding retention payments to issue regular transparency statements setting out how much is being held and where.

Announcing the decisions, Construction Minister Jenny Salesa said they would “share risk more fairly across clients, head contractors and subcontractors, and reduce the financial burden on small to medium businesses, which make up the majority of the construction sector”.

For a detailed analysis, see our commentary linked below.

[Chapman Tripp commentary](#)

[Minister’s statement](#)

Solid budget for construction

Budget 2020 contains a number of initiatives that will be helpful to the construction sector. These include:

- \$1.6b for trade training (details below)
- \$412m to assist employers to keep their apprentices on during the economic contraction
- the commitment to build 8,000 new state and community houses (to be funded by Kāinga Ora through a \$5b loan)
- \$3b toward the “shovel ready” infrastructure stimulus (this is negligible in relation to the \$136b in applications received but Finance Minister Grant Robertson is presenting it as an “initial” contribution and it is on top of the \$12b announced in January and the investment through the Provincial Growth Fund (PGF)), and
- \$1.2b to upgrade rail infrastructure.

[Robertson statement](#)

PGF reset

The PGF has been repurposed to put a higher priority on jobs, with at least \$600m directed toward opportunities offering an immediate economic benefit.

[Statement](#)

Apprenticeship and training support packages

Education Minister Chris Hipkins has released two statements detailing the support the Government is providing for apprenticeship and vocational training:

- a statement setting out the detail of the [Targeted Training and Apprenticeships Fund](#), and
- a statement on the [Apprenticeship Boost](#) scheme, which will provide businesses with up to \$16,000 toward the cost of each apprentice trained between August 2020 and April 2022.

Contained within the Apprenticeship Boost programme is \$40m reprioritised from the PGF to maintain a pipeline of skilled workers to support New Zealand’s regional economies.

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Legislating for a stronger construction sector

The Building (Building Products and Methods, Modular Components and Other Matters) Amendment Bill introduces a number of changes to progress the reform agenda agreed between the Government and industry in the Construction Sector Accord.

Key changes include:

- stronger information requirements on building products
- strengthened certification schemes to speed the consenting process for modular and pre-fab construction
- stiffer maximum penalties and a longer period in which to file charges (to provide greater protection for building users)
- a wider application of the building levy (to increase the resources available for administering the sector), and
- allowing public notifications to be posted on the internet rather than by newspaper.

Submissions opened on 4 June and close on 10 July.

[The Bill](#)

Construction Sector Accord eases Level 3 return to work

The Construction Sector Accord proved its value in the COVID-19 crisis, easing the path for a return to work at Level 3 with the publication on 16 April of the COVID-19 Standard for New Zealand Construction Operations at Levels 2 and above.

The Accord Steering Group, comprising senior government and industry representatives, engaged early to develop a three phase recovery plan which, although it cannot inoculate the industry against the disruption created by the COVID-19 response, should reduce the damage. The three phases are:

- Phase 1: maintain – retain a viable sector during the shutdown
- Phase 2: restart – ensure readiness to restart works and accelerate projects, and
- Phase 3: transform – refocus on high performance.

Other sectors, lacking an Accord equivalent, struggled to achieve the same level of coordination and preparedness.

[Response Plan](#)

Guidance on how public agencies will handle COVID-19 disruptions to contracts

New Zealand Government Procurement has provided guidance on how public sector agencies should deal with contractual disruption to construction contracts as a result of COVID-19.

[Guidance](#)

Building for climate change

New Zealand has signed up to a joint statement with Australia, Canada and the US to develop building code responses to climate change. The work will feed into the Building for Climate Change programme announced by Jenny Salesa and James Shaw recently.

The aim is to give energy efficiency and carbon emissions the same emphasis as cost and aesthetics in building design. A mix of law change, targets and incentives will be developed to achieve this.

[Statement](#)

[MBIE website](#)

Exemptions from Building Act

Minor home improvements will be relieved of the need for a building consent in a move designed to allow councils to focus their consenting capability on larger projects. The Government expects to have legislated the changes in time for them to come into effect at the end of August.

[Statement](#)

New national institute to call Hamilton home

The new National Institute of Skills and Technology, made up of the 16 polytechnics and the country's Industry Training Organisations, will be based in Hamilton.

[Article](#)

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INFRASTRUCTURE

Fast track to shovel ready

Sir Geoffrey Palmer, the architect of the Resource Management Act (RMA), has described the fast track amendments passed this month to soak up some of the unemployment created by the COVID-19 crisis as “a green National Development Act”.

Environment Minister David Parker will be pleased at the definition, as he has woven a strong environmental emphasis into the new legislation.

He envisages that it will be used to promote low emission transport modes, housing, sediment removal from rivers and estuaries, new wetland construction, flood management and works to prevent landfill erosion.

There will be no opportunity for public submissions and rights of appeal will be limited to points of law and/or judicial review with one further right to the Court of Appeal. But a number of safeguards are in place to protect the environment:

- Part 2 of the RMA continues to apply
- Parker will determine what projects go into the fast track process (provided for through an Order in Council, and with reference to criteria), and
- consent applications will be heard by specially appointed Expert Consenting Panels, chaired by a current or retired Environment Court Judge or senior lawyer. Each panel will include nominees from relevant local government and iwi authorities.

Panels will be required to make a decision within 25 working days (extendable to 50 for large-scale projects).

[!\[\]\(0d5ec72f61334709c3fc9450209b754f_img.jpg\) Statement](#)

Large response to lolly scramble

11 projects, expected to create 1,250 jobs, are being fast-tracked through the new process. They are all relatively non-controversial with a heavy focus on providing housing and low emission transport options.

The details were announced on 1 July by Finance Minister Grant Robertson and Regional Economic Development Minister Shane Jones (see link below).

This is the first tranche in the Government’s post-COVID infrastructure stimulus package, for which an initial \$3b was allocated in this year’s budget. To qualify for the funding, a project had to cost more than \$10m and be “spade ready” within the next 12 months.

Response to the initiative was strong, with the Infrastructure Industry Reference Group (IIRG) receiving submissions for 1,800 projects, from which it drew up a list for Cabinet to consider. The focus was on horizontal infrastructure – no high rises.

[!\[\]\(28f72b996fc97883dfd9d4e8b1b16b4e_img.jpg\) Statement](#)

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LGFA raises debt limit

The Local Government Funding Authority, which borrows on behalf of councils, has temporarily increased council debt caps to 300% of revenue. This will apply through 2021 and 2022 and then will begin winding back at 5% a year to 280% by 2026. The relaxation is part of a general post-lockdown fiscal stimulus, through central government, the Reserve Bank of New Zealand and – now – local government.

Announcement

Infrastructure New Zealand sets out path to a new New Zealand economy

Infrastructure New Zealand has laid out a “three horizon” approach to the emergence from the pandemic and the transformation of the New Zealand economy.

Horizon 1 – emergency measures through the lockdown, is now substantially over.

Horizon 2 – a short-term stimulus to restart activity. Infrastructure New Zealand suggests this should focus on:

- maintenance and upgrade projects because these tend to be more labour-intensive, less complex, and more easily split out into different components, allowing companies of all sizes to participate
- “no-regrets” investments – (clean water, healthy homes, safe hospitals)
- projects that can be rolled into coherent programmes to achieve better value for money outcomes
- chosen delivery models and partners (e.g., alliances and early contractor involvement)
- leveraging local government (because every \$1 the Crown gives to a council can be matched with \$2.50 of borrowing to create \$3.50 of work, and
- the immediate implementation of “crucial” reforms to the RMA, the Building Act and local government procurements processes.

Horizon 3 – “a once in a generation chance to transform New Zealand and steer our country’s direction for decades to come”. Infrastructure New Zealand says interviews with senior leaders of its member organisations, its Emerging Talent Network and the feedback from thousands of its webinar attendees have consistently called for this opportunity to be seized upon, although it concedes there will be “competing ideas” about which sectors, regions and outcomes should be prioritised.

Statement

Call for a National Digital Infrastructure Model

Infrastructure New Zealand is leading a move to create a National Digital Infrastructure Model to enable New Zealand’s infrastructure data to be better leveraged for the wellbeing of all New Zealanders.

It has issued a report which calls, as a first step, for the formation of a steering group to drive the proposal. Proposed members include: the Infrastructure Commission, the Construction Sector Accord, key government ministries, Local Government New Zealand and representatives from New Zealand’s six largest cities and from key utilities – including Waka Kotahi NZ Transport Agency, Three Waters, electricity and KiwiRail.

Report

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Huge public health infrastructure deficit

A stocktake of District Health Board (DHB) assets has found a pattern of persistent under-investment over many years with the result that the maintenance and repair budget for the next 10 years is estimated at \$14b.

The current Government has allocated \$3.5b to capital spending over its first three budgets.

[Report](#)

Auckland light rail project on hold

Transport Minister Phil Twyford has announced that the Auckland light rail project is “on hold” while the Government dedicates its effort to COVID-19. Two bids have been made for the work – one by Waka Kotahi NZ Transport Agency and the other by a joint venture between the NZ Super Fund and Canadian pension fund, CDPQ Infra.

A Ministry of Transport analysis of the two competing offers was completed early this year and is with the Government for decision.

[Article](#)

Urban Development Bill update

The Urban Development Bill has been reported back from select committee with a number of recommendations for amendment, many relating to Māori rights and interests. The Bill seeks to expedite complex urban development projects by providing Kāinga Ora with powers of compulsory acquisition and by creating a fast track specified development project (SDP) process.

The National Party does not think the Bill strikes the right balance between urban development goals and property rights because, while it largely reflects the provisions of the Public Works Act, it allows Kāinga Ora to continue to hold on to compulsorily acquired land, even if it is not being used for its original purpose.

[Bill](#)

RMA implementation trends

The 2018/19 report by the National Monitoring System on RMA implementation shows that the proportion of consent applications processed within time limits has fallen for the fourth consecutive year and now sits at 82%.

Other findings are:

- consent processing times and application fees are increasing
- section 37 time extensions are applied to almost one application in three, and
- monitoring and enforcement staffing levels have risen 60% over the past two years.

[Ministry for the Environment statement](#)

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