

Contents

CONSTRUCTION	1
Government and regulatory	1
Industry	4
INFRASTRUCTURE	5
Contacts	6

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

CONSTRUCTION

Government and regulatory

Single authority to replace Housing NZ, HLC and the KiwiBuild Unit

Legislation has been introduced to replace Housing NZ, its development subsidiary HLC, and the KiwiBuild Unit with an urban development authority to be called Kāinga Ora – Homes and Communities. It will have two main roles:

- to be a public housing landlord, and
- to lead and coordinate urban development projects.

Housing and Urban Development Minister Phil Twyford said Kāinga Ora would create “a diverse mix of public, affordable and market housing”.

The aim is to have it up and running on 1 October, although this will require the passage of a second, separate Bill to give it the necessary powers to fulfil its mission. These will include a power to override local government planning documents and a power of compulsory acquisition.

[↪ Statement](#)

Housing policy now a team game

The big move in the Prime Minister’s cabinet reshuffle was to divide the housing portfolio among a team of Ministers. Twyford retains Urban Development; Megan Woods picks up what remains of KiwiBuild and Kris Faafoi is responsible for public and social housing and for solutions to homelessness.

Twyford had been indicating that the KiwiBuild “reset” would be announced in early July but that may now be delayed as Woods gets her feet under the table. The policy seems to be getting smaller by the day. Latest figures from Twyford are for 266 houses to be completed by 1 July this year and 1,535 the following year – down from an original estimate of 16,000 in the first term.

[↪ Cabinet line-up](#)

[↪ Article](#)

(Unsought) advice from the OECD on how to repurpose KiwiBuild

The Organisation for Economic Cooperation and Development (OECD) in its latest survey on the New Zealand economy, released on June 25, has offered the Government advice on how it could better focus its housing policy effort.

It says KiwiBuild should be refocused on supplying land by aggregating fragmented land holdings and de-risking development sites to make it feasible for private sector developers to step in. (We would note that the proposed National Urban Development Authority will perform both these functions.)

Otherwise, the OECD considers that the Government should concentrate its effort on providing affordable rental housing. It says that the links between wellbeing and home ownership are “weak”, that the greatest need is among those who cannot afford to buy a house and that the generous annual income limits for KiwiBuild buyers exclude only the top 8% of potential buyers.

The OECD does not put its reports out on free general release but we have provided a link to the webpage below.

[↪ OECD webpage](#)

Contents

CONSTRUCTION	1
Government and regulatory	1
Industry	4
INFRASTRUCTURE	5
Contacts	6

Big budget for construction

Budget 2019 is big for construction. It allocates \$10.4b for infrastructure projects and moves to a multi-year funding system, rather than the traditional single year capex vote. The idea is that this will make it easier to build a project pipeline.

Specific allocations include:

- \$1.2b for schools (\$286.6m this year)
- \$1.7b for hospitals (\$850m this year and \$200m over the next two years for mental health and addiction facilities)
- \$2.9b for District Health Boards
- over \$1b for KiwiRail
- \$405.5m for the Auckland City Rail Link
- \$84.3m for the Christchurch schools rebuild programme, and
- \$283.3m for transitional housing.

[Chapman Tripp commentary](#)

That speech

A presentation in late March by Twyford to a New Zealand Initiative retreat has been widely praised for the perspective it offers on the issues facing New Zealand in the construction area, and on the Government's multi-faceted response.

The three challenges Twyford identified were:

- a broken system for financing infrastructure
- a planning system based on urban containment, and
- the failure of successive governments, both central and local, to work effectively with the private sector.

[Twyford's speech](#)

Build-to-rent scheme on Crown land

Twyford told a select committee meeting this month that the Government is exploring with "a number of large commercial and institutional investors" the idea of establishing a build-to-rent scheme on Crown land. He said they would be "mostly apartment complexes (of) long-term, high-quality rentals" to provide more housing choice.

[Article](#)

Rent-to-buy for KiwiBuild

Twyford told Parliament in May that he is "giving thought" to introducing a rent-to-buy scheme to help move KiwiBuild houses.

The Government has now had to buy 12 unsold KiwiBuild homes – five in Wanaka, three in Canterbury and four in Auckland – under its underwriting obligation to the developer.

[Article](#)

Big changes promised from building sector regulatory review

Building and Construction Minister Jenny Salesa is promising "the most far-reaching changes" to the construction sector in 15 years. Among the larger reforms being proposed are:

- expanding the Building Act to include the regulation of building products and methods
- a new certification regime for engineers
- capping Building Consent Authority liability at 20% of total losses, and
- substantially increasing penalties.

Submissions closed on 16 June.

[Chapman Tripp commentary](#)

Contents

CONSTRUCTION	1
Government and regulatory	1
Industry	4
INFRASTRUCTURE	5
Contacts	6

Auckland Council to push for end to joint and several liability

A draft submission for Auckland Council on the Building System Legislative Review suggests that the Council use the opportunity to get rid of joint and several liability given the “disproportionate” burden it places on Council Building Consent Authorities.

[Council agenda \(page 105\)](#)

The Construction Sector Accord

The Accord, announced in April, is being promoted as a shared commitment between the Government and industry to transform the construction sector. They have agreed to be guided by four key principles in their interactions with each other. These are to:

- build trusting relationships (including being transparent on the value and allocation of risk)
- be bold (fostering innovation and R&D, sharing success and learning from failure)
- value our people, and
- act with collective responsibility (acting as a custodian for the sector’s future, sharing knowledge, prioritising environmental sustainability).

The Accord is dedicated to:

- increase productivity
- raise capability
- improve resilience, and
- restore confidence.

The path to achieving these goals, according to Peter Reidy (CEO of The Fletcher Construction Company and Chair of the Accord Development Group) is “to reset the culture in order to lift our performance”.

[The Accord](#)

New Government Procurement Rules

The fourth edition of the Government Procurement Rules is now out. Changes specific to construction are:

- Rule 18, designed to reward construction firms that invest in workforce skills and training
- Rule 64, requiring that projects of more than \$50m must be referred to Treasury’s Interim Infrastructure Transactions Unit (to be overtaken by the New Zealand Infrastructure Commission/Te Waihanganga), and
- Rule 69, providing that procuring agencies must apply the practices set out in the Construction Procurement guides, or provide documented evidence to explain why not.

[Rules](#)

Building Amendment Bill back from select committee

The Building Amendment Bill has been returned from select committee with only light amendments, all of which are practical in intent and should improve workability. The Bill gives the Ministry of Business, Innovation and Employment (MBIE) clear powers to investigate significant building failures.

[Bill](#)

Chapman Tripp climate change series

Chapman Tripp is producing a series on how businesses can build resilience against climate change – both the physical effects and the regulatory and public response. The first publication *Managing risk in a more hazardous world* looks at how climate change will affect the availability and cost of insurance. Other topics will include: corporate governance, regulatory drivers, impacts on investment, local government, financing the transition to a low carbon economy, and international law.

Our aim is to provide practical mitigation and adaptation advice and to provide an insight into what the future might look like.

[Managing risk in a more hazardous world](#)

Contents

CONSTRUCTION	1
Government and regulatory	1
Industry	4
INFRASTRUCTURE	5
Contacts	6

Industry

Mixed picture in BDO survey

The BDO 2019 Construction Survey Report confirms a number of significant challenges, in particular:

- a race to the bottom mentality, manifesting in gross margins which are too tight to maintain long-term business viability and in continuing insolvency risks (the median margin at which head contractors said they were missing projects, although slightly up on last year, was still only 7%)
- capacity issues, reflecting a lack of skilled staff
- increasing compliance costs and high cost burdens created by the inappropriate transfer of risk and the impact of unreasonable contract disputes, and
- a large reduction (from 39% to 19%) in the number of firms reporting more than 12 months of confirmed forward work.

[Report](#)

Land prices big driver of house price inflation

A report commissioned from Deloitte by Fletcher Building Ltd finds that rising land costs were the big driver behind the 57% rise in New Zealand house prices from December 2009 to June 2018.

Land and house prices tended to move in lockstep while the cost of labour rose 17% over the period and the cost of building materials, 14% – which was broadly in line with inflation.

[Report](#)

What else would you expect...

Education Minister Chris Hipkins has congratulated the Building and Construction Industry Training Organisation (ITO) for the “constructive” approach it has taken to the vocational training review. He told *Newsroom Pro* that the ITO had laid out which parts of the government’s proposal they agreed with, which they didn’t and what changes they would like.

This was in contrast with other ITOs which had launched “a coordinated campaign” to stop the reforms and were being misleading about the scope of what was intended “to the point of being downright dishonest”.

Ethical hire agreement for migrant workers

An employment agreement ensuring the living wage and ethical hiring standards for migrant builders has been signed between recruitment company Extrastaff, First Union and the Union Network of Migrants.

[Article](#)

The cost of the Ebert failure to subbies

The costs of Ebert Construction’s failure on out of pocket sub-contractors has been large. Journalist Chris Hutching interviewed a number of them for *Stuff*.

[Article](#)

‘World-first’ monitoring system for building resilience

A pioneering Structural Health Monitoring System developed by Global Seismic Data is being installed in buildings across Wellington, and in another 22 earthquake prone countries around the world.

The system’s creators say that it will become “the global standard for a new level of earthquake response, building seismic insights for resilience and sustainability across communities”.

Data collected from a network of sensors is translated into reports on how each building performs. Among those participating in the programme is Ian Cassels of The Wellington Company.

[Statement](#)

Contents

CONSTRUCTION	1
Government and regulatory	1
Industry	4
INFRASTRUCTURE	5
Contacts	6

INFRASTRUCTURE

New Zealand Infrastructure Commission/Te Waihangā

The establishment legislation to create the New Zealand Infrastructure Commission/Te Waihangā sheds light on the Commission's role, shape and functions.

[↪ Chapman Tripp commentary](#)

Infrastructure pipeline prototype

Treasury has developed a prototype infrastructure pipeline based on five "capital intensive government agencies" – the Department of Corrections, the Ministry of Education, the Ministry of Health, the New Zealand Defence Force and the NZ Transport Agency.

Together they have 174 projects planned over the next three years, with an estimated value of over \$6.1b in funding, all of which is certain or near certain.

Developing the pipeline is a key function of the Infrastructure Commission/Te Waihangā. The aim is to provide the infrastructure market with greater certainty and a clearer planning horizon. When fully realised, the pipeline will include all central government and most local government projects as well as some from the private sector.

[↪ Pipeline](#)

Transformative transport plan for Wellington

The Government has endorsed a "Let's Get Wellington Moving" indicative package to ease congestion. The 20 year plan, currently costed at \$6.4b, is a joint initiative with Wellington City Council, the Greater Wellington Regional Council and the NZ Transport Agency.

It is at the very early stages and has yet to be endorsed by the relevant Councils or go through the normal NZ Transport Agency business case process.

[↪ Announcement](#)

Dam consultation

The MBIE is consulting on new safety regulations for large dams. Submissions close on 6 August.

[↪ Consultation document](#)

Overseas Investment Act review

The Treasury-produced consultation document for the reform of the Overseas Investment Act holds out a prospect of genuine and well-directed change.

A significant increase is proposed in the discretion available to Ministers to decline applications and to call in investments not otherwise caught by the regime. This may add a level of unpredictability but a range of safeguards are contemplated – including a right of appeal against decisions, both on the merits and judicially.

[↪ Chapman Tripp commentary](#)

Contents

CONSTRUCTION	1
Government and regulatory	1
Industry	4
INFRASTRUCTURE	5
Contacts	6

Chapman Tripp offers market-leading expertise and a seamless service for all your project needs – from financing, planning and consenting through to all stages and facets of the construction process.

Contacts

Auckland



BRIAN CLAYTON – PARTNER
T: +64 9 357 9011
M: +64 27 436 0395
E: brian.clayton@chapmantripp.com



MATTHEW CARROLL – PARTNER
T: +64 9 357 9054
M: +64 27 473 2244
E: matthew.carroll@chapmantripp.com



HAMISH BOLLAND – PARTNER
T: +64 9 357 9055
M: +64 27 225 2246
E: hamish.bolland@chapmantripp.com



JOHN MCKAY – PARTNER
T: +64 9 357 9064
M: +64 27 494 9312
E: john.mckay@chapmantripp.com



EDWARD SCORGIE – PARTNER
T: +64 9 357 8989
M: +64 27 256 4601
E: edward.scorgie@chapmantripp.com



PAULA BROSNAHAN – PARTNER
T: +64 9 357 9253
M: +64 27 216 3952
E: paula.brosnahan@chapmantripp.com

Wellington



GREG WISE – PARTNER
T: +64 4 498 2404
M: +64 27 285 1943
E: greg.wise@chapmantripp.com



MATTHEW YARNELL – PARTNER
T: +64 4 498 6325
M: +64 27 441 6365
E: matthew.yarnell@chapmantripp.com

Christchurch



ANDREW WOODS – PARTNER
T: +64 3 353 0025
M: +64 27 436 0208
E: andrew.woods@chapmantripp.com



JO APPELYARD – PARTNER
T: +64 3 353 0022
M: +64 27 444 7641
E: jo.appleyard@chapmantripp.com



FIONA BENNETT – PARTNER
T: +64 3 353 0341
M: +64 27 209 5871
E: fiona.bennett@chapmantripp.com

If you would like to be removed from the mailing list, please send us an email at subscriptions@chapmantripp.com.

Every effort has been made to ensure accuracy in this newsletter. However, the items are necessarily generalised and readers are urged to seek specific advice on particular matters and not rely solely on this text.

© Chapman Tripp