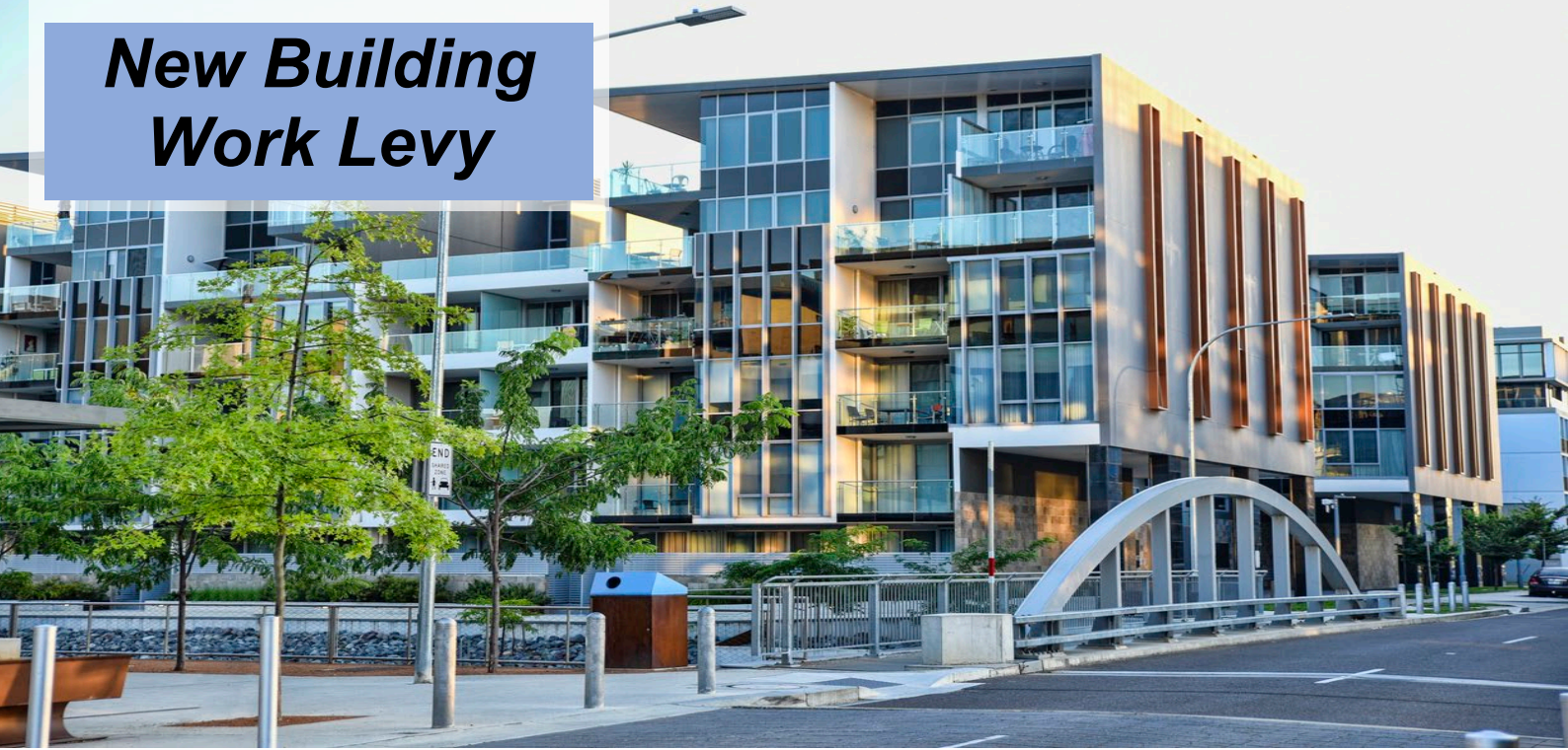


New Building Work Levy



New Levy for Residential Apartment Buildings

Overview of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Amendment (Building Work Levy) Regulation 2022*

On and from 4 July 2022, developers will have an obligation to pay a levy for work carried out in buildings prior to receiving an Occupation Certificate.

What does this mean for you?

Imposition of a Building Work Levy

The levy applies to building work in class 2 buildings (or mixed use) which requires an occupation certificate and where an expected completion notice ('ECN') is submitted after 3 July 2022. Building work includes creating a new building, adding storeys to an existing building, and the repair, renovation and protective treatment of a building exceeding \$150,000.

Key exceptions include:

- where a registered practitioner is not required to complete a building compliance declaration (s 6(2)(a));
- where there are less than 5 residential homes (s 6(2)(b));
- work by or done on behalf of the NSW Land and Housing Corporation (s 6(2)(c));
- repairing or replacing a building's external cladding (s 6(2)(d)); and
- where there is no prescribed levy applicable (s 6(2)(e)).

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Different rates of the Building Work Levy

The levy payable depends on the scale of the building work carried out.

For building work resulting in new buildings or additional storeys, s 7(2) provides the following rates: 1 – 3 storeys (where gross floor area is less than 6,000m²): \$7,000

- 1 – 3 storeys (where gross floor area is more than or equal to 6,000m²): \$8,400
- 4 – 8 storeys: \$8,400
- 9 – 19 storeys: \$11,000
- 20 – 30 storeys: \$15,500
- 31 storeys or more: \$21,200

For building work consisting of repair, renovation or protective treatment of buildings, s 8(2) provides the following rates:

- Building work costing between \$150,000 - \$500,000: \$700
- Building work costing between \$500,000 - \$1,000,000: \$1,300
- Building work costing between \$1,000,000 - \$5,000,000: \$2,000
- Building work costing between \$5,000,000 - \$10,000,000: \$2,700
- Building work exceeding \$10,000,000: \$4,000

These amounts quoted above are all inclusive of GST.

Next steps

After submitting an ECN, the levy must be paid within 14 days via the NSW Planning Portal. Where the Secretary has imposed a building work levy through written notice, the levy must also be paid within 14 days of the notice being issued.

However, developers can apply for a waiver, reduction, or postponement of the levy under s 12, at this stage. Without a written exemption granted by the Secretary, not paying the levy will result in a 6% p.a. interest being charged. Moreover, the developer will be barred from applying for an occupation certificate.

While the levy currently only applies to class 2 or part class 2 buildings, it may be extended to cover other classes of buildings in the future. Therefore, property developers and builders should remain aware of new developments in this area when seeking to obtain occupation certificates for building works.

For further information contact the team at Construction Legal.

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