

Stage 2 Cost Recovery Impact Statement: Modular Component Manufacturer scheme

Agency Disclosure Statement

This Cost Recovery Impact Statement has been prepared by the Ministry of Business, Innovation and Employment (MBIE). MBIE administers the *Building Act 2004*, which provides for regulations to be made to recover fees for the specified activities under the modular component manufacturer scheme.

These are new functions introduced by the *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021*, which introduced a legislative framework for a voluntary modular component manufacturer scheme.

This Cost Recovery Impact Statement proposes a cost recovery approach for the costs associated with the accreditation and audit of scheme certification bodies and the registration of scheme certification bodies and modular component manufacturers under the modular component manufacturer scheme.

MBIE has assumed that the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) will be appointed the modular component manufacturer accreditation body. JAS-ANZ is currently the product certification accreditation body under the product certification (CodeMark) scheme and has expressed interest (following a formal Expressions of Interest process) in being appointed as the modular component manufacturer accreditation body. If JAS-ANZ is not appointed, MBIE will carry out the functions of the accreditation body.

In considering cost recovery levels for the accreditation and audit of scheme certification bodies, MBIE is satisfied that JAS-ANZ's significant experience in accrediting to the product certification scheme, and other similar schemes, provides reasonable insights to determine cost recovery and that over- or under-recovery of costs will be minimised. Further, the JAS-ANZ operates on a not-for-profit, cost recovery basis only.

If the accreditation body reviews its cost recovery levels in the future, this may trigger a review of the prescribed fees for the accreditation and audit of scheme certification bodies.

The proposed fees for the registration of scheme certification bodies and modular component manufacturers were developed using the following assumptions:

- the estimated cost outputs for the proposed fit and proper person test in the 2021 public discussion document are similar to the cost outputs for the fit and proper test for a private building consent authority
- the registration criteria and estimated cost outputs for the registration of scheme certification bodies and modular component manufacturers will be similar to what was consulted on in the 2021 public discussion document.

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Executive summary

The *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021* (the Building Amendment Act) recently introduced a legislative framework for a voluntary modular component manufacturer scheme.

This is a voluntary scheme that allows modular component manufacturers to be certified and registered to produce modular components that are deemed to comply with the Building Code. This means that building consent authorities will only inspect work that is not completed by the manufacturer, such as foundations and site work, provided the manufacturer has acted within the scope of their certification.

The scheme has been established to support the increased use of offsite manufacturing approaches in the building sector. These manufacturing approaches can lift productivity, reduce building costs and time and contribute to better environmental outcomes through a reduction in waste.

Scheme certification bodies will be responsible for certifying manufacturers. To ensure they are competent to perform this function, scheme certification bodies need to be both accredited (by an accreditation body) and registered (with MBIE).

Figure 1: Roles and responsibilities within the modular component manufacturer certification scheme



This Cost Recovery Impact Statement proposes a cost recovery approach for two types of fees introduced by recent amendments to the Act to support its implementation:

- new accreditation and audit fees to support cost recovery for the accreditation body’s functions
- new registration fees to support cost recovery for the chief executive of MBIE’s registration functions

Cabinet agreed to consult on fee proposals in April 2021 and a public discussion document was released for consultation from 28 April 2021 to 18 June 2021:

- Some submitters disagreed with the proposed fees structure for accreditation and audits, commenting that fees should be set by the accreditation body based upon its knowledge of the scheme and the required audits.
- Submitters supported the proposed structure for registration fees, and there was broad support for registration fee levels.

The fee proposals have been assessed in line with Treasury and Office of the Auditor General guidelines, and against the following criteria: equity, certainty, effectiveness and administrative efficiency.

MBIE will monitor the number of applications for registration, the actual time taken, the cost outputs required to perform these services and the revenue collected from registration and accreditation fees to inform future reviews of the proposed fee levels.

MBIE recommends reviewing the proposed fees after no more than three years, in accordance with the Treasury's guidelines on setting charges in the public sector.

Proposed new fees for the accreditation and audit of scheme certification bodies

Fee for the accreditation of scheme certification bodies

The accreditation body may accredit a person as a scheme certification body if satisfied that they comply with prescribed accreditation criteria.

The following fees are proposed for scheme certification body accreditation:

- Accreditation application fee: \$8,600 (exc GST); and
- Accreditation application reviews: \$2,000 per day per assessor/ technical expert (exc GST).

Fee for the audit of scheme certification bodies

The accreditation body must conduct audits on scheme certification bodies.

The following fee is proposed for audits of scheme certification bodies:

- \$2,000 per day per assessor/ technical expert (exc GST).

Proposed new fees for the registration of scheme certification bodies and modular component manufacturers

Modular component manufacturers and scheme certification bodies will need to apply for registration to participate in the scheme. The chief executive of MBIE must decide whether to register these scheme parties.

Under the Building Act, fees may be prescribed to recover the costs of carrying out the chief executive's registration function.

The following new fees for registration are proposed;

- Scheme certification body registration fee: Hourly charge of \$90.15 (exc GST) with a maximum fee level of twenty hours per application (maximum \$1,803.00 exc GST)
- Modular component manufacturer registration fee: Hourly charge of \$90.15 (exc GST) with a maximum fee level of 65 hours per application (maximum \$5,859.75 exc GST).

Status quo

The *Building (Building Products and Methods, Modular Components, and Other Matters) Amendment Act 2021* (the Building Amendment Act), received Royal assent on 7 June 2021. The Building Amendment Act introduced a legislative framework for a voluntary modular component manufacturer scheme.

The scheme was introduced to enable faster, more consistent building consent approaches for manufacturers that are able to meet quality and performance standards and have a demonstrated ability to produce buildings and modular components that comply with the New Zealand Building Code (Building Code).

Building consent authorities must accept a manufacturer’s certificate as evidence that the modular component complies with the Building Code when used in accordance with the certificate. Building consent authorities will only inspect work that is not completed by the certified manufacturer, such as foundations and site work.

The Building Amendment Act sets out the legislative framework for the scheme and defines the roles and responsibilities for different parties:

Figure 2: Roles and responsibilities within the modular component manufacturer certification scheme



The Building Amendment Act provides that the accreditation body is appointed by the chief executive of MBIE; or, if no one is appointed, the chief executive may carry out the functions of the accreditation body.

Certification bodies must be both accredited by the accreditation body and registered with MBIE before they can perform functions under the scheme.

Similarly, manufacturers must be certified by a certification body and registered with MBIE before they can perform functions under the scheme.

This legislative framework clarifies responsibility and potential liability in the event of a building or modular component defect and ensures that consumers and building consent authorities can have confidence in the scheme.

The accreditation and audit of scheme certification bodies

It is essential that the scheme certification bodies, who certify the manufacturers, are accredited against robust standards by a competent accreditation body and audited regularly to ensure those standards are being maintained. This will give assurance that scheme certification bodies are carrying out their functions appropriately, and the certified manufacturers can be relied upon to produce modular components that comply with the Building Code.

High performing scheme certification bodies, and the subsequent high quality of modular components produced by certified manufacturers, are intended to lead to greater consenting efficiency where these modular components are used.

New fees are needed to recover the costs of the accreditation body's functions:

- section 272J of the Building Amendment Act provides for fees to be prescribed to recover the costs of accreditation
- section 272K of the Building Amendment Act provides for fees to be prescribed to recover the costs of carrying out an audit of a certification body.

The registration of scheme certification bodies and modular component manufacturers

Under the scheme, the chief executive of MBIE carries out registration functions for:

- **scheme certification bodies:** the chief executive of MBIE may, on application, register a person as a scheme certification body if satisfied that they are an accredited scheme certification body and meet any prescribed criteria and standards for registration
- **modular component manufacturers:** the chief executive of MBIE may, on application, register a person as a modular component manufacturer if satisfied that they are a certified modular component manufacturer and meet any prescribed criteria and standards for registration.

These registration functions are intended to ensure scheme users, such as building consent authorities and consumers, can have confidence in modular component manufacturers and those certifying them. Registration provides MBIE an appropriate level of oversight as owner of the scheme and gives MBIE the tools to intervene if necessary.

Two new fees are needed to recover the costs of these registration functions:

- section 272N of the Building Amendment Act provides for fees to be prescribed for the registration of scheme certification bodies
- section 272K provides for fees to be prescribed to for the registration of modular component manufacturers.

Cost Recovery Principles and Objectives

Principles

The Office of the Auditor General's *Good practice guide: Charging fees for public sector goods and services* and the Treasury's *Guidelines for Setting Charges in the Public Sector* have been considered and the following principles identified in setting these fees.

- **Authority:** A public entity must have legal authority to charge a fee and must operate within the scope of the empowering provision.
- **Efficiency:** The user charge should be no higher than necessary to produce a good or service to the desired level of quality. The design of the charge should incentivise efficiency i.e. keeping costs down and the quality of the service high.

- **Accountability:** The user charge undergoes public consultation and can undergo scrutiny by the Regulations Review Committee.

Assessment criteria

The following assessment criteria have been applied in developing cost recovery proposals:

- **Equity (also described as fairness):** The user charge is being paid by the appropriate people. The beneficiary of the activity or service is paying for the relevant function to be carried out. Any cross-subsidy between different groups (particularly between those with simple and complex applications) is minimised.
- **Certainty:** There is a reasonable level of certainty for the accreditation body, scheme certification bodies and modular component manufacturers on the level of cost incurred by the services that are being paid for. Any uncertainty to prospective applicants as to the likely total amount of the fees they will be required to pay is minimised so that informed business decisions can be made.
- **Effectiveness:** Fees are set at a level that fully recovers, but does not over-recover, the costs of carrying out functions. The accreditation body and chief executive are paid to a level that will allow them to provide high quality services that contribute to a robust pathway for modular components produced by certified manufacturers to be deemed to comply with the Building Code. This contributes to safe, durable and healthy housing for all New Zealanders.
- **Administrative efficiency:** Fees can be charged in an administratively efficient manner.

Rationale for cost recovery

The accreditation and audit of scheme certification bodies

Parliament has decided that a fee may be prescribed for the accreditation and audit of scheme certification bodies by including a regulation making power in the Act. Under these circumstances, a fee must be prescribed in regulations if one is to be charged.

It is appropriate to regulate the cost recovery of these services because either MBIE will perform these functions, or a third party accreditation body will perform the regulatory function on behalf of MBIE and that body will therefore have a monopoly role.

A fee is the most appropriate type of cost recovery for the accreditation and audit of scheme certification bodies because the applicant or certification body directly benefits from this service by being able to participate in the scheme, and others are excluded from the benefits of the accreditation and audit services. This makes the accreditation and audit of scheme certification bodies predominately private goods that may be used to support ongoing business activities.

Cost recovery options for the accreditation and audit of scheme certification bodies

At the time of the release of the public discussion document, there was uncertainty whether MBIE would perform the accreditation functions for the scheme, or if a third party would be appointed as the accreditation body.

Following release of the public discussion document, MBIE has made internal decisions to pursue third party accreditation, including carrying out an Expressions of Interest process for organisations interested in performing this role. An organisation expressed interest.

This organisation is the currently appointed product certification accreditation body (the Joint Accreditation System of Australia and New Zealand (JAS-ANZ)) for the product certification scheme. The proposed cost recovery approach for the modular component manufacturer scheme is therefore consistent with the cost recovery approach proposed for the product certification scheme.

Following release of the public discussion document, MBIE met with JAS-ANZ several times to understand its business processes and procedures and the cost outputs associated with accreditation and audit services. Because JAS-ANZ is established by Treaty to operate on a not-for-profit basis, it only seeks to recover its costs in order to deliver an effective service. JAS-ANZ submitted that the modular component manufacturer fees will need to match the product certification fees to achieve cost recovery.

While a decision has not been finalised on whether the accreditation function will be carried out by MBIE or a third party, at the time of writing this Impact Statement MBIE intends to proceed on the basis that accreditation services will be carried out by a not-for-profit third party.

The following table summarises the options considered. A status quo option (no fees) is not considered an effective option because without prescribed fees, the accreditation body could not recover the costs of its accreditation and audit services for the scheme. This is not viable as the accreditation body is a not-for-profit entity and entirely self-funding. Any under- or over-recovery of costs would have flow on effects to the accreditation body's other fees and could lead to cross-subsidisation between schemes.

- **Option 1: Fees proposal in the 2021 public discussion document.** This option reflected some uncertainty on whether accreditation functions would be carried out by MBIE or a third party. This option therefore proposed prescribing fees for certification body accreditation and audits using the same methodology and level as those used in the Building Consent Authority accreditation scheme.
- **Option 2: Revised fees proposal.** This option was developed following an Expressions of Interest process to identify an accreditation body. This option reflects feedback from the organisation that expressed an interest in seeking appointment as the accreditation body (JAS-ANZ). This option proposes prescribing fees for certification body accreditation and audits using the same methodology and level as the updated fees for the product certification scheme.

Table 1 compares the two options. MBIE does not expect one option to necessarily impose higher overall costs than the other for scheme certification bodies. This is because:

- Each option includes day rates, so the total cost of accreditation and audit activities will vary depending on the time taken to carry out these activities
- While Option 2 includes a one-off application fee, it is expected that this will result in fewer additional days of application reviews being charged.
- While overhead costs are treated differently under each option, the objective for both structures is cost recovery.

Table 1: comparison of options for cost recovery for the accreditation and audit of scheme certification bodies

	Option 1: Fees proposal in 2021 public discussion document <i>(exc GST)</i>	Option 2: Revised fees proposal <i>(exc GST)</i>
Accreditation and Audit	<p>Staff member accreditation and audit services Capped at \$1,720 per day per staff member</p> <p>Technical expert accreditation and audit services Capped at \$1,248 per day per technical expert</p>	<p>Accreditation application fee \$8,600 <i>(one off)</i></p> <p>Accreditation application reviews \$2,000 per day <i>(per assessor/technical expert)</i></p> <p>Audit \$2,000 per day <i>(per assessor/technical expert)</i></p>
Disbursements	Actual and reasonable costs	Actual and reasonable costs
Administrative overhead	\$106 per month since last accreditation assessment or audit	N/A <i>(these overheads are included in the Accreditation and Audit fees above)</i>

The two options are assessed against the assessment criteria in Table 2 below.

Table 2: Assessment of options against criteria

	Option 1: Fees proposal in 2021 public discussion document	Option 2: Revised fees proposal
Equity	✓✓ Direct fee to applicant	✓✓ Direct fee to applicant
Certainty	✓ Set daily rates for staff and technical experts. No maximum cap.	✓ Same daily rates for accreditation and audits are prescribed. No maximum cap.
Effectiveness	✘✘ Under-recovery of costs means the accreditation body cannot perform its functions effectively	✓✓ Reflects cost recovery so the accreditation body can perform its functions effectively
Administrative efficiency	✘✘ Different fee structure and daily rates to other schemes to which the potential accreditation body accredits	✓ Consistent fee structure and levels aligned with similar business processes and procedures under the product certification scheme.
Overall assessment	✘	✓

Key

✓✓	Aligned with criteria
✓	Somewhat aligned with criteria
✘	Not very aligned with criteria
✘✘	Not aligned with criteria

The preferred option is **Option 2: Revised fees proposal**, because it reflects no more than cost recovery and will allow the accreditation body to provide a viable and effective service, consistent with its accreditation and audit functions under the modular component manufacturer scheme.

Having the same fee structure and levels as the product certification scheme, and a single day rate for assessors and technical experts, is also administratively simple for the accreditation body and scheme certification bodies. Because these fees are limited by the empowering provisions in the Act, and therefore may have a different structure to the fees charged by the accreditation body for other schemes, it is important to improve their administrative efficiency where practical.

Business processes and cost components for the accreditation and audit of scheme certification bodies

The following business processes and cost outputs have been factored into the proposed fees for the accreditation of modular component manufacturer certification bodies and for the auditing of modular component manufacturer certification bodies.

For accreditation, the business processes typically involve:

- checking the accuracy of information in the application for accreditation
- reviewing the application
- reviewing the applicant's documented systems
- reviewing the applicant's evidence that it puts its systems into practice
- witness applicant carrying out its functions in accordance with its documented systems
- deciding on the application or requesting further information
- notifying the applicant of the decision
- issuing the accreditation deed.

For audits, the business processes typically involve:

- preparation and planning for audits
- carrying out onsite assessment
- audit reporting
- follow up of any non-conformances.

Other cost outputs include:

- remuneration
- technical expert fee for service costs
- indirect costs.

Under **Option 2: Revised fees proposal**, MBIE has proposed that the following fees are introduced for the accreditation and audit of scheme certification bodies:

- A one off fee to assess application for accreditation
- A day rate for additional accreditation assessments
- A day rate for audit services (at the same level as the accreditation day rate)
- Disbursements for accreditation and audit services at actual and reasonable cost.

A summary of the proposed fee levels is set out in the following table. Components of the proposed fees are set out in more detail at Annex 1.

Table 3: Rationale for the proposed fee levels for the accreditation and audit of scheme certification bodies

Fee	Level (exc GST)	Rationale
Accreditation application fee (one off)	\$8,600	Reflects feedback from the organisation that expressed interest in seeking appointment as the accreditation body Includes the usual time taken for system review (this is a baseline cost for accreditation and it is administratively simple to include it in the application fee) Expected to recover direct and indirect costs of accreditation body staff
Accreditation application reviews (day rate per assessor/ technical expert)	\$2,000	Reflects feedback from the organisation that expressed interest in seeking appointment as the accreditation body Single fixed day rate is administratively simple for accreditation body and certification bodies Expected to recover direct and indirect costs of accreditation body staff
Audit (day rate per assessor/ technical expert)	\$2,000	Intended to recover direct costs of external resources
Disbursements	At actual and reasonable cost	Standard cost recovery approach to disbursements

The registration of scheme certification bodies and modular component manufacturers

Consideration has been given to funding MBIE's new registration services by general taxation or recovering the costs of these services through levies or fees. Cost recovery via fees is preferred.

Funding registration services through general taxation is inappropriate because the services are not predominately a public good (although there are elements of public benefit in a robust modular component manufacturer scheme due to the positive impact on broader building outcomes).

MBIE's oversight of the scheme through the registration of scheme certification bodies and modular component manufacturers has an element of a 'club good'. It could therefore be funded by levy.

The most appropriate existing levy would be the building levy, which is paid by successful building consent applicants at the time a building consent is granted. Recovering the costs of MBIE's registration services through the building levy may be considered, because:

- under section 53 of the Act, the building levy can be used to fund the chief executive's functions under the Act. Under Section 11 of the Act the chief executive registers modular component manufacturers and modular component manufacturer certification bodies
- the 'club' of levy payers (successful building consent applicants) would have limited benefit from MBIE's oversight of the scheme via its registration functions, through greater

assurance that modular components produced by certified manufactures are high quality, contributing to more efficient consenting.

However, MBIE has determined that there is a strong case for recovering the costs of the service from those who directly benefit from the registration of scheme certification bodies and modular component manufacturers because registration is predominately a private good. Applicants benefit from registration because they are subsequently allowed to participate in the scheme.

Fees payable directly by the scheme certification body and modular component manufacturer to recover the costs of MBIE's registration services are therefore proposed. Setting fees for registration is also consistent with Treasury's *Guidelines for Setting Charges in the Public Sector* because:

- there is the statutory authority to charge these fees (in sections 272N and 272Y of the Building Amendment Act)
- registration is rivalrous and excludable (it applies only to the scheme certification body or modular component manufacturer to which it is granted)
- the certification body or manufacturer is the main beneficiary of registration as it allows them to gain business benefits from participating in the scheme.

Cost recovery options for the registration of scheme certification bodies and modular component manufacturers

Four options were considered for recovering the costs of assessing applications for the registration of scheme certification bodies and modular component manufacturers (see Table 4 below):

- **Option 1: No fee (the status quo)**
- **Option 2: Fixed fee**
- **Option 3: Fixed fee plus an hourly charge for complex applications**
- **Option 4: Hourly charge, capped at a maximum fee** (2021 discussion document proposal)

Option 4: Hourly charge, capped at a maximum fee is the preferred option for the registration of scheme certification bodies and modular component manufacturers.

The maximum cap would provide certainty for applicants. The hourly rate reduces the risk of over-recovery. The maximum cap would be set at a level to provide for MBIE's business processes such as assessing the fit and proper person test, which will be the main criteria for registration.

Option 2: Fixed fee would also meet the assessment criteria. However, the main benefit of a fixed fee compared to the preferred option is that a fixed fee is more administratively efficient. MBIE has applied a lower weighting to the administrative efficiency criteria because there are a very low number of applications expected.

Option 3: Fixed fee plus an hourly charge for complex applications would also meet the assessment criteria. However, MBIE has applied a higher weighting to the certainty criteria compared to the other criteria because scheme certification bodies will apply for registration on top of the time and costs associated with applying for and achieving accreditation, and

modular component manufacturers will apply for registration on after applying for and achieving certification.

Table 4: Assessment of options against criteria

	Option 1: No fee (the status quo)	Option 2: Fixed fee	Option 3: Fixed fee plus an hourly charge for complex applications	Option 4: Hourly charge, capped at a maximum fee (2021 public discussion document consultation proposal)
Equity	✖✖ Primary beneficiary of the activity does not pay for the activity.	✓ Direct fee to applicant. Some risk of cross subsidisation between applicants where over-recovery or under-recovery occurs	✓✓ Direct fee to applicant and reduces risk of cross-subsidisation between applicants	✓✓ Direct fee to applicant. Hourly rate reduces risk of over-recovering costs
Certainty	✓✓ No fee provides high level of certainty to applicants.	✓✓ High level of certainty for applicants	✓ Uncapped fee provides low level of certainty and may risk creating a barrier for entering the scheme	✓✓ Capped charge provides a high level of certainty and is not likely to be a barrier for entry for prospective applicants
Effectiveness	✖✖ MBIE would not recover the costs of its registration activities and may not be able to provide an effective service	✓ For most applicants MBIE would recover the costs of its services. For complex applications, this option may risk under-recovery.	✓✓ Ensures full cost recovery, including for complex applications, allowing MBIE to provide an effective service.	✓✓ MBIE would recover costs of its services for all expected levels of complexity. Risk of under-recovery for only the most complex applications
Administrative efficiency	✓✓ Simple to administer	✓✓ Simple to administer	✓ It is somewhat administratively efficient to charge this fee but does require MBIE to assign hours to the activity	✓ It is somewhat administratively efficient to charge this fee but does require MBIE to assign hours to the activity
Overall Assessment	0	✓	✓	✓✓

Key

✓✓	Aligned with criteria
✓	Somewhat aligned with criteria
0	Neutral
✗	Not very aligned with criteria
✗✗	Not aligned with criteria

Business processes and cost components for the registration of scheme certification bodies and modular component manufacturers

In setting the proposed fees for the chief executive's registration activities, MBIE has identified the following business processes and outputs associated with the registration of scheme certification bodies and modular component manufacturers:

- receiving applications
- checking applications against registration criteria
- updating registers

MBIE's cost outputs include the following direct and indirect costs:

- staff salaries
- professional services
- MBIE corporate overheads

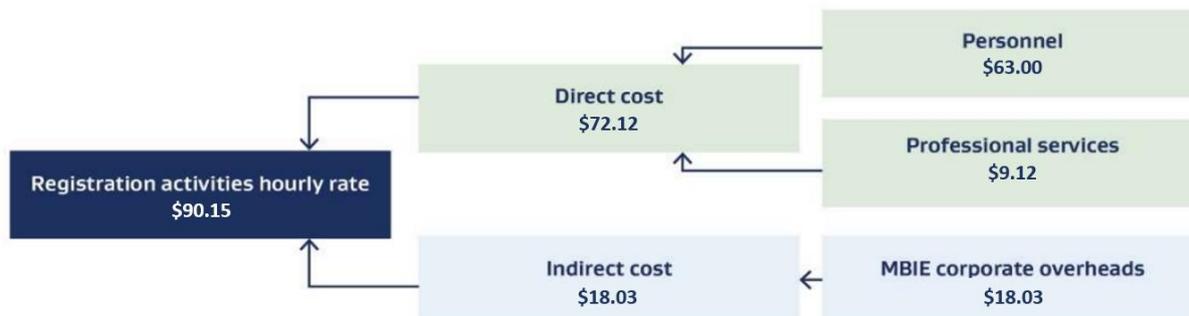
Direct costs include the following:

- Personnel costs include salary, superannuation and ACC levies. Average salary was calculated by taking the mean average of the following:
 - Adviser salary, based on the upper quartile of the annual salary range
 - Senior Adviser salary, based on the upper quartile of the annual salary range.
- Professional services costs include an estimate of training, legal, IT, supplies and travel for 1 Full Time Equivalent (FTE).

Indirect costs, such as MBIE corporate overheads, are estimated at a rate of 25 per cent direct costs.

Based on the above assumptions, MBIE has established an hourly rate for its registration services in the modular component manufacturer scheme of \$90.15. This rate and all fees calculated using this rate are GST exclusive (Figure 3 refers).

Figure 3: Allocating costs across the registration of scheme certification bodies and modular component manufacturers (hourly rate)



Cost components of the proposed fee for the registration of scheme certification bodies

MBIE has used its experience in the administration of the private building consent authority registration schemes as a basis for benchmarking and estimating the amount of time in hours required for MBIE to undertake registration services.

The preferred option is an hourly charge, up to a maximum of 20 hours. At an hourly rate of \$90.15 the maximum fee would be \$1,803.00 exc GST.

MBIE has assumed a 20 hour maximum cap would be appropriate. This is expected to avoid under-recovery where multiple tests against registration criteria need to be carried out or requests for information are required. The estimated cost drivers of the activity are set out below.

Table 5 documents the expected costs of the business processes for the registration of scheme certification bodies.

Table 5: Estimated cost of business processes for the registration of a modular component manufacturer certification body

Activity	Time (hours)	Cost
Receive application	0.1	\$9.02
Check accreditation status	0.5	\$45.08
Assess fit and proper test (including request for information if required)	1-18	\$90.15 – \$1,622.70
Quality check/ confirmation	1	\$90.15
Respond to applicant	0.2	\$18.03
Update register	0.2	\$18.03
Maximum fee for certification body registration (total)	20 hours	\$1,803.00

Cost components of the proposed fee for the registration of certified modular component manufacturers

An hourly charge is proposed to be prescribed, up to a maximum of 65 hours. At an hourly rate of \$90.15 the maximum fee would be \$5,859.75 exc GST.

MBIE has assumed a 65 hour maximum cap would be appropriate. This is expected to avoid under-recovery where multiple tests against registration criteria need to be carried out or requests for information are required. The estimated cost drivers of the activity are set out in the following table.

Table 6: Estimated cost of business processes for the registration of a certified modular component manufacturer

Activity	Time (hours)	Cost
Receive application	0.1	\$9.02
Check certification status	0.7	\$63.11
Assess fit and proper test (including request for information if required)	1-18	\$90.15 – \$1,622.70
Assess adequate means	10-40	\$901.50 – \$3,606.00
Quality check/ confirmation	1	\$90.15
Create report and respond to applicant	5	\$450.75
Update register	0.2	\$18.03
Maximum fee for certified manufacturer registration (total) exc GST	65 hours	\$5,859.75

Impact analysis

MBIE procured the services of Sapere to conduct a cost benefit analysis¹ on the proposals for regulations for the modular component manufacturer certification scheme that were consulted on. While the cost recovery proposals have been revised following consultation, the costs and benefits are also reflective of the preferred options in this cost recovery impact statement. A conservative estimate of total accreditation cost was included in the cost benefit analysis.

The changes to the proposals consulted on in the discussion document in this Cost Recovery Impact Statement are not expected to affect the allocation of costs and benefits in the cost benefit analysis.

¹ *Cost benefit analyses of proposed building system regulations*, Sapere, 9 August 2021

The cost benefit analysis modelled the following estimated volumes of scheme uptake for modular component manufacturer certification bodies and for modular component manufacturers.

Table 7: Estimated volumes of scheme uptake

Key input category	Assumption
Number of scheme certification bodies	Starts at 1, increases by 1 when 5 new manufacturers join scheme
Number of certified manufacturers at outset (starters)	3
Number of certified manufacturers joining each additional year (joiners)	1

The cost benefit analysis of the proposals for regulations considered three scenarios based on varying uptake of the modular component manufacturer scheme. The results of the cost benefit analysis show a strong benefit cost ratio for all three scenarios ranging from 4.54 for a limited uptake scenario to 8.50 for a scenario with a credible expansion of the scheme and a sufficient scale of production to lead to cost savings for modular components.

Certified and registered manufacturers bear the majority of cost, with the largest individual cost being the ongoing compliance costs that manufacturers will face in participating in the scheme. However, the benefits of the modular components scheme are largely realised by manufacturers.

A summary of the impact analysis specific to fee proposals is discussed below. Further impact analysis for the modular component manufacture scheme can be found in the accompanying Regulatory Impact Statement.

The accreditation and audit of scheme certification bodies

The financial impacts on scheme certification bodies are not expected to be significant or to create a barrier to entry to the scheme. Certification bodies will make their own commercial decisions on whether to participate in the scheme, and it is expected that costs will be passed on to certified manufacturers.

Based on experience in the product certification scheme, it is likely that most or all of the scheme certification bodies will be large organisations that certify to a number of different schemes in different jurisdictions.

The registration of scheme certification bodies and modular component manufacturers

The introduction of registration fees is expected to have a nominal financial impact for scheme certification bodies and modular component manufacturers.

These fees are not expected to be a barrier to entry to the scheme. Modular component manufacturers will make their own business decisions on whether to participate in the

scheme. Based on the fees consulted on and stakeholder feedback the preliminary indications are manufacturers will choose to become registered because they see longer term business benefits from being certified and registered.

Consultation

MBIE published a public discussion document² on 28 April 2021 outlining a set of proposals for regulated fees to support and implement the modular component manufacturing scheme under the Building Amendment Act.

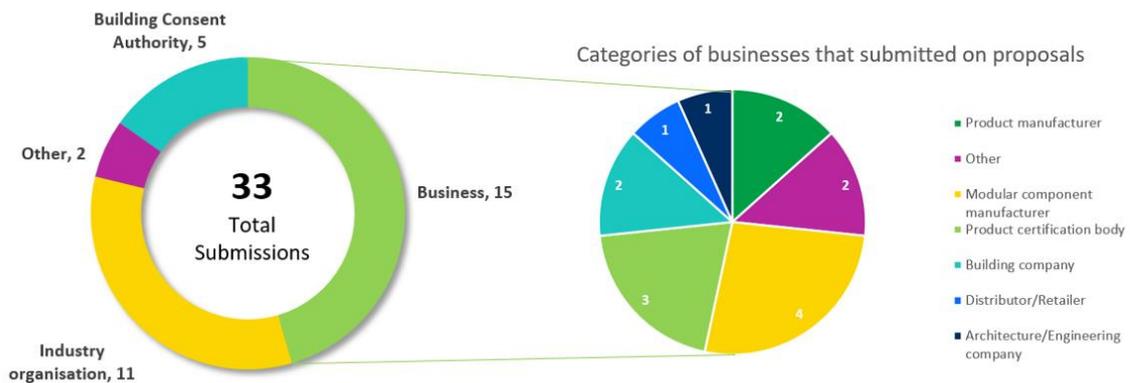
MBIE met with a range of stakeholders prior to releasing the public discussion document to seek preliminary feedback and to help shape the proposals in the discussion document, including PrefabNZ (now called 'OffsiteNZ'), the product certification bodies, the product certification accreditation body (JAS-ANZ) and building consent authorities.

To promote opportunities for feedback, more than 4,000 notifications regarding the consultation were sent to stakeholders who may have had an interest in the proposals. MBIE also held targeted meetings with stakeholders, including building consent authorities and Taituarā – Local Government Professionals Aotearoa (formerly SOLGM).

Stakeholder feedback

MBIE received 33 submissions on the fees proposals in the public discussion document. This number includes submissions received on proposed fees for both the product certification and modular component manufacture schemes.

Figure 4: Stakeholder groups that submitted on fee proposals



The accreditation and audit of scheme certification bodies

The majority of submitters agreed or somewhat agreed with the proposed fee structure for accreditation and audits

Some submitters disagreed with the proposed fees structure for accreditation and audits, and commented that fees should be set by the accreditation body based upon their knowledge of

² <https://www.mbie.govt.nz/dmsdocument/14150-building-amendment-bill-proposals-for-regulations-discussion-document>.

the scheme and the required audits. The product certification accreditation body, JAS-ANZ, suggested that fees should match what is proposed for the product certification scheme.

To inform final fee proposals for modular component manufacturer accreditation and audits, MBIE has engaged with JAS-ANZ to better understand the following:

- the expected business processes involved in undertaking these activities
- the expected cost outputs involved in undertaking these activities
- any other relevant direct and indirect costs such as consultancy fees, technical support and corporate costs
- understanding the extent of potential cross subsidisation with other schemes, if any.

A better understanding of these costs have been used to modify the proposed fees for accreditation and audit activities, as reflected in the preferred option **Option 2: Revised proposal**.

The registration of scheme certification bodies and modular component manufacturers

Submitters supported the proposed structure for registration fees, and there was broad support for registration fee levels. Most submitters did not think the registration fees would create significant barriers to participation as they are fairly low. Alternative fee structures suggested by submitters included uncapped fees, to avoid cross-subsidisation, or adopting a pro-rata cost structure.

MBIE does not propose to modify the proposals for registration fees as a result of this feedback. There was broad agreement that these fees look reasonable, and concerns can be mitigated by regular reviews of the proposed fee schedule.

Conclusions and recommendations

The accreditation and audit of scheme certification bodies

For accreditation and audit activities, **Option 2: Revised fees proposal** is proposed. This proposal reflects feedback from the organisation that expressed interest in seeking appointment as the accreditation body (JAS-ANZ), following its assessment of cost recovery. It is a direct fee to applicants who benefit from the services provided and it will allow a third party accreditation body to recover costs and perform its functions effectively, including for complex accreditation applications and audits.

The proposed fee structure is the same as is proposed for the product certification scheme. This allows for a reasonable degree of administrative efficiency. The fixed day rate for the accreditation and audit of scheme certification bodies in the scheme contributes to the administrative efficiency of the proposal.

MBIE is confident in the accreditation body's assessment of cost recovery because:

- it is established by Treaty to be not for profit and self-funding
- the Treaty of establishment requires it to deliver audited consolidated financial statement for each financial year and the auditor's report on those financial statements. These financial statements are independently audited in accordance with Australian Auditing Standards

- it has significant experience accrediting to a number of schemes
- MBIE will be monitoring its performance under the Notice of Appointment as the modular component manufacturer accreditation body.

The accreditation body conducts regular reviews of its cost structures. It would be appropriate to review the prescribed accreditation and audit fees every three years.

The registration of scheme certification bodies and modular component manufacturers

The following fees for registration activities are proposed:

- **Scheme certification body registration fee:** Hourly charge with maximum fee level of twenty hours per application (maximum \$1,803.00 exc GST)
- **Modular component manufacturer registration fee:** Hourly charge with maximum fee level of 65 hours per application (maximum \$5,859.75 exc GST)

For the purpose of this impact statement the hourly charge has been assumed at \$90.15 (exc GST), which reflects what was consulted on. Final recommendations to Cabinet may increase to take into account the rising costs of inputs (salary) in the next financial year.

The preferred registration fees are charged to the primary beneficiary of the activity and this approach mitigates any risk of cross subsidisation between simple and complex applications. The hourly charge aims to ensure MBIE can carry out its registration functions effectively, while the maximum fee level provides an element of certainty.

The proposed maximum fee levels may be reviewed after the scheme commences to ensure MBIE can provide an effective service within the maximum timeframe.

Implementation plan

The accreditation and audit of scheme certification bodies

MBIE will work with the appointed accreditation body to ensure the prescribed fees are clearly communicated, are workable and are complied with.

The registration of scheme certification bodies and modular component manufacturers

Under the Building Amendment Act, scheme certification bodies apply for registration after they are accredited. Similarly, manufacturers apply for registration following certification. Expected timeframes for the receipt of registration applications therefore depend on:

- the appointment of the scheme accreditation body, or MBIE being set up to carry out this function if no accreditation body is appointed
- the accreditation of at least one scheme certification body, after which the first registration application will be made
- the certification of at least one modular component manufacturer, after which the first manufacturer registration will be made.

Guidance will be produced to support scheme certification bodies and modular component manufacturers navigate the registration process, including payment of fees.

MBIE also expects that some aspects of implementation will already be familiar to applicants, such as the proposed fit and proper person requirement.

MBIE has recent experience in assessing for fitness and propriety and adequate means related to private building consent authority registration and will draw on this experience to implement registration in the modular component manufacturer scheme.

MBIE will develop an internal workflow system, drawing from experience with private building consent authority registration and MultiProof, to provide an efficient registration service.

Monitoring and evaluation

The accreditation and audit of scheme certification bodies

MBIE has ongoing regulatory stewardship obligations and will work with any appointed accreditation body to monitor the implementation of the proposed fees. MBIE will work with the accreditation body to monitor the following with a view to achieving no more than cost recovery for the accreditation's body's functions under the scheme:

- the number of new applications
- the extent of audit activities carried out
- the time taken for accreditation and audit activities
- any feedback from certification bodies and modular component manufacturers.

Scheme certification bodies will be able to raise concerns with the accreditation body or MBIE regarding accreditation and audit fees and a complaints handling procedure will be established to provide for this. If JAS-ANZ is appointed as the accreditation body, it will have obligations to follow its Treaty of establishment, the notice of appointment as the accreditation body, and any contracts it enters into with certification bodies. MBIE administers the notice of appointment with the accreditation body and has stewardship over the regulations.

The registration of scheme certification bodies and modular component manufacturers

MBIE has ongoing regulatory stewardship obligations and will monitor the following to inform future reviews of the regulations to ensure cost recovery principles are being met:

- the number of applications for certification body and modular component manufacturer registration
- the time taken to undertake registration activities – particularly testing the assumptions that 20 hours is an appropriate maximum for certification body registration, and 65 hours is an appropriate maximum for modular component manufacturer registration
- the revenue received from registration fees
- any feedback from certification bodies and modular component manufacturers.

Certification bodies and modular component manufacturers will be able to raise concerns with MBIE regarding registration fees. MBIE will set up a complaints handling procedure to provide for this. MBIE has stewardship over the regulations and carries out the registration function on behalf of the chief executive.

Review

MBIE plans to review the proposed fees after three years. This would be appropriate given the new registration function and the fact that the accreditation and audit fees are being newly introduced. This is an appropriate timeframe to undertake the monitoring described above and assess whether amendments to the fees are required.

Confidential information

