

Departmental Disclosure Statement

Building and Construction (Small Stand-alone Dwellings) Amendment Bill
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The departmental disclosure statement for a Government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

8 May 2025.

Contents

Contents.....2

Part One: General Policy Statement.....3

Part Two: Background Material and Policy Information5

Part Three: Testing of Legislative Content.....8

Part Four: Significant Legislative Features 10

Part One: General Policy Statement

The Building and Construction (Small Stand-alone Dwellings) Amendment Bill (the Bill) meets a commitment in the National-New Zealand First Coalition agreement to permit granny flats to be built without a building consent.

The Building Act 2004 currently requires homeowners to apply for and receive a building consent from a building consent authority when building small standalone dwellings (commonly referred to as granny flats). This provides independent oversight and assurance of building work so that homeowners, insurers and other interested parties can be confident that buildings are safe, durable and healthy. However, independent assurance comes at a cost, with the Ministry of Business, Innovation and Employment estimating that a building consent for a 70 square metre granny flat could cost on average \$4431 per dwelling.

The Government considers that the risk of building work for granny flats is better managed through occupational licensing regimes and liability settings compared to the building consent process. It considers that the building consent process places unnecessary regulatory barriers to building, which may be inhibiting housing growth.

The Bill seeks to reduce the time and cost of building a granny flat by permitting small standalone dwellings up to 70 square metres to be built without obtaining a building consent, given certain conditions are met. These conditions are:

- the granny flat must be simple in its design and meet the building code; and
- building work must be carried out by authorised professionals; and
- councils must be notified prior to and on completion of building work.

These conditions should provide confidence to homeowners that granny flats comply with the building code and are safe to inhabit, while reducing the time and cost of building.

Granny flats must have a simple design and meet the building code

The Bill provides that a consent-exempt granny flat must be new, standalone, single storey and 70 square metres or less.

The Bill also provides that a consent-exempt granny flat must be built in accordance with a set of simple design specifications. For example, the dwelling must be constructed with lightweight materials for the roof and frame, and only contain simple plumbing and drainage systems.

The Bill introduces a power for the Governor-General, by Order in Council, to amend Schedule 1A by adding to, removing or amending any requirements for building work specified in clause 2 of Schedule 1A. This power is limited to the technical building requirements, with more fundamental elements (such as the maximum floor area) not able to be changed by Order in Council. The existing power to amend Schedule 1 of the Building Act by Order in Council will also be updated in line with the new power, to make clear that building work can be removed from Schedule 1.

By limiting the design of the building work to lower risk specifications, the intention is that the risk of non-compliant work taking place is reduced, and that in cases of non-compliance the consequences are also lesser.

Building work must be carried out by authorised professionals

The Bill provides that all work associated with a consent-exempt granny flat must be carried out by authorised professionals. It is important that those able to build without a building consent have demonstrated competency to undertake the work and can be held to account when things go wrong.

Authorised professionals will be required to provide records of work to homeowners for all work associated with a consent-exempt granny flat and owners will be required to provide these to territorial authorities. These will provide a lasting record of what work has been completed, who by, and when it was completed. This will be important for identifying liability, remedying defects, and re-sale of property.

Councils must be notified prior to and on completion of work

The Bill provides that owners must notify the relevant territorial authority of their intention to build a granny flat by applying for a Project Information Memorandum (PIM). This will be an important mechanism for supporting the management, capacity and funding of local infrastructure that support these dwellings. As such, when issuing a PIM a territorial authority may attach a development contribution notice for any charges owing in relation to the proposed work.

When issuing a PIM, territorial authorities must also advise on whether:

- Specific elements of the proposed building work (clause 1 of new Schedule 1A) are likely, unlikely, or unclear to meet the conditions of the exemption (for example, a maximum floor limit of 70 square metres).
- The construction of the dwelling is proposed to occur on land that is subject to a natural hazard. Where a natural hazard is present, territorial authorities must also advise on whether adequate provision has been made to account for this.
- There are any applicable bylaws that may have an impact on the design, construction, or location of the proposed building work for which owners will need to comply.

Territorial authorities will have no civil liability in relation to any of the advice described above. This protection is limited to anything done or omitted to be done in good faith.

The Bill provides that once all the relevant records and certificates have been provided to the owner, building work is considered complete. The owner will then have 20 working days to notify the relevant territorial authority that building work is complete and provide all certificates, records of work, a set of final plans (for building, plumbing and drainlaying work) and pay any outstanding development contributions. The territorial authority must hold this information for at least the life of the building to which the information relates but cannot assess it for compliance with the building code.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>Regulatory Impact Statement: Proposed changes to the Building Act 2004 to allow simple standalone dwellings up to 60 square metres to be built without a building consent, 3 December 2024, Ministry of Business, Innovation and Employment.</p> <p>The RIS can be found here: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-granny-flats-proposed-building-consent-exemption/</p> <p>A supplementary analysis was produced on 4 March 2025. The supplementary analysis can be found here: https://www.regulation.govt.nz/our-work/regulatory-impact-statements/supplementary-analysis-report-granny-flats-proposed-building-consent-exemption/.</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
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The Regulatory Impact Statement was not reviewed by the RIA Team in the Treasury as it did not meet the threshold for their assessment.

A Regulatory Impact Summary was prepared and submitted at the time that Cabinet approval was sought for policy decisions relating to the Bill. The Ministry of Business, Innovation and Employment's (MBIE) Regulatory Impact Analysis Review Panel determined that the paper Partially Meets the criteria necessary for Ministers to make informed decisions on the proposals.

The Panel gave the Regulatory Impact Statement a Partially Meets because the analysis of the options relies on a cost-benefit analysis that has (a) not compared all options to the status quo, and (b) does not quantify the more significant costs associated with a possible increase in defects. The analysis also estimates induced demand under the status quo and the Government's preferred option, as opposed to all options. This estimate of induced demand does not consider other variables, such as Government policies and consumer choice, that could impact this demand.

A supplementary analysis was also prepared and submitted at the time Cabinet approval was sought, to account for a material change to the policy option, namely the increase in the maximum floor area of consent-exempt granny flats from 60 square metres to 70 square metres. MBIE's Regulatory Impact Analysis Review Panel determined that the paper partially meets the Quality Assurance Criteria.

The Panel notes that the team has used consistent assumptions which show the marginal change in the CBA. The Panel notes that the limitations and uncertainty of the data become more pronounced as you make the marginal increase from 60m² to 70m².

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?

YES

The removal of building consent requirements for onsite water systems (wastewater, water supply, storm water) was not addressed by or vary materially from the policy options analysed in the Regulatory Impact Statement.

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?

NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:

(a) the size of the potential costs and benefits?

YES

(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?

NO

An analysis of the size of potential costs and benefits can be found in *Table three: MBIE Cost-Benefit Analysis of option two*, on pages 22-25 of the Regulatory Impact Statement, and pages 4-7 of the supplementary analysis.

The RIS can be found here: <https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-granny-flats-proposed-building-consent-exemption/>.

The supplementary analysis can be found here: <https://www.regulation.govt.nz/our-work/regulatory-impact-statements/supplementary-analysis-report-granny-flats-proposed-building-consent-exemption/>.

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The potential costs or benefits are likely to be impacted by the number of building defects that occur in consent-exempt granny flats. This number will depend on the degree of compliance with the Building Code by authorised tradespeople carrying out the building work. Future changes to occupational licensing regimes to strengthen disciplinary processes and introduce greater transparency will help incentivise and support tradespeople in carrying out work that is compliant.</p> <p>MBIE will produce guidance and information for homeowners, builders, TAs and BCAs. This will include promoting existing consumer protection mechanisms that will continue to apply to exempt granny flats, for example, the use of pre-contract disclosure statements and a 10-year implied warranty under the Building Act, and ensuring consumers are aware of their rights and responsibilities.</p> <p>Information on these matters can be found in the Regulatory Impact Statement. https://www.regulation.govt.nz/our-work/regulatory-impact-statements/regulatory-impact-statement-granny-flats-proposed-building-consent-exemption/</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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No effects on New Zealand's international obligations have been identified.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

A Treaty Analysis was undertaken, and the policy proposals are consistent with the principles of the Treaty of Waitangi. Te Puni Kōkiri was consulted during the development of policy proposals and on the draft Bill.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

IN PROGRESS

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill.
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Such advice, or reports, will be accessible on the Ministry's website at:

https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice/

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
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YES

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

<i>Building Act 2004</i>

A new infringement offence with a maximum fine of \$1000 is proposed for inclusion in the Building Act 2004 where homeowners fail to provide appropriate records to territorial authorities within 20 working days on completion of building work. This will have a corresponding fee of \$500 in the Building (Infringement Offences, Fees, and Forms) Regulations 2007. This new infringement offence ensures homeowners that fail to comply with exemption requirements for an administrative matter do not face disproportionate consequences (such as a \$1000 fee and/or required to get a building consent or certificate of acceptance).
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<i>Plumbers, Gasfitters, and Drainlayers Act 2006</i>

Under the Bill, it will be a disciplinary offence for an authorised person who carries out or supervises sanitary plumbing or drainlaying work in relation to a consent-exempt granny flat to fail, without good reason, to provide a Record of Work in accordance with the relevant requirements.
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3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
The Offence and Penalty team at the Ministry of Justice was consulted on the new penalties and offences. It has no concerns with the proposed offences or fees.	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>On 17 June 2024, MBIE, MfE and DIA released a public consultation document for a period of 8 weeks. Feedback was sought on a range of options to make it easier to build granny flats in the building consent and resource management system.</p> <p>MBIE also carried out targeted consultation with industry members including builders, plumbers, engineers, architects, banks, insurers and councils.</p> <p>1,970 submissions were received, with broad support for the proposed approach. The full summary of submissions can be found here: https://www.mbie.govt.nz/assets/making-it-easier-to-build-granny-flats-summary-of-submissions.pdf</p> <p>MBIE consulted with the Legislation Design Advisory Committee during the drafting process of the Bill.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
<i>[If YES, identify the relevant provision(s). Then explain why the provision is necessary, and identify and explain the nature of any features that will mitigate the potential adverse effects.]</i> https://www.treasury.govt.nz/publications/guide/disclosure-statements-government-legislation-technical-guide-departments-html#child-11	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
We note that homeowners who choose to use to use the proposed building consent exemption when building a granny flat will not be required to pay the Building Levy or Building Research Levy, as these levies are tied to a building consent.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	YES
Territorial authorities will be excluded from liability in relation to advice it issues alongside a Project Information Memorandum. This protection is limited to anything done or omitted to be done in good faith. A certificate of work, provided by a Licensed Building Practitioner for design work that is restricted building work in connection with a small standalone dwelling, does not, of itself, create any liability. A record of work, provided by a registered person or provisional license holder, under the Plumbers, Gasfitters, and Drainlayers Act 2006, does not, of itself, create any liability.	

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person’s rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p>The Bill includes a power for the Governor-General, by Order in Council made on recommendation of the Minister, to add, remove, or amend specified building design requirements. This power is limited to the technical building requirements and is necessary to ensure that any unintended consequences can be addressed in a timely manner, or that minor and technical updates (such as references to Acceptable Solutions) can be made without the need for primary legislation.</p> <p>To ensure the power can only be used for minor and technical amendments, more fundamental elements (such as the maximum floor area or number of storeys) have been excluded from being able to be changed by Order in Council. Advice from the Legislation Design Advisory Committee noted that safeguards already apply to Orders in Council (including consultation with persons substantially affected) and adding further criteria where it is not needed risks uncertainty and unintended consequences.</p> <p>In addition to the above, the Bill also amends an existing power in the Building Act (section 41(2)) for the Governor-General, by Order in Council, to add, extend, clarify, or restate any building work or class of building work listed in Schedule 1 of the Act. This Bill amends this existing power to also include the ability to <i>remove</i> elements of the description of building work. This is necessary as a power to add to Schedule 1, without a power to remove from Schedule 1, can lead to contradictions in provisions.</p>	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>The Bill amends the existing power under section 401B(1) of the Building Act to make clear that the Building (Definition of Restricted Building Work) Order 2011 does apply to building work in connection with a non-consented small standalone dwelling.</p> <p>The Bill amends the following regulation making powers:</p> <ul style="list-style-type: none"> • prescribe the form or content of an application for a Project Information Memorandum (section 33 of the Building Act); and • prescribe the form or content of a development contribution notice (section 36 of the Building Act); and <p>The Bill includes regulation making powers to:</p> <ul style="list-style-type: none"> • prescribe the form or content of the new Project Information Memorandum; and • prescribe the form or content of the advice issued by territorial authorities in relation to a consent-exempt small standalone dwelling; and • prescribe a Record of Work form for sanitary plumbing and drainlaying work. <p>The Bill includes a provision that enables the Act to come into force on a date set by Order in Council.</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO