



## COVERSHEET

<b>Minister</b>	Hon Chris Penk	<b>Portfolio</b>	Building and Construction
<b>Title of Cabinet paper</b>	Building and Construction (Small Stand-alone Dwellings) Amendment Bill: Approval for Introduction	<b>Date to be published</b>	1 July 2025

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
May 2025	Building and Construction (Small Stand-alone Dwellings) Amendment Bill: Approval for Introduction	Office of the Minister for Building and Construction
19 May 2025	Building and Construction (Small Stand-alone Dwellings) Amendment Bill: Approval for Introduction – Minute of Decision LEG-25-MIN-0081 Minute	Cabinet Office

### Information redacted

**NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

## In Confidence

Office of the Minister for Building and Construction

Cabinet Legislation Committee

## Building and Construction (Small Stand-alone Dwellings) Amendment Bill: Approval for Introduction

### Proposal

- 1 This paper seeks approval for the introduction of the Building and Construction (Small Stand-alone Dwellings) Amendment Bill (the Bill).

### Policy

- 2 On 17 March 2025, Cabinet agreed to amend the Building Act to permit granny flats up to 70 square metres to be built without a building consent and make minor changes to occupational licensing regimes [EXP-25-MIN-0011 refers].
- 3 The Bill amends the Building Act 2004 (the Building Act), the Plumbers Gasfitters and Drainlayers Act 2006, the Local Government Act 2002 and Local Government Official Information and Meetings Act 1987 to enable appropriately qualified and licensed tradespeople to build a granny flat of up to 70 square metres without a building consent, under the following conditions:
  - 3.1 the dwelling must be simple in its design and meet the building code;
  - 3.2 building work must be carried out by authorised professionals; and
  - 3.3 councils must be notified prior to, and on completion of, the building work.
- 4 On 17 March, Cabinet authorised me as the Minister for Building and Construction to make decisions and further clarify matters consistent with the proposals agreed by Cabinet. **Appendix one** sets out the decisions, and supporting rationale, I made during drafting for each relevant draft Bill clause.

*Condition one: Granny flats must have a simple design and meet the building code*

- 5 The Bill provides that a granny flat must be new, standalone, single storey, and 70 square metres or less to qualify for the building consent exemption. It also provides that:
  - 5.1 The granny flat must be built in accordance with a set of building design requirements (e.g. must have a floor level of one metre or less).
  - 5.2 All building work must comply with the building code.
- 6 The Bill introduces a power for the Governor-General, by Order in Council, to add to, remove or amend some of the building requirements for exempt small stand-alone dwellings.

- 7 The Legislation Design Advisory Committee (LDAC) advised that the power described above should not be included in the Bill as the building design requirements would be better placed in secondary legislation. However, I consider placing the exemption conditions in the Building Act would make the legislation more consistent and accessible. It also makes it consistent with approaches taken to other exempt building work in Schedule 1 of the Building Act.
- 8 LDAC also advised that the power to amend building work conditions should not include the essential elements of the exemption and only apply to those that are most likely to be updated or changed in the future. I have followed this advice when making decisions on what should be included in the draft Bill (see **Appendix one**).

*Condition two: Building work must be carried out by authorised professionals*

- 9 The Bill provides that all work on 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 the right skills and competencies to undertake good quality work and can be held to account if things go wrong.
- 10 Authorised professionals will be required to provide records of their work to homeowners for all work associated with a consent-exempt granny flat. These will provide a record of what work has been completed, when, and who by. In turn, homeowners will be obliged to submit these records of work to their local council. This will be important for identifying liability if things go wrong, remedying defects, supporting property re-sales and for providing assurance to lenders and insurers.

*Condition three: Councils must be notified prior to and on completion of work*

- 11 The Bill provides that owners must notify the relevant territorial authority of their intention to build a consent-exempt granny flat through applying for a new Project Information Memorandum (PIM), to be prescribed in regulations.
- 12 The new PIM will contain important information about the features of the land and requirements of other Acts that may be relevant to proposed building work. When issuing a PIM, territorial authorities can attach a development contribution notice for any infrastructure charges owing in relation to the proposed work. This is not an approval process and territorial authorities cannot refuse to issue a PIM.
- 13 When issuing a PIM, territorial authorities must also advise owners on whether:
- 13.1 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);
  - 13.2 the proposed building work is to occur on land that is subject to a natural hazard and, if a natural hazard is present, whether the provisions relating to natural hazards in section 71(2) of the Building Act<sup>1</sup> would otherwise apply; and

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<sup>1</sup> Section 71(2) states that a building consent authority can determine that adequate provision has been or will be made to protect the land, building work, or other property from the natural hazard or hazards, or, to restore any damage to that land or other property as a result of the building work.

- 13.3 there are any applicable bylaws that may impact on the design, construction or location of the proposed building work.
- 14 No civil liability is attached to the advice to be provided by territorial authorities outlined in paragraph 13 when provided in good faith.
- 15 The Bill provides that building work is considered complete once all records of work have been provided to the owner. The owner will then have 20 working days to provide all relevant documentation to the relevant territorial authority, including records of work and a set of final plans for building, plumbing and drainlaying work.
- 16 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. The owner will also have 20 working days on completion of building work to pay any outstanding development contributions.
- 17 The Bill creates a new infringement offence with a maximum fine of \$1000 and fee of \$500 of should homeowners fail to provide a territorial authority with all relevant records of work and documentation within 20 working days. The creation of this new infringement offence for not submitting relevant documentation to the territorial authority avoids the higher penalties that would otherwise apply for breaching the conditions of the exemption, such as a criminal offence under section 40 of the Building Act, or the requirement to obtain a certificate of acceptance for unconsented building work.

### Impact analysis

- 18 A regulatory impact statement (RIS) and supplementary analysis was previously considered by Cabinet at the time policy decisions relating to the Bill were sought [EXP-25-MIN-0011 refers].
- 19 The RIS and supplementary analysis were reviewed by the Regulatory Impact Analysis Review Panel at the Ministry of Business, Innovation and Employment (MBIE) who considered that the Quality Assurance Criteria was partially met.

### Compliance

- 20 The Bill complies with:
- 20.1 the principles and provisions of the Treaty of Waitangi;
- 20.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- 20.3 the disclosure statement requirements (a disclosure statement is attached);
- 20.4 the principles and guidelines set out in the Privacy Act 2020;
- 20.5 relevant international standards and obligations; and
- 20.6 the Legislation Design and Advisory Committee [Legislation Guidelines](#) (2021 edition).

## Consultation

- 21 The following departments were consulted on this paper and the draft Bill: The Treasury, Stats NZ, Te Puni Kōkiri, National Emergency Management Agency, Land Information New Zealand, Department of Corrections, DIA, Department of Conservation, MfE, Ministry for Culture and Heritage, Ministry of Housing and Urban Development, Ministry for Regulation, Ministry of Defence, Ministry of Education, Ministry of Health, Ministry for Primary Industries, Ministry for Pacific Peoples, Ministry of Social Development and Ministry of Transport.
- 22 The Department of Prime Minister and Cabinet has been informed.
- 23 LDAC and the Offences and Penalty Vetting team at the Ministry of Justice were consulted on the draft Cabinet paper and Bill.

## Binding on the Crown

- 24 This is an omnibus Bill that amends the Building Act 2004, Plumbers, Gasfitters and Drainlayers Act 2006, Local Government Act 2002 and Local Government Official Information and Meetings Act 1987. The Building Act 2004 is binding on the Crown (subject to the exceptions in that Act).

## Creating new agencies or amending law relating to existing agencies

- 25 The Bill does not create new agencies.

## Allocation of decision-making powers

- 26 The Bill does not involve the allocation of decision-making powers between the executive, the courts, or tribunals.

## Associated regulations

- 27 Regulations will be required to support implementation. The Bill includes new or updated regulation-making powers to:
  - 27.1 prescribe the form or content of an application for a PIM;
  - 27.2 prescribe the form or content of a development contribution notice;
  - 27.3 prescribe the form or content of the new PIM;
  - 27.4 prescribe the form or content of the advice issued by territorial authorities in relation to a consent-exempt small standalone dwelling; and
  - 27.5 prescribe a Record of Work form for sanitary plumbing and drainlaying work.
- 28 The Bill will also make consequential amendments to the Building Regulations 1992, Building (Infringement Offences, Fees and Forms) Regulations 2007, Electrical (Safety) Regulations 2010, Gas (Safety and Measurement) Regulations 2010, Building (Residential Consumer Rights and Remedies) Regulations 2014 and Building (Definition of Restricted Building Work) Order 2011.

- 29 I plan to seek policy approval on the remaining associated regulations from Cabinet in the second half of 2025.

### Other instruments

- 30 The Bill includes a power for the Governor-General, by Order in Council, amend Schedule 1A by adding to, removing or amending any requirements for building work specified in clause 2 of Schedule 1A. It also updates an existing power to amend Schedule 1 to allow for any building work or class of building work to be removed.

### Commencement of legislation

- 31 The Bill is classified as Category 3 on the 2025 legislative programme (a priority to be passed by the end of 2025).
- 32 The Bill will commence by Order in Council or two years after the date of Royal Assent and at the same time as the associated regulations. However, some provisions which include regulation making powers will come into force on the day after Royal assent. Any part of the Act that has not come into force 2 years after Royal assent comes into force then.
- 33 I expect that the Bill and the supporting regulations will commence by early-2026.

### Parliamentary stages

- 34 I expect the Bill to be introduced on or immediately following Budget Night (22 May 2025) and passed by the end of 2025.
- 35 It is proposed that the Bill be referred to the Transport and Infrastructure Committee of Parliament subject to the Bill's First Reading.

### Proactive Release

- 36 I propose to proactively release this Cabinet paper package and associated Cabinet minute within 30 business days.

### Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that the Building and Construction (Small Stand-alone Dwellings) Amendment Bill holds a Category 3 priority on the 2025 Legislation Programme (a priority to be passed by the end of 2025);
- 2 **note** the Bill will remove regulatory barriers and make it easier to build small standalone dwellings;
- 3 **note** that I have approved the minor and technical policy changes set out in **Appendix one** of this Cabinet paper;

**IN C O N F I D E N C E**

- 4     **approve** the Building and Construction (Small Stand-alone Dwellings) Amendment Bill for introduction, subject to the final approval of the Government caucuses and sufficient support in the House of Representatives;
- 5     **authorise** Parliamentary Counsel Office to make any minor or technical amendments to the Bill prior to Cabinet;
- 6     **agree** that the Bill be introduced on a date to be approved by the Leader of the House; and
- 7     **agree** that the Government propose that the Bill be referred to the Transport and Infrastructure Committee for consideration.

Authorised for lodgement

Hon Chris Penk

Minister for Building and Construction

## Appendix one: proposed minor and technical changes identified during the drafting process

Policy change	Reason for change
<b>Condition one: Granny flats must have a simple design and be built to the Building Code</b>	
No specific requirement for granny flats to have interconnected smoke alarms.	This requirement is already in the Building Code.
Internal garages may be included in exempt granny flats.	Shifting the floor limit from 60 to 70 square metres makes it possible for more granny flats to have an internal garage. This change makes it clear to homeowners that they can include an internal garage in an exempt granny flat, if they wish.
Lightweight building products for the roof is defined as roof products with a maximum weight of 20 kilograms per square metre.	This aligns with New Zealand Standard 3604: Timber-framed building. We do not reference the standard as this risks limiting where and how homes are built.
Make it clear that Clause B2 (Durability) requirements apply from the date of completion of building work as defined in the Building Act 2004 for exempt granny flats.	Clause B2 currently applies from when a Code Compliance Certificate (CCC) is issued. As consent-exempt granny flats will not have a CCC, the Building Code needs to be amended to make it clear that 50-year durability requirements still apply.
Granny flats must be built within an allotment.	Building across allotments (which can include subdivided land) is an approvals process that often requires councils to issue a certificate prior to granting a building consent.
MultiProof homes must meet the building design conditions.	Most homes designed under MultiProof would meet the proposed conditions in new Schedule 1A
<b>Condition two: Work must be undertaken by trusted, licensed tradespeople</b>	
‘Energy Work Certificate’ means any relevant Certificate of Compliance, Electrical Safety Certificate or Gas Safety Certificate that is required under the Electricity Act 1992 or Gas Act 1992.	The Building Act 2004 only requires Electrical Safety Certificates or Gas Safety Certificates when obtaining a building consent. However, safety certificates provide limited information on the nature of work that has taken place. Certificates of Compliance contain more detail and are already required to be produced by tradespeople.
Homeowners who intend on living in their consent-exempt granny flat will be able to wire certain parts of the dwelling during construction using the domestic exemption (section 79 of the Electricity Act 1992).	This is an existing exemption. It requires that all electrical work carried out under the exemption to be inspected and certified by an Electrical Inspector. The Electrical Inspector is required to issue the Electrical Safety Certificate and Certificate of Compliance.



Consequential amendments to the Electricity (Safety) Regulations 2010 and Gas (Safety and Measurement) Regulations 2010 are required so that tradespeople provide safety certificates and Certificates of Compliance to the owner.	<p>These regulations currently require relevant certificates to be provided to “the person who contracted for the work”, and only if that person is not readily available, to the occupier or owner.</p> <p>This change ensures that homeowners will receive these records of work once the work has been completed.</p>
<b>Condition three: Councils must be notified prior to and on completion of work</b>	
Building work is considered “complete” on the day that all relevant records of work have been provided to the owner.	<p>The Building Act defines ‘completion of building work’ as when a Code Compliance Certificate (CCC) is issued.</p> <p>A new definition is required for consent-exempt granny flats as they do not receive a CCC.</p>
An owner must notify territorial authorities that building work has been completed within 20 working days following completion of building work.	<p>This includes providing the relevant records of work and a set of final plans.</p> <p>This requirement ensures territorial authorities have building records on file in a timely manner. The timing aligns with other statutory timeframes in the Building Act and other legislation.</p>
<p>Homeowners can receive a new infringement offence with a maximum fine of \$1,000 and fee of \$500 should they fail to provide a territorial authority with all relevant records of work and documentation on completion of building work.</p> <p>This also requires amendments to the Building Act and Building (Infringement Offences, Fees, and Forms) Regulations 2007.</p>	<p>This responds to feedback provided by the Legislation Design Advisory Committee (LDAC).</p> <p>This infringement offence is similar to comparable offences in the Building Act.</p> <p>Failure to provide this new infringement by being silent on the matter could see owners unfairly penalised for a minor administrative error (for example, issued a \$1,000 fee and required to get a certificate of acceptance) – as this information would otherwise be a condition of the building consent exemption.</p>
An owner must pay any development contributions owing within 20 working days on completion of building work.	This requirement provides flexibility and certainty regarding when development contributions are due. It also aligns with previous Cabinet decisions.
<b>Transitional provision:</b> Councils can charge development contributions when issuing a Project Information Memorandum (PIM) regardless of whether their development contribution policies permit this.	<p>Cabinet agreed that councils whose development contribution policies did not allow for development contributions to be charged when issuing a PIM, could do so.</p> <p>We have recommended a three-year transitional period as this aligns with existing council planning processes.</p>
When issuing advice on natural hazards and whether it is likely, unlikely or unclear whether	This reduces the risk of building a granny flat contrary to a council bylaw or where public infrastructure could be damaged (eg a bylaw that restricts building

proposed building work would meet the exemption conditions, councils must also include information on any applicable bylaws that may impact on the design, construction or location of an exempt granny flat.	work on or adjacent to a public waste or drinking water pipe).  Homeowners that build a granny flat in breach of a bylaw could see a territorial authority remove the home or require it to be altered.
The regulation-making power for sanitary plumbing and drainlaying records of work will apply to “work prescribed in regulations”.	The Record of Work form may also be required under a future self-certification regime. Leaving this regulation-making power open allows for it to be applied to self-certification without a change to primary legislation.
Councils will be required to provide information relating to granny flats when issuing a land information memorandum.	This is a consequential amendment to section 44A of the Local Government Official Information and Meetings Act 1987. This is information that councils would provide now in relation to consented work.
An extension to the 2-year PIM timeframe is a determinable matter under section 177 of the Building Act.	This ensures that if councils choose not to extend a PIM timeframe contrary to a homeowner’s request MBIE can issue a determination on the matter.
<b>Proposed power to amend building design conditions by Order in Council</b>	
<p>The Order in Council power provides for the addition, removal or amendment of specific requirements in relation to a consent-exempt small standalone dwelling. These can be found in Clause 2 of new Schedule 1A.</p> <p>The following characteristics may not be amended:</p> <ul style="list-style-type: none"> <li>• the building must be standalone</li> <li>• the building must be new</li> <li>• the building must be 70 square metres or less</li> <li>• the building must be single storey.</li> </ul> <p>No specific criteria will be placed when making a recommendation to amend the requirements in Clause 3 (<i>Other requirements for a small standalone dwelling</i>) of new Schedule 1A.</p>	<p>The Legislation Design Advisory Committee (LDAC) advised that the power to amend the building work conditions (<b>Condition one</b>) should not include the essential elements of the exemption and only apply to those that are most likely to be updated or changed in the future.</p> <p>LDAC also advised exploring whether adding additional criteria on top of the purpose and principle clauses of the Building Act was necessary, particularly if the essential elements of the policy were not subject to the OIC power. It noted that adding criteria that duplicates existing criteria raises the risk of uncertainty and unintended consequences. In respect of procedural safeguards, LDAC noted safeguards including consultation with persons substantially affected, already apply to Orders in Council.</p>