



Summary of Underpinning Analysis: Building (Exempt Small Stand-alone Dwellings) Order 2026

Agency responsible	Ministry of Business, Innovation and Employment (MBIE)
Portfolio	Building and Construction
Date finalised	7 August 2026
Identification Number	REG-2185

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified? NO

Summary of agency analysis

Targeted engagement with councils, relevant product manufacturers, building professionals and offsite manufacturers on including Structural Insulated Panel systems (SIPs) with a CodeMark certificate in Schedule 1A was undertaken in April 2026. Feedback received on these proposed changes was positive.

Targeted engagement on clarifying Schedule 1A conditions for onsite systems, and connections to these systems, was not undertaken in April 2026 as it was not considered necessary at the time. This is because MBIE's initial work focused on Network Utility Operator (NUO) connections, and a misinterpretation of the rules regarding how the requirement for the building to be 'new' interacted with an NUO's ability to agree that a connection to an NUO could be made via an existing primary dwelling (which is substantially cheaper than a wholly new connection). This issue was raised by a council several days before Cabinet was due to consider proposed changes to Schedule 1A. Subsequent later analysis of Schedule 1A also found that there was an inconsistency regarding whether homeowners could connect to existing on-site systems under the exemption.

The policy intent for the granny flats exemption was to permit homeowners to be able to make secondary connections to NUOs (daisy-chaining) for consent-exempt granny flats with the permission of the NUO, and to allow onsite systems to be built without a building

consent. The policy intent also focused on reducing the regulatory burden, time, and cost of building lower-risk dwellings up to 70 square metres. To that end, it is appropriate to permit:

- Connections to code-compliant onsite systems, including those built to a higher specification under a building consent (such as those used on marae or for community facilities).
- Connections to existing onsite systems that cause the granny flat to not meet the building code, so long as these onsite systems are updated in accordance with a relevant acceptable solution or verification method in Schedule 1A.
- Existing connections to NUOs to be modified with the permission of the NUO.

These changes were communicated to those who provided feedback on the proposed amendments in July 2026, in addition to the Plumbers, Gasfitters and Drainlayers Board. No concerns were raised with MBIE. Further, these changes are consistent with existing legislative provisions under Schedule 1 of the Building Act 2004 (in that some plumbing and drainage work can be done by an authorised person without a building consent), and any work on an existing system or connection to an NUO must be done by an authorised professional (for example, a drainlayer) who must produce a record of this work and provide it to the homeowner.

Homeowners have not been consulted on either of the proposed changes (for example, through public consultation or targeted engagement with representative groups) as this was not considered necessary for the change – homeowners have choice under the exemption as to the design, building professionals and materials used under the exemption and the changes only confer benefits on impacted parties. Further, homeowners may be able to utilise existing exemption provisions under part 2 of Schedule 1 if only minor repairs, alterations, maintenance or replacement of existing components were required to bring a system up to meeting building code requirements.



Good law-making: 9(j)

The importance of carefully evaluating—

- the issue concerned; and
- the effectiveness of any relevant existing legislation and common law; and
- whether the public interest requires that the issue be addressed; and
- any options (including non-legislative options) that are reasonably available for addressing the issue; and
- who is likely to benefit, and who is likely to suffer a detriment, from the legislation

Inconsistency identified?

NO

Summary of agency analysis

These changes respond to issues raised by the sector regarding the application of Schedule 1A to non-consented small stand-alone dwellings.

Structural Insulated Panel systems (SIPs)

Schedule 1A currently does not provide for, nor exclude, SIPs (or Solid-Timber systems). This is despite this building product/method being independently certified through CodeMark as meeting the building code. As such, some types of SIPs may be provided for under the status quo, but others not. Specifically providing for SIPs with a CodeMark certificate provides greater regulatory certainty for homeowners, building professionals and regulators, while ensuring the risks between building innovation and building failure are appropriately managed in the absence of receiving a building consent.

It is possible that a small number of SIP manufacturers whose products are used in New Zealand, but who do not have a CodeMark certificate, may no longer be able to have their products used in consent-exempt granny flats (though this is not certain as the exemption does not expressly provide for SIPs). This is outweighed by expressly permitting a wider range of SIP construction materials under the proposed amendment and the fact that SIPs with a CodeMark certificate provide a robust way of showing that these products do meet the requirements of the New Zealand Building Code.

Officials considered whether it would be more appropriate to issue statutory guidance under section 175 of the Act instead of updating Schedule 1A of the Act to provide for SIPs with a CodeMark certificate. We consider it is more appropriate to update Schedule 1A than issue guidance as this provides greater regulatory certainty for stakeholders.

Connections to utilities

The proposed amendments to permit connections to code-compliant systems and allow for existing connections to NUOs and onsite systems to be modified, are straightforward technical changes that benefit homeowners and building professionals by reducing the cost



of building a non-consented small stand-alone dwelling. There are no downsides to the proposed changes as homes, and systems that connect to these homes, will still be required to meet the building code (as well as other associated regulatory requirements, including resource management requirements). In addition:

- A NUO will still be able to determine whether a homeowner can connect to a public utility and set the conditions and requirements of any connection made to its network.
- Authorised professionals will be required to undertake the work.
- Records of the work that has been done will need to be produced and provided to homeowners and councils.

As with SIPs, Officials considered it was more appropriate to update Schedule 1A than issue guidance as this provides greater regulatory certainty and coverage for stakeholders. Failure to make this change could see councils requiring wholly new connections to utilities – adding unnecessary cost to the building process.

Good law-making: 9(k)

The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation

Inconsistency identified? NO

Summary of agency analysis

MBIE will update its guidance so that when the proposed changes to the Order come into force, stakeholders will understand how the new requirements apply. This guidance will be supported by a series of ongoing communications to the sector.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons

Inconsistency identified? NO

Summary of agency analysis

The proposed changes provide for a greater number of cost-effective building products and methods to be provided for under the building consent exemption for non-consented small standalone dwellings. They may also result in significant up-front cost-savings for some homeowners (for example, where a NUO considered that a wholly new connection was the requirement under legislation, even where a secondary connection was possible). However, given the exemption is still in its infancy and the proposed changes predominantly deal with clarifying rather than changing the law, it is not yet possible to quantify the precise impact it will have.



Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available

Inconsistency identified? NO

Summary of agency analysis

Please see answer to 9(j).

Rule of Law: 9(a)(i)

The law should be clear and accessible

Inconsistency identified? NO

Summary of agency analysis

The changes being made address a potential issue where the current legislation is unclear regarding the treatment of SIPs and connections to NUOs.

Specific feedback has been sought from the sector to ensure the workability and clarity of the intended approach regarding SIPs.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The proposed changes are not retrospective.

Rule of Law: 9(a)(iii)

Every person is equal before the law

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.



Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified? NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.



Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-

- **there is a good justification for the taking or severe impairment; and**
- **fair compensation for the taking or severe impairment is provided to the owner; and**
- **the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment**

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.



Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

The proposed changes are technical in terms of describing the nature of the building work in connection with a non-consented small stand-alone dwelling. No changes are proposed to the overarching framework for the building consent exemption.

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified?

NO

Summary of agency analysis

The proposed changes do not change the role of courts in ascertaining the meaning of legislation. The proposed changes provide greater clarity regarding the treatment and interpretation of technical building methods and approaches regarding Schedule 1A.

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified?

NOT APPLICABLE

Summary of agency analysis

The proposed changes do not change the role of courts in ascertaining the meaning of legislation, nor do they create any new rights, liberties or obligations which are dependent on administrative power. The proposed changes provide greater clarity regarding the treatment and interpretation of technical building methods and approaches regarding Schedule 1A.



Additional information: none

Relevant publicly available inquiry, review, or evaluation reports

NA

Relevant international treaties, standards and obligations

NA

Departures from the Legislation Guidelines

NA

Other unusual provisions or features

NA