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

Coversheet

Purpose of Document	
Decision sought:	Cabinet approval to amend the Building Act 2004 to exempt granny flats from requiring a building consent
Advising agencies:	Ministry of Business, Innovation and Employment (MBIE)
Proposing Ministers:	Minister for Building and Construction
Date finalised:	3 December 2024

Opportunity Definition

The Government is seeking to reduce the regulatory burden for people building small, simple dwellings less than 60 square metres (more commonly called 'granny flats') so that it is quicker and less costly to build.

Executive Summary

The Government has a programme of work underway to enable more affordable housing options and choice for all New Zealanders

This requires a building consent system that is more efficient and cost-effective. One way this can be achieved is through reducing regulatory burden where appropriate and introducing more risk-based building consenting.

This Regulatory Impact Statement (RIS) looks at regulatory and non-regulatory options under the Building Act 2004 (the Building Act) to reduce the time and cost of building a granny flat. It does not consider regulatory requirements and costs imposed by the resource management system and local government when granny flats are built.

The Building Act requires those building granny flats to get a building consent

The Building Act currently requires all building work to be done in accordance with a building consent, with a few exceptions for low-risk work specified in Schedule 1 of the Building Act (such as building a sleepout less than 30 square metres without sanitary fixtures). A building consent is necessary to ensure that new buildings are compliant with the Building Code, that is, that they are safe, healthy and durable for everyone who may use them.

Around 600 granny flats are currently built each year.

Building Consent Authorities (BCAs), which can be territorial authorities (TAs), are currently responsible for ensuring that licensed tradespeople design and build granny flats to the Building Code. When a BCA is satisfied that a complete building is built to the

Building Code, it then issues a Code Compliance Certificate (CCC) to the homeowner. This is an essential step for other parties such as insurers and lenders, which may not insure or lend money for a home that does not meet the Building Code or may provide coverage that is substandard to that provided to a home with a CCC.

Building consent fees are estimated to cost $2000 to $5000 for a granny flat, depending on the complexity, land and region the granny flat is built in. Homes can take up to 16 months to complete, with an additional 2 months for a CCC to be issued. During our public consultation process we heard that between 24 to 48 per cent of building inspections fail, with failure rates varying across the country and by inspection type.

Inspection failures can be for a range of reasons – some minor and administrative in nature (such as a building not being ready for an inspection), to those of a Building Code compliance nature (such as incorrectly installed wall cladding). Remedying issues associated with failed building inspections adds time and cost (labour and materials) to the building process for both builders and homeowners, as some building work cannot be progressed until a building inspection is passed.

The Government's proposed option seeks to amend the Building Act to enable granny flats to be built without a building consent

The Government considers that independent oversight through the building consent process for lower-risk granny flats adds unnecessary time and cost. It considers that risks are better managed through setting specific building conditions, including requiring granny flats to:

- Be single story and less than 60 square metres.
- Use existing Network Utility Operator services where these exist for three waters services (where these services do not exist, a building consent will be required).
- Be built by appropriately licensed tradespeople, who will be required to produce a Record or Certificate of Work.

Under the Government's proposal, BCAs, TAs, regional authorities and MBIE will continue to have monitoring and enforcement powers to address any non-compliant buildings or building work.

Homeowners will also be able to still get a building consent for a granny flat if they wish. Homeowners may also choose to use another form of assurance, including a Producer Statement 4 (P4) Engineer's report.

The Government's proposed option, along with the four other options in this regulatory impact statement, was publicly consulted on for eight weeks across June to August. In general, homeowners supported the Government's proposal to exempt granny flats from requiring a building consent. Key industry stakeholders considered that we would need to ensure there are sufficient safeguards in place to manage any risk presented by the loss of independent oversight.

Progressing the Government's preferred option highlights a key trade-off between increasing housing supply and reducing risk

Removing some of the regulatory processes involved in building a granny flat is estimated to increase the supply of granny flats by 7,866 over 10 years. This is because the Government's proposed option will reduce some of the time and up-front costs of building a granny flat.

However, this approach also removes some of the regulatory protections provided through the building consent system in the form of independent building inspections and issuance of a CCC. As such, there is a high degree of uncertainty on:

- Whether the number of latent (undetected) building defects will increase, which are more costly to repair. The proposal could also leave homeowners responsible for fixing latent defects should other parties to the building work be insolvent, as councils will no longer be liable (in most cases) for building defects.
- The cost and coverage of insurance and bank lending for an exempt granny flat.
- Whether councils will need to increase general rates to pay for increased monitoring, enforcement and avoided development contribution fees.

Table one: estimated 10-year monetised cost and benefits of the Government's preferred option

Total monetised costs	$63.63m – $103.71m
Total monetised benefits	$71.64m
Net result	(-$32.07m) to $8.01m 7,866 additional granny flats built

We consider that other options may be available to address some of the time and cost of building granny flats, while maintaining the checks and balances provided through the building consent system. This could include improving and publicising existing mechanisms such as MultiProof. An improved, widely publicised MultiProof scheme could provide standardised, simple house designs that comply with the Building Code and can be replicated across the country. MultiProof homes have faster consent processing times, and we consider these homes are also less likely to fail building inspections if built according to the designs.

We also note that the Government's wider building consent work programme may also increase efficiencies and decrease costs, such as increased uptake of remote inspections.

However, these alternative options are less likely to achieve the same level of housing growth compared to the Government's preferred approach.

Monitoring and implementation

Should the Government's proposed option progress, 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.

MBIE also intends to monitor and review the new exemption regime within three years.

Limitations and Constraints on Analysis

The analysis in this RIS is limited by:

- The coalition agreement between the National Party and New Zealand First, and subsequent Cabinet direction. The coalition agreement states to *Amend the Building Act and Resource Consent system to make it easier to build granny flats or other small structures up to 60sqm, requiring only an engineer's report.* This places constraint on non-regulatory or other legislative options that could deliver the same outcomes.

- The speed of policy development. The Government seeks to introduce and pass a Bill in 2025. This has limited the time available to collect information and assess options.

There is limited information on:

- Why building inspections fail. This has an impact on assessing how much costs to repair latent defects could increase. It also limits what options could be considered to reduce the time and cost imposed through the building consent process.
- The positioning of financiers and insurance markets. We heard from insurers and one bank that granny flats could be financed and insured, but the conditions of lending and insurance are unclear.
- Whether defect rates increase or decrease should granny flats be exempt from requiring a building consent.
- The potential cost of latent defects compared to defects identified during a build. We know that around six per cent of the cost of a new build is due to addressing defects identified during the build process. However, little research has been done on the cost of latent defects. We have used a conservative 10 per cent rate for our cost-benefit analysis, given the potential risk of needing to replace a roof or cladding, or do an entire rebuild.
- The induced demand of simple residential dwellings resulting from the removal of building and resource consents. Our analysis is based on the Crow Advisory report, which also acknowledged the difficultly in attributing the portion of uptake that may be driven by each change.
- The proportion of building professionals that have the competence to take on additional responsibilities.
- The time it takes for a building inspection to be scheduled. A news article by RNZ in 2022 found wait times of up to 33 working days.

Responsible Manager(s) (completed by relevant manager)

Suzannah Toulmin, Manager, Consenting and Practitioners Policy

Ministry of Business, Innovation and Employment

5 December 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	MBIE
Panel Assessment & Comment:	MBIE's Quality Assurance Panel has reviewed the Regulatory Impact Statement (and associated supporting material) and considers that it partially meets the Quality Assurance Criteria. The Panel considers that 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. While the authors acknowledge the limitations and uncertainty of the data and estimates available to them, as the analysis relies heavily on this evidence when comparing options, the Panel considers that Ministers do not have sufficient, quality information to rely on in order to make an informed decision.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem

Brief outline of the proposal

The National-New Zealand First Party coalition agreement commits the Government to "*Amend the Building Act and Resource Consent system to make it easier to build granny flats or other small structures up to 60sqm, requiring only an engineer's report*".

The Government considers amending the Building Act to introduce a building consent exemption that would exempt simple, standalone dwellings of up to 60 square metres in size from requiring a building consent to be the best mechanism to achieve the coalition commitment. The new exemption (which would likely be in a separate schedule to the Building Act) would set out the conditions that would have to be met for a granny flat to be exempt from needing a building consent. This recognises the need to provide appropriate safeguards to balance the trade-off presented by a loss of independent oversight provided through the building consent process.

These conditions focus on:

- the size, design and location of the granny flat
- the requirements to use licensed tradespeople, relying on existing occupational regulatory regimes and the Building Act for addressing poor quality workmanship
- requiring building owners to inform TAs of planned and built work.

While exempt from the requirement for a building consent, this work will still need to comply with the Building Code.

What is the context behind the policy problem and how is the status quo expected to develop?

Addressing housing affordability is a key focus for the Government

Housing affordability is a key issue in New Zealand. Home ownership has dropped from 74 per cent in the 1990s to 65 per cent in 2018.[1] Over the 12 months to June 2023, average weekly housing costs has increased by 14.5 per cent. Data from 2023 illustrates that over a quarter of households that do not own their home now spend more than 40 per cent of their income on housing.[2]

There is also an increasing demand and lack of supply of small houses. In 2018, just under 20 per cent of houses in New Zealand had two bedrooms, with 6 per cent having one bedroom. In contrast, more than half of households had one or two people.[3] Demographic changes, such as an increase in single parent families, people having fewer children and an ageing population, are likely to further increase the demand for smaller houses in the future.

If no action is taken it is possible that regulatory settings may present a barrier to building small dwellings, which are currently subject to the same building consent requirements as larger dwellings. This is despite smaller dwellings having lower consequences of building failure (for example, they have a smaller footprint and cost less to build).

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[1] Statistics New Zealand (2020) Census data from Housing in Aotearoa

[2] Statistics New Zealand (2023) Household income and housing-cost statistics: Year ended June 2023.

[3] Statistics New Zealand (2018) Census data.

This may have an impact on those parts of New Zealand reliant on it as a form of housing in the future, especially older New Zealanders.[4] Additionally, the lack of affordable housing may prevent many people from purchasing a home.

How does the status quo operate in practice and how is this expected to develop?

The Building Act is the primary legislation governing the building industry

Its purpose is that:

- people can use buildings safely and without endangering their health
- buildings have attributes that contribute appropriately to the health, physical independence and wellbeing of the people who use them
- people who use a building can escape from the building if it is on fire
- buildings are designed, constructed and able to be used in ways that promote sustainable development.

The Building Act ultimately aims to improve control of, and encourage better practices in, building design and construction to provide greater assurance to consumers. This includes setting clear expectations of the standards buildings meet (through the Building Code), providing certainty that capable people are undertaking design, construction and inspections, and providing protection for homeowners through mandatory warranties.

The Building Act requires all building work to get a building consent

Of relevance to this proposal is the building consent process set out in the Building Act. The Building Act requires that a person must not carry out any building work except in accordance with a building consent (except where Schedule 1 exemptions apply). This supports buildings to be built to the Building Code – in that buildings are healthy, safe and durable.

The processes involved in applying for, and receiving, building consent are factors that contribute to the costs incurred in building a granny flat. In addition to the fee that councils charge to carry out the services involved, the time it takes to complete these processes can increase the cost of building if there are delays resulting from non-compliant work, or if inspectors miss inspections.

Building Consent Authorities (BCAs), who are often territorial authorities, (TAs) review building plans prior to issuing building consents, undertake inspections during construction, and issue code compliance certificates (CCCs) certifying that the finished work complies with the Building Code.[5] If BCAs identify non-compliance with the Building Code, they can issue notices to fix and compliance schedules which must be followed before the BCA will issue a CCC.

BCAs can also withhold issuing CCCs where building owners have failed to pay for development contributions charged by a TA. Development contributions are a key funding mechanism for local government to support any new infrastructure costs associated with building, specifically the provision of three waters and local roads.

Residential building inspection failure rates

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[4] Stats NZ, National population projections: 2020(base)–2073

[5] The following consent process overview outlines the key steps involved in the building consent process and ensuring that a built home complies with the Building Code: https://www.building.govt.nz/assets/Uploads/projects-and-consents/step-by-step-guide-building-consent-process.pdf

BCAs may undertake between 7 to 14 building inspections for a simple residential building such as a granny flat, depending on the design, location and BCA responsible for inspecting the work. Building work can fail a building inspection at any point during this process.

Residential building inspection failures can be for a range of reasons – some minor and administrative in nature (such as a building not being ready for an inspection), to those of a Building Code compliance nature (such as incorrectly installed wall cladding). Remedying issues associated with failed building inspections adds time and cost (labour and materials) to the building process for both builders and homeowners, as some building work cannot be progressed until a building inspection is passed.

Ranges for residential building inspection failures vary across the country. One submission we received indicates an inspection failure rate of 48 per cent. Auckland Council submitted inspection failure rates averaging 24 to 30 per cent (across all dwellings and associated building work). Sapere, in its cost-benefit analysis of the granny flats proposal, estimated an average inspection failure rate of 43 per cent across the country for simple residential dwellings.

Around 40 per cent of new dwellings consented in the year to September 2024 were built in Auckland. A further 29 per cent were built in the wider North Island, 20 per cent were built in Canterbury and 10 percent built in the wider South Island.[6]

Defects identified during the construction of a house come at a cost. In 2020, the New Zealand Institute for Economic Research (NZIER) estimated that the average cost of remediating defects identified the construction process was six per cent of the total cost of the build.[7]

In the absence of any other regulatory reform we expect inspection failure rates and defect costs to remain relatively static. This is because feedback received through public consultation indicates that some building professionals rely on the building inspection process to identify defects (and work that does not meet the Building Code).

Once building work has completed

Monitoring and enforcement

BCAs and TAs

Should building work not comply with the Building Code, BCAs and TAs have a range of powers under the Building Act including the ability to issue a notice to fix for the work regardless of whether the work has a building consent or whether building work is underway. Those responsible for the work, including the homeowner, would be required to respond to the notice to fix, including any remedial work. Failure to do so could mean the homeowner would be committing an offence under section 40 of the Building Act. These circumstances can attract a fine of up to $200,000, and, in the case of a continuing offence, a further fine of up to $10,000 for every day the offence continues.

MBIE

MBIE can act as an independent arbiter and issue determinations (a legally binding decision) regarding whether building work complies with the Building Code under sections 176-190 of the Building Act. The building work can be planned, underway or complete. Those who can

[6] See https://www.stats.govt.nz/information-releases/building-consents-issued-september-2024/. Please note that these figures do not add to 100 per cent due to rounding.

[7] New Zealand Institute of Economic Research, Economic Cost of Quality Defects 2020

apply for a determination include, but are not limited to, the building owner, Council or BCA, neighbour, and relevant licensed building practitioner.

MBIE also has the power to prosecute offences under the Building Act, in situations where a territorial or regional authority is unable or unwilling to do so. It can also receive and investigate complaints that a BCA is failing, or has failed, to properly perform its statutory functions under the Building Act or has been negligent in performing these functions.

Occupational Licensing Bodies

Occupational licensing bodies provide an additional layer of oversight and accountability for tradespeople. This includes:

- The Building Practitioners Board (BPB), for Licensed Building Practitioners.
- The Plumbers, Gasfitters and Drainlayers Board (PGDB).
- The Electrical Workers Registration Board (EWRB).

Each Board has a range of disciplinary powers, including fines, suspension and cancellation of a licence, training, censure, and placing limitations on a licence. The average number of practitioners disciplined annually by each board over a 5-year period to 2023/24 is:

- 100 tradespeople disciplined by the BPB.
- 28 tradespeople disciplined by the PGDB.
- 37 tradespeople disciplined by the EWRB.

Remedies for negligent or defective work

The Building Act provides consumer protection mechanisms when building a granny flat

The Building Act provides consumer protection for residential building work. This includes a 12-month defect repair period and a 10-year implied warranties period. It also contains pre-contract disclosure requirements, and requirements for written contracts for building work over $30,000. The implied warranties for building work under section 362I of the Building Act requires building products supplied for building work to be suitable for the purpose for which they will be used. Other warranties implied in the Building Act require building work to be carried out in a proper and competent manner, with reasonable care and skill, and in accordance with the plans and specifications set out in the contract.

In some cases, builders may offer their own third-party surety to attract customers. Examples include the Master Builder Guarantee by Master Builders and the Halo Guarantee by NZ Certified Builders.

Other legislation such as the Consumer Guarantees Act 1993 and the Fair Trading Act 1986 also provide consumers with further protection. This includes mechanisms such as mediation, arbitration, adjudication, or civil proceedings to address liability and remediation costs relating to building defects.

Liability for defective building work

The system of joint and several liability exists should something go wrong with the construction and a dispute arises over cost or liability for remediation due to non-compliance with the Code. The ‘joint and several’ liability rule in New Zealand applies to disputes relating to cost and liability for building defects or faulty work involving multiple defendants. Joint and several liability means that each of the guilty parties found responsible for the same loss are both ‘jointly’ liable with the other defendants and are ‘severally’ or individually liable for all the loss. For a party to be liable for cost of remediation, they must be found negligent. These parties can include:

- The designer, who is responsible for ensuring that the plans, specifications and advice they provide are sufficient to result in the building work complying with the Building Code.
- The primary contractor, and any subcontractors (where present) who are responsible for carrying out the building work or part of the building work.
- The product manufacturer, who is responsible for manufacturing and supplying building products that comply with the Building Code.
- The developer, if a new build, who is responsible for obtaining a code compliance certificate before completing the sale of a household unit.
- The BCA, who is responsible for checking that the building consent application complies with the Building Code, and that the building work complies with the building consent.

This system of joint and several liability is geared toward protecting the homeowner and enables the complete collection of costs from negligent parties, as long as one negligent party remains solvent. While many cases are settled outside of court, the existence of joint and several liability means homeowners, who are most impacted in the case of building faults and negligent building work, and who are least able to identify and mitigate risk, do not bear the risk of absent or insolvent defendants.

Other initiatives relevant to the proposal

The Building Act already allows for specified building work to be exempt from needing building consent

Schedule 1 recognises that minor and low risk building work may not need to be subject to the requirements of the building consent process. There are currently over fifty exemptions within Schedule 1, however, only three of these relate to 'sleepouts'. The existing exemptions limit the size and nature of the buildings that fall within the scope of Schedule 1.[8]

Exempting work from requiring a building consent removes the need for BCAs to review the design and construction of that work. It can also reduce the time and cost for building. It places greater reliance on building owners, designers and builders, and building product manufacturers to ensure compliance with the Building Code.

Building consent exemptions under Schedule 1 have been in use since the Building Act came into force (the Building Act 1991 also included building consent exemptions), and these have been added to over time. Exemptions include:

- specified types of building work no matter who carries it out, for example, general maintenance work or building work on unoccupied detached buildings
- some building work carried out by an authorised person (defined in section 42A of the Building Act and under the Plumbers, Gasfitters and Drainlayers Act 2006)
- some building work if it is designed, or the design reviewed, by a registered chartered professional engineer, and the building work is carried out in accordance with that design.

Section 41 of the Building Act allows for the list of building consent exemptions in Schedule 1 to be added to at any time by Order in Council.

Building work that does not require a building consent must still comply with the Building Code and other legislative requirements, such as those under the Resource Management

[8] For example, sleepouts under Schedule 1 must not exceed 30 square metres in floor area, not contain sanitary facilities or facilities for the storage of potable water and must not contain sleeping accommodation unless the building is used in connection with a dwelling and does not contain cooking facilities.

Act 1991 (RMA), the Electricity Act 1992, the Plumbers, Gasfitters, and Drainlayers Act 2006, and the Health and Safety at Work Act 2015.

A previous Regulatory Impact Statement on the proposal to amend Schedule 1 of the Building Act to exempt specified building work from requiring a building consent is relevant to this proposal. This was published in June 2020.[9]

Other initiatives underway to improve the building consent system

A number of other initiatives such as MultiProof and self-certification are relevant to the 'Making it easier to build granny flats' proposal. These initiatives have recently or will soon be implemented and may achieve similar outcomes to reduce the time and cost of building granny flats.

- *MultiProof:* MultiProof is a statement by MBIE that a set of plans and specifications for a building complies with the Building Code. At present, to be eligible to use the scheme you must have the intention and the ability to build an approved design at least 10 times over two years. On 30 September 2024 amendment regulations came into force to improve the flexibility of the scheme by defining minor customisations that can be made to approved MultiProof designs at the time a building consent is applied for.
- *BuiltReady:* BuiltReady is a voluntary modular component manufacturer scheme that shows a manufacturer designs (where applicable) and manufactures modular components that comply with the New Zealand Building Code. Under this scheme the entire prefabricated construction process from design (where relevant), manufacture, assembly, transportation, and installation on-site will be assessed and certified. BuiltReady is not yet fully operational.
- *Occupational Regulations:* MBIE is currently undertaking a review of occupational regulation in the building and construction sector to ensure settings are fit-for-purpose. Occupational regulation aims to protect the public from harm by ensuring services are performed with reasonable care and skill by appropriately licensed professionals.
- *Self-certification schemes:* MBIE is currently working on self-certification Confidential advice to Government
- *BCA Reform work:* MBIE is currently working to identify options to reform New Zealand's 67 BCAs to improve consistency, certainty and efficiency in the building consent process. This includes investigating a new BCA structure, including facilitating voluntary consolidation, regional consenting authorities or establishing a national single point of contact for building consent applications, and liability settings and the role of private insurance in the consent system.
- *Building Products:* The Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill responds to competition issues in the sector by amending the Building Act 2004 to remove barriers to high quality overseas building products entering New Zealand's building product market and being used in New Zealand buildings. The Transport and Infrastructure Select Committee is due to report back on the Bill by 26 March 2025.
- *Remote inspections:* MBIE recently consulted on a range of options to increase the uptake of remote inspections and improve efficiency and productivity in the building inspection process. The consultation also sought feedback on increasing the use of

[9] See https://www.mbie.govt.nz/dmsdocument/11512-impact-summary-building-consent-exemptions-possible-amendments-to-schedule-1-of-the-building-act-2004-proactiverelease-pdf.

Accredited Organisations (Building) to undertake inspections. Public submissions closed on 29 November 2024. MBIE is now in the process of advising Government on next steps.

- *Streamlining the building consent system:* In addition to BCA Reform, remote inspections and self-certification, MBIE is also progressing other work to streamline the building consent process, including consideration of fast-track consent pathways, the scope of building work exempt from a building consent, and the role of producer statements.

What is the policy problem or opportunity?

What is the nature, scope, and scale of the problem?

Around 600 granny flats are built each year.

Building consent fees for small, detached dwellings vary across the country, and is estimated to be around $2000-$5000. For some it may cost even less (around $1500).

Consenting times in the June 2022 quarter took, on average, over 16 months to reach a final inspection, and a further 2 months for a CCC, impacting small housing supply and price dynamics.[10] This compares to around 12 months in the June 2018 quarter, with a further 2 months for a CCC to be issued.[11] These timeframes are an average for all building work irrespective of the size, risk profile and complexity.

MBIE considers that the additional time added to build times through the consenting process may be overstated. In reporting data submitted to MBIE by councils for the third quarter of 2024, a total of 20,284 applications for building consents (including amendments), and 18,922 applications for CCCs, were processed. Out of all the building consent applications, 92% were processed within the statutory timeframe. The median processing time for these applications was 13.4 working days.[12]

Industry feedback received through public consultation suggests that building consenting costs comprise a very small proportion of the overall cost to build. Members of the sector argue that it is the cost of materials and labour that drive up the cost of construction.

Despite the data and sector feedback indicating that consenting costs and timeframes are not a significant factor contributing to the cost of building granny flats, this perception remains common.[13] Homeowners consider that the building consent process is slow, adding unnecessary time and cost when building a granny flat. This perception may present a barrier to those considering building a granny flat.

Additional evidence to support the proposal

The Ministry for the Environment (MfE) commissioned Crow Advisory to estimate the impact of exempting granny flats from the resource consent and building consent processes. Crow Advisory found that while regulatory burden costs are not the most important factor in the decision to build a granny flat, it can still significantly affect the decision to build through removing monetary and non-monetary barriers associated with going through the consent process. It also estimated that the policy could increase granny flat uptake by between

[10] See https://www.stats.govt.nz/news/experimental-indicators-show-longer-building-timeframes/

[11] See table one, https://www.stats.govt.nz/experimental/experimental-building-indicators-march-2022-quarter/.

[12] MBIE Building Consent System: Performance Monitoring, September 2024. These figures exclude where time is paused due to a request for information, which is often due to issues relating to building design.

[13] It is possible that homeowners' perceptions are driven by other fees that are collected through the building consent process, in particular, development contributions. Development contributions are set by territorial authorities and vary across the country. For example, in Auckland, development contributions can range from $9,800 to $77,200 for a granny flat.

224.29% to 416.54% in Auckland, 53.24% to 98.88% in Dunedin, 18.14% to 33.69% in Timaru, and with minimal to no impact in Masterton.[14] The range of estimates reflects uncertainties and potential incompleteness in the consent data provided.

MBIE commissioned Sapere Research Limited (Sapere) to undertake a cost-benefit analysis of allowing granny flats to be built without a building consent. Taking inflation into account, Sapere estimates a median cost of $4,141 for getting a building consent for a home costing less than $350,000 to build. Sapere also estimated the average construction cost of a 60 square metre granny flat at $241,354. Other key conclusions and analysis from Sapere's research can be found throughout this report.[15]

Who are the stakeholders in this issue, what is the nature of their interest, and how are they affected?

MBIE publicly consulted on the granny flats proposal from 17 June 2024 to 12 August 2024.[16] Targeted consultation was undertaken at the same time, which involved workshops and meetings to discuss potential options with key stakeholders.

Targeted consultation

MBIE undertook targeted consultation with key stakeholders based on their experience in the sector and the proximity of their work to the proposal. These included tradespeople, architects, councils, BCAs, engineers and iwi, hapū and Māori groups.

Common feedback received from stakeholders such as Master Builders, Master Plumbers, Engineering New Zealand, Auckland Council and the Insurance Council of New Zealand include:

- Consumers and practitioners would need extensive education and training to ensure that the proposal is implemented successfully.
- The design of the exemption would need to be as simple as possible, with a focus on lightweight construction, simple structures, and limiting the floor area, all to minimise risk.
- There would need to be some form of record of work, especially for banks, insurers, councils and future owners.

Public consultation

Almost 2,000 submissions were received in the public consultation. There was particular interest from homeowners who made up almost a third of the responses received, and those working within the building and architecture sectors (the three biggest submitter groups in the public consultation respectively).

Submitters broadly agreed with the proposal to exempt granny flats from requiring a building consent (excluding councils). Submitters also considered that there would need to be appropriate safeguards in place to lower the risk of building failure, improved consumer protections, and the ability to assign liability fairly and avoid environmental risks, for example from natural hazards.

The discussion document provided background information on building consent fees as well as the household unit equivalent (HUE) determination for charging development

[14] Crow Advisory, Minor Residential Unit Update Analysis: Report on estimated policy impact, page 8 & 38

[15] Sapere Research Limited, Analysis of simple residential dwellings proposal, 8 November 2024 (unpublished)

[16] Further information on the public consultation discussion document and summary of submissions can be found here: Summary of submissions | Ministry of Business, Innovation & Employment

contributions (measuring the standard household and the demand put on infrastructure resource), detailing that most councils treat minor dwellings as between 0.4-0.75 of a HUE. Exact figures vary greatly between the regions and were not included in the discussion document.

The following summarises submissions from key groups:

- **Homeowners** generally supported the proposal to exempt granny flats from requiring a building consent, seeing it as the removal of unnecessary regulation. Homeowners frequently stated that council processes are too onerous and act as an unnecessary barrier to building. Homeowners considered that they should not have to pay development contributions for exempt granny flats.
- **Industry** stakeholders recognised the business opportunities that would be enabled through the proposal but advised caution in its implementation. Many industry submitters considered further information was needed on how compliance with the Building Code will be monitored and enforced.
- **Councils** are wary of the proposal as they consider the costs might outweigh the benefits. Councils are also concerned about the long-term consequences of the policy and the potential for 'knock-on' consequences for ratepayers, in particular with regard to reliable notification, planning, and the implications of additional loading on council infrastructure resources. They consider that some form of building consent is necessary to reduce the risk of building failure and the potential impacts of any poor-quality building after construction.
- **Iwi, hapū and Māori** supported the intent of the proposal and its potential benefits for intergenerational living. Māori communities cite the need for more than one additional dwelling and refer to the need for new national direction for papakāinga.

Does this problem disproportionately affect any population groups?

Supporting intergenerational living and ageing in place is one of the principles underpinning the proposal to exempt granny flats from requiring a building consent.

Making it easier to build granny flats may support homeowners and families looking to downsize to a smaller home. It may also support those experiencing high housing costs, including retirees on fixed incomes, Māori, Pacific peoples, and people living with disabilities.

Enabling these dwellings to be more easily built could benefit the senior population of New Zealand as it helps to support intergenerational living and provides diversified tenure choices for seniors.

Are there any special factors involved in the problem?

At present, MBIE does not consider there are any special factors or obligations relating to Te Tiriti o Waitangi, human rights issues or constitutional issues regarding the Government's proposal to exempt simple, standalone dwellings of up to 60 square metres in size from requiring a building consent.

Some iwi, hapū and Māori submitters noted that they were concerned that the proposal may limit the number of exempt granny flats from being built on whenua Māori (which can have multiple, complex ownership arrangements). The building consent exemption would not limit how many granny flats can be built on one title. This issue sits in the resource consent system and is therefore out of scope for this Regulatory Impact Statement.

What objectives are sought in relation to the policy problem?

The Government's stated outcome of the policy is to *increase the supply of small houses for all New Zealanders, creating more affordable housing options and choice*. The Government considers that the principles for achieving this outcome include:[17]

- enabling the construction of granny flats and other structures in the building system, with appropriate safeguards for key risks and effects
- coordinating requirements within the building system and other regulatory systems
- supporting local government funding and infrastructure by ensuring growth pays for growth
- supporting intergenerational living and ageing in place.

For the purposes of this Regulatory Impact Statement, we are focusing on assessing options to ensure that the options available to reduce the time and cost of building code-compliant granny flats are proportionate to the risks. Taking this approach is necessary to narrow down what options are available to meet the Government's stated objectives (for example providing housing grants or subsidising building consent fees).

[17] See https://www.mbie.govt.nz/dmsdocument/28513-making-it-easier-to-build-granny-flats-discussion-document

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

MBIE has considered the following key criteria in its assessment of options:

1) **Cost to the homeowner**. This considers the costs and savings presented by the different options, including those incurred by stakeholders that can passed on to the homeowner (e.g., builders, TAs), and those that directly fall to the homeowner (e.g., insurance). We note that some costs may be worn by parties other than homeowners in the short-term.
2) **Code compliance.** This looks primarily at home quality and safety, and ensuring the granny flats built will meet the Building Code.
3) **More homes will be built faster (timeliness and supply)**. This meets the Government's objective to increase housing supply.
4) **Simplicity.** The option is simple and practical to implement. This seeks to assess whether options are likely to be easily understood and used by stakeholders. More complex options may limit uptake and overall effectiveness of the option.

We considered if 'risk' should be a criterion. We have not included risk as a standalone criterion as it is one of the key questions we are considering throughout this regulatory impact statement: are the benefits of proposed options are proportionate to the risks. Risk is considered in each of the four criteria above.

What scope will options be considered within?

Regulatory and non-regulatory options within the building regulatory system are considered within scope of this analysis. Options that complement ongoing initiatives relevant to the achievement of the proposal objectives are also within scope. This analysis does not consider the complementary proposal led by MfE to exempt granny flats up to 60 square metres from requiring a resource consent. It also does not consider changes to the Local Government Act 2002 that could deliver time and cost savings (for example, local government infrastructure charges).

Assessment of the impacts of ongoing initiatives without further changes have not been considered within the counterfactual (as the policy work is still ongoing).

What options are being considered?

The counterfactual

MBIE would continue requiring homeowners to get a building consent when building a granny flat. MBIE would also continue implementing or developing initiatives to improve the overall efficiency, flexibility and performance of the building consent system. These initiatives range from major system reform, including self-certification and BCA reform, to smaller changes focusing on the use of remote inspections.

As standalone initiatives without further change, these will have varying significance to the achievement of the specific proposal objectives over time. The impact of some of these is explored as a part of the multicriteria analysis when a direct option (for example, self-certification). Outside of this, the counterfactual considers no intervention. Existing building consent process requirements would continue to apply.

A standalone dwelling up to 60 square metres currently requires the design and building work to go through the building consent process, and for any restricted building work to be done, or supervised by a Licenced Building Practitioner (LBP). Certain work that is low-risk,

such as garages, simple sheds or sleep-outs that don't include sanitary plumbing, is already exempt from building consent requirements under Schedule 1 of the Building Act.

BCAs check building consent applications for compliance with the Building Code before work can begin. BCAs will then inspect the work during the building process to ensure it complies with the consented design (so would meet Building Code requirements). On completion of work, the owner applies for a CCC and the BCA will issue one if the building complies with the building consent. These steps add time and cost, but give building owners, tenants, banks and insurers assurance in the quality and function of the building.

Option one: add a new exemption to Schedule 1 of the Building Act

Dwellings up to 30 square metres that do not contain sanitary and potable water facilities, and other building work that meet a range of other conditions, are currently exempt from requiring a building consent under Schedule 1 of the Building Act. These other conditions include the type of materials used, height above ground, as well as the installation of smoke alarms in conjunction with sleeping accommodation.

Option one would extend existing exemptions under Schedule 1 of the Building Act to cover dwellings of up to 60 square meters in size. Schedule 1 would also need to cover the addition of cooking, sanitary and potable water facilities.

Extending existing exemptions in this manner would enable small dwellings under Schedule 1 of the Building Act, removing building consent requirements and associated costs and time delays for the homeowner.

This option introduces a range of risks associated with the larger building size, the type and weight of materials and building products to sustain the structure. The addition of sanitary, potable water and cooking facilities, and other factors, and the loss of independent oversight also adds risk. Existing Schedule 1 conditions are not aligned to the new risk profile and are inadequate to mitigate or manage the additional risks, which means increased potential of non-compliant buildings and public health risks (fire, sanitation, building failure).

A lack of official records, currently managed through the building consent process, would also have implications for local council infrastructure planning, quality and safety. It would be difficult for TAs to charge development contributions without knowing where building activity is occurring.

Further, liability in the case of defects will shift from BCAs to the homeowner, and homeowners may also face greater difficulties securing finance and insurance for dwellings without a CCC. Homeowners can offset some of this risk through using other inspection processes, such as getting an engineer to produce a Producer Statement 4 (P4) report, or an independent builder's report. These can range from $2000 to $3000 for a P4 report, and $495 to $1000 for a builder's report.

Homeowners can choose to get a building consent for exempt works under Schedule 1, if they wish (for example, to get a CCC). This could include a granny flat built under Schedule 1. For the purposes of the multicriteria assessment we are assuming that most homeowners will not get a building consent, due to the cost and time (both real and perceived) of doing so.

Option two: establish a new Schedule in the Building Act (Government preferred option)

This option would establish a new Schedule in the Building Act to exempt simple standalone dwellings of up to 60 square metres from requiring a building consent. It would contain additional criteria and conditions compared to the existing Schedule 1 to account for the increased risk profile of these buildings and the additional facilities enabled within (cooking, sanitary, and potable water facilities).

All design, building, plumbing and electrical work under this option would need to be undertaken by relevant licensed professionals. All work would still be required to meet the Building Code.

Oversight provided by a BCA would be removed during the equivalent building consent and work completion stages of the dwelling. As such, a BCA would not be liable for assessing whether a completed granny flat complies with the Building Code. However, TAs would be required to advise if the description of building work submitted by a homeowner would likely meet the conditions of the granny flats exemption when issuing a Project Information Memorandum (PIM). Homeowners would also be responsible for submitting as-built plans to the council when a granny flat has been built.

Homeowners would still be required to pay development contributions. TAs would be able to determine the development contribution based on plans submitted to the council as a part of the PIM process.

TAs will be required to provide a PIM for an exempt granny flat within 10 working days, compared to 20 working days now. This timeframe is similar to that provided for a Land Information Memorandum (LIM). TAs will be able to suspend this timeframe where further information is requested from homeowners.

BCAs and TAs would retain existing powers to address non-compliance with the Building Code, including issuing Notices to Fix and prosecuting offences.

The additional exemption conditions are summarised below:

- It must be a new dwelling (not a renovation of an existing dwelling).
- It is designated as ‘Housing – Detached Dwelling’ under the Building Code.
- It must be single storey, with a floor no higher than one metre and a maximum height of four metres above the floor.
- It must be two metres away from any legal boundary or structure.
- It must have interconnected smoke alarms.
- It must use lightweight products for the roof.
- Wall cladding must be no heavier than 220kg/m2.
- It must have a light steel or light timber frame.
- Any plumbing and drainage should be simple, and designed/built in accordance with Acceptable Solutions for compliance with E1, G12 and G13 of the Building Code.
- Plumbing and Drainage services must connect to existing Network Utility Operator (NUO) services, where these exist. If these do not exist, a building consent for those services is required (but just for the services, not for the building).
- All work must have a certificate of work or record of work.
- Where a granny flat is to be built on land subject to a natural hazard, a TA must assess if the plans submitted by a homeowner are sufficient to manage the risk.
- Level-entry showers will be permitted once an appropriate licence class has been established.

As with option one, the key risk is the loss of oversight provided through the building consent inspection process, and homeowners can still choose to get a building consent, builders report or engineers report, if they wish.

Option three: introduce a new opt-in self-certification regime

This option would introduce a new optional self-certification regime for accredited companies and professionals for (but not limited to) small standalone dwellings. Accreditation would be subject to a set of eligibility criteria (such as a fit and proper person test, for example), and the accredited would be able to undertake building work within the approved scope without a building consent.

How this option may operate is still being worked through. For example, the Government could establish the scheme with its own regulator or it may set up an accreditation body in a similar way to other schemes in the Building Act. A BCA's assurance role across the four stages of the consent process could be as follows:

- Design: an accredited company or an approved person must design the dwelling.
- Building consent: the BCA may still be required to approve the design, or parts of it, but not be involved in the assurance checks during the construction phase.
- Building work: BCAs could inspect work that the approved person or accredited company is not authorised to self-certify, or be excluded from this part of the process. This will be dependent on how inspections are specified as the Building Act does not require inspections, however the BCAs require these to establishing reasonable grounds for assuring that a building is built in accordance with the building consent.
- Completion: notify on completion rather than the BCA issuing a code compliance certificate.

Under option three, the assurance checks at the building consent or completion stages, which are usually done by the BCA, would need to be undertaken by an appropriately licensed tradesperson. This would support homes to be built to the Building Code. Where there are issues, we would expect tradespeople to have the appropriate insurance in place to fix defective work, at no or little cost to the homeowner.

The detailed design of potential self-certification pathways is progressing through other work, and further detail is limited and uncertain at this stage. This option is likely to take substantial time to implement, be costly to establish, and unlikely to deliver substantial benefits for the number of granny flats that are expected to be built each year. There are also likely to be strict entry requirements to enter the scheme, which could make it costlier than option two.

It is unclear what the uptake would be as there are conflicting messages about whether the building sector would be willing to take on the risk and cost of certifying building work. It is also possible that the costs to participate in the scheme will be greater than those charged through the current building consent system, which may be passed on to the homeowner.

Option four: targeted promotion of MultiProof

This option is non-statutory and entails the creation and launch of a tailored promotion campaign for the existing MultiProof scheme (see section one for information on MultiProof).

Specifically, the campaign would focus on publicising MultiProof to expand the repertoire of designs to cover more dwellings up to 60 square metres. This should see greater uptake of MultiProof, which should meet the Government's objective to build homes faster.

We note that this option does have some drawbacks. MultiProof, while operational, has only 542 active approvals for use. MBIE has not monitored how often an approval is used and it is unclear whether there is any way to definitively capture this information. A key issue, which was addressed on 30 September 2024, was that MultiProof home designs could not have

minor customisations made to it. As such, we expect promotion and information campaigns could improve uptake of the scheme for larger construction firms. Uptake from smaller firms or sole traders may be more limited as builders must have the intention and ability to build an approved design at least 10 times over two years.

MultiProof would continue to be voluntary, which could further limit uptake if the sector does not consider the benefits outweigh the costs.

However, a benefit of MultiProof is that its use could complement options one through three. Homeowners could, for example, choose to build a granny flat without a building consent using a MultiProof design.

Option five: creating a new, freely available, MBIE MultiProof design

This option would see MBIE developing specific designs for small standalone houses up to 60 square metres and approving them under MultiProof. These could then be made freely available to the public. The new MultiProof design would be similar to that provided by the city of Seattle (although that same scheme also reduces the number of building inspections).[1819]

Option five has similar opportunities and risks as option four. However, it would also cost more and take longer to implement than option four. This is because MBIE would need to develop specific housing designs and develop a process for who may be qualified to use them (to help manage any liability and risk that homes are poorly constructed). Option five would also require substantial promotion and implementation support to be successful.

We note that a recent review of Seattle's scheme found that homes built through their scheme outnumbered traditional permitting processes two to one.[20]

[18] See https://aduniverse-seattlecitygis.hub.arcgis.com/pages/gallery.

[19] See https://www.seattle.gov/sdci/inspections/residential-inspection-quick-sheets. Eight different inspections are listed as applying.

[20] See https://www.kuow.org/stories/seattle-s-adu-boom-continues-outnumbering-single-family-permits-2-to-1.

Key:

+2 or +1 much better/better than the status quo

0 about the same as the status quo

-1 or -2 worse / much worse than the status quo

How do the options compare to the status quo/counterfactual?

Table two: Multicriteria Analysis

	Counterfactual (status quo)	Option one: add a new exemption to Schedule 1 of the Building Act	Option two: establish a new Schedule within the Building Act (**govt preferred**)	Option three: introduce a new opt-in self-certification scheme	Option four: targeted promotion of MultiProof	Option five: create a new MultiProof approval
Cost to Homeowners	0 MultiProof may reduce costs for a small number of homeowners over time. Homeowners are expected to pay between $2000-$5000 for a building consent when building a granny flat.	-1 Removes building consent costs. Should reduce build time and associated costs with getting a building consent (including time added through failed inspections). This option is likely to result in more latent (undetected) defects. This has the potential to increase costs beyond the issue that requires repairing. This may see builders raising the cost of work to offset any additional liability or insurance of works. There may be higher insurance premiums (or non-payment) for work without a CCC. Without visibility of new built works councils may choose to recover development contributions through the general rating system. Some homeowners may choose to use third parties to verify that built works comply with the Building Code. However, these are likely to provide less assurance than a BCA inspection and may in some circumstances cost more than a building consent.	0 Removes building consent costs. Adds additional costs in the form of a PIM. Should reduce build time and associated costs for all homeowners as with option one. This option may result in more latent defects, though less than option one as there are greater safeguards over what work is exempt. This may see builders raising the cost of work to offset any additional liability or insurance of works. Some homeowners may choose to use third parties to verify that built works comply to the code, as with option one. Home insurance costs may increase.	0 Likely to reduce some costs for the homeowner, but accreditation requirements and possible implications for available pool of professionals may offset some benefits to homeowners. The option is costly and will take considerable time to establish. It will shift liability from BCAs to building professionals, which may result in higher costs to homeowners over time. At this point in the policy development process, it is difficult quantify costs.	+1 Homes built under MultiProof incur less costs through the building consent process. MultiProof homes have simple designs and may improve supply and affordability with greater uptake. Homeowner views on standardised designs may limit uptake. Risk remains that uptake continues to be low despite targeted promotion, reducing any beneficial impacts.	+1 Homes built under MultiProof incur less costs through the building consent process. MultiProof homes have simple designs and may improve supply and affordability with greater uptake. Effectiveness may be limited by uptake/ homeowner preferences regarding standardised designs.
Code compliance	0 Granny flats are required to be built to the Building Code. This is checked through the process of getting a building consent.	-2 This option would see buildings with higher risk profiles being built. There are limited means for BCAs or MBIE to determine the number of dwellings being built or whether they comply with the Building Code. Based on current failed inspection rates it is likely that many dwellings would not comply with the Building Code. Use of private inspections may support buildings to comply with the Building Code.	-1 Based on current failed inspection rates it is likely that some dwellings would not comply with the Building Code. This is mitigated by the additional conditions and notification settings which should safeguard against widespread failure; however, there are limited feedback mechanisms to detect any issues outside existing complaints mechanisms. Use of private inspections may support buildings to comply with the Building Code.	0 Self-certification will shift most assurance responsibilities from BCA's to accredited professionals. It is possible that some defects by building professionals remain undetected. Final policy decisions of the design of self-certification means that its overall impact on code compliance is hard to predict.	0 Homes approved under MultiProof are designed to meet the Building Code. The building consent process will check if the homes comply with the Building Code. MultiProof approved designs will provide clear instructions to tradespeople on how to build to the consented design, reducing the risk of non-compliance with the code.	0 Homes approved under the MultiProof are designed to meet the Building Code. The building consent process will check if the homes comply with the Building Code. MultiProof approved designs will provide clear instructions to tradespeople on how to build to the consented design, reducing the risk of non-compliance with the code.

	Counterfactual (status quo)	Option one: add a new exemption to Schedule 1 of the Building Act	Option two: establish a new Schedule within the Building Act (**govt preferred**)	Option three: introduce a new opt-in self-certification scheme	Option four: targeted promotion of MultiProof	Option five: create a new MultiProof approval
Timeliness and supply	0 On average there are 7 building consent inspections. Additional time accrues where there is a failed inspection. Building consent and CCC applications can take up to 20 days to process.	+2 Homes will be built much faster without any building consent processes, or council application processes. This excludes the impact and availability of external factors such as building materials/tradespeople.	+2 Sapere estimates this option will increase the number of granny flats built by 7,866 over 10 years. PIMs will take around 10 working days to process. This is unlikely to impact on the build time of homes and can be done during the planning stage.	+2 Homes may be built faster than the status quo as there is likely to be fewer failed inspections. However, final policy decisions of the design of self-certification means that its overall impact on timeliness is hard to predict (e.g., availability of suitable tradespeople to self-certify).	+1 MultiProof building consent processing times are faster. These homes will still require inspections and CCCs. We expect MultiProof and homes to have lower inspection failure rates (as these homes are based on simple, approved designs).	+1 MultiProof building consent processing times are faster. These homes will still require inspections and CCCs. We expect MultiProof homes to have lower inspection failure rates (as these homes are based on simple, approved designs). Uptake of a similar scheme in Seattle has shown MultiProof homes outnumber other consented homes 2:1.
Simplicity	0 The current building consent system is understood by most actors.	+2 This option is likely relatively easy to implement and operationalise as it would exempt granny flats from requiring a building consent, with conditions. It would do so using existing mechanisms in the Building Act. With no oversight of the schedule there would be no complications regarding land-use, building design or collection of development contributions.	+1 As with option 1, the option is relatively easy to implement in that it introduces a clear set of criteria granny flats must meet to be exempt from a building consent. There are likely to be some cases on the margin that will require guidance and information to be provided to homeowners and builders. These include land-use cases and how this interacts with the Building Act, along with the collection of development contributions.	-1 This is likely to represent significant cost and effort to establish a self-certifying licensing scheme for small standalone dwellings, requiring education of professionals, set-up of systems, as well as ongoing efforts to ensure compliance and maintain the scheme. This cost is disproportionate to the work in scope of the proposed building consent exemption. We note that this option would receive a different assessment if applied to more than just granny flats.	0 Additional promotional material for MultiProof is easy to implement and can draw on existing materials and guidance. This option would not require any changes to legislation. Uptake of MultiProof designs in smaller firms or sole traders may be limited without changes to MultiProof criteria.	-1 It could be time-consuming to create new MultiProof designs and inform/ educate the system on the differences between this and the current MultiProof and building consent systems. However, this could draw on existing resources, guidance, templates and processes.
Overall assessment	**0**	**+1**	**+2**	**+1**	**+2**	**+1**

What are the marginal costs and benefits of the Government's preferred option?

Table three: MBIE Cost-Benefit Analysis of option two

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Homeowners	Requirement to get a PIM	**$850 per dwelling.**	**Medium certainty** Wellington City Council currently charges $847.5 for a PIM. This is one of the highest costs of a PIM under the status quo.
	Increased average defect cost	**$9,654 per dwelling** It is unknown what proportion of costs building practitioners will own. It is possible that this cost will be split between builders and homeowners.	**High certainty for likelihood, low certainty for quantum** Defects are estimated to be 6%, or $14,481 of a $241,354 granny flat. Should the defect rate increase to 10%, this would see the cost of defects contributing $24,135 of a granny flat. NZIER estimates defects add 3-9% to the total cost of a build. We have used a higher estimate due to the impact of an event such as leaky homes. We are also considering the average cost spread out over 680 homes – some homes are likely to be defect free while others may have significant, undetected defects.
	Cost to get independent assurance	**Cost of getting a builder's report** $495 per report **Cost of getting a P4 engineer's report** $2,000 per report	**Low certainty for likelihood, medium certainty for quantum** Most homeowners are unlikely to get an independent opinion from a builder or engineer, due to the cost of getting one and the level of assurance provided. Both figures used by Sapere in its CBA.
	Increased insurance	**Low-Medium** Insurance costs for unconsented works are likely to be more expensive and may not provide insurance coverage until after an insurable event.	**High (but not quantifiable)** Many New Zealand-based legal firms note the risk presented by unconsented buildings. This includes insurance providers not covering damage to unconsented building work, or where damage started in unconsented areas.

Building profession	Requirement to address non-compliant work	**Unknown** It is unknown what proportion of costs building practitioners will own. It is possible that this cost will be split between builders and homeowners.	**Medium certainty** We assume that ultimately builders will transfer or price in average defect rates into their construction rates to homeowners. As such, we do not consider there to be substantial, additional long-term costs to the builder.
	Loss of Building Research Levy (BRANZ is the ultimate recipient for publishing industry-good research).	**$227,542 per year** Premised on 943 granny flats built under the status quo at $241,354.	**Medium certainty** A levy of $1 per $1000 for new building works is currently charged through the building consent system. This levy will not be collected for exempt granny flats. Over a ten-year period we expect this number to be lower initially and higher in later years.
BCAs / TAs	Increased cost to monitor and enforce	**Medium impact** BCAs and TAs may be required to increase their enforcement and monitoring functions to detect non-compliant work. The cost of these activities is unlikely to be met through infringement fines.	**Medium certainty.** Some BCAs and TAs may choose to maintain their current levels of monitoring and enforcement. This however could increase the likelihood of non-compliant homes being built.
MBIE	Increased cost to monitor, enforce and produce guidance	**Medium impact** We estimate the possibility of needing 5 FTE to support implementation, including ongoing monitoring and enforcement.	**Medium certainty** This is based on our experience of expanding the Schedule 1 exemptions in the past. It is not yet clear how this resourcing need will be met. The different functions sit across several teams within MBIE.
	Loss of Building Levy	**$398,294 per year** Premised on 943 granny flats built under the status quo at $241,354.	**Medium certainty** A levy of $1.75 per $1000 for new building works is currently charged through the building consent system. This levy will not be collected for exempt granny flats. Over a ten-year period we expect this number to be lower initially and higher in later years.
Occupational Licensing Bodies	Increased cost to monitor and enforce	**Low impact**	**Medium certainty**

		Possible increase in the number of practitioners referred to disciplinary tribunals.	We expect there to be an increase in the number of practitioners referred for disciplinary processes. This is based on our experience of expanding the Schedule 1 exemptions in the past.
Total monetised costs		**Total annual cost - $6.36m to $10.37m** • PIM - $1,470,500 • Latent defects – $4,008,341 to $8,016,682 • Levies - $625,891 • Builder's report – $85,635 • Engineer's report – $173,000 **Estimated cost over 10 years (excluding inflation)** $63.63m – $103.71m	• All homeowners will be required to purchase a PIM. • We assume that 5% of homeowners will choose to get a P4 engineer's report. • We assume that 10% of homeowners will get a builder's report. • We assume that 1,730 granny flats will be built each year. Sapere estimates that over a 10-year period from 2026 there would be 9,431 homes built under the status quo and 7,866 as induced demand. • We assume that 24 to 48 per cent of granny flats have a material latent defect (submitted to us by TAs). • We assume that 100 per cent of homeowners do not get a building consent.
Non-monetised costs		**Medium impact**	**Medium certainty**
Additional benefits of the preferred option compared to taking no action			
Homeowners	Avoided consent costs	**$2000 to 5000 per dwelling** Sapere estimate**: $4141**	**High certainty** We have used a Sapere estimate here, however, it is possible that this is on the higher end of building consent fees currently charged.
	Additional housing capacity	**Medium-high impact** 787 new homes per year. Possible rental income. Supports intergenerational homes.	**Medium certainty** Sapere estimates that the Government's proposal would lead to an additional 7,866 homes being built over 10 years from 2026.
Builders	Additional time to build more houses	**Medium impact**	**High certainty** Failed building inspections can include minor or administrative errors. This adds avoidable time and cost to work.

BCAs / TAs	Resources freed up to focus on other activities	**Low impact** Building consent officers and inspectors will be freed up to do other work. It is possible councils will adjust their service offering and staffing levels to match the new demand.	**Medium certainty** Anecdotal evidence collected resulting from the 2021 Schedule 1 changes.
Total monetised benefits		**Total annual benefit $7.16m** **Estimated benefit over 10 years (excluding inflation)** $71.64m	• We assume that 1,730 granny flats will be built each year. Sapere estimates that over a 10-year period from 2026 there would be 9,431 homes built under the status quo and 7,866 as induced demand. • We assume that 100 per cent of homeowners do not get a building consent.
Non-monetised benefits		**Low-medium impact**	**Medium certainty**

We have taken an approach to the cost-benefit analysis that puts the homeowner at the centre of the CBA. This is because we see the homeowner wearing both the main costs and the benefits of this policy (for example, the cost of defects and building consent cost).

We do not quantify the value of the asset in this CBA. This is because in the absence of this policy this is money that could be spent toward other economic or building activity (for example, building a larger home, building a sleepout, extending a home, bank deposit). Further, we also consider other costs, such as development contributions, may present a greater barrier for homeowners when building homes.

We do not quantify time saved by the builder, or potential rental income, in this CBA. This is because any time and cost savings at the point of build may be offset towards future time and cost used to repair defective works. We do not quantify rental income as we cannot assume homeowners will purchase homes without a mortgage – so any rental income may be offset by mortgage repayments.

Loss of the Building Levy is calculated under the status quo. This is because lost revenue from induced demand cannot be counted as a cost of the policy (as this is money that would not have been collected under the status quo). This is compared to the cost of defects, where the cost of the induced demand and the status quo should be calculated to understand the potential cost impact to homeowners.

We do not assume that homeowners will choose to get a building consent under the exemption. However, in practice this is likely to occur. We note that this would result in slightly lower cost and benefit figures – but the proportionality would remain the same.

Cost-Benefit Analysis by Sapere

The following table summarises modelling undertaken by Sapere assessing the costs and benefits of exempting granny flats from requiring a building consent. We note that Sapere's CBA is premised on a breakeven analysis. This sets out how much defects would have to increase by for the Government's proposal to no longer be economic. It has taken this approach as there is little evidence to suggest how defect rates will change.

Sapere's base (preferred) model assumes that the cost of defects does not increase from the status quo, whereas the pessimistic scenario (scenario 4) sees increased costs of 10 per cent of the build – compared to 6 per cent under the status quo. We consider this model to be realistic, as defects cost more to repair over time (in particular, where a defect causes localised damage). Scenarios 2 and 3 set out scenarios where a builder's report or engineer's report is purchased 100 per cent of the time. Scenario 5 is where the cost of defects decreases to 4 per cent of a build. Scenario 6 is where granny flats are built as a substitute for existing building plans (such as building a sleepout).

Table four: Sapere CBA

Option 2 – figures expressed in $m.		Scenario 1 Base model	Scenario 2 Builder's report	Scenario 3 Engineer's report	Scenario 4 Pessimistic scenario	Scenario 5 Optimistic scenario	Scenario 6 Transfers scenario
Costs	Implementation costs	$0.8	$0.8	$0.8	$0.8	$0.8	$0.8
	Monitoring and enforcement	$1.8	$1.8	$1.8	$1.8	$1.8	$1.8
	Compliance costs	$10.8	$11.1	$12.2	$13.1	$12.3	$10.8
	Construction costs	$2,064.5	$2,064.5	$2,064.5	$1,762.9	$2,129.2	$980.3
	Cost of increased defects	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
	Subtotal	**$2,077.8**	**$2,078.2**	**$2,079.2**	**$1,778.5**	**$2,144.1**	**$993.7**
Benefits	Avoided cost of consent	$41.9	$41.9	$41.9	$41.9	$41.9	$41.9
	Faster construction completion – builder	$84.0	$84.0	$84.0	$71.8	$96.2	$84.0
	Faster construction completion – owner	$14.6	$14.6	$14.6	$10.5	$19.7	$3.8
	Provision of housing	$2,048.3	$2,048.3	$2,048.3	$1,589.7	$2,385.1	$861.9
	Subtotal	**$2,188.9**	**$2,188.9**	**$2,188.9**	**$1,713.9**	**$2,542.9**	**$991.6**
NPV (known impacts)		**$111.0**	**$110.7**	**$109.6**	**-$64.6**	**$398.8**	**-$2.0**
Maximum increase in defects to still breakeven		**46.8%**	**46.6%**	**46.2%**	**-16.0%**	**274.0%**	**-1.8%**

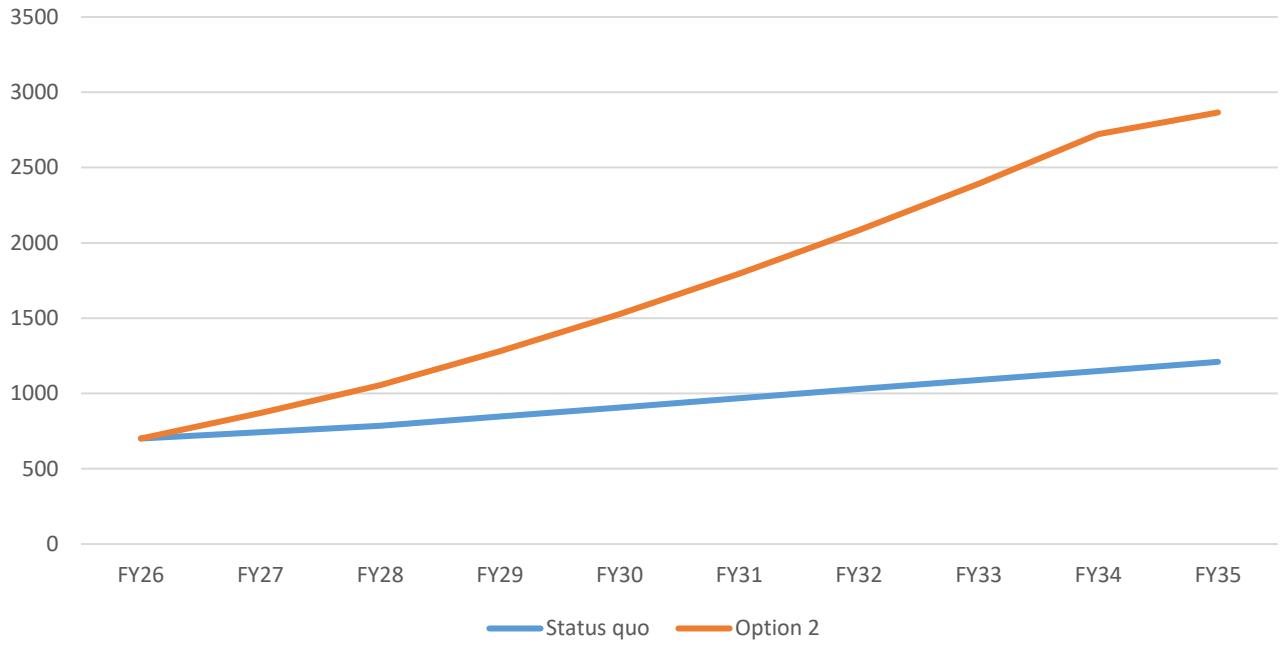
Induced demand – option 2

The following tables set out Sapere's estimate of the induced demand from option 2.

Table five: granny flats induced demand

New Zealand	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035	Cum. at (FY2035)
Status quo	701	744	786	847	907	968	1,029	1,089	1,150	1,210	10,157
Option 2: Induced demand	-	127	269	434	621	828	1,055	1,304	1,573	1,656	7,866
Total	701	871	1055	1281	1528	1796	2084	2393	2723	2866	17,297

Figure six: total estimated number of granny flats built per year



What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

We consider that the Government's proposed option (option two) would substantially increase the number of granny flats built. This is because removing the building consent process is likely to deliver time and cost savings for those building a granny flat. Homeowners will save $2000 to $5000 in building consent fees alone.

This would support the Government's goals for the building and housing systems and deliver on its coalition agreement.

However, reducing the regulatory requirements and costs also reduces some of the regulatory protections provided through the building consent system. Combined with the limitations in the data available, there is a high level of uncertainty on whether the immediate benefits will continue to outweigh the costs in the longer-term. In particular, it is possible that the cost and incidence of latent defects will increase. Latent defects impose a greater cost to

remedy than the current estimated average cost of addressing defects through the building consent process (six per cent).

Table seven: MBIE CBA 10-year summary (monetised)

Total monetised costs	$63.63m – $103.71m
Total monetised benefits	$71.64m
Net result	(-$32.07m) to $8.01m 7,866 additional granny flats built

The Government's proposal also shifts the responsibility of ensuring a granny flat has been constructed to the Building Code to tradespeople and the homeowner (who are least able to make decisions about Code compliance and build quality). This risks leaving the homeowner responsible for fixing latent defects, as councils would no longer be liable (in most cases) for building defects should other parties to the building work be insolvent.

Further, if the cost of defects increases beyond the status quo (including the number of critical defects) this is likely to be passed to the homeowner through price increases, should building professionals wish to maintain similar profit margins as they do now. This includes the potential for cross-subsidisation, where building professionals' price collective risk into all the work they deliver. In this scenario it is unclear if cross-subsidisation would expand to include consented building work.

While unlikely to deliver the same levels of housing growth as option two, we consider that promoting uptake of MultiProof may partially support the Government's objective of reducing time and compliance costs of building a granny flat, while maintaining the checks and balances through the building consent process to ensure buildings are healthy, safe and durable. Option four also:

- Imposes little additional cost to the Government, and no additional costs or risks to homeowners, BCAs and builders.
- Does not prevent other further work, including that currently being considered through the self-certification work programme, from occurring.
- Could complement option two, which could help manage the risk of poorly designed homes being built (but not the risk of homes being built to the plans or the conditions of the land).

Lastly, we note that a benefit of the Government's preferred option is the ability for homeowners to continue to get a building consent, if they wish. This provides a regulatory safeguard if required, as well as providing greater choice for homeowners that may prefer to get a home built with the protections afforded through the building consent system.

Limitations on analysis and assumptions

Limitations

Our analysis is constrained by a range of non-regulatory factors that will influence the achievement of objectives and performance against the assessment criteria. These factors have the potential to affect the decision-making of all actors within the building system and are difficult to quantify or fully estimate in terms of potential flow-on effects.

These factors include:

- **The positioning of financiers and insurance markets.** It is impossible to assess if and how homeowners will be able to insure or borrow money to build granny flats. Based on early conversations with insurers and one bank, it is likely that homeowners should be able insure and borrow to build granny flats. However, key uncertainties remain regarding:
    - whether insurance costs will increase
    - whether insurance cover will extend to unconsented works, and what may occur should an insurable event start in a part of the building that is later found to not comply with the Building Code
    - whether the wider insurance market will continue to cover exempt granny flats should these buildings become associated with higher, costlier defect rates
    - whether bank lending will be against the granny flat or another dwelling.
- **Whether defect rates will increase**. It is difficult to assess whether the removal of BCA inspections will decrease the number of defects (both visual and latent) as a result of operating in a higher-trust environment, or increase as a result of less oversight.
- **The potential cost of latent defects compared to defects identified during a build**. We know that around six per cent of the cost of a new build is due to addressing defects identified during the build process. However, little research has been done on the cost of latent defects. We have used a conservative 10 per cent rate for our CBA, given the potential risk of needing to replace a roof, cladding, or do an entire rebuild.
- **Potential uptake of option four or five**. For example, the MultiProof pathway has significant potential to deliver key premises of the proposal while mitigating many of the risks, but requires enough homeowners and designers to be aware of the scheme and benefits, and invest in these.
- **How long building professionals have to wait for a building inspection.** There is no current information on how long building professionals wait for a building inspection. In 2022 this was reported to be 10 to 33 days, from four days in 2019.[21] We consider it unlikely that wait times remain at this level due to the factors that led to delays during that period, for example COVID-19 responses and supply chain issues.

Assumptions (when not mentioned elsewhere)

Under all options we assume that most homeowners will continue to meet their obligations to pay development contributions. These vary across the country and can be up to $77,200 in Auckland (inclusive of development contributions and infrastructure growth charges). As discussed elsewhere in this document we note that some homeowners may seek to avoid or delay payment of development contributions, and that councils will be able to rely on existing legislation mechanisms to collect.

We assume that all homeowners will receive a PIM under option two. However, there is risk that some homeowners would assume that the existence of a granny flats exemption means that there are no additional considerations or conditions that they must meet (such as applying for a PIM. We note however that this is a risk present in the status quo – where homeowners may avoid getting a building consent where one is required, accidentally or deliberately.

[21] See https://www.rnz.co.nz/news/national/465367/sloppy-builders-may-be-contributing-to-building-inspection-delays

We assume that most, if not all, homeowners under options one and two will not get a builder's report or P4 report. This is due to both the cost and limitations of both (for example, fewer building inspections). We apply that same approach and reasoning for homeowners voluntarily choosing to get a building consent, due to the perceived cost and value it presents.

We assume building inspection failure rates of 24 to 48 per cent would translate to exempt granny flats not complying with the Building Code. This is based on information submitted to us on the percentage of building work that fails a building inspection. We have not provided an average or median figure due to the level of uncertainty around this figure (the reasons vary as to why building work fails an inspection). We also note that some builders may produce better work in a high-trust environment (the absence of a building inspection) and some buildings may produce similar or more defective building work (to maximise profit, defects may not be detected for some time, use of unskilled subcontractors).

We note that housing supply and demand can be influenced by other Government policies or consumer choice (for example, homeowners' plans to upsize or downsize a primary dwelling based on the stage of life they are at, immigration). For the purposes of this RIS we do not examine or quantify these impacts as the focus of this RIS is on the building consent system.

We also note that in some circumstances induced demand for granny flats could displace demand for other forms of housing (for example, larger dwellings, or exempt building work less than 30 square metres attached to a primary dwelling). This work is covered off in scenario 6 in Sapere's CBA (*see table four).*

Section 3: Delivering an option

How will the new arrangements be implemented?

Confidential advice to Government

Role of MBIE

MBIE, as the regulator, will be responsible for the implementation, ongoing operation and enforcement of the new exemption regime. The implementation work will include producing guidance, making changes to the Building.govt.nz website, establishing a public education campaign, and producing other collateral or resources to support the new regime. It may also include updating regulations to support implementation, for example, the development of a new waterproofing LBP license class and record of work form.

MBIE will also have a role in updating and producing information and guidance for homeowners, industry, TAs and BCAs. This may include working with professional bodies such as Certified Builders Association of New Zealand, Master Plumbers New Zealand, Registered Engineering Associates and the Registered Master Builders Association.

Due to the increased risk of non-compliant building work under the preferred option, there is the potential of increased demand on MBIE's services for dispute resolution, in particular through its determinations function. MBIE is currently responsible for making binding determinations about disputes on certain building matters, such as compliance with the Building Code or a TA's decision on exemptions from building consent requirements.

We assume there will be no new funding to implement these proposals, which would require reprioritisation of MBIE resource and will have corresponding impacts on MBIE's existing functions relating to the building regulatory system. This could include time to respond to other building complaints, ability to investigate other building disputes and issue determinations, and ability to implement and deliver other building system changes.

Occupational licensing bodies

Occupational licensing bodies such as the Building Practitioners Board and Plumbers, Gasfitters and Drainlayers Board are responsible for managing complaints about licensed tradespeople. The proposal is conditional on granny flats being built by trusted, licensed tradespeople, and in keeping councils informed of planned and built work. We expect the number of complaints about these tradespeople to increase in the short to medium-term, as some non-compliance is likely to occur, particularly in the initial phases as the new requirements are introduced. Support from occupational licensing bodies may also be needed when developing new regulations and implementing the proposed solution, for example, the development of a record of work form.

Territorial authorities / BCAs

TAs will be responsible for preparing and issuing Project Information Memorandum (PIM) that provides information to homeowners about their property, any relevant district or regional plan requirements, identified hazards or special features and the development contributions that they must pay. TAs will also be responsible for storing as-built plans submitted by homeowners, and the Certificates of Work and Records of Work following construction of the

building. We anticipate this will impose additional costs on TAs to establish these systems, but TAs will be able to cost recover for this work through existing legislated powers (for example, PIM fees, infringement notices and general rates).

It is possible that some homeowners will look to avoid paying their development contributions. Councils will be able to undertake debt-recovery proceedings in these circumstances.

While not being responsible for assessing if built homes comply with the Building Code, TAs / BCAs will retain existing powers to issue notices to fix and prosecute offences under the Building Act. MBIE would also continue to have the ability to enforce notices to fix where TAs take no action.

Communication of changes

The changes to legislation will be communicated through multiple channels to stakeholders, paid publicity (search engine optimisation) and leveraging existing relationships to on-share information, particularly with homeowners who may be harder to reach.

Proactive and reactive engagement with stakeholders is expected, including targeted engagement with local government and industry associations. MBIE intends to manage queries and gaps in knowledge by developing online guidance targeted to each audience alongside a public education campaign. This will help support homeowners to make informed decisions when building granny flats, as well as to support TAs and BCAs to understand what their role in the building system is in relation to granny flats.

Proactive and ongoing engagement is necessary to manage implementation risks

Ongoing engagement with the Ministry for Environment (MfE) on its National Environmental Standards for granny flats and the Department of Internal Affairs (DIA) is required to ensure alignment of the building and resource consent exemptions for granny flats. This includes both the policy and implementation (guidance).

The preferred option shifts much of the risk to homeowners should building work fail to meet the Building Code. There is a risk that homeowners are either unaware of this risk, or assume the risk is being managed through other processes (for example, through occupational licensing regimes). To manage this risk guidance and information will be proactively provided and promoted to homeowners.

Confidential advice to Government

How will the new arrangements be monitored, evaluated, and reviewed?

This proposal, if agreed to, will need to be integrated into the existing regulatory system. One of MBIE's key roles as the system steward and central regulator is to monitor the performance of the building regulatory system.

MBIE intends to monitor:

- The number of granny flats that are built.
- The length of time it takes to build a granny flat from when a PIM is issued.
- The number and quality of PIMs that are issued, compared to the number of building consents that are issued for homes less than 60 square metres.

- The number of complaints raised with us, both through the determinations function and MBIE tenancy services.
- Complaints raised through occupational licensing bodies such as the Building Practitioners Board, and other potentially affected regulators such as WorkSafe New Zealand, who investigate workplace health and safety issues along with gas and electrical installation safety complaints. This will help understand if there are issues with the policy settings (the exemption conditions) or if there are recidivist tradespeople.
- The number of notices to fix issued for granny flats, and the nature of these.
- The number of homeowners who have not paid their development contributions.
- The cost, availability and coverage of insurance and lending services for exempt granny flats.

Some of the areas listed above would be new monitoring activity for MBIE. Adequate resourcing will be essential for understanding the impact and overall effectiveness of the Government's proposal.

MBIE also intends to actively monitor if the exemption conditions are fit for purpose. This includes looking at whether any new exemptions could be introduced (due to changes in building standards or occupational licensing regimes), or whether proposed conditions should be removed due to the level of emerging risk they present.

Information that may be difficult to collect

It will be difficult to determine whether the number, incidence or cost of defects will increase (both Building Code and cosmetic defects). It will also be difficult to determine whether any induced demand is due to the policy, or if any induced demand comes at the cost of other building activity. This is because this information will not be collected by territorial authorities or MBIE. In these instances, MBIE may be required to work with external parties or rely on research produced by industry bodies such as the Building Research Association of New Zealand.

Timeframe for review

MBIE intends to review the arrangements within three years after commencement of the building consent exemption. This is due to level of risk introduced by removing building inspections and certification of the building work by an independent third-party. The review will focus on the effectiveness of the policy, and whether the proposed conditions are fit for purpose and sufficiently managing risk. The review will seek to explore this through the data listed in the bullets above.

MBIE will then provide the Government with advice on what, if any, changes are required.