Supplementary Analysis: Proposed changes to the Building Act 2004 to allow simple standalone dwellings up to 70 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:	4 March 2025

Opportunity Definition

The Government is seeking to reduce the regulatory burden for people building small, standalone dwellings less than 70 square metres (more commonly called 'granny flats') so that they are quicker and less costly to build.

Executive Summary

The Government has a programme of work underway to speed up the supply of housing, enable more affordable housing options and create choice for all New Zealanders

This paper provides a supplementary analysis to that provided through the Regulatory Impact Statement (RIS) *Proposed changes to the Building Act 2004 to allow simple, standalone dwellings up to 60 square metres to be built without a building consent.*

Officials consider it likely that the assessment and conclusions provided through the December 2024 RIS do not require updating to support Ministerial decision making. This is because many granny flats are likely to be smaller than the maximum provided through the updated proposal (70 square metres), and the risks, trade-offs and considerations remain the same. No changes are proposed to how the granny flats building consent exemption will be implemented, monitored or evaluated.

This supplementary analysis provides more accurate figures on the number of granny flats that may be in scope of the proposal, along with possible costs and benefits.

Status quo

Around 800 buildings up to 70 square metres are constructed each year under a building consent.

Consultation

Between June and August 2024, public feedback was sought on whether the proposed building conditions, including the 60 square metre floor limit, are appropriate. In general, and for those that provided feedback, homeowners supported increasing the 60 square

metre limit or having no limit at all. However, some industry stakeholders that provided feedback on the 60 square metre floor limit did not support increasing it as they consider that the larger the structure the more complex it becomes, which can increase the likelihood of defects occurring.

Conclusion

Allowing granny flats up to 70 square metres to be built without a building consent is estimated to increase the supply of granny flats by around 13,000 units over 10 years. We note that this differs from our December 2024 conclusion which estimated that an additional 7,866 granny flats up to 60 square metres would be built. The rationale for induced demand remains the same: the Government's proposed option will reduce some of the time and up-front costs of building a granny flat.

However, as indicated through the December 2024 RIS, the building consent exemption 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 Code Compliance Certificate (CCC). As such, there is a high degree of uncertainty on:

- Whether the number of latent (undetected) building defects will increase, which are often more costly to repair than defects identified during the construction of a home. The proposal could also leave homeowners responsible for fixing latent defects should other parties to the building work be absent or 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.

The table below indicates the key outcomes of MBIE's cost-benefit analysis.

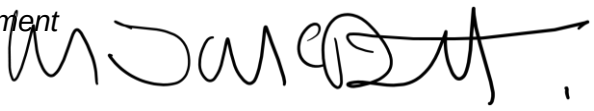
Table one: estimated 10-year monetised cost and benefits of the Government's preferred option

Total monetised costs	$111.44m – $182.85m
Total monetised benefits	$122.99m
Net result	(-$59.86m) to $11.55m 13,138 additional granny flats built

Limitations and Constraints on Analysis

In addition to the limitations highlighted in the original RIS, the analysis in this supplementary analysis is limited by:

- Gaps in public and sector stakeholder feedback on a 70 square metre limit – as this was not specifically consulted on in 2024.
- The likelihood of additional building defects from an increase from 60 to 70 square metres.
- Understanding whether homeowners will choose to build homes smaller than 70 square metres by using the exemption pathway instead of building a home greater than 70 square metres that would require a building consent.
- The speed of policy development. The Government seeks to introduce a Bill in 2025. This has limited the time available to collect information, seek feedback and assess options.

Responsible Manager(s) (completed by relevant manager)	
Matthew McDermott, Manager, Building Performance and Resilience Policy *Ministry of Business, Innovation and Employment* *3 March 2025* 	
Quality Assurance (completed by QA panel)	
Reviewing Agency:	MBIE Quality Assurance Panel
Panel Assessment & Comment:	MBIE's Quality Assurance Panel has reviewed the Supplementary Analysis and considers that it partially meets the Quality Assurance Criteria. The panel notes that the team has used consistent assumptions which show the marginal change in the CBA. The panel notes that the limitations and uncertainty of the data become more pronounced as you make the marginal increase from 60m2 to 70m2.

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

Table one: 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 for a 60m2 granny flat** **$11,263 for a 70m2 granny flat** 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** NZIER estimates defects add 3-9% to the total cost of a build. We have used a higher estimate, 10%, due to the impact of an event such as leaky homes. We are also considering the average cost spread out over the homes constructed – some are likely to be defect free, others may have a few minor defects, and some may have significant, undetected defects. Under the status quo defects are estimated to be 6% of the total build cost for a granny flat. For a 60m2 granny flat costing $241,354 this would be $9,654. For a 70m2 granny flat costing $281,584, this would be $16,895. Should the defect rate increase to 10%, this would see the average cost of defects increasing to $24,135 for a 60m2 granny flat (an increase of $9,654) and $28,158 for a 70m2 granny flat (an increase of $11,263).
	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.

Building profession	Increased insurance	**Low-Medium** Insurance costs for unconsented works are likely to be more expensive and may not provide insurance coverage 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.
	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 and estimated likely 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).	**$405,530 per year** Premised on 943 60m2 granny flats built under the status quo at $241,354 and 632 70m2 granny flats being built at $281,584.	**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	**$709,677 per year**	**Medium certainty** A levy of $1.75 per $1000 over a threshold of $65,000 (including GST) for new building works is currently charged through the

		Premised on 943 60m2 granny flats built under the status quo at $241,354 and 632 70m2 granny flats being built at $281,584.	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** Possible increase in the number of practitioners referred to disciplinary tribunals.	**Medium certainty** 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 - $11.14m to $18.29m**
		• PIM - $2,455,310
		• Latent defects – $7,141,357 to $14,282,7143
		• Levies - $1,115,207
		• Builder's report – $143,006
		• Engineer's report – $288,900
		
		Estimated cost over 10 years (excluding inflation)
		$111.44m – $182.85m
			• 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 2,889 granny flats (rounded figure) will be built each year. Indicative modelling estimates that:
			  ○ Over a 10-year period from 2026 there would be 15,750 homes built under the status quo and a further 13,138 as induced demand under the revised exemption.
			  ○ Of these, 17,297 homes would be 60m2 or less.
			  ○ A further 11,591 homes would be 61m2 to 70m2 (rounded figure).
			• 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 who wish to build a granny flat choose to 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 60m2 estimate: **$4141** MBIE 70m2 estimate: **$4431**	**High certainty** We have used a Sapere estimate here (median). Building consent fees will vary by BCA and build size. On average, building consent costs for a 70m2 granny flat are unlikely to be significantly higher than a 60m2 granny flat.
	Additional housing capacity	**Medium-high impact** 1,316 new homes per year. Possible rental income. Supports intergenerational homes.	**Medium certainty** Preliminary estimates of the Government's proposal show an additional 13,138 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.	**Low certainty** Anecdotal evidence collected resulting from the 2021 Schedule 1 changes.
Total monetised benefits		**Total annual benefit** $12.30m **Estimated benefit over 10 years (excluding inflation)** $122.99m	• We assume that 2,889 granny flats will be built each year over a 10-year period from 2026. We estimate 1,730 will be 60m2 granny flats and 1,159 will be 61m2 to 70m2 granny flats. • We assume that 100 per cent of homeowners do not get a building consent.
Non-monetised benefits		**Low-medium impact**	**Medium certainty**

Note: updated figures expressed in the CBA are based on a preliminary estimate of the number of homes built between 61 and 70 square metres.

CBA assumptions

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, remedying the cost of defects and avoided 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.

We assume no displacement effect – that homeowners will not choose to build an exempt granny flat in place of a larger home that would require a building consent. Any such demand impacts would be extremely difficult to predict. We also consider that homeowners' reasons for building a larger home (for example, a 95 square metre 3-bedroom home) are different to those looking for a smaller 1- or 2-bedroom home.

Induced demand – option 2

The following tables set out our estimate of the induced demand from the updated option 2 (70m2 instead of 60m2).

Table five: granny flats induced demand

New Zealand	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033	FY2034	FY2035	Cum. at (FY2035)
Status quo	1171	1242	1313	1414	1515	1617	1718	1819	1921	2021	15,750
Option 2: Induced demand (70m2)	0	212	449	725	1037	1383	1762	2178	2627	2766	13,138
Total	1171	1455	1762	2139	2552	2999	3480	3996	4547	4786	28,888

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