



Overview

The New Zealand Institute of Building Surveyors is a national body of skilled, professional building consultants who have extensive knowledge and experience in construction and building related matters. NZIBS was founded in 1994 and currently has over 224 Members.

Foreword

Whilst we commend the Governments commit to endeavour to reduce construction costs and timeframes we do have concerns in relation to the proposed changes. With all successful construction projects, the construction cost time quality triangle must be maintained and whilst cost and time will likely be achieved, we fair that quality (with compliance under this umbrella) will not.

Within the discussion document there are references to the fact that an engineer's report will not be required and that "suitably competent, regulated professionals, such as Licensed Building Practitioners (LBP's) and authorised plumbers" will complete or supervise the works. The paraphrased section is where the issue arises as the regulated professionals such as LBPs and plumbers are not actually professionals. Professionals hold professional indemnity insurance such as designers, engineers and building surveyors, therefore providing a much higher level of competence, responsibility and assurance to the individual engaging their services. A simple solution to resolve this inconsistency would be to introduce mandatory professional indemnity insurance for the LBP and also a mandatory 3rd party insurance backed warranty for the construction of the dwelling. When the property owner submits their application with the BCA to construction the dwelling under this exemption, they would also submit a copy of the LBPs PI insurance certificate of currency (CoC) and also the CoC for the 3rd party insurance backed warranty.

By way of example, in respect of why improvements to the LBP scheme are required, currently some of our membership complete certificate of acceptance services relating to dwellings constructed without a Building Consent when one was required. In most cases these dwellings have been constructed by an LBP who did not know or chose not to inform the property owner that a Building Consent was required. This example therefore begs the question in respect how all LBPs can be expected to have the appropriate level of competence when currently some clearly do not. Further education and more robust licencing provisions will be needed for this proposal to be successful and risk free.

We understand that our recommendations above are significant and could add some additional costs the benefits to the industry in respect of providing more reassurance and protection to homeowners outweighs the initial costs. What we are suggesting above applies to other policies Government are reviewing such as remote building inspections etc.

Question 1: Have we accurately identified the problem? Are there additional challenges that complicate the construction of a granny flat?

Yes, we agree that regulatory compliance costs, building expenses, and the time involved in the compliance process are significant contributors to the housing supply and affordability issues in the New Zealand market. These factors indeed impact the number of small houses being built.

However, other challenges in the sector would also complicate the construction of a granny flat in the proposed exemption including:

Utility Extensions: The availability and cost of extending utilities such as water, electricity, and sewage to the granny flat can be prohibitive.

Knowledge and Education: There is a general lack of awareness and education about property rights and regulations, which can lead to confusion and delays.

Shortage of Qualified Professionals: The market is facing a shortage of Licensed Building Practitioners (LBPs), making it difficult to find qualified individuals to carry out the work.

Misconception about LBPs: Referring to LBPs as professionals can be misleading since they do not hold Professional Indemnity Insurance, unlike most other professionals.

Question 2: Do you agree with the proposed outcome and principles? Are there additional outcomes this policy should aim to achieve?

The proposed outcomes and principles are generally agreeable. An additional goal should be to enhance educational outreach to ensure laypersons understand their property rights and the regulatory landscape and purpose supported by the LBP scheme improvements as noted above.

Question 3: Do you agree with the risks identified? Are there are other risks that need to be considered?

We agree with the risks currently identified but believe the following additional risks should also be considered:

Building Safety and Performance The proposed removal of a Building Control Authority (BCA) review raises significant concerns regarding the assurance that these structures meet essential Building Code requirements. While LBPs are indeed licenced, their qualifications might not fully cover the complexity and specific demands of all construction types. Allowing LBPs to approve these structures without proper checks could lead to widespread non-compliance, particularly given the industry's historical issues with non-compliant building practices.

When regulatory oversight is bypassed, homeowners often choose the cheapest builders, which can result in substandard work. This "race to the bottom" can produce poorly constructed structures that fail to meet the minimum requirements of the New Zealand Building Code (NZBC). Long-term risks include potential financial losses for homeowners and non-compliant structures require costly demolition. Addressing the shortage of skilled licence holders through training and incentivising new practitioners is essential to improving overall building standards.

Reducing regulatory oversight could further increase the risk of unsafe buildings and poor living conditions.

Although cost savings and expedited processes might appeal to homeowners, hiring Licensed Building Practitioners working outside their experience/ competencies can lead to detrimental

consequences. Although the proposed buildings maybe relatively simple in construction the durability of the proposed structures should be prioritised over short-term financial savings.

Trust in Building Quality The construction industry's history of poor practices has heightened risk aversion among stakeholders, which is crucial to consider when proposing changes to building regulations or processes.

Homeowners who choose exemptions often rely on advice from builders, which can be inconsistent. This dependence can result in confusion and poor decision-making. Without the checks and balances provided by the BCA review process, homeowners may not receive accurate guidance on compliance and best practices, negatively impacting their trust in building quality.

Education concerning the importance of quality assurance processes should play an important part of all Schedule 1 exemptions.

Environmental Effects Structural issues that arise over time increase the likelihood that homeowners will need to spend additional funds to address these problems. Significant costs may be incurred for repairs, legal disputes, insurance issues, or even demolition of non-compliant buildings.

The environmental impact of potential demolition due to non-compliant/ safe building structures is also concerning, particularly in the context of global sustainability and Net Zero Carbon goals. Demolition waste contradicts sustainability principles, and improperly designed and built projects not only waste resources but also undermine efforts to promote responsible construction practices.

Infrastructure Planning Adding a granny flat can alter neighbourhood dynamics, leading to increased traffic, potential overcrowding, and proximity issues with neighbouring properties. These changes can create tensions between neighbours and affect the overall quality of life in communities.

Extending utilities to new structures can be complex and costly. The availability and affordability of essential services such as water, electricity, and sewage must be evaluated to ensure that new developments are sustainable and do not place undue pressure on existing infrastructure (refer Q1)

Question 4: Do you agree with the proposed option (option 2 establish a new schedule in the Building Act to provide an exemption for simple standalone dwellings up to 60 square metres) to address the problem?

We do not believe this option sufficiently addresses all the concerns.

Before implementing any exemptions, the Licensed Building Practitioners (LBPs) scheme and its enforcement needs to be thoroughly assessed/ considered.

Homeowners might bypass the Building Consent Authority's (BCA) more stringent assessment of the build but would then have to depend solely on potentially inconsistent advice from Licensed Building Practitioners, and persons authorised under the Plumbers, Gasfitters and Drainlayers Act 2006.

The proposed exemption would require owners to notify councils of the work, allowing for monitoring of quality and ensuring that only qualified professionals are involved. However, achieving this without site visits raises questions about liability and the effectiveness of this requirement. If the responsibility continues to fall on Councils and other professionals, additional fees may be charged, which could negate potential cost savings.

The proposed cost-saving measures seem to conflict with the need for quality assurance. If monitoring becomes necessary, whether through site visits or other methods, these activities could

introduce extra costs that might outweigh the benefits of the exemption. A balance must be achieved between making housing more affordable and ensuring these solutions are safe, durable, and compliant with regulations.

Question 5: What other options should the government consider to achieve the same outcomes (see Appendix 1)?

Implementing a system of pre-approved designs could streamline the process for homeowners and builders alike. Standardised designs would ensure compliance with the building code. Licensed Building Practitioners, Plumbers, Gasfitters and Drainlayers could follow established guidelines, reducing the risk of non-compliance and ensuring uniformity across similar projects. This approach may also expedite the build/ consenting process.

The recent Building Regulations 2022 would further support the awareness and use of code compliant materials whilst promoting a wider array of building materials, thus enabling the industry to foster competition, with the potential to lower costs and improving innovation within the industry. Enhanced access to various suppliers may also empower Licensed Building Practitioners, Plumbers, Gasfitters and Drainlayers to offer more competitive pricing to homeowners.

Establishing a national insurance or warranty scheme for builders carrying out Restricted Building Work (RBW) and / exempt building works could create a structured accountability framework. Such a scheme would require Licensed Building Practitioners to meet specific performance standards, ensuring they are responsible for their work. This would provide homeowners with recourse if issues arise, thereby enhancing consumer protection and confidence in the building process.

Revising the legal framework around liability, shifting from joint and several liability to proportional liability, could promote a more balanced distribution of accountability. This change would place some responsibility on property owners to ensure that their chosen builders deliver quality work. Encouraging property owners to be more actively involved in the process could lead to better outcomes and minimise disputes over responsibility when issues arise.

Streamlining inspections by combining various inspection types could significantly reduce both costs and processing delays. This could involve scheduling multiple inspections for different compliance areas in a single visit, rather than requiring separate inspections for each aspect of the build. A consolidated approach would not only simplify the process but also improve efficiency for homeowners and builders alike.

Establishing a flat rate for inspections of smaller dwellings (such as those up to 60 square meters) could reduce financial burdens on homeowners. By making quality checks more accessible, this approach would promote compliance and potentially lead to higher construction standards without overly straining homeowners' budgets.

Question 6: Do you agree with MBIE's assessment of the benefits, costs and risks associated with the proposed option in the short and long term?

A reduction in regulation could exacerbate the risk of unsafe buildings and poor living conditions. It's essential to recognize that while cost savings and expedited. Securing approval from neighbours when adding a new property is vital for preserving community harmony and ensuring that new developments blend well with the existing neighbourhood.

Question 7: Are there any other benefits, costs or risks of this policy that we haven't identified?

The requirement for foundations to be founded on 'good ground' those responsible for constructing these buildings should have a good understanding of this requirement and or the limitations expressed within the proposed exemption.

Question 8: Are there additional conditions or criteria you consider should be required for a small standalone house to be exempt from a building consent?

In general, there are no additional conditions or criteria that should be considered. However:

Need for Robust Training and Professional Indemnity (PI) Insurance for LBPs: Mandating PI insurance for LBPs is crucial for safeguarding homeowners and ensuring accountability. This insurance would protect practitioners financially against claims due to errors, or omissions in their work, thus providing homeowners with confidence in the professionals they hire.

Inconsistencies in Advice from LBPs and Plumbers: The variability in advice currently given by those currently carrying out by LBPs and Plumbers can lead to confusion among homeowners regarding their rights, obligations, and recommended project approaches. Establishing clear guidelines and standardised protocols for LBP's to follow could improve the consistency of the advice provided.

National Warranty/ Insurance Scheme: Implementing a national warranty or insurance scheme, as previously mentioned, could significantly enhance homeowner protection and promote accountability among LBP's. Such a scheme would offer comprehensive coverage for construction defects, giving homeowners better means to address unforeseen issues efficiently. Establishing a national framework would require collaboration between various governmental and regulatory bodies, but the long-term benefits for both homeowners and practitioners would be substantial.

Question 9: Do you agree that current occupational licencing regimes for Licenced Building Practitioners and Authorised Plumbers will be sufficient to ensure work meets the building code, and regulators can respond to any breaches?

We believe a comprehensive review of the current licensing system(s) and its enforcement is due. This review should also consider the recently established Code of Ethics. The focus should be on strengthening the criteria for obtaining and maintaining licenses, enhancing oversight, and implementing more rigorous performance benchmark.

Question 10: What barriers do you see to people making use of this exemption, including those related to contracting, liability, finance, insurance and site availability?

The 30m² exemption for building work can create confusion among homeowners and builders, as projects appearing to fit within this limit may still need building consent due to local council regulations or specific property conditions. This has resulted in cases where work assumed to be compliant turns out to be non-compliant, leading to increased costs for obtaining a Certificate of Acceptance (COA).

When non-professionals, including some Licensed Building Practitioners (LBPs), sign off on their work without adequate oversight, inconsistencies in construction practices can arise. This increases the likelihood of requiring a COA. The COA process, on average, costs about three times more than a Building Consent application due to the need for comprehensive third-party reporting, documentation, and, in some cases, a Building Consent application for remedial work if the project doesn't meet Building Code standards.

When a new stand-alone building is constructed, it often needs to be added to the property title, a process that varies by jurisdiction but generally involves submitting the new structure's details to the local land registry authority. This can incur additional costs, such as application fees, surveying fees, and title registration costs, adding financial strain on the homeowner or developer.

The addition of a new building to the property title may also prompt lenders and insurers to reassess the property's value and risk profile. While an increase in property value might make lenders more willing to finance, concerns over construction quality or regulatory compliance could complicate financing or lead to higher insurance premiums.

Lenders and insurers might require updated documentation, such as property valuations or insurance policies, reflecting the changes in the property structure, further adding to the homeowner's or developer's costs.

Ambiguity regarding liability can result in legal disputes, especially if problems arise after construction. This uncertainty might deter homeowners from pursuing projects unless they can guarantee the work's quality and compliance.

The scarcity of available building sites compounds these challenges. As land becomes more limited, the pressure on existing properties grows, making it crucial to navigate these obstacles effectively to ensure quality construction.

Question 11: What time and money savings could a person expect when building a small standalone dwelling without a building consent compared to the status quo?

Eliminating Building Consent Authority (BCA) processing fees and saving time in the early stages of a project can offer immediate relief to homeowners and builders. However, it remains essential for Licensed Building Practitioners (LBPs) to have complete design plans to ensure the compliance of the build.

There is a risk of increased remedial costs if construction fails to meet the minimum requirements of the building code, particularly if a formal consent process/ or demolition is later required as a result of the non-compliance. Homeowners might face costs that are three times or more the original application fee, especially through the Certificate of Acceptance (COA) process.

Demolished buildings contribute to waste and undermine efforts to promote responsible construction practices.

The exemption if relevant protections are in place could create a false economy where initial savings lead to greater expenses later, resulting in a financial burden that could have been avoided with proper compliance processes from the outset.

Estimating the potential costs of compliance failures is difficult due to unforeseen circumstances such as building quality issues, regulatory changes, or market dynamics. This unpredictability can deter homeowners from starting new projects or renovations.

Non-compliance can lead to higher insurance premiums, reduce resale values, and affect financing and coverage options. Properties with a history of non-compliance may be viewed unfavourably by lenders and insurers, creating additional financial challenges.

Improving education and resources for Homeowners, Licensed Building Practitioners, Plumbers, Gasfitters and Drainlayers about the importance of building regulation compliance is crucial. Raising awareness of the potential pitfalls of non-compliance can support informed decision-making and promote a culture of accountability in construction.

To mitigate the risks associated with the current approach, regulatory bodies might consider revising their frameworks to ensure accountability and compliance while balancing efficiency and cost-saving measures.

Understanding the value of long-term planning and building compliance will ultimately lead to better construction practices and outcomes for homeowners, New Zealand Housing stock and the environment.

Question 12: Is there anything else you would like to comment on regarding the Building Act aspect of this proposal.

No.