

23 June 2025

Committee Secretariat
Transport and Infrastructure Select Committee
Parliament Buildings
Wellington

ICNZ'S SUBMISSION ON THE BUILDING AND CONSTRUCTION (SMALL STAND-ALONE DWELLINGS) AMENDMENT BILL

Thank you for the opportunity to make a submission on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill.

Te Kāhui Inihua o Aotearoa | The Insurance Council of New Zealand (ICNZ) represents general insurers. Our members accept the risks of over NZ\$2 trillion of New Zealand's assets and liabilities. ICNZ's members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property insurance, and directors and officers insurance).

ICNZ acknowledges the policy intent of the Bill of providing more affordable housing and accelerating the building process.

However, we wish to highlight that there are risks associated with the proposal to exempt small standalone dwellings of up to 70 square metres from the requirement for a building consent.¹

Increased risk that the building does not ultimately comply with the Building Code

The proposal to remove the requirement for a building consent increases the risk that the structure will not ultimately comply with the Building Code.

¹ The proposal has been described as making it easier to build 'granny flats'. However, at 70sqm these dwellings may be regarded as small houses. We note that the Building and Construction (Small Stand-alone Dwellings) Amendment Bill also does not restrict the exemption to secondary dwellings (i.e. it does not require that there is another primary dwelling already on the property). However, it is proposed that the National Environmental Standards for Granny Flats (Minor Residential Units), which would permit 'minor residential units' on sites in rural and residential zones without resource consent, would include a requirement that the dwelling is ancillary to a primary dwelling.

As the Ministry of Business, Innovation & Employment (**MBIE**) identified in their 2024 of the Discussion Document 'Making it easier to build granny flats'² (at page 7)"

"... if building work does not meet minimum standards, there are significant risks to the health and safety of people using the building and risks of property damage. Building failure could include structural collapse, weathertightness issues that create leaky buildings, fire and inadequate plumbing work that creates public health issues. The costs of building failure can be significant and may impact a third party, such as a tenant or neighbour."

It will therefore be important for the government to make homeowners aware of the likely consequences, including for insurance, if a dwelling does not comply with the Building Code.

In general, home insurance cover may be impacted where a loss occurs that is connected with building work that is not compliant with the Building Code. This means that homeowners could be left without adequate insurance cover for claims on small stand-alone dwellings if the work is not compliant.

The proposal to remove the requirement to obtain a building consent transfers responsibility for compliance with the Building Code away from the Council. Consideration needs to be given to how this risk transfer will work and the likely impact this will have on homeowners.

Insurers tend to put weight on the fact that a structure has a code compliance certificate, given what that entails, so the absence of this could make it more complex to insure these buildings. For example, it is quite possible an insurer would need to ask more questions at the time of underwriting these risks.

Other regulatory issues such as the application of the Natural Hazards Insurance Act 2023 and the Fire and Emergency New Zealand levy also need to be considered.

From a liability perspective, we note that although builders and other tradespeople may have general liability insurance, covering injury and damage to property during the building process, they are less likely to have cover for damage arising out of any non-compliant work they have completed, or for professional indemnity insurance covering errors or omissions in advice and/or design.

We also note that non-compliant work may not be detected until well after a job is completed, which could make it hard to hold a builder or any other responsible party responsible, particularly if it has become insolvent in the meantime.

It appears that the current proposals mean that risks around poor quality and non-compliance with the Building Code are more likely to be borne by the homeowner if the builder or other responsible party is absent or insolvent.

² <https://www.mbie.govt.nz/dmsdocument/28513-making-it-easier-to-build-granny-flats-discussion-document>

Risks associated with greater housing density

Making it easier to build an additional residence on a property will increase housing density. There are a number of risks associated with greater housing density that we would like to highlight.

Greater housing density may increase flood risk. Most of New Zealand's stormwater, wastewater and flood mitigation infrastructure was not built for the population, weather, or lifestyles we are experiencing today. As we experience more extreme weather, previous flood events have shown that our cities' stormwater systems cannot always cope with flash floods and heavy rainfall. Greater housing density will place even more pressure on existing infrastructure which will exacerbate the flood risks we already experience.

Furthermore, if denser housing occurs in areas with higher natural hazard risks, it will lead to a higher aggregation of risk to be borne by the insurance market, which may in turn lead to increased premiums.

We note the Bill imposes a condition on the exemption³ that:

"the building work is carried out on land that is not subject to a natural hazard (as advised by the relevant territorial authority), or where a natural hazard (within the meaning of section 71(3)) is present, building work is not carried out unless adequate provision has been made to protect the land, building work, or other property from the natural hazard."

We consider that this condition goes some way to addressing our concerns about natural hazard risk.

Greater housing density may also mean that there is a higher risk of the spread of fire due to the physical proximity of the buildings, which is aggravated by access issues that fire and emergency services experience. This is a risk not just to property but to life.

We acknowledge that the Government is focused on increasing the supply of affordable homes and on improving efficiency and competition in the building regulation system. However, ICNZ would welcome greater co-ordination as policy proposals are developed so that the totality of these proposals can be appropriately considered.

A number of separate proposals for change have been recently put forward, making it difficult to get an overview of all the proposed changes, how they might interact, and what the cumulative effect might be. It is difficult to assess the implications for risk within the building sector and what this might mean for insurance.

In taking forward these reforms, it is critical to consider the risks associated with the proposed changes and where those risks will fall, i.e. will the homeowner ultimately bear the risk? Insurance has a role to play in risk management. However, insurers may not be willing to insure risks that are too large or that insurers find difficult to understand and measure.

³ Clause 15 will insert s42B (Building work for which building consent is not required under Schedule 1A) including this condition at s42B(3)(d).

Thank you for the opportunity to submit on the Bill.

Ngā mihi,

A handwritten signature in dark ink, appearing to read 'Susan Ivory'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Susan Ivory
Regulatory Affairs Manager
Insurance Council of New Zealand