

Departmental Disclosure Statement

Building Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

29 June 2026.

Contents

Contents.....	2
Part One: General Policy Statement.....	3
Part Two: Background Material and Policy Information	7
Part Three: Testing of Legislative Content.....	10
Part Four: Significant Legislative Features	12
Appendix One: Further Information Relating to Part Two.....	15
Appendix Two: Further Information Relating to Part Three	16

Part One: General Policy Statement

The Building Amendment Bill (the **Bill**) amends the Building Act 2004 (the **Act**) and consequentially amends other legislation to address inefficiencies in the building system that increase costs, delay delivery, and constrain performance, including through the clearer allocation of roles, responsibilities, and risk.

Building in New Zealand has become increasingly complex, slow, and costly. Longstanding regulatory settings—including liability arrangements and the design and operation of the building consent authority (**BCA**) framework—have contributed to risk-averse behaviour, higher costs, and delays in delivering building work. The Bill addresses these issues and makes targeted changes that remove unnecessary barriers and support more efficient and sustainable building pathways.

Improving accountability and shifting risk for a more efficient building system

Proportionate liability for defective building project work

Currently, liability in New Zealand's building and construction sector operates under a joint and several model, developed through a combination of common law and statute.

Joint and several liability allows claimants to recover the full cost of defective building work from any one liable party, regardless of that party's relative contribution to the defect. In practice, this has placed a disproportionate burden on more solvent and accessible parties, particularly councils, even if their contribution to the defect was minor. This has reduced accountability for other participants and contributed to risk-averse behaviour, which has increased costs and delays in delivering building work.

The Bill addresses those issues by establishing proportionate liability as the applicable regime if multiple parties contribute to defective building project work and a claim is pursued through litigation, adjudication, or arbitration. Proportionate liability means that each person will be responsible for the share of loss corresponding to their contribution, but only for their share of the loss.

Proportionate liability will apply to building project work for which a building consent was issued on or after the first anniversary of Royal assent. For building project work that is exempt from requiring a building consent under Schedule 1 of the Act, proportionate liability will apply to building project work that is started on or after the first anniversary of Royal assent. As building consent information is publicly available through territorial authorities, this approach provides clarity for which liability system applies to a claim once proportionate liability comes into force.

Current contracting practices can continue for all non-residential buildings and buildings over 10 metres. For smaller residential builds, excluding or limiting liability relating to defective building project work will be prohibited. This approach preserves freedom of contract arrangements and minimises disruption to commercial and high-rise construction where parties are commercially sophisticated and able to price and manage risk, while adding protections for residential homeowners and preventing excessive under-recovery.

The change is intended to strengthen accountability across the sector, better align responsibility with risk, and reduce incentives for defensive practices that add cost and delay to building projects. The focus of proportionate liability is the liability of the defendant and not the recovery of the plaintiff.

Managing residual risk for consumers

To manage the potential impact of proportionate liability on claimants who can no longer seek full recovery if a liable party is absent or insolvent, the Bill introduces complementary measures to protect consumers and maintain confidence in the building system.

These measures reduce the risk of uncompensated loss for homeowners, while reinforcing accountability across the building and construction sector. They include-

- mandatory residential home warranties for residential building work with a total value of \$100,000 or more, if the work includes restricted building work and requires a building consent, that provide minimum coverage of at least 1 year for building work that is defective and 10 years for structural defects; and
- mandatory professional indemnity insurance for design professionals (such as architects, designers, engineers and surveyors) who contribute, through advice or other services, to the design or compliance of building work.

The Bill establishes a registration regime under which the chief executive of the Ministry of Business, Innovation and Employment (**MBIE**) may register home warranty contract providers. The Bill enables new regulations specifying the criteria to be met and evidence required for provider registration.

To support effective consumer protection, the Bill introduces new offences for non-compliance with home warranty and professional indemnity insurance requirements, with penalties aligned with comparable offences under the Act.

The Bill also includes a power for the Governor General (on the recommendation of the Minister for Building and Construction) to temporarily disapply some or all home warranty and professional indemnity insurance requirements. This power is limited to circumstances where there is, or is likely to be, a material impact on the availability or affordability of these products (for example, due to major market disruption or insurer withdrawal), and a resulting risk to building sector continuity or housing delivery.

Any disapplication should not be broader than necessary in the circumstances, may be imposed at any time for up to 2 years, and may be extended or revoked, with each extension limited to a further maximum period of 2 years.

Removing barriers to BCA consolidation and collaboration

When the Act was enacted, it was anticipated that smaller BCAs would consolidate over time to achieve scale, resilience, and consistency. In practice, consolidation has been limited, in part due to legislative requirements and complex transfer arrangements.

The Bill simplifies that legislative framework to enable greater flexibility in how BCA functions are delivered. In particular, the Bill-

- removes the requirement for a territorial authority (a **TA**) to be a BCA, or to maintain BCA accreditation, if it transfers its consenting functions to another BCA; and
- removes restrictions that prevent TAs from transferring BCA functions to a non--TA entity, such as a stand-alone BCA, council-controlled organisation, or private BCA; and

- allows certain consent-related functions to be delegated from a TA to a stand-alone BCA that is a council-controlled organisation.

The Bill sets out procedural requirements for both the transferring TA and the receiving BCA to support continuity and reliability of consenting services during and after transfer.

These changes enable voluntary consolidation and collaboration across the BCA system, without requiring BCAs to change how they currently operate.

Modernising and streamlining building sector funding

Building research is currently funded through a bespoke levy regime under the Building Research Levy Act 1969, which exists separately from the levy that funds building regulatory functions. This legislation has not been substantively reviewed since its enactment. This has resulted in duplicated levy collection processes and limited oversight and transparency over the allocation and use of funding.

The Bill repeals the Building Research Levy Act 1969 and provides for building research and related scientific work to be funded through the building levy under the Act as part of the functions of the chief executive of the MBIE.

The Bill enables building research funding to be awarded through transparent processes overseen by MBIE, including the use of a contestable funding mechanism and associated decision-making arrangements provided for in legislation.

Integrating building research funding within the broader levy-funded regulatory framework supports a more coherent approach to funding and a more strategic allocation of resources across the building sector.

Targeted amendments to simplify building process

Fast track for residential buildings with solar electricity generation or sustainable attributes

New Zealand households are expected to use more electricity as homes and transport become increasingly electrified. Increasing the uptake of solar electricity generation and sustainable design in residential buildings can improve energy security and reduce long-term energy costs for households.

However, uptake of residential solar energy in New Zealand remains low and is growing more slowly than in comparable jurisdictions. Around 40% of households in Australia have solar panels. In New Zealand uptake is around 4%, with around 10,000 installations each year.

The Bill aims to increase voluntary uptake of solar electricity generation and sustainable residential buildings by providing a faster building consenting process. It provides for a fast-track building consent pathway for residential buildings of up to 3 storeys that meet specified performance criteria for solar electricity generation and sustainability. Building consent authorities must process these applications within 10 working days, compared with the existing standard of 20 working days.

The Bill also enables the chief executive of MBIE to set performance criteria for solar electricity generation and sustainability by notice. Applicants must meet those criteria and provide supporting information to demonstrate compliance to access the fast track.

Sustainable residential buildings include buildings with 1 or more of the following attributes: energy efficiency, low embodied carbon, water efficiency, and climate resilience.

The fast track supports the Government's energy, climate, and cost of living priorities.

Supporting offsite construction of small stand-alone dwellings

The Bill amends how the building consent exemption for small stand-alone dwellings under the Act applies if offsite construction is involved.

The exemption was introduced through amendments to the Act in October 2025 and allows small stand-alone dwellings under 70 m² to be constructed without a building consent, subject to specified conditions, including the requirement to obtain a project information memorandum (a **PIM**) before construction begins. Some offsite construction models present practical challenges under this framework, especially if companies build homes as stock, or if homeowners prefer to inspect a home constructed offsite before purchasing it.

The Bill permits off-site construction of small stand-alone dwellings before a PIM is obtained, while requiring a PIM to be obtained before any onsite building work takes place. The Bill also clarifies that homes cannot be occupied until building work is complete.

This change supports faster and more efficient delivery of small stand-alone dwellings, while enabling greater use of off-site construction methods that are typically quicker to build and can reduce construction waste.

Existing exemption conditions continue to apply to off-site building work, including the requirement for authorised building professionals to do the work, that records of work be produced, and that the building work meets the conditions set out in Schedule 1A of the Act (where this can be done offsite).

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
The policy to be given effect by this Bill has been informed by a range of publicly available reviews and evaluations carried out by, or on behalf of, MBIE, examining the performance of the building system, including the building consent system and accountability settings. The policy has also been informed by other relevant publicly available material produced by external organisations. These materials are listed in Appendix One.	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
There are six regulatory impact statements relevant to policy decisions that led to this Bill. These are included at Appendix One. Note that some information in the regulatory impact statements has been redacted, consistent with the Official Information Act 1982.	

2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	YES
The Ministry for Regulation provided one panellist for the regulatory impact statements <i>Shift to Proportionate Liability for Building and Construction</i> and <i>Supporting mechanisms for proportionate liability in the building and construction sector</i> . The other regulatory impact statements listed in Appendix One (question 2.3) did not meet the threshold to require an independent opinion from the Ministry for Regulation.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
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The policy decisions relating to consumer protections under a proportionate liability regime are consistent with Option 3 in the regulatory impact statement (RIS) *Supporting mechanisms for proportionate liability in the building and construction sector*.

However, the RIS did not explicitly analyse the impacts of the proposed offences and penalties. These elements were developed during drafting, with input from the Ministry of Justice, and give effect to Cabinet’s direction that penalty settings be consistent with comparable offences under the Act.

The RIS also signalled the need for a mechanism to suspend requirements in circumstances where the market cannot meet demand; however, it did not explicitly analyse the design of this mechanism, or alternative options. The Bill gives effect to Cabinet’s policy intent by providing a targeted power to suspend specified requirements in defined circumstances.

For the proposal to fast track consenting for homes with solar electricity generation and sustainable attributes, the regulatory impact analysis focused on new, detached residential buildings of up to two storeys. This was intended to limit the complexity of buildings BCAs would need to process under the fast-track pathway.

The Minister since directed MBIE to broaden the scope to residential buildings of up to three storeys. This is intended to support greater uptake and align with the proposed scope for self-certification for entire residential buildings, and for plumbing and drainlaying work. The fast track will apply to residential buildings that:

- are no more than three storeys in height
- do not have a specified system (within the meaning of Section 7(2) or Section 402(1)(o))
- meet the performance criteria for a solar generating building or a sustainable building set out by MBIE’s chief executive.

Although three storey buildings are typically more complex, MBIE considers this scope will remain manageable for BCAs to fast track. Excluding buildings with specified systems limits eligibility to buildings with simpler fire designs. This helps manage the overall design complexity.

This change is within Cabinet’s delegation for the Minister to make decisions consistent with the intent of the fast track and to address any issues that arise during drafting.

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Analysis of the potential costs and benefits (to the extent impacts can be reliably monetised) is available in the regulatory impact statements linked in Appendix One (question 2.3).	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES

(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The liability rule change itself does not depend on compliance, as it establishes how liability for defective building work is apportioned. However, the extent to which the costs and benefits of the supporting consumer protections are realised will depend on the level of effective compliance by homeowners and system participants (for example, building contractors, design consultants, and warranty providers). The nature and level of regulator effort will also influence costs and benefits, with MBIE responsible for enforcement and oversight of the warranty provider registration regime and BCAs responsible for checking evidence of compliance with warranty requirements.</p> <p>For changes related to residential solar fast-tracked consents, non-compliance is most likely to involve attempts to access the fast track where eligibility criteria are not met. This risk was assessed as low and can be mitigated through mandatory evidence requirements, monitoring and enforcement.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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No specific issues were identified that may have implications for New Zealand's international obligations.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

No specific issues were identified in the policy process that may have implications for the rights and interests of Māori protected by the Treaty of Waitangi.
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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The Ministry of Justice undertook an assessment of whether the Bill is consistent with the New Zealand Bill of Rights Act 1990 and has concluded that the Bill appears to be consistent with that Act. Advice provided to the Attorney-General by the Ministry of Justice will be available on the Ministry of Justice's website upon introduction of the Bill at: https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/compliance-reports/ .
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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The Bill introduces new offences and penalties to address non-compliance with home warranty and professional indemnity insurance requirements. These are included at Appendix Two.
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3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
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The Ministry of Justice was consulted on the development of new offences and penalties to support the liability regime. The Ministry of Justice were broadly comfortable with the final proposals but noted that some proposed infringement fees and fee-to-fine ratios were higher than generally recommended.

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
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Personal information will be collected from those responsible for the management of a home warranty provider that applies for registration with MBIE. Registered warranty providers will be included on a register kept by the chief executive under section 273 of the Act.

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Officials carried out targeted engagement with BCAs, key industry groups, building guarantee and insurance providers, membership associations, and other stakeholders with relevant experience and expertise to help ensure the policies are workable and capable of being operationalised (refer Appendix Two).</p> <p>Consultation during the drafting process that has informed drafting of the Bill includes:</p> <ul style="list-style-type: none"> • consultation with the Legislation Design Advisory Committee on the liability rule change and support mechanisms • testing a consultation draft of the proportionate liability provisions with a group of legal experts to ensure workability in a New Zealand context • the Building Research Association New Zealand (BRANZ) having received the building research section of the draft bill and provided feedback on the design and workability of the drafting. 	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
Clause 21 of this Bill enables the consolidation of two existing levies by repealing the Building Research Levy Act 1969 and amending the Act. Following amendment of the Building (Levy) Regulations 2019 there will be the collection of a single levy to fund both building regulatory functions and building research at the proportion set in regulations.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
A full list of offences created by the Bill can be found at Appendix Two.	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p>Clause 46 of the Bill allows for the temporary disapplication of some or all liability support mechanisms (home warranties and professional indemnity insurance requirements) in the event that circumstances make the requirements unworkable and there is a threat to building sector continuity (refer sections 393Q and 393ZE).</p> <p>The decision to disapply mandatory home warranty and/or professional indemnity insurance requirements may remove a level of consumer protection; however, this would not prevent homeowners from voluntarily seeking out warranty products or insured design professionals.</p> <p>The Bill also creates powers to define the meaning of certain terms in proportionate liability to provide clarity. It also creates a power to clarify where proportionate liability does not apply.</p>	
4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>Clauses 46 and 47 of the Bill creates powers to make regulations by Order in Council to specify:</p> <p>Proportionate liability. Clause 46 of the Bill, inserts section 393A:</p> <ul style="list-style-type: none"> • specifies which payments for damages are subject to proportionate liability. <p>Mandatory home warranty requirements. Clause 46 of the Bill inserts sections 393S, 393V, 393W and 393ZA in new subpart 2C:</p> <ul style="list-style-type: none"> • building work of a class, or circumstances, to be excluded from home warranty requirements • the manner in which the total value of building work is to be calculated to determine if warranty requirements apply • minimum coverage requirements for home warranties and the time from which the prescribed coverage periods apply • detailed requirements for home warranties, including what constitutes adequate cover, minimum terms and conditions (including exclusions or modifications), and how warranties operate and transfer to subsequent owners • the manner in which building consent authorities must maintain records of decisions related to warranty evidence checks and provide information to the territorial authority (where relevant). <p>Warranty provider registration. Clause 46 of the Bill inserts new sections 393ZF to 393ZQ in subpart 2D:</p> <ul style="list-style-type: none"> • circumstances of arranging home warranties that constitute a person being considered a provider of home warranties • the criteria for registration including any requirements relating to the business, operation, or management of the person, including actuarial, audit, governance, and reporting requirements • the information providers must make available to the chief executive of MBIE, including when and how it must be provided, and the information providers must publish of their internet site • the process for registration including information required and any fee. <p>Professional indemnity insurance requirements. Clause 46 of the Bill inserts new sections 393M to 393P:</p> <ul style="list-style-type: none"> • the manner in which the total value of building work is to be calculated to determine if insurance and disclosure requirements apply 	

- definition for 'design consultant' and 'prescribed design or other services'
- the types of information design consultants must disclose, including who it must be provided to and how
- requirements for insurance, including adequacy of cover, minimum terms and conditions (including exclusions or modifications), and arrangements to enable verification that insurance is maintained.

Clause 33 of the Bill also creates powers to make regulations by Order in Council to enable further functions, duties and powers to be prescribed that TAs can delegate to other TAs or standalone BCAs in connection with a transfer of building consent functions.

The Bill will empower the chief executive of MBIE to issue Gazette notices:

- Clause 15 of the Bill inserts new section 47A (3) setting performance criteria for solar generation and sustainable buildings. Applicants must meet these criteria and provide supporting information to demonstrate compliance to access the fast track.
- Clause 21 of the Bill inserts section 175AD which sets the rules for applying for contestable funding rounds under the building research investment plan.

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
<p>The changes to the granny flats building consent exemption to allow for off-site construction to take place in advance of receiving a PIM will be retrospective to 15 January 2026. It is unlikely that there will be many, if any, off-site constructed dwellings eligible for retrospectivity as most homes are constructed after a contract has been entered into with a homeowner, not before. Further, this change is entirely to the benefit of those who construct homes off-site under the building consent exemption who mistakenly believed that building work could take place off-site in advance of receiving a project information memorandum, so long as no building work takes place at the final site (where the home is to be permanently located).</p>	

Appendix One: Further Information Relating to Part Two

Published reviews or evaluations – question 2.1

Reviews, discussion papers, and summaries of submissions relating to the building consent system (informing building consent authority and self-certification reform) can be found at:

- <https://www.mbie.govt.nz/dmsdocument/22839-evaluation-of-the-building-consent-system-pdf>
- <https://www.mbie.govt.nz/dmsdocument/25836-building-consent-system-review-summary-of-submissions>
- <https://www.mbie.govt.nz/dmsdocument/22845-issues-discussion-document-review-of-the-building-consent-system>
- <https://www.mbie.govt.nz/dmsdocument/28092-building-consent-review-options-paper-summary-of-submissions-pdf>
- <https://www.mbie.govt.nz/dmsdocument/26799-options-paper-review-of-the-building-consent-system>
- <https://www.mbie.govt.nz/dmsdocument/28092-building-consent-review-options-paper-summary-of-submissions-pdf>

Professor Anthony Hōete's ModelDocs: Transforming Building Consenting Behaviour for Better Housing, also informed the BCA reform policy <https://www.branz.co.nz/pubs/research-reports/er91/>

The evidence base also includes MBIE analysis of liability outcomes in the building sector. The 2018 report *Liability outcomes in the building sector – glimpses from available data*, available at <https://www.mbie.govt.nz/dmsdocument/4960-liability-outcomes-in-building-sector>.

Earlier analysis of the systemic costs associated with building defects is also relevant, including PricewaterhouseCoopers' report *Weathertightness – Estimating the Cost* (2009), available at <https://www.interest.co.nz/sites/default/files/PWC-leaky%20homes%20report.pdf>.

The Law Commission's published reports from earlier reviews of joint and several liability and alternative liability models in the context of civil litigation. These reviews are set out in its 1998 report (<https://www.lawcom.govt.nz/assets/Publications/Reports/NZLC-R47.pdf>) and its 2014 report (<https://www.lawcom.govt.nz/assets/Publications/Reports/NZLC-R132.pdf>).

Regulatory impact statements – question 2.3

- Incentivising residential solar generation and sustainable buildings, April 2025: <https://www.mbie.govt.nz/dmsdocument/31087-incentivising-residential-solar-generation-regulatory-impact-statement-proactiverelease-pdf> and 8 September 2025 (updated): <https://www.mbie.govt.nz/dmsdocument/31081-updated-regulatory-impact-statement-incentivising-solar-generation>
- Building Consent Authority – barriers to consolidation, July 2025: <https://www.mbie.govt.nz/dmsdocument/31263-regulatory-impact-statement-building-consent-authority-barriers-to-consolidation-proactiverelease-pdf>
- Shift to Proportionate Liability for Building and Construction, 16 July 2025: <https://www.mbie.govt.nz/dmsdocument/31262-regulatory-impact-statement-shift-to-proportionate-liability-for-building-and-construction-proactiverelease-pdf>
- Supporting mechanisms for proportionate liability in the building and construction sector, October 2025: <https://www.mbie.govt.nz/dmsdocument/31701-regulatory-impact-statement-supporting-mechanisms-for-proportionate-liability-in-the-building-and-construction-sector-proactiverelease-pdf>
- Reforming the Building Research Funding System, 17 October 2025: <https://www.mbie.govt.nz/dmsdocument/31709-regulatory-impact-statement-reforming-the-building-research-funding-system-proactiverelease-pdf>.

Appendix Two: Further Information Relating to Part Three

Offences, penalties and court jurisdictions – question 3.4(a)

The Bill introduces the following new offences and associated penalties, which are comparable existing penalties under the Act.

Strict liability offences:

- Clause 47 of the Bill inserts section 393ZG: A person must not carry out the business of providing mandatory home warranties unless registered by MBIE.
 - maximum fine \$300,000 (individual) / \$1,500,000 (body corporate).
- Clause 46 of the Bill inserts section 393ZC: Any person must not carry out building work while a certificate is in place prohibiting building work from proceeding.
 - maximum fine \$50,000 (individual) / \$150,000 (body corporate)
 - it is a defence to a prosecution for an offence against this section if the defendant proves that the contravention of the certificate was due to:
 - a. a reasonable mistake
 - b. reasonable reliance on information supplied to the defendant by another person or
 - c. the act or omission of another person, and the defendant took reasonable precautions and exercised due diligence to avoid the contravention.
- Clause 46 of the Bill inserts section 393L: A design consultant must not carry out prescribed design or other services unless they are an insured person under a professional indemnity insurance contract.
 - maximum fine \$50,000 (individual) / \$150,000 (body corporate).

Mens rea offences:

- Clause 46 of the Bill inserts section 393ZD: A registered home warranty provider or any other person must not, in trade and in relation to a type of home warranty offered by a provider:
 - knowingly make a written or oral statement that is false or misleading in a material particular or
 - knowingly make a material omission.
 - a. maximum fine \$50,000 (individual) / \$150,000 (body corporate)
- Clause 47 of the Bill inserts section 393QZ: A registered home warranty provider or an applicant for registration must not, in any communication or document required to be made:
 - knowingly make a written or oral statement that is false or misleading in a material particular or
 - knowingly make a material omission
 - a. maximum fine \$50,000 (individual) / \$150,000 (body corporate).
- Clause 46 of the Bill inserts section 393P: In making disclosure about a professional indemnity insurance contract, a design consultant must not make a false or misleading statement knowing that it is false or misleading in a material particular.
 - maximum fine \$50,000 (individual) / \$150,000 (body corporate).

Infringement offences:

- Clause 47 of the Bill inserts section 393ZO: A registered home warranty provider must make available to the chief executive, or a person or class of persons prescribed by the regulations, the information that is required to be made available under this section by the regulations.
 - infringement fee \$5,000 / maximum fine \$20,000.
- Clause 47 of the Bill inserts section 393ZP: A registered home warranty provider must meet any requirements that are set out in the regulations to publish prominently on their internet site, in plain language, certain terms and conditions of, and exclusions from, their home warranty products.
 - infringement fee \$1,500 / maximum fine \$5,000.

- Clause 46 of the Bill inserts section 393P: A design consultant must, before providing prescribed design or other services to a person, disclose details of their professional indemnity insurance contract to that person in accordance with the requirements for disclosure that are prescribed in the regulations.
 - infringement fee \$500 / maximum fine \$2,000.

External consultation – question 3.6

Proportionate liability rule change and supporting consumer protections

September 2024 – February 2025: Early international insight gathering with Australian regulators, policy officials, insurers and industry participants on the operation of proportionate liability and home warranty schemes.

April 2025 – A formal Liability Roundtable with senior representatives from the building, insurance, legal and local government sectors, and Australian experts, covering liability reform options and supporting consumer protections.

2024 – May 2026: Ongoing domestic engagement with design and building sector peak bodies, insurers, warranty providers, professional bodies, building consent authorities, consumer advocates, building professionals, the Building Advisory Panel, and other key stakeholders during policy development and drafting.

Feedback showed strong support for a shift to proportionate liability, with consensus that it should be implemented alongside supporting mechanisms rather than in isolation.

Stakeholders were supportive of mandatory (rather than voluntary) consumer protection measures, with the main point of departure being whether home warranty insurance should be state backed. The main concern from stakeholders has been the risk to consumer protection as the system shifts from one prioritising making plaintiffs whole to one focused on fairness between defendants.

Fast track for homes with solar electricity generation and sustainable attributes

March – November 2025: Targeted and informal consultation with sector groups including the Building Advisory Panel, a Building Consent Authority, BRANZ, sustainable certification scheme providers and architect and designer peak bodies. Feedback did not indicate strong support for the fast track and generally noted that the incentive is relatively small and is unlikely to encourage greater uptake of solar generation and sustainable homes.

April 2026: Engagement with the Solar Electricity Association of New Zealand who expressed support for the solar electricity generation proposals. They recommended a minimum generation capacity and other options to reduce the risk of gaming.

BCA Voluntary Consolidation

October 2024 – March 2026: Regular and ongoing engagement with councils and other relevant stakeholders to test policy intent and options to assess the practicability and effectiveness of the proposed changes. Feedback from councils focused on the legal and operational barriers to voluntary BCA consolidation, examples of transfer agreements, and other ways in which BCAs are currently cooperating and sharing resources.

Building Research Levy reform

August – October 2025: Targeted engagement with key stakeholders, including the Building Research Association of New Zealand (BRANZ), Master Builders, the Building Advisory Panel, and one BCA (Auckland Council). There was general support for the review, with stakeholders recognising the value of BRANZ's levy-funded work but calling for greater transparency, accountability, and government oversight. BRANZ raised concerns about the potential impact of changes to the building levy on building quality and safety outcomes. The Bill responds to these concerns by maintaining a contestable portion of levy funding and supporting funding decisions through an investment advisory panel.

Granny flats: A short period of targeted engagement was undertaken with stakeholders including Master Builders, off-site manufacturers, Auckland Council, Tauranga Council and

Christchurch City Council in April 2026. Feedback from stakeholders on the proposed changes was mixed. Some supported the intent, others considered that it would increase the risk of homes being constructed that are not suitable for the land that they are to be built on, and others considered the change should go further and allow for the building consent exemption to also include building work offsite built under a building consent