Submission by



to the

Transport and Infrastructure Committee

on the

Building Amendment Bill

November 2026

BUILDING AMENDMENT BILL
SUBMISSION BY BUSINESSNZ[1]

SECTION 1.0 EXECUTIVE SUMMARY

1.1 BusinessNZ welcomes the opportunity to submit to the Transport and Infrastructure Committee on the Building Amendment Bill ("the Bill").

1.2 The objective of building regulation should be to ensure safe, durable and appropriate buildings while allowing building activity to occur as efficiently and predictably as possible recognising that reducing risk generally comes at a cost.

1.3 The Government's stated purpose of the Bill is to address inefficiencies that increase costs, delay delivery and constrain performance in the building system. The Bill contains a number of measures directed at these objectives.

1.4 Proposed amendments include:

- Establishing a proportionate liability system for defective building work;
- Introducing mandatory professional indemnity insurance for design professionals (such as architects, designers, engineers, and surveyors) that contribute to the compliance of building work;
- Introducing mandatory warranties for residential building work alongside renovations with a total value of $100,000 or more;
- Encouraging uptake of solar energy by creating a fast-track building consent pathway for qualifying residential buildings;
- Repealing the Building Research Levy Act 1969 and introducing a new system for allocating funding for building sector research funding;
- Enabling voluntary consolidation and collaboration across the Building Consent Authority system; and
- Further changes to support the off-site construction of small stand-alone buildings (granny flats).

1.5 While BusinessNZ broadly supports many of the Bill's proposed amendments outlined above, there are several issues raised in Section 2 (below) which we believe should be considered in more detail before the Bill is passed into law.

1.6 It is important to understand that there is an optimal amount of risk surrounding residential building work just as there is an optimal amount of resources that should be spent on crime prevention etc. Risk cannot be

[1] Background information on BusinessNZ is attached as Appendix 1.

eliminated completely, at least not without great cost. Reducing risk might be possible but beyond a certain point the marginal cost of reducing the risks associated with sub-standard building work becomes progressively higher, while the potential returns are reduced.

1.7 Given the diversity of BusinessNZ's membership base, including various sector groups, not all members of BusinessNZ will necessarily agree with all the issues raised in Section 2 of this submission.

1.8 Moreover, some members and sectors will have specific issues which they wish to comment on in some detail. We have therefore encouraged individual members and sector representatives to make their own submissions on matters relevant to their areas of interest for consideration by the Committee.

RECOMMENDATIONS

BusinessNZ **recommends**:

Before proceeding further with the Bill, careful consideration be given to the issues raised in Section 2 of this submission.

SECTION 2.0 SPECIFIC COMMENTS ON THE BILL

Establishing a proportionate liability system for defective building work

2.1 BusinessNZ notes that one of the fundamental changes the Bill makes is to shift the risks associated with building and construction from joint and several liability, which prioritises full recovery for the claimant, to proportionate liability – where each party can only be held responsible for their contribution to any defective building work.

2.2 However, it is noted that that the Explanatory Note to the Bill states that: *"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."

2.3 Currently, Councils (effectively ratepayers) are often left carrying the can of defective building work as they are perceived as having deep pockets, particularly if those directly responsible for defects are insolvent or generally difficult to track down. This means households and businesses can end up paying for defective work they had no role in producing. Ratepayers may effectively subsidise poorly performing building firms.

2.4 Under joint and several liability, a well-capitalised defendant may bear costs caused partly by a party that cannot pay. That can weaken the link between an organisation's conduct and its ultimate financial responsibility.

2.5 Proportionate liability strengthens that link. In principle, this should encourage better risk management and make the cost of doing business more predictable while also incentivising homeowners to be careful in ensuring that they contract with reputable providers of building services.

2.6 While BusinessNZ is cautiously supportive of the approach taken in the Bill, there are both pros and cons of this approach, particularly to homeowners, including that the proposal effectively restricts the ability to enter into contracts as agreed between homeowners and those involved in construction (i.e. freedom of contract is somewhat restricted which should not be taken lightly).

2.7 It should also be emphasised that lower council liability does not automatically mean lower overall building costs. The economic benefit depends on whether reduced insurance, compliance and delay costs outweigh additional costs elsewhere in the system.

Introducing mandatory professional indemnity insurance for design professionals (such as architects, designers, engineers, and surveyors) that contribute to the compliance of building work

2.8 BusinessNZ notes that the Bill will make professional indemnity insurance compulsory for design professionals, such as engineers, architects, designers, and surveyors and is generally supportive of the approach taken in the Bill.

2.9 Many professionals already obtain professional indemnity insurance as part of good and prudent practice. The move to make it mandatory could be

considered on balance, justified, given the potential risks to such groups and householders in respect to what are significant assets.

2.10 On the downside, there is the potential risk of unintended consequences, that requiring professional indemnity insurance to be compulsory could add to costs of building activity which will ultimately flow through into final prices facing residential households – depending at least partially on how competitive the insurance sector is in providing such coverage.

Introducing mandatory warranties for residential building work with a total value of $100,000 or more requiring building consent

2.11 BusinessNZ understands that the Bill will generally require mandatory warranties where the total value of work is over $100,000 for renovations, while the mandatory warranty will be required for every new house and every apartment building under 10 metres regardless of value.

2.12 While BusinessNZ is broadly supportive of this proposal, consideration will need to be given to ensuring that builders just starting out, without a substantial track record, can obtain warranty backing given that a potentially unintended effect could be in reducing the number of potential builders being able to undertake building work. There is also the potential for warranty's to be expensive if insurers are reluctant or see significant risks involved. Obviously, as with most risks, the costs will ultimately flow through to the end user, in this case, homeowners.

2.13 It is noted in the Bill that the Ministry of Business, Innovation and Employment (MBIE) may register home warranty contract providers. The Bill also enables new regulations specifying the criteria to be met and evidence required for provider registrations.

2.14 BusinessNZ would urge regulators to ensure that the provision of home warranties is adequate before the new system is up and running to minimise potential bottlenecks in builders, and others, in meeting their obligations. In this respect, there may need to be some grace period before the regulations kick-in.

2.15 It is acknowledged as a precaution, to avoid disruption to the construction sector, that the Bill allows for targeted, temporary suspension of home warranty and insurance requirements should this become necessary in the future due to significant disruptions and global market shifts, with home warranties and insurance remaining available on a voluntarily basis, like they are now.

2.16 Given the above, it could be argued that the Bill should provide more clarity of when temporary warranty and insurance requirements should be suspended to avoid potential problems associated with political decisions surrounding same.

Encouraging uptake of solar energy by creating a fast-track building consent pathway for qualifying residential buildings

2.17 It is noted that the Bill will allow targeted changes to support faster, more efficient, and sustainable buildings. It does this by introducing a fast-track building consent pathway for new residential buildings with solar generation and sustainable attributes, requiring eligible building consents to be processed by Building Consent Authorities (BCAs) with 10 working days, compared with the standard current 20 working days.

2.18 It is noted that in the Explanatory Note to the Bill, that this reform is intended to encourage greater uptake of solar generation and sustainable building design, while speeding up the consenting process and supporting more efficient delivery of new homes.

2.19 While BusinessNZ is supportive of fast-tracking consenting where risks can be effectively managed, it would question why the legislation appears to restrict the fast-track process to buildings that meet specified performance standards relating to solar generation or sustainable, such as energy efficiency, low-embodied carbon, and /or climate resilience.

2.20 BusinessNZ is broadly concerned about this proposal on two grounds: Firstly, the fast-track consenting requirement outlined in the Bill for solar-electricity generating and sustainable builds does not differentiate between relatively simple and low risk building work (such as that needed to install solar panels) and more complex higher risk building work, such as that associated with the design and build of a large, complex sustainable home based on novel and bespoke design elements and materials.

2.21 There is no clear evidence that buildings with sustainability or climate resilience features will necessarily involve any less complex structural, weathertightness or other Building Code issues requiring careful assessment than 'normal' residential buildings.

2.22 Secondly, as a general principle, individuals should be free to utilise their property (or develop structures) that reflect their own preferences provided of course that the meet any minimum requirements of building standards to ensure that the risk to third parties is broadly acceptable.

2.23 In this respect, BusinessNZ would caution against fast-tracking solar-electricity generating building designs as opposed to any other designs. Fast-tracking consents should ideally be undertaken in a consistent manner irrespective of whether such designs involve or do not involve solar generation and/or are considered "sustainable" under the Bill. The only issue at stake should be risk, to both homeowners, and third parties associated with potentially defective buildings.

2.24 In respect to building consents, BCA should be agonistic towards the type of building work being undertaken, provided of course it meets appropriate building standards as outlined in building codes to ensure acceptable risk. In this respect, whether a residential building contains solar energy generation or "sustainability" features should be totally irrelevant when fast-tracking building consents.

2.25 Finally, and despite the concerns expressed above, the difference between consenting within 10 days as opposed to 20 days currently could be considered hardly a material improvement.

Repealing the Building Research Levy Act 1969 and introducing a new system for allocating funding for building sector research funding

2.26 BusinessNZ notes that the current Building Research Levy – funded system, established in 1969, is to be repealed.

2.27 The stated objective is that this is necessary to enable greater innovation, promote value for money, and open opportunities beyond the single current provider.

2.28 The Bill would give the Ministry for Business, Innovation and Employment (MBIE) chief executive a new role in funding building research, with funding ring-fenced and collected through a single building levy.

2.29 While BusinessNZ is not opposed to the concept of opening up the fund to contestability, it could be considered that BRANZ has specialist knowledge, built

up over time, therefore it is important that the introduction of a contestability regime does not unnecessarily result in fragmentation of research and loss of expertise.

2.30 For example, it is understood that BRANZ laboratories include large-scale fire and structural testing facilities. This could be considered core infrastructure that requires ongoing investment and maintenance. However, there is no guarantee that this capability, currently provided by BRANZ will have any guarantee of funding beyond April 2027. The risk is that a contestable fund, while supported in theory, can't ensure that specialist teams and facilities are going to be maintained over the longer term with funding terms that support ongoing investment planning.

2.31 There are several additional considerations that we suggest should be considered before repealing the Building Research Act 1969:

Independence of building research:

2.32 Transferring research funding decisions to MBIE could expose research priorities to short-term government and political priorities, potentially at the expense of the building sector's longer-term needs.

Industry leadership and accountability:

2.33 The proposed changes would replace a sector led research system with one administered by government, substantially reducing the sector's influence over research priorities and investment decisions, despite the sector continuing to fund the research levy. This also raises questions about accountability to levy payers.

Preservation of national research capability:

2.34 The potential permanent loss of specialist capability, long-term datasets and institutional knowledge developed over decades, which would be difficult and costly to rebuild should also be an consideration.

Public-good research and value to levy payers:

2.35 Greater reliance on contestable funding could shift research towards shorter-term or commercially funded activities, reducing the independent, public-good research available to the wider sector. They fundamentally alter the relationship

between the building sector, the research it funds, and the governance and accountability arrangements that underpin the system.

Enabling voluntary consolidation and collaboration across the Building Consent Authority system

2.36 The removal of legislative barriers that have hampered the consolidation and collaboration of building cosnents authorities is logical and should enable that smaller building consent authorities consolidate over time to achieve greater economies of scale, and consistency in application.

2.37 Notwithstanding the above, one issue which is missing in the Bill and needs to be addressed is in respect to Building Consent Authorities (BCAs) allowing for competition in service delivery from private sector providers.

2.38 Council BCAs are often rates-subsidised and the delegation of power in new section 236B is open to CCOs but not private BCAs. Moreover, the new warranty-checking role for the BCA under section 393Y has no deadline for lifting a stop-work certificate once evidence arrives, which is a source of delay for builders.

2.39 Allowing private sector BCAs to compete on an even playing field with Councils would likely speed up the process considerably as the incentives to deliver on a timely basis would be enhanced. BusinessNZ therefore recommends consideration should be given to addressing this in the current Bill.

Further changes to support the off-site construction of small stand-alone buildings (granny flats)

2.40 BusinessNZ supports the proposals to allow for more efficient construction methods by permitting the offsite construction of consent-exempt granny flats to take place in advance of receiving a project information memorandum (PIM).

Appendix 1: Background information on BusinessNZ

BusinessNZ
THE VOICE OF BUSINESS

The BusinessNZ Network is New Zealand's largest business organisation, representing:

- Business groups EMA, Business Central, Major Companies Canterbury, and Business South
- BusinessNZ policy and advocacy services
- Major Companies Group of New Zealand's largest businesses
- Gold Group of medium-sized businesses
- Affiliated Industries Group of national industry associations
- ExportNZ representing New Zealand exporting enterprises.
- ManufacturingNZ representing New Zealand manufacturing enterprises.
- Sustainable Business Council of enterprises leading sustainable business practice.
- BusinessNZ Energy Council of enterprises leading sustainable energy production and use.
- Buy NZ Made - country of origin licensing organisation for NZ-made products, NZ-grown ingredients, and NZ-coded software services.

The BusinessNZ Network is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

The BusinessNZ Network contributes to Government, tripartite working parties and international bodies including the International Labour Organisation (ILO), the International Organisation of Employers (IOE) and Business at OECD (BIAC).

