



COVERSHEET

Minister	Hon Jenny Salesa	Portfolio	Building and Construction
Title of Cabinet paper	Building Act 2004: Proposed Amendments to Schedule 1 to Exempt Specified Building Work from Requiring a Building Consent'	Date to be published	23 June 2020

List of documents that have been proactively released

Date	Title	Author
6 May 2020	Proposal to amend Schedule 1 of the Building Act 2004 to exempt specified building work from requiring a building consent	Office of Hon Jenny Salesa
11 May 2020	Building Act 2004 Proposed Amendments to Schedule 1 to Exempt Specified Building Work from Requiring a Building Consent CAB-20-MIN-0215	Cabinet Office
21 April 2020	Building Act 2004 Proposed Amendments to Schedule 1 to Exempt Specified Building Work from Requiring a Building Consent - RIS 21 April 2020	MBIE

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

In Confidence

Office of the Minister for Building and Construction
Chair, Cabinet Economic Development Committee

Proposal to amend Schedule 1 of the Building Act 2004 to exempt specified building work from requiring a building consent

Proposal

1. This paper seeks agreement to amend Schedule 1 of the Building Act 2004 (Schedule 1) by an Order in Council to extend the list of building work that is exempt from requiring a building consent.
2. This paper also seeks agreement to amend the Building Act 2004 to add a new category of exemptions to Schedule 1 for building work where the design and construction is carried out or supervised by Licensed Building Practitioners (LBPs).

Relation to government priorities

3. The Government's Building System Legislative Reform Programme (CAB-19-MIN-0507, CAB-19-MIN-0508 refers) provides an opportunity to extend the list of building consent exemptions in Schedule 1 and improve the operation of existing exemptions, to improve the effectiveness, efficiency and clarity of the building regulatory system. Extending the list of building consent exemptions in Schedule 1 will also help to improve the productivity of the sector, supporting the COVID-19 recovery.

Executive Summary

4. The Building Act 2004 requires that a person must not carry out any building work except in accordance with a building consent. However, Schedule 1 recognises that some building work does not need to be subject to the requirements of the building consent process and is therefore exempt from needing a building consent. While exempt from needing a building consent, this building work must still comply with the Building Code.
5. Appropriately specified building consent exemptions under Schedule 1 result in improved efficiency and effectiveness of the building regulatory system. They remove the need for Building Consent Authorities (BCAs) to review the design and construction of that work, so BCAs can focus their time and resources on building work that presents a higher risk to people and property. By not requiring a building consent and subsequent inspections for exempted work, homeowners and building owners benefit from less red tape and savings in cost and time.

6. There are currently 43 exemptions in Schedule 1. These exemptions cover:
 - specified types of building work no matter who carries it out;
 - some building work carried out by an authorised person under the Plumbers, Gasfitters and Drainlayers Act 2006;
 - some building work that was designed, or the design was reviewed, by a Chartered Professional Engineer.
7. Schedule 1 also gives councils the discretion to exempt work from needing a building consent in certain circumstances.

A package of additional Schedule 1 building consent exemptions is proposed

8. I propose to amend the list of building consent exemptions in Schedule 1 by providing 6 new exemptions and expanding 4 of the current exemptions. Some of the proposed exemptions cover multiple scenarios, so in total there are 13 additional individual proposals.
9. Each of the exemptions in the package is designed to have a risk profile consistent with the current exemptions in Schedule 1 of the Act (i.e. low risk). Appendix 1 explains the proposals in detail. As part of the proposed package, MBIE also intends to review and update the current guidance on Schedule 1 building consent exemptions.
10. MBIE estimates that annually, building consents will not be needed in up to 9,000 incidences, building owners could save between \$14.7 million and \$18 million, and BCAs would save approximately 70,000 to 100,000 hours from not having to process building consents for the exempted work.
11. In addition to improving the efficiency and effectiveness of the building regulatory system, the proposed package recognises that some designers, such as Chartered Professional Engineers or LBPs, are well placed to manage the risks associated with certain types of work on the basis that they are trained, qualified and regulated. It also promotes greater use of kit-set and prefabricated building components.

A decision is sought about the maximum size for one set of proposals

12. The proposed package in this paper includes additional exemptions for larger single-storey detached buildings (e.g. sleepouts, garages, sheds and greenhouses) that have a floor area greater than the current exemption of 10 square metres.
13. One of these proposed exemptions is for buildings up to a maximum floor area of 15 square metres with lightweight walls.
14. The other is for larger buildings that could double, or more than double, the size of the current exemption where they are constructed using any materials and a Chartered Professional Engineer is involved in the design, or an LBP is involved in the design and construction to manage risk. Note that these proposals do not include small self-contained houses (see paragraph 37 for further discussion).

15. This paper seeks a decision on whether the maximum size of the larger exemption proposal is either 20 square metres (MBIE's consultation proposal), or 25 or 30 square metres. The implications of each option are discussed in detail in paragraphs 42 to 51 of this paper.
16. I have looked at whether there should be a requirement for owners to notify their council once work is completed. In the first instance, I consider that this matter should be dealt with in the update to the guidance. Should building work not comply with the Building Code, councils have a range of powers under the Building Act 2004, including the ability to issue a notice to fix for the work regardless of whether the work has a building consent.

Legislative and Regulatory change

17. The proposed package can be given effect through an Order in Council under section 41 of the Building Act 2004. I expect that an Order in Council will be made by 31 July 2020 and in force by 31 August 2020.
18. However, to give full effect to one of the proposed exemptions – single-storey detached buildings – legislative change will be required to provide for a new category of building work that would not require a building consent. The new category of work would be for specific building work where the design and construction is carried out or supervised by LBPs. The exemption can be partially implemented through an Order in Council change but only for the parts of the proposal involving single-storey detached buildings up to 15 square metres with lightweight walls, and for buildings up to a larger maximum floor area of any construction where a Chartered Professional Engineer is involved in the design.
19. I consider that this is something that should be progressed as part of any economic recovery package in responding to COVID-19.

Background

How building consent exemptions work under Schedule 1 of the Building Act 2004

20. Before building work can be undertaken, a building consent needs to be obtained from a BCA. The building consent process helps to ensure that the risks to people and property associated with non-compliance with the Building Code are effectively managed. The process involves a check of plans, inspections during construction and the issue of a Code Compliance Certificate once building work has been completed.
21. However, building consent exemptions under Schedule 1 of the Building Act 2004 recognise that some building work may not need to be subject to the requirements of the building consent process. There are currently 43 building consent exemptions under Schedule 1.
22. Not requiring a building consent removes the need for BCAs to review the design and construction of that work, and reduces time and cost impacts for building owners. It places greater reliance on building owners, designers and builders, and building product manufacturers to ensure quality work.

23. Under Schedule 1, there are existing exemptions for three categories of building work:
- specified types of building work no matter who carries it out, for example homeowners undertaking general maintenance work and building work on unoccupied detached buildings;
 - some building work such as sanitary plumbing or drainage carried out by an authorised person (defined in section 42A of the Building Act 2004) under the Plumbers, Gasfitters and Drainlayers Act 2006;
 - some building work such as signs or plinths if it is designed, or the design reviewed, by a Chartered Professional Engineer, and the building work is carried out in accordance with that design.
24. For listed Schedule 1 exemptions, building owners do not need to contact their council or apply for a building consent to proceed with their building work.
25. The list of building consent exemptions under Schedule 1 can be added to through an Order in Council under section 41 of the Building Act 2004. In addition to the listed exemptions, Schedule 1 gives territorial or regional authorities the discretion to exempt work from needing a building consent if they consider that:
- the completed building work is likely to comply with the Building Code, or
 - people or any other buildings are unlikely to be endangered if the completed building work does not comply with the Building Code.
26. Building work that does not require a building consent must still comply with the Building Code and other legislative requirements, such as those under the Resource Management Act 1991, the Electricity Act 1992 and the Health and Safety at Work Act 2015 (section 42A of the Building Act 2004 refers).
27. Should building work not comply with the Building Code, councils have a range of powers under the Building Act 2004, including the ability to issue a notice to fix for the work regardless of whether the work has a building consent.

Expanding the list of the Schedule 1 building consent exemptions and updating Schedule 1 guidance

28. The Government's Building System Legislative Reform Programme provides an opportunity to extend the list of building consent exemptions in Schedule 1 and improve the operation of existing exemptions, to improve the effectiveness, efficiency and clarity of the building regulatory system. In addition to a reduction in the building levy from 1 July 2020, these changes will also remove costs from the building system for building owners in all areas, including building owners in rural and provincial areas.
29. Extending the list of building consent exemptions in Schedule 1 will also help to improve the productivity of the sector, supporting the COVID-19 recovery.

30. While adding exemptions creates additional risks to people and property, these risks can be managed by appropriately specified conditions and effective guidance.
31. Appropriately specified building consent exemptions under Schedule 1 result in improved efficiency and effectiveness of the building regulatory system. They remove the need for BCAs to review the design and construction of that work, so BCAs can focus their time and resources on building work that presents a higher risk to people and property. By not requiring a building consent and subsequent inspections for exempted work, homeowners and building owners benefit from less red tape and savings in cost and time.

Details of the proposed package

32. The proposed package includes 6 new exemptions and expands 4 of the current exemptions. Some of the proposed exemptions cover multiple scenarios, so in total there are 13 additional individual proposals.
33. As part of the package, MBIE also plans to update the guidance for building consent exemptions. The updated guidance will help users to understand and comply with the requirements of Schedule 1 exemptions, and provide updated guidance to territorial authorities on their discretionary exemption power under Schedule 1.

Extending the list of work exempted from building consent requirements

34. I propose that Schedule 1 be amended by Order in Council to add amended or new additional exemptions for building work in connection with:
 - larger single-storey detached buildings¹ (e.g. sleepouts, garages, sheds and greenhouses) where two separate exemptions are proposed:
 - one with a maximum floor area of 15 square metres with lightweight walls, and
 - one with a larger maximum floor area constructed of any materials but with new conditions to manage risk;
 - carports with a maximum floor area of 40 square metres;
 - awnings with a maximum size of 30 square metres;
 - verandas and porches with a maximum size of 30 square metres;
 - outdoor fireplaces or ovens;
 - flexible water storage bladders for irrigation and firefighting only up to 200,000 litres in storage capacity;
 - short-span bridges on private land without public access;
 - pipe supporting structures;
 - ground-mounted solar array panels in rural zones and outside rural zones;
 - detached single-storey pole sheds and hay barns.

Appendix 1 discusses the detail of the proposed exemptions.

Conditions are proposed to address identified risks

¹ Currently there is an exemption in Schedule 1 for single-storey detached buildings up to a maximum floor area of 10 square metres.

35. Each of the additional exemptions in the package is designed to have a risk profile consistent with the current exemptions in Schedule 1 of the Act (i.e. low risk). The exemptions include conditions to manage risk analogous to those that are used for other Schedule 1 exemptions.
36. Some of the proposed exemptions above include a requirement that design needs to be carried out or reviewed by a Chartered Professional Engineer as one of the conditions to manage risk. In practice, for kit-sets or prefabricated components, design sign-off by a Chartered Professional Engineer could be part of the product development process before sale.
37. In relation to the single-storey detached building exemptions, these must not contain sanitary facilities, facilities for the storage of potable water, or cooking facilities, and the building must be associated with a main dwelling. Including these elements would significantly increase potential health and safety risks to building users or neighbouring properties. This means small self-contained houses are not covered by these proposed exemptions.

Adding a further exemption for larger single-storey detached buildings involving LBPs

38. In addition to the proposals outlined in paragraph 34, I also propose that Schedule 1 be amended to add an exemption for larger single-storey detached buildings constructed of any materials where the design and construction has been carried out or supervised by a LBP. I propose that the maximum floor area for this exemption be consistent with the proposed exemption that involves a Chartered Professional Engineer.
39. This proposal cannot be given effect by an Order in Council as it requires legislative change to add a new category of building work to Schedule 1 to allow building owners to undertake specified building work without a building consent where the design and construction is carried out or supervised by LBPs.
40. I propose to make this legislative change either by introducing a new amendment to the Building (Building Products and Methods, Modular Components and Other Matters) Amendment Bill 2020 via the Departmental Report or a Supplementary Order Paper. If Government decides to progress other omnibus legislation to support COVID-19 recovery the change could also be included in that legislation.
41. Adding this new category for LBPs to the Act will allow specified types of building work to be added to in the future by an Order in Council process. This allows an easier process in future for adding additional building work.

Setting the maximum floor area of the proposed single-storey detached building exemption involving a Chartered Professional Engineer or LBP

42. Currently there is an exemption in Schedule 1 for single-storey detached buildings up to a maximum floor area of 10 square metres. Note that under this exemption there is no BCA oversight of design or construction.

43. As part of its consultation with the sector in late 2019 (see paragraphs 56 to 60), MBIE sought views on proposals that would increase the floor area of this exemption to 15 square metres with lightweight walls, and up to a maximum of 20 square metres where the design is carried out or reviewed by a Chartered Professional Engineer, or the design and construction is carried out or supervised by a LBP.
44. Following further consideration and discussions with my colleagues, I have decided to seek agreement as to whether the maximum floor area in a single-storey detached building that is exempt from requiring a building consent is either:
- 20 square metres with new conditions to manage risk (MBIE's consultation proposal), or
 - 25 square metres with new conditions to manage risk, or
 - 30 square metres with new conditions to manage risk.
45. Under these options, the proposal to increase the current floor area from 10 square metres to 15 square metres with lightweight walls would still remain.
46. Increasing the size of the exemption from MBIE's consultation proposal would potentially allow more building work to be carried out without a building consent resulting in savings in cost and time to building owners and BCAs. However, there are additional risks.
47. In doubling, or more than doubling, the maximum size of a building, the associated structural stability and fire safety risks may triple or quadruple. This is because the size and weight of individual parts of the building, like roof and wall panels, may be significantly greater in larger buildings. This means that they are much more likely to cause injury or death if they happen to collapse or catch on fire, noting the number of people that could potentially sleep in them.
48. For a 10 square metre building, it's likely that no more than 4 people would be sleeping in the building, yet for a 25 square metre building, the number of people sleeping could be as high as 16. A 30 square metre building could accommodate up to 30 bunk beds, or sleep up to 30 people.
49. Based on the feedback MBIE received on the consultation proposal, there could also be concerns about compliance with planning legislation as the size of exemption increases. Note that building work that does not require a building consent must still comply with the Building Code and other legislative requirements, such as those under the Resource Management Act 1991.
50. I do not recommend extending the proposed maximum exemption beyond 30 square metres at this time. The assurance gained by having the risk mitigations of a Chartered Professional Engineer or LBP has certain limits and I consider that extending the exemption more than 30 square metres would require some independent assessment by a BCA and therefore a building consent.

51. The table below compares the current maximum floor area for a single-storey detached building in Schedule 1 with a summary of proposals in this paper.

Table 1: Single-storey detached exemption maximum floor area comparison

Current exemption in Schedule 1 (maximum floor area)	Summary of proposals in this paper (maximum floor area)
10 square metres	10 square metres
	15 square metres with lightweight walls
	With the involvement of a Chartered Professional Engineer or LBP: Either (i) 20 square metres (MBIE's consultation proposal) Or (ii) 25 square metres Or (iii) 30 square metres

Estimated financial impacts of the package

52. Based on actual building consent volumes provided by 10 councils², MBIE estimates that under this package, building consents will not be needed for up to 9,000 incidences annually. However, exact consent numbers are unknown due to the collective nature of consenting (i.e. one consent can be for multiple pieces of work, some of which are proposed to be exempt).
53. This would result in estimated annual savings between \$14.7 million and \$18 million for building owners, from not having to pay the fees (and building levy) associated with applying for a building consent³. Building owners would also save time associated with preparing fewer building consent applications.
54. BCAs would also save time and costs associated with processing fewer building consents which would allow them to focus on higher-risk work. MBIE estimates that BCAs would save 70,000 to 100,000 hours annually from not having to process building consents for the exempted building work.

² As part of the targeted consultation undertaken by MBIE, all councils were invited to submit. All of the main metro councils provided a submission (Auckland, Wellington, Christchurch, Dunedin, Waikato cluster). Submissions were also received from rural and provincial councils. The following councils provided actual volume information: Waimakariri, Upper Hutt, Tasman, Dunedin, Timaru, Whangarei, Whakatane, Horowhenua, Buller, Christchurch, Grey, Waimate, Waitaki, and Western Bay of Plenty. These areas represent 11 per cent of the country's volumes, which were then extrapolated nationally.

³ Based on Wellington City Council consenting fees and the volumes provided in submissions.
<https://wellington.govt.nz/services/consents-and-licences/building-consents/fees/building-consents-calculator>.

55. The package is estimated to reduce revenue to MBIE from the building levy by around \$300,000 every year⁴. This will be built into future MBIE levy forecasts should Cabinet approve the proposals.

Consultation summary

56. MBIE undertook targeted consultation on the package of proposals through a consultation paper sent to 79 key stakeholders, including every BCA in the country, industry organisations and building owner groups likely to be affected. The consultation ran from 13 September to 11 October 2019.
57. Of the 40 submissions received, the majority (27) were from BCAs, with 10 from industry, two from consumer and building-owner groups, and one from an independent building control officer. The BCA submitters covered the four main urban cities, as well as a good spread across BCAs with mainly rural interests, and those with a population that is split between a large provincial centre and rural surrounds.
58. There was generally good support for the package of proposals and overall, submitters agreed with MBIE's assessment of risks and conditions associated with the proposals. There was considerable comment on individual proposed exemptions, and this feedback was used to inform the detail of the final proposed exemption package.
59. One of the proposals consulted on related to installing insulation in external walls of standalone residential buildings. However, following feedback from consultation, this proposal has not been progressed as risks to people and property cannot be adequately managed through a general Schedule 1 building consent exemption.
60. In response to consultation, an exemption was added to the package for building work in connection with porches and verandas as the risk profile for this work is the same as for the proposal for awnings.

Next steps

61. I expect that an Order in Council will be made by 31 July 2020 and in force by 31 August 2020.
62. I consider that this is something that should be progressed as part of any economic recovery package in responding to COVID-19.

Financial Implications

63. As noted above, the financial implication for the Crown associated with this proposal is the reduction of revenue to MBIE from the building levy. This will be built into future MBIE levy forecasts should Cabinet approve the proposals.

⁴ Based on the existing levy rate of \$2.01. Estimates at a \$1.75 levy rate (recently agreed by Cabinet as part of the building system legislative reforms) would be similar at \$289,000.

Legislative Implications

64. Section 41 of the Building Act 2004 allows Schedule 1 to be amended by Order in Council. All but one of the proposed exemptions in the package can be given effect through an Order in Council under section 41 of the Act.
65. One of the proposed exemptions involves adding a new category to Schedule 1 for specified building work undertaken by Licenced Building Practitioners. This requires an amendment to the Building Act 2004. This legislative change may be able to be made by introducing a new amendment to the Building (Building Products and Methods, Modular Components and Other Matters) Amendment Bill 2020. It could also be included in an omnibus Bill if such a vehicle was available as part of a COVID-19 recovery package.

Impact Analysis

Regulatory Impact Statement

66. MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Regulatory Impact Summary prepared by MBIE. The Panel considers that the information and analysis summarised in the Regulatory Impact Summary meets the criteria necessary for Ministers to make informed decisions on the proposals in this paper.

Climate Implications of Policy Assessment (CIPA)

67. The Ministry for the Environment has been consulted on the proposals in this Cabinet paper, and confirms that the CIPA requirements do not apply.

Population Implications

68. The proposals in this paper are not expected to have significant implications for population groups.

Human Rights

69. This paper has no implications under the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

70. The following agencies were consulted on the proposals in this paper: Department of Prime Minister and Cabinet, Ministry for the Environment, Ministry of Housing and Urban Development, Department of Internal Affairs, Fire and Emergency New Zealand, Ministry for Primary Industries, The Treasury, Te Puni Kōkiri, Kāinga Ora, Department of Conservation, New Zealand Transport Agency and WorkSafe.

Communications

71. I intend to issue a media statement once Cabinet decisions have been made. This paper, the Regulatory Impact Summary, and a summary of the targeted consultation will be made publicly available on MBIE's website.

Proactive Release

72. This Cabinet paper and associated minute will be published on MBIE's website subject to any necessary redactions.

Recommendations

The Minister for Building and Construction recommends that the Committee:

1. **note** that building consent exemptions under Schedule 1 of the Building Act 2004 (Schedule 1) recognise that not all building work need to be subject to the requirements of the building consent process;
2. **note** that building consent exemptions under Schedule 1 reduce the costs of compliance for building consent applicants for minor and low-risk building work, and reduce time and costs for Building Consent Authorities (BCAs) for building work that is likely to comply with the Building Code, and enables them to focus on higher-risk work;
3. **note** that there are currently 43 building consent exemptions under Schedule 1 of the Building Act 2004 (Schedule 1);

Schedule 1 exemption package

4. **note** that as part of the Government's Building System Legislative Reform Programme, a package of additional exemptions has been developed following targeted consultation with key building sector stakeholders, covering a variety of work carried out in both urban and rural areas;

Single-storey detached buildings

5. **note** the existing exemption in Schedule 1 for single-storey detached buildings is up to a maximum floor area of 10 square metres;
6. **agree** to add a building consent exemption to Schedule 1 for building work in connection with single-storey detached buildings with a floor area not exceeding 30 square metres and with the same conditions as clause 3 of Schedule 1 and:
 - 6.1. an additional requirement that:
 - 6.1.1. for kitset or prefab buildings, a manufacturer or supplier has had the design of the structure, connections, fixings and foundation carried out or reviewed by a Chartered Professional Engineer and that the work is carried out in accordance with that design; or
 - 6.1.2. the design and construction is carried out or supervised by a Licenced Building Practitioner; or
 - 6.1.3. only lightweight materials with structural components built in accordance to Building Code compliance B1/AS1 are used, and that this work may be done by anyone; and

- 6.2. where the building is used for sleeping accommodation it must have smoke alarms;

Carports

7. **agree** to add a building consent exemption to Schedule 1 for building work in connection with carports up to 40 square metres, with the same conditions as clause 18 of Schedule 1 and an additional requirement that the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and that the work is carried out in accordance with that design;
8. **agree** to include a further exemption with the same conditions as the exemption above but instead of a requirement for a Chartered Professional Engineer it includes a requirement for the design and construction to be carried out or supervised by a Licenced Building Practitioner;

Awnings

9. **agree** to add a building consent exemption to Schedule 1 for building work in connection with awnings up to 30 square metres, with the same conditions as clause 16 of Schedule 1 with the following additional requirements:
- 9.1. the exemption only applies to awnings on the ground floor; and
- 9.2. the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design;
10. **agree** to include a further exemption with the same conditions as the exemption above but instead of a requirement for a Chartered Professional Engineer it includes a requirement for the design and construction to be carried out or supervised by a Licenced Building Practitioner;

Verandas and porches

11. **agree** to add a building consent exemption to Schedule 1 for building work in connection with verandas and porches up to 30 square metres, with the same conditions as clause 17 of Schedule 1 with the following additional requirements:
- 11.1. the exemption only applies to verandas and porches on the ground floor; and
- 11.2. the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design
12. **agree** to include a further exemption with the same conditions as the exemption above but instead of a requirement for a Chartered Professional Engineer it includes a requirement for the design and construction to be carried out or supervised by a Licenced Building Practitioner;

Outdoor fireplaces or ovens

13. **agree** to add a building consent exemption to Schedule 1 for building work in connection with permanent outdoor fireplaces or ovens that:
 - 13.1. are located at least a metre from any legal boundary or building; and
 - 13.2. have a maximum height of 2.5 metres, and a maximum cooking surface of 1 square metre; and
 - 13.3. are supported on the ground and not covered by a roof or wall; and
 - 13.4. dispose of smoke in a way that does not create a nuisance or hazard to people or other property;

Flexible water storage bladders

14. **agree** to add a building consent exemption to Schedule 1 for building work in connection with flexible water storage bladders that:
 - 14.1. are supported directly by the ground; and
 - 14.2. are located a minimum of 100 metres from any legal boundary or residential building; and
 - 14.3. have a maximum height of 2 metres from the ground; and
 - 14.4. do not exceed 200,000 litres in capacity; and
 - 14.5. are used only for irrigation or firefighting purposes;

Short-span bridges on private land without public access

15. **agree** to add a building consent exemption to Schedule 1 for building work in connection with short-span bridges where:
 - 15.1. the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and that the work is carried out in accordance with that design; and
 - 15.2. it is not possible to fall more than 3 metres; and
 - 15.3. it has a span less than 6 metres; and
 - 15.4. it does not span a road, rail or area with public access; and
 - 15.5. it is not used by the general public; and
 - 15.6. it has a Building Code compliant barrier;

Pipe supporting structures

16. **agree** to add a building consent exemption to Schedule 1 for building work in connection with pipe supporting structures that:
- 16.1. are constructed on private land without public access; and
 - 16.2. are located a minimum of 5 metres from any residential building, public road, rail or legal boundary; and
 - 16.3. are supported on the ground; and
 - 16.4. are supporting a single pipe with a maximum 300 millimetre diameter; and
 - 16.5. have a distance from the ground to the top point of no more than 1 metre; and
 - 16.6. supports a pipe that transports only water;

Ground-mounted solar array panels

17. **agree** to add a building consent exemption to Schedule 1 for building work in connection with ground-mounted solar array panels in rural zones (as defined in clause 41 of Schedule 1) where:
- 17.1. design wind speeds do not exceed 44 metres per second (calculated using Building Code Verification Method B1/VM1), or where the panels are located in a wind zone no greater than 'high' (as defined in Building Code Acceptable Solution B1/AS1); and
 - 17.2. the panels are supported on the ground, and are attached by more than a single post to the ground; and
 - 17.3. the distance from the top of the panels to the ground does not exceed 4 metres; and
 - 17.4. the panels are located a minimum of 5 metres from any residential building, public road, rail or legal boundary;
18. **agree** to add a building consent exemption to Schedule 1 for building work in connection with ground-mounted solar array panels outside rural zones with the same conditions as paragraph 17 above and the following additional requirements:
- 18.1. work on panels up to 20 square metres in size can be undertaken by anyone;
 - 18.2. work on panels up to 40 square metres requires the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design;

Single-storey pole sheds and hay barns

19. **agree** to add a building consent exemption to Schedule 1 for building work in connection with single-storey pole sheds and hay barns in rural zones (as defined in clause 41 of Schedule 1) where:
- 19.1. the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and that the work is carried out in accordance with that design; and
 - 19.2. design wind speeds do not exceed 44 metres per second (calculated using Building Code Verification Method B1/VM1), or where the panels are located in a wind zone no greater than 'high' (as defined in Building Code Acceptable Solution B1/AS1); and
 - 19.3. the building is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 4 metres above the floor level); and
 - 19.4. the maximum unsupported roof span in any direction does not exceed 6 metres; and
 - 19.5. the building does not exceed 110 square metres in floor area; and
 - 19.6. the building has a minimum distance from any residential building, public road, rail or legal boundary at least equal to the measure of its own height; and
 - 19.7. the building is not subject to the Hazardous Substances and New Organisms Act 1996; and
 - 19.8. the building is not accessible by the public;
20. **agree** to include a further exemption with the same conditions as the exemption above but instead of a requirement for a Chartered Professional Engineer it includes a requirement for the design and construction to be carried out or supervised by a Licenced Building Practitioner;
21. **note** that these amendments to Schedule 1 above can be given effect through an Order in Council under section 41 of the Building Act 2004;
22. **note** that the Ministry of Business, Innovation and Employment plans to update the guidance for building consent exemptions;

Amending the Building Act 2004 to add a new category of exemptions for Licenced Building Practitioners

23. **Note** that the Licensed Building Practitioner exemptions will not come into effect until the Building Act 2004 is amended to add a new category of building consent exemptions that relate to Licensed Building Practitioners;
24. **agree** to amend the Building Act 2004 to add a new category of exemptions in Schedule 1 for building work where the design and construction is carried out or supervised by Licenced Building Practitioners;

Drafting instructions

25. **invite** the Minister for Building and Construction to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposals in this Cabinet paper;
26. **authorise** the Minister for Building and Construction to make decisions consistent with the proposals in this Cabinet paper, on any issues that arise during the drafting process;

Communications

27. **note** that the Minister for Building and Construction intends to issue a media statement once Cabinet decisions have been made.

Authorised for lodgement

Hon Jenny Salesa

Minister for Building and Construction

Appendix 1: The proposed package of amendments to Schedule 1 of the Building Act 2004 in this paper

	Relevant existing exemption in Schedule 1	Proposed additional exemption
<p>Single-storey detached buildings</p>	<p><i>Clause 3: Single-storey detached buildings not exceeding 10 square metres in floor area</i></p> <p>(1) Building work in connection with any detached building that—</p> <p>(a) is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 3.5 metres above the floor level); and</p> <p>(b) does not exceed 10 square metres in floor area; and</p> <p>(c) does not contain sanitary facilities or facilities for the storage of potable water; and</p> <p>(d) does not include sleeping accommodation, unless the building is used in connection with a dwelling and does not contain any cooking facilities.</p> <p>(2) However, subclause (1) does not include building work in connection with a building that is closer than the measure of its own height to any residential building or to any legal boundary.</p>	<p>Two separate amendments are proposed for building work in connection with single-storey detached buildings: One with a maximum floor area of 15 square metres, and one with a larger maximum floor area that could double or more than double the current floor area.</p> <p>The exemptions will have the same conditions as clause 3 of Schedule 1, and:</p> <ul style="list-style-type: none"> • an additional requirement that only lightweight walls with a mass no greater than 30kg per square metre are used for single-storey detached buildings with a maximum floor area of 15 square metres; • an additional requirement that the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design for single-storey detached buildings with a maximum floor area of either 20 or 25 or 30 square metres; • that where the single-storey detached buildings are being used for sleeping accommodation, they must have smoke alarms.
<p>Carpports</p>	<p><i>Clause 18: Carports</i></p> <p>Building work in connection with a carport that—</p> <p>(a) is on the ground level; and</p> <p>(b) does not exceed 20 square metres in floor area.</p>	<p>The exemption is for building work in connection with carports up to 40 square metres, with the same conditions as clause 18 of Schedule 1 and an additional requirement that the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer,</p>

		and the work is carried out in accordance with that design.
Awnings	<p><i>Clause 16: Awnings</i></p> <p>Building work in connection with an awning that—</p> <p>(a) is on or attached to an existing building; and</p> <p>(b) is on the ground or first-storey level of the building; and</p> <p>(c) does not exceed 20 square metres in size; and</p> <p>(d) does not overhang any area accessible by the public, including private areas with limited public access, for example, restaurants and bars.</p>	<p>The exemption is for building work in connection with awnings up to 30 square metres, with the same conditions as clause 16 of Schedule 1 the additional requirements that:</p> <ul style="list-style-type: none"> • the exemption only applies to awnings on the ground floor; and • the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design.
Verandas and porches	<p><i>Clause 17: Porches and verandas</i></p> <p>Building work in connection with a porch or a veranda that—</p> <p>(a) is on or attached to an existing building; and</p> <p>(b) is on the ground or first-storey level of the building; and</p> <p>(c) does not exceed 20 square metres in floor area; and</p> <p>(d) does not overhang any area accessible by the public, including private areas with limited public access, for example, restaurants and bars.</p>	<p>The exemption is for building work in connection with verandas and porches up to 30 square metres, with the same conditions as clause 17 of Schedule 1 the additional requirements that:</p> <ul style="list-style-type: none"> • the exemption only applies to verandas and porches on the ground floor; and • the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design. <p>This proposed amendment was added following consultation with stakeholders. As verandas and porches present a similar level and type of risk as awnings, the conditions for the proposed exemption are the same as those for awnings.</p>
Outdoor fireplaces or ovens	N/A	<p>The exemption is for building work in connection with permanent outdoor fireplaces or ovens that:</p> <ul style="list-style-type: none"> • are located at least a metre from any legal boundary or building; and • have a maximum height of 2.5 metres, and a maximum

		<p>cooking surface of 1 square metre; and</p> <ul style="list-style-type: none"> • are supported on the ground and not covered by a roof or wall; and • smoke is disposed of in a way that does not create a nuisance or hazard to people or other property.
Flexible water storage bladders	<p><i>Clause 23: Tanks and pools</i></p> <p>Building work in connection with a tank or pool and any structure in support of the tank or pool, including any tank or pool that is part of any other building for which a building consent is required, that—</p> <p>(a) does not exceed 500 litres capacity and is supported not more than 4 metres above the supporting ground; or</p> <p>(b) does not exceed 1,000 litres capacity and is supported not more than 3 metres above the supporting ground; or</p> <p>(c) does not exceed 2,000 litres capacity and is supported not more than 2 metres above the supporting ground; or</p> <p>(d) does not exceed 4,000 litres capacity and is supported not more than 1 metre above the supporting ground; or</p> <p>(e) does not exceed 8,000 litres capacity and is supported not more than 0.5 metres above the supporting ground; or</p> <p>(f) does not exceed 16,000 litres capacity and is supported not more than 0.25 metres above the supporting ground; or</p> <p>(g) does not exceed 35,000 litres capacity and is supported directly by ground.</p>	<p>The exemption is for building work in connection with flexible water storage bladders that:</p> <ul style="list-style-type: none"> • are supported directly by the ground; and • are located a minimum of 100 metres from any legal boundary or residential building; and • have a maximum height of 2 metres from the ground; and • do not exceed 200,000 litres in capacity; and • are used only for irrigation or firefighting purposes.
Short-span bridges	<p><i>Clause 24: Decks, platforms, bridges, boardwalks, etc</i></p> <p>Building work in connection with a deck, platform, bridge, boardwalk, or the like from which it is not possible to fall more than 1.5 metres even if it</p>	<p>The exemption is for building work in connection with short-span bridges where:</p> <ul style="list-style-type: none"> • the design of the structure, connections, fixings and foundation is carried out or

	collapses.	<p>reviewed by a Chartered Professional Engineer and the work is carried out in accordance with that design; and</p> <ul style="list-style-type: none"> • it is not possible to fall more than 3 metres; and • it has a span of less than 6 metres; and • it does not span a road, rail or area with public access; and • it is not used by the general public; and • it has a Building Code compliant barrier.
Pipe supporting structures	N/A	<p>The exemption is for building work in connection with pipe supporting structures that:</p> <ul style="list-style-type: none"> • are constructed on private land without public access; and • are located a minimum of 5 metres from any residential building, public road, rail or legal boundary; and • are supported on the ground; and • are supporting a single pipe with a maximum 300 millimetre diameter; and • have a distance from the ground to the top point of no more than 1 metre; and • support a pipe that transports only water.
Ground-mounted solar array panels	N/A	<p>Two amendments are proposed for building work in connection with ground-mounted solar array panels: one for rural zones, and one for outside rural zones.</p> <p>The exemption for ground-mounted solar array panels in rural zones (as defined in clause 41 of Schedule 1) would require that:</p> <ul style="list-style-type: none"> • design wind speeds do not exceed 44 metres per second (calculated using Building Code Verification Method B1/VM1), or where the panels are located in a wind zone no greater than 'high' (as defined in Building Code Acceptable Solution

		<p>B1/AS1); and</p> <ul style="list-style-type: none"> • the panels are supported on the ground, and are attached by more than a single post to the ground; and • the distance from the top of the panels to the ground does not exceed 4 metres; and • the panels are located a minimum of 5 metres from any residential building, public road, rail or legal boundary; <p>The exemption for ground-mounted solar array panels outside rural zones was added following consultation with stakeholders. The exemption would have the same conditions as the proposed exemption for ground-mounted solar array panels in rural zones and the following additional requirements:</p> <ul style="list-style-type: none"> • work on panels up to 20 square metres in size can be undertaken by anyone; and • work on panels up to 40 square metres will need the design to be carried out or overseen by a Chartered Professional Engineer.
<p>Single-storey pole sheds and hay barns</p>	<p>N/A</p>	<p>The exemption is for building work in connection with single-storey pole sheds and hay barns in rural zones (as defined in clause 41 of Schedule 1) where:</p> <ul style="list-style-type: none"> • the design of the structure, connections, fixings and foundation is carried out or reviewed by a Chartered Professional Engineer and that the work is carried out in accordance with that design; and • design wind speeds do not exceed 44 metres per second (calculated using Building Code Verification Method B1/VM1), or where the panels are located in a wind zone no greater than 'high' (as defined in Building Code Acceptable Solution B1/AS1); and • the building is not more than 1

		<p>storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 4 metres above the floor level); and</p> <ul style="list-style-type: none"> • the maximum unsupported roof span in any direction does not exceed 6 metres; and • the building does not exceed 110 square metres in floor area; and • the building has a minimum distance from any residential building, public road, rail or legal boundary at least equal to the measure of its own height; and • the building is not subject to the Hazardous Substances and New Organisms Act 1996; and • the building is not accessible by the public.
<p>Single-storey detached buildings (licensed building practitioner)</p>	<p><i>Clause 3: Single-storey detached buildings not exceeding 10 square metres in floor area</i></p> <p>(1) Building work in connection with any detached building that—</p> <p>(a) is not more than 1 storey (being a floor level of up to 1 metre above the supporting ground and a height of up to 3.5 metres above the floor level); and</p> <p>(b) does not exceed 10 square metres in floor area; and</p> <p>(c) does not contain sanitary facilities or facilities for the storage of potable water; and</p> <p>(d) does not include sleeping accommodation, unless the building is used in connection with a dwelling and does not contain any cooking facilities.</p> <p>(2) However, subclause (1) does not include building work in connection with a building that is closer than the measure of its own height to any residential building or to any legal boundary.</p>	<p>The exemption is for building work in connection with single-storey detached buildings with a floor area not exceeding either 20 or 25 or 30 square metres, with the same conditions as clause 3 of Schedule 1 and:</p> <ul style="list-style-type: none"> • an additional requirement that the design and construction is carried out or supervised by a Licenced Building Practitioner; and • where the building is used for sleeping accommodation it must have smoke alarms. <p>This proposal would require a change to the Building Act 2004.</p>