



How to make a submission

The Ministry of Business, Innovation and Employment (MBIE) and the Ministry for the Environment (MfE) would like your feedback on the *Making it easier to build granny flats* discussion document.

Please provide your feedback by **5pm Monday 12 August 2024**

When completing this submission form, please provide comments and supporting explanations where relevant. Your feedback provides valuable information and informs decisions about the proposals. We appreciate your time and effort taken to respond to this consultation.

Instructions

To make a submission you will need to:

1. Fill out your name, email address and organisation. If you are representing an organisation, please provide a brief description of your organisation and its aims, and ensure you have the authority to represent its views.
2. Fill out your responses to the discussion document questions. You can answer any or all of these questions in the [discussion document](#). Where possible, please provide us with evidence to support your views. Examples can include references to independent research or facts and figures.
3. If your submission has any confidential information:
 - i. Please state this in the email accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 (Official Information Act) that you believe apply. MBIE will take such declarations into account and will consult with submitters when responding to requests under the Official Information Act.
 - ii. Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
 - iii. Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 2020 also applies.
4. Submit your feedback:
 - i. As a Microsoft Word document by email to GrannyFlats@mbie.govt.nz

OR

 - ii. By mailing your submission to:
Consultation: Making it easier to build Granny Flats
Building System Performance
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473, Wellington 6140, New Zealand

Please direct any questions that you have in relation to the submission process to:
GrannyFlats@mbie.govt.nz

Submitter information

MBIE and MfE would appreciate if you would provide some information about yourself. If you choose to provide information in the section below, it will be used to help MBIE and MfE understand how different sectors and communities view the proposals and options for granny flats. Any information you provide will be stored securely.

Your name, email address, phone number and organisation

Name: Malcolm Fleming

Email address: malcolm@nzcb.nz

Organisation (if applicable): New Zealand Certified Builders Association

The best way to describe you or your organisation is:

- Designer/ Architect
- Builder
- Sub-contractor (please specify below)
- Engineer
- Building Consent Officer/Authority
- Developer
- Homeowner
- Business (please specify industry below)
- Local government policy
- Local government planner
- Local government development contributions staff
- Planner
- Surveyor
- Mortgage lender
- Insurance provider
- Iwi, hapū or Māori group or organisation
- Industry organisation (please specify below)
- Other (please specify below)

We are a membership organisation for small to medium sized residential builders.

The Privacy Act 2020 applies to submissions. Please tick the box if you do **not** wish your name or other personal information to be included in any information about submissions that MBIE may publish.

MBIE may upload submissions and potentially a summary of submissions to its website, www.mbie.govt.nz. If you do **not** want your submission or a summary of your submission to be placed on either of these websites, please tick the box and type an explanation below:

I do not want my submission placed on MBIE's website because... [insert reasoning here]

Please check if your submission contains confidential information

I would like my submission (or identifiable parts of my submission) to be kept confidential, and **have stated** my reasons and ground under section 9 of the Official Information Act that I believe apply, for consideration by MBIE.

Use of information

The information provided in submissions will be used to inform the policy development process and will inform advice to Ministers on the review of the building consent system. If you provide your name, we may contact you directly if we require clarification of any matters in your submission.

Individual survey responses will be combined with other responses to produce summary reporting (or statistics) that will not identify individuals. Summary reporting will be shared with other government agencies, but this will not identify individuals.

If you provide your contact information, you will be able to access your submission by contacting building@mbie.govt.nz.

General

Housing has become more difficult and expensive to build in New Zealand. The cost of building a house increased by 41% since 2019. This has an impact on the number of small houses being built. If costs and processes were less, more smaller houses would likely be built. If more are built, unmet demand would reduce, and the cost of housing would likely decrease.

The intended outcome of the proposed policy is to increase the supply of small houses for all New Zealanders, creating more affordable housing options and choice.

Refer to pages 4 – 7 of the discussion document to answer the questions in this section.

1. Have we correctly defined the problem?

NZCB agrees in part

Are there other problems that make it hard to build a granny flat? Please explain your views.

While we agree that some homeowners may be deterred from building a granny flat because of cost pressure, there are other factors that need to be taken into account in evaluating these proposals. The most obvious of these are local council district plan criteria such as setbacks from boundaries, possible fire hazards from building granny flats close to boundaries or existing buildings, and concerns about a lack of green space, parking, and sewage infrastructure.

2. Do you agree with the proposed outcome and principles?

NZCB agrees in part

Are there other outcomes this policy should achieve? Please explain your views.

We agree with the broad direction of the proposal, in terms of making it easier to build simple form buildings that aren't complicated in design.

However, since these buildings are designed to be lived in, it is important to retain basic checks and balances to ensure these buildings still comply with relevant building and environmental standards.

3. Do you agree with the risks identified?

NZCB agrees in part

Are there other risks that need to be considered? Please explain your views.

We believe that most of the risks have been adequately considered but we note that there may be a transfer of financial and insurance risk to homeowners if no building consent or inspection is required.

Building system proposal

Options have been identified to achieve the objective of enabling granny flats, with related benefits, costs and risks. They include regulatory and non-regulatory options, options that do not require a building consent and fast-tracked building consents.

Refer to pages 8 – 11 of the discussion document AND Appendix 1 to answer the questions in this section.

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

NZCB agrees in part

Please explain your views.

We think that a new simplified, low cost pathway should be established for simple building structures/dwellings that are low risk. However we are concerned that doing away with Building Act requirements and the Building Code completely could increase the risk of unscrupulous builders taking undesirable shortcuts, which may end badly for homeowners and for councils, and increase difficulties gaining finance and insurance in future. Safety of occupants is also a factor that needs to be considered as well as the quality/performance of the building.

There are options to address these concerns, for example by setting out the parameters that must be met (a checklist) and requiring a basic set of plans to be supplied to the BCA that show the position of the dwelling on the land, basic drainage plans and connection, and storm water connection or retention. The plans should show the basic structure, insulation and cladding type, using details from E2 or the product manufacturer's guidelines regarding claddings and bracing systems.

These basic plans could be used to apply for an exemption to a building consent for a building that met the low-risk requirements. The onus would be on the designer/builder to demonstrate the building was low risk and be prepared to sign off on it (as appropriately qualified LBPs). A completion certificate (similar to a PS3) could be provided by the designer/building confirming the building had been built according to plan. This could remove the requirement for Council inspections.

An exemption from the Building Code is not appropriate or necessary as a simple plan is well under the threshold set and can be easily prescribed in sufficient detail for an exemption from a formal building consent to be considered/applied for. This would considerably reduce the administrative work and cost to councils and building owners. In terms of liability, this should rest with those qualified to sign-off on the plans – as with a PS3. It would need to be prescribed in law for this to happen, as an exemption would not necessarily remove liability from the BCA in the event things went wrong.

Given the government's target to exclude the cost associated with council involvement, including administrative costs, a clear set of technical requirements and provision of a plan with the required details should be enough for a BCA to grant an exemption based on a desktop review and meeting a clear checklist of requirements. In this way a simple, straightforward, cost-effective process can be put in place for simple, low-risk buildings/dwellings to be built with the minimum of fuss while at the same time ensuring the integrity of the build. It will also enable BCAs/Councils to be aware of building activities and developments that impact on infrastructure and other planning matters.

A change in regulation would be required to enable a BCA to exempt a simple set of plans from requiring a formal building consent. Whether a final compliance inspection by a BCA is required largely depends on the parameters established for the exemption in the first instance and whether there is confidence that LBP Design/ LBP Site licences meet the standards required. Given the low level of risk posed by a simple approved building, a final BCA inspection might not be required. BCAs could

undertake random audits of exempted buildings on an annual basis to ensure standards were being met and issue notices to rectify if required.

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

Please explain your views.

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

NZCB agrees in part

Please explain your views.

We agree with MBIE's assessment in part but remain concerned about the risks of doing away with all building checks. Clarity around what is permitted would largely address this, as would requirements as to the qualifications of the designer and builder.

The purpose of the Building Act and the Building Code is to keep people safe in normal operating conditions and in extreme events such as fire or earthquakes. A system that does not offer balances and checks against key Building Code criteria puts at risk achieving the purpose of the Building Act.

Financial institutions may perceive there to be additional risk with buildings that are not subject to a check process or Code Compliance Certificates which may impact a homeowner's ability to obtain finance, or insurance. Engagement with the insurance and banking industries is important and should occur before the Granny Flat proposal becomes legislation (should that be the outcome of the submission process) as added costs in those areas would nullify building consent cost savings.

More importantly there may be risks to councils if infrastructure checks aren't done or Councils are not aware of dwellings being built. This could result in public health risks and infrastructure capacity issues that may result in costs to councils to manage these issues, which will ultimately be passed on to ratepayers.

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

Please explain your views.

There is an opportunity to use and develop the Licensed Building Practitioner qualifications as originally envisaged, to enable qualified building practitioners to take professional responsibility for their work.

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

Please explain your views.

We recommend a simplified, two-step approval process be undertaken by an LBP Site licence holder to obtain a building consent exemption.

The first step would consist of an LBP Site licence holder ensuring the design meets the requirements of a basic pre-build checklist, which would cover issues such as planning rules, council infrastructure needs, ground suitability.

The second step involves an LBP Site licence holder conducting a final inspection after the build is complete to ensure the build has been done according to the design, and this final inspection certificate is lodged with council.

If the build requires anything outside that falls outside the basic pre-build checklist, then the building would need to go through the full consent process.

A review and update of the LBP Site Licence would be required to ensure it is fit for purpose to undertake this proposal. In its current form the LBP Site License was not designed to undertake reviews of design work against Building Code performance criteria, and there is currently no competency within the LBP Site License for this. Consideration needs to be given to off-site modular construction companies, whose supervisors would not qualify for the LBP Site License and may need an alternative pathway.

- 9. Do you agree that current occupational licensing regimes for Licensed Building Practitioners and Authorised Plumbers will be sufficient to ensure work meets the building code, and regulators can respond to any breaches?**

NZCB agrees in part.

Please explain your views.

We believe that the base LBP Carpentry is not sufficient to meet the requirements for the consent exemption process we outline in our response to Question 8.

We strongly recommend that if such a process were to be implemented, an LBP Site licence holder would be required to conduct the final inspection to mitigate the risk that would come with removing the existing consenting process.

Sign-off alternatives might also include a Chartered Professional Engineer (CPEng), or an independent qualified Building Surveyor.

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

Please explain your views.

There will be added liability on all contractors involved in the build process. An exemption from the need for a building consent may affect the availability and cost of finance and insurance.

- 11. What time and money savings could a person expect when building a small, standalone dwelling without a building consent compared to the status quo?**

Please explain your views.

There will be cost savings that come from not having to go through the existing consent process which is time consuming, resource intensive and expensive. We note, however, that councils may face increased risk from inadequate infrastructure connections, or from having infrastructure overloaded, and that there will be costs to Councils and communities associated with these.

- 12. Is there anything else you would like to comment on regarding the Building Act aspects of this proposal?**

Please explain your views.

Sometimes even good builders and designers miss critical items in the design and build process. There should still be some form of check – designs should be required to meet prescribed criteria and performance standards and a simple final check of work completed could be required.

The current proposal is to restrict the Granny flat provisions to no more than a high wind zone rating. New Zealand is a windy country and a lot of New Zealand is in very high wind zones. There are a lot of easy off the shelf, tried and true designs/products available for designers to use that provide rigid air barriers and bracing that address this issue and associated risks. These also create a better braced/strengthened building. It does add some cost but that shouldn't rule out being able to do a granny flat building in a higher wind zone if requirements are met. Rather than limiting the location of Granny Flats unnecessarily to less windy areas, wind zone requirements can be specified as part of a 'check list' for an exemption from a formal building consent. Otherwise, a lot of locations/regions (Wellington, Canterbury etc.) will not be able to use this exemption which seems contrary to the intent of the proposal to provide a simplified process for simple building structures that are low risk.

As well as developing a consent exemption process for Granny Flats, we strongly support a review of building consents requirements more generally, with a view to simplifying the consenting process and better alignment of the compliance requirements with the risks involved.

Resource management system proposal

The focus of the proposed policy is to enable small, detached, self-contained, single storey houses for residential use. Under the Resource Management Act (RMA), the term 'minor residential unit' (MRU) is defined in the National Planning Standards as "a self-contained residential unit that is ancillary to the principal residential unit and is held in common ownership with the principal residential unit on the same site". The proposal is to focus the policy in the RMA on enabling MRUs.

It is proposed that this policy applies across New Zealand and is not limited to certain territorial authorities. The proposed focus of the policy is on enabling MRUs in rural and residential zones.

Refer to pages 12 – 15 of the discussion document AND Appendix 2 to answer the questions in this section.

13. Do you agree that enabling minor residential units (as defined in the National Planning Standards) should be the focus of this policy under the RMA?

Yes, NZCB agrees

Please explain your views.

[insert response here]

14. Should this policy apply to accessory buildings, extensions and attached granny flats under the RMA?

No, NZCB doesn't agree

Please explain your views.

For clarity, we assume this question applies solely to extensions to existing structures.

The policy should be focused only on MRUs only as these pose fewer challenges than adjoined additions. We expect there may be considerable difficulties relating to insurance, valuation, bank securities, and health and safety were the policy to be extended to cover accessory buildings and extensions.

15. Do you agree that the focus of this policy should be on enabling minor residential units in residential and rural zones?

NZCB agrees in part

Please explain your views.

We support the policy applying to residential zones but we would need to see more detail about how it would apply to rural zones, given there generally aren't piped sewer connections in these zones, and an on-site waste water or collection system would be required.

We are also mindful of the importance of areas of natural beauty in rural zones and encourage MBIE to develop clear guidelines around how these areas would be protected.

16. Should this policy apply to other zones? If yes which other zones should be captured and how should minor residential units be managed in these areas?

Yes

Please explain your views.

One of the drivers for this proposal is making it easier to build on Māori owned land, which is often rurally zoned (although not always).

17. Do you agree that subdivision, matters of national importance (RMA section 6), the use of minor residential units and regional plan rules are not managed through this policy?

Yes, NZCB agrees

Please explain your views.

[insert response here]

18. Are there other matters that need to be specifically out of scope?

Please explain your views.

[insert response here]

19. Do you agree that a national environmental standard for minor residential units with consistent permitted activity standards (option 4) is the best way to enable minor residential units in the resource management system?

Yes, NZCB agrees

Please explain your views.

[insert response here]

20. Do you agree district plan provisions should be able to be more enabling than this proposed national environmental standard?

Yes, I agree

Please explain your views.

[insert response here]

21. Do you agree or disagree with the recommended permitted activity standards? Please specify if there are any standards you have specific feedback on.

Yes, NZCB agrees

Please explain your views.

We believe the lower of the site coverage options should be chosen (50%), and the maximum permeable area of 30% or more should be maintained to allow for natural soakage. Setback minimums should be 2m front yards and 1.5m side and rear yards. NZCB agrees with the proposed height to boundary planes as proposed.

22. Are there any additional matters that should be managed by a permitted activity standard?

Please explain your views.

We believe consideration should also be given to outdoor living areas.

23. For developments that do not meet one or more of the permitted activity standards, should a restricted discretionary resource consent be required, or should the existing district plan provisions apply? Are there other ways to manage developments that do not meet the permitted standards?

Please explain your views.

We propose that existing District Plan provisions apply in these circumstances.

24. Do you have any other comments on the resource management system aspects of this proposal?

Please explain your views.

Our view is that it is the removal of a Resource Consent requirement is where the cost benefits will be provided for building projects.

Local Government Infrastructure Funding

The proposals in this document would enable a granny flat to be built without needing resource or building consent. Notification of a granny flat is important for local and central government to:

- Provide trusted information for buyers, financiers and insurers
- Track new home construction data and trends
- Value properties for rating purposes
- Plan for infrastructure
- Provide information to support post-occupancy compliance, where required
- Undertake council functions under the Building Act including managing dangerous or insanitary buildings.

Refer to pages 15 – 16 of the discussion document and Appendix 3 to answer the questions in this section.

25. What mechanism should trigger a new granny flat to be notified to the relevant council, if resource and building consents are not required?

Please explain your views.

Bearing in mind our comments above about the ongoing need for some form of basic check, we believe that any sort of service connection should trigger notifications, or if the building meets the rules currently pertaining to 30m² builds under Schedule 1 of the Building Act should trigger notifications.

26. Do you have a preference for either of the options in the table in Appendix 3 and if so, why?

Please explain your views.

Our preference is for notification and funding via the Building Act (as opposed to via the RMA), to allow councils to fund infrastructure through the Development Levy.

27. Should new granny flats contribute to the cost of council infrastructure like other new houses do?

Yes

Please explain your views.

Where granny flats use and rely on council infrastructure, they should contribute in the same way as other new buildings do.

Māori land, papakāinga and kaumātua housing

A key issue for Māori wanting to develop housing is the cost and time to consent small, simple houses and other buildings. The proposals in the building and resource management systems may go some way to addressing the regulatory and consenting challenges for developing on Māori land, and for papakāinga and kaumātua housing, where the circumstances of these proposals apply.

Refer to page 16 of the discussion document to answer the questions in this section.

28. Do you consider that these proposals support Māori housing outcomes?

Yes, NZCB agrees

Please explain your views.

[insert response here]

29. Are there additional regulatory and consenting barriers to Māori housing outcomes that should be addressed in the proposals?

Please explain your views.

[insert response here]