



8 August 2024

Ministry of Business, Innovation and Employment

Hutt City Council Submission on *Making it easier to building Granny Flats*

This is a submission by Hutt City Council on the making it easier to build granny flats discussion document. This submission was approved by the Hutt City District Plan Review Committee on 8 August 2024.

The key submission points are

- The intentions of the policy to provide for smaller homes and increase affordable housing choice are supported in principle. However:
- The health and safety of building occupants and their neighbours cannot be compromised.
- Councils such as Hutt City Council that have given effect to the requirements of the National Policy Statement on Urban Development (NPSUD) and already permit minor residential units should be excluded from any national direction that is specific to this issue.
- The policy should only apply to residential and rural zones. Applying the policy to other zones could conflict with other land use priorities and result in an under-utilization of land contrary to the NPS-UD.
- All district-wide matters should apply to minor residential units, such as hazards, historical and cultural values, earthworks etc.
- A National Policy Statement is preferred to a National Environment Standard (NES) as it provides for a more comprehensive and coherent approach to enabling and managing minor residential units.
- If an NPS is used it must enable changes to be made to district plans without needing a RMA Schedule 1 process.

- There needs to be an additional standard, or an equivalent mechanism in place, that requires a check on the infrastructure capacity to serve the new development.
- The final approach that government determines must include clear compliance responsibilities and powers.
- Granny flats must contribute to the cost of infrastructure and there must be a clear mechanism for councils to collect development contributions for granny flats / minor residential units.

Specific responses to building system questions

Question 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?*

Response: agree in part

Comments:

- We agree with establishing a set of criteria that the proposed granny flat must satisfy in order for this building work to be exempt from the requirement of obtaining a building consent.
- However, these criteria can sit within the current Schedule 1 of the Building Act 2004 rather than creating a new schedule in the Building Act 2004 for this.

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

Response:

- Option 1 – consider re-enacting low-risk building consent, which was introduced under section 52G to 52I of the Building Amendment Act 2012.
- Option 2: Establish a single approval process which combines building consent approval and network utility operator approval if applicable and any other applicable approvals for the construction of granny flats. This will streamline the approval process as the applicant does not have to navigate through the network of government departments. This consequently will save the applicant both time and money.

Question 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?*

Response: agree in part

Comments:

- There is a risk that the granny flat will be used to providing transient accommodation or other commercial activity. As a result there is a risk of non-compliance with accessibility and fire safety building code requirements.
- There is a risk of information asymmetry between the building owner and the building sector. This will then affect the assurance level that the owner has for engaging qualified building professionals. This also can create an overcharging risk from the qualified building professional.
- There is a risk of not registering on the certificate of title that the land the granny flat is built on is subject to natural hazards and/or that the granny flat has been built over two allotments.
- There is a risk that the people who claim to own the property may not be the actual owners as registered on the certificate of title.
- There is a risk that the legal instruments on the certificate of title may not be addressed appropriately.

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

Response: suggest adding the criterion of the building work does not breach any other enactment.

Question 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?*

Response: no don't agree

Comments:

- The current criteria for obtaining a license need to be more stringent

Specific responses to resource management system questions

Question 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?*

Response: agree in part

Comments:

- The intentions of the policy to provide for smaller homes and increase affordable housing choice are supported in principle.
- However, the proposal fails to recognise that some councils, such as Hutt City Council, have already enabled minor residential units as a permitted activity in the operative District Plan.
- Through Plan Change 56 Hutt City Council completed its Intensification Streamlined Planning Process as required by the National Policy Statement on Urban Development (NPS-UD).
- Plan Change 56 became operative on 21 September 2023 and minor residential units are now a permitted activity in the Medium and High Density Residential Zones in the City of Lower Hutt District Plan.
- The key point is that councils such as Hutt City Council that have given effect to the requirements of the NPS-UD and already permit minor residential units should be excluded from any national direction that is specific to this issue.

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

Response: yes agree

Question 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?*

Response: no

Comments:

- Other zones have a variety of land use priorities that need to be managed in addition to providing for residential development, such as ensuring there is

sufficient commercial and community uses to meet the needs of the city or to serve surrounding neighbourhoods.

- To make minor residential units permitted in other zones could conflict with other land use priorities and result in an under-utilization of land contrary to the NPS-UD.

Question 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?*

Response: no don't agree

Comments:

- All relevant matters should apply to minor residential units. This includes all district-wide matters such as hazards, historical and cultural values, earthworks etc.
- These should be managed in a comprehensive and coherent way (refer to question 19 response below).

Question 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?*

Response: no don't agree

Comments:

- A National Policy Statement (NPS) is preferred to an NES.
- An NES would create a confusing mismatch of NES rules with district plan rules.
- An NPS would enable rules to be incorporated into district plans, and in do so would provide for a more comprehensive and coherent approach to enabling and managing minor residential units, which is a better outcome for all parties.
- If an NPS is used it must enable the necessary changes to be made to district plans without needing to follow a Schedule 1 process, along with any consequential amendments required to the plan provisions.

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

Response: agree in part

Comments: the proposed standards align with the MDRS standards and are therefore supported on the basis of consistency. In relation to the options that are proposed in some of the standards:

- For building coverage: option a (50%) is the preferred option.
- Fore permeable surface: option b (30%) is the preferred option.
- For setbacks in residential zones: option a (1.5m front, 1m side and rear) is the preferred option.
- For setbacks in rural zones: option a (8m front, 3m side and rear) is the preferred option.

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

Response:

- There needs to be an additional standard, or an equivalent mechanism in place, that requires a check on the infrastructure capacity to serve the new development.
- This could be in the form of a network utility operator approval.
- If there are any critical infrastructure constraints then this could trigger the need for a resource consent to enable on site measures to be incorporated, such as on site wastewater detention.
- There is no proposed restriction on where a minor dwelling unit may be located on a site i.e. it could be located in front of an existing house adjacent to the street boundary.
- It is therefore considered that that the MDRS windows to street standard would be appropriate to apply in order to achieve attractive and safe streets (the windows to street standard requires units facing the street to having a minimum of 20% glazing in the street facing elevation).

Question 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?*

Response:

- The existing district plan provisions should apply.
- For example, it would be a perverse outcome for a minor residential unit that exceeds the minimum 60m² floor area standard to still be assessed as a restricted discretionary activity as a minor residential unit. In such cases it would be more appropriate for the unit to be considered against relevant standards that relate to typical dwellings.

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

Response – clarity on compliance responsibilities and powers:

- The final approach that government determines must include clear compliance responsibilities and powers.
- Under the proposals councils will not receive any building or resource consent fees for granny flat developments. On that basis the final approach should clearly state that councils will not be responsible or liable for any compliance and enforcement issues associated with granny flats.
- If compliance responsibilities will fall on councils, then there must be clear powers enabled to councils so that they can take swift and non-costly action to address any compliance issues, including any non-payment of development contributions.

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

Response: Yes

Comments:

- Granny flats will have an impact on services and must contribute to the cost of the infrastructure that is required to address growth.

- It is therefore vital that there is a clear mechanism for councils to collect development contributions for granny flats / minor residential units.

Please contact Tim Johnstone if you require any further information:

A handwritten signature in black ink, appearing to read 'T. Johnstone', with a long horizontal flourish extending to the right.

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