



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 1993 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: Barry Morton

Email address: barry.morton@hurunui.govt.nz

Organisation (if applicable): Hurunui District Council

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)

The Privacy Act 1993 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.

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?

Yes No Not sure/No preference

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

We agree that the cost of building in general has impacted on the number of houses being built including Minor Residential Units (MRU).

We note that MRUs have a relatively high build cost per square metre of floor area in comparison to a Principal Residential Unit (PRU) as they require the same services and infrastructure as a PRU but for a reduced floor area. We also note that a number of property investment commentators have stated that the capital outlay of constructing an MRU is not always reflected in the overall boost in value to the property once the MRU is established on the site. These factors we consider also contribute to making MRUs an unattractive proposition for some homeowners.

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

Yes, I agree I agree in part No, I don't agree Not sure/no preference

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

We agree with the stated outcome of the policy, being to increase the supply of MRUs to address the demand for smaller and consequently more affordable homes. We would also consider that the policy should provide for well designed MRUs that positively contribute to the built environment.

The principals refer to “granny flats” which infers that the policy is to provide housing for seniors in a supportive family environment whilst allowing for a degree of privacy and independence. However, the outcome of the policy will be MRUs that could be utilised for a variety of uses including residential rental accommodation.

3. Do you agree with the risks identified?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

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

We agree with the identified risks being building safety and performance, trust in building quality, environmental effects, infrastructure planning and funding and rating/ property information.

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?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We agree that proposed option 2, which would establish a new Schedule in the Building Act 2004 to provide an exemption for simply designed detached MRU would be an option to address the problem.

We consider that Councils should be excluded from all liabilities stemming from the use of existing occupational regulation of qualified professionals and Building Code Acceptable Solutions and that these liabilities should be borne by the Crown.

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

Please explain your views.

We consider that the existing Simple Building Consent introduced as part of the Building Act Amendment 2012 would also be a suitable 'fit' for MRU with the owner applying for a simple residential building consent as set out in section 52J and Schedule 1B of the Amendment.

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?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We do not agree that the projected cost savings associated with the proposed option stemming from reduced construction timeframes and the simplification of the regulatory framework will be achieved. There will still be notification requirements that owners will be required to make to Councils that will have time and cost implications (as further outlined in our response to Question 7).

We agree with MBIE's assessment of the short and long term risks including that without the oversight of a BCA there is a risk of non-compliant MRUs being constructed.

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

Please explain your views.

We note the following costs of this policy have not been identified:

- There will be new processes that Councils' will need to develop systems for in relation to the provision of information, notification of work commencing and notification of work being

completed. These processes have time and cost implications which Councils' will need to recover.

- There will, inevitably, be regulatory compliance issues that will arise from the policy that will have consequential cost implications for Councils'.

We note the following risks of this policy have not been identified:

- That liability could potentially fall to Councils in the event of the MRU not meeting Building Code minimum standards and the Licensed Building Practitioner (LBP) no longer being licensed, in business or not holding LBP Professional Indemnity Insurance.
- Without Councils' regulatory oversight of LBP documentation MRUs could inadvertently be established on contaminated land or over council easements.

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 note that some MRUs are architecturally designed with a relatively high level of detail and complexity in regard to their exterior envelope.

We consider that only simply designed and detailed MRUs with a low risk building envelope (as defined in the risk matrix for external moisture in the New Zealand Building Code E2/AS1) Category 1 Buildings (as defined in the Designation of Building Work Licensing Classes Order 2010) should be considered for exemption from building consent.

This requirement, in our opinion, needs to be added to the conditions of the proposed Schedule.

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?

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We agree that the current occupational licensing regimes for LBP and Authorised Plumbers will be sufficient for regulators to respond to any breaches. We do not agree that the current occupational licensing regimes will be sufficient to ensure work meets the building code as there is no requirement for LBP to achieve accreditation to the level that a BCA is required to be "Accredited" under the Building (Accreditation of Building Consent Authorities) Regulation 2006.

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.

We would see the main barrier to people making use of this exemption in the Hurunui district being that MRUs cannot be located in a wind zone above High (as defined in the New Zealand Building Code Acceptable Solution B1/AS1). In the Hurunui district 90% of the region is above the high wind zone precluding the establishment of MRUs in these areas.

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.

In respect of time savings, the general practice in the construction industry is for the building work to be tendered concurrently with the lodgement and processing of the building consent as this is the point at which the construction/ tender documentation is complete. Accordingly, there may be little tangible reduction in the overall construction programme.

In regard to costs, the MRU will still need to be designed and documented by LBP, and there will still be a requirement for owners to notify Councils' when they start and complete construction which will incur administrative costs.

MRUs will also continue to be subject to building levies under the proposed Building (Levy) Regulations 2024 Proposal as the specified value above which the levy is payable is only being raised to \$65,000.00 including GST.

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

Please explain your views.

It is unclear as to whether new tiny houses that meet the definition of a building (including those on wheels) would be included in the proposal where they meet the definition of a MRU. Court rulings have made it unclear as to whether tiny houses require building consent and there is an opportunity for the proposal to address this.

The options included in the proposal do not address liability in the event of a non-compliant MRU being constructed and the non-compliance not being identified within a ten year period. The implied warranties provided for in Part 4A of the Building Act 2004 do recognise that parties are legally required to rectify any unsatisfactory work carried out within a ten year timeframe. However, beyond the ten year timeframe the implied warranties do not apply and potentially Councils could be the last party left for an owner to pursue as they undertook the final step in the process (receiving notification from the owner that the MRU building work is complete). In the scenario of the designer and builder having completed their work more than ten years ago but the date Council formally received the notification being within the ten year timeframe, the owner could pursue the Council for losses arising out of the building defects on the basis that they are the last party available for redress despite the Council having no oversight of the building process. We consider that the Building Act needs to be amended to absolve Councils from any liability related to non-compliance arising out of the proposed policy.

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, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We agree that enabling minor residential units to provide a self-contained residential unit that is ancillary to the principal unit, and is held in common ownership with the principal residential unit on the same site should be the focus of this policy under the Resource Management Act (RMA).

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

Yes, I agree I agree in part Not sure/no preference

Please explain your views.

We do not agree that the policy should be applied to accessory buildings, extensions to the principal residential unit (PRU) on the site or the attaching of a "granny flat" to a PRU.

Accessory buildings do not necessarily have a residential component in terms of use and accordingly we consider that they fall outside of the policy. Extending the policy to include extensions and attached granny flats, as noted in the discussion document, would introduce complexities in respect of the Building Act.

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

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We agree that the focus of the policy should be on enabling MRU in residential and rural zones. Whilst the Hurunui Operative District Plan (District Plan) does not have a provision for enabling MRU in residential zones it does permit two or more dwellings on one site for the majority of the Residential Zones subject to a minimum average site area being provided. An example is our Terrace Residential Area in Hanmer Springs where our permitted activity standard provides for two or more dwellings on one site providing a minimum average site area of 350 square metres is achieved. This permitted activity standard provides for higher density residential development in areas in close proximity to our district town centres where it is most appropriate.

Similarly, our District Plan permits minor dwellings of up to 75 square metres in gross floor area providing the site is four hectares or more in area and that the minor dwelling is located within 30 metres of the main dwelling on the site and uses the same accessway as the main dwelling. These permitted activity standards ensure that a dominance of open space over buildings is protected, that privacy and rural outlook for residential activities is maintained, the development is kept at an appropriate level to maintain compatibility with the surrounding rural environment and that the productivity of rural land is maintained as set out in the National Policy Statement for Highly Productive Land (NPS-HPL).

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 No Not sure/No preference

Please explain your views.

We do not support enabling MRU in industrial or open spaces zones. We consider locating residential activities in incompatible zones such as industrial zones would give rise to reverse sensitivity due to a new use for land in circumstances when an established use adjoining that land is producing adverse effects (an 'effects-creating use' such as for example a legally established industrial activity). We note that the development of new sensitive activities, such as an MRU, is limited under the RMA in order to protect effects-creating uses from legal complaint.

We also note that allowing for MRUs to also be enabled in for example commercial zones would result in a reduction in housing density due to the building typology of an MRU and, as a consequence, the underdevelopment of sites in this zone.

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, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We agree that it is not appropriate for the proposed policy to manage:

- Subdivision (for example the landowner wishing to subdivide the site after the MRU has been established).
- Regional plan rules (for example the Canterbury Land and Water Regional Plan in regard to on-site waste water management for a MRU on a rural site).
- The use of the MRU (for example a use other than residential such as a home based office).
- Matters of national importance (for example the siting of an MRU in an outstanding natural landscape).

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

Please explain your views.

We consider that design standards also need to be specifically out of scope. It is important that identified character areas within different regions continue to have bespoke provisions. For example, there are two areas within the Hurunui district (Mt Lyford and Hanmer Springs) which are subject to design standards in the District Plan. It is considered paramount that these standards need to continue to be applied to these areas to ensure the character of these areas are maintained.

We also note that in the Hurunui district we have residential areas that are not provided with reticulated wastewater systems and are of insufficient land area to permit on-site wastewater treatment system to be installed under the Canterbury Land and Water Regional Plan.

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, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We agree that a National Environmental Standard (NES) with consistent permitted activity standards is the best way to enable MRU in the resource management system. We do not agree with the proposed permitted activity standards, as outlined in our response to Question 21.

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

Yes, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

We consider that District Plan provisions should be able to be more enabling than the proposed NES as permitted under Section 43B (3) of the RMA. For example, our District Plan allows for a minor dwelling of up to 75 square metres in gross floor area in the Rural Zone.

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, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

Proposed permitted standard for internal floor area.

We consider the description of the maximum floor internal floor area requires further definition. For example if the laundry serving the proposed MRU was relocated to a garage, would the internal floor of the laundry be deducted from the maximum permitted floor internal area of the MRU. We also consider that the definition should be extended to state "maximum **habitable** internal floor area" as the inclusion of posts/columns in the definition infers that porches and verandahs will be captured in the internal floor area definition.

We also note that the majority of new residential subdivisions include private land covenants that have minimum floor area requirements (typically 120 square metres) and accordingly would preclude the establishment of a MRU on the site.

Proposed permitted standard for number of MRU per principal residential unit on the same site.

We consider that the proposed definition of a principal residential home to be open to multiple interpretations. For example, a principal residential unit could contain a principal dwelling and attached family flat. Alternatively, a site could contain a principal residential unit and an accessory building of up to 40 square metres used for residential purposes (such as a self-contained studio). In both of these scenarios we consider that the permitting of a MRU on the site would go beyond what is intended by the proposed policy.

Relationship to the principal residential unit.

We consider that the proposal for the MRU to be held in common ownership with the principal residential unit on the same site (being an area of land comprised in a single record of title under the Land Transfer Act 2017) to not reflect the property ownership models common to sites where multi-generational families occupy the same site. The MRU for example could be funded by the family member who will occupy the unit and who may require that their legal ownership rights be protected through having their interest registered (for example through unit title ownership).

Building coverage – the percentage of the net site area covered by the building footprint.

We consider that the options for collective maximum building coverage of 50%, 60% or 70% for MRUs and principal residential units in the residential zone of between would have adverse effects on amenity values and landscape character. The extent of building coverage would preclude the opportunity for adequately sized living and service courts, on-site parking, and sustainable green infrastructure such as rain water harvesting tanks.

The relevant zone standards for site coverage should apply.

Permeable surface – areas of grass and planting and other surfaces where water can filter naturally into the ground.

We consider that the options for minimum permeable surface, being 20% or 30%, do not take into account regional differences in regard to ground conditions and available soakage. For example, the two

largest settlements in the Hurunui District, being Amberley and Hanmer Springs, have clay pan soils making natural filtration to the ground difficult. Reducing the permeable surface area will exacerbate this issue.

Setbacks.

We do not consider it acceptable to have these standard setback options in rural zones or low density residential zones as they do not take into account local conditions. For example, siting a MRU eight metres from the front boundary with an unsealed road in the rural area would result in consequential adverse effects in relation to traffic noise and dust.

The relevant zone standards for setbacks should apply.

Building height and height in relation to boundary.

We do not agree that standards for building height and height in relation to boundary are not required. The proposed conditions would allow for an MRU of up to five metres in height to be constructed with consequential adverse effects such as access to sunlight. A building height of five metres would also be inadequate where we have design standards in regard to minimum roof pitches such as in Hanmer Springs or for MRU located in a flood management area where we have minimum finished floor level requirements.

The relevant zone standard for building height in relation to boundary should apply.

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

Please explain your views.

We consider that the following additional matters should be managed by a permitted activity standard:

-Minimum separation distances for MRU from dwellings and principal buildings on a separate lot under different ownership in the Rural Zone.

-Minimum allotment area requirements for MRU in the Rural Zone.

-Reverse sensitivity in regard to the establishment of MRU in proximity to intensive primary production activities, sewage treatment facilities, farm effluent disposal areas and frost control fans.

-Minimum requirements for outdoor living area, service courts, parking and access in the Residential Zones.

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 consider that the existing District Plan provisions should prevail for developments that do not meet one or more of the permitted activity standards to ensure that the District Plan provisions are not undermined.

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

Please explain your views.

A level of complexity will be introduced to the planning framework requiring owners to check for District Plan overlays and Regional Plan restrictions in addition to checking the permitted activity standards in the NES.

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.

We consider that for MRUs built without either a building or resource consent that the owners should be required to request either a Project Information Memorandum (PIM) or lodge a Permitted Activity Notice (PAN). However, under a PIM or PAN scenario, councils would not be notified when building work is complete which would require councils to levy Development Contributions at notification of a PIM or PAN. Therefore, there would be a financial disincentive for owners to request a PIM or lodge a PAN as this would trigger the levying of Development Contributions and alert councils to increasing the rateable value of the property.

- 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.

We do not prefer either Option 1 (via the Resource Management Act through a PAN) or Option 2 (via the Building Act through a PIM) for the notification of the MRU to council and the consequential triggering of the levying of Development Contributions. We note that currently we have the ability to withhold Code Compliance Certificates, Section 224 Certificates and the commencement of consents until such a time as Development Contributions are received which incentivises payment. Neither of the proposed options would allow for councils to withhold certificates or consents until the Development Contributions were paid.

Additionally, as outlined in our response to question 25, owners may elect to not notify councils of the establishment of a MRU to avoid paying Development Contributions.

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

Yes No Not sure/No preference

Please explain your views.

We consider that granny flats should contribute to the cost of council facilities and infrastructure. They are increasing the demand on council facilities and infrastructure. Councils need to be able to levy development contributions for all developments that result in an increased demand on council facilities and infrastructure.

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, I agree I agree in part No, I don't agree Not sure/no preference

Please explain your views.

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

Please explain your views.