

15 August 2024

Building System Performance  
Building, Resources and Markets  
Ministry of Business, Innovation and Employment  
[GrannyFlats@mbie.govt.nz](mailto:GrannyFlats@mbie.govt.nz)

**ICNZ SUBMISSION ON MBIE'S DISCUSSION DOCUMENT  
'MAKING IT EASIER TO BUILD GRANNY FLATS'**

1. Thank you for the opportunity to provide a submission to the Ministry of Business, Innovation and Employment (**MBIE**) on the Discussion Document 'Making it easier to build granny flats'.
2. Te Kāhui Inihua o Aotearoa / The Insurance Council of New Zealand (**ICNZ**) is the representative organisation for general insurance companies in New Zealand. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property insurance, and directors and officers insurance).

**General feedback on the discussion document**

3. We support the policy intent of providing more affordable housing and accelerating the building process.
4. However, we wish to highlight that there are risks associated with the proposal to make it easier to build 'granny flats' and other small structures by removing the requirement for a building consent and requiring only an engineer's report.

Increased risk for the homeowner if building is non-compliant

5. As identified in the Discussion Document, the proposal to remove the requirement for a building consent does increase the risk that the structure will not ultimately comply with the Building Code.<sup>1</sup>
6. In general home insurance cover may be excluded where a loss occurs that is impacted by building work that is not compliant with the Building Code. This means that homeowners could be left without adequate insurance cover.
7. It will therefore be important for the government to make homeowners aware of the likely consequences, including for insurance, if a granny flat does not comply with the Building Code.
8. The proposal to remove the requirement to obtain a building consent transfers responsibility for compliance with the Building Code away from the Council. Consideration needs to be given to how this risk transfer will work and the likely impact this will have on homeowners.
9. It is proposed that the building work would need to be completed or supervised by regulated professionals such as licensed building practitioners and authorised plumbers. However, it is not clear how this will be enforced.
10. Although builders and other tradespeople may have general liability insurance, covering injury and damage to property, they are less likely to have professional indemnity insurance covering advice and/or design.

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<sup>1</sup> As identified at p7 of the Discussion Document, "if building work does not meet minimum standards, there are significant risks to the health and safety of people using the building and risks of property damage. Building failure could include structural collapse, weathertightness issues that create leaky buildings, fire and inadequate plumbing work that creates public health issues."

11. Consideration needs to be given to where responsibility for certification and design, and actual construction will lie, as the new process will bypass the checks of the existing system, i.e. what will the tradespeople be liable for, and what is transferrable under an insurance policy.
12. It appears that the current proposals mean that risks around poor quality and non-compliance with the Building Code are more likely to be borne by the homeowner.
13. Finally, it is also not clear whether it is envisaged that homeowners will be able to continue to rely on the owner-builder exemption<sup>2</sup> for restricted building work in respect to granny flats. If this is contemplated, this would further increase the risk of non-compliance with the Building Code.

#### Risks associated with greater housing density

14. Making it easier to build an additional residence on a property will increase housing density. There are a number of risks associated with greater housing density that we would like to highlight.
15. It appears that the Discussion Document contemplates that generally only one 'granny flat' should be built on a residential section<sup>3</sup> (although it could be more explicit on this point). However, the cumulative effect of numerous additional structures being built in an area needs to be considered.
16. Greater housing density may increase flood risk. Most of New Zealand's stormwater, wastewater and flood mitigation infrastructure was not built for the population, weather, or lifestyles we are leading today. As we experience more extreme weather, previous flood events have shown that our cities' stormwater systems cannot always cope with flash floods and heavy rainfall. Greater housing density will place even more pressure on existing infrastructure which will exacerbate the flood risks we already experience.
17. The Discussion Document does identify environmental effects as one of the risks the Government's policy needs to manage. However, the description of that risk is relatively brief. We would be concerned if this brief reference to environmental effects indicates that the potential environmental / natural hazards impacts have not been appropriately considered
18. Furthermore, if denser housing occurs in areas with higher natural hazard risks, it will lead to a higher aggregation of risk to be borne by the insurance market, which may in turn lead to increased premiums.
19. Finally, greater housing density may also mean that there is a higher risk of the spread of fire due to the physical proximity of the buildings, which is aggravated by access issues that fire and emergency services experience. This is a risk not just to property but to life.

#### Further considerations

20. We note the following further considerations not mentioned in the Discussion Document.
21. It will be important that homeowners understand whether or not a granny flat meets the definition of a 'dwelling' under section 6 of the Natural Hazards Insurance Act 2023 as this impacts the cover they receive under that legislation and the levy they should pay. An additional NHI levy (of 16 cents per \$100 of NHI Act Building Cover up to the \$300,000 cap) will be paid by insureds if the granny flat meets the definition of a 'dwelling'. Insurers will require details of the size and value of the granny flat for this, and other, purposes.
22. Under the current Fire & Emergency New Zealand (FENZ) levy, additional 'dwellings', such as a self-contained granny flat, will be subject to a FENZ Levy rate of \$119.50 per annum.

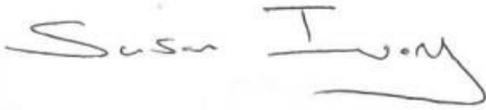
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<sup>2</sup><https://www.aucklandcouncil.govt.nz/building-and-consents/consent-exemptions/Pages/owner-builder-exemption.aspx>

<sup>3</sup> Page 15 refers to "One MRU per principal residential home on the same site".

23. Our answers to the questions in the MBIE's Consultation Submission Form are set out in the Appendix to this submission.
24. Thank you again for the opportunity to make this submission, Please contact me (susan@icnz.org.nz) if you have any questions about our feedback.

Yours sincerely

A handwritten signature in black ink that reads "Susan Ivory". The signature is written in a cursive style with a long, sweeping underline.

Susan Ivory  
**Regulatory Affairs Manager**

# MBIE Consultation Submission Form

## Submitter information

### Your name, email address, phone number and organisation

Name: Susan Ivory

Email address: susan@icnz.org.nz

Organisation (if applicable): Te Kāhui Inihua o Aotearoa / The Insurance Council of New Zealand (ICNZ)

#### 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)

ICNZ is the representative organisation for general insurance companies in New Zealand

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](http://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:

### 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.

No comment.

### 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.

The principles for achieving this outcome should also include mitigating the increased risks associated with greater housing density. See our comments above.

There will also be a need to educate homeowners on the importance of adhering to Building Act requirements and the serious consequences that may occur if they are not adhered to.

### 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 would be concerned if the relatively brief description of environmental consequences indicates that these have not been given proper consideration.

## 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.

However, note the comments set out in the General feedback section of this submission on the risks that arise from this proposal.

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

Please explain your views.

No comment.

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.

Note our comments on the risks set out in the General feedback section of this submission.

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

Please explain your views.

Note our comments on the risks set out in the General feedback section of this submission.

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.

Where a known natural hazard risk exists at the property, the build should require a consent.

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.

No comment.

- 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 negative impacts in terms of insurance where the property owner completes work that does not meet legal requirements.

- 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 savings in terms of consenting time and costs. There may be potential cost savings on alternative accommodation if structures are built more quickly.

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

Please explain your views.

No comment.

## 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.

No comment.

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

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

Please explain your views.

No comment.

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.

No comment.

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.

No comment.

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.

No comment.

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

Please explain your views.

No comment.

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.

No comment

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.

Even more enabling requirements could exacerbate the risks we have highlighted above.

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.

We consider that permitted activity status should only apply in areas that are determined to have a natural hazard risk that is "low". This approach is to align with the proposed *National Policy Statement for Natural Hazard Decision-Making (NPS-NHD)* and would reduce the risk of uncontrolled intensification in "moderate" and "high risk" areas for natural hazards.

We note higher levels of site coverage being allowed on a permitted basis (60% or 70%) and lower levels of permeable surfaces (e.g. 20%) risks increased localised flooding without commensurate improvements to stormwater systems.

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

Please explain your views.

No comment.

**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.

For developments that do not meet one or more of the permitted activity standards, a restricted discretionary resource consent would be appropriate. Discretionary criteria should include natural hazards risks and related issues.

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

Please explain your views.

No other comments.

## 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.

No comment.

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.

No comment.

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.

No comment.

## 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.

ICNZ does not have the expertise to answer this question.

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

Please explain your views.

No comment.