



12 August 2024

Consultation: Making it easier to build Granny Flats
Building System Performance
Ministry of Business, Innovation and Employment

Email: GrannyFlats@mbie.govt.nz

Tēnā koe

RE: MAKING IT EASIER TO BUILD GRANNY FLATS

Thank you for the opportunity to provide feedback on the Ministry of Business, Innovation, and Employment's (MBIE) consultation document on making it easier to build granny flats.

Engineering New Zealand (formerly IPENZ) is the largest professional body for engineers in New Zealand. We support over 23,000 engineers in shaping a better New Zealand. This submission reflects the views of Engineering New Zealand. We have encouraged our members to provide their own submissions on topics that pertain to their specific interests or areas of expertise.

Attached to this letter is our completed MBIE submission form. While we support the concept of measures to make it easier to provide more housing, we have significant concerns with the current proposal in three main areas:

1. the potential impact on infrastructure
2. increased liability for engineers
3. historical challenges with self-certification.

We offer potential alternative options for your consideration in our submission. We propose MBIE allow standard dwellings under certain geographic circumstances and that these builds be supported through the provision of best practice examples and guidance.

We appreciate MBIE's efforts to address housing challenges but believe this proposal requires some further thought to address systemic issues raised. Engineering New Zealand is available to support MBIE in refining this proposal and we look forward to further discussions. We also endorse the submission to you by the Structural Engineering Society New Zealand.

Nāku, nā

Richard Templer
Chief Executive



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: Dr Richard Templer

Email address: Richard.Templer@engineeringnz.org

Organisation (if applicable): Engineering New Zealand.
Engineering New Zealand (formerly IPENZ) is the largest professional body for engineers in New Zealand. We support over 22,000 engineers in shaping a better New Zealand.

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)

Engineering New Zealand



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 if more houses were built, unmet demand would reduce, and the cost of housing would likely decrease.

This said, there are several issues the consultation document does not address. These issues are likely to cause other problems for the Government to solve. For example:

- If people are not required to notify councils of granny flats (as proposed under Building Act option 1), entities that supply services like schools, transport, drinking water, sewerage, and stormwater won't know about additional demands and risks of overloading. For instance, aerial photography used by Councils might not distinguish between garages and granny flats. So, we are interested to understand how the necessary information would be gathered and then how infrastructure would be managed.
- Additional impermeable surfaces increase peak runoff and can increase the likelihood of flooding. The proposal must address mitigating this by slowing down water volumes during peak times.
- We assume the MBIE proposal requires strict adherence to NZS3604. If not – we have concerns about requiring an engineer to sign-off foundations. Land often has issues needing an engineer's expertise.
- Inadequately designed or constructed retaining walls can undermine the stability of granny flat foundations, potentially affecting neighbouring properties and structures.
- Inadequately compacted fill might lead to excessive settlement, compromising the long-term performance of granny flat foundations.
- Incorrect assessments of wind and seismic loads could result in insufficient structural bracing, uplift resistance, and waterproofing, endangering the integrity of the granny flat.
- Those signing off on the dwellings have greater liability considerations. Insurance prices are likely to increase.
- Self-certification has historically led to problems. Examples range from Leaky Homes in New Zealand, the Sydney Plumbing Scandal in 2019, to Opal Towers in Australia in 2018, and the Love Canal in the USA in the 1970s. Oversight is necessary, as the current system is not set up for self-certifying. Liability and insurance issues need to be addressed to protect homeowners.



- The controls provided by the Building Act 2004 and building consents are essential to maintain dwellings to a safe and sanitary standard. There is a risk that this proposal will create opportunities to develop substandard and/or hazardous living places.
- There is also a risk that dwellings will be located within places that are subject to natural and environmental hazards and are definable as dangerous under the Building Act.

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.

While we agree with the goal of increasing the supply of small houses, it is important to ensure that infrastructure can support the additional load, that environmental impacts are mitigated, and that the outcome provides New Zealanders with safe, sustainable, quality buildings

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.

Yes, the policy should also consider:

- The environmental impact of increased impermeable surfaces leading to higher runoff and potential flooding.
- Challenges in obtaining insurance for self-certified works and potential legal disputes if issues arise.
- Inadequately designed and/or constructed retaining walls, unsafe earthwork cuts, inadequately compacted fill, and incorrect assessment of wind and seismic loads pose additional risks.



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.

While we support the measures to intensify housing and mitigate urban sprawl, this proposal raises issues that need to be addressed, such as:

- The lack of notification requirements for granny flats (as proposed under Building Act option 1) could lead to unplanned strain and overload on infrastructure and services, including schools, transportation, water supply, sewerage, and stormwater systems.
- There are potential issues with increased runoff due to more impermeable surfaces, which could exacerbate flooding and stormwater management problems.
- There is risk that the proposal will lead to the development of substandard and unsafe living conditions.
- Potentially unstable retaining walls could jeopardise the structural integrity of the granny flat and surrounding areas.
- Earthwork cuts that are not safely executed could undermine the stability of both the new construction and nearby properties.
- Poorly compacted fill may lead to structural issues over time, impacting the longevity of the granny flat.
- Incorrect wind and seismic load calculations could result in inadequate structural support, increasing vulnerability.
- The option for entire projects to be certified by engineers raises questions about liability, insurance, and whether engineers are willing or qualified to sign off on aspects outside their specific expertise.
- The self-certification option for trades has historically led to problems and lacks proper oversight. This could create issues with liability and insurance for homeowners.

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

Please explain your views.

Option 1: Certification by independent inspectors can work (see the Electrical Inspectors system). The Council should be notified of building work so that it can continue to provide relevant information to local and central government agencies for planning purposes.



However, there would need to be regulation and certification of appropriately qualified people to certify work.

Option 2: Enable a special consenting process for Granny Flats. A special consenting process for Granny Flats could streamline approvals and offer benefits. It ensures Councils are notified of developments, enabling proper oversight and compliance checks to reduce non-compliant structures and related issues. Utilising existing GIS maps can help identify flood-prone areas and other hazards.

Construction to a reduced version of NZS3604 would provide simple and cost-effective options. Off-site manufacturing of the houses could provide a quick compliance pathway with (typically) higher quality construction, lower cost, and greater efficiencies than on-site manufacturing. MBIE could provide an example of a quality application to clarify the requirements for approval and then provide ongoing training for councils and the Licenced Building Practitioners who would be using the system. Doing so would provide a common understanding and faster, more consistent consenting.

We note that the main cause of delays in construction is typically due to inadequate applications, not Council scrutiny. Without these changes, risks include seismic loading, liquefaction, rockfalls, and slope stability issues, potentially leading to unsafe (not just structural safety, consider weathertightness, internal moisture, and plumbing) and poorly placed structures.

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.

There are multiple reasons why building in New Zealand is more expensive than in other parts of the world. However, consenting costs are only a small part of that. Greater savings can be gained by increasing efficiency and productivity. For example, HouseMe can deliver a 90m² house with a certificate of compliance for under \$150,000¹. That indicates the consenting process is only a small part of the problem.

The assessment is generally accurate but should include a more detailed analysis of long-term infrastructure impacts and environmental sustainability.

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

Please explain your views.

Additional risks to consider include:

¹ HouseMe (<https://houseme.co.nz/buy>)



- Difficulty in accurately assessing and planning for infrastructure needs if councils cannot easily distinguish between garages and occupied granny flats -methods like aerial photography won't help.
- Potential increase in flooding risks due to greater impermeable surface area without clear requirements for mitigation measures.
- Liability and insurance complications for engineers asked to certify entire projects outside their specific areas of expertise.
- Insufficient oversight in a self-certification system, which could lead to quality and safety issues similar to past experiences with such approaches.
- Potential for homeowners to face unexpected insurance requirements or costs due to the unique nature of these exempted structures.
- The proposal may lead to substandard and hazardous living conditions, impacting neighbourhood quality and exposing residents to risk.

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.

Mandatory notifications to councils for infrastructure planning.

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.

Additional oversight and quality checks are necessary to ensure good products. Self-certifying has historically led to problems, we have seen this happen in New Zealand with the leaky homes' crisis.

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 see several potential barriers. Insurance and liability issues for homeowners with self-certified work could be a significant deterrent. Engineers may face challenges in obtaining insurance for certifying entire projects outside their usual scope. The Insurance Council and large insurance companies are key stakeholders.

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.



It's unlikely that removing consents from the process will significantly decrease costs for small houses.

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

Please explain your views.

A special consenting process for granny flats can address many concerns by making sure that Councils are notified, enabling oversight and compliance checks, and infrastructure planning. GIS maps (which councils already have) should be used to identify hazards, ensuring safe construction locations.

We note that the main cause of delays in construction is typically due to inadequate applications. We suggest that MBIE provide a quality application as a guidance example and ongoing trainings for councils and Licensed Building Practitioners. This will ensure that there is common understanding, and faster, more consistent consenting.

This approach tackles the main cause of delays, which is inadequate applications, rather than Council scrutiny. The proposal as it stands has significant risks such as seismic loading, liquefaction, rockfalls, and slope stability issues, which could result in unsafe and poorly placed structures.

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.

Enabling minor residential units can help address housing shortages, but it is important to ensure that these units do not overburden existing infrastructure, negatively impact the environment, or provide unsafe or unsanitary environments.



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. Attaching a building to another structure can significantly affect the structural performance of the whole building.

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.

Focusing on residential and rural zones is appropriate, but there should also be consideration for how these units integrate with urban infrastructure and services.

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.

Further analysis is needed to determine the feasibility and impact of extending this policy to other zones, particularly in terms of infrastructure capacity and environmental impact.

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.

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

Please explain your views.

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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.

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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.

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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.

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

Please explain your views.

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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.

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

Please explain your views.

The proposal should ensure that any new constructions do not negatively impact local infrastructure and environment. Ongoing monitoring and review mechanisms should be established to manage the long-term impacts of these developments.

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.

A mandatory notification system should be implemented, requiring property owners to inform councils when new granny flats are built, even if they are exempt from resource and building consents.

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.

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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.

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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.

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

Please explain your views.

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