



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 Chris Litten, General Manager Research

Email address:

Organisation (if applicable): BRANZ

The best way to describe you or your organisation is:

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

Building Research Association of 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.



Dr Chris Litten
General Manager, Research
BRANZ

Preface – About BRANZ

The Building Research Association of New Zealand (BRANZ) acknowledges the Government's intent to create more affordable housing options and choice. This intent aligns with a valid area of need as recognised through the discussion document 'Making it easier to build granny flats'.

We welcome the opportunity to provide feedback on potential changes to the Building Act 2004 (the Building Act) and have responded to questions 1-12 only. Note that we have not responded to the questions relating to the Resource management system proposal, Local Government Infrastructure Funding, nor Māori land, papakāinga and kaumātua housing.

BRANZ's primary role is as an independent science and research organisation. BRANZ is the only national research institution focused exclusively on building and construction.

Our current investment priorities for new research are in four main areas:

- Improving housing affordability for all New Zealanders,
- Improving the quality of Aotearoa New Zealand's building stock,
- Resilience of buildings to natural hazards, and
- Improving environmental sustainability and circularity of the built environment.

We are open to working with MBIE on exploring ways these research priorities can help achieve the ambitions of the changes being proposed.

Alongside research, BRANZ offers commercial, independent, science-based testing and assurance services. BRANZ has over 50 years of expertise in assessing products entering the market. Our assurance services give confidence to product suppliers (who choose to use them) that their materials should perform to the New Zealand Building Code (the Building Code) and associated regulations and standards, if properly used and/or installed.

Summary of BRANZ response

It is BRANZ's view that the short- and long-term risks, as described in the discussion document on page 9 and in Appendix 1, outweigh the benefits and cost savings for the preferred Option 2.

The risks of Option 2 (that does not require a building consent) are well noted on page 9, and we take this opportunity to emphasise the first two:

- *Without the oversight of BCAs, there is an increased risk of non-compliant buildings. The notification requirement, and other criteria, are proposed to help mitigate this risk. But it is unclear whether these mitigations will be enough to resolve potential difficulties with finance, insurance and re-sale.*
- *This option makes owners responsible for ensuring qualified professionals complete the work. However, as no entity would be actively monitoring this requirement, there is a risk of non-compliance.*

Currently the consenting system, as the provider of third-party checks and its role in providing quality assurance, is the mitigating measure to these risks.

BRANZ suggests that Options 4 or 5 would achieve the desired outcomes and mitigate the risks, these are:

Option 4: Targeted promotion campaigns of BuiltReady and MultiProof, specifically for standalone dwellings up to 60 square metres.

and

Option 5: New MBIE/Government MultiProof approval for a 60 square metre standalone dwelling.

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 are responding here to the question 'Have we have correctly defined the problem?'

The problem is defined on page 5 of the discussion document as being in three areas: Housing affordability, demand/supply of small houses, and the time and cost of regulatory processes.

The problem definitions given for the demand/supply of small houses and the regulatory compliance costs are unclear. Also unclear is the intervention logic to remove the building consent process (as per preferred Option 2) to resolve these two problems:

- The **cost** of a building consent for simple, standalone dwellings up to 60 square metres is not significant: The discussion document estimates the upper amount of \$5,000 on a small house (i.e around 2% of overall cost, which equates to additional 1-2 square metres of floor area).
- The reasons for the **time** taken to process consents, inspections and code compliance certificates are not explored. BRANZ has research currently underway to explore and improve on this, and can share this when complete.
- Similarly, the intervention logic behind the intended outcome to **increase the supply** of small houses for all New Zealanders is unclear. The proposals hope to increase the supply of small houses on sections of land where a house already exists, but this cannot be extrapolated to apply to all New Zealanders, only to those who already own a home.

It would be worth understanding the state of risks and benefits achieved from buildings constructed under previous Building Act changes, to inform these current proposals. For example, exemptions added to Schedule 1 of the Building Act came into effect from 31 August 2020 and enabled construction of detached, standalone buildings up to 30 square metres, without a building consent. A well-researched understanding of the impact of those changes would be useful and could inform these changes.

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.

BRANZ supports the outcomes and principles stated, however quality and durability of housing should also be included as a high priority.

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.

BRANZ agrees with the risks identified (on page 7 and in Appendix 1 of the discussion document).

However, we are concerned that the proposed option (Option 2, as outlined in Appendix 1 of the discussion document) does not adequately mitigate the significance and extent of these 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.

BRANZ considers that current building consent regulations *are* proportionate to the risks involved for simple, standalone dwellings up to 60 square metres.

We suggest that Options 4 or 5 would be preferred, as outlined in response to Question 5 below.

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

Please explain your views.

Options 4 and 5 would achieve the same outcomes AND provide quality assurance, consumer protection mechanisms and a means for Code compliance checking.

These are:

Option 4: Targeted promotion campaigns of BuiltReady and MultiProof, specifically for standalone dwellings up to 60 square metres.

and

Option 5: New MBIE/Government MultiProof approval for a 60 square metre standalone dwelling.

Steps toward Option 5 already exist, for example the Simple House Acceptable Solution (link below – it would need updating). This Acceptable Solution would allow consumer flexibility to choose particulars of design and build, which is one of the stated 'risks/costs' to Option 5.

<https://www.building.govt.nz/assets/Uploads/building-code-compliance/specific-buildings/simple-house/asvm/simple-house-acceptable-solution-1st-edition.pdf>

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.

It is BRANZ's view that the short- and long-term risks, as described in the discussion document on page 9 and in Appendix 1, outweigh the benefits and cost savings for Option 2.

We agree with the risks stated, but would like to see measures to mitigate these risks included. Of particular concern is the stated "increase in risk of non-compliant buildings due to no third-party checks". Currently the consenting system, as the provider of third-party checks and its role in providing quality assurance, is the mitigating measure.

Removing third-party assurance without any additional support systems, such as those outlined in Option 4 and 5, creates opportunity for building or product failure.

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

Please explain your views.

BRANZ agrees with the intent of these proposals to make it easier to build small dwellings. However, we are concerned that the criteria to be met in order to mitigate the risks, as outlined in the second paragraph below, will not be assessed or checked at any time, as there is no requirement to do so. There will be no way of knowing whether the risks are limited and therefore a building consent exemption would not be appropriate.

MBIE considers a building consent exemption is only appropriate if the building meets certain criteria that help limit the health and safety risks given it is not checked by a regulator.

Meeting these criteria would reduce the risk of building failure, that the inspections and approvals process safeguards against. They are specifically targeted at reducing the risk of structural failure, fire and the spread of fire, weathertightness failure and insanitary conditions.

(page 9 of discussion document)

Pages 9-11 of the discussion document describe well the conditions MBIE considers must be met to build a small, standalone dwelling without a building consent; and BRANZ supports these conditions. However, there are no processes built-in to the proposed changes to ensure these conditions are met.

The criteria to be met rely heavily on trust:

- Trust that the Council is notified of planned and completed work;
- Trusted workers undertaking the build; and
- Trust that the build design is simple and straightforward.

BRANZ understands moves to more self-regulation in the industry, but this needs to be accompanied in this case-with:

- More support and resource for Councils to act on non-notification;
- Mechanisms that assure buildings are Code compliant; and
- Protection measures for building owners/occupants and wider (for example, neighbours).

BRANZ emphasises the risks to infrastructure, services and access, particularly if these homes are built without Councils being notified. As additional dwellings are not accounted for in the planning of initial builds and developments, the impact on services and infrastructure could be difficult to understand. There are also risks that non-notified buildings will create challenges for emergency services, such as access.

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.

If these small dwellings are intended to provide for aging in place, BRANZ would support them being designed using accessible or universal design principles.

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.

As stated in the discussion document (page 22), Option 2 carries a risk and potential cost to owners, as they are "responsible for ensuring qualified professionals complete the work, however no entity would check this."

The proposal relies heavily on the Licensed Building Practitioner and similar schemes; however, these schemes are not designed to *ensure* work meets the building code. The schemes would need to be changed if they were to effectively and consistently perform a robust quality assurance role, i.e. one that enables complaint resolution and does not add costs to the system.

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 may be barriers to accessing insurance (and therefore accessing finance or a mortgage) and to re-sale caused by having non-consented buildings on the property. Potential buyers will most likely want proof of building code compliance in order to comply with their mortgage and insurance conditions.

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.

Based on status quo, BRANZ research indicates that building inspectors find more defects than clients and their builders, and inspectors can help rectify defects before they become a long-term problem (SR375 Gordon, G. & Curtis, M. (2018) Building quality issues: A literature review). This would indicate that a build inspection or quality assurance step saves time and money.

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

Please explain your views.

[insert response here]

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.

[insert response here]

- 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.

[insert response here]

- 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.

[insert response here]

- 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.

[insert response here]

- 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.

[insert response here]

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

Please explain your views.

[insert response here]

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

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

Please explain your views.

[insert response here]

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

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

Please explain your views.

[insert response here]

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

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

Please explain your views.

[insert response here]

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

Please explain your views.

[insert response here]

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.

[insert response here]

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

Please explain your views.

[insert response here]

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.

- 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.

[insert response here]

- 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.

[insert response here]

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.

[insert response here]

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

Please explain your views.

[insert response here]