



Hamilton City Council – Staff Submission

**Building and Construction (Small
Stand-alone Dwellings)
Amendment Bill**

**Parliament's Transport and
Infrastructure Select Committee**

23 June 2025

Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- **A city that's easy to live in**
- **A city where our people thrive**
- **A central city where our people love to be**
- **A fun city with lots to do**
- **A green city**

The topic of this staff submission is aligned with all of Hamilton City Council's five priorities.

Council Approval and Reference

This staff submission was approved by Hamilton City Council's Chief Executive on 23 June 2025.

Submission # 807

It should be noted that the following submission is from staff at Hamilton City Council and does not, therefore, necessarily represent the views of the Council itself.

Introduction

1. Hamilton City Council staff welcome the opportunity to make a submission to Parliament's Transport and Infrastructure Select Committee on the **Building and Construction (Small Stand-alone Dwellings) Amendment Bill**.
2. There are some concerns outlined below, accompanied by a set of recommendations (highlighted in blue) detailing how the Bill, if enacted, could be strengthened.
3. This submission also draws on the extensive feedback provided by Hamilton City Council staff in its 16 August 2024 feedback to the Ministry of Business, Innovation and Employment's June 2024 discussion document **Making it Easier to Build Granny Flats** – [refer here](#)

Specific Concerns, Comments and Recommendations

4. **Section 32:** The use of “may” implies that applying for a Project Information Memoranda (PIM) is optional, but for Small Stand-alone Dwellings, it should be mandatory. Without a prior PIM, critical site information (such as suitability, infrastructure capacity, and underground services) may be missed, increasing risks of poor placement, infrastructure conflicts, and lost development contributions.
5. **RECOMMENDATION:** Reword this section to require that any intention to construct a small stand-alone dwelling must apply for a PIM, i.e. replace ‘may’ with ‘must’, and state that this must be ‘prior to construction’.
6. **Section 34:** Reducing the PIM timeframe from 20 to 10 days under Section 34 is problematic. It limits the ability to identify additional consent needs, site-specific risks, and infrastructure constraints. The standard process (application validation, site analysis, internal/external consultation, technical review, and senior sign-off) typically requires 20 working days to ensure accuracy and compliance, especially as these developments become more enabled.
7. **RECOMMENDATION:** That the time limit be restored to 20 working days.
8. **Section 35A:** This sets out that a PIM must be accompanied by (in addition to other things) an attached document, containing statements of any natural hazards and descriptions of any bylaws that ‘may affect the design, construction, or location of the non-consented small stand-alone dwelling (for example, bylaws relating to wastewater or stormwater pipes)’. The wording is limited and does not address that connection approval for the management of accumulative wastewater, stormwater and water demand effects is important for the management of overflows, flooding and water pressure and flow.
9. **RECOMMENDATION:** This section should include *may effect ‘the approval of a connection’*.
10. **Section 35A:** Obligations to monitor sites where a statement is issued indicating proposed work is “unlikely” to satisfy Clause 1 of Schedule 1A, and how this may be charged to an applicant that ignores this?
11. **RECOMMENDATION:** Clarity that the statement on the prescribed form, which the Territorial Authority issues, that the works do not fit within Schedule 1A and a building consent will be required; Ability to charge the applicant for any follow-up site visits.

12. **Section 392A:** How does joint and several liability stand within this section where there are no other parties to future litigation?
13. **RECOMMENDATION: Confirmation of no legal liability to the Territorial Authority for any works undertaken and plans submitted under this Amendment Bill.**
14. **Section 41:** Will changes to Schedule 1A Clause 2 made by Order of Council be subject to consultation?
15. **RECOMMENDATION: Any future changes are to be subject to full consultation from the industry.**
16. **Section 42B, subsection 4:** What if there are changes between the documents lodged under Section 33(1A) and the final documents lodged under subsection 4? If there is there no expectation to review the design under Section 42C(2), how will this be policed if the work is non-compliant or not within the scope of Schedule 1A?
17. **RECOMMENDATION: Section 42C(2) needs to be changed to require the Territorial Authority to check the records of work and the final set of plans to determine:**
 - **Current LBP status; and**
 - **Changes to the design and whether the plans still fit within the scope of Schedule 1A.**
18. There is a concern that the Licensed Building Practitioner (LBP) scheme could be left exposed, carrying out exempted work, without having the knowledge to understand the nuances of the stand-alone building legislation. This could result in works which, on the surface, seem exempt, but in fact, fall outside the exemption due to design changes or owner pressure. This puts the LBP and owner at risk of non-consented works and ongoing Council intervention, litigation, applications for Certificates of Acceptance and the like.
19. **RECOMMENDATION: A review of the Licensed Building Practitioner scheme to include additional education and support of design and construction LBPs to ensure that they are fully conversant with the Amendment Bill.**
20. **Section 42B(5):** This imposes a maximum \$1,000 fine for failing to provide records of work, including final design plans and certificates. Given the serious public health and environmental risks of non-compliant plumbing and drain laying, this penalty is disproportionately low and may be seen as an acceptable cost rather than a deterrent.
21. **RECOMMENDATION: Increase the level to match Section 85 Offences relating to carrying out or supervising restricted building work to a fine not exceeding \$50,000.**
22. Clarification around the meaning of “simple water supply, sanitary plumbing, drainage”.
23. **RECOMMENDATION: Guidance documents supplied that determine the definition of “simple” design.**
24. Specifically, regarding dwellings with no connection to NUO’s, if -S1A(2)(91)(h)(ii) is not altered as above, will the Territorial Authority have provision to issue a notice to fix further down the track if non-compliant work is notified to us by outside parties? For example, non-compliant stormwater management systems causing a nuisance/damage to neighbouring properties.
25. **RECOMMENDATION: Section 1A(2)(91)(h)(iii) added to say: Despite subsection (iii) should a complaint be received regarding a water supply, sanitary plumbing and drainage and surface water causing a nuisance, the Territorial Authority has the right to investigate, issue a notice to fix under Section 164.**
26. There is no mention of whether a stand-alone building needs to be on a residential allotment with an existing/original dwelling on site in order to use this exemption. The original concept was for

residential owners to provide additional housing for family members rather than as a commercial activity.

27. Number of exempted stand-alone dwellings per site: Is there a limitation on numbers per allotment, and how does this fit with use, e.g. Airbnb or other short stay accommodation operations.
28. **RECOMMENDATION: Under Schedule 1A (2), add under characteristics of small stand-alone building the following additions:**
 - **Limited to residential allotments.**
 - **Limited to one per allotment.**
 - **On Te Ture Whenua Māori Act designated land: agreed papakāinga under Part 17 as long as the dwelling units meet the rest of Schedule 1A(2).**
29. Clarification is required around how the net floor area is calculated. Specifically, if an attached carport is proposed. Is a carport or any other outbuilding, such as a shed, included in the 70m² area, or is the 70m² measured for the habitable space only?
30. **RECOMMENDATION: Schedule 1A(s2)(2) needs to be amended to clarify if other attached non-habitable structures could be ‘attached’ to the small stand-alone building.**
31. **Schedule 1A – Requirements for Small Stand-alone Dwellings: Concerns with Interpretation of “Available” Network Services:** Clause 2(1)(h) of Schedule 1A allows small stand-alone dwellings to connect to on-site water and wastewater systems if network utility services are not “available.” However, the term “available” is ambiguous and could be interpreted to mean that a network exists, even if it is already at full capacity. This creates a loophole where developers might opt for on-site wastewater storage and off-peak pumping systems without requiring building consent or council oversight. These systems, while technically viable, carry higher environmental and public health risks and require engineered solutions, qualified practitioners, and responsible ownership. In urban areas, where cumulative infrastructure impacts are significant, such systems should not be permitted without regulatory approval. Clearer definitions and consent requirements are essential to ensure safe, sustainable infrastructure and to prevent unmanaged proliferation of high-risk systems.
32. **RECOMMENDATION: Section 1A(2)(91)(h)(ii) should be changed to: “...if not available, subject to Council policy and Bylaws, connect to on-site systems subject to a building consent for that system only as an engineered solution, and in accordance with relevant Bylaw”.**
33. Schedule 1A 2(e) requires the small standalone dwelling to be setback at least two metres away from any other building or legal boundary. The building provisions will need to be consistent with the NES provisions, and 2 metres is not appropriate for all boundaries. Properties fronting the transport corridor may require further setbacks.
34. **RECOMMENDATION: Amend setback requirements to exclude setback from transport corridors/road and address this provision in the NES.**
35. If Development Contributions are required for a non-consented small standalone dwelling, Section 36(2A) requires territorial authorities to issue a Development Contribution notice upon an application for the PIM.
36. The notice must state that the Development Contributions are required to be paid by the owner within 20 working days after completion of the building work. The completion paperwork is required to be submitted to the Council within 20 days of completion.
37. There is no way for territorial authorities to monitor this or know if the building has been completed without the owner advising the Council. The concern is that there is no timeframe for

completion, and this could incentivise owners to not provide the completion paperwork or delay doing so to avoid paying the Development Contributions or Financial Contributions.

38. **RECOMMENDATION: Amend Section 36(2A) to require Development Contributions to be payable on the issue of a Project Information Memorandum.**
39. If the work does not proceed, a territorial authority has no way of knowing this for record-keeping. The onus should not be on the territorial authority to monitor the completion of the work. It is also unclear how territorial authorities will know when the building work will be completed to start the '20 day' clock.
40. **RECOMMENDATION: Amend proposed Section 42B to require Development Contributions to be payable within 20 days of the issue of a PIM. Also, to amend proposed Section 42B to include that the building must not be occupied until the completion process is complete and any Development Contributions are paid.**

Further Information and Hearings

41. Should Parliament's Transport and Infrastructure Select Committee require clarification of the submission from Hamilton City Council staff or additional information, please contact **Alister Arcus** (Principal Building Advisor) on **07 838 6881**, or email Alister.Arcus@hcc.govt.nz in the first instance.
42. Hamilton City Council representatives **do not wish to speak** to Parliament's Transport and Infrastructure Select Committee's hearings in support of this submission.

Yours faithfully



Lance Vervoort
CHIEF EXECUTIVE

FURTHER INFORMATION

Hamilton City Council
Garden Place, Private Bag 3010, Hamilton

-  /hamiltoncitycouncil
-  @hamiltoncitycouncil
-  07 838 6699

hamilton.govt.nz