



# Hamilton City Council – Final Staff Submission

## Making it Easier to Build Granny Flats – Discussion Document (June 2024)

Ministry of Business, Innovation  
and Employment

16 August 2024



Hamilton  
City Council  
Te kaunihera o Kirikiriroa

## 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 to 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 16 August 2024.

Submission # 770

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.

## Key Messages and Recommendations

### 1. Introduction

- Hamilton City Council staff have provided feedback to the 29 questions outlined in the Ministry of Business, Innovation and Employment's (MBIEs) submission form in the June 2024 discussion document **Making it Easier to Build Granny Flats**.
- Staff acknowledge and are supportive of the Government's focus on enabling the provision of more affordable housing in New Zealand, with granny flats being one part of the solution.
- However, we need to stress that as New Zealand's fastest-growing city, there are numerous competing priorities and trade-offs that must be taken into consideration when planning for and ensuring Hamilton's optimal current and future residential development.
- The main example of such competing priorities and trade-offs primarily revolves around balancing an increase in housing density (including through an increase in granny flats) with the subsequent impact on key city infrastructure - particularly three waters infrastructure. This situation/issue will also be applicable to many other city and district councils throughout the country.
- Encouraging granny flats may come at the expense of achieving greater density. Short-term decisions to make low(er) cost capital investment in a property to provide a Minor Residential Unit (MRU) increases the sunk costs that would inform the feasibility of the redevelopment of that site to achieve the higher density typologies already being enabled (e.g. terrace, apartments). This could delay intensification in certain parts of the City and the benefits that would accrue, e.g. densities to support investment in efficient frequent/rapid public transport services.
- Our feedback throughout this submission is therefore underpinned by the fundamental issue of competing priorities and trade-offs.

### 8. Building System Proposal

- From a building consent perspective, the evidence of the likely benefits of introducing such a regime is lacking. We are not clear that these proposals will have any positive impact on building costs and building timeframes.
- There is likely to be a lack of knowledge by property owners of their rights and obligations without an education campaign as part of any proposal, which could lead to poor built-form outcomes.
- Local authorities will be taking on the same level of risk without having any way to manage such risk through a consenting process.
- Future property owners will have no information on these types of buildings through the Land Information Memorandum (LIM) process.
- There may also be an increase in the Council's compliance staff having to deal with complaints from neighbours, unlicensed building practitioners undertaking shoddy and/or non-compliant work etc. Costs associated with this issue often fall to the Council and its ratepayers who are currently struggling with a cost-of-living crisis, as this aspect is not likely to be cost-recoverable.
- In terms of any anticipated cost-savings resulting from the granny flat proposal, it needs to be noted that the consent cost of a granny flat is likely to be approximately 2.5% of a final build price (based on \$4,000/sqm cost and \$6,000 Council consent fees) and \$16,000 Development Contribution costs – refer also to the section on 'Development Contributions'. **i.e., 97.5% of these costs being designer, materials and tradesperson costs that are not addressed whatsoever in this proposal.**

### 15. **Hamilton's Operative District Plan - Ancillary Residential Units**

16. Hamilton City Council's Operative District Plan (ODP) currently permits Ancillary Residential Units (ARUs) within certain residential zones in Hamilton. ARUs align with the colloquial 'Granny Flat' term and are comparable by definition to a Minor Residential Unit (MRU) defined in the National planning standards.
17. Staff are therefore supportive in part, of enabling granny flats, noting that:

- Standards are proposed to ensure a quality urban environment is achieved. This submission provides a response to MBIE's discussion document Standards, Proposal and Options table. There is some misalignment between what standards are proposed and Hamilton City Council provisions which shows the need for tailored provisions within respective District Plans.
- **Staff support Appendix 2 - Option 2**, which opts for a **National Policy Statement (NPS)** to ensure Councils take a coherent planning approach that has the ability to address local issues which at the same time provides national direction.
- **Staff do not support Appendix 2 - Option 4**, which opts for a **National Environmental Standard (NES)** that has the potential to take immediate effect from a prescribed commencement date. While Hamilton City Council already provides for MRUs, the District Plan exhibits other rules/standards that must be complied with, including density-related triggers for infrastructure matters. Depending on its drafting, a nationalised regulatory approach could undermine the necessary protections already present in the District Plan.
- Staff propose that the maximum unit size of a MRU (60m<sup>2</sup>) is included within the definition of a MRU to ensure a clear understanding that a MRU over 60m<sup>2</sup> falls within the definition of a Residential Unit and therefore needs to comply with the relevant standards and not those set out for a MRU.

### 18. **Development Contributions**

19. Granny flats must contribute to the cost of Council infrastructure like other new houses do. The Local Government Act (LGA) states that: *"The purpose of the development contributions provisions in this Act is to enable territorial authorities to recover from those persons undertaking development a fair, equitable, and proportionate portion of the total cost of capital expenditure necessary to service growth over the long term"*.
20. If resource and building consents are not required, a Project Information Memorandum (PIM) would be the preferred mechanism to trigger a new granny flat to be notified to the relevant Council. PIMs should be mandatory for granny flat developments so that development contributions can be collected based on the increased demand they create.
21. A PIM provides the Council with information relating to the scope of the development, including application details and floor plans which are used to make an accurate assessment of demand for development contributions.
22. Changes must be made to the LGA to ensure development contributions could be required on PIMs as well as ensuring that the appropriate payment triggers were included in the LGA to withhold the granting or issuance of a PIM if development contributions have not been paid.

### 23. **Financial Contributions**

24. An increase in the number of developments, including granny flats, will impact on network capacity and may necessitate infrastructure upgrades, which may also result in adverse environmental effects that cannot be mitigated on-site in relation to Residential Amenity and Te Ture Whaimana (the Vision and Strategy for the Waikato River).
25. As with development contributions, granny flats should not be exempt from paying their equitable share of financial contributions to offset these effects.

## 26. Rating Issues

27. Councils have a responsibility to ensure that rates are applied consistently and equitably across the community. Our initial concern is where staff are not aware of building works, or do not have sufficient information to rate correctly.

28. Our Rates staff currently rely on the building consent process as the main notification where there are improvements to a property.

29. Any final proposal by the Government around granny flats needs to ensure that appropriate mechanisms are in place for councils to capture the correct information to enable a collection of rates.

30. Our preferred option is that a Project Information Memorandum (PIM) is mandated to capture this specific information.

## 31. Infrastructure Management

32. As a high-growth city, three waters network constraints are an issue that need to be resolved. However, there is an oversimplification of the ease with which three waters network issues can be managed. Councils have to fund and program infrastructure renewals, upgrades, and capital works on multiple fronts to accommodate unplanned growth. The proposal, as it currently stands, does not acknowledge the full impacts of the relaxing of land use controls if there is a large uptake of permitted developments.

33. Hamilton City Council is cognisant of the need to meet emerging social needs, reduce time and administrative costs, and align building code criteria. In determining the appropriate connection approval process and policy, staff consider that smaller developments (60m<sup>2</sup> and under) would not necessarily require a network capacity assessment to assess the impacts of the development and determine compliance risk. This approach was deemed low risk based on recent building consent patterns.

34. Without a planned and managed intensification approval regime with checks and balances, the risk will no longer be low, and it would be difficult for Hamilton City Council staff to manage infrastructure to meet legislative compliance, environmental performance measures, and health and safety obligations. It would also be difficult to operate efficiently and effectively without robust planning and controls in place. **A National Policy Statement could provide for customised approaches to managing housing supply.**

35. Council has Bylaws and associated Policy in place which seeks to manage connections to its infrastructure, including requests for connections from outside its district in rural areas. Connections to Council's infrastructure need to be managed, and existing rural properties outside the city boundary can only be partially catered for under existing arrangements. There needs to be appropriate recognition of these mechanisms to manage the impacts of development.

## 36. Māori Land, Papakāinga and Kaumātua Housing

37. As Māori owned title and Papakāinga developments are normally for more than 1 unit, consideration of the ability to allow more than 1 unit under the proposed regime could be looked at subject to other risks being managed, such as network capacity and levels of service. This should include the necessary limitations and consideration as per our submission points above (education, house building guidance etc) but make an allowance on Māori owned title on the basis that the land is communally owned, highly unlikely to be sold and passed down to Whanau.

38. These types of developments should include Te Tiriti o Waitangi principles and the mechanisms of this proposal for land under Māori title, to be developed by Iwi, within their tribal regions.

## Introduction

39. Hamilton City Council staff welcome the opportunity to make a submission to the Ministry of Business, Innovation and Employment (MBIE) on **Making it Easier to Build Granny Flats – Discussion Document (June 2024)**.
40. This submission responds (where appropriate) to the 29 questions outlined in the submission form in MBIE's June 2024 discussion document. Background information and the questions in MBIE's submission form are reproduced and highlighted in blue text in this submission.
41. Other feedback/key messaging from Hamilton City Council staff is also provided throughout this submission.
42. This submission is structured under the following key headings:
  - **What MBIE is Seeking**
  - **General (as per MBIE's Submission Form)**
  - **Building System Proposal (as per MBIE's Submission Form)**
  - **Background of Hamilton City Council's 'Ancillary Residential Unit'**
  - **MBIE's Proposal and Options**
  - **Resource Management System Proposal (as per MBIE's Submission Form)**
  - **Development Contributions**
  - **Financial Contributions**
  - **Rating Issues**
  - **Infrastructure Management**
  - **Local Government Infrastructure Funding (as per MBIE's Submission Form)**
  - **Māori Land, Papakāinga and Kaumātua Housing (as per MBIE's Submission Form)**

## What MBIE is Seeking

43. MBIE is proposing coordinated changes across the building and resource management systems. Firstly, MBIE proposes adding a new schedule to the Building Act 2004 to provide a building consent exemption for granny flats up to 60 square metres. Under the resource management system, MBIE proposes a 'National Environmental Standard' that allows a 'Minor Residential Unit' to be built without the need for a resource consent.
44. The focus of the proposed policy is to enable small, detached, self-contained, single-storey houses for residential use. A set of permitted activity standards are proposed to cover aspects such as the size, coverage, setbacks, etc.

## General (as per MBIE's Submission Form)

45. **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.**
46. **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.**
47. *Refer to pages 4 – 7 of the discussion document to answer the questions in this section.*
48. **Question 1: Have we correctly defined the problem?**

49.  Yes  No  Not sure/No preference
50. **Are there other problems that make it hard to build a granny flat? Please explain your views.**
51. There is a disconnect between the terms being used. The general communication use of the term “granny flat” as a colloquial term for minor residential units is not completely accurate. The concept of a granny flat is more literal. It is a temporary small residential unit for an elderly relative of the principal household on site to allow family members to support older/infirm relatives as they transition through the later parts of their lives. Once they no longer reside there the unit is expected to be removed. All the detail that sits beneath the proposal correctly describes and uses the term ‘Minor Residential Unit’, with the principal difference being that it is permanent accommodation with no relation link inferred between the occupants and the principal home.
52. A lack of knowledge by the public and confusing/difficult-to-understand Government/Council legislation/codes/local rules make it a seemingly impossible task to do (particularly for the public/homeowners who have a relatively limited understanding/interaction with Council on building consent issues/processes), for what should be a relatively simple task. The lack of education and simplification of codes etc to the general public drives calls for such proposals.
53. The evidence of the likely benefits of such a regime is lacking. We are not clear that these proposals will have any impact on cost and timeframes to build. This is because of the extra work that designers and contractors will need to do, i.e., to undertake due diligence for on-site conditions, with the design and the on-site construction of the proposed building, where there are no Council inputs. Examples such as checking flooding maps, existing services, and infrastructure on-site, as well as full designs (often using the Building Control Authority – BCA, as a default plan checker) could, in reality, lead to increases in consultation and higher build costs.
54. The alternative is that minimal on-site checks are carried out and ancillary buildings are constructed in say a flood-prone area or on substandard ground which could impact on the viability of the building at some future time, impacting on the building owner.
55. There may also be an increase in the Council’s compliance staff having to deal with complaints from neighbours, unlicensed building practitioners undertaking shoddy and/or non-compliant work etc. Costs associated with this issue often fall to the Council and its ratepayers who are currently struggling with a cost-of-living crisis, as this aspect is not likely to be cost-recoverable.
56. In terms of any anticipated cost-savings resulting from the granny flat proposal, it needs to be noted that the consent cost of a granny flat is likely to be approximately 2.5% of a final build price (based on \$4,000/sqm cost and \$6,000 Council consent fees) and \$16,000 Development Contribution costs – refer also to the section on ‘Development Contributions’). **i.e., 97.5% of these costs being designer, materials and tradesperson costs that are not addressed whatsoever in this proposal.**
57. **Question 2: Do you agree with the proposed outcome and principles?**
58.  Yes, I agree  I agree in part  No, I don’t agree  Not sure/no preference
59. **Are there other outcomes this policy should achieve? Please explain your views.**
60. There is not enough detail to fully support this proposal. There is a potential that unlicensed building practitioners and incomplete design/poor building practice will be a result of a lack of independent oversight, and this can exploit the property owner as a result of what we have outlined in Question 1 above i.e., a lack of knowledge/understanding.
61. **Question 3: Do you agree with the risks identified?**
62.  Yes, I agree  I agree in part  No, I don’t agree  Not sure/no preference
63. **Are there other risks that need to be considered? Please explain your views.**

64. As noted above:
- A lack of knowledge by property owners of their rights and obligations without an education campaign as part of any proposal.
  - Local authorities taking on the same level of risk without having any way to manage such risk through a consenting process.
  - Future property owners having no information on these types of buildings through the LIM process.
65. The proposal also states that 'Indicative Plans' will be required of customers. Considering the technicality of Development Plans this would not manage risk, and requests for further information are likely which would require staff resources.

## Building System Proposal (as per MBIE's Submission Form)

66. 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.
67. Refer to pages 8 – 11 of the discussion document AND Appendix 1 to answer the questions in this section.
68. **Question 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?**
69.  Yes, I agree     I agree in part     No, I don't agree     Not sure/no preference
70. Please explain your views.
71. We think there is a better option – please refer to our response to Question 5.
72. **Question 5: What other options should the government consider to achieve the same outcomes (see Appendix 1)? Please explain your views.**
73. The expansion of a fast-track consenting process with a 10-day turnaround with designs based on an ancillary building guide created by MBIE (like the BRANZ house building guide). This can be published as an Acceptable Solution means of compliance, with enough flexibility in detailing to cater for most designs and materials, to allow some design innovation without compromising compliance e.g., limiting to a weathertightness risk score of <20 as an example of possible limitations.
74. Higher risk/complex designs should go through the normal consenting process because of the risk rather than just a blanket building proposal.
75. **Question 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?**
76.  Yes, I agree     I agree in part     No, I don't agree     Not sure/no preference
77. Please explain your views.
78. As in our response to Question 1 above, there is not enough evidence to support this question. More consideration of the actual cost-benefit with this approach, including the societal costs of having a large number of substandard developments.
79. **Question 7: Are there any other benefits, costs or risks of this policy that we haven't identified? Please explain your views.**
80. No response required.



81. **Question 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.**
82. There is not enough detail on this proposal. There should be clear and strong rules. For example:
- Including soil testing to ensure a suitable foundation is designed for the proposed unit. Evidence from recent applications shows that the majority of consent applications within our Territorial Authority require some type of engineered foundation based on a geo-tech assessment.
  - Location of Council Services: Basic checks to ensure that the proposal is not building over wastewater, water, and stormwater mains.
  - Capacity of Council Services to handle additional capacity demand. There are numerous examples within our Territorial Authority that areas have reached capacity. Unregulated numbers of ancillary units may result in network capacity being exceeded and Levels of Service for water pressure and flow being affected. This will increase compliance risk and potential health and safety issues may arise.
  - Sustainability is a key issue for all councils and is a requirement of the RMA. It is unclear how developments not requiring consent will be required to adopt water-sensitive measures and low-impact design. This needs to be additional criteria and the measures need to be for water, wastewater, and stormwater.
83. **Question 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?**
84.  Yes, I agree     I agree in part     No, I don't agree     Not sure/no preference
85. **Please explain your views.**
86. The Licensed Building Practitioners (LBP) regime should be strengthened to ensure all participants doing restricted building work are appropriately qualified, keep up with current knowledge through a stronger CPD program, and ensure clearer liability to those carrying out the work. The property owner that undertakes this is using the likely exemption clauses.
87. This also supports a need to educate the public as to their rights and obligations as they should be taking on more potential liability for the build.
88. **Question 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.**
89. As per our response to Question 9, a lack of knowledge is a likely barrier, with owners being swayed by potential unlicensed building practitioners who are likely to exploit the lack of knowledge with 'glossy brochures' and promises of a cheap and easy build process.
90. Insurance knowledge is important as we are not sure that insurance companies are going to support this as there could be higher premiums, more 'out' clauses and a potential lack of cover e.g., flood-prone land where appropriate checks have not been made prior to construction.
91. The same issue(s) outlined previously applies to finance institutions.
92. **Question 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.**
93. Council building consent costs and resource consent costs are quoted as approximately \$20,000 as a starting place (for a \$240,000 build cost at 60sqm x \$4,000/sqm build price), but as above, this is likely to be eroded by the costs of additional works for site investigations, designs and being on-site, particularly for those who have a good track record and recognise the additional liability they are taking on under this proposed regime. An 8% premium seems a small price to pay for what is a local government insurance scheme.

94. [Question 12: Is there anything else you would like to comment on regarding the Building Act aspects of this proposal? Please explain your views.](#)

95. No response required.

## Background of Hamilton City Council’s ‘Ancillary Residential Unit’

96. Hamilton City Council staff acknowledge the Government’s effort to enable and standardise the establishment of granny flats through potential changes to the Resource Management Act 1991 (RMA) and support the ability to permit such units provided certain standards are met, while taking into consideration infrastructure related issues that are associated with providing for such an activity.

97. Currently, the Granny flat, which is comparable by definition to Hamilton City Council’s ‘Ancillary Residential Unit’ (ARU), is a permitted activity (subject to standards) within the General Residential, Residential Intensification Zone and Large Lot Residential Zones in Hamilton City.

98. Hamilton City Council’s Operative District Plan (ODP) definition for an ‘Ancillary Residential Unit’ (ARU) aligns with the term ‘Minor Residential Unit’ (MRU) defined in the National Planning Standards and mentioned in MBIE’s discussion document, also noting that the ODP definition specifies the compulsory components of a self-contained unit and states it is allowed to be attached or detached.

99. An ARU is a permitted activity (subject to standards) within Hamilton City Council’s General Residential and Large Lot Residential Zones. The activity is Restricted Discretionary and Controlled within non-residential zones.

100. Through Plan Change 12 (PC12 – [refer here](#)), Hamilton City Council’s intensification plan change, ARUs are proposed to remain as a permitted activity within the General Residential zone, provided certain standards are met.

### 101. Definition of ‘Minor Residential Unit’ According to National Planning Standards:

- ‘Means 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’.

### 102. Definition of ‘Ancillary Residential Unit’ According to Hamilton City Council’s ODP:

- ‘Means a self-contained residential unit held in common ownership with the primary activity on the site. To be self-contained the ARU must have a kitchen, bathroom, bedroom(s), living room and laundry facilities. The ARU can be attached to the principal building or be a detached stand-alone structure. In the Industrial and Ruakura Logistics Zone, it means any residential unit ancillary to any activity undertaken on site, e.g. a caretaker’s residence, live-in employees or security staff accommodation’.

103. Permitting ARUs are better suited to the General Residential zone, which is the most common zone in Hamilton. This zone anticipates a range of housing types and densities and has the flexibility to accommodate ARUs.

104. ARUs are not suited to Medium and High-density zones which encourage greater residential intensity likely in the form of terrace housing and apartments.

105. Appendix 2 of MBIE’s June 2024 discussion document seeks direction to better enable MRUs under the RMA. The following options are presented:

<b>Option 1:</b> <b>Status Quo</b>	Councils continue to develop their own District Plan rules relating to MRUs.
<b>Option 2:</b> <b>National Policy Statement (NPS) for Minor Residential Units</b>	NPS prescribes objectives and policies for MRUs that councils must implement in their district plans.

<b>Option 3: National Planning Standard for Minor Residential Unit</b>	National planning standard sets out objectives, policies, rules and permitted activity standards for minor residential units.
<b>Option 4: National Environmental Standard (NES) for MRU with a consistent permitted activity standard (preferred option)</b>	A NES requires that councils permit MRU. The NES sets out a consistent set of permitted activity standards. Permitted activity standards could be different in residential and rural zones.

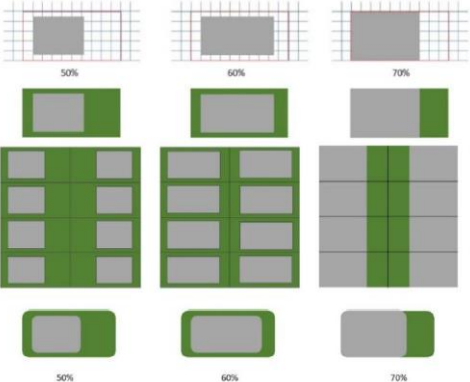
- 106. Hamilton City Council staff do not support Option 4**, which opts for a NES that has the potential to take immediate effect from a prescribed commencement date. While Hamilton City Council already provides for MRUs, the District Plan exhibits other rules/standards that must be complied with, including density-related triggers for infrastructure matters. Depending on its drafting, a nationalised regulatory approach could undermine the necessary protections already present in the District Plan.
- 107. Hamilton City Council staff support Option 2, a National Policy Statement**, which can be seen as a non-nationalised approach and ensures some level of flexibility that has the ability to address local issues. MRUs should comply with respective Council zones and Medium Density Residential standards and not be regulated by a one-size-fits-all approach via a NES.
- 108.** Staff propose that the maximum unit size of a MRU (60m<sup>2</sup>) is included within the definition of a MRU to ensure a clear understanding that a MRU over 60m<sup>2</sup> falls within the definition of a Residential Unit and therefore needs to comply with the relevant standards and not those set out for a MRU.
- 109.** Hamilton City Council staff acknowledge that the Government has recognised any potential changes must be balanced against existing issues such as managing flood risks and that District plan rules will still need to apply. Without controls where a MRU is located, non-permeable areas and overland flow paths have a strong potential to exacerbate flooding. A mechanism is needed to mitigate issues occurring from the physical location of a MRU.

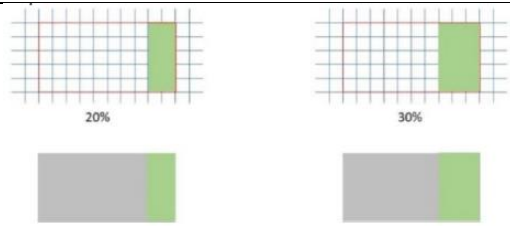
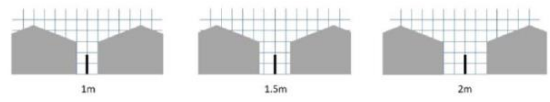
## MBIE's Proposal and Options

- 110.** MBIE's June 2024 discussion document sets out relevant MRU standards together with a proposal and options column.
- 111.** From a District Plan point of view, standards are necessary to ensure a quality urban environment is achieved. Good standards of amenity create a pleasant and attractive living environment which ultimately contributes to wider neighbourhood amenity. A well-informed set of standards will ensure qualities that allow people to enjoy living where they do, these qualities include visual attributes, sunlight, good access, low noise levels and safety.
- 112.** Other standards below are part of Hamilton City Council's ancillary residential unit provisions that are not listed within MBIE's Standards, Proposal and Options table. These include Outdoor Living Area, Service Area and Bulk and Location.

113. Table 1 – Standards, Proposals and Options

Alignment with Hamilton City Council provisions	
Partially aligned	
Not aligned	

Permitted Standards	Proposal and Options	Hamilton City Council - USPU Comment	Alignment with Hamilton City Council Provisions
Internal floor area	The maximum internal floor area is 60 square metres and is measured to the inside of the enclosing walls or posts/columns. This is consistent with the proposal under the Building Act.	Hamilton City Council ODP density provisions allow for net site area minimums - 600m <sup>2</sup> total for both principle dwelling and ancillary residential unit. A maximum unit size of 60m <sup>2</sup> aligns with ODP and proposed PC12 provisions.	
Number of MRU per principal residential unit on the same site	One MRU per principal residential home on the same site.	A maximum of one ancillary residential unit per site aligns with ODP and proposed PC12 provisions.	
Building coverage - the % of the net site area covered by the building footprint.	<p><b>Residential Zones</b> The options for maximum building coverage for MRUs and principal residential units collectively are: Option a - 50%; or Option b – 60%; or Option c – 70%.</p>  <p><b>Rural zones</b> No maximum building coverage.</p>	Hamilton City Council’s ODP site coverage provisions state maximum 40% within the General Residential zone. PC12 proposes maximum site coverage of 45% across the General Residential zone.	
Permeable surface - areas of grass and planting and other surfaces where water can filter	The options for minimum permeable surface in are: Option a - 20%; or Option b - 30%.	PC 12 recommends permeable surface standards to reflect maximum impermeable rule of 70% of net site area for the General Residential	

naturally into the ground.	 <p>Permeable surfaces shown in green</p>	zone to ensure better plan interpretation.	
Setbacks	<p><b>Residential zones</b> The options for minimum setbacks are: Option a - 1.5m front boundary, 1m side and rear boundaries; or Option b - 2m front boundary, 1.5m side and rear boundaries; or Option c – no minimum front, side or rear boundary setbacks.</p> <p><b>Rural zones</b> The options for minimum setbacks are: Option a - 8m front boundary setback, 3m side and rear boundaries; or Option b - no minimum front, side or rear boundary setbacks.</p> 	PC 12 recommends 1.5m front boundary, 1.5m side and rear boundaries across the General Residential zone.	
Building height and height in relation to boundary	No building height and height in relation to boundary standards are proposed. This is because the policy intent is to enable single storey MRUs and existing building height and height in relation to boundary setbacks in underlying zones will already enable this.	The underlying zone standards shall apply.	

**114. Other Hamilton City Council Standards:**

**115.** Hamilton City Council Ancillary Residential Unit - Specific Standards (Proposed via PC12):

**116. Table 2 – Hamilton City Council Specific Standards Proposed via PC12.**

Outdoor Living Area	<ul style="list-style-type: none"> <li>- 12m<sup>2</sup></li> <li>- No dimension less than 2.5m</li> <li>- The outdoor living area shall not be included as part of the outdoor living area provided for the principal residential building on site.</li> </ul>
Service Area per Ancillary Residential Unit	<ul style="list-style-type: none"> <li>- 5m<sup>2</sup></li> <li>- Minimum dimension 1.5m</li> </ul>
Bulk and Location	<ul style="list-style-type: none"> <li>- Where an ancillary residential unit faces the transport corridor, at least one habitable room shall have a clear glazed window facing the transport corridor, not obstructed by an accessory building and have a separate pedestrian access from a transport corridor boundary.</li> </ul>

# Resource Management System Proposal (as per MBIE's Submission Form)

117. 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.
118. 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.
119. Refer to pages 12 – 15 of the discussion document AND Appendix 2 to answer the questions in this section.
120. **Question 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, however, it's important for Councils to continue developing their own District Plan rules relating to MRUs which align to respective Council zones and Medium Density Residential standards.
121. **Question 14: Should this policy apply to accessory buildings, extensions and attached granny flats under the RMA?**
- Accessory buildings do not meet all primary living requirements of occupants as they are meant to remain members of the principal household. Hamilton City Council's ODP permits accessory buildings across all residential zones.
  - MBIE has highlighted the need to address housing affordability, an increased demand for small homes and, regulatory barriers by enabling and standardising granny flats. Permitting an Ancillary unit that is self-contained strives to address these highlighted problems.
  - While accessory buildings may provide some level of accommodation in the form of sleep-outs and/or rumpus rooms, it does fall short of being a self-contained unit as these exclude kitchen facilities or laundry facilities.
122. **Question 15: Do you agree that the focus of this policy should be on enabling minor residential units in residential and rural zones?**
- Any enablement should be focused on enabling MRUs within lower density/General residential zones and not Medium – High density zones which encourage greater residential intensity likely in the form of terrace housing and apartments.
  - Although no rural zones exist within Hamilton City Council's boundary, there are periphery rural zones that depend on Hamilton City Council's infrastructure. Permitting these units in periphery rural zones has the potential to constrain Hamilton City Council's three waters infrastructure. **Refer Infrastructure Management section.**
123. **Question 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?**
- Non-Residential zones such as Business zones include activities such as retail, offices, business and financial services. MRUs should not be permitted in these areas as they detract from the overall purpose of achieving an agglomeration of business activities.
  - Permitting MRUs within other zones such as Industrial, has the potential to erode the objective of achieving employment, warehousing and manufacturing activities also noting the reverse sensitivity effects associated with living alongside these activities.

- Hamilton’s ODP has provision for ARUs within industrial and employment zones taking into consideration caretaker’s residence, live-in employees or security staff accommodation. This is however not a permitted activity and is subject to either a Restricted Discretionary or Controlled consent application.

124. **Question 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?**

- Strongly agree that Historic Heritage areas, Built heritage, Significant Natural areas, hazards, and other provisions related to matters of national importance, still apply regardless of the underlying zone.
- MRUs cannot be subdivided as the definition requires them to be held in common ownership with the principal residential unit on the same site. If a site with a dwelling and an MRU was to be subdivided, the MRU would need to be reassessed as a stand-alone dwelling under land use provisions, not just subdivision.

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

126. No response required.

127. **Question 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?**

- **Hamilton City Council staff do not support Option 4**, which opts for a NES that has the potential to take immediate effect from a prescribed commencement date. While Hamilton City Council already provides for MRUs, its District Plan exhibits other rules/standards that must be complied with, including density-related triggers for infrastructure matters. Depending on its drafting, a nationalised regulatory approach could undermine the necessary protections already present in the plan.

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

129.  Yes, I agree     I agree in part     No, I don’t agree     Not sure/no preference

130. **Please explain your views.**

- Agree in Part. Each Council should be able to retain the ability to tailor their provisions according to the specific circumstances and issues relevant to each City or District.
- A one-size-fits-all approach is not recommended.

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

132.  Yes, I agree     I agree in part     No, I don’t agree     Not sure/no preference

133. **Please explain your views.**

- The full range of matters in the District Plan should be considered as an MRU is still a residential unit. Therefore, transit, privacy, service areas etc. are still important. It is still completely feasible that a four-person family could live in a granny flat; The impacts of this type of situation should be carefully considered, recognised, and require assessment through a form of consenting process.
- Although Hamilton City Council staff support a NPS approach, it is worth noting that any NES should not include any bulk and location standards, as these should abide by the zone requirements for each individual District Plan. The risk being, where an NES standard exceeds a zone standard, a new ‘permitted baseline’ is being established for that area which will be very challenging from an implementation perspective. It will also have the potential to impact on the zone character and amenity that is being sought.

- See Table 1 - Standards, Proposal and Options for alignment of standards. Reiterating the response to Question 20, each Council should be able to retain the ability to tailor their provisions according to the specific circumstances and issues relevant to each City or District. There is some misalignment between what standards are proposed and Hamilton City Council provisions which shows the need for tailored provisions within respective District Plans.

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

- A MRU can function as a conventional residential unit as these 60m<sup>2</sup> units are easily capable of supporting a small family, couples, and flatting situations and should therefore be subject to similar conventional residential unit standards.
- See Table 2 – Hamilton City Council’s Specific standards regarding outdoor living and service areas.

**135. Question 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 activity standards?**

- Currently, Hamilton City Council’s District Plan would require a Restrictive Discretionary (RD) activity for an ancillary residential unit in the General Residential or Large Lot Residential zone when a permitted activity standard is not met.
- While Hamilton City Council staff support a NPS approach, it is worth noting a NES would likely specify the matters of discretion that Council can consider through the consent process. Currently, for a Permitted Activity that becomes a RD activity due to infringements of standards, discretion is restricted to the effect of the infringements. The matters of discretion should not be more than that.

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

- Analysing individual Territorial Authority resource and building consent data should have been an initial process to identify barriers to development. District Plans that enable MRUs have tailored provisions to achieve objectives, policies and overall intent of the plan. A nationalised regulatory approach could undermine the necessary protections already present in the District Plan.

## Development Contributions

**137.** Granny flats must contribute to the cost of Council infrastructure like other new houses do. The Local Government Act (LGA) states that: *“The purpose of the development contributions provisions in this Act is to enable territorial authorities to recover from those persons undertaking development a fair, equitable, and proportionate portion of the total cost of capital expenditure necessary to service growth over the long term”.*

**138.** If resource and building consents are not required, a Project Information Memorandum (PIM) would be the preferred mechanism to trigger a new granny flat to be notified to the relevant Council.

**139.** In our view, PIMs should be mandatory for granny flat developments so that development contributions can be collected based on the increased demand they create.

**140.** A PIM provides the Council with information relating to the scope of the development, including application details and floor plans which are used to make an accurate assessment of demand for development contributions.

**141.** Changes must be made to the LGA to ensure development contributions could be required on PIMs as well as ensuring that the appropriate payment triggers were included in the LGA to withhold the granting or issuance of a PIM if development contributions have not been paid.



## Financial Contributions

142. An increase in the number of developments including Granny flats will impact on network capacity and may necessitate infrastructure upgrades and may also result in adverse environmental effects that cannot be mitigated on-site in relation to Residential Amenity and Te Ture Whaimana (the Vision and Strategy for the Waikato River). As with Development Contributions, they should not be exempt from paying their equitable share of Financial Contributions to offset these effects.
143. If resource and building consents are not required, a Project Information Memorandum (PIM) would be the preferred mechanism to trigger a new granny flat to be notified to the relevant Council.
144. In our view, PIMs should be mandatory for granny flat developments so that financial contributions can be collected based on the increased demand they create.

## Rating Issues

145. Councils have a responsibility to ensure rates are applied consistently and equitably across the community.
146. Our initial concern would be where we are not aware of building works or do not have sufficient information to rate correctly.
147. Hamilton City Council's Rates staff currently rely on the building consent process as the main notification where there are improvements to a property.
148. Council's nominated Valuation Service Provider (VSP) is responsible for ensuring that any improvements are recognised (and appropriately valued) on the District Valuation Roll (DVR).
149. Rating valuations are used by Councils for the purpose of setting rates.
150. Added value, as a result of building works, has a direct correlation to Council's rating revenue, particularly for those Councils that set rates on a capital value (and SUIP\*) basis. *\*SUIP - Separately used or inhabited part (of a rating unit).*
151. In order to complete an informed valuation as a result of building works, VSPs also require access to building consent information, including plans, to understand the type of improvement, floor plan, materials used etc.
152. Any final proposal by the Government around granny flats needs to ensure that appropriate mechanisms are in place for Councils to capture the correct information to enable a collection of rates.
153. Our preferred option is that a PIM is mandated to capture this specific information.

## Infrastructure Management

154. As a high-growth city, three waters network constraints are an issue. The Council, through a District Plan Change, has identified several network-constrained areas in the city where levels of servicing are challenging, and some development applications have been declined on this basis, regardless of scale. This proposal is likely to set unrealistic expectations for network connectivity and servicing, especially within already constrained areas.
155. While the discussion document says it intends to manage risk with appropriate safeguards for key risks and effects, the current proposal would make it very difficult for Hamilton City Council to manage infrastructure to meet legislative compliance, environmental performance measures, and health and safety obligations. It would also be difficult to operate efficiently and effectively without robust planning and controls in place. The discussion document (e.g. Page 7) does not recognise that urban Councils such as Hamilton hold water (allocation/take), stormwater and wastewater

(discharge) consents from the Regional Council which impose limits and controls. Hamilton City Council must retain controls to ensure compliance with its consents.

- 156.** There appears to be a flawed assumptions that cumulative impacts will not occur and that the existing network has the capacity to provide for these activities. There is also an oversimplification of the ease to which issues can be managed i.e., *“Councils need to know when homes are built so they can increase infrastructure systems and services and plan for the future”*. This comment does not acknowledge the challenges that Councils have to fund and program infrastructure renewals, upgrades, and capital works on multiple fronts to accommodate unplanned growth, and the burden that this places on ratepayers. It takes long-term planning to determine what is needed when and how. Effective planning for infrastructure will be compromised by scatter-gun, ad hoc nature of growth that arises from the relaxing of land use controls.
- 157.** The NZ Infrastructure Commission ‘Te Waihangā’ advises an increase in housing development opportunities in areas with good access to infrastructure and targets for increased housing and business capacity are commensurate with future growth expectations, guided by land prices in high-demand areas. In all advice, it is expected that urban planning would manage this, and that each council should have the chance to decide on the areas that are to be used for homes and business use. This advice would support a bespoke approach managed through a District Plan and potentially, a National Policy Statement approach.
- 158.** To manage risk, Council’s Three Waters Bylaws require ‘approval to connect’ to Council’s infrastructure. A Connections policy to direct decision-making provides the clarity needed and addresses the impacts of developments not managed under the District Plan. Mana whenua and tangata whenua, support these Bylaws and Policy to manage levels of service and compliance, and for the protection and restoration of the awa, as directed by the Waikato River Settlement Act 2010, and Te Ture Whaimana o te Awa o Waikato (the Vision and Strategy). The discussion document is silent on how the proposed Granny Flat Policy will acknowledge the existence of Bylaws and supporting Policy on connections and access to infrastructure.
- 159.** The discussion document discusses the ability to have onsite solutions if there is no infrastructure available. This poses a number of risks and includes health and environmental risks from unmanaged connections (impacting Hamilton City Council’s commitment to Te Ture Whaimana o te Awa o Waikato, Waikato Regional Plan rules and drinking water legislation); and a potential reluctance to go to a future reticulated network making it an inefficient investment in future infrastructure.
- 160.** Under RMA reforms and impending Regional Plan changes, wastewater overflows could be subject to much higher prosecution fines, posing a risk to the Council if connections are unmanaged or development occurs in areas where constraints have already been identified within existing infrastructure.
- 161.** Hamilton City Council is cognisant of the need to meet emerging social needs, reduce time and administrative costs, and align building code criteria. In determining appropriate connection approval process and policy, staff consider that smaller developments (60m<sup>2</sup> and under) would not necessarily need a network capacity assessment. This was deemed low risk based on recent building consent patterns. However, staff have not anticipated that there could be an increase in small, unconsented dwellings beyond current intensification policy and rules. Without a planned and managed intensification approval regime with checks and balances, the risk will no longer be low.
- 162.** A necessary safeguard for Hamilton’s approval mechanisms is that Council Policy can be revised. This would be done if there were excessive accumulative impacts, level of service issues and compliance risk. A degree of nimbleness is sometimes required.
- 163.** Hamilton City Council staff are pleased to see the document considers impervious areas and effects on stormwater management. Like many other regions of New Zealand, rain events will intensify in Hamilton and put infrastructure under pressure. Hamilton City Council has responded to climate change through flood hazard modelling and has designed district rules to manage the potential impacts of storm events. Without adequate controls on where a dwelling is located, and with

additional hardstand areas including driveways, paths and eaves, a highly enabling granny flat policy has the potential to exacerbate flooding and financial costs associated with protection, accommodation and retreat. Avoidance is the best strategy, and any methods of control will be important.

164. While the risk is considered small by staff, there is an increased potential for private drainage to be connected where it should not, resulting in potential for cross-connections. This will increase RMA, consent and regional plan compliance issues, resourcing to resolve, prosecution costs, and poor cost recovery. Any policy must work hard to ensure that this does not increase the burden on Councils to manage.
165. The proposal suggests that rural granny flats could be provided for. Hamilton City Council services some rural properties across the boundary. These rural properties are either grandparented into existing demand or are part of a bulk supply agreement with the adjacent Council. Council's existing Three Waters Policy (2020) does not provide for any 'new' connections, or 'connections to existing connections' for individual properties. Council has forecasted growth and densities within the boundary and plans for water take requirements, demand management, levels of service, treatment capacity, and network sizing. Staff are concerned that enabling rural granny flats could place additional demand on the Council's water supply, wastewater treatment, and ability to service its own residential customers to an appropriate level of service and rating.
166. Encouraging MRUs may come at the expense of achieving greater density. Short-term decisions to make low(er) cost capital investment in a property to provide an MRU increases the sunk costs that would inform the feasibility of the redevelopment of that site to achieve the higher density typologies already being enabled (e.g., terrace, apartments). This will delay intensification and the benefits that would accrue, e.g. densities to support investment in efficient frequent/rapid public transport services.

## Local Government Infrastructure Funding (as per MBIE's Submission Form)

167. **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.
168. **Refer to pages 15 – 16 of the discussion document and Appendix 3 to answer the questions in this section.**
169. **Question 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.**
  - An application for a Project Information Memorandum (PIM) should be mandatory. These have input from all Council Units.

- The mechanism to be adopted that notifies the Council if an MRU is built, needs to be early in the process that allows for the Council to identify if any other matters are applicable. Having notification too far down the process runs the risk of other planning instruments or regulations not being met and the MRU being built, and adverse impacts being realised.

**170. [Question 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.](#)**

- Option 2 (as per the response to Question 25 above) via the Building Act. This provides the opportunity for all Council Units to have input and advise the applicant on any information that they hold relating to land/building information.
- There needs to be strong penalties for not following the PIM advice provided.
- PIMs are the preferred option as they are an existing document, are familiar to Hamilton City Council staff and one which our systems and software already support. A PIM provides the Council with information relating to the scope of the development, including application details and floor plans which are used to make an accurate assessment of demand for development contributions. Changes must be made to the Local Government Act to ensure development contributions could be required on PIMs as well as ensuring that the appropriate payment triggers were included in the LGA to withhold the granting or issuance of a PIM if development contributions have not been paid. The preferred process is that PIMs are mandatory for granny flat developments so development contributions could be collected based on the increased demand they create.
- For the RMA Permitted Activity Notification (PAN) option, how would this differ from a Certificate of Compliance? Would the Council be expected to review the information and confirm they agree that the proposal is a Permitted Activity? Given the number of Ancillary Residential Units that currently require resource consent, the majority are checked by the Planning Guidance Unit (PGU) at time of building consent with no fee currently charged by PGU for this. A PAN would likely have a fee, especially if we need to undertake an actual check of the proposal.
- Both of the options for notification are potentially problematic as with any situation where the public puts in something with one Unit of Council they will assume that their proposal is also fine with other Unit's requirements.

**171. [Question 27: Should new granny flats contribute to the cost of council infrastructure like other new houses do?](#)**

172.  Yes                       No                       Not sure/No preference

**173. [Please explain your views.](#)**

- Granny flats must contribute to the cost of Council infrastructure like other new houses do. The LGA states that: *“The purpose of the development contributions provisions in this Act is to enable territorial authorities to recover from those persons undertaking development a fair, equitable, and proportionate portion of the total cost of capital expenditure necessary to service growth over the long term”.*
- Granny flats undoubtedly create additional demand on the Council’s network infrastructure and as this is a fundamental principle for the collection of development contributions, they should not be exempt from paying for the additional demand for which they create.
- As the granny flats proposal is limited to detached dwellings less than 60m<sup>2</sup>, this would create an unfair approach for the assessment of development contributions on a detached dwelling greater than 60m<sup>2</sup>, which may place the same or less demand on the Council’s network infrastructure. Given the necessity for fairness and equity across developments, granny flats must be subject to development contributions by the chosen mechanism (refer also to the section on Development Contributions).

- The notified version of Hamilton City Council’s IPI (PC12), which will be heard by an independent hearings panel in September 2024, includes Financial Contribution charges for all new residential units of demand (including granny flats). These charges will be used to offset the adverse effects of increased intensification and will fund the installation of soft infrastructure necessary for growing communities (e.g., street trees, park benches; bike parks; upgrades and expansion to existing parks); and will assist in Hamilton City Council giving effect to Te Ture Whaimana (the Vision and Strategy for the Waikato River).
- Granny flats result in adverse environmental effects that cannot be mitigated on site, and as with Development Contributions, they should not be exempt from paying their equitable share to offset these effects.

## Māori Land, Papakāinga and Kaumātua Housing (as per MBIE’s Submission Form)

174. **Question 28: Do you consider that these proposals support Māori housing outcomes?**

175.  Yes, I agree     I agree in part     No, I don’t agree     Not sure/no preference

176. **Please explain your views.**

177. Please refer to the response to Question 2.

178. **Question 29: Are there additional regulatory and consenting barriers to Māori housing outcomes that should be addressed in the proposals? Please explain your views.**

179. As Māori owned title and Papakāinga developments are normally for more than 1 unit, consideration of the ability to allow more than 1 unit under the proposed regime could be looked at subject to other risks being managed. This should include the necessary limitations and consideration as per our submission points above (education, house building guidance etc) but make an allowance on Māori owned title on the basis that the land is communally owned, highly unlikely to be sold and passed down to Whanau.

180. These types of developments should include Te Tiriti o Waitangi principles and the mechanisms of this proposal for land under Māori title, to be developed by Iwi, within their tribal regions.

## Further Information and Opportunity to Discuss our Submission

181. Should the Ministry of Business, Innovation and Employment 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](mailto:alister.arcus@hcc.govt.nz) in the first instance.

182. Hamilton City Council representatives would welcome the opportunity to discuss the content of this submission in more detail with the Ministry of Business, Innovation and Employment.

Yours faithfully



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