

Submission to the Ministry of Business, Innovation and Employment



Making it easier to build granny flats

12 August 2024

Introduction

The Timaru District Council (the Council) thanks the Ministry of Business Innovation and Employment (MBIE) for the opportunity to submit on “Making it easier to build granny flats”. This submission, whilst acknowledging the well documented risks, also offers Council’s view on potential solutions to facilitate the intent of the signalled reform.

This submission has been endorsed by Timaru District Council via the Environmental Services Committee. Any further queries can be sent to:

- Mayor Nigel Bowen: nigel.bowen@timdc.govt.nz | phone (03) 687 7200 | PO Box 522, Timaru 7940
- Officer in Charge (for technical queries): Jayson.ellis@timdc.govt.nz Building Control Manager | phone 0274346053

Council wishes to speak to this submission should the opportunity arise.

Overview of Timaru District

The Timaru District Council is a local authority in the South Island serving over 49,000 people in South Canterbury. The main settlement is Timaru (pop. 29,600), with other smaller settlements of Geraldine, Pleasant Point and Temuka.

The Timaru District Council as a Territorial Authority and a Building Consent Authority (BCA) has issued the following building consent types and numbers over the last three years.

Financial Year	Residential consents issued	Commercial consents issued
2021-22	972	136
2022-23	892	183
2023-24	772	156

General comments

With regard to the discussion document and fact sheet produced by MBIE, the Council wishes to provide the following comments on this proposal.

1. Purpose and intent of the proposal

- Council supports the governments intent to develop tools that assist BCAs in achieving more efficient and effective consenting processes especially for lower risk buildings.
- Council is not of the view that the current consenting system is a significant impediment to the construction of a 60m² dwelling, to a point that would preclude a homeowner to undertake that work.
- Notwithstanding the above point, Council would be in support of options 4 & 5 of the discussion document, as we consider that further development and education of these building regulatory tools to be critical to the success of this proposal. Additionally, Council broadly supports Option 4 relating to the creation of a National environmental standard under the Resource Management Act 1991 (RMA) for minor residential units with a consistent permitted activity standard. This is to improve housing affordability, while recognising that supporting this new direction does come with costs to the community in terms of the quality of urban design and the living environment. Council is of the view that further consideration and justification is necessary before extending this direction out to building additions and accessory buildings.
- Council does not support options 1, 2, 3 for the reasons outlined below.

2. Potential risks

While Council acknowledges its preference for further investigations of options 4 & 5, we also agree with the majority of the risks identified within the discussion document relating to all other options. Council would also like to highlight risks from the perspective of local, regional and national experience in matters such as Civil Defence Emergency Management, natural hazards and reticulated network capacity management for connection to services.

Even low risk buildings require further information during the consenting process, and half fail an initial inspection.

- Within the Timaru district our building consent statistics confirm that approximately 70% of the consents we approve are of the Residential 1 building category, being at the lowest end of the scale in terms of complexity and risk.
- Further statistics confirm that 75% of all consents require Requests for Further Information (RFIs) at the processing stage and 52% of inspections fail, requiring re-inspections.
- This in turn suggests that the people within the sector other than BCAs, find it challenging to design and construct buildings to a compliant standard (NZ Building Code) even with the support of the BCA throughout the process.

The consenting system provides significant consumer protection, which would not apply for granny flats.

- The current system of building control relies heavily on the BCA carrying the majority (if not all) the liability. The system requires this of the BCA and drives the risk averse nature of the system. The positive effect from this approach is that an applicant for a building consent is given a form of insurance for the building via a one-off payment for the building consent fee that can last for the life of the building if unchanged. The proposal for granny flats will require a shift of the liability from the BCA to the owner as it relates to compliance with the Building Act and Regulations. This transfer of liability must occur, unless central government agrees to underwrite any costs associated with non-compliance arising from the granny flat proposal, as many small and medium sized BCA's simply cannot afford to carry the financial risk.

Quality assurance for granny flats is proposed to be ensured by Licenced Building Practitioners, which currently lacks the same rigour as the Building Consent Authority process.

- All BCAs throughout the country are required to be "Accredited", which means, in part, that a level of competence within their technical officers must be achieved. Additionally, they must undertake ongoing training and assessments to ensure they remain competent. Unfortunately, this level of rigor has not filtered through to the Licenced Building Practitioner (LBP) scheme, the very scheme this proposal is relying on for its robustness and surety for the consumer.

Environmental risks (hazards) will not be considered.

- Another area of risk lies within land that is or is likely to be subject to a Natural Hazard. These areas require significant consideration from both a Resource Management Act and Building Act perspective, and in some cases requiring notification to the Registrar-General of Land. This process is only performed when a building consent has been submitted, with the BCA ensuring all parties are aware of the issues and risks, allowing the property owner to make an informed decision (choice) before committing to their proposed build.
- Many backyards where granny flats are likely to be located are also likely to contain secondary flow paths, and permission would be harder to grant where surface water is likely to be obstructed by a new building. Liability arising out of flooding events due to impacted secondary flow paths will result in challenging situations to be resolved retrospectively.
- The discussion document identifies a proposed change to Schedule 1 of the Building Act. Should this be the case, the requirements for all involved to achieve compliance with the schedule will potentially be too onerous, with the owner then seeking involvement from Council to resolve any issues that arise. However, this will prove to be a very time consuming and costly process for the owner as the Council will, under the proposal, be required to carry out enforcement action, e.g. Notice to Fix or Dangerous or Insanitary Building Notices.

3. Costs/Benefits/Value

- Council is of the view that the cost of a building consent for 60m2 dwelling of between \$2000 - \$5000, provides long term surety on many levels, well exceeding this monetary value (a form of insurance as stated previously).
- As mentioned within the discussion document the ability to secure a bank loan and or insure a building that has no regulatory compliance may contribute to significant additional costs for the owner, and these would also be disproportionate to the potential gains.
- However, council is of the view that ensuring the appropriate use and implementation of the regulatory tools, ie the Modular Component Manufactures Scheme regulations and the National Multiple-use approvals as identified below, will assist in the mitigation of many risks, therefore we would be in support of these measures.
- Connections to Councils' infrastructure network, e.g. three waters and the additional work required will not be recoverable and potentially more difficult to manager due to the absence of the Resource Consent and or Building Consent processes. These consent processes, in part, are mechanisms that allow the Council to ensure there is capacity and the appropriate approval and compliant connections are made. Therefore, without these approvals in place, it may result in the work being carried out by unauthorised personal, requiring re-work to make it compliant at the cost of the owner.
- Council would like to reiterate the value that comes from the building consent process from receiving and vetting of an application through to the issuing a code compliance certificate. The regulatory framework is well imbedded and is significantly relied upon by the owner and many third-party entities for established reasons.

4. Legislative tools that could support this proposal.

- Council believes that for this proposal to achieve its intended success, a concerted focus must be on solutions that ensure quality and compliant outcomes. Council believes these areas of value are within options 4 and 5 of the discussion document.
- The Modular Component Manufactures Scheme regulations 2022 is a great tool specifically designed for allowing this type of work to be carried out and completed in a manner that ensures consistency and compliance. Therefore, council is of the view that further government investment and or incentives for the purpose of encouraging businesses to engage in the use of these regulations, will provide significant value and ensure the intended quality and compliance outcomes of this proposal are achieved.
- The National Multiple-use approvals, that have been in place for some years, is another great scheme that council believes is underutilised. Within the Timaru District there are several businesses that would benefit from the approval process

of this scheme with it being less onerous and more cost effective than it currently is. Council is of the view that this is another regulatory tool, that with further investment and support from government, will enable another avenue for this proposal to be effective and provide the intended value.

- Whilst acknowledging the use of these tools still requires the need for a building consent, there will be value and benefits derived from the robustness of these systems and with the reduced timeframes for granting these consents will reduce costs.
- With further investigation and development of these regulations and with the appropriate policies, procedures and systems in place, Council believes these businesses could be able to self-certify the buildings they produce, potentially without the requirement of a building consent. However, the consequence of this will be no liability for council.
- In addition to the above regulatory tools, council is of the opinion that the success of this proposal, hinges on the further development and effectiveness of the Licenced Building Practitioner (LBP) scheme. This scheme has not seen any development since its launch in 2007. Therefore, Council is of the view that a significant review of the licence classes, including the responsibilities of those licences and the introduction of an appropriate and effective competency scheme should be mandatory.
- Council is of the view that the requirement for the owner to apply for a Land Information Memorandum (LIM) and or a Project Information Memorandum (PIM), will provide significant value in terms of identifying important considerations for the owner in preparation of their build. Some of these considerations include, but not limited to:
 - Natural hazards
 - Council network assets
 - Hazardous materials
 - Filled land
 - Overland flow paths
 - Building location requirements

Council suggests a LIM or a PIM to be a mandatory requirement, thus assisting to mitigate many of the issues that would otherwise be captured through a resource or building consent process. This could also be considered a valuable requirement from other third-party entities such as Banks and Insurers.

5. Planning Provisions

- Enabling minor residential units in rural areas has been commonly adopted in the past, particularly where they are constructed to provide employment for farm workers. However, they should not as of right be located in areas associated with natural hazards, significant natural areas, high landscape or Wahi tupuna.

Therefore, Council agrees that areas identified with matters associated with Part II section 6 of the RMA should be excluded, as set out in the discussion document.

- Enabling minor residential units in established residential areas is generally acceptable to address the growing housing affordability issue. However, catering to more commercially orientated activities, such as tourist accommodation, may result in perverse outcomes if the national direction was broadened to permit these accommodation units.
- The discussion document (page 16) outlines a range of performance standards. Setbacks have their place in protecting basic neighbouring amenity and are generally not onerous or restrictive. While Council's preference would be option B, we do not agree with the proposition for minor residential units to override setbacks.
- Construction of minor residential units should comply with the relevant minimum setbacks in the Proposed Timaru District Plan, particularly the road boundary to avoid the unravelling of the established residential character of the streetscape and protect the privacy for both occupants and neighbours.
- While Council may support relaxing existing building coverage and impervious surface controls, we are of the view that this will have a cumulative reduction in usable open spaces across residential areas.
- Council is of the view that permitting granny flats as detached units in urban zones that are non-suburban in nature would be problematic, as they would not fit well within the typology of apartments and mixed-use developments.
- As additional units increase pressure on infrastructure, Councils should retain the discretion to charge development or financial contributions and authorisation for service connection charges, in line with the relevant local provisions. Council is of the view that they should be able to set rules requiring Financial Contributions to be made, as this is the function currently adopted by the Timaru District Council.

Conclusion

In conclusion Council applauds the intent of the proposed changes but recommends that MBIE seeks to achieve the intended outcomes via minor changes to existing regulations, with a stronger emphasis on other parts of the sector, to ensure the required level of assurance, in terms of safety and quality, remains in the building system.

Thank you again for the opportunity to submit on this Bill. Please do not hesitate to contact us via Jayson.ellis@timdc.govt.nz or 027 434 6053 if you have any questions or wish to discuss aspects further.

Ngā mihi



Nigel Bowen
Mayor