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9 August 2024

Ministry of Business, Innovation and Employment
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Dear Sir/Madam

Waikato Regional Council staff submission on the Making it easier to build granny flats discussion document

Thank you for the opportunity to submit on the Making it easier to build granny flats discussion document. Please find attached Waikato Regional Council staff's submission regarding this document. The submission was formally endorsed under delegated authority on 9 August 2024. Waikato Regional Council staff look forward to being involved in further discussion on this subject.

Should you have any queries regarding the content of this document please contact Katrina Andrews, Senior Policy Advisor, Strategic and Spatial Planning directly on (07) 859 0929 or by email Katrina.Andrews@waikatoregion.govt.nz.

Regards

A handwritten signature in blue ink, appearing to read "Tracey May". The signature is stylized and somewhat abstract, with several loops and overlapping lines.

Tracey May
Director Science, Policy and Information

Submission from Waikato Regional Council staff on the Making it easier to build granny flats discussion document

Introduction

1. We appreciate the opportunity to make a submission on the Making it easier to build granny flats discussion document.
2. Waikato Regional Council (WRC) staff support the intended outcome of this policy to increase the supply of affordable housing and increase housing choice. Our submission focuses on aspects and potential unintended consequences that we consider require careful management, particularly in relation to risk from natural hazards, onsite wastewater disposal within the Lake Taupō catchment and potential cumulative effects.
3. We strongly support the recommendation that regional plan rules and matters of national importance (under section 6 of the Resource Management Act 1991 (RMA)) are not managed by the granny flats policy.
4. The submission responds to some of the consultation questions posed in the discussion document, predominantly focusing on the RMA aspects of the proposal and provides recommendations and aspects for further consideration.
5. We look forward to future consultation processes to incorporate the proposed amendments into relevant statutes and would welcome the opportunity to comment on any issues explored during their development.

Submitter details

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Question 2: Do you agree with the proposed outcome and principles? Are there other outcomes this policy should achieve?

We **support** the intended outcome to increase the supply of affordable housing and increase housing choice.

We wish to highlight that advancing the subtopic of granny flats ahead of other potential changes under the Going for Housing Growth work programme may limit the ability to consider some aspects and effects in an integrated way, such as the management of natural hazard risk and planning for higher density development in appropriate locations. We discuss these points further in response to Question 3 below.

We **recommend** the relationship between the granny flats policy and other potential regulatory changes for housing be considered as they progress, such as the Going for Housing Growth work programme and other changes to national direction, to ensure a cohesive planning system for housing and other development.

We **support** the identified principles, and particularly highlight the importance of ensuring that appropriate safeguards for risks and effects are included in the policy. However, we note that the wording “appropriate safeguards for key risks and effects” is quite broad.

We consider risks from natural hazards to be a key risk that requires careful consideration through the policy and **recommend** it be specifically mentioned in the principles.

Recommendations

- Ensure proposed changes to the planning system for housing are considered in an integrated way, including the relationship between proposals for granny flats and other potential changes under the Going for Housing Growth programme.
- Add a specific reference to maintaining appropriate safeguards for risks from natural hazards within the first principle.

Question 3: Do you agree with the risks identified? Are there are other risks that need to be considered?

We agree with the risks identified. We also wish to highlight the following additional risks.

- The discussion document recognises that overriding rules and standards in RMA plans could impact privacy, create environmental effects and have other unintended consequences. However, it does not expand on what key effects and unintended consequences may be. We particularly wish to highlight that these could include natural hazard risks and water quality effects, including cumulative effects. Cumulative water quality impacts are of particular concern for the Waikato River catchment as Te Ture Whaimana o te Awa o Waikato - the Vision and Strategy for the Waikato River is the key statutory document in this catchment and requires restoration and protection of the Awa.
- We **consider** that risks from natural hazards should be specifically identified as a risk that needs to be considered within the policy. Granny flats and small homes hold the same risks from natural hazards as any other house being built. It is also possible that an existing primary dwelling on a property has been built outside of an area exposed to known natural hazards, but the proposed location of the granny flat may be exposed to natural hazards. Therefore, it is essential that rules and standards continue to apply to ensure granny flats are not built in locations that are exposed to known natural hazards.
- There is also a risk that an enabling regime for granny flats could lead to adverse cumulative effects, including exacerbation of risk posed from flooding. For example, in an urban setting, adding a granny flat may create more impermeable surfaces and if this occurs on multiple sites, it may cause increased

flooding within a catchment. This risk is particularly relevant if the policy was to impose more lenient standards (e.g. impermeable surface standards) than existing district plan rules, without the ability to consider the local context.

This risk may also be more significant if a national environmental standard was to be used rather than a national policy statement which allows territorial authorities to consider the local context in its implementation (e.g. to consider whether additional stormwater management requirements are needed to mitigate effects of increasing impermeable surfaces). This issue is discussed further in relation Question 19 below.

- One potential unintended consequence we wish to **highlight** in the Waikato region, is the potential proliferation of, or increased nitrogen loading from, onsite wastewater systems within the Lake Taupō catchment. WRC, Taupō District Council, the Crown and local iwi have jointly invested approximately \$80million to address Lake Taupō restoration. In 2003, WRC released 'Protecting Lake Taupō', the overall strategy guiding action to protect the lake. Subsequently, new Waikato Regional Plan rules were developed to cap the amount of nitrogen leaching from the land, with a public fund (administered by the Lake Taupō Protection Trust) established to assist in achieving the required reduction of nitrogen. The aim to reduce nitrogen levels by 20% has been achieved, however there is a need to remain constantly vigilant. It is therefore essential that the policy does not override the Lake Taupō provisions in the Waikato Regional Plan, which manage nitrogen discharges in the catchment. We provide further explanation and recommendations in relation to this in the responses below.
- The discussion document identifies infrastructure planning as a risk, noting that enabling granny flats will put increased pressure on council infrastructure, including drinking water, wastewater, stormwater, roading and community facilities. We wish to **highlight** that WRC provides flood management and land drainage schemes within the Waikato region. Enabling granny flats, particularly in rural areas, may also put increased pressure on these schemes, including at the urban/rural interface where drainage networks are already challenged. There may also be implications in regard to the Level of Service provided to catchments due to cumulative impacts of enabling increased density, whereby this may have unintended consequences for others in the defended (and serviced) area.

From a land drainage perspective, it is also important to ensure that granny flats are not constructed in locations that impede access to drains for required maintenance work.

- Additionally, we **consider** there is a risk that enabling granny flats in all residential areas may lead to unintended consequences regarding the ability to strategically plan for density. Enabling granny flats in urban areas where medium or high density residential zoning exists or is planned may limit the likelihood of properties being comprehensively developed/redeveloped for medium or high density residential purposes in the future, undermining the ability to achieve increased density in these locations. This would limit the ability to align with the direction within the National Policy Statement on Urban Development 2020 (NPS-UD) to promote well-functioning urban environments and plan for density in appropriate locations.

Recommendation

- Consider the following additional risks in relation to the policy:
 - Risks from natural hazards
 - The potential for adverse cumulative effects, including to water quality
 - The potential proliferation of, or increased nitrogen loading from, onsite wastewater systems within the Lake Taupō catchment
 - Potential impacts on council-managed flood protection and land drainage schemes
 - Potential unintended consequences on the ability to achieve higher density residential development in appropriate locations.

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

We have some concerns about how risk from natural hazards is proposed to be managed if no building consent (and no engineering reports) are required for a granny flat. We **recommend** further consideration/clarification be given on how it will be ensured that natural hazards information is identified and responded to appropriately, including for geotechnical (e.g. liquefaction and peat soils) and flood hazards. Alternatively, areas of natural hazard could be excluded from the Building Act 2004 (Building Act) aspect of the policy.

Recommendation

- Provide further consideration/clarification on how it will be ensured that natural hazards information is identified and responded to under the building system proposal.

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?

Plumbing work

We support the proposed conditions relating to plumbing work on Page 11 of the discussion document, as these will help manage potential adverse environmental effects associated with wastewater and stormwater discharges:

- We **support** that all plumbing and drainlaying must be done by an appropriately licensed person.
- We **strongly support** that all plumbing and drainage systems must connect to network utility operator services, where available (reticulated mains water, sewer and stormwater).
- Where network utility operator services are not available, the document proposes that the installation or alteration of an onsite wastewater treatment, onsite stormwater disposal or onsite water supply system would require a building consent, including alterations to existing onsite systems to accommodate any increased loading. We **strongly support** this condition in respect of wastewater and stormwater systems.

Notification of work to councils

We **strongly support** the proposed condition that owners must notify the territorial authority of planned work, by providing indicative plans and requesting information about the features of the land relevant to the work (similar to a Project Information Memorandum), which will incur an administration fee. It is important that people looking to construct a granny flat obtain relevant information held by territorial authorities on natural hazards and existing wastewater and stormwater systems, so that this can be considered and responded to in the project design.

We also **strongly support** the proposed requirement that owners must notify councils once work is complete, as this will assist with infrastructure planning and financing decisions. It will also enable some monitoring of the impact of the policy change and help meet requirements to monitor residential development under the NPS-UD.

Recommendation

- Retain the proposed conditions relating to plumbing work and notification of works to councils on Page 11 of the discussion document.

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?

Question 14: Should this policy apply to accessory buildings, extensions and attached granny flats under the RMA?

We **agree** that the focus of the policy should be on enabling minor residential units. We **do not consider** this policy should apply to accessory buildings, extensions or attached granny flats.

A holistic approach needs to be taken for natural hazard risk management where the addition of an extension or attached granny flat to a house could increase the risk to life from natural hazards. For example, the location of the extension to a house may mean that the house is at higher risk from a landslide, or if the extension does not have the same minimum floor level requirements, the extension of the house may flood during a flood event. Accordingly, we consider an extension or attached granny flat should go through the standard consenting process under the Building Act and RMA.

We also note that widening application of the policy to include accessory buildings could significantly increase the risk of adverse cumulative effects, such as cumulative stormwater and flooding effects, as discussed in relation to Question 3 above.

Recommendations

- Retain the proposed focus of the policy on minor residential units.
- Do not apply the policy to accessory buildings, extensions or attached granny flats.

Question 15: Do you agree that the focus of this policy should be on enabling minor residential units in residential and rural zones?

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?

We agree that residential and rural zones should be the focus of the policy. We consider the policy could potentially apply to other zones where residential activities are a permitted activity (e.g. mixed use zones), however this would require further consideration to ensure risks and adverse effects are appropriately managed, particularly risks from natural hazards. This includes addressing cumulative effects and ensuring that the other activities taking place in the zone would not cause an increase in the risk from natural hazards for the subject site - as risks from natural hazards may increase in other zones due to the difference in activities allowed in each specific zone.

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?

We **strongly agree** that subdivision, matters of national importance, the use of minor residential units and regional plan rules should not be managed through this policy, and existing RMA plan rules relating to these matters should continue to apply to granny flats.

We consider it would not be appropriate to manage subdivision through a policy regime for granny flats. Subdivision results in the creation of new land parcels and new development rights and therefore has the potential to result in more people living in areas at risk from natural hazards, particularly in rural areas, if not managed correctly. This is recognised by section 106(1)(a) of the RMA, which allows a consent authority to refuse to grant a subdivision consent if it considers that there is a significant risk from natural hazards. We consider subdivision should continue to be managed through existing resource consent pathways to ensure a holistic and resilient approach.

As identified in the discussion document, matters of national importance (under section 6 of the RMA) are important risks and values that require protection in resource management processes. We consider it vital that all existing overlays and plan provisions relating to these matters (e.g. areas of significant indigenous vegetation and significant habitats of indigenous fauna and areas of significant natural hazards) continue to apply and are not overridden by the proposed policy.

We support the proposal that regional plan rules stand and are unaffected by the policy proposal. We **recommend** that any national environmental standard identify that regional onsite wastewater rules in the Lake Taupō catchment are likely to mean that regional resource consent is required for new or expanded onsite wastewater systems and may require nitrogen reducing systems.

Recommendations

- That subdivision, matters of national importance and the use of minor residential units are not managed through this policy and existing overlays and rules in RMA plans relating to these matters continue to apply to granny flats.
- Ensure that all existing regional plan rules continue to apply to granny flats.
- That any national environmental standard identifies that regional onsite wastewater rules in the Lake Taupō catchment are likely to mean that regional resource consent is required for new or expanded onsite wastewater systems and may require nitrogen reducing systems.

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

We note that existing provisions relating to the management of significant risks from natural hazards (as a matter of national importance under section 6 of the RMA) are proposed to continue to apply, which we strongly support.

We **consider** that all overlays (for example, flood hazard areas and fault avoidance zones) and provisions within district plans relating to natural hazards should continue to apply. If the subject site is within an area showing to be exposed to any known natural hazard within councils' available natural hazard datasets, then development of the site should not be managed through the proposed policy. The objective is to maintain or reduce risk from natural hazards and not add additional buildings that people live in within areas exposed to natural hazards.

Recommendation

- If the subject site is within an area showing to be exposed to any known natural hazard within councils' available natural hazard datasets, then development of the site is not managed through the proposed policy and existing plan provisions apply.

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?

If the status quo (option 1) is not considered suitable, then we agree that a national environmental standard is the best option for implementing permitted minor residential units. This is on the basis that the national environmental standard would include a set of permitted activity standards, which are designed to be consistent with Te Ture Whaimana o Te Awa o Waikato for the Waikato and Waipā River catchments and there would be the ability to exclude properties in the Lake Taupō catchment that use onsite wastewater disposal systems, and instead make the construction of a granny flat on these properties a restricted discretionary or controlled land use (as detailed further in response to Question 22 below). This would ensure properties in the Lake Taupō catchment have greater scrutiny on ensuring compliance with regional onsite wastewater rules before a minor residential unit could go ahead.

However, as mentioned in response to Question 3, we note that a national environmental standard would allow less opportunity for territorial authorities to consider the local context and whether any additional planning provisions may be required (e.g. to mitigate adverse cumulative effects), than if a national policy statement was used (which would require a subsequent change to district plans). We recommend this be considered in selecting the best option, while also considering the relationship with other national direction instruments to ensure an integrated system.

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.

We agree with the recommended permitted activity standards for internal floor area, number of units per site and relationship to the principal residential unit.

We support having maximum building coverage and minimum permeable surface area standards to manage effects of stormwater runoff. From a natural hazards perspective, we note that these two standards have potential to lead to cumulative flood hazard effects within a catchment due to building intensification and the reduction of permeable surfaces where water can filter naturally into the ground. Therefore, of the options provided, we support the lower options for maximum building coverage and higher option for minimum permeable surface area (30%) in order to mitigate these cumulative effects as much as possible.

We **recommend** that existing permeable surface standards in district plans be investigated further before determining the appropriate permitted activity standard, to ensure potential stormwater and flooding effects are properly understood and the standard does not lead to unintended consequences. We **strongly oppose** applying a minimum permeable surface standard of less than 30%. This would be a more permissive standard than currently applies within district plans for many residential zones in the Waikato region and could therefore lead to significant cumulative stormwater and flooding effects. Within the Waikato River catchment, this would not align with Te Ture Whaimana o te Awa o Waikato.

Recommendations

- Retain the recommended permitted activity standards for internal floor area, number of units per site and relationship to the principal residential unit.
- Further investigate existing permeable surface standards in district plans before determining the appropriate permitted activity standard. Do not apply a minimum permeable surface standard of less than 30% of the site area.

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

We **recommend** the standards address other natural hazard risks that may not always be mapped in an overlay, such as setbacks from Mean High Water Springs and rivers and streams.

We **recommend** the building standard noted elsewhere in the discussion document that “Plumbing and drainage systems must connect to network utility operator services, where available (reticulated mains water, sewer and stormwater)” also be included as a permitted activity standard requirement under the RMA aspect of the proposal. We support minor residential units connecting to reticulated services where available, to avoid a piecemeal approach to wastewater and stormwater management and potential cumulative effects on water and soil quality that can be associated with onsite wastewater systems.

We **request** that a standard for achieving permitted activity status be that the site does not utilise onsite wastewater disposal located within the Lake Taupō catchment, as per the definition of that catchment in the Waikato Regional Plan (i.e. exclude sites in the Lake Taupō catchment that use onsite wastewater disposal from permitted activity status and make construction of a granny flats on these sites controlled or restricted discretionary, as detailed below).

We **oppose** any regulation that would cause or encourage proliferation of, or increased nitrogen loading from, onsite wastewater systems in the Lake Taupō catchment. The discussion document notes (on Page 16) an option for a proposed national environmental standard to require a restricted discretionary resource consent in some circumstances. We **request** that any national environmental standard make minor residential units in the Lake Taupō catchment that will use an onsite wastewater disposal system a restricted discretionary activity, with a condition being the requirement to provide evidence to the territorial authority of the ability to comply with regional onsite wastewater rules, either by obtaining regional consent for wastewater discharge first, or providing evidence the site can otherwise comply with relevant permitted activity rules in the Waikato Regional Plan with the additional load from a minor residential unit. This would alternatively be an appropriate condition for a controlled activity rule for territorial authorities where all other standards for a minor residential unit are met.

The Waikato Regional Plan addresses the Lake Taupō catchment as an environment with particular issues and controls with respect to nitrogen discharges and manages these in the catchment via a “Near-shore zone” and “outside the Near-shore zone”. In the Lake Taupō catchment “Near-shore zone”, any new or expanded onsite wastewater system will require resource consent or change to resource consent from WRC, and elsewhere in the Lake Taupō catchment consent is likely to be required unless the site already has a nitrogen reducing onsite system of appropriate size to accommodate the additional load from a minor residential unit.

Relevant Operative Waikato Regional Plan information, objectives, policies and rules relating to the Lake Taupō catchment and onsite wastewater discharges which support the above request include the following:

- The Waikato Regional Plan states (in Section 3.10) *“Lake Taupo is the largest lake in New Zealand. It is known for its dramatic vistas, deep clear near pristine waters, superb trout and volcanic heritage.... Ngati Tuwharetoa are Treaty partners with the Crown and hold legal title to the bed of the Lake and its tributaries. Accordingly, Ngati Tuwharetoa are the kaitiaki of the Lake. ...At the time these [Regional Plan 3.10] provisions were developed, scientific evidence gathered over the previous 30 years showed that the water quality of the Lake was declining. ...Major land development in the catchment occurred in the middle of last century. The change to more intensive land uses around the Lake has increased the amount of nutrient and sediment entering the Lake. Much has been done by landowners over the years to protect the Lake from sediment, through extensive stream fencing, tree planting and land retirement under the Taupo Catchment Control Scheme. ...Unfortunately, past landowner and agency efforts haven’t been enough to counter increases in nitrogen leaching* from rural land and wastewater systems. ...Although domestic wastewater discharges represent a relatively small proportion of the nitrogen entering the Lake, a number of studies have shown that discharges from community wastewater treatment plants and concentrations of on-site wastewater systems near the lakeshore, can have disproportionate effects in shallow near-shore waters.”*
- 3.10.2, Objective 3: Avoidance of near-shore effects from wastewater is *“No greater concentrations of domestic wastewater nitrogen or pathogens in shallow near-shore waters of Lake Taupo in the vicinity of wastewater treatment and disposal systems.”*
- Relevant policies include Policy 4: Reduce nitrogen outputs from land use activities and wastewater, Policy 9: Cap nitrogen outputs from wastewater sources, Policy 10: Domestic wastewater management in Near-shore Zone and Policy 14: Nitrogen Trading (Offsetting).
- A range of rules apply to onsite wastewater in the Lake Taupō catchment that differ from the rules for the rest of the Waikato region. In summary, existing systems in the “Near-shore Zone” are technically controlled activities (but currently managed as if permitted unless a load change occurs), while outside the Near-shore Zone they can be permitted provided conditions are satisfied.

Apart from a special case of a rule for new wastewater discharges from papakāinga housing and marae, rules for new onsite wastewater systems allow conventional septic tank style systems on sections greater than four hectares but require advanced nitrogen reducing wastewater systems for smaller sections, with a minimum property size of 0.5 hectares. Because new wastewater connections, e.g. from minor residential units, will increase the nitrogen leaching from a site, any increase in load to an existing system is likely to require a resource consent (or change to consent) unless a suitably sized nitrogen reducing system is already in place. In particular, in the “Near-shore zone” nitrogen reducing systems will be required if not currently in place, which may be cost-prohibitive for adding a minor residential unit as they can cost in the order of \$18,000-\$30,000 to purchase and install.

Recommendations

- Ensure the standards address natural hazard risks that may not always be mapped in an overlay, such as setbacks from Mean High Water Springs and rivers and streams.
- That the proposed building standard “Plumbing and drainage systems must connect to network utility operator services, where available (reticulated mains water, sewer and stormwater)” also be included as a permitted activity standard.
- Add a permitted activity standard requiring that the site does not utilise onsite wastewater disposal located within the Lake Taupō catchment, as per the definition of that catchment in the Waikato Regional Plan.
- Make minor residential units in the Lake Taupō catchment (as defined in the Waikato Regional Plan) that will use an onsite wastewater disposal system a restricted discretionary or controlled activity.

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 standards?

We consider that for developments that do not meet one or more of the permitted activity standards, the existing district plan provisions should apply.

District plan rules have been developed to respond to the local context and these may manage localised matters and issues, including natural hazards, that may not be covered by a restricted discretionary resource consent under a proposed national environmental standard.

Recommendation

- For developments that do not meet one or more of the permitted activity standards, the existing district plan provisions should apply.

Question 27: Should new granny flats contribute to the cost of council infrastructure like other new houses do?

Yes, we consider that granny flats should contribute to the cost of council infrastructure, including drainage and flood management infrastructure managed by regional councils. As with other houses, enabling granny flats will increase pressure on and demand for council infrastructure. Therefore, we consider it important that granny flats also contribute to the cost of this infrastructure.