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12 August 2024

Consultation: Making it easier to build Granny Flats
Building System Performance
Building, Resources and Markets
Ministry of Business, Innovation and Employment
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Tēnā koutou

Tasman District Council's Submission on the Discussion Document: Making it easier to build granny flats

Tasman District Council would like to thank the MBIE for the opportunity to make comments on the proposals set out in the discussion document. Our comments are attached below.

Nāku noa, nā



Tim King
Mayor, Tasman District
Te Koromatua o te tai o Aorere

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Ministry of Business, Innovation and Employment Discussion Document:

Making it easier to build granny flats, June 2024

1. Council's support is qualified

- 1.1. While the Tasman District Council (the Council) supports making it easier to build quality housing, this should not come at the detriment of overall community wellbeing.
- 1.2. The Council supports the aspiration of the proposal to increase the supply of small houses, creating more affordable options and choice. However, the Council does have concerns about uncontrolled urban infill and downstream environmental and liveability impacts (e.g., flooding, congestion) and financial consequences, that could arise from of the proposals in their current form (including undermining future intensification opportunities). Therefore, the Council is keen to ensure the potential for unintended consequences are mitigated in a pragmatic and practicable way that avoids longer-term downstream costs for ratepayers and residents.
- 1.3. Before addressing the detail of the proposal, we have first provided some context to our submissions.

2. Tasman's growth and housing affordability

- 2.1. The Council is a unitary authority, servicing a population of 60,500 and covers 9,786 square kilometres.
- 2.2. It has a GDP of \$3.06 billion and, according to recent census data, was the fastest growing region in New Zealand, with a population and dwelling growth of 10.3% and 11% respectively between 2018 and 2023.
- 2.3. The Tasman District has some of the least affordable housing in the country. In the second quarter of 2023, the house value to income ratio in Tasman was 7.6 compared to the national average of 7.2.¹ The Massey Home Affordability Index, which takes into account the cost of borrowing as well as house prices and wage levels, showed Tasman was the third least affordable region in the country behind Auckland and Bay of Plenty at June 2023.

3. Medium term housing capacity shortfall

- 3.1. The Council's 10 Year Plan (LTP) 2024-2034 budgets \$409M for growth related infrastructure between 2024-2054. Across the ten years of the LTP, the net debt figure increases from \$202 million as at 30 June 2023 to \$452 million in 2033/2034.
- 3.2. Tasman's Housing and Business Capacity Assessment 2024 identified there is insufficient housing land capacity over the medium term (4 - 10 years) in the Tasman District, amounting to a short fall of 362 dwellings.² The shortfall is largely due to infrastructure not being available in time.
- 3.3. The combination of high population growth and a small rating base means it is challenging for Tasman to afford the infrastructure investment required to ensure there is sufficient capacity to meet demand. Most of the Council's existing infrastructure networks are near or at capacity and, in some cases, not able to cope with demand on the system.

¹ Housing affordability report – New Zealand Quarter 2 2023 - CoreLogic

² [Capacity assessments | Tasman District Council](#)

4. Ageing population changing household and demand for smaller dwellings

- 4.1. An ageing population is driving a change in the average household size across the district, with the number of residents per household projected to decrease from 2.43 in 2023, to 2.33 in 2033, and 2.23 in 2053.³
- 4.2. A 2021 Survey of Housing Preferences for the Nelson-Tasman urban environment showed that while the majority (71%) of respondents preferred standalone dwellings, an increasing proportion preferred attached dwellings. The majority of older residents (62%) prefer standalone dwellings, but a significant proportion also prefer attached dwelling (31%) and these would generally be smaller dwellings.⁴
- 4.3. There is a lack of supply of small houses in Tasman. While there is demand for 29% of dwellings to be smaller/attached dwellings, currently only 10% of Tasman's housing stock is this type of dwelling (according to Census 2018 data).

5. Tasman planning context for secondary dwellings

Tasman Resource Management Plan (TRMP)

- 5.1 The current provisions of the TRMP provide for permanent secondary dwellings as a controlled activity in most residential zones. However, there are limited areas where the demand for water, wastewater and some stormwater infrastructure services exceed their design capacity. In these areas resource consent is a discretionary activity which may not be granted if there is no infrastructure capacity to accommodate additional dwellings.⁵
- 5.2 In rural zones, resource consent requirements for a second dwelling vary from a controlled activity in some areas to restricted discretionary in others, depending on the productivity of the land.
- 5.3 Plan provisions or matters over which the Council has reserved control or discretion include requiring setbacks from non-residential activities and consideration of the effects of natural hazards.
- 5.4 Additionally, the Council has several plan changes underway to rezone land to provide for growth capacity including land identified in its Future Development Strategy.^{6,7}

Building Act 2004

- 5.5 Gaining a building consent in New Zealand involves a group of disciplines and processes that ensure a construction project complies with the Building Act 2004 (Building Act) and the Building Code.
- 5.6 Prior to the announcement of this proposal, the Council was seeking ways to address the obstacles that were preventing people gaining building consent for low-cost housing of low-risk types, without compromising people's safety, property, the environment and still meet the infrastructural costs of the area - thereby ensuring additional expense is not brought to rate payers that do not hold an interest in the activity.

³ [Growth model | Tasman District Council](#) - DOT Report March 2023 Population Projections Nelson Tasman

⁴ [Housing preferences survey results released | Resource Management Reform | Shape Tasman](#)

⁵ [Tasman Resource Management Plan | Tasman District Council](#) – section 17.1.20 Principal reasons for Rules (Water and wastewater)

⁶ [Proposed changes | Tasman District Council](#)

⁷ [Draft changes and planning proposals | Tasman District Council](#)

- 5.7 Under current settings the Council's Building Assurance team have a role in authorising minor residential units in accordance with the Building Act. Their role can be summarised as ensuring buildings are structurally sound, weather tight and thermally resilient. The code compliance certificate that is issued provides a documented level of assurance to future purchases, insurers and lenders. The cost of the services that are provided by the Council as part of this process are recoverable from the applicant.
- 5.8 Under the proposal it is unclear whether the Council is expected to provide a similar level of assurance. If there is to be a role, then it will be important that a mechanism is provided to recover the costs of any service provided.

6. General comments on the proposal

(This section provides feedback to the discussion document consultation questions Q2 and Q3)

- 6.1 The Council is supportive of measures that will help reduce the cost of housing, increase housing capacity and the typology of housing. At the same time, the Council wants to ensure that buildings being constructed are safe, healthy, durable and are appropriately located. The Council is in general support of the proposals but has some concerns over the detail of the proposals.
- 6.2 The Council has challenges relating to growth and infrastructure and is concerned about the additional impact of the proposals on infrastructure within the district, particularly given the limited opportunity to know where and when minor residential units (MRU) will be constructed.
- 6.3 The Council notes that there are merits with the status quo of legislation that provides for housing and supporting infrastructure servicing – namely the Resource Management Act 1991 (RMA), Building Act 2004, and the Local Government Act 2002. While this existing legislative system is able to manage a range of risks in providing housing, it is acknowledged that there may be a more efficient and effective means to deliver the same outcome through an alternative system.
- 6.4 The Council supports the proposals but recommends some changes to make them more effective, fair, and to avoid adverse effects that may affect the wellbeing of the future residents of the MRUs and their neighbours.
- 6.5 The specific comments below are based on the Council's assessment of the preferred options (a new schedule in the Building Act 2004 and a new National Environmental Standard (NES) under the RMA described in the discussion document (the proposal).

7. Specific comments on the proposal

Notification to council pre and post construction is necessary

(This section provides feedback to the discussion document consultation questions Q7, Q25, Q26 and Q27)

- 6.6 The proposals rely heavily on an owner notifying the relevant council of construction of a minor residential unit (MRU) or granny flat. Notification both before works start, and after completion, is needed.
- 6.7 Our analysis of the preferred approach suggests there may be a disincentive for an owner to notify the council of construction of an MRU. This is because notification triggers development contribution requirements and will also have rating implications for the property. Avoidance (even for a period) of development contributions and improvements to the property benefits the owner but can have significant implications

for the rest of the community by impacting funds available to pay for infrastructure improvements.

- 6.8 The Council considers the initial notification process and request for information (similar to a Project Information Memorandum) is extremely important to enable the owner to be aware of the relevant information that they will need to consider for the site. Relevant information can include, whether there is underground council infrastructure or easements on the property, natural hazards to be aware of or avoided (such as flooding pathways or fault lines). The Council does not wish to see MRU's constructed in inappropriate positions/locations. Early notification also provides councils the opportunity to outline what the cost of any development contributions will be (if any) and when it is payable before the owner undertakes the development. This will enable property owners to make well informed choices.
- 6.9 Notification is also necessary to inform property records that the Council maintains, the accuracy of which can be compromised if notifications and appropriate information is not received. This is needed to ensure councils can account for the capacity being used in three waters networks and to ensure wastewater and stormwater networks are connected to the right service to avoid wastewater overflows downstream or wastewater contamination of stormwater. A lack of property records may have implications at time of sale of a property and may impact future building consent decisions e.g. for an extension of an MRU. If the Council is to remain responsible for maintaining accurate property records, notification once work is complete is a must.
- 6.10 The Council considers the current level of fine (\$1000) under the Building Act is not a sufficient deterrent to ensure notification occurs.

Recommendations

If the proposal proceeds, we recommend:

- a) **Both pre- and post-construction notification is made a statutory requirement. This will enable good information to be provided to developers about hazards and development contributions (pre-construction), and accurate record keeping and to allow councils to account for capacity of three waters networks (post-construction).**
- b) **The proposal should explicitly outline:**
- **The information the council is required to hold on a property in relation to building work that is exempt under the proposed schedule in the Building Act, and**
 - **The information an owner must supply the council with once work is complete**
 - **Cost recovery mechanisms for the council in administering the new system.**
- c) **Consideration be given to increasing the level of the fine set for non-notification.**

Impacts of the proposal on Infrastructure

(This section provides feedback to the discussion document consultation questions Q22 and Q25)

- 6.11 While the Council is supportive of the proposal to make it easier to build MRU's, there is a significant concern about the potential impacts on infrastructure, particularly in areas where existing infrastructure may already be near or at capacity. Increasing the loading on a stormwater network that is at or near capacity could have significant

consequences, resulting in properties being flooded when stormwater systems cannot cope with the additional volume of water. Similarly, overloaded wastewater systems result in wastewater overflowing into the environment, and potentially onto private property. This in turn, generates a risk to both the environment and human health.

- 6.12 Certain areas in the Tasman District have been identified where infrastructure is at or near capacity. In these areas resource consent is required so the effects on infrastructure can be managed. We consider this requirement should endure.
- 6.13 The Council notes the discussion document indicates the Government is undertaking broader work on infrastructure funding and financing as part of the Going for Housing Growth programme, and looks forward to seeing the outcomes of this work.

Recommendation:

- d) **Provide a mechanism in the proposal where council is able to advise on infrastructure requirements or identify areas where MRU's would require consent due to infrastructure limitations.**

Development contributions and financial contributions need to be provided for

(This section provides feedback to the discussion document consultation questions Q7, Q25, Q26 and Q27)

- 6.14 As noted above, the Tasman District is growing rapidly, and the Council is investing over \$400 million in growth related infrastructure over the next 10 years. We rely on development contributions to help meet much of the cost of this infrastructure. In accordance with the Local Government Act 2002 (LGA), we try to ensure that the charges people pay are proportional to the impact their development has on our infrastructure.
- 6.15 We have a 'bedroom-based' approach to residential development and provide a 50% discount for one-bedroom dwellings, and 25% discount for two-bedroom dwellings compared to our standard. This is informed by the average occupancy census information. We believe MRUs should still contribute a fair share to the infrastructure costs they impose on the community but should not pay the same as larger dwellings (with higher average occupancy). We are supportive of some limitations being placed on this.
- 6.16 The Council notes the discussion document does not address financial contributions. The Council uses financial contributions to fund reserve development. Financial contributions and development contributions are viewed with the LGA to some extent as alternative funding mechanisms. Given this, the MRU treatment for development contributions should logically be extended to financial contributions.
- 6.17 As noted earlier, we would prefer to be able to require development contributions and notify people of the charges before construction starts, so they can make informed decisions.

Recommendation:

- e) **Enable councils to recover a fair proportion of the infrastructure costs for a MRU via development contributions but consider whether some limitations should be imposed on the proportion of the charges that can be levied on MRUs.**
- f) **Extend any ability to impose development contributions to financial contributions that are used to fund council provided infrastructure.**

Standardisation of definitions

(This section provides feedback to the discussion document consultation questions Q13 and Q14)

- 6.18 The preferred option recognises that changes to both the Building Act and RMA are required in order to make the process streamlined. There are a number of definitions used across the Building Act and RMA that apply to the proposal. There is the potential for unnecessary confusion if the definitions do not align across the legislation. Further clarification and consistent application of defined terms will be important.
- 6.19 For example, in the proposal the Building Act description covers a simple, standalone dwelling, whereas the RMA description covers a small, detached, self-contained, single-story house and introduces the term MRU. Within the MRU definition it is not explicit as to whether the MRU needs to be detached (or standalone) from the principal residential unit. The Council believes the differences in definitions have the potential to cause confusion about what is or is not permitted.
- 6.20 The Council also considers it would be helpful to provide guidance and examples where ambiguity exists. Examples include:
- Whether a covered connecting deck between the principal residential unit and the MRU meet the requirement for the MRU to be standalone under the Building Act?
 - Whether the proposals cover removable tiny homes and homes on wheels?
 - Whether the proposals cover refurbishment of an existing garage or sleepout?

Recommendation:

- g) Provide consistent definitions in relation to the proposal across the Building Act, and RMA and, where necessary, provide guidance and examples of definitions.**

Number of MRU permitted on a site, first building on a site

(This section provides feedback to the discussion document consultation questions Q5 and Q15)

- 6.21 The proposed use of the MRU definition (from the RMA National Planning Standards) is for an ancillary residential unit. The Council questions whether the proposal could be extended to include the principle residential unit (that still meets the primary standard of having a floor area up to 60m²), if it was the first residential unit to be constructed on the site.
- 6.22 On rural sites, there could be the opportunity to provide for two (or more) MRUs on a site, in addition to the existing dwelling. There would need to be certain conditions to go with that, such as site size, setbacks and the provision of adequate water supply and wastewater treatment.

Recommendations:

- h) Consider whether the NES could cover a principal residential unit (up to 60m² on a site), where it is the first residential unit to be constructed on the site.**
- i) Consider whether the NES could provide for two or more additional MRUs on a site within Rural Zones, provided certain conditions can be met.**

Compliance is essential

(This section provides feedback to the discussion document consultation questions Q6, Q9 and Q24)

- 6.23 The discussion document identifies the increased risk of non-compliant buildings without oversight via the Building Act or RMA. Other than requiring a licensed building practitioner (LBP) to undertake (or supervise) the works, there appears to be no other mechanisms to minimise this risk.
- 6.24 The proposals contain a significant number of conditions and standards that need to be met for the activity to be permitted. There is a significant risk that not all the standards and conditions will be complied with, which could have implications for infrastructure, health and safety, neighbour amenity and the environment – all of which will be difficult to remedy once constructed.
- 6.25 The discussion document is silent in respect to compliance and enforcement. The Council acknowledges it has a role in ensuring compliance of permitted activities, however generally these costs are born by the general rate payer, rather than the person undertaking the activity.

Recommendation:

- j) Consider whether there are further mechanisms available to ensure buildings are designed and constructed in accordance with the Building Code and relevant legislation, in addition to relying on LBP's.
- k) Consider whether compliance monitoring could be cost recoverable in a manner similar to the National Environmental Standard for Commercial Forestry.

Intensification areas may be at risk

(This section provides feedback to the discussion document consultation questions Q3, Q15, Q16 and Q21)

- 6.26 The Council considers an unintended consequence of the proposal could be the proliferation of MRU's in areas where housing intensification is sought. Single storey secondary dwellings will not achieve the type or density of development the Council is seeking in areas of the district zoned or identified for intensive development.

Recommendation:

- l) For residential zones, the proposal should apply to:
- Large lot residential zones,
 - Low density residential zones, and
 - General residential zones.
- m) The proposal should NOT apply to:
- medium density residential zones, or
 - high density residential zones

RMA Section 6 matters and setbacks

(This section provides feedback to the discussion document consultation questions Q17, Q18, Q21 and Q22)

- 6.27 The current provisions in the TRMP provide for a number of matters that are dealt with under Section 6 of the RMA, such as natural hazards. These are matters over which the Council has reserved control or discretion within rules, or as setback conditions, rather than as 'overlays'. The Council is concerned that if the proposals were to be enacted as outlined in the discussion document, MRU's in the Tasman District could be constructed in areas that are at high risk of being exposed to natural hazards and climate change.

6.28 The TRMP also contains clauses within the building construction provisions relating to setbacks in rural areas – where setbacks have been required for dwellings on sites adjoining rural and industrial zones, in order to protect residential activities on these sites from potential adverse effects of non-residential activities i.e. spray drift from horticultural land and pine forestry that might be immediately over the boundary. The setbacks also protect rural activities against reverse sensitivity issues.

6.29 The Council is concerned that proposed NES standards would erode the protections put in place by the TRMP.

Recommendation:

- n) Provide for section 6 matters to be addressed where they are not included as ‘overlays’ in plans.
- o) Provide for additional setbacks to be incorporated into the preferred option to protect residential activities from potential adverse effects of non-residential activities and protect rural activities from reverse sensitivity issues.

Recommended setbacks are:

1. Where the MRU is on a “non-rural” zone (e.g. General Residential zone) the MRU should be set back at least 25 metres from any rural zone boundary and at least 10 metres from any industrial zone boundary.
2. Where the MRU is in a rural zone, the setback should be 30 metres from any adjoining property that is 2,500 square metres or greater in area.

NB. Number 2 above, avoids cross-boundary effects from properties that are likely to be used for intensive horticulture, forestry or other rural purposes.

Covenants as barriers

(This section provides feedback to the discussion document consultation questions Q1 and Q10)

6.30 Developer covenants on title may be a major barrier to the implementation of the proposals. Developers often place covenants on titles to exclude the construction or placement of second dwellings, relocated dwellings and small dwellings on properties.

Recommendation:

- p) Consider whether legislative support is needed to extinguish developer covenants that cause these limitations 10 years after the title is created.

8. Closing comments

In summary, the Council supports the general thrust of the proposals, but is concerned about the potential for unintended consequences. To mitigate this risk, we recommend changes to make the proposals more effective and to avoid adverse effects that will negatively affect the wellbeing of Tasman residents.