

23 June 2025

Committee Secretariat  
Committee Secretariat  
Transport and Infrastructure Committee  
Parliament Buildings  
Wellington

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Kia ora koutou

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

1. The Kāpiti Coast District Council (Council) thanks the Committee for the opportunity to comment on this Bill, which has potential to significantly impact our district. Of not:
  - 1.1. Kāpiti District has both a high proportion of owner-occupied dwellings and residents over the age of 65, and these types of dwellings (granny flats) offer a range of opportunities for aging in place, close to family, friends and social connections, for those who cannot afford the costs of retirement villages, or struggle with the upkeep of larger standalone houses and sections.
  - 1.2. Granny flats also provide opportunity for intergenerational living, allowing parents to provide a stepping stone for family to move to greater independence.
2. Council is generally supportive of the objectives of the Bill and considers that Kāpiti District is uniquely placed to take significant advantage of the amendments to help alleviate our ongoing housing crisis.
3. As noted in our submission<sup>1</sup> on the Discussion document on this Bill, Council sees it as imperative that housing options are safe, dry, warm and affordable<sup>2</sup> and unlikely to place a future burden on successive owners, users, ratepayers or government.

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<sup>1</sup> <https://www.kapiticoast.govt.nz/media/2uwf2n40/submission-making-it-easier-to-build-granny-flats-2-august-final-signed.pdf>

<sup>2</sup> Council would see it as a bottom-line that these dwellings meet the Healthy Homes standards as they are very likely to become rentals sometime in their 50-year life.

4. While Council supports any new regulatory framework that is easy to navigate and has as few barriers as possible, we also believe that any regulatory system needs to provide sufficient checks and balances to maintain the confidence of homeowners, prospective buyers, the finance and insurance industries, and the building industry itself. Council does not believe that as it stands, the Bill achieves this.

**Council has the following substantive comments on the draft the Bill:**

*Cost/benefit of the proposed approach:*

5. While Council is supportive of the outcomes sought by the Bill, we believe the benefits are over-stated and, when weighed against potential future costs and risks of sub-standard building stock, do not align with what the Bill is aiming to achieve.
6. Council supports the requirement propose by the Bill's new process to require an owner to apply for, and Council to issue, a Project Information Memorandum for the build. However, the perceived saving from not issuing a BC will be materially eroded by the cost of the PIM and the need for territorial authorities (TAs) to undertake their own due diligence to ensure that:
  - The building is only 70sqm. (Note the exemption will need to clarify if the 70sqm is nett of exterior walls. Refer current 30sqm exempt buildings)
  - The new build meets the criteria to be exempt, including assessing if it meets the Building Code (which will be difficult to ascertain from the description of the proposed building work and initial design plans for the proposed work as set out in the amended section 33)
  - The building work complies with any Bylaws, and
  - It is not being sited where it is subject to a natural hazard, including determining if the proposed design has adequate provisions to address the hazard.
7. A PIM will also need to be issued for each of these projects. This means a TA will need to resource up to manage this extra work stream and any resourcing cost will be passed on in the cost of the PIM, further eroding any perceived savings.

*Alternatives to the proposed approach*

8. In its previous submission Council identified other avenues to achieving the goal of a less complex, cheaper and faster consenting pathway for these small dwellings, and we urge you to reconsider these alternatives.
  - 8.1. We suggested that the emphasis of the policy should be on how to make it easier for people to do the right thing, rather than setting up a framework that removes the checks and balances ensuring things are done well.
  - 8.2. The other approaches recommended include:
    - 8.2.1. Incentivising greater use of MultiProof designs and the BuildReady Scheme for off-site construction, and differentiating the consenting process between these prefabricated dwellings and on-site spec builds,

- 8.2.2. Adapting section 401A of the Building Act (BA), *Regulations: building consents and consent completion certificates*, to more specifically define construction of these dwellings as simple building work, or
  - 8.2.3. Re-introducing a Simple House Acceptable Solution, along with shortening consenting times to 10-days and/or restricting the number of building inspections, and
  - 8.2.4. Setting fee limits and/or funding such consents from MBIE's \$71M excess from building levies, and
  - 8.2.5. Requiring Certificates of Guarantee from builders and other tradespersons, backed by personal liability insurance.
9. We consider that these alternate approaches would meet the desired outcomes of the Bill, while also requiring the appropriate checks and balances for ensuring the safety and longevity of our communities and housing stock. Together these approaches can deliver the time and cost savings being sought along with the quality assurance provided by a building consent.

*Using occupational licensing to ensure building quality*

10. We note that Certificates of Work from Licenced Building Practitioner (LBP)s have been introduced through the Bill as essentially the compliance guarantee for the whole scheme. Using occupational regulation in this way is fraught, given the:
- 10.1. Business structures used by builders will continue to allow them to avoid responsibility (limited liability companies for instance).
  - 10.2. 50-year life span of these homes which will easily 'outlive' the building companies that build them.
  - 10.3. Current maturity of the LBP scheme and its inherent complexity, which will need to be managed by a layman owner.
  - 10.4. Provisions of new section 45AA(4) restricts the usability with respect to liability, of the Certificates of Work to be issued by the LBP on completion of work. It is unclear how this will sit with the implied liabilities of the BA's Part 4A, with the potential to make any claims for unsatisfactory work difficult and expensive for the homeowner.
11. We consider using occupational licensing in this manner comes with the following significant risks:
- 11.1. A distorted market and increased cost of building as builders are not willing to take on the risk of self-certification remove themselves from the market, further rationing builder supply.
  - 11.2. LBPs loading fees to compensate for this future liability, making building these dwellings potentially dearer than a consented house.

*PIMs and compliance to the provisions in the Bill are not clear*

12. The proposal requires TA's to advise whether specific elements of the proposed building work (as set out in clause 1 of Schedule 1A) outlined in the PIM are likely or unlikely to be met. However, there does not seem to be a mechanism for a TA to respond, should the plans be subsequently changed and become non-compliant with the Act or the Code during the build.
13. Any council response seems to rest on the enforcement powers held by TAs, use of which would be a public expense to regulate a private good, another unfair burden on the general ratepayer and negatively and unduly impact a Council's relationship with their communities, limiting its ability to deliver on its other obligations.

#### *Council's liability*

14. Although the Bill explicitly provides TAs protection from civil liability with respect to information provided or omitted in good faith from a PIM, the chances of their being the 'last man' standing in any situation will inherently place them back in the frame of responsibility.
15. As such, it is imperative the legislation provides a clear definition of 'good faith' to enable councils to gauge their risk level, rather than having it managed by the courts on a case-by-case basis.

#### *Notification*

16. There is a requirement for Council to keep all the information to do with the build for the lifetime of the dwelling. As noted above, it is not clear from the Bill what a TA can do, should the landowner proceed to build on land subject to an actual or potential hazard. This is problematic as, under the new provisions of the Local Government Official Information and Meetings Act (LGOIMA), a council will be required to report this fact in any subsequent Land Information Memorandum (LIM) issued for the property.
17. Although the risks will sit with the owner, there is significant risk that this may severely prejudice future sales, insurance coverage and mortgage lending. It is likely that this will position Council's in a negative light, and potentially undermine the policy aim to ensure more safe, dry, warm and affordable housing in our communities.

#### *Conclusion*

18. We are happy to discuss any points outlined in this submission. Please touch base with Kris Pervan (kris,peran@kapiticoast.govt.nz) in the first instance.

Ngā mihi



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**Kāpiti Coast District Council**