

7 August 2024

Via email: grannyflats@mbie.govt.nz

SUBMISSION TO THE MINISTRY OF BUSINESS INNOVATION AND EMPLOYMENT ON THE 'MAKING IT EASIER TO BUILD GRANNY FLATS' PROPOSAL

Queenstown Lakes District Council (**QLDC or Council**) appreciates the opportunity to present this submission. Local government has significant institutional knowledge and on the ground experience addressing complex housing challenges. This experience will hopefully positively contribute the Ministry of Business Innovation and Employment's (**MBIE**) policy development process.

QLDC considers the sufficient availability and affordability of housing to be a critical factor of wellbeing, and fundamental to the development of a successful and well-functioning urban environment. The Queenstown Lakes District (**QLD or the district**) faces many difficult challenges in its goal to facilitate the delivery of housing that meets the community's needs. QLDC and its partners proactively support new tools and legislative change that addresses these challenges.

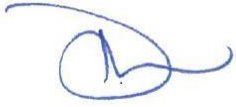
However, on balance, QLDC opposes the current 'granny flats' proposal. QLDC is concerned that the proposal is not targeting the wider root causes of the housing availability and affordability challenge. This challenge requires robustly developed, holistic and strategic solutions. Joined up outcomes are needed which span the entire legislative landscape that determines land use management outcomes. With this in mind, QLDC's submission builds on the following key messages:

- District plan provisions are the most suitable tool to manage land use, subdivision and development activities. In most cases it will be appropriate for granny flat type structures to be managed on a zone by zone basis to suit local conditions, rather than a one size fits all approach.
- Granny flat structures will have a material impact on water, wastewater and stormwater servicing, as well as roading and reserves among other local authority services. As such, the structures should trigger the need for development contributions and rates. An appropriate trigger mechanism is needed to ensure this revenue is collected.
- The proposal should restrict the use of any granny flat structures for residential use only. QLDC is concerned that enabling any and all type of activity within the permitted structures (or staying silent on the matter) will undermine the intended outcomes of the proposal.
- The proposal should be limited to urban zones only. Granny flats should not be permitted within rural type zones which are poorly suited to meeting the needs of a permissive residential development regime.
- There are a range of potential adverse unintended consequences that could result from risks that have not been appropriately managed in the proposal, including those related to landscape effects in rural areas and on outstanding natural landscape (**ONL**) and outstanding natural feature (**ONF**) environments, cumulative effects and reverse sensitivity, natural hazards, and tensions with private covenants and consent notice directions among others.
- The proposal may bring efficiencies for Building Control Authorities (**BCA**) as it would allow for resource re-allocation.

QLDC would like to be heard at any hearings that result from this consultation process and would welcome any other opportunity to work with MBIE concerning the development of this policy proposal.

Thank you again for the opportunity to comment.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'D. Wallace', with a large, sweeping initial 'D'.

David Wallace
General Manager Planning & Development

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1.0 Context of the consultation topic in relation to QLDC

- 1.1 The district has an average daily population of 71,920 (visitors and residents) and a peak daily population of 114,790¹. The district is experiencing unprecedented growth with its population projected to nearly double over the next 30 years.
- 1.2 The district is one of Aotearoa New Zealand's premier visitor destinations, drawing people from all over the world to enjoy its spectacular wilderness experiences, world renowned environment and alpine adventure opportunities.
- 1.3 QLDC faces significant pressure in its efforts to accommodate population and visitor growth, particularly given its unique alpine landscape. The majority of land within the district is classified as an Outstanding Natural Feature (**ONF**) or Outstanding Natural Landscape (**ONL**), or has a range of other development constraints such as geographic barriers or natural hazard risks. This creates a challenging context within which to balance the tension between fast paced urban growth and maintaining the environmental qualities which contribute substantially to the district's wellbeing.
- 1.4 Cumulatively, these unique conditions generate significant housing affordability and availability challenges. This situation has the potential to adversely affect the cultural, social and economic wellbeing of the district's community. These effects are felt directly (i.e. cost of living challenges for households) and indirectly (i.e. businesses unable to secure long term staff to support their activities).
- 1.5 Data on income, house and rental values for the district² illustrate that housing costs are not proportionate to the current income or income growth for the community. This situation has led to an increasing disparity in wealth and housing in the district.
- 1.6 To assist in addressing this tension, QLDC has been working collaboratively with the community, Kāi Tahu (as mana whenua of this Rohe), Otago Regional Council and central government partners. This relationship has resulted in the Whaiora Grow Well Partnership and a first-generation Spatial Plan for the district. The Spatial Plan³ directs growth in a way that will make positive changes to the environment, enable housing development, improve access to jobs, and promote the wellbeing of the community.
- 1.7 In addition, QLDC has been reviewing its operative district plan in stages since 2015. The Proposed District Plan (**PDP**) represents a considerable step forward in managing the district's complex land use management challenges and aligns well to the RMA's existing suite of national direction instruments.
- 1.8 Council's Housing Development Capacity Assessment⁴ identifies that the district has sufficient plan-enabled capacity to accommodate housing growth that is more than sufficient to meet the projected demand across the short, medium and long term, as required by the National Policy Statement on Urban Development 2020 (**NPS UD**). Further, a range of notified variations to the PDP have sought to increase greenfield capacity and upzone residential and commercial areas in the last year.

¹ <https://www.qldc.govt.nz/media/ygjlrtou/demand-projections-summary-march-2022-2023-to-2053.pdf>

² Infometrics, 2024

³ https://www.qldc.govt.nz/media/2t3ihe0b/qldc_the-spatial-plan_a4-booklet_jul21-final-web-for-desktop.pdf

⁴ <https://www.qldc.govt.nz/media/5qpcibrp/3a-attachment-a-housing-development-capacity-assessment-2021-main-report.pdf>

2.0 QLDC response to consultation questions

The proceeding sections of this submission respond directly to the questions in MBIE's 'Making it easier to build granny flats' discussion document⁵ that are relevant to QLDC. Not all questions have been answered. Specific recommendations from QLDC are in **bold text**.

2.1 Question 1 – Have we correctly defined the problem? Are there other problems that make it hard to build a granny flat?

- No, QLDC does not consider that the problem necessarily relates to a lack of housing supply, but rather to the type of housing being delivered, where it is being delivered, at what price point, the long-term capacity to integrate with supporting infrastructure and to some extent, how it is being used.
- The proposal does not sufficiently address how the use or type of activity taking place within the resulting structures will be managed. QLDC is concerned that there is no guarantee the structures will deliver positive outcomes in terms of housing affordability or availability metrics if they are not restricted for residential use only. In the QLD, Council is concerned that short term visitor accommodation type letting (i.e. for paying guests) such as for Airbnb type use reduces the availability of residential dwellings and flats for long term residential rent and purchase. **QLDC recommends that the proposal restrict the use of any structure permitted by way of the proposal for residential use only. If the proposal is not able to deliver use-based restrictions, QLDC recommends providing local authorities with greater powers to manage the impacts of short-term visitor accommodation type letting on the availability and affordability of housing.**
- The proposal does not identify or address misalignment with existing planning documents. For example, QLDCs PDP permitted baseline for residential flats is more enabling than that which is set out in the proposal (in respect to the scale of structures)⁶. This misalignment is likely to be widespread throughout Aotearoa New Zealand and will create ambiguity for plan users.
- The barriers presented by existing and future private covenants and consent notice requirements are not addressed in the proposal. It is understood that many subdivisions may have a range of private covenants that could restrict or prevent the construction of the proposed structures. This situation will create ambiguity for landowners. **QLDC recommends that the proposal raise and address the barriers presented by existing and future private covenants and consent notice requirements.**
- The average time to a final inspection or Code Compliance Certificate (CCC) is a factor that is driven by the owner/builder, not the processing of consents undertaken by BCAs.

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

- From a Resource Management Act 1991 (RMA)/planning perspective - no. QLDC is concerned that the

⁵ <https://www.mbie.govt.nz/dmsdocument/28513-making-it-easier-to-build-granny-flats-discussion-document>

⁶ A residential flat that meets the following definition is provided for as a permitted activity in many parts of the QLD if it meets the following criteria:

- a) the total floor area does not exceed;
 - i. 150m² in the Rural Zone, the Rural Lifestyle Zone, the Wakatipu Basin Rural Amenity Zone and the Hills Resort Zone;
 - ii. 70m² in any other zone;
- b) not including in either case the floor area of any garage or carport;
- c) contains no more than one kitchen facility;
- d) is limited to one residential flat per residential unit; and
- e) is situated on the same site and held in the same ownership as the residential unit.

proposal is not targeting the wider root causes of the housing availability and affordability challenge. It does not focus on strategic level solutions that better respond to the known issues that drive housing availability and affordability challenges. **It is respectfully submitted that it would be more appropriate for central government policy proposals to focus on promoting good quality planned intensification outcomes within existing urban areas, through the use of long-term strategic growth tools (i.e. using Spatial Plans/future development strategies).**

- From a BCA perspective it is noted that there may be difficulty enforcing the Building Act 2004 (BA) where exempt buildings are non-compliant with the Building Code or the exemption conditions are not met. However, it is also noted that the proposal has merits for BCAs. In particular:
 - o a council will not be liable for works done under the proposed exemption, and
 - o BCA resources could be applied elsewhere, for example reducing reliance on contractors.

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

- **QLDC recommends that all of the following additional risks and potential unintended consequences be considered and managed by the proposal:**
 - o Use of the structures by non-residential activities,
 - o Landscape effects in rural areas, high amenity landscapes, and RMA Section 6 environments,
 - o The potential unintended consequences associated with cumulative effects and reverse sensitivity,
 - o Development within areas subject to natural hazards,
 - o Consistency with existing district plan rules, how to manage tensions and conflicting rules,
 - o Reporting requirements under the NPS-UD, and associated housing and business development capacity assessment reporting requirements,
 - o Managing tensions with private covenants and consent notice directions,
 - o Conflict residential density/intensification outcomes in urban environments. The proposal has the potential to undermine existing density outcomes as they do not align with Medium Density Standards, which aim to achieve high-quality attached housing and provide for efficient use of urban land, and
 - o The adverse effects of additional connections to council services. The exemption criteria need to be strengthened so that any wastewater, stormwater and water supply connections for the subject structures are treated as extensions of the existing dwelling's supply and drains. Any new connection needed to council infrastructure needs oversight to ensure the connection is adequate and the asset is protected.
 - o Potential adverse effects on urban design outcomes within commercial or mixed-use zones. For example, granny flats should not be enabled at ground floor level in commercial or mixed-use zones as they would compromise the social and economic benefits of having commercial and retail activities at the street front.

2.4 *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?*

- QLDC agrees in part. Option 2 will address the problem but may carry with it additional issues due to opportunities to abuse the exemption, and the difficulty in identifying these abuses and enforcing compliance. **QLDC recommends that Option 3 be applied. It appears a better solution in the long**

term as the process of becoming accredited would give owners assurance of a quality build.

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

- The risk of incorrect servicing/valves being installed and cross contamination between water, stormwater and wastewater connections has not been identified.

2.6 *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?*

- **QLDC recommends that connection to council services must be applied for when appropriate.**
- **QLDC recommends an additional condition which requires that connections to council services (water, stormwater and wastewater) must be connected to the existing dwelling's system i.e. water supply to the private side of the toby/meter, and drainage to the existing private system within the property boundaries. If this is not possible, an engineering consent or similar (connection to Council services application in the QLD) must be obtained to install connections to council services.**

2.7 *Question 9 - Do you agree that current occupational licensing regimes for Licensed Building Practitioners (LBP) and Authorised Plumbers will be sufficient to ensure work meets the building code, and regulators can respond to any breaches?*

- QLDC agrees in part. QLDC's experience is that neither the LBP or authorised plumber schemes ensure practitioners have the knowledge and understanding of the building code, acceptable solutions or standards to ensure compliance.
- Current regulatory powers to respond to breaches of the BA are lacking, with infringement fees being small in proportion to potential profits of cutting corners. Prosecutions are difficult and expensive to pursue and are a burden on BCA resources with fines often not covering council's/ratepayers expenses.
- **QLDC recommends that further risk assessment of the proposal is undertaken and considers additional methods to ensure work associated with the subject structures meets the necessary standards.**

2.8 *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?*

- People unfamiliar with the construction industry may see risk in building such structures without local authority checks and balances. **QLDC recommends that the proposal include the development of guidance notes for people who are unfamiliar with the construction industry to ensure they clearly understand the costs, benefits and risks associated with building a subject structure.**

2.9 *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?*

- QLDC estimates that the following savings may be associated with Building Act processes:
 - o up to a month of time,
 - o savings on designers' fees, and
 - o savings on council building consent processing fees.
- Savings on council resource consent processing fees in the event that the structure may have breached

a district plan provision.

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

- No, QLDC considers that district plan provisions are the most suitable tool to manage all other structures. It is appropriate for such structures to be managed on a zone by zone basis, and to suit local conditions.
- The addition of such structures to the proposal would create unnecessary complexity.
- Other structures such as accessory buildings, extensions and attached granny flats have a fundamentally different set of effects, and it is not appropriate that they be managed using national level policy instruments.
- **QLDC recommends that the proposal, if implemented, be limited to detached self-contained structures for residential purposes only.**

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

- **QLDC does not consider that the proposal should enable granny flat structures in any rural type zone. If the intention is to provide additional housing supply, the proposal should be directed to urban zones only.** Rural zones will not facilitate the efficient or effective delivery of additional housing supply that meets the needs of people and communities due to their distance from commercial centres, lack of supporting infrastructure, and poor transport connections. The inclusion of rural zones within the proposal would be at odds with the 'well functioning urban environment' direction set out in the NPS UD.
- Many rural type zones are not likely to be reticulated. As such, there is a risk that any granny flat structure would require onsite water, wastewater and stormwater solutions, adding costs and complexity for landowners. This issue has not been well canvassed within the policy proposal or consultation document.
- In the QLD context, it is noted that many granny flat structures will conflict with QLDCs PDP rules that require most buildings in rural zones to be located within a building platform. This will create additional complexities and processing requirements for landowners.

2.12 *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?*

- **QLDC agrees that subdivision and RMA section 6 matters should not be subject to the proposal. However, if the policy enables granny flats within rural type zones (which QLDC does not support), then it is recommended that all section 6 matters should be available for consideration by local authorities.** Specifically, Section 6(b) 'the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development' is of particular importance to the QLD. Local authorities should be empowered to undertake assessments if any granny flat structure is proposed in any Section 6 environment. This should extend to local authorities being able to refuse an application in such environments if deemed necessary.
- QLDC does not agree that the use of granny flats should be excluded from the proposal. Any granny flat structure should be restricted for residential use only, and short-term visitor accommodation uses should not be permitted within the subject buildings.
- QLDC does not agree that regional plan rules should be out of scope, particularly if any rural type zones

are subject to the proposal. Any granny flat structure should be required to comply with regional rules.

2.13 *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?*

- QLDC considers that it would be more effective and efficient to require district plan changes without the RMA Schedule 1 processes, rather than have district plans that have a range of different provisions.

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

- QLDC agrees that district plans could be more enabling. However, any such provisions should need to be developed through an RMA Schedule 1 process and subject to the associated scrutiny. QLDCs PDP provisions are generally more enabling than the proposal in terms of the scale of residential flats⁷.

2.15 *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.*

QLDC recommends that any granny flat structure should be required to meet the standards of local RMA planning documents. The following additional comments are made in regard to the proposed standards and **QLDC recommends that the proposal be amended to address each of the concerns set out in response to this question:**

- Relationship to the principle residential unit:
 - o If 'tiny homes' meet the definition of a minor residential unit then they would not fit within the 'common ownership' requirement.
- Building coverage:
 - o The approach as drafted is considered too simplistic - it does not consider other existing buildings on a section.
 - o The proposal does not address the context of most new subdivisions which have mandatory building platforms. This will lead to confusion and tension for landowners. It is preferred that district plans to address this building coverage.
 - o QLDC prefers Option A – 50% (total/collective building coverage on any site).
- Permeable surface areas:
 - o The approach proposed is considered too simplistic - permeable surfacing depends on a range of factors to achieve hydraulic neutrality. Further, this standard has limited relevance to a non-urban setting.
 - o The proposal does not address the issue of minor residential units being potentially located within overland flow paths, resulting in issues with stormwater management, flooding and detrimental effects to adjoining properties through diversion of overland flow off site.
 - o The proposal doesn't recognise or provide for existing controls relating for permeable surface management, such as the function of building platforms in new subdivisions.
- Setbacks:

⁷ Residential Flats are permitted (subject to compliance with other standards) up to 70 m² in urban areas and 150 m² in rural areas

- The proposal should address minimum setbacks to waterbodies and septic systems.
 - The proposal should address minimum setbacks to roads and front boundaries
 - In rural type zones QLDCs PDP rules address the clustering of buildings and the visual impact of development.
 - QLDC prefers Option A – 1.5m front boundary, 1m side and rear boundaries.
 - Height in relation to boundary:
 - The proposal does not align with the BA condition for height.
 - All references to rural zones should be removed from the permitted activity standards.
- 2.16 *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?*
- QLDC considers that existing district plan provisions should continue to apply.
- 2.17 *Question 25 – What mechanisms should trigger a new granny flat to be notified to the relevant council, if resource and building consents are not required?*
- **QLDC recommends that notification to the relevant local authority should occur prior to construction and include clear plans and as-builts.** This will enable a better system to track compliance, and trigger the requirement for development contributions.
 - **QLDC recommends that a user-pay site inspection should be required following construction to confirm compliance with any proposed NES, and to consider any connections to council services.**
- 2.18 *Question 26 – Do you have a preference for either of the options in the table in Appendix 3 (local authority notification and funding infrastructure) and if so, why?*
- QLDC prefers Option 2 (notification via the BA):
 - The Project Information Memorandum (**PIM**) will also identify any hazards or ground-related issues known by the relevant local authority that the designer should be made aware of as any required engineering input would put the project outside of the exemption criteria.
 - This option gives BCAs the opportunity to send a fact sheet, guidance or voluntary check sheet to help ensure exemption conditions are being met.
 - The risk of no application for a PIM being made can be avoided by making the application a condition of the exemption.
- 2.19 *Question 27 – Should new granny flats contribute to the cost of council infrastructure like other new houses do?*
- **QLDC recommends that any new granny flat type structure should contribute to the cost of infrastructure.** It is noted that a 60 m² granny flat could have up to 2 bedrooms and accommodate up to 4 people (similar to many primary dwellings). QLDC considers that such structures will have a material impact on water, wastewater and stormwater servicing, as well as roading and reserves among other infrastructure and services. As such, QLDC recommends that development contributions and rates should be charged on any granny flat structure.
 - Although granny flat development and the need for development contributions can be tracked through

the proposed PIM (or similar) the normal tools for ensuring development contributions are paid, such as withholding CCC, will be rendered ineffective. Therefore, in tandem with the proposed exemptions to the BA and RMA, **QLDC recommends that Section 208 of the Local Government Act 2002 be amended in such a way that local authorities can effectively recover unpaid development contributions required for the structure.**