Granny Flats Get a Makeover

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The New Year brings a new and streamlined process for building granny flats (detached minor residential units). Recent changes to both the Building Act 2004 (Building Act) and the Resource Management Act 1991 (RMA) (via a new National Environment Standard for Detached Minor Residential Units (NES-DMRU)) remove consenting obstacles if certain requirements are met.

In this article we break down the requirements of the granny flat exemption under the Building Act and its relationship to the NES-DMRU. We look at how the changes affect consenting processes, obligations for homeowners and builders, and what territorial authorities need to know about the new, streamlined process.

The “granny flat” exemption under the Building Act

From 15 January 2026, the Building Act will exempt new granny flats from requiring building consent where certain conditions are met.

To benefit from the exemption, homeowners need to:

- comply with all the granny flat exemption conditions in the Building Act (and other related legislation, such as the RMA – more on that later);
- engage licensed building, plumbing and electrical professionals;
- ensure all building work meets the Building Code requirements;
- apply to council for a project information memorandum (PIM) before starting construction (building can only start after the PIM is issued), and then complete the work within 2 years of the PIM being issued;
- ensure the site is on land not subject to natural hazards (or that any risks are properly managed);
- ensure all other requirements in new Schedule 1A are met (including floor level, maximum height, cladding, roof and frame material, water supply, plumbing and drainage requirements); and
- pay development contributions and submit all required documentation to the council within 20 working days of completion (including final plans, records of work (RoWs), certificates of works (CoWs), electrical and gas safety certificates).

So, what counts as a granny flat under the Building Act?

The Building Act exemption contains a number of requirements, including that the building must:

- be stand-alone;
- be new (not an addition or alteration to existing building work or an existing building);
- have an overall internal floor area of 70m^2 or less;
- be single storey (no part-storey or mezzanine floor);
- be 2m or more away from any other residential building or any legal boundary and cannot be built across boundaries between allotments;
- have all building work carried out or supervised by licensed building professionals;

and

- meet all the other specifications set out in new Schedule 1A.

If any of the exemption conditions are not met, then a building consent will be required.

The exemption does not cover tiny homes built on wheels or a movable base, container homes, or imported kitset or flat-pack designs that have not been designed, engineered, or constructed to comply with the New Zealand Building Code.

Further information, Step by Step Guides and Checklists for the Building Act exemption are on the Ministry of Business, Innovation & Employment's website here.

Does meeting the Building Act requirements mean you don't need a resource consent?

Not necessarily. Even if a granny flat qualifies for a Building Act exemption and skips the need for building consent, that does not automatically mean the build doesn't require a resource consent.

However, the new NES-DMRU has been designed to complement the Building Act changes. Under the NES-DMRU, minor residential units can be built without resource consent if they meet all permitted activity standards. The NES-DMRU covers residential, rural, mixed-use and Māori-purpose zones.

Landowners still need to check both the NES-DMRU and other relevant council plans to check whether resource consent is required. This includes any relevant regional plan rules, and any district rules relating to:

- subdivision of land;
- matters of national importance under s 6 of the RMA;
- use of DMRU other than for residential activities;
- papakāinga; and
- earthworks.

The DMRU also needs to comply with any relevant rules or standards in the district plan

that apply to the principal residential unit on the site. So if the main dwelling is subject to certain rules (e.g. height limits) those same rules apply to the DMRU.

Additionally, the DMRU must manage effects relating to health and safety, including any natural hazard risk not already taken into account (e.g. minimum floor levels to manage flooding effects); reverse sensitivity or site-specific infrastructure requirements (e.g. associated with drinking water, wastewater and stormwater). Rules and standards in relation to amenity, and minimum requirements for outdoor open space, privacy, sunlight access, façade or total glazing and parking do not need to be complied with.

So, what does the NES-DMRU cover?

- New detached minor residential units (DMRU) that fulfil all the following criteria:
- be a self-contained residential unit;
- be ancillary to the principal residential unit;
- be held in common ownership with the principal residential unit on the same site;
- be completely detached from the principal residential unit;
- be in the residential, rural, mixed-use or Māori-purpose zone;
- have a maximum internal floor area of $70m^2$; and
- meet all the other permitted activity standards in the NES-DMRU. This includes matters such as minimum setbacks from front, side and rear boundaries (depending on the zone); building coverage; and a minimum 2m setback from the principal residential unit.

Only one DMRU is allowed per site as a permitted activity.

Where a DMRU cannot meet the NES-DMRU requirements, then the usual provisions in the district plan apply and a resource consent may need to be obtained.

More permissive district plans

The NES-DMRU also allows for situations where the district plan has more lenient permitted activity standards than the NES. For example, if the district plan allowed for an internal floor area of $90m^2$ as a permitted activity, then a landowner may build the granny flat up to

$90m^2$ as a permitted activity without requiring resource consent. However, if the landowner uses a more lenient rule in a district plan, this may take the build out of the granny flat exemption under the Building Act, so building consent would be required.

This is subtle, but potentially significant. If the district plan is more permissive than the NES, landowners may choose to benefit from that, but will need to check whether that will take them out of the Building Act exemption. On the other hand, proceeding under the NES aligns with the Building Act and will allow the exemption to be used. Which path to take will depend on what the more permissive provisions allow, and what the landowner is seeking to achieve.

Some important points

The following sections of this article detail essential aspects of the new regime.

Focus on the pre-build stage

While the reforms have removed the need for building and resource consents in certain circumstances, instead there is a significant focus on the pre-planning phase. It is essential under the new scheme that landowners use the pre-build phase to gather further information about whether additional approvals are needed for their build, including under the RMA.

Before a landowner can commence any building work under the exemption, they must apply to council for a PIM for the building's final location. A PIM is not an approval, as councils don't approve or refuse building work associated with the granny flat exemption. A PIM also informs the landowner about the heritage status, hazards, infrastructure and other requirements for the site, providing them with essential information about RMA consenting requirements. The council has 10 working days from the date of a landowner's application to issue the PIM. Once issued, the landowner has 2 years to complete the build. If the PIM lapses before the build is complete, the landowner must apply for a new PIM.

At the time of issuing a PIM, the council may also notify a landowner that a development contribution is required for the dwelling (discussed further below).

Before starting work, landowners should review the NES-DMRU and district plan rules to check:

1. If all necessary permitted activity standards for the NES-DMRU are able to be met.
2. If the district plan has more lenient rules they can use.
3. Whether they have complied with rules in district or unitary plans that still apply (notwithstanding the NES-DMRU), including rules relating to:
    1. subdividing land;
    2. protecting important natural or cultural sites;
    3. using the granny flat for non-residential purposes;
    4. papakāinga (communal Māori housing);
    5. earthworks;
    6. health and safety requirements that also apply to the main dwelling (such as managing natural hazards, setbacks from utilities or industrial sites); and
    7. specific infrastructure requirements.
4. Whether they have complied with regional plan rules.
5. Whether they have approval from water, wastewater, stormwater, electricity or gas providers.
6. Whether they have permission for new or altered access to the road or kerb.
7. Whether they have any approvals required by property instruments on the title such as easements, covenants, or consent notices (e.g. that affect where and how you build).

Keeping records and documentation for design

To enjoy the benefit of the exemption, all design work on a granny flat must be properly documented and recorded.

All Licensed Building Professionals (LBP) must provide the landowner with a Certificate of Work that identifies the restricted building work involved, and confirms the design complies with the Building Code.

Landowners must then provide the following to the council within 20 working days of completion:

- the Certificate of Work;

- the Records of Work;
- final design plans;
- sanitary plumbing records; and
- drain laying records.

Failing to provide this information is an infringement offence (although the Building Act exemption will still apply if the requirements are met).

Exemption only applicable to new dwellings

The exemption does not have retrospective effect. This means that a landowner cannot claim that an unconsented dwelling built before the reforms came into legal effect now has the benefit of the exemption.

The existence of the new provisions may however result in a more streamlined retrospective consenting process if the unconsented dwelling complies with the granny flat provisions.

Development Contributions

During the consultation on the proposed exemption, councils raised concerns about their ability to levy development contributions under the Local Government Act (LGA) to fund growth-driven infrastructure needs. This is because the ability to require contributions is usually triggered by the grant of resource or building consent, and the exemption removes this trigger for granny flats.

The new regime for granny flats addresses this issue. The Building Act has been amended (s36) to give councils an ability to charge development contributions for the DMRU at the PIM stage. When a landowner applies for a PIM for a granny flat, the council may determine a development contribution is payable under the LGA and issue a development contribution notice. For a period of 3 years, councils are able to require development contributions to be paid, even if it’s not authorised by, or is contrary to, its relevant policies.

However, councils should still consider whether the amount charged is proportionate to the size of the granny flat and whether it needs to connect to network utility and operator services. If a development contribution is not paid by the homeowner (when required) councils can recover the payment using existing mechanisms under the LGA. However, the

council also needs to repay the development contribution if the PIM lapses (i.e. building not complete within 2 years); the development doesn't proceed; or if the council doesn't provide the infrastructure relating to the contribution.

Key roles

Under this new exemption, the landowner ultimately bears responsibility for ensuring all relevant matters are complied with. This includes:

- the requirements of the Building Act exemption;
- the requirements of the Building Code; and
- all other relevant legislation including the RMA (either via the NES-DMRU requirements or a resource consent).

Alongside landowners, LBPs will play an important compliance and advisory role. LBPs will need to ensure that builds comply with the Building Code, must follow the exemption criteria for granny flats, complete and submit the correct forms, and communicate to their clients what the exemption will cover and exclude.

Rather than their normal role of regulating construction under a building consent, councils have a more limited role to play under the Building Act exemption. Their role is confined to issuing relevant information under the PIM, collecting development contributions and receiving information and maintaining records after the exempt granny flat is built (e.g. placing information provided on the LIM).

Councils do however retain the ability to issue Notices to Fix if a building is unsafe or non-compliant. They are also required to enforce compliance with the NES-DMRU and ensure that all relevant district plan rules are complied with.

Concluding thoughts

The new rules for these minor dwellings are designed to help address the housing shortage by increasing affordable housing options. Given the NES-DMRU limits granny flats to one per site, and requires it be ancillary to the primary dwelling, it is yet to be seen how enabling the reforms will be in practice.

Nevertheless, a landowner may be interested in using the new processes where:

1. They want to start building quickly and complete the build faster without having to wait for formal resource consent and building consent approvals or council inspections.
2. They are looking to reduce upfront costs, such as consent fees.
3. They are comfortable that responsibility for ensuring the work complies with the various applicable provisions rests entirely with them.

In practice, this increased responsibility makes it essential for landowners to engage trustworthy and reputable LBPs. Stakeholders during the reform consultation phase expressed concern the exemption could increase the risk of lower build quality. This is a valid concern given the lack of council oversight and increased responsibility on landowners. To address this, a landowner could increase their confidence in the quality of the build by engaging LBPs to carry out or supervise the work; arranging third-party inspections or quality assurance checks; and keeping thorough records of design decisions, materials used and who completed the work.

In summary, the Building Act exemption and NES-DMRU give granny flats a full makeover – reducing red-tape and making building faster and more cost-effective. But like any renovation, success will depend on careful planning and compliant building work. The exemption shifts responsibility for quality and compliance from councils to landowners.

As this makeover settles in, its true impact on affordability, housing supply and build standards will become clearer. For now, at the least it provides a new option for tackling the housing shortage – but landowners will need to dot their i’s and cross their t’s before picking up a hammer.

If you need help navigating these new processes, please feel free to contact a member of our team.