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August 2024

**To Ministry of Business Innovation and Employment**

Please find attached our submission on: Making it easier to build granny flats

For any further inquiries, please contact:

Chris Ford

Policy Advisor – Southern and Central

policy@dpa.org.nz

# Introducing Disabled Persons Assembly NZ

**We work on systemic change for the equity of disabled people**

Disabled Persons Assembly NZ (DPA) is a not-for-profit pan-impairment Disabled People’s Organisation run by and for disabled people.

**We recognise:**

* Māori as Tangata Whenua and [Te Tiriti o Waitangi](https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi) as the founding document of Aotearoa New Zealand;
* disabled people as experts on their own lives;
* the [Social Model of Disability](https://www.odi.govt.nz/guidance-and-resources/guidance-for-policy-makes/) as the guiding principle for interpreting disability and impairment;
* the [United Nations Convention on the Rights of Persons with Disabilities](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html) as the basis for disabled people’s relationship with the State;
* the [New Zealand Disability Strategy](https://www.odi.govt.nz/nz-disability-strategy/) as Government agencies’ guide on disability issues; and
* the [Enabling Good Lives Principles](https://www.enablinggoodlives.co.nz/about-egl/egl-approach/principles/), [Whāia Te Ao Mārama: Māori Disability Action Plan](https://www.health.govt.nz/publication/whaia-te-ao-marama-2018-2022-maori-disability-action-plan), and [Faiva Ora: National Pasifika Disability Disability Plan](https://www.moh.govt.nz/notebook/nbbooks.nsf/0/5E544A3A23BEAECDCC2580FE007F7518/%24file/faiva-ora-2016-2021-national-pasifika-disability-plan-feb17.pdf) as avenues to disabled people gaining greater choice and control over their lives and supports.

**We drive systemic change through:**

**Rangatiratanga / Leadership**: reflecting the collective voice of disabled people, locally, nationally and internationally.

**Pārongo me te tohutohu / Information and advice**: informing and advising on policies impacting on the lives of disabled people.

**Kōkiri / Advocacy**: supporting disabled people to have a voice, including a collective voice, in society.

**Aroturuki / Monitoring**: monitoring and giving feedback on existing laws, policies and practices about and relevant to disabled people.

## United Nations Convention on the Rights of Persons with Disabilities

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD),[[1]](#footnote-2) a foundational document for disabled people which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention.

The following UNCRPD articles are particularly relevant to this submission:

* **Article 9 – Accessibility**
* **Article 19 – Living independently and being included in the community**

## New Zealand Disability Strategy 2016-2026

Since ratifying the UNCRPD, the New Zealand Government has established a Disability Strategy[[2]](#footnote-3) to guide the work of government agencies on disability issues. The vision is that New Zealand be a non-disabling society, where disabled people have equal opportunity to achieve their goals and aspirations, and that all of New Zealand works together to make this happen. It identifies eight outcome areas contributing to achieving this vision.

The following outcomes are particularly relevant to this submission:

* **Outcome 5 – Accessibility**
* **Outcome 7 – Choice and Control**

# The Submission

DPA welcomes this opportunity to give feedback to the Ministry of Business Innovation and Employment (MBIE) on making it easier to build granny flats.

DPA has long highlighted in all our housing-related submissions the inaccessibility of our private housing stock.

At the time of the 2023 Census, there were 2,056,578 private dwellings in Aotearoa New Zealand.[[3]](#footnote-4) According to Lifemark, an organisation that promotes and endorses safe and accessible homes, less than 1% of private dwellings met universal design standards despite it being no extra cost to implement 90 percent of the Lifemark accessibility standards.[[4]](#footnote-5)

We acknowledge the Government’s desire to keep housebuilding costs affordable, but stress that this should not be at the expense of investing in and providing accessibility for disabled people.

A recent report from UNICEF elaborated that buildings which incorporate universal design accessibility from the beginning will only cost an extra 1% of any build project budget with approximately 1-2% of budget needing to be set aside for accessibility.[[5]](#footnote-6)

Smaller homes can be accessed by disabled people as shown in the example of Dunedin-based entrepreneur Cyndee Elder who has recently established Able Abodes.[[6]](#footnote-7) Her company aims to provide small homes to cater for both the social and private housing markets and this includes accessible housing which can be lived in by disabled people irrespective of their impairment.

However, DPA is concerned about the potential for exploitation in some areas, especially in areas with growing populations and minimal housing, where unscrupulous landlords could create entire sections full of granny flats which would then be rented out at exorbitant rates to low- and middle-income individuals and families/whānau.

In this submission, we focus on responding to the questions from the discussion document from a disability perspective.

**As there are both positive and negative elements to this proposal from a disability perspective DPA takes a neutral stance on the Government’s proposal. We also ask that Government review the policy every five years.**

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

We acknowledge the discussion paper’s recognition that housing unaffordability is a significant issue for many population groups, including disabled people.

There are other factors that have driven housing unaffordability for the last ten years including tax settings which have favoured land/housing speculation over other forms of investment, lack of capital gains tax, and population growth.

The increasing deficit of public/social housing has severely impacted on the housing needs of many marginalised communities including disabled people, who have found themselves at greater risk of homeless or living in inaccessible, unsuitable housing.

DPA recognises that granny flats have long formed a part of some New Zealand households, but these have had to comply with building and consenting processes which have created additional costs for those who build them.

Yet, it is vital to ensure that any house, whether it be a granny flat or otherwise, is compliant with weathertightness, structural and other requirements that make for a good, solid, safe build.

The leaky homes scandal of the early 2000s shows how earlier efforts at deregulation, while saving costs for builders and homeowners at the initial phase ended up costing some people their homes and insurers billions of dollars in payouts in the longer term. It is vital that we do not end up with a repeat of that fiasco.

**Question 2: Does DPA agree with the proposed outcomes and principles? Are there other outcomes this policy should achieve?**

DPA cautiously agrees with the stated principles outlined in the discussion paper around, for example, enabling small housing in the resource management and building systems.

A key outcome that should be added to the outcomes and principles is that of the need to improve housing accessibility for disabled and older New Zealanders through having all smaller housing being built to universal design standards.

As outlined above, there are already a growing number of developers/builders around the motu, like Able Abodes in Ōtepoti Dunedin, who are prepared to build small housing to universal design specifications.

This is an important consideration given that the number of disabled people is expected to rise with the ageing population, and it is important that all our housing stock is future proofed to enable accessibility.

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| **Recommendation 1:** that smaller housing is built to universal design accessibility standards. |

**Question 3: Does DPA agree with the risks identified? Are there other risks that need to be considered?**

There are two additional risks that need to be considered. The first risk is around weathertightness, insulation and structural integrity.

Earlier in our submission, we referenced the leaky buildings crisis of the early 2000s when the outcomes of building homes during an earlier period of deregulation around building materials became apparent with homes experiencing leaky walls, ceilings and floor linings, effectively forcing some homeowners into extensive repair work or even having to abandon their relatively new homes altogether.

Given the Government’s proposals to relax building regulations to allow for cheaper materials to be used and combined with the granny flats policy proposal in terms of limiting the oversight provided by Building Consent Authorities (BCAs – local authorities) there is real risk that the new flats could be impacted by poor weathertightness and other issues.

These moves could also compromise the Government’s healthy homes standards, with the first steps towards these standards having been taken by the 2016 National-led Coalition Government in 2016 with their introduction of minimum heating and fire safety requirements.

Many of the smaller houses/granny flats which will be added under the new policy settings will most likely be rented out to people, whether they are family/whānau members or not.

Healthy homes are important to the wellbeing of disabled people as many of our community live with conditions and impairments which necessitate the need for homes where temperature can be easily regulated to ensure both warmth in the winter and coolness in summer.

Census 2018 figures also showed that disabled people (24.0 percent) were more likely than non-disabled people (18.5 percent) to live in mould, cold, damp housing.[[7]](#footnote-8) These factors contribute to the poorer health outcomes experienced by disabled people compared to non-disabled people in Aotearoa.[[8]](#footnote-9)

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| **Recommendation 2:** that those who build smaller homes are required to use materials which have the highest weathertightness and insulation standards. |

The second risk is around adding multiple small houses onto an existing property.

Earlier in our submission, we referenced the risk that some landlords may seek to take advantage of this policy by placing multiple small housing on land that they own, mostly next to a main residence.

These multiple small houses could then be used to house tenants in poor conditions and there is the risk that tenants could also be charged exorbitant rents to live in these spaces. Disabled people, Māori, Pacific, migrant workers and other marginalised communities are at greater risk of being housed in poor conditions and the introduction of easier small house building rules could see an increase in sub-optimal housing conditions without effective monitoring or enforcement.

This raises the need to ensure that under the Resource Management Act (and any future changes to the legislation) that these types of multiple small dwelling placements are well regulated and monitored through placing limits on the number of granny flats that can be established on any one property.

Aligned with this would be the need for agencies like the Ministry of Housing and Urban Development as well as local councils to actively monitor for any tenancy law violations regarding overcrowding and rental overcharging issues.

**It is essential that this policy to be reviewed by government every five years to ensure that it is meeting its objectives and that any issues which have been identified around the new policy can be addressed and fixed or reversed if necessary.**

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| **Recommendation 3:** that the number of small houses permitted on any property, especially those with a main dwelling, is limited under the Resource Management Act. |

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| **Recommendation 4:** that the Ministry of Housing and Urban Development and local councils actively monitor any tenancy law violations regarding overcrowding and rental overcharging issues. |

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| **Recommendation 5:** that the small house/granny flat policy be reviewed by government every five years. |

**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?**

**Yes, on the proviso that the Government opt for a mix of Options 2, 4 and 5.**

Under Option 2, there would be the benefits of having greater flexibility whilst ensuring that occupational regulation and Building Code Acceptable Solutions could be added to ensure that minimum standards would be adhered to.

Also, councils would be able to keep track of any new small house builds for their records so that rating and infrastructure issues could be addressed.

**Question 5: What other options should the government consider to achieve the same outcomes (see Appendix 1)?**

Bringing Option 4 into the mix would see targeted promotional campaigns around BuiltReady and Multiproof being run, specifically for standalone dwellings.

DPA recommends that promoting Lifemark universal design standards for small homes also be included as part of any campaigns run under option four.

DPA recommends that there continues to be some form of regulatory oversight to be maintained to ensure that safety, weathertightness, structural and accessibility requirements are met. This could be in the form of random spot checks or a more centralised streamlined approvals system to keep costs down.

Not having any approvals/assessment regime whatsoever could be disastrous as it would mean that shoddy, unsafe work could become prevalent.

An example of this is that in poorly designed homes, there can be the potential for safety hazards to emerge causing further costs through injuries to disabled people as has sometimes happened when wheelchair users have tipped over and been injured when navigating an unseen hazard in their home.

These factors dictate that central government should have the final say in approving all new small house/granny flat builds under a more streamlined approvals system.

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| **Recommendation 6:** that promoting Lifemark universal design standards for small homes also be included as part of any campaigns run under option four. |

**Question 6: Do you agree with MBIE’s assessment of the benefits, costs and risks associated with the proposed option in the short and long term?**

Yes.

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

Another potential cost or risk associated with this policy is the potential for either increased building on land) with significant natural hazards risks (climate change, weather and seismic risks.

DPA, in previous submissions on climate change and housing, have outlined the need for councils to prohibit the further building of both homes and public buildings on land at significant risk from climate change and seismic activity.

However, there may be parts of the country where geological and climate risks have yet to be fully quantified and the risk of building small homes on flood prone land, for example, could be more costly for both developers and residents in the medium to longer-term.

This is a key reason why great caution should prevail when it comes to deregulating the building of small homes.

**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?**

Yes, that all small house builds are completed to Lifemark Universal Design standards for smaller homes.

These could then be verified through the final assessment by a central government representative.

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

Yes, using the specialist skills and knowledge of builders and plumbers would provide a further safeguard but there are risks inherent within this as well (see response to next question) and that is why we prefer to see option five deployed in terms of a final assessment from a central government representative when small homes/granny flats are complete.

**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?**

One of the main barriers could be that insurance companies could charge higher premiums for any builds completed outside of the standard regulatory building process.

The same would apply to finance companies who may assess the risks of a non-council consented build to be higher – that is, unless there is a minimum central government assessment component added at the end of the construction process.

**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?**

DPA have not done any actual calculations but, given what we have stated in previous questions, there may be a marginal saving in terms of full consenting and inspection costs, but these could be somewhat offset by increased insurance and financial costs borne by the individuals and/or organisations constructing granny flats.

**Question 12: Is there anything else you would like to comment on regarding the Building Act aspects of this proposal?**

No.

**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?**

Yes, given that the provisions of the RMA will provide further safeguards if government decides to proceed with the deregulatory proposal.

As we stated earlier, having the RMA in place will enable councils to act should the policy be abused with the building of multiple, illegal granny flats.

Having national planning standards would enable accessibility to be factored into all small home/granny flat builds.

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

No, as we agree with MBIE’s assessment that additions and attached granny flats have significant risks in relation to fire safety and concur that they are not considered as part of the proposed changes to the Building Act at the present time.

This is important as disabled people are at higher risk of serious injury and death because of house fires.

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

Yes, so long as the caveats DPA have recommended are in place, especially around the need to avoid building on land which could be subject to climate change and/or geological risks.

**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?**

Yes, we agree that it should apply to other zones including mixed use zones (commercial/residential mix) and Māori purpose zones.

As mentioned on the HUD website, the WAI2750 Kaupapa inquiry has identified the intergenerational impacts of years of insufficient response to Māori housing issues and there are critical gaps for whanau Māori in the housing system. For many Māori, the costs of erecting housing can be prohibitive and any reasonable way in which these could be reduced, without creating even greater risks and inaccessibility, is welcome. However, with statistics of poor health outcomes for Tāngata Whaikaha Māori[[9]](#footnote-10), it is vital that these homes are affordable, accessible, safe and healthy.

For Tāngata Whaikaha Māori this policy would be beneficial as it would enable disabled Māori to live closer to whānau while retaining the ability to be independent in terms of being able to exercise rangatiratanga and uphold their mana in doing so. It also provides a safety and support network.

**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?**

As per our answers to questions 14-17, DPA agrees that the building of granny flats in areas deemed to be of national importance, including sites endangered by climate change and those of importance to Māori, not be considered within the scope of the new policy.

As mentioned in Question 16, Tāngata Whaikaha Māori have critical gaps in housing, however there is also the experienced trauma of the loss of ancestral lands, water, sites, wāhi tapu, and other taonga, so as mentioned above these should absolutely remain prohibited from being built on.

**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?**

Yes, as this would mean that government would have the ability to impose some form of common standards which would apply across the motu.

DPA recommends that the need for all granny flats/small homes to be accessible should be one of the central components of these standards.

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

Yes, provided that the various caveats we have outlined in this submission are met.

**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.**

DPA agrees with the recommended permitted activity standards, on the basis that accessibility is an important proviso.

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

Yes, the need for inclusive accessibility should be included as part of permitted activity standards.

The inclusive accessibility permitted standards must reflect the Lifemark universal design standards for smaller homes.

**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?**

Yes, as any activity that is not covered as part of the permitted activity standards should be covered by a discretionary resource consent given the higher risks inherent in adding any additional feature or undertaking any activity which could impact on the building and/or adjacent properties many decades later.

**Question 24: Do you have any other comments on the resource management system aspects of this proposal?**

The only other comment is that DPA reiterates the recommendation that the number of granny flats permitted on any one property is set by the Resource Management Act.

**Question 25: What mechanism should trigger a new granny flat to be notified to the relevant council, if resource and building consents are not required?**

The triggering requirement should be that another granny flat is added over and above any number permitted under the Resource Management Act and if any non-permitted activity is going to be engaged in as well.

**Question 26: Do you have a preference for either of the options in the table in Appendix 3 and if so, why?**

DPA prefers Option 2 as it would generate a council record of the new granny flat, potentially generate a development contribution and ensure that the council has a record to assure both current and future owners (as well as banks and insurers) about the suitability and safety of them.

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

Yes. DPA recommends that granny flats should contribute to the cost of council infrastructure through a small, targeted rate payable by property owners which have granny flats and comprising no more than a small maximum percentage (i.e., 2 percent) of an annual rates bill.

In doing so, councils would be able to recoup some of the infrastructure costs incurred in servicing granny flats while giving landlords/owners every incentive not to pass on the cost via exorbitant rents to tenants.

**Question 28: Do you consider that these proposals support Māori housing outcomes?**

Tāngata Whaikaha Māori are defined by their iwi, hapū, whānau and their connection to their whenua.  As mentioned in Question 17, it would be beneficial for disabled Māori to live closer to their whānau. However, DPA cannot make a broad general statement that these proposals support Māori housing outcomes.

Some disabled Māori may choose to live in a home with their whānau, others may choose to live in a granny flat behind a whānau house and others may choose to live in their own home.  In any granny flat build, the importance of universal design means that it should be safe, healthy, well ventilated, insulated, accessible and comply with building safety requirements.

**Question 29: Are there additional regulatory and consenting barriers to Māori housing outcomes that should be addressed in the proposals?**

The regulatory and consenting barriers to Māori housing outcomes are a concern for Tāngata Whaikaha Māori. For this reason, the immediate financial benefit of not having to meet inspection and consenting costs when constructing granny flats may be beneficial, but this must be balanced against the healthcare costs that can be incurred if any granny flat is found to be substandard.

Māori land, papakāinga and kaumātua housing are an important part of creating affordable, safe and accessible homes.  There is the additional cost of Māori land to obtain a Māori Land Court order to use or occupy Māori freehold land but as mentioned, it is not in scope of these proposals. However, with the known history of whenua being stolen, the Māori Land Court and Waitangi Tribunal Court offer some legal protection from this occurrence.

1. <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-articles> [↑](#footnote-ref-2)
2. <https://www.odi.govt.nz/nz-disability-strategy> [↑](#footnote-ref-3)
3. <https://www.stats.govt.nz/information-releases/2023-census-population-counts-by-ethnic-group-age-and-maori-descent-and-dwelling-counts/> [↑](#footnote-ref-4)
4. <https://www.lifemark.co.nz/news/accessible-housing-by-the-numbers/> [↑](#footnote-ref-5)
5. <https://accessibilitytoolkit.unicef.org/reports/section-a> [↑](#footnote-ref-6)
6. <https://www.ableabodes.co.nz/> [↑](#footnote-ref-7)
7. <https://www.stats.govt.nz/reports/measuring-inequality-for-disabled-new-zealanders-2018/> [↑](#footnote-ref-8)
8. <https://www.odi.govt.nz/nz-disability-strategy/outcome-3-health-and-wellbeing/data-on-health-and-wellbeing/> [↑](#footnote-ref-9)
9. [https://reports.hqsc.govt.nz/APC-explorer/?\_gl=1\*16mwtbm\*\_ga\*MTY3MjY5MzEyMi4xNzEyMTgwNDM1\*\_ga\_TG4RCRSBWS\*MTcyMTc3MjY5OC40LjEuMTcyMTc3MjcwNC4wLjAuMA..#!/topics](https://reports.hqsc.govt.nz/APC-explorer/?_gl=1*16mwtbm*_ga*MTY3MjY5MzEyMi4xNzEyMTgwNDM1*_ga_TG4RCRSBWS*MTcyMTc3MjY5OC40LjEuMTcyMTc3MjcwNC4wLjAuMA..#!/topics) [↑](#footnote-ref-10)