

PRACTICE NOTE: SUBSIDIARY DWELLINGS, SLEEPOUTS AND SECOND/SUBSEQUENT DWELLINGS (FRANKLIN SECTION)

VERSION 1 – 01/05/2017



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DOES THIS AFFECT ME?

This Practice Note is relevant to anyone with land subject to the Franklin Section of the Waikato District Plan, **Rural Zone** who has an existing dwelling on-site and wishes to construct any additional buildings that contain habitable rooms.

WHAT DOES IT MEAN FOR ME?

This Practice Note helps determine whether or not you will require a resource consent. It may also be useful in designing your building to comply with the conditions of a permitted activity rule.

1. Interpretation

The purpose of this Practice Note is to provide guidance on the interpretation of the Waikato District Plan (Franklin Section) **Rural Zone** rules relating to a sleepout, a subsidiary dwelling and a dwelling. This Practice Note should be read alongside the District Plan rules.

When proposing any additional buildings that contain habitable rooms in the **Rural Zone**, the use and design of the building will determine whether it is a sleepout, a subsidiary dwelling or a dwelling.

This practice note only relates to the **Rural Zone**. No other Zone has provisions for subsidiary dwellings and no other Zone has specific rules regarding sleepouts. Rather, they would be assessed as 'accessory buildings' if they met that definition (i.e. no facilities for food preparation or cooking) otherwise they would be considered second/subsequent dwellings.

This Practice Note includes a flow chart (Section 7) to help interpret the District Plan rules for subsidiary dwellings and sleepouts in the **Rural Zone**.

2. Sleepout

A sleepout is defined in the District Plan and needs to be constructed and used in accordance with either the District Plan permitted activity rules contained within Section 23A or a resource consent if compliance with the relevant permitted activity rules cannot be met.

The definition of a sleepout includes the following specific elements

- An accessory building which is ancillary to a dwelling house; and
- Can include bedrooms and ablution facilities; and
- Does not include facilities for the preparation and cooking of food (which includes a sink, bench top, oven and other facilities for a kitchen).

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To be considered under the sleepout rules, a proposal must comply with all of the above requirements. A proposal that does not comply with any one of these requirements (that is, does not meet the District Plan definition of a Sleepout) cannot be considered as a sleepout.

In addition, a sleepout needs to meet the following specific criteria in order to be considered a permitted activity (i.e. no resource consent required)

- Maximum of one sleepout per site; and
- Have a gross floor area no greater than 100m², excluding decks and garaging; and
- Located such that it accesses the same driveway as the site's existing dwelling.

Subsidiary dwellings

Subsidiary dwelling is defined in the District Plan and requires a resource consent.

A subsidiary dwelling, by definition, can only be for either

- dependant relative(s); or
- seasonal workers; or
- employees engaged in farming or horticulture activities on the site.

A subsidiary dwelling for someone else (that is, it does not meet the District Plan definition of a subsidiary dwelling) cannot be considered for resource consent as a subsidiary dwelling and will be considered a 'second/subsequent dwelling'.

3. Differences between a Subsidiary Dwelling and a Sleepout

A subsidiary dwelling

- is a self-contained dwelling ; and
- does not exceed 65m² for a dependent relative, or 120m² for seasonal workers or farming/horticulture employees; and
- can contain a kitchen as well as bathroom facilities; and
- can be used as a household independently from the principal dwelling.

A sleepout

- together with the main dwelling are managed as one household unit; and
- cannot contain facilities for the preparation and cooking of food (which includes a sink, bench top, oven and other facilities for a kitchen).

4. Second/subsequent dwellings

An additional building that is not a subsidiary dwelling but contains habitable rooms and facilities for food preparation or cooking will, by default, be considered a second/subsequent dwelling.

5. Specific requirements for a Subsidiary Dwelling

Subsidiary dwellings in the Rural Zone require resource consent and are also subject to specific performance standards depending upon their intended use. These are outlined in section 23A.4.2.5 of the District Plan. If a proposal doesn't comply with the performance standards it will be assessed as a Non-Complying Activity.

For a Dependent Relative(s)

The District Plan defines Dependent Relative(s)

means a person or people having a close relationship with the occupants of the principal dwelling on the site, either of which is largely dependent on the assistance of the other for their physical and / or emotional wellbeing and the maintenance and upkeep of their material possessions.

If the building is to be occupied by a dependent relative, the following specific performance standards apply

- there can be only one subsidiary dwelling per site regardless of who it is for; and
- the site must be no greater than 40ha; and
- the size of the building shall be no more than 65m² gross floor area, excluding decks and garages; and
- the building shall be located within 6 metres of the principal dwelling and share the same driveway; and
- the applicant must demonstrate the need for the subsidiary dwelling and that the extent of the dependence is such that the occupants are all required to be located on the same site.

If any of the above specific standards are not met, resource consent as a Non-Complying Activity is required to be obtained.

For seasonal workers and farming/horticulture employee(s)

If the intended occupant is not a dependent relative(s), the building needs to either be used by seasonal workers and their family or by full/part time equivalent employees for farming or horticulture and their families.

If the building is to be occupied by a seasonal worker(s) or farming/horticulture employees, the following specific standards apply:

- there can be only one subsidiary dwelling per site regardless of who it is for; and
- the site must be greater than 5 hectares in size and no greater than 40ha; and
- the size of the building shall be no more than 120m² gross floor area, excluding decks and garages; and
- the applicant must demonstrate the need for the subsidiary dwelling and the volume of the work or nature of the work that requires the workers to live on the site rather than commuting to the site; and
- the workers are employed to the site or on sites associated by ownership, lease or contract with the site.

If any of the above specific standards are not met, resource consent as a Non-Complying Activity is required to be obtained.

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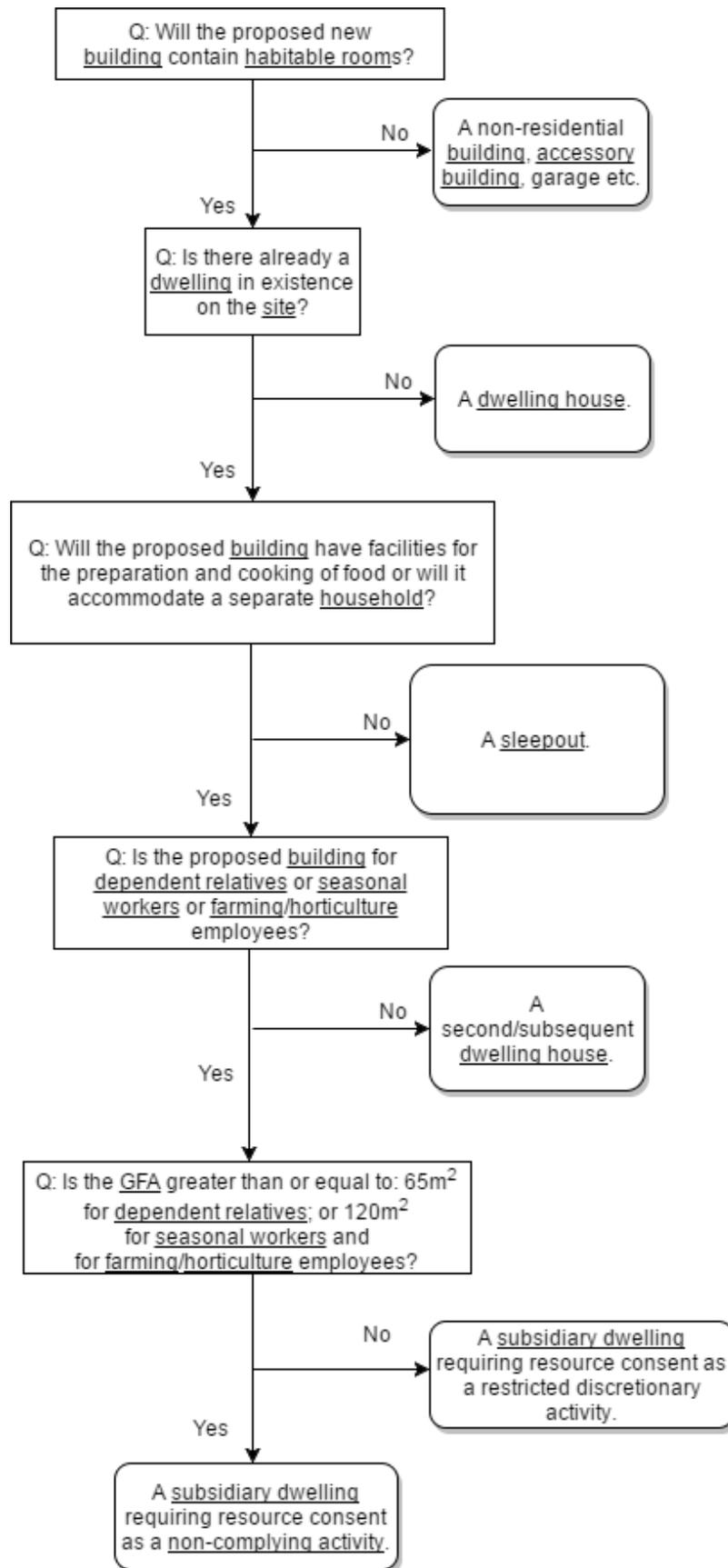
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6. Flow chart to determine type of building

The flowchart below should be read in conjunction with the remainder of this Practice Note. The underlined terms are defined in the Franklin Section of the District Plan – Part 50.



7. Frequently asked questions about **Subsidiary Dwellings**

Are Development Contributions payable?

The 2015 Development Contributions Policy states that

Minor dwelling units (“granny flats”) shall be assessed at 0.5 HEUs each. However, if no separate connections are required (for water, wastewater or stormwater) the fee shall be waived for each such service.

The 2015 Development Contributions Policy defines Minor residential unit (“Granny Flats”) as

a secondary residential unit with a gross floor area that does not exceed 70 square metres, on a site which can be used either as a rental property or to house a dependent relative and is subservient to the larger residential unit on the site. The minor residential unit may be separate, or be a part of a main residential unit.

A subsidiary dwelling cannot be considered as a minor residential unit under the 2015 Development Contributions Policy if it has a gross floor area over 70m².

Refer to the current Development Contributions Policy on Council’s website to calculate the dollar amount of development contributions payable.

Where does the GFA start and stop?

It is generally simple to determine the gross floor area (GFA) if the subsidiary dwelling is detached. This is done using the definition of GFA in the District Plan. It can be difficult to determine the GFA of the subsidiary dwelling if it is attached to the principal dwelling and has internal access/some shared areas. The intent of the subsidiary dwelling is to enable the occupants of the principal dwelling to be able to support a dependent relative or for the use of seasonal/farm/horticulture workers and their families. However it is also essential that any design that attaches the subsidiary dwelling to the principal dwelling does this in such a way that there are two clearly defined areas that make up the principal dwelling and the subsidiary dwelling. It is important that the distinguishing feature between these two dwellings does not become blurred to the point that in effect two large dwellings are created. Separation by a garage is often a good way of achieving two clearly defined areas.

Can I build a Subsidiary Dwelling first and then my principal dwelling?

It is possible to construct a small dwelling with a maximum GFA of 65m²/120m² (depending if it is to be used in the future for a dependent relative(s) or seasonal workers/farm/horticulture workers) on an empty section and then at some later stage “convert” it to a subsidiary dwelling and construct a larger dwelling. This sequencing does not avoid the need for resource consent or to demonstrate the need for the subsidiary dwelling.

A Subsidiary dwelling and a dwelling can also be built concurrently. Again, this does not avoid the need for resource consent.

The District Plan and the Development Contributions Policy are subject to review and change and there is no guarantee that the rule frameworks will remain the same.

The paperwork for this type of project could all be done up front, however there are lapse dates for giving effect to resource consents (generally 5 years) and building consents (generally 12 months).

Can I have two or more Subsidiary Dwellings?

Resource consent is required if one or more subsidiary dwellings is proposed. An application would need to provide sound justification why more than one subsidiary dwelling is required.

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Can I have two kitchens in one Dwelling?

A dwelling cannot have more than one kitchen without resource consent as this would constitute a 'self-contained housekeeping unit' (Household). The Rural Zone allows for one dwelling house on a site 40ha or less, two dwelling houses on a site greater than 40ha, and three dwelling houses on a site greater than 100ha.

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8. Relevant district plan definitions

The following definitions from the Franklin Section of the District Plan are essential to the interpretation and implementation of the District Plan rules and this practice note. Other definitions in the Plan may also be relevant. Note: words in CAPITAL LETTERS have specific definitions in the District Plan.

Accessory building

means a separate detached BUILDING the use of which is incidental to that of the principal BUILDING or buildings on the SITE, and in relation to a SITE on which no principal BUILDING has been erected, is one which is incidental to any permitted or, in some cases, lawfully established, use of the SITE. An ACCESSORY BUILDING may include sleeping and ablution facilities, but no facilities for food preparation or cooking. It includes a SLEEPOUT; PACKING SHED; BUILDINGS HOUSING ANIMALS; LPG, petrol and diesel installations on farms for farming activities; carports; garages; fences above 2.0 metres in HEIGHT; retaining walls above 1.0 metre in HEIGHT from the lowest ground level adjoining; dish (satellite) aerials not exceeding 1.5 metres in HEIGHT at any point; but not swimming pools unless they are covered, SIGNS or any RESIDENTIAL BUILDING.

ACCESSORY BUILDINGS shall include:

- i. Swimming pools
- ii. Use of the site for AIRCRAFT only for the transportation of the residents of the DWELLING HOUSE to and from the property.

"BUILDING accessory to" shall have a corresponding meaning.

Building

means any thing or part of a thing constructed or erected whether temporary or permanent, movable or immovable, including any vehicle or object used as a place of assembly, work, storage, or residence but does not include the following [a number of specific structures not relevant to this Practice Note. Refer to the District Plan for the full definition].

Dependent relative

or DEPENDENT RELATIVE/S means a person or people having a close relationship with the occupants of the principal dwelling on the site, either of which is largely dependent on the assistance of the other for their physical and / or emotional wellbeing and the maintenance and upkeep of their material possessions.

Dwelling house

means a detached or semi-detached residential BUILDING designed for, or occupied exclusively by one HOUSEHOLD, and which is the only RESIDENTIAL BUILDING on the SITE.

This definition does not include:

- i. Mobile home
- ii. Campervan
- iii. Tent
- iv. Caravan
- v. Cabin
- vi. MOTEL
- vii. Boarding-house
- viii. Hotel
- ix. TRAVELLERS' ACCOMMODATION
- x. Hostel
- xi. SPECIAL HOUSING DEVELOPMENTS

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A DWELLING HOUSE may be used for the following activity: Where board, lodging or live-in physical or mental health support is provided by no more than two persons for no more than four other people, all of whom must be permanent residents of the BUILDING but need not be related by blood or other means (marriage, adoption etc).

Farming

means a land based activity that relies on the productive capacity of natural resources and includes HORTICULTURE, HORSE TRAINING CENTRES, DOMESTIC PIGS, DOMESTIC POULTRY, apiaries, ANCILLARY RURAL EARTHWORKS and ANCILLARY ACTIVITIES but does not include VETERINARY CENTRES, FORESTRY, INTENSIVE FARMING, BOARDING KENNELS AND BREEDING KENNELS OR CATTERIES, or dog training grounds.

Gross floor area

GROSS FLOOR AREA (sometimes expressed as gfa) means the sum of the gross areas of the several floors of all BUILDINGS on a SITE measured from the exterior faces of exterior walls or from the centre lines of common walls separating BUILDINGS, and includes basements and mezzanine floors but does not include [a number of specific structures not relevant to this Practice Note. Refer to the District Plan for the full definition].

Habitable room

means any room in a RESIDENTIAL BUILDING other than:

- a laundry, bathroom, water closet, pantry, walk-in wardrobe, or clothes drying room;
- any room or space used solely as an entrance hall, lobby, passageway or private garage;
- any other space or small room of a specialised nature occupied neither frequently nor for extended periods.

Horticulture

means the growing and cultivation of plants for the production of flowers, fruit, vegetables, and grains but excludes FORESTRY, INTENSIVE FARMING, and GARDEN CENTRE. HORTICULTURE includes market gardening, orcharding, and also GREENHOUSES and shade houses unless these are separately listed and provided for in the zone.

Household

means a self-contained housekeeping unit, of one or more persons occupying and using a BUILDING for normal domestic residential or housekeeping activities. A HOUSEHOLD may include the following activity: Where board, lodging or live-in physical or mental health support is provided by no more than two persons for no more than four other people, all of whom must be permanent residents of the BUILDING but need not be related by blood or other means (marriage, adoption etc).

Performance standards

means those standards, terms or conditions which must be satisfied or achieved either before the lawful commencement of the activity, development, or use of the land (in which case they may also be called "development standards") or as an ongoing prerequisite to its lawful operation.

Residential building

means any BUILDING or part of BUILDING used or intended to be used for ongoing human habitation by a HOUSEHOLD.

Seasonal workers

means part time employees engaged in FARMING or HORTICULTURE activities, including those who are part of a recognised seasonal employers' scheme, shearers, pickers or those processing produce.

Site

according to the context in which it is used, shall have whichever of the following meanings is appropriate:

1. An area of land comprised in a single certificate of title or in respect of which a single certificate of title could be issued without further consent from the Council provided that the allotments shown on a subdivision or survey plan for the purposes of effecting cross leases or company leases or issuing separate unit titles under the Unit Titles Act 2010 shall be deemed to be comprised in one SITE;
2. An area of land composed of two or more lots held together in one (or more) certificate(s) of title and where no single lot can be dealt with separately without the prior consent of the Council;
3. An area of land which has been defined for the purpose of transferring it from one certificate of title to another;
4. An area of land which is, or is to be, used or developed as one property whether or not that use or development covers the whole or a part(s) of one or more lots

Sleepout

means an ACCESSORY BUILDING which is ancillary to a DWELLING HOUSE on the SITE and can include bedrooms and ablution facilities, but does not include facilities for the preparation and cooking of food (which includes a sink, bench top, oven and other facilities for a kitchen).

Subsidiary Dwelling

means a second or subsequent dwelling established on a SITE for use by employees engaged in FARMING or HORTICULTURE activities, SEASONAL WORKERS or DEPENDENT RELATIVE/S and for which a resource consent is required in order to create a dwelling right.

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