

# Minor dwelling

## Due diligence vital before deciding

By Brierley Conquer\*

**M**inor dwellings, once called “granny flats”, that were built for extended family are nowadays a viable and effective alternative to subdivision for investors and provide an excellent investment opportunity.

Whether you are looking to undertake development work on an existing property or looking to purchase a property with an existing minor dwelling in place – or with the potential for construction of a minor dwelling (or subdivision) – it is critical to ensure that you carry out the proper due diligence to ensure you don’t fall foul of the relevant council rules and legislation.

While a subdivision into multiple titles may well increase your potential capital gain (together with the additional options and marketability of multiple titles), a subdivision may be more costly than the addition of a minor dwelling.

A minor dwelling could potentially offer better cash flow and rates of return for an investor. Speaking to your local council at the outset will be key, as will talking with your professional advisers and carrying out a thorough feasibility and cost-benefit analysis of the various options (or checking that an existing minor dwelling you are looking to purchase is kosher).

It is important to note that each local authority has different rules and criteria for minor dwellings and the subdivision of land. The main variable for either option will be the size of your property and council requirements depending on the zoning of the property and the type of discretionary activity. Other variables will include the property’s physical features or constraints and the ability to provide services to the property (such as power, water and sewerage) and access to the site.

Tauranga City Council (TCC) permitted activity rules relating to “secondary independent dwelling units” provide that an independent dwelling unit secondary to the principal dwelling unit on the same site and held under the same title must be intended to be used as an independent residence, (including apartments, semi-detached or detached houses, residential units and townhouses for a family of up to six unrelated persons).

TCC City Plan Rules relating to erection of a

secondary independent dwelling unit include amongst other things the following criteria;

- Minimum site size is 500m<sup>2</sup> net site area
- Development on the site being restricted to one principal independent dwelling unit and its secondary independent dwelling unit and their accessory buildings
- Erected only in conjunction with the principal independent dwelling unit on-site and must be encompassed within the bulk of the principal independent dwelling unit and must be separated by a firewall compliant with the New Zealand Building Code
- Shall be limited to a maximum of two bedrooms (or two rooms other than the main living area capable of being used as bedrooms)
- Shall be subject to rules relating to building height, streetscapes, setbacks, overshadowing and site coverage with outdoor living area requirements for both principal and secondary independent dwelling unit
- Shall be provided with a service area (for the purpose of providing domestic storage) meeting specific size requirements, but may be provided within the garage or an accessory building so long as it does not encroach on the area required for car parking.

## Minor dwellings provide an excellent investment opportunity

The Western Bay of Plenty District Council (WBOPDC) Operative District Plan 2012 provides as a permitted activity that each title of land is entitled to one dwelling not restricted in size (subject to specific performance standards) as well as one minor dwelling limited in size.

The Council’s definition of minor dwelling is “a dwelling of not more than 60 sqm gross floor area plus an attached or detached garage or carport with a gross floor area not exceeding 18 sqm (for the purpose of vehicle storage, general storage and laundry facilities). The garage area shall not be used for living accommodation”.

The Operative District Plan provides that for property zoned residential in the Western Bay of Plenty District it is a controlled activity to have a minor dwelling in addition to the principal dwelling. Minor dwellings are required to share the vehicle access with the principal dwelling on site. Minor dwellings are also



# or subdivision?



subject to one-off financial contribution fees, which are paid to council for the purposes of mitigating the effects of extra loading on the council's supplied services. For minor dwellings, a 50% payment of the contribution that applies to the subdivision of land is payable.

Again, prior to commencing any work, we suggest you engage a surveyor and solicitor to ensure before any money is spent going through the consent process (where applicable) that you are able to complete the work you envisage.

Depending on the type of development work completed by the surveyor and solicitor would include:

1. Review the Certificate of Title for the land and advise the effect of any interest registered on the title (ie: an encumbrance that may prohibit such development)
2. Check the rules, policy and zoning requirements in the district
3. Investigate any topographical or physical constraints on the land
4. Engage specialist consultants for a specialist report that could relate to, for example, geotechnical soil condition for foundations, access or traffic assessment
5. Draft scheme plan after inspecting and measuring the post site for either the minor dwelling or subdivision
6. Assess financial contributions payable to the relevant council (these vary depending on what district you are in and what avenue you go down, ie: minor dwelling, additional dwelling or subdivision).

In any event, speak to the relevant local authority specialists and professional advisers early to get their input on what you intend to carry out and they can provide initial guidance on any parameters or potential issues from the outset. ■



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