



5 July 2023

Tēnā koe

On 10 May 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

Can I please request the 3 April 2023 Cabinet paper (English version) on the final proposals to amend the NZSL Act 2006, plus:

- *the associated Cabinet minute*
- *all associated briefings, reports, Aide Memoires, talking points, RIS/RIA (or a copy of Treasury's exemption from needing one) and drafting instructions for the Bill.*
- *copies of all submissions, including those submitted in NZSL (not just the summary of submissions).*

And can I please request the following two reports:

- *The future of the Accessibility for New Zealanders Bill and amendments to the New Zealand Sign Language Act 2006. In relation to this; Appendix 3, para 31. Please provide an explanation as to why Cabinet agreed to the limited scope of the review. ie why was the scope so narrow given the NZSL Board report to the Minister [attached to REP/20/9/1002] asking for a review of the Act recommended a much wider range of necessary changes?.*
- *REP/22/12/1213*

On 15 May 2023, the Ministry contacted you to advise that point two of your request was broad in scope and was likely to be refused under section 18(f) of the Act as manual collation would be required to provide the information requested. As such, we suggested that you refine your request, for example, by confirming if you were referring to the 3 April 2023 Cabinet paper.

You responded to the Ministry on 16 May 2023, and refined point two of your request to 'the Briefing/AM/Report that accompanied the 3 April Cabinet paper'.

In response to your request, please find attached the following documents in scope of your request as outlined below.

Appendix One is the following Aide-mémoire:

- REP/23/3/217- *Final proposals to amend the New Zealand Sign Language Act 2006*

Appendix Two is the following report:

- REP/22/22/1053 *Final policy proposals for amending the NZSL Act*

Appendix Three is the following report:

- REP/23/2/037- *The future of the Accessibility for New Zealanders Bill and amendments to the New Zealand Sign Language act 2006*

Appendix Four is the following report:

- REP/22/12/1213- *Amending the NZSL Act 2006: Options to progress this work*

Your request for the 3 April 2023 Cabinet paper, the associated Cabinet minute, and a summary of the submissions, is refused under section 18(d) of the Act on the basis that the information requested will soon be publicly available. This information will be published as soon as alternate formats are available.

Copies of all submissions is withheld under section 9(2)(ba)(i) of the Act as it is subject to an obligation of confidence, and if released, could prejudice the supply of similar information in the future. The greater public interest is in ensuring that such information can continue to be supplied.

In response to part two, point one of your request on why Cabinet agreed to the limited scope of the review, for the Official Information Act 1982 to apply, the information must already be held by the agency concerned. With the exception of providing a response to a request for a statement of reasons about a decision that has affected the requester, there is no obligation on an agency to form an opinion or create information to answer questions. As this part of your request is asking for an explanation around why Cabinet made certain decisions, this is not a request for official information under the Act, and the Ministry is not obliged to answer this part of your request.

You will note that the information regarding some individuals is withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Please note some information is withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank

expression of opinions. I believe the greater public interest is in the ability of individuals to express opinions in the course of their duty.

The Ministry has further withheld some information under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui



Sarah Palmer
Policy Manager
Disability Policy

Aide-mémoire



MINISTRY OF SOCIAL
DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

Cabinet paper

Date: 23 March 2023 **Security Level:** Cabinet Sensitive
For: Minister Priyanca Radhakrishnan, Minister for Disability Issues
File REP/23/3/217
Reference:

Final proposals to amend the New Zealand Sign Language Act 2006

Cabinet Committee Social Wellbeing Committee

Date of meeting 29 March 2023

Minister Hon Priyanca Radhakrishnan, Minister for Disability Issues

Proposal This Cabinet paper seeks agreement to amend the New Zealand Sign Language Act 2006 (the Act) to support the promotion, maintenance, and acquisition of New Zealand Sign Language (NZSL).

The following officials will attend the Social Wellbeing Committee (SWC) to support you as needed:

- Sarah Palmer: Manager, Disability Policy, Ministry of Social Development (MSD)
- s9(2)(a) : Senior Policy Analyst, Disability Policy, MSD

Key issues *The proposal*

You are seeking to amend the Act so that:

- the existing NZSL Board becomes a statutory Ministerial advisory group with strengthened role, status, and functions
-

-
- the functions of the NZSL statutory Ministerial advisory group, its role in monitoring the actions of government agencies, and the principles to guide appointments are each defined
 - it includes specific references to support Turi Māori identity and leadership.

Government consultation

Relevant agencies, Ministerial offices, and government entities have been consulted on this Cabinet paper.

Ministerial consultation was undertaken by the previous Minister for Disability Issues in December 2022. You undertook further Ministerial consultation in March 2023.

Most agencies had positive or minimal feedback, but you may like to note the following feedback and responses.

Prime Minister's Office feedback in December 2022

The Prime Minister's Office (PMO) were concerned that this proposal seems aligned to the recent proposals in the Accessibility for New Zealanders Bill where leadership initiatives without commitment to policy change have been criticised by the disability community.

They also had concerns that there may be 'quotas' present for representation on the Ministerial advisory committee, which have also been criticised in the Accessibility for New Zealanders Bill.

These two comments are addressed in the Q&A section below.

Prime Minister's Office feedback in February 2023

PMO asked about the relationship between the Accessibility Committee proposed by the Accessibility for New Zealanders Bill, and the NZSL statutory group proposed by this Bill. We have included the word 'proposed' in relation to the Accessibility Committee.¹

PMO also asked MSD to include a paragraph that sets out how the proposals for a NZSL statutory group will be an

¹ See paragraphs 11, 33, 54, and footnote 2 in the final draft of the Cabinet paper.

improvement to the current state. To address this, paragraph 36 has been added to the paper, and reads

- *these proposals strengthen and clarify the role and status of the current NZSL Board and increases its monitoring functions.*

Related to setting out how the proposed NZSL statutory group will be an improvement on the current state, PMO thought it could be useful to mention that this creates a permanent body compared with the Cabinet mandated NZSL Board. We advised that during agency consultation both the Public Service Commission and the Parliamentary Counsel Office (PCO) made the point that using this rationale was not sufficient for amending primary legislation.

PMO also suggested re-wording the paragraphs relating to extending government agencies who are expected to be guided by the principles of the NZSL Act. They were concerned that wording could be misleading. To address this, the Cabinet paper has been changed to the following:

- Section 9 of the Act sets out principles for government agencies to guide how they better support the Deaf community and NZSL users in relation to NZSL.
- I propose the Act is amended to extend the agencies who are expected to be guided by the principles to include Departmental agencies, as set out in Part 1A of the Ombudsmen Act 1975.²

The paper was also amended to clearly state that the proposed NZSL statutory group would report to the Minister for Disability Issues.³

The Treasury

Treasury officials advised MSD that they intended to advise their Minister was that 'this paper might not be as

² See paragraphs 46 and 47.

³ See paragraph 51.

urgent or significant as some others that will be considered by Cabinet in the near future’.

The Public Service Commission

The Public Service Commission do not consider legislative changes are necessary to address the gaps in leadership and monitoring. However, are not concerned by system impacts should legislative changes proceed.

The Ministry of Health

The Ministry of Health recommended the Act be broadened so that crown entities are expected be guided by the principles in Section 9. Officials will be working with the PCO on identifying the implications of such a change during the drafting process.

Whaikaha

Whaikaha – Ministry of Disabled People supports the proposal and intends to support implementation through its baseline funding initially, with the possibility to seek further funding as the Ministerial advisory group expands into the capacity proposed by the amendments.

Te Arawhiti

Te Arawhiti questioned the previous proposal that ‘taonga’ decisions on advice be delegated to Māori members of the Ministerial advisory group, as this is likely to be inconsistent with the nature and purpose of the Ministerial advisory group.

Officials have amended this proposal so that the Ministerial advisory group itself can make decisions on how to give appropriate authority to Māori perspectives on issues that affect Turi Māori.

Treaty Provisions Oversight Group (TPOG)

TPOG was consulted during the formation of the proposed changes. Some of their views about the proposed treaty provisions included:

- enabling provisions are preferable to legal requirements which might result in compliance or defensive decision making
- establishing a separate entity for Māori, alongside the Ministerial advisory board, could lead to

fragmentation and misalignment, particularly in the context of a small community.

TPOG's advice informed the development of the options in the paper:

- One statutory entity is proposed to jointly form advice on all NZSL issues. TPOG recommended that they give appropriate significance to Turi Māori perspectives on taonga issues and issues that affect Turi Māori.
- A co-chair Māori, principles to guide appointments for Turi Māori and those with Te Tiriti of Waitangi expertise, and the ability for sub-committees to support on taonga advice is intended to empower Māori leadership, as well as the board's capacity as a whole to act as a Treaty partner and address issues important to Māori.

Timeframes and next steps

If Cabinet agrees, you will be invited to issue drafting instructions to the PCO.

The NZSL Amendment Bill has been ranked as the third priority for the Disability portfolio, with a Category 4 (to be provided to select committee in 2023).

Officials aim to provide you with a draft Bill and Legislation paper in May 2023 for you to bring to Cabinet Legislation Committee in July, with the aim of introducing the Bill to the House in July 2023.

Budget

The proposed amendments create new opportunities for leadership for the NZSL Board as a Ministerial advisory group, and the financial costs of this can be met from within existing Whaikaha resources.

Transfer to Whaikaha

MSD is currently responsible for administering the NZSL Act and will support these amendments as Whaikaha continues its establishment and until it has capacity to take on growing responsibilities. Administration of the NZSL Act will be transferred to Whaikaha when the Bill is passed. This is expected to be in 2024.

Talking Points

You may wish to consider the following talking points for presenting the Cabinet paper to SWC:

- I am seeking your agreement to amend the New Zealand Sign Language Act 2006 (the NZSL Act) to progress the promotion, maintenance, and acquisition of New Zealand Sign Language (NZSL).
- In 2006, the NZSL Act was introduced, which recognised NZSL as an official language of Aotearoa / New Zealand. This was a significant first step in recognising that the Deaf community have not had the same right to their language as other New Zealanders.
- Now it is time to build on this progress by strengthening the mandate for Deaf leadership in the NZSL Act to support Government's vision for Deaf and disability communities.
- The establishment of Whaikaha – the Ministry of Disabled People is an example of our commitment to work in partnership with disability communities to improve outcomes for disabled people and their whānau.
- In amending the NZSL Act, I am not looking to establish a new entity but to strengthen the role of the existing NZSL Board, clarifying their functions in legislation, and elevating their status as leaders in the disability space.
- I am seeking your agreement to update the NZSL Act to:
 - strengthen the mandate for public leadership of the Deaf community by making the NZSL Board a statutory Ministerial advisory group
 - support the NZSL Board in its role as an advisory group by creating a monitoring framework to identify, record and report on the actions of government agencies to support the purpose of the Act
 - better reflect Te Tiriti o Waitangi by recognising Turi Māori identities.

Q&A**What does the Deaf community want to see?**

- Engagement on potential amendments to the NZSL Act took an 'NZSL first' approach. Officials took a

collaborative approach to designing and delivering this consultation, working in partnership with the NZSL Board.

- Through a range of engagement methods, officials heard from the Deaf community strong support for increasing the status of NZSL through the NZSL Act. There was a clear message that government agencies should be doing more to promote the maintenance and acquisition of NZSL.
- Deaf people are worried about the future of their language and want to see commitment to language policy that raises the status of NZSL. In fact, many want to see the proposals go further – they would like the establishment of a language commission with extended powers and funding.
- Engagement with Turi Māori showed strong support for the Act to be amended to better reflect Turi Māori identity and leadership.
- There were many that wanted to see changes to NZSL issues which sit outside the scope of the NZSL Act review, such as NZSL education, access to government services in NZSL, and the interpreter workforce.
- While these concerns are outside the scope of this review, I will look to progress work to address them through non-legislative measures and by working with other Ministers and the NZSL Board.

Why have you chosen a statutory approach?

- I consider that the proposed changes are best progressed through amending the NZSL Act to send a clear signal of the government's commitment to change in the disability space.
- The NZSL Act would better align with the government's direction to enable and strengthen disability leadership. Since the Act was introduced in 2006:
 - Aotearoa signed the United Nations Convention on the Rights of Persons with Disabilities in 2007, and ratified it in 2008

-
- the NZSL Board was established in 2015 to provide strategic leadership for NZSL
 - the NZSL Strategy 2018 – 2023 was launched.
 - Further, statutory recognition of the NZSL Board would align its status more closely with Te Taura Whiri i te Reo Māori – Māori Language Commission to provide a more consistent approach to community leadership for our two official languages. This was recommended by a Human Rights Commission inquiry into NZSL in 2013.
 - The Deaf community and NZSL users have made it clear through consultation that the NZSL Act should be amended to raise the status of NZSL and elevate NZSL leadership.

How will the proposed approach affect change, and avoid the criticism faced by the accessibility Bill?

- The proposal does not create a “new” group but strengthens an existing advisory group with a primary role of developing an NZSL language strategy. The overall aim is to lift and clarify their status, role, and functions to allow them greater scope for leadership.
- A monitoring and reporting framework would be developed in partnership with government agencies that will not only provide information on what is working and what needs to be improved but will also encourage agencies to fulfil their obligations under the Act.

How do changes to the NZSL Act relate to the proposals in the Accessibility for New Zealanders Bill (the Accessibility Bill)?

- The Accessibility for New Zealanders Bill establishes a new legislative framework that aims to provide a consistent way to address systemic accessibility barriers in New Zealand. If passed, I expect that the Bill will enable greater progress to:
 - remove barriers that prevent disabled people, tāngata whaikaha Māori and their families or whānau, and others with
-

accessibility needs from living independently and participating in all areas of life, and

- grow accessibility practices across New Zealand.
- Therefore, it should over time address a wide range of barriers faced by Deaf people.
- The Accessibility Committee, in its prioritisation of barriers and creation of recommendations, is required to consult with relevant affected groups including the NZSL Board.

How is the Accessibility for New Zealanders Bill progressing?

- The Accessibility for New Zealanders Bill was introduced in July 2022 and is currently sitting with the Social Services and Communities Select Committee. Written and oral submissions have been received and the committee is due to report back to the House soon.
- Extensive feedback was provided on the Accessibility Bill, and I have heard that many from the disability community would like to see it go further. I am considering feedback on the Bill.

Will the Ministerial advisory group have a quota for representation?

- The NZSL Board is currently made up of mostly Deaf people, and all members must be fluent in NZSL. The intention is not to set up a quota, but to ensure that an NZSL statutory Ministerial advisory group has sufficient representation of those with a lived experience of being Deaf and has the attributes to reflect the diversity within the Deaf community.

Author: s9(2)(a) , Senior Policy Analyst, Disability Policy

Responsible manager: Sarah Palmer, Policy Manager, Disability Policy



Report

Date: 11 November 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Poto Williams, Minister for Disability Issues

Final policy proposals for amending the NZSL Act

Purpose of the report

- 1 To enable you to report back to Cabinet in December 2022 with final proposals on amending the New Zealand Sign Language Act 2006 (the NZSL Act) [SWC-22-MIN-0158 refers], this paper sets out:
 - key themes from the public consultation process on suggested amendments to the NZSL Act, based on submissions received up to 9 November 2022
 - final policy proposals for amending the NZSL Act for your agreement to form the basis of your upcoming Cabinet paper
 - additional policy work needed, subject to Cabinet's decisions, to amend the NZSL Act, including transferring the administration of the Act to Whaikaha – the Ministry of Disabled People.

Executive summary

- 2 The Ministry of Social Development (MSD) have worked in partnership with the New Zealand Sign Language (NZSL) team within Whaikaha, and the NZSL Board to develop proposals to amend the NZSL Act to better align with the principles of the NZSL Strategy.
- 3 Public consultation on suggested amendments to the NZSL Act began on 9 September 2022 – with a focus on ensuring the Deaf community had multiple ways to engage. We have received very positive feedback on the NZSL first approach to consultation.
- 4 The consultation phase ends on 11 November 2022. Feedback has been analysed as soon as it has been received. The themes from analysis presented in this paper represent feedback up to 9 November 2022. We will provide your office with an update should the remaining feedback change the balance of themes.

- 5 Feedback received to date indicates that the Deaf community strongly supports amending the NZSL Act to strengthen the strategic leadership of the Deaf community of NZSL.
- 6 We recommend that the NZSL Act is amended to:
- create a statutory entity
 - recognise Turi Māori identity by embedding Te Tiriti o Waitangi / Treaty of Waitangi
 - empower a statutory entity to monitor, and report on, the actions of government agencies that support the promotion, maintenance, and acquisition of NZSL
 - recognise the importance of acquisition as a language planning priority.
- 7 There are non-legislative measures that could be used to support the aspirations of the Deaf community instead of amending the NZSL Act. These include:
- amending the NZSL Board's terms of reference to ensure recognition of Turi Māori
 - directing officials to develop a mechanism to monitor government agencies actions to promote and maintain NZSL
 - making use of existing senior officials leadership roles to promote NZSL.
- 8 Both amending the NZSL Act and non-legislative approaches have resourcing implications for Whaikaha. Subject to your decisions, we would work with Whaikaha on providing you with additional advice about resourcing to deliver on your priorities.
- 9 We have provided Whaikaha with a copy of this report, and their feedback has been incorporated.

Recommended actions

It is recommended that you:

- 1 **note** that strengthening the mandate and resourcing of public leadership for the disability community is a 2020 Labour Party manifesto commitment
- 2 **note** that:
 - 2.1 the final policy proposals for amending the NZSL Act have been informed by feedback from the Deaf community during the public consultation process, and targeted engagement with key stakeholders
 - 2.2 there is strong support from the Deaf community to amend the NZSL Act to strengthen the strategic leadership of the Deaf community for the promotion, maintenance and acquisition of NZSL
- 3 **note** that acquisition and use/access are the two key language priorities of the NZSL Strategy due to the importance of Deaf and other NZSL users being able to fully learn and use NZSL in all domains of society

- 4 **note** that as public consultation ends on 11 November 2022, the themes in this paper do not include the final few days of feedback and officials will advise you if this feedback changes the balance of our advice

Strengthen the strategic leadership of the Deaf community to improve outcomes for Deaf people

- 5 **agree** that the NZSL Act is amended so that the NZSL Board becomes a statutory Ministerial advisory committee with its core functions being to:
- 5.1 provide oversight and strategic direction to support the promotion, maintenance, and acquisition of NZSL as a valued official language that is vital for the identity, culture and wellbeing of the Deaf community
 - 5.2 provide the Minister for Disability Issues with direct and independent advice on matters relating to NZSL
 - 5.3 set and monitor a national NZSL language strategy and/or action plan for the promotion, maintenance, and acquisition of NZSL
 - 5.4 monitor and report on government agencies' actions that contribute to the promotion, maintenance and acquisition of NZSL
 - 5.5 work towards the rights of Turi Māori under Te Tiriti o Waitangi

Agree / Disagree

- 6 **agree** that an amended NZSL Act will include a reference to a Terms of Reference that sets out the details of the NZSL statutory Ministerial advisory committee's functions

Agree / Disagree

- 7 **note** that a Terms of Reference for the NZSL statutory Ministerial advisory committee will build on the existing Terms of Reference of the NZSL Board

- 8 **agree** that a Terms of Reference for the NZSL statutory Ministerial advisory committee include that the core function of the entity is to:

- 8.1 ensure Turi Māori inclusion and participation in its work in a way that is empowering for Turi Māori
- 8.2 include the principles of Te Tiriti o Waitangi / Treaty of Waitangi in assessing NZSL Fund applications
- 8.3 use Te Ao Māori approaches in assessing progress on the national NZSL Strategy and/or action plan

Agree / Disagree

Principles to guide appointments to the NZSL statutory Ministerial advisory committee

- 9 **agree** that an amended NZSL Act would include high-level principles to guide the appointment of members to the NZSL statutory Ministerial advisory committee, including:

- 9.1 being a member of the Deaf community with strong links and connections within the community
- 9.2 have knowledge and understanding of Te Tiriti o Waitangi, Te Ao Māori, and tikanga Māori
- 9.3 demonstrate a commitment to support leadership of Turi Māori
- 9.4 have knowledge and understanding of the United Nations Convention on the Rights of Person's with Disabilities
- 9.5 awareness of language issues facing the Deaf community
- 9.6 that as an entity, the majority of members will be Deaf people

Agree / Disagree

10 **agree** that to better reflect Turi Māori, a Terms of Reference for the NZSL statutory Ministerial advisory committee also provide for:

- 10.1 a Māori member to become co-chair of the NZSL Statutory Group
- 10.2 delegating authority of decisions about taonga (under Article 2 of Te Tiriti o Waitangi) to Māori members of the NZSL Statutory Group
- 10.3 the establishment of sub-committees, for example to determine decisions about taonga

Create a monitoring framework to support the NZSL statutory Ministerial advisory committee carry out its core functions

11 **agree** that officials develop a monitoring framework to support the NZSL statutory Ministerial advisory committee carry out its core function to monitor and report on government agencies' actions that support the promotion, maintenance, and acquisition of NZSL

Agree / Disagree

12 **agree** that the NZSL statutory Ministerial advisory committee have a power to request information from government agencies to support it carry out its function, including monitoring the operation of the NZSL Act

Agree / Disagree

Dual identity of Turi Māori

13 **note** that during consultation Turi Māori expressed that their dual identity is important, but not often recognised by government agencies or their communities

14 **agree** to discuss how the dual identity of Turi Māori can be better supported with Hon Willie Jackson, Minister for Māori Development

Agree / Disagree

Additional advice will be provided, subject to yours and Cabinet's decisions

15 **note** that subject to decisions, MSD officials will provide you with advice on:

- 15.1 transferring administration of the NZSL Act to Whaikaha
- 15.2 resourcing implications for Whaikaha associated with strengthening strategic leadership by the Deaf community on NZSL
- 15.3 rescinding the Cabinet decision to establish the NZSL Board
- 15.4 developing a Terms of Reference for the NZSL statutory Ministerial advisory committee

Next steps

- 16 **note** that enable you to report back to Cabinet with final policy proposals in December 2022, officials will provide you with a draft Cabinet paper for Ministerial consultation on 18 November 2022.

Julia Bergman
General Manager
Disability, Seniors, and International Policy

Date

Hon Poto Williams
Minister for Disability Issues

Date

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Background

- 10 In November 2019, the then Minister for Disability Issues (Hon Carmel Sepuloni), asked the NZSL Board for advice on amending the NZSL Act to better align with the principles of NZSL Strategy 2018-2023 [REP/1911/1107 refers].
- 11 On 31 August 2022, Cabinet agreed to your proposal to undertake consultation with the Deaf community on suggested amendments to the NZSL Act. Cabinet also invited you to report back in December 2022 with final policy proposals on amending the NZSL Act [SWC-22-MIN-0158 refers].
- 12 A legislation bid for the NZSL Amendment Bill has been developed for the 2023 Legislation Programme. We have proposed that the NZSL Amendment Bill has priority Category 4 (to be referred to a select committee before the 2023 general election) to ensure we can meet your expectation of introducing an amendment Bill to the House mid-2023.

The final policy proposals are informed by public consultation, with a focus on the Deaf community

- 13 On 9 September 2022, you launched the consultation period on suggested amendments to the NZSL Act by inviting the Deaf community to share their views and expertise. Information about the consultation phase is in Appendix One.
- 14 The suggested amendments aim to strengthen a true partnership between the Deaf community, Turi Māori and the Government by:
 - the NZSL Board becoming a statutory Ministerial advisory group, with additional functions
 - creating a mechanism to monitor government agencies' actions in meeting their responsibilities under the NZSL Act
 - better reflecting Turi Māori.
- 15 Overall, the feedback from the Deaf community has been generally supportive of the direction of change.
- 16 Consultation will end on 18 November 2022. We have analysed feedback as soon as we received it. As the themes presented in this paper do not include feedback from the final days of consultation, we will update your office should the remaining feedback change the balance of themes.

Feedback received to date from the consultation has been supportive of the suggested amendments to the NZSL Act

- 17 In the feedback analysed to date, there is strong support for the following elements.
 - The overall intention for amending the NZSL Act, that is, to build a foundation to support the Deaf community have a stronger leadership role on matters relating to NZSL by creating a statutory entity.

- Creating a mechanism to monitor the operation of the NZSL Act, particularly government agencies' actions to promote and maintain NZSL, was also strongly supported. Some feedback suggested that the list of government agencies with responsibilities under the NZSL Act should be extended beyond the central government agencies, such as local government bodies.¹
- Ensuring that Turi Māori, and their whānau, are supported to identify how an amended NZSL Act could better reflect Te Tiriti o Waitangi / Treaty of Waitangi and the leadership aspirations of Turi Māori was strongly supported.

We also received feedback from the Deaf community on matters outside the scope of the consultation

- 18 We have received a large amount of feedback on issues relating to education for Deaf children, particularly their ability to learn and be educated in NZSL within mainstream education. Other issues relating to accessibility for Deaf people also featured strongly, with many people emphasising that a lack of access of information in NZSL limits their participation and inclusion in society, as well as their overall wellbeing.
- 19 We intend to publish a summary of the consultation feedback, along with the Cabinet decisions and proposed timeframes for introducing the NZSL Amendment Bill, on the NZSL Consultation webpage in early 2023.

Uplifting the mana of NZSL to support improved outcomes for Deaf people

The declining use of NZSL has significant impacts on the wellbeing of Deaf people

- 20 NZSL is fundamental for Deaf people to communicate and participate in our society. International research indicates that access to sign language is a strong predictor of positive wellbeing outcomes for Deaf people.²
- 21 NZSL is not a translation of English. It is a language unique to Aotearoa that continues to evolve. It is used by Turi Māori and Deaf Pacific Peoples as a

¹ The NZSL Act states government agencies (listed in Schedule 1, Part 1 of the Ombudsmen Act 1975) have responsibilities under the Act to be guided by principles in relation to consulting with the Deaf community and using NZSL in the promotion of government services and information - [Ombudsmen Act 1975 No 9 \(as at 06 October 2022\), Public Act Schedule 1 Public service agencies and organisations to which this Act applies – New Zealand Legislation](#). Whaikaha is listed in Schedule 1, Part 1 A of the Ombudsmen Act. Given the intention to transfer administration of the NZSL Act to Whaikaha, the current NZSL Act should be amended so as to include Whaikaha as an agency with responsibilities under the Act.

² Human Rights Commission (2013:76) A New Era in the Right to Sign: A report of the New Zealand Sign Language Inquiry.

primary form of communication. As a language, NZSL continues to evolve, incorporating Te Ao Māori concepts.

- 22 NZSL is a threatened language, and its use is declining.³ The reasons for the decline in use are complex and multi-faceted. Research suggests that traditional domains of NZSL use and transmission are shrinking, as most Deaf children who have cochlear implants acquire a primary spoken language, with limited exposure to NZSL.⁴ This creates a situation where the vitality of NZSL is threatened by declining user numbers and weakening conditions for intergenerational language transmission.
- 23 Article 21(e) of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) requires that State Parties shall take all appropriate measures to recognise and promote sign language to ensure Deaf and disabled people can exercise their human right 'to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice', including sign language.⁵
- 24 Due to the small size of the Deaf community as measured by Census data,⁶ we do not have enough disaggregated data on social wellbeing measures such as employment, income, health, educational attainment. In a 2021 report by members of the Deaf community, the lack of information about Deaf people was raised, along with a call for both a nationwide Deaf survey and 'deeper, accurate and up-to-date demographic statistics on Deaf people in New Zealand and their needs'.⁷
- 25 International and New Zealand based research demonstrates the role that Deaf culture and identity, based on a shared language, have on overall wellbeing. A Danish study illustrated that Deaf people who had a strong identify as Deaf, had significantly higher levels of psychological wellbeing than those with marginal identities (defined as not sharing an identify with either the Deaf or hearing community).⁸

³ McKee, R (2017) Assessing the vitality of New Zealand Sign Language. *Sign Language Studies*, 17(3): 322-362

⁴ Ibid:232. In addition, the lack of opportunities for Deaf children and young people to learn and be taught in NZSL, and the threat this poses to Deaf culture, emerged as a strong theme during consultation.

⁵ UNCRPD – www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-21-freedom-of-expression-and-opinion-and-access-to-information.html

⁶ Census 2001 - 28,000 NZSL users; Census 2006 - 24,000 NZSL users; Census 2018 - 23,000 NZSL users. NZSL users includes parents who use NZSL to communicate with their Deaf children and family members.

⁷ Coppage, R; Everitt, A; Greenwood, C; and Pivac, S (2021:7) *New Zealand Deaf Community: What do we want in a Post-COVID World? Working towards a stronger and kinder Deaf community NZ Deaf Community.*

⁸ Chapman, M and Dammeyer, J (2016) The significance of Deaf identity for psychological well-being, *Journal of Deaf Studies and Deaf Education* 22(2)

Strengthening the strategic leadership of the Deaf community for the promotion, maintenance, and acquisition of NZSL by amending the NZSL Act

- 26 To support the promotion, maintenance, and acquisition of NZSL as a fundamental component of Deaf culture in New Zealand (and human right for Deaf people), we propose building on the foundations the NZSL Act by:
- strengthening the public mandate and resourcing of the NZSL Board as strategic leaders of an official language
 - creating a framework to monitoring government agencies actions relating to the promotion, maintenance and acquisition of NZSL
 - recognising Turi Māori identity and leadership over their taonga.

Options for strengthening the strategic leadership of Deaf people

What we heard from public consultation:

- Leadership of NZSL should come from the Deaf community
- NZSL Board should have similar status in law to the Māori Language Commission
- An independent Commission of NZSL should be created
- An NZSL leadership group should be independent of Government

There was no support for status quo.

We recommend that the NZSL Board becomes a statutory Ministerial advisory group with additional functions and powers

- 27 The NZSL Board becomes a statutory Ministerial advisory group (NZSL Statutory Group), creating a true partnership between the Deaf community, Turi Māori and the Government. This partnership aligns with the Enabling Good Lives (EGL) approach, particularly in relation to the principles of mana enhancing and self-determination. Leadership by the Deaf community on issues relating to NZSL will support improved outcomes for Deaf people over time.
- 28 The NZSL Statutory Group will provide direct and independent advice to the Minister for Disability Issues on matters relating to NZSL, including monitoring the operation of the NZSL Act and advice on what is working well, and what needs to be improved.
- 29 Having the core role and functions of the NZSL Statutory Group set out in legislation will increase the profile and influence of NZSL and Deaf leadership, and reflect the partnership between the Deaf community, Turi Māori and the Government.
- 30 The core role and functions of the NZSL Statutory Group could include:
- providing oversight and strategic direction to support the promotion, maintenance, and acquisition of NZSL as a valued official language

We recommend high-level principles to guide appointments to the statutory Ministerial advisory group be included in the NZSL Act

- 35 The skills and expertise required of NZSL Board members, along with the appointment process is set out in a Terms of Reference. The original Terms of Reference were agreed by Cabinet in 2015 and later updated in 2020.
- 36 We recommend that an amended NZSL Act include a reference to a Terms of Reference (along with a webpage link for transparency), and that you seek agreement from Cabinet to delegate authority to the Minister for Disability Issues to appoint and dismiss members of the NZSL Statutory Group.
- 37 This delegated authority would be supported by setting out in legislation the collective skills and attributes required of the NZSL Statutory Group, such as:
- being a member of the Deaf community with strong links and connections within the community
 - have a demonstrated understanding of Te Tiriti o Waitangi / Treaty of Waitangi
 - a demonstrated understanding of the UNCRPD
 - wide knowledge of NZSL users and a critical awareness of language issues in the community
 - representation of Turi Māori.
- 38 We recommend this approach because we have heard from Turi Māori that Turi Māori should be strongly represented in NZSL leadership and provide independent advice that constitutes taonga.
- 39 We also recently engaged with Pacific disability support providers and community members, who suggested we create the space for Pacific Deaf people to take a leadership role once their capacity has been developed.

Creating a framework to monitor the actions of government agencies in the promotion, maintenance, and acquisition of NZSL and providing a power in the Act to request information from agencies

What we heard during public consultation

- strong support for monitoring and reporting on actions of government agencies
- the definition of government agencies should be expanded to include DHBs (old language) and Whaikaha
- monitoring government agencies' actions will improve accountability to the Deaf community
- monitoring government agencies' actions will support improved outcomes for Deaf people

- 40 A barrier to the promotion, maintenance, and acquisition of NZSL is that little is known about the actions of government agencies to meet their responsibilities under the NZSL Act. Currently, there is no consistent way of

identifying, recording, and reporting this information. This creates an information gap for understanding what works well, and what could be improved, to support improved outcomes for Deaf people.

- 41 The intent of establishing the NZSL Board in 2015 was in part to monitor government actions under the NZSL Act and advise Ministers on this.
- 42 The lack of a monitoring framework has constrained the Board's ability to carry out this function. The lack of a mechanism and leadership group to monitor the implementation of the NZSL Act was raised as a key issue to remedy by the Human Rights Commission inquiry into NZSL.⁹

We recommend the NZSL Statutory Group take a leadership role in monitoring and reporting on the operation of the NZSL Act

- 43 To remedy this, we recommend that the leadership role of the NZSL Statutory Group to monitor and report on the operation of the NZSL Act be set out in legislation as one of the group's core functions.
- 44 To support this function, a monitoring and reporting framework would be developed by the NZSL Board, in partnership with government agencies, before an amended NZSL Act comes into force. The framework will provide a consistent and transparent approach for government agencies to report on the actions they have taken in response to the NZSL Act.
- 45 The intention of the monitoring and reporting framework is to develop and to support agencies' improve their responsiveness to the Deaf community rather than a compliance mechanism.
- 46 The framework could be rolled out progressively beginning with key agencies such as the Ministries for Social Development, Education, Health, and Justice (agencies suggested during consultation). This would provide additional flexibility to adapt the framework to ensure that it provides the information needed and supports the change we want to see without creating a compliance burden on agencies.
- 47 The framework will contribute to meeting our reporting obligations under the UNCRPD as well as support the Accessibility Committee have better data and evidence about the barriers experienced by the Deaf community.

We recommend information sharing provisions are included in an amended NZSL to support the NZSL Statutory Group to carry out its monitoring and reporting functions

- 48 To support the NZSL Statutory Group carry out its function of monitoring and reporting on the operation of the NZSL Act, we propose that an amended NZSL Act would provide the statutory group with the power to request

⁹ Human Rights Commission (2023) *A New Era in the Right to Sign* [A-New-Era-in-the-Right-to-Sign-for-web.pdf](https://www.hrc.co.nz/publications/a-new-era-in-the-right-to-sign-for-web.pdf) (hrc.co.nz)

information from the government agencies identified as having responsibilities under the Act. This would be mirrored by legislation setting out the requirement for agencies to provide the information requested.

49 s9(2)(g)(i)

50 This would a strong signal to government agencies about their responsibilities under the NZSL Act and demonstrate to the Deaf community the commitment to getting a better understanding about what agencies are doing to support improved outcomes for Deaf people.

51 There is a risk that this would create compliance burden and costs for agencies that does not actively contribute towards a better understanding of how agencies actions support the promotion, maintenance, and acquisition of NZSL. Officials could expect mitigate this risk by working in partnership with key agencies to develop a monitoring mechanism that balances the information needs of the NZSL Statutory Group with resource constraints of government agencies.

52 The intent of the provision for government agencies to share information with the NZSL Statutory Group is to support them to provide robust, evidence-based advice to the Minister for Disability Issues and government agencies on actions to improve outcomes for Deaf people.

Recognising the mana of Turi Māori

53 Māori are more likely to be Deaf than other population groups and face poorer outcomes across a range of wellbeing measures. Turi Māori also have much lower access to Te Reo Māori and Te Ao Māori than hearing Māori, partially due to a lack of trilingual interpreters who can interpret between NZSL, Te Reo Māori and English.

54 During the targeted consultation with Turi Māori, we heard that:

- the NZSL Act should be reviewed to recognise the relationship between the Government and Māori by including references to Te Tiriti o Waitangi / Treaty of Waitangi in an amended Act

s9(2)(g)(i)

- the best way to address the poorer outcomes of Turi Māori is through Turi Māori leadership of NZSL, to ensure that the issues important to Turi Māori can be addressed with respect to Article Two of Te Tiriti o Waitangi.


55 An empowering approach was also favoured by the Treaty Provisions Oversight Group (TPOG) who advised on policy options to embed Te Titiri o Waitangi in the NZSL Act.

56 Therefore, the overall policy outcome proposed is that Turi Māori are empowered to lead on the implementation of Te Tiriti o Waitangi / Treaty of Waitangi for NZSL. This outcome can be achieved in the following three ways (each of these were suggested by Turi Māori in engagements):

- opportunities for Turi Māori leadership
- equity for Turi Māori
- recognition of Turi Māori identity.

We recommend that Turi Māori leadership is expressed through membership expectations on the NZSL Board and enabling future opportunities

57 s9(2)(g)(i)

A large section of text is redacted with grey bars, obscuring the content of paragraph 57.

58 We propose an integrated model that builds Turi Māori leadership over time. TPOG has advised that this model can achieve Te Tiriti o Waitangi / Treaty of Waitangi principles without dividing the Deaf community.

59 We recommend that the principles to guide appointments to the NZSL Statutory Group includes 'strong representation of Turi Māori' and that this be included in an amended Act.

60 In addition, the Terms of Reference for the NZSL Group would provide for:

- a Māori member to become co-chair of the NZSL Statutory Group in the future
- delegating authority of decisions about taonga (under Article 2, for example the integration of Te Ao Māori concepts into NZSL) to Māori members of the NZSL Statutory Group
- the establishment of sub-committees, for example to determine decisions about taonga.

Equity for Turi Māori can be supported through recognition of rights in the NZSL Act and Terms of Reference

- 61 To achieve good governance and the rights guaranteed by Te Tiriti o Waitangi / Treaty of Waitangi, inequalities experienced by Turi Māori must be addressed. Equal opportunities and outcomes will also contribute to capacity building and equal opportunities for future leadership.
- 62 To work towards equity for Turi Māori, we recommend that one of the core functions of the NZSL Statutory Group is to advance the rights of Turi Māori under Te Tiriti o Waitangi, and that this is reflected in an amended NZSL Act.
- 63 This function is already implied in the NZSL Board's Terms of Reference. Drawing out Te Tiriti o Waitangi / Treaty of Waitangi specifically and embedding it in an amended NZSL Act will demonstrate the Government's commitment to the rights of Turi Māori.
- 64 In addition, we recommend that the Terms of Reference specify that as part of its strategic leadership role, the NZSL Statutory Group will:
- ensure Turi Māori inclusion and participation in its work in a way that is empowering for Turi Māori
 - include the principles of Te Tiriti o Waitangi / Treaty of Waitangi in their assessment of NZSL Fund applications
 - use Te Ao Māori approaches in its assessments of the Government's progress in implementing the NZSL Strategy and monitor the impact of policies on equity.

Recognition of Turi Māori identity could be achieved in a range of ways

- 65 Many Turi Māori have expressed that their dual identity is important, but not often recognised by government agencies or their communities. Recognition of the importance of the Turi Māori identity is a step towards ensuring their place in leadership and achieving better outcomes for Turi Māori.

66 s9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

67 s9(2)(f)(iv)

[Redacted]

s9(2)(f)(iv)

68 s9(2)(g)(i)

Non-legislative measures could be used rather than amend the NZSL Act

There are non-legislative measures to improve outcomes for Deaf people

69 There are opportunities to support promotion, maintenance, and acquisition of NZSL as a fundamental component of Deaf culture in Aotearoa without amending the NZSL Act.

70 The establishment of Whaikaha provides an opportunity for the Chief Executive, with their cross-government leadership role on disability issues, to:

- actively promote both the priorities of the NZSL Board in relation to the NZSL Strategy, and agencies responsibilities under the NZSL Act
- encourage agencies to work more closely with the NZSL Board to improve outcomes for the Deaf community.

71 For this, Whaikaha would need to develop a new monitoring and reporting framework (in partnership with NZSL Board and government agencies). The framework would provide a consistent and transparent mechanism for government agencies with responsibilities under the NZSL Act to report on the actions they are taking, which would support assessing the effectiveness of these actions in relation to the promotion, maintenance, and acquisition of NZSL.

72 A framework would also provide Whaikaha and the NZSL Board with evidence to better carry out its function of providing advice to the Minister for Disability Issues on matters relating to NZSL, assess the vitality of NZSL as an official language, and inform the development of future NZSL language strategies.

73 The advantage of this option is that it creates mechanism to reinforce what should be happening. You could write a letter to the Chief Executive of Whaikaha that sets out your expectations about reporting on the actions taken and how progress would be measured.

74 The NZSL Board's Terms of Reference could be amended to clarify its leadership role and provide additional resources for it to carry out this function.

75 However, there are some significant disadvantages of this option.

- The current work programme for Whaikaha is already ambitious, as such, implementing this option would take significant time as other priorities take precedence. s9(2)(g)(i)
- The mandate for public leadership is not strengthened because it only reinforces the existing expectations on government agencies under the NZSL Act.
- Whaikaha is not one of the government agencies with responsibilities under the current Act, and while this could be addressed, it highlights that some significant changes have been made to the Government's approach to disability that are not reflected in the current Act.¹¹
- The current NZSL Act does not mention acquisition, which is a vital component to in the promotion and maintenance of NZSL (the stated purpose of the Act).
- It is unlikely to address the concerns of the Deaf community about the declining acquisition of NZSL, the vitality of the language and survival of Deaf culture.

There are non-legislative options for improvement monitoring and information about the effectiveness of actions for the promotion, maintenance and acquisition of NZSL

- 76 Obtaining better data about government agencies' activities to ensure the promotion, maintenance, and acquisition of NZSL could be achieved by using existing leadership systems with the public sector.
- 77 Officials could develop a monitoring and reporting framework, in partnership with the NZSL Board, that is first tested with key government agencies, and the number of agencies involved would evolve over time.
- 78 In terms of creating momentum to support the promotion, maintenance, and acquisition of a threatened official language, this may not be strong enough as government agencies have had responsibilities under the NZSL Act since 2006, and then responsibilities are not enforceable.

Consultation on the final policy proposals

- 79 On 7 November 2022, we provided the NZSL Board with an earlier draft of this report and met with them on 9 November 2022 to discuss their feedback on the final policy proposals to amend the NZSL Act.

¹¹ Subject to your and Cabinet's decisions, we would work with the Parliamentary Counsel on the most appropriate way to include Whaikaha as one of the agencies with responsibilities under the Act.

80 18(d)

81 We have also committed to provide the NZSL Board with a comprehensive report on feedback received during the consultation process in early 2023. The NZSL Board are interested in the feedback to inform their future work priorities.

82 We intend to consult with the Disabled People's Organisations (DPO) Coalition, and specifically Deaf Aotearoa, on the final policy proposals, by sharing, in confidence, a draft Cabinet paper on 21 November 2022. This means consultation with the DPO Coalition will be shorter than the usual two-week timeframe that is best practice for seeking their feedback.

83 This shortened timeframe may cause concern that the DPO Coalition have not been given enough time to provide feedback. To mitigate this concern, we have signalled to the DPO Coalition and the Deaf Aotearoa Executive Board the shortened timeframe of eight working days.

84 We have also engaged with Te Kawa Mataaho – Public Service Commission on final policy proposals to amend the NZSL Act. Their view is that the outcomes we are seeking to achieve could be addressed through non-legislative measures, such as by seeking Cabinet agreement to a framework for monitoring government activity under the NZSL Act, and/or having Whaikaha use their system leadership role to raise the visibility of the NZSL Board and the NZSL Strategy.

Subject to decisions, we will provide you with advice on the following

Transferring administration of the NZSL Act to Whaikaha

85 Currently the NZSL Act is administered by the Ministry of Social Development (MSD), and the Minister responsible for the Act is the Minister for Disability Issues. The NZSL Board are supported by a secretariat within the NZSL Team of Whaikaha.

86 During the establishment phase for Whaikaha, MSD agreed to retain policy responsibility for providing advice on amending the NZSL Act, and then administration of the Act would be transferred to Whaikaha.

87 We will provide you with additional advice on the timing to transfer administration of the NZSL Act to Whaikaha in early 2023.

The resourcing implications associated with supporting Deaf leadership

88 Whether or not a monitoring mechanism is set out in legislation, we have identified that there is a need for more robust data and information about the action's government agencies are undertaking to support the promotion, maintenance, and acquisition of NZSL.

89 s9(2)(f)(iv)

90 We will also provide you with advice on whether any changes to appropriations are needed to give effect to your decisions.

Implementation

91 We would also provide you with advice on how to implement decisions in relation to transitioning the NZSL Board into the NZSL Statutory Group. This will include advice on the timeframe for rescinding the Cabinet decision to establish the NZSL Board and developing a Terms of Reference for the NZSL Statutory Group.

92 We intend to use the existing NZSL Board's Terms of Reference the basis for the new Terms of Reference for the NZSL Statutory Group. This will be undertaken in partnership with the NZSL Board and will provide a mechanism to support and strengthen Turi Māori leadership.

Next steps

93 MSD officials are available to discuss your feedback on the final policy proposals to amend the NZSL Act.

94 To enable you to report back to Cabinet on these matters in December 2022, we will provide you with a draft Cabinet paper for Ministerial consultation on 18 November 2022. We signalled in the Weekly Report ending 28 October 2022 that to have the paper considered by Cabinet Social Wellbeing Committee on 14 December 2022, the Ministerial consultation phase will need to be shorter than that 10 working days. We would provide you with the final Cabinet paper on 6 December 2022 seeking agreement to lodge the paper by 8 December 2022.

File ref: REP/22/11/1053

Author: s9(2)(a), Senior Policy Analyst, Disability Policy

Responsible manager: Sarah Palmer, Acting Policy Manager, Disability Policy

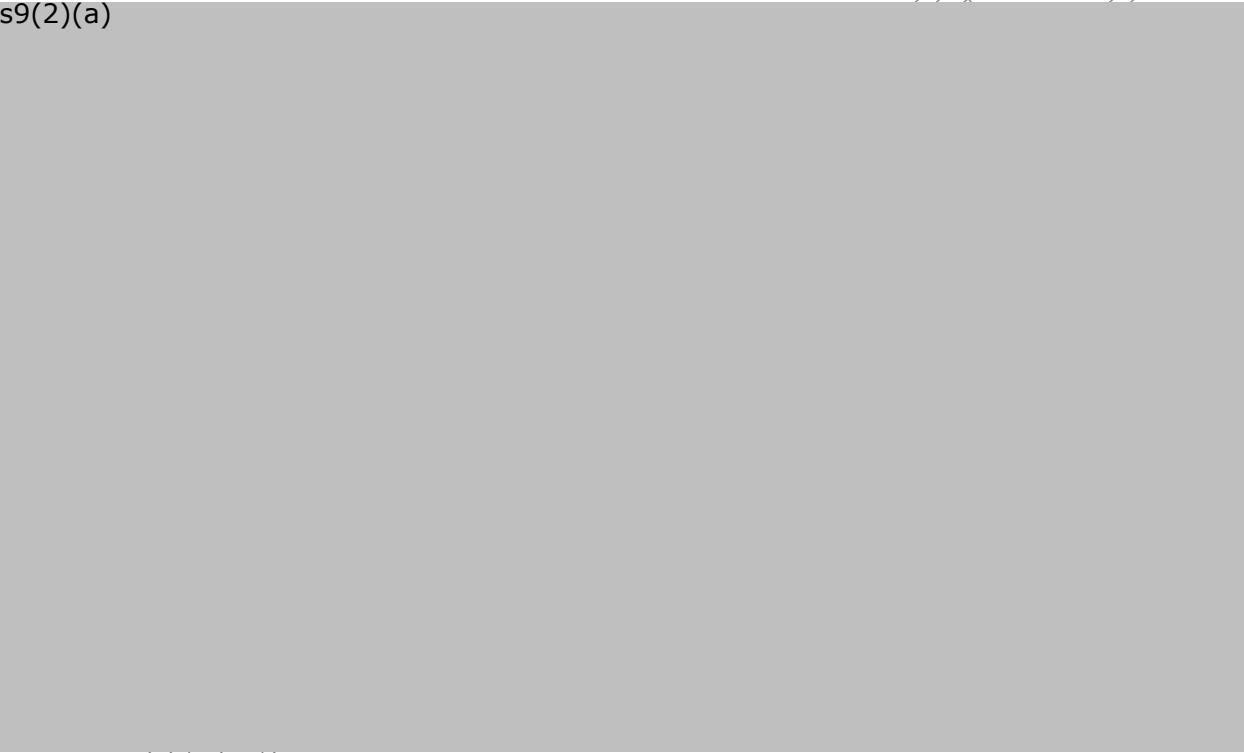
Appendix 1: Overview of consultation on suggested amendments to the NZSL Act

Overview of the consultation phase

- 1 An NZSL first approach was taken to consultation, which meant that in-person meetings, information, and ways to provide feedback, ensured that Deaf people and NZSL users could fully participate in NZSL. People also had the opportunity to make an NZSL submission via video.¹²

Table 1: Forms of engagement, and number of attendees or submissions during consultation phase (9 Sep – 11 Nov 2022)

s9(2)(a)



- 2 The Deaf community is small and diverse, and some members are difficult to reach and engage with. We wanted to ensure that the diverse range of views and experiences of the Deaf community were able to engage in the consultation process.
- 3 To address this, we contacted key groups inviting them to provide us with a submission, and/or to meet with us to discuss the proposals and their feedback. Unfortunately, we did not get a response from the following groups: Ko Taku Reo; Tu Tangata Turi; Ngati Turi; and the NZSL Teachers' Association.¹³

¹² We contracted SeeFlow to create the NZSL submission process. This allowed people to record a video in NZSL with their feedback. SeeFlow provided MSD with a transcript of the video.

¹³ However, we may have received feedback from individual members of these groups.

- 4 We also offered to meet with the Deaf Aotearoa Executive Board to hear their feedback on the proposals.
- 5 Our approach to consultation was positively received. Deaf people commented that they appreciated being able to share their views in NZSL, the time to discuss the suggested amendments, having information in NZSL, as well as the opportunity to meet in-person with others from the Deaf community.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



Report

Date: 8 February 2023

**Security
Level:**

s9(2)(f)(iv)

To: Hon Priyanca Radhakrishnan, Minister for Disability Issues

The future of the Accessibility for New Zealanders Bill and amendments to the New Zealand Sign Language Act 2006

Purpose of the report

- 1 This report seeks decisions from you on progressing the Accessibility for New Zealanders Bill and the proposed amendments to the New Zealand Sign Language Act 2006.

Executive summary

- 2 Although the work to introduce the Accessibility for New Zealanders Bill (the Bill) and amend the New Zealand Sign Language Act 2006 (the NZSL Act) falls under the Disability Issues portfolio, the Ministry of Social Development (MSD) continues to lead the work and administers the NZSL Act.

The Accessibility for New Zealanders Bill

- 3 The Bill was introduced to address systemic accessibility barriers and aims to do so by establishing a Ministerial advisory committee. The Bill has been referred to the Social Services and Community Select Committee (the Committee) for consideration, who have been receiving and hearing submissions on the Bill.

4 s9(2)(f)(iv)

- 5 Your decision is required on progressing this work. Your options are to:

- s9(2)(f)(iv)

- s9(2)(f)(iv)

- s9(2)(f)(iv)

- 6 s9(2)(f)(iv) [redacted]
[redacted]
- 7 s9(2)(f)(iv) [redacted]
[redacted]
[redacted]
- 8 s9(2)(f)(iv) [redacted]
[redacted]
[redacted]
[redacted]
- 9 Initial analysis of the submissions received through the Select Committee process indicate that the Bill is not broadly supported in its current form. However, there is public expectation that accessibility legislation will be enacted, and s9(2)(f)(iv) [redacted]
[redacted]
- 10 s9(2)(f)(iv) [redacted], MSD and Whaikaha officials will provide you with further advice on next steps and we recommend you update Cabinet on this decision.
- 11 s9(2)(f)(iv) [redacted]
[redacted]
[redacted]

Amendments to the NZSL Act

- 12 The NZSL Act aims to promote and maintain the use of NZSL but, despite the Act, the use of NZSL is declining. This represents a significant threat to Deaf people's identity and wellbeing.
- 13 MSD officials have drafted a paper seeking Cabinet's agreement to amend the NZSL Act to strengthen the public mandate and leadership of NZSL. In November 2022, MSD provided the then Minister for Disability Issues' Office with a final draft of a Cabinet paper, with the intention of it being considered by the Social Wellbeing Committee on 14 December 2022. Due to competing priorities, the Prime Minister's Office were unable to provide comments on the Cabinet paper until after the deadline to lodge the paper.
- 14 Your decision is required on progressing this work. Your options are:
- to present a Cabinet paper (attached as Appendix 4) to the Cabinet Social Wellbeing Committee (SWC) on 22 February 2023, with the aim of introducing the NZSL Amendment Bill into the House in June 2023
 - to seek Cabinet's agreement to amend the NZSL Act later in 2023
 - not to progress amendments the NZSL Act at this time.
- 15 We recommend that you present a Cabinet paper to SWC on 22 February 2023 due to its alignment with the previous Minister for Disability Issues' 2023 legislation priorities and community interest.

- 16 Progressing with the proposed amendments at a later date risks that a Bill to amend the NZSL Act would not be introduced into the House before Parliament rises.
- 17 Not progressing the proposals to amend the NZSL Act risks the trust and goodwill established with the Deaf community through consultation, particularly as a previous review of the NZSL Act has resulted in no changes.
- 18 The NZSL Board are supportive of the proposed amendments and there was no support for the status quo (i.e. not amending the NZSL Act) during the consultation period. However, the Disabled Peoples Organisations (DPO) Coalition do not support the proposed amendments as their view is that the scope of the proposed amendments and therefore the engagement was too narrow. The DPO Coalition also believes that there should have been a first principles review for it to have real effect on the Deaf community.
- 19 We recommend that you proceed with the proposed amendments to the NZSL Act. If you choose to delay or stop the work on amending the NZSL Act, further advice will be provided to you on the process and timeframes for transferring the administration of the NZSL Act to Whaikaha.

Recommended actions

It is recommended that you:

The Accessibility for New Zealanders Bill (the Bill)

- 1 **note** that introducing an Accessibility for New Zealanders Act is a 2020 Labour manifesto commitment

2 s9(2)(f)(iv) [Redacted]

3 s9(2)(f)(iv) [Redacted]

4 **agree to**
 4.1 s9(2)(f)(iv) [Redacted]

Agree / Disagree

or

4.2 s9(2)(f)(iv) [Redacted]

Agree / Disagree

or

4.3 s9(2)(f)(iv) [Redacted]

Agree / Disagree

- 5 **agree**, if you agree to recommendations 4.2 or 4.3, to inform Cabinet of this decision

Agree / Disagree

6 s9(2)(f)(iv) [Redacted]

Amendments to the New Zealand Sign Language Act 2006 (the NZSL Act)

7 **note** that MSD received confirmation from Minister Williams’s office of the intention to take a Cabinet paper to the Social Wellbeing Committee in February 2023 to progress amendments to the NZSL Act

8 **agree:**

8.1 **(recommended)** to lodge the Cabinet paper on Thursday 16 February 2023 and present it to SWC on Wednesday 22 February 2023

Agree / Disagree

or

8.2 to amend the NZSL Act later in 2023

Agree / Disagree

or

8.3 (not recommended) not to amend the NZSL Act

Agree / Disagree

9 **note** that Cabinet agreement is needed in February for a Bill to be prepared and introduced to the House by July this year

10 **note** that officials will provide you with advice on the process and timeframes for transferring the administration of the NZSL Act to Whaikaha should you choose to delay or stop the work on amending the NZSL Act.

Julia Bergman
General Manager
International, Disability, and Generational
Policy

Date

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

MSD is leading work to introduce the Accessibility for New Zealanders Bill and amend the New Zealand Sign Language Act 2006

- 20 Although the work to introduce the Accessibility for New Zealanders Bill (the Bill) and amend the New Zealand Sign Language Act 2006 (the NZSL Act) falls under the Disability Issues portfolio, MSD leads this work and administers the NZSL Act.
- 21 This decision was made to enable Whaikaha – Ministry of Disabled People (Whaikaha) to achieve greater impact as a newly established Ministry.
- 22 These pieces of legislation will transfer to Whaikaha, but the timing of the transfer will be affected by your prioritisation of the work as discussed below.

The Accessibility for New Zealanders Bill was introduced to address systemic accessibility barriers

- 23 Historically, New Zealand's built environments, information platforms, and many other key features of civil society have been developed with little regard for disabled people's access needs or participation in their communities. This has resulted in long standing and systemic accessibility barriers and slow progress to improve them.
- 24 Policy work, including consultation with the disability community, over a number of years considered different options for improving accessibility at a system level. A legislative framework was seen as the best option.
- 25 In 2020, the Labour manifesto committed to "introducing an Accessibility for New Zealanders Act to help New Zealand to become more welcoming and accessible for disabled people and other New Zealanders with accessibility needs".
- 26 In October 2021, Cabinet agreed to introduce a new legislative framework and system that takes a progressive approach to identifying, preventing, and removing barriers to participation for disabled people, tāngata whaikaha Māori and others with accessibility needs via the establishment of a Ministerial advisory committee [SWC/21/MIN/0145 refers].
- 27 In March 2022, Cabinet agreed that Whaikaha will be responsible for accessibility legislation once enacted, and that MSD will continue to lead work on accessibility legislation in the interim [CAB/22/MIN/0104 refers].
- 28 In its current form, the Bill establishes a new ministerial advisory committee (the Accessibility Committee) comprised of six to eight people to provide recommendations to the responsible Minister on how to address accessibility barriers and grow accessibility practices across New Zealand. It also establishes new functions for the Minister and the Chief Executive of the ministry who is responsible for the administration of the Act (intended to be Whaikaha).

29 The Bill was introduced to the House on 28 July 2022 and passed its first reading on 2 August 2022. Select Committee is due to report back to the House on the Bill by 16 May 2023. More information is provided on the Bill and submissions in Appendix 1.

The NZSL Act aims to promote and maintain the use of New Zealand Sign Language (NZSL), but its use is declining

30 The NZSL Act aims to promote and maintain the use of NZSL by:

- making NZSL an official language in New Zealand
- providing for the use of NZSL in legal proceedings
- empowering the making of regulations setting competency standards for the interpretation in legal proceedings of NZSL
- stating principles to guide government departments in the promotion and use of NZSL.

31 Despite the NZSL Act, the use of NZSL is declining, which represents a significant threat to Deaf people's identity and wellbeing.

32 In December 2020, the Minister for Disability Issues agreed in principle to a review of the NZSL Act, with an initial report back on policy proposals by early 2022 [REP/20/9/1002 refers].

33 In April 2022, MSD officials provided the Minister for Disability Issues with initial policy proposals to amend the NZSL Act. The key decisions the Minister made were:

- the approach to amending the NZSL Act would take a partnership approach with the Deaf Community to lead the promotion, maintenance, and acquisition of NZSL
- officials would undertake targeted engagement with Turi Māori to develop an approach to engage with Turi Māori and their whānau on how the NZSL Act could better reflect their aspirations
- to take a Cabinet paper to the Social Wellbeing Cabinet Committee (SWC), that outlines the proposals to amend the NZSL and to consult with the Deaf community on these proposals [REP/22/4/310 refers].

34 Following consultation with the Deaf community, MSD has drafted a paper seeking Cabinet's agreement to amend the NZSL Act to:

- establish a statutory Ministerial advisory group with additional functions and powers for the NZSL Board
- recognise Turi Māori identity and leadership over their taonga
- support a framework to monitor government agencies actions relating to the promotion, maintenance, and acquisition of NZSL to improve outcomes for Deaf people.

35 More information is provided on the background of the proposed amendments to the NZSL Act in Appendix 2. Additional information on key stakeholders' feedback to the proposed amendments is provided in Appendix 3.

Your decisions are required on whether, when and how this work should progress

The Accessibility Bill s9(2)(f)(iv) [REDACTED]

36 The Bill has been referred to the Social Services and Community Select Committee (the Committee) for consideration, who have been receiving and hearing submissions on the Bill. Over 500 submissions were received between 14 August 2022 and 7 November 2022, which are currently being analysed.

37 Officials are preparing a departmental report for the Select Committee. This will include discussion of a range of recommendations that were received as part of the submissions process as well as advice on technical and policy changes to the Bill. Recommendations and any policy changes that require Cabinet agreement will be discussed with you prior to the finalisation of the departmental report (currently due in March). Officials will work with your office to discuss timeframes surrounding the recommendations and draft departmental report.

38 s9(2)(f)(iv) [REDACTED]

- s9(2)(f)(iv) [REDACTED]

- s9(2)(f)(iv) [REDACTED]

39 s9(2)(f)(iv) [REDACTED]

40 s9(2)(f)(iv) [REDACTED]

- s9(2)(f)(iv) [REDACTED]

- s9(2)(f)(iv) [REDACTED]

- s9(2)(f)(iv) [REDACTED]

41 s9(2)(f)(iv) [REDACTED]

A Cabinet decision is needed to amend the NZSL Act

42 In November 2022, MSD provided Minister Williams' Office with a final draft of a Cabinet paper, with the intention of it being considered by SWC on 14 December 2022. This Cabinet paper is attached as Appendix 4. Departmental and Ministerial consultation have already taken place.

43 In November 2022, the Minister for Disability Issues received advice on her disability portfolio priorities for the 2023 legislative programme. The Bill to amend the NZSL Act was ranked three out of four and given a proposed legislative priority of Category 4 (to be referred to Select Committee in 2023) [REP/22/11/1098 refers].

44 Due to competing priorities, the Prime Minister's Office (PMO) were unable to provide comments on the paper until after the deadline to lodge the paper. However, officials were able to incorporate the feedback from PMO, and received confirmation from Minister Williams' office of the intention to take the paper to SWC in February 2023.

45 Your decisions are required on when, or if, a Cabinet paper should be taken to a SWC meeting in order to progress this work.

s9(2)(f)(iv) [Redacted]

s9(2)(f)(iv) [Redacted]

46 s9(2)(f)(iv) [Redacted]

s9(2)(f)(iv) [Redacted]

47 s9(2)(f)(iv) [Redacted]

48 s9(2)(f)(iv) [Redacted]

49 s9(2)(f)(iv) [Redacted]

s9(2)(f)(iv) [Redacted]

50 s9(2)(f)(iv) [Redacted]

51 s9(2)(f)(iv) [Redacted]

52 s9(2)(f)(iv) [Redacted]

53 s9(2)(f)(iv) [Redacted]

54 s9(2)(f)(iv) [Redacted]

- 55 s9(2)(f)(iv) [Redacted]
- s9(2)(f)(iv) [Redacted]
 - s9(2)(f)(iv) [Redacted]
 - s9(2)(f)(iv) [Redacted]

56 s9(2)(f)(iv) [Redacted]

57 While initial analysis of the submissions received by Select Committee indicates that the Bill is not widely supported in its current state, legislation governing accessibility in general is supported and introducing the Bill would be a significant first step.

58 s9(2)(f)(iv) [Redacted]

59 s9(2)(f)(iv) [Redacted]

s9(2)(f)(iv)

60 s9(2)(f)(iv)

61 s9(2)(f)(iv)

62 s9(2)(f)(iv)

There are two options to progress the amendments to the NZSL Act

63 We recommend you progress amendments the NZSL Act. You have the options of taking a Cabinet paper to SWC in February 2023 or proceeding with the proposals at a later date. Alternatively, you could decide not to amend the NZSL Act at this time.

The NZSL Board support the proposed amendments, but the Disabled Peoples Organisations (DPO) Coalition¹ does not

64 The proposed amendments to the NZSL Act were developed in partnership with the NZSL Board and the NZSL team within Whaikaha and consulted on with the Deaf community.

65 The NZSL Board support the proposals, acknowledging that while the amendments cannot address all the issues faced by the Deaf community, they intend to use the feedback heard through consultation to shape their future work programme and conversations with government agencies.

66 The DPO Coalition and Deaf Aotearoa, a member of the DPO Coalition, were engaged with throughout the process of developing the policy options to amend the NZSL Act, the approach for consulting with the wider Deaf community, and on drafts of the final policy proposals.

67 It is important to note that the DPO Coalition do not support the proposed amendments. Their view is that the scope of the amendments and therefore the engagement was too narrow, that there should have been a first principles review, and that the proposed amendments will not address the

¹ The DPO Coalition is a group of disabled people-led organisations that are mandated under Article 4.3 of the UNCRPD which promotes active involvement by government agencies with representative organisations of disabled people.

significant issues faced by the Deaf community (such as access and the interpreter workforce). More information on this is provided in Appendix 3.

- 68 There was no support for the status quo (ie not amending the NZSL Act) from consultation. There was broad acceptance that the amendments would build on the progress already achieved in the maintenance and promotion of NZSL, even if they fulfil all of the community's aspirations and concerns. Further information about this is provided in Appendix 3.

We recommend that you present a Cabinet paper to SWC on 15 February 2023.

- 69 We recommend that you take a Cabinet paper to SWC on 15 February 2023 seeking agreement on the final policy proposals to amend the NZSL Act and inviting you to send drafting instructions to Parliamentary Counsel Office (PCO). This would enable you to introduce an NZSL Amendment Bill into the House in July 2023.
- 70 While the timeframes to achieve this are tight, delaying Cabinet's agreement means that it is unlikely that a Bill to amend the NZSL Act could be introduced to the House before Parliament is dissolved on 8 September 2023.
- 71 Seeking Cabinet's agreement in February 2023 aligns with the previous Minister for Disability Issues' 2023 legislation priorities for the disability portfolio (third priority with a Category 4, to be referred to Select Committee before the 2023 election).
- 72 There is also a significant amount of interest in the review to amend the NZSL Act from the Deaf community, and we have received requests from members of the Deaf community for updates on the work. During the consultation period, the Deaf community were advised of the Minister for Disability Issues' intent of seeking agreement from Cabinet in December 2022.
- 73 The final draft of the Cabinet paper that we recommend you take to SWC on 15 February is attached as Appendix 4. Should you agree to this, officials will provide you with an Aide-Memoire to support your discussion at SWC.

You may also choose to proceed with the proposals at a later date

- 74 There is also the option to proceed with the proposed amendments to the NZSL Act later in 2023. However, it is probable that a Bill to amend the NZSL Act would not be introduced into the House before Parliament rises if seeking agreement from SWC is delayed.
- 75 Additionally, this would further delay providing the Deaf community with information about the outcome of the consultation that ended in November 2022, which may negatively impact relationships with the Deaf community.

You may choose not to progress this work, but this risks the trust of the Deaf community

- 76 The third option is not to proceed with the proposals to amend the NZSL Act.

- 77 A significant disadvantage of this option is that it could risk the trust and good will built up with the Deaf community. A previous review of the NZSL Act resulted in no changes to the Act. If these amendments are not progressed, this would mean that two separate reviews of the NZSL Act have resulted in no changes being made, despite the Deaf community's desire for change and involvement in consultation.
- 78 If you choose to stop the work on amending the NZSL Act, we will provide you with further advice, particularly in relation to communicating this to the Deaf community.

Officials will provide you with further advice if you choose to delay or halt progress on the NZSL Act

- 79 When the NZSL Act came into force in 2006, the Office for Disability Issues (ODI) was part of MSD. ODI are now part of Whaikaha and support the NZSL Board and NZSL work programme, including the NZSL Strategy.
- 80 The final policy proposals to amend the NZSL Act signal the intention to transfer the administration of the NZSL Act to Whaikaha when an amended NZSL Act comes into force.
- 81 If you choose to delay or stop the work on amending the NZSL Act, further advice will be provided to you on the process and timeframes for transferring the administration of the NZSL Act to Whaikaha.

Next steps

- 82 s9(2)(f)(iv) [REDACTED]
- 83 s9(2)(f)(iv) [REDACTED]
- 84 Should you agree to progress the amendments to the NZSL Act, we recommend you take the Cabinet paper to SWC on 15 February 2023. Officials will provide you with an Aide-Memoire to support you at this discussion.
- 85 Officials are available to meet with you to discuss this advice.

File ref: REP/23/2/037

Author: s9(2)(a) [REDACTED], Policy Analyst, Disability Policy

Responsible manager: Sarah Palmer, Acting Policy Manager, Disability Policy

Appendix 1 - Information on the Accessibility for New Zealanders Bill (the Bill) and submissions

- 1 At present, efforts to address accessibility barriers are fragmented across the public service and are overly reliant on individual agencies to identify and appropriately prioritise their removal. This issue is driven by a lack of clear government leadership on systemic cross-agency accessibility issues (ie there is no government agency responsible for improving accessibility).
- 2 There is also a lack of awareness of the importance of accessibility across society and limited avenues for disabled people, tāngata whaikaha Māori and their families or whānau, and others with accessibility needs, to shape policy on accessibility issues.
- 3 A legislative framework was seen as the best option to address these barriers after consultation with the disability sector, and in 2020, the Labour manifesto committed to “introducing an Accessibility for New Zealanders Act to help New Zealand to become more welcoming and accessible for disabled people and other New Zealanders with accessibility needs”.
- 4 The disability community and other interested groups of officials that were consulted on the detailed design of the framework said that it needs to take a broad, aspirational view of accessibility and a holistic approach to addressing accessibility barriers.
- 5 To recognise this, the Bill includes an aspirational purpose statement and defines accessibility broadly to recognise that it means different things to different people, depending on their sector and personal experiences.
- 6 It defines accessibility within the context of accessibility barriers (obstacles and circumstances which stop people from living independently and participating equally) and accessibility practices (actions, measures, modifications, or adjustments that enable people to live independently and participate fully on an equal basis with others).

The functions of the Bill

- 7 The Bill establishes a new legislative framework that aims to create a consistent way of addressing systemic accessibility barriers that prevent disabled people, tāngata whaikaha Māori and their families or whānau, and others with accessibility needs from living independently and participating in all areas of life, and to grow accessibility practices across New Zealand.
- 8 To this end, the Bill:
 - establishes a Ministerial Committee known as the ‘Accessibility Committee’ led by disabled people, tāngata whaikaha Māori and their families or whānau to provide independent recommendations to the Minister for Disability Issues on how to address accessibility barriers and grow

accessibility practices across New Zealand in consultation with affected sectors and interested parties

- strengthens government accountability by creating strong, clear responsibilities for the Minister for Disability Issues, Chief Executive of Whaikaha – Ministry of Disabled People (Whaikaha), and the Accessibility Committee
 - builds knowledge and awareness of the importance of addressing accessibility barriers and growing accessibility practices across New Zealand.
- 9 The Bill creates a new leadership structure that carefully balances a level of independence with being able to work constructively with government. It provides independence through the establishment of a ministerial advisory committee (the Accessibility Committee), led by disabled people and tāngata whaikaha Māori and their families or whānau, focused on making recommendations to the Minister for Disability Issues on how to address accessibility barriers and grow accessibility practices.
- 10 This is complemented by responsibilities of the Chief Executive of Whaikaha² and the Minister for Disability Issues, whose oversight and support are needed for the framework to succeed. The framework provides for collective co-ordination across government and a clear methodology to ensure accessibility barriers are, over time, systematically identified, removed, and prevented.
- 11 The Bill provides for commencement by Order in Council with a backstop date of 1 July 2024. The flexibility in commencement date is to allow time for Whaikaha to develop a plan to implement the framework the Bill creates.
- 12 The Bill is currently at the Select Committee stage, and over 500 submissions were received between 14 August 2022 and 7 November 2022. Initial analysis of the Select Committee submissions indicates that while accessibility legislation is broadly supported, the Bill in its current form is not, mainly because it does not contain enforceable standards. Officials are preparing a departmental report, including any potential recommended policy changes as a result of the submissions, to be presented to Select Committee. Officials will provide you with a copy of this report and indicate any recommended Cabinet decisions prior to presenting it to Select Committee.

² The current draft of the Bill refers to 'Ministry for Disabled People' as this is the current legal name as set out in the Public Service (Ministry for Disabled People) Order 2022. It will be updated if/when the legal name is updated to reflect the public name of Whaikaha – Ministry of Disabled People.

Submissions on the Bill

13 Over 500 submissions on the Bill were received between 14 August 2022 and 7 November 2022, which are currently being analysed by officials.

14 Initial analysis reveals:

- Most submitters were in favour of legislation that accelerates accessibility.
- Approximately 75% of submitters seek a different framework. Some of the remaining submitters recommend that the bill is withdrawn and redrafted but do not recommend a particular replacement framework.
- Approximately 20% of submissions include recommendations that officials consider to be within scope.
- Officials have categorised recommendations considered to be within scope into eight different themes. These are (in order of frequency):
 - timeframes
 - definitions
 - object and principles
 - powers of the Accessibility Committee,
 - the Minister and the CE
 - composition of the Accessibility Committee and the nomination process
 - Te Tiriti and Māori representation
 - wider government
 - the Accessibility Committee's work programme (the submissions include a large number of stories regarding accessibility barriers experienced by the submitter or those close to them).

An alternative framework

15 There are some common themes across the submissions that seek a different model for a legislative framework to accelerate accessibility. There are two broad categories:

- this legislation should contain prescriptive accessibility standards within the Bill
- this legislation should create an appointed and empowered (preferably independent) body that is comprised entirely of the disability community. Options include a disability commission. This body would have legislative powers to create enforceable accessibility standards across any and all domains of life. It would also have quasi-judicial functions:

- to enforce the accessibility standards via directions and penalties, and/or
- to investigate complaints, and/or
- to resolve disputes.

16 These models were considered during policy analysis. The enabling framework was preferred as it is considered to have the best pathway to achieving systemic change within existing government structures, as detailed above.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Appendix 2 - History of the New Zealand Sign Language Act 2006 (the NZSL Act)

- 17 Since the NZSL Act was enacted in 2006, there have been significant changes in the Government's approach to the Deaf and disability communities. These include, New Zealand ratifying the United Nations Convention on the Rights of Persons with Disabilities in 2008, the establishment of the New Zealand Sign Language Board (the NZSL Board) in 2015, and the development of the NZSL Strategy 2018-2023 (the NZSL Strategy).
- 18 The NZSL Act does not reflect the Crown's responsibilities as a Te Tiriti o Waitangi / Treaty of Waitangi partner, nor does it reflect the Government's overall direction for disability system transformation.
- 19 In December 2020, the Minister for Disability Issues received a report from the NZSL Board that recommended a review of the NZSL Act. The Minister agreed in principle to a review of the Act with a focus on how it could better align with the NZSL Strategy, with an initial report back on policy proposals by early 2022 [REP/20/9/1002 refers].
- 20 Three proposals to amend the NZSL Act were developed in partnership with the NZSL Board and the NZSL Team within Whaikaha.
- 21 The policy review and subsequent consultation on options for amending the NZSL Act did not take a 'first principles' approach. The mandate for the review was to identify how the NZSL Act could be amended to better reflect changes since 2006, such as the formation of the NZSL and the establishment of the NZSL Strategy.
- 22 In April 2022, MSD officials provided the Minister for Disability Issues with the below initial policy proposals to amend the NZSL Act:
 - the NZSL Board becomes a statutory Ministerial advisory group, with additional functions and powers to provide strategic leadership on matters relating to NZSL
 - the functions of the NZSL statutory Ministerial advisory group, and the principles to guide appointments, includes specific references to support Turi Māori identity and leadership.
- 23 The key decisions the Minister made were:
 - the approach to amending the NZSL Act would take a partnership approach with the Deaf Community to lead the promotion, maintenance, and acquisition of NZSL
 - officials would undertake targeted engagement with Turi Māori to develop an approach to engage with Turi Māori and their whānau on how the NZSL Act could better reflect their aspirations

- to take a Cabinet paper to the Social Wellbeing Cabinet Committee (SWC), that outlines the proposals to amend the NZSL and to consult with the Deaf community on these proposals [REP/22/4/310 refers].
- 24 In August 2022, SWC agreed to consultation with the Deaf community on potential amendments to the NZSL Act and invited the Minister for Disability Issues to report back to Cabinet with final policy proposals in December 2022 [SWC-22-MIN-0158 refers].
- 25 In November 2022, we provided the Minister's Office with a final draft a Cabinet paper, with the intention of it being considered by SWC on 14 December 2022. Departmental and Ministerial consultation took place at this time.
- 26 Due to competing priorities, the Prime Minister's Office (PMO) were unable to provide comments on the paper until after the deadline to lodge the paper. However, we were able to incorporate the feedback from PMO, and received confirmation from Minister Williams' office of the intention to take the paper to SWC in February 2023.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Appendix 3 - Key stakeholders' feedback on the proposed amendments to the New Zealand Sign Language Act 2006 (NZSL Act)

- 27 We have engaged with the Disabled Peoples Organisations Coalition (DPO Coalition),³ and Deaf Aotearoa specifically, throughout the process of developing options for amend the NZSL Act, the approach for consulting with the wider Deaf community and drafts of the final policy proposals.
- 28 Deaf Aotearoa (a member of the DPO Coalition) provided a written submission on the proposals to amend the NZSL Act during the consultation phase. They indicated that they did not support the proposals. With the consent of Deaf Aotearoa, we provided their submission to the Minister for Disability Issues office.
- 29 On 24 November 2022, MSD officials meet with the DPO Coalition to discuss their feedback on a draft Cabinet paper that set out the final proposals to amend the NZSL Act. The DPO Coalition advised that they did not support the proposals.
- 30 The DPO Coalition's main concern was that the review was not a first principles review of possible functions and powers, leading to engagement on a broader range of forms the NZSL Board or a new leadership group could take. Therefore, their position is that the engagement was not genuine as the Deaf community were not provided with enough information on the full range of potential options to have informed opinions about the review.
- 31 The scope of the review that the DPO Coalition is advocating for is significantly broader than the scope that Cabinet agreed to, which focused on updating the Act to better align with the NZSL Strategy.
- 32 The other key issue raised by the DPO Coalition is that the amendments to the NZSL Act will not address the significant issues faced by the Deaf community, such as education, access, and the interpreter workforce (these issues were also raised during consultation).
- 33 MSDs' view is that, while these issues and concerns are outside the scope of this review, as the Minister for Disability Issues you can progress work to address these issues through non-legislative means and by working with other Ministers.
- 34 On 2 December 2022, we provided Minister Williams with advice in response to the DPO Coalition not supporting the proposals [REP/22/12/1213 refers].

³ The DPO Coalition is a group of disabled people-led organisations that are mandated under Article 4.3 of the UNCRPD which promotes active involvement by government agencies with representative organisations of disabled people.

- 35 On 8 December 2022, Minister Williams met with the DPO Coalition, as one of her regular meetings with them, and the proposals to amend the NZSL Act was on the agenda. Following this:
- Minister Williams met with officials, and indicated her expectation for us to continue to prepare a Cabinet paper
 - Minister Williams met with the NZSL Board, who fully support the proposals to amend the NZSL Act.
- 36 On 16 December 2022, officials were advised from Minister Williams' office that the intention was to lodge a Cabinet paper to SWC early in 2023.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



Report

Date: 2 December 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Poto Williams, Minister for Disability Issues

Amending the NZSL Act 2006: Options to progress this work

Purpose of the report

- 1 This report responds to your request for further information on:
 - 1.1 delaying your paper to Cabinet on amending the New Zealand Sign Language Act 2006 (the NZSL Act) until early 2023
 - 1.2 consultation with Deaf Aotearoa and the Disabled Peoples Organisations Coalition (the DPO Coalition)
 - 1.3 the ability of Whaikaha – Ministry of Disabled People (Whaikaha) to resource amendments to the NZSL Act within existing baselines.

Recommended actions

It is recommended that you:

- 1 **note** that in 2019, the then Minister for Disability Issues agreed to a review of the NZSL Act focused on promoting and maintaining the use of NZSL and alignment with the NZSL Strategy [REP/19/11/1107 refers]
- 2 **note** a first principles review of the NZSL Act was not considered or included in the scope of this review
- 3 **note** that on 15 November 2022, you agreed the final policy proposals to amend the NZSL Act, and noted that officials would provide you with a draft Cabinet paper for Ministerial consultation, with the intent of seeking agreement from the Cabinet Social Wellbeing Committee (SWC) on 14 December 2022 [REP/22/11/1053 refers]
- 4 **note** the proposals to amend the NZSL Act were developed in partnership with the NZSL Board, and MSD officials have engaged with Disabled People's Organisations (DPO Coalition) and Deaf Aotearoa throughout the process to

develop proposals to amend the NZSL Act and undertake public consultation (in person and online) with the Deaf community and Turi Māori

5 **note** that as part of consulting on a draft Cabinet paper, MSD officials met with the DPO Coalition, and they signalled, based on information provided by Deaf Aotearoa (a member of the Coalition) that they did not support the proposals to amend the NZSL Act on the basis that the outcome of the review was too narrowly focused and not ambitious enough

6 **note** that officials have identified four options in relation to the next steps for the work on amending the NZSL Act

7 **indicate** your preferred option from the following:

7.1 proceed with the current amendments to the NZSL with the current timeframe (recommended)

Agree / Disagree

7.2 direct officials to re-engage with the DPO Coalition and Deaf Aotearoa on the existing scope of the review of the NZSL Act

Agree / Disagree

7.3 direct officials to rescope the review of the NZSL Act

Agree / Disagree

7.4 direct officials to stop work on the amending the NZSL Act

Agree / Disagree

8 **note** that we recommend you inform the DPO Coalition of your position when you meet with them on 8 December 2022, and that officials will provide you with additional advice to support your discussion

9 s9(2)(g)(i)

Sarah Palmer
Policy Manager, Disability Policy

Date

Hon Poto Williams
Minister for Disability Issues

Date

Background

- 2 On 19 November 2019, the then Minister for Disability Issues (Hon Carmel Sepuloni) requested:
 - 2.1 the NZSL Board provide her with more information about a possible review of the NZSL Act, and
 - 2.2 that this advice focus on how the NZSL Act could be updated to better align with the principles of the NZSL Strategy 2018-2023 (the NZSL Strategy) [REP/19/11/1107 refers].
- 3 In December 2020, Minister Sepuloni received a report from the NZSL Board that recommended a review of the NZSL Act. She agreed, in principle, to a review of the NZSL Act, and directed officials to report back with initial policy proposals in early 2022 [REP/20/9/1002 refers].
- 4 Minister Sepuloni did not direct officials to undertake a first principles approach to developing proposals for amending the NZSL Act.
- 5 MSD officials have worked in partnership with the NZSL Team and the NZSL Board throughout the process of developing, testing, consulting, and finalising proposals to amend the NZSL Act.
- 6 On 31 August 2022, SWC considered your Cabinet paper seeking agreement to consult with the Deaf community on suggested amendments to the NZSL Act with a focus on options to:
 - 6.1 strengthen the mandate for public leadership of the Deaf community
 - 6.2 create a mechanism to monitor the operation and implementation of the NZSL Act, with a focus on government agencies' responsibilities under the Act
 - 6.3 better reflect Te Tiriti o Waitangi / The Treaty of Waitangi [SWC-22-MIN-0158 refers].
- 7 Cabinet invited you to report back to SWC in December 2022 with final policy proposals for amending the NZSL Act [SWC-22-MIN-0158 refers].
- 8 Consultation on the suggested amendments to the NZSL Act with the Deaf community began on 7 September 2022 and closed on 11 November 2022.
- 9 On 15 November 2022, you received advice on your disability portfolio priorities for 2023 legislative programme. The Bill to amend the NZSL Act was ranked three out of four and given a proposed legislative priority of Category 4 (to be referred to Select Committee before the 2023 general election) [REP/22/11/1098 refers].
- 10 On 15 November 2022, you agreed to the final policy proposals to amend the NZSL Act and noted that officials would provide you with a draft Cabinet for Ministerial consultation on 18 November 2022 [REP/22/11/1053 refers].
- 11 On 21 November 2022, you agreed to forward a draft Cabinet paper for Ministerial consultation and noted officials would provide you with a final draft

for your agreement to lodge the final Cabinet paper on 8 December 2002, for consideration by SWC on 14 December 2022 [REP/22/11/1127 refers].

Engagement with DPO Coalition and Deaf Aotearoa

- 12 On 24 November 2022, MSD officials meet with the DPO Coalition to discuss their feedback on a draft Cabinet paper that set out the final proposals to amend the NZSL Act. The DPO Coalition advised MSD officials that they do not support these proposals.
- 13 The DPO Coalition's main concern was that the review was not a first principles review of possible functions and powers, leading to engagement on a broader range of forms the NZSL Board or a new leadership group could take. Therefore, their position is that the engagement was not genuine as the Deaf community were not provided with enough information on the full range of potential options to have informed opinions about the review.
- 14 MSD's view is that the scope of the review that the DPO Coalition is advocating for is significantly broader than the scope that Cabinet agreed to, which focused on updating the Act to better align with the NZSL Strategy.
- 15 The other key issue raised by the DPO Coalition is that the amendments to the NZSL Act will not address the significant issues faced by the Deaf community, such as education, access, and the interpreter workforce (these issues were also raised during consultation).
- 16 MSDs' view is that, while these issues and concerns are outside the scope of this review, as the Minister for Disability Issues you can progress work to address these issues through non-legislative means and by working with other Ministers.

We have identified options in response to the DPO Coalition not supporting the proposals

Option 1: Proceed with the current amendments on the current timeframe

- 17 The scope for reviewing the NZSL Act was focused on how it could better meet its primary purpose of promoting and maintaining the use of NZSL and how the NZSL Act could better align with the NZSL Strategy.
- 18 It was not a first principles review of the Act. Many of the issues raised by the DPO Coalition and Deaf Aotearoa (and during the consultation with the Deaf community) fall outside the scope of the review commissioned by Minister Sepuloni.
- 19 While the DPO Coalition and Deaf Aotearoa have signalled they do not support the proposals, feedback through consultation was generally supportive. The NZSL Board is also supportive of these changes as they complement the work it has already done to make better use of its existing powers.

20 If you choose to proceed with these proposals, then we recommend proceeding with the current timeframe of seeking Cabinet’s approval this year and introducing a Bill into the House in the first half of 2023. This option honours the general level of agreement provided by the Deaf community during consultation, the expectations of the NZSL Board, and Cabinet’s expectations on the scope of the review of the NZSL Act.

Option 2: Direct officials to re-engage with the DPO Coalition and Deaf Aotearoa

- 21 Officials could re-engage with the DPO Coalition and Deaf Aotearoa on proposals to the NZSL Act. This would require a slower timeframe and would mean deferring seeking Cabinet’s agreement to amend the NZSL Act until early in 2023.
- 22 Deferring seeking Cabinet’s agreement to amend the NZSL Act would mean a Bill would not be ready to introduce before the House rises ahead of the 2023 general election (more information about timeframes is in Appendix 1).
- 23 Officials advise against this, as re-engagement would be limited to the proposals that Cabinet agreed be consulted on in August 2022. Officials would not be able to engage the DPO Coalition on other options to amend the NZSL Act, including establishing a commission or on addressing the wider issues raised by the DPO Coalition and Deaf Aotearoa.
- 24 This option is likely to create concerns for the NZSL Board, and the approximately 220 members of the Deaf community who attended the consultation meetings and have engaged, in good faith, with the suggested amendments to the NZSL Act.

Option 3: Direct officials to rescope the review of the NZSL Act

- 25 You could advise Cabinet, as part of the invitation to report back to SWC in December 2022 with final policy proposals for amending the NZSL Act, that significant concerns were raised during consultation about the limited scope of the review, and as such, you are now seeking Cabinet approval for a first principles review.
- 26 Work on a new scope and focus would need to be undertaken by Whaikaha who would then lead work on the review itself.
- 27 s9(2)(g)(i)
- 28 If this option was progressed, it is unlikely that it would achieve all the outcomes Deaf Aotearoa and the DPO Coalition are seeking, as these may require changes in legislation that other Ministers have responsibility for, such as the education legislation and regulations.

Option 4: Direct officials to stop work on amending the NZSL Act

- 29 You can ask officials to stop work on amending the NZSL Act. This would be on the basis that key stakeholders (Deaf Aotearoa and the DPO Coalition) was

disappointed that the review of the NZSL Act was not a first principles reviews and wanted the review to have a broader scope than Cabinet agreed.

30 You would need to advise Cabinet of your decision, in response to the invitation to report back to SWC in December 2022 with final policy proposals.

31 s9(2)(g)(i)

32 There was no support for the status quo (ie not amending the NZSL Act) during the consultation period. There was broad acceptance that the proposed amendments would build on the progress already achieved in the maintenance and promotion of NZSL, even if not fulfilling all the of the community's aspirations and concerns.

Resourcing implementation of proposed amendments

33 Minister of Finance officials have suggested that the implementation of the proposals to amend the NZSL Act could be meet from within baselines.

34 s9(2)(g)(i)

However, implementing the amendments (should they be accepted by Cabinet and passed into law) can be met within the current NZSL Budget, s9(2)(g)(i)

Next steps

35 You have your regular meeting with the DPO Coalition on 8 December 2022. We recommend that you inform the DPO Coalition which option you are taking at that meeting. The DPO Coalition has asked to have this issue included on the agenda.

36 Whaikaha officials are preparing advice to support you at this meeting, and MSD officials will contribute to this advice in relation to your decision on amending the NZSL Act.

37 MSD officials are currently revising the draft Cabinet paper to reflect feedback from agency and Ministerial consultation. You are due to lodge this on Thursday 8 December 2022.

38 On 6 December 2022, you will be provided with a final draft of the Cabinet paper to amend the NZSL Act, for consideration by SWC on 14 December 2022.

File ref: REP/22/12/1213

Author: s9(2)(a) , Senior Policy Analyst

Responsible manager: Sarah Palmer, Policy Manager, Disability Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Appendix 1: Implications for deferring decisions to amend the NZSL Act until early 2023

- 1 The indicative Cabinet Committee timetable indicates that regular Cabinet and Cabinet committee meetings will resume from the week of Monday 13 February 2023 [CO Notice (22) 6 refers].
- 2 However, as SWC are only expected to meet twice in February 2023, it is likely that an NZSL Cabinet paper would be pushed from February meeting agendas due to other priorities.
- 3 If you decide to delay providing the NZSL Cabinet paper to SWC for consideration until late February or early March 2023, it is likely that the proposed NZSL Act Amendment Bill would be introduced into the House during the three-month period before the general election.
- 4 The table below summarises timeframes, steps and timing for the proposed NZSL Amendment Bill should you choose to delay the Cabinet paper.

Date	Step	Consultation
8 March 2023	Consideration by SWC	<p>A revised Cabinet paper will be provided to the NZSL Board, the DPO Coalition and Deaf Aotearoa for feedback in early February 2023 (approximately 2 weeks)</p> <p>If there are significant changes to the draft Cabinet paper that was provided for Ministerial and agency consultation, then this consultation process may need to be repeated (approximately 2 weeks)</p>
3 April 2023	Complete drafting instructions provided to Parliamentary Counsel Office (PCO) by this date	<p>We may seek permission to share a draft of the proposal Bill with the NZSL Board, with consultation taking around two weeks</p> <p>We have been advised to allow at least 5 months for PCO drafting process</p>
3 August 2023	Bill will go to the Minister of Justice for NZ Bill of Rights Act 1990 consistency	We have been advised to allow for 2 weeks for this process
24 August 2023	Consideration of Bill by Cabinet Legislation committee	
28 August 2023	Cabinet decision to introduce Bill	
31 August 2023	Bill introduced into the House	