

In-confidence

Office of the Minister for Disability Issues

Cabinet Social Wellbeing Committee

Accelerating Accessibility in New Zealand

Proposal

- 1 This paper seeks:
 - 1.1 agreement to introduce a new framework that takes a progressive approach to identifying, preventing, and removing barriers to participation for disabled people, tāngata whaikaha Māori and others with accessibility needs;
 - 1.2 approval to issue drafting instructions for stand-alone enabling legislation to support New Zealand to progressively become more accessible and introduce a new Accessibility Governance Board.

Relationship to Government Priorities

- 2 This proposal sits alongside our Disability System Transformation proposals to establish a Ministry for Disabled People and national implementation of the Enabling Good Lives approach. It also supports Labour's 2020 Election Manifesto to "introduce 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".

Executive Summary

- 3 Improving access to housing, transport, information, communication, technology, public buildings and spaces is vitally important for disabled people to participate in and belong to the world. Improving accessibility is inextricably linked to achieve fundamental human rights. However, our current framework for addressing barriers that disabled people face has been fragmented, slow, hard to measure, and hasn't led to the credible policy, system design and service delivery needed to achieve an accessible society.
- 4 In December 2018, Cabinet agreed to commence the design of an approach to achieve a fully accessible New Zealand, in collaboration with key stakeholders [CAB-18-MIN-0591 refers]. In July 2019, Cabinet noted my oral report back, which indicated support from stakeholders for a legislative mechanism [CAB-19-MIN-0329 refers].

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- 5 In June 2020, Cabinet [CAB-20-MIN-0295 refers] noted my intention to accelerate accessibility through a new legislative framework that would sit alongside awareness raising, education, and training and agreed that any new framework should set accessibility as a high-level concept rather than a detailed, prescriptive definition.
- 6 I propose to improve accessibility across New Zealand by introducing a new framework that:
 - 6.1 brings in disabled people through an Accessibility Governance Board (name yet to be confirmed);
 - 6.2 supports greater Ministerial leadership, particularly on cross-portfolio participation barriers, to improve the authorising environment;
 - 6.3 increases co-ordination on accessibility through clearer leadership within the public service.
- 7 To ensure that we are taking a progressive approach to identifying, preventing and removing participation barriers, and holding ourselves and future governments to account, I seek agreement to set out this framework in new stand-alone enabling legislation to be introduced in 2022.
- 8 A new approach to accelerating accessibility aligns with some of our key objectives under the New Zealand Disability Strategy 2016-2022 and supports New Zealand to meet its international commitments under the United Nations Convention on the Rights of People with Disabilities (UNCRPD).
- 9 There are detailed design and implementation choices within this framework. Following Cabinet's agreement, I will direct officials to undertake targeted engagement with a broad range of stakeholders.
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Background

- 10 There are an estimated 1.1 million disabled people in New Zealand (one in every four people). Of these, an estimated 632,000 have a physical impairment, 484,000 have a sensory impairment, and 89,000 have a learning disability. 242,000 people live with a psychological and/or psychiatric condition. All these types of impairment create a range of access needs.¹
- 11 Disabled people face significant barriers to experiencing positive wellbeing – including disproportionate representation in poverty statistics and experiences of discrimination. Māori and Pacific people are more likely to be disabled than other population groups.

¹ Statistics New Zealand Disability Survey 2013.

- 12 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 their willingness to be full contributors to their communities. These barriers have often been long standing and systemic with improvements being slow and progress difficult to measure.
- 13 Disabled people² have a growing and legitimate expectation that universal design principles and accessibility features will be an integral part of planning and design. This expectation extends beyond built environments to education, health, government information, communication services and events. However, the responsibility for overcoming these barriers still too often falls unevenly on individual disabled persons and their family/whānau.

Current arrangements for increasing participation have fallen short

- 14 While a range of initiatives and structures³ have been set up over the last 20 years, success has been mixed and has not led to the credible policy, system design and service delivery needed to achieve an accessible society.
- 15 Many disabled people continue to identify barriers to accessing buildings, education opportunities and public facilities. Disabled people can often advocate through systems like the Human Rights Commission for change that may alleviate their individual access barriers, however often this process can be time-consuming and unlikely to lead to systemic change that prevents recurrence of similar access issues in the future.
- 16 At present responses to accessibility needs are fragmented across the public service and overly reliant on individual agencies to identify and appropriately prioritise remedial actions. This can lead to a lack of clear agency leadership on issues of accessibility, as was seen in the 2020 Level 4 lockdown that exacerbated existing inequities for many disabled people through lack of timely accessible information or access to PPE gear.
- 17 Approaches to accessibility adopted by government and business have also been inconsistent. For example, local councils have used different approaches to increase the number of houses built to universal design standards by private developers (such as rebates

² Disabled people include those who have long-term physical, mental, intellectual or sensory impairments that in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (UNCRPD).

³ Including, but not limited to: the Disability Ministers Group; the IMM; requiring a disability perspective in Cabinet papers; 'We Enable Us', the public sector network providing leadership on effective and inclusive employment; the Disability Survey; the Accessibility Charter; and 'Working Matters' - the Government's Disability Employment Action Plan (in particular, priority 5 of the Action Plan that aims to create inclusive and wellbeing enhancing workplaces).

or minimum standards) to varying success.⁴ Without a shared understanding of what accessibility means in different contexts there will continue to be an uneven approach to removing access barriers.

There is a lack of awareness of the importance of accessibility across society

- 18 There is little understanding and awareness of what accessibility looks like and the benefits of improved access. This is demonstrated by limited training and knowledge of universal design and of how to make places, spaces, services and goods accessible.
- 19 Cultural and attitudinal factors also play a part. For example, discrimination and negative attitudes create barriers through symbols and language that reinforce disabling stereotypes and lead to social exclusion.
- 20 For tāngata whaikaha Māori these barriers have a compounding effect, with research highlighting the lived experience of disability for Indigenous Peoples is considerably different to that of non-Indigenous Peoples. For tāngata whaikaha Māori, disablement occurs secondary to being excluded from their culture, identity, or the meanings that Māori themselves give to disability.⁵

There are limited avenues for disabled people to lead or shape policy

- 21 The disability community have repeatedly told us that current policy and legislative settings do not deliver accessibility. It can be difficult for disabled people and others with access needs to have their voice heard and shape how accessibility barriers are addressed or prevented, particularly those that do not belong to a DPO or community organisation.

A new framework is needed

- 22 A new and innovative approach is needed to meaningfully improve accessibility in New Zealand. Over recent years approaches have been established to address complex and systemic challenges or to improve coordination across portfolios (for example, the independent Climate Change Commission and the Child Poverty Reduction Act 2018). I consider that a similar approach is needed for accelerating accessibility.
- 23 A new approach to accessibility would also support key outcomes pursued under the New Zealand Disability Strategy 2016-2026 (the Strategy), the vision and principles of Enabling Good Lives⁶ and

⁴ <https://www.odi.govt.nz/whats-happening/findings-of-the-national-local-authority-survey-on-accessibility/>

⁵ <http://www.books.aisc.ucla.edu/abstracts/44.2.JONES.ETAL.pdf>

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would help us to meet our international obligations under the UNCRPD (see Appendix 1)

Key policy change

- 24 I seek agreement to introduce a new framework to accelerate accessibility by addressing barriers to participation across all Government portfolios and wider society. This is an important step towards supporting New Zealand to become more accessible to all disabled people, disabled children and young people, their families and others with access needs. The aim of the framework is to prevent and remove barriers so disabled people can independently access the public spaces, built environments, goods, products, education, health and services they need to fully participate in society.
- 25 This framework will reflect a partnership approach, recognising disabled people as experts on accessibility from a lived experience perspective, and as advisors that can promote government accountability on progress.
- 26 The new framework has been and will continue to be co-designed with disabled people to ensure:
 - 26.1 strong leadership and accountability for identifying, preventing, and removing accessibility barriers;
 - 26.2 clear objectives and consistent methodologies to identifying, preventing, and removing participation barriers;
 - 26.3 current regulations, standards and enforcement regimes are fit for purpose and new regulatory systems are developed where necessary for improving accessibility for disabled people;
 - 26.4 the articles of Te Tiriti o Waitangi are upheld and disabled people and tāngata whaikaha Māori, disabled rangatahi and tamariki, and their family and whānau are visible and able to participate to identify and address accessibility issues at all levels.
- 27 This framework also needs to support the vision and principles of Enabling Good Lives.⁷ In particular, “investment to build inclusive communities: to ensure communities, including businesses, workplaces, schools and cultural, sport and recreational activities

⁶ The vision of Enabling Good Lives is, in the future, disabled children and adults and their families will have greater choice and control over their supports and lives and make more use of natural and universally available supports.

⁷ The vision of Enabling Good Lives states that “In the future, disabled children and adults and their families will have greater choice and control over their lives and supports, and make more use of natural and universally available supports”.

are accessible, welcoming and recognise the contribution of disabled people.”

Strong clear leadership is needed to make this framework work

- 28 Shared leadership between disabled people, the public service and the Government is key to identifying, preventing, and removing accessibility barriers. This will require navigating complex relationships across:
- 28.1 a diverse disabled community – different disabilities, older people, rangatahi and tamariki, and others with access needs;
 - 28.2 tāngata whenua and rangatiratanga of taonga under Te Tiriti (Article 2);
 - 28.3 Ministers with a range of portfolios, priorities and commitments;
 - 28.4 the public service as policy makers, regulators and service providers;
 - 28.5 wider society and the private sector, which may be impacted as action is taken to remove these barriers.

Establishing an Accessibility Governance Board

- 29 “Nothing about us without us” is the international catch-cry of disabled people. I intend to make sure that disabled people are involved in decision making by establishing an independent Accessibility Governance Board⁸ (the Board).
- 30 The Board will need to be led by and represent disabled people, as well as bring in the technical expertise of government policy and business. It will need the strength, mana and respect to work across government portfolios, the public service (from central agencies through to local government), the private sector, and think beyond government political cycles.
- 31 The Board will demonstrate partnership, not only with Government, but with tāngata whaikaha Māori. Embedding Te Tiriti o Waitangi is critical to support a to focus on tikanga and ensure that the overall system supports tāngata whaikaha as a whānau, hapū and iwi.
- 32 I expect this independent Board to drive change by:
- 32.1 being a direct line to the Minister for Disability Issues on the experiences of disabled people;

⁸ Final name to be confirmed.

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- 32.2 setting the strategic direction on accessibility and the systemic barriers that should be addressed;
 - 32.3 holding the system to account to make New Zealand more accessible and equitable;
 - 32.4 build the capacity and capability of disabled people.
- 33 I will direct officials to undertake engagement with tāngata whaikaha Māori, disabled people, their families, whānau, communities and representatives; regarding the Board's formal name, size, expected behaviours, the nomination and appointment process, terms of reference, and how the Board should engage with the disability community.

Support by Ministers will be vital

- 34 While the Board has an important role in elevating accessibility, setting policy statements, and monitoring progress; the Government needs to do better in how it improves accessibility and supports disabled people to realise their right to full participation in society.
- 35 Accessibility barriers sit across a number of Ministerial portfolios. While Ministers are responsible for ensuring the policies, services, and systems delivered within individual portfolios are accessible, all too often compromises are made as competing priorities emerge. We are also missing opportunities to consider how to identify, prevent and remove access barriers that sit across portfolios.
- 36 As such, I am proposing the Minister for Disability Issues plays a key role in supporting and overseeing work and gaining wider Ministerial support to address accessibility barriers across Government.

A dedicated Chief Executive is needed

- 37 The public service needs to lead by example. A single point of leadership in the public service is required to identify and implement viable solutions to accessibility issues. I propose that a Chief Executive be responsible for co-ordinating and having oversight of accessibility measures across the public service. This will involve ensuring there are appropriate checks and balances so that actions are feasible and considered against priorities and resource constraints.
- 38 This Chief Executive will be responsible for setting standards of best practice, strategic policy development and education and awareness initiatives⁹ required for the accessibility framework to

⁹ To support Article 8 of the UNCRPD, which focuses on raising awareness and the deeper underlying causes of ableism where the views, needs and concerns of disabled people have been side-lined.

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function. They will have leverage with other agencies and support the public service in the following areas:

- 38.1 leading by example and setting best practice standards for accessible employment, service delivery, engagement and communication, building off good practice already underway across Government;¹⁰
 - 38.2 influencing wider society by taking a holistic approach to accessibility;
 - 38.3 increasing collaboration across public service agencies to operate differently in addressing complex accessibility barriers;
 - 38.4 supporting transparency by reporting annually on progress towards identifying, preventing and removing access barriers on behalf of public service agencies.
- 39 The Chief Executive will balance the independence of the Board by working within the public service and across broader society to improve accessibility.
- 40 The Minister of Health and I are also seeking Cabinet decisions on broader transformation of the disability system. This includes a proposal to establish a new Ministry for Disabled People. Leadership of accessibility in the public service, including the appointment of a Chief Executive will need to be considered alongside the broader disability system transformation. The decision on which Chief Executive should have responsibility for accelerating accessibility will need to be determined at a later date. This could be the existing Chief Executive of for example, MSD or MBIE, or the new Chief Executive of the proposed Ministry for Disabled People.

Relationship between the Board, Minister, and the public service

- 41 Clear roles and accountabilities are needed for the leadership of the accessibility framework to work to identify, prevent, and remove barriers to participation.
- 41.1 The Board's role will provide an independent voice to the Minister for Disability Issues on accessibility and will advise the Chief Executive.
 - 41.2 The Minister for Disability Issues will support the work of the Board and may convene Ministerial working groups to provide oversight on cross-portfolio barriers. Ultimately, the Minister

¹⁰ For example, working with Waka Kotahi – NZ Transport Agency to share with other Departments their experience on co-developing transport projects with disabled people.

for Disability Issues will be responsible for the accessibility framework.

- 41.3 The Chief Executive will provide accessibility advice to the Minister for Disability Issues and coordinate work to increase accessibility across the public service and with key stakeholders (such as businesses, local government, and NGOs). The Chief Executive will provide secretariat support to the Board.

Reinforcing this framework through stand-alone enabling legislation

- 42 Transformative change to address historic participation barriers and prevent future accessibility issues will take time. An ongoing commitment over successive government terms is needed to put the components of the accessibility framework in place. I seek agreement to set out key elements of this framework in new stand-alone legislation.
- 43 Stand-alone legislation will signal that we want New Zealand to become more welcoming and accessible for disabled people and others with access needs. This legislation will provide a framework to enable accessibility barriers to be addressed. It will also ensure that we are taking a progressive approach to improving participation that embeds Te Tiriti o Waitangi and Te Ao Māori, and is enduring.
- 44 The legislation will need to include:
 - 44.1 purpose and principles for the accessibility framework;
 - 44.2 role, purpose and functions of the Board, including on membership appointment processes;
 - 44.3 role and powers of the Minister for Disability Issues, including supporting and providing oversight of the Board;
 - 44.4 role and powers of the Chief Executive, including raising the profile of accessibility across the public service and improving the quality of data as it relates to accessibility specifically;
 - 44.5 indicating methodologies for addressing accessibility barriers;
 - 44.6 monitoring, evaluation and reporting requirements, including possible information sharing provisions;
 - 44.7 expectations for engaging with and listening to disabled people and tāngata whaikaha Māori as groups and individuals;

- 44.8 requirement for reviews of legislation to ensure we are making the desired progress towards an accessible New Zealand.
- 45 The Accessibility for New Zealanders Bill was allocated a Category 4 (to be referred to Select Committee in 2021) priority on the 2021 Legislation Programme. To allow for broader stakeholder engagement in the development of proposals, I expect this Bill to be referred to Select Committee in the second half of 2022.

Alternatives to the proposed enabling legislation approach were considered

- 46 A more prescriptive approach to legislation was also considered. Prescriptive legislation has been adopted in other jurisdictions, such as in some Canadian provinces and in the United States of America. While prescribing specific requirements has the advantage of certainty, prescriptive regimes are inflexible and difficult to change. Prescriptive legislation is detailed and complex and requires significant time, funding and resources to develop. It is unlikely to improve accessibility outside of the prescribed rules and risks contradicting or duplicating the requirements that already exist. As a result, it can create confusion as to the standards that must be met. Such an approach would require an enforcement regime to be effective and would require regular legislative amendments to keep pace with evolving expectations, best practice and technologies.
- 47 The United Kingdom has used a rights-based approach by building accessibility into their anti-discrimination laws rather than developing separate legislation. Accessibility complaints are assessed separately and in isolation and continue to place the onus on disabled people to address accessibility barriers.
- 48 A non-legislative approach to accelerating accessibility was also considered. A Cabinet directive could, for example, be used to require all Ministers and government agencies to improve accessibility for disabled people. This approach would be quicker to set up and easier to amend, but would be less able to hold the Government and agencies to account and is unlikely to be seen as the clear signal for change expected by disabled people.
- 49 This proposal is an important step in removing barriers to participation and accelerating accessibility. It balances the need to heighten awareness of accessibility issues and clarify responsibilities and leadership with the need to also be flexible and adaptive as we better understand the gaps in existing regulation, policy and practice. Enabling legislation also reflects the expectations of disabled people and enable them to hold Government to account, as well as ensuring that a progressive realisation approach is taken to improving accessibility. It strikes the right balance between flexibility to utilise a range of different

regulatory and non-regulatory solutions and sends a strong signal to disabled people and wider society on accessibility through monitoring, reporting, and holding the system to account.

- 50 I expect the legislation to be reviewed three years after it has been fully enacted to assess whether it is working effectively. At that time, we should have a good indication as to whether meaningful progress has been made.

This work has been done in partnership with the Access Alliance

- 51 MSD has been working in partnership with the Access Alliance on a proposal to accelerate accessibility. The Access Alliance are a collective of 12 disability sector groups, Disabled People's Organisations (DPO), disability services providers, disability community organisations and disability advocates. The Alliance is the only national indigenous DPO in New Zealand.
- 52 The Access Alliance is guided by 13 principles, which they believe should form the core of any potential accessibility legislation (Appendix two). Their mandate is to advocate for new accessibility legislation that creates a framework to develop and implement enforceable regulatory standards of accessibility that could be developed over time (and in parallel with education and capacity building), by establishing a new body to benefit all New Zealanders.
- 53 The Access Alliance considers that the recommendations of this proposal are not consistent with their mandate. While the accessibility framework is not the formal regulatory framework that the Access Alliance has advocated for, it is an important first step to supporting New Zealand to become more accessible.

Implementation

- 54 There are detailed design and implementation options for the accessibility framework.

s9(2)(f)(iv)

54.1 s9(2)(f)(iv)

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54.4 s9(2)(f)(iv)

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- 55 Across all these elements it will be critical that the accessibility framework reflects Te Ao Maori, incorporates Te Tiriti o Waitangi, and ensures representation, inclusion, and consultation across everything it does to identify, prevent and remove barriers to participation.
- 56 Implementation decisions will be considered alongside work on Disability System Transformation, to ensure the accessibility framework functions well in our new system.

Further engagement is needed

- 57 I am proposing a new and innovative approach to how we make New Zealand more equitable for disabled people and people with access needs. Key for this success is that it is both led and backed by tāngata whenua and tāngata whaikaha, disabled people and their family and community; and the broader disability sector.
- 58 Following Cabinet's agreement to my proposal, I will direct MSD to engage in targeted consultation with a broader group of stakeholders to ensure the detailed design of our framework achieves a broad range of involvement and input into the accessibility framework and sets it up to succeed. I expect this to bring in the voices of disabled children and young people, tāngata whaikaha Māori, their family and whānau, and the broader community.

Financial Implications

- 59 Regardless of where accessibility sits, additional resources and funding will be needed to support the Board, including a Secretariat to service the Board and increase awareness of accessibility. A key part of this will be making the accessibility framework accessible. Additional funding will be required to engage with disabled people through accessible formats and to support travelling to reach disabled people.

60 s9(2)(f)(iv)

- 61 There will also be associated downstream costs as participation barriers are addressed, which could be significant depending on the nature and scale of the barrier. These costs will need to be considered and met at the time (either from within baseline or through future budget bids) subject to existing checks and balances (eg, Cabinet approval, CBA, budget processes).

Risks

- 62 There are risks to establishing this framework. It relies heavily on transparency through reporting and monitoring to incentivise compliance with the new system and build in 'teeth' over time. Downstream costs are unknown, so there are risks that the most meaningful actions required to remove barriers to participation remain unfunded. There is also a risk that engaging with the Board is seen as engaging with the disabled community rather than a vehicle to engage with the disabled community.
- 63 The participation barriers addressed by this framework can also range in scale. Care will be needed to make sure that it takes a progressive realisation approach, that ensures the scale of change and work to improve accessibility does not lead to duplication, misalignment, and overloading capacity across both the public and private sector.
- 64 There is also a risk that disabled people do not see this framework as going far enough or bringing about the fundamental change they expect to rebalance the inclusion and participation of disabled people. This proposal has been developed in partnership with the Access Alliance made up of 12 DPOs. I expect the next phase of this work to broaden out consultation and engagement; providing the opportunity to co-create detailed design of the framework with a wider range of stakeholders (including disabled rangatahi and tamariki, tāngata whaikaha Māori, and others with a lived experience of a disability).
- 65 Some of these risks can be mitigated or abated through careful implementation of the accessibility framework and consultation and engagement on implementation. Other risks, however, will need to be monitored through regular reviews to ensure the accessibility framework is making the progress that we expect it to. As such, I expect the Act to be reviewed every three years.

Impact Analysis

Regulatory Impact Statement

- 66 A Regulatory Impact Statement has been prepared and is attached.

- 67 A Quality Assurance Panel from MSD and the Ministry of Health reviewed the Accelerating Accessibility (RIS and considered the information and analysis summarised in it partially meets the quality criteria set out in the RIS framework (clarity and conciseness, completeness, convincing, consultation).

Population Implications

- 68 Improving accessibility brings about increased quality of life, creates more independence, has a positive impact on wellbeing, and supports greater social integration for disabled people and disabled children and young people. Improving accessibility will have a positive impact and improve outcomes for disabled people who face barriers to accessing the built environment, information, education, health, goods, and services. The flexibility of this accessibility system means that it can adapt to any scale or number of accessibility barrier across any system.
- 69 However, taking a progressive approach means that positive impacts will be felt unevenly as accessibility barriers are prioritised.
- 70 Improving accessibility will benefit all people with access needs and their supporters, including parents and older people. For wider society, it can create a greater consumer base as more people can engage in information, services, goods, and products. It creates a larger and more diverse talent pool for employers to hire from and improves social cohesion.

Population group	How the proposal may affect this group
Tamariki and rangatahi	<p>There are approximately 133,000 disabled children and young people in New Zealand. Like all disabled people, disabled children face accessibility barriers preventing them and their whānau from fully participating in society.</p> <p>The proposed accessibility framework can help prevent and remove barriers that children and young people face accessing education, housing, transport, and recreation, which will have a direct positive outcome for them, their whānau and family; and contribute to better life outcomes.</p>
Seniors	<p>Many seniors have accessibility needs as they are more likely to be living with a long-term health condition or disability. Older people will positively benefit from improvements to accessibility through greater community participation, prolonged employment and increased independence.</p>

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Māori	<p>Social and economic factors contribute to poorer outcomes for Māori, and for tāngata whaikaha Māori in particular. About half of tāngata whaikaha Māori participate in the labour force and four out of 10 tāngata whaikaha Māori adults have no formal qualifications.</p> <p>Tāngata whaikaha Māori will benefit from improvements to accessibility through greater representation, and increased inclusion in decision making. The enabling, progressive nature of the framework provides a good opportunity for self-determination if strong governance and leadership structures are created that reflect Te Ao Māori.</p>
Pacific Peoples	<p>Better accessibility will result in more equitable outcomes for Pacific Peoples. Like Māori they experience higher rates of disability than the general population, with 19% of Pacific people identifying as disabled, which is compounded by other barriers (such as language) that can impact their ability to access information and services.</p>
Ethnic communities	<p>Ethnic communities, particularly refugee and migrant communities, face intersecting barriers to equal participation and inclusion. Ensuring the system engages and is inclusive of the needs of disabled people as a diverse group will help reduce the social isolation of disabled people and other individuals within ethnic communities.</p>
Women	<p>Women are more likely to take on the role of carers and will need to navigate accessibility barriers alongside the person they are supporting. Improving accessibility should reduce the emotional load on women as well as support women in working in the caring profession.</p>
SOGIESC diverse people	<p>Improving accessibility will have positive flow on impacts for sexual orientation, gender identity and expression, and sex characteristic (SOGIESC) diverse people. Making New Zealand a more welcome place for people with disabilities should increase awareness of how diverse New Zealand is.</p>

Human Rights

- 71 Improving accessibility will support disabled people, and others with access needs, to achieve their human rights including their social, economic, and cultural rights, and civil and political rights. The

s9(2)(h)



Consultation

- 72 To date, officials and the Access Alliance have undertaken targeted engagement with experts across a range of fields (including policy, regulatory, legal, public service, advocacy, and business) and the DPO Coalition.
- 73 Local Government New Zealand, the Tertiary Education Commission, Ministry for the Environment, Kāinga Ora, the Human Rights Commission, Ministry of Business, Innovation and Employment, Ministry for Pacific Peoples, Oranga Tamariki, Accident Compensation Corporation, Ministry of Health, Public Service Commission, Ministry for Primary Industries, Department of Internal

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Affairs, Waka Kotahi, Ministry of Education, the Treasury, Te Arawhiti, Te Puni Kōkiri, Ministry of Culture and Heritage, and the Department of Prime Minister and Cabinet.

Communications

- 74 I intend to announce this proposal alongside decisions on Disability System Transformation.

Proactive Release

- 75 This Cabinet paper will be proactively released, with redactions made consistent with the Official Information Act 1982.

Recommendations

The Minister for Disability Issues recommends that the Committee:

- 1 **note** the current framework for improving accessibility has not provided the credible policy, system design, and service delivery needed to achieve an accessible society
- 2 **note** an innovative and effective approach for disabled people to independently access the public spaces, built environments, goods, products, education, health and services and fully participate in society is needed
- 3 **note** we need a new accessibility framework that takes a progressive approach to improving participation and ensures:
 - 3.1 strong leadership and accountability for identifying, preventing, and removing participation barriers
 - 3.2 clear objectives and consistent methodologies to identifying, preventing, and removing participation barriers
 - 3.3 current regulations, standards, and enforcement regimes are fit for purpose and new regulatory systems are developed where necessary for improving accessibility for disabled people
 - 3.4 the articles of Te Tiriti o Waitangi are upheld and disabled people and tāngata whaikaha Māori, disabled rangatahi and tamariki, and their family and whānau are visible and able to participate at all levels
- 4 **note** work to develop a new legislative framework has been done in partnership with the Access Alliance, a collective of 12 disability sector groups, Disabled People's Organisations (DPO), disability services providers, disability community organisations and disability advocates

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- 5 **note** this framework will reflect a partnership with disabled people, recognising disabled people as leaders, as experts on accessibility from a lived experience perspective, and as advisors to hold the system to account
- 6 **note** in June 2020, Cabinet confirmed its intention to accelerate accessibility through a new legislative framework, that sets accessibility as a high-level concept (rather than a detailed, prescriptive definition) through the prevention and removal of barriers [CAB-20-MIN-0295]
- 7 **agree** the legislation will need to include:
- 7.1 purpose and principles for the accessibility framework
 - 7.2 role, purpose, and functions of the Board, including membership appointment processes
 - 7.3 role and powers of the Minister for Disability Issues, including supporting and providing oversight of the Board tabling
 - 7.4 role and powers of the Chief Executive, including raising the profile of accessibility across the public service and improving the quality of accessibility related data
 - 7.5 methodologies for addressing accessibility barriers
 - 7.6 monitoring, evaluation and reporting requirements, including possible information sharing provisions
 - 7.7 expectations for engaging with and listening to disabled people and tāngata whaikaha Māori as groups and individuals
 - 7.8 a requirement for periodic reviews of legislation to ensure we are making the desired progress towards an accessible New Zealand
- 8 **agree** to introduce strong, clear leadership for accessibility by:
- 8.1 establishing a new Accessibility Governance Board (name to be confirmed)
 - 8.2 supporting a stronger Government commitment to accessibility
 - 8.3 ensuring a public sector Chief Executive is responsible for coordinating and overseeing accessibility measures across the public service

9 s9(2)(f)(iv)

- 9.1 s9(2)(f)(iv) [Redacted]
- 9.2 [Redacted]
- 9.3 [Redacted]
- 9.4 [Redacted]
- 9.5 [Redacted]
- 9.6 [Redacted]

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

11 **invite** the Minister for Disability Issues to issue drafting instructions to the Parliamentary Counsel Office

12 **authorise** the Minister for Disability Issues to approve technical elements of the framework within the policy parameters during the development of the Bill

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

Authorised for lodgement

Hon Carmel Sepuloni

Minister for Disability Issues

Appendix one: Our current obligations, commitments, and progress

The New Zealand Disability Strategy (2016- 2026) Outcome 5 - Accessibility

What our future looks like

We have access to warm, safe and affordable housing that meets our needs and enables us to make choices about where we go to school or work and to fully participate as members of our families, whānau and communities.

We can get from one place to another easily and safely, for example from home to school, work or to a friend's house. We can also access all public buildings, spaces and facilities with dignity and on an equal basis with others.

We feel safe taking public transport to get around and are treated well when we do so. Our needs are also appropriately considered when planning for new transport services. Private transport services are responsive to and inclusive of us. For those of us who need it, there is access to specific transport options that are affordable, readily available and easy to use.

Information and communications are easy for us to access in formats and languages that are right for us, including in our country's official languages of Te Reo Māori and New Zealand Sign Language. This helps us to be independent because we do not have to rely on other people. We use technology on the same basis as everyone else; and those of us who need specific technology solutions will have access to these in a way that is innovative, progressive and helps to eliminate barriers. The evolving opportunities presented by new technology help us to achieve our goals.

Our accessible communities are free of barriers (for example, access to shops, banks, entertainment, churches, parks, and so on), which enables us to participate and contribute on an equal basis with non-disabled people.

What this means:

- Disabled people are consulted on and actively involved in the development and implementation of legislation and policies concerning housing (home ownership, social housing and private rentals), transport (public and private), public buildings and spaces and information, communication and technology.
- Universal design is understood, recognised and widely used.

IN CONFIDENCE

- All professionals involved in accessibility have a good understanding of the principles of universal design and the needs of disabled people and take these into account in their work.
- We enjoy and are fully included in artistic, cultural, sporting and recreation events whether as spectators or as performers.
- Decision-making on issues regarding housing, transport, public buildings and spaces and information, communication and technology is informed by robust data and evidence.

The United Nations Convention on the Rights of Persons with Disabilities Article 9: Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - b) Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures to:
 - a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
 - c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
 - d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
 - e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
 - f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
 - g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

- h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

The IMM's comment on the realisation of Article 9 in New Zealand (Making Disability Rights Real, June 2020)

Some measures have been taken since by the Government, local government, and transport operators to improve accessibility.

The *New Zealand Disability Strategy 2016–2026* promotes universal design. Kāinga Ora (formally Housing New Zealand Corporation) new builds are required to reflect the principles of universal design, and the Government is considering how to incorporate them into planning for KiwiBuild homes. Cabinet has agreed to “*commence the design of an approach to achieve a fully accessible New Zealand, in collaboration with stakeholders*”, which may include accessibility legislation.

The increased percentage of wheelchair-accessible buses is also welcomed. However, many disabled public transport users still experience challenges accessing transport, using inaccessible ticketing systems, and frustration at the regional variation in ticketing and discount systems. People in rural areas are particularly disadvantaged in their access to public transport.

There were 345 taxis with wheelchair hoists in New Zealand in 2018, down from 435 in 2017. There are 2361 wheelchair-accessible public transport buses, up from 2210 in 2017, and making up 94.5 percent of the total fleet in New Zealand. At present, there is regional variation in the application of accessible concessions and electronic ticketing systems. The Government anticipates that in the future, payment for public transport will be provided consistently across the country and ticketing will become more accessible. However, there are significant concerns around the introduction of inaccessible electronic ticketing and self-service kiosks such as those used by Air New Zealand, the major air carrier in New Zealand. The Government is the majority shareholder in Air New Zealand and has a duty to ensure that its responsibility as a signatory to the Disability Convention is met in relation to accessibility of transport.

Private construction lags behind public buildings in recognising the need for accessibility to be included in the design phase, and in particular to ensure new homes follow universal design principles.

A common theme at consultation hui was that disabled people need accessible transport to get out and live life. Other issues raised included the need for accessible information, housing and public buildings and

spaces. The high cost of accessible technology and the lack of people to provide training on such technology was also raised.

There is a growing number of micro-vehicles and devices, such as e-scooters, many of which can be used on footpaths and which can cause safety issues for disabled pedestrians, including when parked.

Hui and survey participants gave a plethora of examples where accessibility requirements were either not addressed, or not addressed properly. One person noted, *"All very well to say there is a ramp to go into a building, but if the doors are weighted too heavily then you're stuffed"*.

Recommendations

The IMM recommends that the Government:

25. Develop and agree on comprehensive definitions of universal design and accessibility and use these definitions consistently.
26. Update New Zealand Standard NZS4121:2001 and develop a comprehensive range of compatible accessibility standards to cover all aspects of community and civic access.
27. Ensure accessibility and universal design be implemented in all:
 - a. new housing developments;
 - b. public spaces;
 - c. transportation and ticketing systems;
 - d. shared-use spaces; and
 - e. technologies and communications.
28. Implement robust strategies and timelines to upgrade existing public infrastructure to meet best practice accessible design standards.
29. Implement systems to require regular monitoring and/or auditing against minimum standards of accessibility of all publicly accessible buildings, workplaces, civic or recreational areas, and public services.
30. Co-design accessible systems with disabled people, taking particular account of marginalised groups such as children

Appendix two: The Access Alliances 13 principles

1) The Act applies to all:

a) The Act will cover all persons with disabilities, whether their disability is considered physical, sensory, cognitive, communication or mental health related and will include visible, invisible, permanent or episodic conditions. The definition used will be the same definition as the United Nations Convention on the Rights of Persons with Disabilities.

b) The Act will apply to all government departments, crown corporations, companies, organisations and any other entity that is regulated by statute. The Act will apply also to key private and corporately owned organisations operating in New Zealand. These principles will refer to affected organisations as obligated parties.

2) The Act sets a timeline:

The goal of the Accessibility for New Zealanders Act is to greatly improve the accessibility of New Zealand within a specific and clearly defined deadline set by the legislation. This timeline will begin immediately upon the Act passing into law and will include checkpoints at regular intervals until existing and on-going access barriers are removed. This is the principle of progressive realisation.

3) The Act sets the bar:

The Accessibility for New Zealanders Act will build on all other disability and human rights legislation, regulations or policies which provide lesser protections or entitlements to those with a temporary or permanent impairment. It will protect and build rights that have already been earned.

4) The Act provides accessibility in all areas of life:

The Act will require all obligated parties to become fully accessible over time. This means providing accessibility in all areas where impairment intersects with the organisation. It means removing existing obstacles and preventing the creation of new obstacles. These obstacles may include, but are not limited to, physical, legal, information, communication, attitudinal, technological or other barriers. (Note: standards will provide for compliance thresholds.)

5) The Act sets policy:

The Accessibility for New Zealanders Act will influence and affect the development and implementation of public accessibility policy, thereby enhancing and improving access to a full range of goods, services and programmes not currently available to persons with temporary or permanent impairment, difference, or disability in New Zealand.

6) The Act champions access to all goods, services and facilities:

The Act will require all obligated parties to ensure that their services and facilities are fully accessible by persons with disabilities, based on principles of universal design and the provision of reasonable accommodations. Obligated parties will be required to develop and implement detailed plans to ensure accessibility within their organisations. Accessibility will be part of a 'business as usual' approach.

7) The act champions accessible workplaces, employment, education, and government agencies:

The Act will require organisations to take proactive steps to provide obstacle-free workplaces and provide changes that will accommodate people in their employment, including for job opportunities. Employers will be required to develop and implement plans to remove existing workplace and employment obstacles and to prevent new ones from being put in place. Education providers will ensure that places of study and all study resources are fully accessible. The same will apply to the Justice sector where accessibility is often a barrier to successfully navigating, and where neurodiversity is not often visible and therefore not taken into account.

8) The Act will charge government with the responsibility to lead, educate, train, inform and review:

The Act will require government to lead the country toward achieving the goals of the Act and fulfilling its mandate. The Act will require government to provide education, information and resources to assist regulated businesses and organisations to comply with the access requirements. The government will be required to appoint an independent person to periodically review and publicly report (at regular intervals) on progress towards the goal of full accessibility.

9) The Act is enforceable:

The Act will provide for a prompt, independent and effective process for enforcement. This will include a comprehensive and clearly defined avenue for persons with disabilities who encounter obstacles which are in violation of the legislation to raise and submit complaints to enforcement officials.

10) The Act is made real through regulations:

The government will be required to make regulations that clearly define the steps needed for full compliance under the Act, and it will be independently reviewed at a minimum of every four years. It will be open to recommendations made on an industry-by-industry or sector-by-sector basis. This will include a requirement that input be obtained from persons with disabilities and impairment, and the organisations supporting them as part of these reviews.

11) The Act will ensure public funds are not used to create or perpetuate obstacles to full accessibility in all areas of life:

The Act will require that the government ensures that no public money is used to create or perpetuate inaccessibility for persons with disabilities. Government departments, agencies, and crown corporations should be required to make it a strict condition of funding and finance for programmes, transfer payments, subsidies, loans, grants, capital or infrastructure projects that no such funds may be used to create or perpetuate access obstacles. There should also be a requirement that procurement of goods, services or facilities be fully accessible to and usable by persons with disabilities. The government should be required to monitor and enforce these requirements and to periodically report to the public on compliance with them.

12) The Act is a lens through which to vet legislation:

The Act will require the government to review existing legislation and regulations identifying possible accessibility obstacles and develop timelines to address the shortcomings. The government will review all future proposed legislation and regulations before they are enacted to ensure accessibility obstacles are not about to be created.

13) The Act has real force and real effect:

The Act must be more than mere window dressing. It's all about contributing meaningfully to the improvement of the position of persons with temporary or permanent impairment, difference, or disability in New Zealand, enabling them to fully participate and to enjoy community life. It must be underpinned by effective enforcement mechanisms which lead to real effect.

