



Report

Date: 23 February 2023

Security Level: IN CONFIDENCE

To: Hon Priyanca Radhakrishnan, Minister for Disability Issues

Accessibility for New Zealanders Bill - Update

Purpose of the report

- 1 Further to the report dated 8 February 2023 [REP/23/2/037] and your meetings with officials on 13 February 2023, this report responds to your request for more information on the Accessibility for New Zealanders Bill (the Bill).

Executive summary

- 2 MSD has recently provided advice regarding the status of the Accessibility for New Zealanders Bill. A report to you on 8 February 2023 [REP/23/2/037] set out a brief outline of work on the Bill.
- 3 In addition, it noted that implementing the Bill would require Budget funding, but MSD was not invited to submit a bid through Budget 23. MSD sought your decision on whether to pause or withdraw the Bill should funding not be secured.
- 4 You requested further advice on the history of the work programme that has led to the Bill. The key reasons chosen for an 'enabling', non-regulatory, progressive framework were:

4.1 The government chose the option for a structure of leadership to lead a consistent methodology to improve current legislative frameworks and make other policy recommendations. A new regulatory system for accessibility would take a long time to produce and will likely lead to duplication with other regulatory systems. Other jurisdictions with this approach have faced challenges with timeliness and managing expectations

4.2 A ministerial advisory committee was chosen rather than an independent commission as it better balanced independence with proximity to government and influence. The ministerial advisory committee is intended to work with the Minister for Disability Issues and Whaikaha's Chief Executive to lead cross-government change

- 4.3 Within the chosen timeframes and system, enforceable standards and stronger obligations on government (for example, targets) were not feasible. However, changes to existing regulations and standards, and recommendations for the establishment of new regulations or standards is within scope of the proposed Bill. This approach can be reassessed after the Bill's first review period.
- 5 The Bill is at the Select Committee stage. The Select Committee is currently hearing oral submissions and is due to report back to the House in May 2023. While most submitters support the introduction of accessibility legislation, there is significant opposition to the framework and level of ambition of the proposed Bill.
 - 6 As part of the Select Committee stage, MSD's Departmental Report is currently due on 13 March 2023, and it is required irrespective of your decision on whether to proceed with the Bill. If you wish to continue to progress the Bill, officials will work with your Office to identify recommendations for Cabinet consideration.
 - 7 Should you agree to pause or withdraw the Accessibility Bill, we recommend that you inform Cabinet of your intent. Officials would also work with your office on a communications plan to inform the public and manage community expectations.

Recommended actions

It is recommended that you:

- 1 **note** that officials await your response on the future of the Accessibility for New Zealanders Bill [REP/23/2/037]
- 2 **note** that MSD is obliged to complete a Departmental Report to the Select Committee before 13 March 2023
- 3 **note** that, if you decide to progress the Bill, you may need to return to Cabinet to seek approval for MSD to make recommendations in the Departmental Report that go beyond previous Cabinet decisions [SWC-21-MIN-0145 and SWC-22-MIN-0047]
- 4 **agree** that, should you wish to continue to support the Bill and seek funding, officials will work with your Office to identify recommendations for Cabinet consideration

Agree / Disagree

- 5 **agree** that, should you wish to pause or withdraw the Bill, officials will work with your Office to draft an update to Cabinet

Agree / Disagree

- 6 **note** that, should you wish to pause or withdraw the Bill, officials will work with your Office on a communications plan to inform the public and manage community expectations
- 7 **note**, notwithstanding other decisions, officials will work with your Office on recommendations considered to be within legislative scope and Cabinet's existing mandate in order to complete the Departmental Report.

Julia Bergman
General Manager
International, Disability, and Generational
Policy

Date

Hon Priyanca Radhakrishnan
Minister for Disability Issues

Date

Released under the Official Information Act 1982

MSD has recently provided advice regarding the status of the Accessibility for New Zealanders Bill

- 8 The Accessibility for New Zealanders Bill (the Bill) was introduced to address systemic accessibility barriers in New Zealand. It aims to do so by establishing a ministerial advisory committee as part of a leadership system to drive change across government and New Zealand.
- 9 The Bill was introduced to the House on 28 July 2022 and passed its first reading on 2 August 2022. It has been referred to the Social Services and Community Select Committee for consideration, who have been receiving and hearing submissions on the Bill.
- 10 A report to you on 8 February 2023 [REP/23/2/037] set out a brief outline of work on the Bill. In addition, it noted that implementing the Bill would require Budget funding, but MSD was not invited to submit a bid through Budget 23.
- 11 Next steps were proposed in the report and your decision was sought on whether to pause or withdraw the Bill should funding not be secured through alternative means. If you wish to continue to progress the Bill, officials will work with your Office to identify recommendations for Cabinet consideration.
- 12 Should you agree to pause or withdraw the Accessibility Bill, we recommend that you inform Cabinet of your intent. Officials would also work with your office on a communications plan to inform the public and manage community expectations.
- 13 In the meantime, the Bill is proceeding via Select Committee, which is due to report back to the House on the Bill by 16 May 2023. More details of the Select Committee process are provided below.

Further background to the selection of the enabling framework as Cabinet's preferred option to progress accessibility

- 14 You requested further advice on the history of the work programme that has led to the Bill. A summary table at **Appendix 1** sets out an overview of the key decisions and analysis that led to the current legislative model.

Access Alliance / Access Matters

- 15 Originally referred to as Access Alliance until changing its name in mid-2022, Access Matters began as a collective of 12 disability sector groups. This included Disabled People's Organisations, disability service providers, disability community organisations, and disability advocates. Its primary purpose is to advocate to the government to commit legislation as the first step in the development of new standards and regulations for various domains of life.
- 16 Access Matters has 13 key principles for accessibility legislation. Some, but not all, of these principles are met by the Bill. A table of the 13 key principles is attached as **Appendix 2**.

- 17 Over the last few years, Access Matters' membership has grown to include more than 20,000 individuals and organisations from the disability and neurodiversity sectors. As evidence of its increasing support, on 22 February 2023, Access Matters submitted a petition to Parliament to argue for stronger accessibility legislation. The petition, which garnered more than 14,500 signatures, asks for the Bill to be strengthened to include standards, a regulator, a barrier notification system and a disputes resolution process. The petition is separate to the Select Committee process.

Cabinet agreed to introduce accessibility legislation following longstanding community advocacy

- 18 Disability communities in New Zealand have consistently called for accessibility legislation that enables disabled people, tāngata whaikaha, whānau whaikaha Māori, and others with accessibility needs to live independently and participate fully in all aspects of life, on an equal basis with others.
- 19 On 3 December 2018, Cabinet agreed to commence the design of an approach to achieve a fully accessible New Zealand that will include understanding the feasibility of using legislation that provides for standards and codes of accessibility [CAB-18-MIN-0591 refers].
- 20 In February 2019, MSD and Access Alliance formed a partnership to explore how to accelerate progress on accessibility in New Zealand. Access Alliance met with the then Minister for Disability Issues, Hon Carmel Sepuloni, quarterly. Between February and April 2019, MSD facilitated workshops with a range of key stakeholders impacted by the accessibility work programme.
- 21 Following this, officials presented policy advice towards standalone legislation as a framework for the prevention and removal of barriers and accessibility standards [SWC-20-MIN-0074]. MSD officials advised that it was not feasible or practical to set targets or deadlines for accessibility standards in New Zealand due to:
- 21.1 limited data and information on accessibility in New Zealand
 - 21.2 lessons from the experience of Ontario, Canada, which showed that setting legislative targets can create unrealistic expectations that are difficult to meet.
- 22 Officials recommended a more flexible model, as it would:
- 22.1 allow for a progressive approach over time
 - 22.2 enable obligated parties to understand and adopt efficient or innovative approaches to meeting regulatory obligations, and
 - 22.3 have the ability to adapt to changes in society.
- 23 The Access Alliance understood this reasoning but maintained their requirement for enforceable standards, targets, and deadlines. MSD and

Access Alliance found a middle ground, agreeing on periodic reviews for the accessibility framework in legislation.

- 24 Cabinet agreed to a progressive approach and to introduce legislation in June 2020 [SWC-20-MIN-0074 and CAB-20-MIN-0295 refer].

A central enabling framework was developed for progressively removing systemic accessibility barriers

- 25 Officials recommended to the then Minister that an enabling framework represented by the current Bill would be most likely to achieve a cohesive structure of leadership to drive change. Rather than creating a new regulatory system, it would provide a cohesive way to improve current legislative frameworks (for example, the Building Act) and avoid the risk of duplicating legislation and regulations.
- 26 Consultation with policy, regulatory, and private sector experts was carried out in 2021 (see **Appendix 4**). This consultation informed the high-level legislative approach, including through the following themes:
- Strong, independent leadership is needed to champion accessibility and drive change. This would need to be balanced with 'influence' – the ability to be 'inside the tent' and affect change
 - A broad range of interventions will be required to remove accessibility barriers, including education and awareness raising
 - Legislation needs to be enabling and future focused
- 27 The leadership structure chosen needed to find this balance between 'independence' and 'influence' and be practical to set up. By contrast, a new crown entity would be costly and time-consuming to establish.
- 28 In October 2021, the then Minister updated Cabinet on her preferred approach [SWC-21-MIN-0145 and CAB-21-MIN-0395 refer]. The model included:
- 28.1 Introducing an independent accessibility board led by disabled people and focussed on providing independent advice and information on the barriers that prevent disabled people from realising their right to full participation in society
 - 28.2 Clear Ministerial responsibility that sets objectives and initiatives, recommends, implements, and promotes accessible policies, programs, and projects
 - 28.3 Designating a chief executive, operating in a similar fashion to a public service functional lead, responsible for accessibility to mobilise resources from across government, raise the profile of accessibility across the public service, and ensure disabled people are involved and leading across the system.

- 29 Cabinet also acknowledged that a Bill will not achieve enduring or significant progress on accessibility alone. It will need to be enacted alongside non-legislative measures, such as raising awareness, education, and training to ensure a holistic approach. In addition, progress on addressing accessibility barriers would require prioritisation and investment by successive Governments.
- 30 The proposed model did not align with all of the Access Alliance's principles (Appendix 2). As such, the formal partnership between the government and the Access Alliance ended, so that the Access Alliance could pursue and advocate for their preferred model.

The detailed design was informed by community consultation

- 31 From late 2021 to early 2022, officials met with targeted disability community and interested groups on some aspects of the legislation to inform the detailed design of the accessibility framework (See Appendix 4). Participants were largely positive about the idea of legislation, but a number of groups maintained that the legislation must have "teeth" (i.e., a regulatory framework) for progress to be achieved.
- 32 Other key themes from engagement included the:
- need for the framework to take a broad, aspirational view of accessibility and a holistic approach to addressing barriers
 - importance of having disabled people with a broad range of experiences and skills on the ministerial advisory committee, including, for example, knowledge of government systems, knowledge of tikanga Māori and Te Tiriti o Waitangi, disability research, advocacy and policy experience
 - need for broad representation on the ministerial advisory committee – including disabled people, Māori, Pacific peoples, urban/rural representation, a range of ages, and families and whānau of disabled people
 - importance of disabled people being involved in the nomination and appointment of ministerial advisory committee members
 - need for the ministerial advisory committee to engage with all groups of people impacted by accessibility barriers – for example, disabled people, families and whānau of disabled people, older people, and parents with young children.
- 33 In May 2022, Cabinet agreed to the detailed design of the legislation [SWC-22-MIN-0047 refers] which can be seen in the Bill.
- 34 In July 2022, Cabinet approved the Accessibility for New Zealanders Bill for introduction, subject to support in the House of Representatives [CAB-22-MIN-0040 refers].

- 35 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.
- 36 Although legislation is not needed to introduce a ministerial advisory committee, it was progressed to ensure accessibility would remain a priority for future governments and progress could be achieved over time. In addition, legislation would represent an important signal to the disabled community and the public, more broadly, that the government recognised broad changes are required to improve accessibility.

Overview of Select Committee process

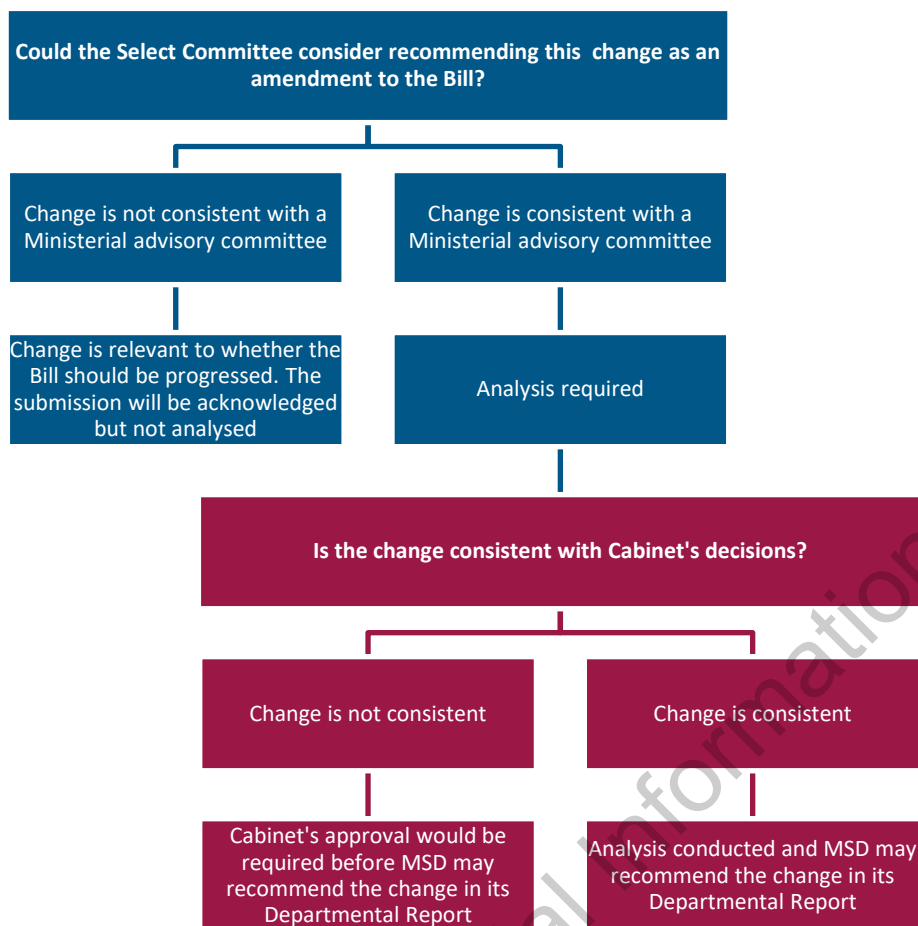
- 37 The Bill is currently at the Select Committee stage, and over 500 submissions were received between 14 August 2022 and 7 November 2022. The Committee is currently hearing oral submissions and is due to report back to the House in May 2023. Through the process, the Select Committee has asked officials to provide advice on a number of issues raised during submissions.
- 38 Officials are preparing a departmental report (see below). MSD officials understand that the Select Committee process must be completed in order to address submissions, but the Bill can be paused (not progressed to its Second Reading) or withdrawn before the Second Reading. You have been asked to make a decision on these options [REP/23/2/037 refers].

The public submissions reveal significant opposition to the chosen framework

- 39 The A3 (attached as **Appendix 5**) summarises the written public submissions to the Select Committee. 514 unique submissions have been submitted. While a majority of submitters support the intention of the Bill, the majority would like it to include a different model¹. Of those with a stated position, 91% sought a different framework to advance accessibility, and their proposals (e.g., regulatory regime, co-governance, legislative and enforcement powers for the ministerial advisory committee) would involve a complete redrafting of the Bill.
- 40 In analysing the changes sought within each submission,² officials have assessed whether suggested actions are within legislative scope and the enabling framework as agreed to by Cabinet. The diagram below provides an overview of how submissions were assessed and organised.

¹ Noting 47% of total submitters used the words "I support the Bill" or "I support the Bill in principle."

² Noting that submitters are not required to propose changes, and that submitters that chose to do so suggested multiple changes.



- 41 Legislative scope is determined by Standing Order 300(1): the Select Committee may only recommend amendments that are "*consistent with the principles and objects*" of the Bill. In the context of this Bill, the principles and objects are to establish a Ministerial advisory committee. Any amendments that would change the nature of that body, or would be inconsistent with an advisor to the Executive, would go beyond an amendment to the Bill and amount to redrafting it.
- 42 Oral Hearings will continue until 8 March 2023 (subject to delays). It is possible that further changes will be recommended by submitters during the oral hearing processes.
- 43 At the time of this Report, key findings include:
- 43.1 the changes sought by submitters are largely outside the original legislative scope. The majority of submitters want to see system change across the public and private sectors, and they, therefore, do not believe the Bill goes far enough to address the needs of disabled people, tāngata whaikaha Māori and their families and whānau, and others with access needs.
 - 43.2 Page 3 of Appendix 5 shows the changes sought by submitters that are within legislative scope but would require Cabinet approval prior to MSD

making a recommendation. Issues that would raise questions of constitutionality are identified.

- 44 Initial analysis has identified te Tiriti o Waitangi issues as a key area. Many submitters expressed support for the provisions relating to te Tiriti. There are, however, some submissions that suggest changes to better observe te Tiriti:
- 44.1 Co-governance (such as a co-chair Māori, or equal representation between Māori and non-Māori representatives on the Ministerial advisory committee)
 - 44.2 A stronger role for the Māori nominations panel
 - 44.3 Additional monitoring and review requirements to ensure the framework upholds te Tiriti and reflects tikanga, te ao Māori, and the experiences of tāngata whaikaha Māori and their whānau
 - 44.4 Replacing the requirement for the Committee to have “knowledge of” te Tiriti of Waitangi/the Treaty of Waitangi, te ao Māori, and tikanga Māori with “lived experience” instead.
- 45 If you decide to progress with the Bill, we anticipate seeking Cabinet’s approval to recommend amendments to the Bill in light of these submissions.
- 46 Summaries of the submissions received from Access Matters Aotearoa, Disabled Peoples Organisations, and public sector entities are included in **Appendix 3**.

Departmental Report

- 47 The Departmental Report is due to Select Committee on 13 March 2023, and it is required irrespective of your decision on whether to proceed with the Bill.
- 48 The content of the Report, however, will be dependent on your decision. For instance, in the event that the decision is made to withdraw the Bill, the Report will focus on acknowledging the submissions received and the suggestions made, and it will suggest changes that could be made to the Bill within Cabinet’s previous mandates. However, it would not include any recommendations to be made to Cabinet regarding the legislative model. In this case, officials will work with your office to make minor recommendations in the scope of Page 3 of Appendix 5.
- 49 As the last date for oral submissions is planned for 8 March, officials are considering seeking an extension to the Departmental Report and will keep your office updated.
- 50 Analysis of the submissions is continuing while drafting of the Departmental Report is in the early stages. The Report will likely be structured into four sections: the context and background to the bill, quantitative analysis of the submissions, qualitative analysis, and a clause-by-clause analysis including MSD’s recommendations for amendments.

Next steps

- 51 Officials await your response on the future of the Accessibility for New Zealanders Bill [REP/23/2/037].
- 52 If you agree to progress the Bill, we recommend you speak to the Minister of Finance with the aim of being invited to progress a Budget bid in Budget 2023.
- 53 If you agree to withdraw the Bill, MSD and Whaikaha officials will work with your office to discuss a way forward, including overall stewardship of accessibility policy becoming the responsibility of Whaikaha. In addition, we will engage Communications to prepare proactive and reactive media lines.
- 54 If you choose to either pause or withdraw the Bill, we recommend that you inform Cabinet of your decision. Officials will also work with your office on a communications plan to inform the public and manage community expectations.
- 55 Officials continue to support the Bill through the Select Committee and drafting the Departmental Report.

File ref: REP/23/2/082

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Attached appendices

- Appendix 1: Timeline of decisions leading to the Bill
- Appendix 2: Access Matters' 13 key principles for accessibility legislation
- Appendix 3: Summaries of Select Committee submissions of particular note
- Appendix 4: Consulted parties 2021-2022
- Appendix 5: Summary of submissions

Appendix 1: Timeline of Decisions Leading to the Bill

Initial work	August 2018	Office for Disability Issues advises MSD on international approaches to accessibility legislation
	December 2018	Cabinet approves work to “commence the design of an approach to achieve a fully accessible New Zealand”
	February 2019	MSD and Access Alliance form a partnership to explore design options
		Consultation and stakeholder workshops commence
June 2019	Minister updates Cabinet on consultation and further work	
Evaluation of different models	February 2020	<p>MSD presents the Minister with three design options. MSD recommends standalone legislation that acts as a vehicle for progressive realisation of accessibility improvement over time.</p> <p>Key components include:</p> <ul style="list-style-type: none"> • The ability to create standards (where none already exist) • A mandate to progressively review existing standards and recommend amendments to standards and primary legislation • Strong signal that change is needed • Enabling monitoring and enforcement • Durability and flexibility over time • Enabling rather than punitive incentive <p>The Minister agreed:</p> <ul style="list-style-type: none"> • To focus on disabled people while acknowledging accessibility benefits a range of other groups with unmet access needs (particularly older people) • To specify a few domains at the outset with flexibility to designate and prioritise further domains as progress is made • Functions and powers needed to effectively implement and administer the accessibility framework: <ul style="list-style-type: none"> ○ Co-ordination ○ Provision of information, education, training, and advice ○ Standard development and setting ○ Reporting and monitoring ○ Compliance and enforcement
	June 2020	Cabinet agrees the new framework should set accessibility as a high-level concept (rather than a detailed, prescriptive definition) and agrees to further work on detailed aspects of legislative framework

	October 2020	Labour makes a manifesto commitment 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"
Selection and Development of enabling model	February 2021	MSD advises Minister on options for a legislative framework
	April 2021	Minister agrees that current system improvement should form the basis of accessibility legislation
	May 2021	Minister updates Cabinet and explains there is a spectrum of potential types of legislative powers and functions interfacing with potential types of institutional arrangements Cabinet is made aware of the need for careful consideration of directive approach (an entity responsible for creating new accessibility regulations and enforced by an accessibility tribunal) where it may conflict with existing primary legislation
	July 2021	Minister agrees to introduce leadership comprised of: <ul style="list-style-type: none"> • An independent accessibility governance board • Clear Ministerial responsibility • Designating a responsible chief executive The Minister also agreed to a consistent process for addressing accessibility barriers and shape of legislation The Minister agreed the purpose of legislation is to provide a framework for developing and implementing clear methods to promote the participation of all persons, especially disabled people
	September 2021	Cabinet agrees to establish the Ministry for Disabled People. Any functions from Cabinet decisions relating to accelerating accessibility will be considered as part of decisions on the new Ministry's future work programme The new Ministry will raise the profile of disability issues (including accessibility) across government
	October 2021	MSD advises the Minister on the Independent Legal Research Team's report
		Cabinet agrees to the detail of the enabling model and invites the Minister to issue drafting instructions Cabinet also agrees to support stronger cross-government commitment to accessibility. The Minister for Disability Issues will play a key role in supporting and overseeing work and gaining wider Ministerial support to address accessibility barriers across government
		Access Alliance maintains a regulatory model is required. Partnership between Access Alliance and MSD ends
	February 2022	February 2022: MSD advises Minister of the detail of the legislation
March 2022	March 2022: Cabinet agrees to the second phase of drafting instructions	
July 2022	Cabinet approves the Bill and it is introduced to the House	

Appendix 2: Access Matters' 13 key principles for accessibility legislation

Access Alliance Principles	Met by government proposal? How?
<p>1. The Act applies to all:</p> <p>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.</p> <p>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.</p>	<p>Yes.</p> <p>The legislation will apply to everyone in New Zealand.</p> <p>No disabled people will be excluded from participating in the work undertaken to address barriers to participation.</p>
<p>2. The Act sets a timeline:</p> <p>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.</p>	<p>Not met.</p> <p>The system established will be based on progressive realisation and continual improvement, rather than specifying a date for New Zealand to be fully accessible.</p> <p>The legislation will be reviewed at regular points to assess whether it is working well.</p>
<p>3. The Act sets the bar:</p> <p>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.</p>	<p>Yes, partially.</p> <p>The legislation enables accessibility to become woven into existing laws, including existing regulatory and enforcement regimes, and supports the development of new policies and approaches.</p> <p>It will complement all other disability and human rights legislation.</p>

<p>4. The Act provides accessibility in all areas of life:</p> <p>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.)</p>	<p>Yes, over time.</p> <p>The legislation enables progressive review and action across key areas of life to support greater accessibility in New Zealand.</p>
<p>5. The Act sets policy:</p> <p>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.</p>	<p>Yes.</p> <p>The legislation will directly create a policy work programme focused on addressing and removing barriers to accessibility.</p>
<p>6. The Act champions access to all goods, services and facilities:</p> <p>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.</p>	<p>Yes, partially.</p> <p>The legislation will directly create a policy work programme focused on addressing and removing barriers to accessibility.</p> <p>Work to ensure services and facilities are fully accessible can be undertaken as part of the enabling framework.</p>
<p>7. The act champions accessible workplaces, employment, education, and government agencies:</p> <p>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.</p>	<p>Yes, partially.</p> <p>The legislation will directly create a policy work programme focused on addressing and removing barriers to accessibility.</p> <p>Work to ensure employers provide barrier-free workplaces, education providers offer accessible places of study, or ensuring the justice sector removes navigation barriers can be undertaken as part of the enabling framework.</p>

<p>8. The Act will charge government with the responsibility to lead, educate, train, inform and review:</p> <p>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.</p>	<p>Yes, partially.</p> <p>The accessibility system will increase government responsibility for and leadership of accessibility through increased expectations on Ministers and a designated Chief Executive.</p> <p>The policy work programmes will need to consider the supports required to successfully address and prevent barriers to implementation.</p> <p>The regular review of the proposed Act provides an opportunity to assess our progress to accelerating accessibility.</p>
<p>9. The Act is enforceable:</p> <p>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.</p>	<p>Not met.</p> <p>The legislation will not have direct enforcement mechanisms but will allow for the creation of enforcement within existing legislative and regulatory regimes as part of the broader accelerating legislative framework. Addressing non-compliance will continue to be the responsibility of the Ministry that administers those legislative and regulatory regimes.</p> <p>The Accelerating Accessibility system will allow for a notifications mechanism.</p>
<p>10. The Act is made real through regulations:</p> <p>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.</p>	<p>Not met.</p> <p>The legislation will not have direct enforcement mechanisms but will allow for the creation of enforcement within existing legislative and regulatory regimes to achieve accessibility objectives where that is considered appropriate.</p> <p>The legislation will enable and support changes to be made to existing regulations or where none currently exist look to recommend necessary change.</p>

<p>11. The Act will ensure public funds are not used to create or perpetuate obstacles to full accessibility in all areas of life:</p> <p>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.</p>	<p>Yes, partially.</p> <p>As the legislation sets out an enabling framework, work to ensure public money is not used to create or perpetuate inaccessibility for persons with disabilities can happen under that framework.</p>
<p>12. The Act is a lens through which to vet legislation:</p> <p>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.</p>	<p>Not met.</p> <p>The legislation will not include a direct mechanism for vetting legislation.</p> <p>However, it can enable reviews of existing legislation with an accessibility lens given it is an enabling framework.</p>
<p>13. The Act has real force and real effect:</p> <p>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.</p>	<p>Yes, partially.</p> <p>The legislation will set leadership and accountability. It will enable an environment where accessibility is continually prioritised.</p> <p>The system established by the legislation will result in real improvements in accessibility but will not have direct enforcement mechanisms.</p> <p>The legislation will allow for the creation of enforcement <i>within</i> existing legislative and regulatory regimes where that is considered appropriate.</p>

Appendix 3: summary of Select Committee submissions of particular note

The Access Matters Aotearoa submission

- 56 Access Matters Aotearoa campaigned on submissions to the Bill and created a template builder to help people make submissions. Numerous individuals and groups used the template or raise the same issues.
- 57 Access Matters Aotearoa submits it “*supports this Bill*” but says “*the Bill needs to be modified with the meaningful input of disabled people and people with other access needs*”. Its support is subject to the below changes:
1. An extended scope to include persons conducting a business or undertaking as defined in the Health and Safety at Work Act 2015
 2. Three yearly review of the Act
 3. “Timely accountability” to the House (this relates to the timeframes in which the Minister must table reports from the independent review and from the Ministerial advisory committee)
 4. Enforceable accessibility standards
 5. The establishment of an independent regulator
 6. A barrier notification system
 7. A disputes resolution process
- 58 Of those, “timely accountability” to the House is the only suggested change that could be feasible within legislative scope.

Summary of submissions from Disabled People’s Organisations (DPOs)

- 59 Four DPOs made submissions: Association of Blind Citizens New Zealand, Deaf Aotearoa, the Disabled Persons Assembly, and the Disabled People’s Organisation Coalition. All express support for legislative change but seek models including an enforceable regulatory framework and a Disability Commission or crown entity.

Summary of the submissions from the public sector

- 60 The Office of the Ombudsman does not suggest that the Bill be withdrawn but asks the Select Committee to consider how it might be improved to achieve the aspirational purpose and title. Suggestions of changes outside of legislative scope include:
- Imposing statutory obligations on Whaikaha to create, develop and revise accessibility standards on an ongoing basis and empowering Whaikaha to recommend accessibility standards to be made into regulations
 - Reporting requirements on government agencies

- Establishing or empowering an oversight or regulatory body with statutory functions to review compliance
- 61 The Human Rights Commission submits that important aspects of the Bill fall short of giving effect to te Tiriti o Waitangi and giving effect to United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) commitments. It suggests a range of changes, some of which fall outside of legislative scope. These include:
- expanding the scope of the Ministerial advisory committee to the private sector
 - requiring the Minister to set enforceable minimum standards for publicly available goods, services, and facilities through secondary legislation
 - An additional statutory entity with jurisdiction over breaches of minimum accessibility standards
 - A requirement that the Ministerial advisory committee report to and advise a Ministerial leadership group on accessibility, and that a Ministerial leadership group should be obliged to consider and respond to the Ministerial advisory committee's advice
 - A barrier notification system and powers of inquiry
- 62 The Children's Commission supports the Bill and seeks a number of changes, most of which are within legislative scope. The Commission suggests the powers of the Ministerial advisory committee should be strengthened.
- 63 Te Hiringa Mahara – the Mental Health and Wellbeing Commission submits that the Bill should be "*substantially strengthened*" before it is passed.
- 64 Toi Aotearoa – Creative New Zealand supports the intention of the Bill but submits "*greater detail is required*" and that the Bill should be strengthened to comply with UNCRPD obligations. Suggestions that fall outside of legislative scope relate to:
- Enforceable standards for government departments and Crown entities
 - A requirement for government agencies to address accessibility issues in a timely, proactive and measurable manner
- 65 New Zealand Law Society submits that the UNCRPD likely requires mandatory accessibility standards, including enforcement mechanisms and sanctions for non-compliance. It makes a number of further submissions that fall within legislative scope.
- 66 Local government

66.1 Auckland City Council supports the Bill and suggests changes that fall within legislative scope and speak to implementation and broader government priorities.

66.2 Dunedin City Council supports the Bill.

66.3 Hamilton City Council (staff) support the Bill and suggest changes that fall out of legislative scope, including:

- provision for easy-to-understand and enforceable accessibility standards across key areas of life to be developed and implemented
- an enforcement and regulation regime
- a regulator
- a barrier notification system and a disputes resolution process
- guarantee that public money will not create new barriers
- mandatory processes for complaints
- regulated guidelines.

66.4 Queenstown Lakes District Council broadly supports the Bill.

67 Toitu Te Wairoa – Community, Health, Education and Social Services Workforce Development Council submits that the Bill “*is a mere shadow of what was originally intended by advocates*” and suggests four essential elements are required. All four are outside of legislative scope: minimum standards within legislation, an independent regulator, a barrier notification system, and a disputes resolution process.

Appendix 4: Parties consulted before introduction of the Accessibility for New Zealanders Bill

Parties who provided feedback during engagement by officials and the Access Alliance before June 2019

Business

- 2Degrees
- Access Advisors
- Accessible Properties
- Adecco
- AECOM
- Air New Zealand
- BNZ
- Deloitte
- Direct Impact Group
- EVARO
- Fidelity Life
- Geneva Elevator
- King Tide Asset Management
- Kiwibank
- New Zealand Asian Leaders
- Newton Ross Wealth Management
- NZIER
- Precinct Properties
- ProCARE
- Renaissance Group
- Ricoh
- SKYCITY Entertainment
- Somerset Group
- Sudima Hotels
- SUPERdiverse WOMEN
- The Cookie Project
- Tourism Holdings
- TradeMe
- Vector
- WEL Group
- Westpac
- Woolworths NZ
- WorkBridge

Community Groups

- Barrier Free New Zealand
- Brain Injury Association
- Carers Alliance
- Christchurch Youth Council
- English Language Partners
- Epilepsy NZ
- Inclusive NZ
- InsideOUT

Central Government

- ACC
- Department of Conservation
- Department of Corrections
- Department of Internal Affairs
- Electoral Commission
- Housing New Zealand
- Kiwibuild
- Ministry for Culture and Heritage
- Ministry for the Environment
- Ministry of Business, Innovation and Employment
- Ministry of Education
- Ministry of Health
- Ministry of Housing and Urban Development
- Ministry of Transport
- Ministry for Pacific Peoples
- Ministry for Primary Industries
- NZ Transport Agency
- Office for Disability Issues
- Office of the Children's Commissioner
- Office of the Privacy Commissioner
- Oranga Tamariki
- Standards New Zealand
- State Services Commission
- Te Puni Kōiri

Local Government

- Auckland Council
- Bay of Plenty Regional Council
- Christchurch City Council
- Environment Canterbury
- Greater Wellington Regional Council
- Hamilton City Council
- Horowhenua District Council
- Kaikōura District Council
- Marlborough District Council
- Nelson City Council

- Interpreting New Zealand
- Wellington City Youth Council

Education Sector

- Massey University
- Teaching Council
- Tertiary Education Commission

Seniors

- Age Concern
- Alzheimer's Wellington
- Blind Foundation
- CCS Disability Action
- Dementia Wellington
- Kay Jones (Independent activist)
- Office for Seniors
- Pete Matchan (Policy advocate)
- RSA

- Selwyn District Council
- Timaru District Council
- Waikato Regional Council
- Waimakariri District Council
- Wellington City Council
- Whangarei District Council

District Health Boards

- Auckland DHB
- Canterbury DHB
- Capital and Coast DHB
- Counties Manukau DHB
- Hutt DHB
- Northland DHB
- Waitemata DHB
- Whanganui DHB

Māori

- Ruth Jones (Kanohi ki te Kanohi)
- Poihaere Morris (Board Member, Kapō Māori)
- Tania Thomas (CEO, Te Ropu Taurima)

Note: in 2020 and 2021 officials worked in partnership with the Access Alliance who consulted with their members throughout the process

Policy and regulatory experts consulted in early 2021

- Brenda Pilott - National Manager of Social Service Providers Aotearoa, National Secretary, Public Service Association
- Roger Palaret - Chief Legal Counsel, Capital & Coast District Health Board
- Kerry Prendergast - Former Mayor of Wellington
- David Smol - former CE MBIE
- Paula Tesoriero - Human Rights Commissioner
- Professor Dame Cindy Kiro - Chief Executive of the Royal Society
- Phil O'Reilly - Managing Director of Iron Duke Partners
- Professor Mark Hickford - Dean of Law Victoria University of Wellington
- John Whitehead - Former Treasury Secretary
- Geoff Penrose - General Manager Lifemark
- Monique Leith - Kāpiti Coast Chamber of Commerce
- Michael Barnett - Chief Executive Auckland Chamber of Commerce
- Frank Mclaughlin - Public Law expert

Targeted groups consulted in 2021-2022

Officials met with key disabled peoples' organisations and interested groups on detailed design of the legislation. A discussion paper was also sent out to community groups and organisations seeking feedback. Consulted groups included:

- Access Alliance Steering Group
- Auckland Disability Law
- CCS Disability Action
- Disabled Peoples Organisation Coalition
- Faiva Ora Advisory Group
- Human Rights Commission
- Pou Tangata Iwi Chairs
- Kāpō Māori Aotearoa
- MOG Working Group
- National Enabling Good Lives Leadership Group
- ILead
- Age Care Association
- Age Concern NZ
- Alzheimer's NZ
- Arts Access Aotearoa
- Be. Lab
- Blind Citizens New Zealand
- Blind and Low Vision NZ
- Business Community
- Carers NZ
- Disability Leadership Canterbury
- Cerebral Palsy Society
- Complex Care Group
- Deaf Children
- Deaf Aotearoa
- Dementia NZ
- Disabled Person's Assembly
- Dyslexia Foundation NZ
- Grey Power
- IHC Advocacy
- Inclusive New Zealand
- Local Government NZ
- Local Government Policy (DIA)
- The New Zealander Disability Employers' Network
- NZ Disability Support Network
- National Foundation for the Deaf and Hard of Hearing
- NZ Sign Language Board
- Parents of Vision Impaired New Zealanders
- Parent/Whānau Family Network (through ODI)
- People First
- Retirement Villages Association