

Chair
Cabinet Social Wellbeing Committee

ACCELERATING PROGRESS TOWARDS ACCESSIBILITY IN NEW ZEALAND

Proposal

- 1 I am seeking Cabinet agreement to commence the design of an approach to achieve a fully accessible New Zealand, in collaboration with key stakeholders¹. This will include developing a common understanding of what “fully accessible” looks like and exploring the feasibility of using legislation to provide for standards and codes for accessibility.

Executive summary

- 2 Accessibility is important to all New Zealanders, because it allows us to participate in and belong to the world around us. Any barriers to accessibility act as a handbrake on achieving our full potential. While accessibility affects everyone, barriers to accessibility especially limit some groups. Disabled people make up about one quarter of New Zealanders and still report major areas of non-accessibility and non-compliance with voluntary standards. They experience consistently lower levels of participation in society and poorer life outcomes compared with their non-disabled peers. The number of disabled people in our society is set to increase over the next 30 years as the population ages.
- 3 Accelerating the pace of improvements in accessibility is likely to also benefit those people who may have less pronounced barriers, or are less likely to have their voice heard about the impact that accessibility has on their lives. This includes seniors, carers of young children, or people for whom English is a second language, as well as their families and friends.
- 4 I propose to progress work that accelerates the pace of improvements in accessibility. I believe the case for change is strong. An accelerated approach would allow us to meet our national and international obligations². It would also align with key Government priorities, such as improving the wellbeing of New Zealanders, and ensuring everyone who can is earning, learning, caring or volunteering. There is a real opportunity to improve economic and social outcomes for a wide range of New Zealanders, and for disabled people in particular.
- 5 There are issues and challenges to be aware of, such as a current lack of clarity on costs to both the public and private sector. I am also aware that the effectiveness of any approach would depend on the support of interested parties. However, I believe there is reason to be optimistic that New Zealanders would support a change, based on the belief that all New Zealanders have the right to participate fully and equally in our society. New Zealand also has the advantage of being able to refer to a number of overseas models for guidance on what works well and what to avoid, in designing an approach to accelerate accessibility.

¹ The term “key stakeholders” is used throughout this paper. It refers at a minimum to disabled and older people, representatives and families of both groups, Māori, business (including small business) and government agencies. It will be important, however, that collaboration in the design process involves a variety of stakeholders. Therefore, as a first step, officials will scope the full extent of those affected by accelerating accessibility, and who should be involved.

² Article 9 of the United Nations Convention on the Rights of Persons with Disabilities.

- 6 I am seeking Cabinet agreement to design an approach to achieve a fully accessible New Zealand, in collaboration with key stakeholders. This collaboration would be informed by lessons from recent good examples of co-design (such as the Disability Support System Transformation). Representation of key stakeholders and training in co-design will be critical elements of this.
- 7 The work will include exploring the feasibility of legislation to provide for standards and codes for accessibility. I will report back with an interim update on progress by 30 June 2019, but it is likely the policy work programme will extend beyond this date. The final report back will be framed by a full regulatory impact assessment (if required) and will evaluate other options to achieve the policy objectives, consider implementation issues, estimate costs and assess risks.

Accessibility is essential to allow people to participate fully and equally in New Zealand society

- 8 Accessibility³ matters because it is about our ability to participate in, and belong to, the world around us. Every New Zealander should be able to fully participate in society, whether in education, employment, getting the services they need, or taking part in community and social life.
- 9 There are currently an estimated 1.1 million disabled people in New Zealand⁴ (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 can create access needs (and many have a variety of access needs).
- 10 Accessibility is not purely a disability issue. It also affects groups such as seniors, carers of young children, or those for whom English is a second language. Having limited opportunities to participate can lead to isolation and an overall negative impact on both individual and community wellbeing.
- 11 Moreover, the prevalence of disability is increasing as the population ages, and the overall numbers of people with disabilities is expected to grow significantly over the next three decades.⁵ It is estimated that around 60 percent of older people (65+) have some form of disability, commonly a mobility or sensory disability, and both the number and proportion of older people in the population is expected to increase significantly in future. This means that a very broad cross-section of the community will face accessibility barriers if they are not addressed.
- 12 New Zealand is not fully accessible at present. There are major areas of continued non-accessibility and uneven compliance with voluntary accessibility standards.⁶ Barriers to participation in key life areas can be found across all domains of accessibility - not only in the physical environment,⁷ but in transport, information and communications, and in services.

³ If something is described as accessible, it is possible to be reached, entered or used; easy to obtain or use; or easy to understand or appreciate.

⁴ Source for all data in this paragraph: Statistics New Zealand Disability Survey 2013.

⁵ The over-65 age group is projected to make up over 20 percent of New Zealand's population from late 2031, compared with 13 percent in 2011. In the 2013 Disability Survey, people over 65 had a disability rate of 59 percent, compared to 21 percent of people aged 15 to 64. (Source: Statistics New Zealand Population Estimates and Projections).

⁶ For example, many instances were described by people interviewed for the report "Participation and Poverty", published by the Article 33 New Zealand Convention Coalition Monitoring Group in 2015.

⁷ Includes housing, publicly accessible buildings, and public and green spaces. A common example is a building with stairs up to its entrance. A person with mobility impairment may be unable to enter the building

Information and communications, for example, are not always easy for people to access in formats and languages that are right for them. Public transport can be inaccessible not in a physical sense,⁸ but because information about it is not provided in an accessible format. Documents such as leases and mortgages are difficult to understand for those with learning disabilities (because they are not in plain English).

- 13 Improving accessibility is also important because disabled people consistently experience lower levels of participation in society compared to their non-disabled peers.⁹ Measured discrepancies have remained largely unchanged since 2001.¹⁰

We can aspire to “full accessibility” over time

- 14 I am aware there are limitations on accessibility in some domains, such as the physical (particularly green spaces), and information and communications. For example, an historic site may be on terrain that means physical access is difficult (if not impossible) and any modifications could be detrimental to the site itself and/or very costly. Similarly, government documents could be converted to an Easy Read format, but retrospective conversion may be onerous in terms of time and resources.
- 15 For this reason, we need to develop a common understanding of what “full accessibility” looks like, including how and when to achieve it. The policy work programme I am proposing can consider these questions. It could mean, for example, achieving full compliance with a code or standard that has been agreed in co-design with disabled people and their representatives. This is the approach used in Ontario, Canada, which has set a goal of a fully accessible province by 2025 (a twenty-year lead-in period, following the setting of the goal in 2005).
- 16 Achieving full accessibility is not intended to alter or replace existing services for disabled people. There will always be a need for a “twin track” approach, where specialist support services are available as appropriate, in addition to the standard or mainstream services that people are entitled to access.
- 17 Achieving full accessibility is aspirational and will need to happen over time, for example, by beginning with preventing the introduction of new accessibility barriers before working to remove existing barriers. In my view we can be confident that this can be achieved, given the difference that changing technology and simple inventiveness can make.

Reasons behind the need to improve accessibility are wide ranging

- 18 Issues raised with me in relation to accessibility in New Zealand have been many and varied. They include:
 - 18.1 Accessibility not being seen as a basic human right by organisations (including government). This means accessibility is not considered as important, or is assumed to involve prohibitive costs, when designing or changing transport, technology, or the built environment.

without a different route, such as a ramp next to the stairs. It is the building's poor design rather than the person's mobility impairment that is the issue.

⁸ For example, because of a gap between the pavement and the entrance to a bus, train or taxi.

⁹ The four national disability surveys undertaken by Statistics New Zealand since 1996, and the Household Labour Force Survey (June quarter 2017, 2018) show that educational outcomes, workforce participation and income outcomes for disabled people are consistently lower than for non-disabled people.

¹⁰ A longitudinal study undertaken by the Blind Foundation and the Work Research Unit of the Auckland University of Technology found that the gap between people without disabilities and disabled people has remained much the same in 2013, as it was in 2001.

- 18.2 A lack of awareness about the need to be accessible, what an accessible environment looks like and how to get there. For example, the disability community has indicated that there appears to be a lack of awareness amongst developers, architects, builders and planners about what accessible design is and why it is important.
- 18.3 Legislative settings that do not provide organisations with clear and specific expectations and guidance on what they are required to do to meet their obligations as educators, employers, or as providers of information or services.¹¹
- 18.4 A lack of authorised, consistent accessibility standards or requirements for organisations to meet¹² – and those we do have are considered outdated. For example, with regard to the built environment, government standards do not require all buildings to meet the needs of disabled people.¹³
- 18.5 A lack of penalties for non-compliance. Enforcement in New Zealand tends to rely on individual faults-based complaints (i.e. the onus is on the individual to bring a complaint).
- 18.6 Government being slow to act on the need to improve accessibility and to lead the way. The disability sector does not see government as valuing disabled people because, for example, there is no one agency with responsibility for accessibility and there is a lack of consistent, meaningful engagement with the disability sector on decisions that affect them.
- 19 There are pockets of good practice to be found, but they tend not to be sustainable due to a lack of mandate and a changing landscape over time (for example, public sector priorities can change).

Research so far has provided valuable insights

International comparisons have highlighted key elements to consider

- 20 There are a number of models from overseas jurisdictions whose experience we can learn from in developing an approach to accelerating accessibility. There is a growing body of evidence that first world countries are using legislation to ensure a positive duty to achieve accessibility. Most countries with accessibility legislation decided to proceed on the basis that accessibility legislation was “the right thing to do”.
- 21 From a review by officials (refer **Appendix 1**), we are aware of key elements that would need to be considered in any New Zealand legislation if it was to be developed:
- 21.1 provision for standards, their regular review, and identified accessibility domains the standards would cover

¹¹ New Zealand generally relies on a combination of the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 (HRA) to deal with disability discrimination (there can also be legislation specific to a particular area, such as education). Both these laws are consolidated rights legislation rather than being specific to disability discrimination. They provide a principles-based framework with broadly worded obligations about not discriminating, and there is no positive duty to make reasonable adjustments for people with a disability.

¹² For example, several private sector organisations such as BeAccessible, the Barrier Free New Zealand Trust and Foundation for the Blind offer an accessibility ‘tick’ to employers.

¹³ For example, private dwellings do not have a government-authorised accessibility standard while public buildings do.

- 21.2 an appropriate and workable way of enforcement (i.e. the advantages and disadvantages of any approach along the spectrum from compulsion, to education, to agency self audits)
 - 21.3 resourcing required for implementation (which would require a dedicated, long-term work programme)
 - 21.4 the approach to implementation, including mechanisms that would need to be established
 - 21.5 the need for co-design with disabled people, their representative organisations and other interested parties (e.g. in developing standards and codes)
 - 21.6 clear and reasonable timeframes for compliance
 - 21.7 the critical importance of raising public awareness.
- 22 All of the above elements can be examined when considering the feasibility of using legislation, which is one aspect of the further policy development process I am proposing.

New Zealand public sector agencies were also surveyed on accessible practices and initiatives

- 23 Government agencies can play a key role in modelling accessible behaviour. Officials have reviewed current practices and initiatives that promote accessibility across nine different public sector agencies.¹⁴ This research revealed many examples of good practice and innovative thinking, and some areas to work on. These include:
- 23.1 The KiwiBuild Programme – there is a broad range of outcomes which KiwiBuild could potentially deliver on, beyond the 100,000 dwellings target, including accessibility.
 - 23.2 The Building Act 2004 requires reasonable and adequate provision for disabled people to visit or work in publicly accessible buildings.¹⁵
 - 23.3 The Ministry of Transport’s Outcomes Framework includes accessibility.
 - 23.4 Research is underway on how the Pedestrian Planning and Design Guide and the Guidelines for facilities for blind and vision impaired pedestrians are being utilised by local government.
 - 23.5 Prototype for the Transformation of the Disability Support System. This began in the MidCentral DHB area in October 2018 and is based on the Enabling Good Lives principles.
 - 23.6 District Health Boards’ promotion of the Health Passport, which provides detailed information about a disabled patient, including how they like to be communicated with.
- 24 I recognise that there are existing measures and initiatives across government that already promote accessibility, for example, under the Building Act 2004. The work programme I am proposing is not intended to duplicate or replace existing work. It will look at how to

¹⁴ The agencies were: MSD; the Ministry of Business, Innovation and Employment (MBIE); Housing New Zealand; the Ministry of Health; Accident Compensation Corporation; the Ministry of Education; the Ministry of Transport; the New Zealand Transport Agency; and the Ministry of Justice.

¹⁵ There are no plans to remove the current exemption for small factories and industrial buildings, with ten or fewer people.

complement and augment what we already have underway. It will also not be limited to the public space but that is where we will need to focus our initial effort.

An accelerated accessibility approach could provide a mechanism for developing standards and codes

- 25 The current legal and policy framework in New Zealand is not sufficient to enable the substantial lift in accessibility that we need. New Zealand has gone some way towards improving accessibility, and the Government's interventions on disability issues are wide ranging. Nevertheless, progress has been slow and haphazard, with the outcome that discrepancies for disabled people continue to persist. This is resulting in long-term inequity. Current interventions are insufficient to achieve our objectives both nationally and internationally. My view is that New Zealand is not doing enough compared with similar jurisdictions to meet its obligations.
- 26 At this point, I believe that the case for change is strong enough to warrant a policy work programme on achieving full accessibility, which includes looking at the feasibility of introducing legislation. The work programme can explore all the issues involved, such as how we define full accessibility; what the costs and risks are of proposed approaches; how standards and codes could be set, implemented and enforced; and which domains they might cover. This work programme would involve working collaboratively with key stakeholders to incorporate their views into any proposed approach.

An accelerated accessibility approach would offer many opportunities to achieve better social and economic outcomes

Accelerating progress would help New Zealand meet its international and domestic obligations, and align with other government priorities

- 27 An accelerated approach would help New Zealand to proactively implement Article 9, Accessibility, in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Article 9 requires New Zealand to develop and monitor the implementation of minimum standards for the accessibility of facilities and services open or provided to the public. It is important to note that the Government's obligation does not end at publicly-owned facilities and services, but extends to the private sector.
- 28 In relation to accessibility, the CRPD Committee has specifically recommended that New Zealand enact measures to ensure that all public buildings, as well as public web pages, are made accessible to disabled people and that consideration be given to making all new future private houses fully accessible. It also recommended that the exemption from accessibility requirements for factories and industrial premises employing less than ten people be discontinued.
- 29 The Committee also included in the List of Issues that New Zealand is required to report on, that the HRA be amended to include a definition of "reasonable accommodation", to better comply with the CRPD¹⁶. New Zealand's progress will be reviewed in late 2019.
- 30 At the national level, accelerating accessibility would help us achieve Outcome 5: Accessibility, in the New Zealand Disability Strategy 2016 – 2026 (the New Zealand Disability Strategy). Actions under Outcome 5 include increasing the accessibility of government

¹⁶ United Nations Committee on the Rights of Persons with Disabilities, "List of issues prior to submission of the combined second and third periodic reports of New Zealand", Office of the High Commissioner for Human Rights, 23 March 2018, accessed 9 October 2018.

information; investigating opportunities for technology; and implementing the accessibility plan (public buildings).

- 31 An accelerated approach aligns strongly with the emerging themes in the new strategy for an ageing population. It is also consistent with the age-friendly cities and communities approach promoted by the World Health Organization, which New Zealand is committed to as a member of the WHO Global Network of Age-friendly Cities and Communities.
- 32 Accelerating progress would align with this Government's priorities, including:
- to grow and share New Zealand's prosperity more fairly
 - improving the wellbeing of New Zealanders and their families
 - ensuring that everyone is earning, learning, caring or volunteering
 - supporting healthier, safer and more connected communities
 - making New Zealand the best place in the world to be a child
 - committing to deliver transparent, transformative and compassionate government.

Accelerating accessibility would achieve change faster and promote sustained change

- 33 An accelerated approach could involve setting a target date for achieving full accessibility, to support faster change. It could also promote sustained change by authorising a longer-term work programme to achieve full accessibility. While quick wins could be made, for example, by prioritising the review of the New Zealand Standard for publicly-accessible buildings s 9(2)(f)(iv) options could be explored to provide much stronger authority to progress action and ensure initiatives such as these are not vulnerable to changing priorities.

An accelerated approach would help improve outcomes for disabled people and achieve change for others in the population

- 34 Accelerating the pace of change would help improve many outcomes for disabled people, for example:
- 34.1 increased workforce participation, through improved access to buildings, public infrastructure, the digital environment, and goods and services
- 34.2 better health and wellbeing, for example, through being able to live in the housing of their choice that meets their needs, and better access to supports and services.
- 35 Taking an accelerated approach would also achieve change for other members of the public with accessibility issues, such as people with young children in pushchairs, those with temporary injuries, people for whom English is a second language, and the seniors population.

Accelerating accessibility could provide economic benefits and produce cost savings

- 36 The potential economic impacts of having more disabled people in the productive workforce are significant. At June 2017 the unemployment rate was more than double for disabled people when compared to non-disabled people. The rate of young disabled people not in employment, education or training was 42 percent, compared with 10 percent for other young people.

¹⁷ New Zealand Standard 4121:2001: Design for Access and Mobility – Buildings and Associated Facilities.

- 37 Research carried out by the New Zealand Institute of Economic Research (NZIER) in 2017¹⁸ modelled the impacts of a change in labour force participation rates where unemployment rates of disabled and non-disabled people populations are equalised. This showed that a transfer of 14,000 people from Supported Living and JobSeeker payments into the workforce could produce an annual gross fiscal saving to the Government of \$270M and a reduction in future welfare payments over 10 years of approximately \$3B. The study also showed an additional \$1.45B could be added annually to real gross domestic product (GDP).¹⁹
- 38 In addition to increased workforce participation, the economic benefit could include an increase in tourism revenue, through greater domestic spend and an increase in international visitors.²⁰ Tourism is one of New Zealand's most important sectors, contributing over \$12B to GDP in 2016²¹. The tourism industry has a large and growing market for "accessible tourism", with an ageing population an issue for many of our key tourism markets. Improvements to accessibility in the built environment will improve participation in the accessible tourism market by both New Zealanders and overseas tourists.

Other advantages include positive benefits for both public and private organisations

- 39 Accelerated progress would bring consequential benefits. For example:
- 39.1 organisations that improve accessibility would enjoy higher patronage from disabled people, reach more potential customers, and retain highly skilled workers who may become disabled²².
 - 39.2 it would send a strong signal that disabled people are equal citizens and should be able to participate fully and equally
 - 39.3 developing an approach to achieve full accessibility would provide an opportunity to work collaboratively – with official industry representatives, specialists, businesses, and disabled people.

There are challenges and issues to be aware of

Costs

- 40 There is a lack of clarity on potential costs to the public and private sector at this point. Measuring the compliance cost to government alone will need to include its property portfolio, including the value of leases. Costs to the public and private sector would be estimated ahead of seeking in-principle agreement to any solution.
- 41 Developing and implementing standards would be resource intensive for government. Standards New Zealand (Standards NZ) advice is that each standard might cost approximately \$100,000 to develop (assuming Standards NZ would work in co-design with working groups). The advice from Standards NZ is that if a wider medium-term programme of work for developing multiple standards in the accessibility and disability areas is established, there will be an opportunity for significant reductions to the average cost for developing

¹⁸ NZIER "Valuing access to work", February 2017.

¹⁹ While the study shows the potential economic gains, accessibility legislation is only one of many changes that would be needed to move to a point where there was no over-representation of disabled people in unemployment figures.

²⁰ NZIER "Valuing access to work", February 2017

²¹ Ministry of Business, Innovation and Employment, 2016. Tourism Dashboard.

²² E.g. the Blind Foundation, as a supported employment provider, has found that many people with sight impairments, when given the right support, can successfully enter the workforce. This is broadly the case for other impairments.

standards. The development process run by Standards NZ is aligned with international best practice and results in consensus-based standards that have stakeholder buy-in and have undergone public consultation. There is also likely to be a need to establish a number of mechanisms to implement accessibility standards, including a secretariat²³, complaints mechanism, compliance mechanism and evaluation mechanism. Ensuring compliance with standards, regardless of the mechanism chosen, will have an ongoing cost.

- 42 The process of developing, enacting and maintaining any legislation, should that be the approach recommended, will have a cost. Policy development and drafting of any legislation (taking into account co-design and consultation) and taking it through the parliamentary process would also take government resource.
- 43 Whatever the approach, it is likely that a long-term work programme would be needed to achieve full accessibility, with dedicated resourcing. A Budget bid would be required. All costs will be estimated as part of the policy work programme that I am proposing.

Risks

- 44 There are no immediate risks from a policy work programme, with the exception of managing stakeholder expectations and concerns. However, it is important to be aware of the risks should Cabinet later agree to implement a regulatory approach.
- 45 One risk is that the timeframe required to develop and enact any legislation may extend beyond the Government's term. I note that has been a risk for many other worthwhile initiatives. I also note the proposal for legislation has the support of the Parliamentary Champions for Accessibility Legislation, a cross-party group of Members of Parliament.
- 46 Another risk is that compliance costs could be a barrier for some parties, such as smaller organisations. I am aware that most New Zealand businesses are small to medium-sized enterprises.²⁴ There is therefore potential for any proposed legislation to be controversial, given the likely impact on private business. This is why I consider it important to collaborate with key stakeholders, including business, as we progress this work programme.
- 47 The effectiveness of an accelerated approach would depend on the buy-in of interested stakeholders. I believe there is reason to be optimistic about support. I note that the results of a poll undertaken by UMR on behalf of the Access Alliance²⁵ indicate that more than 80 percent of New Zealanders support a law requiring minimum standards for disability access.
- 48 There are ways of minimising the risk of costs as a barrier, for example, by gradual adoption of codes and standards (as in Ontario, where five standards have been created so far). Should any codes or standards require a major shift and investment, then this change could be managed through taking a staged approach to the roll-out of requirements. For example, any legislation could apply first to government agencies, and then in a few years' time, to larger organisations. It could also be mitigated by not applying to businesses with a small number of employees. There could therefore be a progressive approach to change.
- 49 Ensuring compliance with standards could be challenging. All jurisdictions examined have struggled with the question of how best to assess "real compliance" (as opposed to

²³ The role of a secretariat might include: coordinating and supporting working groups developing the standards; working with a reference group of disabled persons; running and maintaining a website; communications; and potentially also providing a complaints mechanism and compliance monitoring duties.

²⁴ According to figures released by the Ministry of Business, Innovation and Employment in June 2017, 97 percent of enterprises in New Zealand have less than 20 employees.

²⁵ In July 2018, UMR conducted a telephone survey of a nationally representative sample of 750 New Zealanders aged 18 years and over.

organisations carrying out a 'box-ticking exercise'). Ontario has also highlighted the challenge around measuring the overall impact of legislation. However, the outcome indicators in the New Zealand Disability Strategy could be used to measure change. We also have the advantage of being able to learn from other jurisdictions' experience of what works.

- 50 Mandated accessibility standards could potentially be inflexible. However, I believe this could be mitigated through good design and regular review.
- 51 Should standards not be considered adequate, there is a risk that complaints could fall to government to resolve. This risk should be lower if proper co-design and consultation occurs.
- 52 Finally, accessibility standards alone are not going to fully address all the disadvantages experienced by disabled New Zealanders. A government accessibility work programme would be a catalyst for positive social change leading to improved economic and social outcomes for disabled people. We cannot rely on accessibility standards alone to tackle the systemic inequalities that disabled people and others in our society are subjected to.

I am seeking agreement to design the approach in collaboration with key stakeholders

- 53 I am seeking Cabinet agreement to design an approach to achieve a fully accessible New Zealand, in collaboration with key stakeholders. This process will need to be robust and involve a variety of stakeholders, such as disability groups; business groups (including small business); Māori; representatives of the community and voluntary sector; district health boards and local government. Taking a collaborative approach to the design process will ensure that the impacts are well understood. The process would be informed by lessons from recent good examples of co-design (such as the Disability Support System Transformation). Representation of key stakeholders and training in co-design will be critical elements.
- 54 I will provide an interim update on progress by 30 June 2019, but I am expecting that the work programme will extend beyond six months.
- 55 The work programme will:
 - 55.1 as a first step, involve a scoping exercise by officials to confirm the full extent of who will be impacted by an accelerated accessibility approach, and who needs to be involved in the co-design process. It will be important that we understand the implications for everyone, such as disabled people; business groups (including small business); the community and voluntary sector; Māori; district health boards; and local government
 - 55.2 develop a common understanding of "fully accessible"
 - 55.3 evaluate options to achieve the desired policy objectives, including any legislative amendments/reviews
 - 55.4 involve collaboration with key stakeholders, including disabled people and business
 - 55.5 identify key elements to be included in any approach (e.g. standards, the mechanism for establishing these, and the domains of accessibility these should cover)
 - 55.6 consider implementation issues, such as mechanisms that would need to be set up, a consequent work programme, public education and associated resourcing
 - 55.7 estimate costs and where they would fall, and assess risks

55.8 be framed by a full regulatory impact assessment (if required).

Consultation

- 56 This paper was drafted by the Ministry of Social Development and reflects advice from the Office for Disability Issues. The following agencies have been consulted: Treasury; the Department of the Prime Minister and Cabinet; the Ministry of Business, Innovation and Employment; the Ministry of Justice; the Ministry of Housing and Urban Development; the Ministry for Women; Te Puni Kōkiri; the Ministry for Pacific Peoples; the Office of Ethnic Communities; the Office for Seniors; the Ministry of Health; Accident Compensation Corporation; the Ministry of Transport; and the Ministry of Education.
- 57 At this early stage, wider consultation is not required. I would expect a paper for the 30 June 2019 report back on progress to be circulated to a wider group of agencies.

Financial implications

- 58 The cost of the proposed policy work programme will be met within department baselines. There may be cost implications at a later stage; these will be determined as part of the policy development process.

Human rights implications

- 59 The policy work programme that this paper recommends could result in proposals that, if developed, would better align our practice with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative implications

- 60 At this point, there are no direct legislative implications. However, the policy work programme proposed may have legislative implications if Cabinet decides to progress accessibility legislation at a later date.

Regulatory impact and compliance cost statement

- 61 The Treasury Regulatory Quality Team has determined the Regulatory Impact Analysis requirements do not apply to this proposal as it does not include any options that may lead to regulatory change at this stage, nor is it seeking any “in principle” or intermediate policy decisions. Regulatory Impact Analysis will be carried out on any regulatory proposals that may result from the policy development process.

Gender implications

- 62 At this point, there are no direct gender implications. However, it is anticipated that the policy work programme this paper recommends could result in proposals that, if developed, would have positive impacts for women, especially women with disabilities.
- 63 The Statistics New Zealand Disability Survey in 2013 estimated that 24 percent of New Zealand women (545,000) have a disability. Its data showed that disabled women (15 years and older) generally have poorer socio-economic outcomes than their non-disabled peers. The Survey showed that, for instance, 33 percent of disabled women have no educational

qualification; less than a quarter are in full-time employment; and over 70 percent had a total income of \$30,000 or less. This is consistent with the findings of international research.

Disability perspective

- 64 This paper addresses disability issues specifically. A collaborative policy work programme to design an accelerated accessibility approach is a positive first step towards reducing barriers to accessibility. Reducing barriers matters because they impede a large group of New Zealanders from achieving to their full potential and fully participating in society.
- 65 Accelerating the pace of improvements in accessibility would enable New Zealand to meet its international obligations, and its commitments under the New Zealand Disability Strategy 2016-2026. It would help improve outcomes for disabled people in areas including employment, education and health, and provide benefits to others in the wider population.

Publicity

- 66 I propose making a public announcement on the decision to commence the design of an approach to achieve a fully accessible New Zealand, so that I (and officials) can openly discuss the policy development and reduce uncertainty for stakeholders. I also propose to proactively release this Cabinet paper.

Recommendations

- 67 It is recommended that the Committee:
- 1 **note** that barriers to accessibility prevent disabled New Zealanders from fully participating in society and realising their full potential in life
 - 2 **note** that the prevalence of disability is increasing as the population ages
 - 3 **note** that New Zealand is not fully accessible at present, and that disabled New Zealanders continue to report major areas of non-accessibility and uneven compliance with voluntary accessibility standards
 - 4 **agree** to government commencing the design of an approach to achieve a fully accessible New Zealand, in collaboration with key stakeholders
 - 5 **note** that this will include exploring the feasibility of using legislation that provides for standards and codes for accessibility
 - 6 **note** that pursuing a policy work programme on achieving full accessibility would provide many advantages, including:
 - 6.1 enabling New Zealand to meet its international obligations, including Article 9, Accessibility, in the United Nations Convention on the Rights of Persons with Disabilities
 - 6.2 strong alignment with emerging themes in the new strategy for an ageing population
 - 6.3 consistency with the age-friendly cities and communities approach promoted by the World Health Organization, which New Zealand is committed to as a member of the WHO Global Network of Age-friendly Cities and Communities

- 6.4 enabling the achievement of national obligations, including Outcome 5: Accessibility, in the New Zealand Disability Strategy 2016 – 2026
- 6.5 alignment with Government priorities, including the wellbeing of New Zealanders, and ensuring that everyone is earning, learning, caring or volunteering
- 6.6 achieving change faster, and promoting sustained change
- 6.7 improved economic and social outcomes for disabled people
- 6.8 economic benefits and cost savings
- 6.9 positive benefits to both public and private organisations, such as higher patronage from disabled people, and the retention of highly skilled workers who become disabled
- 6.10 sending a clear message that disabled people are equal citizens, with the right to participate fully and equally in society
- 7 **note** that a review of similar international jurisdictions offers valuable insights on possible approaches to accelerating accessibility in New Zealand
- 8 **note** that there are future challenges and issues to be aware of, including:
 - 8.1 a current lack of clarity on potential costs to the public and private sector
 - 8.2 that developing and implementing an accelerated accessibility approach would be resource intensive and require a long term work programme
 - 8.3 that the effectiveness of any approach requires the support of interested parties
 - 8.4 that the timeframe required for any solution might exceed the Government's term of office
 - 8.5 that any accessibility legislation could be controversial, given the likely impact on business, and that stakeholder concerns will need to be managed
- 9 **invite** the Minister for Disability Issues to report back to Cabinet with an interim update on progress of the policy work programme, by 30 June 2019
- 10 **agree** to the Minister for Disability Issues publicly announcing the decision to commence the design of an approach to achieve a fully accessible New Zealand.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Disability Issues

Appendix 1: Review of international approaches to accessibility legislation

1 Officials reviewed international approaches in the following jurisdictions: Norway, Denmark, the United Kingdom, Australia, and Ontario (Canada). They also examined legislation not yet in force in the Canadian Federation and the European Union, and considered a literature review comparing the impact of disability legislation in Canada and the United States of America (USA).

2 **Key findings of the research:**

2.1 *The scope of accessibility legislation across the selected jurisdictions prohibits discrimination on the basis of disability*

For example, Norway's legislation (the Anti-Discrimination and Accessibility Act 2009) views inaccessibility in the context of discrimination, including the obligation to use universal design. The USA's Americans with Disabilities Act 1990 (ADA) prohibits discrimination against individuals with disabilities in all areas of public life. This legislation and UK, Australian and Ontarian legislation all contain a positive duty to achieve accessibility for disabled people (e.g. the Australian legislation expects "reasonable adjustments").

2.2 *The legislation enacted (or in draft form) focuses on accessibility domains, or targets key areas of social life (or a combination)*

For example, the UK's Equality Act (2010) expects "reasonable adjustments" to apply to employers, education, premises, services and public functions, and partnerships. By comparison, Ontario's Accessibility for Ontarians with Disabilities Act (2005) covers customer service, information and communications, transportation, employment, and design of public spaces.

2.3 *Various bodies exercise power/responsibility to develop accessibility standards*

A robust process for developing accessibility standards is a proactive means of combating disability discrimination. Some jurisdictions have established bodies to create standards, while other have developed action plans. For example, in the UK, standards may be developed through regulations, or created through "reasonable adjustments". Australia enables disability standards to be created under its Disability Discrimination Act, which are legally binding regulations set by its Attorney-General. In Ontario, the relevant Minister sets terms of reference and establishes Standard Development Committees that develop standards. The Accessible Canada bill would form technical committees (including disabled people) to develop accessibility standards.

2.4 *A timeline for implementation of accessibility standards is specified in a few jurisdictions*

For example, Norway has set a goal of a universally designed society by 2025. Ontario has a phased-in approach to compliance with standards, with deadlines based on organisation type (e.g. public or private sector) and size. It aims to achieve full accessibility by 2025. Member states of the European Union have to make all existing websites accessible by 23 September 2020.

2.5 *Monitoring and reporting on compliance with accessibility standards is required in a few jurisdictions*

As examples, the Ontario legislation requires organisations (with 20 or more employees) to file accessibility reports, which are reviewed. The Accessible Canada bill would require all regulated entities to prepare and publish regular progress reports on implementation of their

disability plans. The USA requires public entities to carry out a self evaluation of their policies and practices, and those employing over 50 people must retain these for three years.

2.6 *Various mechanisms for the enforcement of accessibility standards have been developed*

The accessibility legislative models examined rely on two methods of enforcement:

- an individual faults-based complaints approach (such as in Norway, Denmark, the UK and Australia)
- legal orders imposed on noncompliant bodies.

Key learnings from overseas models

- 3 Overseas jurisdictions that have the most in common with New Zealand from a legal heritage perspective are Australia, Canada and the United Kingdom (UK). Each of these models has features that have worked well and others where difficulties have been experienced. We can use learnings from these jurisdictions to inform the creation of a regime here, and to mitigate against some of the known risks and issues.
- 4 The Ontario state framework offers the most experience to learn from. Its legislation applies to both the public and private sector, and implies a positive duty to achieve accessibility. Its implementation mechanisms are well established (e.g. its Accessibility Directorate has so far set five accessibility standards). It does however have limitations that we would want to avoid.
- 5 Learnings include:
 - Accessibility legislation should not be too prescriptive. If this is the case, it becomes too difficult for businesses to implement and comply with. This has been the experience in the UK and Ontario. Australia has a more flexible approach to the making of standards and a more participatory approach to their review.
 - Legislation should be future proofed, to cover new technologies, or businesses that do not have 'traditional' employees (such as Air BnB and Uber).
 - Implementation should start with the public sector, who can lead and model 'good behaviour'.
 - Key performance indicators to measure real compliance and ongoing impact. A key challenge around accessibility legislation can be difficulty in measuring the impact. (Ontario has ongoing difficulties with avoiding 'tick box' exercises).
 - There needs to be sufficient resourcing (e.g. there is a lot of initial work involved in creating and implementing standards).
 - Effective governance over standards takes time.
 - Enforceability should focus on building public awareness and use targeted auditing. Ontario has focused on creating a strong self-reporting tool to help organisations assess how they are implementing their obligations. They also undertake targeted auditing to monitor compliance of one sector each year/two years. Legal orders can also be imposed on non-compliant bodies.