

IN CONFIDENCE

Office of the Minister for Disability Issues

Chair

Cabinet Social Wellbeing Committee

FRAMEWORK TO ACCELERATE PROGRESS TOWARDS ACCESSIBILITY IN AOTEAROA NEW ZEALAND

Proposal

- 1 I propose that Cabinet note my intended policy approach to accelerate accessibility in Aotearoa New Zealand - a new legislative framework to act as a vehicle for progressive implementation of accessibility over time. I seek Cabinet agreement for officials to progress further work on details of the legislative framework, before I submit a complete policy proposal for approval in May 2021.
- 2 I have asked officials to identify opportunities within the COVID-19 context that we can take advantage of and maintain momentum on accelerating accessibility and where appropriate consider how the Access Alliance can be involved and support this.

Relation to government priorities

- 3 An accelerated approach to achieving accessibility offers many opportunities to achieve better social and economic outcomes for disabled people and other New Zealanders. It aligns with a number of specific Government priorities, including: growing and sharing New Zealand's prosperity more fairly; improving the wellbeing of New Zealanders and their families; ensuring that everyone who can is earning, learning, caring or volunteering; supporting healthier, safer and more connected communities; committing to deliver transparent, transformative and compassionate government; and offering a unique opportunity to support the COVID-19 response and recovery.
- 4 Accelerating accessibility can contribute to the economic recovery and provide a competitive edge, through ensuring universal design¹ is considered in service design and product offerings, and encouraging the expansion of new, smarter ways of working. Maintaining the momentum of accessibility work will help to continue addressing the longstanding challenges of inequality and disproportionate disadvantage experienced by disabled people.
- 5 Accelerating progress in accessibility will contribute to New Zealand meeting its international and domestic obligations. Internationally, an accelerated approach will ensure New Zealand implements the United Nations Convention on the Rights

¹ **Universal design:** usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. It is important to note that accessible design and universal design are not interchangeable terms. **Accessibility:** the degree to which a product, device, service, or environment is available to as many people as possible. Accessibility is not Universal Design as it is not intended to accommodate everyone.

of Persons with Disabilities (CRPD), particularly Article 9, which relates to our development and monitoring of the accessibility of facilities and services open or provided to the public.

- 6 Accelerating accessibility in a way that meets Treaty of Waitangi obligations will also help New Zealand implement key articles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), such as self-determination, equality and non-discrimination, and participation². Te Tiriti requires the Crown to exercise Kāwanatanga (good governance) respect the Tino Rangatiratanga (self-determination) of Māori and strive for Ritenga (equitable outcomes). The Crown's Treaty obligations will be a specific focus during the Waitangi Tribunal's consideration of stage two of the Health Services and Outcomes Kaupapa Inquiry (WAI 2575). This inquiry focuses on the experience of Māori whānau living with disability. For these whānau, barriers to access are another barrier to full participation in society, and the intersection of these concerns is likely to receive considerable scrutiny through the Tribunal hearings.
- 7 At the national level, accelerating accessibility contributes strongly to achieving the New Zealand Disability Strategy 2016 - 2026 (the New Zealand Disability Strategy). The Disability Action Plan 2019 - 2023 (DAP), the vehicle for implementing the New Zealand Disability Strategy, has work programme areas which directly achieve the Strategy's Accessibility Outcome. These include improving accessibility across New Zealand's housing system; improving the accessibility of public information; and the NZTA and Ministry of Transport's Action Plans.
- 8 An accelerated approach aligns with the Government's Employment Strategy, which focuses on supporting a more inclusive labour market, and strongly aligns with the principles and key action areas in Better Later Life He Oranga Kaumatua 2019 to 2034. It is consistent with the age-friendly cities and communities approach promoted by the World Health Organization. Achieving accessibility is also consistent with major infrastructure projects (e.g. in housing and transport) and with cross-government work programmes such as implementation of the Learning Support Action Plan 2019 - 2025; the Disability Support System Transformation and Mahi Aroha - Carers' Strategy Action Plan 2019 - 2023.

Executive summary

- 9 Accessibility matters because it is a pre-condition to disabled people realising their rights and being able to participate fully in society on an equal basis with others, including civic participation (e.g. voting) and in employment, social and education opportunities. Progress in removing barriers to accessibility in key life areas has been slow in recent years, and accelerating accessibility is a complex task. Accessibility is not well understood or applied, largely due to a fragmented regulatory system, responsibility spread across many central and local government agencies, and a lack of incentives or compulsion in the system to do better.
- 10 Disabled people are already disproportionately disadvantaged, and the barriers faced by disabled people were even more pronounced during the COVID-19 response. While COVID-19 has presented additional challenges for disabled

² For example, it should enable tāngata whaikaha (Māori disabled) to have equal access with other citizens, and to their own cultural traditions, such as the learning of te reo, which inaccessibility of buildings and online materials may currently exclude them from.

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people, it has also created unique opportunities to accelerate work to address barriers and improve accessibility in New Zealand, while supporting overall recovery efforts. Maximising these opportunities will support a shift toward a more accessible New Zealand, bringing with it numerous social and economic benefits.

- 11 My preferred approach to accelerating accessibility is through a new legislative accessibility framework. This framework will focus on prevention and removal of barriers to ensure disabled people can participate and access the same opportunities on an equal basis with others. The framework will provide mechanisms for a policy work programme, including standards development within domains of accessibility³; education and awareness raising; and reporting, monitoring and compliance functions. This approach is flexible, sends a strong signal that change is needed, and provides more certainty and durability in the long term.
- 12 I recognise there are risks in progressing too quickly at a time when agencies and businesses are under pressure in various ways. It will be important to navigate carefully and take the opportunity to influence new ways of operating and working differently, particularly in employment, to ensure disabled people are not left out or further disadvantaged. It will be important that stakeholders, in particular the business community, understand the benefits rebuilding in an accessible way from the outset brings in relation to costs; that change will be progressive; and that the focus will be on new initiatives.
- 13 I propose that this legislative framework and corresponding systems and measures are implemented progressively over time, supporting preparedness and the ability of businesses to gear up to respond to new regulatory requirements proposed. Built in review periods will enable regular check-ins to see how well the system is working. This phased implementation and monitoring should support effective mitigation of trade-offs and risks that are involved in progressing such an ambitious programme of change.
- 14 Significant commitment and some cost will be involved in accelerating accessibility. While we can learn from similar jurisdictions overseas, more work is needed to establish costs in a New Zealand context, and to progress detailed design of the new framework proposed. This further work will be carried out between now and early 2021, and I propose to report back further with a detailed legislative framework for Cabinet approval in May 2021.
- 15 Collaboration and socialisation of this policy proposal will be a crucial aspect of the further work planned prior to May 2021. This will include collaborating with the Access Alliance on the design of the framework and discussing the policy proposal with the business community throughout the design process, to ensure the framework can succeed. I recognise that this may be difficult during the recovery period, but will be necessary to meet a May 2021 report back date. I am therefore also seeking agreement to the timing of that consultation taking place from late 2020 to early 2021.

³ Domains of accessibility are life areas that standards on accessibility can cover. The CRPD lists four: physical environment; transportation; information and communications; and services to the public.

Work has been underway to design how we achieve a fully accessible Aotearoa New Zealand

- 16 In December 2018, Cabinet agreed to commence the design of an approach to achieve a fully accessible New Zealand, in collaboration with key stakeholders. The design was to 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 [CAB-18-MIN-0591 refers]. The Ministry of Social Development (MSD) has been working in partnership with the Access Alliance on the accessibility work programme, and will continue to work closely with disabled people and their representative groups, including the Disabled People’s Organisations (DPO) Coalition, as provided for by Article 33.2 of the CRPD⁴.
- 17 In July 2019, Cabinet noted my oral report back on progress of the work programme, which indicated support from stakeholders⁵ for a legislative mechanism. This report back noted that I would report further in April 2020 and that towards this, MSD in close consultation with the Access Alliance, would work to agree domains of accessibility; examine how other jurisdictions have approached legislating to mandate accessibility; and identify the range of possible options for change, that can be a mix of legislative and other approaches [CAB-19-MIN-0329 refers.]
- 18 Progress on the accelerating accessibility work programme has recently slowed due to the need to refocus agencies’ resources on the COVID-19 response. I have considered the timing and approach to progress of this work in the COVID-19 environment. In my view there are advantages presented by the new environment to work on the programme continuing towards a 2021 introduction of legislation.

Accelerating accessibility is a significant and complex task

- 19 While there has been progress in recent years, improvements in accessibility have been slow and fragmented, with that progress hard to measure. Disabled people continue to describe major areas of non-accessibility (e.g. at June 2019, only 23 percent of disabled people were employed, compared with 69 percent of non-disabled people) and non-compliance with voluntary standards⁶. The existing disproportionate disadvantage faced by disabled people is only likely to be worsened by events such as COVID-19⁷.
- 20 Accessibility barriers can compromise outcomes for disabled people, and other groups including older people, carers and Māori. Greater progress in accessibility

⁴ Article 33.2 requires state parties to set up an independent monitoring mechanism (IMM) to monitor implementation of the CRPD, including measuring progress. The DPO Coalition is a key member of the IMM.

⁵ Stakeholders consulted in March-April 2019 included disabled people and their representatives, seniors, business, carers and key community groups.

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 Reviews of social impacts and of psycho social impacts undertaken as part of All of Government activities shows that COVID-19 will likely exacerbate inequalities already experienced by many socio-economically disadvantaged groups, as seen in other pandemics, such as Māori and Pacific communities, and disabled people.

offers economic as well as social benefits to wider society. For example, participation in employment by disabled people supports the New Zealand economy. Research shows that leading companies who recognise the needs of diverse populations through accessible and universal design outperform their competitors and new markets open to them⁸. It has been estimated that the disposable income of the 1 billion disabled people globally is US\$8 trillion⁹.

- 21 The reasons behind a lack of accessibility are often interrelated, but generally stem from a **lack of knowledge and awareness about accessibility** and why it is important to change. A substantial shift is needed in public perceptions and knowledge.
- 22 **Lack of accessibility also stems from responsibility for accessibility issues being spread across many agencies and sectors**, each with varying roles and responsibilities, and varying responsiveness and progress towards accessibility. **This has resulted in a fragmented regulatory system and a lack of system leadership, coordination and monitoring**, meaning slow progress, limited system change and inconsistent advice. For example, our human rights-based system has no explicit positive duty to make reasonable accommodations, and a reliance on individuals to raise complaints. Most standards we do have on accessibility are voluntary and limited in reach and enforceability, because of a lack of incentives and compulsion in the system.
- 23 Broader systemic factors also contribute to barriers to accessibility, including a lack of meaningful data to support decision making, lack of funding in some sectors, inadequate training, and pockets of good practice not being extended nationwide.
- 24 Ultimately, this means that disabled people and others with accessibility needs cannot always access the information, goods and services they need to fully participate in society on an equal basis with others. We need to ensure this inequality does not persist.

The impact of COVID-19 means we need to rethink how we live and work

- 25 The COVID-19 response has had a profound impact on all New Zealanders, our resources, and our ability to carry out business as usual. We have heard from disabled people about the additional barriers and unintended consequences they have been facing during the COVID-19 response, including accessibility concerns around transport, and information and communications. This results in a loss of independence for some disabled people, and further impacts their ability to participate on an equal basis with others in their communities, in employment and education.
- 26 However, we can build on responses to these concerns. The United Nations has reported that New Zealand is a good example of “promising practices” in providing COVID-19 information accessibly, for example, information has been provided in accessible formats on the COVID-19 website. New Zealand Sign Language interpreters have been at every COVID-19 1:00 pm announcement,

⁸ 2016 Annual Report: The Global Economics of Disability (The Return on Disability Group, 2016).

⁹ Ibid.

and many New Zealanders have experienced the flexibility of working from home.

- 27 Accessibility provides a lens on to how to build a more productive, sustainable and inclusive economy and address accessibility barriers experienced by disabled people. Opportunities may include innovative ways to support inclusive growth, accessible design of agencies' new service delivery and service offerings, accessibility training for business, and expanding on measures during the COVID-19 response.
- 28 I have asked officials to identify opportunities within the COVID-19 context that we can take advantage of that maintain momentum on accelerating accessibility, and, where appropriate, consider how the Access Alliance can be involved in and support this work.

A workable framework for accessibility needs to be able to address the issues and drive change

- 29 A workable framework that can accelerate accessibility needs to be able to address the problems outlined above, and help New Zealand meet its national and international obligations. It needs to lift economic and social outcomes, especially for disabled people. It should also benefit a range of other New Zealanders who are also affected by barriers to accessibility, including seniors, carers, Māori, people with temporary injuries, and those with English as a second language.
- 30 The new framework I will be progressing will therefore include the following core elements:
 - a. **An overall structure and system** to drive change, provide clarity and leadership on what is expected, and enable the making of standards.
 - b. **Education and awareness raising**, as initiatives that aim to change attitudes and practices play a valuable supporting role alongside regulatory change¹⁰. Clear guidance and advice, for example, can ensure that people and organisations better understand their responsibilities; professionals have the needed skills; and make it easy for people to comply.
 - c. **Institutional arrangements** that can support and implement the functions of a new system such as monitoring, education, enforcement, system leadership and coordination, and dealing with complaints.
- 31 This framework is guided by underlying principles and meets key success criteria. Further detail on the principles that guided thinking on what a successful framework should look like are described in more detail in **Appendix 1**.

¹⁰ For example, Victoria University of Wellington, in partnership with the Department of Internal Affairs, is offering a new short course for website practitioners on making digital information and services accessible.

My preferred approach is a new legislative accessibility framework that provides for progressive implementation over time

- 32 My preferred approach is a new legislative framework that acts as a vehicle for progressive implementation of a new accessibility system, and takes an inclusive approach to the development of accessibility measures.
- 33 The framework will provide for a policy work programme, awareness raising and training, and establishment of advisory councils to make recommendations in areas of accessibility (from developing new standards or review of existing laws, to operational and process change). The framework would also establish provisions to enable regulatory systems for areas of accessibility where none exist; reporting and monitoring; and compliance and enforcement. Further detail on provisions of the framework is attached as
- 34 Domains of accessibility in line with CRPD expectations, such as the physical environment; transportation; information and communications; and public services and facilities, could be set in legislation at the outset, with flexibility to designate and prioritise further domains as progress is made.
- 35 The framework would fit within existing Ministerial delegations, so any accessibility proposals will need to be agreed by the responsible Minister. For example, any proposals relating to transport would also need to be agreed by the Minister of Transport.

The legislative approach is flexible, sends a strong signal for change, and provides more certainty in the long term

- 36 I believe that the legislative approach I have discussed above meets required outcomes, objectives and principles, and is likely to be the most effective and durable approach. This is because:
 - 36.1 **it sends a strong signal** to society that change is needed to address the value of, and commitment to, accessibility – that it is not just a “nice to have”
 - 36.2 **provides flexibility to implement a progressive approach over time to allow governments to set priorities to resource accessibility measures over time and give obligated parties the time to develop, understand and adopt efficient or innovative approaches to meeting regulatory requirement**
 - 36.3 **it provides more certainty in the long term, and is the most likely to change behaviour and address problems.** A legislative approach provides clear statutory guidance; raises expectations for a higher level of standards; enables new standards to be set; and enables monitoring, compliance and enforcement mechanisms
 - 36.4 **it can sit well alongside other work underway,** for example, measures being taken by agencies under the DAP; work on the Accessibility Charter¹¹; COVID-19 response work, e.g. measures to improve

¹¹ The Accessibility Charter sets expectations for the public sector to work progressively over the next five years towards ensuring all information intended for the public and public services is accessible.

the availability of accessible, timely information and communications; Kāinga Ora's commitment to 15 percent of new public housing builds meeting universal design standards; and agency work to build social inclusion into thinking and planning for post COVID-19 recovery actions

- 36.5 **it enables and encourages good accessibility behaviour.** An educational approach will be used alongside effective compliance measures (when needed).

The new framework will set accessibility as a high-level concept, with a focus on the prevention and removal of barriers for disabled people

- 37 MSD officials considered what a common understanding of what “fully accessible” could look like. There are varying definitions of accessibility internationally, and it means different things to different people, depending on their sector and their personal experience. But what is common across all definitions is the prevention and removal of barriers, and designing products, services, devices and environments in a way they can be independently reached, entered or used; easy to obtain or use; and easily understood by all people. This understanding is in line with CRPD expectations.
- 38 I propose that accessibility is stated as a concept about the prevention and removal of barriers, so people can independently access public spaces (whether publicly or privately owned), built environments, goods, products or services, and information they need to participate and be included in society. This then allows accessibility to be described within a context of specific standards. I consider there is more value and practical application in defining accessibility within the context of domains of accessibility (for example, what accessibility look likes in practice for buses or houses) and acknowledges accessibility as an ever-evolving concept.

The framework will also provide for review periods in legislation

- 39 The Access Alliance and some stakeholders would like to see deadlines for accessibility set in legislation, or as an aspirational policy outcome. Others consider targets should be set on a domain-by-domain basis.
- 40 International jurisdictions have experienced issues in setting unachievable legislative targets¹², and given the limited accessibility data and information in New Zealand, it is not feasible or practical to set meaningful targets for accessibility at this stage. It may be possible to set targets in future once data is available.
- 41 My preferred approach is to require the legislation to be reviewed at specified periods, in order to better understand how well the system is working and consider necessary changes.

¹² Overseas experience has shown that setting deadlines for targets to be achieved in legislation can create unrealistic expectations, confusion for obligated parties, and does not allow sufficient time for people to understand and implement their responsibilities.

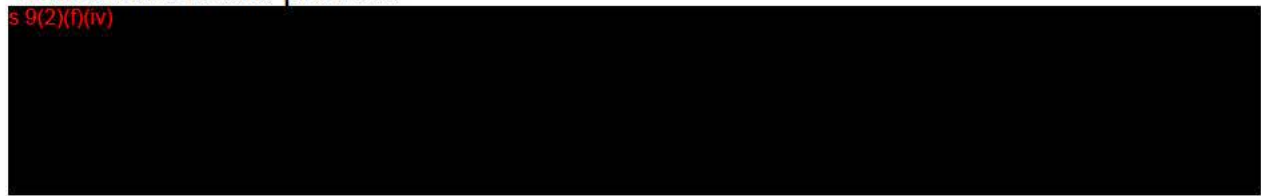
I considered two other feasible policy options

- 42 A Cabinet-mandated accessibility work programme could achieve most of the objectives or benefits of a legislative option. However, this option lacks sufficient “teeth” - it could not create new mandatory standards; would be less effective at addressing enforcement or systemic issues (e.g. no penalties); and may be vulnerable to changing agency and government priorities over time. It is not likely to be supported by key stakeholders, including disabled people and their representatives.
- 43 The other option I considered was the review and amendment of all existing regulations and standards relating to accessibility. I ruled out this option, as it is likely to be a lengthy process that could potentially stall in future before any real progress is made, and could also be vulnerable to changing priorities.

There are risks and trade-offs involved

- 44 I acknowledge that the preferred approach carries certain risks and trade-offs. One disadvantage of a more flexible framework is that it means less certainty in the short to medium term, than a more detailed or prescriptive legislative framework would provide.

§ 9(2)(f)(iv)



- 45 There may be a risk that the increased flexibility of the framework does not provide sufficient “teeth” to accelerate accessibility and therefore does not meet the expectations of some stakeholders (especially disabled and older people). This risk can be managed through appropriate stakeholder consultation on design of the final proposal.
- 46 There is equally a risk of negative reception from stakeholders with a different perspective, in particular, the business sector, who may be concerned about compliance costs. There is risk in proceeding now, at a time when agencies and businesses are under pressure in various ways and will be concentrating on recovery. It will be important that discussions with businesses on the system design ensure the sector understands the benefits that accessibility can bring in relation to any future compliance costs, and the opportunity that the current environment offers to rethink how they do business.
- 47 On balance, and in the context of what has been learned from international practice, I consider that a legislated, flexible approach is preferable. The approaches of overseas jurisdictions with a common legal heritage to New Zealand have been examined i.e. Australia, the United Kingdom and Canada. The UK and Canada have been criticised for going too far, too quickly, with numerous prescriptive standards across a range of areas, stretching beyond the ability of businesses to implement and comply with. Attention has been diverted away

13 § 9(2)(f)(iv)



from improvements in accessibility to compliance processes and associated costs¹⁴.

- 48 A system that is flexible, however, will allow for a progressive approach over time, so governments can set priorities to resource accessibility priorities and measures. It will give obligated parties time to understand and adopt efficient or innovative approaches to meeting regulatory obligations; and it will allow the ability to adapt to changes in society. This will be particularly important on the path to economic and social recovery and rebuilding.

Accelerating accessibility will require long-term commitment and will require funding

- 49 Accelerating accessibility is not a process that can be achieved all at once, due to its complexity and scale. In the short term, however, there are tangible steps that can be taken, including introducing a legislative framework to build momentum.
- 50 There will be costs to government to implement and administer the framework, including funding to establish and operate institutional arrangements, advisory councils' processes, and costs over time to implement any agreed recommendations. Over time, there would also be compliance-related costs to central and local government, the private sector and businesses, and the community.
- 51 I recognise that the business sector, in particular, will be concerned about potential compliance costs, as they are facing significant financial and other pressures at present, and into the medium term, due to the effect of the COVID-19 response on the economy.
- 52 I would expect that the focus, at least initially, will be on ensuring the accessibility of new initiatives going forward (and not creating any new barriers) before moving to look at retrofitting existing standards. It is important to note also that as implementation will be progressive, costs will be spread over time.
- 53 At this stage, I am not able to provide certainty about the detailed costs of my preferred approach but Ontario, Canada does provide some indicative information on administrative costs, though noting it has a population of 14.5 million. Budget estimates for 2017 for the Canadian Accessibility Directorate that administers the Accessibility for Ontarians with Disabilities Act were \$CA15.1m (NZ\$16m).
- 54 While I recognise that there will likely be significant costs over time to accelerate accessibility across government, the private sector and communities, these costs need to be balanced against the economic, fiscal and social benefit costs of doing nothing. For example, continued low participation by disabled people in the labour market¹⁵; loss of increased revenue to accessible businesses from spending by disabled New Zealanders, their friends and whānau (and, looking to

¹⁴ "Disability legislation and outcomes. A review of the social and economic impact of disability and accessibility legislation in New Zealand and selected jurisdictions", (NZIER report to the Blind Foundation of New Zealand, December 2017).

¹⁵ NZIER research in 2017 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 same study also showed an additional \$1.45B could be added annually to real gross domestic product (GDP).

the future, disabled tourist spend both domestic and international) and low patronage for those businesses that are not accessible. There is also the cost of social exclusion¹⁶, and loss of wellbeing benefits for people being able to enjoy the things that others take for granted. Designing for accessibility from the outset is more cost-effective in the long run.

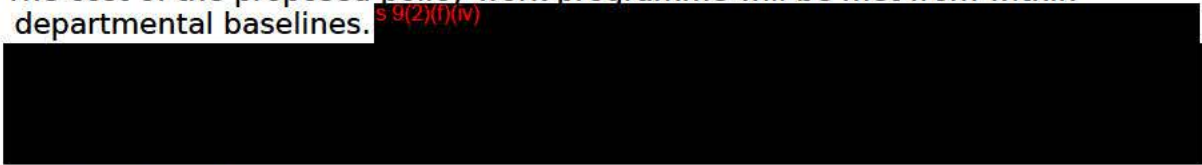
There is more detailed work to be done on the framework before I present a complete policy proposal

- 55 Before I present a comprehensive policy proposal to Cabinet for approval, more work is required on detailed aspects of the framework (discussed at para 33 and
- 56 I am therefore seeking agreement for MSD officials to carry out further work before I report back in May 2021 with a final proposal.
- 57 The detailed work will be carried out in consultation with relevant agencies and stakeholders and will include finalising proposed institutional arrangements to support the functions of a new system. A range of functions and powers will be needed as part of institutional arrangements under a new system. More detail about the range of functions and what upcoming work on institutional arrangements will cover is set out in .
- 58 Further work on the framework will also include:
- identification and agreement to priority domains
 - detail on how advisory councils will work, including how standards will be developed
 - the setting of review periods in legislation
 - the detail of a penalties system in primary legislation (with Ministry of Justice)
 - giving detailed effect to the Treaty of Waitangi in legislation
 - a cost benefit analysis to inform the costs of the system as a whole (i.e. the costs of institutional and administrative arrangements, compliance and accessibility measures)
 - consultation on details of the final proposal with businesses and other key groups.
- 59 Discussions with the business community are important to ensure the framework can succeed, and I am seeking agreement for this engagement to proceed. To ensure business input can inform the final proposal in May 2021, discussions will need to take place later this year and during the recovery period. I acknowledge that this will be a sensitive time for businesses, but I also believe it is important to ensure the sector is aware of the advantages of incorporating accessibility into their future operations. It will be made clear that implementation of legislative change will be focused on not creating new barriers in the future (rather than reducing existing barriers) and that roll-out of the new system will be progressive over time.

¹⁶ Research from Ontario, Canada found that social exclusion “exacts significant costs from the entire province through increased health care demands and poverty-related social problems. These costs are not entirely absorbed by [disabled people], but have a significant impact on the families and communities which provide support to them”. “Releasing Constraints: Projecting the Economic Impacts of Increased Accessibility in Ontario” (Martin Prosperity Institute, June 2010).

- 60 An interim report currently being prepared by the New Zealand Law Foundation funded Independent Research team will help inform the work. This team is funded to research and recommend a model legal framework for New Zealand on accessibility.
- 61 In addition to work on details of the framework, I propose that officials work with key stakeholders, including the Access Alliance and disabled people and their representatives, to identify and make the most of new opportunities presented within the COVID-19 context, for a greater focus on accessibility in future. This work will maintain momentum of the overall accessibility work programme and help inform the final policy proposal.

Financial implications

- 62 The cost of the proposed policy work programme will be met from within departmental baselines. ^{s 9(2)(1)(iv)}
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Legislative implications

- 63 The proposals in this paper will be included in a bill. My 2019 bid for an Accessible Aotearoa New Zealand Bill to be included in the legislative programme for 2020 gave the bill a Category 5 priority (drafting instructions to Parliamentary Counsel). The Bill was referred to the Legislation Design Advisory Committee for consideration.
- 64 Given that I now do not expect a finalised policy proposal to be presented to Cabinet until May 2021, the timetable for the bill requires revision. I also expect to revise my proposed priority for the Bill, to Category 4 (introduction in 2021).
- 65 Following final Cabinet decisions in May 2021, drafting instructions to Parliamentary Counsel will be provided and the drafting of a bill is expected to take approximately four to six months, prior to consideration by the Cabinet Legislation Committee. Any associated secondary legislation would be developed at the same time (e.g. detailing how advisory councils would work). At this stage I would expect the introduction of legislation (dependent on the drafting period and approval by the Cabinet Legislation Committee) to be towards the end of 2021.

Impact Analysis

Regulatory Impact Statement

- 66 There is no requirement to provide a Regulatory impact Analysis (RIA) with this paper as no decision to create or amend legislation or regulation is being sought, nor is Cabinet being asked for intermediate decisions to narrow the set of options to be considered at a later stages of the policy development. A RIA will be required when either final or intermediate decisions will be sought from Cabinet. MSD has been working closely with Treasury officials about the RIA process.

Population Implications

67 The proposals in this paper are an important step towards making positive changes that will lift economic and social outcomes and enable greater participation by disabled New Zealanders, and a wide range of other groups. A summary of how the proposal affects key groups is as follows.

Population group	How the proposal may affect this group
Disabled people	<p>This paper addresses disability issues specifically. A legislative framework to accelerate accessibility is a positive 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.</p> <p>Accelerating the pace of improvements in accessibility is a specific action in the Disability Action Plan 2019 – 2023. It will also assist New Zealand to meet international obligations under the CRPD. It would help improve outcomes for disabled people across all DAP outcome areas, including employment, education and health, and provide benefits to others in the wider population.</p> <p>The paper’s proposals have been discussed with the DPO Coalition, and are consistent overall with the Access Alliance’s principles for an Accessible New Zealand. Areas of divergence e.g. over setting legislative targets have been discussed with the Access Alliance and a middle ground reached.</p>
Seniors	<p>Improving accessibility will benefit New Zealand’s seniors population, as older people are more likely to be living with a long-term health condition or disability (nearly 60 percent of people over 65 are disabled).</p> <p>Accelerating accessibility will contribute to key action areas in Better Later Life He Oranga Kaumatua 2019 – 2034; for example, making environments accessible; creating diverse housing choices and options; and enhancing opportunities for participation and social connection. Accessible environments are consistent with the age-friendly cities and communities approach promoted by the World Health Organization. As the action plan is developed in 2020 there may be specific actions contributing to both Better Late Life and Accelerating Accessibility.</p>
Māori	<p>Improving accessibility for disabled people will support better social and economic outcomes for Māori, especially as Māori are more likely to be impacted by disability than non-Māori. Tāngata whaikaha (Māori disabled people) make up 26 percent of the Māori population.</p> <p>Social and economic factors contribute to poorer disability outcomes for Māori, including from lower income and poverty, higher unemployment and lack of education. Just over half of tāngata whaikaha participate in the labour force. Four out of 10 tāngata whaikaha adults have no formal qualifications.</p> <p>The work programme to accelerate accessibility will include how to give effect to Te Tiriti o Waitangi (supporting implementation of the UNDRIP) e.g. Māori representation on advisory councils. I expect that improvements in accessibility will also support self-determination for Māori disabled (tāngata whaikaha)</p>
Pacific Peoples	<p>Improving accessibility will also benefit Pacific peoples in New Zealand, as like Māori they experience higher rates of disability than the general population and have higher rates of diabetes (a risk factor for disability). Pacific peoples also have poorer social and economic outcomes generally.</p> <p>Improved accessibility to healthcare services, education, employment and housing will all benefit Pacific peoples.</p>
Women	<p>It is anticipated that the recommended policy work programme could result in proposals that, if developed, would have positive impacts for women, especially disabled women. For example, accessibility improvements will also benefit the economic wellbeing of the carer population,</p>

	<p>who are predominantly women.</p> <p>The Statistics New Zealand Disability Survey in 2013 estimated 28 percent of working age women (45 - 64) have a disability. Its data showed that disabled women (15 years and older) generally have poorer socio-economic outcomes than their non-disabled peers¹⁷. This is consistent with the findings of international research.</p> <p>The Household Labour Force Survey 2019 showed that disabled women have a pay gap of 11 percent compared to disabled men, and 17.8 percent when compared to all men. This implies that disabled women face intersectional disadvantages in their work life, of gender and disability.</p>
<p>Children and young people</p>	<p>There are approximately 133,000 disabled children and young people in New Zealand. Like all disabled people, disabled children face accessibility barriers which prevent them and their whānau from realising their rights and fully participating in society – including barriers to accessing adequate education, housing, transport and recreation. For example, some children are not able to attend their local schools because they are not accessible, others live in unsuitable, inaccessible housing situations, and many are not able to access their local playgrounds or other recreation areas such as beaches. Such barriers have a negative impact on their wellbeing.</p> <p>Accelerating accessibility will have a direct positive impact on the wellbeing of disabled children and young people through ensuring they can enjoy the same educational, employment, housing, transport, and cultural and leisure opportunities (including access to sport) as their mainstream peers. The proposals will also indirectly benefit all children and young people, as it will have a positive impact on the outcomes and economic position of their wider family group and friends.</p>
<p>Ethnic communities</p>	<p>Ethnic communities, particularly refugee and migrant communities, face multiple intersecting barriers to equal participation and inclusion in New Zealand. For example, language barriers and transport barriers can lead to a lack of employment and as a result have a negative impact on mental health and wellbeing. Racist attitudes in some local areas can also be a problem.</p> <p>Improving accessibility means improved inclusivity and a better understanding of the diverse needs of different cultures. These are important factors to ensure equal outcomes and access to information and services for ethnic communities. Ethnic communities in New Zealand need access to timely, accessible communications, particularly for people with English as a second language (e.g. plain English and Easy Read documents). They also need access to participation in important faith-related events. It is important to reduce the social isolation of disabled and older individuals within ethnic communities.</p>

Human Rights

68 Accessibility is a precondition to achieving human rights, as noted earlier in the paper. This includes not only social, economic and cultural rights, but also civil and political rights, e.g. the right to freedom of movement, and the right to freedom of association and freedom of expression. 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 (BORA), the Human Rights Act 1993 and the CRPD.

Consultation

69 This paper was drafted by the Ministry of Social Development, in consultation with the Access Alliance and the DPO Coalition.

¹⁷ 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.

70 The following agencies have been consulted: Accident Compensation Corporation (ACC); Department of Conservation; Department of Corrections; Department of Internal Affairs; Department of the Prime Minister and Cabinet; Electoral Commission; Kāinga Ora – Homes and Communities; Human Rights Commission; Local Government New Zealand; Ministry for Culture and Heritage; Ministry for Pacific Peoples; Ministry for Primary Industries; Ministry for the Environment; Ministry for Women; Ministry of Business, Innovation and Employment; Ministry of Education; Ministry of Health; Ministry of Housing and Urban Development; Ministry of Justice; Ministry of Transport; Ministry of Youth Development; New Zealand Transport Agency (NZTA); ODI; Office of Ethnic Communities; Office for Seniors; Office of the Children’s Commissioner; Office of the Privacy Commissioner; Oranga Tamariki; Society of Local Government Managers; State Services Commission; Te Puni Kōkiri; the Treasury.

Communications

71 I expect to make a public announcement about decisions made on this paper, so that I (and officials) can openly discuss policy development and reduce uncertainty for stakeholders

Proactive Release

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

Recommendations

73 It is recommended that the Committee:

- 1 **Note** that accelerating accessibility in Aotearoa New Zealand is a significant, complex task affecting all New Zealand society, and therefore needs to be progressively realised
- 2 **Note** that government thinking about how to recover from COVID-19 and build a more productive, sustainable and inclusive economy needs to consider how we address the rights, needs and concerns of disabled people
- 3 **Note** that maintaining the momentum of accessibility work will continue to address the disproportionate disadvantage experienced by disabled people, exacerbated by recent COVID-19 impacts
- 4 **Note** that accelerating accessibility offers a unique opportunity to support an inclusive economic recovery and make New Zealand a global leader, through encouraging new smarter ways of working that design for accessibility from the outset, and encourage uptake of new accessible universal technology
- 5 **Note** that my intended policy approach to accelerating accessibility is a new legislative framework that can act as a vehicle for progressive implementation of a new system of accessibility over time
- 6 **Note** that the legislative framework would sit alongside awareness raising, education and training, and provide mechanisms for:
 - 6.1 a policy work programme to accelerate accessibility

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- 6.2 the establishment of regulatory systems for areas of accessibility where none currently exist, including the creation of standards within specific domains of accessibility
- 6.3 the progressive review of existing legislation and standards that relate to accessibility
- 6.4 Ministerial-appointed advisory councils to make recommendations on accelerating accessibility within domains
- 6.5 institutional arrangements to support a new accessibility system
- 6.6 reporting and monitoring, including review periods of the framework
- 6.7 compliance and enforcement
- 7 **Agree** that any new framework should set accessibility as a high-level concept (rather than a detailed, prescriptive definition) about the prevention and removal of barriers, so people can independently access the public spaces, built environments, goods, products or services they need to fully participate and be included in society
- 8 **Note** that the focus of a new accessibility framework will be on disabled people, acknowledging that it will bring benefits to a range of other groups, including older people, carers and Māori
- 9 **Note** that my intended approach:
 - 9.1 sends a strong signal to society about the need for change, and about the value of and commitment to, accessibility
 - 9.2 provides the flexibility to implement a progressive approach over time, so governments can set priorities to resource accessibility measures, and obligated parties have time to develop, understand and adopt efficient or innovative approaches to meeting regulatory requirements
 - 9.3 provides more certainty in the long term, and is the most likely instrument to change behaviour and address problems, as it will provide clear statutory guidance and 'lift the bar' on what is expected
 - 9.4 can sit well alongside other accessibility work being undertaken
- 10 **Note** that accelerating accessibility will require long-term commitment and will require funding, but further work is required to establish costs in the New Zealand context
- 11 **Agree** to Ministry of Social Development officials progressing further work on detailed aspects of the legislative framework, in consultation with relevant agencies and stakeholders, including on costs, institutional and administrative arrangements, development of accessibility domains and standards, and giving effect to the Treaty of Waitangi
- 12 **Agree** to officials working with key stakeholders to identify and maximise new opportunities presented within the COVID-19 context for a greater focus on accessibility in future, which will include consultation with business and other stakeholders on details of the final proposal as they are developed

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- 13 **Agree** that consultation with the business sector on the legislative framework proposal can proceed from late 2020 until early 2021, to inform my final report back in May 2021
- 14 **Note** that I intend to propose that an Accessible Aotearoa New Zealand bill be introduced to the House during 2021
- 15 **Invite** the Minister for Disability Issues to report further in May 2021, seeking Cabinet agreement to a complete policy proposal to accelerate accessibility.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Disability Issues

____ / ____ / ____

Accelerating accessibility policy framework: guiding principles

The following key principles have guided thinking on the components and criteria for a successful framework:

- a. **Progressive realisation** – a staged approach to development and implementation is more likely to build stakeholder buy-in, distribute costs, develop knowledge, and achieve a system that organisations can implement and comply with. It can also build on what already exists, such as the Accessibility Charter.
- b. **Flexibility and future proofing** – so that a new system can adapt to future change, enable innovation, and allow regulated parties to meet their obligations over time.
- c. **Universality** – applicable to both public and private sector, so consistent outcomes are achieved, and disabled people and others gain access to all areas of society over time.
- d. **Inclusiveness and capacity-building** – involvement of disabled people in all aspects of decision making, so the system is robust and follows best practice requirements.
- e. **Transparency, consistency and equity** – so there are predictable and consistent outcomes for regulated parties, regardless of location, over time. This includes consistency with Treaty of Waitangi principles. I expect that improvements in accessibility will also support self-determination for Māori disabled (tāngata whaikaha).
- f. **Ease of use** – a new system needs to be user friendly: easy to navigate and understand. It should enable and encourage good accessibility behaviour.

Provisions of the new legislative framework to accelerate accessibility

1. **A policy work programme** to accelerate accessibility, including provisions that enable the creation of Ministerial-appointed advisory councils to consider existing settings, and institutional arrangements to support a new accessibility system (see Appendix 3).

Advisory councils would make recommendations on accelerating accessibility within domains of accessibility (e.g. transport or the built environment). Recommendations could be either to develop new standards within domains, or review existing laws. These groups would have representation from disabled people (including disabled young people); Māori; industry; and other subject matter experts. The Better Rules-Better Outcomes sprint approach¹⁸ could be used to test the development of proposals, through the pilot of a small subject area within a domain e.g. standards for accessible buses within a transport domain.

2. **Standard development within domains of accessibility** – my preferred approach is to specify a few domains in legislation at the outset (in line with CRPD domains¹⁹), with flexibility to designate and prioritise further domains as progress is made. A progressive approach to the development of standards is essential to a workable accessibility framework.

Further work is needed to determine the most appropriate approach to setting and implementing standards, however, international evidence suggests that setting standards within domains, using a flexible approach, has the advantages of:

- a. setting minimum requirements for accessibility that must be met
- b. giving tangible effect to an accessibility system, so organisations and individuals are clear on their obligations and what they can expect
- c. supporting system-wide change
- d. avoiding domains (and associated standards) being “fixed”, so standards can evolve
- e. enabling obligated parties to adopt efficient or innovative ways of meeting requirements²⁰.

3. **Creation of regulatory systems for areas of accessibility where none exist**, including compliance and enforcement measures, e.g. website standards.
4. **Reporting and monitoring**, to measure progress of the system and identify where change is needed.
5. **Compliance and enforcement**, to ensure compliance with the legislation.

¹⁸ This approach involves using a multidisciplinary team working together to develop policies and rules. The team would contain experts in policy, legal, business rules, drafting and service design. It can be carried out within baselines.

¹⁹ CRPD domains of accessibility cover: the physical environment, transportation; information and communications; public services and facilities.

²⁰ Evidence in Australia suggests that domains such as transport and the built environment lend themselves well to prescription and measurements, whereas other areas such as employment and education require a more procedural and outcomes-based approach.

The legislative framework will sit alongside **awareness raising, education and training**: i.e. providing consistent accessibility training, education and advice across accessibility areas, so individuals and organisations are aware of their rights and responsibilities, and have the tools and knowledge to implement accessibility measures and meet any obligations.

Appendix 3

Institutional and administrative arrangements under a new legislative framework for accessibility

The range of functions and powers that will be required under a new system are:

- a. coordination and leadership across the system at national and local levels to drive change and consistency in the accessibility system
- b. provision of consistent information, education, training and advice for individuals and organisations, to help them understand their rights and obligations and provide tangible and practical ways to achieve accessibility measures
- c. standard development and setting – either the review of existing or creation of new standards
- d. reporting and monitoring to measure progress toward accessibility and how well the overall system is working
- e. compliance and enforcement mechanisms (including appropriate complaints mechanisms) to ensure compliance with the legislation and standards.

Further work on institutional arrangements will include:

- a. how each of the functions and powers will operate, and components of these, e.g. what the reporting vehicles should be and how often they should report; governance and decision making powers; compliance and enforcement powers
- b. consultation to gauge the level of interest and capacity of existing agencies to carry out accessibility functions
- c. understanding the implications of extending the mandate of existing agencies, or the transfer of functions to a new entity (or entities)
- d. gaps in capability and the nature and scale of resources required to carry out the functions and powers
- e. legislative implications e.g. where functions and powers need to sit to be given effect to (e.g. primary or secondary legislation, Cabinet mandated)
- f. costs and financial implications
- g. interim and transition arrangements.