

In Confidence

Office of the Minister for Disability Issues

Cabinet Social Wellbeing Committee

Final proposals to amend the New Zealand Sign Language Act 2006

Proposal

- 1 To support the promotion, maintenance, and acquisition of New Zealand Sign Language (NZSL), this paper seeks your agreement to amend the New Zealand Sign Language Act 2006 (the Act) and fulfils my report back to Cabinet following consultation with the Deaf community [SWC-22-MIN-0158 refers].

Relation to government priorities

- 2 The proposals to amend the Act aligns with both our 2020 Labour Party manifesto commitment to strengthen the ‘mandate and resourcing of public leadership for the disability community’ and the approach for transforming the disability support system by building a partnership between disabled people and the Government.
- 3 The proposals support meeting our obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the United Nations Convention on the Rights of Children (UNCROC), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Executive Summary

- 4 In 2019, the then Minister for Disability Issues, Hon Carmel Sepuloni, requested the NZSL Board provide her with advice on how the Act could be amended to better align with the NZSL Strategy. The review focused on options to strengthen the mandate for public leadership of the Deaf community; create a mechanism to monitor the implementation of the Act with a focus on government agencies’ actions to support the purpose of the Act; and better reflect Te Tiriti o Waitangi / The Treaty of Waitangi [CAB-22-MIN-0353 refers]. Officials worked in partnership with the NZSL Board on developing suggested amendments within the mandated scope of the review.
- 5 In 2013 there were 20,000 NZSL users in New Zealand (Statistics New Zealand, 2013), there are now 22,986 NZSL users (Census 2018 data, Statistics New Zealand) of whom it is estimated 4,500 are Deaf.
- 6 Research has confirmed that while NZSL is now more recognised and accepted by society, a decreasing percentage of the deaf population are learning and using the language.¹ The findings mean that, in line with language endangerment and vitality frameworks, NZSL can be considered a threatened language.
- 7 On 2 September 2022, Cabinet agreed that consultation with the Deaf community on suggested amendments to the Act be undertaken, which began on 9 September 2022

¹ McKee, Rachel Locker (2017) Assessing the vitality of New Zealand Sign Language. Sign Language Studies, 17(3), 322-362.

and ended on 11 November 2022. During consultation, there were expressions of support for:

- 7.1 strengthening strategic leadership by Deaf people on matters relating to NZSL
 - 7.2 recognising Turi Māori identity and leadership by embedding Te Tiriti o Waitangi / The Treaty of Waitangi
 - 7.3 monitoring government agencies' actions to support the purpose of the Act.
- 8 There were no expressions of support for the status quo – that is, not amending the Act.
- 9 I seek your agreement to update the Act, which will send a strong signal:
- 9.1 to the Deaf community, government agencies, and the wider public that the promotion, maintenance, and acquisition of NZSL, as a unique official language, is vital for Deaf people to participate as equal members in society
 - 9.2 of our commitment to building a partnership with Deaf people
 - 9.3 and embed Te Tiriti o Waitangi / The Treaty of Waitangi.
- 10 To support the promotion, maintenance, and acquisition of NZSL to support improved outcomes for Deaf people, I propose that the Act is updated so that:
- 10.1 the existing NZSL Board becomes a statutory Ministerial advisory group – the intent is to clarify the status, role, and functions of an existing group as opposed to creating a new group
 - 10.2 the functions of the NZSL statutory Ministerial advisory group, its role in monitoring the actions of government agencies to support the purpose of the Act, and the principles to guide appointments are included in an amended Act
 - 10.3 it includes specific references to support Turi Māori identity and leadership.
- 11 While these proposals take steps to recognise Deaf people's leadership, they do not address all the concerns and issues raised during consultation, particularly in relation to accessibility. Alongside our wider efforts in the disability portfolio, I expect the NZSL statutory Ministerial advisory group to work with the proposed Accessibility Committee² on identifying, removing, and preventing barriers for the Deaf community.

Background

- 12 In 2006, the Act came into force making NZSL an official language of New Zealand. This was an important milestone, however, in the last 16 years there have been significant changes to how we think about the Deaf and disability communities, and

² The Accessibility for New Zealanders Bill, if passed, will establish the Accessibility Committee, made up of people with lived experience of disability, will have a significant role in providing advice to the Government options to increase accessibility.

what is needed to better support Deaf and disabled people to have improved outcomes.³ Key milestones since 2006 are set out below.

- 12.1 In 2008, Aotearoa New Zealand ratified the UNCRPD. There are specific requirements on State Parties in relation to supporting sign languages. Article 21(e) requires that State Parties shall take all appropriate measures to recognise and promote sign language to ensure Deaf and disabled people can exercise their human right 'to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice', including sign language.⁴
 - 12.2 A review of the Act was conducted in 2011.⁵ While this review concluded that no changes to the Act were required, submissions and feedback from that review informed development of the proposals in this paper.
 - 12.3 In 2013, the Human Rights Commission (HRC) published a report on its inquiry into NZSL. Their recommendations included establishing a statutory entity to provide leadership on NZSL, developing a national strategy for NZSL, and monitoring the operation of the Act.⁶
 - 12.4 The NZSL Board was established by Cabinet mandate in 2014 as part of the Government's response to the HRC inquiry [SOC Min (14) 9/7 refers].
 - 12.5 The NZSL Action Plan 2016-2018 was developed in 2016.
 - 12.6 The NZSL Strategy 2018-2023 (the NZSL Strategy) was launched in 2018, which identifies five language learning priorities and guides the work of the NZSL Board.⁷
 - 12.7 The establishment of Whaikaha – Ministry of Disabled People (Whaikaha), and its role in developing a true partnership with disabled people, and with Māori (under Te Tiriti o Waitangi / The Treaty of Waitangi) and the Government demonstrates the societal shift in approach about disabled people.
- 13 The Minister for Disability Issues is responsible for the Act, and it is administered by the Ministry of Social Development.

Amending the Act gives opportunity to review the relationship between Te Tiriti o Waitangi / The Treaty of Waitangi and the maintenance, promotion, and acquisition of NZS

- 14 Representatives of the Turi Māori community have expressed that the Act should be reviewed to recognise the relationship between the Government and Māori and to include references to Te Tiriti o Waitangi / The Treaty of Waitangi.
- 15 Māori are more likely to be Deaf than other population groups⁸ and face poorer outcomes across a range of wellbeing measures. Turi Māori also have much lower

³ The Government's endorsement of the Enabling Good Lives approach to set out the direction for transforming the disability support system is an example of this significant change in approach.

⁴ UNCRPD [Article 21 – Freedom of expression and opinion, and access to information | United Nations Enable](#)

⁵ <https://www.legislation.govt.nz/act/public/2006/0018/latest/DLM372789.html>

⁶ HRC (2013) *A New Era in the Right to Sign. Report of the New Zealand Sign Language Inquiry.*

⁷ NZSL Strategy 2018-2023 - Office for Disability Issues (odi.govt.nz)

access to Te Reo Māori and Te Ao Māori than hearing Māori, partially due to a lack of trilingual interpreters who can interpret between NZSL, Te Reo Māori and English. The intention of embedding Te Tiriti o Waitangi / The Treaty of Waitangi and Turi Māori leadership in an amended Act is to better support improved outcomes for Tāngata Turi and their whānau.

Amending the Act will better support strategic leadership on matters relating to NZSL

- 16 The NZSL Board was established by a Cabinet mandate in 2014 to provide expert advice on matters relating to NZSL [SOC (14) 57 refers], and the first members were appointed in 2015. The NZSL Fund (to invest in community-led initiatives to promote and maintain NZSL) was also established. The NZSL Board assesses and makes recommendations on distributing the NZSL Fund.
- 17 An NZSL Board that leads strategically, seeks expert assistance when required and operates carefully within the practices and guidelines expected of publicly funded organisations is an important part of the NZSL ecosystem.
- 18 Since its establishment, the NZSL Board has developed an action plan for NZSL, a national NZSL language strategy, provided expert advice on options for accrediting NZSL interpreters and proficiency, supported the NZSL dictionary, provides an annual report on its activities to the Minister for Disability Issues, and established the Rōpū Kaitiaki to provide guidance and advice to the NZSL Board on matters important to Turi Māori. As an expert advisory group for the Minister for Disability Issues, the NZSL Board provides independent advice that supports Government to understand and address the concerns of the Deaf community.
- 19 The proposed amendment to the Act will better support the NZSL Board to carry out its core function of providing strategic, evidence-based, and independent advice on matters relating to NZSL.

Consultation with the Deaf community on suggested amendments to the NZSL Act

- 20 On 31 August 2022, Cabinet agreed to consult with the Deaf community on suggested amendments to the Act ahead of reporting back to Cabinet with final policy proposals in December 2022 [SWC-22-MIN-0158 refers].
- 21 Consultation with the Deaf community ran from 9 September and 11 November 2022. My proposals to amend the Act have been informed by this consultation. Appendix One outlines the consultation approach and the key themes of the feedback received.
- 22 During the consultation, feedback was received on a wide range of issues that fall outside the scope of this review and what was mandated by Cabinet to consult on.
- 23 Some key stakeholders within the Deaf and disability communities also expressed the view we should have taken a first principles review of possible functions and powers, and that engagement should have been on a broader range of forms the NZSL Board or a new leadership group could take. Therefore, their position is that the engagement

⁸ The proportion of Māori that make up the Deaf community is not well documented, but limited data shows that Māori are disproportionately represented among the Deaf population.

was not genuine as the Deaf community were not provided with enough information on the full range of potential options to have informed opinions about the review.

- 24 To address this, and to ensure that these changes work as intended, I recommend a review of the Act commence five years after these amendments come into force.
- 25 The other key issue raised is that the proposed amendments to the Act will not address the significant issues faced by the Deaf community, such as NZSL education provision for D/deaf children, access to government services in NZSL, and the interpreter workforce (these issues were also raised during consultation).
- 26 My view is that these concerns and issues are outside the scope of this review, however, as the Minister for Disability Issues, I will look to progress work to address these concerns through non-legislative measures and by working with other Ministers.
- 27 In addition, all the feedback received during the consultation phase will inform the future work programme of the NZSL Board.

Uplifting the mana and status of NZSL to improve outcomes for Deaf people

- 28 The use of NZSL is declining, which represents a significant threat to Deaf people's identity and wellbeing. Research illustrates the strong relationship between the use of sign language and positive wellbeing for Deaf people.⁹
- 29 To support the promotion, maintenance, and acquisition of NZSL to support improved outcomes for Deaf people, I propose that the Act is amended so that:
- 29.1 the NZSL Board becomes a statutory Ministerial advisory group with additional functions and powers
- 29.2 Turi Māori identity, and their leadership is recognised
- 29.3 the expectation that government agencies have a role in the promotion, maintenance, and acquisition of NZSL, and the actions undertaken to in response can be monitored and reported on – to identify what is working well and what could be improved.

Strengthening the strategic leadership of Deaf people on matters relating to NZSL by making the NZSL Board a statutory Ministerial advisory group

- 30 To provide strategic leadership and advice on matters relating to NZSL, I propose that the NZSL Board becomes a statutory Ministerial advisory group with additional functions and powers. This will create a stronger partnership between the Deaf community and the Government to support the vitality of NZSL as an official but threatened language.
- 31 This partnership aligns with the Enabling Good Lives (EGL) approach, particularly in relation to the principles of mana enhancing and self-determination. Leadership by the

⁹ Census 2001 data – 24,000 NZSL users; Census 2006 data – 24,000 NZSL users; Census 2018 data – 23,000 NZSL, including parents who use NZSL to communicate with their Deaf children. See Appendix 2 for information about some of the reasons for declining use of NZSL and the implications for Deaf people.

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Deaf community on issues relating to NZSL will support improved outcomes for Deaf people over time.

- 32 Feedback from the public consultation supports a statutory body, with membership made up of Deaf people, to provide strategic leadership on NZSL. Feedback from the consultation noted it gives:

“the NZSL community confidence this board will be permanent, providing an ongoing source of communication with and advice to government” (written submission).

- 33 A statutory body, made up of people with lived experience, to provide leadership on issues that are important to them aligns with the proposed Accessibility Committee (set out in the Accessibility for New Zealanders Bill), and supports the intention of Whaikaha to ensure disabled peoples’ voices inform the broader transformation of government services for disabled people.

The purpose of the NZSL statutory Ministerial advisory group would be to support the promotion, maintenance, and acquisition of NZSL

- 34 The purpose of the NZSL statutory Ministerial advisory group would be to support the promotion, maintenance, and acquisition of NZSL as an official language. A focus on acquisition is needed to address the decline in NZSL use and reflects international language learning priorities, including the first priority listed in the NZSL Strategy.

- 35 An amended Act would set out the functions of the NZSL statutory Ministerial advisory group, for example:

35.1 provide oversight and strategic direction to support the promotion, maintenance, and acquisition of NZSL

35.2 provide the Minister for Disability Issues with independent advice on matters relating to NZSL

35.3 develop and monitor a national NZSL language strategy and/or action plan for Ministers approval

35.4 monitor, and report on, the actions of government agencies' that contribute to the promotion, maintenance, and acquisition of NZSL

35.5 work towards the rights of Turi Māori under Te Tiriti o Waitangi / The Treaty of Waitangi.

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

- 37 Including the development and monitoring of a national NZSL language strategy as a core function of the NZSL statutory Ministerial advisory group bridges a gap between the current Act’s purpose (promote and maintain NZSL) and the means to achieve this (a national language strategy). This disconnect was identified as contributing to declining use of NZSL during public consultation.

Principles to guide the appointments to the NZSL statutory Ministerial advisory group

- 38 To ensure the NZSL statutory Ministerial advisory group represents all Deaf people, and has the skills and attributes needed to carry out its functions, I propose including in the Act high-level principles to guide appointments. These principles could include: being a member of the Deaf community who has strong links and connections within the community; having knowledge and understanding of Te Tiriti o Waitangi / The Treaty of Waitangi, Te Ao Māori, and tikanga Māori; demonstrating a commitment to support leadership of Turi Māori; awareness of language issues facing the Deaf community; and as a collective, the majority of members being Deaf people, and reflecting the diversity of the gender and ethnic diversity of the Deaf community.
- 39 The Minister for Disability Issues would consult with the Cabinet Appointments and Honours Committee before making appointments to the NZSL statutory Ministerial advisory group.

The NZSL statutory Ministerial advisory group would continue to be supported by a secretariat, a small programme office, and a Terms of Reference

40 s 9(2)(f)(iv)

- 41 An NZSL statutory Ministerial advisory group would also have a Terms of Reference, which is approved by the Minister for Disability Issues. This provides the flexibility to prioritise the focus and activities of the NZSL statutory Ministerial advisory group to respond to changes in Government priorities and new information. The Terms of Reference for the NZSL Board would be used as a basis to develop one for the NZSL statutory Ministerial advisory group.

Embedding Turi Māori identity and leadership

- 42 Historically, others have spoken for Turi Māori. During consultation Turi Māori made it clear they want to speak for themselves, and to have their dual identity recognised and respected in the amended Act.
- 43 I propose that the Terms of Reference for the NZSL statutory Ministerial advisory group recognise Turi Māori identity and leadership. The Terms of Reference could allow for, in the future:
- 43.1 a Turi Māori member to become co-chair
 - 43.2 the Ministerial advisory group to give appropriate significance to Turi Māori perspectives on issues that affect Turi Māori.
- 44 The recently formed Rōpū Kaitiaki (which provides advice to the NZSL Board on issues important to Turi Māori), has signalled that Turi Māori need time to grow their capability and determine how their leadership on NZSL could best work for Turi Māori. This message also came through in the targeted hui with Turi Māori.

45 Acknowledging and supporting the growth of Turi Māori leadership will send a strong signal to Turi Māori and the wider Deaf community of our commitment to strengthen Turi Māori leadership.

The NZSL statutory Ministerial advisory group needs information about what is working and what needs to be improved, in order to provide effective strategic leadership

46 Section 9 of the Act sets out principles for government agencies¹⁰ to guide how they better support the Deaf community and NZSL users in relation to NZSL.

47 I propose the Act is amended to extend the agencies who are expected to be guided by the principles include Departmental agencies, as set out in Part 1A of the Ombudsmen Act 1975.

Better information about Deaf people and how government agencies are responding to their needs is needed to improve outcomes for Deaf people over time

48 An intent of establishing the NZSL Board in 2014 was, in part, to monitor government actions under the Act and advise Ministers on these actions. The lack of a monitoring framework has constrained the Board's ability to carry out this function. The lack of a mechanism and leadership group to monitor the implementation of the Act was raised as a key issue to remedy by the HRC's inquiry into NZSL.¹¹

49 A barrier to the promotion, maintenance, and acquisition of NZSL is that little is known about the actions of government agencies undertaken in response to the principles set out in Section 9 of the Act. There is no consistent way of identifying, recording, and reporting on this information, which creates a gap of information about what works well, and what could be improved, to support improved outcomes for Deaf people. There are particularly significant gaps in our knowledge of outcomes and supports for Turi Māori.

50 The British Sign Language (BSL) Act 2022 is one example of how legislation is used to support oversight of the actions taken by departments to promote and facilitate sign language. The BSL Act 2022 places a duty on the Secretary of State for Work and Pensions to report on the promotion and facilitation of BSL by ministerial departments and to prepare and publish a BSL report for each reporting period showing what each government department has done to promote or facilitate the use of BSL in its communications with the public.¹²

51 Drawing on this example, I propose that a core function of the NZSL statutory Ministerial advisory group be to monitor the actions of government agencies' actions to support the purpose of the Act, and to report to the Minister of Disability Issues on these actions.

52 To support this function, a monitoring and reporting framework would be developed in partnership with government agencies and Turi Māori before the amendments come into force. The framework will provide a consistent and transparent approach

¹⁰ Government agencies are those in listed in Schedule 1, Part 1 of the Ombudsmen Act 1975 [Ombudsmen Act 1975 No 9 \(as at 06 October 2022\), Public Act Schedule 1 Public service agencies and organisations to which this Act applies – New Zealand Legislation](#).

¹¹ HRC (2013) *A New Era in the Right to Sign* [A-New-Era-in-the-Right-to-Sign-for-web.pdf \(hrc.co.nz\)](#)

¹² [British Sign Language Act 2022 \(legislation.gov.uk\)](#)

for government agencies to report on the actions they have taken in response to the Act.

- 53 The framework would be rolled out progressively, beginning with key agencies such as the Ministries of Social Development, Education, Health, and Justice (agencies suggested during consultation). This would provide additional flexibility to adapt the framework to ensure that it provides the information needed and supports the change we want to see without creating a compliance burden on agencies.
- 54 The framework will feed into our reporting obligations under the UNCRPD as well as support the proposed Accessibility Committee with better data and evidence about the barriers experienced by the Deaf community, including Turi Māori.
- 55 Part of the function to monitor and report on government agencies' actions will include information gathering from the relevant agencies. This should also be reflected in the amended Act. Such information will support evidence-based strategic advice on what is working well and what needs to change to support improved outcomes for the Deaf community.
- 56 It also sends a strong signal to government agencies about their responsibilities under the Act and demonstrates to the Deaf community the commitment to a better understanding of agencies' actions to support improved outcomes for Deaf people.

Non-legislative approaches to strengthen Deaf leadership were considered

- 57 The establishment of Whaikaha provides an opportunity for the Chief Executive, with their cross-government leadership role on disability issues, to:
- 57.1 actively promote both the priorities of the NZSL Board in relation to the NZSL Strategy, and the principles to guide government agencies support the purpose of the Act
 - 57.2 encourage agencies to work more closely with the NZSL Board to improve outcomes for the Deaf community.
- 58 To enable this, Whaikaha would need to develop a monitoring and reporting framework (in partnership with the NZSL Board and government agencies). This would provide Whaikaha and the NZSL Board with evidence to better carry out its function of providing advice to the Minister for Disability Issues on matters relating to NZSL, assess the vitality of NZSL as an official language, inform investment in NZSL initiatives, and the development of future NZSL language strategies.

There are some drawbacks of this approach

- 59 The current work programme for Whaikaha is already ambitious. As such, implementing this option would take significant time as those priorities need to take precedence. The flow on effect is that data about what agencies are doing to support improved outcomes for Deaf people remains unreported, resulting in a missed opportunity to have robust evidence on what is working well and what needs to be improved for the Deaf community.

- 60 The mandate for public leadership is not strengthened because it only reinforces the existing expectations on government agencies under the Act.
- 61 Under the current Act, Whaikaha is not one of the government agencies named as an agency to be guided by the principles set out in the Act. While this could be addressed, it highlights that some significant changes have been made to the Government's approach to disability that are not reflected in the current Act.
- 62 It is unlikely to address the concerns of the Deaf community about the declining use of NZSL, the vitality of the language, and survival of Deaf culture.
- 63 My view is that these amendments will create a consistent legislative approach for Aotearoa New Zealand's two official languages – Te Reo Māori and NZSL. Strengthening Deaf people's leadership of NZSL aligns with the vital leadership role of Māori for Te Reo Māori. In addition, amending the Act aligns with the transformation of the disability system to ensure government services are better able to respond to the diverse needs of the disability community, because they are informed by lived experience.

Financial Implications

- 64 s 9(2)(f)(iv) [Redacted]
- 65 s 9(2)(f)(iv) [Redacted]

Legislative Implications

- 66 For the 2023 legislative bids process for the disability portfolio legislation, the NZSL Amendment Bill is ranked as the third priority, with a Category 4 (to be referred to Select Committee in 2023).

Impact Analysis

Regulatory Impact Statement

- 67 The Treasury's Regulatory Impact Analysis team has determined that the amendments to the NZSL Act 2006 are exempt from the requirement to provide a Regulatory Impact Statement, on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.

Climate Implications of Policy Assessment

- 68 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 69 There are approximately 4,500 Deaf people in Aotearoa New Zealand. The proposals in this paper aim to support improved outcomes for Deaf people and support their leadership on matters relating to NZSL (which is used as a primary form of communication).

Population group	How the proposal may affect this group/treaty partner
Deaf children	Early acquisition of NZSL is critical to the future of the Deaf community and culture.
Turi Māori	Māori are more likely to be Deaf than other population groups, across all age groups. Amending the Act to recognise the identity and leadership of Turi Māori will support improved outcomes for Turi Māori and their whānau.
Deaf Pacific Peoples and ethnic communities	Increasing the diversity of Deaf leadership on matters relating to NZSL will support the perspectives and concerns of Deaf Pacific Peoples to be addressed, leading to increased participation and inclusion of Deaf Pacific Peoples and ethnic communities in society.
Deaf women	Disabled women can face intersecting forms of discrimination, for example, due to ethnicity and gender. Recognising these and other different needs and experiences may support better outcomes for the Deaf community in all its diversity.
Disabled people	Amending the Act to strengthen the leadership of Deaf people aligns with the EGL approach and supports increased ‘choice and control’.

Human Rights

- 70 The proposals are intended to be consistent with the New Zealand Bill of Rights Act 1990.

Consultation

- 71 The proposals to amend the Act have been informed by a public consultation process that took an NZSL first approach to ensure Deaf people had multiple ways and opportunities to provide their views.
- 72 Officials worked in partnership with the NZSL Board to develop the proposals to amend the Act, and have provided the following comment:

“The NZSL Board supports the proposals to amend the NZSL Act. The NZSL Board acknowledges the wide range of robust issues raised by the community through the consultation process. While the proposals to amend the NZSL Act cannot address all of these, the NZSL Board intends to use this feedback to shape its future work programme, and conversations with government agencies.”

Legislation Design Advisory Committee (LDAC)

- 73 Officials consulted with LDAC on 17 November 2022. LDAC’s advice was that there are non-legislative ways to strengthen Deaf leadership on matters relating to NZSL, recognise Turi Māori identity, and monitor government actions. It also cautioned that the amendments to the Act could “possibly create inaccurate expectations within the disabled community that are likely to be aired during the parliamentary process”.

Moreover, LDAC considers that non-legislative measures may be more effective and quicker.

- 74 Consistent with my view, LDAC's advice was that the proposed amendments will not address what appear to be fundamental policy problems such as the "lack of use of NZSL, and a lack of clarity about the legal effect of NZSL being an official language".
- 75 In relation to the monitoring framework, LDAC advises that officials clearly scope the proposed function before legislation is drafted to ensure that the operation of existing bodies are taken into consideration. LDAC also cautioned officials giving a ministerial advisory group an enforcement function, such as the Children's Commission has. This advice has been taken and officials will be exploring how a NZSL statutory Ministerial advisory group could use existing mechanisms, such as the Official Information Act.
- 76 Officials will continue to engage with LDAC during the drafting process.
- 77 The following government agencies have been consulted: Accident Compensation Corporation; Department of Corrections; Human Rights Commission; Ministry of Business, Innovation and Employment; Ministry of Education; Ministry for Ethnic Communities; Ministry of Health; Ministry for Housing and Urban Development; Ministry of Justice; Ministry for Pacific Peoples; Ministry of Transport; Ministry for Women; Office of the Ombudsman; Office for Disability Issues; Office for Seniors; Oranga Tamariki; Parliamentary Counsel Office; Te Arawhiti; Te Kawa Mataaho Public Service Commission; Te Puni Kōkiri; the Treasury; the Treaty Provisions Oversight Group; Veterans' Affairs New Zealand; and Whaikaha - Ministry of Disabled People. The Department of the Prime Minister and Cabinet has been informed.

Communications

- 78 I intend to make a statement about amending the Act to coincide with the proactive release of this Cabinet paper.

Proactive Release

- 79 This Cabinet paper will be proactively released once alternative formats are available, with redactions made consistent with the Official Information Act 1982. This is expected to take six to eight weeks.

Recommendations

The Minister for Disability Issues recommends that the Committee:

- 1 **note** that, in September 2022, Cabinet agreed that consultation with the Deaf community on suggested amendments to the New Zealand Sign Language Act 2006 be undertaken, and invited the Minister for Disability Issues to report back with final proposals in December 2022 [CAB-22-MIN-0353]
- 2 **note** that public consultation began on 9 September 2022 and ended on 11 November 2022, and that there is support from some of the Deaf community for the intent of the

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suggested amendments to strengthen Deaf people’s leadership on matters relating to New Zealand Sign Language (NZSL), recognise Turi Māori identity and leadership, and monitor government agencies actions that support the promotion, maintenance, and acquisition of NZSL

3 **note** that, during public consultation, many issues were raised by the Deaf community that were outside the scope of this review but will inform future work of the NZSL Board and that I will look for opportunities to progress these concerns in my role as Minister for Disability Issues

4 **agree** to amend the New Zealand Sign Language Act 2006 so that:

4.1 the New Zealand Sign Language Board becomes a statutory Ministerial advisory group with additional functions and powers to provide strategic leadership on matters relating to NZSL, and independent advice to the Minister for Disability Issues

4.2 it sets out the purpose and core functions of the statutory Ministerial advisory group, which could include gathering information from government agencies about their actions relating to NZSL, along with principles to guide appointments to the statutory Ministerial advisory group

4.3 it recognises and supports Turi Māori identity and leadership

5 **agree** the purpose of the New Zealand Sign Language Act 2006 is amended to reflect the creation of the NZSL statutory Ministerial advisory group and the language learning priority of acquisition

6 **agree** the New Zealand Sign Language Act 2006 is amended to include a provision for a review to commence five years after it comes into force

7 **note** that some key agencies are not captured by the definition of government agency (e.g. Whaikaha) in the New Zealand Sign Language Act 2006

8 **agree** the New Zealand Sign Language Act 2006 is amended to expand the government agencies who are expected to be guided by the principles to better support the Deaf community

9 **note** the Minister for Disability Issues will approve a Terms of Reference for the NZSL statutory Ministerial advisory group, after seeking agreement from Cabinet

10 **note** the Minister for Disability Issues will consult with the Cabinet Appointments and Honours Committee before making appointments to the NZSL statutory Ministerial advisory group

11 **note** the New Zealand Sign Language Act 2006 is administered by the Ministry of Social Development, and that the intention is to transfer administration of the Act to Whaikaha – the Ministry for Disabled People when the amended Act comes into force

12 s 9(2)(f)(iv)

I N C O N F I D E N C E

- 13 **note** that for the 2024 Legislative Bids process, the NZSL Amendment Bill is ranked as Category 4 (to be provided to select committee in 2023) in response to the Labour Party 2020 manifesto commitment to strengthen the public mandate and resourcing for disabled people's leadership
- 14 **invite** the Minister for Disability Issues to issue drafting instructions to Parliamentary Counsel Office
- 15 **authorise** the Minister for Disability Issues to approve minor and technical elements within the policy parameters during the development of the NZSL Amendment Bill.

Authorised for lodgement

Hon Priyanca Radhakrishnan

Minister for Disability Issues

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

- 1 Engagement on potential amendments to the NZSL Act took an 'NZSL first' approach. Officials took a collaborative approach to designing and delivering this consultation, working in partnership with the NZSL Board.
- 2 While consultation was open to the New Zealand public, it was focused on the Deaf community and those who use NZSL. A landing page on the Office for Disability Issues website was developed as the primary source of information to support consultation. This page showed NZSL videos that provided the Deaf community with information about the NZSL Act, the NZSL Board, the role of the Accelerating Accessibility framework in removing barriers, and the potential amendments to the Act. A discussion document, written in English, was provided to support the wider public to engage.
- 3 The channels for engaging with the Deaf community included:
 - 3.1 targeted, in-person engagement hui with members of the Deaf community and with Tāngata Turi
 - 3.2 online hui with members of the Deaf community
 - 3.3 the ability for submissions to be provided in NZSL (video) and in writing.
- 4 Engagement on the proposals with Turi Māori was intended to build the relationship between the Crown and Turi Māori, acknowledging that this has not been strong in the past. The engagement approach was designed in consultation with the Rōpū Kaitiaki for the NZSL Board.
- 5 Officials met with Māori participants through a series of hui in Auckland, Wellington, and Christchurch. Hui were facilitated in NZSL by the NZSL Board, the Rōpū Kaitiaki and the NZSL team at Whaikaha. All participants were Deaf or hearing impaired. They shared stories of their experiences of being Turi Māori and the outcomes they wished to see for Turi Māori in the future.

Table 1 below sets out the forms of engagement and number of attendees or submissions during the public consultation phase (9 September 2022 – 11 November 2022).

Table 1: Forms of engagement, number of attendees at meetings, and number of submissions

Form of engagement	Location or Group (date)	Number of attendees (approx.) or submissions
In person meetings in NZSL	Christchurch Deaf Club (23 Sep 2022)	50 attendees
	Wellington Deaf Club (14 Oct 2022)	50 attendees
	Auckland Deaf Club (4 Nov 2022)	55 attendees
Hui with Turi Māori and whānau, with trilingual interpreters in attendance	Christchurch (24 Sep 2022)	12 attendees
	Wellington (15 Oct 2022)	12 attendees
	Auckland	13 attendees

I N C O N F I D E N C E

	(5 Nov 2022)	
Targeted engagement	DPO Coalition (9 Sep 2022)	NA
	Deaf Action (26 Oct 2022)	NA
	Pacific People’s Disability support providers (28 Oct 2022)	NA
	Deaf Wellbeing NZ (4 Nov 2022)	NA
Online NZSL meeting	3 Nov 2022	25 attendees
NZSL submissions	NA	7
Written submissions	NA	23

Summary of the key themes from consultation on the suggested amendments to the NZSL Act, as set out in the discussion document

6 Summarised below are the key themes that emerged during consultation with the Deaf community on three potential amendments to the NZSL. Overall, there was no support for the status quo.

Potential amendment: Make the NZSL Board a statutory Ministerial advisory group to provide strategic leadership of NZSL

7 There was strong, although not universal, support for increasing the status and influence of the Deaf community’s leadership of NZSL, and for the roles, functions, and powers of a leadership group to be set out in legislation.

8 Most of the feedback relating to making the NZSL Board a statutory Ministerial advisory group support the proposals. Those in favour said it would create a more permanent approach to support NZSL as a language and provide an ongoing source of advice to government on matters relating to NZSL. As one submitter noted:

‘... enforcing it [the NZSL Board] in law gives it the legal recognition it needs. With this comes increased stability, authority, and mana’.

9 Other feedback suggested that an NZSL statutory Ministerial advisory group should be resourced to carry out its functions and independent from Government.

10 Of the feedback that did not support this proposal, two themes emerged, which were that a statutory Ministerial advisory group does not go far enough because:

10.1 a NZSL leadership group should have more powers, such as directing the Ministry of Education to ensure Deaf children are educated in NZSL

10.2 it would be better to have a commission for NZSL as an official language.

Potential amendment: Create a mechanism to monitor central government agencies' actions to meet their obligations under the NZSL Act

- 11 Almost all the feedback relating to this proposal strongly supported the creation of a monitoring framework, and for a NZSL statutory Ministerial advisor group to have the power to request information from agencies. Examples of this support are:

“I endorse strengthening the monitoring role for the NZSL board. Being able to obtain information from government departments about their implementation of the NZSL Act is a key tool in encouraging departments to work closely with the Deaf community, and to honour their obligations under the NZSL Act, the NZSL Strategy, and the UNCRPD.”

“The monitoring role will mean the Board know the priorities and needs of the Deaf community. And they can show this to the Deaf community, which the Deaf community will appreciate.”

- 12 There were also some suggestions on how this could be done, for example, requiring all government departments to ‘submit yearly strategic plans for supporting the NZSL Board achieve its goals’, and having penalties for government agencies who do not provide information.

Embed Te Tiriti o Waitangi / The Treaty of Waitangi in NZSL leadership to strengthen Turi Māori leadership

- 13 There was strong support for the Act to be amended to better reflect Turi Māori identity and leadership. Representative of this are the quotes below:

“I agree with the suggestions in the consultation document regarding Turi Māori Leadership within the NZSL Board.”

“I support strengthening the presence of Te Tiriti o Waitangi in the Act to amplify Turi Māori leadership and voices.”

“There needs to be representation from the Turi Māori community within the NZSL Board to lead this work.”

‘I want the capacity of Turi Māori to be increased so we don’t have to follow hearing or Pakeha. It’s important for us to learn on our own. I want to see how we can grow our Māoritanga without having to rely on others, in our own way – whether it be through wananga, training, so we can grow.’

- 14 Officials consulted with Turi Māori on *how* they thought Te Tiriti o Waitangi/ The Treaty of Waitangi should be embedded. Most responded with outcomes they wanted to see for Turi Māori in the future, including partnership in leadership, leadership over the development of Māori concepts as signs, equal access to culture and services (e.g., through more trilingual interpreters) and recognition of Turi Māori identity.

Appendix 2: Importance of sign language for the wellbeing of Deaf people

Declining use of NZSL

- 1 Approximately 4,500 Deaf people (Census 2018, Stats NZ) use NZSL as a form of communication. Members of the Deaf community are an important cultural and linguistic minority. Most Deaf people were born deaf or became deaf early in life. They have a strong sense of identity as Deaf people, a shared common language in NZSL, and “prefer to communicate in NZSL and identify themselves with other Deaf people”.¹³
- 2 NZSL is a unique language, and not simply a translation of English. It continues to evolve, incorporating Te Ao Māori concepts, and is used by Turi Māori and Deaf Pacific Peoples as a primary form of communication.
- 3 NZSL is fundamental for Deaf people to communicate and participate in society. But it is a threatened language, and its use has been declining.
- 4 A decline in the use of NZSL represents a significant threat to the Deaf community.
- 5 The reasons for the decline in use are complex and multi-faceted. Research suggests that traditional domains of NZSL use and transmission are shrinking, with most Deaf children who have cochlear implants acquire a primary spoken language, with limited exposure to NZSL.¹⁴
- 6 This creates a situation where the vitality of NZSL is threatened by declining user numbers and weakening conditions for intergenerational language transmission.

Access to sign language and positive wellbeing outcomes

- 7 Access to sign language is a strong predictor of positive wellbeing outcomes for Deaf people.¹⁵
- 8 International and New Zealand research demonstrates the role that Deaf culture and identity, based on a shared language, have on overall wellbeing. A Danish study illustrated that Deaf people who had a strong identify as Deaf, had significantly higher levels of psychological wellbeing than those with marginal identities (defined as not sharing an identity with either the Deaf or hearing community).¹⁶

¹³ Pat Dugdale (2002) Aspects of being Deaf in New Zealand.

¹⁴ McKee, R (2017:232) Assessing the vitality of New Zealand Sign Language. *Sign Language Studies*, 17(3): 322-362. A member of the Deaf community who attended one of the in-person meetings made the point that they “focus on fixing the ears and the mouth” rather than supporting learning NZSL.

¹⁵ Human Rights Commission (2013:76) A New Era in the Right to Sign: A report of the New Zealand Sign Language Inquiry.

¹⁶ Chapman, M and Dammeyer, J (2016) The significance of Deaf identity for psychological well-being, *Journal of Deaf Studies and Deaf Education* 22(2).