



12 July 2023

Tēnā koe

On 23 May 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

Under section 12 of the Official Information Act 1982 I request the following information:

- *The following:*
 - *Report - Further Advice on the Accessibility for New Zealanders Bill (REP/23/3/156) dated 10/03/2023.*

I ask that you acknowledge receipt of this request and request that your acknowledgement and final response be emailed with a hard copy also sent to

On 21 June 2023, the Ministry advised you that more time was required to respond to your request and that the Ministry's decision will be with you no later than 12 July 2023.

In response to your request, please see the attached **Appendix** for the following report:

- *Report - Further Advice on the Accessibility for New Zealanders Bill (REP/23/3/156) dated 10/03/2023*

Please note, information regarding some individuals is withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Some information is withheld under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials. The release of this information is likely to prejudice the ability of government to

consider advice and the wider public interest of effective government would not be served.

Information has also been withheld under section 9(2)(g)(i) of the Act to protect the effective conduct of public affairs through the free and frank expression of opinions. I believe the greater public interest is in the ability of individuals to express opinions in the course of their duty.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

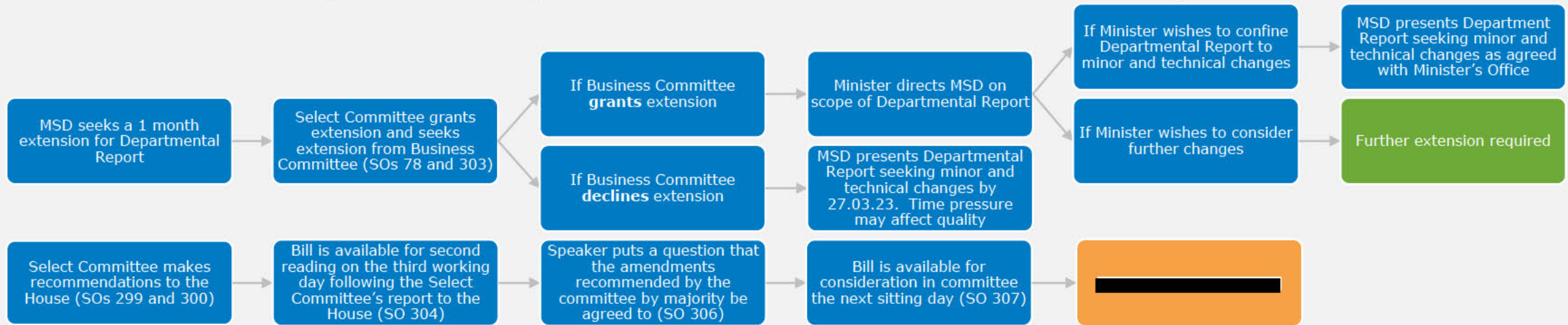
If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

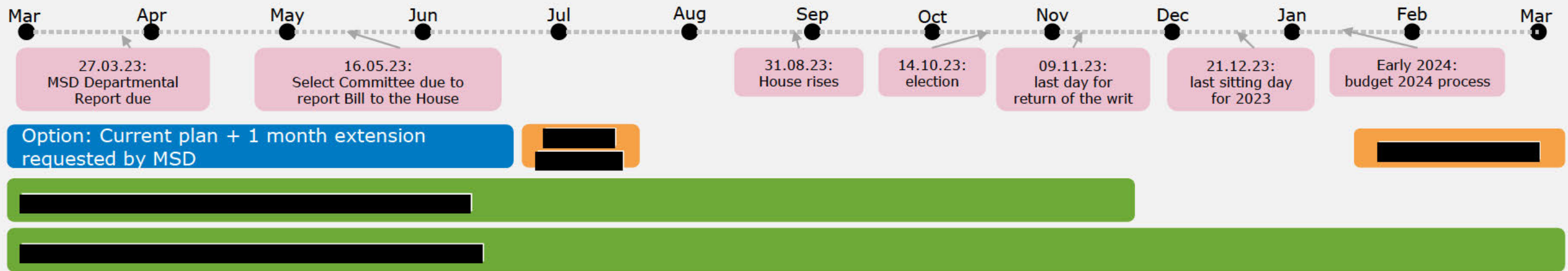


Sarah Palmer
Policy Manager
Disability Policy

Steps to complete current Select Committee process



Timeline



Timeframes relevant to Select Committee process:

- 4 weeks minimum for Select Committee to consider Departmental Report and prepare its own report
- 2 weeks minimum required for PCO to prepare tracked version (timeframe begins after direction from Select Committee). Extensive changes would require a longer timeframe
- 6 weeks required for accessible formats of all documents. Select Committee would like to publish accessible formats at same time as report tabled in the House.



[DATE]

Chairperson

Social Services and Community Select Committee

Tēnā koe Ms Warren-Clark

Accessibility for New Zealanders Bill

As you are aware, I was appointed Minister for Disability Issues on 2 February 2023. Since then I have taken the time to familiarise myself with the content of the Accessibility for New Zealanders Bill (the Bill) and have taken advice from officials regarding the public submissions on the Bill.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

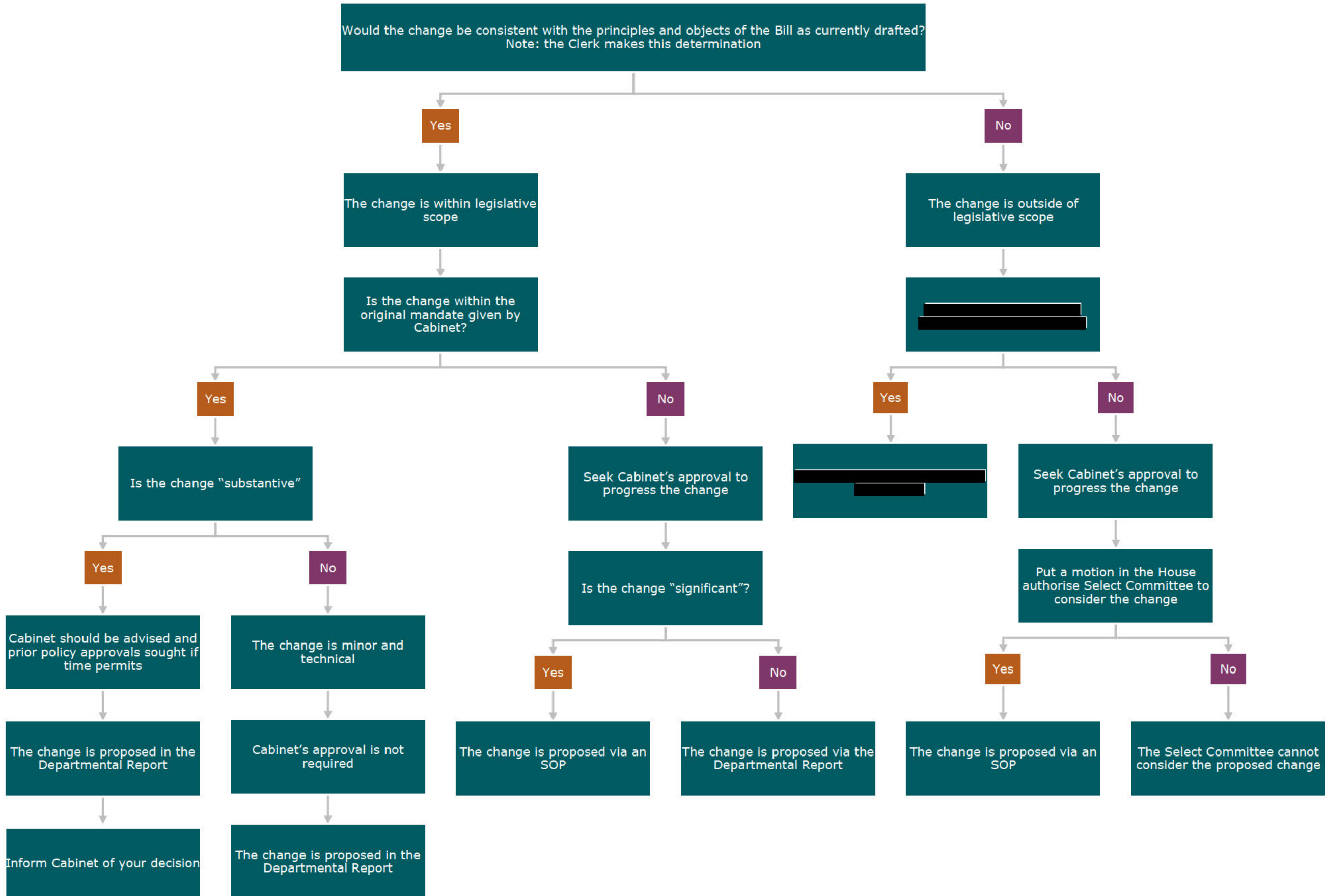
[REDACTED]

Noting that the Departmental Report is currently due before 27 March 2023, I would be grateful for an urgent response to this letter.

Ngā mihi nui

Hon Priyanca Radhakrishnan
Minister for Disability Issues

Limits of legislative scope and the process for different types of changes the Minister may wish to recommend to the Select Committee





Report

Date: 10 March 2023

Security Level: IN CONFIDENCE

To: Hon Priyanca Radhakrishnan, Minister for Disability Issues

Further advice on the Accessibility for New Zealanders Bill

Purpose of the report

- 1 Further to the reports dated 8 February 2023 [REP/23/2/037] and 23 February 2023 [REP/23/2/082], your office has sought advice on the consequences of seeking an extension to the select committee process for Accessibility for New Zealanders Bill (the Bill). This report provides this advice [REDACTED] as the Departmental Report is required by 27 March 2023 and the select committee is expected to report on the Bill to the House on 16 May 2023.

Executive summary

- 2 The Ministry for Social Development (MSD) has recently provided advice regarding the status of the Accessibility for New Zealanders Bill. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] A report to you on 8 February 2023 [REP/23/2/037] set out a brief outline of work on the Bill, and a follow-up report to you 23 February 2023 [REP/23/2/082] responded to your request for more information.

- 3 [REDACTED]
[REDACTED]

- 4 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- 5 [REDACTED]
[REDACTED]

[REDACTED]

6 Alternatively, you could:

- [REDACTED]
- [REDACTED]

7 We do not recommend an extension of nine months as suggested by your office, [REDACTED]

[REDACTED]

8 [REDACTED]

[REDACTED] We would also recommend you consider informing Cabinet of this decision.

Recommended actions

It is recommended that you:

1 **note** previous advice [REP/23/2/037] that the Accessibility for New Zealanders Bill (the Bill) [REDACTED]

2 **note** that MSD is currently obliged to provide a Departmental Report to the select committee before 27 March 2023 but will look to seek a short extension due to the extended timeframe of select committee hearings

3 **note** [REDACTED] officials will draft a Departmental Report recommending only minor and technical changes

4 **note** [REDACTED]

5 **agree** to continue to progress the Bill, with only minor and technical amendments, through the select committee process [REDACTED]

Agree / Disagree

OR, if you disagree with Recommendation 5,

6

[Redacted]

6.1

[Redacted]

[Redacted]

[Redacted]

[Redacted]

6.2

[Redacted]

[Redacted]

[Redacted]

[Redacted]

7

[Redacted]

[Redacted]

Agree / Disagree

8

[Redacted]

[Redacted]

[Redacted]

Julia Bergman
General Manager
International, Disability, and Generational
Policy

Date

Hon Priyanca Radhakrishnan
Minister for Disability Issues

Date

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

- 9 A report in November 2022 [REP/22/11/1170] to the then Minister for Disability Issues, Minister Poto Williams discussed [REDACTED]
[REDACTED]
[REDACTED]
- 10 When you became the Minister for Disability Issues, a report to you on 8 February 2023 [REP/23/2/037] set out a brief outline of work on the Bill
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 11 A report to you 23 February 2023 [REP/23/2/082] responded to your request for more information by outlining the history of the work programme that led to the Bill and a summary of submissions in the select committee.
- 12 In essence, MSD continues to recommend Cabinet’s agreed model [CAB-22-MIN-0104] in the Bill as the best ‘first step’ to accelerating accessibility in New Zealand. A ministerial advisory committee working to coordinate accessibility change across government alongside a Chief Executive and Ministerial oversight strikes the right balance between independence and influence. Please refer to the Regulatory Impact Statement for more information¹.
- 13 [REDACTED]
[REDACTED]
[REDACTED]

We recommend continuing with the select committee process with minor recommended changes

- 14 [REDACTED]
[REDACTED] Officials will continue to draft a Departmental Report responding to submissions and the select committee is due to report back by 16 May 2023. The steps for this option are provided in Appendix A and this is the only option with the potential to be completed before the 2023 election.
- 15 Officials are yet to receive instructions from the select committee for the Departmental Report. Clerks have informed us that it would currently be required by 27 March in order to meet the 27 May select committee report-

¹ <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/information-releases/cabinet-papers/2021/accelerate/regulatory-impact-statement-accelerating-accessibility.pdf>

back deadline. Note that, [REDACTED] officials are planning to seek an extension for MSD's Departmental Report. The basis for this request is that the oral hearings are still ongoing, MSD has received a significant number of information requests from the select committee, and drafting the report has paused while officials awaited your decisions.

16 Regardless of the extension, the Departmental Report under this option will only contain minor and technical changes that fit within the scope of the Bill and the Cabinet-agreed mandate. Possible changes from submissions include but are not limited to:

- tāngata Whaikaha being replaced with tāngata whaikaha Māori
- amending wording to clarify representation on the Accessibility Committee (e.g. changing whānau or carers to whānau and carers)
- amending the definition of accessibility barrier.

17 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

18 Due to opposition in submissions, there is a chance the select committee may not recommend that this Bill progresses if it only receives minor and technical changes and they may note this in their public report. [REDACTED]

[REDACTED]
[REDACTED] more significant changes to the Bill can be made through Supplementary Order Papers (SOPs) following the second reading.

You could ask for an extension, but you do not have control of the Bill's content when it is before the select committee

19 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

20 The Office of the Clerk has advised that this option would require an extension to the report-back date of the select committee beyond the current deadline of 16 May 2023. This would require you to write a letter to the select committee to request they 'pause' their consideration of the Bill and indicate your endorsement for an extension to the deadline for their report back to the House. Officials understand that your request must state the reason for the "pause" and an explanation of the desired timeframe.

21 If the committee agrees, they, with your endorsement, could write to the Business Committee and request an extension for a specified amount of time. The Business Committee could consider the request and a unanimous or near-unanimous vote would be required to grant the extension.

22 Ministerial scope as such is limited during a paused select committee process. Changes to the Bill are limited to what will be agreed by Cabinet, the select committee, and the House, and are unlikely to meet the extent of community expectation.

23 We understand that your engagement with community stakeholders on the Bill during this process is also limited. Officials, meanwhile, can only consult publicly with the permission of the select committee. Therefore, any changes to the Bill requiring consultation or opportunities to publicly clarify the Bill's impact would be limited.

24

A range of vehicles can be used to make changes to the Bill

25 If you would like the select committee to consider changes that you propose to the Bill, there are a range of corresponding methods and timeframes depending on the nature of the changes sought, as outlined in Appendix 2. The Select committee will then consider the changes and each one may be accepted unanimously, accepted by majority, or disregarded.

Minor to moderate changes could be suggested in the Departmental Report

26 If an extension is granted, MSD would then request an extension to our deadline to provide a Departmental Report, as this would be the main vehicle to suggest changes to the Bill that are within legislative scope. This would allow time for you to seek minor-to moderate changes through Cabinet to the Bill. These include but are not limited to:

- shortening the review period of the Bill from five years to three
- amending the composition of the Accessibility Committee to further reflect Te Tiriti o Waitangi
- amending the Accessibility Committee's functions (noting that this would have to be within the realm of an advisory committee)
- inserting requirement for the responsible Minister to table the government's response to recommendations in the House.

'Significant' changes or changes out of legislative scope can be made through a Supplementary Order Paper

27 We understand that 'significant' changes to the Bill are changes that suggest or go beyond existing content in the Bill. For this Bill, significant changes (from submissions) include but are not limited to:

- a new clause to insert principles to be used in decision-making by government
- specifying domains that the Accessibility Committee must consider

- inserting requirement for government to respond to recommendations within certain parameters (e.g. accept, accept in part, reject).
- 28 Most of the key changes repeatedly sought through submissions are outside of the Bill’s legislative scope, which is limited to the establishment of a Ministerial Advisory Committee. Changes sought through submissions outside of legislative scope include but are not limited to:
- development of enforceable standards in the Bill
 - a new clause to insert powers of investigation (e.g. compel witnesses, require data collection)
 - positive obligation on government to work toward timeframe targets for removal of accessibility barriers
 - provision that denial of “reasonable accommodation” is illegal discrimination and consequent amendments to other relevant legislation.
- 29 For any of these ‘significant’ or ‘outside legislative scope’ changes, a SOP would be required via the House along with a motion that the SOP is referred to the select committee for consideration. Any changes that are outside of legislative scope also require an “instruction” from the House to the select committee that it consider the SOP even though the content is out of legislative scope (which would otherwise be a breach of the Standing Orders).
- 30 Approval would be required from the Cabinet Social Wellbeing Committee, Cabinet Legislation Committee and depending on the change, the select committee may require that it goes out for public submissions once again. Many of these changes would require analysis from Whaikaha who, as the implementing agency, would need to advise on feasibility.

[Redacted text block]

31 [Redacted text block]

32 [Redacted text block]

33 [Redacted text block]

34 [Redacted]
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42 [REDACTED]
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- [REDACTED]
[REDACTED]

Agency responsibility

43 MSD has been directed by the Minister for Social Development and Employment to other items on the 2023 work programme that limit staff's capacity to do analysis beyond the current legislative scope. [REDACTED]
[REDACTED]

44 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Appendices

- Appendix One: A3 titled "Steps to complete current select committee process"
- Appendix Two: A3 titled "Limits of legislative scope and the process for different types of changes the Minister may wish to recommend to the select committee"
- Appendix Three: Draft letter to the chairperson of the select committee.

File ref: REP/23/3/156

Author: ([REDACTED] Policy Analyst, Disability Policy)

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