

# Better Design and Buildings for Everyone: Disabled People's Rights and the Built Environment

Book 1 of 3



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Book 1 of 3

# Better Design and Buildings for Everyone: Disabled People's Rights and the Built Environment



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# Contents

Introduction	4
The Commission's experience and research	6
International human rights standards	11
Accessible buildings and facilities:	
New Zealand legal requirements	12
the Australian approach	15
the American approach	17
Accessible footpaths and roads	19
The way ahead	20
Conclusions	24
Recommendations	25
Notes	26

# Introduction

A fully inclusive society recognises and values disabled people as equal participants. Their needs are understood as integral to the social and economic order and not identified as “special”.<sup>1</sup>

To achieve full inclusion, a barrier-free physical and social environment is necessary. The ability to move through the world independently and safely allows disabled people access to and the ability to participate in communities, education, health services, recreation, and make social connections. These basic human rights and freedoms belong to all people: to be treated fairly and equally, with respect and dignity. Access to the built environment is therefore a fundamental human right.

Linked to participation and inclusion is the concept called “universal design”. This requires the consideration of the needs of all members of society during the design of products, environments, programmes and services, to ensure that no adaptation or specialised design is required later on.<sup>2</sup>

New Zealand’s built environment is often not designed with the needs of all users in mind and so excludes certain people from accessing and using facilities and services

such as buildings, roads and footpaths, signs, recreation facilities, and parks. This particularly affects disabled New Zealanders, who make up 17 to 20 per cent of the New Zealand population.<sup>3</sup>

## The importance of accessibility

**All steps in the accessible journey are interlinked and are of equal importance. If one link is inadequate, the whole journey may be impossible.**<sup>4</sup>

Providing adequate access to the built environment allows disabled people to be included in the economic and social life of the community, to participate in education and employment and to contribute to their society. For Tangata Whenua and people from culturally and linguistically diverse communities, the right and ability to access cultural spaces such as marae and Pacific churches is integrally tied to rights to cultural participation and identity.

Disability is recognised as an evolving concept and includes those who have long-term impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.<sup>5</sup>

The New Zealand Human Rights Act

and the New Zealand disability surveys define disability to include physical, sensory, psychiatric, intellectual and other disabilities, where other disabilities can include people who have a long-term condition or health problem. Disability can be a very broad concept, however, the accessibility of the built environment is relevant to a much larger part of the population who may not fall within common definitions of disability; for example senior citizens, those with temporary injuries or illness, and those who use push chairs for children.



*Example of an elevated entrance.*

## This report

In December 2011 the Commission released and sought public feedback on *The Wider Journey* discussion document, about accessibility of the built environment, access to official information and political participation. The feedback provided in submissions has been reflected in three distinct reports. This report deals only with accessibility to the built environment, which includes entering and moving around buildings, getting to and from public places and community facilities such as marae and churches. Information accessibility and political participation are addressed in separate reports.

This report covers buildings in particular and looks at:

- 1 the Commission's experience in accessibility issues relating to the built environment
- 2 the relevant international standards and domestic legislation
- 3 overseas approaches to the issue
- 4 ideas to improve accessibility in the future.



# The Commission's experience and research

## Complaints

Over the years, the Commission has received a steady stream of complaints about access to the built environment. Many are to do with physical access to buildings and the use of guide dogs and mobility aids to get around the community. In the four years from 2007 to 2010, complaints about physical access related to a museum, a movie theatre, toilets (including those designated "accessible"), educational establishments, hotel accommodation, a bar, commercial buildings, a post box, a sports venue, a council public meeting venue, an art gallery and a government agency reception area.

The following case study is an example of a typical complaint:

**Mike booked tickets for the Tom Jones concert at the Mission Estate Winery. One of the tickets was for a friend who uses a wheelchair, so Mike sent an email requesting an accessible car park and a suitable space in the grounds. A couple of weeks out from the concert, Mike emailed the venue to make sure everything was in place for his friend.**

**He received a reply which said the disability car park was full and the venue did not have a disability parking**

**space. It also said there was no record of Mike's original email.**

**Mike contacted the Commission. A Commission mediator called the winery and asked for a concert organiser to call the Commission. The organiser phoned and explained that there had been more bookings from people with disabilities than available space and the car park was full. He was, however, trying to find more space. If no more car parks became available, people with disabilities could be dropped off at the gate.**

**Two days before the concert, organisers contacted Mike and advised him he had a car park. Mike said this had worked well and he didn't know how his group would have got on without it. He said they were also given space in the grounds suitable for wheelchairs. The Commission's input, he said, had been helpful.**

## Community engagement

The Commission has also received considerable feedback about accessibility issues through its disability community engagement programme in 2011<sup>6</sup> and through consultation for its major review of human rights in 2010, *Human Rights in New Zealand 2010/ Ngā Tika Tangata o Aotearoa*.



The disability community feedback confirmed the importance and ongoing relevance of issues raised in submissions in the 2010 review. The main issues about access to the built environment from these two pieces of work were:

- 1 seemingly inconsistent application by local authorities of the Building Code and building access standards to new and modified buildings
- 2 no clear mechanisms for a) bringing access issues in existing facilities and infrastructure to the attention of local authorities and b) getting something done about such issues
- 3 large parts of the built environment are not covered by current design standards (whether voluntary or mandatory) and the need for accessibility is not a routine consideration in the design of footpaths, roads, shared spaces, access to public parks and facilities, and public signage
- 4 concerns about the introduction of “shared space” designs where there is no clear boundary between the street and footpath, and traffic and pedestrians
- 5 current building regulations and standards do not adequately cover the needs of blind and vision-impaired people
- 6 path, roadway and public space maintenance is not undertaken with the needs of vision-impaired pedestrians in mind. For example, audible road crossing signals not working, overhanging branches or trees over footpaths, sandwich board signs in the middle of footpaths
- 7 hotels, motels and other hired accommodation advertised as accessible often do not comply with minimum standards for access
- 8 toilets designated as accessible being used for other purposes (e.g. store rooms)
- 9 the lack of any mechanism to ensure that older buildings which are not being altered, or due to be altered, have some minimum standards of accessibility<sup>7</sup>
- 10 the Building Code requirement for only one building access route. Designers are not required to provide a direct, convenient or user-friendly route.<sup>8</sup>

## ***The Wider Journey* discussion document**

In response to the built environment chapter of *The Wider Journey* discussion document, the Commission received 32 submissions from disabled people, disability organisations and groups, building access experts and building surveyors. They raised several of the points listed above and expressed urgency about ensuring an end to the practice of constructing inaccessible buildings. Submitters:

- 1 were unanimous in calling for improvements to built environment accessibility standards to reduce the marginalisation experienced by disabled people. They also called for more involvement in those processes by organisations representing disabled and accessibility experts
- 2 supported the recommendations that the discussion document proposed to improve accessibility but emphasised that to achieve this, higher standards would have to be mandatory
- 3 raised some specific issues for whānau hauā,<sup>9</sup> including marae accessibility as well as understanding and knowledge of accessibility. Similar issues were identified for Pacific peoples in relation to Pacific churches.

## **Underlying issues**

In recent years a number of situations involving the inaccessibility of the built environment have made headlines in the media. For example, the Retirement Commissioner got an accessible lift installed in her Wellington office building after not being able to host a party of 11 British Members of Parliament because one of them was a wheelchair user.<sup>10</sup>

In several cases the inaccessibility was caused as much by the attitudes and lack of knowledge of the staff operating the services as it was by the physical design of the facility. For example, a disabled person, with an intellectual disability and a speech impairment, was unable to ride on an Auckland bus multiple times. This was because the bus drivers did not recognise his disability concession card and did not know the company's disability concession policy.<sup>11</sup>

Even more problematic is a wider cultural tendency to treat accessibility as a “special” or “extra” issue relevant only to disabled people. This leads to solutions which tend to segregate disabled people's use of and access to a building. A number of submissions highlighted, for example, how even in relatively new buildings accessibility routes are set up as “separate” and often

require more effort and time for a disabled person than access by a non-disabled person. In the post-earthquake construction of a temporary shopping complex in the Christchurch central city, the notion of accessibility as an “extra” may have meant that more emphasis was placed on building the complex quickly at the cost of ensuring full accessibility.

This approach does not acknowledge the reality that the access needs of the New Zealand population are diverse, variable and wider than just those who fall within working/traditional definitions of disability. People’s access needs can change with age,<sup>12</sup> with a temporary injury or illness, or having to care for children.<sup>13</sup>

Failure to accommodate this reality will mean that New Zealand faces a future in which the built environment is inaccessible to a large proportion of its population:

**Accessibility affects everyone. We all experience different levels of mobility; sometimes due to temporary causes such as injury, pregnancy or illness. As we age, it is increasingly due to more permanent impairments.**<sup>14</sup>

In order for the built environment to qualify as accessible to disabled people, all aspects

of it must be accessible to everyone.

It should accommodate the broadest possible spectrum of human ability across the lifespan and from the earliest stage of building – the design stage.

The concept of “universal design” grew from advocates of barrier-free design in America in the late 1990s<sup>15</sup> and has its origins in both the disability and design communities.

Advocates of barrier-free design and architectural accessibility recognised the legal, economic, and social power of a concept that addressed the common needs of people with and without disabilities. As architects wrestled with the implementation of standards, it became apparent that segregated accessible features were “special”, more expensive, and usually ugly. It also became apparent that many of the environmental changes needed to accommodate disabled people actually benefited everyone.<sup>16</sup>

Disabled people look to universal design to increase the accessibility and usability of the built environment, reduce the stigma associated with disability,<sup>17</sup> and enhance opportunities for participation and social integration in everyday life.

Universal design ensures a national building stock that has life-long economic worth and sustainability.<sup>18</sup> When accessible features are included at the design stage, the cost of the building is no more than that of an inaccessible building. The expense of retrofitting accessibility features is avoided. Housing developments that incorporate universal design features support the inclusion and participation of senior citizens. Other financial benefits include reduced costs associated with accident and injury and positive economic gain from more tourism and employment and a wider customer base.<sup>19</sup>

The key features of universal design are:

- 1 It is usable and accessible to people of diverse ages and abilities.
- 2 It accommodates and responds to diverse individual preferences and abilities.
- 3 It is easily understandable and consistent with people's intuitive responses.
- 4 It ensures access to essential information regardless of sensory abilities and ambient conditions.

- 5 It minimises hazards and risks of accidental or unintended actions.
- 6 It entails the least possible physical effort and is easy.
- 7 It incorporates sufficient size and space to accommodate a range of mobilities, body postures and sizes.

Photo: ftechsavvyed, flickr



# International human rights standards

New Zealand ratified the United Nations Convention on the Rights of Persons with Disabilities (Disability Convention) in 2008. The Disability Convention is the defining international standard for disabled people's rights. It brings together all the existing rights which affect disabled people, but it does not create additional rights. It details State obligations and provides guidance on how improvements to their existing rights can be made. The States' obligations under the Disability Convention include that they:

- 1 promote research and the development of technology, goods, facilities and designs which are suitable for disabled people
- 2 actively involve disabled people in the development of policies
- 3 implement legislation and policies to ensure disabled people are able to realise their rights under the Disability Convention
- 4 adopt measures that help to foster respect and dignity for the rights of disabled people
- 5 encourage positive perceptions and greater social awareness about disabled people.<sup>20</sup>

The Disability Convention imposes a number of obligations in relation to accessibility of the built environment. Article 9 for example requires facilities and services that are provided to the public to be accessible to disabled people on an equal basis with others.<sup>21</sup> It also requires steps towards ensuring that minimum access standards operate in public services and facilities, that signage in public buildings is in Easy Read format and Braille, and that the State ensures the private sector provides accessible services.

Photo: trepelu, flickr



*Elevator instructions in Braille.*



# Accessible buildings and facilities: New Zealand legal requirements

The significance of the Disability Convention in New Zealand law is that it can be used to guide the interpretation of statutes and application of case law. Wherever possible, New Zealand law will be interpreted to ensure it is consistent with Disability Convention provisions.

The two major pieces of domestic legislation that apply to accessibility of the built environment are the Building Act 2004 (and the accompanying Building Code) and the Human Rights Act 1993.

## The Human Rights Act

The Human Rights Act 1993 (HRA) makes it unlawful to deny a person access to a place or vehicle because the person has a disability – although this is subject to some exceptions. The Court of Appeal has ruled that providers of services to the public have to provide their services differently to disabled people if that is necessary to enable them to access the service. The court described this as a positive obligation to accommodate the needs of disabled people.<sup>22</sup>

This obligation to accommodate is subject to a reasonableness requirement. The HRA states that building owners or service

providers do not have to provide special services or facilities to ensure access for disabled people if such a requirement is unreasonable. Nor are they expected to provide a service for a disabled person where there is a risk that, by doing so, they will expose others to harm or infection.<sup>23</sup>

Furthermore, these provisions are subject to the Building Act 2004.

## Building Act 2004

The Building Act is a regulatory framework, a licensing regime and a set of standards for building in New Zealand. Its purpose includes setting standards to ensure that buildings contribute appropriately to the health, independence and wellbeing of the people who use them.

The principles of the Building Act include the need to provide “reasonable and adequate provision” for disabled people to “enter and carry out normal activities and processes” within the building.<sup>24</sup> This must be taken into account when performing functions or duties imposed under the Act. These requirements also apply to alterations made to public buildings and where the use of a building is changed to make it public. These requirements do not apply to residential housing in New Zealand.

The Act provides for the New Zealand Building Code (NZBC), which prescribes functional requirements for buildings and the performance criteria with which buildings must comply in their intended use. The Act also provides for compliance documents for use in establishing compliance with the building code. A person who complies with a compliance document must, for the purposes of this Act, be treated as having complied with the provisions of the building code to which the document relates.

NZBC Clause D1 prescribes the functional requirements and the performance criteria relating to access. The New Zealand Standard (NZS) 4121: 2001 'Design for Access and Mobility – Buildings and Associated Facilities' is a compliance document providing an acceptable solution to the functional requirements and performance criteria of NZBC Clause D1. This is the only compliance document specified in the Act. However, NZS 4121:2001 is not mandatory and other means may be taken to establish compliance with NZBC Clause D1 Access.

NZS 4121:2001 is New Zealand's accessibility standard on public buildings: it outlines what is required to make sure buildings open to the public are accessible to disabled people. The Standards Council's consensual drafting process, which applies to the development of all New Zealand standards, ensured that disabled people are able to have an effective say in the coverage and content of the standard. The Act however recognises that the compliance document for the needs of persons with disabilities can be changed by an Order-in-Council, which is a notice of an administrative decision issued by the Governor General.

The overall effect of legislative provisions related to accessibility is that the HRA makes it unlawful to discriminate unless certain (very limited) conditions apply. The Building Act (s.118 in particular) requires public buildings, that are being built or renovated, to accommodate the accessibility needs of disabled people. The importance of providing disability access is reinforced by the Act's reference to NZS 4121:2001 as a compliance document. This is the only time this occurs in the Building Act.



## NZS 4121:2001

NZS 4121:2001 accessibility specifications include ensuring there is an accessible path from outside the building to all the main areas open for public use in the building.

The non-mandatory status of NZS 4121:2001 was a key issue highlighted in submissions on the draft of this paper. Submitters highlighted that the specifications in this Standard were significantly higher than those in the Building Code, and argued that they should be made mandatory.

Another issue for submitters was that NZS 4121:2001 has not been freely available, which has likely discouraged its use by industry.<sup>25</sup> Standards New Zealand developed and publishes NZS 4121:2001 and makes it available for purchasing. This changed from 1 July 2012 due to an agreement reached between the then Department of Building and Housing (DBH) and disability and accessibility organisations to jointly cover the costs of making NZS 4121:2001 freely available for two years. In the two-year period, consideration will be given to how to ensure the Standard is freely available on an ongoing basis.

It is now over a decade since the Standard was last revised. The Commission has previously recommended that the NZS 4121:2001 should be reviewed every five to ten years in order to reflect best practice developments in building accessibility.<sup>26</sup> Issues that need to be addressed through a review include:

- strengthening minimum accessibility requirement either by amending the Building Code or making the NZS 4121:2001 mandatory
- extending NZS 4121:2001 to residential housing and including stronger specifications for those with hearing or sight impairments<sup>27</sup>
- incorporating some existing accessibility guidelines in the Standard, such as the RTS 14 Guidelines for facilities for blind and vision-impaired pedestrians, produced by the NZ Transport Agency.

In summary, the HRA requires a service provider or building owner to accommodate a person with a disability to the extent that it is reasonable to do so. In deciding the extent of the accommodation, the requirements of the Building Act must be taken into account.

# Accessible buildings and facilities: the Australian approach

Australia's approach to providing access to buildings and facilities for disabled people is similar to that of New Zealand, but it also has some extra features which should be considered when looking at how to improve access in this country.

The Australian Disability Discrimination Act 1992 (DDA) makes it unlawful to refuse access to, or use of, a building or premise because of a person's disability. The DDA provides for the development of standards in any area in which it is unlawful to discriminate against a person because of their disability. Australia also has a Building Code with similar purposes to those of the New Zealand Building Code.

The development in Australia of the Premises Standards, which cover access to buildings and premises, harmonised the requirements of the DDA and the Building Code in one document. People meeting the Premises Standards cannot be the subject of a complaint under the DDA.<sup>28</sup> This came about because those responsible for developing these standards noted that the complaint-based approach of the DDA had "not significantly improved building accessibility".<sup>29</sup>

The Premises Standards have an exception of "unjustifiable hardship" where it may be unreasonable to require full compliance. The standards provide extensive guidance on the factors to be considered when granting such an exception.<sup>30</sup>

Even when an exception is granted, the applicant must comply with the Standards "to the maximum extent not involving unjustifiable hardship". The "unjustifiable hardship" exception can also be used when compliance would detrimentally affect "any heritage features of a building that are essential to the heritage significance of the building".<sup>31</sup>

The Premises Standards cover some areas which are not currently covered by the New Zealand equivalent, NZS 4121. These include:

- 1 hearing augmentation
- 2 tactile indicators
- 3 specific requirements for swimming pools
- 4 markings on glazing
- 5 Braille and tactile signs
- 6 public transport buildings.

The Australian Premises Standards also divide buildings into different classes with different accessibility requirements.

An Australian evaluation of the effectiveness of this standards approach in improving accessibility for disabled people draws interesting conclusions. Although this evaluation was of the Australian Disability Standards for Accessible Public Transport, the conclusions may be applicable to the effectiveness of accessibility standards relating to built environments. The evaluation concluded that the effectiveness of these Standards could have been further improved by:

- 1 collecting base-line data prior to the Standards coming into effect
- 2 introducing a consistent format for authorities to report on progress
- 3 providing operators with authoritative information on interpreting the Standards
- 4 improving the way exemptions to the Standards, such as unjustifiable hardship, and equivalent access are dealt with.<sup>32</sup>

# Accessible buildings and facilities: the American approach

The Americans with Disabilities Act 1990 (ADA) was the first piece of legislation in the world to guarantee disabled people access, similar to that of non-disabled people, to a wide range of public facilities. Associated with the ADA are a comprehensive range of accessible design standards that detail how the ADA's guarantees are to be realised in practice.

The 2010 ADA Standards for Accessible Design apply to all new facilities, as well as to any alterations which "could affect the usability of the facility or part of the facility".<sup>33</sup> Revisions of the ADA Standards were scheduled to come into effect in March 2012. Many of the provisions included in the revised Standards are technical. However, there are some features that should be considered when reviewing how access for disabled people can be improved in New Zealand.

Historical properties are required to comply with the 2010 Standards to the maximum extent possible. If this cannot be done without threatening or destroying the historical significance of the building or facility then "alternative methods of access" must be provided.

The ADA uses the term "path of travel" to indicate how people get from the exterior of a building or facility to the areas open to the public. (In New Zealand the more common term for this is "accessible route".) When altering a building or facility, an accessible path of travel is not required if the cost of providing it is over 20 per cent of the entire cost of the alteration. The path of travel must be made as accessible as possible within that financial limitation.

The 2010 Standards include specific requirements that are pertinent to the particular function of a building or facility. This is in contrast to the New Zealand approach which includes all accessibility features in one Standard. For example, the United States has separate standards for social service establishments (e.g. group homes and halfway houses), housing at a place of education, assembly areas in facilities like sports stadiums and recreation facilities, public housing for sale to the public, medical care facilities, and detention and correction facilities (including three per cent of all cells in newly built correctional facilities).

The revised Standards of 2010 retain some features from the previous Standards

which are worthy of comment. The exemption relating to “undue financial and administrative burden” is retained, as is the concept of “equivalent facilitation”. “Equivalent facilitation” allows for the use of designs, products or technologies as alternatives to those prescribed if they result in equivalent or greater accessibility or usability.



*Photo: City of Concord NC, flickr*

*Everybody Plays playground in Concord, North Carolina, USA.*



## Accessible footpaths and roads

There is no consistency in the way disabled road users are catered for in New Zealand. Over many years, limited training for traffic engineers and sparse written guidance have resulted in transport networks in urban areas which are not designed to aid disabled users' safety and accessibility. As an example, one survey indicated that most traffic engineers had received little or no training in design for disabled road users.<sup>34</sup>

While the provisions of the Building Act and associated Standards provide minimum requirements for access to and use of buildings, there are no minimum requirements for the accessible design of roads and footpaths. Voluntary guidelines have been developed for the design of pedestrian facilities for blind and vision-impaired pedestrians,<sup>35</sup> but the use of these guidelines is patchy. Even in those cities and district councils where the guidelines are recognised, there is no guarantee they will be used consistently and in their entirety.



Photo: Royal New Zealand Foundation of the Blind

# The way ahead

## Education and promotion

The importance of education about and promotion of accessibility and universal design is apparent from the Commission's experience and from submissions informing this report. The Disability Convention obliges States to:

**undertake or promote research and development of universally designed goods, services, equipment and facilities ... which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of guidelines and standards.**<sup>36</sup>

A number of non-government organisations and groups promote accessibility in New Zealand's built environment.

The Barrier Free New Zealand Trust has, since its inception in 1993, been the major provider of education on the access requirements of disabled New Zealanders. The Trust trains and accredits a nationwide network of Barrier Free Advisors who audit and advise on the accessibility of the built environment. Trustees and seminar

presenters include some of the country's experts on disability access issues. The Trust's philosophy promotes universal design.

The Be Institute is a non-profit organisation committed to collecting and disseminating information about facilities accessible to disabled people. Its initiatives include providing information on accessible buildings and facilities, a tool kit designed to assist businesses to become more accessible and an accreditation programme.<sup>37</sup>

The Universal Design Research Group was established in 2012 to progress action and research on universal design in New Zealand.

## Promoting examples of good practice

Around New Zealand, examples of improvements in the accessibility of the built environment to disabled people include:

- 1 improving the accessibility of streets in Kaiapoi (Christchurch) after the September 2010 earthquake<sup>38</sup>
- 2 Auckland Council using Barrier Free auditors<sup>39</sup> to assess the design stage of new and to-be-renovated council-owned facilities



- 3 the Be Accessible website, which provides some information on accessible facilities, such as for the Rugby World Cup
- 4 a number of territorial authorities including Auckland, Wellington and Christchurch have produced accessibility maps and guides of their central business districts and key facilities
- 5 Auckland Council also produced a *Good Design Guide: Universal Design – Designing Accessible Built Environments*, providing guidelines for universal design in public places
- 6 Arts Access Aotearoa, funded by Creative New Zealand, has produced a resource to help theatres, art galleries, museums and others provide access to their facilities and services for disabled people<sup>40</sup>
- 7 the Marlborough District Council has established a quarterly Blenheim Access and Mobility Forum, which meets to discuss regional accessibility issues – including the design of new public buildings and facilities – and possible solutions.

## Marae and Pacific churches

- Efforts made to improve marae accessibility include Pukaki Marae in Māngere, Ngāti Whātua o Ōrākei in Auckland and Te Kauri Marae in Huntly.
  - In 2011 the Ngāti Hine Health Trust in Northland was funded to work with whānau leaders and other providers to improve access to hapū and marae activities for disabled people.<sup>41</sup>
  - In 2011 a marae accessibility toolkit, *‘Te Wakaahetanga Marae: Kua Watea te Huarahi Marae Accessibility’*, was developed by the Marae Accessibility Project Group. It provides basic advice, including a checklist on accessibility considerations when marae are considering building or renovating.
- A Pacific Church disability toolkit was developed by Lu’i Ola, an interagency Pacific disability working group comprising representatives from the Pacific disability community, Pacific disability service providers and local and regional government agencies. The toolkit provides Pacific churches with information on how to communicate with

Pacific disabled peoples in their church community, information on disability support services and practical suggestions on how church parishioners can positively respond to the needs of Pacific disabled peoples in their communities.

## **Building a fully accessible Christchurch**

The rebuilding of Christchurch, following the devastating series of earthquakes since September 2010, presents an ideal opportunity to design a city where accessibility is one of the primary design principles. The well-established principles of universal design could provide a sound basis for approaching all aspects of the rebuilding process. Post-rebuild, the lessons learned could provide the basis for a review of existing standards and guidelines and for the development of new standards where necessary.

Canterbury earthquake recovery legislation requires recovery plans for the greater Christchurch area to give effect to the New Zealand Disability Strategy. In July 2011, the Government announced its intention to ensure that disabled people are involved in the earthquake recovery process and

that their needs are acknowledged and responded to. The Ministerial Committee for Disability Issues has agreed to refocus the national Disability Action Plan on the Canterbury earthquake recovery for the 18 months from July 2011.

There is an ongoing and pressing need to ensure that accessibility is a key component of the Christchurch rebuild. The international committee that monitors government performance under the International Covenant on Economic, Social and Cultural Rights recently recommended that the New Zealand Government adopt a human rights approach to reconstruction efforts and “seize the opportunity ... to apply designs which enable persons with disabilities access on an equal basis with others to the physical environment, facilities and services provided to the public”.<sup>42</sup>

The Commission is working with agencies to advocate for universal design. For example, in its submission on the draft Central City Plan, the Commission emphasised the need for the Christchurch City Council to make use of and comply with the provisions in the Disability Convention, and the NZS 4121:2001. The Commission has also urged the City Council to make accessibility a key

theme of the transitional arrangements for the city and to consider all aspects of accessibility.

## Promoting existing guidelines and developing new ones

Guidelines have been produced to support particular areas of accessible design. While these guidelines are not mandatory, they can provide authoritative advice on specific aspects of good practice. Examples include:

- 1 the New Zealand Transport Agency guidelines for designing facilities for blind and vision-impaired pedestrians<sup>43</sup>
- 2 the Royal New Zealand Foundation of the Blind's Accessible Signage Guidelines, published in 2010.<sup>44</sup> These provide suggestions for implementing Braille and large-print signage in New Zealand public buildings
- 3 the Auckland Regional Transport Authority guidelines on accessible bus stop infrastructure<sup>45</sup>
- 4 the New Zealand Historic Places Trust updated guidelines on *Providing for Physical Access to Heritage Places*, released in 2010. The Trust believes

heritage buildings can be made accessible without necessarily compromising their heritage nature. These guidelines support ensuring that all building work on historic places meets NZS 4121:2001 to allow all people to access our historic heritage<sup>46</sup>

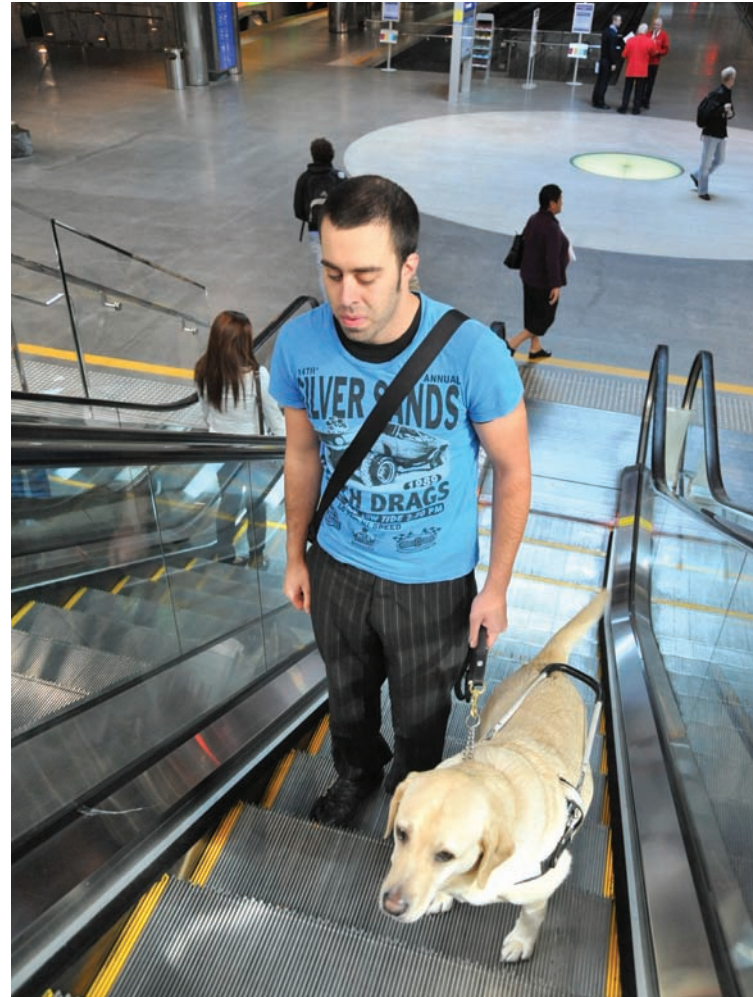
- 5 the CCS Disability Action Lifemark Design Standards for accessible private homes produced in 2011.<sup>47</sup>

The Commission wants the introduction of mandatory guidelines to cover all major aspects of the built environment. Experience in other countries, as well as in New Zealand, indicates that this is the only way to ensure consistent good practice is adopted throughout the country.

## Conclusions

Disabled New Zealanders do not have the same access to public places and facilities as their non-disabled counterparts do. A significant part of the problem is that the built environment is not designed with the needs of all citizens in mind. This means that disabled New Zealanders frequently face barriers in places where non-disabled New Zealanders take access for granted, and that these barriers will negatively affect more people as the population ages. Universal design is central to New Zealand addressing its international obligations to ensure everyone has a right to access the built environment and to participate socially, economically and culturally in the community.

Photo: Royal New Zealand Foundation of the Blind



## Recommendations

The Commission recommends that:

- a. the Ministerial Committee on Disability Issues maintains accessibility issues as a priority, including built environment accessibility, and that the Ministerial Committee ensures the state sector take the lead in good practice related to building accessibility
- b. priority is given to ensuring accessibility (in accordance with NZS 4121:2001) and the principles of universal design are applied to the reconstruction of Christchurch
- c. the Ministerial Committee on Disability Issues instigates a review of all design standards that relate to the built environment. This review should consider the following: strengthening minimum accessibility requirements either by amending the Building Code or making compliance with NZS 4121:2001 mandatory; extending NZS 4121:2001 to residential housing and including stronger specifications for vision and hearing impaired people.

# Notes

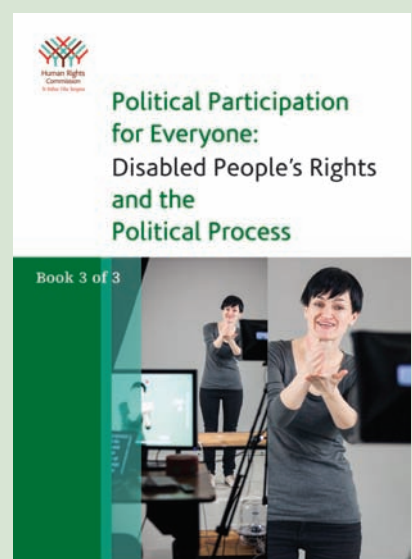
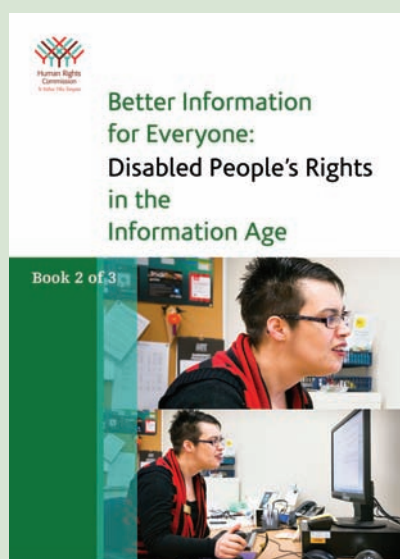
- 1 United Nations General Assembly Human Rights Council Nineteenth Session, Agenda items 2 and 3 “Thematic Study by the Office of the United Nations High Commissioner for Human Rights on participation in political and public life by persons with disabilities” December 2011. A/HRC/19/36.
- 2 *ibid*, p. 6.
- 3 Statistics New Zealand Disability Survey 2001 and 2006.
- 4 Human Rights Commission (September 2005). *The Accessible Journey: Report of the Inquiry into Accessible Public Land Transport*. (Auckland: Human Rights Commission), pp. 10–11.
- 5 United Nations Convention on the Rights of Persons with Disabilities, Preamble (e) and article 1 Purpose.
- 6 In 2011, the Commission undertook an extensive disability community engagement programme. This involved the Commission hosting twenty hui for disability communities in Auckland/ Northland, the Central region and the South Island, in which approximately 550 people attended. The purpose of these hui included gathering information on where action is most needed on disabled people’s human rights.
- 7 Submission from the Barrier Free New Zealand Trust dated 14 July 2010 to the Human Rights Commission.
- 8 Submission to the Human Rights Commission’s *The Wider Journey* discussion document 2011.
- 9 Māori disabled people
- 10 *The Wellingtonian*. August 2010.
- 11 *New Zealand Herald*, 29 May, 2010, [www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10648235](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10648235)
- 12 Prevalence of disability increases sharply with age from 10 per cent for children under 15 years to 45 per cent for adults aged 65 years and over. Nearly all adults living in residential care facilities reported having a disability (99.7 per cent) and most had multiple disabilities (94 per cent) and high support needs (82 per cent). As the population ages more people will be living with impairments related to mobility, vision and hearing and there will be an increasing demand for accessible built environments. Statistics New Zealand 2006 Disability Survey.
- 13 In addition to permanent disability, the remaining 80–83 per cent of the population will experience varying levels of temporary impairments throughout their lifetime which will affect their ability to use buildings.
- 14 Greater London Authority, 2004, p. 3 in CCS Disability Action submission on *The Wider Journey*.
- 15 Centre for Universal Design, *Universal Design History*. Accessed 25 June 2012: [www.ncsu.edu/www/ncsu/design/sod5/cud/about\\_ud/udhistory.htm](http://www.ncsu.edu/www/ncsu/design/sod5/cud/about_ud/udhistory.htm)
- 16 Centre for Universal Design, *Universal Design History*. Accessed 25 June 2012 from: [www.ncsu.edu/www/ncsu/design/sod5/cud/about\\_ud/udhistory.htm](http://www.ncsu.edu/www/ncsu/design/sod5/cud/about_ud/udhistory.htm)
- 17 Submission to the Human Rights Commission’s *The Wider Journey* discussion document. April 2012.



- 18 Submission to the Human Rights Commission's *The Wider Journey* discussion document. April 2012.
- 19 CCS Disability Action's submission to the Human Rights Commission's *The Wider Journey* discussion document. April 2012.
- 20 Article 4, United Nations Convention on the Rights of Persons with Disabilities (Disability Convention).
- 21 Article 9, *ibid*.
- 22 *Smith v Air New Zealand* [2011] NZCA 20; [2011] 2 NZLR 171.
- 23 Section 43(4) Human Rights Act 1993.
- 24 Buildings to which section 118 of the Building Act 2004 apply.
- 25 The imposition of a fee for NZS 4121:2001 seems inconsistent with 25A of the Act, which requires all compliance documents to be up on the Department of Building and Housing (since 1 July 2012, part of the Ministry of Business, Innovation and Employment) website and available free of charge (given that s119(2) refers to NZS 4121:2001 as a compliance document).
- 26 Human Rights Commission (February 2005), *The New Zealand Action Plan for Human Rights – Mana ki te Tangata*, p. 20.
- 27 Human Rights Commission (September 2005). *The Accessible Journey: Report of the Inquiry into Accessible Public Land Transport*, p. 48.
- 28 Section 34, Disability Discrimination Act 1992 (Australia).
- 29 Australian Office of the Attorney-General (October 2010) Disability (Access to Premises-Buildings) Standards 2010: Explanatory.
- 30 *ibid*, paragraphs 111–118.
- 31 *ibid*, paragraph 119.
- 32 [Australian] Minister for Infrastructure and Transport (June 2011). *Review of the Disability Standards for Accessible Public Transport 2002: Commonwealth Government Response*.
- 33 [US] Department of Justice (September 2010). 2010 ADA Standards for Accessible Design.
- 34 Burdett, B. & Pomeroy, G. (March 2011). *Design for Disabled Road Users: It's Time to Up Our Game*. Paper presented to the Institute of Professional Engineers New Zealand Transportation Group Conference, Auckland.
- 35 New Zealand Transport Agency (2007). *RTS 14: Guidelines for Facilities for Blind and Visually Impaired Pedestrians*.
- 36 Article 4 (f), Disability Convention.
- 37 See [www.beaccessible.org.nz](http://www.beaccessible.org.nz).
- 38 Jeanette Ward et al (March 2011). *Rebuilding the Streets of Kaiapoi after the Canterbury Earthquake*. Paper presented to the IPENZ Transportation Conference.
- 39 Barrier Free auditors have been trained by Barrier Free Trust NZ.
- 40 Accessed 7 April 2011 from: [www.artsaccess.org.nz/index.php/arts-and-disability/resources/](http://www.artsaccess.org.nz/index.php/arts-and-disability/resources/)
- 41 Office for Disability Issues information accessed 25 May 2012 from: [www.odi.govt.nz/what-we-do/improving-attitudes-and-behaviours/making-a-difference-fund/2011-first-round.html](http://www.odi.govt.nz/what-we-do/improving-attitudes-and-behaviours/making-a-difference-fund/2011-first-round.html)



- 42 United Nations Committee on Economic, Social and Cultural Rights, Forty-eighth session, 18 May 2012. 'Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant. Concluding Observations of the Committee on Economic, Social and Cultural Rights. New Zealand.' E/C.12/NZL/CO/3, p. 5, paragraph 21.
- 43 New Zealand Transport Agency (2007) *Road and Traffic Guidelines: RTS 14: Guidelines for facilities for blind and vision impaired pedestrians*, [www.nzta.govt.nz/resources/road-traffic-standards/docs/draft-rts-14-revision-2007.pdf](http://www.nzta.govt.nz/resources/road-traffic-standards/docs/draft-rts-14-revision-2007.pdf)
- 44 Royal New Zealand Foundation for the Blind, *Accessible Signage Guidelines*, <http://www.rnzfb.org.nz/about/business-services/environmental-design-advisory/accessible-signage>
- 45 Auckland Regional Transport Authority (2009), *Bus Stop Infrastructure Guidelines*, [www.aucklandtransport.govt.nz/about-us/publications/ManualsandGuidelines/Documents/AT-ARTA-Guidelines-Bus%20Stop%20Infrastructure%20Guidelines%202009.pdf](http://www.aucklandtransport.govt.nz/about-us/publications/ManualsandGuidelines/Documents/AT-ARTA-Guidelines-Bus%20Stop%20Infrastructure%20Guidelines%202009.pdf)
- 46 NZ Historic Places Trust (October 2010), *Providing for Accessibility in Heritage Places*, Draft, p. 4.
- 47 Lifemark, *Lifemark Design Standards*, <http://www.lifemark.co.nz/lifemark-standards.aspx>



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