

13 June 2019



Building Policy
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

Via email: building@mbie.govt.nz

Re: Building System Legislative Reform: Submission of the Human Rights Commission

1. The Human Rights Commission ('the Commission') welcomes the opportunity to provide a submission on the Building System Legislative Reform ('the Building Sector Reform').
2. The Commission notes that the Ministry of Business, Innovation and Employment ('MBIE') is seeking feedback on five specific areas of the building regulatory system. The Commission wishes to draw MBIE's attention to an additional issue which falls outside the five specified areas, but which is of great significance to our disabled communities. We encourage MBIE to carefully consider the incorporation of universal design to the greatest extent possible in new private housing stock and to explore ways in which this can be incorporated into relevant legislation and regulation.

Housing and Disabled People

3. There is insufficient accessible housing in New Zealand to meet existing needs.¹ Almost a quarter of New Zealanders identify as having a disability.² However less than two per cent of homes are estimated to be accessible.³
4. Accessing the housing market is a growing problem for disabled people in New Zealand. Lower employment and income levels, limited mobility for many disabled

¹ Statistics New Zealand 'Disability and Housing Conditions: 2013, 14 March 2017, <https://www.stats.govt.nz/reports/disability-and-housing-conditions-2013>.

² *Ibid.* In 2013, 1.1 mil identified as having some sort of disability; this was 24% of the New Zealand population.

³ CCS Disability Action, 'Joint Briefing to Hon Phil Twyford Minister of Housing', 13 November 2017, <https://www.ccsdisabilityaction.org.nz/home/SearchForm?Search=joint+briefing+to+hon+phil+twyford>

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people as well as the often-high cost of retrofitting properties are just some of the variables that hinder their ability to obtain suitable housing.⁴

5. The *Disability and Housing Conditions: 2013* report indicated that disabled people were more likely than non-disabled people to be living in rental properties (38%) and report 'other' problems with their properties (43% for external integrity).⁵ Further, 17% of people with physical impairments and 16% of people with visual impairments had an unmet need for modifications of some kind to their home.⁶ These figures represent an estimated 130,000 disabled New Zealanders living in homes that did not fully meet their needs.⁷
6. Disabled people struggle to compete with non-disabled people and families to access the limited supply of both public and private housing.⁸ Combined with the lack of accessible housing, this further limits options for disabled people. The absence of accessible housing can restrict disabled peoples' ability to interact within their community and participate fully in areas such as employment. This in turn can increase the likelihood of reliance on Government funded support services.⁹

Universal Design

7. Universal design is a process of designing for human diversity. It benefits everyone and promotes a more inclusive and accessible environment for all. The approach to design considers people at all life stages and potential scenarios, such as disability, pregnancy, childhood, injury and old age.
8. With respect to residential development, it means designing buildings so they are useable by all people, to the greatest extent possible, without the need for adaption of specialized design.¹⁰ Core design features include: level pathways and entrances, an easily accessible bathroom on the ground floor with handrails, toilets and showers that are safe and easy to use and wide doorways and hallways that are wide enough to easily use.¹¹
9. Research by the Building Research Association of New Zealand (BRANZ), the most widely used estimation of costing, suggests that building features of universal design into a new home is approximately ten times less than retrofitting

⁴ *Ibid.*

⁵ Statistics New Zealand, above n 1.

⁶ Statistics New Zealand, above n 1.

⁷ CCS Disability Action, above n 3.

⁸ Radio New Zealand, 'Disabled tenants shut out of market', 22 November 2017

<https://www.radionz.co.nz/national/programmes/ninetonoon/audio/2018622554/disabled-tenants-shut-out-of-market>

⁹ Saville-Smith, K., & Saville, J., 'Getting accessible housing: Practical Approaches to Encouraging Industry take up and need meeting' (2012) Centre for Research, Evaluation and Social Assessment <https://cresa.co.nz/wp-content/uploads/2017/07/cresa-getting-accessible-housing-october-2012.pdf>

¹⁰ Article 2, Convention on the Rights of Persons with Disabilities, defines 'universal design'.

¹¹ Lifemark, 'Official Star Rating', 2019 <https://www.lifemark.co.nz/official-star-rating/>

later according to 2011 figures.¹² Despite there being free resources available for the design community to build homes with universal design in mind,¹³ this has had limited uptake in New Zealand.

10. Internationally, countries like Canada¹⁴ and Norway¹⁵, alongside cities like London have already developed and begun implementing standards and policies incorporating universal design.
11. Under Article 4(1)(f) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)¹⁶ there is an obligation on states to promote universal design in development of standards and guidelines.¹⁷ The CRPD also enshrines the right to accessible housing¹⁸ and expressly requires governments to ensure that disabled people have an adequate standard of living, including adequate housing.¹⁹ New Zealand is a signatory to the CRPD and has agreed to be bound by it.

Conclusion

12. The right to housing is a fundamental human right that has been recognised in international treaties and conventions that New Zealand has ratified.²⁰ This means the State of New Zealand has agreed to ensure that the right to adequate housing is progressively realised in New Zealand and that it will do so in a non-discriminatory way.
13. The Building Act currently contains controls for accessibility and facilities for people with disabilities in relation to public buildings, however it does not include residential buildings. A review of the building system and associated regulatory framework provides a good opportunity to consider the introduction of universal

¹² BRANZ, 'Universal Design', undated,

http://www.branz.co.nz/cms_display.php?sn=215&st=1&pg=11034

¹³ In 2014, ACC cooperated with BRANZ to create a universal design website as a resource for the design community for building new homes and upgrading existing ones with universal design in mind: Touchstone, 'Hub for universal design', 2014,

<https://www.standards.govt.nz/touchstone/building/2014/jun/new-touchstone-article/>

¹⁴ Bill C-81: The Accessible Canada Act has passed its third reading and is awaiting royal assent; see <https://www.canada.ca/en/employment-social-development/programs/accessible-people-disabilities.html> and <https://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=9990870>.

¹⁵ In 2010, Norway amended its Planning and Building Act to include universal design: Zero Project, 'Antidiscrimination and Accessibility Act Norway', 2013, https://zeroproject.org/http://zeroproject.org/wp-content/uploads/2013/12/AntiDiscrimination-and-Accessibility-Act_Norway.pdf

¹⁶ Ratified in New Zealand in 2006

¹⁷ The Independent Monitoring Mechanism for the United Nations CRPD considers the extent to which New Zealand has met its obligations to realise disabled people's rights

¹⁸ Article 9 requires States to ensure disabled people access, on an equal basis with others, to the physical environment

¹⁹ Article 28

²⁰ 1965 Convention on the Elimination of All Forms of Racial Discrimination, 1966 International Covenant on Economic, Social and Cultural Rights, 1979 Convention on the Elimination of All Forms of Discrimination Against Women, 1989 Convention on the Rights of the Child, and 2006 Convention on the Rights of Persons with Disabilities

design in residential buildings to ensure all new housing stock is as accessible as possible.

14. I encourage MBIE to develop and implement a framework that serves all the people of Aotearoa. The introduction of universal design will benefit a large section of New Zealand's population both in the present and future. There are many steps that can be taken to make our housing stock and our communities more inclusive and which will help eliminate some of the inequalities disabled persons face in finding a home that they can live in.
15. The Commission is available to meet and discuss any of these matters further if that would be of assistance to MBIE.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Paula Tesoriero', written over a faint circular stamp.

Paula Tesoriero MNZM
Disability Rights Commissioner
Human Rights Commission