December 2024

**To Ministry of Business Innovation and Employment (MBIE)**

Please find attached our submission on the Building Code Fire Safety Review 2024

For any further inquiries, please contact:

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# Introducing Disabled Persons Assembly NZ

**We work on systemic change for the equity of disabled people**

Disabled Persons Assembly NZ (DPA) is a not-for-profit pan-impairment Disabled People’s Organisation run by and for disabled people.

**We recognise:**

* Māori as Tangata Whenua and [Te Tiriti o Waitangi](https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi) as the founding document of Aotearoa New Zealand;
* disabled people as experts on their own lives;
* the [Social Model of Disability](https://www.odi.govt.nz/guidance-and-resources/guidance-for-policy-makes/) as the guiding principle for interpreting disability and impairment;
* the [United Nations Convention on the Rights of Persons with Disabilities](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html) as the basis for disabled people’s relationship with the State;
* the [New Zealand Disability Strategy](https://www.odi.govt.nz/nz-disability-strategy/) as Government agencies’ guide on disability issues; and
* the [Enabling Good Lives Principles](https://www.enablinggoodlives.co.nz/about-egl/egl-approach/principles/), [Whāia Te Ao Mārama: Māori Disability Action Plan](https://www.health.govt.nz/publication/whaia-te-ao-marama-2018-2022-maori-disability-action-plan), and [Faiva Ora: National Pasifika Disability Disability Plan](https://www.moh.govt.nz/notebook/nbbooks.nsf/0/5E544A3A23BEAECDCC2580FE007F7518/%24file/faiva-ora-2016-2021-national-pasifika-disability-plan-feb17.pdf) as avenues to disabled people gaining greater choice and control over their lives and supports.

**We drive systemic change through:**

**Rangatiratanga / Leadership**: reflecting the collective voice of disabled people, locally, nationally and internationally.

**Pārongo me te tohutohu / Information and advice**: informing and advising on policies impacting on the lives of disabled people.

**Kōkiri / Advocacy**: supporting disabled people to have a voice, including a collective voice, in society.

**Aroturuki / Monitoring**: monitoring and giving feedback on existing laws, policies and practices about and relevant to disabled people.

## United Nations Convention on the Rights of Persons with Disabilities

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD),[[1]](#footnote-2) a foundational document for disabled people which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention.

The following UNCRPD articles are particularly relevant to this submission:

* **Article 8 – Awareness raising**
* **Article 9 – Accessibility**
* **Article 11 – Situations of risk and humanitarian emergencies**

## New Zealand Disability Strategy 2016-2026

Since ratifying the UNCRPD, the New Zealand Government has established a Disability Strategy[[2]](#footnote-3) to guide the work of government agencies on disability issues. The vision is that New Zealand be a non-disabling society, where disabled people have equal opportunity to achieve their goals and aspirations, and that all of New Zealand works together to make this happen. It identifies eight outcome areas contributing to achieving this vision.

The following outcomes are particularly relevant to this submission:

* **Outcome 5 – Accessibility**
* **Outcome 7 – Choice and Control**

# The Submission

DPA welcomes this opportunity to engage with the Ministry of Business Innovation and Employment (MBIE) around the Building Code Fire Safety Review 2024.

We are very aware that disabled people are at disproportionately higher risk of serious injury or death from fires. There are several factors behind this including barriers to evacuation for disabled people, people being unable to hear or see alarms or calls to evacuate, poor building design and/or absence of people to support the evacuation of disabled people, amongst others.

According to research conducted by the University of Otago for Fire and Emergency New Zealand (FENZ), during the period 2007-2014, there were 118 deaths recorded as the result of fires in this country, many of them in private homes/dwellings. Of these 118 deaths, the presence or absence of disability was able to be established in 104 of them. [[3]](#footnote-4) Of the 104 deaths, 47 of the deaths (45%) had a pre-existing disability or health condition. [[4]](#footnote-5)

The Loafers Lodge fire in May 2023 witnessed the deaths of five people, and 20 others injured in one of the worst building fires in this country in decades.

As Loafers acted as shelter for some of Wellington’s most low income and homeless people, there would have been a disproportionately high number of disabled people from across the impairment spectrum living there that night. These included people with psychosocial disability/mental distress, mobility impairments, learning disabilities, blind and low vision people, older people, neurodiverse people and D/deaf people.

As noted above, disabled and D/deaf people face considerable barriers to evacuating safely from needing to be able to see visual fire alarms, being able to clearly hear fire alarms and people’s calls for evacuation, the ability to be evacuated in a timely and safe manner as well as encountering physical barriers to being successfully rescued.

DPA acknowledges that the scope of this review only covers aspects of the Building Code around fire safety requirements with other aspects including fire evacuation and firefighting being the responsibility of FENZ and building code compliance issues sitting with local authorities.

While DPA welcomes this review, we want to raise some concerns around processes, especially regarding the involvement of disabled people’s organisations (DPOs) including DPA on this review.

Firstly, we were concerned by decision to just reviewing fire safety of buildings . DPA considers that it would have been more efficient to review both fire safety and wider accessibility components of the Building Act and Building Code together

**DPA has always advocated for improved accessibility, including to the built and physical environment, for disabled and non-disabled people.**

**If any house, public building or occupiable structure is to be safe and accessible for everyone, including disabled people, then it must be so in its entirety, rather than just viewing one aspect of it – in this case, fire safety – in isolation.**

An example of this would be a newly consented multi-storeyed public building in a major New Zealand city, one which local authorities would be able to consent as complying with the current New Zealand Building Code accessibility requirements stipulated in NZ Standard 4121 and fire safety standards.

However, many of these buildings do not have visual fire alarms meaning that D/deaf and hard of hearing people are at greater risk in fires.

While visual fire alarms are available and have been installed in some public buildings, these are currently not stipulated as mandatory under our current building codes.[[5]](#footnote-6) In 2014, a petition was presented to Parliament by D/deaf community representatives from Deaf Action New Zealand calling for visual fire alarms to be installed in all public buildings. This followed the experience of a Deaf university student who was unaware of a fire drill going on in a building they were in.[[6]](#footnote-7)

Parliament’s Government Administration Select Committee considered the petition and the petition’s call to make visual fire alarms mandatory in public buildings was endorsed by the committee as well as by MBIE and the Department of Internal Affairs.

Members of the autistic community reached out to the select committee and highlighted that visual fire alarms would benefit their community too as many people within that community are hypersensitive to sound and often wear noise cancelling headphones.

People wearing headsets or headphones, whether they are disabled people or not, would also find visual alarms useful in an emergency.

**DPA wishes to reinforce the need for the Building Code to be amended to make visual fire alarms mandatory and we will touch on this more under relevant questions.**

DPA, alongside other disability organisations, have been actively advocating for enforceable accessibility legislation through Access Matters Aotearoa for the last eight years.

While DPA hopes that government will re-introduce accessibility legislation at some point in the future, we are aware that at present there will only be segmented reviews of accessibility such as this on fire safety.

**DPA preference would be a comprehensive approach to reviewing building design, construction and safety issues (including fire safety) through the passage of accessibility legislation.**

DPA has also been disappointed by the lack of pre-consultation that has been engaged in by MBIE around this review. As MBIE knows, DPA has a representative on its Disabled Persons Advisory Group (DPAG) on Building Accessibility which existed since late 2023.

We acknowledge the issues facing MBIE in terms of having to meet ministerial priorities and limited resourcing, but it should still have regularly convened the DPAG to gain regular feedback as this document was being developed.

This would have enabled issues, including, for example, the need for D/deaf people to be fully included in this consultation via NZ Sign Language (NZSL) to be addressed, amongst other matters.

We appreciate that MBIE has now addressed the issues around needing to involve the D/deaf community and appreciate the longer timeframe given in recognition of this for them to submit on this consultation.

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| **Recommendation 1:** that the issue of fire safety accessibility in buildings is addressed from a systemic standpoint by MBIE as part of a co-design partnership between it/other key stakeholders including FENZ and disabled people. |

We make further recommendations when answering the consultation questions below.

1. **Do you agree or disagree with the outcomes we have identified for the review of fire safety provisions in the Building Code?**

DPA agrees in principle with the outcomes identified for this review which are:

* Building Code requirements need to be clear on protection levels based on building types and their users.
* Fire safety provisions in the Building Code need to keep up with changes in urban design, modern construction methods, and the different ways buildings are being used.
* Ensure fire safety regulatory requirements in the Building Code are fit for purpose and cost-effective.
* Minimise gaps inconsistencies in fire safety regulation to provide certainty, clarity, and consistency.

There is a need to develop and use co-design partnerships involving representatives of disabled people, other at-risk population groups, building/construction industry representatives, MBIE and FENZ to develop stronger, more effective fire safety building regulations and evacuation procedures.

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| **Recommendation 2:** that co-design partnerships between MBIE, FENZ and at groups including disabled people are used to develop stronger fire safety building regulations and standards. |

1. **How well do you think the fire regulatory system is currently performing against these outcomes? Please provide evidence if you can.**

As evidenced by the Loafers Lodge fire, there are still significant gaps in our fire regulatory system with respect to public buildings.

Earlier, we outlined statistics showing the disproportionately high number of disabled people and people with health conditions who died in fires.

Also, there is the need to remember the 270 New Zealanders on average who were injured by fires between the years 2012–2017.[[7]](#footnote-8)

Again, it is important to consider that disabled people and people with health conditions would have figured highly in those injury statistics.

The Loafers Lodge fire illustrated the need to consider changes in the way buildings are being used and changing urban design given that Loafers Lodge was originally an office and warehouse building before being converted into a boarding house in 2006.[[8]](#footnote-9)

Given the growing number of building conversions in this country due to changing economic and social circumstances, there will be more large- and small-scale buildings being converted to new uses, including as homes and apartment complexes, in the future.

**3. Are there other outcomes MBIE should consider for the review?**

DPA recommends that the other outcomes needing to be considered for the review are:

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| **Recommendation 3:** that MBIE, FENZ and disabled people work towards improving the accessibility for both disabled and D/deaf people of fire evacuation procedures, structures and alarm systems within all public buildings and spaces. |

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| **Recommendation 4:** that MBIE and FENZ should aim, through working alongside at-risk populations, building/construction companies, local authorities and other relevant stakeholders towards a goal of zero deaths and injuries from building fires in New Zealand by 2035. |

1. **Would you like to provide feedback on your answers?**

Regarding recommendation three, during the drafting of changes to the Building Code around fire safety, it is important for MBIE to bring together key stakeholders to develop improved regulations which would outline more effective designs, structures and alarm systems to enable the safe evacuation of at-risk groups like disabled people, older people and children.

Regarding recommendation four, it would be great for New Zealand to adopt a goal of lowering and eventually eliminating deaths and injuries through fires, particularly building fires. Deaths and injuries through fires in buildings can be dramatically reduced through better building design codes, education and evacuation procedures. As a country, we already have goals for reducing deaths from road accidents, suicides and smoking, so why not fires, particularly in homes and buildings.

1. **Do you agree with MBIE’s assessment of the issues on the effectiveness of fire safety measures in the Building Code?**

DPA agrees with the assessment made about the issues facing disabled people, younger people and older people and people with health conditions such as those with respiratory conditions (including Long Covid) when evacuating buildings.

MBIE is correct in assessing that disabled people, older people and children/tamariki take longer to evacuate in the event of a fire, particularly from the upper levels of multi-storey buildings like, for example, hotels, hospitals, healthcare facilities, malls and libraries.

This can mean that disabled people and other at-risk groups are at higher risk from prolonged exposure to smoke, heat and fire.

DPA also agrees with MBIE’s assessment that while the Building Code requirements were intended to apply to all building types, this has not turned out to be the case since, as the discussion document correctly highlights, requirements are not always set at the right fire risk level for different types of buildings.

We found the example provided of the rest home smoke control issue to be relevant. The fact that lift doors in multi storey buildings are very difficult to seal to prevent smoke from seeping into areas designated as safe evacuation areas in rest homes and care facilities is a very concerning one. However, the solution highlighted of having smoke curtains installed in front of lifts, helps mitigate this.

The rest home example is relevant to the disability community with 7,700 disabled people living in supported accommodation funded by Whaikaha Ministry of Disabled People (transferred to the Ministry of Social Development in October 2024).[[9]](#footnote-10)

While rest homes and supported accommodation services for disabled people do have fire evacuation procedures and plans and test them regularly, and as many of these services are in modern buildings built to recent code requirements, there is always the concern that a disaster could be on the horizon if even one thing was to go wrong during an evacuation of disabled and/or older people.

The rest home example raises another issue for us in that within the current funding cutbacks, including to disability support services and age-related disability support, is likely result in the de prioritisation of upgrades to homes and facilities to meet the best possible fire safety and accessibility requirements given the growing ongoing cost pressures faced by disability and aged care providers.

On top of these factors are the cutbacks being made to staffing levels in supported accommodation, rest homes and by people receiving individualised support packages for home-based care due to funding pressures, something that will impact on the ability of disabled and older people to be evacuated from buildings as well.

One of the most significant and inter-related issues that also impacts disabled people in fire emergencies is our de-prioritisation in terms of being one of the last groups to be evacuated by FENZ, especially in the event of emergencies in multi-storey public buildings.

We acknowledge that this de-prioritisation is due to existing FENZ guidelines and practises, but this still leaves disabled people at greater risk of heat, smoke and fire exposure in the event of a fire in these types of building.

While this consultation focuses on Building Code-related fire safety issues, there is still the interrelationship between needing to prioritise disabled people more in evacuations and better code standards which increase the level of protection within buildings while awaiting it.

That leads us to our next set of recommendations:

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| **Recommendation 5:** that any changes to the Building Code prioritise the use of the safest, most effective fire safe building materials and standards. |

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| **Recommendation 6:** that MBIE investigate ways in which the most effective building materials and products which protect against fires, such as lift curtains, can be reduced in price over time through, for example, government-led bulk purchasing for DSS and older people’s care providers. |

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| **Recommendation 7:** that MBIE, FENZ and representatives of disabled people and other at-risk groups review the interface between current FENZ evacuation practises and procedures and Building Code standards with a view to reforming them. |

1. **Are there any other issues MBIE should consider on the effectiveness of fire safety measures in the Building Code?**

We have touched on most of our concerns above, and we discuss the need for mandatory visual fire alarms in questions eight and nine.

There is one concern that we do have around recent government announcements regarding changes to make house building easier.

DPA welcomes any effort to increase the number of houses built in this country, particularly accessible housing built to UD standards.

However, we were very concerned by the announcement from the Minister of Housing, earlier in the year that as part of moves to encourage more housing that the minimum sizes of floor areas and balconies could be lowered to foster the construction of more ‘shoe box apartments’ as is the case overseas.[[10]](#footnote-11)

This encouragement to build much smaller apartments and reduce balcony sizes will have significant ramifications for fire safety, particularly for any disabled people living in them who, for example, experience mobility impairment.

Indeed, anyone who cannot get out of an apartment quickly enough and may need to access balconies to await evacuation will be impacted by any building and construction regime which encourages this type of development.

**We are concerned that the development of shoe box housing and reduction of balcony sizes risks undermining efforts to improve fire safety within public buildings if the same principles are carried over.**

1. **Would you like to provide any other comments or feedback on the effectiveness of fire safety measures in the Building Code?**

We have provided all our feedback in the previous questions.

**8. Do you agree with MBIE’s assessment of the issues on keeping pace with new technologies and new fire challenges?**

On this question, our major priority (as noted earlier) is that visual fire alarms are made mandatory in all existing and new public buildings as part of the New Zealand Building Code.

The standards for visual fire alarms have already been established through NZS 4512:2021 and NZS 4514:2021, which is a positive development.

**However, making visual alarms mandatory in public buildings is a high priority for DPA and, especially, the D/deaf and hard of hearing community.**

DPA wants to see visual fire alarms made mandatory in all public buildings (including supported accommodation for disabled people and rest homes) by a specified date.

DPA also urges MBIE continue to review new fire suppressant technologies, including those which use gas or foams, on the proviso that their relative safety is proven before being approved for use as part of the Building Code.

Using new fire suppressant technologies would enable disabled people and others who face difficulties in evacuating to have more time and opportunity to escape/be evacuated through delaying/halting the spread of any fires.

We would like to point out as well that changes in building use and the need to build more houses to expand our housing supply alongside the growing number of older and disabled people within the population has given rise to the demand for all new builds including of public buildings, housing, retail spaces and open spaces (i.e., parks, bridges, playgrounds) to be designed and constructed according to Universal Design (UD) principles.

Universal Design is based on the principle of making buildings accessible to everyone, including disabled people who use mobility aids.[[11]](#footnote-12) In terms of safety features, the emphasis in UD design on wide accessways and thresholds and level (stepless) transition zones both inside and outside buildings makes for easier evacuation in the event of fire or another emergency.

Even though UD is growing in terms of its acceptance including by local authorities such as Auckland Council,[[12]](#footnote-13) the reality remains that it is not nationally mandated as the guiding standard for all new buildings, homes and open spaces, meaning that fire safety standards need to fit around existing buildings consented using NZS4121 and earlier versions.

For this reason, DPA acknowledges that fire safety accessibility requirements must take account of the design of all existing public buildings and be strengthened to address the barriers which exist within them to enable disabled people, older people and young children to be evacuated in a safe, efficient and timely manner.

However, DPA will continue to advocate for UD within all new housing and public building builds as these designs enable greater safety and ease of evacuation in the event of emergencies, including fires.

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| **Recommendation 8:** that the NZ Building Code is amended to require the mandatory installation of visual fire alarms in all public buildings (including supported housing for disabled people and rest homes) by a specified date. |

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| **Recommendation 9:** that MBIE continue to review new fire suppressant technologies, including those which use gas or foams, on the basis that their relative safety is proven before being approved for use as part of the Building Code.  |

**9. Are there any other issues MBIE should consider on keeping pace with new technologies and new fire challenges?**

DPA recommends that the best way for MBIE to keep pace with new technologies and fire challenges (particularly those relating to climate change) is to review the Building Code, especially the fire and emergency evacuation aspects of it, every five years or sooner if relevant.

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| **Recommendation 10:** that MBIE review the Building Code’s fire and emergency evacuation aspects every five years or sooner. |

**10. Do you have any other comments or feedback on the ability of the Building Code to keep pace with new technologies and new fire challenges?**

No.

**11. Do you agree with MBIE’s assessment of the issues on certainty, clarity and consistency?**

DPA agrees with MBIE’s assessment of the need for greater certainty, clarity and consistency when it comes to the fire safety aspects of building regulation as long as these principles don't undermine the safety of disabled people.

However, DPA believes that this would best be addressed through a comprehensive review of the Building Code and Building Act.

**12. Are there any other issues MBIE should consider on certainty, clarity and consistency?**

Equity of access to fire safety for disabled people is critical.

**13. Do you have any other comments or feedback on the certainty, clarity and consistency of fire safety provisions in the Building Code?**

No.

1. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities> [↑](#footnote-ref-2)
2. <https://www.odi.govt.nz/nz-disability-strategy/> [↑](#footnote-ref-3)
3. <https://fireandemergency.nz/assets/Documents/Research-and-reports/Report-207-Fire-related-Injuries-and-Deaths-Evidence-Brief-2022.pdf> [↑](#footnote-ref-4)
4. <https://fireandemergency.nz/assets/Documents/Research-and-reports/Report-207-Fire-related-Injuries-and-Deaths-Evidence-Brief-2022.pdf> [↑](#footnote-ref-5)
5. <https://www.nzsl.govt.nz/news/visual-fire-alarms-parliamentary-report-now-available> [↑](#footnote-ref-6)
6. <https://www.standards.govt.nz/news-and-updates/addressing-inequality-for-hearing-impaired-in-emergencies-with-nzs-4512> [↑](#footnote-ref-7)
7. <https://fireandemergency.nz/assets/Documents/Research-and-reports/Report-207-Fire-related-Injuries-and-Deaths-Evidence-Brief-2022.pdf> [↑](#footnote-ref-8)
8. <https://www.stuff.co.nz/national/300879640/wellington-fatal-hostel-fire-what-is-loafers-lodge> [↑](#footnote-ref-9)
9. <https://www.whaikaha.govt.nz/about-us/corporate-publications/annual-reports/annual-report-2022-2023/executive-summary> [↑](#footnote-ref-10)
10. <https://www.rnz.co.nz/news/political/521254/watch-housing-minister-reveals-housing-planning-changes-to-flood-country-with-new-homes> [↑](#footnote-ref-11)
11. <https://www.branz.co.nz/universal-design/> [↑](#footnote-ref-12)
12. <https://www.aucklanddesignmanual.co.nz/en/design-guidance/universal-design.html> [↑](#footnote-ref-13)