

February 2023

To Environment Select Committee

Please find attached DPA’s submission on the Natural and Built Environment Bill

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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/$file/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:**

* **Leadership:** reflecting the collective voice of disabled people, locally, nationally and internationally.
* **Information and advice:** informing and advising on policies impacting on the lives of disabled people.
* **Advocacy:** supporting disabled people to have a voice, including a collective voice, in society.
* **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. There are a number of UNCRPD articles particularly relevant to this submission, including:

* **Article 5: Non-discrimination**
* **Article 9: Accessibility**
* **Article 13: Access to justice**
* **Article 19: Living independently and being included in the community**
* **Article 20: Personal mobility**
* **Article 29: Participation in political and public life**

## 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. There are a number of Strategy outcomes particularly relevant to this submission, including:

* **Outcome 5 – Accessibility**
* **Outcome 6 - Attitudes**
* **Outcome 7 – Choice and Control**
* **Outcome 8 - Leadership**

# The Submission

[Natural and Built Environment Bill 186-1 (2022), Government Bill – New Zealand Legislation](https://www.legislation.govt.nz/bill/government/2022/0186/latest/whole.html#LMS783191)

DPA welcomes the introduction of the Natural and Built Environment Bill and supports the principles of the legislation aimed at developing a more proactive and protective environmental planning and protection regime for Aotearoa New Zealand. The need for clean air, water, soils and the development of environmentally sustainable practises is as important to the disabled community as it is to all New Zealanders.

This submission should be considered in tandem with our submission on the Spatial Planning Bill as there are a number of cross over issues particularly in relation to requiring planning committees to consider the needs of disabled people in the development of strategies, frameworks and plans and supporting the participation of disabled people in public engagement processes.

## System Outcomes: Accessibility

Accessibility is a core principle of the UNCRPD, and a key outcome of the New Zealand Disability Strategy. It affects every area of disabled people’s lives, from the homes we live in, the places we work and the extent to which we are able to move around our communities. It also has a major impact on disabled peoples level of risk and ability to recover following a natural disaster. The principle of accessibility should be incorporated into the bill so that all natural and built environment planning processes including the National Planning Framework, are required to fully consider accessibility at every step of the way.

For DPA, one of the most relevant system outcomes that the national planning framework and all plans must provide for is contained in Clause 5 (c) of the bill.

“*well functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes—*

1. *the use and development of land for a variety of activities, including for housing, business use, and primary production; and*
2. *the ample supply of land for development, to avoid inflated urban land prices; and*
3. *housing choice and affordability; and*
4. *an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities*

These outcomes are particularly significant as the National planning framework has to provide direction for each of the listed system outcomes (see clause 57) so has the potential to be transformative for disabled people.

DPA’s concern is that the current wording of this clause is unlikely to be sufficient to ensure good system outcomes for disabled people, including sufficient affordable accessible housing, integrated and accessible transport routes or urban and rural areas that function well for disabled people.

DPA has found that generalised references to accessibility in strategies and plans tend to get interpreted and operationalised as ways of improving accessibility for non-disabled people while disabled people get left behind. There are a number of ways of clarifying this, below we suggest one.

**Amendment Sought**

DPA asks the committee to seriously consider how clause 5 (c ), particularly sub clause (iv), can be strengthened by explicitly naming disabled people as a group with a specific requirement for accessibility.

One suggestion for this is as follows ( bold our addition) “*an adaptable and resilient urban form with good accessibility for people and communities,* ***including for disabled people, children and seniors,*** *to social, economic, and cultural opportunities;”*

## Climate Change, Natural Hazards and Disabled People

As we have covered in our submission on the Spatial Planning Bill, disabled people are one of the groups most at risk from climate change[[3]](#footnote-4) and natural hazards.

Many examples exist of disabled people being highly impacted by urban planning failing to provide for the impact of climate change and natural hazards occur across low-lying communities in Aotearoa New Zealand.

These low-lying areas are often greater risk from flooding, sea level rise and/or liquefaction in an earthquake but because they are often also more accessible and affordable, they have a higher proportion of disabled people. Examples include parts of South Dunedin and recent disastrous flooding in Auckland where a large proportion (some reports on social media say as many as 1/3) of red stickered homes have been those owned by Kainga ora.

When one considers that over 40% of Kainga Ora clients are disabled in some way, it is clear that in many places social housing, and hence disabled people, are being effectively placed in harm’s way - meaning that those least able to avoid or recover from a natural disaster are most at risk of losing everything. Preventing this situation re-occurring in the future will require planning for climate resilient communities and places that are also accessible for disabled people. As a recent news article states “Floods are inevitable. Flood disasters are not” [[4]](#footnote-5).

To support this outcome will need strong national direction on risk management of Natural Hazards, as outlined in our submission on the Spatial Planning Bill.

DPA also asks that all decision-making bodies be required to consider the needs of disabled people and that engagement processes (such as those prescribed in schedule 7, clause 17) be required to consult with disabled people and their representative organisations.

Further reasons for these are given in our submission on the Spatial Planning Bill.

## Request for Clarification on the following clauses:

## 108 (d)

## 223 (8) (e)

## 512 (c)

## 19 (2) (c)

## 126 (2) (c)

DPA notes that these clauses cover matters that must be disregarded when preparing or changing plans, when considering resource consent applications, recommendations by regional planning committee and so on.

All of them specifically list adverse effects arising from the use of the land by people on low incomes, people with special housing needs and people whose disabilities mean that they need support or supervision in their housing as matters that must be disregarded.

We would like to understand the policy rationale behind these clauses and who was consulted with around the language used in these clauses. We ask that the committee seek advice around what might be the unintended consequences of these clauses.

DPA has some concern with the language used in these clauses, and also whether this could create a backlash against disabled people and those on low incomes if adverse impacts are significant. DPA is happy to work with officials around how to achieve the intended outcomes of these clauses with more appropriate wording that is in line with the language used in the New Zealand Disability Strategy.

DPA also notes that the fact that it has been considered necessary to explicitly these groups of people in these clauses is an implicit acknowledgement that the current resource management and planning process are not working for these demographics. It is our strong preference to see this addressed by explicitly requiring the needs of disabled people to be considered in the development of the various strategies, frameworks and plans provided for in this bill.

# DPA’s Recommendations

For the Natural and Built Environment Bill, DPA strongly recommends that:

1. The systems outcomes in clause 5 be strengthened for disabled people, including by explicitly naming disabled people as a group with a specific requirement for accessibility in clause 5 (c)
2. All decision-making bodies be required to consider the needs of disabled people in the development of National Frameworks and Regional Plans and that all engagement processes (such as those prescribed in schedule 7, clause 17) be required to consult with disabled people and their representative organisations.
3. The language and wording used in the following clauses be reviewed and consideration be given as to whether the desired policy outcome can be achieved in another way. DPA is happy to be consulted with on this.

* **108 (d),**
* **223 (8) (e),**
* **512 (c),**
* **19 (2) (c),**
* **126 (2) (c),**

1. United Nations. (2006). *United Nations Convention on the Rights of People with Disabilities.* Retrieved from: <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> [↑](#footnote-ref-2)
2. Office for Disability Issues. (2016). *New Zealand Disability Strategy.* Retrieved from: https://www.odi.govt.nz/nz-disability-strategy/ [↑](#footnote-ref-3)
3. Schulte, C. (2020, March 28). People With Disabilities Needed in Fight Against Climate Change. Retrieved from <https://www.hrw.org/news/2020/05/28/people-disabilities-needed-fight-against-climate-change#:~:text=People%20with%20disabilities%20are%20at,said%20in%20a%20recent%20report>. [↑](#footnote-ref-4)
4. [Floods are inevitable. Flood disasters are not | Stuff.co.nz](https://www.stuff.co.nz/opinion/131138570/floods-are-inevitable-flood-disasters-are-not) [↑](#footnote-ref-5)