February 2023

To Environment Select Committee

Please find attached DPA’s submission on Spatial Planning Bill

For any further inquiries, please contact:

Prudence Walker

Chief Executive

021 546 006

policy@dpa.org.nz

# 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:**

* **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 9: Accessibility**
* **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

DPA welcomes the acknowledgement in the legislation of the centrality of Te Tiriti o;‘/ Waitangi and protection of customary rights. Upholding these rights in environmental planning is pivotal if the needs and aspirations of Tangata Whenua are to be upheld as kaitiaki (guardians) of the land, sea and air around us.

## Disabled People: Climate Change and Natural Hazards

Disabled people are disproportionately impacted by the effects of climate change[[3]](#footnote-4) both globally[[4]](#footnote-5) and in Aotearoa New Zealand[[5]](#footnote-6) . Disabled people are also at greater risk from natural hazards[[6]](#footnote-7) such as earthquakes and flooding. The recent record floods in Auckland have highlighted the plight of disabled people caught in the floods[[7]](#footnote-8). The increasing frequency of these extreme weather events emphasise the need for robust regional spatial planning and resilient infrastructure for built environments including housing, transport, water and power.

DPA welcomes the explicit requirement for regional spatial strategies to consider risks arising from natural hazards and areas vulnerable to the effects of climate change. However, we are concerned that regional spatial plans are not required to also explicitly consider the impact on specific communities, including disabled people, which are more at risk from the effects of climate change and natural hazards.

As we understand it, the Natural and Built Environment Bill will create a national planning framework to provide national direction into the resource management system, the regional spatial strategies will need to be consistent with or give effect to the national planning framework and that natural and built environment plans will need to be consistent with regional spatial strategies.

However, DPA is concerned that simply requiring the effects of natural hazards and climate change to be included in the regional spatial plans will not be sufficient to ensure that subsequent plans will be sufficiently robust to manage exposure to the risks posed by natural hazards for many communities, particularly for disabled people.

From our work on the EQC National Refence Group[[8]](#footnote-9), DPA is aware that one of the planning tools that is urgently needed is a National Policy Statement on Natural Hazards Risk Management that can inform the direction and development of relevant strategies and plans. Our concern is that if is this is not in place prior to the development of regional spatial strategies, there is a real risk they will fail disabled people.

Because there is not at present a National Policy statement on Natural Hazards Risk Management, it becomes even more vital that there is a requirement for regional planning committees to consider the impact of regional spatial strategies on communities that are at greater risk from the effects of climate change and natural hazards, including disabled people.

## Explicitly Include Disabled People

According to Statistics New Zealand’s Disability Survey 2013, approximately 1.1 million New Zealanders identified themselves as living with an impairment which meant that when they interact with aspects of the natural, physical and built environment around them that they encounter barriers which hinder their everyday participation in community life.

Among other things, the regional spatial strategies will have a significant impact on the direction and form of infrastructure development and transport across the region and so will have major implications for disabled people in terms of where they will be able to live, how they get to work and access services, and also for inter-regional travel and mitigation of climate change and natural hazards risk for disabled people.

Because of this, DPA considers that it is vital that regional planning committees are required to consider the needs of disabled people in the development of the regional spatial strategies so that we can have some confidence that barriers to our participation in community life are not being locked in from the very start of the process.

## Supporting Disabled People Participation

It is also essential that when the regional spatial strategies are developed, that disabled people are able to participate in the engagement process. DPA considers that the bill must provide more direction around engagement processes to this effect. Currently clause 32 only stipulates that the engagement process*“must be designed to encourage participation by the public and all interested parties, particularly those who may be involved in implementing the regional spatial strategy.”*

It is simply not adequate to leave it to individual regional planning committees to devise their own engagement processes and this is even more relevant here given that the bill does not currently mention disabled people as a group whose access needs must be considered in the development of regional spatial strategies.

While it could be argued that disabled people are implicitly included in this clause, DPA’s experience is that when disabled people are not explicitly included, they are excluded especially when it comes to public consultation or engagement. DPA would like to draw the committee’s attention to a recent High Court decision that a government agency (in this case Waka Kotahi) did not have to consider the Convention (UNCRPD) because it was not a requirement written into its controlling legislation.[[9]](#footnote-10)

DPA considers that that legal decision makes it even more critical that there is explicit requirement to engage with disabled people in the bill especially as it will have such a significant impact on our lives. As New Zealand is a signatory to the UNCRPD, this means that there is also an obligation to uphold that in our legislation.

Because of the existing barriers to participation including lack of access to information, disabled people often do not have the resources to proactively engage on their own initiative with planning processes, making an explicit requirement to consult with disabled people and their representative organisations even more relevant and important.

# DPA’s Recommendations

DPA strongly recommends that the spatial planning bill:

1. Require regional planning committees to consider the impact of regional spatial strategies on communities that are at greater risk from the effects of climate change and natural hazards, including disabled people.
2. Explicitly require regional planning committees to consider the needs of disabled people in the development of the regional spatial strategies and implementation plans.
3. Strengthen clause 32 to specify a requirement to consult with disabled people and their representative organisations in the Engagement Process as part of governments obligations under the UNCRPD.
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. [The Intersection of Disability and Climate Change | Harvard Graduate School of Education](https://www.gse.harvard.edu/news/21/03/intersection-disability-and-climate-change) [↑](#footnote-ref-4)
4. [Climate change: Why are disabled people so affected by the climate crisis? - BBC News](https://www.bbc.com/news/disability-59042087) [↑](#footnote-ref-5)
5. [Climate change and disabled people | Ministry for the Environment](https://environment.govt.nz/publications/climate-change-and-disabled-people/) [↑](#footnote-ref-6)
6. <https://www.ehinz.ac.nz/indicators/population-vulnerability/what-are-vulnerable-populations/#people-living-with-a-disability> [↑](#footnote-ref-7)
7. ['Life or death' for disabled people caught in Auckland floods, improvements needed | Stuff.co.nz](https://www.stuff.co.nz/auckland/local-news/131128910/life-or-death-for-disabled-people-caught-in-auckland-floods-improvements-needed?cid=app-iPhone) [↑](#footnote-ref-8)
8. [National Reference Group :: Toka Tū Ake EQC](https://www.eqc.govt.nz/about-eqc/community-input/national-reference-group/) [↑](#footnote-ref-9)
9. [Court ruling allows e-scooters to carry on using footpaths | Stuff.co.nz](https://www.stuff.co.nz/national/130400978/court-ruling-allows-escooters-to-carry-on-using-footpaths) [↑](#footnote-ref-10)