



November 2008

The Department of Internal Affairs

Proposed –

Building Sustainable Urban Communities

Submission on behalf of:

Barrier Free NZ Trust

P O Box 25064

Panama Street

Wellington

The Barrier Free New Zealand Trust makes the following submission on the proposal by the Department of Internal Affairs to explore place-based approaches to sustainable urban development in NZ.

1. INTRODUCTION

1.1 The Barrier Free NZ Trust

The Barrier Free NZ Trust (**BFT**) was established in 1993. The Trust is made up of consumers and individuals with experience and expertise in local government, the building industry, and the disability sector.

Our mission is to encourage, promote, and facilitate the creation of environments that are accessible and usable by everyone in the community including people with disabilities. This encapsulates the concept of Universal Access for all people. We do this through training, education, and advocacy. We provide technical advice and oversee the use of the International Symbol of Access.

As an educational organisation the BFT focuses on facilitating and encouraging solutions that ensure all people are able to use all facilities within public buildings independently and safely.

On an annual basis the BFT organises nationwide seminars, which are aimed at a wide range of employment groups, including territorial authorities, building consent staff, architects, designers, planners, landscape architects, building construction and property managers, disability organisations such as CCS Disability Action, IHC, DPA, Royal NZ Foundation of the Blind; and government departments.

The BFT is also responsible for accrediting and registering Barrier Free Advisers who provide the professional service of undertaking building audits. This service assists designers and developers in ensuring that the built environment that they create will satisfy the accessibility requirements of the Building Act 2004 and Building Code.

1.2 Purpose of this submission

The purpose of this submission is to highlight the relevance of universal accessibility as being an integral part of a sustainable urban environment, and to suggest ways of addressing the current failure to address this matter in the context of existing legislation.

2.0 EXECUTIVE SUMMARY

The 2006 *Census of Population and Dwellings* reported that 17% of the population between 15 and 64 years, and 45% of people over the age of 65 years, self-identified as having a disability.

In addition to disability levels, age is a relevant issue. It is apparent from the results of the 2006 Census that New Zealand has an ageing population. It is expected that by 2040, one in four New Zealanders will be aged 65 or over. Impairments that may cause temporary or permanent disability such as a loss of strength, stamina, balance, sight, or hearing are associated with ageing.

However people with disabilities and older people are only a sample of people who would benefit from building sustainable urban developments that provide for access. For example, parents pushing prams are also disabled by physical barriers in the built environment and as such, can be excluded from public spaces.

Given the large proportion of the New Zealand population affected by barriers in the environment, it is important to recognise that access and mobility in our built environment is a matter of national significance. As such, providing universal accessibility is an integral part of a sustainable urban environment.

Central and local government must play a vital role in ensuring that the implementation of sustainable urban development in New Zealand is consistent across the board. Without guidance from central and local government the gaps in current legislation will not improve and may therefore jeopardise the attempts to building a sustainable urban environment.

Improving access and mobility in our built environment will help to achieve sustainable urban development, so that it is required to meet obligations with the *New Zealand Disability Strategy (2001)* and the *United Nations Convention on the Rights of People with Disabilities* which New Zealand ratified in September 2008.

4.0 SPECIFIC QUESTIONS

4.1 Barriers and Implementation difficulties in sustainable urban development in NZ

What is slowing down, preventing, or reducing the quality of sustainable urban development in regards to access?

The Barrier Free NZ Trust identifies three key areas that can prevent the quality of sustainable urban development.

Firstly, the ignorance of able-bodied people regarding access requirements flow on to all organisations responsible for creating urban developments. For example, a wheelchair user cannot access a public toilet because there are steps leading to it, or a ramp is too steep to be negotiated independently.

Secondly, key stakeholders lack an appreciation of the need for relevant education. If key stakeholders such as architects, property developers, and territorial authorities were better educated on how access can improve the quality of sustainable urban development, there will be a greater 'buy in'.

Finally, New Zealand legislation does not place sufficient emphasis on the importance of promoting accessibility. For example, there is a lack of integration between the Resource Management Act (**RMA**) and the Building Act, and there are also limits within the Building Act 2004 itself. The provisions of the Building Act and Building Code do not apply to public outdoor places beyond the building site. Even if the access requirements of the Building Act are applicable to new or existing buildings, provisions for access can be easily circumvented, and waivers are frequently granted.

What can be done to deal with these barriers?

First of all, not providing access to public buildings and spaces to everyone in the community amounts to discrimination. Central government could acknowledge accessibility as a grounds of discrimination under the Human Rights Act, rather than treating it as a limited, prescribed building issue under the Building Act 2004, then all other legislation could be required to comply. This is the

approach adopted by many countries. However, if central government does not want to include universal accessibility in Human Rights legislation, then the lack of integration between legislation must be addressed, for example, between the RMA and the Building Act.

The Ministry for the Environment could introduce an National Policy Statement (**NPS**) that promotes accessibility. Local government would then be required to utilise their functions under the RMA to endorse accessibility through their planning documents, and in their granting of resource consents for land use and subdivisions.

An example that illustrates the effect of legislation shifting attitudes is in the UK, where properties for either sale or rent must have an environmental assessment available for potential purchasers/occupiers to identify the costs of heating that property. This results in the lowering of prices for poorly insulated properties. This in turn will lead to more discerning occupiers and landlords who are prompted by the market to improve their property. Thus the Government, by introducing legislation, has re-orientated the property market and users expectations. This approach could be adopted for accessibility with public buildings in New Zealand.

4.2 Strengthening existing tools and ways of working

What can be done within existing regulations and legislation to deal with these barriers?

Existing legislation and the Building Code have proven to be inadequate and in some instances ambiguous in providing access for all people, including persons with a disability. Officers of territorial authorities enforcing accessibility have a varying degree of understanding of the Building Act, Building Code and the RMA. Therefore, officers could be better supported by either the employment of a Barrier Free Advisor, or by compulsory training on accessibility as a job requirement. This would result in a more equitable, accessible and compliant built environment.

The provisions of the RMA could be utilised to require universal accessibility.

Are changes to existing regulation and legislation necessary to achieve sustainable urban development?

Changes to existing regulation and legislation represent an opportunity to ensure universal accessibility is achieved in New Zealand's built environment. Given the significant portion of New Zealanders affected by some form of disability (whether temporary or permanent), universal accessibility is a matter of national significance that should be addressed.

Compliance Schedules requirements under Building Act also need to be expanded to cover the maintenance of both active and inactive accessibility facilities of a public building, to ensure that the facilities are still present and serving their intended purpose on an on-going basis.

Furthermore the Building Code relies on NZS 4121:2001 to provide guidance about the use of public space and defines "accessible route". However, there is no code of practice or standards which provides a framework for a way of thinking about 'Universal Urban Design' so that it:

- works for the whole population;

- will not require constant updating; and
- displaces any assumption that “built in obsolescence” is an acceptable fact of design of the objects and environments used by us.

There is a need for urban environments to be designed so that they include and reflect the diverse demands of today’s consumers – including young families, older people and people with disabilities or people temporarily with a disability through accident and/or injury.

Building sustainable communities is an opportunity to establish objectives that address these issues.

4.3 Ideas, options and issues: The role of Government in sustainable urban development

How can central and local government support sustainable urban development?

Accessibility needs to become a necessity rather than a voluntary matter so that relevant professions such as the architectural and the construction industry will embrace and support sustainable urban development.

Central government also needs to reconsider whether denying access to public spaces and buildings is discrimination that fits within the Human Rights Act. Currently, accessibility is treated as an ‘add-on’ to the Building Act with many loopholes, which is not suitable. If it is recognised in the higher legislation as a human right, then all legislation including the Building Act and the RMA would be subject to those requirements.

It is in New Zealand's interests to maintain and enhance the accessibility aspect of its national urban environment. Obligations arise in this respect also. As part of the *New Zealand Disability Strategy (2001)* and the *United Nations Convention on the Rights of People with Disabilities*, New Zealand is obliged to make better provision for people with disabilities, and to ensure that our society and its urban environment are inclusive of all people.

Currently the provisions of the RMA are not being utilised to require accessible urban form and the interrelationship between buildings and their environs.

The Ministry for the Environment should be encouraged to use its powers under Section 45 of the RMA to issue a National Policy Statement (**NPS**) in order to promote universal accessibility as a national issue. If a NPS on Urban Design was introduced, it could ensure that provision for universal accessibility is included in the planning documents of local government to benefit all people, including people with disabilities.

Local government would then have to exercise their functions under the RMA in a way that is consistent with the NPS to ensure that the objectives, policies, and rules of their plans meet the requirements of sustainable urban development.

In the widest sense, legislation and regulations need to require the design of an individual building to be considered in the context of its surrounding environment. It is not acceptable to get to a situation where ramps are designed to service a proposed entrance where a re-orientation of the building

layout and siting would have resulted in a level approach. Our view is that the whole, public building and all its environs should be accessible except where the designer can prove this is not practically possible.

If accessibility is to be retained in the context of the Building Act then the requirement needs to be strengthened. For example, in the case of a new building, if public can be expected to visit or use the building, access provisions should not be circumvented.

What role should local government and central government have in sustainable urban development projects?

There needs to be an integrated approach to sustainable urban development projects across the built environment. This can only be achieved if the relevant legislation and local government planning documents require such an approach.

Relevant legislation and regulations include:

- RMA;
- Local Government Act;
- Reserves Act;
- Land Transport Management Act;
- Building Act;
- NZ Building Regulations;
- NZ Disability Strategy; and
- Human Rights Act 1993.

An integrated approach to promoting good urban design will of necessity include cognisance of these frameworks for enhancement of the urban environment.

An issue arises with the interface between the current legislation especially the Building Act and the RMA. While the Building Act focuses on the accessibility requirements for public buildings by requiring an accessible route from the site boundary to and through the building, these requirements stop at the property boundary. Regional and District Plans currently developed under the RMA fail to address the inter-relationship between a site and the surrounding urban form. Subdivision plans and structure plans for new urban centres therefore fail to address the accessibility issue for people who will live, work, and play in the centre. This should be a focus of sustainable urban projects.

As already mentioned, the use of instruments such as NPS's could greatly facilitate a co-ordinated planning approach to accessibility in the urban context.

4.4 Ideas, options and issues: Improving co-ordination and integration

How can co-ordination of investment and integration of planning be improved?

Co-ordination of investment and integration of planning can be improved by adapting a collaborative approach between Regional and Local government together with the private sector.

4.5 Ideas, options and issues: Funding

New Zealand needs to shift away from the idea that sustainable urban development is something different from what we should be doing on a day to day basis. If the rules are written properly, the funding will take care of itself.

4.6 Ideas, options and issues: Land Assembly

There may be circumstances in which the exercise of statutory powers to compulsorily acquire land for urban development purposes, for example under the Public Works Act, would be warranted. For instance, for the redevelopment of town centres, the provision of bus routes, or light rail and train lines.

4.7 Ideas, options and issues: Streamlining planning and development control processes

Changes are required to planning and development control documents to support sustainable urban development to ensure that all levels are aware of the key objectives that must be met. These key objectives include:

- To create an urban environment that ensures full and free accessibility for all people in public buildings and spaces;
- To create an urban environment where all people can interact with that environment safely; and;
- To ensure environmental sustainability of urban design is addressed.

It is important that objectives and policies developed ensure that new urban development does not repeat the mistakes of the past which have needed to be remedied (if that is possible) by expensive modifications to unworkable aspects of the built environment.

The issues of safety, good design and usability are not just limited to people with disabilities and older people, but these issues concern us all throughout our lives. It is about all of us experiencing the world around us as being designed to accommodate our changing needs over time.

4.8 A possible sustainable urban development approach

Universal accessibility is an essential component of a sustainable urban environment. New Zealand can achieve this by either recognising that denying access to public buildings or spaces based on your ability is discrimination and therefore fits under the Human Rights Act, or alternatively, central government departments such as the Ministry for the Environment and the Department of Building

and Housing re-evaluate accessibility and their functions to ensure they are utilising their resources to promote universal access.

Local government needs to exercise their functions under the RMA to also promote accessibility through their planning documents, and in their granting of resource consents and subdivisions.

Accessibility is not just about disabled people. It is about older people, parents pushing prams, and people with temporary injuries such as sports injuries. Education must be promoted to change attitudes of what accessibility is all about.

5.0 Conclusion

The BFT appreciates the opportunity provided by the Department of Internal Affairs to make a submission regarding comments on building sustainable urban communities.

The BFT wishes to support the Department in the development of a strategy for building sustainable urban communities and, in that regard, looks forward to the opportunity to participate in further in-depth discussion regarding the concept of creating, through good urban design, a built environment which is accessible and useable by all people, including people with disabilities.