



September 2008

Ministry for the Environment

Proposed –

National Policy Statement on Urban Design

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 Ministry for the Environment to prepare a National Policy Statement on Urban Design.

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

While previous consultation has occurred in the development of the Background Paper the BFT notes that no disability sector organisations were engaged by the Ministry in that process. The BFT considers that a National Policy Statement (**NPS**) on Urban Design will provide a unique opportunity to assist territorial authorities in making better provision in the context of urban development for people who are disabled. This submission aims to provide guidance as to why an NPS on Urban Design should provide for people with disabilities, and how best to do so.

2. EXECUTIVE SUMMARY

An NPS on Urban Design represents 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.

Improving access and mobility in our built environments will help to achieve the purpose of the RMA, and is in accordance with the *New Zealand Disability Strategy (2001)* and the *United Nations Convention on the Rights of People with Disabilities*.

An NPS on Urban Design would work best if it provided general objectives and policies, examples of which are provided in this submission, and left finer details, such as methods, to be provided for in regional and district plans. It should also address the necessity of promoting an integrated approach to urban design across the built environment and through the complex legislative and regulatory environment.

3. SUBMISSION ON THE NATIONAL POLICY STATEMENT ON URBAN DESIGN

3.1 Should an NPS on Urban Design be developed? If so, what issues of national significance do you consider it should address and what relative priority would you assign them?

The BFT is supportive of an NPS on Urban Design being developed.

It agrees with the views expressed in this regard during previous consultation, as set out in the Background Paper, but considers that the matter of universal accessibility should also be incorporated into any NPS on Urban Design. An NPS on Urban Design should ensure that provision is made for objectives and policies to be included which promote universal accessibility and take account of the needs of all people, including people with disabilities.

Section 45 of the Resource Management Act 1991 (**RMA**) provides that the purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA.

For the reasons set out below, the BFT believes that universal accessibility is a matter of national significance, and is relevant to achieving the purpose of the RMA. Accordingly, it should be provided for by any NPS on Urban Design.

Disability levels in New Zealand

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 ability are associated with ageing, amongst other causes.

However these groups are only a sample of people who would benefit from providing a fully inclusive environment. For example, parents pushing prams are also exposed to physical barriers in the built environment and as such, can be excluded from public spaces.

Given the large portion of the New Zealand population affected by this issue, it is important to recognise that access and mobility in our built environment is a matter of national significance. As such, it should be provided for in any NPS on Urban Design.

Resource Management Act 1991

If an NPS on Urban Design recognises the matter of universal accessibility it will be consistent with the requirements of Part 2 of the Resource Management Act 1991 (**RMA**), including the overarching purpose of sustainable management (Section 5), the matters of national importance (Section 6) and other matters (Section 7).

The Purpose and Principles of the RMA encapsulate the aims of the BFT which are to ensure that all people, including people with disabilities, are able to access and use all places that the general public are able to use.

Section 5 includes the following purpose:

People and communities are able to provide for their social, economic, and cultural wellbeing and for their health and safety - while ensuring the sustainable management, use and development, of the natural and physical resources in the environment.

The realisation of these purposes and principles require, amongst other things, that accessibility to the natural and physical environment is ensured for all people, including people with disabilities.

In addition, section 45 of the RMA sets out a number of matters the Minister for the Environment may have regard to when determining whether it is desirable to prepare a

national policy statement. A number of these factors are relevant to the desirability of access and mobility in the built environment:

- 45(2)(a): *the actual or potential effects of the use, development, or protection of natural and physical resources*

As discussed above, an NPS on Urban Design would help to manage the effects of the urban built form on people with disabilities.

- 45(2)(b): *New Zealand's interests and obligations in maintaining or enhancing aspects of the national or global environment*

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 aforementioned *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.

- 45(2)(d): *anything that affects or potentially affects more than one region*

Universal accessibility is a matter that affects built urban environments throughout New Zealand, and as such, it is desirable that a national approach is developed, rather than one that is piecemeal and fragmented throughout the regions.

- 45(2)(f): *anything which, because of its scale or the nature or degree of change to a community or to natural and physical resources, may have an impact on, or is of significance to, New Zealand*

As outlined above, the portion of the New Zealand population who are adversely affected by physical barriers in the built environment, and would benefit from increased access and mobility, is significant. The scale of this issue warrants the development of a national policy statement.

- 45(2)(i): *the need to identify practices to implement the purpose of this Act*

As discussed above, developing an NPS on Urban Design that helps to ensure that accessibility to the natural and physical environment is provided for all people, including people with disabilities, will help to meet the purpose of the RMA.

- 45(2)(j): *Any other matter related to the purpose of a national policy statement*

The purpose of a national policy statement is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of the

RMA. For all the reasons discussed in this submission, achieving universal accessibility in respect of New Zealand's built environments is a matter of national significance, and is highly relevant to the purpose of the RMA.

Human Rights Act 1993

There are a number of provisions of the Human Rights Act which demonstrate the importance of universal accessibility. Under this Act, disability is a prohibited ground of discrimination.

Section 42 provides that it is unlawful to refuse to allow any other person access to any place or the use of any facilities which members of the public are entitled to enter or use on the grounds of one of the prohibited grounds of discrimination. Although section 43 provides an exception where it would not be reasonable to require the provisions of special services or facilities to allow a disabled person to gain access to or use a place, it is still mandatory under the Building Act 2004 for new public buildings to provide disabled access.

Building Act 2004

Section 118 of the Building Act 2004 provides:

118 Access and facilities for persons with disabilities to and within buildings

(1) If provision is being made for the construction or alteration of any building to which members of the public are admitted, whether for free or on payment of a charge, reasonable and adequate provision by way of access, parking provisions, and sanitary facilities must be made for persons with disabilities who may be expected to-

(a) visit or work in that building; and

(b) carry out normal activities and processes in that building.

Pursuant to this section, it is essential that when planning new public buildings, or altering existing buildings, people with disabilities are catered for. This is a matter of significance. Accordingly, inclusion of the matter of universal accessibility in an NPS on Urban Design will accord with, and further, the Building Act.

It should be further noted that for the purposes of section 118 the term "building" includes access ways and passages within and between complexes and developments. This concept of accessibility needs to be extended by an NPS on Urban Design to all public places.

In addition to the legislation outlined above, there is other regulatory material that should be considered which demonstrates that accessibility is a matter of national importance.

The New Zealand Disability Strategy (2001)

The BFT wishes to draw your attention to the New Zealand Disability Strategy which presents a long-term plan for changing New Zealand from a disabling to an inclusive society.

Disability is not something individuals have. What individuals have are impairments of a temporary or permanent nature. They may be physical, sensory, neurological, psychiatric, intellectual or other impairments. Disability is the process which happens when one group of people create barriers by designing a world only for their way of living, taking no account of the impairments other people have.

People with impairments aspire to a good life. However, they face huge barriers to achieving the life that so many take for granted. These barriers are created when we build environments that take insufficient account of the impairments other people have. Our urban environment is often built in a way that assumes we can all see signs, read directions, hear announcements, reach buttons, have the strength to open heavy doors and have stable moods and perceptions.

Underpinning the New Zealand Disability Strategy is a vision of a fully inclusive society. New Zealand will be inclusive when people with impairments can say they live in:

'A society that highly values our lives and continually enhances our full participation.'

United Nations Convention on the Rights of People with Disabilities

Furthermore, in March 2007 New Zealand was one of the proposers and inaugural signatories to the United Nations Convention on the Rights of People with Disabilities. The New Zealand Minister for Disability Issues spoke to the United Nations at this point and made the following statement:

"New Zealand has a Disability Strategy, of which we are justifiably proud. Its vision is of a New Zealand where persons with disabilities are fully included and valued. We will know when we have achieved that vision when persons with disabilities report that they are as highly valued as other New Zealanders, and are participating fully in New Zealand society."

It is expected that New Zealand will ratify the Convention in late 2008.

3.2 If an NPS on Urban Design were to be prepared, how would you see it being structured, what level of detail would it contain and how directive would it be?

An NPS on Urban Design would work best if it provided general objectives and policies, and left finer details, such as methods, to be provided for in regional and district plans. It should be a document of broad principles to guide decision making at council level, particularly in smaller councils.

Key Objectives

An NPS on Urban Design should include many of the key objectives to be met by local government. These include:

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

An NPS on Urban Design could state objectives and policies which 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.

Currently NZS 4221:2001 provides some useful guidance about the use of public space and defines "accessible route" but 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.

An NPS on Urban Design is an opportunity to establish objectives that address these issues.

Integration and Coordination

An NPS on Urban Design should address the necessity of promoting an integrated approach to urban design across the built environment and through relevant legislation, and relevant government strategies and documents.

These will include:

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

An integrated approach to promoting good urban design will of necessity include cognizance 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 key objective of an NPS on Urban Design.

Compact useable environments

The BFT supports the development of an NPS on Urban Design that has a level of detail that will encourage high-quality, compact mixed use neighbourhoods and town centres where uses are located closer together and a range of services, activities and transportation options are available and are accessible to all people.

This detail should include objectives and policies that encourage district and regional plans to:

- focus on people, rather than private motor transport;
- design roads and streetscapes which are accessible and allow for alternative modes of transport and encourage people to be able to visit more than one destination per trip;
- provide points where people with limited or impaired mobility can cross roads;
- improve connection routes through cities to ensure they are faster and more negotiable and achieve greater accessibility; and
- reduce the size of urban blocks to make access easier.

The level of detail required will reflect what is needed to achieve more connected urban environments where all people have choices and options regarding accessibility.

Development of New Urban Environments

The NPS also requires sufficient detail to ensure that new developments, both private and public, are designed with safety and accessibility for all people as key requirements, is seen as a necessity by the BFT. For example, in respect of the placement of buildings in new developments, a priority or weighting system could be used to create a universally accessible environment rather than maximising the number of lots. Similarly, an accessibility bottom line could be set for subdivision and structural plan development for new urban areas.

3.3 What should not be covered by an NPS on Urban Design?

We agree that the initiatives listed in the Background Paper should not be included in an NPS on Urban Design. However, these initiatives should not be overlooked because they will be integral to the effective operation of an NPS on Urban Design. In particular, initiatives that should be further explored include urban design education (with one focus being accessibility), and a national advisory board (with a disability representative). Local or national guidelines would also be very useful in assisting councils to implement an NPS on Urban Design.

3.4 At what scale or scales would it be appropriate for an NPS on Urban Design to provide direction?

If this question is referring to the level of detail that is appropriate, in our view if there is insufficient detail an NPS on Urban Design is unlikely to operate effectively. Detailed objectives and policies, such as those outlined under 3.2, should be included to ensure that an NPS on Urban Design provides sufficient guidance and clarity to the councils who will be implementing it.

3.5 What additional qualities do you consider should be reflected in an NPS on Urban Design?

The NPS on Urban Design currently adopts the definition of "urban design" as used in the New Zealand Urban Design Protocol as a starting point. However that definition is flawed in that it fails to expressly recognise the need for public, urban places and spaces to be usable by all people including those with temporary or permanent disabilities. The BFT suggests that any NPS on Urban Design should incorporate an amended definition of "urban design" to take this into account. This additional quality of universal accessibility is discussed more fully above.

4.0 CONCLUSION

The BFT appreciates the opportunity provided by the Ministry for the Environment to make a submission regarding the proposal to prepare an NPS on Urban Design.

The BFT wishes to support the Ministry in the development of the NPS 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.

Chairperson

Barrier Free NZ Trust

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Address for service of submitter:

The Chairperson

Barrier Free NZ Trust

P O Box 25064

Panama Street

WELLINGTON