



May 2008

Welcome to the May Newsletter for the Barrier Free NZ Trust. We have a range of topics to discuss in this issue and we hope that you [join our forum](#) to take the discussion further.

This month we will cover:

- Access Issues: Retirement Villages.
- Accessible Tourism Forum held in Wellington, April 08.
- What's happening internationally with regards to access – how 'attitude' is our biggest barrier.
- Compliance Schedules and Accessibility.

We hope you are all having a great year so far and it's all running to plan!

Access Issues: Retirement Villages

Recently a Retirement Home Developer stated that he did not need to consider accessible units because he would only have fit elderly occupants.

We pointed him towards items Schedule 2 of the Building Act 2004:

(j) hotels, motels, hostels, halls of residence, holiday cabins, groups of pensioner flats, boarding houses, guest houses, and other premises providing accommodation for the public:

(k) hospitals, whether public or private, and rest homes:

The issue is to what extent and which details of the development are required to be accessible – every individual flat, the communal areas, etc.?

Neither Acceptable Solutions nor NZS 4121:2001 provide adequate guidance as to what compliance would represent. If these were individual houses built down the street what is the difference between these and private dwellings for people who just happen to be old? Where does the cross-over occur between private residential and Schedule 2 as far as housing for the elderly are concerned?

The Department of Building and Housing need to get on to Schedule 2 and clarify this area, but this question is a prime example of how *attitude* is the barrier. It would make life remarkably easier for an elderly person, regardless if they are a wheelchair user or not, to have accessible features. The elderly are more susceptible to falls and therefore have an increased chance of needing to use handrails and/or mobility walking aids.

We should not be looking at ways on how to get around not providing access, but how we can make NZ an inclusive environment and not making life difficult for those people with impairments.

Accessible Tourism Forum

The team at BFT presented at the Accessible Tourism Forum, 'Tourism for All,' at Te Papa in April. We were impressed with guest speaker Sandra Rhodda who identified the gaps in the tourism market in NZ.

Rhodda suggested that the tourism industry ignores the baby boomer, senior and access market, “unlike in countries overseas, very few New Zealand businesses or jurisdictions are gearing up to meet the demands of these groups, and there is little New Zealand research providing information on their size, spending power, habits or needs.”

The facts Rhodda pointed out really raised eyebrows:

- Firstly, the world population is dominated by baby boomers, with the most dispensable income.
- As they age, they will swell the ranks of the seniors and people with disabilities (PWD) markets.
- Over half of international visitors to NZ are over 45 and PWDs are the largest minority group. They are rarely considered in NZ tourism and hospitality planning and marketing.

This poses the question why are businesses ignoring these groups? New buildings and buildings undergoing renovations must provide access for all people. If your business has an accessible route and the building is usable by all people, the market that you open themselves up for is huge.

To find out more about how to make your building accessible, please contact one of our Barrier Free Advisors in your region today at <http://www.barrierfreenz.org.nz/advisors/>.

What’s happening internationally in regards to Access?

Recently Alexia Pickering, one of our Barrier Free NZ Trust presenters and a wheelchair user, traveled to Europe. Her experience is evidence that the largest barrier that NZers face is attitude.

In Wellington, the Railway Station has been upgraded and there is no access for people with disabilities. Alexia reported that “Traveling by train [in the UK] was a breeze for a wheelie - no hassles at all. Regardless of the degree of accessibility of the train, there were systems in place that got me on and off without any hassles. All one had to do was arrive a little earlier than other travelers, find the counter offering Mobility Assistance, identify oneself and bingo a helper appeared, led you to the correct platform and exactly where the accessible carriage would stop.”

Alexia also stated that “All trains and buses in UK and Europe were comfortable and the wheelchair space large. On long train journeys I transferred to a seat made possible by a lift-up armrest. On one train I shared the two wheelchair spaces with a wheelie from Italy, another wheelchair user sat in a seat with wheelchair stowed away in an extra large space between the back of two normal seats so there were three wheelies traveling at the same time. It doesn't happen like this in NZ because it is such a hassle getting on and off a train so we don't bother.”

With Historical Buildings, Alexia said that so much progress has taken place in modifying buildings for travelers with disabilities. “The attitude seemed to me to be *“let’s make sure everyone sees our wonderful building”* not *“do we have to provide access?”*”

Alexia finished off with telling us about her visit to Nice. “I was amazed when I discovered on a leisurely wheel along the promenade in Nice that there was a ramp to the beach and it led to a concrete area complete with a shade canopy and reserved for people with disabilities. The display of the ISA said it all. Wow! What an unexpected treat to come across such an accessible feature in such a famous place as Nice. A swim in the Mediterranean was more than I dreamed off and was the highlight of my dream journey.”

Compliance Schedules and Accessibility

The question often arises as to whether a compliance schedule should include all the accessibility features of a building that have been provided in order for the building to satisfy section 118 of the Building Act 2004. We are aware that Territorial Authorities have differing views on this issue and the problem appears to arise because of uncertainty as to how section 103 of the Act should be interpreted.

By virtue of section 100 of the Act some buildings are required to have compliance schedules.

The effect of the 2005 Building Amendment Act is that since 31 March 2008, any building that is not used wholly as a single household unit, has to have a compliance schedule if it has a specified system or a cable car.

The term "specified system" is defined in the Act. Apart from a cable car, a specified system is a system or feature in a building that contributes to the proper functioning of the building. It is listed as a "specified system in the Building Regulations 2005.

Schedule 1 of the regulations lists the following accessible features in a building as a "specified system":

- (a) electromagnetic or automatic doors (Item 3);
- (b) lifts, escalators, travelators or other systems for moving people (Item 8); and
- (c) audio loops or other assistive listening systems (Item 12).

Therefore, a public building with any of these features is required to have a compliance schedule or, to put it another way, a public building without a specified system is *not* required to have a compliance schedule, even though it may have other accessible features such as accessible toilets, parking or a ramp. The effect is that in such cases, in the absence of a compliance schedule, a building owner is not required under the Act to ensure that accessibility features - such as accessible toilets, parking or a ramp - continue to perform.

If a compliance schedule is required, the starting point for determining what should be listed in a compliance schedule is section 103.

- First, by virtue of section 103(1)(a) & (b) specified systems, and performance standards for those systems must be listed, ie those accessibility specified systems listed above.
- Second, section 103(1)(c) requires the inspection maintenance and reporting procedures for the specified systems to be listed.
- Third, in relation to accessibility, section 103(1)(d)(iii) requires a compliance schedule to state "if applicable, the specified systems that relate to... means of access, and facilities for use by persons with disabilities that meet the requirements of section 118." Section 103(1)(d)(v) further requires the specified systems that relate to "any signs that are required by... section 120 [Symbols of Access]" to be listed in the compliance schedule if applicable.

If "specified systems" as used in section 103(1)(d) is interpreted in accordance with the statutory definition, it leads to the possible outcome that only automatic doors, lifts and audio loops (ie systems specified in the regulations) be listed in compliance schedules and not any other accessibility features.

This interpretation surely cannot be correct as these specified systems are already required to be listed by virtue of section 103(1)(a). This would mean that section 103(1)(d)(iii) has no real effect and is therefore redundant. It cannot however be assumed that when reading section 103 that subsection (1)(d)(iii) serves no purpose at all.

We suggest that it may be more correct to interpret section 103 by attempting to read the section in line with its likely purpose, ie. the matters listed under section 103(1)(d) should be treated as "specified systems" if section 103 is otherwise "applicable". This means that the term "specified systems" in section 103(1)(d) should not be given its defined meaning. Such an approach is consistent with the opening words of the definition section in the Act, which provides that words have their defined meaning except "where the context otherwise requires." Arguably the context does require otherwise in order for s103(1)(d) to have some effect.

To put it another way, it is arguable that section 103(1)(d)(iii) and (v) should be read as requiring a compliance schedule to list any applicable accessibility systems or features of a building (including symbols of access signage) that are not specified systems under the regulations.

This leads to a further issue, what inspection, maintenance and reporting procedures should be stated in a compliance schedule in relation to accessibility requirements that are not specified systems? As such requirements seem to relate to 'passive', as opposed to 'active' systems, it is suggested that it may be appropriate for a compliance schedule to require building owners to maintain such systems and require annual inspection by an IQP.

In summary, a way forward to ensure that ongoing accessibility requirements are maintained to ensure they are performing, is to interpret section 103 with its likely purpose. That any applicable accessibility systems or feature of a building should be listed in a compliance schedule, even if they are not specified systems under the regulations.

We welcome your comments on this matter at our forum at <http://www.barrierfreenz.org.nz/forum/>