



OFFICE *of the* AUDITOR GENERAL
Republic of Fiji

REPORT OF THE AUDITOR GENERAL OF THE REPUBLIC OF FIJI

Performance Audit on the Access for Persons
with Disabilities to Public Offices and Public
Transport





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02 December 2020

The Honorable Ratu Epeli Nailatikau
Speaker of the Parliament of the Republic of Fiji
Parliament Complex
Gladstone Road
SUVA

Dear Sir

AUDIT REPORT ON PERFORMANCE AUDIT ON ACCESS FOR PERSONS WITH DISABILITIES TO PUBLIC OFFICES AND PUBLIC TRANSPORT

In accordance with section 152(13) of the Constitution of the Republic of Fiji, I am pleased to transmit to you my report on the Performance Audit on Access for Persons with Disabilities to Public Offices and Public Transport.

A copy of the report has been submitted to the Minister for Economy who as required under section 152(14) of the Constitution shall lay the report before Parliament within 30 days of receipt, or if Parliament is not sitting, on the first day after the end of that period.

Yours sincerely

Ajay Nand
AUDITOR-GENERAL

Encl.



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The Auditor-General must submit a report on performance audits carried out to Parliament. In addition, a single report may include two or more audits. This report satisfies these requirements.

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Enabling Physical Environments for Persons with Disabilities

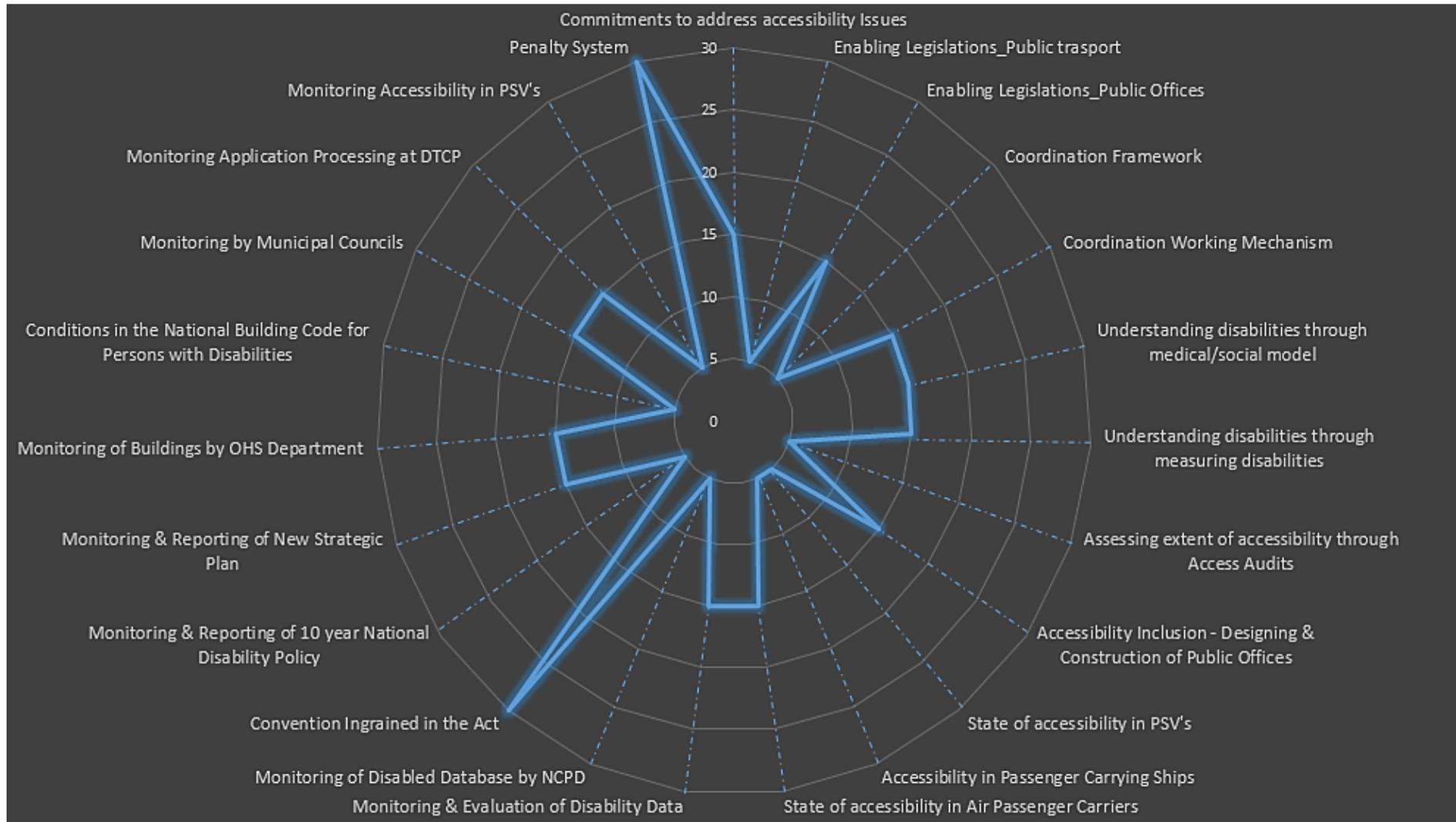
Access for disability development in Fiji have made considerable progress towards the realization of issues facing persons with disabilities as a human rights issue rather than a welfare issue. This has seen the implementation of the articles of the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD) one of which includes Accessibility for persons with disabilities in terms of establishing legislative and policy framework as well as strategies for implementation. Though enabling legislations exist for the inclusion of disabled friendly features in built environments, implementation is slow yet more improved compared to preceding years. Today, awareness and coordination for the removal of barriers to accessibility for persons with disabilities from the disability sector still requires more vigorous efforts. Similarly, monitoring and reporting mechanisms at the strategic and agency levels can be further strengthened.

Audit at a Glance

Figure 1.1 below demonstrates an estimation of the level of implementation of the provisions of disabled accessibility to public offices and public transport over the twenty-three (23) themes from the range of 0 to 30. Themes at 16 to 30 scores represent medium to strong implementation/execution, 6 to 15 scores represent satisfactory implementation/execution while 0 to 5 scores represent weak implementation/execution.

The highest score is 30 (Convention ingrained in the Act and Penalty System to Safeguard the Rights of Persons with Disabilities) while the lowest is 5 (Enabling Legislations for accessibility to public transport, Coordination Framework, Assessing extent of accessibility through Access Audits, State of Accessibility in Public Service Vehicles, State of Accessibility in Passenger Carrying Ships, Monitoring of Disabled Database by NCPD, Monitoring & Reporting of the 10 Year National Disability Policy, Conditions in the National Building Code for Persons with Disabilities and Monitoring of Accessibility in Public Service Vehicles by LTA). The remaining twelve (12) themes have attained scores of fifteen (15).

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Acronyms

Abbreviation	Meaning
ABS	Australian Bureau of Statistics
ACP	Annual Corporate Plan
ADCOM	Advisory Committee
AFL	Airports Fiji Limited
AIDS	Acquired immunodeficiency syndrome
AR	Annual Reports
BMF	Biwako Millennium Framework for Action
CEMP	Construction Environment Management Plan
CEO	Chief Executive Officer
CIC	Construction Industry Council
CIU	Construction Implementation Unit
CRPD	Convention on the Rights of Persons with Disabilities
CSA	Commercial Statutory Authorities
CSO	Civil Society Organisations
DPO	Disabled Persons Organisations
DOT	Department of Transport
DT	Director Transport
DTCP	Department of Town and Country Planning
EC	European Commission
EIA	Environment Impact Assessment
ESCAP	Economic and Social Commission for Asia and the Pacific
FBoA	Fiji Bus Operators Association
FBoS	Fiji Bureau of Statistics
FCCC	Fijian Competition & Consumer Commission
FDPA	Fiji Disabled Peoples Association
FIE	Fiji Institute of Engineers
FNBC	Fiji National Building Code
FNCDP	Fiji National Council for Persons with Disabilities
FRA	Fiji Roads Authority
FT	Fiji Times
GSS	Government Shipping Services
HIES	Household Income and Expenditure Survey
HIV	Human Immunodeficiency Virus
HQ	Head Quarters
HTE	Housing Transport & Environment
ICT	Information and Communication Technology

Abbreviation	Meaning
ITF	International Transport Forum
IYDP	International Year of Disabled Persons
KPI	Key Performance Indicator
KRA	Key Result Area
LTA	Land Transport Authority
MDG	Millennium Development Goals
MEL	Monitoring Evaluation and Learning
M&E	Monitoring and Evaluation
MSEP	Multi-Stakeholder Engagement Processes
MWCPA	Ministry of Women, Children and Poverty Alleviation
NCPD	National Council for Persons with Disabilities
NDA	National Disability Authority
NDP	National Development Plan
NGO	Non-Government Organisations
NTCC	National Transport Coordinating Committee
NTCF	National Transport Consultative Forum
OECD	Organisation for Economic Co-operation and Development
OEMP	Operational Environment Management Plan
OHS	Occupational Health and Safety
PSV	Public Service Vehicle
QAMS	Quality Assurance Maintenance System
RCL	Road Contract License
RIA	Regulatory Impact Assessment
RSL	Rural Service License
SOP	Standard Operating Procedure
SDG	Sustainable Development Goals
TWG	Technical Working Groups
UN	United Nations
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNDP	United Nations Development Programme
UNOHCHR	United Nations High Commissioner for Human Rights, Regional Office for the Pacific
USA	United States of America
WHO	World Health Organisation

EXECUTIVE SUMMARY

Background

Early years of development to cater for persons with disabilities were mainly handled by the Ministry of Health in terms of medical conditions and the Social Welfare Department for other assistance. Other interventions came in the form of education and associated care in the early 1960. In 1967, Fiji's first Special School, Hilton Special School, was established by the Fiji Crippled Children's Society to provide education for students with severe physical and hearing impairments. Later, more Special Schools were established around the country; to date there are 15 Special Schools and two Vocational Training Centres specifically for persons with disabilities¹. Other specialist schools were established later such as Fiji Society for the Blind, Fiji Red Cross Society to name a few. The endeavour was later formalized with the establishment of the Fiji National Council for Persons with Disabilities (FNCDP) through Cabinet approval in September 1992. The Council was to act as a coordinating body for disability development in Fiji. The establishment of the Council was consolidated through the enactment of the Fiji National Council for Disabled Persons (FNCDP) Act of 1994. Thereafter, Fiji became signatories to a number of International Frameworks relating to disability development including the Beijing Proclamation on the Agenda for Action concerning the Asian and Pacific Decade of Disabled Persons 1993-2002, Extended Asian and Pacific Decade of Disabled Persons 2003-2012, Biwako Millennium Framework for Action (BMF), Biwako Plus 5, Pacific Disability Strategy and the Incheon Strategy 2013-2022.

Fiji signed the United Nations CRPD on 02 June 2010 and later ratified the Convention in 2017.

In recognising its international and regional commitments and undertakings made by the Government of Fiji, a single coherent document was developed in the form of a National Disability Policy 2008-2018. The Policy was endorsed by Cabinet on 04 November 2008. The policy development process of the National Disability Policy grouped the objectives of the policy into 12 strategic policy areas. The strategic policy areas have been grouped in order of priority in which the 6th strategic policy area relates to **Access to built-environment and transport systems**.

The main objectives of the 6th Strategic Policy area as stipulated under the Policy Framework are to:

- Improve and strengthen the provision of access for persons with disabilities; and
- Develop process and implementation strategies to improve transportation and mobility for people with disabilities in urban and rural areas.

¹ Special and Inclusive Education Policy, Ministry of Education Heritage and Arts, p4.

Coverage

To facilitate the achievements of the above objectives, a number of action plans, key result indicators as well as planned outputs were established.

With the decade old policy ending in 2018, the Fijian Government ratified to the United Nations CRPD enacted the Rights of Persons with Disabilities Act No. 4 of 2018. It aims to precisely look at making provisions for the protection of the rights of persons with disabilities in accordance with the United Nations CRPD and for related matters. Article 29 of the Act relates to Accessibility mirroring Article 9 of the United Nations CRPD also on Accessibility.

Key Findings

The audit on Access for Persons with Disabilities to Public Offices and Public Transport focusses on three areas namely the *'Legislation and Policy Framework'*, *'Coordination and Implementation'*, and *'Monitoring, Reporting and Evaluation'*.

Legislative and Policy Framework Governing Accessibility

- While international and regional obligations are incorporated in national policy and action plans, several opportunities exist to improve efforts to implement them.
- Weak enforcement on existing legislations that aim to address barriers for disabled accessibility to public service vehicles is due to lack of institutional knowledge within the enforcement and policy making arm.
- Inclusion of disabled accessibility into legislation and policies governing sea and air transportation is yet to be established.
- While there are established legislation and regulations relating to disabled access to public accommodation, its review and awareness can be further improved.

Stakeholder Arrangements and Engagements

- While disability mainstreaming policies are in place at the national level in Fiji, the execution of such policies at the implementation level is a problem because implementing agencies were not involved during initial consultations for the formulation of the policy.
- The effectiveness of the work of committees which have been established has been hindered due to lack of continuous engagement of stakeholders through regular interactions and effective consultations that are results oriented.

Policy Implementation on Access for Disabilities

- Responses to disability issues during the early years of disability development in Fiji were more towards the medical model. While there has been a gradual shift in the model scale from medical to social over the years, solutions to disability issues in Fiji have been assessed as equally weighted between the medical and social models.

- Census statistics which Fiji largely depends on for disability statistical data, though comparable over time, does not reflect detailed information that would be useful in decision-making such as barriers faced by persons with disabilities in terms of accessibility to built-environments. On the other hand, while offering many advantages due to its comprehensive nature, results of surveys, in order to be deemed relevant, need to be regularly updated. In addition, its results are not periodically and systematically sustained.
- The NCPD's efforts to carry out access audits are recent endeavours which have not been done in the years 2008-2018. Nonetheless, while NCPD's efforts in conducting access audits are acknowledged, thorough planning and proper structuring of reports are some areas which can be improved.
- Generally, the state of disabled accessibility to public offices is progressing well yet needs more vigorous efforts from the implementing agencies. More awareness should be geared towards advancing disability issues in terms of accessibility to public accommodation.
- The amendment made to the Land Transport (Public Service Vehicles) Regulations in 2015 which includes the requirement that owners of public service vehicles must ensure that the vehicle is user-friendly for persons with physical disabilities is seen as a very positive development. However, due to the lack of institutional knowledge within the enforcement and policy making agencies, effective implementation of the law has been generally low.

Around the same time when the amended provisions were introduced into the LTA Regulations, work on introducing priority seats in buses was made with stickers pasted in the buses along with colouring of seats. The consistent use of the priority seats by persons with disabilities was heavily scrutinized given that the public service vehicles are privately owned. Hence the initiative was not carried forward due to reported cases of vandalism and stated low usage of the seats by disabled persons themselves as well as elderly and expecting mothers. Therefore, implementation of this initiative ceased over the years.

- The current state of disabled accessibility in passenger carrying ships for franchise shipping vessels and government owned vessels are relatively very low.
- While most of the features of the disabled accessibility focus on physical accessibility for wheelchair users, it is noted that there is currently no provision within the airport or in the aircrafts for the visually impaired in regards to raised tactile markers on paths and floor surfaces. Similarly, addressing barriers to accessibility faced by the hearing and speech impaired are yet to be addressed.

Monitoring, Evaluation and Reporting

- Reliable data is not readily available in relation to the barriers which are faced by the disabled persons. While the questionnaire used during the national census is noted, the barriers which disabled persons face in their day-to-day lives could be determined through targeted surveys.
- Comparison of data held by NCPD in its database with the statistics provided by Fiji Bureau of Statistics show a total variance of 94,742 persons with disabilities.
- Fiji has aligned the Rights of Persons with Disabilities Act 2018 (Act No. 4 of 2018) with the Convention on the Rights of Persons with Disabilities.
- Fiji National Policy on Persons living with Disabilities 2008-2018 which outlined the role of each stakeholder in relation to access to buildings and transportation was not effectively monitored resulting in action plans not being achieved.
- The five (5) year strategic and implementation plan 2019 – 2023 incorporates a monitoring, evaluation and reporting component under Strategic Objective 10 To promote and Ensure the National, Regional and International Legislative Frameworks are enforced, with respect to Key Result Area (KRA) 10.2 Monitoring Evaluation and Learning. The plan has been presented in Parliament. The NCPD provided an update as per first year of implementation which is acknowledged.
- There is a general lack of engagement between NCPD and stakeholders in the construction industry including draftsmen for better awareness of the constitutional rights and plight of persons with disabilities.
- Audit verifications at the OHS Division confirmed that they use the National Building Code to facilitate disabled access. Similarly, discussions with the Construction Industry Council (CIC) also confirmed that engineers use the Code as the guideline for providing access for persons with disabilities to buildings. A review of the National Building Code noted that specifications require that access for persons with disabilities are determined by the floor area of the building contradicts with provisions in the 2013 Constitution. The Constitution requires that reasonable access to be provided for persons with disabilities.
- Municipal councils can play a major role in ensuring that disabled access is provided in buildings constructed within the towns and cities. However, review of records relating to construction of buildings at the Suva City Council revealed that completion certificate was issued without sufficient monitoring reports being prepared.
- The input of NCPD (for guidance on access and use by persons with disabilities) is not obtained when approvals are sought for development projects such as construction of buildings which will be used by the general public.

General Recommendation

- LTA cannot effectively monitor disabled access in the public service vehicles because penalties are not enforced to compel the operators to have disabled access.
- Rights of Persons with Disabilities Act is covered in Part six of the Act which states that if a person considers that any provisions in the Act relating to the stipulated rights of a person with disabilities has been or likely offended against, the person may apply to the High Court for remedies for breach of the rights under the Act. However, more awareness can be made in this regard, so the affected persons are able to obtain justice through the various means which are available to them.

The learnings from international and regional commitments can be expedited from a Results Based Management approach where resources are used to achieve clearly defined and specific results.

In relation to disability access for public transportation, we recommend that:

- (i) relevant provisions are incorporated into the legislation and policies governing maritime and air transportation;
- (ii) Proper enforcement of regulations covering land transportation, after necessary consultations are made with key agencies and stakeholders;
- (iii) Consideration be given to availability of funding through provision of subsidies/concessions to implement certain mandatory requirements which would for instance require the overhaul of bus fleets to incorporate disabled accessibility in public transportation;
- (iv) Furthermore, coordinated efforts with stakeholders to review legislations are carried out with due consideration to international best practices and designs.

Pursue opportunity to strengthen coordination for the successful implementation of universally acceptable disabled accessibility features in public offices and public transportation through:

- (i) the involvement of key implementing agencies in the initial planning stages of development policy frameworks;
- (ii) facilitation of proper awareness to the implementing agencies;
- (iii) consistent engagement and implementation of strategic responses to disability issues in relation to accessibility; and
- (iv) Inclusion of key implementing agencies in the institutional arrangements of coordination.

In successfully addressing policy implementation, we recommend that more vigorous efforts are geared towards understanding disability through balancing between models of explaining disabilities and robust evidence based statistics so that appropriate strategic and policy responses are developed.

Overall Conclusion

In addition, we recommend that well planned and designed access audits are carried out by NCPD and the supporting agencies to determine the state of accessibility of public offices followed by preparation of properly structured reports with recommendations which must be monitored for implementation and reported regularly.

Furthermore, more effort should be geared towards advancing accessibility issues in building developments through proper enforcement of established legislations on disabled accessibility, inclusion of NCPD in the referral process and effective awareness targeting key planning and implementing agencies.

Monitoring, evaluation and reporting procedures and systems should be strengthened at the strategic and agency levels to ensure proper enforcement as well as to warrant the development and implementation of appropriate action responses and program modifications for the successful advancement of disabled accessibility in public offices and public transportation.

The establishment of legislations and regulations for the advancement of disabled access inclusion in the areas of public accommodation and transportation and Fiji's participation in the international arena in relation to disabled person's agenda is reassuring to the disabled person's community. While, there are explicit provisions in the LTA regulations relating to the Public Service Vehicles (PSV), the intent of law is compromised through weak implementation and enforcement resulting in lack of institutional knowledge within the enforcement and policy making functions. Moreover, inclusion of disabled accessibility into legislations and policies governing sea and air transportation is yet to be established. In addition, there are established legislation and regulations relating to disabled access to public accommodation. However, this should be reviewed, updated and necessary awareness carried out.

National strategies for synergizing efforts to properly recognise the rights of persons with disabilities in relation to reasonable access to public offices and public transport through legislation and establishment of multi-stakeholder committees confirms Government's commitment to providing reasonable access for persons with disabilities to public offices and public transport. However, major problems still remain which include ineffective coordination framework due to policy weakening (evaporation) at the implementation level, significant delays between stakeholder engagements/contacts affecting process continuity and inactive and non - involvement of stakeholders in the mechanism. These impedes the effective coordinated institutional approach with respect to the provision of access for persons with disabilities to public offices and public transport.

Although soundly based, inclusion of disabled accessibility in public offices has been slow and somewhat stagnant in the areas of public transport, this report, does not in any way diminish the level of

commitment and work that the disabled community and their development partners have achieved in other aspects of development such as capacity building, training etc.

Monitoring and Evaluation (M&E) and Reporting arrangements are compromised by the lack of data and information on disability and situation of persons with disabilities at the national level, data discrepancies between statistics maintained by NCPD and FBoS, lack of policy monitoring at the national level, approved strategic plan for Rights of Persons with Disabilities Act, inconsistencies between governing legislations/regulations/guidelines, absence of proper monitoring system at the municipal level, non-inclusion of NCPD at the initial planning and approval stages and absence of penalty system for provision of disabled access for public transportation resulting in weak enforcement.

1.0 INTRODUCTION

The 2013 Constitution of the Republic of Fiji² contains the Rights of Persons with Disabilities. It further establishes the right to equality and freedom from discrimination on the grounds of an individual's actual or supposed personal characteristics or circumstances, including disability.³ Provisions in the constitution even stipulate, under Section 26 (6) that the proprietor of a place or service to shops, hotels, lodging-houses, public restaurants, places of public entertainment, clubs, education institutions, public transportation services, taxis and public places must facilitate reasonable access for persons with disabilities to the extent that is prescribed by law.

Earlier years of disability development saw the 24-year-old Fiji National Council for Disabled Persons (FNCDP) Act of 1994 as the only legislation directly relating to persons with disabilities in Fiji.

Fiji's commitment to international and regional commitments, ensured the development of the 10-year National Disability Policy 2008-2018 with the 6th strategic policy area covering **Access to built-environment and transport systems**.

The United Nations CRPD and its optional protocol was adopted on 13 December 2006 at the United Nations Headquarters in New York and was opened for signature on 30 March 2007. Fiji signed the Convention on 2nd June 2010 with its ratification in 2017.

The Convention is intended as a human rights instrument with an explicit, social development dimension and includes the following principles:

- Adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms;
- Clarifies and qualifies how all categories of rights apply to persons with disabilities; and
- Identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights and areas where their rights have been violated, and where protection of rights must be reinforced.

Article 9 of the United Nations CRPD deals with Accessibility.

With the conclusion of the National Disability Policy in 2018, the 1994 FNCDP Act was reviewed realising its administrative nature which gave way to the enactment of the Rights of Persons with Disabilities Act No. 4 of 2018. The Act makes provisions for the protection of the rights of persons with disabilities in accordance with the United Nations CRPD. Article 29 of the Act covers Accessibility coinciding with Article 9 of the United Nations CRPD.

1.1 Reasons for the audit

The 2017 Population and Housing Census Release No. 1 of 2017 dated 05 January 2018 recorded total enumerated population of 884,887. Of this number, 829,907 were reported as being at the age of 3 years and above of which a total of 113,595 persons were reported to have had at least one functioning challenge. The number equates to a rate of 13.7%⁴ which is close to the International Benchmark of 15%. The percentage was highest in Rotuma with 21.1% followed by Lau province at

² Constitution of the Republic of Fiji, Section 42.

³ Constitution of the Republic of Fiji, Section 26(a).

⁴ $(113,595 \div 829,907) \times 100$

18.2%, with the province of Nadroga/Navosa recording the lowest rate of 10.4%. Further details are presented in Table 1.1.

Table 1.1: Population Aged 3 and Above with at Least One Disability

Province	Age 3 and above	At least one Disability	%
Total	829907	113595	13.7
Ba	233284	30242	13.0
Bua	14301	2411	16.9
Cakaudrove	46633	5099	10.9
Kadavu	10058	1532	15.2
Lau	9002	1635	18.2
Lomaiviti	14670	2352	16.0
Macuata	62289	9187	14.7
Nadroga/ Navosa	55267	5771	10.4
Naitasiri	166545	23768	14.3
Namosi	7306	943	12.9
Ra	28393	4360	15.4
Rewa	101773	13925	13.7
Serua	18678	3375	18.1
Tailevu	60190	8665	14.4
Rotuma	1518	330	21.7

Source: Fiji Bureau of Statistics (FBoS) 2017 Population and Housing Census, Release No. 1 of 2018 dated 05 January 2018, p.13.

Fiji, in becoming signatories to international and regional agreements relating to disability development have declared its commitment to take ownership and be responsible for aligning national legislations and policies for the successful implementation of agreed targets and goals. These are in line with Governments commitment articulated in the NDP on “Transforming Fiji” and the Governments pledge of “Leaving No One Behind”. Prior to Fiji’s signing of the United Nations CRPD in 2010, actions had already begun, including the development of the decade long National Disability Policy. With the conclusion of the 10-year policy, the 2018 Rights of Persons with Disabilities Act have been enacted with its implementation being made effective through the five-year implementation plan.

Our audit has been undertaken to look into the effective and efficient administration of provision of access for persons with disabilities by the lead agency, the National Council for Persons with Disabilities and relevant stakeholders in order to ensure ease of accessibility to Public Offices and Public Transport.

2.0 AUDIT OBJECTIVE, SCOPE AND METHODOLOGY

2.1 The purpose of our audit

Our audit seeks to assess whether the strategies, action plans and processes for the provision of access for persons with disabilities are effectively and efficiently administered by the National Council for Persons with Disabilities and relevant stakeholders in order to ensure ease of accessibility to public offices and public transport.

Our audit covered the role of the National Council for Persons with Disabilities (NCPD) in working with the relevant stakeholders including the Department of Transport, LTA, FRA, Department of Civil Aviation, Department of Buildings of the Ministry of Infrastructure and Meteorological Services, Municipal Councils, Department of Town and Country Planning, Construction Implementation Unit (CIU) at the Ministry of Economy and other stakeholders (such as NGO's, CSO's and DPO's) to successfully plan, implement and monitor the provision of accessibility for persons with disabilities.

Sub-Objectives:

The following are objectives of the audit:

- To examine the adequacy of the relevant legislation and policy frameworks for the successful implementation and enforcement of disabled accessibility;
- To examine the effectiveness of awareness programs and initiatives designed to advance the implementation of disabled accessibility;
- To determine whether coordination efforts and initiatives are effective and delivered in an efficient manner with a results-oriented focus;
- To examine the extent or degree of implementation of accessibility for persons with disabilities to public offices and public transport; and
- To determine the effectiveness of the monitoring, reporting and evaluation strategies on the state of implementation against pre-determined policy objectives.

2.2 What we audited

This report focuses on the provision of accessibility for persons with disabilities as per the 6th Strategic Policy Area of the 10-year National Disability Policy by examining its implementation since 2008 till 2018.

The key entities covered in our audit are the National Council for Persons with Disabilities (NCPD), Department of Buildings of the Ministry of Infrastructure and Meteorological Services, City and Town Councils, Department of Local Governments and Department of Town and Country Planning of the Ministry of Local Government, Construction Implementation Unit (CIU), Occupational Health and Safety Division of the Ministry of Employment, Productivity and Industrial Relations, Land Transport Authority (LTA), Department of Transport of the Ministry of Commerce, Trade, Tourism and Transport, Airports Fiji Limited (AFL), Local Airlines, Civil Aviation Authority of Fiji (CAAF) and Fiji Bureau of Statistics (FBoS).

NCPD is the main coordinating body for all organizations dealing with the care and rehabilitation of persons with disabilities whereas Department of Buildings, City and Town Councils, Department of Local Government, Department of Town and Country Planning, CIU and the OHS Division are responsible for the design, tendering, awarding and monitoring of construction contracts. In addition, the LTA, Department of Transport of the Ministry of Commerce, Trade, Tourism and Transport, Airports Fiji Limited (AFL), Local Airlines, Civil Aviation Authority of Fiji (CAAF) are the implementing agencies for public transport relating to land, air and maritime transportation. Fiji Bureau of Statistics (FBoS) has also been engaged in the audit.

2.3 How we audited

Audit techniques used for gathering evidence and conducting our audit included the following:

- I. Interviews were carried out with personnel from the following agencies:

Agency
National Council for Persons with Disabilities
Department of Town and Country Planning
Department of Local Government
Department of Buildings
Department of Transport
Public Health
Fiji Human Rights and Anti-Discrimination Commission
Department of Civil Aviation
Airports Fiji Limited
Fiji Link
Construction Implementation Unit
Fiji Roads Authority
Land Transport Authority
Suva City Council
Nausori Town Council
Occupational Health & Safety (OHS) Division at the Ministry of Employment, Productivity and Industrial Relations
Fiji Bus Operators Association
Fiji Taxi Operators Association
Government Shipping Services
Construction Industry Council

- II. Documentary review of legislation, policies, development plans, Strategies, Reports, Media articles, and
- III. Analysis of statistical data obtained from Fiji Bureau of Statistics.

3.0 LEGISLATION AND POLICY FRAMEWORK

Summary of main findings of the Chapter

Inaccessibility to built environments is still a major barrier which prevents persons with disabilities from actively participating in social and economic activities.

This section of the report begins by discussing the foundation behind disability development in Fiji with an overview of international, regional and national commitments to addressing disability issues in the form of conventions, treaties, agendas and action plans etc. An integral part of these commitments is *Accessibility to built environments*. Though national policies have adequately captured the obligations as required by these international and regional commitments, there are several opportunities to improve its implementation.

The section also elaborates on the legislative framework governing disabled accessibility to public transport and public offices. While legislation in the transport sector such as those governing Public Service Vehicles (PSV's) can be better enforced, establishment of disabled accessibility provisions in legislations and policies covering other areas such as air and maritime transportation should be enacted. In addition, review and awareness of enabling legislations, policies and practices administering disabled accessibility to public offices should also be considered.

Theme 1: International, Regional and National Commitments to Accessibility

Situation Found

While international and regional obligations are incorporated in national policy and action plans, several opportunities exist to improve efforts to implement them.

Criteria

The National Disability Policy reinforces the regional and international initiatives Fiji has taken in recent years as guiding principles to the development of programmes of action in key areas such as vocational training and employment as well as to ensure existing services in health and education are adequately coordinated and take account of the needs of children, women and men (young and old) with disabilities.⁵

Evidence and Analysis

Disability development in Fiji began with the provision of services for persons with disabilities around the 1800's in the form of mental health services. Around the 1960's and 1970's, these services expanded to include the following services:

- Suva-based special education school for a growing population of children who had suffered from poliomyelitis;
- Fiji Crippled Children Society;
- Society for the Blind and the Fiji Red Cross;

⁵ National Policy on Persons Living with Disabilities Page 9.

- Other special schools were established in the main urban centres such as Hilton Special School which was formed in 1961 and was subsequently registered in 1963;
- Various organisations of persons with disabilities established themselves as advocacy and ‘rights’ groups.⁶

Other efforts saw the establishment of vocational training programmes. However, the established services and vocational training programmes were found to be inadequate, following reviews in the 1980’s due to its largely favouring disabled population in the bigger urban centres but were inaccessible for those disabled persons in the rural areas. Thus, ways and areas of improvements in the provision of these services were needed.⁷

Fiji has been part of the global United Nations (UN) community since 13 October 1970 as its 127th member country. Coupled with the United Nations General Assembly’s declaration of the year 1981 as the “*International Year of Disabled Persons (IYDP)*”, Fiji becoming signatories to a number of International and Regional Frameworks that have greatly assisted the attempts to reorganise Disability Development in Fiji. Figure 3.1 summarizes Fiji’s International and Regional commitments so far.

Figure 3.1: Fiji’s International & Regional Commitments



Source: Auditors Analysis of NCPD’s website, National Disability Policy 2008-2018, Annual Reports and Implementation Framework 2019-2023.

Fiji signed its first International Framework in 1993. The Beijing Proclamation on the Agenda for Action concerning the Asian and Pacific Decade for Disabled Persons 1993-2002 was adopted by resolution 48/3 on 23 April 1993 by the member states of the Economic and Social Commission for Asia and the Pacific (ESCAP) with the goal of full participation and equality.

The Agenda for Action was extended for another decade in 2002 for the period 2003-2012. The extended agenda emphasized a paradigm shift from a charity-based approach to a rights-based approach to disability, reflected in policies and programmes in the region.

⁶ National Policy on Persons Living with Disabilities 2008-2018, paragraph 2, p.5.

⁷ Fiji National Council for Disabled Persons website: <http://www.fnccdp.org/>

Also in 2002, Fiji actively participated in the subsequent meeting in Japan which gave rise to the Biwako Millennium Framework for Action. The Biwako Framework explicitly incorporated the Millennium Development Goals (MDG) and their relevant targets to ensure that the concerns of people with disabilities will be an integral part of national strategies with the aim of promoting inclusive, rights-based societies free of barriers for persons with disabilities in the region.

Fiji signed a new framework (Incheon Strategy) towards the end of 2012, for the new Decade of Action for Asia Pacific Region for 2013 – 2022. It established an overarching theme of “Making the Right Real”. The framework encourages the collection and use of reliable, comparable and up to date disability data which should not only be disaggregated to support evidence based policy making, but also able to track progress towards implementing the Incheon Strategy and achieving the Global Agenda 2030 Sustainable Development Goals (SDGs).

Fiji is also a signatory to the Sendai Framework for Disaster Risk Reduction 2015 – 2030. The Framework basically provides pathways for inclusion of persons with disabilities in preparedness, response and recovery in relation to disaster.

In September 2015, Fiji as a member country of the United Nations adopted the 2030 Agenda on Sustainable Development. While five (5) Global goals explicitly reference Disability, three (3) targets address the issues of Accessibility. Figures 3.2 and 3.3 details the goals and targets.

Figure 3.2: Disability explicit Global goals



Source: <https://www.cbmuk.org.uk/policy-practice/disability-poverty/>

Figure 3.3: Accessibility SDG Targets



Source: United Nations website

One of the latest commitment for Fiji is the Beijing Declaration and Action Plan which was discussed in Beijing in November 2017 and aims at promoting convergent multi ministerial and multi-sectorial approaches and partnerships with civil society organizations, the private sector and academia for disability inclusive development, with the full and effective participation of representative organizations of persons with disabilities, in support of the implementation and progress tracking of government policy.

The United Nations Convention on the Rights of Persons with Disabilities is intended as a human rights instrument with an explicit and social development dimension. It adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.

United Nations Department of Economic & Social Affairs
Disability website
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html#Fulltext>

As part of its global obligations, Fiji is also party to the Convention on the Rights of Persons with Disabilities (CRPD) which was adopted on 13 December 2006 at the United Nations Headquarters in New York and was opened for signature on 30 March 2007.

The CRPD focuses on a Rights Based Approach, which clarifies and qualifies how all categories of rights apply to persons with disabilities, identifies areas where adaptations have to be made, as well as areas where rights of persons with disabilities have been violated and where protection of rights of persons with disabilities must be reinforced. The convention actively promotes the creation of inclusive environments through development of policies and strategies where persons with disabilities are encouraged to actively and fully participate in society, despite their impairments.

Fiji signed the United Nations CRPD in June 2010 and ratified the convention in March 2017 after a lapse of 7 years.

In recognising its international and regional commitments and undertakings made by the Government, the National Disability Policy was developed. The FNCPD Act of 1994 also required the formulation of a national policy to ensure that services are provided to all disabled persons in Fiji and the periodical review of the national policy and national plan of action for the purpose of determining their continuing relevance to local, regional and international realities.

Cabinet in its 21st Meeting on 04/11/2008 # 485 endorsed the National Policy on Persons Living with Disabilities: 2008 - 2018

- i. endorsed the final version of the National Policy on Persons Living with Disabilities 2008 – 2018;
- ii. endorsed the adoption of the policy as a national strategy, framework, and guideline for dealing with issues surrounding persons living with disabilities; and
- iii. Endorsed that the policy be administered through the Fiji National Council for Disabled Persons (FNCDP).

The 2008-2018 National Disability Policy was developed to provide framework for addressing disability in Fiji and to develop a more “inclusive” society, create greater awareness of the needs of people with disabilities and identify priority areas for action to dismantle barriers hindering the full participation of people with disabilities in the social and economic life of the Republic of Fiji.

The policy focuses on 12 strategic areas of which “**Access to the built environment and transport system**” is one of the area of focus. In this regard, the policy was administered through Fiji National Council for Disable Person (FNCDP) and the Ministry of Women Children and Poverty Alleviation.

Two objectives were identified in the action plan:

- **Objective 1:** Improve and strengthen the provision of access for persons with disabilities
- **Objective 2:** Develop processes and implementation strategies to improve transportation and mobility for people with disabilities in urban and rural areas.

While the national endorsement of the 10-year disability policy (2008-2018) is acknowledged, the FNCDP Act of 1994 is yet to be reviewed. We were also not provided with a report by the NCDP on the achievements and progress made under the 2008-2018 National Disability Policy

Furthermore, the Human Rights and Anti-Discrimination Commission has the constitutional mandate of developing a culture of human rights in Fiji by promoting the protection, observance and respect for human rights in both public and private institutions. The Fiji Human Rights Disability Action Plan was adopted at the UN World Human Rights Day Inquiry into the Rights of People with Disabilities, Suva, 10 December 2002, amongst others, affirm that disability is human rights issue and that people with disabilities have the same inalienable rights to life and welfare, education and work, access to all community facilities, self-determination, independent living and active participation in all aspects of society as all other human beings. The action plan also includes access to public places with a goal to create built environment, public spaces and transport system that are accessible to people with disabilities. The strategies identified in the action plan:

- Adopt and enforce a building code applying to refurbishment of existing public facilities and infrastructure as well as planning for new public facilities and infrastructure and for the implementation of accessibility standards for transport.
- Promote inclusive/universal design approaches in professional education courses in architecture, planning and engineering that recognize the needs of people with disabilities.

Enquiries into the achievements of the Fiji Human Rights Disability Action Plan developed by the Fiji Human Rights and Anti-Discrimination Commission could not be facilitated as the current Commission was not in office at the time the plan was developed.

Causes

Reasons for lapse in time of seven years from signing of CRPD to its ratification included:

- Resources are yet to be fully allocated to deal with its ratification;
- Need for awareness as State obligations under CRPD is massive;
- Fiji's national law for disability was an administrative one, and talks have begun to review the FNCDP Act 1994; and
- The political climate during the period may not have been conducive for the ratification of the UNCRPD due to the changing priorities of the State.

The current Management team of the Human Rights and Anti-Discrimination Commission informed us that they were unable to comment on the progress or achievement of the Disability Action Plan. This was due to their limited knowledge relating to the action plan as it was developed and adopted by the Commissions preceding management team way back in 2002.

Effects and risk generated by situation found

Delay in advancing accessibility for persons with disabilities derived from lessons of international and regional engagements, can deprive the opportunities for persons with disabilities to fully embrace their rights. This may result in pushing them into more isolation (as a result of inability to easily access public places) which can have a toll on their physical and mental wellbeing.

The inability by NCPD to prepare an achievement report for the 10 years from 2008 has prevented a full assessment of the strengths and weaknesses of the policy, so that desired policy improvements could be made.

Good Practices (if any)

Whilst a report on the achievement of the action plan was not prepared, the Human Rights and Anti-Discrimination Commission has been educating the public about rights and freedom, receiving and investigating alleged violations of human rights and taking steps to:

- I. Address these violations including reconciliations;
- II. Making application to court for redress; and
- III. Making recommendations to Government in relation to existing and proposed laws to ensure compliance with human rights standards as well as ensure compliance by the State in fulfilling its international human rights obligations with respect to international human rights treaties and conventions.

The Commission has been receiving complaints that include rights of persons with disabilities.

Expected Benefits

Increased opportunities are available to persons with disabilities when their rights and issues regarding their wellbeing are realized from a human rights perspective.

Recommendations

The NCPD should:

- Ensure that international and regional commitments captured in national policies and action plans are implemented in a timely manner using a results based management approach.
- Ensure that full assessment of achievements of any policy document is carried out to allow improvements in policy responses to disability issues.

Theme 2: Enabling Legislations & Policies for accessibility to public transport

Situation Found

Section 41 of the 2013 Constitution captures the rights of persons with disabilities to reasonable access to, amongst others, all public transport. Prior to the enactment of the Rights of Persons with Disabilities Act which came into effect on 21 March 2018 through Act no. 4 of 2018, the only legislation relating directly to persons with disabilities in Fiji was the 24-year-old Fiji National Council for Disabled

Persons (FNCDP) Act of 1994. In 2015, amendments to LTA Regulations relating to public service vehicles saw a promising outcome, with specific requirements to include disability friendly features in public service vehicles. Nonetheless, lack of effective enforcement of the legislation that aim to address barriers for disabled accessibility to public service vehicles is due to weak collaboration and awareness. Inclusion of disabled accessibility into legislation and policies governing sea and air transportation is yet to be established.

Criteria

State Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, State Parties undertake, inter alia:

- *To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention;*⁸
- *To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;*⁹
- *To take into action the protection and promotion of the human rights of persons with disabilities in all policies and programs.*¹⁰

*In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, State Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.*¹¹

*The provisions of the present Convention shall extend to all parts of federal States without any limitations or expectations.*¹²

Evidence and its analysis

Prior to the enactment of the Rights of Persons with Disabilities Act which came into effect on 21 March 2018 through Act no. 4 of 2018, the only legislation relating directly to persons with disabilities in Fiji was the 24-year-old Fiji National Council for Disabled Persons (FNCDP) Act of 1994.

Following the meeting in Beijing in October 1992, where the Proclamation of the Agenda for Action concerning the Asian and Pacific Decade of Disabled Persons (1993-2002) was declared, Fiji became a signatory to the proclamation in 1993. The Agenda for Action consists of 12 major policy categories including:¹³

- | | |
|-------------------------------------|--|
| 1. National Coordination; | 7. Training and Employment; |
| 2. Legislation; | 8. Prevention of Causes of Disabilities; |
| 3. Information; | 9. Rehabilitation Services; |
| 4. Public Awareness; | 10. Assistive Devices; |
| 5. Accessibility and Communication; | 11. Self-help organisations; and |
| 6. Education; | 12. Regional Cooperation. |

The agenda became the framework, not only for carrying out commitments to disability development in Fiji, but was also used as an instrument for developing the FNCDP Act 21 of 1994.

⁸ Convention on the Rights of Persons with Disabilities, Article 4 (1) (a).

⁹ Convention on the Rights of Persons with Disabilities, Article 4 (1) (b).

¹⁰ Convention on the Rights of Persons with Disabilities, Article 4 (1) (c).

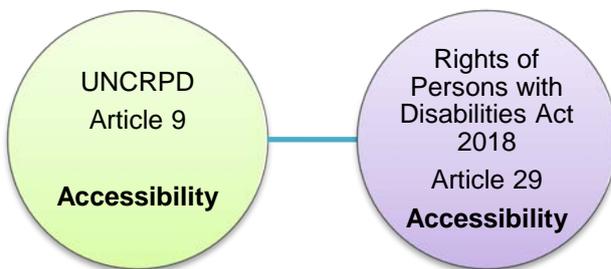
¹¹ Convention on the Rights of Persons with Disabilities, Article 3.

¹² Convention on the Rights of Persons with Disabilities, Article 5.

¹³ https://www.dinf.ne.jp/doc/english/intl/jsrd/escap2002/e_02.html#a23

However, as presented in the Report of the Social Affairs Standing Committee on Social Affairs on the Rights of Persons with Disabilities (Bill No. 12 of 2016)¹⁴, the FNCDP Act of 1994 was deemed outdated as it mostly centred on the establishment and the administrative role of the FNCDP, now known as the National Council for Persons with Disabilities (NCPD). The report further indicated that the 1994 FNCDP Act does not sufficiently address the needs of persons with disabilities and is very limited as it falls short of conveying, upholding or enforcing the individual or collective rights of persons with disabilities in Fiji.

The Rights of Persons with Disabilities Act has been developed in alignment with the United Nations Convention on the Rights for Persons with Disabilities (CRPD). The Act seeks to provide for, uphold and enforce the rights of persons with disabilities in Fiji as provided for under the Articles of the Convention and Section 42 of Fiji’s Constitution. The Act captures bulk of the salient features of the United Nations Conventions of the Rights of Persons with Disabilities and is envisaged to empower persons with disabilities in Fiji.



The barriers of accessibility to public transportation has been adequately addressed in the new Rights for Persons with Disabilities Act 2018 as it includes access to transportation as part of the overall legislation on disability rights which is a step towards improving access.

During the consultation process to scrutinize the Rights of Persons with Disabilities Bill No. 12 of 2016, Professor Rob McCallum, an Independent Legal Consultant¹⁵ was engaged by the Social Affairs Standing Committee on 31 May 2017. Professor McCallum, acknowledged the correlation between Clause 29 of the Bill which deals with accessibility for disabled persons and Clause 42 of the 2013 Constitution. However, he suggested that it would be better if Clause 29 could be redrafted in order to align it with Article 9 of the UNCRPD as it does not cover just access to transport and buildings, but also to communications, and to recreational areas.¹⁶

Similar sentiments were presented through written submissions from the Office of the United Nations High Commissioner for Human Rights, Regional Office for the Pacific (UNOHCHR) & United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) to the Standing Committee. The submission noted that Article 29 of the Bill falls short of Article 9 of the CRPD, in particular by limiting the right of persons with disabilities to reasonable access to physical spaces, transport and information, and not including communications, ICT technology, and public services. While acknowledging that accessibility is critical to persons with disabilities enjoyment of practically all rights under the CRPD and other treaties, so lack or denial of accessibility could be considered discriminatory, the submission recommended that clause 29(a) be amended to remove the word ‘reasonable’ and add communications, ICT technology, and all facilities and services open or provided to the public.

While all rights of persons with disabilities are embedded into the newly enacted Rights of Persons with Disabilities Act of 2018, rights of Persons with Disabilities specific to reasonable access to public transportation, at the national level, are ensued through the following legislative frameworks.

¹⁴ Parliamentary Paper No. 13 of 2018 dated 07 March 2018.

¹⁵ Specialized in Labor Law and also on the area of persons living with disabilities and also the Chairman of the United Nations Committee on the Rights of Persons with Disabilities in Geneva

¹⁶ Verbatim notes of the meeting of the Standing Committee on Social Affairs held in the Committee Room (East Wing), Parliament Precincts’, Government Buildings, dated Wednesday 31 May 2017 at 2.58pm, p.56.

Figure 3.4: Legislative Framework specific to reasonable access to public transport for persons with disabilities



Source: Discussions with Department of Transport on 02 October 2020

The following provisions are found in the 2013 Constitution relating to rights of persons with disabilities to public transportation:

- Section 26, Subsection 6 - states that the proprietor of a place or service in relation to shops, hotels, lodging-houses, public transportation services, taxis and public places must facilitate reasonable access for persons with disabilities to the extent prescribed by law;
- Section 34 - states that the State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to have reasonable access to transportation;
- Section 42 - states that a person with any disability has the right to reasonable access to all places, public transport and information.

Furthermore, Section 113 of the LTA Act 1998 states that the Minister, after consultation with the Authority, may make regulations necessary to give effect to the provisions of this Act and in particular to prescribe, amongst others: -

- Matters necessary to regulate the use of a motor vehicle by persons with special disabilities, including old people.

We noted that amendments to the Land Transport (Public Service Vehicles) Regulations were made in 2015 through Legal Notice No. 66 of 2015 with specific provisions to making public service vehicles user friendly for persons with disabilities. However, while section 113 of the Land Transport Act as noted in the preceding paragraph allows the Minister to make regulations to regulate the use of motor vehicles by persons with disabilities including old people, Part 6 of the Land Transport Act which deals with Public Service Vehicles and links to the PSV Regulations as its governing legislation does not have any provisions specific to state access to persons with disabilities.

The amendment to the Land Transport (Public Service Vehicles) Regulations 2000 which came into effect on 04 July 2015 stipulated that:

- 20A. – (1) *The driver of any public service vehicle must not refuse to carry in the vehicle a person with disability.*
- (2) *The driver of any public service vehicle must take reasonable steps to assist persons with physical disabilities when boarding and disembarking the vehicle.*
- (3) *The owner of any public service vehicle must ensure that the vehicle is user-friendly for persons with physical disabilities.*

Enquiries with the NCPD noted that while they were aware that any public transport especially bus or taxi could not refuse to take a person with disabilities which was the reason for the issue of ID cards for elderly and disabled persons by the implementing agency, they noted that that they were not aware of the other sections of the LTA 2015 amendment Regulations.

A review of the Technical working groups meeting minutes as recorded in Table 3.1 below, noted that the amendments particularly one which require owners of Public Service Vehicles (PSV's) to have their vehicles user friendly for persons with physical disabilities were not mentioned or brought to light during any meeting deliberations.

Table 3.1: Technical Working Group meetings

Technical Working Group (TWG)	Meeting Dates
Public Transport Sector TWG	06 October 2016
	12 October 2016
	19 October 2016
	26 October 2016
	09 November 2016
	16 November 2016
	24 November 2016
	01 December 2016
	08 December 2016
	26 January 2017
	09 February 2017
	16 March 2017
	03 May 2017
	12 June 2017
	22 August 2017
	19 September 2017
	08 November 2017
Land Transport Working Group	13 September 2018
	17 April 2019
Road Safety Consultation & Land TWG	30 May 2019
	13 August 2019
	09 October 2019
Fiji Decade of Road Safety 2011-2020	30 September 2016
Monthly meeting on Overloading	06 July 2016
	15 September 2016
	08 February 2017
	02 May 2017
	11 July 2017
	23 August 2017
	25 September 2017
	08 November 2017
Drainage TWG	17 May 2017
Maritime Issues	02 March 2017
	16 March 2017
	03 May 2017
	13 July 2017
	24 August 2017
	27 September 2017

Source: Meeting minutes provided by Department of Transport on 16 June 2020.

It was noted that the current management of LTA did not have knowledge of the 2015 legislative amendments. Similarly, the Department of Transport was also not aware of the 2015 amendments to the LTA Regulations. However, was aware that some work was undertaken after the amendments with regards to priority sitting in PSVs and line markings for disabled persons.

Our findings discussed above indicate the lack of knowledge of the responsible agencies of the 2015 regulatory amendments relating to user-friendly PSV's for persons with physical disabilities, thus compromising the implementation and enforcement of the regulations.

Maritime and Air Transportation are governed by the following legislation:

Figure 3.5: List of maritime and air transport legislations

AIR TRANSPORTATION	MARITIME TRANSPORTATION			
Civil Aviation Act 1976	Maritime Safety Authority of Fiji Act 2009	Maritime Transport Act 2013	Ship Registration Act 2013	Maritime Regulation

Source: Laws of Fiji: <https://www.laws.gov.fj/Home/laws> & Maritime and Safety Authority of Fiji (MSAF) website <https://msaf.com.fj/msaf-acts/#1513131870986-267fac63-d9ac>

The inclusion of disabled accessible provisions in the governing legislation and regulations for sea and air transportation has not yet been effected.

The Maritime Transport Policy 2015 recognizes the constitutional rights of disabled persons to reasonable access to public transport with implications on the design of transport systems to be accessible and safe to use by disabled persons. However, we could not determine any explicit provisions for the inclusion of disabled accessibility within the policy document. We found the following implicit provisions:

- Fare concessions based on validated ticket sales to, amongst others, disabled persons; and
- Well designed and built jetties to improve the health and safety of passengers with consensus that small boats or lighters is hazardous under unfavourable wind and tide conditions particularly for older people, young children and disabled persons.

For accessibility to air transport, this is an area that Fiji is currently addressing as there are currently no provisions relating to disabled access ingrained into the legislation. There is a great need of improvement in this area but the NCPD is optimistic that changes will happen. It is worthy to note that the work of the Civil Aviation Authority of Fiji is aligned to the Convention on International Civil Aviation which was signed at Chicago on 07 December 1994 which governs international civil aviation and established the International Civil Aviation Organisation (ICAO). Pursuant to Article 37 of the Chicago Convention, the ICAO has published in Annex 9 to the Convention, Standards and Recommended Practices that provide for facilitation of the transport of passengers requiring special assistance. A detailed analysis is captured in Chapter 5.3, Theme 3 titled “State of Disabled Accessibility in Air Passenger Carriers”.

Causes

Since the Rights for Persons with Disabilities Act came into force on 21 March 2018, most implementing agencies are yet to align their policies, plans and regulations in full realisation of the rights of persons with disabilities to reasonable access to public transport.

Lack of knowledge on the 2015 legislative amendments stems from the limited institutional knowledge and initiatives of the enforcement and policy making arms. In addition, low responses to implementing disabled provisions as per the amendments to the PSV regulations in 2015 can be attributed to the following factors:

- It is not a common law, in other words, it is not a law that is implemented on a daily basis; and
- There are about ten (10) regulations that require enforcement whereby mostly common laws are enforced and disability provisions are not one of them due to the lack of capacity, resources and manpower.

Minimal responses to accessibility issues relating to maritime and air transportation can be attributed to deficiencies in coordination between the Ministry hosting the Department of Transport and that

hosting the National Council for Persons with Disabilities. Despite this, the NCPD has slowly ventured into these areas as matter of responsibility.

Effects and risk generated by situation found

Without accessible transportation, persons with disabilities may experience exclusion from services and further isolation from lack of social contact. The World Health Organisation (WHO) in their 2011 World report on disability, while making reference to a survey conducted in the United States of America, noted that the lack of transportation was the second most frequent reason for persons with disabilities discouraged from seeking employment.

Good practices (if any)

The Land Transport Authority has approved the revised Quality Assurance Maintenance System (QAMS) on 20 March 2019 which first came into place in 2014. The policy basically outlines the procedures that are to be adhered to by bus operators as well as infrastructural requirements that should primarily be constructed or installed before system implementation which includes workshop building, ramps, tools and equipments. The policy further captures four (4) main components which further consist of standards. Refer Figure 3.5 for components and standards of the QAMS.

Figure 3.6: Components and Standards of QAMS

Management Information System	Maintenance Management System	Log Book Driving Hours	Workshop General Requirement
<ul style="list-style-type: none"> • Driver Monitoring Program • Fleet Register • Accident Register • Emergency Management Plan • Mobility Enhancement Strategy • Public Complaints Register 	<ul style="list-style-type: none"> • Daily Inspections • Defect Reporting 	<ul style="list-style-type: none"> • Requires that all operators to ensure that drivers of the buses are made aware that they are to comply with driving hours requirements state under Regulation 48 (Traffic) Regulation 2000. 	<ul style="list-style-type: none"> • Tools and Equipment.

Source: LTA Quality Assurance Maintenance System

Under the first component which deals with Management Information System, one of the standards known as the Mobility Enhancement Strategy includes plan to make buses accessible to disable customers in accordance with relevant regulations. Bus operators to ensure that all staff are aware of the commitment to compliance with the legislation addressing discrimination against persons with disabilities. In addition, under the strategy, operators must establish plans for fleet up-grade in consultation with the contracting body and replacement buses to be more accessible to persons with disabilities.

We were informed that LTA will meet with PSV operators, making them aware of their obligations under the 2015 amended regulations. Enforcement will follow on a phased-basis as re-fleeting of vehicles cannot be undertaken overnight.

The accessibility issues for boats and airline, is something that the NCPD has slowly ventured into. Currently the team is holding informal meetings to test whether those in the sector are ready to commit.

Objective six (6) of the Implementation Plan of the Rights of Persons with Disabilities Act 2018 includes advocating for accessibility for transport services (land/sea/air) and review of current legislation to be in line with Rights of Persons with Disabilities Act 2018. Refer Table 3.2 for MEL components.

Table 3.2: Components of Implementation Plan relating to Accessibility and Policy

STRATEGIES	ACTIVITY	TIMELINE	KEY PERFORMANCE INDICATORS	TASK MANAGERS
Accessibility	Advocate for accessibility for transport services (land/sea/air)	Ongoing	Changes in the policy to be disability inclusive.	Affiliates to Council.
Policy	Review of current legislation to be in line with the Rights of Persons with Disabilities Act 2018 e.g. Gender Policy and Service Delivery Protocol.	Year 2 Ongoing	65% of current policies reviewed to be disability inclusive.	Council.

Source: Draft NCPD Implementation Framework 2019 - 2023

Expected benefits

According to Peter Roberts, a Lead Specialist for Infrastructure Services at the World Bank and Julie Babinard, a Consultant also at the World Bank, in their paper titled Transport Strategy to improve Accessibility in developing Countries, they noted that improved access and mobility are important factors in reducing poverty and can facilitate the participation of people with disabilities in economic, social and political processes.

Recommendations

The LTA should:

- Work closely with its PSV stakeholders to better enforce the law relating to access for persons with disabilities.
- Consider making specific provisions for disabled persons possibly in Part 6 or Section 65 of the Land Transport Act as the governing legislation for the PSV Regulations.

The NCPD should:

- The NCPD should expedite the execution and monitoring of the Implementation Plan so that further delays to disabled access inclusions in legislation and policies are prevented.
- Ensure that coordination between the policy making and implementing agencies are strengthened.

Theme 3: Enabling Legislations & Policies for accessibility to Public Offices

Situation Found

We noted that there are established legislation and regulations relating to disabled access to public accommodation. However, these are yet to be reviewed and updated, where necessary and the necessary awareness has not been carried out.

Criteria

State Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, State Parties undertake, inter alia:

- *To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention;¹⁷*
- *To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;¹⁸*
- *To take into action the protection and promotion of the human rights of persons with disabilities in all policies and programs.¹⁹*

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, State Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.²⁰ The provisions of the present Convention shall extend to all parts of federal States without any limitations or expectations.²¹

Evidence and Analysis

As discussed in Theme 2 of this Section, before the Rights of Persons with Disabilities Act came into effect on 21 March 2018 through Act no. 4 of 2018, the only legislation relating directly to persons with disabilities in Fiji was the Fiji National Council for Disabled Persons (FNCDP) Act of 1994.

Fiji has made substantial progress in designing and establishing regulatory framework for making public offices barrier-free. These include, but are not limited to:

- Section 26, subsections 5 & 6 and Section 42 of the Bill of Rights under the 2013 Constitution;
- Public Health (National Building Code) PG ND 18 (Access for Persons with Disabilities);
- Town Planning Act Chapter 139 General Provision November 1999. 46 (14) Facilities for the disabled persons; and
- Cabinet Decision 462 (FNCDP) of 09 September 2003: Fiji National Council for Disabled Persons (FNCDP), Building Code - Access for Persons with Disabilities (ii) Agreed in principle that all major buildings either constructed or rented by Government in future are to be disabled friendly and have accessibility provisions.

¹⁷ Convention on the Rights of Persons with Disabilities, Article 4 (1) (a).

¹⁸ Convention on the Rights of Persons with Disabilities, Article 4 (1) (b).

¹⁹ Convention on the Rights of Persons with Disabilities, Article 4 (1) (c).

²⁰ Convention on the Rights of Persons with Disabilities, Article 3.

²¹ Convention on the Rights of Persons with Disabilities, Article 5.

The 2013 Constitution provides explicit rights of persons with disabilities to public buildings. Section 26, subsection 5 of the Constitution stipulates that every person has the right of access, membership or admission, without discrimination on a prohibited ground, to shops, hotels, lodging-houses, and public restaurants, places of public entertainment, clubs, educational institutions, public transportation services, taxis and public places. Subsection 6 further requires that the proprietor of a place or service referred to in subsection (5) must facilitate reasonable access for persons with disabilities to the extent prescribed by law. In addition, Section 42, subsections 1 and 2 of the Constitution notes that a person with any disability has the right (a) to reasonable access to all places, public transport and information. It further entails that a person with any disability has the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realisation of their rights.

The National Building Code is included under the Public Health (National Building Code) Regulations 2004 in the Public Health Act 1935. The basic objective of the code is to ensure that acceptable standards of structural sufficiency, fire safety, health and amenity, are maintained for the benefit of the community now and in the future.²² The National Building Code shall be used for construction of all buildings to which the act applies for all classes of occupancy.²³ The requirements for access for people with disabilities is stated in the National Building Code part ND3. A person who fails to comply with a requirement of the code commits an offence and is liable on conviction to a fine not exceeding \$200 and if non-compliance continues, to a further fine not exceeding \$4 a day for each day during which the non-compliance continues after the conviction.²⁴

The requirements of law have not been effectively enforced by the officers responsible for Public Health on those buildings that have been built without access for people with disabilities. Our meeting with the Public Health Officials mentioned the transfer of functions and powers of local authorities in rural districts and boards which stipulate that:²⁵

- 1) Notwithstanding any other provision in this Act or any other written law, any function or power that relates to health services and is conferred by this Act or any other written law on a local authority in a rural district existing immediately before 1 August 2018, shall be performed or exercised by the Board from 1 August 2018
- 2) Notwithstanding any other provision on this act or any other written law, any function or power that does not relate to health services and is conferred by this act or any written law on a local authority in a rural district existing immediately before 1 August 2018, shall be performed or exercised by a municipal council designated under section 6A of the Local Government act 1972 from 1 August 2018.
- 3) Notwithstanding any other provision on this act or any other written law, any function or power that does not relate to health services and is conferred by this act or any written law on the Board existing immediately before 1 August 2018, shall be performed or exercised by a municipal council designated under section 6A of the Local Government act 1972 from 1 August 2018.

To meet international standards and to be enforced, the national building code needs to be reviewed as identified in the National Policy on Persons Living with Disabilities (2008 – 2018). Our discussions with the Construction Industry Council (CIC) on 02 June 2020, indicated that due to lack of funding the review is yet to eventuate.

²² 1990 National Building Code Page 1x

²³ Public Health (National Building Code) Regulations 2004 part 3(1)

²⁴ Public Health (National Building Code) Regulations 2004 part 4

²⁵ Public Health Act: part 17 - Transition

In addition, the Town Planning Act 1946, the Town Planning General Provisions 1999 and the subdivision of Lands Act 1937. Provision of disability Access is covered under Provision 9 of the Town Planning General Provisions 1999, Schedule G (General Requirements in all Zones), requirement no. 14 (Facilities for the disabled persons), detailing the following requirements:

- a) Developments shall provide for reasonable access and other facilities for disabled persons in zones other than Residential Zones; and
- b) A pick-up and set-down area for vehicles carrying disabled persons shall be provided within easy access to the entrance of a building and which shall be clearly marked and reserved at all times for such vehicles in zones other than Residential Zones.

Prior to the National Building Code being legislated in 2004, Cabinet decision dated 09 September 2003, noted that it was agreed to in principle that all major buildings either constructed or rented by Government in future are to be disabled friendly and have accessibility provisions.

Plans to review the above legislations and regulations were articulated in the 10-year National Disability Policy under the objective 1 of the 6th Strategic Policy Area on **Access to built environment and transport systems**. Table 3.3 is an extract from the National Disability Policy relating to review of legislations and regulations.

Table 3.3: Review of Legislations and Regulations related to public accommodation

Objectives	Action Plan
Improve and strengthen the provision of access for persons with disabilities.	FNCDP in consultation with the Public Works Department and Ministry of Local Government, DPO's and relevant stakeholders to review the Fiji Building Code, Town and Country Planning Act and Public Health Act in respect of access provisions for people with disabilities (by City Councils, Town Councils and Provincial Development Ministry and Provincial Council) and monitor enforcement and penalties for non-compliance;

Source: National Disability Policy 2008 – 2018, pp.20.

However, review of the legislation as per action plan in the National Building Code did not eventuate for the duration of the 10-year policy period.

Causes

The apparent lack of commitment by the various stakeholders particularly the NCPD, Department of Buildings at the Ministry of Infrastructure and Meteorological Services, Ministry of Local Government, Disabled Persons Organisations (DPO's) and other relevant stakeholders seems to be the main reasons for the non-review of the stipulated legislation and regulations. This can be attributed to the lack of awareness by the identified agencies in the action plan.

Effects and risk generated by situation found

Delays in the review of legislation and regulations can delay its enforcement. Consequently, persons with disabilities are deprived of their rights in respect of access to public buildings and places, as provided for in the constitution.

Good Practices (if any)

A taskforce has been established in 2019 to review the National Building Code chaired by the Director Buildings of the Ministry of Infrastructure and Meteorological Services. They are progressing well with meetings/consultations and with the current 2020/2021 fiscal year's budget, there are plans to engage further on the programmed activities.

In addition, the NCPD Secretariat has advised the National Council for Persons with Disabilities (NCPD) on the importance of the role of the Advisory Committee in ensuring a timely review of relevant legislation.

Expected Benefits

Timely review of legislation to incorporate international best practices with necessary enforcement of the law, once enacted, could allow persons with disabilities to be able to enjoy the full advantages of disabled accessibility to built environments.

Recommendations

The NCPD should:

- Coordinate with stakeholders and ensure that timely review of legislation is carried out with due consideration to international best practices and designs.
- Work with agencies responsible for public health such as Department of Town and Country Planning and municipal councils to promote voluntary compliance with international best practises in relation to accessibility to buildings by persons with disabilities while legislation is being updated.

The Ministry of Infrastructure and Meteorological Services should expedite the review of the National Building Code.

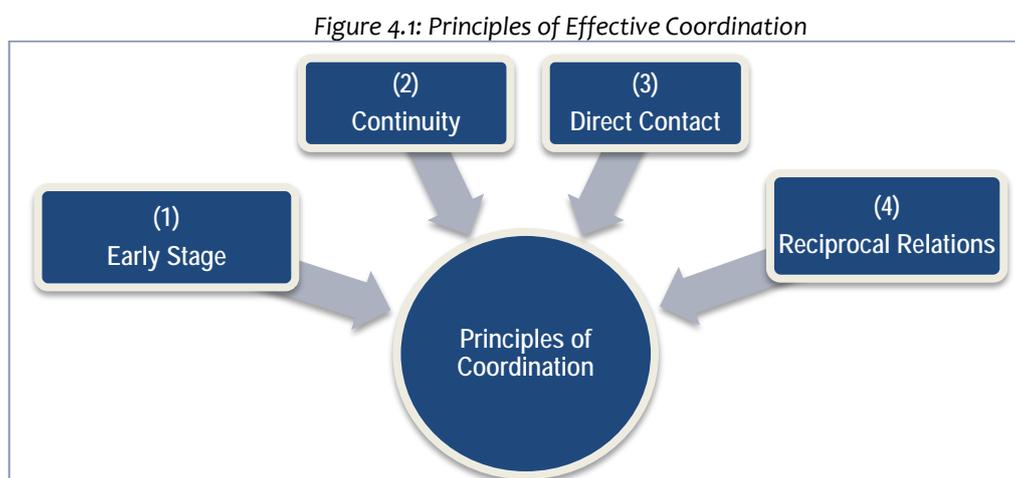
4.0 STAKEHOLDER ARRANGEMENTS & ENGAGEMENTS

Summary of main findings of the Chapter.

The 5-Year and 20-Year National Development Plan (NDP) has identified disability as a cross cutting issue.²⁶ Programme implementation for national development challenges and issues that are cross-cutting in nature should be facilitated through coordinated institutional approaches within government enabling strategies at sector and agency levels.

The United Nations Development Programme (UNDP), in its conference paper and working draft of November 2006 defines Multi-Stakeholder Engagement Processes (MSEPs) as (structured) processes that are used to ensure participation on a specific issue which are based on a set of principles, sometimes inspired by the rights-based approach to development. In the Bill of Rights of the 2013 Constitution, there is specific mention of the rights and freedoms of persons with disabilities under Section 42 of the Constitution which includes reasonable access to all places, public transport and information. In order to make this right a reality, the involvement of key implementing agencies is required. These agencies include municipal councils, Department of Town and Country Planning, Department of Buildings, Occupational Health and Safety (OHS) Department, Public Health Department, Construction Implementation Unit (CIU) of the Ministry of Economy, Department of Transport, Land Transport Authority (LTA), Fiji Roads Authority (FRA), Fiji Bus Association, Fiji Taxi Association, and Construction Industry Council. A coordinated multi-stakeholder engagement approach is therefore fundamental for the successful provision of accessibility to public offices and public transport for the disabled population of Fiji.

We reviewed and analysed the stakeholder arrangements and engagements for the advancement of initiatives in the provision of accessibility for persons with disabilities to public offices and public transport using the first two (2) principles in Follett's Principles of Coordination as illustrated in Figure 4.1 below.



Source: Mary Parker Follett's Principles of Coordination

Mary Parker Follett, an American theorist known for introducing ideas about human psychology and human relations into industrial management suggested four main Principles of Coordination. Follett suggested that under the early stage principle, coordination must start at an early stage in the management process advisably at the planning stage, resulting in development and successful implementation of effective plans.

²⁶ 5 Year & 20 Year National Development Plan, Forward Address by Attorney General and Minister for Economy.

“Unity not uniformity must be our aim. We attain unity, only through variety. Differences must be integrated, not annihilated, not absorbed.”

Mary Parker Follett.

According to the principle of continuity, coordination must be a continuous process and must be undertaken during the planning, organising, directing and controlling.

National strategies for synergizing efforts to properly recognise the rights of persons with disabilities in relation to reasonable access to

public offices and public transport include the development of the 10-year National Disability Policy and the enactment of the Rights of Persons with Disabilities Act 2018 together with its implementation framework. Other efforts include the establishment of multi-stakeholder committees in the form of Advisory Committees, District Committees, Technical Working Groups (TWGs), and forums such as the National Transport Consultative Forum (NTCF). These strategies confirm Government’s commitment to providing reasonable access for persons with disabilities to public offices and public transport. However, major problems still remain which include ineffective coordination framework due to policy weakening at the implementation level, significant delays between stakeholder engagements/contacts affecting process continuity and inactive and non - involvement of stakeholders in the working mechanism. These impedes the effective coordinated institutional approach with respect to the provision of access for persons with disabilities to public offices and public transport.

Theme 1: Integrated Coordination Framework – Early Stage Planning

Situation Found

The establishment of a central authority and coordinating body for the disability sector in Fiji in the form of the National Council for Persons with Disabilities (NCPD) has provided the right foundation for disability development in Fiji. The National Disability Policy 2008 – 2018 provided the initial institutional framework for coordinating efforts for addressing disability in Fiji at the sector level. The policy captures the strategic policy areas, its objectives and action plans and draws on efforts of consultation with implementing agencies. While disability mainstreaming policies are in place at the national level in Fiji, limitations at the implementation level is a problem because implementing agencies were not involved during initial consultations for the formulation of the policy in the first place.

Criteria

*State Parties, in accordance with their system of organisation, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration of a coordination mechanism within government to facilitate related action in different sectors and at different levels.*²⁷

*One of the functions of the NCPD is to operate as the focal point in Fiji for the CRPD as per Section 5, part (r) of the Rights of Persons with Disabilities Act 2018.*²⁸ *The alliance between government and non-governmental sectors including churches and the private sector, will be crucial if we are to make good progress in creating a rights based, fully inclusive and barrier-free society in Fiji.*²⁹

²⁷ United Nations Convention on the Rights of Persons with Disabilities, Article 33, Part 1.

²⁸ Rights of Persons with Disabilities Act 2018, Section 5, Part (r).

²⁹ National Policy on Persons Living with Disabilities, 2008-2018, preface, p. (i).

Evidence and its analysis

“I know that there is a lot of things to do, a lot of work and a lot of modifications and first of all FNCDP will change its name from FNCDP to NCPD – National Council for Persons with Disabilities.”

The late NCPD Executive Director Dr. Sitiveni Yanuyanutawa while presenting on the Rights of Persons with Disabilities Bill (Bill No. 12 of 2016) to the Social Affairs Standing Committee

The Fiji National Council for Disabled Persons (FNCDP), now known as the National Council for Persons with Disabilities (NCPD) since 21 March 2018³⁰ through Act no. 4 of 2018³¹, is the central agency or authority responsible for coordination with respect to disability development in Fiji. The establishment of the Council provided the right foundation for disability development in Fiji as there is increased realization of the needs of the disabled community as a rights issue rather than a welfare issue.

Due to the inadequate service provisions and vocational training programs rendered to the disabled community in Fiji which favoured those in the bigger urban centres and were inaccessible for the rural disabled population, the need to establish a central authority and national coordinating body to look after the need for people with disabilities and disability development in the country was inevitable. The Fiji National Council for Disabled Persons (FNCDP), was then established through Cabinet approval in September 1992. The establishment of the Council was a deliberate outcome of recommendations presented by a sub-committee that was appointed in 1989 which comprised of government, non-government and persons with disabilities themselves. The sub-committee recommended the establishment of a central authority to look after the need for persons with disabilities development in the Country.

As the coordinating body for the disability sector in Fiji, the establishment of the Council was consolidated through a legal framework, the FNCDP Act of 1994. The Act outlined various functions of the Council including to:

- Formulate a national policy that would ensure that services are provided to all disabled persons in Fiji;
- Periodically review the national policy and national plan of action for the purpose of determining their continuing relevance to local, regional and international realities.

We noted that the National Disability Policy was developed after a lapse of twelve (12) years since the coming into effect of the 1994 FNCDP Act on 01 December 1994. The work on the new National Disability Policy began in March 2006 with a request forwarded to United Nations Economic and Social Commission for Asia and the Pacific, Pacific Operators Centre (UN-EPOC), seeking assistance to develop a national policy on disability. The first draft of the policy was developed after a national workshop on 05 July 2006. This was followed by a series of district consultations that took place over August and September 2006 in Korovou, Nausori, Navua, Sigatoka, Lautoka, Rakiraki, Taveuni, Labasa, Kadavu and Levuka. A special consultation was held with the Disabled Persons Organisations (DPO's) on 09 September 2006 and a final consultation took place in October where the final draft of the policy was reviewed and refined. A review of the 2006 Audited Financial Statements for NCPD noted that the Council spent a total of \$5,775 on the consultation workshops in 2006. An additional \$3,000 was expended in 2008 for the printing of the Policy document.

³⁰ Rights of Persons with Disabilities Act 2018, Commencement Notice, Legal Notice No. 20 of 2018.

³¹ Rights of Persons with Disabilities Act 2018, Establishment of the National Council for Persons with Disabilities, Clause 3, Sub-clause 1.

On 04 November 2008, Cabinet endorsed the National Disability Policy 2008 – 2018 as a national strategy, framework and guideline with issues surrounding persons with disabilities which would be administered through the NCPD.

The 10-year National Disability Policy was the Initial Institutional Framework for Coordination efforts for addressing disability in Fiji. The policy development process of the National Disability Policy grouped the objectives of the policy into 12 strategic Policy areas. The strategic policy areas had been grouped in order of priority in which the 6th strategic policy area was on **Access to built environment and transport systems**. Each strategic policy area has one or more objectives and the objectives have a number of actions outlined. Reflected in Table 4.1 below is an extract from the National Disability Policy 2008-2018 which provides the objectives and actions under the 6th strategic policy.

Table 4.1: Objectives and Action Plans under the 6th Strategic Policy Area of the National Disability Policy - Access to built environment and transport systems

Objectives	Action Plan	KRI ³²	Outputs
Improve and strengthen the provision of access for persons with disabilities.	FNCDP in consultation with the Public Works Department and Ministry of Local Government, DPO's and relevant stakeholders to review the Fiji Building Code, Town and Country Planning Act and Public Health Act in respect of access provisions for people with disabilities (by City Councils, Town Councils and Provincial Development Ministry and Provincial Council) and monitor enforcement and penalties for non-compliance;	Building code reflects access provisions and awareness of provisions with implementing and enforcement agencies.	Review building code.
	Strengthen networking between stakeholders who are responsible for the built environment to follow similar access guidelines;		Greater awareness of needs of people with disabilities amongst stakeholders.
	FNCDP in consultation with the Public Works Department, DPO's, Town Councils and relevant professional associations provide training and awareness raising for designers and builders and other relevant stakeholders on accessibility requirements to ensure implementation of the building code.		Training package developed by FNCDP, DPO's and other stakeholders.
Develop process and implementation strategies to improve transportation and mobility for people with disabilities in urban and rural areas.	FNCDP and the Ministry in consultation with the LTA, review and monitor relevant regulations including: <ul style="list-style-type: none"> ✓ Public transport accessibility; ✓ Requirements placed on drivers with disabilities and related vehicle modification inspection requirements; ✓ Options for improving public transport; ✓ Bus subsidy system for people with disabilities and explore options for the extension of the system to include taxis and minibuses. 	Strategy developed and published for public consultation.	LTA regulations and policies reviewed.
	City, and Town Councils and rural local authorities make provision for car parks for people with disabilities as well as wheelchair access on public pathways (particularly near public buildings including places of worship, banks, libraries, shopping malls, sporting facilities and entertainment centres etc.)		Greater awareness of needs of people with disabilities amongst City municipalities, town councils and rural local authorities.
	LTA in consultation with FNCDP and the Ministry to investigate options for improving access to sea and air transportation.		LTA reviews options for improving access to sea and air transportation and seeks input from stakeholders.

Source: National Disability Policy 2008 – 2018, pp.20, 30 & 38

³² KRI – Key Result Indicators

Collaboration is central to the successful achievement of the above objectives and action plans with the NCPD being the leading advisory body advocating and working through relevant ministries in implementing policies related to disabled persons.

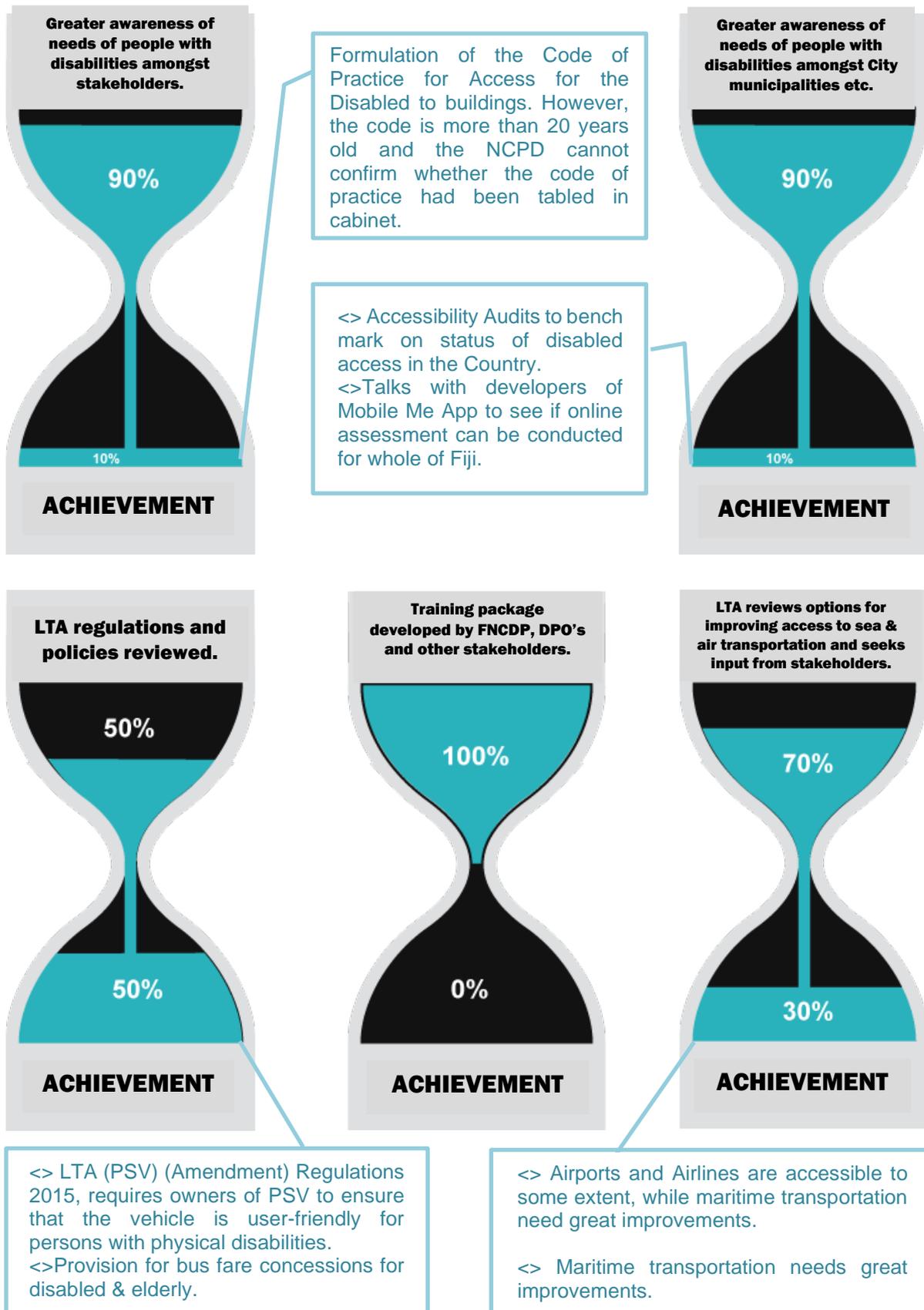
While the national endorsement of the 10-year disability policy as required under the FNCDP Act 1994 is acknowledged, the Act also required the periodic review of the policy for the purpose of determining its continued relevance. We were advised that NCPD had not reviewed nor prepared a report on the achievements of the national disability policy. This prompted our request for an update on the achievements of Individual Action Plans under the 6th Strategic Policy area **Access to built environment and transport systems** as outlined in Table 4.1 above. Figure 4.2 below demonstrates the extent of NCPD’s achievements in percentage wise based on the updates provided by the NCPD.

Figure 4.2: Access to built environment and transport systems – Its achievements over the last decade



Source: Fiji Sun Online dated 24 January 2019

Source: Fiji Times Online dated 22 January 2019



Source: Auditors analysis of comments and evidence from NCPD and other stakeholders and review of NCPD's Annual Reports

As can be seen from Figure 4.2, most of the planned outputs under the 6th Strategic Policy area **Access to built environment and transport systems** were not achieved resulting from strategies/action plans not being fully implemented over the 10-year period of the policy.

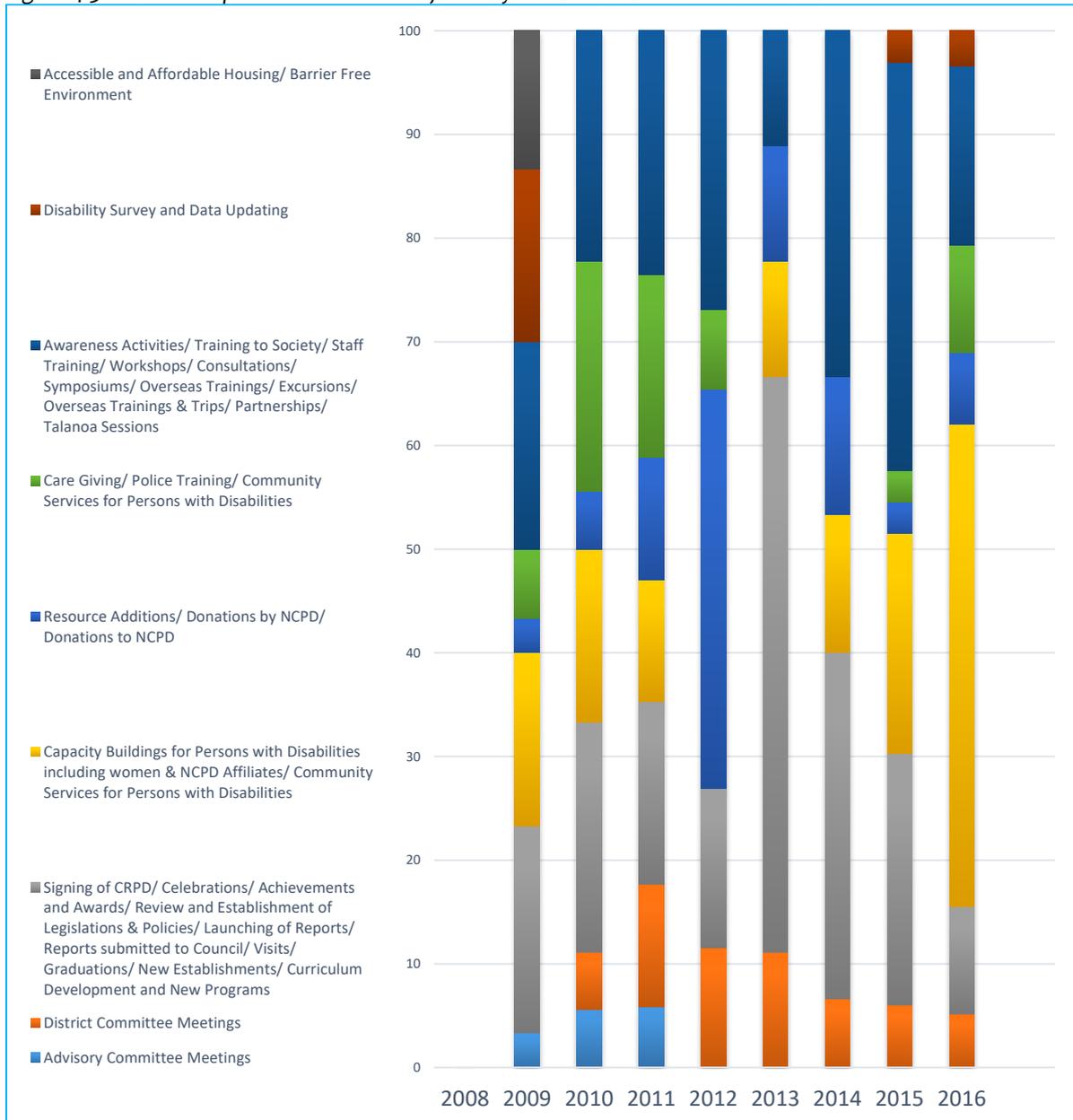
Areas where partial achievements were noted were driven by other factors which the NCPD had little to no influence. For instance, the review of the Fiji National Building Code was the initiative of a Fiji National Building Code (FNBC) review committee established in 2019, comprising of representatives from three Ministries, namely Ministry of Health, Ministry of Infrastructure and Ministry of Commerce with the inclusion of two representatives from the private sector, Construction Industry Council (CIC) and Fiji Institute of Engineers (FIE). In addition, other initiatives to review the building code included a workshop organised by the Construction Industry Council which was held at Novotel on 23 January 2019. The workshop facilitator was a New Zealand architect who had been engaged by the Pacific Regional Infrastructure Facility (PRIF) through Asian Development Bank (ADB) to undertake a diagnostic study on the capacity of Pacific Island Countries to apply their building codes and provide guidance on future assistance initiatives related to building code updates. The positive achievement of 50% for the review of the Land Transport Authority (LTA) regulations and policies was instigated by LTA in 2015 with the LTA (Public Service Vehicle (PSV)) (Amendment) Regulations 2015.

We further sought other avenues to assess the actual or perceived outputs of the 10-year policy in relation to **Access to built environment and transport systems** by reviewing the minutes of the NCPD Council. We found explicit reference of the National Disability Policy being the working tool of the Council and that it had also been incorporated into the activity of the NCPD's corporate plans in the Council meeting minutes³³. In addition, we noted that the Council members were informed in the Council meetings³⁴ that the National Disability Policy was the working document of the Council. We gathered that planned activities in the Annual Corporate Plan (ACP) would be subsequently reported in the Council's Annual Reports (AR). An analysis of the Councils achievements against planned activities in their ACP's for the years 2008 to 2018 are illustrated in Figure 4.3.

³³ Dated 27 July 2010 and 03 March 2011.

³⁴ dated 17 May 2011, 22 November 2011, 20 December 2011, 14 December 2012 and 25 March 2013

Figure 4.3: Councils Reported Achievement for the years 2008 – 2018 – ACP versus AR



Source: Auditors Analysis based on comparison of NCPD’s Annual Corporate Plans & Annual Reports

The above illustration shows that more than 80% of the achievements reported each year were more around the areas of capacity building programs, awareness programs, workshops, consultations & trainings for staff and societal levels, resource additions, awards and celebrations.

Indications of collaboration work with implementing agencies responsible for providing disabled access to public offices and public transport were assumed to be part of the Advisory Committee meetings which included the Housing Transport & Environment (HTE) Advisory Committee (ADCOM). However, minutes provided to us for the HTE ADCOM revealed that the committee did not meet for the years 2008, 2009, 2011, 2013, 2018 and 2019.

Despite the proclamation of the National Disability Policy being the framework for addressing disability in Fiji with the aim of, inter alia, prioritizing actions to dismantle barriers hindering the full participation of persons with disabilities in their social and economic life, there is a clear indication that little has been done to encourage collaboration work to achieve the objectives under the 6th

Strategic Policy area **Access to built environment and transport systems** which include:

- Improving and strengthening the provision of access for persons with disabilities; and
- Developing processes and implementation strategies to improve transportation and mobility for people with disabilities in urban and rural areas.

Causes

Delays in the development of the National Disability Policy by twelve (12) years since the coming to effect of the 1994 FNCDP Act on 01 December 1994 were due to Disabled Persons Organizations (DPO's) being scattered across the country and the Secretariat to the council becoming a full functioning body in 2006. Prior to this, the Secretariat only consisted of the Executive Director and his/her Secretary. The lapse of seven (7) years between the signing and ratification of the CRPD have also contributed to the delays in disability development in Fiji, compelled by the following factors:

- Government was yet to allocate resources to deal with its ratification;
- Need for awareness as State obligations under CRPD is massive;
- Fiji's national law for disability was an administrative one, and talks had begun to review the FNCDP Act; and
- The political climate during the time was not conducive for the ratification of the UNCRPD due to changing state priorities.

Delay in exercise of political commitment at the implementation level, driven by stakeholders not being aware of their role as per the National Disability Policy were cited by the NCPD to be the main reason for weak collaboration.

Lack of stakeholder awareness is due to stakeholders not being fully involved in the initial planning stages and lack of awareness to the implementing agencies.

Effects and risk generated by situation found

Delays in effective collaboration by staffs from relevant agencies has affected the provision of accessible public offices and public transport to persons with disabilities.

Good practices (if any)

Limited achievements in the areas of providing access for persons with disabilities to public Offices and public Transport does not indicate poor performance on the part of the NCPD as a lot has been achieved in other strategic policy areas of the National Disability Policy. However, ease of movement of disabled persons will allow them to enjoy the other benefits of the initiatives in the policy.

In addition, the NCPD advised that they are already in the process of consultations for the new policy which should begin in September 2020 in line with plans established in their Implementation Framework 2019-2023, as indicated in the table below.

Table 4.2: Review of National Disability Policy incorporated into NCPD’s implementation plan 2019-2023

Objective 10 : To promote and ensure the national, regional and international legislative frameworks are enforced				
Key Result Area (KRA) 10.1 Promote and Ensure the rights of Persons with Disabilities				
Strategies	Key Performance Indicators (KPI)			
Enforcement	Reviewed National Policy for disability services in Fiji Revised policy which is disability inclusive Ministries have indicators that are measurable and tangible relevant to the Implementation Plan Submission of reports from the affiliates National Annual Report that encompasses all disability achievements Audit Reports of Council accounts.			
Implementation Plan				
Strategies	Activity	Timeline	KPI	Task Managers
Enforcement	Review of the National Disability Policy	First year	Reviewed National Policy for disability services in Fiji	Council.
	Review relevant national policies	Annual Commence – Year 1	Revised policy which is disability inclusive Ministries have indicators that are measurables and tangible relevant to the Implementation Plan.	
	Relevant Ministerial permanent secretaries of Council provides reports on disability inclusive achievements against the Implementation Plan	Measured annually		

Source: NCPD’s Draft strategic and implementation plan 2019-2023

Expected benefits

Involving the implementing agencies in the initial planning stages, as indicated in the first Follett’s principle of effective coordination, will result in making the best plans and implementing these plans with success. Thus, by initiating proper coordination using the early stage planning principle ensures that achievements of all objectives is done easily and without significant delays.

Recommendations

The NCPD should:

- Ensure that proper awareness on the provisions of the CRPD is carried out so that established functions in the governing legislations regarding accessibility issues faced by the disabled community are expedited without further delay.
- Consider involving the implementing agencies in the initial planning stages of the policy development process which ensures that they are fully aware of their roles in terms of implementing accessibility provisions to public offices and public transport.
- Facilitate proper awareness to the implementing agencies.

Theme 2: Working Mechanisms as a Continuous Process

Situation Found

Further to the establishment of National Legislative Frameworks and institutional frameworks, multi-stakeholder committees have also been established at the governance and grass-root levels to assist in the pursuit of making the Rights of Persons with Disabilities real.

Though the formulation of the working mechanisms through legislation is commendable, their mere existence is not a sufficient condition to effectively address disability issues in Fiji. In fact, challenges in managing these coordination mechanisms relate to continuity problems. The establishment of the committees is one fragment, the other yet an essential part is the continuous engagement of stakeholders through regular and effective consultations that are results oriented. Fully realizing continuity and results driven principles could assist in addressing the cross-cutting issues that the disabled population of Fiji face on a daily basis. This includes the slow-paced provision of barrier-free access to public offices and public transport.

Criteria

State Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake to take all appropriate measures to eliminate discrimination on the basis of disability by any person, organisation or private enterprises.³⁵

State parties shall also take appropriate measures to ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities.³⁶

Evidence and its analysis

The National Council for Persons with Disabilities (NCPD) is currently under the responsibility of the Ministry of Women, Children and Poverty Alleviation (MWCPA) whereby the NCPD reports to the Minister for Women, Children and Poverty Alleviation through the NCPD Chairperson regarding the general conduct of its activities.

The Minister for Women, Children and Poverty Alleviation also appoints the members of the Council from relevant Government Ministries, including representatives from organizations providing services to disabled persons. Transitioning from the repealed FNCDP Act of 1994 to the current Rights of Persons with Disabilities Act 2018, a comparison of the member's composition noted that while both legislations allowed for a representative of the mandated member to be a Council member, the following significant differences were noted:

- Specifics of the chairperson;
- Non-inclusion of Chairpersons of the Divisional Committees of the Council to be Council members;
- Extended membership to organisations advocating for the rights of persons with disabilities and gender equality without limiting membership to representatives from Disabled Persons Organisations (DPOs) only and their numbers as well from 7 to 4 representatives;

³⁵ United Nations Convention on the Rights of Persons with Disabilities, Article 4, Part (e).

³⁶ United Nations Convention on the Rights of Persons with Disabilities, Article 9, Part 2 (e).

- Increased number of Government Ministries/Departments represented, now comprising of Health, Education, Labour and Finance, Justice, Youth and Sports, Local Government, Housing and Environment, and Infrastructure and Transport.
- Membership of the Permanent Secretary or their representative responsible for women and social welfare specified in new Act, including the exclusion of Ministry of Economy and the Executive Director of the Secretariat.
- Application and duration of the clause on Term of holding Office as a member of the Council.
- Non-inclusion of co-opted members, however, person(s) can be invited as visitors only when the need arises.
- Non-inclusion of requirements for quorum.

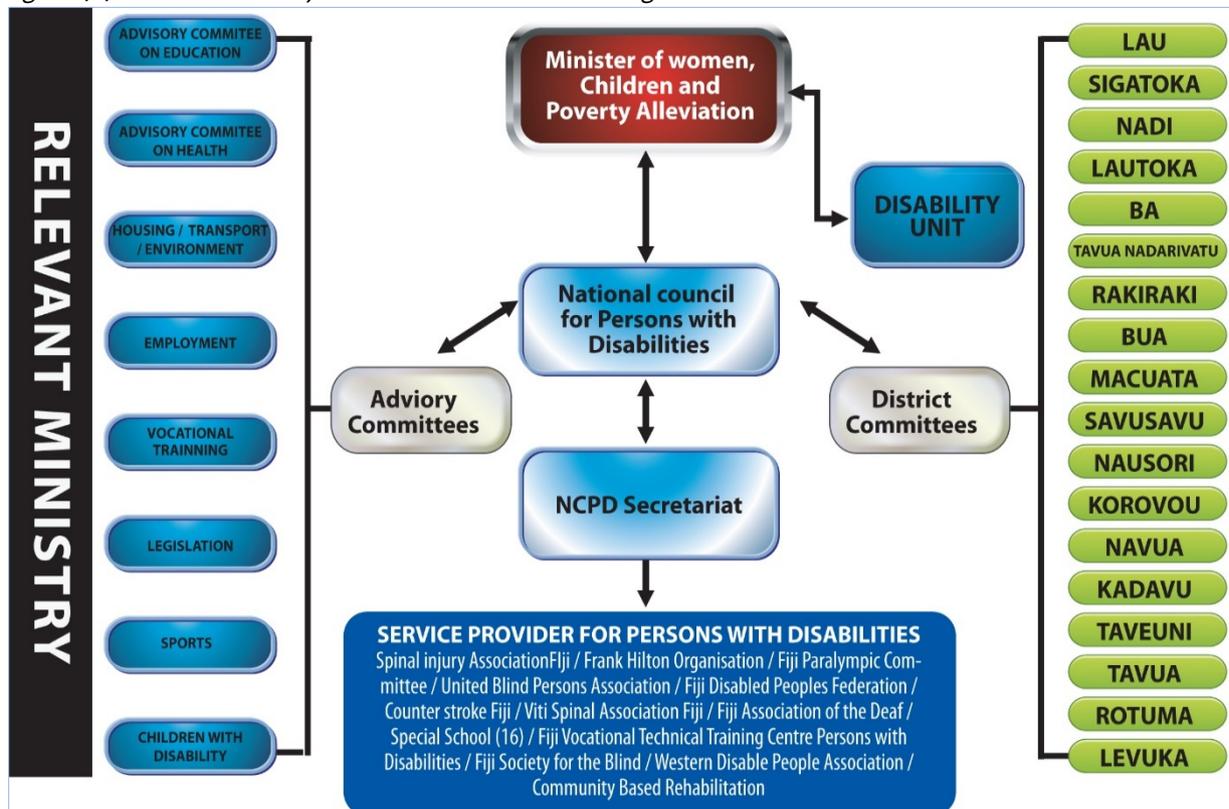
The NCPD Secretariat, headed by the Executive Director is responsible to the Council with:

- The management and execution of its policies;
- Assisting in the implementation of its strategic plans and national policies concerning persons with disabilities; and
- Performing all things necessary or convenient to be done in connection with, or incidental to the performance of his or her duties under the Act or any other written law.

Apart from the Secretariat, other working arms of the NCPD include the Advisory Committees and District Committees.

Figure 4.4 below indicates the inter-relationship between the Ministry of Women Children and Poverty Alleviation (MWCOPA), NCPD, Advisory and District Committees and the Secretariat (including service providers).

Figure 4.4: National Council for Persons with Disabilities Organization Structure



Source: Presentation on the Implementation Plan of the Rights of Persons with Disabilities Act 2018, provided to OAG on 21 November 2019.

The NCPD is assisted by Advisory Committees, members of which are appointed by the Minister responsible for Social Welfare. The recently enacted 2018 Rights of Persons with Disabilities Act has slightly expanded on the roles and functions of the Committees stated in the repealed 1994 FNCDP Act. The roles and functions of committees primarily deals with:

- Advising and assisting the Council in the formulation of strategic and national policies concerning persons with disabilities;
- Carrying out research and recommend suitable activities or projects relevant to improving the life of persons with disabilities in Fiji; and
- Act on such directions given by the Council to assist the development of persons with disabilities in Fiji.

While the repealed 1994 FNCDP Act established six (6) advisory committees, the 2018 Rights of Persons with Disabilities Act have further expanded it to establish eight (8) committees whereby the Vocational Training and Employment are now two separate committees, and the committee dealing with Children with Disability being newly created.

The Advisory Committee on Housing/Transport/ Environment (HTE) is the working arm of the Council responsible for, amongst others, any accessibility issues.

While the establishment of the advisory committees is commendable, we found that the HTE Advisory Committee did not conduct any meetings for the years 2008, 2009, 2011, 2013, 2018, and 2019. We further noted that the most active year for the HTE Committee was in 2005 which is beyond the scope of this audit and for the remaining years, the maximum number of times that the committee met were twice.

At the grassroots level, the Minister appoints the district committees of the Council. Through the district committees, a link between the Council and Persons with disabilities who live in villages, settlements, remote areas and outlying islands is created. This link is maintained through regular meetings of these district committees with ongoing consultation and support from the headquarters. These committees closely monitor the disability issues in collaboration with civil society organizations and other arms of government.

During the audit, we were provided with minutes of district meetings for 2019 only. While we are unable to determine the efficiency of the District committees, review of the 2019 minutes revealed that real problems faced by disabled persons have been adequately raised. With respect to accessibility, the following issues were identified:

- Lack of disabled friendly houses and Government offices being inaccessible to persons with disabilities;
- A Government House in Bua is disabled friendly for persons living with visual and hearing disability. However, it is not friendly to persons living with physical disability.

From the transportation sector, a number of working committees and forums were established in order to address transportation issues which included disabled accessibility. These included the National Transport Consultative Forum (NTCF), National Transport Coordinating Committee (NTCC) and just recently, the Technical Working Group (TWG).

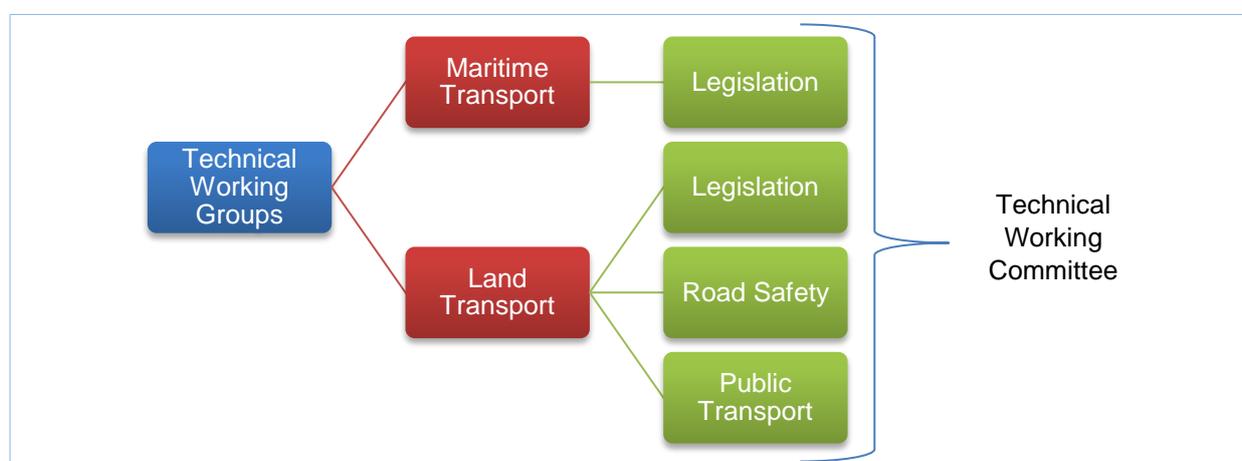
The NTCF is the main forum for the transport industry dialog for freight and passenger transport services. It plays a very valuable role in the dialog between the public and private sectors in order to promote mutual understanding of the issues, demands and constraints in the transport sector. From 2014, the forum had been conducted every two years with the last one being held in October

2018. Although NCPD has been part of the forum, review of the 2016 and 2018 NTCF communiques that were provided to us revealed that not much discussion was held around disability issues especially in terms of accessibility. The NTCF has not been held since 2018 due to non-inclusion of funding in the budget.

The NTCC which was established as a mechanism for prompting coordination across the transport sector has also not met for some time.

Since the discontinuation of the NTCF, the Department of Transport has set up Technical Working Groups to consult and work together with the government representatives, private sector and relevant stakeholders. There are two main Technical Working Groups (TWGs), one for land transportation and one for maritime travel. Under each TWG, there are technical working committees (TWC) as illustrated in the Figure below.

Figure 4.5: Technical Working Groups and Technical Working Committees



Source: Discussions with Department of Transport on 03 June 2020

During the second Technical Working Group meeting held on 12 October 2016, the Chairperson advised the NCPD that the Council would be represented in all the working groups. However, review of working group updates noted that member inclusion of the NCPD were limited to the Infrastructure and Policy Legislation and Review Working Groups.

The Technical Working Groups had been meeting frequently since its establishment in 2016 and to some extent in 2019 for the Land Transport TWG and Maritime TWG. There were a few TWG’s held in 2020 for other transport related matters but not specifically for disability action item. We further noted that disability issues were not discussed in most of the meetings for which minutes were provided for our review. The table below summarizes the extent of disability issues discussed in each meeting of the TWG and TWC.

Table 4.3: Disability Issues discussed during TWG and TWC

TWG Name	Total No. of meetings held	No. of meetings which discussed on disability issues
Public Transport Sector Technical Working Group	19	7 <i>(Minutes of 3 meetings not provided during the audit)</i>
Land Transport Working Group	2	1 <i>(Minutes of one meeting not provided during the audit)</i>

TWG Name	Total No. of meetings held	No. of meetings which discussed on disability issues
Road Safety Consultation & Land TWG	3	3
Fiji Decade of Road Safety 2011-2020	1	<i>Meeting minutes not provided</i>
Monthly Meeting on Overloading	8	0 <i>(Minutes of 3 meetings not provided)</i>
Planning and design for relocation of service lines	1	0
Drainage TWG	1	0
Maritime Issues	6	0 <i>(Minutes of one meeting not provided during audit)</i>
Maritime Transport TWG meeting for 2019	3	0
Maritime sub-committee – Legislation and Policy	1	<i>Minutes one meeting not provided during audit</i>
Government Shipping Franchise Scheme - Annual Performance	3	0

Source: Auditors analysis of meeting minutes received from Department of Transport on 16 June 2020

Causes

Competing priorities of the members of the HTE Advisory Committee may have prevented the committee from actively engaging in regular meetings and discussions.

The NTCF has not been organised since the last meeting in 2018 due to non-inclusion of funding in the budget.

The NTCC has not been revived yet.

Competing priorities and other consideration during the TWG has resulted in less priority being given to matters dealing with issues relating to accessibility of disabled persons.

Effects and risk generated by situation found

Disability is a cross-cutting issue in which stakeholder engagement is vital. Weak collaboration and discussions in the areas of disability further delays initiatives that aim to address barriers to accessibility.

Good practices (if any)

The NCPD have reached out to the ADCOM committees to commence meetings.

The Ministry of Commerce, Trade, Tourism and Transport is developing a guiding framework and an action plan for a taskforce group to look at the review of Land and Maritime Transport legislation. In the past, the process of review legislation originated from the Commercial Statutory Authorities (CSA's) has now been revised.

The Ministry highlighted that the taskforce for the review process, includes representative from the Office of the Solicitor-General, LTA CEO or his Manager Legal, representative from Fiji Competition and Consumer Commission (FCCC) due to fare and charges that are imposed, representative from

the Fiji Police because of enforcement, and a representative from Fiji Roads Authority because of Infrastructure.

Expected benefits

Strengthening collaboration between implementing agencies ensures that stakeholders are fully aware of their roles and responsibilities in terms of implementation. In addition, views of stakeholders who have different views can add to the diversity of response approach.

Recommendations

The NCPD should:

- Prepare schedule of meetings indicating proposed dates for the ADCOM meeting and circulate to members accordingly. It should conduct follow-up if necessary.
- Ensure that meetings are held as proposed and agreed upon.

The Department of Transport should:

- Ensure that topics of interest to all related stakeholders are discussed at every meeting and monitored thereafter.
- Ensure that proper updates and follow-ups are carried out after the TWG meetings so that topics of discussion are fully discussed and resolved.

5.0 POLICY IMPLEMENTATION ON ACCESS FOR DISABILITIES

Summary of main findings of the Chapter.



Removing barriers in public accommodation and transport will not only reduce isolation and dependency for persons with disabilities but will also be able to advance their participation in education, employment and social life.³⁷ The World Health Organisation (WHO) 2011 World Disability Report recognises key requirements for addressing accessibility which include: (i) access standards; (ii) cooperation between the public and private sector; (iii) a lead agency responsible for coordinating implementation; (iv) training in accessibility; (v) universal design for planners, architects, and designers, user participation; and (vi) public education.³⁸

At the outset, for the disabled person's community, it is reassuring to see the establishment of legislations and regulations for the advancement of disabled access inclusion in the areas of public accommodation and transport. It is also encouraging to witness Fiji's level of participation in the international arena in relation to disabled person's agenda, all of which has culminated into the enactment of the Rights of Persons with Disabilities 2018 shadowing the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Although soundly based, inclusion of disabled accessibility in public offices has been slow and somewhat stagnant in the areas of public transport. However, this analysis does not in any way diminish the level of commitment and work that the disabled community and the development partners working closely with them have achieved in other aspects of development such as capacity building, training etc.

This section of the report establishes the existence and effectiveness of arrangements in place for accessibility of persons with disabilities and requirements for public transport and public offices. This will focus on firstly, understanding disability through the use of models and ultimately measuring it, assess the level of accessibility inclusions in public accommodation and public transport through the lenses of legislation, regulations, policies, systems and process.

5.1: Understanding Disabilities

Summary of main findings of the Chapter.

The World Health Organisation (WHO) in their 2011 World report on disability noted that at some point in almost everyone's life, they would be temporarily or permanently impaired and those who survive to old age, would experience difficulties in functioning. Therefore, understanding disability is important in order to devise effective response strategies, actions and policies. Understanding disability can be achieved through the use of models and robust statistical evidence.

³⁷ World Health Organization (WHO) World Disability Summary Report 2011, p.14.

³⁸ World Health Organization (WHO) World Disability Summary Report 2011, p.14.

Theme 1: Understanding disabilities through the medical & social model

Situation Found

A person’s attitude towards disability affects the way the person thinks and behaves towards disabled persons which has an impact on the way disabled persons are treated and participate in society which inevitably affect the way disabled persons interact with others. These attitudes can be considered through the use of models, with two well-known ones being the medical and social models. Each model explains how a person or society views disability which ultimately influences the type of policies and strategies that will be designed and implemented. During the early years of disability development in Fiji, responses to disability issues were more towards the medical model. While there has been some shift in the model scale over the years, solutions to disability issues in Fiji have been assessed as equally weighted between the medical and social models.

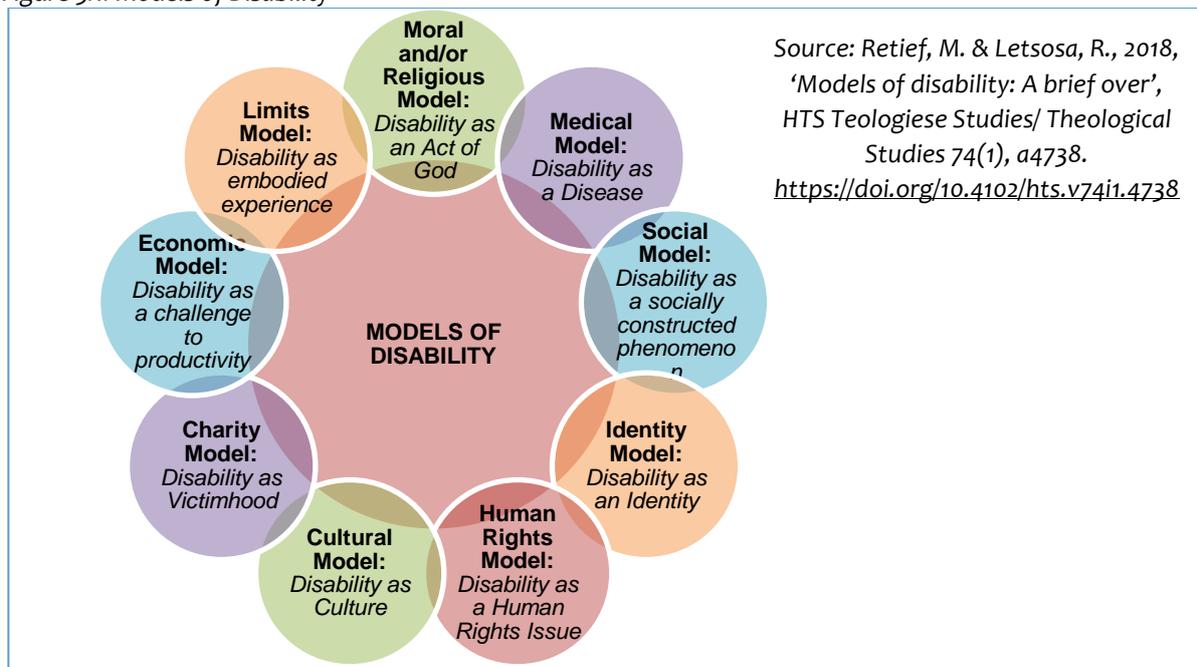
Criteria

One of the functions of the NCPD is to regularly inform the appropriate Government Ministries of the problems and needs of persons with disabilities and seek solutions to such needs as per Section 5, part (g) of the rights of Persons with Disabilities Act 2018.³⁹

Evidence and its analysis

Understanding disability can be facilitated through the use of ‘models’ of disability. These models help define impairment and ultimately provide a basis upon which government and society can respond to the needs of disabled persons. There are a number of models of disability which have been defined and used over the years as illustrated in Figure 5.1.

Figure 5.1: Models of Disability



³⁹ Rights of Persons with Disabilities Act 2018, Section 5, Part (g).

The two most frequently mentioned models are the ‘social’ and ‘medical’ models. The illustration below explains the difference between the medical and social models of disability.

Figure 5.2: MEDICAL versus SOCIAL models of disability



Source: University of Alaska Anchorage - <https://www.uaa.alaska.edu/about/accessibility/physical-accessibility.cshtml>

Under the medical model of disability, an individual’s disability is viewed as a ‘problem’ that belongs to the particular individual and not seen as an issue that concerns anyone else. Therefore, as shown in Figure 5.2, the impairment is considered as the problem. According to an article published in 2018 by Marno Retief and Rantoa Letsoa titled *Models of disability: A brief Overview* who cited Susan L. Kasser and Rebecca K. Lytle in their book published in 2005 titled *Inclusive Physical Activity* that the medical model tends to regard the disabled person as the one who needs to change or be fixed and not the conditions that might be contributing to the persons disability. The list of responses in Table 5.1 below are examples of how the medical model does not look at the wider society and it rather focuses on the individual as the problem.

Table 5.1: Responses to disability issues under the Medical model

	Special Schools
	General Practitioners
	Social Services
	Segregated Services
	Child Development Team
Medical Model	Educational Psychologists
	Sheltered Workshops
	Benefits
	Specialist Training Centres
	Speech Therapist
	Surgeons
	Special Transport
	Occupational Therapists

Source: https://www.ombudsman.org.uk/sites/default/files/FDN-218144_Introduction_to_the_Social_and_Medical_Models_of_Disability.pdf

In contrast, the social model of disability views the disabling environment as the problem and not the impairment. Under the social model, Figure 5.2 illustrates the steps as the disabling barrier. Through designing built environments in response to the needs of the majority of abled people, the social model draws on the idea that it is the society that disables people. The social model places the responsibility on the society in reducing and ultimately remove these disabling barriers, rather than the disabled person themselves. Table 5.2 below identifies external factors within society which consequently results in problems faced by disabled persons.

Table 5.2: Factors within society causing disability under the Social model

Social Model	'Belief' in the medical model
	Poverty
	Lack of Useful Education
	Inaccessible Environment
	Assumptions
	Discrimination in Employment
	De-valuing
	Needs not anticipated
	Inaccessible Information
	Prejudice
	Inaccessible Transport
	Segregated Services

Source: https://www.ombudsman.org.uk/sites/default/files/FDN-218144_Introduction_to_the_Social_and_Medical_Models_of_Disability.pdf

“Disability need not be an obstacle to success. I have had motor neurone disease for practically all my adult life. Yet has not prevented me from having a prominent career in astrophysics and a happy family life... ..In fact we have a moral duty to remove barriers to participation..... Governments throughout the world can no longer overlook the hundreds of millions of people with disabilities who are denied access to health rehabilitation, support, education, and employment, and never get the chance to shine.”

Forward address by the late Professor Stephen Hawking in endorsing the WHO World Report on Disability 2011.

The WHO 2011 World report on disability notes that since the 1970’s, responses to disability have shifted from medically-focused solutions under the medical model to socially-focused solutions under the social model recognising that, in addition to their physical impairments, people are disabled by environmental factors.

However, significant disabling factors under the social model include inaccessible built environments and inaccessible transportation. The WHO 2011 World Report on Disability while citing the results of a pilot study in the United States of America (USA) noted that lack of access to buildings and roads can exclude people with disabilities, or make them dependent on others. The WHO report further noted, while also making reference to other studies, that inaccessible transportation would more likely exclude persons with disabilities from services and social contact.

In Fiji, services for persons with disabilities started with the development of mental health services with the construction of a single ward to house psychiatric patients in the 1800’s. A wider range of services for persons with disabilities were established in the 1960’s which included:

- Suva-based special education school for a growing population of children who had suffered from poliomyelitis;
- Fiji Crippled Children Society;

- Society for the Blind and the Fiji Red Cross;
- Other special schools were established in the main urban centres such as Hilton Special School which was formed in 1961 and was subsequently registered in 1963;
- Various organisations of persons with disabilities established themselves as advocacy and ‘rights’ groups.

Thus, solutions to disability issues in the early years of disability development in Fiji were largely towards establishing institutions and bodies that segregate them, such as residential institutions and special schools. This is consistent with the medical model of disability.

A lot has evolved over the years, with Fiji signing up to a number of international treaties and conventions including the Beijing Proclamation on the Agenda for Action concerning the Asian and Pacific Decade of Disabled Persons (1993 – 2002)⁴⁰, Asian and Pacific Decade of Disabled Persons (2003-2012)⁴¹, Biwako Millennium Framework for Action (BMF)⁴², Biwako Plus 5 and Pacific Disability Strategy⁴³, Incheon Strategy⁴⁴ and Convention of the rights of Persons with Disabilities⁴⁵.

The development and endorsement of the decade long National Disability Policy 2008 – 2018 was the result of Fiji’s commitments to the regional and international treaties and conventions. The policy included **Access to built environment and transport systems** as the 6th out of 12 strategic policy areas. However, it has not made much progress and there is still a lot of work to be done to remove the disabling barriers of inaccessible transport and inaccessible environments under the social model.

There exists enabling regulations for the provision of disability access in both building developments and public transportation as captured in Table 5.3 below.

Table 5.3: List of Regulations requiring disability access in building developments & public transport

BUILDING DEVELOPMENTS	PUBLIC TRANSPORT
<ul style="list-style-type: none"> ➤ National Building Code enshrined in the Public Health Regulations - Part ND3. ➤ Provision 9 of the Town Planning General Provisions 1999, Schedule G (General Requirements in all Zones), requirement no. 14 (Facilities for the disabled persons). 	<ul style="list-style-type: none"> ➤ Land Transport (Public Service Vehicles) (Amendment) Regulations 2015, Regulation 20(A), Sub regulations (1), (2) & (3).

Source: National Building Code, Town Planning General Provisions & Land Transport Regulations 2000

While disabled access has been provided for in recent major developments, medium sized commercial developments confirm a low level of compliance to the National Building Code and the Town Planning General Provisions relating to disabled accessibility. On the other hand, though there are no governing regulations and guidelines in the area, pavements and footpaths have been made accessible. Nonetheless, there is still a lot of corrective measures that needs to be done on pavements and footpaths due to improper construction.

In the area of public transport, though governing regulations exists, the provisions have not been enforced by the Land Transport Authority since its introduction in 2015. There is also a lot of

⁴⁰ NCPD Annual Report 2010.

⁴¹ NCPD Annual Report 2010.

⁴² NCPD Annual Report 2010.

⁴³ NCPD Annual Report 2010.

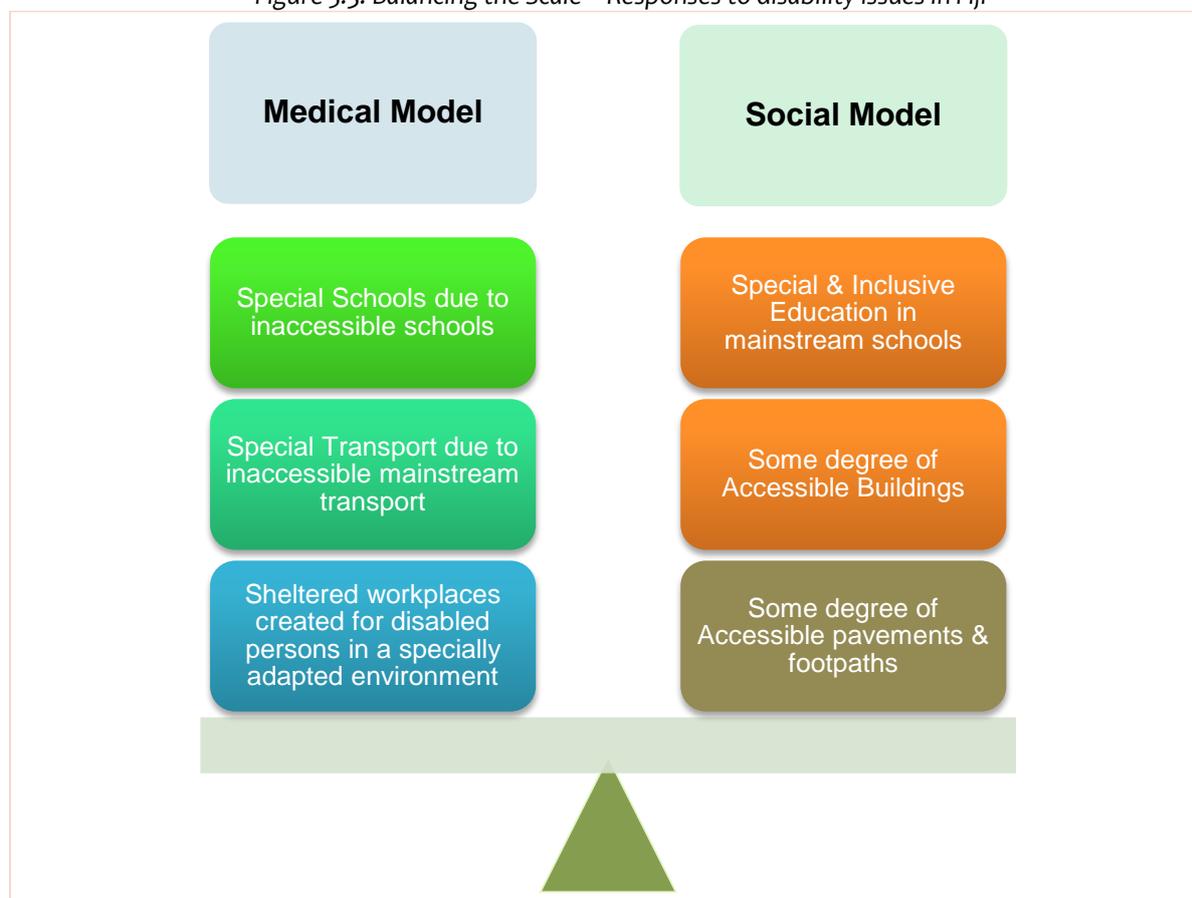
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⁴⁵ NCPD Annual Report 2010.

resistance expected from the public service vehicle owners/operators due to costs incurred for modification and perceived loss of income arising from the modifications.

According to the above analysis, through incremental improvements over the years, responses to disability issues in Fiji have been assessed as equally weighted between the medical and social models as indicated in Figure 5.3 and Table 5.4 and below.

Figure 5.3: Balancing the Scale – Responses to disability issues in Fiji



Source: Auditors evaluation of responses to disability issues in Fiji

Table 5.4: Responses to disability Issues in Fiji

Issue	Medical Model	Social Model	Evaluation for Fiji
Transport	Specialist transport is provided for people who cannot access mainstream transport.	Mainstream transport and infrastructure is made accessible for everyone.	According to LTA response received on 18 June 2020, throughout Fiji’s PSV Sector, there are currently no vehicles which are disabled friendly. However, during a meeting with NCPD, we were informed that REACH Buses were introduced as a Government initiative to take services outside of the urban centers. It cost around \$150,000 per bus and included hydraulic lifts. In addition, the NCPD has three (3) vans: allocated for West, North and Suva. The affiliates also have their own vans or coaster buses that were donated by JICA. The only accessible bus is with the Western Disabled Peoples Association in Lautoka.

Issue	Medical Model	Social Model	Evaluation for Fiji
Education	Disabled children receive specialist provision in special schools and are entered for alternative qualifications.	Disabled children are educated in accessible mainstream schools alongside non-disabled children. Education provision is accessible to all with the same qualifications and opportunities open to all who wish to access them.	<p>There are 16 special schools established around Fiji. These special schools are accessible and practice reasonable accomodation.</p> <p>The Ministry of Education Heritage and Arts (MEHA) has an initiative of Special and Inclusive Education. A review of the MEHA website noted that there is a toolkit for Disability-Inclusive Education which includes:</p> <ul style="list-style-type: none"> • Assistive Technology Referral Guide; • Disability-Inclusive Education Handbook for Teachers; • Fiji Disability Services Information & Referral Directory; and • Dyslexia Indicators Assessment Tool. <p>There is also a FEMIS Disability Disaggregation Package (Guidelines and Forms). Section 2 of the package includes the assessment of schools accessibility and inclusion which should be completed by the School Management Committee with the Head Teacher by the end of Term 1 where possible with the involvement of students with disabilities and their parents. In particular, the Section includes:</p> <ul style="list-style-type: none"> • Accessibility Audit – Collecting information on how accessible the built environment is at the school. This relates to how manageable it is to get around, for example, for people with difficulty walking or vision impairment. • Special materials or equipment – Assists MoEHA to plan and provide relevant resources such as Braille machies or computer screen readers. • Recording other school efforts to include children with disabilities - The MoE Policy on Special and Inclusive Education requires a range of actions to be undertaken by schools to actively include children with disabilities into the education system. Some of these activities include vision and hearing screening programs, disability awareness raising activities, availability of specialist staff to support disability-inclusive education, the use of Individual Education Plans (IEP) for students with disabilities, and activities to identify children with disabilities

Issue	Medical Model	Social Model	Evaluation for Fiji
			<p>who are out of school. These activities should be recorded on the form, which is to be completed by the end of Term 1 each year.</p> <p>The initiative also includes Disability Fact Sheets which encompasses the following:</p> <ul style="list-style-type: none"> • Assessment Provisions; • Epilepsy; • Speech & Language Disorders; • Autism Spectrum Disorder; • Intellectual Disability; • Vision Impairment; • Cerebral Palsy; • Physical Impairment; • Deafness and Hearing Loss; and • Specific Learning Disabilities. <p>On the other hand, tertiary schools such as the University of the South Pacific, have a Disability Inclusive Development Program which has a strong commitment to creating an inclusive, barrier free working and learning environment for its students and staff from around the Pacific Region. The program aims to cover issues such as Accessibility to Buildings, Disabled/Accessible Parking, AusAID Accessibility Design Guide etc.⁴⁶</p>
At work	Sheltered workplaces are created for disabled people to work alongside other disabled people in a specially adapted environment doing specific work.	Workplaces are made accessible for disabled people and training and development available to disabled people enables them to apply for a range of roles.	<p>Review of NCPD's planned and reported output highlighted that there are more sheltered workshops being encouraged and established.</p> <p>In addition, when queried on whether the NCPD frequently identifies, evaluates and reports on the economic and social impacts associated with inaccessible buildings and facilities in the country, we were informed that most of the Monitoring, Evaluation and Learning have been conducted on improving public spaces and also up-skilling staff that are on the ground which is done in the hope to improve persons with disabilities participation in social activities. NCPD noted that this is an area that needs to be addressed, because it is empowering them in decision makings in their own families and communities that they can be encouraged to participate in larger activities. The NCPD further noted that they are starting small as the learned disability population is still small and that most of those participating at national and divisional level are those that have gained their disability later in life. The NCPD added that the team on the ground is small, but they</p>

⁴⁶ USP website: <https://www.usp.ac.fj/index.php?id=12781>

Issue	Medical Model	Social Model	Evaluation for Fiji
			hope that best practices are shared throughout Fiji.

Source: Comparison between medical and social models retrieved from Parliamentary and Health Service Ombudsman website: https://www.ombudsman.org.uk/sites/default/files/FDN-218144_Introduction_to_the_Social_and_Medical_Models_of_Disability.pdf & Evaluation for Fiji resulting from Auditors analysis.

Moreover, discussions with the NCPD⁴⁷ noted that by signing and ratifying the Convention on the Rights of Persons with Disabilities (CRPD), Fiji has somewhat moved from the medical and social model to one that is rights-based. The ideology was also captured in the Initial Country Report on compliance to the United Nations Convention on the Rights of Persons with Disabilities which has been sent to the Solicitor General’s Office for vetting. The report noted that with the adoption of the rights-based approach, Fiji is still adapting to the changes as well as realigning policies to ensure that core requirements of the rights based approach is realised.

According to Retief and Letsoa in their article published in 2018 titled *Models of disability: A brief Overview*, the rights-based model bears close resemblance to the social model of disability. They also noted that while some researchers treat the social model and human rights model as virtually synonymous, others highlight significant differences between them. Retief and Letsoa make reference to an article published by Theresia Degener in 2017 titled *A new human rights model of disability* who addresses six (6) main differences between the social and human rights model. The differences are detailed in the table below.

Table 5.5: Differences between social and human rights model

NO.	SOCIAL MODEL	HUMAN RIGHTS MODEL
1	Helps people to understand the underlying social factors that shape our understanding of disability.	Moves beyond explanation, offering a theoretical framework for disability policy that emphasises the human dignity of persons with disabilities.
2	Not specified in article	Incorporates both first and second generation human rights in the sense that it encompasses both sets of human rights, civil and political as well as economic, social and cultural rights.
3	Mostly fails to appreciate the reality of pain and suffering in the lives of some persons with disabilities.	Respects the fact that some persons with disabilities are indeed confronted by such challenging life situations and argues that such factors should be taken into account in the development of relevant social justice theories.
4	Does not pay adequate attention to the importance of identity politics.	Offers room for minority and cultural identification.
5	Is mostly critical of public health policies that advocate the prevention of impairment.	Recognises the fact that properly formulated prevention policy may be regarded as an instance of human rights protection for persons with disabilities.
6	Can helpfully explain why so many persons with disabilities are living in poverty.	Offers constructive proposals for improving the life situation of persons with disabilities.

Source: Retief, M. & Letsosa, R., 2018, ‘Models of disability: A brief over’, *HTS Theologies Studies/ Theological Studies* 74(1), 44738. <https://doi.org/10.4102/hts.v74i1.4738>

⁴⁷ Exit Meeting dated 26 August 2020.

The Draft Initial Country Report on compliance to the United Nations Convention on the Rights of Persons with Disabilities establishes explicit instances of the paradigm shift to the rights-based model. These are tabulated below.

Table 5.6: Rights based Approach captured in Fiji's Initial Country Report to UNCRPD

ARTICLE NO.	REQUIREMENTS OF THE ARTICLE	HUMAN RIGHTS ASPECT CAPTURED
7	Children with disabilities - Measures adopted which are appropriately budgeted to ensure the Inclusion of children with disabilities in all areas of life, including family and community life, and community-based programmes and services for children with disabilities.	Frank Hilton Organisation services have evolved out of just providing education for their students. The organisation is a strong advocator for the rights based approach for their students and ensuring a holistic approach by adopting a preventative and proactive service delivery which introduces a multidisciplinary model.
16	Freedom from exploitation, violence and abuse - Measures adopted for the early identification of instances of exploitation, violence or abuse against persons with disabilities, the provision of information in accessible formats, assistance and support for persons with disabilities on how to recognize and report such instances, and for ensuring the availability and accessibility of support services to those subjected to exploitation, violence or abuse, including accessible shelters. Extent to which these measures are individualized and are gender and age-sensitive.	Residents for Older Persons - The homes and counselling services are not disability specific, the support provided in the Older Persons Homes provides the largest support in Fiji for adults with disabilities in which each case is looked at on merit. The homes have also commenced disability sensitization for carers that are providing support in these homes. The rights-based approach is adopted as every persons is assessed on their need for Care and Protection.
25	Health - Measures adopted to ensure that the human rights-based approach to disability and the respect for the dignity, autonomy, and requirements of persons with disabilities are included in the training curricula of all medical and health professionals, including community health workers, and in the ethical standards for public and private health care, throughout the territory of the State party.	FNU uses a rights based approach when teaching their students on Wheel Chair and assistive devices training.
26	Habilitation and Rehabilitation - Measures adopted to ensure that habilitation and rehabilitation services and programmes for persons with disabilities are designed and implemented to enable them to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. Extent to which these services and programmes are designed and implemented taking into account the human rights-based approach to	Spinal Injury Association - approach to service delivery of mobility devices is a rights-based approach taking into consideration the appropriateness of devices to the impairment and environment of the client. If wheel chair sizes are not in stock it will go in the waiting listing depending on type of wheel chair. If there is another type of wheel chair available apart from the prescribed wheel chair, SIA will modify the chair taking into consideration the environment of the client. Services provided are free of charge.

ARTICLE NO.	REQUIREMENTS OF THE ARTICLE	HUMAN RIGHTS ASPECT CAPTURED
	disability; include early and multi-disciplinary interventions; integrate age and gender perspectives and peer support; are affordable, accessible and include appropriate assistive and adaptive technology.	
28	Adequate standard of living and social protection - Measures adopted to ensure that eligibility criteria and the level of support to persons with disabilities in mainstream and disability-specific social programmes are compliant with the human rights-based approach including by taking into account the barriers faced by persons with disabilities and the extra costs related to disability.	Government subsidizes a lot of costs associated with disability including allowance for Persons with Disabilities Scheme which is a rights-based Model.

Source: NCPD Draft Initial Country Report on compliance to the United Convention on the Rights of Persons with Disabilities

Causes

The NCPD are focusing firstly on improving public spaces and also up-skilling of staff on the ground. By doing this, the NCPD hopes that the participation level of persons with disabilities will be improved. The NCPD is with strong conviction that this is an area that needs to be addressed, because it is in empowering disabled persons in decision-making in their own families and communities that they can then be encouraged to participate in larger activities.

In addition, the NCPD acknowledged that before the idea for accessible transport can be mooted, the first thing that they are working on is trying to get the basics right through advocating for curbs to be of the same height and sensitizing the TWG committee members on how a small modification on a bus can disorient persons with disabilities. For example, a small modification on a bus, can disorient a visually impaired person who is used to a buzzer at a certain height or a bell string at a certain place.

Effects and risk generated by situation found

Responses to disability issues through the medical model focuses on the impairment and what can be done to fix the disabled person or provide special services for them as an individual. Thus efforts to reduce dependency of disabled persons by creating an environment which is accessible may not be achieved through the medical model as it does not see the barrier to accessibility as the problem but on the impairment as the problem.

Good practices (if any)

The Monitoring Evaluation and Learning (MEL) addressed under Objective ten (10) of the Implementation Plan of the Rights of Persons with Disabilities Act 2018 captures the planned improvements in terms of public spaces and up-skilling of staff on the ground. Refer Table 5.7 for MEL components.

Table 5.7: Key Result Area (KRA) 10.2: Monitoring, Evaluation and Learning

STRATEGIES	ACTIVITY	TIMELINE	KEY PERFORMANCE INDICATORS	TASK MANAGERS
Monitoring Evaluation and Learning (MEL)	Develop Monitoring, Evaluation and Learning Framework for each Ministry (Council members) aligned to 10.1	9 June– Bi-annual report on UNCRPD Annual thereafter	Compliance of all instruments Effective and regular monitoring of policies	Ministry
	Resourcing appropriate government agency to ensure compliance	Year 2 and annually thereafter	Minimum standards developed	Ministry Disability Unit
MID Term Review	Review all activities against KPIs	Mid Term	Mid Term Report on progress of Implementation Plan	Ministry

Source: Draft NCPD Implementation Framework 2019 - 2023

In addition, the NCPD noted that they are starting small as the learned disability population in Fiji is still small and that most of those participating at national and divisional levels are those that have gained their disability later in life. NCPD further noted that the team on the ground is small, but they hope that best practices are shared throughout Fiji. Unfortunately, the NCPD revealed that funding of their human resources and administration costs is something that they are finding difficult to cope with.

Furthermore, based on NCPD's experience during consultation for the Implementation Plan that members of the public especially in local contexts were not familiar with the UNCRPD or the National Disability Policy of 2008 to 2018:

- a) World Health Organisation has moved away from advocating from the social model into the Community Based Inclusive Approach. This approach acknowledges that the engineers of change are persons with disabilities. Partnership needs to exist between government, CSOs and persons with disabilities in order to make the changes that is needed, and ultimately realising their rights. The NCPD's approach adopted since 2018 is to tackle the issue at local level through:
 - 1) Familiarising people with the UNCRPD and ultimately the Rights of Persons with Disabilities Act 2018.
 - 2) Collaborating with stakeholders – working with the District Disability Committees, disability provider organizations and community service providers for persons with disabilities to implement and advocate for accessible transport or accessibility in public spaces.
 - 3) Advocacy – engaging in advocacy activities to develop or strengthen anti discriminatory laws and inclusive national and local policies relating to sectors such as transport and education.
 - 4) Coordinating between national and local action plans – promoting and supporting dialogue between local and national levels; strengthening local groups or disable peoples organizations so that they can play a significant role at local and national levels (this is why government now has separate grants for organizations for persons with disabilities).
 - 5) Helping to draw up and monitor local action plans - this is an area NCPD saw that needed to be strengthened and one of the reasons they are building a NCPD centre in the West

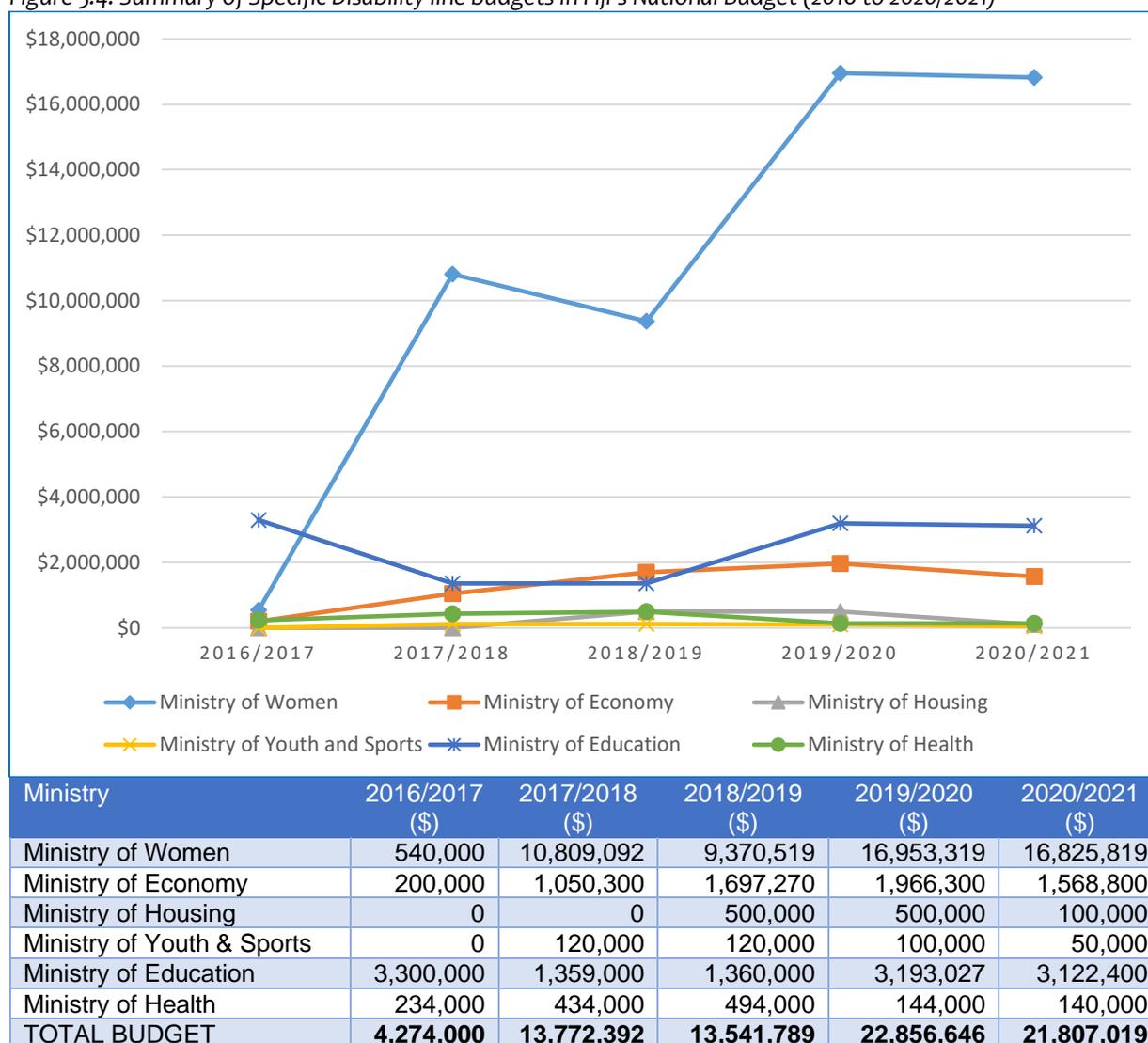
so that they can help in making SMART plans taking into consideration local resources and expertise.

- 6) Implementing program activities which contribute to making health, education and livelihood and social services accessible to all persons with disabilities inclusive those who are poor and live in rural areas.

- b) NCPD acknowledged that there is a need to strengthen its research function. Guided by partners like Pacific Disability Forum, Pacific Island Forum secretariat and Donor partners, they are slowly picking up on not only different approaches but also learning what is the state obligation when it comes to meeting the 50 Articles of the UNCRPD which is also embedded in the Rights of Persons with Disabilities Act 2018.

The NCPD’s way forward is to get the basics right. Article 4 on State Obligation is what they are currently putting into place. With specific disability budget lines that exist in relevant governments including Ministry of Women Children and Poverty Alleviation, Ministry of Economy, Ministry of Housing, Ministry of Youth and Sports, Ministry of Education and Ministry of Health, they are heading in the right direction. Figure 5.4 captures the disability line budget for the above ministries.

Figure 5.4: Summary of Specific Disability line budgets in Fiji’s National Budget (2016 to 2020/2021)



Source: Year 1 Updated implementation plan as of 17 July 2020 received from NCPD on 26 August 2020

With NCPD's partners both in State and Non-State players including persons with disabilities organizations, NCPD will continue to improve services at the same time awareness of persons with disabilities needs will also be advocated from the local and national level.

Expected benefits

Improving disabled access to public offices and public transport is a huge step towards recognizing that barriers to accessibility are the problems and not the impairment of the individual. By doing so, dependency persons and isolation can significantly reduce, allowing disabled persons to participate independently and freely in all aspects of life. Removing barriers for disabled persons also encourages a feeling of belongingness and integrity, a result of people's attitudes being tuned to understand disability better.

Recommendations

The NCPD should:

- Consider advocating ways to improve strategic and policy responses relating to removing barriers to built-environments and transportation from the social model perspective.
- Consider strengthening its research function by exploring other models of explaining disability such as the one adopted by the WHO in preparing the 2011 World Report on Disability called the bio-psycho-social-model which considers workable compromise between the medical and social models.

Theme 2: Understanding disabilities through measuring disability

Situation Found

Census statistics which Fiji largely depends on for disability statistical data, though comparable over time, it lacks detailed information that could be used in making well informed decisions as questions do not address issues such as barriers faced by persons with disabilities in terms of accessibility to built-environments. On the other hand, while offering many advantages due to its comprehensive nature, results of surveys, in order to be relevant, need to be regularly updated.

Criteria

One of the functions of the NCPD is to regularly inform the appropriate Government Ministries of the problems and needs of persons with disabilities and seek solutions to such needs as per Section 5, part (g) of the rights of Persons with Disabilities Act 2018.⁴⁸

Evidence and its analysis

The WHO 2011 World report on Disability acknowledges the importance of having robust evidence which enables the facilitation of well-informed decisions about disability policies and programmes. The report highlights that understanding the number of people with disabilities and their circumstances can improve efforts to remove disabling barriers and provide services to allow people with disabilities to participate.

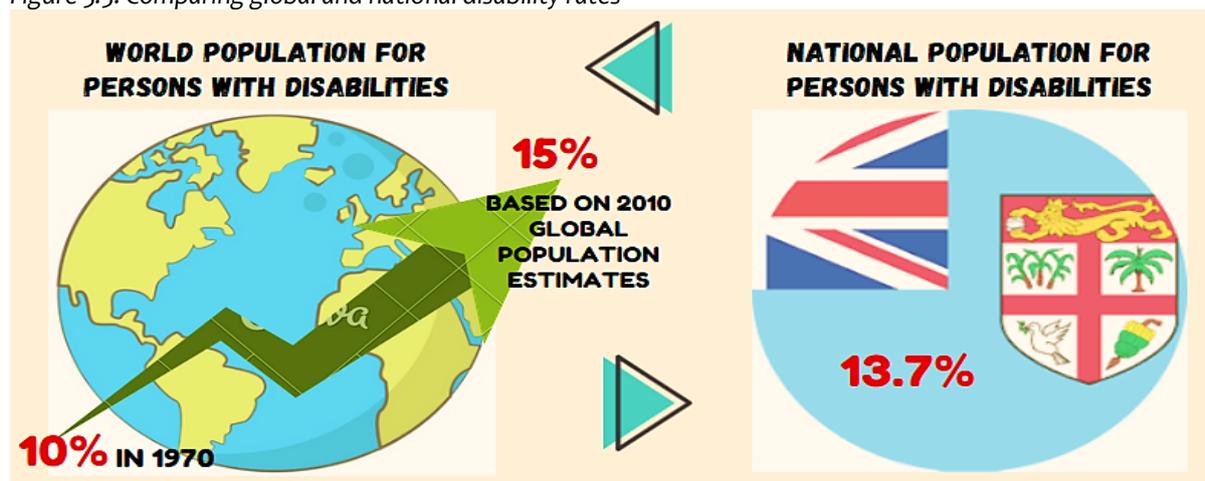
⁴⁸ Rights of Persons with Disabilities Act 2018, Section 5, Part (g).

Given that Fiji has signed and ratified the UNCRPD, collecting appropriate statistical and research data at national and international levels will help parties to the UNCRPD formulate and implement policies to achieve internationally agreed development goals.

The WHO report further highlighted that data collection methods (i.e. censuses and surveys) also influences results.

Statistical data on disability in Fiji is largely gathered from the census. Figure 5.5 below shows the National Population for Persons with disabilities against the global disability population.

Figure 5.5: Comparing global and national disability rates



Source: WHO 2011 World Disability Report & FBoS 2017 Population and Housing Census Release 1.

A total of 113, 595 persons of three (3) years of age and older equates the national disability rate of 13.7% (based on population of 827,907 persons three (3) years of age and older⁴⁹). These persons live with some form of a functioning challenge.

Though censuses cover the entire population, it can only incorporate a few disability relevant questions. The questions included in the 2017 census exercise were derived from the Washington Group on Disability Statistics. The questions are noted in Table 5.8.

Table 5.8: Disability Questions used in the 2017 census exercise

MODULE B: FUNCTIONING CHALLENGES		
B1. Does ____ (name) ____ have a problem seeing, even if wearing glasses?	Single Select: 1. No, no difficulty 2. Yes, some difficulty 3. Yes, a lot of difficulty 4. Cannot do at all	b1. seeing
B2. Does ____ (name) ____ have a problem hearing, even if using a hearing aid?	Single Select: 1. No, no difficulty 2. Yes, some difficulty 3. Yes, a lot of difficulty 4. Cannot do at all	b2. hearing

⁴⁹ Compared to Total Population of 884,887 that were enumerated in the 2017 Population and Housing Census.

MODULE B: FUNCTIONING CHALLENGES		
B3. Does ____ (name) ____ experience difficulty walking or climbing steps?	Single Select: 1. No, no difficulty 2. Yes, some difficulty 3. Yes, a lot of difficulty 4. Cannot do at all	b3. mobility
B4. Does ____ (name) ____ have difficulty remembering or concentrating?	Single Select: 1. No, no difficulty 2. Yes, some difficulty 3. Yes, a lot of difficulty 4. Cannot do at all	b4. memory
B5. Does ____ (name) ____ have difficulty with self-care, such as washing all over or getting dressed?	Single Select: 1. No, no difficulty 2. Yes, some difficulty 3. Yes, a lot of difficulty 4. Cannot do at all	b5. Self-care
B6. Does ____ (name) ____ have difficulty communicating using usual/sign language and Braille? E.g. understanding or being understood by others.	Single Select: 1. No, no difficulty 2. Yes, some difficulty 3. Yes, a lot of difficulty 4. Cannot do at all	b6. communication

Source: Received from FBoS on 07 August 2020

Discussions with FBoS officials⁵⁰ noted that the inclusion of disability questions in the 2017 census exercise is a huge improvement compared to the previous census whose questions were not as detailed as the ones noted above.

In Fiji, socioeconomic data, such as employment rates, education level are available from censuses. However, they can provide only limited information about barriers faced by persons with disabilities in terms of accessibility to built environments. The Pacific Disability Forum, in their 2018 SDG-CRPD Monitoring Report notes that there is a need to complement efforts to disaggregate national census data with more targeted studies on barriers and actual facilitators of participation and inclusion, especially for most marginalised groups.

According to the WHO 2011 World Disability Report, disability is a development issue because of its link to poverty in which disability increases the risk of poverty and vice versa. Generally, the report noted that persons with disabilities, amongst others, experience higher rates of poverty than those without disabilities. The poverty threshold can be determined through the Household Income and Expenditure Survey (HIES) as censuses typically do not capture the income level of households, it only captures the source of income. The HIES provide information on peoples living conditions and income/expenditure patterns. Amongst others, data from the HIES are also used to analyse poverty and hardships in the community. While Fiji has carried out HIES, analysis is mostly done at household level and with minimal analysis at individual and/or age group level. In addition, HIES disaggregated information cannot clearly determine the intra-household inequalities that may exist due to the common sharing of most resources within each household and the same applies to the 2017 Census survey.

We were informed⁵¹ that HIE's has planned to incorporate the questions that would enable the disaggregation of data according to, amongst others, disability is still in the development stage.

⁵⁰ Dated 06 August 2020.

⁵¹ Written comments received from FBoS on 28 August 2020.

While censuses are able to provide information on trends over a certain period as they are carried out every 10 years, surveys have the possibility of providing richer information through the use of more comprehensive questions. Particularly, where census questions are not able to tap into, carrying out surveys allows a more thorough analysis into more practical aspects including:

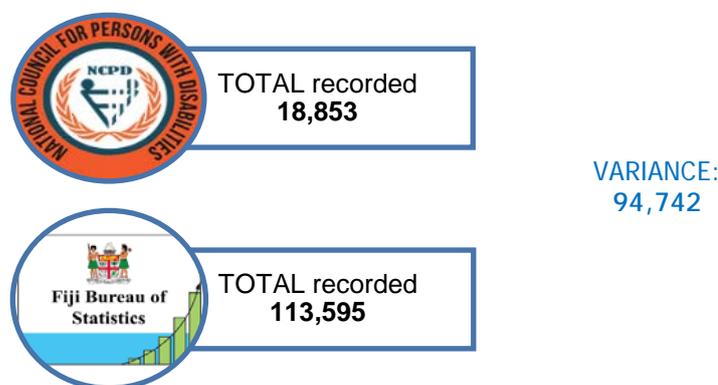
- Identify impairments in body function and structure;
- Identify impairments for activities;
- Identify impairments in participation;
- Identify impairments in terms of environmental factors;
- Origin of impairment;
- Degree of assistance provided; and
- Service accessibility and unmet needs.

We were further informed⁵² that most of the above aspects can be addressed in the Washington Group Extended Set of questions on Functioning. **Appendix 1** captures the questions.

The NCPD in 2009 conducted the first National Disability Survey for Fiji which received initial funding from the Australian and British High Commissions and the Department of Social Welfare and Ministry for Health.⁵³ The main objective of the survey was to establish a database for all persons living with disabilities in Fiji.⁵⁴

We were provided with the National Disability Database on 21 November 2019. We then determined the correlation between the statistics of the Fiji Bureau of Statistics (FBoS) with that of the National Disability Database under the custodian of the NCPD. We found that the National Disability Database only captured a total of 18,853 individuals which compared to the 2017 census amounting to 113,595 for persons of three (3) years and older living with some form of functioning challenge, total variance amounted to 94,742. Figure 5.6 shows numbers by division.

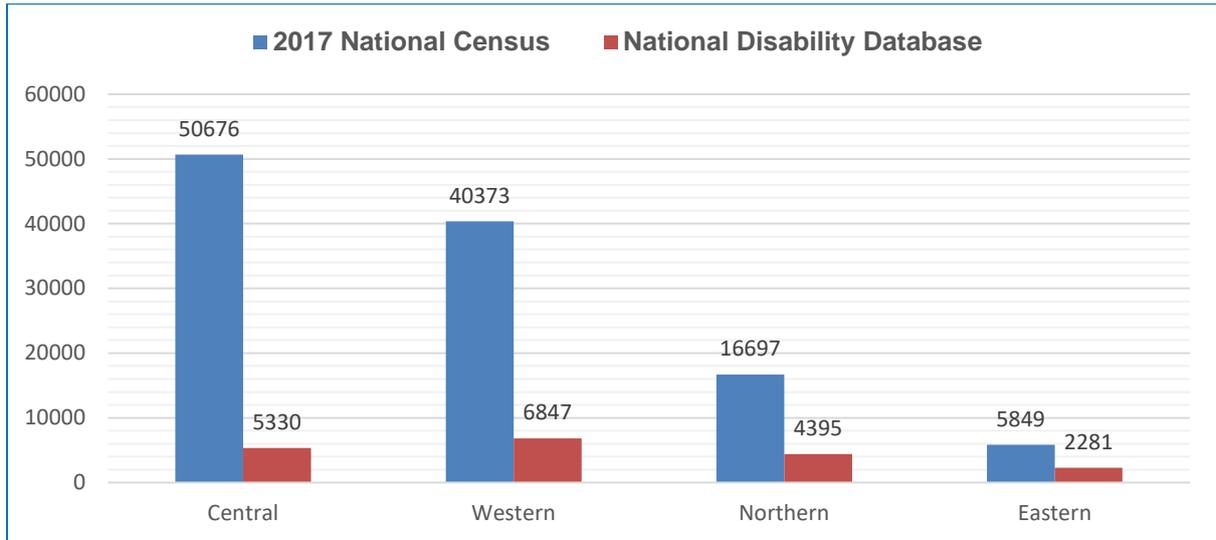
Figure 5.6: Disability Statistics - 2017 Population Census VS National Disability Database



⁵²Written comments received from FBoS on 28 August 2020.

⁵³FNCDP 2009 Annual Report.

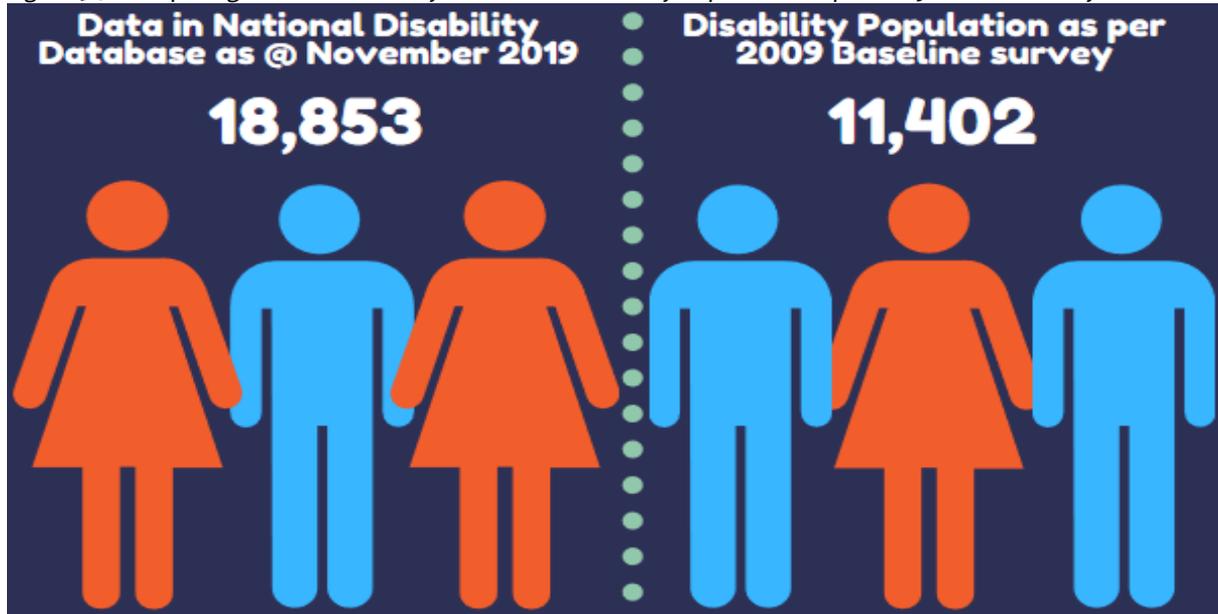
⁵⁴FNCDP 2009 Annual Report.



Source: Auditors analysis of Population and Housing Census Release 1 & National Disability Database provided to audit on 21 November 2019

The NCPD noted that the National Disability Database was a dynamic database that needed to be updated monthly and was built on the National Women’s Survey⁵⁵. As noted in Figure 5.7 below, we further compared the disability population resulting from the baseline survey with the current numbers in the database to determine the extent of the updating exercise.

Figure 5.7: Comparing National Disability Database & Disability Population as per 2009 Baseline survey



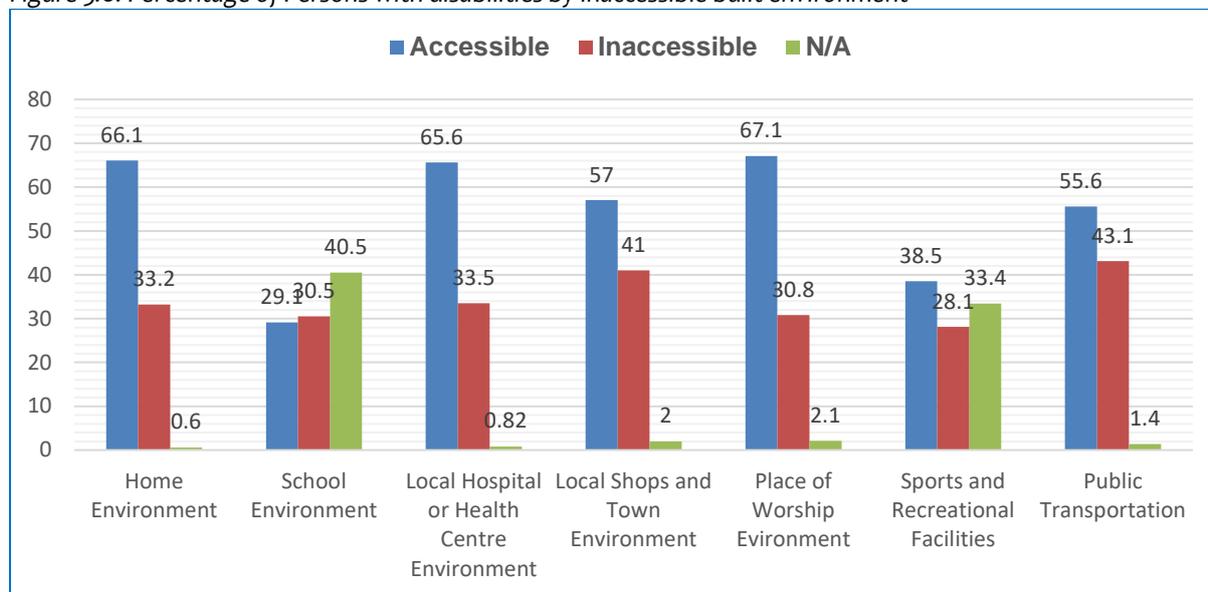
Source: National Disability Database provided to OAG on 21 November 2019 & National Baseline Disability Survey, Making Women with Disabilities Visible, p.17.

The above comparison indicates that the number of disabled persons that have been updated in the database has increased by only 7,451 over the last decade. Although the 2008 to 2016 Annual Reports for NCPD continuously highlight the updating of the database, when compared with the 2017 census of 113,595 disabled persons, there are strong indications of inaccurate and outdated data being maintained.

⁵⁵ This survey is one and the same with the 2009 Disability Survey that was conducted by the NCPD.

At the end of the National Women’s survey/Disability Survey, a report titled “Making Women with Disabilities Visible” was published and launched in 2010. Review of the report noted that findings were quite comprehensive and included topics such as type of disability, education, employment, institutionalisation etc. and even participation. An interesting finding in the survey was that percentage of people with disabilities in accessible environments were higher than those in inaccessible environments with exception for accessibility to school environment. Refer Figure 5.8 below for details.

Figure 5.8: Percentage of Persons with disabilities by inaccessible built environment



Source: National Baseline Disability Survey, Making Women with Disabilities Visible, p.42

We have had not been able to access the results of any other national survey on persons with disabilities.

Causes

We were informed that variances in data between the 2017 National Census and the National Disability Database maintained by NCPD would be expected given that the Disability Allowance only target those that fit in the “cannot” category while the 113,595 is at the “some cut off” category. The scheme has a target group which is giving rise to the variance.

While explanations provided for the variances have been noted, review of the data that was provided to us, noted that the “cannot cut off” with disability category only captures a total of 4,790 disabled persons which is way less than what is recorded in the National Disability Database of 18,853 disabled persons. This could suggest that the Disability Allowance is open to other categories (i.e. “some cut off” with disability & “a lot of cut off” with disability) and not solely those in the “cannot” categories as noted above. The NCPD further noted that the number of 113,595 is from the 2017 Population Census whereby some may have already passed away.

We were also informed by the Fiji Bureau of Statistics⁵⁶ that content of the questions to be asked during the census exercise will have to be balanced so as to be mindful of the respondent burden. Including extra questions would affect the way the respondents answer the remaining questions in the census which could then affect the whole census results. Reasons for inability to determine

⁵⁶ Discussions dated 06 August 2020.

disabled persons on or below the poverty line was directed back to the way questions are designed.

The harmonization of survey methodology especially in the definition of key concepts related to disability can be improved due to its direct impact on survey results and interpretation. It will also reduce the number of variances between FBoS survey data and data available with the NCPD and its line Ministry.

Effects and risk generated by situation found

Unavailability of robust evidence in the form of statistical data increases risks of poor policy and strategic responses to disability issues being actioned which could result in wastage of resources.

Good practices (if any)

Review of the Rights of Persons with Disabilities Act 2018 noted that an important component, which was lacking in the repealed 1994 FNCDP Act, relating to the collation of data and statistics persons with disabilities in Fiji has been incorporated. It is now an embedded function of the NCPD.

There have been discussions held with the disabled service provider organisations, as a result of the virtual Disability Forum held in July 2020. The purpose of the meeting was to share experience on how data on disability are collected and how they are analysed by end users so that gaps are identified and improvements proposed. Given the limitations of the census questions, one of the proposed way forward is to have a National Disability Survey so that detailed questions can be incorporated. This will be actioned by the FBoS in partnership with the disabled service provider organisations which will depend on the availability of funding/budget.

NCPD acknowledged the need to strengthen data collection, which is the reason they are working closely with the Ministry of Women Children and Poverty Alleviation (MWCPA) Disability Unit and FBoS.

The MWCPA Disability Unit is currently working with FBoS in conducting their second National Disability Survey. The MWCPA Disability Unit is awaiting a budget from FBoS so that they can table a cabinet paper for the National Disability Survey. Meanwhile, they have begun speaking with donors on possible funding.

Overall, the sharing of information is still an issue with line ministries especially if their legislation limits the sharing of individual information with outside parties including FBoS. However, to mitigate these challenges, FBoS has been signing MOUs with some key government ministries and other line agencies, and plans to partner with the Ministry of Women, Children & Poverty Alleviation in the near future due to the significant importance of consolidating and sharing of consistent disability statistics for necessary policy intervention.

Expected benefits

Balancing between census and survey approaches ensures the provision of accurate and relevant information that is essential for well informed decisions relating to policies and strategic responses to disability issues.

Recommendations

The NCPD should:

- Regularly update the National Disability Database and ensure it is properly reviewed.
- Strengthen capacity relating to data collection and maintenance.
- Strongly advocate for the provision of funding to expedite the National Disability Survey in collaboration with the FBoS.

The FBoS should:

- Properly plan, in collaboration and partnership with the disabled service provider organisations in incorporating detailed questions in the HIES as well as employment and unemployment surveys.

5.2: Disabled Accessibility to Public Offices

Summary of main findings of the Chapter.

Improving the state of disabled accessibility around public accommodation can be improved through access audits and including disability conditions in the early stages of approving construction projects. Though more advocacy work is needed in this area, remarkable improvements have been made compared to the early era of disability development.

Theme 1: Disabled Accessibility of Public Offices and Access Audits

Situation Found

Carrying out access audits is one of the first steps to determining the extent of disabled accessibility around public accommodation. The NCPD's efforts to carry out access audits are recent endeavours as it had not been planned for during the years 2008-2018. Hence, these audits were not carried in those years. While NCPD's efforts in conducting access audits are acknowledged, thorough planning and proper structuring of access audit reports are potential areas for improvement.

Criteria

One of the functions of the NCPD is to regularly inform the appropriate Government Ministries of the problems and needs of persons with disabilities and seek solutions to such needs as per Section 5, part (g) of the rights of Persons with Disabilities Act 2018.⁵⁷

Evidence and its analysis

Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is entirely dedicated to accessibility for the purpose of enabling persons with disabilities to live independently and participate fully in all aspects of life. It requires that States Parties take appropriate measures to ensure, on an equal basis with others, access to, inter alia, the physical environment, to transportation, and to other facilities and services open or provided to the public,

⁵⁷ Rights of Persons with Disabilities Act 2018, Section 5, Part (g).

both in urban and rural areas. Article 9 further aims to identify and eliminate obstacles and barriers to accessibility.

The 2003 report from the Group of Experts setup by the European Commission (EC) recognised that in order to provide its citizens with autonomy and the means to pursue an active social and economic life, based on the concept of equal rights, ensuring the creation of an accessible built environment is one of the many fundamentals.⁵⁸ The report further suggests that for an individual to enjoy his/her rights as a citizen, he/she should be able to access buildings, premises and other facilities, therefore, an accessible environment means that a person will be able seek employment, receive education and training, and pursue an active social and economic life.⁵⁹

Consistent with Article 9 of the UNCRPD and the suggestions by the EC group of experts on accessibility, the National Disability Authority (NDA) in Ireland developed a Guideline for Access Auditing of the Built Environment. The Irish NDA is with the conviction that an access audit is one of the first of many steps that can help improve accessibility of the built environment.

The purpose of an access audit is establishing how well a particular building or environment performs in terms of access and ease of use by a wide range of potential users, including people with disabilities, and to recommend access improvements

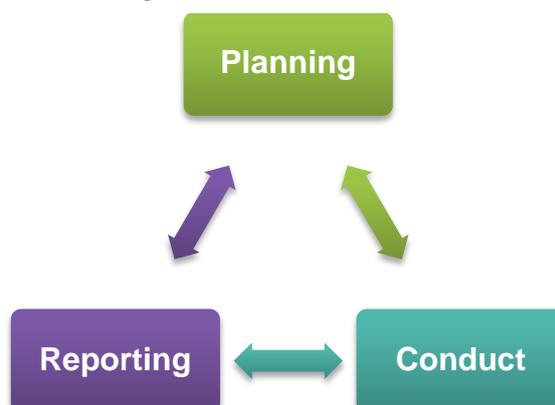
(Bright and Sawyer, 2004)

The access audit of a building and its setting is the starting point for a planned program of access improvements. Access auditing involves an inspection of a building or environment to appraise its accessibility – judged against pre-determined criteria.

(<http://www.cae.org.uk/access.html>)

The NDA guideline provided a number of definitions on how Access Audits were termed by various publications. Overall, definitions were centred on how access audits could be used to assess the current state of accessibility and usability of existing buildings.

Figure 5.9: Access Audit Process



Source: Irish National Disability Authority (NDA)
Guidelines for Access Auditing of the Built

As noted in Figure 5.9 above, the access audit process is consistent with any typical audit engagement in terms of planning, carrying out the access audit as per planned methodology and reporting. During our audit, we came across two access audit reports and our findings are discussed below.

One access audit report dated back to 1999 in which the scoped area was the Tavua Town Centre. The survey was conducted by a three-member group comprising of a Tavua Community Rehabilitation Assistant at the Tavua Health Centre, final year orthoptics student from the University of Sydney, Australia and a final year occupational therapy student also from the

⁵⁸ Report from the Group of Experts set up by the European Commission titled 2010: A Europe Accessible for All retrieved from https://www.sustainable-design.ie/arch/EU-EGA_FinalDraftReport.pdf, paragraph 1, p.3.

⁵⁹ Report from the Group of Experts set up by the European Commission titled 2010: A Europe Accessible for All retrieved from https://www.sustainable-design.ie/arch/EU-EGA_FinalDraftReport.pdf, paragraph 1, p.3.

University of Sydney, Australia. Prior to commencement of the survey, approval for the assessment was provided to by the then Mayor and Town Clerk of Tavua.

The report captured detailed findings and noted suggestions for improvements with reference to relevant international standards. It concluded that if all suggestions for improvements are followed, Tavua town would be a more disabled friendly town. The report further suggested that another access survey be done in 2005 (or after suggestions for improvements have been followed) to identify the smaller obstacles and improve Tavua town’s access once again. Pursuant to the suggestion, we could not conclude on the execution of any subsequent access survey done in 2005 as no reports were provided for our review.

Another access audit was conducted by the Fiji Disabled Peoples Association (FDPA) for 27 participating venues in Suva City in 2007. The findings were comprehensive and captured issues that are still relevant today. The audit found that out of the 27 venues that were under review, none of them were completely accessible but many included some accessible features. Other findings in the report include the poor conditions of the footpaths along with the lack of curb ramps to cross from one street to another making independent traveling impossible for wheelchair users and provided many dangerous hazards for those with low or no vision. A walk along parts of Suva City on 26 May 2020 by the OAG team noted that the findings in the report were yet to be addressed shown in the photographs in Figure 5.10.

Figure 5.10: Poor conditions of footpaths



Source: Pictures taken on 26/05/20 at some spots in Suva

In addition, the 2007 access audit raised the issue on the lack of curb ramps to cross from one street to another. We noted that while there were curb ramps built along pedestrian crossings, their measurements were inconsistent. Hence wheelchair users and those who are visually impaired might not be able to use them.

Figure 5.11: Inconsistent measurement of curb ram



Source: Pictures taken on 26/05/20 at some spots in Suva

Other findings of the 2007 access audit report noted the following:

- Ideally, as government should lead by example and follow the recommendations of their own building codes and provisions, it was disappointing to see that Suva City Council building itself was largely inaccessible, more so than most other government buildings.
- Similarly, constructions such as the 2003 Vodafone Sports Arena and Aquatic Centre had limited accessibility and persons with disabilities were not consulted during the planning phase of these developments. The most absent accessible feature was the car parking spaces – only one venue had one, but it was not linked to an accessible pathway.
- Several buildings had ramps or flat access and lifts were increasingly common in new buildings. Whilst wheelchair users could reach many benches or counters, they were usually higher than recommended for wheelchair users and made it difficult for the disabled to write comfortably.
- Although much of the focus of the audit was on physical accessibility of buildings for wheelchair users, it was also noted that there were currently no provision in Suva for the visually impaired in regards to raised tactile markers on paths, at pedestrian crossings or in buildings.
- Greater awareness was also needed in regards to clearer and larger signage within buildings as it would assist those with low vision as well as the hearing impaired. Lifts that were assessed had no audio systems in place to alert visually impaired people of the floor levels.

The conclusions and recommendations of the 2007 access audit report is noted in Figure 5.12 below

Figure 5.12: FDPA 2007 Access Audit – Its Objectives, Conclusions and Recommendations

CONCLUSION & RECOMMENDATIONS

• **Conclusion:** The audit of 27 venues had provided a good insight into the lack of general accessibility of buildings in Suva-both government offices and private businesses alike. Conducting the audit also highlighted the general lack of awareness business owners and managers have in regards to the accessibility needs of Persons with Disabilities.

• **Recommendations:**

- Audit process continues and expands to more venues throughout Suva;
- More expert input is sought from people with a variety of disabilities to ensure their views and experiences are represented;
- More Persons with Disabilities are trained to be involved in the audit process;
- FDPA members continue to liaise with relevant government authorities on the audit findings to ensure their views and needs are best represented in planning regulations and developments, with a view to encouraging them to adopt the concepts of universal design.
- FDPA continues to advocate on behalf of Persons with Disabilities to ensure their needs are understood by the government and the general public; consistent and clear campaigning is needed to affect change over time not just on access issues, but all issues impacting the lives of Persons with Disabilities such as education, health, employment, housing and transport.

Source: FDPA 2007 Suva City Access Audit Report – A Pilot Study

Review of NCPD's Annual Reports noted that the NCPD has not conducted any access audits during the 10-year period of the National Disabled Policy from 2008-2018. This was anticipated because review of the Council's Annual Corporate Plans (ACP's) indicated that access audits were not incorporated into the Council's ACP, thus it was not planned and actioned accordingly.

NCPD has indicated that they conducted access audit rapid appraisals from October to November 2019 which would be done annually subject to availability of funding. We were further advised that the rapid appraisal exercises were conducted to provide a foresight to the new management of the municipal councils in terms of accessibility for persons with disabilities.

We were provided with five (5) rapid appraisal reports for selected areas in various towns/divisions such as listed in Table 5.9.

Table 5.9: Access audit carried out by NCPD in 2019

Towns/Date	Key Findings	Recommendation	Responsible Entity
Nabouwalu/ 21 October 2019	<ul style="list-style-type: none"> • The Lawaqa Park Sporting Facility have accessible parking space yet there is no demarked parking space for disability. There are two accessible toilets behind the Grand Stand with grab rails, the obstacle is the position and size of the hand basin in the toilets. Further to this is the steep ramps and the swing of the doors to the toilets. 	<ul style="list-style-type: none"> • Move the hand basin closer to the door. [Needs to be smaller hand basin] • Ramp to come out further for gradual rise. • Door to swing inwards. 	Fiji Sports Council
	<ul style="list-style-type: none"> • The Toilets behind the grass embankment is totally inaccessible. • Ground two is also inaccessible 	<ul style="list-style-type: none"> • The ramp gradient is too steep. • Move 	

Towns/Date	Key Findings	Recommendation	Responsible Entity
	<p>from the main ground end for those using mobility devices.</p> <ul style="list-style-type: none"> • The passage way between the grand stand also has a curb making it difficult for wheelchair users. • The VIP Lounge is on the 2nd floor and is not accessible for wheelchair. There also needs to be better signage for direction. 	<p>accessible car-park to a more convenient location.</p>	
	<ul style="list-style-type: none"> • The Sigatoka Court House also houses the Department for Social Welfare, Department for Women, Legal Aid Commission, etc. The Building now has an accessible wash room on the ground floor. The Entrance to the Building has a ramp and the doors to the offices are large to cater for mobility devices. While there is a lift, it was not working during our visit. The back of the building is inaccessible for mobility devices. Individual's offices have signage on their doors for there is no collective Board signage of occupants to the buildings. • Reasonable accommodation is provided amongst the services providers including the Police station across the road on a needs basis. The quality of services from the consultation with service providers and viewing the infrastructure is not compromised and the different human resource have a healthy working relationship. 		
	<ul style="list-style-type: none"> • The Bus Stand like all other bus stands is not accessible for wheelchair users and would be difficult for other mobility devices users. There is an accessible public toilet and the market area is accessible yet congested with traffic. There is only one visible disability car park. The disability car park is in an unsuitable location and the size of the car park is not disability appropriate. The major shopping centre whilst have car park none are reserved for disability. 		
	<ul style="list-style-type: none"> • The Ramp in the center of town 	<ul style="list-style-type: none"> • Revise the 	

Towns/Date	Key Findings	Recommendation	Responsible Entity
	crossing over an isle is steep and would be a challenge for mobility devise users. The recreational areas are not all accessible and there is limitation of choice. Most of the shops in town are inaccessible and signage for direction and information is limited.	gradient of the ramps from both sides of that which leads to Tappoos to the other side leading to the main town.	
	<ul style="list-style-type: none"> • Footpaths along the main street would be a barrier for accessibility and would be hazards to mobility devise user. • The hospital setting is accessible as the hospital is on flat land, access to the hospital is a long climb by road. 	<ul style="list-style-type: none"> • Ramp gradient is too short and steep. It needs to be extended outwards as there is room for this. 	

Source: Rapid Appraisal reports received on 04 February 2020

Efforts by the NCPD in carrying out access audits is greatly appreciated. We noted that while findings for four (4) out of five (5) reports were more comprehensive, supported with sufficient photographic evidence, the fifth report seemed incomplete. Recommendations and conclusions on the state of accessibility were properly captured in most of the reports although the general presentation of the reports lacked structure and flow.

The NCPD was also requested to carry out access audits at the Davuilevu Theological College and the Rehabilitation ward at Twomey Hospital in 10 March and 27 March 2020 respectively. The findings noted in the reports were comprehensive with recommendations which were supported by sufficient photographic evidence. The report was also well structured with consistent flow.

Causes

While lack of funding was attributed to inability of the NCDP to carry out regular access audits, it is noted that this was not done previously as the need for the audit was not factored in the Annual Corporate Plans, hence was not allocated funding. Given the importance of these audits, this does not reflect very well on the NCDP team especially in the period 2008-2018.

Effects and risk generated by situation found

Inability to conduct access audits diminishes efforts and advocacy work in the areas of public accommodation. Not knowing or being acquainted with the state of disabled access for public buildings contribute to the delay in addressing disability issues particularly accessibility which continue to restrict the equal participation of persons with disabilities in economic and social activities.

Good practices (if any)

The NCPD's draft strategic and implementation plan for 2019-2023 have incorporated access audits as part of their working strategies. Refer Figure 5.13 below.

Figure 5.13: Access Audits incorporated into NCPD's strategic and implementation plan 2019-2023

Objective 6: To uphold, promote and enforce the rights of persons with disabilities				
KRA 6.1: Adequate standard of living and social protection				
Strategies	Key Performance Indicators (KPI)			
Accessibility	Signed commitment from partners Signed commitment from partners Physical Access Audit report in towns and cities – Year 1 and 2 Changes in the policy to be disability inclusive			
Policy	65% of current policies reviewed to be disability inclusive			
KRA 6.2: Enforcement of Human Rights and Anti-Discriminatory Act				
Strategies	Key Performance Indicators (KPI)			
Enforcement	A functional grievance system in place			
Legislation and policy review	A building code document that ensure accessibility to a built environment utilizing universal design and best practices.			
Strategies	Activity	Timeline	KPI	Task Managers
Accessibility	Improve reasonable access to the physical environment, public transportation, knowledge, information and communication.	Year 1 – 2 commitment by relevant stakeholders Annually – celebration of landmarks.	Signed commitment from partners. Physical Access Audit report in towns and cities – Year 1 ad 2.	Council and affiliates.

Source: NCPD's Draft strategic and implementation plan 2019-2023

In addition, it is pleasing to see that disabled persons were involved in the Access Audit Rapid Appraisals carried out from October to November 2020. For instance, a permanent wheelchair user accompanied the access audit team to demonstrate the situation on the ground with respect to the extent of accessibility.

Expected benefits

The Irish NDA notes carrying out an access audit will identify a number of features including:

- the current accessibility of the building/property/site;
- areas for improvement (e.g. no accessible car spaces in the car park or the door in the accessible toilet on the ground floor is incorrectly located and therefore the WC is inaccessible); and
- good/ bad practice in relation to facilities management that an organization has in place; positive accessibility features (e.g. counter loop at reception, good use of lighting and color throughout building, signage).

Recommendations

The NCPD should:

- Consider incorporating access audit exercises into its Annual Corporate Plans so that it is budgeted for.
- Expedite the endorsement of the 5 year strategic and implementation plan so that plans to carry out access audits are undertaken regularly.

Theme 2: Accessibility Inclusion - Designing and Construction Stage

Situation Found

Generally, the state of disabled accessibility to public offices is progressing well though more vigorous efforts are required from the implementing agencies. More awareness should be geared towards advancing disability issues in terms of accessibility to public accommodation.

Criteria

One of the functions of the NCPD is to formulate a national policy that ensures that services are provided to all persons with disabilities in Fiji as per Section 5, part (b) of the Rights of Persons with Disabilities.⁶⁰

State Parties shall also take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.⁶¹

Evidence and its analysis

The WHO 2011 World Report on Disability defines Public accommodation as buildings open to and provided for the public, whether publicly owned (such as courts, hospitals and schools) or privately owned (such as shops, restaurants, and sports stadia) as well as public roads.

In Fiji, there were a total of 1,387 building permits issued for construction of new buildings and 999 building permits issued for construction of additions which involve increase in existing floor area for the years 2008 to 2017. Furthermore, there were a total of 662 completion certificates issued for new buildings while 484 completion certificates were issued for additions which involve increase in existing floor area for the years 2008 to 2017. Refer Figure's 5.14 and 5.15 for details.

Figure 5.14: Building Permits Issued

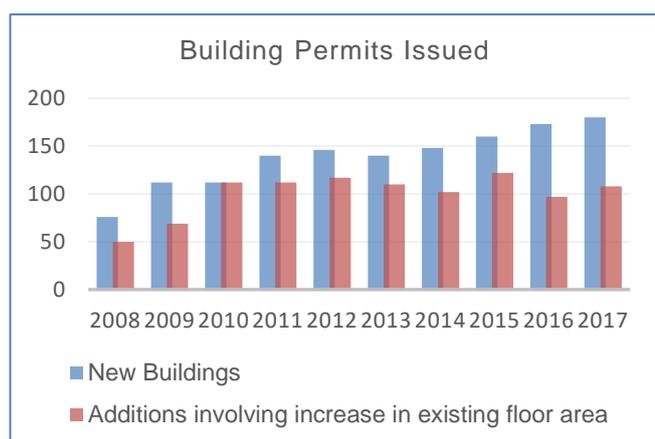
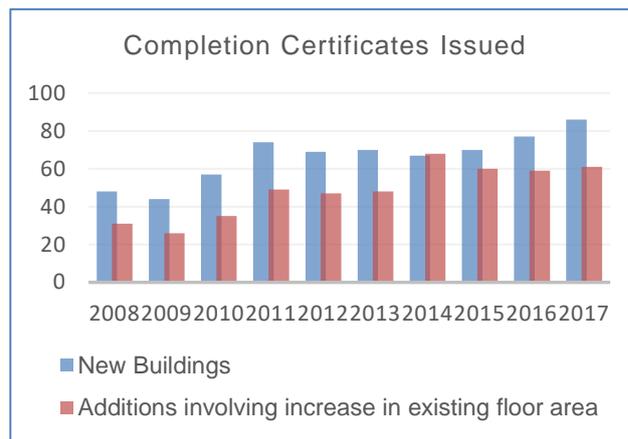


Figure 5.15: Completion Certificates Issues



Source: FBoS Key Statistics Release, September 2018

Building Developments and its maintenance are classified into two categories:

- Public Buildings owned by Government (while some public buildings are constructed by private contractors); and

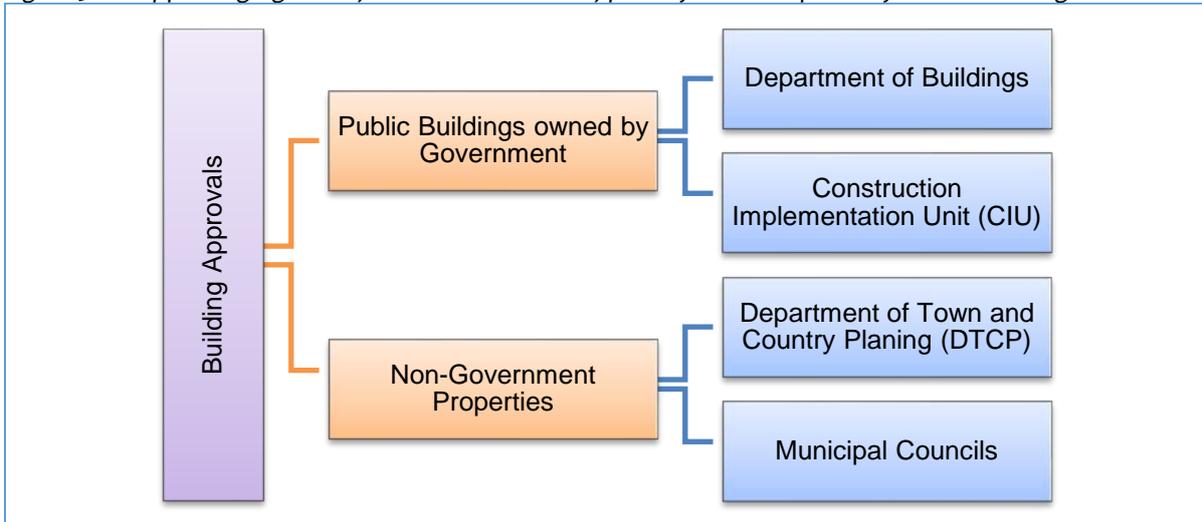
⁶⁰ Rights of Persons with Disabilities Act 2018, Section 5, Part (b).

⁶¹ United Nations Convention on the Rights of Persons with Disabilities, Article 9, Part 2 (a).

- Non-Government Properties.

As illustrated in Figure 5.16 below, approvals for the construction of publicly owned buildings are facilitated by the Department of Buildings of the Ministry of Infrastructure and Meteorological Services and recently the Construction Implementation Unit (CIU) since its establishment in 2018. In contrast, approval for the construction of privately owned buildings are facilitated by the Department of Town and Country Planning and the Municipal Councils.

Figure 5.16: Approving Agencies for the construction of publicly owned & privately owned buildings

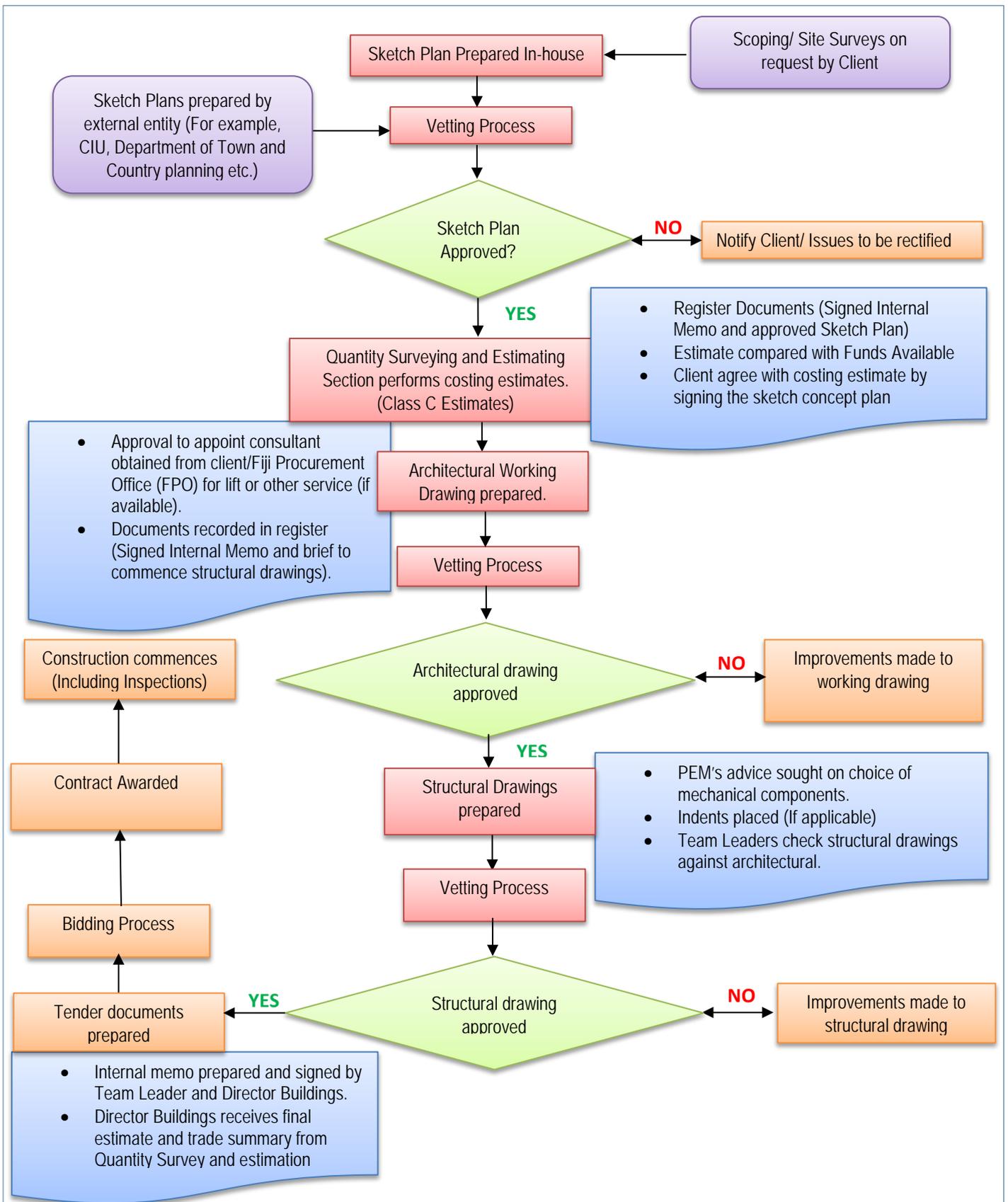


Source: Confirmation received from Department of Buildings of Ministry of Infrastructure on 04 June 2020

1) Department of Buildings - The Department of Buildings priorities are currently aligned to its Strategic Development Plan (SDP) 2019-2022 which is concerned with: (i) Timely provision of professional advice; (ii) Administration of tenders and contracts for construction and civil works with climate change resilience also considered concurrently; and (iii) Consults stakeholders on issues related to compliance with legislations and industry standards.

In order to achieve the above priorities, the Department of Buildings is divided into four (4) sections: (i) Architect Section; (ii) Structure Section; (iii) Estimating Section; and (iv) Work Study Section. We obtained the Standard Operating Procedures for each of the above mentioned sections and developed a Process Map as illustrated in Figure 5.17.

Figure 5.17: Process map for operations in the Department of Buildings at MOIT

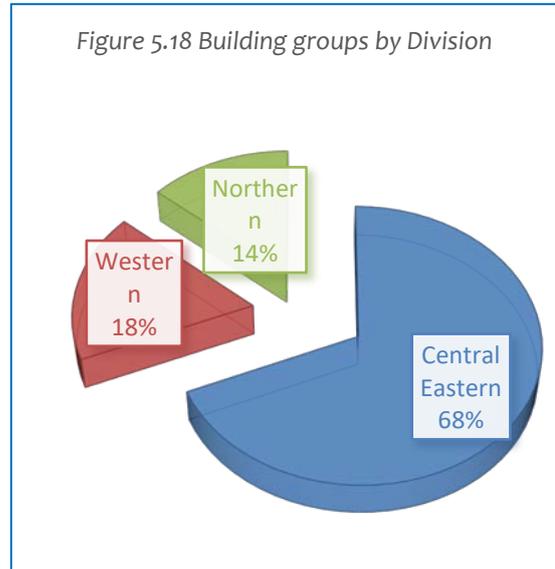


We were provided with a total of 51 building rolls which are under the responsibility of the Department of Buildings. Refer figure 5.18 for the classification of building rolls by division.

There are 35 (68%), 9 (18%) and 7 (14%) building rolls in the Central Eastern, Western and Northern Divisions respectively. Under each building roll, there are a number of building groups, which further consists of a number of buildings, classified according to functionality, floor area, number of rooms and completion dates.

Our analysis of the first 8 building rolls in the Central Division revealed that most of the buildings constructed by the Ministry were completed between 1927 and 1987 and only a handful had completed constructions beyond 1991.

The above finding is significant as majority of the buildings constructed by the Department of Buildings were completed prior to the formal establishment of the National Building Code in 1991. In addition, the establishment of the NCPD in 1994, years after the completion of most of the buildings under the Department of Buildings would not have seen disabled accessibility resonating as much as it is now.

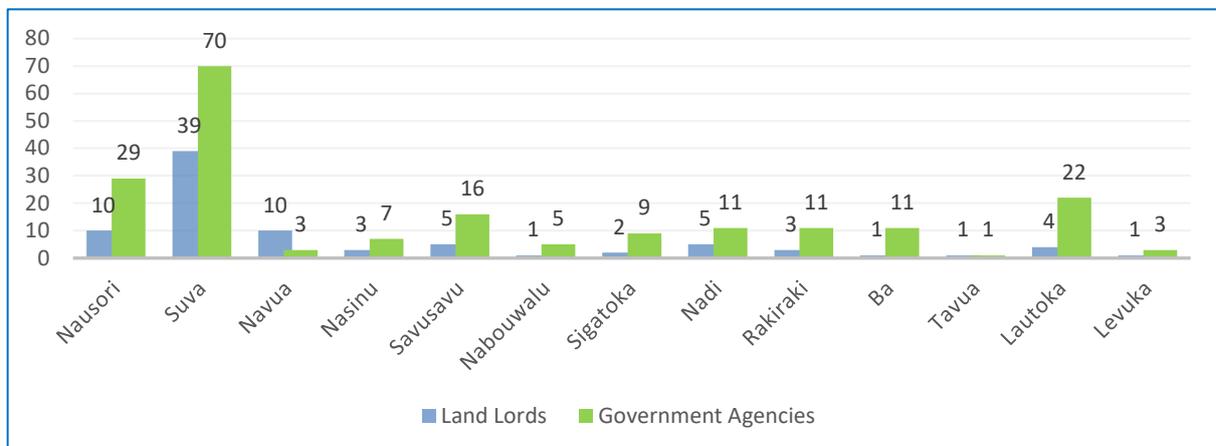


Source: Building Rolls received from Department of Buildings on 18 November 2019

Even so, with the establishment of the National Building Code in 1991, it had not been legislated until the year 2004.

2) Construction Implementation Unit - The Construction Implementation Unit of the Ministry of Economy was established in 2016. Since its establishment, drawings have also been subject to their vetting process. The data on leased office spaces provided to us revealed that a total of 53 Land lords housing 116 Government agencies in the Central Division, 12 Landlords housing 21 Government Agencies in the Northern Division and 16 Landlords housing 67 Agencies in the western and one landlord in Eastern Division Housing 3 agencies. Details are provided in Figure 5.19.

Figure 5.19: Leased Office Space by Area



Source: Leased Office Space Data received from CIU on 07 August 2020

Prior to the National Building Code being legislated in 2004, Cabinet decision dated 09 September 2003, noted that it was agreed to in principle that all major buildings either constructed or rented by Government in future are to be disabled friendly and have accessibility provisions.

We visited a number of privately owned building's that houses Government Offices on 26 May 2020 and 22 October 2020 respectively. Accessible features were noted in some of the essential government service providers that we visited. Photographs are shown below.

Figure 5.20: Inaccessible buildings for one essential service government provider



Source: Picture taken by OAG on 22/10/20

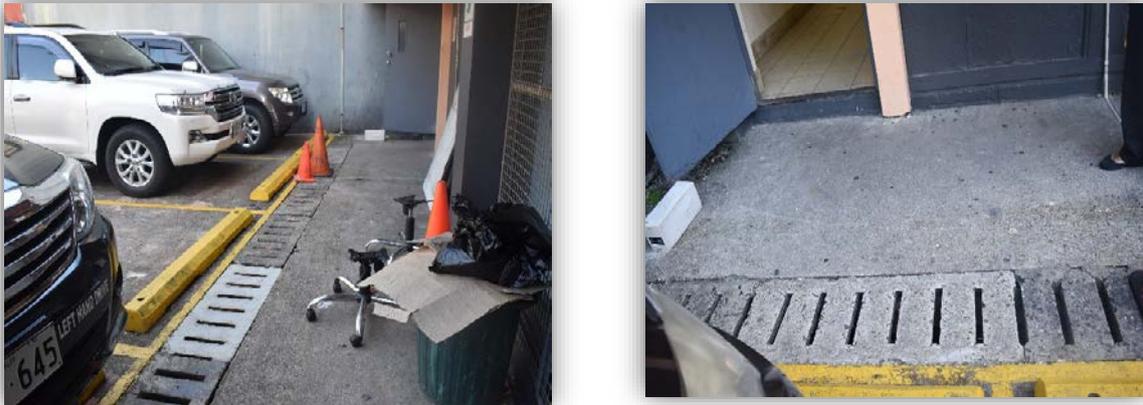
Conversely, we noted that one of the buildings we visited was inaccessible for disabled persons both from the front and back entrance as shown in Figures 5.21 and 5.22 below.

Figure 5.21: Inaccessible front entrance



Source: Picture taken on 26/05/20

Figure 5.22: Inaccessible back entrance



Source: Picture taken by OAG on 26/05/20

We further noted that while a well-functioning elevator was provided in the building, there were no audio systems in place to alert visually impaired people of the floor levels.

We were informed during discussions with the OHS Division⁶² that the National Building Code requires that buildings with more than two floors should have lifts installed. As indicated in Figure 5.23, we noted that one essential service provider which is situated in a building which has three levels, has only stairs as means of access to the top floors.

Figure 5.23: Inaccessible buildings for one of the essential service government provider



Source: Picture taken by OAG on 22/10/20

Furthermore, while acknowledging the availability of steps and ramps for both abled bodied and disabled bodied at the headquarters of another essential government service provider, as shown in Figures 5.24 -Figures 5.25, there were items obstructing the ramp entrance at the time of our inspection.

⁶² Exit meeting dated 31 August 2020.

Figure 5.24: Steps available at another essential government service provider



Figure 5.25: ramp at another essential government service provider with items obstructing entrance



Source: Picture taken by OAG on 22/10/20

We also visited a newly built private premises proposed to house government offices. While we noted accessible features in the premises as shown in Figure 5.26, we also observed that the only access to the second floor was through steps as indicated in Figure 5.27. While the National Building Code allows this practice, provision of services to the disabled community may be compromised especially for those government service providers whose services are not serviced from the ground floor.

Figure 5.26: Steps available at another essential government service provider



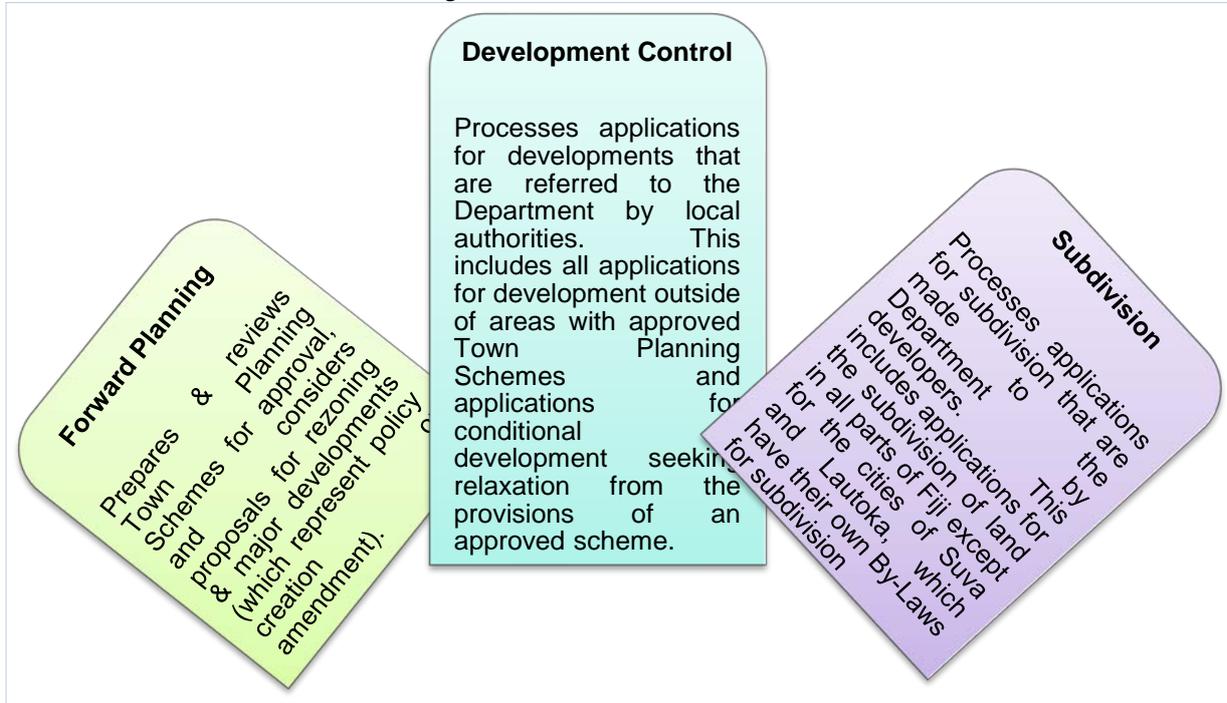
Figure 5.27: Steps available at another essential government service provide



Source: Picture taken by OAG on 22/10/2020

3) Department of Town and Country Planning - The role of the Department of Town and Country Planning (DTCP) is to support the Director of Town and Country Planning to execute the duties and responsibilities set out in the Town Planning Act and Subdivision of Land Act. In order to manage these functions, the Department is divided into three sections as noted in Figure 5.28 below.

Figure 5.28: Sections within DTCP



Source: Department of Town and Country planning website & confirmed by DTCP on 20 February 2020.

Our audit focused on the work of the Development Control Section which was responsible for approving development applications in accordance with the Town and Country Planning Act 1946 and related legislation.

We were provided with an Information packet for making *Development Control*, *Rezoning* and *Subdivision* applications. The information packet included the following:

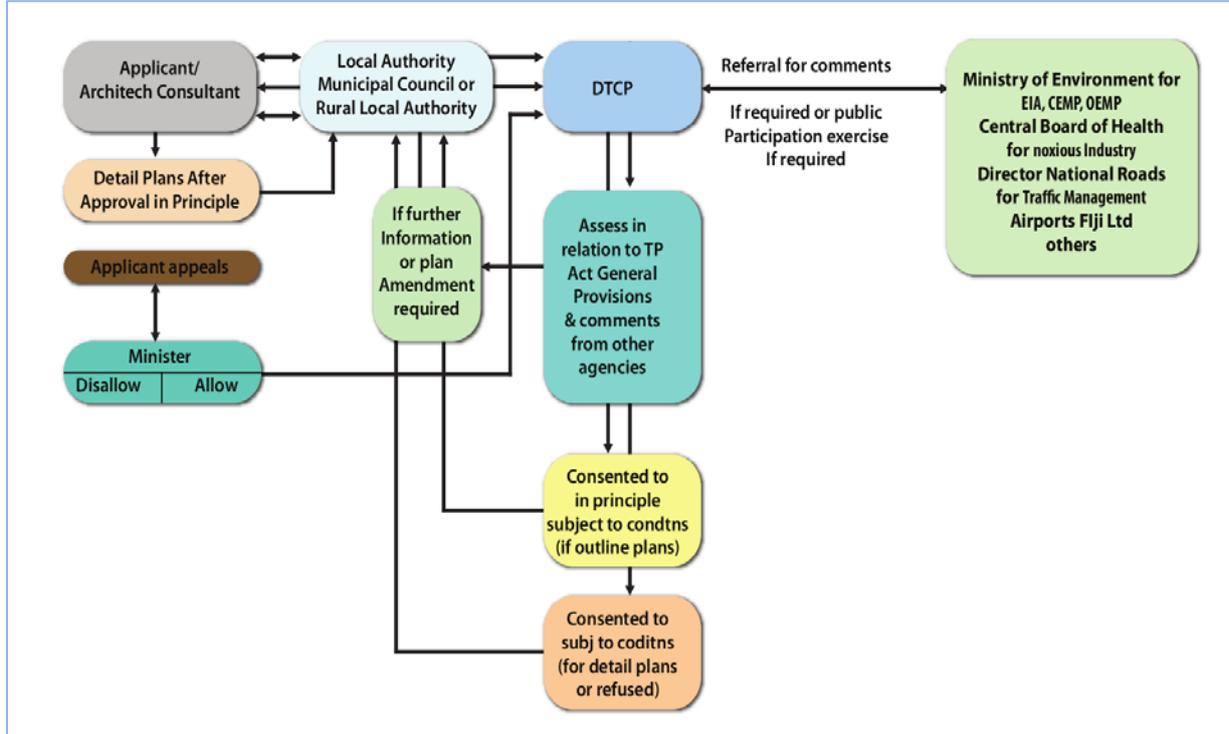
1. Application Form (Refer **Appendix 2**);
2. Application Requirements Checklist (Refer Figure 5.29);
3. Application Process (Refer Figure 5.30); and
4. Schedule of Fees (Refer **Appendix 3**).

Figure 5.29: Application Requirements Checklist

DEVELOPMENT CONTROL/ BUILDING	3 Copies of Town Planning Development Forms	
	3 Copies of Local Authority Forms	
	Proof of Ownership(Title, Lease Document)	
	3 Sets of Building Plans	
	Site & Drainage	
	Floor Plans	
	Elevation Plans	
	Structural Detailed Plan	
	Covering Letter & Recommendations of Local Authority	
	Evidence of fees being paid (Receipt No & Amount)	

Source: DTCP Application Information Packet

Figure 5.30: Development Control – Building Approval Process



Source: DTCP Application Information Packet

Upon receiving development applications based on the above requirements and processes, conditions of consent are provided to the developer or their agents (if any). Refer **Appendix 4** for template conditions which the DTCP works with on all receipt of applications.

The conditions of consent are derived from the Town Planning Act 1946, the Town Planning General Provisions 1999 and the subdivision of Lands Act 1937. Provision of disability access is covered under Provision 9 of the Town Planning General Provisions 1999, Schedule G (General Requirements in all Zones), requirement no. 14 (Facilities for the disabled persons), detailing the following requirements:

- a) Developments shall provide for reasonable access and other facilities for disabled persons in zones other than Residential Zones; and
- b) A pick up and set down area for vehicles carrying disabled persons shall be provided within easy access to the entrance of a building and which shall be clearly marked and reserved at all times for such vehicles in zones other than Residential Zones.

Despite the provision of disability access stipulated in the governing legislation, we noted that the conditions of consent did not adequately capture the requirement for development proponents to provide disability access.

The conditions of consent are not limited to the above mentioned legislative frameworks, as applications are also sent for referrals to other line agencies. These line agencies provide comments on the applications and also stipulate conditions which the DTCP also incorporates into the conditions of consent. Depending on the nature and magnitude of the development application, the agencies to which the DTCP refers plans include (1) National Fire Authority; (2) Occupational Health and Safety; (3) Department of Environment; (5) Fiji Roads Authority; (6) Water Authority of Fiji; (7) Energy Fiji Limited; (8) Department of Lands; (9) Mineral Resources Department; (10) I-Taukei Land Trust Board; (11) Central Board of Health; (12) Civil Aviation Authority of Fiji; (13) Airports Fiji Limited; (14) Investment Fiji etc.

It is evident from this list that NCDP is not engaged in the planning process which means the umbrella body looking after the interests of persons with disabilities is not consulted on the needs of disabled persons at the outset.

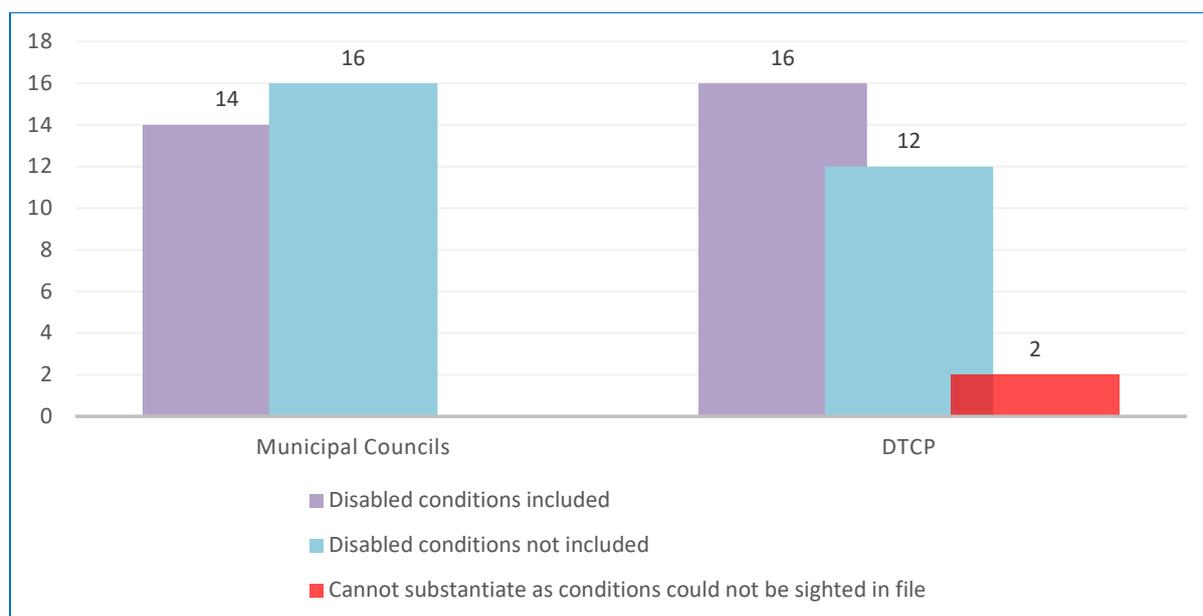
We were provided with application registers for the years 2008 – 2018 during our audit. Applications are processed and decisions are made according to the following:

1. Consented to;
2. FFI;
3. Provision 6 & 7; and
4. Refused.

We noted that majority of approved applications were residential development proposals while few were approved applications for commercial developments.

We reviewed 30 files from a mixture of the development categories (i.e. residential apartments, commercial, civic community, special use – tourism and special use –others) and noted that 11 or (37%) had disability provisions incorporated into both the recommendations from the municipal councils as well as the conditions for consent upon approving applications from the DTCP, 10 (33%) did not include disabled conditions from both approving agencies, while the remaining (30%) had disabled conditions from either one of the approving agencies . Refer to Figure 5.31 for details.

Figure 5.31: Commercial Buildings with Disabled Access incorporated into recommendations



Source: Result of Audit Test

There is clear indication that despite the existence of established governing legislations, regulations and policies, enforcement needs to be strengthened to ensure compliance.

Causes

Disabled access would not be incorporated in the buildings constructed prior to 1990 under the care of the Department of Buildings as the National Building Code was not legislated until the year 2004. Nonetheless, disabled access can be seen in hospitals only, to some extent such as provision of ramps.

The Construction Implementation Unit have noted that inclusion of disabled access features in building developments and rented properties had not been strongly adhered to. Going forward, it is something that the Unit will strongly consider.

The inclusion of the disabled access provisions in the approval of developments other than residential are applied to large commercial developments and application of the provisions to medium to small-scaled commercial developments have been relatively inconsistent.

Effects and risk generated by situation found

Exclusion of NCDP from the agencies consulted prior to approval of commercial and public developments can result in inconsistent advice being provided to the DTCP by municipal councils during the process to approve development plans.

Non-inclusion of conditions for disabled access in the approval process further delays opportunities to be enjoyed by the disabled community resulting in greater isolation.

Good practices (if any)

The Fiji Human Rights and Anti-Discrimination Commission is tenant to Kelton Naibati situated at Goodenough Street in Suva. The Commission has made efforts in requesting the landlord to install disabled accessibility features within their building premises. These features include ramps at the entrance to the office, disabled access doors, and low disabled access counters. Images are shown in Figures 5.32 to 5.36 below.

Figure 5.32: Concrete ramp at entrance to office



Source: Picture taken by OAG on 06/07/20 at Human Rights & Anti-Discrimination Commission HQ

Figure 5.33: Grip tiles at entrance to office



Source: Picture taken by OAG on 06/07/20 at Human Rights & Anti-Discrimination Commission HQ

Figure 5.34: Disabled access doors



Figure 5.35: Accessible Door



Source: Picture taken by OAG on 06/07/20 at Human Rights & Anti-Discrimination Commission HQ

Figure 5.36: Disabled access reception desk



Source: Picture taken by OAG on 06/07/20 at Human Rights & Anti-Discrimination Commission HQ

CIU has elaborated in a meeting held with our team on 13 July 2020 that most of the buildings were rented by government way back in early 1990's with limited number of buildings available for rent. The National Building Code/ legislation at that time did not accommodate disability access.

However, with current law in place for disabled compliance, CIU is reviewing all letting agreements to ensure that the buildings leased have disabled access while the current process of acquiring any

office space is mandatory to have disability access. Similarly, any new construction carried out needs to follow the building code with disability access.

Furthermore, customer oriented agencies or sections are located at places where it is more easily accessible by disabled persons or adequate assistance provided by security officers to have them assisted where they feel comfortable with.

CIU is also of the view that introduction of new technology is also applicable to allow the disabled persons to access the required information online.

Moving on, CIU would like to highlight that an advertisement was done for expression of interest for private investors to build, operate, and manage offices for Government agencies in all divisions. One of the major component to qualify these investors is that their premises need to be fully compliant with disability requirement. This will give more opportunities to relocate those agencies, which are not disabled compliant and centrally locate essential services to avoid unnecessary travel hassle for those disadvantaged due to their disability.

Therefore CIU is ensuring that those buildings rented by Government is disabled friendly for instance, not only entry to a building but also exit in times of disaster/emergency. CIU also proposed that the approving authority should always ensure that disability friendly is mandatory since CIU only designs and vet plans and concept design based on the agency's functionality plan. CIU will also look into more technological advancements in terms of those building equipments such as elevators and office setup that are more disabled friendly.

The DTCP acknowledged that disability considerations in building design is critical and there have been instances whereby for large commercial buildings, provision for ramps, railings & disabled car parking spaces have been conditioned. DTCP will be forming a Major Building Development Committee in which major building applications will be approved. DTCP will also invite the NCDP to be part of that committee. Referrals will also be sent to them.

DTCP confirmed that they will ensure that the provisions mentioned are not only approved on paper but also materialized on the ground through the assistance of the municipal councils who will enforce the requirements and monitor compliance. This will be captured in the Amended Town Planning General Provisions which is due for amendments this financial year. It is also the responsibility of the architects to advise the applicant of the need to account for disability provisions in their building designs as mentioned under the National Building Code & the Town Planning Act General Provisions 1999 Schedule G (14). In addition, more awareness across the Ministry of Local Government through municipal councils will be created on the need to incorporate disability provisions for building development proposals.

Expected benefits

Including accessibility provisions in the approval process for all development applications other than residential is indicative of awareness and realization of the rights of persons with disabilities to participate in social and economic activities in person.

Recommendations

- The Department of Buildings, CIU and Department of Town and Country Planning should ensure that disabled access are included, approved and monitored for consistent implementation across development projects other than residential.
- Pursuant to Cabinet decision dated 09 September 2003, the CIU should ensure that all major buildings rented by Government are to be disabled friendly and have accessibility provisions.

The NCPD should:

- Work with DTCP in the referral process before applications are approved for construction.
- Carry out awareness programs to designers, architects and engineers regarding disability access in planning and designing.

5.3: DISABLED ACCESSIBILITY TO PUBLIC TRANSPORT

Summary of main findings of the Chapter

This section aims to examine the enabling legislations and policies addressing barriers for accessibility to public transport by persons with disabilities and assesses the extent of implementation of disabled friendly features in public transport. While governing legislations exist for incorporating disabled access to public service vehicles, response from the owners of public service vehicles has been relatively low due to weak enforcement. Consequently, disabled accessibility of public service vehicles has been severely hampered. The absence of legislation and policies for the implementation of disability access for passenger carrying ships and air transport has also negatively impacted disability access in water and air transportation.

Theme 1: State of Disabled Accessibility in Public Service Vehicles

Situation Found

The amendment made to the Land Transport (Public Service Vehicles) Regulations in 2015, one of which required that owners of public service vehicles must ensure that the vehicle is user-friendly for persons with physical disabilities is acknowledged. However, due to the lack of institutional knowledge within the enforcement and policy making agencies, effective action has been generally very low.

Moreover, along the same time when the amended provisions were introduced into the LTA Regulations, work on introducing priority seats in buses were made with stickers pasted in the buses along with colouring of seats.⁶³ The consistent use of the priority seats by persons with disabilities was heavily scrutinized given that the public service vehicles are privately owned⁶⁴ which gave rise to the cessation of the initiative due to vandalism⁶⁵ and low use of the seats by disabled persons as well as elderly and expecting mothers⁶⁶. Therefore, implementation faded over the years.

Instead, discussion focussed on a transition period to be provided to Public Service Vehicle (PSV) owners in order to successfully bring about the necessary changes in full realisation of the rights of disabled persons to reasonable transportation.

Criteria

*One of the functions of the NCPD is to formulate a national policy that ensures that services are provided to all persons with disabilities in Fiji as per Section 5, part (b) of the Rights of Persons with Disabilities Act 2018.*⁶⁷

*State Parties shall also take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for accessibility of facilities and services open or provided to the public.*⁶⁸

⁶³ Confirmation provided by Department of Transport on 05 October 2020.

⁶⁴ Confirmation provided by Department of Transport on 05 October 2020.

⁶⁵ Confirmation provided by Tacirua Transport on 01 October 2020 and Shore Buses on 05 October 2020.

⁶⁶ Confirmation provided by Department of Transport on 05 October 2020.

⁶⁷ Rights of Persons with Disabilities Act 2018, Section 5, Part (b).

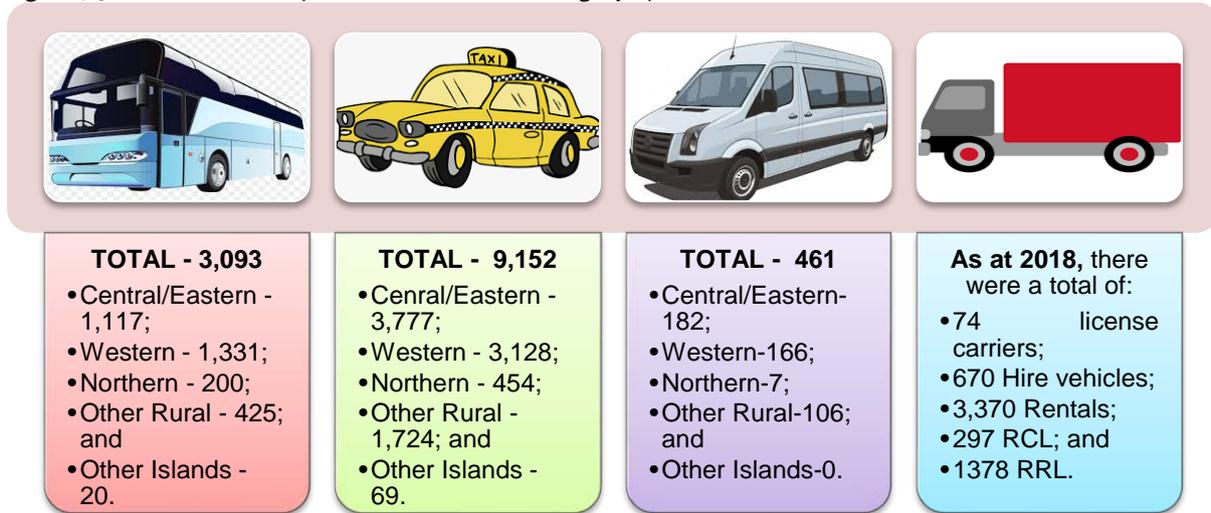
⁶⁸ Convention on the Rights of Persons with Disabilities, Article 9, Part 2 (a).

Evidence and its analysis

Section 61 (1) of the LTA Act stipulates that any motor vehicle is deemed a public service vehicle if it is used for the carriage of passengers for hire, reward or other consideration.

Figure 5.37 below illustrates the total number of vehicles under each category of the Fijian Public Service Vehicle (PSV) Sector which consist of: Omnibuses; taxi cabs; minibuses; licensed carrier vehicles; rentals, hires, Road License Carrier (RSL), RSL Minibus, RSL Taxi, Road Contract License (RCL) and Road Route License (RRL).

Figure 5.37: Total number of vehicles under each category of vehicles in the PSV Sector



Source: LTA Statistics received on 27 October 2019 & LTA Factsheet obtained from LTA website.

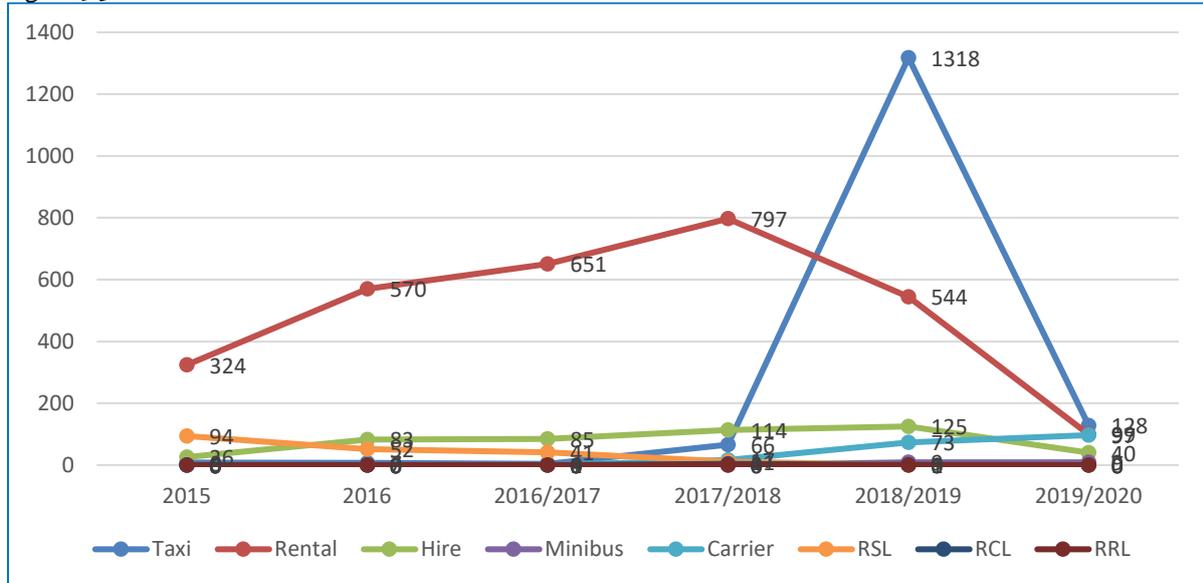
As discussed in Theme 1 of this section, an amendment was made to the Land Transport (Public Service Vehicles) Regulations in 2015 which came into effect on 04 July 2015 through Legal Notice No. 66 of 2015 stipulating:

- 20A. – (1) The driver of any public service vehicle must not refuse to carry in the vehicle a person with disability.
- (2) The driver of any public service vehicle must take reasonable steps to assist persons with physical disabilities when boarding and disembarking the vehicle.
- (3) The owner of any public service vehicle must ensure that the vehicle is user-friendly for persons with physical disabilities.

Through the above amendments, particularly with amendment to regulation 20A (3) above, there is clear indication that PSV’s are to be barrier-free for persons with disabilities. This entails that disabled persons (whether a wheelchair user, speech impairment, visual impairment etc.) should be able to move around independently just like the rest of the abled bodied population in the country.

With the 2015 amendments being effective on 04 July 2015, we checked whether permits issued after the effective date were subject to enforcement of conditions that addressed disabled access in the PSV. Total permits issued for the years 2015 onwards are noted in Figure 5.38

Figure 5.38: New Public Service Vehicles Permits Issued



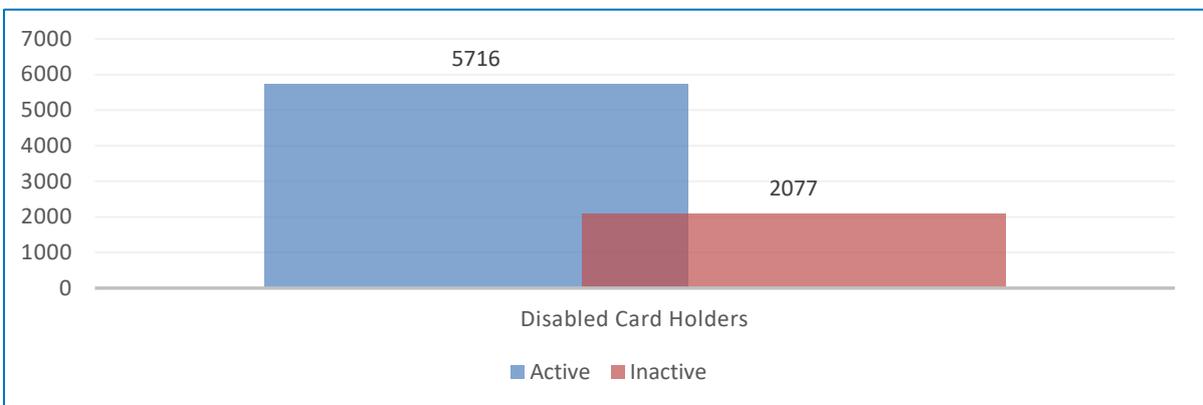
Source: LTA Factsheet No. 2 obtained from LTA website: <https://www.lta.com.fj/lta-publications> & data received from LTA on 12 August 2020.

A total of 1531 taxi permits, 2985 rental permits, 473 hire permits, 19 minibus permits, 187 carrier permits, 198 RSL permits, 5 RCL permits were issued from 2015 to 2019/2020. We found that the Land Transport Authority (LTA) had not enforced the 2015 amendments to the LTA regulations in any of the newly issued permits.

The LTA confirmed that there are currently no vehicles which are disabled friendly in the PSV Sector in Fiji. Therefore, we gathered that though there are established legislations requiring that challenges with disabled accessibility to Public transport be addressed, very little action has been taken to enforce the law.

We were further informed⁶⁹ that in relation to omnibuses, there has relatively not been any demand for low floor fully accessible buses and coaches. However, from data obtained during audit, it was noted that as at 26 February 2020 there were a total of 5,716 active disabled card holders. Refer Figure 5.39 for details.

Figure 5.39: Disabled card holders



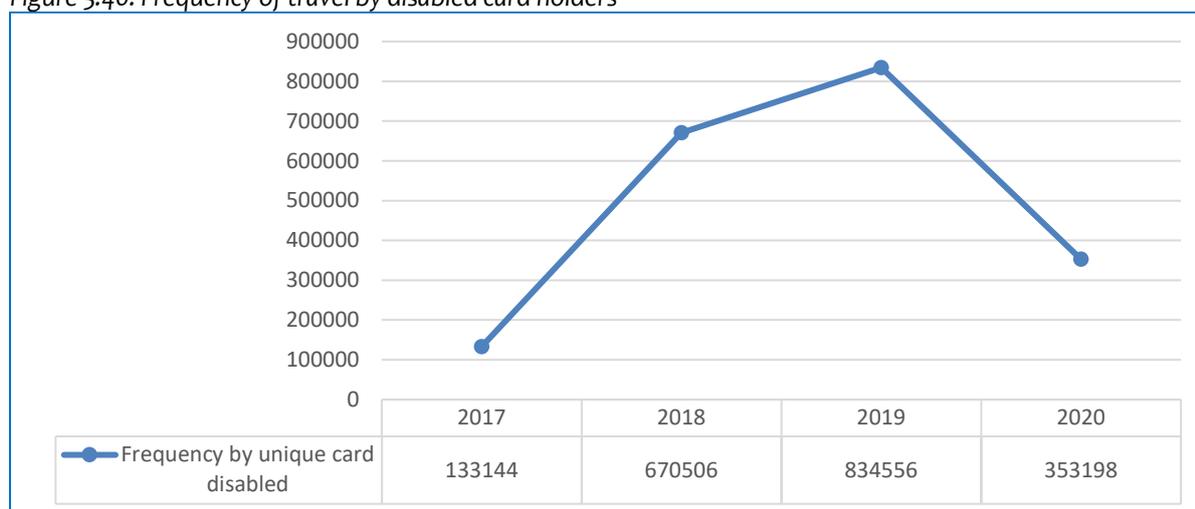
Source: Vodafone Data received on 11 June 2020.

⁶⁹ Correspondence with LTA dated 18 June 2020.

These active disabled card holders make up a mere 5.03% compared to the whole disabled population in Fiji of 113,595. We were unable to determine how the remaining 94.97% of the disabled population commute on a daily basis as mechanisms to draw these conclusions in the form of surveys have yet to be undertaken.

We further gathered through the data obtained that the use of buses by the disabled are high in demand with due consideration to their frequency of travel each day from 2017 to 2020. Refer Figure 5.40 for details.

Figure 5.40: Frequency of travel by disabled card holders



Source: Vodafone data received on 09 July 2020

The frequency of travel shows an increasing trend from 2017 to 2019 with a decrease in 2020 due to data obtained as at 07 July 2020. The highest recorded frequency of travel for disabled card holders was in 2019 recording 834,556 transactions. This indicates that an active disabled card holder uses his/her card on an average of 146 times during the year 2019.

Discussions with LTA noted that it is highly likely that there will be a lot of resistance from the bus operators due to the significant cost factor involved. To confirm this statement, we requested NCDP to arrange for a quotation of a fully accessible bus for persons with disabilities from a local bus manufacturer. However, the quotation is yet to be provided to date⁷⁰.

The Allen Consulting Group carried a review and presented a report to the Minister for Infrastructure, Transport, Regional Development and Local Government and the Attorney General on the Disability Standards for Accessible Public Transport in Australia in 2009. The report noted that financial cost of incrementally implementing Transport Standards (over a 20-year period) was estimated to be somewhere in the order of \$3,750 million (1998 prices). The report further noted that a significant part of the cost, stemmed from purchase of extra buses in order to replace lost capacity due to allocated ‘wheelchair spaces’ and the estimated cost of modification of bus infrastructure to comply with the Transport Standards.

We conducted an electronic survey from 04 August 2020 to 14 August 2020 where we sent survey questions to thirty-one (31) bus companies. We received only two (2) responses and noted that challenges preventing bus companies from providing disabled access buses is largely due to the cost factor. It was suggested to address the challenges that was for government to provide grants to import special designed buses from overseas. In addition, there was a need for empathetic bus

⁷⁰ Request for quotations were sent to NCPD on 05, 07, 10, 18 August 2020 and latest request sent on 21 October 2020.

drivers who are trained to service disabled persons, who are customer focused and trained before PSV licenses are granted. Other suggestions include the need for government to purchase and provide disabled access buses which the current bus companies can operate and the need for bus stations and all business premises in Fiji to be accessible by persons with disabilities, leaving no one behind.

Causes

One of the reasons for the non-enforcement of the 2015 amendments when issuing new permits after the effective date of 04 July 2015 was cited as the framing of the Land Transport (Public Service Vehicles) (Amendment) Regulations 2015 without carrying out a Regulatory Impact Assessment (RIA) by the sponsoring Ministry before submitting the legislative change. However, we could not ascertain whether there was a RIA conducted.

Other reasons which were provided by LTA for non-enforcement of the 2015 amendments when issuing new permits or renewing existing permits include:

- Lack of awareness on the part of LTA regarding requirements placed on PSV Operators in relation to the responsibilities of PSV Drivers.
- Risk of an industry collapse due to accelerated change resulting from the new regulatory provisions.

Regulatory impact analysis (RIA) is a tool to ensure policy coherence and effectiveness...By gathering evidence, exploring assumptions and systematically identifying and assessing expected impacts, RIA aims to give policy makers insight into the nature of policy problems and the real world impact of potential responses. Policy makers can use this information, combining it with political considerations and their own judgment, to choose policy options that are expected to provide the greatest net benefit to society as a whole.

International Transport Forum Discussion Paper No.
2017-05 – OECD/ITF 2017.

The Department of Transport further noted that when mandates are issued to PSV owners resulting from changes in policy and strategic responses, these mandatory requirements are borne by the PSV owners which they cannot recover due to the regulated fares which is determined by the Fiji Competition and Consumer Commission (FCCC).

LTA noted that they were not consulted when the change in the law came about in 2015. A Regulatory Impact Assessment is a necessity provided the agency is consulted about the proposed change to regulations in advance. A long transition period towards full compliance will be necessary to ensure that the industry does not collapse. A 35 seat low floor bus with rear engine landed in Fiji is likely to cost in the order of \$450,000 per unit.

The Department of Transport also cited the lack of institutional knowledge with regards to implementation of prior years' work and initiatives within the Land Transport Authority as one of the primary reasons for the limited implementation of disabled accessibility in Public Service Vehicles. Before the appointment of the current Chief Executive Officer (CEO) for the Authority in the beginning of 2019, the last CEO exited the Authority in 2016, thus, during the absence of the CEO from 2016 till 2019, the Authority was governed by the Board headed by the Executive Chairperson. Many of the members of the Board are not involved in the everyday workings of the Authority as they are employees of the Authority, therefore, identifying and addressing priority issues of the Authority may have been compromised.

Effects and risk generated by situation found

Accessibility, amongst others, to public transport is critical for the enjoyment of practically all rights under the CRPD and other treaties by persons with disabilities, so lack or denial of accessibility could be considered discriminatory.

Good practices (if any)

The Land Transport Authority plans on carrying out awareness campaigns in drawing the attention of the PSV operators in relation to the obligations of drivers. In addition, advice has been given to bus operators for priority seats whereby the first two seats are colour coded and installed with adjacent signages for disabled and elderly passengers.

Furthermore, as discussed in Theme 2 of Section 3 above, the Land Transport Authority has approved the revised Quality Assurance Maintenance System (QAMS) on 20 March 2019. In addition, though not successful, also as noted in Theme 2 of Section 3 of this report, the Ministry of Women Children and Poverty Alleviation in partnership with the Fiji Bus Operators Association introduced the priority seatings for persons with disabilities, as well as the elderly and pregnant women.

In 2015, the Ministry introduced the Household Travel Survey (HTS) with support from the government including funding for Phase I and Phase II in 2018. It is anticipated that Phase III will be conducted in the near future, depending on availability of funds. Phase I and II reports have been published and is available on public domain. It is considered as Fiji's first ever Household Travel Survey (HTS) and is the largest and most comprehensive source of personal travel data ever collected in Fiji, providing a comprehensive picture of trip-making and travel patterns of people living in Fiji.

The HTS provides an evidence base to support strategic transport planning, major infrastructure and project development, service delivery and policy development. The data collection and analysis has been organised as a function of three distinct geographical areas - Maritime, Urban and Rural areas of Fiji to assist the Ministry and transport (land/sea) agencies in decision making. The report identified that 2% of the population surveyed could not travel because of disabilities.

Expected benefits

Transportation provides independent access to employment, education, and health care facilities, and to social and recreational activities.

Recommendations

LTA should:

- Ensure that proper regulatory impact assessments are carried out before providing for amendments in governing legislations and regulations so that changes are effective in terms of implementation and enforcement.
- Ensure that awareness regarding requirements placed on PSV Operators in relation to the responsibilities of PSV Drivers and provisions in the regulations relating to disability friendly features are properly carried out and effected.
- In consultation with relevant stakeholders, consider ways to introduce transition periods for bus operators in the form of policy responses or regulatory amendments so that bus operators are encouraged to incorporate disability friendly features in their fleets without risk of industry collapse.

Theme 2: State of Disabled Accessibility for Ships Carrying Passengers

Situation Found

The Maritime and Land Transport Policy, in trying to interpret the “*Right to Reasonable Access to Transportation*” have acknowledged the non-discrimination clause articulated in the 2013 Constitution which implies that the design of transport systems, whether land, sea or air, should be accessible and safe for all users including disabled persons. However, the current state of disabled accessibility in passenger carrying ships for franchise shipping vessels and government owned vessels are relatively very low.

Criteria

*One of the functions of the NCPD is to formulate a national policy that ensures that services are provided to all persons with disabilities in Fiji as per Section 5, part (b) of the Rights of Persons with Disabilities Act 2018.*⁷¹

*State Parties shall also take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for accessibility of facilities and services open or provided to the public.*⁷²

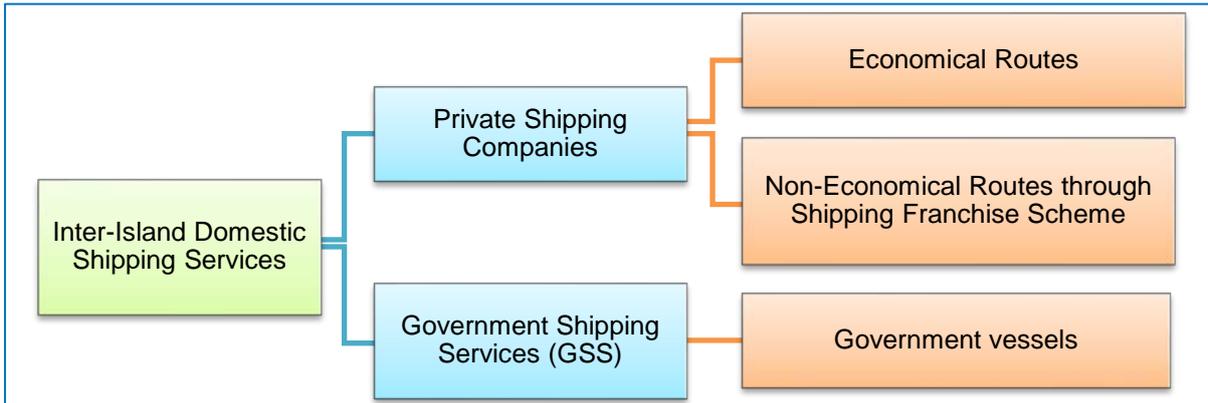
Evidence and its analysis

Inter-island domestic shipping travelling and cargo services are supplied by private shipping companies and Government vessels. Refer Figure 5.41 below for details.

⁷¹ Rights of Persons with Disabilities Act 2018, Section 5, Part (b).

⁷² Convention on the Rights of Persons with Disabilities, Article 9, Part 2 (a).

Figure 5.41: Domestic Shipping Services



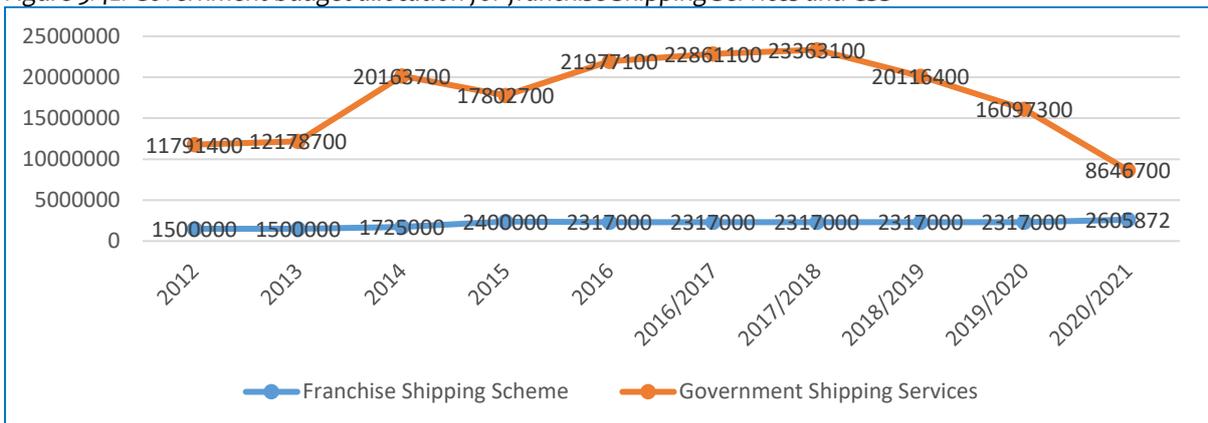
Source: Maritime and Land Transport Policy, Section 5.4.1, p. 68.

There are a total of eight (8) Private Shipping companies which service economical and non-economical routes around Fiji. Economical routes are commercial shipping services including the main ferry services between Viti Levu and Vanua Levu⁷³ and are typically serviced by more than one operator and include 9 service routes.

Non-economical routes are serviced by Government’s Shipping Franchise Scheme whereby private operators are contracted to run sub-commercial services. There are currently five (5) private shipping companies supplying services under the Shipping subsidy franchise scheme and also service approximately 9 routes.

Government vessels are facilitated through the Government Shipping Services (GSS) which functions as a department to serve government’s shipping service needs in the form of shipping and related services, development of shipping strategies and related infrastructure. Government budget allocated to the franchise shipping scheme has been steadily consistent over the years from 2012 to 2020/2021 while funding for GSS has been fluctuating over the same period. Figure 5.42 illustrates the trend.

Figure 5.42: Government budget allocation for franchise Shipping Services and GSS



Source: Fiji Government budget estimates: 2012 – 2020/2021

Our audit focussed on the Franchise Shipping Scheme and the government vessels at the Department of GSS in terms of determining the degree of implementation of disabled accessibility in the vessels due to the high level of government intervention involved.

⁷³ Maritime and Land Transport Policy, Section 5.4.1, p.68.

Accompanied by an observer from the Department of Transport, we visited one of the Franchise conventional vessels on 06 August 2020 which had just arrived from Gau on the day of the audit visit. Conventional vessels as depicted in Figures 5.43 do not have landing ramps which are typically associated with motor landing crafts and have only one point of entry which is relatively small for a wheelchair user to enter. During boarding time, a steel boarding bridge (Refer Figure 5.44 for image) is raised for passengers to board the vessel.

Figure 5.43: Boarding/Entry point



Source: Picture taken on 06/08/20 at Narain Jetty

Figure 5.44: Portable steel board



Source: Picture taken on 19/06/20 at GSS Jetty

We were advised that the Franchise ship rarely received disabled persons as boarding passengers. However, in cases where they do, the wheelchair bound or bed-ridden passenger would be physically carried on to the ship. We were informed of an incident where a bed-ridden individual had to be winched in the same manner as cargo using a huge net and pallets.

Figure 5.45: Passenger saloon



Source: Picture taken on 06/08/20 at Narain Jetty

Before entering the passenger saloon (See Figure 5.45 for image), we encountered what is called *raised coamings* (Refer Figure 5.46 & 5.47 for images). Though typically a barrier for persons with disabilities, it is an important component in any passenger or cargo carrying vessel especially for those whose passenger saloons and cabins are located on the ground deck. The raised coamings with its *water tight doors* prevent water from entering the vessel at the ground deck.

Figure 5.46: Raised coaming taken from outside the passenger saloon



Source: Picture taken on 06/08/20 at Narain Jetty

Figure 5.47 Raised coaming taken from inside the passenger saloon



Source: Picture taken on 06/08/20 at Narain Jetty

Access to the upper deck are only possible through steps as illustrated in Figure 5.48 & 5.49 below, which are generally not conducive for persons with disabilities. Therefore, disabled persons are advised and encouraged to remain in the passenger saloon throughout the whole trip.

Figure 5.48: Steps outside the passenger saloon



Source: Picture taken on 06/08/20 at Narain Jetty

Figure 5.49: Steps from inside the passenger saloon



Source: Picture taken on 06/08/20 at Narain Jetty

Coupled with hygiene and sanitary issues, non-accessible washrooms to accommodate persons with physical disabilities were noted during the audit visit. Refer Figure 5.50 & 5.51 for images.

Figure 5.50 Non-accessible washrooms



Source: Picture taken on 06/08/20 at Narain Jetty

Figure 5.51: Non-accessible washrooms



Source: Picture taken on 06/08/20 at Narain Jetty

We also visited the Government Shipping Services Complex in Walu bay on 19 June 2020. The Department has a total of 12 vessels in its fleet according to the following categories:

- Conventional – 5 vessels;
- Land Craft – 4 vessels;
- Dumb budge – 1 vessel;
- Tug – 1 vessel; and
- Pile Drive – 1 vessel.

We noted that the passenger waiting area which is also the cargo loading area have an accessible feature which is the ramp and levelled surface as shown in Figure 5.52. A walk around the GSS vicinity noted that the fare payment booth (Refer Figure 5.53) is not accessible.

Figure 5.52: Concrete ramp



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.53: Fare payment booth

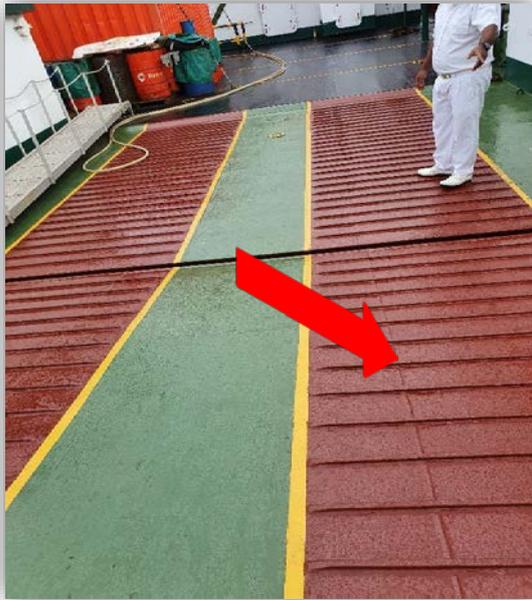


Source: Picture taken on 19/06/20 at GSS Jetty

We inspected four (4) GSS vessels which were available at the wharf during the time of the visit. Two (2) were Conventional Motor Vessels, while two (2) were Motor Landing Crafts.

We noted that while the two Motor Landing Crafts had ramps for boarding passengers and cargo, as shown in Figure 5.54 and 5.55, they had barrier like grips on them, the purpose of which is to prevent accidents from slippery surfaces during rainy weather.

Figure 5.54: Ramps with barrier like grips



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.55: Ramps with barrier like grips



Source: Picture taken on 19/06/20 at GSS Jetty

The two conventional motor vessels used steel boarding bridges which is not conducive for wheelchair users, especially those that are completely immobile. Similar to the franchise vessel that we visited, this may result in people in wheelchairs being winched in to the ship cargo.

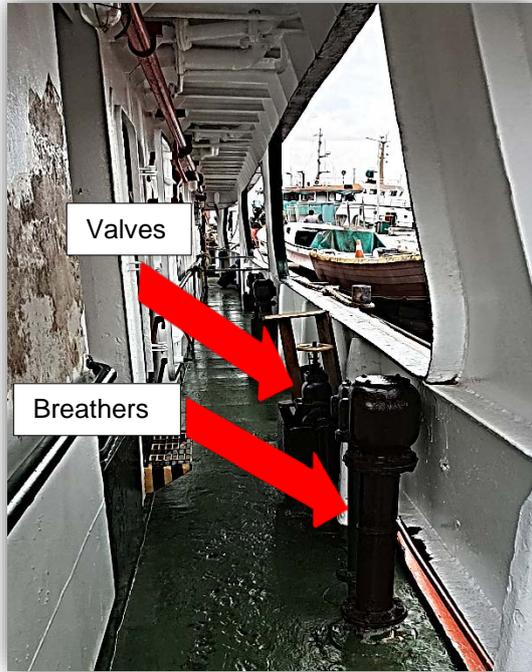
Figure 5.56: Steel boards used for boarding by Conventional Motor Vessels



Source: Picture taken on 19/06/20 at GSS Jetty

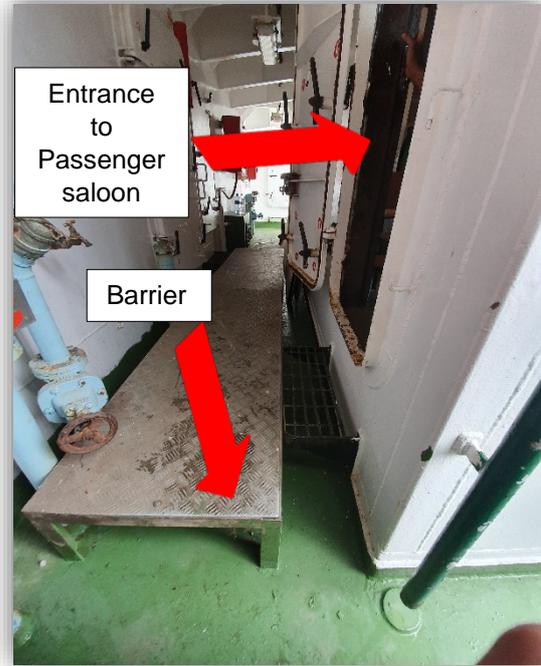
We noted barriers on board the vessel which included valves and breathers for tanks etc. This would cause obstructions along the path of the wheelchair user as well as visually impaired passengers.

Figure 5.57: Vessel 1 – Images of valves & breathers



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.58: Vessel 3 – barrier to Entrance to Passenger saloon



Source: Picture taken on 19/06/20 at GSS Jetty

All vessels inspected had raised combings the purpose of which is to prevent water from entering the vessel.

Figure 5.59: Vessel 1 – raised combing



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.60: Vessel 2 – raised combing



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.61: Vessel 3 – raised combing



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.62: Vessel 4 – raised combing



Source: Picture taken on 19/06/20 at GSS Jetty

We further noted that stairs which were relatively steep, was the only means of getting to the upper decks which is a barrier for persons with disabilities.

Figure 5.63: Vessel 1 – image of stairs



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.64: Vessel 2 – image of stairs



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.65: Vessel 3 – Image of stairs



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.66: Vessel 4 – Image of stairs



Source: Picture taken on 19/06/20 at GSS Jetty

We further noted that all inspected vessels did not have accessible washrooms as indicated in Figure 5.67 to 5.68. We took images of washrooms for the 3rd and 4th vessel.

Figure 5.67: Vessel 3 – Inaccessible washrooms



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.68: Vessel 4 – Inaccessible washrooms



Source: Picture taken on 19/06/20 at GSS Jetty

Though there were fine and evenly levelled surfaces in the vessels, barriers were found in the confines of the vessels.

Figure 5.69: Vessel 1 – steel barrier at the entrance of rooms



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.70: Vessel 2 – barrier at the entrance of rooms



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.71: Vessel 3 – barrier at the entrance of rooms



Source: Picture taken on 19/06/20 at GSS Jetty

Figure 5.72: Vessel 4 – barrier at the entrance of the student mess room



Source: Picture taken on 19/06/20 at GSS Jetty

As with the franchise ship that we inspected, vessels operated by the Department of Government Shipping Services are inaccessible for persons with disabilities.

Causes

The NCPD noted that the issue that they are facing is the changing objectives of the transport sector. They also noted that accessibility issues for sea transportation is something that the NCPD is slowly venturing into and there needs to be a change in mind-set of management overseeing maritime transportation.

Effects and risk generated by situation found

Accessibility in maritime transportation needs significant improvement as passengers with disabilities need to rely on family and staff to physically lift them onto the vessel, which can be hazardous. Some instances even involve the disabled person opting to remain in the vehicle in the cargo area due to the tedious and hazardous task of being man handled and carried to the passenger saloon which can only be accessed through steep and uneven stairs.

Good practices (if any)

Though there is an absence of reliable data on travel patterns/behaviour in relation to each transport mode in the country, the observers that are present during each franchise trip prepare reports detailing situations encountered before, during and after the trip. The report would capture information such as number and type of passengers. Photographs are also taken for evidence purposes. However, the reports were not provided for our review at the time of the audit.

Currently the NCPD is holding informal meetings to test whether those in the Maritime Transportation sector are ready to commit.

Expected benefits

Providing disabled accessibility in sea transportation would significantly reduce disabled person's dependency on third parties to accompany them during trips and isolation from social contact. In addition, provision of disabled access could prevent hazardous situations from happening due to the inaccessible environment. For example, injuries as a result of improper handling of the disabled person, particularly when individuals are prompted to carry the disabled person into the vessel.

Above all, providing barrier-free access to sea transportation will uphold the dignity of disabled persons especially when they are forced to travel in vehicles in the holding areas of shipping, physically carried into vessels or transported using winches used for loading cargo.

Recommendations

The NCPD should:

- In consultation with relevant stakeholders, consider strengthening collaboration so that disabled access could be implemented in sea transportation;
- Consider making proposals to the legislature to provide grants/subsidy for private vessel operators on re-fleeting their vessels to allow for the required accessibility;
- Consider making proposals to the Maritime Safety Authority of Fiji (MSAF) through the Maritime Technical Working Group (TWG) to include in the passenger manifest whether persons with disabilities also boarded the vessels during trips.

Theme 3: State of Disabled Accessibility in Air Passenger Carriers

Situation Found

State of accessibility in the airport that was under audit inspection is accessible with respect to the needs of wheelchair users. However, inclusion of disability features for other forms of disability such as those with visual, hearing and speech impairment, has not been implemented. Furthermore, reasonable access is available when boarding the aircraft but this is normally at the discretion of the airline when approving bookings as evaluation of manpower capacity has to be carried out. Thus, there have been instances where disabled persons or persons with other medical conditions have been denied air travel as safety is paramount.

Criteria

One of the functions of the NCPD is to formulate a national policy that ensures that services are provided to all persons with disabilities in Fiji as per Section 5, part (b) of the Rights of Persons with Disabilities Act 2018.⁷⁴

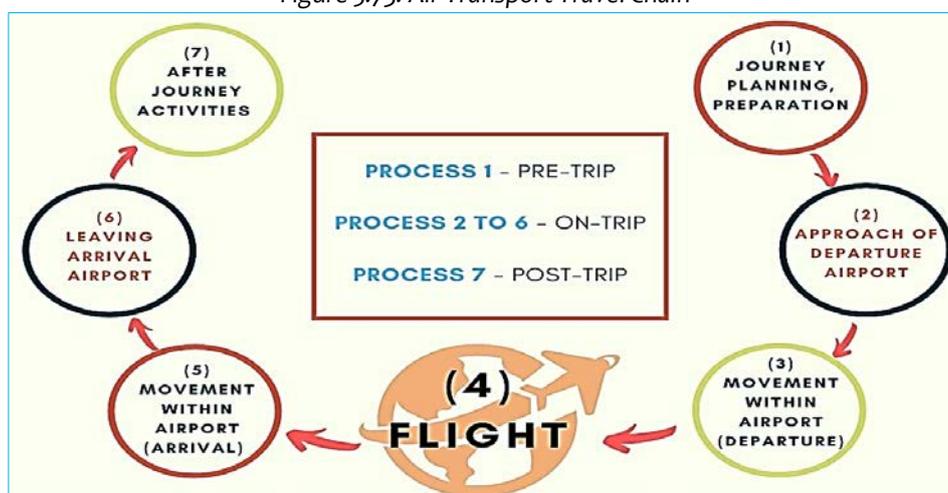
State Parties shall also take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for accessibility of facilities and services open or provided to the public.⁷⁵

Evidence and its analysis

Apart from the provisions in the Constitution and the 2018 Rights of Persons with Disabilities, we could not determine relevant provisions of disabled access ingrained in legislation governing air transportation.

Eniko Nagy and Csaba Csizar from the Budapest University of Technology and Economics in their article titled *Model of an integrated air passenger information system and its adaptation to Budapest Airport* developed an air transport travel chain. Refer Figure 5.73 for details.

Figure 5.73: Air Transport Travel Chain



Source: Nagy, Eniko & Csizar, Csaba. (2017). *Model of an integrated air passenger information system and its adaptation to Budapest Airport*. *Journal of Air Transport Management*. 10.1016/j.jairtraman.2017.06.022.

⁷⁴ Rights of Persons with Disabilities Act 2018, Section 5, Part (b).

⁷⁵ Convention on the Rights of Persons with Disabilities, Article 9, Part 2 (a).

As illustrated above, the travel chain consists of three phases namely pre-trip, on-trip and post-trip. Each phase has one or more processes. Firstly, the pre-trip phase encompasses the journey planning and preparation. The process in relation to disabled accessibility involves the booking of additional services.

Secondly, the on-trip phase which includes processes 2 to 6, in relation to disabled accesses should include the following services:

1. Approach of departure airport – disabled parking reservation and terminal access;
2. Movement within departure airport - access at counter, baggage drop-off, accessible washrooms, security and passport control, boarding and information provision;
3. Flight – Accessible lavatories, aids for hearing impairments and visually impaired passengers;
4. Movement within arrival airport – access at customs control counter, baggage claim, passport control, accessible washrooms, information provision;
5. Leaving arrival airport - disabled parking reservation and terminal access; and

The last phase includes after journey activities which typically involve post-trip evaluation.

We assessed the state of disabled accessibility of the Nausori International Airport by following through the air transport travel chain.

Figure 5.74: Fiji Times Article



From file reviews, we noted from the minutes of the Housing/ Transport/ Environment (HTE) Committee dated 10 September 200 that concerns on accessibility issues of the international and local airports were discussed. The HTE Committee made recommendations which was endorsed in the NCPD Council meeting on 01 October 2003. It was recommended that the NCPD write to Airport Fiji Limited (AFL) requesting that the following be implemented:

- Parking;
- Access at Counter;
- Access to the plane;
- Aisle wheelchair; and
- All aspects should comply with OHS requirements.

It was further recommended that attention be raised and penned out in the letter of the fact that by not having the above actions taken, the Fiji Constitution in regard to persons with disabilities having access is contravened.

Subsequently, a letter dated 15 October 2003 was sent to AFL in which concerns raised were fully embraced as noted in AFL's response dated 30 December 2003. AFL assured their commitment in ensuring fair access for all of their airports including care for the needs of disabled persons and further noted that an audit on the state of airports would be carried out with a report to be facilitated to the NCPD.

Prompt actions from AFL were requested by NCPD through a letter dated 19 February 2004 following denial of entry of two members of the Fiji Disabled Peoples Association into the then known Air Pacific Aircraft on 16 February 2004 due to its inaccessibility. The incident

was highlighted in the 6pm news on the same day as well as the Fiji Times (FT) on 17 February 2004. Refer Figure 5.74 for the full article.

We visited the Nausori Airport on 14 August 2020 to assess the state of disabled accessibility from the car park to boarding the plane.

(1) Journey Planning & Preparation - Prior to the visit, we accessed the Fiji Airways website where we noted that there are options for special travel needs. Persons with disabilities are covered under incapacitated guests whereby the airline can assist by providing and organising ‘a meet and assist’, a wheelchair, a stretcher, and heart defibrillator. Prerequisite to this provision requires a medical clearance with an associated service fee whereby a medical information form is to be completed by the passenger’s doctor and submitted to Fiji Airways.

Also included are the acceptance of assistive devices depending on certain conditions.

(2) Approach of departure airport - As we walked along the parking area, we noted that there were no parking spaces reserved for disabled persons. This was also confirmed by AFL.

We further noted that the car parking area and pedestrian crossings were not evenly levelled. Refer Figure 5.75 for photographs.

Figure 5.75: Uneven car park area and pedestrian crossing



Source: Picture taken by OAG on 14/08/20 at Nausori International Airport

Access into the check-in terminal were relatively accessible with ramps and firm and evenly levelled surfaces. However, tactile surfaces for the visually impaired is significantly lacking in the airport. Refer Figure 5.76 and 5.77 for illustrations.

Figure 5.76: Firm and evenly levelled surfaces from the car park into check-in terminal



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.77: Ramps into the check-in terminal



Source: Picture taken on 14/08/20 at Nausori International Airport

We further noted that the check-in counters and customs desk/counter at customs control are relatively high, which is not conducive for wheelchair users. Refer Figure 5.78 and 5.79 for pictures.

Figure 5.78 High level check-in counters



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.79: High level customs counter



Source: Picture taken on 14/08/20 at Nausori International Airport

We were informed that reasons for the high desks/counters are to prevent confidential information from being accessed by the travelling public. Nonetheless, desk attendants would come down to the disabled passenger to offer the service.

We noted that the floor area in the International Departures and International Arrivals Terminals are fine and evenly levelled with the inclusion of ramps at the entrance. Refer images in Figure 5.80 and 5.81 below for details.

Figure 5.80: Ramp noted at the entrance



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.81: Evenly levelled floor surfaces



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.82: Evenly levelled floor surfaces in the International Terminals



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.83: Evenly levelled floor surfaces in the International Terminals



Source: Picture taken on 14/08/20 at Nausori International Airport

We noted that while slope measurements needed improvements due to its steepness, other areas needed ramps to be incorporated as shown in Figure 5.84 and 5.85 below.

Figure 5.84: Ramps too steep



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.85: Barrier noted (no ramp) at international departure terminal



Source: Picture taken on 14/08/20 at Nausori International Airport

We further noted that accessible washrooms are available at both the International Departures and arrivals. Refer figures 5.86 to 5.89 for photographs. However, this was not the case in the Domestic departures and arrivals.

Figure 5.86: Accessible washroom in International Arrivals



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.87: Accessible washroom in International Arrivals



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.88: Accessible washroom in International Departures



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.89: Accessible washroom in International Departures



Source: Picture taken on 14/08/20 at Nausori International Airport

The security and passport control areas were relatively accessible with even surface floors, although tactile surfaces were not provided.

Figure 5.90: Even surface floors at security control areas



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.91: Even surface floors at security control areas



Source: Picture taken on 14/08/20 at Nausori International Airport

We further followed the travel chain to the apron for boarding. We noted that surfaces from the terminal to the apron were evenly levelled. However, it is not sheltered and there is an elevated surface towards the apron as illustrated in the photographs below.

Figure 5.92: Evenly surfaced boarding area with elevated surface on runway



Figure 5.93: Evenly surfaced boarding area with elevated surface on runway



Source: Picture taken on 14/08/20 at Nausori International Airport

Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.94: Approaching one of the Twin Otters



Source: Picture taken on 14/08/20 at Nausori International Airport

There are two Domestic Flight Carriers that serve Fiji, namely Fiji Link and Northern Air. Fiji Link, a wholly owned subsidiary of Fiji Airways, formerly known as Pacific Sun is the official domestic carrier of Fiji, offering flights to twelve destinations including Suva, Nadi, Labasa, Taveuni and Kadavu as well as regionally to the Pacific Island nations of Tonga, Samoa, Tuvalu and Vanuatu.

Fiji Link operates three (3) different fleet types:

- ATR 72-600 – 2 aircrafts;
- ATR 42-600 – 1 aircraft; and
- Twin Otters – 3 aircrafts.

Northern Air is a family owned airline with a fleet of six planes, connecting the whole of Fiji to the Northern Division. Their system overlaps Fiji Link in some instances, such as Labasa and Savusavu, while other segments go to places like Ovalau, where Fiji Link does not fly. Their fleets consist of one Britten Norman Islander, one Britten Norman Trilander BN2 and four Embraer Bandeirante.

We inspected one of the twin otters operated by Fiji Link during our audit visit.

We were informed that when booking trips, persons with disabilities or any other illness should properly disclose their condition during booking. This is to allow the airline staff to properly evaluate their manpower strength at the predetermined time of the trip and make the necessary adjustments when required.

While boarding the plane, a wheelchair user if semi-mobile, will be wheeled to the plane for boarding and assisted from the ground to their seat which is often the single seat in the back row as shown in Figure 5.95 and 5.96.

Figure 5.95: Single seater usually allocated to semi-mobile wheelchair users (if any)



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.96: Single seater usually allocated to semi-mobile wheelchair users (if any)



Source: Picture taken on 14/08/20 at Nausori International Airport

If the passenger is completely immobile, there is an option to remove a belt from the steps and the side door opened so that the passenger is physically carried onto the plane as illustrated in the images below.

Figure 5.97: Procedure followed in the case of immobile wheelchair users or passengers



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.98: Procedure followed in the case of immobile wheelchair users or passengers



Source: Picture taken on 14/08/20 at Nausori International Airport

Though we were not able to inspect a larger plane, preferably one of the ATR aircrafts, the ramps shown in Figure 5.99 to 5.102 are used for boarding the ATR planes.

Figure 5.99: Mechanical ramps used for boarding larger planes



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.100: Mechanical ramps used for boarding larger planes



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.101: Mechanical ramps - boarding larger planes



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.102: Mechanical ramps used for boarding larger planes



Source: Picture taken on 14/08/20 at Nausori International Airport

In addition, the aisle chairs shown in Figure 5.103 and 5.104 are used in the ATR aircrafts. The aisle chairs is a small wheelchair that is used to transport immobile passengers from their own

wheelchair to their designated seat. Aisle chairs are used during enplaning and deplaning, and can also be used during the flight to access the lavatory.

Figure 5.103: Aisle chairs used in larger planes



Source: Picture taken on 14/08/20 at Nausori International Airport

Figure 5.104: Aisle Chair compared to foldable wheelchair



Source: Picture taken on 14/08/20 at Nausori International Airport

We were informed that when transferring individuals to their allocated seats, the assistance of three (3) cabin crews are required. While the provision of aisle chairs is acknowledged, there is a lack of provision of aisle chairs to fit smaller planes like the Twin Otter.

Similarly, while Passenger lifts are available in larger planes, there is none available for smaller planes.

Table 5.10 below provides a summary of accessibility features at the Nausori Airport in respect to aviation infrastructure, as observed in our visit.

Table 5.10: Accessibility Features in Aviation Infrastructure

[✓ Available ✗ Not Available ‡ Available to some extent

DESCRIPTION	AVAILABLE/ NOT AVAILABLE
Designated Accessible Car Parks	✗
Designated Sheltered Pick-up and Drop-off Points	✓
Step-less Entrance to Terminal	✓
Accessible Counter	✗
Accessible Washroom	‡ (Only available in International Departure and Arrival Terminals. None in Domestic Departure and Arrivals.)

DESCRIPTION	AVAILABLE/ NOT AVAILABLE
Sheltered Link way from Apron to Terminal	X
Provision of Aisle Chair	≠ (Only available in larger planes. None in smaller planes.)
Disabled Passenger Lift	≠ (Only available in larger planes. None in smaller planes.)

Source: Audit observation at the Nausori Airport on 14 August 2020.

While most of the features of the disabled accessibility focus on physical accessibility for wheelchair users, it is noted that there is currently no provision within the airport or in the aircrafts for the visually impaired in regards to raised tactile markers on paths and floor surfaces. Similarly, enquiries into the engagement of a trained cabin crew with sign language skills noted that this is not available at the moment. However, airline staffs ensure that passengers of all calibre types including disabled persons are assisted on and off the plane.

The above findings indicate that while there are disabled access features around the airport vicinity and in the planes, there are a lot of areas for improvement for disability access.

Causes

Airport terminals have widespread use of airport luggage trolleys, baggage trolleys, duty free trolleys etc., therefore, the inclusion of ramps are also profusely found.

Disabled access features for other forms of disability such as the visually, hearing or speech impairments are not as commonly adopted due to limited advocacy and awareness from the disability sector. In addition, lack of access audits carried out, involving disabled persons of different forms of disability, following through the air transportation travel chain.

Going forward, inclusion of accessible washrooms for the Domestic Arrivals and Departure Terminals is something that the Nausori International Airport team will look into to allow for the necessary provisions.

Effects and risk generated by situation found

Mobility constraints are a major obstacle to disability-inclusive development, as it makes worse the economic, social, and personal isolation of persons with disabilities, and tend to push them further into poverty.

Good practices (if any)

The accessibility issues for airline, is something that the NCPD is gradually venturing into. Currently the team is holding informal meetings to test whether those in the sector are ready to commit.

Objective six (6) of the Implementation Plan of the Rights of Persons with Disabilities Act 2018 includes advocating for accessibility for transport services including air transportation. Refer Table 5.11 for MEL components.

Table 5.11: Components of Implementation Plan relating to Accessibility of air transportation

STRATEGIES	ACTIVITY	TIMELINE	KEY PERFORMANCE INDICATORS	TASK MANAGER S
Accessibility	Advocate for accessibility for transport services (land/sea/air)	Ongoing	Changes in the policy to be disability inclusive.	Affiliates to Council.

Source: Draft NCPD Implementation Framework 2019 - 2023

The work of the Civil Aviation Authority of Fiji is aligned to the Convention on International Civil Aviation which was signed in Chicago on 07 December 1994 which governs international civil aviation and established the International Civil Aviation Organisation (ICAO). Pursuant to Article 37 of the Chicago Convention, the ICAO has published in Annex 9 to the Convention, Standards and Recommended Practices that provide for facilitation of the transport of passengers requiring special assistance.

Chapter 1 of Annex 9 defines "Person with disabilities" as "Any person whose mobility is reduced due to a physical incapacity (sensory or locomotors), an intellectual deficiency, age, illness or any other cause of disability when using transport and whose situation needs special attention and the adaptation to the person's needs of the services made available to all passengers."

Chapter 8 of Annex 9 contains two Standards and fifteen Recommended Practices that address accessibility to all elements of the air transport chain by persons with disabilities. The Standards require that all airport facilities and services are adapted to the needs of persons with disabilities and that persons with disabilities have adequate access to air services:

- 1) Standard 8.27 Contracting States shall take the necessary steps to ensure that airport facilities and services are adapted to the needs of persons with disabilities, and 2. Standard 8.34 Contracting States shall take the necessary steps to ensure that persons with disabilities have adequate access to air services.

The Recommended Practices of Annex 9 provide that Contracting States should ensure, inter alia, that persons with disabilities, when travelling, be provided with special assistance to ensure they receive services customarily available to the general public; that all elements of a journey, from beginning to end, are made accessible to persons with disabilities; that persons with disabilities-particularly the hearing- and vision-impaired-are given all necessary information, by travel agents, airlines, airports, and ground handling operators, to help them in their travel; that adequate training programmes are established to ensure that trained personnel are available to assist persons with disabilities; that reserved points are located as close as possible to the main entrance of a terminal building, for ease of access for persons with disabilities; that aircraft have movable armrests, on-board wheelchairs, and other similarly user-friendly facilities for persons with disabilities; and that if such a person requires an escort, airlines are encouraged to offer discounts for the carriage of the escort. These Recommended Practices are reproduced in the attached document for your information.

Additional guidance material published by the ICAO namely, Doc 9984 Manual on Access to Air Transport by Persons with Disabilities, further elaborates on the Annex 9 Standards and Recommended Practices relating to persons with disabilities. This material is intended to assist the civil aviation community in the day-to-day application of these Standards and Recommended Practices.

The CAAF indicated to us on 8 September 2020 that they will work with its aviation partners to implement the Standards and Recommended Practices in an effort to improve disabled accessibility features across all forms of disability in and around the airport as well as in flights.

We were informed by Fiji Airways that for Nausori International Airport, restrictions are in place for uplift of passengers requiring wheelchair (cabin/aisle) persons completely immobile and non-self-reliant (WCHC) and a passenger who cannot ascend/descend steps but is able to make his or her own way to and from cabin sea; requires wheelchair for distance between aircraft and terminal building and within the terminal (WCHS), services on flights to/from Nausori due to operational safety reasons.

In addition, the United States Department of Transport 14 Code of Federal Regulations (CFR) Parts 382 requires that any customer who has a physical or mental impairment that, on a permanent or temporary basis, substantially limits one or more major life activities, has a record of such impairment, or is regarded as having an impairment and maybe requiring individual attention or assistance on enplaning/deplaning, during flight and during ground handling which is normally not extended to other customers.

While DOT requirements are more specific to US Flights, the Fiji Airways endeavor to use this as a standard for their Passengers with Restricted Mobility (PRM) handling particularly where facilities, infrastructure and resources support the application. Furthermore, other services offered by the Fiji Airways include the following:

- Fiji Airways will accept any person with a disability who considers him/herself as self-reliant.
 - When a customer advises Fiji Airways of his/her self-reliance, Fiji Airways will not refuse transportation on the basis that there is a lack of escort.
 - In such cases, this shall be highlighted to the Duty Airport Manager who shall ensure that such person is referred to the Purser for in-flight monitoring.
- Fiji Airways will accept for carriage any person with a disability who considers him/herself as NOT self-reliant provided he / she is accompanied and has satisfied conditions of carriage. Reference: Requirement to be accompanied by an Attendant.
- There is no limit to the number of customers with disabilities carried on board.
- One-hour advanced check-in is required. Fiji Airways will reserve the right to deny carriage if the minimum time is not adhered to.
- Customers with disabilities and those requiring or requesting assistance will be provided with special assistance during check-in, baggage service and through airport formalities for departures and arrivals.
- At no time shall a person with disabilities be left unattended for longer than 30 minutes.
- Customers with disabilities will not be permitted seats in designated emergency exit rows on any aircraft. Discuss the most appropriate seating based on their individual needs and the aircraft specifications. Reference: Special Seating by Aircraft Type
- Enquire what assistance is required and how you can assist. Advise customers what services and assistance are available based on their needs.
- Ensure accurate SSR codes and any other relevant information are recorded in the DCS.
 - Identifying Passengers with Reduced Mobility Appropriately code specific wheelchair requirements based on the customer's specific needs. e.g. WCHC, WCHR, WCHS
- Customers with disabilities are to be pre-boarded.
 - Wheelchair customers are to be boarded with the assistance of either the ground aisle chairs or the aircraft aisle chair stowed on each aircraft.
- Customers with disabilities should be disembarked last.
 - For U.S. originating or destined flights, Customers with disabilities may disembark when they choose to (CFR 14 part 382). Reference: 6.3.2 Disability Incident Report.
 - Baggage for customers requiring Special Assistance should have a supplementary tag applied to allow ease of identification if required.

The Fiji Airways also have requirement on disabilities requiring attendants as outlined in the table below.

Table 5.12: Requirements to be accompanied by an Attendant

Disability	Attendant Required
Blind	No
Deaf	No
Blind and Deaf	Yes
Mentally Handicapped / Self-Reliant	No
Mentally Handicapped / Non-Self-Reliant	Yes
Ambulatory / Self-Reliant	No
Non-Ambulatory / Non-Self-Reliant	Yes

Source: Received from Fiji Airways on 09 September 2020.

Customers with limited mobility should be seated near toilets and must not be seated beside an emergency exit or aisle seats with fixed armrest and mobility impairment seats with Lift-up Armrest are noted below:

- 737-700 - All aisle seats except 14CD, 20CD, 32CD
- 737-800 - All aisle seats except 14CD, 23CD, 24CD
- A330-200 - FJT/U/V: All aisle seats except aisle seats in business class, and 6DG, 7BJ, 26DG, 27BJ
- A330-200 - FJO/FJP: All aisle seats except aisle seats in business class, and 5CDGH, 23CDGH, 35CDGH
- A330-300 - All aisle seats except aisle seats in business class, and 5, 6BDGJ, 7BDGJ, 8BDGJ, 26DG, 27BJ
- A350-900 - All aisle seats

Fiji Link and Fiji Airways will collaborate to implement the Standards and Recommended Practices in an effort to improve PRM handling in and around the airport as well as on board.

The following responses were received from Airports Fiji Limited:

- I. The Nadi Airport Terminal Modernisation Project (NATMP) which was completed in 2017 and opened in 2018 addressed most issues pertaining to the airport accessibility for persons with disabilities. In this Airport upgrade, we have catered for individuals with special needs although there has not been particular attention given to the facilitation for those who are visual impaired. Although the airport may not have technical enablers for the visual impaired, they are provided with special assistance from curbside to the aircraft and vice versa.
- II. We concur with the findings on Nausori International Airport. We shall address the gaps mentioned in your findings when we will build the new Nausori Terminal. In the meantime, the airport team, with the airlines, will facilitate travellers with disabilities.
- III. Fiji Airports concurs with CAAF that we will work with aviation partners to implement the necessary to improve disabled accessibility features across all forms of disability in and around the airport as well as in flights.

Expected benefits

Providing high quality accessibility features for persons with disabilities, first and foremost, benefits the disabled individual themselves through more participation in economic and social activities, reduced social isolation and dependency. Secondly, it also benefits older persons in society, children and people accompanying small children.

Recommendations

The NCPD should:

- Advocate and carry out awareness on the disabled accessibility features across all forms of disability in and around the airports and airstrips in Fiji as well as during flights.
- Carry out access audits with the inclusion of disabled persons of different forms of disability, to assess the state of disabled accessibility of the airports following the air transportation travel chain.

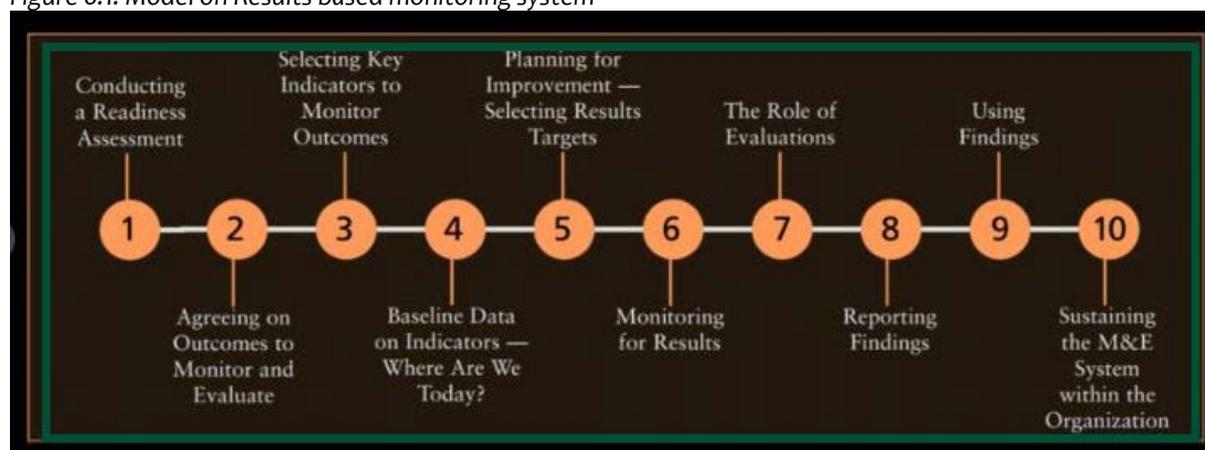
The Department of Civil Aviation should:

- In consultation with NCPD and relevant stakeholders, consider ways to introduce disabled accessibility features across all forms of disability in and around the airport as well as in flights.

6.0 MONITORING, EVALUATION AND REPORTING

The purpose of monitoring and evaluation is to track implementation and outputs systematically, and measure the effectiveness of programmes. It helps determine exactly when a programme is on track and when changes may be needed. Monitoring and evaluation forms the basis for modification of interventions and assessing the quality of activities being conducted.⁷⁶ Below is a model which describes how a results-based monitoring system works.

Figure 6.1: Model on Results based monitoring system



Source: Kusek JZ & Rist RC World Bank 2003⁷⁷

Monitoring and evaluation can be used to demonstrate that programme efforts have had a measurable impact on expected outcomes and have been implemented effectively. It is essential in helping managers, planners, implementers, policy makers and donors acquire the information and understanding they need to make informed decisions about programme operations.

Monitoring and evaluation helps with identifying the most valuable and efficient use of resources. It is critical for developing objective conclusions regarding the extent to which programmes can be judged as a “success”. Monitoring and evaluation together provide the necessary data to guide strategic planning, to design and implement programmes and projects, and to allocate, and re-allocate resources in better ways.⁷⁸

Moving on, monitoring and evaluation are critical for building a strong, global evidence base around access for persons with disabilities to public transport and public buildings and for assessing the wide, diverse range of interventions being implemented to address it.

International best practices use monitoring and evaluation as a tool for identifying and documenting successful programmes and approaches and tracking progress towards common indicators across related projects. Monitoring and evaluation forms the basis of strengthening understanding around the many multi-layered factors underlying non access for disabled people. In a nut shell, a well-functioning monitoring, evaluation and reporting system can assist to bring about interventions and prioritisation in implementing proper access for persons with disabilities to public transport and public buildings.

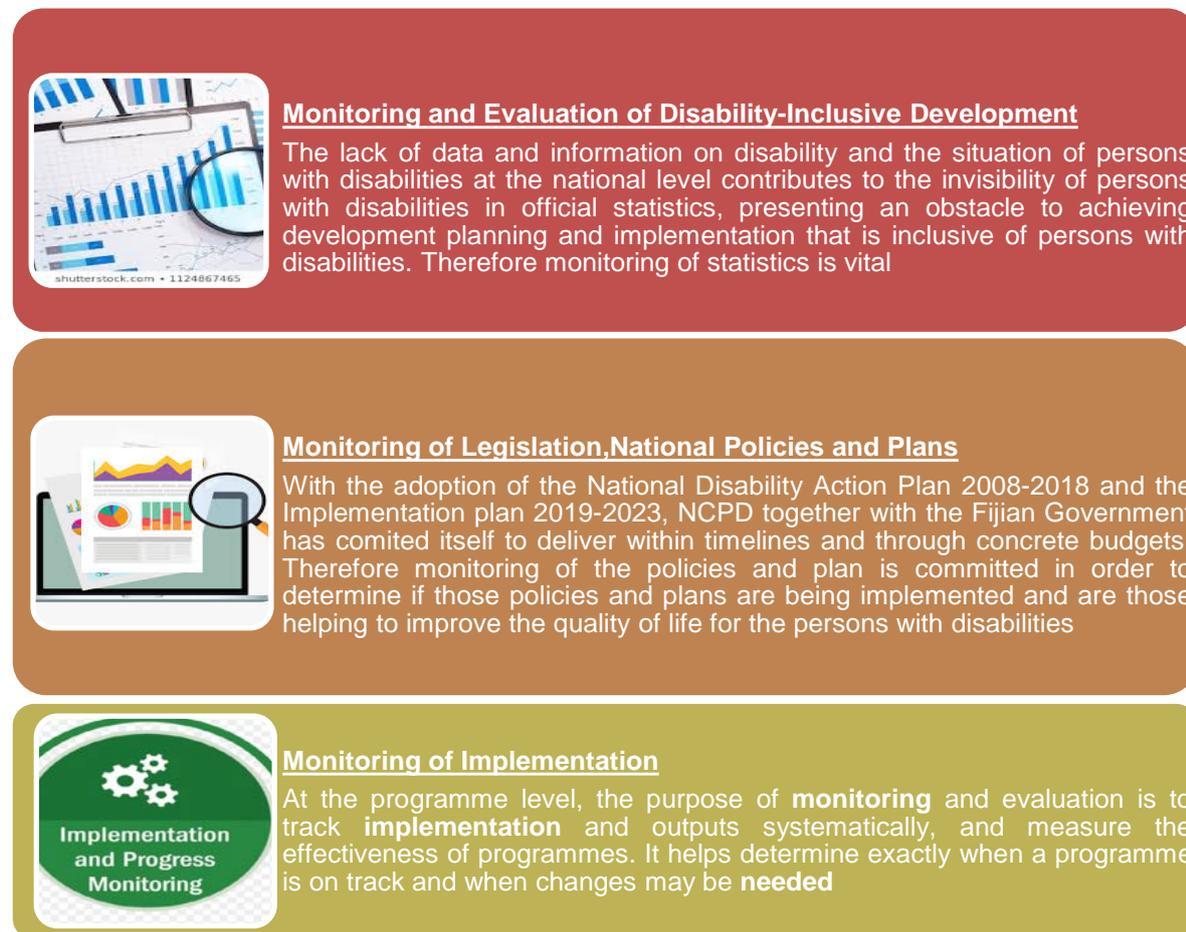
⁷⁶ <https://www.endvawnow.org/en/articles/331-why-is-monitoring-and-evaluation-important.html>

⁷⁷ <https://www.semanticscholar.org/paper/Ten-Steps-to-a-Results-Based-Monitoring-and-System%3A-Kusek-Rist/f745fc20659f8ac6de51fba95a0aed62ff07b5f9>

⁷⁸ <https://www.endvawnow.org/en/articles/331-why-is-monitoring-and-evaluation-important.html>

This section elaborates on the monitoring, evaluation and reporting of NCPD who is the major stakeholder for this audit, together with other relevant agencies. This section is broken down in to three parts which are illustrated in the diagram below.

Figure 6.2: Section Components under Monitoring, Evaluation and Reporting



6.1 Monitoring and Evaluation of Disability - Inclusive Development

Summary of main findings of the Chapter

The first section is on the Monitoring and Evaluation of Disability- Inclusive Development. It is important to note that The UN General Assembly has stressed in several resolutions the importance of improving disability data and statistics. Official statistics on disability play an essential role in the planning, implementation and monitoring of policies and programmes for the promotion and protection of rights of persons with disabilities. Therefore, the first section elaborates on the Monitoring of Disability Statistics which is very vital for good planning and implementation. For the purpose of this section, the audit used a publication, “WHO/ESCAP Training Manual on Disability Statistics” to demonstrate the importance of Disability Statistics.

Theme 1: Monitoring and Evaluation of Disability Data

Situation Found

There is a lack of data available in relation to the barriers which are faced by the disabled people. The audit acknowledges the short set of questionnaire which has been used for census. However, we note that these do not cover the barriers which a disabled person faces which could be determined through surveys.



Criteria

International Criteria: United Nations Convention on the Rights of Persons with Disabilities under Article 31: Statistics and data collection states that:

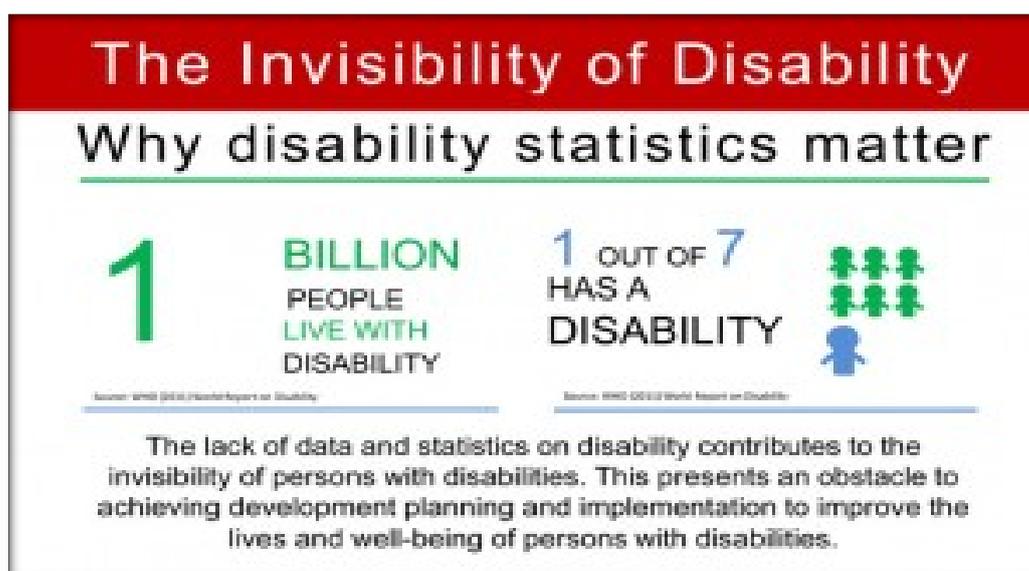
1. Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
 - a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
 - b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
3. Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.⁷⁹

National Criteria: The Rights of Persons with Disabilities ACT 2018 (ACT No. 4 of 2018) states that one of the function of the council is to “collate data and statistics on persons with disabilities in Fiji”.⁸⁰

⁷⁹ <https://www.endvawnow.org/en/articles/331-why-is-monitoring-and-evaluation-important.html>

⁸⁰ <https://www.endvawnow.org/en/articles/331-why-is-monitoring-and-evaluation-important.html>

Figure 6.3: Importance of disability data



Source: UN, Department of Economic & Social Affairs Disability

Evidence and Analysis

Disability represents a complex process and is not a single, static state. It refers to the outcome of the interaction of a person and his/her environment (physical, social, cultural or legislative) and represents a measure of the negative impact of environmental factors on one's ability to participate. The complexity of the concept has resulted in the proliferation of statistics on disability that are neither comparable nor easy to interpret.⁸¹

It is important to highlight that our audit noted that there is a lack of data regarding the barriers which people with disability face. We noted that there is extensive reliance on the FBoS National census with respect to collation of data and statistics for persons with disabilities. The audit further noted that NCDP together with FBoS are developing a monograph which actually gives detailed data and desegregated data on persons with disabilities in Fiji.

⁸¹ http://www.washingtongroup-disability.com/wp-content/uploads/2016/01/Development_of_Disability_Measures_for_Surveys_The_Extended_Set_on_Functioning.pdf

Official statistics on disability play an essential role in the planning, implementation and monitoring of policies and programmes for the promotion and protection of rights of persons with disabilities. The 2030 Agenda for Sustainable Development recognizes persons with disabilities as one of the vulnerable peoples and calls for their empowerment. The Agenda further commits that by 2020, to enhance capacity-building support to developing countries to increase significantly the availability of high-quality, timely and reliable data disaggregated by among other things, disability. The United Nations Economic and Social Council (ECOSOC) in its resolution for the 2020 World Population and Housing Census Programme, stresses that population and housing censuses are designed to generate valuable statistics and indicators for assessing the situation of various special population groups, such as persons with disabilities.

In the context of the 2030 Agenda for Sustainable Development and of the 2020 World Population and Housing Census Programme, the meeting provides an opportunity to learn about national experiences on measurement of disability through censuses of the 2010 round, as well as work that is being carried out at the international level to improve the quality, relevance and availability of statistics on disability. It is anticipated that interventions from the floor by countries will provide further information on country practices and experiences regarding measurement of disability.

suitable for censuses. However, a survey could be done to get a better picture about the barriers which the disabled people of Fiji face in their life and their requirements as an individual to live an independent life which is stated under the constitution. The UN General Assembly has stressed in several resolutions on the importance of improving disability data and statistics.

The Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights based Society for Persons with Disabilities in Asia and the Pacific (BMF), the regional policy guideline for the Second Asian and Pacific Decade of Disabled Persons, and the Biwako Plus Five, the supplement to the BMF, all stress the need to develop valid, reliable, and internationally

Although FBoS has included disability questionnaire in census twice, it was noted during the audit that in the year 2007, statistics for disability was not tabulated as the response rate was below 1% or just about 1%. While in the year 2017 census the response rate was 13% which means that 13% of the population is disabled in Fiji. It is important to note that FBoS uses a small set of questionnaire which is used for disabled survey during census that might not give a complete picture about all the barriers faced by the disabled people of Fiji. Furthermore, we noted that apart from census, a short set of questionnaire on disabled persons was used in other surveys such as agriculture census, together with Baseline for Women with Disabilities survey which was done in September, 2010.

It is equally important to highlight that disability data are collected for different purposes, such as to estimate the prevalence of physical impairments or to plan for the provision of services. Each purpose elicits a different statistic and even when the intention is to measure the same concept, the actual questions used differ in ways that severely limit comparability. Furthermore, different data collection formats require different means to collect data. For example, censuses are necessarily short, and restrictions are placed on space that in turn limits the number of questions asked to capture the construct of interest. Surveys, on the other hand, may focus broadly on aspects of and focus more specifically on, disability. Furthermore, for surveys more time is allotted to data collection, more questions are asked and more detailed information is collected. Each format requires its own set of questions. From the audit, it was noted that the development of a short set of disability questions are

comparable disability statistics in order to put into place effective disability policies and projects. WHO/ESCAP Training Manual on Disability Statistics - 3 – states that disability statistics can provide a wealth of information on the full lived experience of persons with disabilities ranging from impairments, difficulties in undertaking and participating in activities, and barriers they face in their lives. Therefore, there is a need to include questions which brings out the challenges and the barriers which the disabled people of Fiji face which will help the Government and the relevant agencies to help the disabled people to overcome obstacles and the difficulties which they face.

Box 6.1 Australia's Experience with Disability Census Questions

During the development phases of its 1996 and 2001 population censuses, the Australian Bureau of Statistics (ABS) tried using a single question to identify a broad disability population. Testing showed that the disability population identified using this single census question was significantly difference from that identified by a more detailed set of questions used in a national disability survey. In particular, the ABS noticed that a large number of people who reported disabilities in the survey questions did not report in the census, and people reporting disabilities in the census question did not always do so in the survey. Even though the proportions of persons with disabilities linked to the two question sets were very similar, the actual populations identified were different. In light of this, the ABS decided not to include a disability question in either the 1996 or 2001 census.

In preparations for the 2006 census, the ABS looked at questions that focus on a different population. The new census questions attempt to identify people who need assistance with mobility, self-care or communication because of a disability or long-term health condition. Results were very promising and the disability-related module was included in the 2006 census.

Source: https://unstats.un.org/unsd/censuskb20/Attachments/2008ESCAP_TrainManDisabty-GUID7c07895389164cdabobob7609136f117.pdf

Causes

We established that a primary reason for lack of comprehensive data on disability in Fiji could be due to the manner in which census data is collated. This may be a result of the use of a short set of questions to make it easy for the people to answer and for them not to deviate from the point or issue. Another reason for lack of data and information on disability may be attributed to capacity constrain that NCPD faces in order to conduct surveys.

Effects

Inadequate disability statistics will continue to hinder efforts made at all levels of planning in allocating resources aimed at improving the lives of persons with disabilities.

Lack of data could result in poor planning and poor development of policies which can hinder the achievement of the UN Convention goals and the Constitutional right as well. This can also lead to poor monitoring as indicators for monitoring are misguided.

Figure 6.4: Effects of Inadequate Data



Source: <https://www.unescap.org/sites/default/files/Chapter1-Disability-Statistics-E.pdf>

Good Practices

One of the commendable initiatives taken by NCDP together with FBoS was the benchmarking of Fiji's disability census questionnaire with the Washington Group on Disability Statistics. Both the agencies have ensured that while formulating the questionnaire and conducting disability census, it met the international standards and used a similar short set of questionnaire to conduct disabled census. This has made it easy for Fiji to compare data from other countries since similar questions are used. Another good practice which is commendable was that FBoS adapted this short set of question in the 2017 Census Questionnaire in order to improve response rate for the disability census since in the year 2007 census the response was below one percent.

In addition to the above, NCPD and FBoS has come up with a Monograph which gives a detailed information regarding the disabled people of Fiji. However, this is not yet published as the agencies are still working to finalize it.

NCPD is also currently working on having a National Disability Survey in partnership with FBoS. A draft cabinet paper has been done, and currently the organizations are working on a Work Plan before this is submitted for cabinet approval.

Expected Benefits

Disability statistics is very important and has a lot of benefits such as:

1. With a broader understanding of disability, disability statistics can play a pivotal role in all areas of policy-making, and in each and every stage from development to implementation, to monitoring and assessment of effectiveness, to the analysis of cost-effectiveness. In order to develop and evaluate policies and programs with the objective of improving the lives of their constituents, government rely on the availability of data in the form of statistics that are relevant, valid and reliable. Much of the information that is collected, normally through censuses and surveys, is intended for domestic purposes. Any policy without valid and reliable data is potentially costly and wasteful guesswork; it would be a policy without a basis of evidence and good science. National disability statistics is very important for national policies.
2. The aspirations of the UN Disability Convention, Standard Rules and the BMF, Biwako plus Five for the protection and promotion of the rights and the dignity of persons with disabilities can be realised with sound data to monitor and assess progress towards these goals.
3. Information about functional status is integral to identify disabled persons needs since two individuals with the same impairment may face different types of difficulties in undertaking certain activities, and so have different needs that require different kinds of interventions. The functional status data is essential for determining the broader social needs of persons with disabilities, such as provision of assistive technology for use in employment or education or broader policy and laws or even the transportation needs of individuals.
4. Disability data is essential for monitoring the quality and outcomes of policies for persons with disabilities. In particular, this data helps to identify policy outcomes that maximize the participation of persons with disabilities in all areas of social life from transportation and communication, to participation in religious and community life.
5. Finally, with valid and complete disability statistics, state agencies will have the tools for

assessing the cost-effectiveness of policies for persons with disabilities, which in turn can provide the evidence to persuade governments of their ultimate benefit for all citizens. WHO/ESCAP Training Manual on Disability Statistics - 4 - 1.1.3 Purposes of disability statistics states that a number of countries in the Asia Pacific region have conducted disability surveys or included disability questions in their censuses, but users were not satisfied with the results. The most common complaint was that the statistics were based on a handful of severe impairments and did not capture broader measures of disability.⁸² This is an example of a failure by data collection agencies to understand the needs of those who will be using the data. Moving on, failure to match disability questions with purposes results in unusable statistics that becomes a waste of public expenditure.⁸³

Recommendation

NCPD should enhance their engagement with FBoS to gather appropriate data for persons with disabilities.

Theme 2: Monitoring of Disabled Database by NCPD

Situation Found

We noted that the NCPD maintains their separate database. However, there is a gap in the statistics which is maintained by the council and the statistics provided by FBoS.

Criteria

The Rights of Persons with Disabilities ACT 2018 (ACT No. 4 of 2018) states that one of the function of the council is to “collate data and statistics on persons with disabilities in Fiji”.⁸⁴

Evidence and Analysis

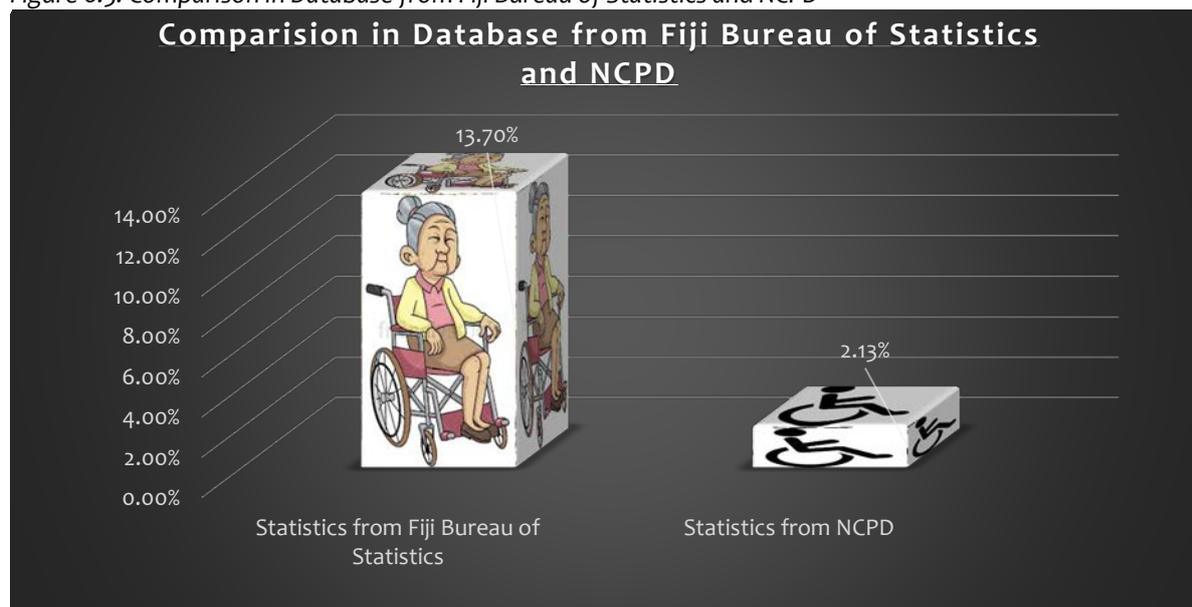
It was noted that there is a significant variance between the statistics from FBoS and NCPD as the database maintained by NCPD is not fully updated and does not record the exact number of people who are currently disabled in Fiji. According to the FBoS 2017 Population and Housing Census, the total number of disabled in Fiji is 113,595. However, NCPD database shows only 18,853 persons with disabilities which reflects a variance of 94,742 people.

⁸² https://unstats.un.org/unsd/censusb20/Attachments/2008ESCAP_TrainManDisabty-GUID7c07895389164cdab0b0b7609136f117.pdf

⁸³ https://unstats.un.org/unsd/censusb20/Attachments/2008ESCAP_TrainManDisabty-GUID7c07895389164cdab0b0b7609136f117.pdf

⁸⁴ Rights of Persons with Disabilities ACT 2018 (ACT No. 4 of 2018)

Figure 6.5: Comparison in Database from Fiji Bureau of Statistics and NCPD



Cause

The primary reason for the variance could be the inability of NCPD to gather and maintain an updated database due to its limited capacity.

Effects

If the disabled people are not registered with the NCPD, there is possibility that disabled persons could be missed out from the benefits of the programmes implemented by the Council. For instance, NCPD helps the disabled to acquire mobility devices.

Good Practice

NCPD is also registering people with disabilities during its awareness programmes.

Expected Benefits

Properly capturing persons with disabilities in relevant National databases ensures that they are not exempted from programmes and are able to fully benefit from schemes introduced by NCPD, DPO's and other interested parties. It would also ensure that proper monitoring is carried out on the state of a registered person's disabilities so that adequate response strategies are provided. For instance, during the aftermath of a natural disaster, depending on the severity of the affected area, response strategies in the area can be in the form of provision of assistive devices and health care services etc.

Recommendation

The NCPD should work with FBoS to gather data and maintain an updated database.

6.2 Monitoring Framework

Summary of main findings of the Chapter

Robust, evidence-based reports by States, National Council for Persons with Disabilities, disability organizations and other civil society groups with a relevant mandate will contribute to ensuring that the disability rights guaranteed under the Convention are transformed into action and real change in the lives of persons with disabilities.⁸⁵ This section discusses the legislation and policy framework including implementation and progress such as the Rights of Persons with Disabilities Act 2018, the National Disability Policy (2008–2018) and the 5 year Strategic and Implementation Plan to confirm if the rights guaranteed under the Convention are transformed into action and real change in the lives of persons with disabilities.

Theme 1: Convention Ingrained in the Act

Situation Found

Fiji signed the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in the year 2010. In June 2016 the standing committee on social affairs for parliament called for written submissions on the Rights of Persons with Disabilities Bill no.12 of 2016. After several consultations and written submissions, the Fiji parliament endorsed the ratification of the UNCRPD on 22 March 2017. Following this, a review of the Fiji National Council for Disable Persons Act 1994 (FNCDP) was done and replaced with the Rights of Person's with Disability Act 2018 (Act no. 4 of 2018).

Figure 6.6: International, National and Agency Policies and Plans



Source: Result of Auditors Analysis

The Convention on the Rights of Persons with Disabilities under Article 9 states that to enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to:

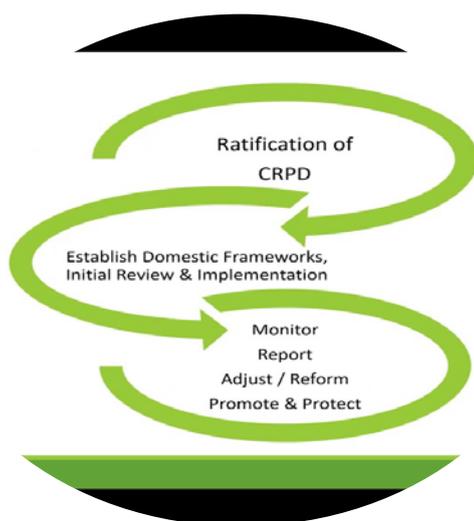
- (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- (b) Information, communications and other services, including electronic services and emergency services.

The Convention also states that States Parties shall also take appropriate measures:

⁸⁵ https://www.ohchr.org/Documents/Publications/Disabilities_training_17EN.pdf

- a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- c) To provide training for stakeholders on accessibility issues facing persons with disabilities;
- d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
- e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Figure 6.7: obligation to UNCRPD following ratification



Source:

<https://bridgingthegapproject.eu/multimedia/webinar-6-legislating-disability-rights/>

The convention has clearly stated about providing access for disabilities to buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces. We evaluated and determined that The Rights of Persons with Disabilities ACT 2018 (ACT No. 4 of 2018) is aligned with the Convention.

The revised legislation has a section of its own which elaborates on Accessibility. Part 6 of the Act section 29 states that all persons with disabilities have the following rights --

- a) To reasonable access to all indoor and outdoor places, public transport and information;
- b) To use sign language, Braille or other appropriate means of communication;
- c) To reasonable access to necessary materials, substances and devices relating to the person's disability;
- d) To reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realization of their rights;
- e) In buildings and other facilities open to the public, information, signage and forms in Braille and in easy to read and understand modes; and
- f) To forms of assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public.

Therefore, we determined that the legislation has the domestic frameworks from which Implementation Plan was established. Monitoring of the agency level policies and plan is discussed in the other two themes of this section.

Theme 2: Monitoring and Reporting of the Ten Year National Policy

Situation Found

Fiji National Policy on Persons Living with Disabilities 2008-2018 was a 10-year policy which had a matrix that outlined the role of each stakeholder. For access to buildings and transportation for disabled, it was stated that NCPD was to work with relevant authorities regarding those issues. However, we noted that this policy was not monitored and action plan was not achieved.

Criteria

Fiji National Council for Disabled Persons Act, 1994 states that the functions of the Council shall be to

- 1) Formulate a national policy that would ensure that services are provided to all disabled persons in Fiji;
- 2) Draw up a national plan of action for rehabilitation services and implement such a plan; and
- 3) Periodically review the national plan of action for the purpose of determining their continuing relevance to local, regional and international realities.

Evidence and Analysis

One of the functions of the Council under the FNCDP Act (1994) included the formulation and review of a National Disability Policy. As a result, a 10-year policy 2008-2018 was developed to ensure that services are provided to all disabled persons in Fiji. The National Disability Policy outlined 12 strategic policy areas, of which one included the access to build environment and transport systems. Under this strategy, the policy captured the issue of Accessibility in Fiji. The two objectives that exists under the strategy of accessibility consist of:

- Improving and strengthening the provision of access for persons with disabilities; and
- Developing processes and implementation strategies to improve transportation and mobility for people with disabilities in urban and rural areas.

Table 6.1: Action Plan under the Accessibility Objective of the National Disability 10 Year Policy

Objective	Action Plan
Improve and strengthen the provision of access for persons with disabilities	<ol style="list-style-type: none"> I. FNCDP in consultation with the Public Works Department and Ministry of Local Government, Disabled Peoples Organizations (DPOs) and relevant stakeholders to review the Fiji Building Code, Town and Country Planning Act and Public Health Act in respect of access provisions for people with disabilities (by City Councils, Town Councils and Provincial Development Ministry and Provincial Council) and monitor enforcement and penalties for non-compliance; II. Strengthen networking between stakeholders who are responsible for the built environment to follow similar access guidelines; and III. FNCDP in consultation with the Public Works Department, DPOs, Town Councils and relevant professional associations provide training and awareness raising for designers and builders and other relevant stakeholders on accessibility requirements to ensure implementation of the building code.
Develop processes and	<ol style="list-style-type: none"> I. FNCDP and the Ministry in consultation with the Land Transport Authority (LTA) review and monitor relevant regulations including:

Objective	Action Plan
implementation strategies to improve transportation and mobility for people with disabilities in urban and rural areas	<ul style="list-style-type: none"> • Public transport accessibility; • Requirements placed on drivers with disabilities and related vehicle modification inspection requirements; • Options for improving public transport; • Bus subsidy system for people with disabilities and explore options for the extension of the system to include taxis and minibuses. <p>II. City, and Town Councils and rural local authorities make provision for car parks for people with disabilities as well as wheelchair access on public pathways (particularly near public buildings including places of worship, banks, libraries, shopping malls, sporting facilities and entertainment centers etc.).</p> <p>III. LTA in consultation with FNCDP and the Ministry to investigate options for improving access to sea and air transportation.</p>

Source: Source: National Disability Policy 2008 – 2018, p.20.

NCPD was to work with relevant authorities regarding the above mentioned action plan. However, it was noted that this policy was not monitored and action plans were not achieved which resulted in the 10-year policy being largely ineffective. We also noted that there was a 12th strategic area on the monitoring of the 10-year policy, an extract of which is shown in Figure 6.8 below.

Figure 6.8: Monitoring of 10-year policy related to Accessibility

Objective 12.1 Develop a strategy and process for the regular monitoring of progress and implementation of the national disability policy.	Outputs
Actions	
12.1.1 FNCDP provide annual reports on the implementation of the policy and achievement of the policy Action Plan to the Ministry and other stakeholders;	Annual report on implementation of the policy provokes community debate and increases awareness of the policy and disability issues.
12.1.2 FNCDP and the Ministry to undertake a review of the policy and implementation action plan every two years;	Review report.
12.1.3 FNCDP disseminate review results to all relevant stakeholders within three months of each review completion;	Results disseminated on time.
12.1.4 FNCDP to seek assistance from donors and other relevant international organisations to implement aspects of the policy.	Donors consulted on policy implementation. Roundtable discussion held on policy priorities with key donors.

Source: Source: National Disability Policy 2008 – 2018, p.20.

There was no major strategy developed for regular monitoring of progress and implementation of the 10-year National Disability Policy. The reporting of the progress of the policy was supposed to be captured in the annual reports, however, review of the NCDP annual reports for the period 2008 to 2017/2018 indicated that the progress of the accessibility action plan was not provided as necessary monitoring was not done. It was noted that other milestones outside the accessibility action plan were achieved by NCPD which was reported in the annual reports.

Causes

Upon discussion with the NCDP, it was confirmed that regular monitoring and reporting of the action plan was not done due to the high staff turnover which included those who were regarded as subject matter experts in the Council’s Secretariat. To make matters worse, staffs were not identified to understudy and succeed the staffs who left. As a result, the NCDP assumed that people (stakeholders) already knew about the policy.

Effects

The objectives of the 10-year policy could not be fully achieved due to non-monitoring and reporting of the action plans which had been developed. Hence, the issue of inaccessibility to the built environment and transportation system in Fiji is still seen as a major barrier which prevents persons with disabilities from actively participating in social and economic activities.

Good practice

NCDP has developed a new Implementation Plan which is for the period 2019 to 2023 and it has a new objective which is to promote and ensure the national, regional and international legislative frameworks are enforced and this will be achieved using two KRA's and they are as follows:

- KRA 10.1 promote and ensure the rights of persons with disabilities
- KRA 10.2 monitoring, evaluation and learning

This is a good practice and very positive development by the NCDP which must be supported by all related agencies.

Expected Benefits

Proper monitoring of the new Implementation Plan will result in realization of full access to the built environment and transportation system by disabled people of Fiji. Hence, they will be able to fully enjoy their constitutional rights. Regular monitoring of actions against the plan will assist to ensure that the solution is being implemented as expected.

Recommendation

NCDP should ensure that sufficient resources are allocated for implementation of the action plans, monitoring, evaluation and reporting.

Theme 3: Monitoring and Reporting of the New Strategic Plan

Situation Found

The five (5) year strategic and implementation plan 2019 – 2023 incorporates a monitoring, evaluation and reporting component under Strategic Objective 10 *To promote and Ensure the National, Regional and International Legislative Frameworks are Enforced*, with respect to Key Result Area (KRA) 10.2 *Monitoring Evaluation and Learning*. Though the plan has yet to be signed by the Minister for Women Children and Poverty Alleviation, it has been presented in Parliament. The NCPD provided an update as per first year of implementation which is acknowledged.

Criteria

The Rights of Persons with Disabilities Act 2018 (Act No. 4 of 2018) noted that a strategic plan, or a revision of a strategic plan, has no effect until approved by the Minister. The first strategic plan must be submitted to the Minister within 6 months after the commencement of this Act.

Evidence and Analysis

The plan reflects the commitments and priorities for persons with disabilities in Fiji by “making the right real”. This is guided by 10 Objectives and supported with 18 Key Result Areas (KRA’s). It provides a framework for developing an inclusive society for persons with disabilities in Fiji. In addition, creating greater awareness of the needs of persons with disabilities and identifying priority areas for action, to dismantle barriers, and enable their full and effective participation in social and economic life. It was noted that the NCPD plans together with the line Ministry responsible for persons with disabilities, in collaboration and partnership with affiliates of NCPD, key government ministries, civil society organizations, private and public sectors and religious organizations.

It is important to note that Objective 10 is to promote and ensure the national, regional and international legislative frameworks are enforced. KRA 10.2 which deals with monitoring, evaluation and learning and the responsibility of which solely falls under NCPD. Therefore, it is clearly evident that NCPD has plans for monitoring, evaluation and performance reporting of compliance to accessibility requirements.

We were provided with an update on the five (5) year strategic plan’s first year of implementation by the NCPD Secretariat. Results with respect to Accessibility and Monitoring Evaluation and Learning (MEL) are tabulated below.

Table 6.2: NCPD Strategic & Implementation Plan (2019-2023) - Update on first year of implementation

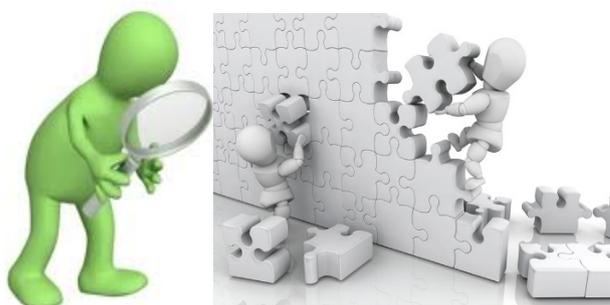
Strategies	Activity	Timeline	KPI	Update
KRA 6.1 Adequate standard of living and social protection				
Accessibility	Improve reasonable access to the physical environment, public transportation, knowledge, information and communication	Year 1 – 2 commitment by relevant stake holders Annually – celebration of landmarks	Signed commitment from partners Physical Access Audit report in towns and cities – Year 1 and 2	The findings from mobile APP was sent to ADCOM Transport Currently in talks with the taskforce on way forward in rolling out the Mobile Me App. Accessibility in towns and cities have been shared with DISCOMs.
	Advocate for accessibility for transport services [land/sea/air]		Changes in the policy to be disability inclusive	Discussions with TAWG (Transport Advisory Working Group)
KRA 6.2 Enforcement of Human Rights and Non Discriminatory act				
Legislation and policy review	Consultation on the review of the National Building Code		A building code document that ensures accessibility to a built environment utilising universal design and best practises.	Council under Performance Audit on 2008 - 2018 Policy. Team from Ministry of Economy completed in 2019
KRA 8.1 Housing				
Recommend cases for accessibility to public	Relevant modifications to existing environments to	Annual Year 3,4,5 – community	Year 1 –Year 2 – Town areas, sports facilities 15 per annum	Access audits conducted - Year 1 Rakiraki, Ba, Tavua, Nadi, Lautoka,

Strategies	Activity	Timeline	KPI	Update
services/places and improve living environment	ensure accessibility			Sigatoka, Savusavu, Labasa, Tamavua Rehab, Davuilevu Theological College, Nabouwalu, Soqosoqo Vaka Marama
Access audit	Conduct physical access audit on public services and built environment	Year 1 and 2 Review annually	Audit report tabled to Council with relevant recommendations on improving physical accessibility	Access Audit carried out Suva Central Business District, Sigatoka, Nadi, Lautoka Rakiraki, Tavua, Ba, Nabouwalu, Savusavu and Labasa.
KRA 10.2 Monitoring, Evaluation and Learning				
Monitoring Evaluation and Learning (MEL)	Develop Monitoring, Evaluation and Learning Framework for each Ministry (Council members) aligned to 10.1	9 June– Biannual report on United Nations Convention on the Rights of Persons with Disabilities Annual thereafter	Compliance of all instruments Effective and regular monitoring of policies	Physical Audit for Monitoring, Evaluation and Learning is ongoing. Current reviewing physical accessibility policy
MID Term Review	Review all activities against Key Performance Indicators	Mid Term	Mid Term Report on progress of Implementation Plan	Completed and with SG's Office. Submitted in 2019.

Source: Year 1- updated implementation plan as of 17 July 2020, received by Audit on 26 August 2020

A lot of work has been done since endorsement of the 5 year Strategic and Implementation Plan in Parliament which is greatly acknowledged.

6.3 Monitoring of Implemented Systems



As an Action Plan for a solution to a problem is being implemented and most importantly to monitor its progress. Once the plan has been implemented, one needs to monitor the progress for the success of the solution. Monitoring the implementation occurs after the plan has been implemented and provides an

indication of whether the solution has rectified the problem.⁸⁶

At the programme level, the purpose of monitoring and evaluation is to track implementation and outputs systematically, and measure the effectiveness of programmes. It helps determine exactly

⁸⁶ https://sielearning.tafensw.edu.au/toolboxes/toolbox316/ip/ip_c13.html

when a programme is on track and when changes may be needed. Monitoring and evaluation forms the basis for modification of interventions and assessing the quality of activities being conducted.⁸⁷

With the implementation of the strategic programme and the action plan, the cycle reaches its very core: all the preceding assessment and planning has the overall objective of improving the way the process currently works. The implementation is a demanding task in terms of organization and coordination of all the parallel actions that will take place. A crucial condition is a solid communication and involvement approach and the organizational setup. Cooperation with and between various stakeholders assures that the different actors buy in to the implementation process.

Therefore, implementation is based on the “foundation” which is a combination of the action plan, the organizational setup and above all – communication and involvement.⁸⁸ In parallel, and for the purpose of being able to measure and report the results, the implementation of the strategic programme and its action plan should be monitored in an appropriate way and fed back to Government.⁸⁹ It allows for being able to see if actions are implemented with good results. If not, it allows for taking corrective measures while implementation is in progress.⁹⁰ In order to be able to engage in monitoring, the actions need to rely on targets based on indicators defined in the strategic programme.⁹¹ There is clear indication that monitoring of the implementation is crucial which will be discussed in this section of the report.

⁸⁷ <https://www.endvavnow.org/en/articles/331-why-is-monitoring-and-evaluation-important.html>

⁸⁸ http://www.localmanagement.eu/index.php/mue25:mue_implementation

⁸⁹ http://www.localmanagement.eu/index.php/mue25:mue_implementation

⁹⁰ http://www.localmanagement.eu/index.php/mue25:mue_implementation

⁹¹ http://www.localmanagement.eu/index.php/mue25:mue_implementation

Box 6.2: Experience of a disabled woman

CASE STUDY ON A DISABLED WOMAN

HER ABILITY IS STRONGER THAN HER DISABILITY



Ms. Shobna Gautam has a permanent movement disorder since childhood and therefore she is full time on wheelchair. She has been living with this disability since the past 35 years .

CHALLENGES FACED BY MS. SHOBNA IN HER DAILY LIFE DUE TO FIJI'S BUILDING INFRASTRUCTURE AND PUBLIC TRANSPORTATION SYSTEM

PUBLIC TRANSPORTATION

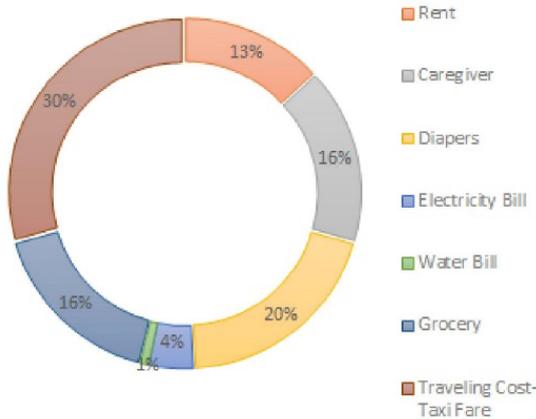


A beautiful lady named Shobna has been on wheelchair for a long time now. It was astonishing to know that she has been living all alone in Nakasi and has to earn her living all by herself. That is the reason why she has to travel daily to Suva and then back home. She travels to Suva 6 days a week. However, what surprised the audit team was that she travels to Suva daily in a taxi which is very costly for a lady who depends on welfare income and donations.

She has commented that "buses in Fiji does not have access for Disabled people and that is our biggest barrier because buses are much cheaper than taxi. I use taxi for my daily traveling and it costs me \$15 one way, which totals to \$30 per day . This is really expensive when compared to buses. However, buses cannot cater for wheelchair and the access passage is really small. Thus this becomes very costly for us as we have other expenses to meet as well".



Shobna's Monthly Expense

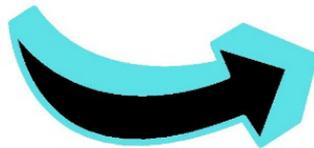


Ms. Shobna's expenses are way too high when compared to her income. Paying for taxi fare is her major expense which alone is 30% of her total expenses. Travelling in taxi is more expensive and it makes her struggle a lot in order to cater for other expenses. Thus, it is evident that travelling in taxi adds extra burden on the disabled people. If buses have access for the disabled people then it is no doubt that majority would prefer to travel in buses because it is more cheaper when compared to taxi.

Another challenge which she faces daily in her life is trying to get in and out of the taxi. Taxi's in Fiji do not have ramps which makes it very difficult for disabled people to get in and out of the taxi. She has commented that "taxi's in Fiji do not have ramps because of which I find it really hard to get in and get out of vehicle. This is the only reason why I have only one taxi who picks and drops me. The securities at ANZ Bank together with other people always helps me to get i the vehicle and this makes me dependent on everyone". In a nut shell, Ms. Shobna cannot live her life independently and is also deprived from her constitutional right - Section 42 Rights of Persons with Disabilities.

PUBLIC BUILDINGS

Ms. Shobna has experienced that she could not access some of the buildings because they are not disabled friendly. she has commented that "some of the buildings does not have ramps which makes it difficult for me to get in the buildings". she has also mentioned that there are areas which needs to be improved for disabled access". some of the areas mentioned by Shobna was as follows:



This means that life of Ms. Shobna is full of challenges because of Fiji's Infrastructure. Fiji's Infrastructure depicts the unpleasant truth that disabled people of Fiji are deprived from their constitutional rights. However people like her overcome their challenges in their daily lives with a smile on their face

- Roads do not have access for disabled to cross - she mentioned that they always need someone to help them to out their wheelchair down so that they could cross
- Disabled car parks should be readily available which would help disabled people to easily get in and get off the vehicles
- Ramps should be available to all buildings - she mentioned that shopping centers do not have ramps which limits their options to do grocery shopping

Source: OAG narrative of interview conducted on 15 January 2020

Theme 1: Monitoring of Buildings by OHS Division

Situation Found

We noted that the owner of a building could occupy the building even if the completion certificate is not issued by Occupational Health and Safety (OHS) Division. Discussions with the OHS Division revealed that under the Health and Safety at Work (General Workplace Conditions) Regulations 2003, it is not required for the building owner to obtain an OHS Completion Certificate to occupy the building. If the building is constructed according to the plan, then the occupant could occupy the building. We were informed that Municipal Councils have explicit requirements in their governing legislation and regulations to issue completion certificates to a building owner prior to occupying the building. In this aspect, the OHS Division is part of the process.

Criteria

Before deciding on the “prior approval” referred to in sub regulation (3), the Chief Health and Safety Inspector shall consider both the requirements under these Regulations and those under the current National Building Code for Fiji, including the special provisions for the physically handicapped. Where there exists a conflict between these requirements, the requirement(s) with the highest level of occupational health and safety standard shall be adopted

Evidence and Analysis

Under section 64 (2) of the Health and Safety at Work (General Workplace Conditions) Regulations 2003 it states that no building shall be built, occupied or altered until the design plans has been approved. There is therefore clear indication, that it is not mandatory for the building owners to have completed buildings inspected with its confirmation in the form of a completion certificate. We were informed that OHS Division carries out final inspections, once the building is complete at the request of the project/development/building owner as it is not required for inspections to be carried out by them after the design plans have been approved by the Chief Health and Safety Inspector. Nonetheless, this does not prevent the OHS Division from carrying out their own inspections and audits etc. to determine compliance to the Health and Safety at Work Act 1996 and its Regulations.

The OHS Division is made aware of an existing project when they receive the design plan for vetting. The vetting process is based on the requirements of an internal checklist which is formulated from the Health and Safety at Work (General Workplace Conditions) Regulations 2003 and the National Building Code. The General Workplace Conditions Regulations 2003 make continuous references to the National Building Code as it captures the specific requirements needed for a new building construction or expansion. The Health and Safety at Work Act 1996 allows the OHS Division to look outside the National Building Code and use other applicable standards such as Australia and New Zealand Standards.

Once the request is received by OHS, the law specifies that the first design plan must be vetted and no approval must be given by any other authority including the municipal councils unless prior approval is given by the Chief Health and Safety Inspector.

Discussions with the OHS Division noted there is still room to incorporate disabled access into the building designs and plans if it fails to be incorporated by the engineers, the Municipal councils and Department of Town and Country Planning at the initial approval stages.

Records from OHS Division which were reviewed during audit indicated that there were instances when the Division had raised issues concerning the needs of disabled persons. For example, the newly constructed shopping complex in Davuilevu does not fully cater for disabled access.

The requirement of disabled access for a Class 6 building is that if the floor area is more than 500m squared, then disabled access is compulsory.⁹² We noted that the Health and Safety Inspector had raised the issue of not having lifts which would have been the only point of access for a disabled person to get to the next floor of the building. However, it was communicated to the OHS Division that lifts would be installed later. We further noted that the occupant of the building has already occupied the building because the requirement was to construct the building according to the plan to which they had complied with. It is also important to note that OHS had also issued the completion certificate without having the lift being installed for disabled access because the building was constructed according to the plan and the plan only had a small ramp for disabled.

It is important to highlight that even if OHS does not endorse the issue of completion certificate, to the client, given lack of access for disabilities, the occupant could still occupy the building because of the Health and Safety at Work (General Workplace Conditions) Regulations 2003 which makes it clear that if the building is constructed according to the plan, then the occupant could occupy the building. In the case discussed above, a small ramp was available in the complex for the disabled person to only enter ground floor. Full access to the building could only be achieved if there was a lift for the disabled persons to access to enter the upper levels of the building.

The building file being examined by audit had two floors. There is still a current provision in the National Building Code that two floor buildings are not required to have lifts installed.

While not explicitly outlined in their governing legislations and regulations, the OHS Division carries out inspections of the design and plan of a building project against the completed building, the issue of completion certificates are mandated by the Municipal Councils in which the OHS Division is part of the process. Before completion certificates are issued by the municipal Councils, the OHS Division submits their report to the Council on their OHS assessment of how well the approved design plan is reflected on the completed building.

The story below is based on a true incident which clearly depicts the risk that is associated when there are no lifts for the disabled person to use to access the upper floors of the building.

⁹² Fiji National Building Code, Table ND3.2 Requirements for Access for people with disabilities, p.ND-18.

Box 6.3: Experience of a disabled persons



Meet Peter a disabled man who is full time on wheel chair. However his disability does not stop him from exploring things. He may be a wheelchair user, but adventure is his middle name. One day Peter was going out to have dinner at a restaurant at a newly built complex which was situated upstairs. To his astonishment, the new building had no lift or ramp and he had to be taken up the stairs of the complex. He honestly mentioned that it was embarrassing and degrading for him when his personal assistant had to take him up the stairs as onlookers' eyes were all fixed on him. He further stated that "IF" something would have happened to him whilst going up those steep flights of stairs, he would have taken them to task according to the Disability Act.

His personal view on the Rights of Persons with Disabilities Act 2018 -

He mentioned that the Act has been really well thought off as it covers all rights for Persons with Disabilities. "BUT" THERE IS NO COMPLIANCE ENFORCEMENT IN PLACE TO TAKE BUILDING OWNERS TO TASK WHEN THEY FALL SHORT OF MEETING THE FIJI BUILDING CODE REQUIREMENTS. He further mentioned that everything looks good in writing but implementing these laws and requirements is where we are all making in.

Source: OAG narrative following-interview carried out on 24 July 2020

Since most buildings existed before the building code and other applicable legislation came into force later, providing reasonable access would need to be strengthened to cater for persons with disabilities. Service providers would most likely require that essential services that are demanded by, amongst others, persons with disabilities would need to relocate these essential services to the ground floor if lifts are not provided in multi-storey buildings. Renovation and building

improvement plans for old buildings which have been constructed will therefore need to incorporate access for persons with disabilities when they happen.

Cause

Under the Workplace Design Vetting Procedure of the Ministry of Employment, Productivity and Industrial Relations states that the design is vetted against the provisions of the HASAW (General Workplace Conditions) Regulations 2003. Section 64(2) of the *Health and Safety at work (General Workplace Conditions) Regulations 2003* states that no building shall be built, occupied or altered until the design plans has been approved. Therefore, under this Regulations, it is not required to obtain an OHS Completion Certificate to occupy the building as a result of final inspections carried out at the completion of construction work. Initial reviews of plans for public building developments indicated that there are no specific requirements for provision of access for persons with disabilities except it is accepted as best practice.

Effect

If the plan does not cater for disabled needs, then the buildings will not be disabled friendly and therefore the disabled people of Fiji would be deprived from accessibility which is their right. The disabled people of Fiji will have to face the same issue as highlighted above in the story of Peter.

Good Practice

We noted that OHS design vetting checklist also includes disabled access requirements such as ramps, disabled access provided, handrails and disabled sanitary facilities which should be provided in Class 3,5,6,7 and 9 buildings, washing facilities for disabled people. However, it is not able to enforce any requirement if it is not stated in the building plan.

Expected Benefits

Once the Health and Safety at Work Act 1996 has been revised, the OHS Division would be able to fully enforce accessibility for disabled people in the buildings at all levels and not only for entering the building. OHS completion certificates will be only issued if all requirements of disability access is met. People with disabilities are not only customers visiting public officers, they also have the right to work and their chances of employment will be greatly enhanced with having accessibility to public offices.

Recommendation

- The Ministry of Employment Productivity and Industrial Relations should review the Health and Safety at Work (General Workplace Conditions) Regulations 2003 to ensure that public building plans are also reviewed by OHS Department before approval by the Council and final inspections of completed buildings be carried out and ensuring that compliance requirements are satisfied for public buildings. So long as they are work places and are not residential buildings. These requirements should include disabled accessibility as people with disabilities can be customers, employees and even employers.

Theme 2: Conditions in National Building Code for Disabled Persons

Situation Found

Audit verifications at the OHS Division confirmed that they use the National Building Code to facilitate disabled access. Similarly, discussions with the Construction Industry Council (CIC) also confirmed that engineers use the Code as the guideline for providing access for persons with disabilities to buildings. A review of the National Building Code noted that specifications requiring that access for persons with disabilities are determined by the floor area of the building contradicts with provisions in the 2013 Constitution. The Constitution requires that reasonable access be provided for persons with disabilities.

Criteria

According to the 2013 constitution under section 42 Rights of persons with disabilities, it states that:

- 1) A person with any disability has the right—
 - a) To reasonable access to all places, public transport and information;
 - b) To use sign language, Braille or other appropriate means of communication; and
 - c) To reasonable access to necessary materials, substances and devices relating to the person's disability.
- 2) A person with any disability has the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realization of their rights.
- 3) To the extent that it is necessary, a law or an administrative action taken under a law may limit, or may authorize the limitation of, the rights set out in this section.

Evidence and Analysis

We noted that there were instances when disabled access to particular buildings were not required and stated as not applicable since those were not falling under the class of the buildings which were required to have disabled access. It was noted that the building is providing services to the general public at large and a disabled person will not be able to enter the building. It was established that the National Building Code only requires buildings with certain floor area to have disabled access and thus, this is a major barrier for people living with disabilities. For example, a case was reviewed where a bank was located in a complex in Nakasi. It was noted that there is a ramp to enter the corridor of the building. However, ramps are not provided for the disabled to enter into a particular shop and bank. This is an example of a barrier for the disabled people because there are some buildings which do not meet the specific floor area but provide services to the general public.

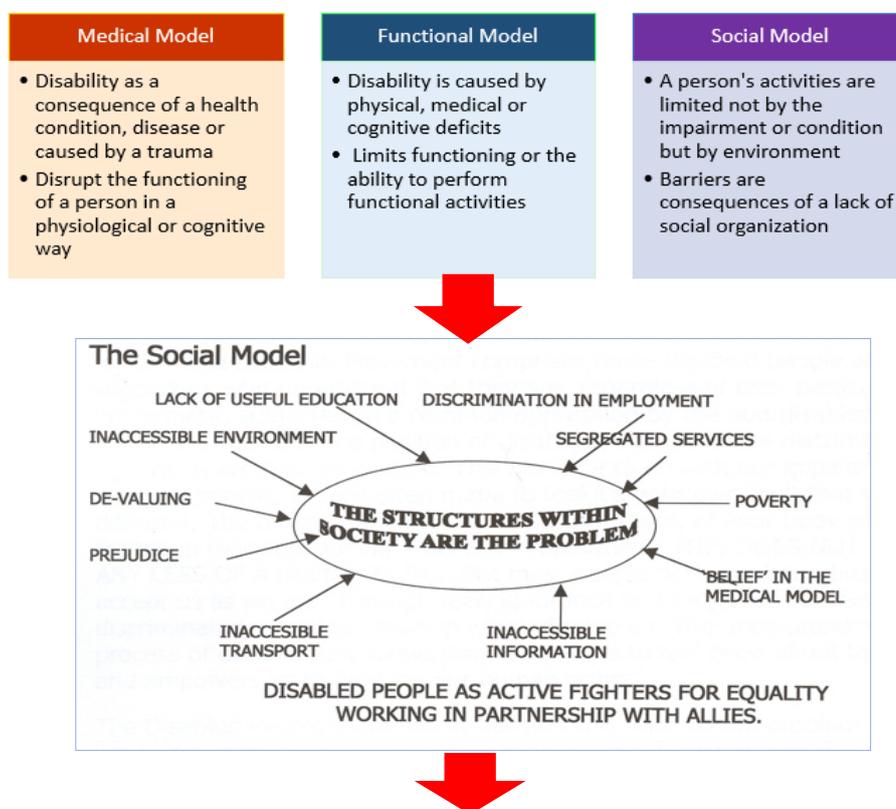
We were advised that the OHS Act requires risks assessments to be carried out. If certain undertakings relating to a newly constructed building are assessed as hazardous with high risks, then the Act allows an exemption of this undertaking. In addition, there is a requirement to have access floors one step up so as to prevent water from entering the shops.

Focusing on the social model of disability, it proposed that what makes someone disabled is not their medical condition, but the attitudes and structures of society.⁹³ This model focuses on barriers that people with disabilities face instead of concentrating on impairments and deficits of

⁹³ <https://www.mentalhealth.org.uk/learning-disabilities/a-to-z/social-model-disability#:~:text=model%20of%20disability-.Social%20model%20of%20disability.civil%20rights%20approach%20to%20disability.>

the person with a disability. In this model a person's activities are limited not by the impairment or condition but by environment and barriers are consequences of a lack of social organization.⁹⁴ The picture below depicts the disability models and it shows how building infrastructure has become a barrier for the disabled people.

Figure 6.9: Models for explaining disability



This is what is known as the "social model" of disability, requiring a change in society's values and practices in order to remove the barriers to participation that result in discrimination against disabled people. It is clear that this is possible and does happen, e.g. changing steps into ramps and providing information in Braille.

The social model does not deny the existence of impairments that may affect disabled people's daily lives, but it shifts the emphasis onto the real barriers which affect participation.

The social model of disability demonstrates that removing barriers for disabled people benefits everyone. This happens for example, by making the built environment more accessible (thus assisting parents with buggies, people with heavy luggage, older people etc.); or providing more accessible information (plain, jargon-free language clear typefaces and layouts or other methods of communicating information). This assists a wide variety of people.

Some benefits of adopting a "social model" approach to understanding disability equality

The social model locates the "problem" outside the disabled person and therefore offers a more positive approach because:

- it doesn't "blame" the individual or turn them into the problem
- it involves everyone in identifying solutions
- it encourages co-operative problem solving
- it removes barriers for others as well as disabled people, that is, it is an equal opportunities model
- it acknowledges disabled people's rights to full participation as citizens.

Source: <https://disabilityinpublichealth.org/1-1/> and <https://ukdhm.org/what-is-ukdhm/the-social-model/>

⁹⁴ <https://disabilityinpublichealth.org/1-1/>

Inaccessibility to the built environment is still a major barrier which prevents persons with disabilities from actively participating in social and economic activities. Design approaches currently do not benefit people with disabilities and also many other sectors within the society, such as older persons, pregnant women and parents with young children.

Physical barriers are known to prevent full participation and reduce the economic and social output of persons with disabilities. It is important to note that not only corridors but also services, such as banks, grocery stores, public offices and many more should be made accessible.

The Constitution recognizes that people with disabilities have a basic right to have reasonable access to public places such as shops, hotels, lodging-houses, public restaurants, entertainment venues, public transport services, taxis and public spaces. The Constitution requires that the proprietors of these places or services must facilitate reasonable access for people with disabilities. Fiji has a *Building Code* which makes some provision for accessibility. However, the National Building Code needs to be reviewed to ensure that it removes the barriers for people living with disabilities.

Cause

The primary deficiency arises from the National Building Code which has not been aligned to the requirements in the constitution.

Effects

There are buildings which provides services to the public but does not have disability access. This deprives the disabled people from their rights.

Good Practice

It was noted that the National Building Code is currently under review. In addition, the OHS Division have been developing code of practices to guide their work, provided that they are within the precincts of the OHS Act, its regulations and National Building Code.

Expected Benefits

There will be buildings which will provide services and would be fully accessible by everyone which will include disabled people. Therefore, there will not be any discrimination and fairness and equity will be achieved. Hence, disabled people will be able to fully enjoy their rights.

Recommendation

- The newly developed taskforce responsible for reviewing the National Building Code, chaired by the Director Buildings of the Ministry of Infrastructure and Meteorological Services should expedite the review of the National Building Code.
- The Taskforce responsible for reviewing the National Building Code to consider including OHS Division of the Ministry of Employment Productivity and Industrial Relations as well as other relevant stakeholders such as Ministry of Local Government etc. to be members of the taskforce.

Theme 3 – Monitoring by Municipal Councils

Situation Found

Monitoring by municipal councils plays a major role in ensuring that disabled access is provided in new buildings. We noted that the Town and Country Planning Department provides conditions for all major developments and councils are responsible for the monitoring of the construction of buildings.

Conditions for disabled access would be incorporated in the building permits after which municipal councils will ensure that those conditions are incorporated in the building plan and that the building is constructed according to the plan. We also noted that the Councils monitor the building as per the approved plan and if disability requirements are incorporated then monitoring would be done accordingly.

Our reviews at one of the municipal councils in the Central Division, noted that monitoring reports were not available for one of the major developments. Instead, letters were issued to the building owner on numerous occasions requesting them to change the building according to the plan in order to obtain the completion letter. One of the outstanding items was the condition for disabled parking/ pick-up and drop-off area to be provided and clearly marked within easy access to the entrance of the building/ lifts as shown on the approved plans / permit conditions. In the absence of inspection/monitoring reports, the basis on which the completion certificate was issued could not be determined.

Criteria

The Council's Standard Operating Procedure (SOP) – Inspection of Construction Works Document states that all periodical building inspections (stages of construction) to comply as per the approved plans and building permit conditions.

Evidence and Analysis

We checked for major developments in the area. One of the conditions in the building permit was disabled parking/ pick up and drop off area to be provided and clearly marked within easy access to the entrance of the building/ lifts as shown on the approved plans / permit conditions. However, we noted that the completion certificate was issued without sufficient monitoring reports prepared.

Cause

There were no inspection reports available for the outstanding conditions and the conditions were only ticked to indicate that the conditions were met.

Effects

Without due diligence in preparing monitoring reports, special facilities such as those for the disabled population in Fiji could be overlooked, thus depriving the disabled population of Fiji from entering the building and utilizing the facilities and services provided in the particular building.

Good Practice

We noted that this was the only instance when the Council did not properly monitor the building. The testing shows that for rest of the buildings monitoring reports (inspection reports) were available and the council ensured that all buildings complied with the building permit conditions. We commend the work that the Council is doing by taking up the initiative to have their own Town Planning Section within the Council. The Town Planning Section also gives out their conditions according to their manual. While testing, the audit team noted that the files showed that Town Planning Section had also given their conditions for disabled access to be incorporated in the building.

The document clearly stated the requirements for disabled access.

1. Development shall provide for reasonable access and other facilities for disabled persons in zones other than Residential Zones.
2. A pick up and set down area for vehicles carrying disabled persons shall be provided within easy access to the entrance of a building and which shall be clearly marked and reserved at all times for such vehicles in zones other than Residential Zones.
3. One car parking space shall be provided for each group of 50 or 50 car parking space up to 200 such spaces, and one additional car parking space for each additional group of 200 car parking spaces.
Each such space or spaces shall be designed in accordance with international standards.
4. Each space shall be clearly identified with a color- coded sign designed in accordance with a diagram of the international symbol of access.
5. Such space or spaces shall be provided in addition to the normal car parking spaces required for the proposed development if the total number of car spaces required is less than 20.
6. Flat access shall be provided between each car parking space and the adjoining footpath, unless there is a change in level from the parking space to the footpath, in which case a ramp shall be provided. Car parking spaces for disabled persons shall be an access route and located as close as practicable to entrances and covered footpaths and facilities.

The DTCP advised that the Town Planning General Provisions 1999 will be amended to ensure that all Municipal Councils make it mandatory that disability provisions are complied with and no waivers be granted. Municipal Councils will need to include this provision in their individual General Provisions.

Expected Benefits

Completion Certificate issued after all conditions being met and proper monitoring reports being prepared will ensure that the building is fully accessible to the disabled people of Fiji.

Recommendation

- Municipal Councils could consider not to issue any completion certificate unless and until all the conditions have been met including having access for persons with disabilities to all publicly used buildings.

Theme 4: Monitoring Processes of Application at Town and Country Planning

Situation Found

We noted that monitoring of buildings does not fall under Town and Country Planning. It was noted that once the Director Town & Country Planning consents to any development application, it is then returned to the Municipal Council for their approval and monitoring. Therefore, it was noted that the Municipal Council monitors and also issues a Completion Certificate at the end of construction allowing the proponent to occupy the structure. OHS involvement is not mandatory to ease of access even for disabled employees and customers in public buildings nor the requirements for approval by the Director of Town and Country Planning or by the Councils require ease of access for disabilities as a requirement.

Criteria

Town Planning Act 1978, the Town Planning General Provisions 1999 and the Subdivision of Land Act 1978 states that

- a. Developments shall provide for reasonable access and other facilities for disabled persons in zones other than Residential Zones.
- b. A pick up and set down area for vehicles carrying disabled persons shall be provided within easy access to the entrance of a building and which shall be clearly marked and reserved at all times for such vehicles in zones other than Residential Zones.

Evidence and Analysis

A copy of the conditions of consent was sighted during the audit. According to the Department of Town and Country Planning, the conditions of consent which the Department prepares are basically derived from the Town Planning Act 1978, the Town Planning General Provisions 1999 and the subdivision of Lands Act 1978. It was noted that the conditions of consent are not limited to the above mentioned legislative frameworks, as the Department sends applications for referrals to their other line agencies. These line agencies provide comments on the applications and also stipulate conditions which they also incorporate into their conditions of consent. It was also noted that depending on the nature and magnitude of the application, the following are some of the agencies that they refer their plans to: (i) National Fire Authority; (ii) Occupational Health and Safety; (iii) Obtain files from OHS; (iv) Department of Environment; (v) Fiji Roads Authority; (vi) Water Authority of Fiji; (vii) Energy Fiji Limited; (viii) Department of Lands; (ix) Mineral Resources Department; (x) I-Taukei Land Trust Board; (xi) Central Board of Health; (xii) (it is important to note that since 2017, role of Health Inspectors has been transferred to the Municipal Councils); (xiii) Civil Aviation Authority of Fiji; Airports Fiji Limited; (xiv) Investment Fiji etc.

Even though the conditions for disabled access is given by the Town and Country Planning together with the Municipal Councils, there are instances when full accessibility to buildings are denied for people with disabilities. A good example is a new built complex which is only accessible at ground level while other levels of the building are not accessible by the disabled people. Apparently, there is lack of coordination and collaboration between the Department of Local Government, Municipal Councils and NCPD to discuss the challenges faced by the people with disabilities and how best accessibility for persons with disabilities to public offices can be improved. Upon discussion with NCPD it was communicated that a gap that the current team came up with is that Fiji has the accessibility and building codes, but it has not adapted an accessibility minimum standards. Currently NCPD is only called in, when there is a need for approval on what has already been

constructed which is already too late for them to provide their comments on and it has been emphasized by the Council that at the planning stage the Council is often left out. If NCPD is included in the initial planning stages before plans can be approved for issue of a building permit, then a proper certification could be issued for buildings which are compliant to disability requirement.

Figure 6.10: DTCP Vetting of Applications

TOWN AND COUNTRY PLANNING VETTING OF APPLICATION



Building approvals are referred to major agencies for comments and they are as follows:

National Fire Authority



Occupational Health and Safety



Department of Environment



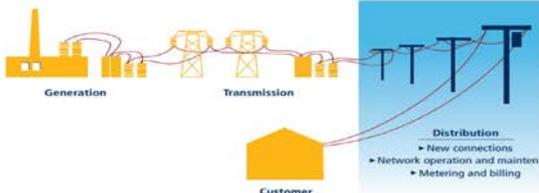
Fiji Roads Authority



Water Authority of Fiji



Energy Fiji Limited



Some other agencies included are listed below:

- Department of Lands
- Mineral Resource Department
- I-Taukei Land Trust Board
- Board of Health
- Civil Aviation Authority of Fiji
- Airports Fiji Limited
- Investment Fiji

According to the Department of Town and Country Planning, the conditions of consent which they prepare are basically derived from the Town Planning Act Cap 139, the Town Planning General Provisions 1999 and the subdivision of Lands Act Cap 140. It was stated that the conditions of consent are however not limited to the above mentioned legislative frameworks, as they also send applications for referrals to their other line agencies. These line agencies provide comments on their applications and also stipulate conditions which they also incorporate into their conditions of consent.

can Fiji fully have disabled access if NCPD being an agency who understands the importance of disability access the most is not included in the vetting process?



Town and Country Planning vetting of application process should include





Source: Confirmation received from DTCP on 02 May 2020

Causes

The lack of awareness and initiatives to be mindful of the plight of accessibility faced by persons with disabilities are the basic reasons why there has been slow progress in improving accessibility to public spaces. Generally, most people lack knowledge of the type of disabilities we have and consequently are not aware of what is required to cater for people with disabilities. The CIC board members expressed that on the very initial stages of planning, the drafters of building plans generally lack this knowledge and in most cases work based on their experiences and may not be up to standards with new developments and best practices. This lack of awareness and initiatives may also be present with engineers. The other factor highlighted by CIC was the high cost of implementing these considerations for disabilities in the building plans. Collaboration and engagement with the NCPD by the DTCP and Municipal Councils is also lacking.

Effects

Lack of engagement and consultation between NCPD and the construction industry stakeholders and lack of enforcement has caused the delays in improving accessibility of persons with disabilities to public spaces including government offices and shopping complexes.

Improved awareness about the plight of persons with disabilities and the types of disabilities to stakeholders in the construction industry will go in a long way to change thinking, attitude and the will of the stakeholders to design and build world class structures in the public space.

Good practice

The audit comments on the commendable work that the department is doing by taking up the initiative to have their own conditions for disabled access. The Town and Country Planning Department gives out their conditions after assessing the application and if they believe that access for disabled is needed then the Department states it as one of their conditions.

DTCP will now also include a representative from the NCPD to be part of a committee that will review all major building development proposals, this will ensure that DTCP always incorporates disability provisions in its conditions.

Expected Benefits

Having more engagements and consultations between the NCPD and the construction industry stakeholders to improve the building designing and vetting process in municipalities will ensure that disabled accessibility throughout the building is made available and also to all the services which are provided for in the building.

Recommendation

DTCP and Municipal Councils should engage and collaborate with NCPD for awareness and training to improve the vetting process of building permit applications.

Theme 5: Monitoring of Accessibility in Public Transports by LTA

Situation Found

The audit noted that LTA cannot monitor disabled access in the public service vehicles because there are no penalties imposed to compel the operators to have disabled access.

Criteria

Land Transport Act 1998- Land Transport (Public Service Vehicles) – Amendment regulations 2015 states

1. 20A --- the driver of any public service vehicle must not refuse to carry in the vehicle a person with a disability.
2. The driver of any public service vehicle must take reasonable steps to assist persons with physical disabilities when boarding and disembarking the vehicle.
3. The owner of any public service vehicle must ensure that the vehicle is user friendly for persons with physical disabilities.

Evidence and Analysis

We noted that there was an amendment to the Land Transport Act in 2015 which had clearly stated that the owner of any public service vehicle must ensure that the vehicle is user friendly for persons with physical disabilities. However, after discussions with LTA, it was confirmed that there are currently no public service vehicles in Fiji which are disabled friendly. It was also communicated that monitoring is only done for priority seating during inspection of buses. However, there is no legislated penalty in place for the bus and taxi owners to be compelled to cater for disabled access. It was confirmed that monitoring for the current bus fleet which has design limitation for physical access and egress for wheel chair bound passengers is currently not possible since there is no penalty system to compel the bus owners to have disabled access in the current buses fleet. Moving on, it was communicated by LTA that the buses in Fiji are failed if priority seatings are not marked with signage but this is an ongoing process at the moment.

Cause

Most stakeholders in the industry were not aware of the amendments to the LTA Act 2015 and have not taken any positive action or plans towards complying with the regulations.

The current bus fleet is not disable passenger (wheelchair bound) accessible because the current legal legislation does not incorporate penalties for the public service vehicle owners to compel them to be obeyed by the Act.

The high investment cost required to replace the current bus fleets is an underlying issue confronting the bus industry. There has not been much discussions on these or timelines for compliance to the legislation.

Monitoring is only done for priority seating during inspection of buses. There is no legislated penalty in place however the buses are failed if priority seating are not marked with signages. This is an ongoing process at the moment.

Therefore, monitoring for the current bus fleet which has design limitation for physical access and egress for wheel chair bound passengers is not possible since there is no penalty system to compel the bus owners to have disabled access in the current buses fleet.

Effects

If there is no penalty system then vehicle owners will not provide disability access as they will not find any need to provide access.

Good practice

In response to the audit, LTA expressed their plan to engage with bus owners and the industry to map out the implementation of the legislative requirements. It requires enormous financial investment thus a period of five years was proposed to fully implement compliance but this cannot be confirmed by audit if it has been formally communicated and approved.

Expected Benefits

A penalty system is also an alternative imposed on public service vehicle owners, then they would be compelled to incorporate disabled access in their vehicles which would help the disabled to easily access public transports in Fiji.

Recommendation

LTA should engage with stakeholders and implement action plan required to bring about the necessary changes in public transport.

Theme 6: Safeguards the Rights of Persons with Disabilities

The rights of persons with disabilities are provided and protected in part six of the Rights of Persons with Disabilities Act 2018 (Act No. 4 of 2018) as shown below:

- (1) *If a person considers that any of the provisions of this Part has been or is likely to be contravened in relation to him or her, that person may apply to the High Court for remedies for breach of their rights under this Act.*
- (2) *The right to make an application to the High Court under subsection (1) is without prejudice to any other action with respect to the matter that the person concerned may have, including one for constitutional redress under the Constitution.*
- (3) *The High Court has original jurisdiction to hear and determine applications under this part and may make such orders and give such directions as it considers appropriate including—*
 - a. *Injunctions, including injunctions against the state*
 - b. *Declarations*
 - c. *Damages*
 - d. *Compensation*
- (4) *The High Court may exercise its discretion to grant relief in relation to an application or referral made under this section in addition to constitutional redress where an application is made for constitutional redress under the Constitution.*
- (5) *If in any proceedings in a subordinate court, any question arises as to the contravention of any of the provisions of this part, the member presiding in the proceedings may, and must if a party to the proceedings so requests, refer the question to the High Court unless, in the members opinion (which is final and not subject to appeal), the raising of the question is frivolous or vexatious.*
- (6) *When the High Court gives its decision on a question referred to it under this section, the court in which the question arose must dispose of the case in accordance with—*
 - a. *The decision; or*
 - b. *If the decision is the subject of appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or the Supreme Court, as the case may be.*
- (7) *The Attorney- General may, on behalf of the State, intervene in proceedings before the High Court that relate to a matter concerning a provision in this Part.*
- (8) *if the proceedings before the High Court relate to a matter concerning a provision of this Part, the High Court must not proceed to hear and determine the matter until it is satisfied that notice of the matter has been given to the Attorney- General and a reasonable time has elapsed since the giving of the notice for consideration by the Attorney- General of the question of intervention in the proceedings.*
- (9) *A notice under subsection (8) is not required to be given to the Attorney- General if the Attorney- General or the State is a party to the proceedings.*
- (10) *The Chief Justice may make rules for the purposes of this section with respect to the practice and procedure of the High Court (including rules with respect to the time within which applications are to be made to the High Court).*

The Act clearly states that a person may apply to High Court if a person feels that they are being deprived from their rights under this Act. Adding onto this, one of the rights of persons with

disabilities under this Act is their accessibility rights. An extract of section 29, part 6 of the Act is provided below.

All persons with disabilities have the following rights—

- a. To reasonable access to all indoor and outdoor places, public transport and information
- b. To use sign language, Braille or other appropriate means of communication;
- c. To reasonable access to necessary materials, substances and devices relating to the person's disability;
- d. To reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realization of their rights;
- e. In buildings and other facilities open to the public, information, signage and forms in Braille and in easy to read and understand modes; and
- f. To forms of assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public.

From the above citation, it clearly depicts that under law if a person with disability feels deprived from their rights then the person is in a position to raise the matter in High Court.

Furthermore, the NCPD also has a complaints register. It was noted that the council deals with mobility issues only, while the rest of the complaints are referred to Human Rights and Anti-Discrimination Commission for their action.

Human Rights and Anti- Discrimination Commission's Monitoring System⁹⁵

One of the strategic goals of Human Rights and Anti- Discrimination Commission is **Monitoring, Investigation and Compliance**. It was noted that monitoring, investigations and compliance are core functions of the Commission. Section 45 (4) (C) and (e) of the Constitution and section 12(1)(j) of the Human Rights and Anti- Discrimination Commission Act 2009 confers to the Commission the powers to investigate allegations of contraventions of human rights as well as allegations of unfair discrimination either on its own motion or on the basis of a complaint by individuals, groups or institutions on their behalf or on behalf of others. The Commission's organization structure depicts that the organization has a dedicated team who looks into complaints and investigates the issues very well.



Section 45(5) of the Constitution provides that any person has the right to lodge a complaint with the Commission alleging that a right or freedom guaranteed under the Constitution has been denied, violated or infringed, or is threatened. Furthermore, section 45(4) (e) of the Constitution and section 12 (1) (k) of the Human Rights and Anti- Discrimination Commission Act 2009 empowers the Commission to secure appropriate redress if human rights have been violated through

⁹⁵ <https://www.raptim.org/everything-you-need-to-know-about-human-rights/>

conciliation or making application to court for redress or for other forms of relief or remedies. Also according to section 50 - Part 6 of the Rights of Persons with Disabilities Act 2018 (Act No.4 of 2018)

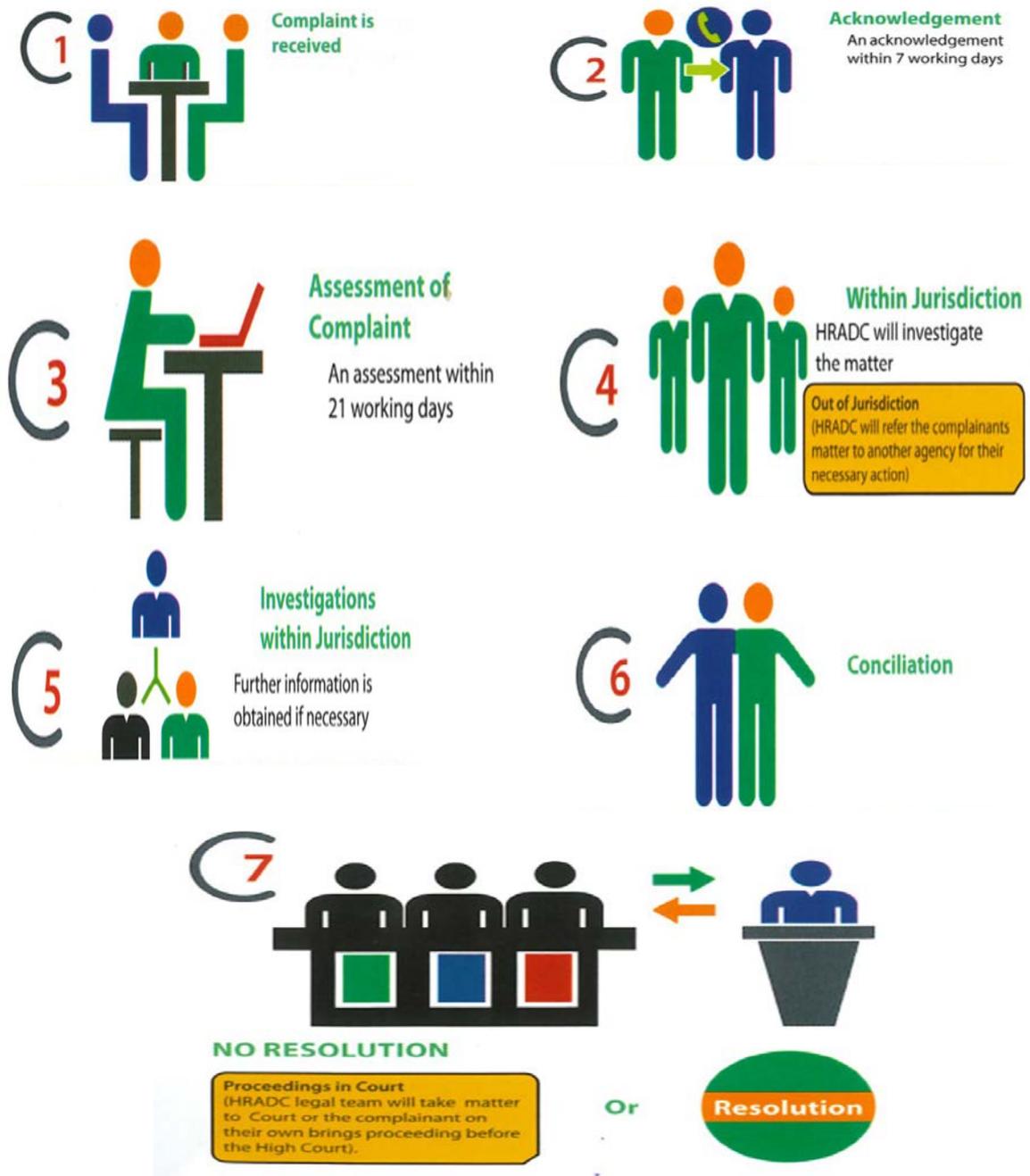
1. The rights guaranteed under this Act may be enforced by—
 - a. the council
 - b. the Human Rights and Anti- Discrimination Commission
 - c. a non-government organization representing persons with disabilities; or
 - d. any person living with disabilities
2. The rights under this Act may be enforced in addition to the rights under the Constitution, the Human Rights Commission Act 2009, the HIV/AIDS Act 2011, the Mental Health Act 2010 and any other law applicable to persons with disabilities.
3. The rights guaranteed under this Act may be enforced by way of constitutional redress where the breach of a right under the constitution is also alleged in the same action.

It is apparent that the legislation clearly state that the Commission is in a position to monitor and investigate non-compliance complaints received from persons with disabilities. It was noted that while it is the primary responsibility of the state and every person holding public office to respect, protect, promote and fulfil the rights and freedoms guaranteed in the Constitution, should one feel that their rights have been violated, then the person may approach the Human Rights and Anti- Discrimination Commission. Under the Constitution, the Human Rights and Anti-Discrimination Commission has the following responsibilities in relation to monitoring:

- Monitor, investigate and report on the observance of human rights in all aspects of our lives;
- Receive and investigate complaints about alleged abuses of human rights and take steps to address these violations including making applications to court for redress;
- Investigate or research human rights matters on its own initiative or on the basis of a complaint and make recommendations to improve the functioning of the public and private institutions;
- Monitor compliance by the State to fulfil its obligations with respect to international human rights treaties and conventions.

These are practiced through a complaint management system which is in place. The Commission has clearly stated that any person has the right to lodge a complaint to the Commission in regards to alleged human rights violation.

Figure 6.11: Complaints Management System



Source: Human Rights and Anti- Discrimination Commission Pamphlet “what happens when you lodge a complaint?”

The Complaint Management System is effective and is functioning well as every complaint lodged with Fiji Human Rights and Anti- Discrimination Commission is taken seriously and is monitored. This is evident through their Annual Reports where the complaints received throughout the year is captured.

7.0 APPENDICES

Appendix 1: Washington Group Extended Question Set on Functioning

MODULE B: FUNCTIONING CHALLENGES	
VISSION	
VIS_1 [Do/Does] [you/he/she] wear glasses?	<ol style="list-style-type: none"> 1. Yes 2. No 7. Refused 9. Don't know
VIS_2 [Do/Does] [you/he/she] have difficulty seeing, [If VIS_1 = 1: even when wearing [your/his/her] glasses]? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know
VIS_3 [Do/does] [you/he/she] have difficulty clearly seeing someone's face across a room [If VIS_1 = 1: even when wearing [your/his/her] glasses]? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know
VIS_4 [Do/does] [you/he/she] have difficulty clearly seeing the picture on a coin [If VIS_1 = 1: even when wearing [your/his/her] glasses]? Would you say...? [Read response categories]?	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know
HEARING	
HEAR_1 [Do/Does] [you/he/she] use a hearing aid?	<ol style="list-style-type: none"> 1. Yes 2. No 7. Refused 9. Don't know
HEAR_2 [Do/Does] [you/he/she] have difficulty hearing, [If HEAR_1 = 1: even when using a hearing aid(s)]? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know
HEAR_3 How often [do/does] [you/he/she] use [your/his/her] hearing aid(s)? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. All of the time 2. Some of the time 3. Rarely 4. Never 7. Refused 9. Don't know
HEAR_4 [Do/does] [you/he/she] have difficulty hearing what is said in a conversation with one other person in a quiet room [If HEAR_1 = 1: even when using [your/his/her] hearing aid(s)]? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know
HEAR_5 [Do/does] [you/he/she]	<ol style="list-style-type: none"> 1. No difficulty

MODULE B: FUNCTIONING CHALLENGES																																																	
<p>have difficulty hearing what is said in a conversation with one other person in a noisier room [If HEAR_1 = 1: even when using [your/his/her] hearing aid(s)]? Would you say...? [Read response categories]</p>	<ol style="list-style-type: none"> 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know 																																																
MOBILITY																																																	
<p>MOB_1 [Do/Does] [you/he/she] have difficulty walking or climbing steps? Would you say...? [Read response categories]</p>	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know 																																																
<p>MOB_2 [Do/does] [you/he/she] use any equipment or receive help for getting around?</p>	<ol style="list-style-type: none"> 1. Yes 2. No (Skip to MOB_4) 7. Refused (Skip to MOB_4) 9. Don't know (Skip to MOB_4) 																																																
<p>MOB_3 [Do/does] [you/he/she] use any of the following?</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2"></th> <th style="text-align: center;">1. Yes</th> <th style="text-align: center;">2. No</th> <th style="text-align: center;">3. Refused</th> <th style="text-align: center;">4. Don't know</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">A</td> <td>Cane or walking stick?</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">B</td> <td>Walker or Zimmer frame?</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">C</td> <td>Crutches?</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">D</td> <td>Wheel chair or scooter?</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">E</td> <td>Artificial limb (leg/foot)?</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">F</td> <td>Someone's assistance?</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">G</td> <td>Other (please specify)</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			1. Yes	2. No	3. Refused	4. Don't know	A	Cane or walking stick?					B	Walker or Zimmer frame?					C	Crutches?					D	Wheel chair or scooter?					E	Artificial limb (leg/foot)?					F	Someone's assistance?					G	Other (please specify)				
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<p>MOB_4 [Do/Does] [you/he/she] have difficulty walking 100 meters on level ground, that would be about the length of one football field or one city block [If MOB_2 = 1: without the use of [your/his/her] aid]? Would you say...? [Read response categories]</p>	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do (Skip to MOB_6) 7. Refused 9. Don't know 																																																
<p>MOB_5 [Do/Does] [you/he/she] have difficulty walking half a km on level ground, that would be the length of five football fields or five city blocks [If MOB_2 = 1: without the use of [your/his/her] aid]? Would you say...? [Read response categories]</p>	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know 																																																
<p>MOB_6 [Do/Does] [you/he/she] have difficulty walking up or down 12 steps? Would you say...? [Read response categories]</p>	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do 7. Refused 9. Don't know 																																																
<p>If MOB_2 = 2 "No", skip to next section.</p>																																																	

MODULE B: FUNCTIONING CHALLENGES	
	If MOB_3 = D “Wheelchair”, skip to next section.
MOB_7 [Do/Does] [you/he/she] have difficulty walking 100 meters on level ground, that would be about the length of one football field or one city block, when using [your/his/her] aid? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do (Skip to MOB_8) 7. Refused 9. Don't know
MOB_8 [Do/Does] [you/he/she] have difficulty walking half a km on level ground, that would be the length of five football fields or five city blocks, when using [your/his/her] aid? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do (Skip to MOB_8) 7. Refused 9. Don't know
COMMUNICATION	
COM_1 Using [your/his/her] usual language, [do/does] [you/he/she] have difficulty communicating, for example understanding or being understood? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do (Skip to MOB_8) 7. Refused 9. Don't know
COM_2 [Do/does] [you/he/she] use sign language?	<ol style="list-style-type: none"> 1. Yes 2. No 7. Refused 9. Don't know
COGNITION (REMEMBERING)	
COG_1 [Do/does] [you/he/she] have difficulty remembering or concentrating? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. No difficulty 2. Some difficulty 3. A lot of difficulty 4. Cannot do at all/ Unable to do (Skip to MOB_8) 7. Refused 9. Don't know
COG_2 [Do/does] [you/he/she] have difficulty remembering, concentrating, or both? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 1. Difficulty remembering only 2. Difficulty concentrating only (Skip to next section) 3. Difficulty with both remembering and concentrating 7. Refused 9. Don't know
COG_3 How often [do/does] [you/he/she] have difficulty remembering? Would you say...? [Read response categories]	<ol style="list-style-type: none"> 4.

Appendix 2: Application form for Development Permission

**TOWN PLANNING ACT
(CHAPTER 139)
(Section 7)**

APPLICATION FOR DEVELOPMENT PERMISSION

To the Secretary, _____ Rural Local Authority, being an application for permission to undertake the Development described in this application and more particularly shown on the attached plans and specifications.

APPLICANT'S NAME

AGENT (if any)

POSTAL ADDRESS

TITLE OR LEASE NUMBER

(If Lease state whether Crown, Native or Freehold. If Freehold state Plan and Lot Number)

APPLICANT'S INTEREST IN SITE

IF LEASE STATE NATURE OF TENANCY

(e.g. Residential, Commercial, Industrial, Agricultural)

PLAN AND LOT NUMBER AREA OF SITE

(where applicable)

STATE THE PURPOSE OF DEVELOPMENT

(e.g. Detached Dwelling, Residential Building, Shop, Shop with residential accommodation, Replacement of dilapidated building, Service Station, Advertising, Hoarding, etc.etc.)

NAME AND OCCUPATION OF THE PROPOSED OCCUPANT

.....
APPLICANT'S SIGNATURE

DATE

Development permission is granted subject to the following conditions:-

Approved Director of Town and Country Planning

Approved Local Authority

1. Three copies of general plans and elevations must accompany this application. It is unnecessary for applicants to submit more than TWO copies of specifications and detailed structural drawings.
2. Applicants are required to submit three correct-to-scale oriented site diagrams showing existing and proposed buildings and their existing and proposed uses. Boundary measurements, area and title numbers must be given on site diagrams. (Omissions and inaccuracies will necessitate the return of plans).
3. Where the application is an "Outline Application" seeking Development Permission Approval in principle the word **OUTLINE** is to be inserted before the word **APPLICATION** in the second line of the heading to this form.
4. Applicants are required under section 5 Cap. 109 to obtain Development Permission of the Director of Town & Country Planning (endorsed by the Local Authority) as provided for on this form before undertaking any building operations or re-building operations including the making alteration, addition, or structural repair to any building the display of advertisements on any part of a building, hoarding or site not previously used for that purpose the formation laying out or material widening of a street or a means of vehicular access thereto, and any use of land or buildings, either wholly or in part, which is materially different from the use for which the land or building was last being used. (Refer to Reg. 5 and Schedules 1 and 2 Town Planning Regulations 1960 for details of Development permitted without the need to obtain "Development Permission" on this form).

Local Authority's File Ref.

Town Planning Office Ref.

Town Planning Office Grid Ref.

LOCAL AUTHORITY'S COMMENTS

(To be recorded on two forms only)

UDH 511

Appendix 3: Schedule of Fees



DEPARTMENT OF TOWN & COUNTRY PLANNING

Development Application Fees & Charges

The schedule of fees under *Town Planning Act* is based on the value of the proposed development. These fees apply to applications made to the Department of Town and Country Planning, and to those referred to the Department by a local authority. All fees are VAT inclusive, and are subject to change. Fees shown are current at June 2007.

Note that Suva and Lautoka City Councils set their own fees for development applications to be assessed by those authorities.

Examination of Building Plans

VALUE OF DEVELOPMENT	FEE
Not exceeding \$50,000	\$22.00
\$50,000 - \$100,000	\$76.00
\$100,000 - \$200,000	\$113.00
\$200,000 - \$300,000	\$151.00
\$300,000 - \$400,000	\$189.00
\$400,000 - \$500,000	\$227.00
\$500,000 - \$600,000	\$265.00
\$600,000 - \$700,000	\$302.00
\$700,000 - \$800,000	\$340.00
\$800,000 - \$900,000	\$378.00
\$900,000 - \$1,000,000	\$416.00
\$1,000,000 - \$5,000,000	\$542.00
\$5,000,000 - \$10,000,000	\$2,000.00
Exceeding \$10,000,000	\$4,000.00

Examination of Outline Application

VALUE OF DEVELOPMENT	FEE
Not exceeding \$50,000	\$11.00
\$50,000 - \$100,000	\$38.00
\$100,000 - \$200,000	\$57.00
\$200,000 - \$300,000	\$76.00
\$300,000 - \$400,000	\$95.00
\$400,000 - \$500,000	\$113.00
\$500,000 - \$600,000	\$132.00
\$600,000 - \$700,000	\$151.00
\$700,000 - \$800,000	\$170.00
\$800,000 - \$900,000	\$189.00
\$900,000 - \$1,000,000	\$208.00
\$1,000,000 - \$5,000,000	\$271.00
\$5,000,000 - \$10,000,000	\$1,000.00
Exceeding \$10,000,000	\$2,000.00

Renewal of Development Permission fee \$15.00

General Fees & Charges

Conditional Development fee of \$76.00 for any application for development that is 'conditional development' under the General Provisions of *Town Planning Act* or of any approved Town Planning Scheme.

Relaxation of Provisions fee of \$189.00 for any application seeking a major relaxation or dispensation under Provision 7 of an approved General Provisions.

Building (development) plan search fee \$15.00.

Subdivision Application Fees & Charges

The fee schedule for subdivision applications is based on the scale of subdivision proposed. Subdivision application fees are the same, whether an application is made under *Town Planning Act*, *Subdivision of Land Act*, or the *General Order*.

Extension of Subdivision Validity

An application to extend the validity of a subdivision approval may be made for a fee of \$16.00, provided development work is already in progress on the site. If no work has commenced, full fees (as listed above) are payable.

Examination of Subdivision Scheme Plan

Basic fee \$103.00 PLUS the following charges based on the size of the subdivision.

NUMBER OF LOTS	FEE
Up to 20 lots	\$8.00 per lot
More than 20 lots	\$263.00 PLUS \$4.00 per lot in excess of 20 lots

Lots for open space reserve, road or public utilities are not included in the lot count above.

Examination of Engineering Plans

Basic fee \$68.00 PLUS the following charges based on the value of work:

VALUE OF WORK	FEE
\$2000 - \$5000	\$34.00
\$5,000-\$10,000	\$68.00
\$10,000 - \$15,000	\$136.00
\$15,000 - \$20,000	\$170.00
Exceeding \$20,000	\$170.00 PLUS \$8.00 for every \$1000 (or part thereof) in excess of \$20,000 value

Rezoning Application Fees & Charges

Fees for consideration of rezoning applications under *Town Planning Act* depend on the nature of the change proposed.

Consideration of Rezoning

NATURE OF REZONING	FEE
Rural (or agricultural) to Residential	\$95.00
Rural (agricultural) to Commercial	\$189.00
Rural (agricultural) to Industrial	\$189.00
Residential to Commercial	\$189.00
Residential to Industrial	\$189.00
Commercial to Residential	\$113.00
Industrial to Residential	\$113.00
For tourist resort development	\$378.00
Any other rezoning	\$75.00

Renewal fees for rezoning are the same.

'Other' Application Fees & Charges

A fee of \$75.00 applies for any application included in a category not elsewhere stated.

Appendix 4: Conditions for Consent

Conditions of Consent

- (1) That this consent relates to
- (2) That all boundary pegs to be verified by a Registered Surveyor prior to the commencement of any work on the site.
- (3) That the consent of the landlord (.....) to be obtained prior to the commencement of any work on the site.
- (4) That all building dimensions and setbacks to comply with those stated in the approved plans.
- (5) That all vehicular crossing to be formed to the satisfaction of the Divisional Road Supervisor (.....).
- (6) That all vehicular crossing, turning area, car parking space and driveway to be formed and provided to the satisfaction of the Town Council/Rural Local Authority.
- (7) That all fencing/retaining walls to comply with those stated in the approved plans.
- (8) That all fencing/retaining walls to be sited at least 0.025m within the approved surveyed boundary and not on any disputed land.
- (9) That all gates to be opened inwards at all times.
- (10) That all works to be certified as structurally safe and sound by a Registered Civil Structural Engineer.
- (11) That a temporary period of is granted for bases only and shall be subject to renewal.
- (12) That no mechanical works or tyre repairing to be carried out on the site.
- (13) That the floor area to be used for Dairy Shop shall not exceed 46.5sq.m.
- (14) That all items sold shall include food and beverage excluding alcoholic drinks.
- (15) That all relevant conditions pertaining to Public Health and Building Regulations imposed by the Town Council/Rural Local Authority are to be complied with.



OFFICE of the AUDITOR GENERAL
Republic of Fiji

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