

Terms of Reference for a Review of the Walking Access Act 2008

Overview

The Walking Access Act 2008 (the Act), which established the New Zealand Walking Access Commission (the Commission), is due for review after 30 September 2018. The review of the Act must consider the need for the Act, its operation and effectiveness, and whether any amendments to the Act are necessary or desirable. A report on the findings of the review needs to be completed and presented to the House of Representatives by the end of September 2019.

Consideration will be given to the following matters:

The need for the Act

1. Is the Act still required?
2. Are the provisions of the Act the most appropriate means of dealing with public access matters and is a Crown entity still the most appropriate organisational/governance arrangement for dealing with public access?

The operation and effectiveness of the Act

Objective and functions of the Commission

3. Is the objective of the Commission appropriate?
4. Are the functions of the Commission as outlined in section 10 of the Act still appropriate?
5. What are the current challenges and foreseeable future requirements for public access and are amendments to the Act required to allow for these?
6. Does the Act's wording appropriately reflect the scope of the Act and of the Commission's work (e.g. the Act currently refers to *walking* access as opposed to *public access*)?

Effectiveness in opening up public access to priority areas

7. Does the Act focus on the right priority areas for now and the future?
8. Has the Act been effective in the last ten years in opening up public access to the priority areas which are identified in section 11 of the Act as being desirable to have public access?
9. Are there any factors which have blocked the opening up of public access to the current priority areas?

Administration and funding

10. Is the Ministry for Primary Industries still the appropriate central government department to administer the Act?
11. Are the appointment criteria in the Act resulting in the appropriate number and mix of appointees to the Board?
12. Are the funding provisions in the Act still appropriate?
13. Does the Act provide sufficient scope for the Commission to obtain funding from multiple sources and allow for cost recovery for services provided if appropriate (e.g. Overseas Investment Office reports)?

Access for Māori and Tikanga Māori

14. Does the Act provide sufficient powers to enable Māori to access wāhi tapu and traditional sites? In particular, consideration should be given as to whether section 11 of the Act should be amended to allow for wāhi tapu and sites of cultural significance to be made priorities for public access negotiation, where culturally appropriate.
15. Does the Act (and the code of responsible conduct produced as a result of the Act: the *New Zealand Outdoor Access Code*) provide sufficient guidance on responsible behaviour at wāhi tapu and sites of cultural significance, and does the Act provide suitable protection for the location of and access to culturally sensitive sites?

Management of public access

16. Should the provisions in sections 35 to 37 of the Act about the management of walkways be modified, in particular to allow for more involvement of tangata whenua and community groups in this role?
17. Are the provisions in the Act to guide and manage the behaviour of users of public access still needed, and if so, are they adequate considering the rapidly increasing number of overseas and domestic users of public access?

Miscellaneous matters

18. Are there any other matters that should be considered?

The findings of the Review

19. Do the findings of the review indicate that any amendments to the Act are necessary or desirable?

Matter to be excluded from consideration in the review

- Consideration of the 'right to roam' over private property or changing the premise that the New Zealand Walking Access Commission must negotiate access with landholders is specifically excluded from this terms of reference.

Review Process and Type

- The review will be carried out by the Ministry of Primary Industries, with the support of a small panel of experts with experience in public access matters, Māori access issues and the public sector.
- The report on the findings of the review, including any recommendations on amendments to the Act, will be presented to the House of Representatives by the end of September 2019.