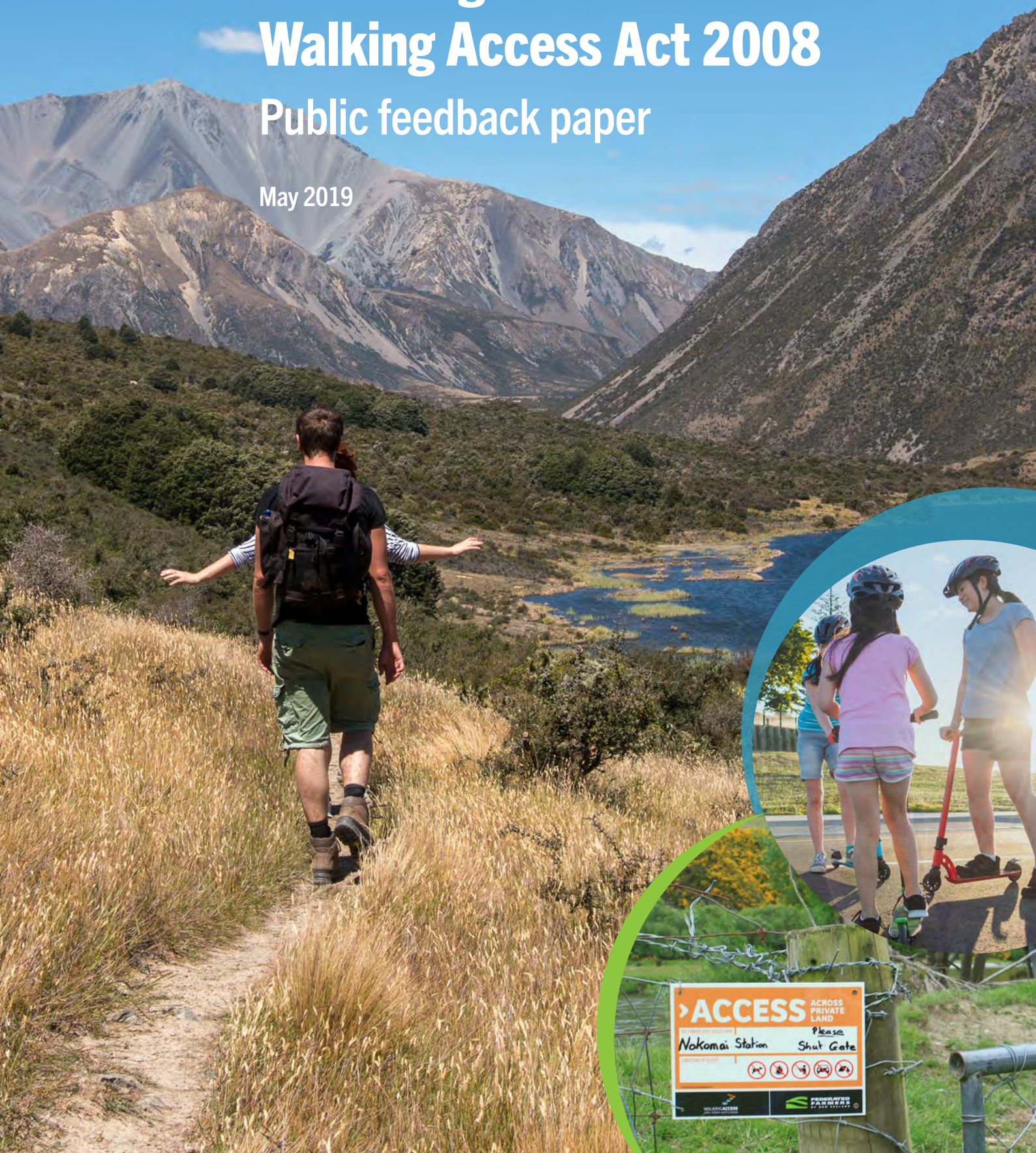





Reviewing the Walking Access Act 2008

Public feedback paper

May 2019





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New Zealand Government

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Foreword

New Zealanders are a people who love the outdoors. We enjoy playing, and working, on and in the sea, at the coast, in the bush, on rivers and lakes, and in the mountains. Outdoor activity is culturally important to New Zealanders. Access is part and parcel of enjoying the outdoors. This was the motivation for redeveloping legislation resulting in the *Walking Access Act 2008* and establishing the *New Zealand Walking Access Commission*.

The *Walking Access Act* contains a section requiring it to be reviewed after 10 years. As well as being a statutory requirement, it is a good time to look at the Act to take stock of experience with public access over the past 10 years, how well it is working, and whether there need to be changes.

New Zealand is a growing nation. In the past ten years our social make-up has evolved ethnically and culturally. Urbanisation is a feature. There is now a greater percentage of older people. Overseas tourist arrivals have more than doubled. Desire to access more places has grown; for enjoyment, to sustain attachment to special places such as wāhi tapu, to develop a sense of place on the part of new migrants, and for economic reasons (recreation is a generator of economic activity, not just including the provision of goods and services). Outdoor recreation means better health and wellbeing for many people. Outdoor activity includes traditional pastimes such as fishing, hunting, walking and

tramping, skiing, horse riding, and surfing. New activity is emerging including mountain biking, parapenting and packrafting. New Zealanders not only enjoy all this – we also tend to be very good at it as witnessed by achievements, and competitive success, internationally compared to our small population.

Notwithstanding multiple benefits, public access also has challenges. Access often requires permission from private landowners, and the desire for access can create problems for those landowners such as stock disturbance, noise and unacceptable behavior. Numbers of people wanting access have increased, especially and significantly by overseas tourists who may not understand our expectations of how to behave around access. If not carefully managed, this can cause disruption, take up people's time, impact on the environment, or give offence.

To assist the review, we have prepared this public feedback paper. It is based on feedback from a series of meetings held late last year which canvassed how the Act and the Commission have been going. The public feedback paper is designed as a stimulus for all New Zealanders to give officials and the review panel their views on how things are going. We look forward to hearing your thoughts.

Dr Hugh Logan

Walking Access Act 2008 Review Panel Chair



Message from Hon Damien O'Connor

The requirement in the Walking Access Act 2008 that it be reviewed after 10 years gives us a great opportunity to see how it is supporting New Zealanders to enjoy the wonderful nature available to them.

I know that farmers and communities have worked hard in many places to make sure there are tracks and trails and other areas available to the public. The Act and the New Zealand Walking Access Commission have played a role in many of the tracks, trails and areas developed over the last ten years.

This work makes an important contribution to the living standards of New Zealanders. Getting out in the bush or near the water is great for physical and mental health, and is often a way we connect with our friends and families. Our tracks, trails and other public access areas are also a vital contributor to rural economies as they increasingly draw international visitors.

The Commission has been active in supporting some exciting achievements in broadening the network of tracks. New tracks help young people choose active transport – they can use these to get to school, to friends' places or to parks. The Connecting Franklin-North Waikato Project is an

example of this. Te Araroa Trail and Te Haerenga – the New Zealand Cycle Trail are boosting visitor numbers to many parts of New Zealand. The public access available for Coronet Peak and Glencoe Stations are also big tourist drawcards.

Māori are often keen to make good use of their collectively owned land and the Government is supporting them to do this. There is opportunity to base authentic Māori cultural experiences for domestic and international tourists on public access.

While great things have happened as a result of communities, government and business working together, there may be ways we can strengthen the Walking Access Act and the way it works. I am keen to hear what you and others think may be ways to do this.

Damien O'Connor
Minister of Agriculture
Minister for Rural Communities



What's the review about?

The Walking Access Act 2008 (the Act) is about providing free access to the outdoors for walking and for types of access that may be associated with walking, such as access with firearms, dogs, bicycles, or motor vehicles.

The Act set up the New Zealand Walking Access Commission, which:

- provides information to the public about where public access is across New Zealand
- helps groups across the country develop free tracks, trails and areas. The work the Commission does to develop new access is generally done where opportunities arise – such as through an active local group wanting support, when a property is undergoing Overseas Investment Office consenting, or a landowner is wanting to offer access. At times the Commission works at a strategic level with councils and local stakeholders to develop landscape-wide public access
- negotiates when users and landowners disagree about access.

The New Zealand Walking Access Commission negotiated a total of 300 access opportunities, of which 48 were for formal access, in the six years to the 2017/18 Financial Year.

More than 51,451 unique visitors used the Commission's Walking Access Mapping System in the 2017/18 Financial Year.

The Ministry for Primary Industries is leading the Review of the Walking Access Act 2008. We're inviting you to tell us what you think is working well, and what opportunities there are to improve the Act and how it's being put into practice.

A small panel of experts is helping us carry out the review. They have been appointed because of their knowledge about public access to the outdoors, about how government works, Māori cultural values and landholder issues. You can see details about their experience at Attachment B.

In this document we have recorded views expressed by some stakeholders we've talked to, to promote

discussion and feedback about what's working well and what improvements might be needed. We will evaluate responses to this paper before we provide a report to the Government by the end of September.

After reading the paper you can provide feedback in several ways:

- go to www.mpi.govt.nz/walkingaccessreview. You can complete a survey by clicking on the **online feedback form**
- email your responses on any of our questions, or any other thoughts, to walkingaccessreview@mpi.govt.nz
- write to Ministry for Primary Industries, Walking Access Review Team, Environment & Communities Directorate, PO Box 2526, Wellington 6140.

We'll be happy to hear your responses to any of the questions you're interested in – don't feel you have to answer them all!

We will produce a report for the Government to consider and this will be presented to the House of Representatives by the end of September 2019.

If the report contains any recommendations for changing the Walking Access Act 2008 or any other act, or for other major changes, we will undertake formal consultation on changes after September 2019.

Why the review is important

New Zealanders consider that spending time in the outdoors is an important part of our lives, indeed the *Walking Access Survey 2015* found this to be true for 88% of New Zealanders. The review is an opportunity to see how we can improve an important part of New Zealand's system for public access to the outdoors. Improvements would mean the Act and the Commission could make an even greater contribution to New Zealanders' physical and mental health, to improving social outcomes, and to strengthening our communities and our economy. Access can also help deliver environmental outcomes, by allowing for the re-vegetation of stream corridors and pest control. Such corridors

offer habitat for local fauna in the area, and allow animals to move between larger areas of habitat.

Why might the review be important to you? You may be a lover of the outdoors, part of a recreation organisation, a landowner, a parent, have kaitiaki responsibilities, may wish to preserve cultural sites of significance, be an urban or environmental planner, have a disability and want better access, or work with children or older people. . .whatever your interest, we are keen to hear from you.

Why review the Act now?

The Walking Access Act 2008 says the Act must be reviewed 10 years after its introduction.

It's a good time to do the review now, anyway, because there have been changes for New Zealanders since the Act's introduction. These changes affect how public access to the outdoors might be managed. We need to respond to these changes, which we've outlined in the next section.



What's changed since the Act was introduced

Changes in the activities we're doing

New Zealanders have always loved getting outdoors, but the way we use the outdoors is constantly changing. We have to make sure people can access the outdoors for a wide range of purposes. We still love walking – it's our number one activity. According to NZTA's website, cycling is now the fastest growing mode of transport in several cities and towns across New Zealand. We also continue to hunt and fish in large numbers. We're now

A 2013 report called *Scootering on: an investigation of children's use of scooters for transport and recreation* indicated that “Non-motorised scooters have increased significantly in popularity over the last few years in New Zealand”. They are “an important source of recreation, transport and exercise and children of all ages enjoy riding them to and from school and in skate parks”.

increasingly mountain biking and e-biking in town and country for commuting and recreation, rock climbing, and paddle boarding. We're connecting with our families and friends by using four-wheel drives to go walking or camping in the bush. Our kids are able to do a wide range of activities in the outdoors. Lots of us love to get exercise by walking our dogs on tracks and trails and other areas. We've taken up non-motorised scooters, for fun and to get to school or work. We need safe paths or tracks to use them. Outdoor education is a key learning area for health and physical education.

Changes in our demographics

New Zealand's population is also changing. More people now live in urban areas and they want to experience nature close to where they are. This is especially important to families. Increasingly older people are getting out into the outdoors. The new strategy for seniors encourages people to stay fit and healthy, looks to increase accessibility and encourage social connection. By 2034 almost a quarter of our population will be over 65 and we need to ensure that there are opportunities for them to enjoy the outdoors. Increasingly, tourists are from older age groups too. In some areas, our child population is booming, and access to the outdoors can be a boon for our youth – for recreation, for learning and developmental opportunities, environmental awareness and community cohesion. We now have a greater percentage of migrants and a more diverse population. Specific strategies may be needed to make sure they can take in our beautiful outdoor spaces and educate them how to do so safely.

The Taranaki Tracks and Trails 2040 Strategy, developed by the Commission in partnership with Sport Taranaki and supported by the Taranaki councils, has as one of its focuses a project aimed at school students, using public access to enhance their connection with Taranaki as a region and with the maunga as the centrepiece of the region.

We are also more aware of equity issues for different groups of New Zealanders. For example, the vision of the *Disability Strategy 2016-2026* is that, “We access all places, services and information with ease and dignity”. There is growing acknowledgement of the part getting out into the outdoors can play for children in their early years. Ministry of Health active play guidelines for under-fives include the importance of getting outdoors and into nature.

Changes in tourist numbers

More and more tourists are accessing our outdoors. According to the Ministry of Business, Innovation & Employment (MBIE), the forecast is for 5.1 million international visitors in 2024, up from 3.7 million international visitors in 2017. We need to be able to give tourists great experiences, while protecting our wonderful environments, and special places, including wāhi tapu. Both domestic tourists and international visitors want to experience our natural environments. While this is important for our economy, it's sometimes resulting in outdoor destinations that are overwhelmed with visitors. This can result in negative visitor experiences, damage to historical and cultural sites, environmental damage, and problems for local communities. Use of social media can attract large numbers of visitors to sites quickly but there may not be the facilities to handle them, like public toilets and car parks.

Changing attitudes to our environment

While our beautiful landscapes have been always been a key part of our identity, we have a growing awareness of the need to protect our environment and make sure we use it sustainably. We are working to protect biodiversity and biosecurity, and have to take account of these when developing access to the outdoors.

Our increasing knowledge about benefits of the outdoors

Our knowledge of what the outdoors can do for us has also grown – for example, there is growing evidence about how it can improve our physical and mental health, social connection, and community wellbeing. Spending time outdoors can also be of great benefit to those dealing with mental health problems, including our young people.

Changing knowledge about behaviours in the outdoors

We've heard that some visitors accessing the outdoors behave in ways that damage the environment, destroy other visitors' enjoyment, are culturally inappropriate, or negatively affect local people. It's believed New Zealand users of public access do not have the same knowledge they had some decades ago, as far fewer of them have had experience on farms. Fewer people know to follow fence lines, not use firearms or bring dogs without landowner permission, not disrupt farm work, and that you need to leave gates as found. Often international visitors may have different practices that are seen as normal in their own countries, such as the "right to roam".

The Mental Health Foundation says: "Research shows a strong correlation between physical activity and increased wellbeing, as well as lower rates of depression and anxiety. It is now viewed as essential for people of all ages and has been shown to slow age-related cognitive decline... It can also have the benefit of encouraging social interactions." (*Five Ways to Wellbeing: A best practice guide*)



The Public Access System

The purpose of the Walking Access Act 2008 is to provide the New Zealand public with free access to the outdoors. It also established the New Zealand Walking Access Commission with responsibility for leading and supporting the negotiation, establishment, maintenance, and improvement of: walking access over public and private land, and types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles.

The New Zealand Walking Access Commission plays a specific role in public access to the outdoors for recreation. However, it is not the only agency; local councils, the Department of Conservation, the New Zealand Transport Agency and many others are significant contributors to the public outdoor access system. Non-government agencies also play a vital part of the system: community, Māori, business, land owner, recreation and environmental groups all identify needs and opportunities for access and help maintain access for the public.

The *Walking Access Act 2008* is one part of the New Zealand system which supports the development of public access to the outdoors.

The Commission works to provide information on the location of tracks and trails across New Zealand to explore, and to increase and retain access on both privately and publicly owned land – the access can

be within, to and between pieces of land. The Commission works in particular to get access happening over private land, and over land that has multiple private and public owners. It:

- develops new “walkways” that are gazetted under the Walking Access Act 2008
- supports groups to develop other access, such as local councils and community groups.

The Commission appoints controlling authorities to manage, maintain and promote these gazetted walkways.

An important tool in the Walking Access Act is the gazetted walkway easement. This tool allows public access to be secured over both public *and* private land, which is not available in other legislation.

Other agencies also have legal responsibility for developing public access. They may develop, own or manage tracks, trails or areas. This includes councils, the Department of Conservation, the New Zealand Transport Agency, and Heritage New Zealand Pouhere Taonga. Land Information New Zealand is an owner, and plays an important part in facilitating access by providing mapping information and surveying access. You can see what they do for public access in Attachment E.

The following diagram shows how the system for public access to the outdoors fits together and benefits New Zealand.



Public Access to the outdoors in New Zealand

SYSTEM PRESSURES

Increasing urban population expansion
Increasing expectations of environmental sustainability

Increasing tourism
Increasing expectations of equity of access
Changing demographics



PLAYERS IN THE PUBLIC ACCESS SYSTEM

Government

NZ Transport Agency
Regional Economic Development Agencies
Land Information NZ
Local Government
Heritage NZ
Sport NZ
Ministry of Culture and Heritage
Department of Conservation
Tourism NZ

NZ Walking Access Commission

Public Access

Non-government

Environmental groups
Māori as kaitiaki/users
Recreational groups
Community groups

Private sector

Property developers
Tourism operators
Industry groups
Landholders including Māori



Public Access contributes to....

Wellbeing

Community development

Economic development

Cultural identity

OUTCOMES

What's in the Walking Access Act 2008?

The Act describes the purpose, priorities and functions for the Commission, and its role in appointing and overseeing controlling authorities.

This section gives a basic outline of what's in the Act. Please do not treat it as a legally accurate statement – refer to the Act itself at <http://legislation.govt.nz/act/public/2008/0101/35.0/DLM1244016.html>

The Act's current stated purpose

Section 3 of the Act states:

Purpose

The purpose of this Act is –

- (a) *to provide the New Zealand public with free, certain, enduring, and practical walking access to the outdoors (including around the coast and lakes, along rivers, and to public resources) so that the public can enjoy the outdoors; and*
- (b) *to establish the New Zealand Walking Access Commission with responsibility for leading and supporting the negotiation, establishment, maintenance, and improvement of –*
 - (i) *walking access (including walkways, which are one form of walking access) over public and private land; and*
 - (ii) *types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles.*

The New Zealand Walking Access Commission began operating in 2009. The Act describes what the Commission does and how it operates.

The Commission must be governed by an independent board of five to eight members. Currently, the Commission has a small team in Wellington and a network of part-time regional field advisors, who act as honest brokers between the various parties involved, to provide new access.

The New Zealand Walking Access Commission's work

Commission's objective in the Act

The Commission's objective is to:

- *lead and support the negotiation, establishment, maintenance, and improvement of walking access and types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles (Section 9).*

Commission's functions in the Act

Section 10 of the Act lists the functions of the Commission (see Attachment C). Based on these functions, the Commission works to:

- develop an overall strategy so that it can prioritise and deliver on its obligations under the Act within the funding it receives
- handle general enquiries about access
- coordinate negotiations for individual public access projects
- develop strategies for local areas, with councils and other major stakeholders, including transport agencies, tourism businesses and community groups
- make sure people can cross land where a legal right of access exists - investigating, assessing, and helping resolve access disputes
- monitor walkways, including using information reported from controlling authorities
- provide information to the public about access. People can find places to access and how each of these can be used on the Commission website, which show, for example, where people can use prams or wheelchairs, or walk dogs
- provide and oversee The New Zealand Outdoor Access Code, which sets out the rights and responsibilities of recreational users and landholders
- manage Enhanced Access Fund applications. Grants are usually for surveys, legal advice and Resource Management Act consents, signage and sometimes infrastructure, like gates and stiles
- provide advice to the Minister or any other person.

The Commission's priorities in the Act

Priorities the Commission must consider for negotiating access over private land are listed in Section 11 of the Act. In summary, the priorities are negotiating access:

- over land on the coast where there isn't walking access already over the foreshore or the land adjoining the foreshore
- over land adjoining rivers or lakes where there isn't walking access already
- to parts of the coast, rivers, or lakes where there isn't walking access already
- to create continuity of access over land adjoining the coast, rivers, or lakes (for example, where access has been lost by being submerged underneath water)
- to conservation areas
- to areas of scenic or recreational value
- to sports fish and game.

The Act does not prioritise access for Māori to wāhi tapu or areas of cultural significance to Māori. Adding access for Māori to their taonga to the priorities could, for example, give Māori the opportunity to advocate for access to private land

that holds cultural significance to them, but is not owned by them, including land that has significant cultural value such as wāhi tapu. This may provide access for Māori to wāhi tapu and other sites of cultural significance and may regulate general public access according to tikanga (the customary system of values and practices that have developed over time).

Enforcement in the Act

The Act lists activities that are not permitted on walkways gazetted under the Act and that can result in prosecution (Part 4 Subpart 2 of the Act).

The Act enables police and fish and game officers or those appointed by the Commission to carry out enforcement for offences, for example for lighting a fire. The Commission can also appoint enforcement officers, but has found little problem with gazetted walkways to date.

The Act allows the Commission to work to have gazetted areas stay open, for example negotiating with owners where they have placed an obstruction on a gazetted walkway or if there has been intimidating behaviour towards users.



What's working well and potential areas for improvement

We're keen to know if you think the Act is working and what your experience has been. We also want to know if you have the same concerns as the ones we talk about in this section. We want to know what areas of action would be most important, and if you think there are issues that are missing.

The Act requires this review to ask the question whether the Act is still necessary. We have heard from a variety of people working on public access that the Act is a necessary instrument, including having a body such as the *New Zealand Walking Access Commission*. They were supportive of the independent brokering role that the Commission's Regional Field Advisors play in working with landowners and stakeholders to secure access.

Potential areas for improvement

We have heard from some that there are opportunities to make improvements. We identified these from initial workshops in 2018 as well as from other discussions with stakeholders. These areas include:

- Are the purpose, priorities, objective and functions in the Act right?
- Working towards equal access
- Coping with visitor numbers
- Addressing barriers to landowners providing public access
- Encouraging positive visitor behaviours
- Organisations working together
- Governance for the Act and Commission
- Funding.



Questions for you

Are the Walking Access Act 2008 and the New Zealand Walking Access Commission needed?

What's working well in your view? Can you provide evidence to support your view?

Are the purpose, priorities, objective and functions in the Act right?

What we've heard

The purpose of the Act

The Act states the purpose is for New Zealanders to **enjoy** the outdoors. The purpose of the Act does not mention that public access can also be for health, social, economic and other benefits. We've heard the Act could specify wider benefits.

We've heard that people do enjoy the outdoors as they access tracks, trails and areas, and that it is an important part of their life. For instance, walkers, horse-riders, surfers and members of four wheel drive clubs have told us that having public access is crucial.

A growing body of research also tells us the outdoors helps improve physical and mental health and social connection. See section: ***Our increasing knowledge about benefits of the outdoors.***

Public access to the outdoors also increasingly contributes to our economy. More domestic and international tourists are wanting to experience our outdoors, including having authentic Māori cultural experiences. Public access may be supported with interpretation services and education, such as weaving, carving and rongo (healing) associated with resources found along access ways. Many tracks, trails and areas can provide opportunities for new commercial opportunities, like recreation and hospitality businesses. And while tourists travel within regions, they contribute to regional economies by supporting retail and transport businesses. The *Conservation Act 1987*, for example, specifically allows for conservation areas' use for tourism.

Work carried out by the Commission under the Act is far wider than just walking. People have suggested to us that the title of the Act and the Commission and the language in the Act could be changed to reflect they are about public access to the outdoors.

The titles of the Act and the Commission

While the Act says the Act includes, *types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles* (Section 3(b)(ii)), many have told us the title of the Act and the Commission says to them that they are only about walking. This means opportunities may be lost to use tools under the Act and the expertise of the Commission, particularly the Regional Field Advisors at local level. Certainly, the Commission finds this a barrier to engaging with other agencies. Its staff must continually explain that the Act and its work encompass other forms of access in addition to walking.

The priorities in the Act

At the moment, the priorities (section 11) apply to negotiating access over *private* land. There is also the question of whether it should be over public land as well, and whether a list of priorities is needed at all. Priorities could be identified as needed in medium term strategies or yearly work programmes by the Commission, for example. This would also allow alignment with directions being taken by government.

Negotiation of public access for Māori interests is not included in the priority list. Māori have often

An example where access to the outdoors for people in urban areas has been prioritised is the Westmere Walkway just outside Whanganui which provides a short outdoor activity close to the city, and is very popular.

found it difficult to access sites of significance on or via private land or have these protected. We've heard Māori want to access sites of cultural significance and wāhi tapu (places sacred to Māori in the traditional, spiritual, religious, ritual, or mythological senses), but can't necessarily do so.

The list of priorities in the Act does not specify access in or close to urban areas. Given the majority of people in New Zealand now live in urban areas (73 percent living in urban areas of at least 30,000 people according to the *National Policy Statement on Urban Development Capacity 2016*) and many New Zealanders can't access places distant from where they live, it may be helpful to add this to the priorities list.

We've heard even when public access is achieved, it can often be stopped. Replacing access areas that have had to be closed is also not listed as a priority. Landslips, biosecurity issues, changing coastlines and other events result in tracks or areas being closed.



Objective and functions of the Commission

We've been told the objective and functions of the Commission have been working well and that they provide the Commission with flexibility to adapt to changing circumstances. The functions are in Attachment C. The objective is to:

- *lead and support the negotiation, establishment, maintenance, and improvement of walking access and types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles.*

One of the Commission functions in the Act is to give advice to the Minister “and others”. The Commission provides recommendations to the Overseas Investment Office about access as part of proposed individual overseas purchases of sensitive land. Given these reports can take resources of the Commission, particularly for regional field advisors, it may be worth specifying this advice in the Commission’s functions.



Questions for you

Do you think the purpose of the Act should be changed? To what, and why?

Do you think the New Zealand Walking Access Commission’s name should be changed? To what?

What changes, if any, are needed to the priorities in the Act? Should negotiating access to the following be made priorities:

- wāhi tapu, traditional sites and areas of cultural significance to Māori
- land in or near urban areas
- replacement access for public access which has been closed?

Should the priorities for negotiating access apply to public land as well as private land in the Walking Access Act?

Are changes needed to the objective and functions of the Commission?



Working towards equal access

What we've heard

Different demographics may not have equitable access to the outdoors – your access may depend on your age, gender, family situation or disabilities, if you are new to New Zealand, if you have limited income or do not drive. As Māori, you may want to access places important to you and your whānau or iwi.

There is also lack of equity across accessing the outdoors for different types of activities – for example, we have been told people have difficulties finding access for walking dogs, riding horses or going on outings with friends or families using four wheel drive vehicles. If you use a mobility device, areas may not be suitable for you, or you may not be able to read the signs because they are too high for you to see.

While it's important to work for equal access, there will be some places and times where some activities can't be allowed. For example, walking dogs where there are stock, accessing sites of cultural value to Māori with seasonal or particular restrictions, where there are kiwi, or where it is necessary to protect heritage values.



Questions for you

Do you see the outdoors being less accessible for some groups? If so, who? Can you tell us of any experiences you've had?

What role do you see the Commission playing in relation to equity of access?

EXAMPLES OF INCREASING ACCESS

Nelson City Council has spent many years building a wonderful walk/cycle network to promote active transport. To ensure older residents can enjoy and benefit from this investment, Nelson City has been working with neighbouring Tasman District Council to build the confidence of older riders. The region's Get Moving project provides skills and maintenance classes and then follows up with social riding opportunities to get older residents out and about on their bikes; making friends and cycling buddies.

Time at the beach is now possible for people in Tauranga who can't get onto, or move across, the sand. A portable rollout mat creates a sturdy and visible path on the sand, allowing people who use wheelchairs, walkers, mobility scooters or strollers to have beach access. Initiated by the Council's Community Development team, fundraising by local businesses and Council has made the project possible.

EXAMPLE OF LIMITING ACCESS

In December 2018, a Queenstown workshop participant said that horses are not allowed on most of the cycling tracks in the area, even though they used to be riding tracks.

Coping with visitor numbers

What we've heard

Huge increases in visitor numbers in some places puts pressure on the quality of places being accessed, especially for very popular places. This is exacerbated where the council has a low rate base and is expected to provide the infrastructure to support the demand.

High visitor numbers can benefit our economy. Public access in areas where Māori could provide authentic tourism experiences for local and international visitors could also result in further benefit, for individuals, iwi and our economy.

Twenty walkways are being developed for foot and mountain bike access on Coronet Peak and Glencoe Stations near Wanaka. These are a big drawcard for tourists.

However, very high numbers of tourists in individual sites can result in problems for the host community, damage to the environment, damage to cultural heritage, loss of attractiveness to visitors, and risk to reputation as a tourist destination. For tourism in

New Zealand we rely on positive brand association and word of mouth to make the most of our unique strengths, so visitor experience is important. High numbers are also resulting in reduced quality of life for local people, especially where there is not enough infrastructure to cope. Local people can find their environment polluted, their parking affected or experience traffic jams where there were none before. High numbers of visitors can also result in loss of access – due to private landholders withdrawing permission, or due to the Department of Conservation or councils closing areas for biodiversity reasons. Appreciation of historical and cultural heritage can enhance visitor experiences. However, uncontrolled access to wāhi tapu, other sites of significance to Māori and archaeological sites can cause damage to these sites. Visitors may be unaware that some behaviours are culturally offensive, particularly at urupā and other wāhi tapu sites.

Tourism New Zealand is working on seasonal and regional dispersal to take pressure off hot spots. It may also be necessary to control access to some historical and cultural heritage sites to avoid degrading physical and intangible cultural values.

At the moment, the Act speaks of the “New Zealand public”, and does not mention overseas visitors.



Question for you

What should the Commission's role be in managing the impact of high visitor numbers?



Addressing barriers to landowners providing public access

What we've heard

While many landowners have provided public access over their property, others believe allowing access to their land is problematic. Landowners do not have to provide public access – it is always subject to negotiation. For many farmers, their land is their life, their world, and their priority is to protect it. They may be worried about visitors causing biosecurity risks, about theft such as cattle rustling, about disruption to farming or other operations, about having to help visitors who get into difficulty, about visitors straying off agreed routes, about fire risk,

their privacy being compromised, and having to deal with littering or damage to tracks.

Some farmers have expressed concerns that they would be taking on extensive responsibilities for the health and safety of visitors if they provide free access. However, under the *Health and Safety at Work Act 2015*, their duty (as for all landowners) is limited to pointing out to visitors work-related hazards on the parts of the farm that they plan to access. For example, farmers would need to warn visitors of hazards that they wouldn't normally expect to find on a farm, like tree-felling or blasting. As well as not being keen to give new public access, some landowners are considering withdrawing access that they've previously given.



Questions for you

What are the barriers to landowners providing public access?

Can you provide any evidence of which barriers are the most significant?

What should the Walking Access Act and/or the Commission's role be in addressing these barriers?

A farmer at a South Island station estimates that 100,000 people come through his property in a year to do activities such as cycling, walking and fishing. He estimates it takes about half a day a week to deal with visitors.



Encouraging positive visitor behaviours

What we've heard

While the *New Zealand Outdoor Access Code* (the Code) gives guidance on responsible behaviour in the outdoors, not everyone knows about the Code or follows it. Some track users put landholders' properties, including Māori cultural sites, at risk. They sometimes don't stick to the pathways and accidentally damage ecosystems or farmland, don't leave gates as they found them, urinate in waterways or defecate on land, or walk over land where they don't have a right to. We hear domestic tourist behaviour is a growing problem, because more New Zealand visitors haven't grown up with knowledge about using the countryside. Tourism

Te Waihou Walkway near Putaruru leads to the Blue Spring and is known for its pure water. In 2016, the Blue Spring had to be closed to swimming because the effect it was having on the vegetation in the riverbed and on the banks after a large increase in numbers of visitors. Despite signs saying swimming was banned, a news story in January 2019 reported that a large family group went into the water in inflatable tubes, shocking other visitors.

New Zealand research shows international visitors overall don't intend to offend – they want to understand expectations for behaviours in the outdoors.

While the Commission provides the Code on its website, and provides resources to schools about responsible behaviour in the outdoors, particularly on private land, the Code isn't always adhered to.

The New Zealand Walking Access Commission's *South Island High Country Access Report (2018)* says "Most people are well behaved in the outdoors, but a small minority are not, whether through ignorance or a lack of caring about how their behaviour impacts on others."

We've also heard that behaviours where tracks are shared can cause problems. Walkers can have their enjoyment diminished by cyclists whizzing past, or can find vehicles intrude on their peace.

New technology, such as e-bikes, can bring benefits as they open up outdoor access to a broader range of people such as older people, less fit people and those with mobility issues. However, we've heard that at times this new technology can pose a challenge on shared tracks because it is noiseless and fast.

UNDERSTANDING BEHAVIOUR IN NATURE – 2018 RESEARCH FINDINGS

"Nobody sets out to intentionally offend others. People revert to what they would do at home if they don't know what else to do".

"Nature is part of who New Zealanders are, their connection with nature is unique. Visitors are not necessarily aware of this connection".

"New Zealanders view some visitor behaviour in nature as deliberate. However, visitors believe they behave appropriately. There is a lack of understanding of the importance of nature to New Zealanders."

The Commission's *Walking Access Mapping System* shows what activity each track, trail or area can be used for.

Guides to behaviour in the New Zealand outdoors are not always linked and some guidance is duplicated. Guidance includes the Commission's Code, the *Department of Conservation Guidance* – *Visit the Kiwi Way* and the *Tiaki Promise* reaching tourists through a number of government and tourist organisations.

People have been leaving rubbish, including human excrement, in the bush, and in places sacred to Māori around Matapouri's Mermaid Pools. There are no toilets there and the water has been affected by urine. As a result of these problems, in February 2019, Te Whānau ā Rangiwahakaahu announced they planned to put a rāhui over the pools as a prohibition.



Questions for you



Do you have any information that could help us understand the scale of good and poor visitor behaviour on tracks and trails on private land?

What's the Commission's role in improving visitor behaviour? For example, provide the New Zealand Outdoor Access Code in different languages, link this Code to other guidance?

What do you think about the information in the Act and the New Zealand Outdoor Access Code on responsible behaviour at wāhi tapu and other sites of cultural significance?

Organisations working together

What we've heard

There may be problems with the way central and local government agencies and other organisations work on public access to the outdoors, including:

- Act and Commission awareness
- Public access prioritisation
- Management across agencies
- Legislation not working together well
- Infrastructure and maintenance costs
- Organisations doing similar work
- Finding controlling authorities.

Act and Commission awareness

Some great results have been achieved through councils knowing the Commission is available to work with them. With Commission help, councils and community stakeholders have developed joined up tracks and areas over larger areas of land. Council staff who have worked with the Commission have said they value the regional field advisors' legal and other expertise. Improved public access is also being achieved through councils inviting Commission staff to join working groups early on.

Knowing that the Commission can provide an “honest broker” service can help groups develop and keep public access. However, many council staff and others have told us they don't know about the Act or the Commission. This means they do not use the Commission's expertise and tools in the Act that are available to them, for example creating easements over private land and over land owned by multiple people.

The Greater Wellington Regional Council found that good access to the outdoors is widely recognised as part of the attraction and value of living in the Wellington region. The regional council estimates visitation to their managed areas at over three million a year.

Public access prioritisation

A number of government agencies must consider public access to the outdoors under legislation they implement (see Attachment E for descriptions of relevant Acts and what agencies do).

Public access is something many councils tell us their residents see as very important. Many councils are considering how to provide for active transport such as walking and cycling to improve the connectivity of areas and contribute to the wellbeing of their residents.

However, we hear public access is not always a priority. Different parts of councils place different priority on access – parks and community, transport or resource management staff may have different perspectives. At times there can be pressures on planning staff, for example because of the cost of developing and maintaining public access.

Providing public access is a factor to be considered when processing subdivisions. We've heard that this is where councils consider walking access most commonly and that they would like more guidance on this process.

The Connecting Franklin-North Waikato Project helps young people to use active transport methods to get to their schools, parks, and other amenities. Partners in this are Waikato District and regional councils. They're supported by Waikato Tainui and the Franklin Local Board of Auckland Council.

Management across agencies

Management across agencies can enhance or be a barrier to developing public access or retaining existing access.

Agreements between the Commission and other bodies can work well. The Commission has agreements with the Auckland and Tasman councils, and with Land Information New Zealand to bring road stopping proposals to its attention. The Commission and the Department of Conservation are revising their current agreement about how to work together.

There's often a lack of connection between tracks, trails and areas at “landscape level” – connecting tracks to each other, to population centres or to local

amenities. Councils, the Department of Conservation, trusts, and community groups all create public tracks or areas that don't necessarily work together. The Commission has worked at landscape level at times to achieve this by working with councils and other stakeholders in communities. To date, the Commission's work has largely been reacting to requests it receives from individual groups across the country.

At times council staff have disagreed with the Commission where access is disputed. The 2007 *Outdoor Walking Access – Report to the Minister for Rural Affairs* found some local authorities do not keep unformed legal roads free of obstructions even when complaints are received.

There could be better management across agencies where unformed legal roads can provide public access. While people have the right to use unformed legal roads, often called “paper roads”, sometimes private or public landowners block access. They may, for example, lock gates, put up fences, put buildings across the road or run intimidating livestock on them. When this comes to its notice, the Commission works with councils, Local Government New Zealand and others to resolve the issues. However, there is no obligation to inform the Commission, and at times councils don't agree with Commission advice because other priorities prevail. Biosecurity problems and other events like fire danger or landslips can result in track, trail and area closures. If the Commission was alerted to closures, it may be able to help find alternative access.

On 1 May 2018 the forested areas of the Waitākere Ranges Regional Park were closed to prevent the spread of Kauri dieback disease. This meant that many tracks in that park were closed.

When changes in the use of tracks, trails or areas are made, this can also result in particular groups losing their access. Again, the Commission does not currently have to be consulted and could be of assistance.

Agencies could improve the public's ability to find information about access. We've heard people would like to have one source of information about where there is public access to the outdoors, and how you can use each track, trail or areas (for example, are they pram-friendly, do they permit dogs or gun-use). At the moment, there are many locations you can find information, and this can make researching a simple walk a big information exercise. At the moment, the Commission has *WAMS – the Walking Access Management System* on its website showing legal public access, hunting and fishing spots and property information. The Department of Conservation's website shows its conservation sites, and local government often provides information about their area, as do many recreation groups. Not having one point of comprehensive information also means it's hard for volunteer groups wanting to create new access opportunities to figure out where the gaps are in their area.



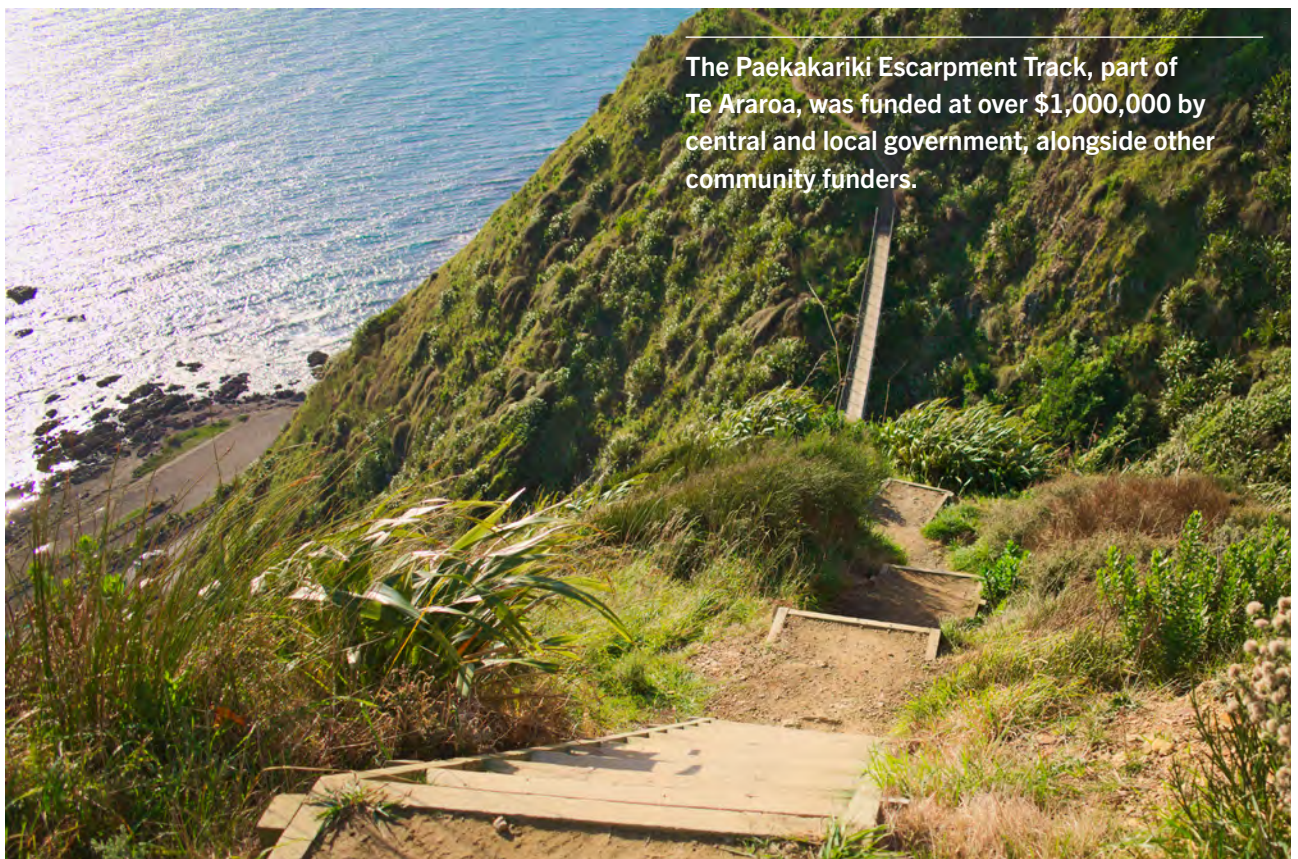
Legislation not working together well

While we have not done an evaluation of Acts and regulations, we have seen instances of them being barriers to increasing and managing access.

Not being able to place a gazetted walkway over sections of unformed legal road creates difficulties in managing a walkway as one route, as gazetted walkways are managed under the Walking Access Act but unformed legal roads are managed under the Local Government Act 1974 by councils. One common example is where the dominant use of the walkway is walking and/or cycling and the use of motorised vehicles is not compatible, it is not possible to legally restrict vehicle access on the unformed legal road without a walkway easement on it. In other cases, the walkway routes cross many other land types and the walkway easement allows for the management of the walkway experience as a whole, rather than management responsibilities falling on a range of landowners and land managers. Where the walkway is on an unformed legal road a “management and maintenance gap” exists adding unnecessary overheads to the local council and walkway managers. An example is the Pauanui Tairua Trail, a walkway/cycleway being created to

link Pauanui and Tairua, which covers multiple land types. Much of the route close to the Tairua end is planned to be on unformed legal road. Being able to add this unformed legal road to the gazette notice would enable better management of the route.

The inflexibility of the gazetted walkway instrument under the Act is another concern that has been raised. It does not allow for a changing pathway if there is erosion, or a neighbouring waterway moves, or a landowner wishes to change the pathway to suit their farming operations, or there is a desire to change the pathway route to allow for another type of access. A walkway easement traditionally involves a surveyed narrow strip of land for the track, and costly re-surveying and re-gazetting is required for any change to the track. The *Resource Management Act 1991* is more flexible, because an esplanade strip moves if the waterway moves. A more flexible instrument for defining a public access way under the Act, in addition to the gazetted walkway instrument, may be a useful addition to the Commission’s tool box. This could be a memorial (a note on a title) indicating that for public access follow the track on a particular parcel of land.



The Paekakariki Escarpment Track, part of Te Araroa, was funded at over \$1,000,000 by central and local government, alongside other community funders.

At times it can be difficult for the Commission to work with groups because it can't see where access is available. This can occur when Land Information New Zealand information about access has not been digitised, or when property information is not specific enough. A track, trail and area spatial dataset will show an easement, for example, but does not make it clear if the easement is for public access or something else.

Infrastructure and maintenance costs

Many domestic and overseas visitors say there isn't enough infrastructure, like toilets, parking, public transport options, and shelters on longer trails. This can result in a poor experience for visitors, environmental damage, and ultimately may result in damage to New Zealand's reputation as a tourist destination. Providing infrastructure is particularly difficult in areas with a smaller ratepayer base.

The Commission's 2018 *South Island High Country Access Report* indicates that it is not always clear to local organisations who should provide infrastructure. Where a trail is on private land, or crosses multiple land tenures, it's often assumed that the Department of Conservation will take responsibility. However, the department has no statutory responsibility for tracks and trails on private land. The report also found that local authorities can be wary of investing in infrastructure that may be entirely used by tourists rather than the locals who pay the rates that fund it.

Track, trail or area developers can struggle to meet the often high costs for infrastructure. For local tracks driven by local groups (not Gazetted Walkways), such groups try to fund track formation and maintenance from a mixture of grants from community funders, lotteries, local government, and local fundraising. The Commission's *Enhanced Access Fund* does not usually provide grants for amenities such as toilets, picnic tables, and car parks. The fund primarily provides grants for securing access, like meeting survey and legal costs.

The total funds available each year is \$100,000.

Organisations may also want to provide interpretation services via at least English and Māori signs, or signs that meet the needs of people with mobility issues, for example, signs at a height where wheelchair users can read them.

Even when volunteers work to maintain some tracks, there are still associated costs, such as equipment. It can also be difficult for volunteer groups to find people to maintain tracks, trails or areas. When there is funding available, groups often have to show need before building new or expanded infrastructure, and predicting future use is often not possible.

Another concern is about local regulations working to support infrastructure. Some district regulations may work against infrastructure provision, for example near a public access way there were toilets in a carpark but not enough to meet the council requirement for the number of people using the carpark, so they were locked and portaloos, needing expensive regular emptying, were brought in.

Organisations doing similar work

Some organisations do similar work to the Commission. There could be opportunities for rationalisation. Examples are *Nga Haerenga* – the *New Zealand Cycle Trail* and the *Te Araroa Trail*. *Nga Haerenga* is made up of 22 Great Rides and 20 Heartland Rides. *Te Araroa Trail* is a 3,000 km walking track from Cape Reinga to Bluff.

Finding controlling authorities

It is increasingly challenging to find a public body willing to take on the controlling authority role. Development, infrastructure and maintenance costs mean public bodies can be reluctant to become a controlling authority.

Under the Act, the Commission:

- *may appoint a department, local authority, or public body, or the Commissioner of Crown Lands, to be the controlling authority of a walkway [Section 35 (1)].*

It's been suggested that the range of bodies that could be controlling authorities be extended, for example to trusts, iwi, hapū or other community groups.

Increasingly, access is being managed and maintained by community trusts, iwi and local access groups, rather than by councils or the Department of Conservation. As Māori, landowners may also want to protect taonga. As iwi or hapū, they may want to restrict access to certain wāhi tapu at times and for seasons, and for managing their land

as they see fit, while at the same time establishing economic opportunities around public access including interpretation services and education. Māori being part of governance bodies such as controlling authorities could be an important part of enabling this.

The term "controlling authority" itself may not reflect Māori understanding of managing public access, as it does not reflect the emphasis Māori place on guardianship. "Guardian/Kaitiaki" may be a better term.



Questions for you

Do you have examples where a lack of coordination between government agencies and/or different pieces of legislation have got in the way of maintaining and improving public access?

Should the Commission have a role in assessing unformed legal road closures?

Is information about public access to the outdoors comprehensive and easy to use?

Would a more flexible means of defining a public access way under the Act, in addition to the gazetted walkway instrument, be a useful addition to the Commission's tool box? What are the risks of this approach?

How could we ensure adequate infrastructure, like toilets, bins and carparks?

What relationship should the Commission have with Nga Haerenga Cycle Trust and with Te Araroa?

Should the types of organisations that can be controlling authorities be extended, for example, to trusts, iwi, hapū or other community groups? What might be some of the positives and negatives of having a non-public body as a controlling authority?

What should controlling authorities be called?

Governance for the Act and Commission

Who should administer a national public access body?

What we've heard

The Ministry for Primary Industries oversees and monitors the work of the Commission and provides advice to the Minister of Agriculture. It's been suggested that another agency whose work more closely matches the work of the Commission should be doing this.

Requirements for the Board of the New Zealand Walking Access Commission

What we've heard

The Act contains little guidance on the background, skills and knowledge that the Commission's Board members should have, apart from requiring at least one of them to have a knowledge of tikanga Māori. The Act requires the Board to have between five and eight members.



Questions for you

Do you think the Ministry for Primary Industries should remain the administrator of the Act? If yes, why?

If no, do you think this role should be carried out by another government agency (please say which, and why)? See Attachment E for a description of the current role in public access of the Department of Conservation, Department of Internal Affairs, Land Information New Zealand, Ministry of Culture and Heritage, and the Ministry of Transport.



Questions for you

Is the required number of Board members right?

Should the Act specify the spread of background, skills and knowledge that Board members should have? If so, what should these be?



Funding

What we've heard

The Commission receives annual government funding of \$1.789 million. The Commission employs Regional Field Advisors for between one and three days per week. The Commission meets survey and legal costs where formal access has been given voluntarily by a private landholder outside of an Overseas Investment Office consent process. Survey costs can be very large for the Commission. As well as survey costs for new access, the Commission must pay for resurveying to be carried out whenever an existing gazetted walkway is re-routed, for example, if an adjacent waterway moves.

The Act says additional funding could be sourced in other ways, such as sponsorships and donations. However, the Commission has sought advice on this, which said investing in fundraising was not a wise use of resources as it was unlikely to succeed. No comprehensive analysis of the benefits of investment in public access to the outdoors has been carried out.

Another means of obtaining funding is to recover costs for services provided. The Commission could, for example, charge for reports it provides to the Overseas Investment Office.



Questions for you

Should the Commission supplement its Government funding with private funding and/or cost recovery? What are the pros and cons of these?

Attachments



Attachment A: Terms of Reference

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?
Are the functions of the Commission as outlined in section 10 of the Act still appropriate?
4. What are the current challenges and foreseeable future requirements for public access and are amendments to the Act required to allow for these?
5. 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

6. Does the Act focus on the right priority areas for now and the future?
7. 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?
8. Are there any factors which have blocked the opening up of public access to the current priority areas?

Administration and funding

9. Is the Ministry for Primary Industries still the appropriate central government department to administer the Act?
10. Are the appointment criteria in the Act resulting in the appropriate number and mix of appointees to the Board?
11. Are the funding provisions in the Act still appropriate?
12. 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

13. 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.
14. 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

15. 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?
16. 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

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

The findings of the Review

18. 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.

Attachment B: Biographies of Panel Members

Dr Hugh Logan

Dr Logan has had wide experience at national, regional and local levels that involve major outdoor access stakeholders. This includes environmental, conservation, primary industry, local government and recreation organisations. He has worked as chief executive for the Ministry for the Environment and the Department of Conservation.

He has considerable experience in multi-stakeholder processes at national level, for example chairing the Land and Water Forum. He has also been involved in community level local groups, including the Mackenzie Trust and the Canterbury Mountaineering Club.

Leith Comer

Leith Comer (Ngāi Tahu, Ngāti Māmoē, Te Arawa, Ngāti Rangitahi, and Ngāti Pāhauwera) is the Chairman/Executive Director of Ngā Pūmanawa e Waru Education Trust and the Chairman of Te Mana o Ngāti Rangitahi). He served in the military for over twenty years and is a current trustee of the Fallen Heroes Trust and the Chair of the Veterans' Advisory Board. He is a member of the New Zealand Parole Board.

Leith is also a former Chief Executive of Te Puni Kōkiri. He helped establish and was an inaugural member of the Rotorua District Council Te Arawa Standing Committee. In 2018 he became a Companion of the Queen's Service Order for services to Māori, the State and local government.

Sandra Faulkner

Sandra Faulkner owns and runs Wairakaia Station, a 600ha sheep, beef, cropping and citrus operation south of Gisborne, along with her family. Together they won the 2014 East Coast Ballance Farm Environment Awards. She is a member of the Institute of Directors and a trustee of the Campaign for Wool (NZ).

Sandra has extensive connections with rural landholder communities through being the Gisborne/Wairoa Provincial President for Federated Farmers of New Zealand, and an Executive Committee member of Farming Women Tairāwhiti Inc. She is also a Director of Arohiwi Station, which is owned by Presbyterian Support East Coast, and Vice-President of Gisborne Riding for Disabled Inc.

Attachment C: Functions of the New Zealand Walking Access Commission

Excerpt from the Walking Access Act 2008 – Section 10:

10 Functions of Commission

- (1) In meeting its objective under section 9, the Commission has the following functions:
 - (a) providing national leadership on walking access by—
 - (i) preparing and administering a national strategy; and
 - (ii) co-ordinating walking access among relevant stakeholders and central and local government organisations, including Sport and Recreation New Zealand;
 - (b) providing local and regional leadership on, and co-ordination of, walking access in collaboration with local authorities;
 - (c) compiling, holding, and publishing maps and information about land over which members of the public have walking access;
 - (d) providing advice on walking access to the Minister or any other person;
 - (e) facilitating resolution of disputes about walking access, including initiating negotiations about disputed issues, mediating disputes, and referring disputes to a court, tribunal, or other dispute resolution body;
 - (f) negotiating with landholders to obtain walking access (including walkways, which are one form of walking access) over public or private land;
 - (g) negotiating rights in addition to any walking access that is obtained, such as the right of access with firearms, dogs, bicycles, or motor vehicles;
 - (h) administering a fund to finance the activities of the Commission, or any other person, in obtaining, developing, improving, maintaining, administering, and signposting walking access over any land;
 - (i) receiving and managing private funding, contributions, or sponsorship for the promotion of walking access;
 - (j) researching, educating the public about, and participating in topics and programmes related to walking access;
 - (k) developing, promoting, and maintaining the code of responsible conduct;
 - (l) administering walkways under this Act, with planning and supervision focused at a local level;
 - (m) monitoring the compliance with, and enforcement of, this Act in relation to walkways.
- (2) If the Commission is aware that a site is culturally sensitive, it must consider whether it is appropriate to publish a map or information indicating the location of the site before doing so.

Attachment D: Priorities for negotiation for the New Zealand Walking Access Commission

Excerpt from the Walking Access Act 2008 - Section 11:

11 Consideration of priorities for walking access over private land

In considering its priorities for negotiating walking access over private land, the Commission must take into account the desirability of walking access—

- (a) over land on the coast where there is not already walking access over the foreshore or the land adjoining the foreshore on its landward side:
- (b) over land adjoining rivers or lakes where there is not already walking access over the land:
- (c) to parts of the coast, rivers, or lakes to which there is not already walking access:
- (d) being continuous over land adjoining the coast, rivers, or lakes (for example, by replacing walking access that has become obstructed by being submerged beneath a body of water):
- (e) to conservation areas (within the meaning of section 2(1) of the Conservation Act 1987):
- (f) to areas of scenic or recreational value:
- (g) to sports fish (within the meaning of section 2(1) of the Conservation Act 1987) and game (within the meaning of section 2(1) of the Wildlife Act 1953).

Attachment E: Other agencies and legislation

Conservation, wildlife and reserves

The Department of Conservation (DOC) is responsible for the *Conservation Act 1987*, *Reserves Act 1977*, *National Parks Act 1980*, and *Marine Reserves Act 1971*. These Acts ensure freedom of entry and access to these protected places so that the public may enjoy the various benefits they provide. One of DOC's functions is to foster their use for recreation and allow their use for tourism. However, any such use is subject to conditions and restrictions necessary to protect the places and their plants and animals. DOC manages most public conservation land, but local authorities, Reserve Boards, trusts, and voluntary organisations also manage many reserves under the *Reserves Act 1977*, and similarly balance protection and access where necessary.

DOC fosters recreation by providing tracks (e.g. for walking, biking and wheelchairs), huts, campsites, picnic areas, carparks, toilets, and signs; as well as visitor centres, maps, and safety and other information. DOC also authorises over 1,000 recreation-related businesses on public conservation land, which can facilitate public use through activities such as guiding, flights, ferries and accommodation.

In addition, DOC frequently works with the Commission:

- in situations where access to public conservation land is across private land
- to facilitate access across pastoral lease land, or in conjunction with tenure review under the *Crown Pastoral Land Act 1998*
- as the controlling authority of some walkways under the *Walking Access Act 2008*. DOC warranted officers are also enforcement officers under Act
- to provide recommendations to the Overseas Investment Office about maintaining or enabling public access when land is being purchased by overseas investors.

The current *Walking Access Act 2008* priority of negotiating public access to sports fish and game

birds also contributes to the Fish and Game Councils' management of sports fishing under the *Conservation Act* and game bird hunting under the *Wildlife Act*.

Councils

Councils provide access tracks on public land they own – for example in parks and green spaces in cities, regions and districts. They publicise local tracks and areas.

The *Local Government Act 2002* says local authorities must 'have particular regard to the contribution' that... 'core services make to its communities.' This includes 'recreational facilities and community amenities'. The *Local Government (Community Well-being) Amendment Bill* provides for councils to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

Councils have roles for providing public access, for example through district plans, which require access to be provided at the time of land development or subdivision. The *Resource Management Act 1991* is a framework for council decision making about environmental management. It requires 'the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers' as a matter of national importance.

Councils take a coordinating/leadership role with other stakeholders to provide access in their area.

Councils sometimes help solve disagreements between the public and property owners about access, at times seeking advice from the Commission.

Department of Internal Affairs

The Department of Internal Affairs (DIA) is responsible for administering the regulatory framework for Local Government, including the *Local Government Act 2002*. DIA has no direct role in regard to public access, rather an indirect role through local authorities.

Heritage legislation

Many of the archaeological authorities applied for under the *Heritage New Zealand Pouhere Taonga Act 2014* are for building walkways, tracks and cycleways. Heritage New Zealand has responsibilities for archaeological sites, although district plans, under the Resource Management Act 1991, are the main way for protecting historic heritage.

The Ministry for Culture and Heritage maintains national monuments and war graves, the majority of which are in local cemeteries or on council land.

Heritage New Zealand Pouhere Taonga maintains the New Zealand Heritage List/Rārangi Kōrero that identifies historic places and areas, wāhi tapu and wāhi tūpuna areas, and advocates for avoidance of damage and modification to archaeological sites.

Transport legislation

The *Land Transport Act 1998* regulates the use of roads and promotes safe road user behaviour. The definition of road includes beaches and other places to which the public have access. The Ministry of Transport administers the Act.

The *Land Transport Management Act 2003* is the legal framework for managing and funding land transport activities, including those which support public access to the outdoors. The purpose of the Act is to help achieve an affordable, integrated, safe, responsive and sustainable land transport system. The New Zealand Transport Agency gives effect to the Minister of Transport's policy objectives for public access, as well as providing funding for projects that improve public access.

Coastal legislation

The Ministry of Justice administers the *Marine and Coastal Area (Takutai Moana) Act 2011*, which provides for the special status of the common marine and coastal area as an area that is incapable of ownership and 'recognises, through the protection of public rights of access, navigation, and fishing, the importance of the common marine and coastal area... for the benefit, use, and enjoyment of the public of New Zealand.' (Section 4 (2) (e)).

Land information

Land Information New Zealand is involved in the provision of access in a number of ways. It enables, facilitates or provides for access across Crown land where it is appropriate. It provides the data that underpins the New Zealand Walking Access Commission's maps. It also takes public access into consideration when making decisions in Tenure Review and Overseas Investment Act decisions.

Te Ture Whenua Māori Act

The *Te Ture Whenua Māori Act 1993* provides for laying out of roadways over Māori land by orders of the Māori Land Court. The Court also has the power to amend or cancel these.

Tourism

Tourism New Zealand is the country's destination marketing organisation which markets New Zealand to the world. It plays a role in providing visitor insights to agencies working in New Zealand to improve the visitor experience and the experience of New Zealand communities hosting those visitors. It works closely with DOC on visitor experience issues.

Attachment F: Questions for Feedback

- Are the Walking Access Act 2008 and the New Zealand Walking Access Commission needed?
- What's working well in your view? Can you provide evidence to support your view?

Are the purpose, priorities, objective and functions in the Act right?

- Do you think the purpose of the Act should be changed? To what, and why?
- Do you think the New Zealand Walking Access Commission's name should be changed? To what?
- What changes, if any, are needed to the priorities in the Act? Should negotiating access to the following be made priorities:
 - wāhi tapu, traditional sites and areas of cultural significance to Māori
 - land in or near urban areas
 - replacement access for public access which has been closed?
- Should the priorities for negotiating access apply to public land as well as private land in the Walking Access Act?
- Are changes needed to the objective and functions of the Commission?

Working towards equal access

- Do you see the outdoors being less accessible for some groups? If so, who? Can you tell us of any experiences you've had?
- What role do you see the Commission playing in relation to equity of access?

Coping with very high numbers of visitors

- What should the Commission's role be in managing the impact of high visitor numbers?

Addressing barriers to landowners providing access

- What are the barriers to landowners providing public access?
- Can you provide any evidence of which barriers are the most significant?
- What should the Walking Access Act and/or the Commission's role be in addressing these barriers?

Encouraging positive visitor behaviours

- Do you have any information that could help us understand the scale of good and poor visitor behaviour on tracks and trails on private land?
- What's the Commission's role in improving visitor behaviour? For example, provide the *New Zealand Outdoor Access Code* in different languages, link this Code to other guidance?
- What do you think about the information in the Act and the *New Zealand Outdoor Access Code* on responsible behaviour at wāhi tapu and other sites of cultural significance?

Organisations working together

- Do you have examples where a lack of coordination between government agencies and/or different pieces of legislation have got in the way of maintaining and improving public access?
- Should the Commission have a role in assessing unformed legal road closures?
- Is information about public access to the outdoors comprehensive and easy to use?
- Would a more flexible means of defining a public access way under the Act, in addition to the gazetted walkway instrument, be a useful addition to the Commission's tool box? What are the risks of this approach?
- How could we ensure adequate infrastructure, like toilets, bins and car parks?
- What relationship should the Commission have with Nga Haerenga Cycle Trust and with Te Araroa?
- Should the types of organisations that can be controlling authorities be extended, for example to trusts, iwi, hapū or other community groups? What might be some of the positives and negatives of having a non-public body as a controlling authority?
- What should controlling authorities be called?

Governance for the Act and Commission

- Do you think the Ministry for Primary Industries should remain the administrator of the Act? If yes, why?
- If no, do you think this role should be carried out

by another government agency (please say which, and why)? See Attachment E for a description of the current role in public access of the Department of Conservation, Department of Internal Affairs, Land Information New Zealand, Ministry of Culture and Heritage, and the Ministry of Transport.

Requirements for the Board of the New Zealand Walking Access Commission

- Is the required number of Board members right?
- Should the Act specify the spread of background, skills and knowledge that Board members should have? If so, what should these be?

Funding

- Should the Commission supplement its Government funding with private funding and/or cost recovery? What are the pros and cons of these?

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Photo: Jacqui Lane