

# MINUTES

## NEW ZEALAND WALKING ACCESS COMMISSION MEETING

8:25am, 12 August 2013

Parnell, Auckland

**Board Members:** J Forbes (Chair), P Brown, M Bayfield, B Stephenson, P Mudford and M Barnett.

**In attendance:** M Neeson (Chief Executive), H Barker (Corporate Services Manager), R Cullinane (Operations Manager) and J Gardiner (Regional Field Advisor, Whangarei).

### Opening Comments

The Chair opened the meeting and welcomed attendees.

#### 1. Apologies

There were no apologies.

#### Conflict of Interest Register

No conflicts of interest were declared.

#### Confirm Agenda

The Board confirmed the Agenda for the meeting.

#### 2. Review of NZWAC risk management register

The Board considered and reviewed the risk management register.

The chief executive advised that since the last review in May 2013, five risks remain unchanged and one had an increased rating (Risk 1: activity levels). There were no new emerging risks and each remains unchanged.

The chief executive informed the Board that he and the Chairman met with the Minister in May and the Minister's expectations were in his letter of 30 May 2013 (previously circulated). The Minister is keen to see the timely resolution of disputes and greater visibility in reporting on the resolution of them, creating more walking access and increasing the awareness of the mapping system. The Minister reiterated the need to maintain the "no-surprises" approach.

Other matters noted by the chief executive were the impending national petition on horse use of recreation trails, the high number of Overseas Investment Act applications received by the Commission to review for access opportunities, the Partnership Information Portal component of WAMS and budget pressures. The board discussed the definition of the term "disputes" (Risk 1) and asked the chief executive to define the terms such as "disputes" used in statement of service performance and to report to the board.

**Action:** The Board

- a) **reviewed** the risk register for August 2013 and amended as appropriate.

**Moved** M Bayfield      **Seconded** P Brown      **Carried**

### 3. **Confirm Minutes**

**Action:** The Board

- a) **confirmed** the minutes of the meeting of 06 May 2013 as being a true and correct record.

**Moved** M Barnett      **Seconded** M Bayfield      **Carried**

### 4. **Draft Annual Report 2012 – 2013**

The Board reviewed the Commission's draft Annual Report for the period 1 July 2012 to 30 June 2013. The Board approved the general nature of the text and direction of the report. Board members provided comments and suggestions on emphasis, structure and content and requested more emphasis on the potential for the Commission to link urban and rural New Zealand.

The chief executive advised that the Commission will continue working on the report and, following discussion with the auditors, he expected that the Commission will need to add further text to provide more information about the Commission's activities with additional data and trend material and, if possible, further case studies.

H Barker explained that she was investigating the writing down some of the costs of WAMS 1 due to some components being replaced by WAMS 2. Audit NZ was to be advised and the Minister. The board supported this initiative.

**Action:** The Board

- a) **approved**, in principle, the Commission's draft Annual Report for the period ending 30 June 2013;
- b) **noted** that additional material may be added following advice from the auditors and that further text and editing is underway; and
- c) **noted** that the Board will be asked to approve the final report in September, 2013.

**Moved** P Mudford      **Seconded** B Stephenson      **Carried**

### 4. **Recognising contributions to walking access**

The Board discussed a proposal to recognise contributions by individuals and organisations to enhancing walking access in New Zealand.

The Board noted that the Walking Access Act came into effect on 29 September 2008 and the national stakeholder forum, to be held on 23 September 2013, will be the Commission's 5<sup>th</sup> year. To mark the occasion the board agreed to award a certificate for "outstanding contributions" to walking access in New Zealand.

The objective of the awards is to:

- raise the profile of walking access in New Zealand;
- encourage other people and organisations to enhance walking access and strengthen the heritage; and
- recognise and acknowledge exceptional contributions.

The Board noted that these awards did not preclude the Commission considering and acting on other ideas to recognise contributions to walking access. Two proposals were discussed. The first was how best to recognise the contributions of John Aspinall and his family. It was noted that this project might take time to work through and would need to be done in conjunction with the Aspinall family. The board considered this to be a high priority and to be actioned concurrently with the awards project. M Bayfield offered to contact the Aspinall family.

The second example is that of an award (scholarship, prize) for tertiary students in their penultimate year, post graduate students and staff to raise awareness of a niche access-related topic. This proposal is a low cost way to investigate topics that the Commission does not have the time or resources to do itself but which will add to its knowledge, awareness and understanding of walking access in New Zealand.

The board requested that further consideration be given to the criteria for the next set of awards and that these be approved by the board.

**Action:** The Board

- a) **agreed** to award certificates to recognise the leadership, achievements and contributions of people who have or are working to enhance and strengthen walking access heritage;
- b) **agreed** that the Minister for Primary Industries be invited to award the certificates at the 2013 national stakeholder forum;
- c) **agreed** that for 2014 onwards the Commission invite public nominations and for recipients to be chosen by the board in August each year with awards given at the national stakeholder forum;
- d) **agreed**, to consult the Aspinall family to identify an appropriate way to recognise the contributions of John Aspinall and that this be pursued concurrently with the awards project; and
- e) **agreed** that to consider a paper exploring the details of an award (scholarship, prize) for tertiary students in their penultimate year, post graduate students and staff to raise awareness of a niche access-related topic.

**Moved** M Barnett      **Seconded** B Stephenson      **Carried**

**5. Financial governance – cash management policy**

The Board approved a revised cash management policy. The original policy was approved in July 2009. The policy review showed that as the Commission does not routinely collect revenue from third parties the policy need not emphasise debt management and should include investment management. This would better reflect the board's role and current cash management processes (for example, it is Commission practice to collect monies by direct credit, not in cash).

The chairman signed the Commission's credit card policy as agreed at the May 2013 Board meeting.

**Action:** The Board

a) **approved** the cash and investment management policy.

**Moved** M Bayfield      **Seconded** B Stephenson      **Carried**

## 6. **Prosecutions Policy**

The Board considered a proposed prosecutions policy in respect of the offences in sections 54 and 56 of the Walking Access Act 2008.

As a Crown entity the Commission is required to comply with the Crown's policies for the conduct of prosecutions by government departments and Crown entities. In November 2012 the government established a dedicated Public Prosecutions Unit (PPU) to provide the Solicitor General with greater oversight of all public prosecutions.

On 26 June 2013 the Crown Law Office wrote to Crown entities advising them of the establishment of the PPU and its wish to provide the Solicitor-General with greater oversight of public prosecutions brought on behalf of Government departments and Crown entities. Organisations with a prosecution function are required to develop a publically available prosecution policy that:

- Identifies the objectives of the agency's prosecution activity;
- determines the circumstances in which a prosecution is appropriate rather than some less punitive action; and
- ensures that prosecution decisions are cost-effective and are in the public interest.

The Commission has a prosecution function under the Walking Access Act which relates solely to the behaviour of the public on walkways and the protection of the right of the public to use walkways (sections 54 and 56 of the Walking Access Act, 2008).

A prosecutions policy would reflect the fact that the Commission has the power to prosecute under the Act and the power to provide for enforcement under Part 4, and that as a contingency it may need to use these powers directly. It is intended that the Commission rely generally on controlling authorities to carry out compliance, enforcement and prosecution functions, and make clear to them that this is the Commission's expectation. The Commission has been compiling a guidance document for controlling authorities of walkways, and it proposes to include in this explicit reference to the Commission's expectations in respect of enforcement, compliance and prosecutions.

A prosecutions policy is subject to the Solicitor-General's prosecution guidelines. Given the lack of any prosecutions to date and the lack of any special requirements that might be desirable if prosecutions were a frequent occurrence, the Board agreed to adopt the Solicitor-General's guidelines to the extent that they have application to the circumstances of the Commission.

The chief executive noted that, in conjunction with the establishment of this prosecutions policy, the report also clarified the respective roles of the Commission

## 10. Operations Quarterly Report: 1 April to 30 June 2013

The Board discussed the operations and regional field advisor (RFA) report for the fourth quarter, April to June 2013. The tempo of RFA activity in this quarter was down on average due to four RFAs being engaged on other tasks for a significant proportion of the quarter. The Operations manager advised that Staff and RFA case loads were within capacity with Q4 results confirming a gradual reduction in the active case load, and notably in the number of active access disputes.

The Commission received 72 enquiries over the quarter (99 in Q3, 86 Q2). A total of 59 enquires were completed, bring the 2012/13 year total of completed cases to 308. The trend for the number of new enquiries received (27/month) continues downwards and the gap between the rate of new cases and the rate of completion continues to narrow.

The current restructuring in the Department of Conservation (DOC) has resulted in a hiatus in the engagement between the Commission and DOC. This pause in the relationship was noticed in April and is expected to continue until October 2013.

The Board noted that both WAMS usage and user satisfaction with WAMS appeared stable.

The board agreed that the chairman should write to the Minister highlighting the progress made with many cases, noting some of the themes in the RFA reports and including some case studies as examples of the Commission's work.

**Action:** The Board

- a) **noted** the operations and regional field advisor report for the 4<sup>th</sup> Quarter (1 April to 30 June 2013).

<b>Moved</b>	M Bayfield	<b>Seconded</b>	P Brown	<b>Carried</b>
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## 11. Review of the regional field advisor network

The Board discussed a paper which noted the outcome of an internal review of the regional field advisor (RFA) network. The chief executive advised that as the RFA network has been operational for nearly three years and it was timely to review its performance and consider future options and opportunities.

The RFA network is a core component of the Commission's work and is one of the main means of fulfilling its statutory functions. The chief executive noted that the review showed that the network works well and he intends to renew existing contracts.

- The report noted that the excellent reputation enjoyed by the Commission owes much to the RFAs' work with regional and local stakeholders. RFAs report nearly 50% of district councils changing attitudes towards the Commission positively over the reporting period.
- The location of the RFA network works well given the number of RFAs available to cover the country, and the geographic spread of cases received. There are four areas (Wellington/Kapiti/Horowhenua; Auckland City and environs; Coromandel and the Nelson/Marlborough/West Coast) are where new or additional RFAs could be appointed if resources permit.
- The case resolution rate is increasing and the time to resolution decreasing as RFA's knowledge and confidence increases. RFA involvement with EAF

projects, both at the application assessment stage, and in monitoring successful applications adds significant value to the programme.

- The trend for the number of cases received by the Commission is decreasing. Extending these trend lines into the future indicates a reducing workload for RFAs for access disputes, primarily cases involving ULR and other public land.

The chief executive advised that securing access over private land was scheduled as a priority area over the next 18 months and involves a shift from dispute resolution to negotiation, community engagement and promoting a culture among landholders and the community where the provision of responsible access is valued.

**Action:** The Board

- a) **noted** the review of the regional field advisor network and the intention to renew contracts.

**Moved** M Bayfield      **Seconded** B Stephenson      **Carried**

## 12. Board planning

The Board noted the planning and reporting framework and timing of meetings for 2014-2015. It was noted that at this time of year the Board starts planning for the Statement of Intent (SOI). The SOI for 2014-2017 will be prepared under different rules following changes to the Crown Entities Act. The SOI for 2014-2017 is planned to be a three year document with performance measures reviewed annually. Both the Minister and Board can review the SOI should there be any major changes that may call for a revised SOI.

The Board agreed that confirming the board programme now enabled board members to plan their time and the Commission staff to plan for the SOI process and costs.

**Action:** The Board

- a) **noted** the Planning and Reporting 2014-2015 programme.

**Moved** M Bayfield      **Seconded** M Barnett      **Carried**

## 13. Schedule of Significant Correspondence

**Action:** The Board received the schedule of significant correspondence



J Forbes  
Chairperson

and controlling authorities in respect of the compliance, enforcement and prosecutions of the offences prescribed for walkways in these sections.

The board approved the proposed policy and amended policy 8 so that the any decision to prosecute would be made by the board on the recommendation of the chief executive.

**Action:** The Board

- a) **noted** the requirement for the Commission to establish and make available to the public a prosecutions policy;
- b) **noted** that compliance, enforcement and prosecutions in respect of walkway conditions come within the functions of the relevant controlling authorities;
- c) **agreed** that the Commission should rely primarily on the controlling authorities to carry out these functions;
- d) **agreed** that this policy should be reflected in the guidance document being prepared for walkway controlling authorities
- e) **approved** the prosecutions policy in paragraph 16 and;
- f) **agreed** subject to any feedback from Crown Law that the Commission's compliance, enforcement and prosecutions policies in respect of walkways be included in the Commission's website.

**Moved** P Mudford      **Seconded** M Barnett      **Carried**

## 7. Roadways on Māori land

The board considered a paper which explored and explained the topic of Māori roadways and access ways. This topic has not been explored in any depth previously as the Commission has not received public enquiries about the use of Māori roadways. Te Ture Whenua Māori Act 1993 (or Māori Land Act 1993) provides for the laying out of roadways on Māori land by the Māori Land Court. They are sometimes known as "Māori roads". The provisions in this Act concerning roadways succeed earlier legislation to similar effect, the preceding statute being the Māori Affairs Act 1953.

The paper described the legal context, the access rights that they provide, who manages them, and how they are created and disposed of.

In essence, Māori roadways are not roads as defined in the Local Government Act 1974. Rather they are designed to provide access to Māori, general land or Crown land over Māori land without alienating the title to the underlying land. The term "roadway" is used to distinguish them from roads; that is, roads in the sense of public highways vested in the Crown or local authorities. The roadway provisions of Te Ture Whenua Land Act apply to Māori land, general land owned by Māori, and any other land that is for the time being subject to Part 2 of the Māori Affairs Restructuring Act 1989.

The laying out of a roadway by the Māori Land Court confers on all persons the same rights of user as if it were a public road unless the order defines or limits the persons or classes of persons entitled to use the roadway, or defines or restricts persons' rights of user.

The chairman thanked the staff for a very informative report and noted that the report arose from an enquiry from Ngai Tuhoe on the topic. The board asked that it be placed on the Commission's website for public information and a "fact sheet" to be published.

**Action:** The Board

- a) **noted** the report on Māori roadways.

**Moved** M Bayfield      **Seconded** P Brown      **Carried**

## 8. **Quarterly report: Fourth Quarter 2012-2013**

The Board discussed the quarterly report for the period 1 April – 30 June 2013.

The chief executive noted that the report included the Commission's reporting against the Statement of Intent and that the diagrammatic "dashboard" in the financial report had been refined following the discussion at the May 2013 meeting.

It was noted that the flow of enquiries was easing and manageable.

There was a financial deficit for the quarter which was in line with budget and that the Commission was currently establishing the value of WAMS1 that should be written off as it no longer is part of WAMS2. This would add to the deficit.

The Commission's unaudited result at the end of the year showed an increase in General Funds of about \$30,000 and this was the Commission's general surplus (after removing EAF movement).

The chief executive advised that the Ministry for Primary Industries had advised informally that the quarterly report was too detailed for the Minister's needs and to focus on the performance measures in the Statement of Intent and the Minister's letter of expectations. Future reports would be shorter, sharper and more data rich with additional background information in the chief executive's reports.

**Action:** The Board

- a) **noted** the Commission's Quarterly Report for the period ending 30 June 2013.

**Moved** B Stephenson      **Seconded** M Bayfield      **Carried**

## 9. **Chief Executive's Report (July 2013)**

The Board discussed the chief executive's report for July 2013. The Board noted that the regional forum would most likely include a discussion on recreational horse riding on recreation tracks and trails. The board was advised that proposed changes to the Resource Management Act, 1991 were announced on 10 August and that the access provisions in section 6 were retained.

**Action:** The Board

- a) **noted** the Chief Executive's report for July 2013.

**Moved** M Barnett      **Seconded** P Brown      **Carried**



## Notes

- 1 In the morning of Monday 12 August the Board hosted a forum for representatives of Auckland Council and Auckland Transport
- 2 In the afternoon of Monday 12 August the Board held a workshop to discuss the strategic direction of the Walking Access Mapping System. Presentations were given by invited speakers (S. Jellie, e-Spatial (Wellington) and H Prowse (GBS, Auckland)) followed by a general discussion on matters raised in the presentations. Mr G Nahkies then facilitated a board and staff conversation. The board asked the staff to explore and report in detail on options raised in the discussions.
- 3 In the late afternoon of Monday 12 August the Board hosted a forum of invited stakeholders (25 people).
- 4 In the morning of Tuesday 13 August Mr G Nahkies facilitated a board and staff discussion to examine the strategic direction of the Commission in preparation for work on the next Statement of Intent.

