

# OUTDOOR WALKING ACCESS



## SUMMARY OF THE ISSUES

### Seeking agreement about walking access

New Zealanders value access to land for recreational use, but landholders and outdoor enthusiasts often disagree about how and where access should be allowed.

To ensure that appropriate access to land is guaranteed for current and future generations, the Walking Access Consultation Panel (the Panel) is seeking to create a consensus about formal access to land for recreational purposes.

The Panel is proposing an aim and principles for walking access to land, and is interested in discussing issues about walking access. The aim, principles and issues, along with the Panel's questions about the topic, are summarised in this document.

### Have your say about walking access

The Panel wants to hear what you have to say about their proposed aim and principles, and also on the issues about walking access to land.

The Panel is holding public meetings throughout the country. The meetings are an opportunity for you to talk to the Panel about walking access to land. You can also send a written submission to the Panel (submissions close 30 June 2006). Please see the back page for more information.





## How does this consultation relate to the Land Access Consultation in 2003–04?

In 2003 the then Minister for Rural Affairs appointed the Land Access Ministerial Reference Group to enquire into and report on:

- access to the foreshore of the lakes and the sea, and along rivers;
- access to public land across private land;
- access onto private rural land to better facilitate public access to and enjoyment of New Zealand's natural environment.

The Reference Group consulted informally with a wide range of interest groups, and reported their findings to the Minister in August 2003. The Ministry of Agriculture and Forestry then undertook a series of meetings with interest groups and the public. Written submissions on the issues raised in the Reference Group's report were analysed. The analysis was published by the Ministry in June 2004.

In December 2004 the Government proposed, on the basis of the Reference Group's report and the subsequent consultation and submissions, legislation that would have provided for the creation of footways along the coast, around lakes and along rivers. These footways were to give public walking access along specified water margins. In June 2005 the Government announced that it would not proceed with this legislation. Rather, it would consult further with major stakeholders in search of greater consensus on a way forward in enhancing public access.

In August 2005 the then Associate Minister for Rural Affairs appointed the new Walking Access Consultation Panel to carry out thorough consultation with interest groups and the public. Their objective is to reach, as far as possible, agreement on walking access along the coast, significant rivers and lakes, and to public land that is surrounded by private land.

The Panel takes as its starting point the views expressed at consultation meetings with stakeholder representatives, Māori and the public, and in the many written submissions received in response to the Reference Group's report in 2003. The Panel wants to discuss these issues further, and reach a consensus on a way forward.



## What happens after the consultation?

The Panel will report to the Minister for Rural Affairs on the outcome of the consultation. The Panel will make recommendations which reflect, as far as possible, agreement on walking access along the coast and significant rivers, around lakes and to public land that is surrounded by private land.





## Proposed aim

The Panel proposes that New Zealanders should have fair and reasonable access on foot along the coastline and significant rivers, and around lakes.



Does this aim capture the values held by many New Zealanders?



## Proposed principles

- 1 Access should be:
  - free of charge: for recreation in areas designated as being open to access;
  - certain: the public and landholders expect legal certainty;
  - enduring: the legal access should be enduring over time.
- 2 Persons exercising a right of access to land should take proper care of the environment and not interfere with private property or activities.
- 3 The public and landholders should be able to access information, including maps, about land that is open to recreational use by the public. This information should be useful and easy to obtain.
- 4 Restoring reservations to water margins should be pursued, provided that it can be done in a way that is fair to all parties.
- 5 New access along and to water margins and other public land is to be established preferably by negotiation and agreement.



Are these principles appropriate?





# Key issues

## Information about existing access

There is currently no readily accessible, complete and authoritative source of information on the location of water margin reserves or public access ways to water margins. Maps showing the location of existing public access could be produced and made available. Signposting could also be used to show existing access.



What information should be included in any mapping database?

Should the maps be web-based or should printed copies be available?

Is signposting necessary?

## Unformed legal roads (paper roads)

An unformed legal road is an area of land that has been designated as a road, but has not been formed as a recognisable road. It may be fenced off from any formed road, and it may pass over terrain that is unsuitable for vehicle or even walking use. Even if it provides access to a water margin or other public land, it may be difficult to locate. The public have the right to use unformed legal roads on foot or in vehicles without hindrance. Territorial authorities are responsible for enforcing public rights of access to unformed legal roads, including the removal of unlawful obstructions such as deer fences and locked gates.



What, if anything, should be done to locate and remove obstructions from useful unformed legal roads?

Should some unformed roads be exchanged for other forms of legal access, through negotiation with all affected parties?

## Rights of landowners

Landowners generally have the ability to control who may have access to their land. The Trespass Act can be used to enforce this.



How can disputes between landowners and recreational users be resolved? Options include mediation, arbitration and reliance on the Trespass Act.

## Restoring lost access

In many places, there had been access to water margins, but now there is no access because of the natural movement of waterways (for example, through erosion). In these circumstances the access may now be submerged by the sea or a river. It is desirable to negotiate with affected landholders and users to ensure that access is located appropriately.



What processes or mechanisms could be used to restore lost access?

## Establishing new access

There are major rivers, lakes and areas of the coast that the public can not access. When land next to these areas is subdivided into lots of four hectares or less, esplanade reserves or strips are normally required to be established. However, this type of subdivision occurs only slowly and intermittently. There are also cases where there is little or no walking access to existing areas of public land. In this situation, access *across* private land may need to be negotiated.



What would encourage landowners to agree to formal, certain and enduring legal access? Possibilities include rates relief, monetary payment, flexibility to move or restrict access, provision of facilities or track maintenance.

## Proposed access agency

An access agency could be formed to provide leadership on public access. Information about the different options for creating an access agency, and their strengths and weaknesses, is available in the appendices to the full consultation document (available on [www.walkingaccess.org.nz](http://www.walkingaccess.org.nz)).



What should be the purposes and functions of such an agency?

## Proposed code of responsible conduct

Both recreational users and landowners accept that only a small proportion of users abuse their rights of access. A code of responsible conduct could address problems which result from a lack of public knowledge about acceptable conduct in rural areas. It could also clarify the rights and responsibilities of all parties. A code of responsible conduct could be published and promoted by an access agency without requiring legislative backing.



Should a code of responsible conduct apply to public land or access over private land, or both?

Should the code be legally enforceable or focus on the promotion of good behaviour?

## Health and safety concerns

Landholders have expressed concerns about their obligations under the Health and Safety in Employment Act 1992. The limited extent of their obligations was clarified in a Farm Bulletin published by the Department of Labour in 1999, the contents of which were agreed with Federated Farmers. The contents of the bulletin are appended to the full consultation document (available on [www.walkingaccess.org.nz](http://www.walkingaccess.org.nz)).



Do you have any further concerns regarding liability?

## Fire risk and security

Landholders are concerned that they may be held responsible for fires on their properties that were started by recreational users. The National Rural Fire Authority has advised that, although activities associated with recreation such as hunting or lighting campfires do pose risks, recreational users and the public are not the cause of most rural fires.

There are concerns about increasing rates of crime in rural areas; however there is no evidence of a link between recreational access to land and increasing rates of crime in rural areas.



Any further comments on fire risk, security and other concerns are welcome.

## Māori land and issues

The protection of the exercise of customary rights and the safety of customary sites and resources are recognised as concerns. A code of responsible conduct to educate people on responsible access could address issues specific to Māori, such as suitable respect for wāhi tapu (if the location of the wāhi tapu is known to the person exercising access).



Any further comments on Treaty of Waitangi concerns, access rights to Māori land, wāhi tapu and rāhui or other matters are welcome.



# How to have your say

## Public meetings

The Panel is holding public consultation meetings throughout the country. The meetings are an opportunity for you to talk to the Panel about walking access. Details about the venues and times of these meetings will be published closer to the time.

Auckland – central	6 June 2006	Kaikohe	7 June 2006
Auckland – Takapuna	7 June 2006	Masterston	30 May 2006
Blenheim	24 May 2006	Napier	31 May 2006
Christchurch	13 June 2006	Nelson	23 May 2006
Cromwell	17 May 2006	New Plymouth	23 May 2006
Dannevirke	1 June 2006	Paihia	8 June 2006
Dunedin	16 May 2006	Palmerston North	24 May 2006
Geraldine	14 June 2006	Rotorua	17 May 2006
Gisborne	30 May 2006	Taupo	16 May 2006
Greymouth	15 June 2006	Tauranga	14 June 2006
Hamilton	13 June 2006	Wellington	25 May 2006
Helensville	8 June 2006	Whangarei	6 June 2006
Invercargill	18 May 2006		

## Written submissions

If you would like to make a written submission to the Panel, send it to:

Walking Access Consultation Panel  
PO Box 2526  
Wellington

Or email your submission to:

[info@walkingaccess.org.nz](mailto:info@walkingaccess.org.nz)

Please ensure your feedback reaches the Panel by **30 June 2006**.



## Further information

The full consultation document about walking access, *Outdoor Walking Access*, is available at [www.walkingaccess.org.nz](http://www.walkingaccess.org.nz). It contains a detailed description of the aim, principles and issues, as well as more detailed questions. If you would like a printed copy please contact:

Walking Access Consultation Panel  
PO Box 2526  
Wellington  
Email: [info@walkingaccess.org.nz](mailto:info@walkingaccess.org.nz)

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Any view or opinion expressed does not necessarily represent the view of the Ministry of Agriculture and Forestry.

All submissions are subject to the Official Information Act 1982, which specifies that information is to be made available unless there are grounds for withholding it. If you wish your submission or any part of it to be withheld, please indicate the grounds in the Official Information Act that apply. The Ministry of Agriculture and Forestry, which will hold the submissions on behalf of the Panel, will take your request into account when determining whether or not to release information. Please note that any decision by the Ministry of Agriculture and Forestry to withhold information is reviewable by the Ombudsman.