



Public access in the outdoors

FREQUENTLY ASKED QUESTIONS

Do I have the right to walk over private land to get to public land?

No. There is no general right of public access across private land. Sometimes legal access exists but is not obvious. If you are unsure and there are no signs indicating access, ask the landholder for permission first. Farmers may have valid reasons to deny access across their land. So you should accept refusals with good grace. If you have doubts, then you should check with the local council, DOC or contact the Commission.

Can I walk on any Crown-owned land?

Conservation land administered by DOC is usually open to walking access. But there are some exceptions to this. For example, DOC may restrict access if it is preserving indigenous plants and animals or using land for scientific purposes. It may restrict some forms of access to conservation land. DOC can give advice on specific instances.

Crown land not administered by DOC may be open to public access at the discretion of the Crown. Often the public has implied permission to access public land. But this depends on the use of the land and any other statutory restrictions.

For example, Ministry of Defence and Department of Corrections land has special provisions. They restrict public access for obvious reasons.

Land that is subject to Crown pastoral lease is in the exclusive possession of the leaseholders. This includes a large amount of the South Island high country. Crown pastoral lease is the same as private land from an access perspective unless some form of legal public access such as an easement exists.

Traditionally, the owners or lessees of large rural holdings with recreational value have let people across their land.

What access rights do I have?

Public access to land, waterways and the coast is extensive but often fragmented. Several different laws govern public access to the outdoors and provide a variety of land classifications.

Legal access along water margins and to other public lands, such as Department of Conservation land and regional and district council land, comes in many forms. Each has different legal obligations and restrictions.

What forms of legal public access are available in New Zealand?

There are many different types of legal public access. These include:

- **Walkways.** There are about 40 gazetted Walkways in New Zealand. Any statutory Walkway is subject to constraints on behaviour set out in sections 54-58 of the *Walking Access Act 2008*. The Commission appoints controlling authorities to administer Walkways.
- **Coastal area.** Public access to the coastal area (essentially beaches) is covered by the *Marine and Coastal Area (Takutai Moana) Act 2011*.
- **Most common marine and coastal area is open to public access.** But in some areas erosion has affected access. And there are some areas where private title extends across the foreshore, preventing access.

- **Sometimes reserves provide access around the coast, lakes and along rivers.** These water margins, known as the 'Queen's Chain', are far from complete. Generally they are a mix of marginal strips, formed and unformed legal roads and other public reserves. Sometimes erosion has swept them away. A public right of access around the coast, above the foreshore, depends on whether a reserve exists.

Public land also includes:

- esplanades and other reserves administered by local authorities;
- Crown land; and
- marginal strips and unformed legal roads (paper roads).

The administering authority of public land may regulate access to that land according to any statutory power they may have.

Can a landholder stop me using an unformed legal road?

No. Landholders do not have the right to refuse access over adjoining public land.

This includes unformed legal roads. These roads do not form part of the title to the adjoining land. Even so, people using these roads should respect the rights of landowners and their property.

What forms of legal access across private land are available?

There is no general right of public access across private land. Owners of private land have the right to exclusive occupation and enjoyment of that land. This right is enforceable under the provisions of the *Trespass Act 1980*.

Legal access across private land can come from:

- easements over private land forming part of Walkways under the *Walking Access Act*. An easement is a legal right to access a specified area;
- other easements or rights of way providing for public access;
- esplanade strips; and
- access strips.

Landholders may provide access over private land by agreement. This could include informal or formal arrangements with individuals or groups. Or there could be a sign inviting the public to use a track or route across the land.

What is a marginal strip?

Marginal strips are strips of land adjoining the coast, lakes larger than eight hectares in area, and rivers greater than three metres in width. DOC administers marginal strips.

Marginal strips are created under Part 4A of the *Conservation Act 1987*. If the Crown dispose of any land marginal strips are created automatically.

They always adjoin the relevant water margin; i.e. they move with any movement in the water margin. Many of those created between April 1990 and June 2007 have not been surveyed yet. so we still need to investigate if they exist.

Generally, Land Information NZ (LINZ) data does not show these marginal strips so they will not appear in the Commission's mapping system.

Marginal strips created after July 2007 have been surveyed and will appear in the mapping system.

What are esplanade reserves, esplanade strips and access strips?

These are different legal mechanisms involving access, but there may be restrictions on their use. Check with the relevant council.

- Esplanade reserves are strips of land adjoining a water margin. They are usually created when land is subdivided and are generally 20 metres wide. Esplanade reserves are owned by district or regional councils.
- Esplanade strips are a form of easement over water margin land. They may appear when land is subdivided as an alternative to esplanade reserves. They are generally 20 metres wide. Esplanade strips remain in a landholder's title and move with the water margin.
- Access strips may also be acquired by councils by agreement with a landholder.

What status do public reserves have?

There are many types of public reserve. The extent to which the public has access depends on why the reserve exists.

These can include scenic reserves, historic reserves, recreation reserves, local reserves and government purpose reserves. Many but not all allow public access.

Are river beds public land?

Riverbeds are often but not always a useful form of access where water margin access is not available or not usable.

Many riverbeds flow through some form of public land. In these cases, you can assume the Crown owns the bed of the river. Riverbeds may be publicly owned even when the land adjoining the river is privately owned. *The Coal Mines Amendment Act 1903* vests the beds of navigable rivers in the Crown.

In other circumstances, the law usually presumes that the owner of land beside a riverbed has ownership rights extending to the mid-point of the river. This is the *ad medium filum aquae* – AMF – rule.

What do I need to do to care for the environment when out walking?

Leave nothing but footprints. Our environment is an asset and we need to treat it with care. The Outdoor Access Code supports the “Leave No Trace environmental care code”.

Can I take my dog?

The right to walk with a dog, including hunting dogs, depends on the conditions of access. For example, people walking over an unformed legal road are able to do all the things that are lawful on a public road. Other forms of access may have restrictions on whether dogs are allowed.

Private landholders may place whatever restrictions they wish about dogs on their land, including prohibiting them.

The *Dog Control Act 1966* applies to dogs on both public and private land.

Many landholders worry about dogs spreading diseases such as sheep measles. So people taking dogs into sheep farms should get their dogs dosed for sheep measles.

If you take dogs into the outdoors you must keep them under proper control. They should not frighten other people, worry livestock or disturb wildlife. They should be on a short lead or under close control when in a field with other animals.

You should pick up and remove dog faeces.

Can I carry a gun?

The right to carry a gun depends on the terms of access.

Even though you may have a legal right to carry a firearm in a particular place, recognise how others may feel. Get permission before shooting and always observe the New Zealand Firearms Safety Code.

Hunting on Crown land requires a permit from DOC.

Carrying and using firearms is also subject to the *Arms Act 1983*. Some of the relevant provisions in that Act, apart from the need for licensing, are in the following sections:

- s45 - Carrying or possession of firearms, airguns, pistols, restricted weapons, or explosives, except for lawful, proper, and sufficient purpose.
- s48 - Discharging a firearm, airgun, pistol, or restricted weapon in or near dwelling, house or public place.
- s53 - Careless use of firearm, airgun, pistol, or restricted weapon.

Can I use a motor vehicle on tracks?

Generally not, but sometimes conditions provide for vehicle access. Even where access conditions allow vehicles, such as on an unformed legal road, it is a polite to inform the landholder. This is especially true where the access crosses unfenced farmland. Vehicles should keep to formed tracks, where access exists. Many unformed legal roads are unsuitable for the use of motor vehicles. Note that it is an offence to damage the surface of a road – this can include the turf of a paddock.

Can I light a fire when walking in the outdoors?

You should not light fires should without permission. You must extinguish them completely before leaving. Sometimes during the year, fire bans covering all types of land and all outdoor fires may be in place.

Are there any special considerations when walking through a farm?

When walking in rural areas, especially on farms, users should:

- leave gates open or closed as they find them;
- if there is no gate or stile, go through the fence wires or climb over at fence posts, preferably at a strainer post;
- not block or obstruct gateways, tracks or entrances;
- look for alternative routes before entering a paddock containing animals;
- Otherwise, walk in single file without disturbing or driving stock;
- not feed animals;
- walk around rather than through crops; and
- report damage or anything suspicious to the landholder or manager.

What is the Walking Access Commission Ara Hikoī Aotearoa?

The Walking Access Commission Ara Hikoī Aotearoa makes sure New Zealand's natural playground remains easy to access and free for everyone.

It is the government agency that:

- works with communities to create and tend to tracks and trails. It cares for land and the people who live, work and play on it;
- protects public access to the outdoors for everyone in New Zealand, from walkers to mountain bikers, anglers to horse riders, landholders to trail runners and beyond; and
- provides leadership on outdoor access issues and administers a national strategy on outdoor access, including tracks and trails. It maps outdoor access, provide

information to the public, promote responsible conduct, help to resolve disputes and negotiate new access.

It has a team in Wellington and a national network of regional field advisors. Its powers and duties come from the *Walking Access Act 2008* and it is governed by an independent board.

What is the Outdoor Access Code?

The Outdoor Access Code is a New Zealand Walking Access Commission publication. It sets out the rights and responsibilities of recreational users and landholders.

The Code outlines how to behave responsibly in the outdoors. It also asks landholders to continue the tradition of giving access to people wanting to cross their land.

The Code is available on the Commission's website: www.walkingaccess.govt.nz/code.

Why has the Commission developed an outdoor access mapping system?

Respect for property rights is important. So are the public rights of access over various forms of public land. These rights rely on people knowing and understanding property boundaries. They also rely on people knowing the rights attached to different land parcels.

Section 10 (b) of the *Walking Access Act 2008* says one of the Commission's functions is to compile and publicise maps and information about land over which has public access rights. The Commission's mapping system, online at www.wams.org.nz, shows where public access and public land is.

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