

Submission to the Environment Committee on Conservation Amendment Bill

2 July 2026

Tēnā koutou

Introduction

1. The Outdoor Access Commission is the Crown agent responsible for providing leadership on outdoor access issues.
2. Our mandate comes from the Walking Access Act 2008. The Act's main purpose is to provide the New Zealand public with free, certain, enduring and practical access to the outdoors (including around the coast and lakes, along rivers, and to public resources) so that the public can enjoy the outdoors.
3. As there is a general expectation of public access over public conservation land (PCL), the commission's work is more often involved with access to PCL rather than over it. However, we see some issues in the Bill that we believe need to be amended or strengthened to avoid reducing or creating uncertainty about public access over PCL.
4. The Bill represents the most significant reform of conservation law in nearly 40 years. While the commission supports streamlining where it serves the public interest, the amendments we recommend below are necessary to ensure that free, certain, enduring, and practical public access is not compromised as the Bill is implemented.

Clause 13/New section 10: Free public access

5. The Commission is encouraged to see explicit recognition of free public access continues in the Amendment Bill (ss(1) "*The public may access and use a conservation area free of charge ...*")¹. However, we seek an amendment for certainty and the avoidance of doubt.
6. The Bill provides for free use of paths and tracks by the New Zealand public but also provides for a reasonable charge for the use of facilities. We seek a limitation to the reference to facilities in the proposed s10(3) by saying "*(excluding structures such as bridges, boardwalks*

¹ cf. s17(1) of the existing Act.

and viewing platforms)”. This would make it clear that these structures are not facilities that can be charged for.

Clause 23/New section 14K: Concessions (Matters that must be considered)

7. The Bill allows concessions to be granted for a broad range of activities that could affect public access to or past the site of a concession. As noted above, free public access over public conservation land is an underlying principle and so interfering with that principle should face a high threshold. We seek an amendment to subsection (b), from *“the effects of the activity”* to *“the effects of the activity, including the effects on public access to or near the site of the activity”*.

Clause 23/New section 14ZB: Leases, licences, or easements

8. While there will be situations where granting a lease or licence that confers exclusive possession is necessary, such instruments are inherently antithetical to public access. We seek adding *“(d) reasonable provision will be made for public access to the surrounding land”* to proposed s14ZB(1). This will ensure that public access is:
 - a. a mandatory consideration for the applicant and the Minister, and
 - b. the area that exclusive possession is granted for is kept to a minimum.

Clause 23/New section 15C: Land exchange proposals

9. We note the requirement for the Minister to consider “net conservation benefit” when assessing land exchange proposals. The Bill defines this as when *“the natural resources and historic resources of the incoming land are assessed as being greater than those of the outgoing land”* (proposed s15C(3)).
10. We also note that s2 of the principal Act defines conservation as *“the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations”* (our emphasis).
11. Our view is that legislation pertaining to conservation needs to have the Act’s own definition of conservation at its forefront. It follows that measuring net conservation benefit by only assessing the relative values of the natural resources and historic resources omits a key part of the statutory definition of conservation: recreation.
12. The committee should remedy this oversight by adding *“whether there will be a reduction in public access to nearby land as a result of the exchange and, if so, whether that will be offset by improvements in public access to nearby land and/or to and/or over the incoming land”* to the matters in ss(4) that are required to be taken into account when assessing net conservation benefit.

13. Riparian access is very important. New Zealanders' ability to access rivers, streams, and the coast is central to the Commission's statutory mandate, and marginal strips are one of the most important legal mechanisms for securing that access. The existing ability to exempt disposed land from the requirement in s24B to set off a marginal strip needs to be restricted. We seek the addition of a new s24B(1A) *"Before making a declaration under subsection (1) in respect of any land that is proposed to be disposed of pursuant to sub-part 1 or 2 of part 3C, the Minister must call for public submissions on the proposed declaration and must take into account any submissions received"*.

Clause 23/New part 3C, sub-part 2

14. While s150 requires public notification of disposal proposals, it does not replicate the proposed marginal strip protections available under s24B. The committee should ensure that the marginal strip regime applies consistently across all disposal pathways. We recommend the non-application of s24B above should also apply here.

Clause 23/New section 15X: Minor boundary adjustments

15. Allowing a simple process for minor boundary adjustments is a pragmatic move. However, there needs to be protection of any existing public access. We seek the addition of *"and if existing public access is preserved or alternative public access of the same certainty is provided"* to the proposed s15X(2).

Clause 23/New section 16E Visitor amenity areas

16. As currently worded, the Bill risks reducing public access rights. We seek adding an additional mandatory consideration to the proposed s16E(2)(a): *"the potential impact of the proposal on public rights of access to the VAA and/or the parent land"*.

Conclusion

17. Our specific recommendations, in summary, are:
- a. Amend proposed s10(3) to exclude structures such as bridges, boardwalks and viewing platforms from the definition of facilities that can be charged for, to preserve the certainty of free public access over paths and tracks.
 - b. Amend proposed s14K(b) to require that the effects of a concession activity include effects on public access to or near the site.
 - c. Add a requirement to proposed s14ZB(1) that reasonable provision for public access to surrounding land be made as a condition of any lease or licence conferring exclusive possession.

- d. Amend the definition of “net conservation benefit” in proposed s15C(3) and ss(4) to include recreational access as a required consideration, consistent with the Act’s own definition of conservation.
 - e. Add a new s24B(1A) requiring public submissions before any declaration exempting disposed land from the marginal strip requirement and extend this protection to disposals under new sub-part 2.
 - f. Amend proposed s15X(2) to require that existing public access is preserved or equivalent alternative access of the same certainty is provided before any minor boundary adjustment is confirmed.
 - g. Add a mandatory consideration to proposed s16E(2)(a) requiring assessment of the potential impact on public rights of access to any visitor amenity area and its parent land.
18. Together, these amendments would ensure public access to and over conservation land is a consideration in the Bill. Taken together, they ensure New Zealanders continue to enjoy access to places they have long cherished.
19. The Commission is available to assist the committee with technical advice on any of the matters raised here. We would like an opportunity to speak to this submission. Our contact details are info@herengaanuku.govt.nz and [04 815 8502](tel:048158502).

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