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Committee Policy, Finance and Strategy Committee
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Walking Access to the New Zealand Outdoors: Report of the Land Access Ministerial Reference Group

1. Purpose

To inform the Committee of the contents of the 'Walking Access to the New Zealand Outdoors Report'; and

To seek the Committee's retrospective approval for a submission on the Land Access Report, as attached.

2. Background

In January 2003, the Government set up the Land Access Ministerial Reference Group to study issues around access to land. This was the Government's response to concerns over the need to clarify and enhance the legal situation pertaining to public access over private land and the foreshore of lakes and the sea and along rivers.

The report provides a wealth of material for discussion and raises matters and options that required further consideration and wider debate.

The Reference Group concluded in their report that a New Zealand access strategy is required to protect and advance access arrangements for all New Zealanders. The strategy would be developed to achieve the following five objectives:

1. To strengthen leadership and to provide direction for, and co-ordination of, access arrangements nationwide.
2. To provide greater clarity and certainty of access by locating and publicising information on what kind of access is acceptable and where it may occur.
3. To affirm the validity, and embrace the ethos of, the Queen's Chain, by providing mechanisms for its promotion and enhancement.
4. To encourage negotiated solutions.
5. To find ways to improve current legislative provisions for access.

3. Submission

At the last Council meeting, the need to comment on the Ministerial Report on Walking Access to the New Zealand Outdoors was discussed.

Council officers have made a submission to the Ministry of Agriculture and Forestry to comply with the closing date of the 30 November. However, the letter attached to the submission notes that the submission is still subject to Council approval.

Should the Council approve the submission, then the Ministry of Agriculture and Forestry will be advised accordingly. In the event that the Council decides not to endorse the submission, then the submission will be withdrawn.

A copy of the draft submission was circulated to all Councillors prior to lodging the submission. The comments received were incorporated into the final submission.

4. Discussion

The Ministerial Group requested feedback on where access was working well, and why. In the Wellington Region, this includes access to rivers as a result of the land being managed for flood protection purposes (e.g. Hutt River) and public access to, and within, regional parks.

Greater Wellington's submission supported the Ministerial Groups conclusion that a New Zealand Access Strategy would assist with protecting and advancing access arrangements for all New Zealanders. However, it was noted that before this occurs a core question needs to be addressed about where society wishes to draw the line between the right to exclude someone from land and the state's interest in ensuring public access in a manner consistent with societal expectations.

With respect to access to water bodies, Greater Wellington agreed that the most important initial step is a high-level policy decision as to whether:

- The popular expectation of unrestricted public access to and along water margins (especially), implied by Queen Victoria's decree in 1843 and articulated in the Land Act 1892, remains valid and needs to be reinforced, promoted or extended; or
- Property rights, as currently understood, should not be adjusted and subdivision should remain the primary trigger for improving public access to and along water margins.

Greater Wellington's submission supported the concept of affirming and embracing the ethos of the "Queens Chain" to assist with achieving legally certain and practical access to New Zealand waterways, lakes and coast. The submission noted that providing information about publicly owned land beside these areas (through various legislative mechanisms but commonly referred to as the "Queens Chain") was vital. However, the submission noted that the term could create misconceptions as to rights of access. It was submitted that the

philosophy could be better represented through a new name to reflect and promote New Zealand’s culture and future expectations of access to the coast, water bodies and public land.

The objective in the Ministerial Report “to find ways to improve current legislative provisions for access” discussed options such as a reviewing implementation of the Resource Management Act 1991, and the development of a National Policy Statement on access. Greater Wellington’s submission pointed out that the ability of a Council to improve walking access to rivers, coast and public land is strongly restricted through a Council’s functions and powers in accordance with the Resource Management Act 1991. Reviewing implementation or creating national policy guidance would not address restrictions in relation to functions and powers.

5. Communication

The Ministry of Agriculture will be advised of the Council’s decision to either approve or withdraw the submission.

6. Recommendations

It is recommended that the Policy, Finance and Strategy Committee:

- 1. receive the report; and*
- 2. recommend to Council that it ratifies the submission (included as attached 1 to this report) sent to the Ministry of Agriculture and Forestry.*

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Attachment 1: Submission to Ministry of Agriculture and Forestry: Walking Access to the New Zealand Outdoors: Report of the Land Access Ministerial Reference Group