Statement for pTTPP
Sites and Areas of Significance to Māori
1 May 2024

My name is Inger Perkins and I am speaking in my role as Regional Field Advisor for Herenga ā Nuku Aotearoa, the Outdoor Access Commission, covering the West Coast region, Te Tai Poutini.

The Commission is the Crown agent responsible for providing leadership on outdoor access issues. One of our key roles is to advise on and advocate for free, certain, enduring, and practical access to the outdoors.

As I wrote in our submission in reference to draft proposed policies 3 and 10, (POU P3 and P10),

> "It is important to protect sites and areas with significant associations to cultural traditions, history or identity. Some of these cultural landscapes may remain to be identified. Several objectives and policies within the plan refer to cultural sites and landscapes, however, it is not clear how cultural sites and landscapes will be defined or managed.
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> "We recommend noting within the Public Access section that management of cultural sites and landscapes will not result in any loss of public access where legally available."

In our further submission, we supported the West Coast Fish and Game council's submission seeking acknowledgement of lawful conservation or recreation activities as a permitted activity rule, as we felt it would assist with clarity about legally available public access.

We note that, on page 13 of the s42 report, there is reference to section 6 of the RMA, matters of national importance, and the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.

However, the author of the s42 report has rejected both of our submissions and those of Fish & Game where we are both seeking to ensure that existing legal rights are not restricted, stating that:

> "I do not consider that it would be appropriate to perpetuate an inappropriate activity. Many tracks and access routes were created in the past without recognising the importance of wāhi tapu and taonga sites. I consider the merits of retaining public access in these circumstances would need to be considered on a case-by-case basis."

Also:

> "While I acknowledge that conservation and recreation activities can be appropriate in some SASM, because there are sites where any public access or use would significantly

impact on their cultural and spiritual values (e.g. urupā, former battle sites), these need to be considered on a case by case basis, rather than as a blanket provision."

The Commission's role is to protect legal and enduring public access to the outdoors and secure new legal access. We assert that existing legal access would override any plan provision. In our submissions, we simply sought to draw that to the attention of those who will use the plan in the future.

We believe a view that is opposite to that expressed by the s42 author is more helpful.

Existing legal access will continue through the appropriate legal instrument or land status and that would be clearly stated within Te Tai Poutini Plan. Should there be concerns about public access to a sensitive cultural site, that could be raised and would be discussed on a case by case basis with relevant agencies including ours and with user groups, and alternative public access arranged to avoid any such sites if necessary. In my more than eight years in this role, I have not been made aware of any such issue, but we would be very happy to support appropriate access solutions in such a case.

In 2019, in a review of our governing piece of legislation, the Walking Access Act 2008, it was recommended that the Commission should partner with Māori across the breadth of its work, to better align the application of the Act with the aspirations of Māori.

The following recommendations were accepted and have formed part of the development of Herenga ā Nuku since, through the appointment and mahi of our Pononga Whakatere – Strategic Relationships Manager. I present them to give context and to illustrate that public access may not always be appropriate and that we will work with Māori to provide access limited to relevant Māori groups for sites of cultural significance where there may be no public access. In addition, we will work through other aspects of public access that will be of interest and relevance to Māori.

> Recommendation 19: That amendments be made to the Walking Access Act 2008 to acknowledge the Māori-Crown relationship under the Treaty of Waitangi and better reflect Māori interests, by including:
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> > a) explicit principles of a partnership approach between the Commission and Māori across the breadth of the Commission's work, with a requirement that these principles be translated by the Commission into its organisation strategies and practices; and
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> > b) a new access mechanism that allows access to sites of cultural significance for Māori to be limited to relevant Māori groups, and, as far as possible, preserves Māori ownership and control over their land where public access is provided; and
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> > c) a requirement for Controlling Authorities to partner and engage with relevant Māori groups on management of public access areas on Māori land, or where public access is negotiated to sites of cultural significance.

Recommendation 20: That the Commission continue to work with Māori to understand and address barriers to providing public access, including revisiting content in the New Zealand Outdoor Access Code about behaviour on culturally sensitive or significant land.

Recommendation 21: That the Commission work more closely with relevant Māori groups where Treaty settlements include reference to the Walking Access Act 2008, to explore, and where appropriate, establish access opportunities.

All of these recommendations guide how Herenga ā Nuku works today. We want to ensure existing legal access that intersects with sites of cultural significance is appropriate. We can work with Māori to create access solutions where changes may be needed. The plan should not be limiting existing legal public access, but creating options for alternative solutions.

It may be that our expectation and the intent of the s42 author are the same, but, at present, the s42 report recommendations suggest that existing legal access could be impacted by plan provisions. We do not believe that is reasonable or legal.

Thank you.