



NZCPS 2010 Guidance note

Policy 19: Walking access

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Policy 19

1. Recognise the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use.
2. Maintain and enhance public walking access to, along and adjacent to the coastal marine area, including by:
 - a. identifying how information on where the public have walking access will be made publicly available;
 - b. avoiding, remedying or mitigating any loss of public walking access resulting from subdivision, use, or development; and
 - c. identifying opportunities to enhance or restore public walking access, for example where:
 - i. connections between existing public areas can be provided; or
 - ii. improving access would promote outdoor recreation; or
 - iii. physical access for people with disabilities is desirable; or
 - iv. the long-term availability of public access is threatened by erosion or sea level rise; or
 - v. access to areas or sites of historic or cultural significance is important; or
 - vi. subdivision, use, or development of land adjacent to the coastal marine area has reduced public access, or has the potential to do so.
3. Only impose a restriction on public walking access to, along or adjacent to the coastal marine area where such a restriction is necessary:
 - a. to protect threatened indigenous species; or
 - b. to protect dunes, estuaries and other sensitive natural areas or habitats; or
 - c. to protect sites and activities of cultural value to Māori; or
 - d. to protect historic heritage; or
 - e. to protect public health or safety; or
 - f. to avoid or reduce conflict between public uses of the coastal marine area and its margins; or
 - g. for temporary activities or special events; or
 - h. for defence purposes in accordance with the Defence Act 1990; or
 - i. to ensure a level of security consistent with the purpose of a resource consent; or
 - j. in other exceptional circumstances sufficient to justify the restriction.
4. Before imposing any restriction under (3), consider and where practicable provide for alternative routes that are available to the public free of charge at all times.

Overview of the policy

Policy 19 of the New Zealand Coastal Policy Statement 2010 (NZCPS 2010) seeks to maintain and enhance public walking access to, along and adjacent to the coastal marine area. Restrictions on access are provided for only when necessary, where specified values are likely to be adversely affected.

All readers of this policy guidance note should also refer to the NZCPS 2010 Implementation Guidance Introductory note¹. The Introductory note contains general information and guidance that is important for implementing all of the objectives and policies in the NZCPS 2010.

Rationale

Access to and along the coast is a core value for many New Zealanders. Section 6 of the Resource Management Act 1991 (RMA) identifies ‘the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers’ as a matter of national importance that must be recognised and provided for. Section 7 of the RMA requires that particular regard be given to ‘the maintenance and enhancement of amenity values’. Policy 19 recognises that there is public expectation of having free, safe walking access to and along New Zealand’s coast.

However, increasing pressures from subdivision, use and development of land adjacent to the coastal marine area continue to result in the reduction or loss of opportunities for public walking access on the coast. Public access is also threatened by coastal erosion and sea level rise where development near the shoreline creates ‘coastal squeeze’.

¹ <http://www.doc.govt.nz/nzcps-introductory-note>

Related objectives, policies and provisions

This section covers the links (in terms of walking access) between the various provisions of the NZCPS 2010, the Resource Management Act 1991 (RMA), and other legislation.

NZCPS 2010

Implementing Policy 19 of the NZCPS 2010 requires the careful consideration of all NZCPS 2010 objectives and policies. Objective 4 and Policies 4, 6, 7, 9, 10, 18, 20, 25, 26 and 27 of the NZCPS 2010 are particularly relevant to planning and decision-making regarding walking access. These links are considered below:

Key objectives and policies	Other related objectives	Other related policies
Objective 4 Policies 4, 6, 7, 9, 10, 18, 20, 25, 26 and 27	Objectives 5 and 6	Policies 11, 15, 17 and 24

Objective 4

Objective 4 seeks to maintain and enhance the public open space qualities and recreation opportunities of the coastal environment and sets out matters to consider for this to be achieved. These matters include maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area. Objective 4 also promotes recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment – this includes a need to ensure that public access is maintained even when the coastal marine area advances inland. Policy 19 is one of the primary policies to achieve this objective.

Policy 4: Integration

Policy 4 provides for integrated management of both the natural and physical resources in the coastal environment, and any activities that affect that environment. Policy 4 specifically states that integrated management requires particular consideration of situations where public use and enjoyment of public space in the coastal environment is affected or likely to be affected.

Implementation of Policy 4 is relevant to Policy 19, which identifies the need to maintain and enhance public walking access to, along and adjacent to the coast, including by avoiding, remedying or mitigating any loss of public walking access resulting from subdivision, use or development; and identifying opportunities to enhance or restore public walking access. There is a need to manage public walking access in an integrated and long-term way.

Policy 6: Activities in the coastal environment

Policy 6 is about the provision for activities in the coastal environment such as infrastructure, energy generation and transmission, mineral extraction, built development, and renewable energy generation.

Policy 6 requires the set back of development from the coastal marine area and other water bodies, where practicable and reasonable, to protect public access; and promoting the efficient use of occupied space, including by requiring that structures be made available for public or multiple use wherever reasonable and practicable. These matters are relevant to maintaining and enhancing public walking access to, along and adjacent to the coastal marine area. Public access values are an important consideration in regard to future development in the coastal environment.

Policy 7: Strategic planning

Policy 7 promotes strategic planning for the coastal environment in the preparation of regional policy statements, regional plans and district plans. It also promotes the importance of identifying values that are under threat or at significant risks from adverse cumulative effects. Policy 7 requires local authorities to consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment and to identify where particular activities and development are inappropriate.

The provision of public walking access to, along and adjacent to the coast can benefit from an integrated and strategic approach to coastal management and planning. For example, walking access areas and linkages can be factored in to spatial planning. The circumstances where restrictions on public walking access to, along or adjacent to the coast may be imposed (e.g. to protect areas of special value, to avoid conflict between public uses of the coastal marine area etc) will also be a relevant consideration.

Policy 9: Ports

Policy 9 recognises the importance of a network of efficient ports as part of New Zealand's national transport system. Within some parts of a port, restricting public access along the waterfront may be necessary to protect public health and safety (Policy 19(3)(e)), or to ensure a level of security consistent with port activities (Policy 19(3)(i)).

As set in Policy 19(4), where restriction is necessary, it may be practicable for alternative routes to be provided.

Policy 10: Reclamation and de-reclamation

Policy 10 seeks to avoid reclamation of land in the coastal marine area unless specified criteria relating to need and significant benefit are met, including the extent to which it would allow infrastructure to operate efficiently. Where reclamation is considered to be a suitable use of the coastal marine area, decision makers must have particular regard to a range of potential effects that may arise from the proposed reclamation's form and design. The policy includes a specific requirement to consider providing public access, including providing access to and along the coastal marine area at high tide where practicable, unless a restriction on public access is

appropriate as provided for in Policy 19. For example, reclamations can provide walking access connections between shoreline public areas on either side of the reclamation.

Policy 18: Public open space

Policy 18 recognises the need for public open space within and adjacent to the coastal marine area for public use and appreciation including activities and passive recreation. An important component of implementing Policy 18 involves maintaining and enhancing walking access linkages between public open space areas in the coastal environment; and considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to access public open space. These matters are closely related to the implementation of Policy 19.

Policy 20: Vehicle access

Policy 20 seeks to control the use of vehicles, apart from emergency vehicles, on beaches, foreshore, seabed and adjacent public land where they may cause damage, harm and disturbance to the coastal environment or danger to other beach users. Policies 19 and 20 are related because vehicle use in these places can generate safety and amenity issues for pedestrians.

Policy 25: Subdivision, use and development in areas of coastal hazard risk

Policy 25 addresses subdivision, use and development in areas of coastal hazard risk. This policy is related to Policy 19, which requires that opportunities to enhance or restore public walking access are identified, for example where the long-term availability of public access is threatened by erosion or sea level rise.

Policy 26: Natural defences against coastal hazards

Policy 26 provides for the protection and enhancement of natural defences. Erosion and the effects of climate change can reduce the availability of public access to, along and adjacent to the coast. Natural defences, such as dunes, reduce the effects of climate change by providing a protective natural buffer between coastal development and the sea and directly enhance walking access to and along the coast.

Policy 27: Strategies for protecting significant existing development from coastal hazard risk

Policy 27 promotes a strategic approach to managing hazards in areas of significant existing development. The required assessment of the costs and benefits of response options will include an assessment of the impacts on walking access to and along the coast.

Resource Management Act 1991²

There are a number of Resource Management Act 1991 (RMA) provisions that relate to the maintenance and enhancement of public walking access:

- Section 6 of the RMA identifies the maintenance and enhancement of public access to and along the coastal marine area as a matter of national importance. Section 6(d) requires decision makers to recognise and provide for the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.
- Section 7(c) of the RMA requires decision makers to have particular regard to the maintenance and enhancement of amenity values. Walking access may be a component in amenity values.
- Esplanade reserves and esplanade strips can be created for purposes that include: to enable coastal public access to and along the sea; and to enable recreational use of the reserve/strip and adjacent sea (where that is compatible with conservation values). Triggers for the creation of esplanade reserves and esplanade strips include subdivision and reclamation, but strips can be created at any time (sections 77(1) and 229-237H of the RMA).

Other legislation

*Walking Access Act 2008*³

The Walking Access Act 2008 came into force in September 2008. The Act aims to provide the New Zealand public with free and enduring access to the outdoors. The purpose of the Act is set out in section 3:

The purpose of this Act is—

- a. to provide the New Zealand public with free, certain, enduring, and practical walking access to the outdoors (including around the coast and lakes, along rivers, and to public resources) so that the public can enjoy the outdoors; and
- b. to establish the New Zealand Walking Access Commission with responsibility for leading and supporting the negotiation, establishment, maintenance, and improvement of—
 - i. walking access (including walkways, which are one form of walking access) over public and private land; and
 - ii. types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, or motor vehicles.

²http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM230265.html?search=ts_act_resource+management_resel&p=1&sr=1

³ <http://www.legislation.govt.nz/act/public/2008/0101/latest/whole.html>

The functions of the New Zealand Walking Access Commission (the Commission) are to provide national leadership on walking access by: preparing and administering a national strategy;⁴ coordinating walking access among relevant stakeholders and central and local government organisations; and providing local and regional leadership on, and coordination of, walking access in collaboration with local authorities (section 10 of the Walking Access Act 2008). The Commission has a statutory function to provide information on the location of public access (section 10(1)(c) of the Walking Access Act 2008). The Commission's primary focus is on identifying legal public walking access and helping resolve walking access issues.

The Commission's role, as outlined in its 2012-2015 Statement of Intent,⁵ is 'to enhance free, certain, enduring and practical walking access to the New Zealand outdoors and to strengthen our access culture and heritage' (p. 4). The Statement of Intent describes the two outputs (objectives) which will help towards achieving this:

- Creating opportunities
 - providing information and advice on access
 - maintaining and enhancing access opportunities
 - responding to access enquiries
- Embedding culture
 - building collaboration with access stakeholders
 - informing the public about access (p. 8).

Under the Act, the Commission has the ability to declare public land to be a walkway. The Commission may also negotiate easements, leases or purchase private land and Māori freehold land for the purpose of establishing walkways.

The Walking Access Act sits alongside and does not duplicate existing RMA provisions. The Commission works with central and local government to develop a shared understanding on the value of walking access, to enhance walking access opportunities and to ensure that the various roles and responsibilities are understood to achieve this objective.⁶ The Commission actively leads and supports the negotiation, establishment, retention and improvement of walking access by contributing its knowledge to central and local government decision-making and providing guidance on access issues and policies.

⁴ The New Zealand Walking Access Commission National Strategy 2010-2035
<http://www.walkingaccess.govt.nz/publications>

⁵ New Zealand Walking Access Commission Statement of Intent 2012-2015
<http://www.walkingaccess.govt.nz/publications>

⁶ New Zealand Walking Access Commission Statement of Intent 2012-2015 (p. 15)

Marine and Coastal Area (Takutai Moana) Act 2011⁷

The Marine and Coastal Area (Takutai Moana) Act 2011 (the MACA Act) came into force on 1 April 2011. Readers should refer directly to the MACA Act. The MACA Act defines the common marine and coastal area and includes provisions relating to aspects of its management. The common marine and coastal area is open to public access, except where authorised prohibitions or restrictions have been imposed (section 26 of the MACA Act).

⁷ <http://www.legislation.govt.nz/act/public/2011/0003/latest/DLM3213131.html>

Origins of the policy

The New Zealand Coastal Policy Statement 1994 (NZCPS 1994) addressed the maintenance and enhancement of public access to and along the coastal marine area (Policies 3.5.1–3.5.4). These policies included direction on: circumstances when restrictions on access may be imposed; identifying existing access to and along the coast; identifying places where future access is a priority; the creation of esplanade reserves, esplanade strips or access strips; and identifying access to sites of cultural value to Māori.

Since 1994 there has been major growth in the use, development and value of coastal resources, particularly land adjacent to the coast. These changes have raised concerns about the quantity and quality of public access to and along the coast that will continue to be available. Information for the public on how to gain access to and along the coast is also often very limited.

The NZCPS review Scoping paper for public access (March 2006) looked at the implementation issues with the NZCPS 1994 and recognised the need to strengthen the priority given to public access decision-making through new and amended objectives and policies.

The Board of Inquiry noted that:

The majority of access issues reported through the review process relate to threats to walking access to and along the coastal marine area, and the risk of reduced walking access in some cases and missed opportunities for enhancement in others (Vol. 2, p. 247).

The Board identified that planning for public access and maintenance of open space and recreation values in relation to the coast has received relatively low priority alongside other RMA matters. It concluded there needed to be more specific direction on maintenance of public access to and along the coast, with walking access as a priority.

The Board also commented that:

A problem is that in many places local government is not actively looking to deal with public access using the opportunities available under the RMA during the subdivision, use and development process. Instead it does not see safeguarding public access as a priority or it is choosing to deal with public access through preparing strategies and other non-statutory documents that provide no assurance of follow-up action (Vol. 2, p. 252).

Further particular issues raised during the Board of Inquiry process included:

- There is a lack of information on where access exists (i.e. the actual right of public access to and along the coast can be unclear to people on the ground).
- There is a need to improve recreational opportunities, create linkages with existing public areas, anticipate and cater for sea level rise effects, and provide access to sites of historic and cultural significance.
- Opportunities for enhancing walking access are often missed.

- Different forms of public access can be in conflict with each other (e.g. walking and vehicle access).

As with Policy 18 relating to public open space, the Board noted that provision of public access to and along the coastal marine area needs to consider the effects of erosion and predicted sea level rise so public access remains available to future generations. It also noted that decisions about existing and future coastal development need to consider the needs for public space and access, which are likely to be squeezed by coastal development in areas subject to coastal erosion.

Compared to its predecessor, the NZCPS 2010 requires councils to take a more strategic approach to the provision and management of public open space (Policy 18), public walking access (Policy 19) and vehicle access (Policy 20). Specific direction for the management of public walking access to and along the coast is provided in order to address the issues identified above.

For further information refer to the Board of Inquiry Report, Volume 2, pp. 247-254 and 260-272.⁸

⁸ <http://www.doc.govt.nz/getting-involved/consultations/results/new-zealand-coastal-policy-statement/proposed-new-zealand-coastal-policy-statement-2008-board-of-inquiry-report-and-recommendations/>

Implementing the policy

While guidance is provided here on implementing Policy 19, it is also necessary to consider the entire NZCPS 2010 when implementing each policy. Please also refer to the NZCPS 2010 Implementation Guidance Introductory note⁹ which covers the matters that are relevant in giving effect to the NZCPS 2010.

Recognising the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use requires positive implementation through policy statements, plans and decision-making. This approach is expected to result in more substantial and consistent provisions in plans to ensure ongoing public walking access. It will also see restrictions on public access applied only after careful consideration.

Policy 19 sets out a number of ways to maintain and enhance public walking access to, along and adjacent to the coastal marine area, including through promoting knowledge of walking opportunities; considering specified effects and needs; identifying opportunities to enhance or restore walking access; and restricting public access only where justified by specified criteria.

Implementation of Policy 19 is discussed further below under the following headings:

- Relationship with Policy 18 and Policy 20
- Regional policy statement and plan preparation
- Regulatory decision-making
- Statutory tools to formalise access
- Restoration
- Erosion and sea level rise
- Restrictions
- Information on where the public have walking access

Relationship with Policy 18 and Policy 20

The NZCPS 2010 preamble recognises that risk to public open space and access are one of a number of key management issues affecting the coastal environment. The NZCPS 2010 objectives and policies support local authorities in maintaining public access to and along the coast. ‘Policy 18: Public open space’ provides context for the two policies that follow—‘Policy 19: Walking access’ and ‘Policy 20: Vehicle access’.

‘Policy 18: Public open space’ and ‘Policy 20: Vehicle access’ promote effective planning to satisfy high public expectations of access and public open space on and near the coast, including priority setting for improvement of access. These policies are closely related to ‘Policy 19: Walking access.’

⁹ <http://www.doc.govt.nz/nzcps-introductory-note>

Policy 18 recognises the need for public open space in and near the coastal marine area for people to use and enjoy, including for active and passive recreation, and states this should be provided for by maintaining and enhancing walking access linkages between public open space areas in the coastal environment.

Policy 20 seeks to provide for vehicle access where this is appropriate—for example, for recreational purposes, when and where vehicle access will not cause adverse effects, and access for emergency vehicles. In some situations vehicle use on public open space along the coast can be in conflict with walking access; vehicles can present safety issues and put other beach users, such as walkers, in danger. Policy 20 sets out specific guidance for local authorities to take a strategic and integrated approach to managing vehicle use on beaches alongside their management of walking access and other uses and values that may be present.

The guidance notes for Policies 18 and 20 are also relevant for the implementation of Policy 19.

Regional policy statement and plan preparation

Policy 19 directs the need to maintain and enhance public walking access to, along and adjacent to the coastal marine area, and recognises safeguarding walking access as a priority. Regional policy statements (RPSs) and plans are expected to recognise that the coast is an area of public space for the public to use and enjoy. Policy statements and plans can usefully set objectives, policies and rules, where needed, to maintain and enhance public walking access to, along and adjacent to the coastal marine area.

Regional and district councils need to work together to address the issue of public access, as the issue of public access spans the interface between the coastal marine area and its landward edge.

Implementing Policy 19 of the NZCPS 2010 requires local authorities to ensure that their policy statements and plans carefully consider the needs of public walking access to and along the coast. Such consideration is part of the integrated and strategic approach to management of the coastal environment that is promoted by ‘Policy 4: Integration’ and ‘Policy 7: Strategic planning’. RPSs and plans provide important opportunities for more integrated public access planning. The landward component of the coastal environment is managed by territorial authorities and integrated management responses will be essential to maintain access to the coast. Regional councils and unitary authorities can helpfully use RPSs and regional plans to provide guidance to district plans.

Policy 4 and Policy 7 stress the importance of integrated and strategic planning for the coastal environment. If activities in the coastal environment have the potential to reduce the public use and enjoyment of public space, then Policy 4(c)(ii) directs local authorities to consider cross-boundary activities and effects and manage them in an integrated manner. Assessment of known coastal uses and values, such as public access, is required to inform strategic planning and decisions about the appropriateness of activities. Consideration of where, how and when to provide for future uses in the coastal environment needs to look at the issue of effects on important coastal values such as public access to the coast (Policy 7).

Structures and activities can limit public access to the coast. There is a need to ensure that measures are taken to avoid, remedy or mitigate this potential adverse

effect. RPSs and plans can set direction to manage subdivision, use, or development in order to avoid, remedy or mitigate any loss of public walking access. To implement Policy 19(2)(b), local authorities can usefully include provisions in plans to manage effects on walking access. This could include the provision of appropriate controls on activities associated with subdivision, use or development that may adversely affect public walking access. RPSs and plans can also require that developments be set back from the coastal marine area to protect the public access values of the coastal environment (Policy 6). District plans can usefully ensure that the siting of new structures or activities on land adjoining the coast will not impede public walking access to the coast; and can also usefully include provisions for esplanade reserves and esplanade strips.

RPSs and plans can also set policies and other provisions to enhance or restore public walking access, such as identifying walking access priorities to link identified open space areas.

Where appropriate, policy statements and plans can usefully include provisions to specify what restrictions on walking access are necessary in different parts of the district or region, and how those restrictions will be managed, including their enforcement, and monitoring. Provisions can also be included to require that alternative routes be considered and where practicable provided where any restriction under Policy 19(3) is imposed.

Non-statutory documents

Non-statutory documents such as coastal strategies are sometimes used to provide direction for a wide range of council and community coastal management functions, including activities under the RMA and the Local Government Act 2002. A coastal strategy can reflect how the community and council wish to see the coastal environment protected, used and managed in the future. For example, Kapiti Coast District Council's coastal strategy¹⁰ has been developed to guide management of the coastal environment over the next 20 years. Coastal strategies can be a useful part of the process of identifying walking access needs, and developing options for protecting and managing public walking access along sections of coastline in a district or region.

Successful implementation of coastal strategies will often require integration and carry-through with the RMA statutory processes, so that they are given effect through policies, rules or other methods in policies and plans. Examples of current coastal strategies are listed under the 'Resources' section of this guidance note.

Regulatory decision-making

Policy 19 assists and provides certainty to decision-makers and resource users over the outcomes sought in relation to public walking access to, along and adjacent to the coastal marine area. The policy requires local authorities to be proactive when assessing opportunities to provide for good long-term public walking access when dealing with subdivision, use or development decisions through the resource consent process. Subdivision, use and development proposals all provide an opportunity for

¹⁰ <http://www.kapiticoast.govt.nz/Documents/Downloads/Strategies/Coastal-Strategy.pdf>

planning and achievement of walking access to and along the coast. Consideration should be given to the degree to which the proposed activity will impact on public walking access.

Decision-makers on resource consents for activities in the coastal environment are expected to consider whether there is a need for the development to be set back from the coastal marine area in order to protect public access values (Policy 6(1)(i)), and to ensure that public open space and recreation qualities and values of the coastal marine area are maintained and enhanced (Policy 6(2)(b)).

The resource consent process (from the development of proposals to the negotiations and decisions over conditions) can give applicants the chance to offer, and decision-makers the chance to take, opportunities for maintaining, enhancing or restoring public walking access, such as in the circumstances described in Policy 19(2)(c). Resource consent conditions could require the consent holder to provide information on where the public have walking access. Conditions could also be used to require that walking access routes are maintained to ensure they are accessible and safe for pedestrian use.

Where a restriction on public walking access to, along or adjacent to the coast is necessary for the purposes outlined in Policy 19(3), resource consent conditions can be used to implement the restrictions. The circumstances of possible walking access restrictions are discussed further in the section 'Restrictions' below.

'Policy 10: Reclamation and de-reclamation' of the NZCPS 2010 gives policy direction on the future location and management of new and existing reclamations. In particular, the policy requires consideration of opportunities to provide public access where a reclamation is considered to be a suitable use of the coastal marine area. It also encourages 'de-reclamation' of reclaimed land that is no longer needed, where that would restore the area's natural character and provide for more public open space. The guidance note for Policy 10 is relevant to the implementation of Policy 19.

Statutory tools to formalise access

There are several statutory tools to formalise access including esplanade reserves and strips, marginal strips and reserves¹¹. Each of these mechanisms is discussed below.

The purposes of *esplanade reserves and esplanade strips*¹² are to contribute to the protection of conservation values; or to enable public access to or along any sea, river or lake; or to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river or lake, where the use is compatible with conservation values (section 229 of the RMA).

Esplanade reserves and esplanade strips are an important mechanism for achieving the objectives of the NZCPS 2010 relating to the provision of open

¹¹ Not discussed in this guidance note but please see also section 236 of the RMA.

¹² Refer to the Glossary of terms for fuller descriptions of esplanade reserves, esplanade strips and access strips.

space and other values within and adjacent to the coast. Part (e) of Policy 18 also recognises the important role that esplanade reserves and esplanade strips can have in contributing to meeting public open space needs. See also Policies 6(1) and (2), 18 and 20.

Esplanade reserves can increase the amount of public land along the coastal marine area, while esplanade strips can enable public walking access over private land and can be especially valuable for creating connections between areas of public open space. Both can facilitate greater public walking access to and along the coastal marine area.

Subdivision offers opportunity for public access to be increased through the provision of esplanade reserves or esplanade strips. Local authorities are encouraged to make provision for the creation of esplanade reserves or esplanade strips where they do not already exist, except where there is a specific reason for restricting public access.

Where the water body margin is mobile (e.g. an eroding coastline or a migrating river) the fixed landward boundary of an esplanade reserve does not change as the water boundary accretes or erodes. Therefore, it is possible for an esplanade reserve to disappear as the land erodes. There may be cases where an esplanade strip may be more preferable than an esplanade reserve because the esplanade strip is able to move with the water body margin (e.g. if a river bank erodes by 2 metres, the width of the esplanade strip then extends beyond its old boundary by 2 metres to offset the lost ground). Section 233 of the RMA refers.

Access strips can be used to enable public access to or along water bodies or public land and can be established by agreement between the landowner and the local authority. A local authority may agree with a landowner to acquire an access strip (easement) over the landowner's land. Section 237B of the RMA refers. Access strips may be negotiated at any time and their ownership remains with the landowner. The area subject to the access strip easement is determined by survey and is fixed; the landward boundary does not shift with changes to the water boundary.

More detailed guidance on esplanade reserves, esplanade strips and access strips is available from the Environmental Defence Society's 'Guide to Coastal Development—Protecting and enhancing public access to the coast.' A link to this guidance is provided in the 'Resources' section below.

Marginal strips are strips of land which extend along and abut the landward margins of parts of the foreshore and the beds of other water bodies.¹³ When Crown land that adjoins a water body is sold or otherwise disposed of, a strip of no less than 20 metres wide running parallel to that water body is deemed to be reserved—this is referred to as a marginal strip. The marginal strips retained by the Crown when it disposes of land are an important component of the means of providing for public access to and along waterways and lakes.

¹³ <http://www.linz.govt.nz/survey-titles/cadastral-surveying/publications/marginal-strips/index.aspx>

Management of marginal strips is usually the responsibility of the Department of Conservation but can be transferred to local authorities or adjoining owners in certain circumstances. Section 24H of the Conservation Act refers. The manager of a marginal strip must manage the strip for the purposes of section 24C of the Conservation Act¹⁴ and enable the public to have access along the strip.

Reserves can be created under protected areas legislation, such as the Reserves Act 1977, and can be used for many different values including the provision of public access and open space. Reserves may be vested in a council¹⁵ as all or part of a reserve contribution at the time of subdivision, or created by a council or the Crown (Department of Conservation)¹⁶ from land purchased from private land owners. In such cases the land becomes reserve upon resolution of council—the resolution must be notified in the Gazette to take effect. Section 14(5) of the Reserves Act refers. A reserve can include water bodies and/or land adjoining the margins of water bodies.

Restoration

Policy 19 provides direction for how and when to achieve enhanced access, with priority given to enhancing or restoring public walking access in particular circumstances. Priority considerations include: connections between existing public areas, recreational opportunities, physical access for people with disabilities, sea level rise effects, access to sites of historical or cultural significance, and the effects of land development (Policy 19(2)(c)).

Policy 19 promotes identifying opportunities to enhance or restore public walking access. The policy outlines circumstances where enhanced or restored access could be achieved (i.e. those listed in 19(2)(c)), and encourages the identification of these and other such opportunities.

Any such opportunities are expected to be identified in RPSs and/or plans where relevant. Coastal access investigations and possible strategy development would inform these priorities and an approach for a region or district.

Restoration is also relevant to regulatory processes. Restoration opportunities are expected to be assessed and where appropriate implemented through regulatory processes for coastal subdivision, use and development.

There are places on the coast where the public have a legal right of access but physical access is impossible because of the nature of the terrain including possible previous erosion. Coastal access strategy development and other processes can be a useful way to consider whether there is demand for improved public access in these locations, and look at ways to enhance access.

¹⁴ <http://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104926.html>

¹⁵ See section 239 of the RMA and 14 of the Reserves Act.

¹⁶ See section 12 of the Reserves Act.

Erosion and sea level rise

Policy 19(2)(c)(iv) directs local authorities to maintain and enhance public walking access including through identifying opportunities to enhance or restore public walking access where the long-term availability of public access is threatened by erosion or sea level rise.

Coastal erosion and sea level rise are direct threats to walking access. Coastal erosion, (and increasingly sea level rise) means that the wet beach or waves can move up to private property protection works or private land, and this can effectively prevent public access, or at least reduce the quality and all tide availability of public access. Most of New Zealand's population lives on or near the coast and a large number of people depend on access to beaches and coastal walkways, including those close to major population centres.

Policy 19(2)(c)(iv) flows from, and is reinforced by, Objective 4, which includes: 'To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by: ... recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.'

A forward-looking approach to maintaining practical walking public access in coastal areas where erosion or sea level rise are likely to threaten that public access will assist the ongoing provision of public walking access.

One of the complexities of coastal hazard management is understanding the interaction between hard protection works and a retreating coastline. Where there is a trend of erosion, the beach in front of hard protection structures will get narrower and narrower as the whole beach profile moves landward, until there is no dry beach remaining—this phenomena is known as 'coastal squeeze'.¹⁷ There will be a similar effect where there is an erodible shore platform.¹⁸ 'Coastal squeeze' will be exacerbated in future by climate change effects, both from sea level rise itself as well as potentially from enhanced erosion. Such degradation and loss of dry beaches or shore platforms adversely affects public walking access values.

Esplanade reserves and esplanade strips can help the effective management of natural hazards such as coastal margin erosion. They are particularly important in situations where the coastal margin is affected by coastal squeeze, and may provide the only available high tide public access along the shore. An esplanade strip may be a more appropriate option in these situations because the strip is not fixed in space; the strip moves with the water body margin.

Despite providing a buffer at the coast, esplanade reserves or strips do not provide a primary mechanism for reducing coastal hazard risk; they can assist in mitigating natural hazards while enabling public access.¹⁹ Ongoing coastal erosion can cause

¹⁷ Refer to the glossary of terms for the definition of 'coastal squeeze'.

¹⁸ Shore platform: The horizontal or gently sloping surface produced along a shore by wave erosion.

¹⁹ Coastal Hazards and Climate Change: Guidance Manual 2008, p. 73.

the progressive loss of esplanade reserves, resulting in a potential loss of legal public access to the coast; while access strip boundaries shift with any physical changes to the water body. Esplanade reserves must therefore be carefully managed to avoid or minimise such adverse effects. Local authorities are encouraged to adopt a forward-thinking and strategic approach to statutory planning in order to maintain and enhance public walking access to, along and adjacent to the coastal marine area. See also the guidance notes for Policies 24–27 concerning natural hazards.

Proactive management of public walking access in coastal areas where the shoreline is, or will be, advancing inland as a result of a combination of erosion and sea level rise is desirable. Unless beach nourishment (which would maintain public walking access) is feasible and affordable, in many situations the better way to avoid ‘coastal squeeze’ and protect beaches will be to keep development away from the shoreline or to undertake a difficult long-term managed retreat of existing development.

Inland migration of shorelines can help preserve natural character by allowing natural coastal processes and the natural movement of water and sediment, and protect the natural features and landscapes of the coast (beaches, dunes, salt marsh, cliffs). If shoreline positions are artificially maintained, then these features are often lost.

Please see the guidance notes on Policies 24–27 concerning coastal hazards for further information on management of coastal hazard-prone areas and the threat of coastal squeeze.

Restrictions

Policy 19 identifies that restrictions on public access to, along and adjacent to the coastal marine area are justified in exceptional circumstances where there is greater sensitivity to the effects of public access and specified values are likely to be adversely affected.

Policy 19(3) spells out circumstances where public access may be restricted. Providing a list of the circumstances where restrictions may be warranted provides greater certainty of outcome for decision-makers and resource users. The specific direction in Policy 19(3) should assist councils to achieve better coastal management, particularly in relation to Māori cultural values, biodiversity, natural character, and historic heritage. Policy 19(3) has close links with Policies 2, 11, 13, 17 and 20.

In relation to some of the listed circumstances, walking access restrictions will sometimes be necessary. Threatened indigenous species can be particularly sensitive to public walking access and the associated activities that come with that public access; for example, bird nesting sites can be disturbed and breeding put at risk by people or their dogs, and sensitive plants can easily be damaged or destroyed by trampling. Similarly, sensitive natural areas and habitats such as in dunes and estuaries can readily be damaged if unrestricted public access is allowed. Public walking access is expected to be restricted in these types of valuable areas in order to protect them from any adverse effects associated with walkers.

There are various means by which restrictions on walking access may be implemented. For example, bylaws can be utilised to impose restrictions on access. Coastal strategies and management plans can identify where restrictions on access may be necessary to manage the effects of walking access. In some instances, walking access infrastructure may require RMA approval. Plans can usefully identify

those areas of high value or sensitive areas where walking access should be avoided. A consenting process may be required to formalise access in these areas.

Local authorities could undertake consultation and research to identify areas or circumstances where public access may need to be restricted for the purposes of Policy 19(3). Restrictions on public walking access to, along and adjacent to the coastal marine area can be provided for in RPSs and plans through policies and rules. For example, regional coastal plans could include policy directing that in consultation with Māori, areas are identified where restriction of public access to and along the coastal marine area is sought to protect sites and activities of cultural value to Māori; or include appropriate rules limiting public access to areas where public health or safety are likely to be compromised (such as port areas). District councils could usefully include policies and rules in district plans limiting public walking access to known ecologically, historically or culturally sensitive areas.

While restrictions may be necessary, this does not have to prevent public walking access entirely. Indeed, if done sensitively and with community engagement, councils will sometimes be able to enhance the experience for walkers. For example, fenced off areas of dunes with walkways through them will enable walkers to experience undamaged dunes and sensitive dune plants at close quarters without anxiety about damaging them.

Determining appropriate restrictions to protect areas of historic and cultural importance is generally more complex and multifaceted. Consultation with tangata whenua, experts, and the community will help best determine where and how to restrict walking access in the vicinity of areas of historic and cultural importance. In relation to the other exceptional circumstances (Policy 19(3)(j)), councils will have to deal with occasions as they arise, and should endeavour to restrict public walking access only when, and to the extent necessary, for example, to protect public health, to reduce conflicts, or to enable special events to occur.

Policy 19(4) directs that before imposing any walking access restriction, consideration must be given to alternative routes for walkers. Councils are directed to provide such alternative routes where practicable. Policy 19(4) also specifically directs that the alternative walking route should be available 'at all times' and free of charge. This reflects NZCPS 2010 Objective 4, which states: '...maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area.' It is noted that the objective introduces the further goal of having an alternative route that is close to the sea. Requiring consideration and provision of alternative access means that continuous walking access should at least still be available, even if it requires going around the protected area or special activity.

Information on where the public have walking access

Promoting knowledge of walking opportunities is an important component of maintaining and enhancing public walking access to, along and adjacent to the coastal marine area. Common constraints to public access include a lack of information on where the public have access, and difficulty distinguishing between public and private access.

In some places there is uncertainty around the location of existing public access to, along and adjacent to the coastal marine area. This uncertainty can be both legal (uncertainty over whether land is public or private land), or physical (whether there are physical impediments to walking access). Visitors to an area may not know how to gain physical access to the coast. See 'Public access to the New Zealand coast: Guidelines for determining legal and physical constraints'²⁰ for further information.

Policy 19(2)(a) promotes maintaining and enhancing public walking access to, along and adjacent to the coastal marine area by identifying how information on where the public have walking access will be made publicly available. Local authorities can usefully promote walking opportunities by providing the public with information on where the public have walking access. Local authorities can utilise available resources and databases including their own geographic information system (GIS), and external sources such as the New Zealand Walking Access Commission's Walking Access Mapping System to obtain information on the location of publicly owned land open to walking access.

Consultation with local users will also be important to decide which public access ways should be promoted (e.g. to distinguish which walkways are the most used), and to identify priorities and what will work in practice. These conversations can usefully inform a local authority's plan development process.

²⁰ <http://www.doc.govt.nz/upload/documents/science-and-technical/docts10.pdf>

Related and ongoing work

New Zealand Walking Access Commission

The New Zealand Walking Access Commission (the Commission) has an online public access mapping system. The Walking Access Mapping System is an online system using GIS technology to provide a view of legal boundaries of public land. This is designed to assist the public to identify land in New Zealand open to recreational access on foot. The mapping system is available at: <http://wams.org.nz> or <http://www.walkingaccess.govt.nz/walking-access-mapping>

The Commission administers a contestable fund called the Enhanced Access Fund to support projects that enhance public walking access in New Zealand.

Projects already awarded funding include:

- Okiato to Russell Walkway in Bay of Islands
- Pahi Peninsula Walkway in Northland
- Waihi Pukehina Estuary Walkway (Waihi)
- Wairau Lagoon near Blenheim
- Purakina Inlet Track (Otago)

The Commission is also sponsoring projects for the development of a sign for landowners to use showing approved walking access routes across their properties. The Commission will list the location of landowner-approved access points as a layer of information on its online mapping system.

Resources

Coastal access strategies

- **Far North District Council**
<http://www.fndc.govt.nz/services/community-facilities/parks,-reserves-and-playgrounds/kerikeri-paihia-track-strategy>
- **Greater Wellington Regional Council**
http://www.gw.govt.nz/assets/Plans--Publications/Wairarapa-Coastal-Strategy/906_access_text_s1701.pdf
- **Kapiti Coast District Council**
<http://www.kapiticoast.govt.nz/Documents/Downloads/Strategies/Coastal-Strategy.pdf>
<http://www.kapiticoast.govt.nz/Documents/Downloads/Strategies/Cycleways-Walkways-Bridleways-Strategy.pdf>
- **Nelson City Council**
<http://www.nelsoncitycouncil.co.nz/waimea-inlet-management-strategy>
- **New Plymouth District Council**
<http://www.newplymouthnz.com/CouncilDocuments/PlansAndStrategies/CoastalStrategy.htm>

Reports, websites and additional information

Department of Conservation

- Mike Jacobson, 2004: Review of the New Zealand Coastal Policy Statement 1994—Coastal hazards.
<http://www.doc.govt.nz/publications/conservation/marine-and-coastal/new-zealand-coastal-policy-statement/archive/review-of-the-new-zealand-coastal-policy-statement-1994-coastal-hazards/>
- Sophie Bell and Jeremy G. Gibb, 1996: Public access to the New Zealand coast: Guidelines for determining legal and physical constraints.
<http://www.doc.govt.nz/upload/documents/science-and-technical/docts10.pdf> (Note: This technical report refers to the NZCPS 1994).

Land Information New Zealand (LINZ)

- The Overseas Investment Act 2005 provides a mechanism whereby consent to certain acquisitions of land by overseas persons is subject to consideration of whether there will be adequate mechanisms in place for providing, protecting or improving walking access over the relevant land or a relevant part of that land by the public.

Overseas Investment Office—Benefit to New Zealand factors: Walking access.
<http://www.linz.govt.nz/overseas-investment/applications/technical-resources/benefit-nz-factors/walking-access>

Ministry for the Environment

- ‘Coastal hazards and climate change—A guidance manual for local government in New Zealand’ (2008).
<http://www.mfe.govt.nz/publications/climate/coastal-hazards-climate-change-guidance-manual/>
- Case study—Coast Care Bay of Plenty dune restoration project.
<http://www.mfe.govt.nz/publications/climate/adaptation-studies-dune-restoration-mar08/html/index.html>

Environmental Defence Society

- Guide to Coastal Development—Protecting and enhancing public access to the coast’ (2012). This chapter of the Coastal Guide outlines the issues of public access to and along the coast, identifies the legal and policy framework, describes other mechanisms that are available and offers some examples of desirable and undesirable practices. It was written and produced by the Environmental Defence Society with funding support from the New Zealand Walking Access Commission.
http://www.eds.org.nz/content/documents/publications/coastal_guide_2012/Protecting_Public_Access_Chapter_FINAL.pdf

National Institute of Water and Atmospheric Research (NIWA)

- ‘Coastal adaptation to climate change—Pathways to change’ (2011). This is a guidance document to help local authorities and coastal communities adapt to climate change.
http://www.niwa.co.nz/sites/default/files/pathways_to_change_nov2011.pdf
- Coastal Adaptation to Climate Change project. <http://www.niwa.co.nz/our-science/coasts/research-projects/coastal-adaption-to-climate-change>

Walking Access New Zealand

- The New Zealand Walking Access Commission is the Crown entity that promotes free, certain, enduring and practical walking access to the outdoors for New Zealanders and overseas visitors. The Commission provides leadership on walking access issues and administers a national strategy on walking access, including walkways. It also undertakes mapping of walking access, provides information to the public, oversees a code of responsible conduct, assists with dispute resolution and negotiates new walking access.
<http://www.walkingaccess.govt.nz/>

Glossary of terms and definitions

NZCPS 2010 glossary

No relevant definitions.

Other definitions

Access strip: a strip of land created by the registration of an easement in accordance with section 237B of the RMA for the purpose of allowing public access to or along any river, or lake, or the coast, or to any esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown (but excluding all land held for a public work except land held, administered, or managed under the Conservation Act 1987 and the Acts named in Schedule 1 of that Act). (Definition from section 2 of the RMA.)

Coastal squeeze: Where natural coastal features, habitats and ecosystems are ‘squeezed’, and can disappear, between the waves and an armoured shoreline (i.e. hard protection structures), especially when there is a trend of erosion and/or sea level rise which causes the shoreline profile, and natural features, to migrate inland. (Abbreviated from glossary of ‘Review of the NZCPS 1994—Coastal Hazards, Mike Jacobson 2004, for the NZCPS 2010 Policies 24-27 guidance note).

Esplanade reserve: A reserve within the meaning of the Reserves Act 1977—

- a. which is either—
 - i. local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or
 - ii. a reserve vested in the Crown or a regional council under section 237D; and
- b. which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229.

(Definition from section 2 of the RMA.)

Esplanade reserves are classified as reserves under the Reserves Act 1977 and land ownership is transferred to the territorial authority. When land is subdivided to create an allotment of less than four hectares, an esplanade reserve must be set aside along the mark of MHWS, along the bank of any river or along the margin of any lake, unless a rule in a district plan or resource consent provides otherwise. The esplanade must be 20 metres in width. (Definition from the Environmental Defence Society’s ‘Guide to Coastal Development—Protecting and enhancing public access to the coast’ http://www.eds.org.nz/content/documents/publications/coastal_guide_2012/Protecting_Public_Access_Chapter_FINAL.pdf)

Esplanade strip: A strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229. (Definition from section 2 of the RMA.)

Esplanade strips are created by registration of an instrument between the territorial authority and the subdividing owner. They are registered on the title, but the land within the strip remains in the ownership of the land owner. (Definition from the

Environmental Defence Society's 'Guide to Coastal Development—Protecting and enhancing public access to the coast'
http://www.eds.org.nz/content/documents/publications/coastal_guide_2012/Protecting_Public_Access_Chapter_FINAL.pdf). An esplanade strip can include provisions to exclude access by the public during certain times or under certain conditions (as prescribed in the RMA).