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## **Summary – Independent review of WorkSafe New Zealand’s performance regarding adventure activities on Whakaari/White Island**

This document summarises the findings of the *“Review of WorkSafe New Zealand’s Performance of its regulatory functions in relation to activities on Whakaari White Island”*.

David Laurenson QC, a senior New Zealand lawyer, conducted the review between February and September 2021.<sup>1</sup>

The review looked at how WorkSafe New Zealand performed its role as a regulator for activities on Whakaari White Island from when the adventure activities regulations started on 1 November 2014 and 9 December 2019 when the eruption occurred.

Mr. Laurenson’s full report will be available on MBIE’s website [here](#).

This document has been created by MBIE to provide a summary, so may not always repeat the exact contents of Mr. Laurenson’s full report.

### **Background information**

WorkSafe New Zealand (WorkSafe) is New Zealand’s main health and safety regulator. It is responsible for monitoring how businesses and people are meeting New Zealand’s health and safety laws and enforcing these laws.

New Zealand has a number of laws requiring adventure activity operators to operate safely. One of the main requirements is set out in the Health and Safety at Work (Adventure Activities) Regulations. These Regulations require all adventure activity operators to have their safety systems audited by an independent auditor at least once every three years, and to register their adventure activities operation with WorkSafe.

WorkSafe oversees this auditing and registration system, and, where necessary, enforces these requirements.

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<sup>1</sup> While Mr Laurenson is an experienced senior lawyer, this review was not a legal review and its findings are not evidentiary in nature.



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## **The review's findings**

### *What the law requires and WorkSafe's role*

- One of the main ways New Zealand's adventure activities laws reduce risks to people's health and safety is through requiring all operators to be audited by a safety auditor.
- WorkSafe is required to ensure that safety auditors have appropriate experience and qualifications before recognising them to audit adventure activity operators.
- WorkSafe monitors and enforces compliance with the law, including that all adventure activity operators pass a safety audit and are registered with WorkSafe.

### *Registration of White Island Tours Ltd.*

- WorkSafe did not take appropriate steps in carrying out its regulatory functions to ensure that White Island Tours was audited by an auditor that had the appropriate experience and qualifications.
- White Island Tours was registered as an adventure activity operator by WorkSafe in November 2014 and November 2017. Two different safety audit providers audited White Island Tours for these registrations. Neither audit provider had a technical expert with appropriate experience or qualifications to carry out a safety audit of an activity that involved walking tours on a live volcano.

### *Unregistered operators on Whakaari/White Island*

- In addition to White Island Tours, several other businesses provided tours on Whakaari/White Island between 2014 and 2019. These other businesses were not registered as adventure activity operators.
- WorkSafe did not take appropriate steps to monitor and enforce compliance with the registration requirement in respect of the unregistered operators carrying out activities on Whakaari/White Island.
- WorkSafe had been aware since at least July 2014 that potentially there were unregistered operators carrying out activities on Whakaari/White Island. However, by November 2019 WorkSafe had not yet referred this matter to its inspectorate to consider enforcement. The review considered the delays both unacceptable and not able to be justified in the circumstances.



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## **The review's recommendations**

The review recommends WorkSafe takes the following steps to ensure adventure activity operators operating on Whakaari/White Island are audited by auditors with the appropriate experience and qualifications:

- recognise activities carried out on Whakaari/White Island as a discrete adventure activity (rather than a subcategory of trekking/mountaineering activities)
- identify the appropriate experience and qualifications required to carry out an audit of those activities – to ensure that the measures put in place by the operators to address the risks and hazards to which those involved in the activity are exposed as a result of being in close proximity to a live volcano satisfy the safety audit standard good practice requirement.
- include this adventure activity and the necessary experience/qualifications to audit it on the “technical competency table”, which is used by auditors to plan audits and identify the expertise needed in their audit team.

The reviewer notes that it may be difficult to identify the people or organisations with the appropriate experience/qualifications in these types of activity and they may be in short supply in New Zealand. If so, the reviewer recommends WorkSafe or an appropriate industry body should identify the experts with appropriate experience and qualifications, and make sure that they are available to be engaged as technical experts when required.

The reviewer also recommends that:

- WorkSafe puts in place a system that ensures that, whenever WorkSafe is informed about an audit being planned for any activities on Whakaari White Island, it tells the auditor of the need to use an appropriate technical expert and provides the details of those technical experts available.
- WorkSafe, in partnership with the identified technical experts, should consider whether it is appropriate to develop activity safety guidelines for any activities on Whakaari/White Island.