

**July 2003**

**SUMMARY OF SUBMISSIONS<sup>a</sup> TO THE  
MINISTERIAL REFERENCE GROUP ON LAND ACCESS**

**Introduction**

A Ministerial Reference Group (the Group) was established in January 2003 by the Minister for Rural Affairs to study issues around access to land. The Group was created in response to concerns over the need to clarify and enhance the legal situation pertaining to public access to the foreshore of lakes and the sea and along rivers and over private land.

The three general groupings of issues that the Group is asked to looking into are:

- access to the foreshore of the lakes and the sea and along rivers (often called the Queen's Chain);
- access to public land across private land; and
- access onto private rural land to better facilitate public access to and enjoyment of New Zealand's natural environment.

The Group engaged in dialogue with stakeholders who have an active interest in access to land policy. This paper presents a summary of the submissions<sup>^</sup> received on land access. There were over 230 written submissions, as well as presentations by various groups. Comment was also received on several important issues, such as vehicle access, that were not directly covered by the terms of reference but may be associated with the development of reports on access issues. This paper summarises both the terms of reference and all other relevant comments.

The submissions show considerable thought and effort has been put into replying to the points raised by the terms of reference. Submitters were encouraged to state the extent and nature of problems relating to access, provide potential solutions for addressing these problems and express their vision for public access. The views expressed are those of submitters only and do not reflect opinions or conclusions of the Group. The replies received are proving useful in the Reference Group's consideration of access to land.

**Maori View of Land Access**

A submission from Maori (175) makes the following points in terms of land access:

- the Crown, as a Treaty of Waitangi partner, has an obligation to actively protect the property interests of Maori land and the economic opportunities provided to Maori through their land.
- that access poses governance issues for Maori landowners and any access should be controlled by the owner/trustees/committee of management.
- that there are varying degrees of access between Maori trusts and incorporations.

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<sup>^</sup> Note: The Group did not undertake a formal consultation exercise or submission process. The term 'submission' is used to refer to material provided to the group during their investigations. The term 'submitter' is used to refer to describe a person or organisation that provided material to the Group as part of the information collection process.

- that public access hinders some potential economic opportunities. If there is any land that has public access, this access should only be for recreational purposes.
- that there needs to be more education about public access, in particular clear definitions of access.
- the Crown should provide funding for maintenance or compensation for Maori land vested in the public.

Another Maori submitter notes that historically Ngati Tuwharetoa has provided land and taonga for free public recreational enjoyment. Public access (mainly free) has been provided through its land, while protecting land to maintain and enhance the quality of existing recreational and natural landscapes and taonga (230), through mechanisms including:

- the gifting of ancestral lands including the nucleus of the Tongariro National Park and release of thousands of hectares of lands in association with this Park;
- agreement in 1926 to permit public access to Lake Taupo for fishing and recreational enjoyment;
- agreement in 1956 to permit public access to Lake Rotoaira for fishing;
- utilisation of substantial areas of Maori land and Ngati Tuwharetoa waters for the generation of hydro electric power;
- agreement to set aside riparian and local reserves for the protection of the catchments and water quality of Lake Taupo and Lake Rotoaira; and
- arrangements for controlled public access through wilderness areas in the ownership of the Trusts.

Any public access protocols should, according to a submitter, be fully compliant with the principles of the Treaty of Waitangi and the Crown's obligations to these principles. Any access negotiations with Maori should recognise Maori efforts to advance the general public interest with respect to access and the expectation of Maori to negotiate directly with the Crown on matters of public interest affecting their ancestral lands and waters (230).

### **General Views on Access for Maori**

Additional views provided by submitters about Maori land and public access include:

- Maori landowners “often have limited ability to obtain a return from their land” (79b), and thus may rely on returns currently received for providing exclusive use to tourist operators and fishing guides;
- Maori should be consulted about the land access issue before any other interest group;
- Public access is subject to potential restrictions such as an area being set aside to protect wahi tapu or indigenous ecosystems on land (173);
- there should be more information available about public access, especially clear definitions of access;
- Maori land is exempt from public access requirements, but non-Maori landowners have similar concerns for and respect of land (55, 79b);
- there should be public access to Crown land without excess DOC or Maori control as this land is New Zealand's heritage (31);
- multiple ownership of Maori land is further restricting legal public access (193);
- not all subdivisions have resulted in the creation of reserves on water margins. Some residential subdivisions of Maori land on Lake Rotoiti and Lake Rotorua have resulted in settlements where residential allotments have riparian rights and there is limited provision for public access to or along the lake margins;

- “The doctrine of accretion has only been applicable to lakes since a Privy Council ruling in 1982 based on a case in Australia. The doctrine is based on common law, and is an archaic presumption of individual property rights over and above the rights of the public” (197a); and
- the Maori Land Court needs the same subdivision rules and esplanade reserve provisions as provided in the RMA (197a).

## **Fish, Game and Water as Public Resources**

Submitters raise and emphasise the point that it is a unique feature of legislation in New Zealand that wildlife, fisheries and natural water do not attach to the title of the land upon which they exist (41, 71, 181, 210). In New Zealand these resources are part of the public estate, for which, a submitter states, “it is not unreasonable for the general public to expect fair and reasonable (albeit perhaps conditional) recreational access” (41).

There has been a formal statutory prohibition in New Zealand on the sale of hunting and fishing rights. Submitters state that, contrary to the prohibition, there is an increasing occurrence of hunting and fishing access rights being sold (41, 71, 181, 210). This ability to exclude others arises from the authority granted to land occupiers in the Trespass Act 1980 (41).

In some cases, submitters state, this sale of access rights excludes the public from accessing natural resources and, in other cases, requires the public to pay landowners, either for publicly owned fish and game or for access to them (41, 71, 181, 210). A number of submitters provide evidence that fishing guides are being forced into paying ‘fees’ through the concession system administered by the Department of Conservation (DOC) for access to, or through, its estate for fishing (52, 54, 75, 82, 103a, 103b, 123, 133, 136, 151, 158, 188, 191, 214). Another submitter states that some of the best trout fisheries in the central North Island have been captured through the sale of access rights and “to all intents and purposes have become private (commercial) fisheries”. In such cases it would be beneficial to address the safeguarding of public interests in land access.

A fish and game management plan of access could be used to address the trout fishing industry and the access situation. A submitter suggests that Fish & Game NZ should negotiate access through private land to reach the fishing resource on behalf of licence holders (17). A ballot or permit system would be introduced for overcrowded areas (56, 62). Such a system could involve:

- Fish & Game supplying the landowner’s contact name, direction to the farmhouse and additional contact details, such as a telephone number (36);
- Coloured tags identifying fishers could be displayed, including where vehicle access is required (36);
- Reduction in fishing guide compliance costs and transaction costs (52);
- An acceptably-priced bulk concession to be used by guides to conduct low impact fishing activities on the DOC estate;
- Where public access through private roads creates a maintenance cost to the owner, the owner could have a right of redress by negotiation with DOC or Fish & Game to present a receipt for reasonable repair work, factored into license charges (36, 47); and
- Greater integration between Fish & Game and DOC in managing the fishery.

## **Commercial Ventures Encourage Access Restrictions**

It is stated that the prevention of public access can occur due to:

- the potential to increase land property values (56);
- desire for the private use of resources on the landowner's property;
- diversification of income on rural land (198); and
- risk to the landowner (e.g. threat to security and privacy).

Many submitters provide examples of when, and how, private landowners exclude access, often in favour of commercial businesses, including tourist operations (5, 37, 41, 47, 52, 56, 62, 68, 71, 74, 79b, 82, 89, 98, 103a, 103b, 110, 112, 118, 119, 125, 141, 147, 148, 149, 151, 156, 166, 176, 177, 181, 192, 202, 205, 224).

- submitters are concerned that access may be excluded in the high country where there are changes in land ownership (198);
- already there is a problem of private commercialisation of trout fishing. Exclusive access to this resource is advertised on the Internet (156);
- one submitter has chosen not to enter into exclusive access arrangements on the premise that these fishing waters would become unavailable to other guides and anglers (110);
- access restrictions are occurring even where there is public land, such as roads or only a narrow strip of privately owned land to public land (12, 70);
- there is an assertion by submitters that landowners should not profit by the selective provision of access and the charging of fees, unless for road maintenance or the provision of services such as toilets (74); and
- local bodies are reluctant to be involved to resolve the situation or to provide accurate information (74).

It was also noted that public access can be provided by a private initiative in a structured, controlled and sustainable way. The operation of the Banks Peninsula track involves a private commercial walking track across private property providing access to reserves, conservation projects and coastal reserves, with high quality track and accommodation facilities and no impact on farming facilities or stock disturbance (229).

## **Private Property Rights and Compensation**

A strong assertion throughout submissions is that New Zealanders have a history of interacting with nature through tramping, shooting, riding and fishing on private land, with landowner co-operation. The farming community needs urban support and understanding to ensure that this privilege is continued (38).

Submissions with a landowner background/perspective emphasise that New Zealand is reliant on the continued financial viability and economic growth of rural landowners and land-based businesses (21). The proposal to allow access across private land may be seen by landowners as undermining ownership rights, including undisturbed possession, with consequent effects on their privacy and land value (50). This potential loss of landowner goodwill could have an impact on the general public's enjoyment of New Zealand's natural environment (154).

Numerous submitters state that public access to private land is a privilege, not a right (10, 17, 45, 82, 98, 114, 190, 201, 202). Some submitters believe that, as requiring public access constitutes the regulatory taking of private property rights, there is "an obligation to pay

compensation whenever individuals are expected to meet costs more justly borne by the greater community” (17, 126, 138). A submitter considers that compensation could be necessary in the case of maintaining access and reducing damage to the environment (134). Another submitter mentions an access fee for the provision of amenities. Submitters raise the following points in relation to public access to private land:

- landowners may provide public access on conditions, as public access to private land is a matter for the landowner’s discretion (10, 46, 51, 126);
- negotiated and managed public access should respect private property rights, including no public interference with stock and farm processes (51, 55, 61, 75, 77, 98, 157, 179);
- there must be mutual respect of landowners, including respect for the land that the public is accessing (51, 55, 61, 75, 77, 98, 157, 179);
- where there is a desire to secure land for the public, the Public Works Act 1981 provides ample scope for statutory authorities to compulsorily purchase land (126); and
- the terms of reference suggest that rural landowners have fewer rights by only considering access to rural land (90, 132, 208, 209). Any approach to land access should also consider public access across urban private land (208).

### **Conduct of Public on Private Land and Potential Public Abuse of Access Rights**

Submitters discuss the issue of public conduct on private land and the associated reasons for the landowner accepting or restricting access. Access restrictions experienced by the public include:

- obstruction through signage and physical obstructions by gates, electric fences, deep fords, dense vegetation, or cattle;
- the closure of roads by forestry companies;
- recent subdivision of land;
- land deviating from surveyed position long enough for the lessee to control passage;
- the absence of the Queen’s Chain alongside rivers and streams;
- an unknown or unavailable property owner or access arrangements;
- the purchase of exclusive access rights by an individual or group; and
- an access charge.

Landowners may restrict public access for the following reasons:

- concern about stock disruption due to the visiting public;
- concern relating to the safe management of bird habitat on private land;
- the release onto private land of unwanted pets;
- lambing and weaning;
- health and safety reasons, including:
  - biosecurity;
  - the transfer of diseases;
  - contamination of waterways, eg. reservoir access; and
  - rural industrial uses, including power generation facilities, sand, gravel and rock extraction and factories (e.g. dairy processing);
- the hazards of a farming working environment;
- litter;
- using land for illegal purposes, such as stock and property theft and growing drugs;
- personal safety, as a measure preventing home invasion and harassment;

- loss of respect for private property, including intimidation of the landowner;
- fire risks;
- excess amounts of vehicles and the use of unlicensed vehicles so that landowners are unable to report any offenders to local authorities;
- land conservation;
- the impact of the Resource Management Act 1991 (RMA) on rural landowners (that any person has the right to accuse a landowner of doing something contravening the Act); and
- the expense and maintenance of service provision (e.g. toilets and rubbish) by the landowner.

The risks identified above are believed to provide incentive for property owners to deny the public access. To minimise these risks of public access to private land, the landowner may grant access with the types of conditions listed below:

- access over private land only by arrangement or negotiation;
- the issuing of information pertaining to landowner responsibility for visitors and their property while on private land;
- no allowance for dogs, fires, camping, guns or litter;
- that access is managed (e.g. visitor lists and entry passes) to ensure the protection of human safety, animal welfare and biosecurity aspects of farming;
- the closure of access during lambing seasons, for cultural purposes and for reasons associated with farm management and high fire risk; and
- the punishment of vandals and prohibition of access to visitors who abuse any conditions of access.

The reasons given by landowners for the granting of access with restrictions indicate that farms need to be protected at certain times and uncontrolled access can be disruptive and cause damage (55, 79b, 194, 215). Access differs according to individual landowners and “what works in one circumstance is not necessarily the best and most workable outcome in all circumstances” (79b). Often alternative access is offered by landowners where other access is restricted (202). Ultimately, the majority of submitters feel that there must be communication between parties and the ability to ultimately control what occurs on private property.

### **Foreign Ownership of Rural Land**

Submitters state that the denial of public access on land in foreign ownership has increased the prominence of the land access issue. As overseas interests and absentee landowners buy land, traditional access is often prohibited (170). There is submitter concern that foreign landowners do not value the opportunities for recreation that New Zealand’s natural resources have to offer, nor do they understand associated legislation (7, 48, 102). A submitter observed a link identified between the erosion of access and the sale of Crown pastoral leases to new lessees who lack the goodwill and experience of traditional farming (48). Access restrictions, such as those being imposed on beaches in the Marlborough Sounds (4), are causing concern that land access in New Zealand will become as restricted as in the United States of America, where private beaches, rivers and lakes are closed to the public or only open after paying a fee (112).

### **Access onto Private Rural Land to Better Facilitate Public Access to and Enjoyment of New Zealand’s Natural Environment**

Most submitters who mention the “right to roam” or “wander at will” theory of public access, feel that it is a radical solution to the question of public access onto private land, to better

facilitate public access to and the enjoyment of New Zealand's natural environment (41, 71, 111, 115, 125, 136, 157, 161, 176, 180, 182, 208, 217, 219). Several submitters clearly state that there should be a right to roam (56, 68, 86, 153, 185, 186). Reasons for supporting the right to roam include:

- submitters concerned to protect the quality of outdoor experiences for all New Zealanders, including those who are currently under-represented in outdoor recreation, such as people with disabilities or on low incomes (160, 214);
- low income families cannot afford to visit expensive holiday locations, but now finding that they are denied access to affordable outdoor recreational opportunities due to of private development and restrictive local body rules (214);
- submitters state that there have been reforms in France, Switzerland and Italy to provide access (75); and
- in the United Kingdom (UK), right to roam legislation was implemented in addition to 'permissive' paths and a large number of long distance footpaths (17, 20, 75).

Suggestions for facilitating a right to roam approach included:

- a gradually increased opportunity to wander at will could be accompanied by the promotion of a responsible attitude on the part of public wanderers (86);
- the right to roam policy could be initially for Crown land or the high country and assessed for its workability on private land (10, 196); and
- the right to roam could require a small access payment, although an acceptance of the right to roam on extensive pastureland may be many years away (162).

Reasons for not supporting the right to roam include:

- that the phrases "wander at will" and the "right to roam" are unhelpful, as they increase the fear of landowners that the public will be entitled to treat any private space or sites as their own (176, 182, 219). These terms need sensible qualification before they can enter the access debate (41);
- the inequality of a right to roam perception applying only to private rural land (as mentioned in the terms of reference), which reduces rural property rights without regard to urban property (208);
- while submitters accept public access to Crown land, waterways and the sea as part of the original tenets of the Queen's Chain, they do not see any public demand or need for the right to roam (115, 125, 180);
- that it would be irresponsible to support this right as it can destroy goodwill between the landowner and the public and raises questions of health and safety, security and privacy (55, 118, 121, 165, 183, 210, 216);
- submitters concede that there is more excuse for the right to roam policy in the UK where there is overcrowding (78);
- that the precedents for right to roam set in Britain for hunters and fishers, is the only practical way of pursuing their sport in many remote valleys, but seldom would this be over private land (153);
- this policy could not be realistically achieved in New Zealand as it has taken so long to implement in the UK and involves different rights of access to those required in New Zealand (75); and
- other access issues need to be addressed or resolved before giving consideration to the right to roam (153).

Some submitters who support the right to roam mention the Swedish concept of “Everyman’s Right” (7, 75, 86). This policy is current in some DOC-owned parks, such as Wharariki Farm Park, and over the undeveloped parts of the high country stations given to Ngai Tahu (86, 185). In the case of Wharariki Farm Park, there have been few adverse effects. ‘Everyman’s Right’ involves the right of access over all lands, including those privately owned and small access restrictions such as the public maintaining a certain distance from the house. If Everyman’s Right were adopted in New Zealand, it is expected by a submitter that although adaptation to the system would require some time, it would gain acceptance by landowners (7).

## **Tenure Review**

Many submitters provide both positive and more critical comments in relation to tenure reviews. Positive comments include:

- the tenure review process is a “template for extending public access onto private property through mutual agreement” (190);
- provision of public accessways through tenure review (35, 40, 43, 65, 66, 67, 68, 70, 72, 84, 86, 111, 136, 142, 150, 162, 176, 188, 189, 209, 213, 214);
- Crown leasehold land could be submitted for tenure review before approval is given to overseas purchasers (37, 48); and
- public access provided for in high country tenure review is often for long and difficult tracks, valued by the tramping community (105).

Some submitters indicate their concerns about tenure review. Namely that:

- the process is “creating islands of public land surrounded by private land” (196);
- tenure review and subdivision “mean that public land is under threat” (138);
- there should be compensation to landowners for access made available through tenure review (187); and
- that it is not achieving its expected outcomes of the provision of public access to land (225).

## **Generation, Collection and Dissemination of Accurate and Clear Information Relating to Access**

Many submitters consider that the bulk of problems surrounding access are related to a lack of information, clarity relating to public access to land, and the inefficient enforcement of existing regulations (12, 40, 60, 74, 96, 103a, 103b, 111, 117, 141, 142, 145, 148, 149, 151, 171, 190, 200, 219, 222, 228). There may be lack of information on the type and identification of access points (117). Public land is often unmarked and therefore unknown to the general public, who are unaware of existing access arrangements (41, 111, 149). Anglers, for example, are unaware of where they are entitled to fish as the river reserve (which is public land) may no longer correlate with the river because of movement of the water body (141).

Conflict arises when landowners adjacent to rivers believe that they own the riverside section, and thus deny access to and along the riverbed. Restrictions are reinforced with fencing, erected across rivers to control stock, without an obvious gate (12). Authorities seem “reluctant to utilise the esplanade provisions of the RMA or identify paper roads and ensure their availability” for the public (206). It is stated that there is a “lack of council power in negotiations”, even to create separately fenced public walkways (8). Councils do not “want to



increase their roading liability by establishing or legalising easements and customary routes” (95).

## **Vehicle Access to Land**

While vehicle access is not included in the terms of reference, a number of submitters comment on the difficulties found by motorists, cyclists and off-road vehicles accessing public land, and signal that the investigation should extend beyond pedestrian access. Submitters feel that the need for the inclusion of vehicles is due to a decline in access opportunities.

This decline is a result of:

- landowner prejudice against vehicle use (80);
- the threat of excess amounts of vehicles because of uncontrolled access (24a, 24b);
- unlicensed vehicles making it difficult for landowners to accurately identify visitors on their land (12);
- vandalism through vehicle use (13);
- a charge for vehicle access at certain times (10); and
- prohibition of vehicle access in sensitive areas (56).

There is potential for mountain biking on or through private property with an off-road code designed to encourage responsible riding (93).

## **Proposals for Land Access**

### **Waterways**

#### *The Queen’s Chain*

Many submitters who outline proposals to address the issue of land access refer to the Queen’s Chain. New Zealanders perceive the Queen’s Chain to be of historic importance, and cite Queen Victoria’s instruction in 1840 to Governor Hobson to “set aside for recreation and amusement on the sea coast and in the neighbourhood of navigable streams” a chain-wide strip (115). There is an obvious desire by submitters to extend the Queen’s Chain for ease of public access. This desire is reflected in the following proposals:

- the ownership of riverbeds could be confirmed as Crown ownership in perpetuity (12, 141, 151);
- the Queen’s Chain could be provided and legislated for along waterways of public interest or extended to all rivers and streams of a certain size (23, 27, 28, 32, 47, 51, 62, 73, 83, 103a, 107, 109, 112, 115, 117, 118, 136, 142, 147, 151, 155, 159, 180, 183, 208, 213, 214);
- the Queen’s Chain could extend to all beaches and rivers (4, 89, 160, 163, 166, 191, 200, 201, 202, 219);
- the Queen’s Chain could form one chain from the banks of the streambed, at no cost to the Crown (63);
- future dedications need not be tied to the surveyed position, but instead follow the principle of marginal strips (11, 80, 106, 128, 150, 200); and

- the moveability provision of newer marginal strips could be transferred to other riparian reserve mechanisms such as esplanade reserves (199).

### *Marginal Strips and Marine Reserves*

Submitters seek to maintain a balance between reasonable public access and private property rights. Submitters suggest the use of both marginal strips and marine reserves to allocate public accessways, without unnecessarily removing landowners' rights. Proposals include:

- access should focus on riparian margins of foreshores and rivers above a certain width as they are best for locating public access and are not intrusive on private use;
- in every instance, the ownership of marginal strips and riverbeds should be clarified and considered on a case by case basis (79b);
- the concept of moveable strips could be added to by deeming marginal strips on waterways greater than 3 metres in width, and around the margin of lakes larger than 8 hectares (128, 150);
- where public access is not available, a chain-wide strip of land should be retained for access on both sides of a river (103a, 103b, 115, 125, 180, 184);
- walking tracks could be marked or 6 metre water edge accessways alongside waterways could be provided on private land (166);
- alternatively, areas of land should be made into marine reserves or a land corridor, such as a park beside rivers, if the public is unable to gain access (2, 225); and
- a submitter presents the view that marginal strips should be imposed only where it is necessary to secure public access, by taking land into public ownership. Existing strip and esplanade mechanisms are sufficient but need to be made more workable (79b).

## **Institutional**

### *Access Legislation*

It is apparent that submitters feel that there is a need to clarify the law relating to public access, the Queen's Chain and riparian rights, as well as to protect existing access legislation (e.g. access through private land to the freshwater sports fishery). Legal public accessways could be endowed to sites of historical access. Submitters focus on amending the following legislation:

- the Trespass Act (75, 112, 141, 162): "Repeal the provisions of the Trespass Act whereby ordinary trespass on open land can, without any damage occurring, become a criminal offence" and deny reasonable access for non-commercial recreational activity that does not conflict with primary land use (185);
- the Wildlife Act 1953: Amend this Act to extend the prohibition of the sale of rights to include deerstalking, seafishing, tramping, and mountaineering, thus encompass the retention of public ownership of game animals (71, 181, 210);
- the Resource Management Act 1991 and the Local Government Act 2002: Revise these Acts to restore a whole property focus for access when any subdivision occurs and for the administration of public roads to become a mandatory function of local government (179, 225). This includes an infringement offence for the blocking and restricting of public road use; and
- the Health and Safety in Employment Act 1992: Clarification and simplification of landowners' health and safety responsibilities (41, 93, 147, 151, 182, 185, 186).

### *Centralised Control of Access*

It is suggested by submitters that centralised control of access could be a way to fairly protect both public and landowner rights. A central location can provide legislation and information to relieve landowners and lessees of legal liability when public access is provided. Infrastructure through appropriate government departments could ensure reasonable access, clear ownership and accountability to maintain access and providing remedies for abuse of access (95, 96). A proactive government approach could recognise the value of allocating funds to purchase and encourage public access (96). Submitters suggest the possibility of reactivating the Walkways Commission or developing an Access Commission to deal with all matters relating to public access, with more input by district councils, or the formation of a state agency to negotiate for access rights over existing roads (103a, 103b, 115, 125, 144, 169, 180, 185). Such an agency should facilitate public access to resources with sufficient power and authority to resolve situations where access does not exist (103a, 103b, 115, 125, 128, 169, 180).

### *The Department of Conservation*

It is suggested that a public right of way could be gained through a DOC initiative including conditions of access and compensation for access (187, 219). A DOC initiative could involve:

- A programme of access signage, informal access agreements with landowners, advice to anglers and hunters and clear identification of access points (103a);
- An Internet database of access offenders to be listed and updated (30);
- An increase in the DOC budget for basic camping facilities and areas to ensure that permitted small campsites can be maintained (4);
- The maintenance of tracks;
- The reclassification of bikes as non-motorised vehicles in DOC's general policy on recreation as the environmental impacts of bikes is less than motorised vehicles (93); and
- The ability of farmers to make commercial businesses out of access and be funded for the upkeep of tracks, as DOC can charge tour guides (82).

## **General**

### *Education*

There is currently a lack of understanding about access rights, privileges and responsibilities. Submitters recommend an education programme to teach the general public about access rights (13, 96, 190). Education would focus on conduct protocols, property rights and the need for permission to access private land (6). Public education could also extend to the responsibilities and problems faced by farmers (38). It is believed that improved education and management should eventually lead to the minimising of further modification and degradation of the environment by a more informed public (98).

### *Information*

Related to the proposal of education on public access is the need for greater information on access. Information gaps regarding access can be filled with a more co-ordinated approach taken on how this information is disseminated (200, 216). Co-ordinated public access information could include:

- the clarification and identification of public access to paper roads to protect public rights;
- Publicly available maps to show the boundaries of land in the conservation estate and areas allowing vehicular access;
- the installation of informative notice boards by local authorities indicating legally accessible areas (75, 97). This will result in the improved knowledge of visitors (97);
- signage and clear identification of unformed roads to allow access across private land; and
- consultation with landowners to create new accessways with best management practices in mind (191, 193).

### *Codes of Access*

Various submitters suggest that a code of conduct should be developed and disseminated. Both landowners and recreationalists can be educated about the code. Such a code would provide a baseline for the sort of behaviour that landowners could reasonably expect on their property and a guide for the public as to what is acceptable and expected (79b). Any code adopted should not be used to compel landowners to provide access (79b).

Continued education in schools about responsible access can include the promotion of environmental care codes, a water code and if developed, a right of way code to minimise visitor impact to areas (102). A submitter suggests that a code of behaviour for access be established, especially where the transportation and use of guns and dogs is an integral part of accessing a public resource (181).

## **Conclusions from Submissions**

Public access to the foreshore of the lakes and the sea and along rivers should be maintained. The Queen's Chain is described as an important institution and is entrenched in New Zealand's heritage and cultural traditions. As such, it should be safeguarded and legislated for along waterways of public interest or extended to rivers and streams above a certain size and become moveable with the bed of the river. The lack of public clarity about what constitutes the Queen's Chain is enhancing the nature of access problems encountered by the public.

Reasonable public access should include, at a minimum, foot access along the banks of rivers, lakes and the coast as well as roads. Such access will realise the recreational potential of waters and the land for the general public. New Zealanders value a free, outdoors lifestyle, gaining enjoyment of the environment and benefit from the rural experience without undue loss or disruption to people who live on the land and with consideration of different cultural values. For the terms of reference this access is pedestrian access, although it is necessary to consider vehicular access, as the range of outdoor activities is increasing and outdoor terrain vehicles are more frequently being used.

Responsible public access through private land in New Zealand means balancing public and private rights, and an accepted community expectation that people who ask for access are likely to be given it. Submitters assert that it should be the landowner's right to grant permission to private land where there is no practical alternative to gain access to public land. Most submitters are against proposals to create a right to roam on the grounds that a right to roam would prove not only prove difficult to manage, but ultimately destructive of the relationship between the public and rural landowners and the need that the New Zealand economy has for a productive, motivated rural sector.

There are a range of potential new access arrangements and site-specific solutions ventured by submitters. The proviso for any proposals to clarify access and to address the issue of land access is that there is no further privatisation of public reserves and roads and the retention of public access to public lands, including accessways as part of high country tenure reviews. There should be no payment for entry to or through Crown or privately owned land, unless a service is provided. A centralised agency would be effective to deal solely with access issues and act as an impartial institution for the negotiation of satisfactory access arrangements. A related code of behaviour for access would nurture a stable landowner - recreationalist relationship. Legislation should clearly define the public's right of access and prevent the sale of access rights for commercial purposes.

## Appendix

**Table 1**

### Regional location of submitters

Region	Number of Submitters
Canterbury	39
Wellington	39
Auckland	27
Otago	27
Hawkes Bay	15
Nelson	12
Bay of Plenty	9
Taranaki	7
Northland	6
Manawatu	5
Marlborough	5
West Coast	4
Southland	3
Waikato	3
Wairarapa	3
Coromandel	2
Taupo	2
No location given	25

**Table 2**

### Five localities where the most submissions came from

Location	Number of Submissions
Wellington	33
Christchurch	16
Dunedin	16
Auckland	13
Nelson	10

**Table 3****Locations where access problems exist, referred to by Submitters**

<b>Location</b>	<b>Number of References</b>
Ahuriri River	1
Alford Scenic Reserve	1
Ashburton	1
Banks Peninsula	3
Bay of Plenty	1
Cactus Bay	1
Canterbury	3
Carlyle Stream	1
Catlins	1
Coromandel Peninsula	1
Crooked River	2
East Coast	1
Forest Creek	1
French Pass	1
Glenhope	1
Hart's Creek	1
Hauraki Gulf	1
Hawkes Bay	1
Hinuera Cliffs	1
Hurunui River	2
Kaimanawa Forest Park	1
Kawarau River	1
Kawau Island	2
Kaweka Forest Park	1
Keikei	1
King Country	1
Lake Rotoaira	1
Lake Rotoiti	1
Lake Rotorua	3
Lake Waimanu	1
Landsborough Station	1
Lilybank Station	1
Lincoln	2
Mahinerangi	1
Makara Beach	2
Mangatainoka River	1
Marlborough Sounds	1
Maungatapere	1
Mesopotamia	1
Mohaka River	5
Molesworth Station	2
Mount Aspiring	1
Mount Herbert	2
Mount Tarawera	3
Nelson	1

Nevis River	1
Ngapotiki Station	1
Ngaruroro River	2
Otago Peninsula	2
Paeroa Ranges	1
Piemelon Bay	1
Poronui Station	3
Quartz Hill	1
Queenstown	1
Rainbow Station	3
Rangitata River	2
Rangitikei River	1
Ruakitiri River	1
Saint Mary Range	1
Shotover River	1
Southland	1
Tangihua	1
Tararua River	1
Taupo	1
Taupo Tongariro River	1
Taurarau River	1
Te Awaiti Station	1
Te Mahia	1
Tongaporutu River	1
Tongariro Lodge	1
Tuki Tuki River	2
Turnbull River	2
Tutaekuri River	1
Upper Clutha River	2
Waianakarua River	1
Waiarau River	1
Wairoa River	1
Waitaki River	1
Waitemata Harbour	1
Wanaka	1
Wangapeka Track	1
Wellington	1
West Coast	3
Whakatane River	1
Wharariki Farm Park	1