

SALE OF THE CENTURY

NEW ZEALAND CROWN LAND CARVE-UP

By Gerry McSweeney Conservation Director

The Government's 16 September 1985 decision to restructure environmental administration in New Zealand caused momentous changes in the management of our public lands.

Those lands and forests principally used for commercial farming or forestry were to be vested in a Forestry Corporation and a Land Corporation. Parks and reserves and the Crown's natural and culturally important lands were to be administered by the Department of Conservation (DoC). DoC was also given responsibilities for marine and freshwater ecosystems.

The ink was hardly dry on the Cabinet decision before the scramble for public lands began. Apparently there was standing room only in the annex where the press release was prepared announcing the Cabinet decision. Prospective heads of the new corporations jostled to ensure the wording favoured land allocations to the corporations.

Allocation Process Hindered

Confusion between Cabinet decisions and subsequent re-interpretation of those decisions by officials in press statements, departmental memos and even in papers to the Cabinet Policy Committee on issues as

"Some might say it is conservation gone mad . . . More and more areas of a productive nature had been demanded (for conservation) and usually agreed to . . . The allocation criteria had been totally one-sided."

— George McMillan, Chief Executive, Landcorp.
(Christchurch Press 19/5/1988)

diverse as West Coast forests, high country pastoral lease and riverside reserves hindered the land allocation process for the next two and a half years.

Significantly, Deputy Prime Minister Geoffrey Palmer found it necessary at the height of the public debate over land allocation in May 1987 to resurrect the original wording from the 16 September 1985 decision when advising Government MPs how to respond to mounting public concern over land allocation.

Landcorp, for example, was supposed only to get "lands primarily used for farming purposes". However, shadow land allocations drawn up within the Lands and Survey Department interpreted this very loosely to include any land used for farming, with farming potential or even without any farming value but acquired as part of a broader package of farmland. Hence huge blocks of unfarmable mountains in Molesworth, the Eyre Mountains of Southland,

shrublands in Golden Bay and Taranaki and the Far North were allocated for sale to Landcorp.

The two greatest problems with the initial carve-up of the Crown estate were the absence of allocation criteria and of any public participation. In late 1985 the Government made the decision to exclude the public from the land allocation process. Soon after this it scrapped its proposed Crown Estates Commission designed to oversee the process — before the Commission had even met. A further problem compounding both the other two was the lack of time and Treasury.

Ministers and their officials were insistent that the carve-up could be done quickly. Associate Finance Minister Richard Prebble went so far as to claim he could sit down with Lands Minister Koro Wetere and sort out any land carve-up problems in an evening!

Public Excluded

From September 1985 onwards staff in the Lands and Survey Department and the Forest Service prepared shadow land allocations. Belatedly in July 1986, staff of the DoC Establishment Unit were invited to object to those shadow allocations. They were expressly forbidden by Ministers to consult the public in this review process and were given a ludicrously short time — particularly at the regional level — to assess the allocations and lodge objections.

For the rest of 1986 and in early 1987, DoC staff negotiated with Corporation staff over contested allocations in a process mediated by a Ministerial Committee chaired by Geoffrey Palmer. Finally, on the 17th March 1987, DoC and Corporation officials signed schedules confirming the final allocation of Crown lands. Soon after, in mid-April 1987, Palmer announced that land allocation schedules and explanatory maps were available for public scrutiny and comment by the end of April.

Public Relations Disaster

His announcement was followed by howls of public protest from throughout the country when people discovered many of the maps and schedules were either incomplete or unavailable. For example, not until 26 May 1987 were the allocation maps of much of Northland publicly available.

The lack of maps as well as the absurdly short time for comment incensed conservation and recreation groups. Worse still was the discovery that many of the maps contained mistakes. Parts of the Wanganui and Tongariro National Parks were found to be allocated to the Corporations, as were riverbeds, lakes, pastoral lease mountain land and even private farmland (including a portion of freehold land owned by our Waikato Forest and Bird Chairperson!). The entire Arawata Valley, in the heart of our proposed South West NZ World Heritage area, was scheduled for sale to Landcorp as was the 25,000 hectare Walter Peak station — a

special lease identical to pastoral lands which the Government had resolved would stay in Crown ownership.

Early on, conservation and recreation groups had realised the process was going awry. During 1986 we had been embroiled in a debate over the future allocation of the 2.4 million hectares of pastoral leasehold high country and of the native production forests of North Westland. Both of these issues were resolved by a special procedure.

In August 1986 I was appointed on a part-time basis as a consultant to the DoC Establishment Unit and much of my time was occupied with land allocation issues. Nevertheless, like all other staff in the unit, I had been sworn to secrecy on land allocation issues.

Molesworth a Test Case

Word did however leak out. A Federated Mountain Clubs-Forest and Bird group that met the Establishment Unit in October 1987 chanced during a tea break upon an allocation map of the 182,000 hectare Molesworth Station in Marlborough. The entire station — 82 per cent of which is high mountainland unsuitable for grazing — was scheduled for sale to Landcorp.

"It is not a question of whether we trust Land Corporation or not. But it is a question of whether certain lands are retained in Crown ownership or whether they go into Corporation ownership, which means they effectively become private land. A certificate of title could be issued and they could be sold on the open market."

— Philip Woollaston, Associate Minister for the Environment —
(NZ Farmer 11/5/1988)

Dr Hugh Barr, vice-president of FMC, pushed the panic button and for the next three months a debate raged over Molesworth's future. In many ways it symbolised the principles involved in the Crown land carve-up.

Acquired by the Crown in the 1930s after it was wrecked by overgrazing and rabbit infestations, Molesworth had been restored through careful conservation management by the Crown. By the 1980s however there was increasing recognition of its ecological importance and recreational value.

Soil and water protection, scenery, historical sites, nature conservation and recreation were all tentatively recognised in a 1986 Molesworth strategy plan as having equal if not more importance than cattle



Mailbox Inlet, Lake Tekapo. The wetlands on the margins of the lake were allocated for sale to Electricorp, a move which could have had major repercussions for the endangered black stilt which breeds here. Photo: Gerry McSweeney

farming. Hence the public outrage at its privatisation for purely commercial farming. "Molesworth – Hocking off the Crown Jewels" headlined a *Dominion* newspaper feature at the height of the debate.

If the Crown could sell its largest single property with undisputed conservation value it seemed nothing was sacred. We argued that although Landcorp should continue the cattle farming, there was no case for privatising Molesworth and losing con-

trol over all its important non-commercial values. Recognising the explosive potential of the issue, particularly for a Government under pressure from the Labour left over the sale of public assets, Geoffrey Palmer personally intervened. He visited the property with DoC and Landcorp officials in late January 1987 and late during a candlelit evening in the historic Tarndale homestead a compromise was sorted out. Molesworth would remain as Crown land. Landcorp

would manage the farming venture and jointly with DoC develop a management plan to recognise and protect Molesworth's many other values.

Unparalleled Voluntary Effort

Flushed with success from the Molesworth debate, Forest and Bird, Federated Mountain Clubs and the Acclimatisation Societies anticipated a big battle ahead when the carve-up schedules were finally made public from

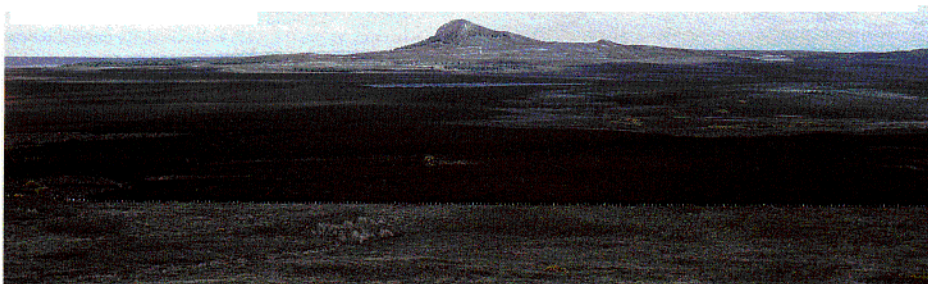
* NOTE: Gerry's sequence of events is wrong. There was no "anticipation" by Gerry or the other PLC Principals of "a big battle ahead", as a result of the Molesworth 'leak' of October 1987. His article construes the Molesworth case as leading to the release of the official land allocation schedules, and the subsequent campaign by the PLC. My research occurred 6 months before events on Molesworth. It was in April 1987 that I reported to Gerry on misallocations in Southland, Otago and Canterbury. Prior to this, there was no knowledge within the PLC of any major allocation problems.

I instigated my research, initially in Otago only, contrary to Gerry's instructions. He did not want me spending time on this because he had been assured by officials that the process was okay. I found gross misallocations. I alerted Gerry – to his credit he realised the national implications and progressively agreed to me also looking at Southland and Canterbury. A similar story emerged. The national campaign THEN followed, with Molesworth as an add-on. Gerry was central in ensuring action at the political level and in ensuring funding and staffing for the huge effort involved.

However I was the first person outside of Government to uncover the flaws in land allocations. I also set up a system for evaluating these, taught others how to go about the task, and did much of the donkey-work in Wellington along with Mark and Allison. Credit where it is due! Bruce Mason, former Researcher for the PLC



The Wharekauri block on Chatham Island has important peatlands and lakes, and its coastline has many nesting pairs of the endangered Chatham Islands oystercatcher. Photos: Mark Bellingham and Harro Muller (oystercatcher)



April 1987 onwards. We formed the Public Lands Coalition and challenged all our branches to quickly review the land allocations in their areas. Our members' response was fantastic. People took time off work to pore over plans at Government offices in their districts. We received hundreds of phone calls detailing misallocations.

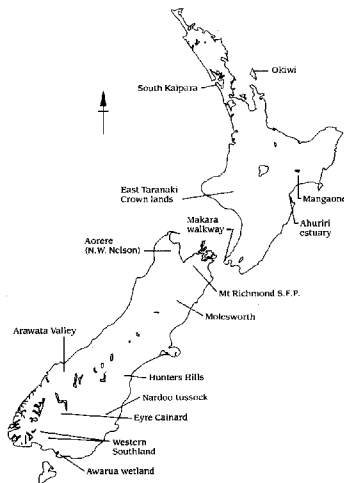
Bruce Mason, researcher for our High Country Coalition, shelved his high country work to review allocations throughout New Zealand. He was joined by all the staff of Forest and Bird, some Acclimatisation Society staff and volunteers from all three organisations. For two months we worked almost continuously. Forest and Bird's Wellington office was overwhelmed by maps and schedules as our team worked up to 16 hours a day, 7 days a week. Cadastral maps for the whole country were traced onto topographical maps. Based on extensive field knowledge of New Zealand, hurried checks with local members, and intuition based on landscape and map interpretations, we prepared our own schedules.

Despite forewarnings, we were not prepared for the scale of land misallocation. We discovered:

- Tens of thousands of hectares of high mountains under recreation permit had been mistakenly mapped for allocation to Landcorp contrary to Cabinet decision.
- National park land had been mapped for sale to the Corporations.
- Vast areas of native forest and shrublands in Wanganui, Taranaki and Nelson were scheduled for sale to Landcorp and Forestry Corp.
- Nationally important wetlands at Kai- maumau, near Kaitaia, at Okiwi, Great Barrier Island, around the Piako-Kopua-tai peatdome, on the Chatham Islands, in Westland, and around Lake Ellesmere were scheduled for sale.
- Proposed tussock land reserves in the mountains of Otago and Southland were zoned for sale to both Landcorp and Forestry Corp.
- Historic sites throughout the country and even a marae in Northland were scheduled for sale.
- Agreed boundaries defined in the West Coast Accord had been altered so that at least an additional 30,000 hectares of protected virgin beech and rimu forest was mapped for sale to Forestry Corp.

On 12 June 1987 our Crown land catalogue – a 300 page, 2 volume book which listed about 3,000 misallocations totalling 600,000 hectares was presented to Geoffrey Palmer. He also received 260 public objections from throughout the country. Palmer described our book as a "thorough, comprehensive and brilliantly researched case" and in a subsequent *Checkpoint* radio interview, commented that it just proved the value of public input – you could get the public to do your job for you! To his credit, he immediately set up a public review process.

The Public Lands Coalition, Federated Farmers and the Maori people were invited to join Government and Corporation officials on a technical advisory committee which developed land allocation criteria over June and July.



Breakthrough in Allocation Criteria

Ably chaired by Denise Church of the Environment Ministry, this committee achieved a breakthrough in land use in New Zealand. In addition to criteria acknowledging conservation, cultural, scenic and recreation values, the criteria required that the corporations also satisfy commercial criteria for allocation. Corporations claiming Crown land were required to demonstrate the likelihood of a commercial return from the land. This could then be assessed against the non-commercial values.

For the first time the shoe was on the other foot. Commercial use of land was not to prevail automatically over non-commercial use. Rather it would have to prove its viability. Subsequently this criterion proved vital in determining the conservation allocation shrublands (full of fernbird and kiwi throughout the country — previously allocated to Landcorp as "potentially productive farmland". Equally the miserly \$31 per hectare Forestry Corp was prepared to offer for the virgin forests of Rowallan in Western Southland could be weighed against their outstanding conservation value. For the

High Country Pastoral Leases

The 2.4 million hectares of South Island High Country (10% of New Zealand) under pastoral lease includes high mountains, glaciers, vast natural tussocklands and many rare plants and animals. In February 1986, the Prime Minister assured high country farmers that Landcorp would be sold these leases. We ran a major campaign against this decision over the next 6 months. Finally, in September 1986, the Government decided to retain the leases land in Crown ownership. Landcorp was to manage the leases as the Crown's agent. The Conservation Department was to safeguard conservation and recreation values on the leases.

previous decade we had argued against Lands and Survey and Forest Service un-economic bush clearance schemes. At last such schemes were to be subject to economic assessment. Under such judgement, the proposals were shown to be pointless.

In August and September 1987, officials applied the allocation criteria to the 3,000 cases identified by the PLC.

450,000 Hectares Reallocated to Crown

In October, their recommendations were made public. The majority of the contested cases were allocated to DoC. However, in about 40 percent of the individual cases we considered officials had still erred in applying the criteria. We immediately undertook a further intensive review. In the Crown Land Catalogue Stage 2, we detailed and mapped a further 300 cases totalling 150,000 hectares which remained misallocated. Most prominent amongst these were the 33,000 hectare Western Southland Beech forests, the 30,000 hectare Eyre Creek-Cainard mountainlands in Southland, wetlands of Okiwi station on Great Barrier, shrublands in Taranaki, Golden Bay and the Gisborne region and many riverbeds.

From December 1987 to February 1988 we worked with DoC and Corporation staff to try to resolve these outstanding issues. Final decisions were made by the Ministerial Committee on Land Allocation chaired by Philip Woollaston with Fran Wilde MP (Conservation), Peter Tapsell MP (Lands, Forests) and Peter Neilsen MP (Finance). During this period as well as the comprehensive cases from the Public Lands Coalition the Conservation Department and the corporations (17 separate cases were prepared for Eyre-Cainard, 14 for Western Southland), Ministers received thousands of public submissions on land allocation. The Prime Minister received well over 1,000 letters supporting protection for the Western Southland forests alone.

Decisions finally reached by Ministers recognised both the Conservation and Corporation values of the lands and a number of compromises were reached. The majority however favoured the Conservation Department – primarily because most of the lands

Government is now pushing for a split of the leases between the conservation and production lands. There are many parts of the leases such as mountain tops which are unsuited for grazing and areas which contain high conservation values that should be allocated to DoC. Equally there are parts which are best suited to intensive farming and could be freehold. A residue remains of multiple use tussocklands which both Forest and Bird and recreation groups (our High Country Coalition) and High Country Federated Farmers believe should be retained in Crown ownership and managed for conservation, recreation and pastoral farming. Treasury disagrees and wants to sell off the lot! The debate continues.

were marginal for production but of undisputed conservation value;

- Wetlands on Okiwi came to DoC because of their value for brown teal.
- Eyre-Cainard was split with DoC getting 20,000 hectares of the mountainlands containing rare plants and the soil and water protection zone while Landcorp got the 10,000 hectares predominantly used for farming.
- Wild duneland on South Kaipara head (near Muriwai beach, Auckland) came to DoC in acknowledgement of their wetlands, wading bird habitat and outstanding landforms.
- Most of the West Coast Accord boundaries were reinstated to ensure that DoC got most of the virgin forest areas.
- Natural areas on the Wharekauri Crown land block on the Chatham Islands were either allocated to DoC or protected by legal covenant.
- The 3,000 hectare Mangaone shrublands and forest adjoining the Urewera National Park were reallocated to DoC and shrubland and forest on the nearby Ohuka and Waihi North blocks protected by covenant.
- Boundary readjustments were made in the Nelson region with approximately 30,000 hectares of beech forest reallocated from Forestry Corp to the North West Nelson and Mt Richmond Forest Parks while shrublands in Golden Bay also came to DoC.

The last major contentious land allocation decision was made on 9 June 1988. Cabinet ended more than two years bitter debate by allocating 23,000 hectares of the Dean, Rowallan and Longwood forests in Western Southland to DoC. This included all the virgin forest areas. 10,000 hectares of heavily cutover forest is to be offered for sale to Forestry Corporation who have tentatively indicated they are not interested in it.

The great Crown land carve-up is still incomplete but the bulk of the division of New Zealand's former 13.5 million hectares of Crown land – a staggering 52 per cent of the country – is over. The Department of Conservation will now be the guardian of about 30 per cent of New Zealand's land area. Should the Waitangi Tribunal find in favour of a claimant over land sold to the corporations, the Crown will implement the Tribunal's recommendation. That came about as a consequence of the Maori Council's High Court injunction and the subsequent Court of Appeal ruling. This legal review was a quite separate process from the administrative review we initiated.

Our debate with Forestry Corporation and Land Corporation was often bitter and intense. Property rights issues will always be so. Nevertheless all the members of the Public Lands Coalition acknowledge the enormous contribution of staff of the Conservation Department – spearheaded by Alan Ross, John Halkett and John Holloway; Landcorp staff, particularly Graham Grant, and Forestry Corporation staff led by Peter Berg as well as Survey and Land Information staff and Environment Ministry staff who chaired the negotiations.

We also appreciate the Government's belated recognition of the interest and role of



the public. The process initiated by Geoffrey Palmer found a champion in his Associate Minister Philip Woollaston, appointed in mid-1987 after the election. He insisted throughout on sticking to allocation criteria and on involving public interest groups in direct negotiations to resolve issues. His fair-handed approach resulted in resolution of the debate.

Challenges Ahead

Negotiations are still continuing on safeguarding public access rights across lands scheduled for sale to the corporations. A formula has also been developed which guarantees access reserves called marginal strips alongside rivers, lakes and the sea coast on corporation land. Further areas of Crown land have been identified which have yet to be allocated. We are now making submissions on those areas which total several hundred thousand hectares.

The Government has also ruled that asset allocations to other State Corporations should be subject to the allocation criteria developed by the Technical Advisory Committee. Both Telecom and Electricorp have co-operated with this ruling. Important conservation land in the Awarua wetlands near Invercargill, the Makara coastline near Wellington and at Warkworth in Northland will be protected. Riverbeds, river margins and wetlands formerly controlled by NZ Electricity Division will also be protected and not sold to Electricorp. Another major challenge ahead is the Government ruling that the land assets of the Railways Corporation should also be sieved to identify conservation lands deserving protection. Many wetlands, estuaries and native forest remnants come into this category. This exercise will yet again test the skill and enthusiasm of our members throughout the country.

The other allocation issue still unresolved is the future of 311,000 hectares of



Russell State Forest (foreground), the largest remaining area of regenerating kauri forest, was first allocated to Forestrycorp, then Department of Lands and finally the Conservation Department. Photo: Mark Bellingham

In June 1987 Deputy Prime Minister Geoffrey Palmer (left) accepted the voluminous report from the Public Lands Coalition which turned around the course of land allocation in favour of conservation and recreation. Representing their respective organisations were, from second to left, Gerry McSweeney (Forest and Bird), Bryce Johnson (Acclimatisation Societies) and Hugh Barr (Federated Mountain Clubs).

former state forest south of the Cook river in South Westland. The Government would do well to learn the lesson of the Crown land carve-up debate. The New Zealand public will not accept the privatisation of public lands with high natural value.

The most important lesson is the need for continuing vigilance by non-government conservation and recreation groups.

While conservationists welcome the Department of Conservation, this issue well illustrates the limitations of a Government agency. A ministerial ruling requiring secrecy can severely inhibit the activities of a Government agency but not those of public interest groups. A partnership between DoC and non-government groups can be a formidable combination.

Looking to the future, the same partnership which secured protection for New Zealand's publicly-owned natural lands will now be needed to ensure that DoC is adequately financed in order to safeguard the lands it oversees. Our support for DoC is vital for its survival.

I wish to pay tribute to all the members of the groups that make up the Public Lands Coalition. In particular outstanding efforts were made by Mark Bellingham, Bruce Mason, Kevin Smith, Alison Davis, Sue Maturin, Hugh Barr and David Henson.

West Coast Forest Accord

In November 1986 this accord was signed between Government, the Conservation Movement and the timber industry. It finalised the production protection split of North and Central Westland native forests and largely ended twenty years of intense public debate.

Two-thirds of the lowland forests were given protection and a third zoned for sale to the Forestry Corporation to enable it to meet legal sawlog commitments and to provide the basis for a small scale sustained yield beech scheme. Although minor debates continue on some boundary definition, the Accord remains intact today.