

# Hands off Greenstone Valley!



Government is on the brink of giving a nationally important recreation area to a private developer. The Greenstone, Caples and upper Mararoa valleys, and surrounding mountain lands near Queenstown, are close to being given to the Ngai Tahu Maori Trust Board. Ironically the injustice this would create for most New Zealanders would be in breach of the Treaty of Waitangi. Private ownership or control has the potential to restrict access to only those willing and able to pay entry or user charges. It would also give impetus to the privatisation of South Island's high country pastoral leasehold lands for tourism purposes. This simply cannot be allowed to happen.

The valleys are nationally and internationally acclaimed tramping, fishing and hunting areas.

Public Access New Zealand believes that the only way to secure public use of these outstanding places is to add them to adjoining national park and conservation areas. PANZ also believes that Government should be using state-owned enterprise lands for settlement of *proven* aspects of Ngai Tahu's land claims rather than *unrelated areas of high public interest* such as the Greenstone Valley.

“Hands off the Greenstone Valley” is a message directed at Government.

# Whose injustice?

## Tipene O'Regan on Ngai Tahu land claims

“The Ngai Tahu claim was not based on the Treaty, but on the Pakeha law of contract...in the South Island there was a breach of contract” (Tipene O'Regan, Chairman Ngai Tahu Maori Trust Board, *The Press* 11/6/93).

“[The Otago Fish and Game Council] is also quite correct in stating...that the Greenstone etc. pastoral leases are not the subject of a proven (specific) grievance, and are thus not lands wrongfully taken which should be returned. Unfortunately for Fish and Game, that does not snuff out Ngai Tahu's legal interest. This area was subject to land sales contracts where the Crown was obliged to set aside one tenth

of the land sold, and failed to (“reserves not awarded”). There is therefore justice in the Crown buying the land as it became available, with the cost for deduction from any settlement with Ngai Tahu” (*Mountain Scene* 4/11/93). **NOTE:** The Ngai Tahu Trust Board only claimed before the Waitangi Tribunal that it was entitled to ‘Tenths’ under the Otakou (greater Dunedin) purchase. The Tribunal found that there was no such legal obligation on the Crown. All the lands supposed to be reserved to Ngai Tahu were in lowland and coastal locations between Kaikoura and Southland. The Tribunal confirmed that all the South Island high country was legally purchased by the Crown.

## The Contracts

The area was purchased by the Crown under the ‘Kemp’ and ‘Murihiku’ agreements (extracts below)—

### Kemp Deed (Canterbury, inland Otago) 12 June 1848

Know all men. We the Chiefs and people of the tribe called the “Ngaitahu” who have signed our names & made our marks to this Deed on this 12th day of June 1848, do consent to surrender entirely & for ever to William Wakefield the Agent of the New Zealand Company...the whole of the lands...(the condition of, or understanding of this sale is this) that our places of residence & plantations are to [be] left for our own use, for the use of our Children, & to those who may follow after us, & when the lands shall be properly surveyed hereafter, we leave to the Government the power & discretion of making us additional Reserves of land, it is understood however that the land itself with these small exceptions becomes the entire property of the white people for ever.

We receive as payment Two Thousand Pounds...

### Murihiku Deed (Southland) 7 August 1853

Let all the Nations know. We the chiefs and all the people of all the lands lying within the boundaries hereunder written, derived through our ancestors from whom it descended to us...have written our names and marks as the act of consent of us, for ourselves, for our relations, for our families, for our heirs now living, and our descendants who shall be born after us, entirely to give up all those our lands which have been negotiated for, the boundaries of which have been described...to Her Majesty the Queen of Great Britain, her heirs and successors for ever, as a lasting possession for her or for the Europeans...

And whereas we have agreed entirely to give up our land within the boundaries hereunder...the Commissioner for extinguishing Native Claims...agrees that he will pay us the sum of two thousand pounds sterling...

Now these are the boundaries of the land which have been alienated; ...[and] all the lands within those boundaries, with the anchorages and landing places, with the rivers, the lakes, the woods, and the bush, with all things whatsoever within those places, and in all things lying thereupon.

All the lands, and all other things above enumerated, and which lie within the boundaries above recited, have been entirely surrendered to Her Majesty the Queen for ever and ever.

## The Minister of Justice on the Treaty of Waitangi

“As subjects of the Crown...all New Zealanders have rights under the Treaty” Hon. Doug Graham, *Otago Daily Times* 31 March 1993.

“...the Crown would want to ensure that any transfer to Maori of any Crown-owned asset would not directly prejudice any third party, including the New Zealand public, since any further injustice would also be in breach of the Treaty” Hon. Doug Graham 17 August 1992.

## **\$6.85 million buy-out**

In 1992, at the request of Ngai Tahu, the government purchased the lessees' interests in three pastoral leases covering the Greenstone, Elfin Bay and Routeburn Stations. A highly inflated price of \$6.85 million was paid for the three grazing leases. The underlying land, including conservation values and its potential for recreation and tourism, was already owned by the Crown. Approximately 27,000 hectares were placed in a 'Land Bank' for *possible* (Government's term) future settlement of Ngai Tahu land claims. All the land is now unoccupied Crown Land (but farmed for the Government) pending decisions on its future.

The former pastoral leases cover valley floors and mountain tops and are intermingled with forested public conservation areas and mountain lands in the Mount Aspiring and Fiordland national parks. Substantial public facilities (huts and tracks) are established on the former leasehold without any formal protection or rights of public usage. Secure public access is almost non-existent; public access has been completely at the discretion of the landholders.

Ngai Tahu have expressed an interest (possibly for development, or licences for use) in the adjoining public areas as well.

## **Outstanding recreation and conservation values**

For several hundred years visitors have walked the Greenstone Valley crossing of the southern alps. Firstly there were Maori en-route to the pounamu (greenstone) resources of the west coast. For the last 100 years there have been trampers, hunters and anglers. This is an unroaded, readily accessible, low altitude walk within the capability of most people. The Greenstone and Caples valleys now attract at least 2000 trampers per year. There is also a walkway to the Mavora Lakes via the Mararoa Valley.

Public use is not confined to following a few popular tracks. There is a lengthy history of informal 'wander-at-will' over much of the properties. Technically this has been trespassing.

Recently a draft National Water Conservation Order was notified which recommends that the Greenstone and Caples rivers be "preserved in their natural state"—the highest level of protection available—because of their outstanding trout fisheries, ecosystem and natural qualities.

In a report on 'conservation values' the Department of Conservation identified the following recreational features—

- An internationally important wilderness trout fishery
- An internationally important tramping track network
- A nationally important recreational hunting area

## **Secret deals —no public consultation**

Government is involved in secret negotiations with Ngai Tahu and has rejected requests for public consultation on the future of the stations. Government has only given selected interest groups, including PANZ, opportunity to comment on a DOC assessment of conservation values. No call has been made for public comment on the appropriateness of a

'settlement' involving these lands, or the form of such a settlement. Ngai Tahu has announced their intention to operate various new tourism ventures that centre on acquiring the stations. Despite such assumptions of ownership, Government denies that any decisions have been made about the properties.

The Government has decided only to consult with those groups which it considers to have "a clear and appropriate interest" (Doug Graham 2 February 1994). According to Government the wider public's views aren't worth hearing!

## **Hollow assurances from Government**

The Government has frequently said it will not contemplate the erosion of *existing* public access to these lands, nor harm to their conservation and recreational values, and that the rights and obligations of Ngai Tahu will be no different from that of the previous lessees. However the previous lessees held trespass rights over all the leasehold. There were no *legal* rights of access over the former leasehold and still none as Crown land.

There are unformed roads bisecting the former leases but these do not coincide with the walking tracks. There are marginal strips only along the banks of the Caples and part of the Mararoa rivers, but no practical means of access to them. There is a history of access problems for hunters wishing to reach the Recreational Hunting Area on adjoining public land.

What is needed is greatly *improved* rights of public access over and through the former leaseholds. Government has not indicated how recreational and conservation values would be protected if the land were passed to Ngai Tahu. PANZ believes that public ownership and control is the only way to properly safeguard the outstanding public values of the area.

## **Ngai Tahu intentions**

A multimillion dollar monorail up the Greenstone Valley to Milford Sound was the first indication of Ngai Tahu's plans for the area. This proposal has been in the headlines for months although, for the time being, this is "on hold". A 'transportation link' of some kind through the valley is a long-term ambition. However this would greatly reduce the attractiveness of the valley as a popular tramping route. "Eco-tourism" in general has been advanced as an intention, associated with major developments in Queenstown and developments on-site.

Ngai Tahu also want to farm the area and has talked of increasing stock numbers in the sensitive Mararoa headwaters. But the Crown Research Institute have noted serious stock damage to bush edges from existing stocking. Wetlands are also being adversely affected. Ngai Tahu's wish for freehold over the whole area is strongly supported by Federated Farmers who see a 'precedent value' for all the other pastoral high country of the South Island. Under freehold ownership, or exclusive occupation under a leasehold, the door would be open for exclusive fishing and hunting and tolls over walking tracks. This would not only 'lock-up' the natural resources of this area but could prevent or greatly inhibit public use and enjoyment of the adjoining national parks and conservation areas.

The Ngai Tahu Trust Board's hostile or dismissive reactions to public interest in the area, and to the existence of recreation and conservation values that might inhibit their ambitions, are fair warning of the likely consequences of their gaining control. "Ngai Tahu was comfortable with the current level of *legal* access but would not commit itself to improving legal public access. Ngai Tahu was hostile to the marginal strip theory", and, "the Department of Conservation had exaggerated the conservation values...many of the department's ambitions to protect the values...were unreasonable...the DOC report included some "balmy conservation values" and "went overboard with phobias..." (Tipene O'Regan, *Otago Daily Times* 15/11/93). Mr. O'Regan's line is 'give us the ownership of the area first, then we will discuss protection'. PANZ believes that it would be totally irresponsible and unjust of Government to adopt such a course.

### Strong public reactions so far

The issue has been running hot in Otago and Southland newspapers for months and was aired on *Frontline* (TVNZ) before Christmas. At a recent DOC 'invitee-only' meeting in Queenstown there was endorsement of DOC's identification of very high conservation and recreational values in the area, but condemnation of the lack of a proper public consultation process. The meeting asked Government not to make decisions on the future of the area prior to such a process being implemented.

Approximately 7000 people, many from Queenstown, have signed a petition opposing any development of a monorail or road in the Greenstone Valley.

*Government's secrecy over the matter, its lack of public consultation, its continuing efforts to blur issues of public access and public ownership, and the unjust proposed allocation to one interest at the expense of all others, are some of the reasons why the public should reject the proposal.*

### What we want

- full public consultation
- retention of all areas of value for recreation and nature conservation in full public ownership and control
- an equitable settlement of *proven* Ngai Tahu land claims in accordance with the Waitangi Tribunal findings and the Treaty of Waitangi. There are 135,000 ha of Landcorp farms in the Ngai Tahu rohe (tribal area) better suited to claim settlement than high public interest Crown lands, and national parks etc.

### What you can do

- write a letter to your MP
- visit your MP
- write a letter to your local newspaper
- get your club or friends and family to do the same
- copy and circulate this pamphlet
- become a subscribing supporter of PANZ. We need your financial support to enable continuation of a full-time effort to protect public rights to the outdoors. Write to us and we will send details.
- put a 'Hands Off Greenstone Valley' bumper sticker in a prominent place on your car, boat etc.

Stickers (kindly supplied by Otago Fish & Game Council) are available free from—  
Public Access New Zealand  
P O Box 5805, Moray Place, Dunedin

Enclose a self-addressed and stamped medium size envelope  
(NZ Post Standard Letter Size)

*Announcing a fresh look at the Treaty of Waitangi and its implications for natural resources and public policy—*

### The Principle of 'Partnership' and the Treaty of Waitangi

A review of the validity of a principle of 'partnership' under the Treaty of Waitangi, and its application to the ownership and control of New Zealand's public conservation and recreation estate.

Available from the publisher:  
Public Access New Zealand Inc.  
16 pages. \$3, plus \$1 postage.

---

### Public Access New Zealand

Public Access New Zealand is a charitable trust formed in 1992. PANZ's objects are the preservation and improvement of public access to public lands, waters, and the countryside through the retention in public ownership and control of resources of value for recreation. PANZ draws support from a diverse range of land, freshwater, marine, and conservation interests representing approximately 250,000 people from throughout New Zealand

---