

Public Access New Zealand

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News Media Release

SETTLEMENT HELPS PROTECT PUBLIC ACCESS TO MT HIKURANGI

An out of court settlement was reached today over Government actions to vest the ownership of Mt Hikurangi in Ngati Porou.

Public Access New Zealand and Dr Hugh Barr filed a High Court action last year challenging successive Government actions in extinguishing public ownership of some 3700 hectares of Conservation Park on the North Island's East Coast. This transfer of ownership to Ngati Porou was not the result of a Treaty claim.

This action was filed after former Conservation Minister Nick Smith ignored legal advice that such a transfer was unlawful. In August 1999, immediately after receiving warning of our proceedings, Dr Smith rushed through a new deal with Ngati Porou that PANZ and Dr Barr believe substantially weakened public access arrangements for the mountain.

PANZ and Dr Barr hope that this case will act as a deterrent to Governments from riding roughshod over the interests of the public in their dealings with public land.

Dr Barr is a former President of the Federated Mountain Clubs of New Zealand and well-known outdoor recreationist. Public Access New Zealand is a trust dedicated to preserving and improving public access and recreational opportunities over public lands.

"What was at issue were successive Ministerial actions going back to 1985, all of which bypassed the requirements of the Conservation Act for public objection procedures when Governments wish to dispose of conservation lands", Dr Barr said.

"I was very concerned with the national implications for the security and integrity of lands held for conservation purposes, if a large area of prime conservation park land can be disposed of without public consultation".

As a result of months of negotiations the Crown has conceded that in future, before it can use the Maori Land Act as a means of divesting public ownership of conservation areas, full consideration will be given to the purposes of the Conservation Act. Also the Crown agrees that it would not be suitable to use the Maori Land Act where there are recreation, public access, natural and historic values. Moreover, the Minister of Conservation has now undertaken not to attempt to use this Act for any 'specially protected area' including conservation parks, without first seeking advice from the New Zealand Conservation Authority and the local Conservation Board. The Minister has also agreed to consider instigating public consultation. "These are most unusual concessions from a Government, and makes taking the case very worthwhile," Dr Barr said.

Bruce Mason, spokesman for PANZ, emphasised the important gains achieved in better securing public access to Mt. Hikurangi. He said there were serious weaknesses in the August 1999 agreement. "Public rights of access may now be enforced by members of the public, if necessary, although we would expect the Department of Conservation to take a keen interest in ensuring that free public access to the summit of Mt. Hikurangi is in fact maintained." The agreement now requires the Minister to take steps to remedy any breaches of access and conservation provisions.

"We have now received a clear undertaking that the Walkways Act applies. This guarantees that, except in specified periods of closure, 'every member of the public may without charge at any time pass or re-pass on foot'. These rights now extend to the summit of the mountain, something that was omitted from Dr Smith's deal," Mr Mason said.

'Off-on' access since transfer to Ngati Porou, and the Crown's reluctance to enforce its agreements with the iwi, has been cause of considerable friction with the public. "Now that Ngati Porou have signed an agreement with us that they intend to abide by public access provisions, we hope that such problems are a thing of the past", Mr. Mason said.

As well as strengthening public access rights to the mountain, the proceedings and today's agreement resulted in –

- marginal strips being laid off along riverbanks - this being an omission by the Crown.
- prohibitions on public camping in the adjoining Raukumara Forest Park being removed.
- all public access and conservation provisions being registered concurrently to land vesting.
- annual reporting on the operation of the Crown's agreements with Ngati Porou.

In return for a confidential Crown contribution to their legal costs, PANZ and Dr Barr have agreed to withdraw their proceedings.

The one big issue that was unresolved by the Barr-PANZ settlement was the return of the conservation area to public ownership. This could not be achieved through negotiation. "We still believe that the transfer of this land was illegal and could have been overturned at Court. However the Crown's negotiators made less than subtle threats to enact special empowering legislation, with no guarantees of public access if we won the case. Besides resulting in a waste of our money, such a transfer would likely occur without the kinds of protections that we were able to achieve through negotiation", Mr. Mason said.

Both PANZ and Dr Barr wish to thank supporters throughout New Zealand who contributed towards the considerable cost of the proceedings. They are also thankful that Conservation Minister Sandra Lee, who inherited this case, was willing to resolve it.

The conservation and access improvements achieved by the agreement are not confined to those noted above. The full terms of the settlement is public information and may be obtained from the PANZ web site <www.publicaccessnewzealand.org>

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