

Chainsaw reclamation

An admiral loses a resource consent skirmish and Waiheke activists raze a jetty.

By Geoff Chapple

The self-styled "Dirty Dozen" of Waiheke arrived at the Waikopou Bay jetty at 11.00am on March 31. They carried chainsaws, and over the rest of that Sunday, the jetty was summarily demolished and rafted out.

The Waiheke police arrived. They checked the authorisations. The wharf was an illegal structure and, under the provisions of the ARC's newly operative Proposed Regional Coastal Plan, its demolition was legal.

John Stansfield, formerly a Bakers and Pastry Cooks Union organiser and now Unitec project manager and Waiheke community health social worker, had the necessary ARC authority. No one could stop him and his team.

Lady Philippa Tait saw the demolition begin. Admiral Sir Gordon Tait, chairman of Lion Nathan and former Second Sea Lord, Royal Navy and former naval aide-de-camp to the Queen, arrived later. The jetty adjoined their holiday and retirement home at Waikopou Bay. They used it to tie up the dinghy from their yacht *Viking*. But they could do no more than stand on the lawn and watch.

That was another part of the dispute. The 2500sqm lawn that swept around the foreshore and joined up with the wharf wasn't their lawn. It was regularly mowed by the Taits' live-in caretaker, but, like the wharf, it too was illegal, part of an unauthorised reclamation.

Judy Voullaire, the woman whose property adjoins the Taits' and who had fought for 10 years to get the illegal reclamation either brought into public ownership or removed entirely, was there, too. The chainsaws roared, there were minor eruptions of violence involving some of the Taits' staff. One of the "Dirty Dozen" lost his ear-muffs. For a while someone dropped stones onto a spinning chainsaw blade. Voullaire says she was, at one point, struck in the face. She says that, as she stood watching, Gordon Tait called

although she had represented Waiheke environmental groups in negotiation with the Taits, and knew their viewpoint. It was also true that Sandra Lee, Alliance deputy leader, had supported Stansfield's application to take the wharf down.

Voullaire's local body history was as a conservative Citizens and Ratepayers representative. But she approved in principle of the demolition. She had always maintained that the reclamation and the jetty should go or be brought into public ownership. It was an important part of a larger pattern.

"This dispute is happening against a background of changing law, and the fact that the Department of Conservation has about 2000 pieces of land like this - it is a major test case," she says.

For Stansfield, too, the chainsaws signalled something beyond the simple destruction of the wharf.

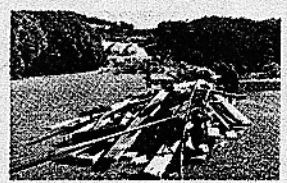
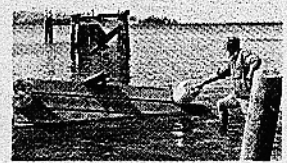
"It was a message. It also meant: we are putting you on notice that negotiation is a smart idea. You will constructively engage with the locals. You will not continue to hide behind your lawyers and consultants.

"Public ownership is about sharing. It might be a foreign concept for some, but it's not that difficult to grasp, and if it wasn't for their privilege and position, I could feel some degree of sorrow for the Taits that Sunday. Their hired help and their wig-and-gown employees do them a profound disservice by isolating them from the public."

The Waikopou Bay dispute had simmered since 1986 when Mel Jones, well-known in Auckland as a co-owner of Victoria Park Markets, 1988-93, staked out 180 metres of post-and-board frontage across the foreshore and back-filled it with thousands of tonnes of spoil from the cliff behind. The illegal reclamation was largely complete by

the time the Waiheke County Council discovered it. Removal was difficult, and the council negotiated a deal by which Jones agreed to help vest in the council all the reclaimed land that lay below the mean high water mark.

Jones was taken to court by the Department of Conservation in 1988 anyway,



Going, going, gone - the end of the controversial Waikopou Bay jetty. Sir Gordon and Lady Tait are in the background among demolition watchers in the middle picture. Bottom left: John Stansfield: "Public ownership is about sharing."

out to her: "Well done Judy - you've won a great victory for the Alliance over the Business Roundtable."

The jettyside scuffling and bitterness was regrettable, but, for Voullaire, there was a point of principle. She wasn't party to Stansfield's chainsaw approach, nor, she informed Tait, was she Alliance,

and fined \$4000. Nonetheless, say witnesses of the time, he or his staff continued to treat the reclamation as private property. Stansfield himself, coming ashore in 1990 with a group of disabled children, was warned off it.

In 1991, a tour-group of Japanese, posing beside the helipad Jones had built on the reclamation, were frightened off by shots from a semi-automatic rifle.

The legal situation remained confused. Even the Resource Management Act of 1991, which gave responsibility for the seabed below mean high water to the Auckland Regional Council, didn't clearly specify the ARC's responsibility for pre-1991 illegal reclamations.

While the authorities dithered, the wooden sea-wall was deteriorating. DOC ordered Jones to rebuild, using a sloping rock wall. Jones did not do the work.

In 1992, Jones sold his property to the Taits for a sum estimated at \$1.3 million. They inherited the unresolved problems of the reclamation, including \$100,000 set aside from the sale price to rebuild the deteriorating wall – and they set out to get some form of title.

Their solicitors sought a resource consent from the ARC for retrospective approval for the reclamation. They petitioned the minister of conservation, seeking ownership of the reclaimed land, with a plan to include a five-metre strip for public access adjacent to the rebuilt sea-wall.

The Waiheke Community Board, opposed the application. Voullaire took the matter up personally, spending \$15,000 to prepare an application to the Planning Tribunal. It noted that the bay was awash with reclamation clay, and claimed that the sea-wall was in danger of collapse. It sought the removal of both reclamation and jetty.

Voullaire says the Taits gave notice that they would oppose the application, and it was deferred while she, Philippa Tait and Russell McVeagh lawyer Derek Nolan tried to hammer out an alternative proposal.

Voullaire sought assurances that all the reclamation below mean high water mark would be brought into public ownership. In return, she suggested landscaping and minor boundary adjustments to protect the Taits' privacy and safeguard the house and swimming pool.

But amid these negotiations, Voullaire says, she received a tip to search Tait property correspondence records at the Department of Survey and Land Information (DOSLI). She used the Official Information Act to uncover a letter dated March 10, 1995. In it, Nolan asked DOSLI whether, in principle, it could agree to a sale. The reclamation would be stabilised with a new sea-wall and an area "yet to be agreed" set aside for public access along the coastline.

Voullaire says she felt betrayed by the letter. Nolan told the *Listener* that there was no attempt to deceive, because all the parties involved in the negotiation, including Voullaire, would have, in terms of the "yet to be agreed" proviso, been consulted as to the final balance of public land to private land.

Soon afterwards, Voullaire and Nolan



Judy Voullaire: felt betrayed.

broke off negotiation. Stansfield, who says he was enraged by the DOSLI letter, entered the dispute.

He set out to obtain resource consent under the Resource Management Act to knock down an illegal structure – the jetty. Russell McVeagh, concurrently, sought resource consent on two fronts. Summer storms had eroded the reclamation next to the wharf, and Russell McVeagh proposed extending the wharf back onto the natural coastline, then rounding off the storm-damaged reclamation, using existing rock.

A pre-hearing for the Tait application took place on March 25 this year, but, by then, Stansfield knew he had a huge advantage over the rival application. The ARC's Proposed Regional Coastal Plan had been publicly notified in February 1995. Though a "proposed" plan, its provisions could have the force of law, provided those provisions were not being contested as part of a public submissions process.

The plan's provisions for the removal of illegal structures were much simpler than before. There were no submissions registered against them – therefore they already had the force of law. Provided certain basic conditions were met, work could go ahead with a simple ARC approval. A resource consent was not necessary – the new procedure effectively bypassed the need to hear and, therefore, the need for the planners to judge, public submissions.

Stansfield got two letters that might have slowed his run. DOSLI's solicitor, in

a January 19 letter, noted that the Crown appeared to own the jetty, and Stansfield should not proceed without consultation. DOC's solicitor, in a January 22 letter, reminded him that the future of the jetty was still before the Planning Tribunal as part of the Voullaire application, and that Russell McVeagh was applying for resource consent before the ARC. These were the proper forums for deciding its future, and DOC did not believe the jetty should be removed.

Stansfield faxed back: "Are you trying to tiptoe through the middle? ... What's the deal? And when is the sellout?"

He had a letter from ARC coastal planner Quentin Smith, confirming his right in law to remove an illegal structure. On Sunday, March 31, the chainsaws kicked into life.

Said Gordon Tait later: "For the three years that we have lived in Waikopou Bay we have been endeavouring to find a solution to the problems created by our predecessor. We have consulted all the interested parties, we have produced several compromise solutions with comprehensive engineering plans and we have meticulously followed the requirements of the Resource Management Act. The jetty at the bay is effectively owned by the Crown and, in our time, has been used by the public. Its future was about to be decided at an imminent hearing, under the RMA. There were two applications; ours to retain the jetty as a public amenity by reconnecting it to the public easement – and Mr Stansfield's to demolish the jetty and finally destroy the remnants with explosives.

"With the problem so near legal resolution, we were astonished to see the jetty being destroyed by Mr Stansfield's chain-saw gang."

Tait told the *Listener* that he thought the land should be owned by the Auckland City Council and leased back to him on the same 999-year covenant that the ACC already held on the 60 acres of his bush – "about 60 acres as opposed to this other quarter-acre.

"We would also be quite happy if the reclamation was removed, provided there was some work undertaken to prevent our own buildings falling into the sea."

The demolition, he said, had caused them to think carefully about retirement on Waiheke. "We were planning to go down to Waikopou Bay to live, but if you'd seen what happened on the Sunday, it raises the question – would you want to live with that? And would you bring your grandchildren to stay with you?"

Is he giving notice that he might leave Waiheke altogether? "I have no comment on that." ■



Sections of the dismantled jetty are floated across the bay.

Waikopou Bay jetty demolished by chainsaw gang

Ten years ago millionaire Waikopou Bay property owner Mel Jones illegally constructed a large foreshore reclamation and jetty. Behind it he built a house, swimming pool and tennis court, which earned the nickname 'Designer Bay' because of the expanse of lawn which was once sandy foreshore.

As a result, the following year, 1987, Jones had the distinction of being one of the first people prosecuted by the newly formed Department of Conservation. He was fined \$4000 in the Auckland District Court, and in an agreement brokered with the Waiheke County Council and a DoC predecessor, the Ministry of Transport, much of the reclamation was to be vested with the council as public reserve. Public access along the foreshore was to be preserved. The jetty, similarly, was to become public property. It never happened.

Last Sunday, a team of chainsaw-wielding residents dismantled most of the jetty. The police were

called but the chainsaw gang, it seemed, were within their rights and even had the blessing of the Auckland Regional Council. Why? Because nearly a decade on, the reclamation and jetty were still technically illegal structures; the reserve classification had never been followed through.

Why? That raises more questions than there are immediate answers. The stumbling block primarily has been the reclamation's timber seawall which was not considered to have been adequately constructed. DoC wanted it rebuilt before reserve classification was formalised because it didn't want to inherit the cost of having to do it; likewise the former county council and subsequently Auckland City Council.

Interested parties, such as Waikopou Bay neighbour and former county councillor Judy Voullaire, say the years of wrangling over the seawall must be seen against a background of an underfunded and newly constituted conservation department, amalgamation with Auckland City and law changes which constantly served to blur the issue – to Jones' advantage.

However, in the late 1980s the Waiheke County Council had a caveat placed on Jones' property title effectively preventing its sale without the matters relating to the illegal reclamation being resolved. In 1991 the Minister of Conservation directed Jones to rebuild the seawall.

Voullaire says in early 1992, Jones advised the

authorities he could not afford to do this without first selling the property. Auckland City Council agreed to lift the caveat. Shortly afterwards, Sir Gordon Tait registered a company, Secret Island Investments, which entered a purchase agreement with Jones.

Sir Gordon and Lady Tait became the new owners early in 1993. Some months later they applied to have the reclamation absorbed into their title under Section 355 of the Resource Management Act on the grounds that no purpose would be served by retaining it in public ownership. The application was not successful.

It was about this time that John Stansfield, the island's community health social worker – and the person responsible for last weekend's jetty demolition – sailed into the bay on an outing with a group of disabled children. They were in the process of setting up a barbecue on the foreshore 'reserve' – oblivious to its status or history, says Stansfield – when they were told to move because they were on private property.

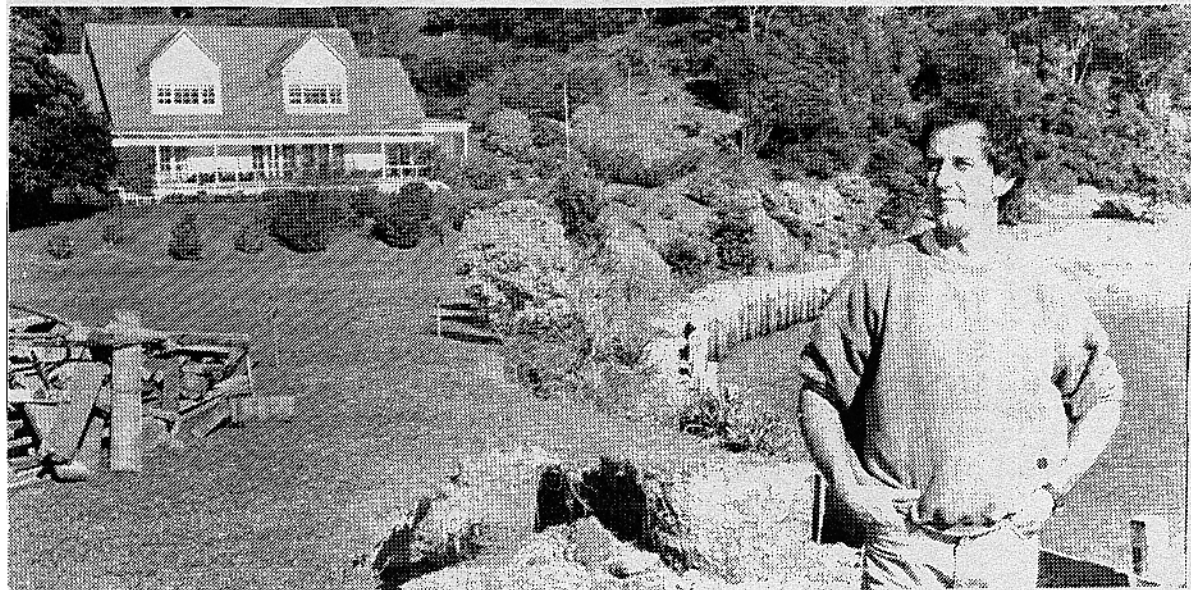
Stansfield says, while irritated at the time, he didn't give the incident much thought until later when he became more aware of the circumstances, and particularly that the Tait's had applied to take private possession of the area.

Meanwhile, Voullaire had begun an application to the Planning Tribunal to have the reclamation removed in order to force the Tait's hand.

She says that last year, when the case had been deferred in order to allow her and the Tait's to negotiate about engineering options, her neighbours were, in fact, approaching the Department of Survey and Land Information in another attempt to gain private possession of the reclamation.

The Tait's made no mention of this in a statement to Gulf News this week following the jetty demolition. "The jetty was a much valued public amenity and we were surprised to see it being destroyed by a chainsaw gang on Sunday 31 March," said Sir Gordon. "The destruction of the Waikopou Bay jetty will be much regretted by many, and particularly by those who visit the bay by sea and those who fish from the jetty."

The chain of events leading directly to its destruction began last August when Stansfield applied to the ARC to remove an unauthorised structure – the jetty – and unauthorised timbers and other materials – namely the reclamation where it had seriously eroded adjacent to the wharf. In February he received a letter from ARC coastal planner Quentin Smith confirming there was nothing to prevent its demolition as an illegal structure.



John Stansfield stands where an eroded section of the seawall joined the jetty before its demolition. The reclamation runs back towards the Taits' house in the background.

But the Taits also had an application before the ARC, to repair and extend the jetty and fix the eroded reclamation. A pre-hearing conference for all the interested parties, including environmental and community representatives, was held at the ARC on Monday 25 March. Stansfield says the community representatives wanted to discuss the issues of ongoing public ownership and access but

the Tait's lawyer refused. Nothing was resolved.

Later that week he received another letter from Smith, dated 28 March, confirming there was nothing to stop the removal of material associated with the illegal reclamation.

The rest is now history. But it's only part of the story, which was still unfolding as Gulf News went to press this week • *Simon Johnston*

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In October this year, the dispute between multi-millionaire John Spencer and Auckland City Council over ownership of a section of road is due to be finally heard in the High Court. The court, we are told, has determined there should be no further delays. Unfortunately, more than a decade after the dispute began, and four years after Mr Spencer blocked the road, such assurances tend to lose their meaning as far as any public perception of justice being served is concerned. In October, or thereafter, a complicated raft of legal issues will be resolved by highly paid lawyers and the public may or may not get its road back.

Meanwhile, another not dissimilar issue has resurfaced with the recent demolition of a jetty at Waikopou Bay by a group of local residents. As part of an illegal reclamation undertaken by Auckland businessman Melvin Lindsay Jones in 1986, this, too, has a 10-year history of wealthy private interest versus public access. The Auckland City Council inherited from its Waiheke County predecessor, an undertaking by Mr Jones to go through the relevant processes necessary to have the reclamation – a massive earthworks which redefined the bay – vested as reserve land. This agreement was to preserve public use of the jetty and foreshore, and access around the coast.

Six years later that hadn't happened. But the lawyers were still writing to one another: *"Further to our correspondence last year and...despite repeated assurances from Mr Jones, no resource consents have been instigated to complete the terms of the agreement between our respective clients...."* By the time council solicitors mailed this piece of correspondence off into the legal ether, Mr Jones was negotiating the sale of his property to the present owner, Sir Gordon Tait, chairman of Lion Nathan Ltd. The council agreed to lift a caveat on the title (otherwise preventing the sale) and Mr Jones paid \$100,000 into a trust to be monitored by Sir Gordon's lawyers – ostensibly to cover the costs of legitimising the reclamation according to the original agreement.

Another three years on, it appears that rather than any attempt to honour these agreements, the property's respective owners have applied – so far unsuccessfully – to have the reclamation amalgamated with the rest of their property.

Whether or not one agrees with such direct action, the demolition of the Waikopou Bay jetty is a reminder: of unresolved conflicts of interest between wealthy individuals and the public at large; of the perennial importance of protecting our coastal access, and that these are important issues of which we need constant reminding. *Simon Johnston*

Waikopou Bay: Decisive action from the 'lower deck'

The Editor,

Concerning 'the chainsaw gang' and Waikopou Bay. When I was there at Christmas and New Year, I saw no evidence of the jetty being a 'much-valued public amenity' as Sir Gordon Tait claims. Despite a large number of boats, no one, other than me, seemed brave enough to attempt the coastal walk accessed via the reclamation, and their caretaker's behaviour was such that I quickly regretted it. I was carrying my baby son at the time (which says something about their attitude to children) so I didn't drop the caretaker into the tide.

In my experience, caretakers behave according to their master's expectations, and I cannot believe someone like Sir Gordon Tait, who has been the British Second Seaford and a nuclear submarine squadron commander, and is now the chairman of Lion Breweries, has so little control over his staff that he doesn't know how to behave.

Under the circumstances, I welcomed the positive outcome for the efforts of the 'chainsaw gang'. It is now possible to walk around the headland at low tide without leaving the beach and the public benefit which would be gained from the removal of the rest of the reclamation has become very obvious. There were about 200 boats at Waikopou Bay on Saturday night and, for the first time in many years, people were walking eastwards along the beach.

You may be lower deck John, but you really do deserve a medal. In New Zealand, beaches are for everyone. Not just the wealthy and their friends.

J.R. Holden, Henderson.

Public amenity or private preserve

The Editor,

Sir Gordon Tait misleads readers claiming the Waikopou Bay jetty was a much loved public amenity. The jetty and reclamation were in fact far from public (although on public land) as any of the public ordered off or intimidated from using them will attest.

The jetty and reclamation are being removed precisely because the present and previous owners have denied the public access to what the public owns.

If the Tait's or Mr Jones had dealt openly and honestly with the public, ensuring full public access to the public domain, the action would not have been carried out. Faced with a refusal to negotiate fairly the public access issues, and an alarming degree of impotence on the part of the authorities, direct action was the only solution.

This action serves as a warning to those who would privatise the public foreshore and take by stealth those treasures which belong to us all.

Next stop Mt Spencer!

John M Stansfield, Onetangi.

Laurie's Bay

The Editor,

Your article about the chainsaw gang brought back many memories about that stretch of coast. We spent Easter 1986 at Waikopou Bay which we knew as Laurie's Bay, after the hermit who built his boat there. Highlight of Good Friday was the pig hunting gang from Cowes Bay which got two of them amidst a lot of confusion in Judy and Mac's bush.

On Easter Sunday we had a barbecue on the beach which still remains beneath the Tait's swimming pool, cooking pipi's and mussels on the wood stove set into the clay bank.

When we came back for Labour Weekend, the lot was gone, buried under thousands of tonnes of clay cut from the hill. It was like the end of innocence.

Sir Gordon Tait may be able to produce friends and employees to claim use of the jetty as a public amenity, but I can honestly say that since it was built I have never seen it used except by Mel Jones with his runabout, the Admiral with his dinghy, and his son's water ski boat. My one attempt at use was met by a very determined lady from the house who demanded to know whether she could help me. That was last Easter.

This Easter, for the first time in ten years, people are walking around the coast, eight in the short time I have spent writing this letter. This is because public access is no longer blocked by the approach to the jetty.

Congratulations to those who removed the jetty - the rest of the reclamation should go!

M Eagland, Turakina.

No Conciliation

The Editor,

My congratulations to John Stansfield and the members of his chainsaw party who took out the jetty and tidied up the beach at Waikopou Bay last weekend, an action which will be welcomed by the hundred of yachties who regularly overnight there.

Thanks also to *Gulf News* for its coverage of this momentous event. As an objector to Sir Gordon's application to rebuild the jetty and shore up the failing reclamation, I attended the pre-hearing meeting at Auckland Regional Authority to which you refer in your article.

It was a hopeless cause. Sir Gordon's lawyer refused to discuss our concerns and was very rude to some of the people who had come over from Waiheke for the meeting, while the admiral sat in the back of the room and let him go.

Not one ounce of conciliation was in evidence. Just the opposite.

As for the jetty, it is not, and never has been, a public amenity, rather a useless piece of window dressing for the huge house behind it, used by no one except the friends of Jones and Sir Gordon, and then mainly in dinghies because it was too shallow to get a keelboat alongside.

When it was built the yachting association led the call for its removal, and the removal of the reclamation, something which is long overdue. Let's hope that John Stansfield's actions lead to an inquiry into how the de facto possession of public open space by the rich and famous has been allowed to continue for so many years.

A J Vernal, Herne Bay.

Loss of public land

The Editor,

Last week's article on the removal of the illegal jetty at Waikopou Bay highlights the gradual loss of public land on Waiheke. There are too many instances of private landowners encroaching onto public areas. For example, fencelines, gardens, driveways, paths and even buildings extend over boundary lines onto public land, thus inhibiting public use of these areas.

This situation, coupled with an historic lack of resources for Waiheke parks, reserves and walkways, means that public land has, over a period of time, been lost to the public. Over the next 12 months, in my position as deputy chair of the Waiheke Community Board, I will be actively working to ensure that this land is identified, re-surveyed and signposted. With the extra funding allocated by Auckland City for Waiheke parks and reserves, this objective can, hopefully, be achieved.

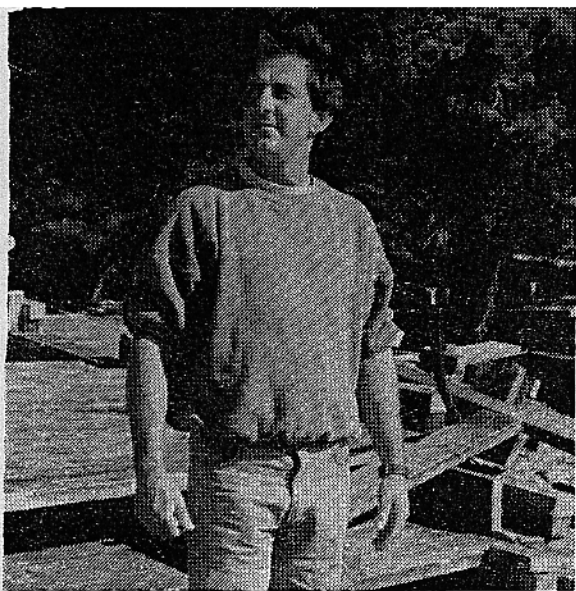
If you know of any public reserves and walkways that are currently poorly identified, please phone me (372-9702) so that these can be added to the list now being compiled by council.

Faye Storer, Little Oneroa.

Taits: remove public easement at Waikopou Bay

Following the controversial demolition of a jetty below their Waikopou Bay property, the Tait family has asked Auckland City Council to relinquish a public easement over the adjoining illegal reclamation.

But council's development services manager for the gulf, Terry Reed, said he was advising against the request. To remove the easement, under the circumstances, "would only pour more fuel on the fire" he said.



Demolition organiser, John Stansfield.

Three weeks ago a group of local residents largely demolished the jetty on the grounds that it was an illegal structure. Both it and the reclamation were built illegally in 1986 by the property's former owner, Mel Jones. Subsequent agreements to have them vested in public ownership were never honoured.

The demolition was also in response to an application by the Taits to extend the jetty and repair sections of the reclamation without resolving the issues of public ownership and access.

Mr Reed said the Taits were concerned that while tensions were running high over the situation, the easement (an agreement formalised be-

tween Jones and the former Waiheke County Council) allowed public access close to their house and private property.

Meanwhile, demolition organiser John Stansfield said this week he was writing to the Department of Survey and Lands to ask about "apparent mysterious boundary adjustments" which appeared to have "shifted a significant slice" of the reclamation into the adjoining property title.

Mr Stansfield said he was also writing to the Minister of Lands, Denis Marshall, asking for an inquiry into the boundary adjustments which had occurred since the 1986 reclamation.

He also anticipated returning to Waikopou Bay this weekend to complete the demolition of the wharf. •