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The back of beyond belongs to all

By Brian Turner
Writer, poet, and spokesperson for Public Access New Zealand

Just as people are drawn to one another, they are also drawn to places and the experiences they instil. Myself, I've long been drawn to the high country of the South Island, and by high country I mean most of the land starting no more than a few kilometres inland from my home in Dunedin and rolling and arching west as far as the often sombre, yet equally as often lustrous, forests of the West Coast.

I love the expansive open hill country of Central Otago, especially those hills that look as if they've been shaped and smoothed and edged by giant plasterers working with trowels. And in areas—far fewer than when I was a lad—where tussock grassland is still healthy and thick, the tussock ruffling and surging in the wind on the hillsides is like a coat on the bodies of prehistoric beasts slumbering, biding their time.

The mountains get higher and the valleys deeper the further west you go, and the journey increasingly takes on the nature of a quest, at times almost an odyssey. The heat quickens and the mind takes flight the more the mountains loom; expectancy and apprehension vie with each other when people are about to heft a pack and set out on a tramping trip in the mountains. The thought that crosses many minds is, "Am I up to this both physically and mentally?"

When I was stroppy, gangly and callow—as opposed to my current state, gangly, bemused and cussed—I was passionately into angling, tramping and mountaineering. I'd read of early Maori, then European explorers, and wanted to visit places that they might not have got to. Certainly to see valleys and set foot on peaks that few before me had seen or stood upon. I wanted to be bold and adventurous in my own land; to be self-reliant, independent, to exult in the clear air and green and blue (they being the predominant colours) magnificence of our natural world.

In time—and it didn't take long—my experience in the outdoors, along with a developing love of literature and the arts, imbued in me an ardent sense of what New Zealand offered, and what was possible for a New Zealander.

Thirty years ago people still referred to sparsely-populated places as the "wop wops" or the "back of beyond," and people like me as going on trips "off the beaten track." To me the "wop wops" and the "back of beyond" were terms used by people with no sense of adventure and little imagination. I discovered places "off the beaten track" that seemed as close to paradise as any to be found on earth. (Ironically, some of those places now have well-worn beaten tracks leading to them.)

In forest glades sunlight danced and lanced in the cool of the forest, on springy trails, beech leaves lay like scuffed medallions, birds snickered and sang; clouds of mayflies darted and dithered along rivers and streams where water was fresh, cool and spangly, and where the sun sometimes turned previously blue-green pools into smarting sheets of silver.

In the sixties, when I began to explore with a vigour that now seems to have belonged to another self, there were fewer "beaten" tracks, fewer and smaller huts, fewer bulldozed tracks for vehicles, loss of a clamour to "develop," "interpret," "open" things up. More people camped out, carried their own gear.

Companions were mainly hunters, anglers, trampers and mountaineers. Musterers worked with horses and dogs, not helicopters, planes and four-wheel-drive vehicles. Tourists were still something of a novelty, had yet to discover New Zealand, and had yet to be provided with the "facilities" they "need."

"Adventure tourism" had hardly begun and "concessions" were rare.

Now I'm not going to get into a lengthy debate here on the merits or otherwise of the changes that have taken place in the back country and mountain valleys in my time, save to say that to me they have brought more bad than good. In my experience what is termed "progress" often results in loss rather than gain; sometimes the most progressive thing we can do is resist.

And sort out our priorities. The first priority should be to maintain the quality of our environment and the experiences to be gained from access to it. By this I mean taking all possible steps to ensure that environmental degradation and pollution

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cease, and that the quality of recreational opportunities remains high.

I am inclined to think that providing more and more tracks, huts and roads only works against those aims. Of course such talk doesn't appeal to the rabid utilitarian element in society, those to whom the phrase "intrinsic value" is about as persuasive as a tick on the hide of an elephant. Unfortunately, this utilitarian faction, which is still politically powerful in New Zealand, refuses to take a wider view of its responsibilities. It includes those who think that stripping native vegetation and replacing it with grass suitable for intensive grazing is "improving" and "developing" land. Another view, which I share, is that in today's world it is short-sighted and destructive.

If we want to protect the natural values of our mountain valleys, then don't make it any easier for people to get there. Two of my favourite Otago valleys, the Greenstone and the Caples, were inaccessible by road when I first got to know them in the 1960s. To get there you had to walk, or take a boat across Lake Wakatipu. The Caples, in particular, with its lovely grassy flats and clearings, its chuckly river and high mountains at the head of the valley, seemed remote and charming. The hunting and fishing were superb. Nowadays the hunting is mediocre, to say the least, and the fishing varies from good to only so-so. Increasing numbers of trampers use the valleys.

As far as the slump in the quality of hunting and angling is concerned, it related directly to the extension of the road down the lake from Kinloch.

Nevertheless, these are still wonderful valleys to visit. Until recently they were part of three pastoral leases. In 1992, after overtures from Ngai Tahu tribal leaders, the government bought the leases, saying the land would go into a "land bank" for "possible use" in part-settlement of Maori land claims.

Negotiations with Ngai Tahu have been carried out in secret, yet these are publicly-owned lands.

Extraordinarily, the Minister of Justice, Doug Graham, says the public's not going to be consulted because it doesn't have a "clear and appropriate interest."

To me, and thousands like me, these valleys should remain in public ownership, either by adding them to the Mt Aspiring or Fiordland national parks, or by putting them under DOC's banner. It is not in the public interest for the Greenstone and Caples valleys, whose conservation and recreational values are of major national significance, to be given to any private organisation on either a freehold or leasehold basis.

The Waitangi Tribunal found that these valleys were not wrongfully or illegally purchased from Ngai Tahu, so it has no valid claim to them. These valleys, if they are "owned" at all, now belong to all New Zealanders, irrespective of where we hail from, or how long we have been here. I find it culturally insensitive and unjust of government to say otherwise.

We all live with a sense of both past and present, and with hopes for the future. In the Greenstone and Caples one senses presences which swirl like fog around the tops and in the valleys, and one sees the imprints of animals and of human feet and hears the sounds of water, insects, birds, wind, and human voices. There is a mingling that transcends all efforts to fix things in a linear interpretation of time. It seems to me that all of us, Maori or Pakeha, have a right to be there and that no one has more right than another.

Reproduced from *The Independent*, March 4, 1994

PANZ continues to grow

A phenomenal growth in support has occurred since our humble launching just 20 months ago. PANZ now enjoys support from 180 groups, including 13 national organisations, and 700 individuals from one end of the country to the other. Allowing for overlapping memberships, that amounts to approximately 250,000 New Zealanders. Congratulations on such a fantastic expression of support for our efforts. Your continuing political and financial commitment is essential to enable us to aim to ensure a future for everyone in New Zealand's outdoors.

Comments from PANZ supporters—

"Keep up the good work...PANZ has certainly helped wake up the masses to the threats faced in the outdoors."

"My concerns are the prospect of curtailment of rights of access to New Zealand public lands for myself, my sons and grandchildren. During the horrors of Hitler's war I believed protection of these rights was one of the things I was fighting for. I am not about to give up now."

South Island high country

Land tenure under review

Lands Minister Denis Marshall has released a discussion paper on issues and options for changing the tenure of Crown pastoral land in the South Island high country. This coincides with a separate review of the Rabbit and Land Management Programme.

There are approximately 350 pastoral leases and licences covering 2.8 million hectares of high country which is equivalent to 10 per cent of New Zealand's land area. As a consequence of 150 years of burning and grazing it is widely believed that remaining 'unimproved' tussock grasslands are at the point of ecological collapse, and along with it the fine wool industry.

The extremely diverse landscapes along the eastern side of the Southern Alps, from inland Marlborough to northern Southland, are increasingly recognised as the last major unprotected part of New Zealand's natural heritage. It also has great potential for public recreation. However under pastoral leasehold tenure the occupiers hold trespass rights and the right to bar public use. Many lessees are seeking to diversify into tourism ventures, with a direct potential to exclude all who cannot, or do not wish to, pay for their recreation (see *Public Access* Nos. 1 and 2 for more background to this issue).

Most conservation and recreation groups, including PANZ, support negotiated exchanges of property rights between lessees and the Crown to create public lands on areas of high natural and recreation value, and rights of access to them, with, as a quid pro quo, freehold offered over the better farm land. We also believe that special leases should be created over the extensive "in-between lands" (e.g., see Molesworth) where there are over-lapping conservation and grazing values.

High country continued...

Tenure changes have been occurring at a slow rate, with a handful of deals in the last few months producing welcome results. There are eighty lessees wishing to instigate land tenure reviews. However the Commissioner of Crown Lands has only sufficient funds to pay for the processing of only a few of these. The profits the Government is making from freeholding is disappearing into the Consolidated Fund and is unavailable for processing more deals. However Mr. Marshall does not see "redirecting funds as necessarily the answer" (*ODT* 8/4/94).

Six options for the future of pastoral leases are outlined in *The Tenure of Crown pastoral Land—issues and options:*

1. Total resumption of all leases to the Crown estate. This is dismissed as an extreme option.
2. The status quo—the retention of the current pastoral leasehold arrangement, or similar.
3. Freeholding of only that pastoral leasehold which is demonstrably suitable for sustained commercial production or use, with the balance being assigned to the Conservation estate (or protected in some other way) i.e., a 2-way split.
4. Freeholding as in 3 above, with the balance *either* assigned as a special lease *or* to the Conservation estate. This is another 2-way split that is falsely portrayed as "essentially the three-way process" currently being applied on a limited scale.
5. Freeholding of all pastoral lease land, except areas of high conservation or public recreation value which would be assigned to the Conservation estate (or protected in some other way).
6. Freeholding of all pastoral leasehold.

PANZ believes that an amended option 4 best fits the diverse character of the land and conservation and public needs. The "either-or's" must be amended to "and" plus provision made for secure access through freeholded lands.

PANZ has communicated with Mr. Marshall concerns over the adequacy of the document and the skewing of options based on pre-determined preferences to privatise as much Crown land as possible. There is a misplaced reliance on the Resource Management Act (RMA) to ensure "sustainable management" but with little or no consideration of public recreation needs (see *Public Access No. 2* for a discussion of the inadequacy of the RMA).

Mr. Marshall has instigated a public consultation process on tenure review with the intention of amending the Land Act. "It is fair to say over time the pendulum of power is swinging more towards the non-agricultural stakeholders...the advent of MMP...will only enhance those trends..." (Hon. Denis Marshall, *The New Zealand Farmer*, March 9, 1994). Federated farmers high country section chairman Bob Brown agreed with Mr. Marshall that ideally the tenure question should be settled before the next election under MMP (*The New Zealand Farmer*, March 9, 1994).

There have been mixed reactions from the high country farming community to the proposals. While some runholders wish to retain pastoral leases, the Otago Federated Farmers high country section unanimously approved option six for freeholding of all pastoral-lease land despite this option being dismissed by the Commissioner of Crown Lands as an extreme one which would bring widespread public opposition. The section is also opposed to deals that lead to ecological sustainability (*Otago Daily Times*, May 6, 1994).

What you can do

Write to Hon. Denis Marshall, Minister of Lands, Parliament Buildings, Wellington (no postage required) and ask for copies of—
'The Tenure of Crown Pastoral Land: The Issues and Options', and
'The Final Report from the Working Party on Sustainable Land Management'.

AND ask to be consulted over proposed changes to the Land Act (PANZ will provide supporters with further information as the issue develops).

Land deals so far

PANZ is putting considerable effort into consultation with officials and submission-making on high country tenure reviews. Our representations, with one notable exception, have had a significant influence on the shape of the finally approved deals.

While our advocacy frustrates some runholder ambitions for freehold title over lands unsuitable for such, most of the outcomes are proving sensible and acceptable from both pastoral and conservation-recreation perspectives. These will result in enhanced land use opportunities for the most productive lands and major gains for nature conservation and public recreation. These are the kinds of models we believe should result from review of the Land Act. Much more could be achieved within the framework of the existing Act, given greater funding and commitment from Government.
Approved or well-advanced land exchanges include—

Mt Difficulty (Cromwell area)
400 ha has been surrendered to become conservation areas with public access provided and 1500 ha is retained as pastoral lease. Another 120 ha is being freeholded. PANZ is concerned that the majority has been retained as pastoral lease.

Closeburn (Queenstown area)
1800 ha above Moke and Dispute Lakes will be reserved, in return for freeholding of 1100ha.

Cairnmuir (Cromwell area)
2355 hectares, consisting of the steep faces above Lake Dunstan, will become a special lease with provision for public access. 4300 hectares will be freeholded. A 3492 ha block on the Old Woman Range will become public land.

Halwyn (Lawrence area)
3687 hectares are to be freeholded. 3600 ha of tussock grasslands on the Lammerlaw Range will be reserved. 160 ha of beech forest in Bowlers Creek beside State Highway 8 to become reserve.

Blackstone Hill (St. Bathans area)
Freeholding of 2552 ha, being the homestead block and near Falls Dam. 3197 ha on the Hawkdun Range is to be reserved with a public access easement to it.

Bendigo (Cromwell area)
1920 ha on the tops of the Dunstan Mountains to become special lease with rights of foot access at all times. 1372 of kanuka and historic gold mining relics to become reserve. 7992 ha to be freeholded.

High country continued...

Michael Peak (Mt St. Bathans)
It appears that earlier plans to offer freehold over 1500 ha of Class VII land have been dropped after objections by PANZ.

Waiorau (Pisa Range near Wanaka)
This has been the scene of most debate. Our submissions have resulted in improvements on the original proposals with one major exception. PANZ lodged objections to proposed freeholding of over a thousand hectares of mid-altitude Class VII tussock grassland on the basis that it would be *ultra vires* the Land Act, with inadequate protection for the high natural values of the area. Part of the area concerned is used for a commercial cross country skiing venture.

Earlier legal opinion obtained by PANZ, that such areas could not be legally reclassified from 'pastoral' to 'farm land' as a precursor to freeholding, were accepted by the Commissioner of Crown Lands. However it now appears that he has disregarded our opinion by partly reclassifying the area as 'farm land' and the balance as 'commercial'. Freehold title has been offered over both classifications. Potentially there are major adverse implications for other high country lands. The Commissioner's decision fits in with runholder pressures and government leanings towards privatisation of any pastoral leasehold with *potential for commercial use*, irrespective of its suitability for farming use.

The Commissioner has also approved 4000 ha of the tops of the Pisa range going to DOC. Public foot access will be provided up a legal road to the southern end of the new public lands (a right that already existed), and on payment of "a reasonable fee", vehicle access will be available along the ski area road to get to the northern end of the new public area.

PANZ believes that only good farm land should be available for freeholding. The rest should remain in Crown ownership, either under special Crown lease or under DOC's control.

Clarence Reserve (Seaward Kaikoura Range)
A tenure exchange involving this huge pastoral holding was interrupted by sale of the property. Negotiations are proceeding that may result in 41,000 ha becoming reserve, with a special Crown lease over 11,000 ha adjoining the Clarence River, in return for freeholding of 700 ha on the eastern side of the range. Public access will be provided through the freehold and unrestricted foot access over most farm tracks through the special lease. DOC will be able to establish three public camping sites beside the river within the leasehold. Marginal strips will be provided.

Molesworth management plan released

New Zealand's largest farm, the 180,000 hectare Molesworth Station, now has a management plan to guide its use for pastoral farming, protection of the environment, and public use. This area of high country, situated in inland Marlborough, has been Crown land farmed by the Government since it was abandoned by pastoral lessees in the 1930s and 1940s The preface to the plan states that the rehabilitation of the land over the last 50 years, from four desolate runs—laid to virtual waste by a combination of fire, grazing and rabbits—represents one of New Zealand's major conservation and farming achievements.

In 1987, at the time of the establishment of DOC and state-owned enterprises, Government decided to retain public ownership of Molesworth because of its range of overlapping production, conservation, and recreation values. It is now leased to Landcorp under a non-freeholdable 15 year special lease. The plan and lease is over-seen by a 'Steering Committee' set up to advise the Minister of Lands.

Like much of the rest of the South Island high country, Molesworth is subject to continuing problems of rabbits, and the spread of invasive hieracium weed species.

25 areas totalling over 50,000 hectares, or 30 per cent of the station, has been identified as Recommended Areas for Protection (RAPs) by DOC. However the expansive nature of the area, basins, mountains, rivers, and natural features have much wider appeal to the public than the RAPs alone.

The principle goals and objectives for the management of Molesworth over the next 5 years include—

Protection
- Maintaining and enhancing soil and water values
- Maintaining and enhancing vegetative cover
- Ensuring that land management practices continue to take into account and reflect the underlying capability of the land
- Conserving representative examples of natural ecosystems, threatened ecosystems, threatened species, landscapes and special historic features
- Establishing, progressively, a network of protected natural areas
- Protecting threatened plant and animal species
- Conserving the landscape, open space qualities and high country character

Farming
- Maintaining and improving primary production values
- Farming Molesworth for optimum economic return, subject to compatibility with soil and water conservation objectives and the need to integrate farming with other accepted uses

Recreation
- Maintaining and enhancing, as far as practicable, public access and the opportunities for use for recreation
- Providing for public access by vehicle
- Facilitating access for hunting, shooting and fishing
- Permitting picnicking and camping in designated areas
- Encouraging recreational visitors to exercise responsible self-sufficiency
- Considering applications for commercial recreational activities
- Facilitating educational and interpretive visits
- Keeping under review community attitudes towards current policy relating to access and recreational use

The majority of visitors fish. Other users include Canada goose shooters, rafters and canoeists on the Clarence River, trampers, cyclists, horse trekkers, naturalists, game hunters, 'safari' tourists, and scenic drivers.

Recreation and access issues are—
- Restrictions and conditions that have been imposed on public use of roads (most of the formed roads are not public roads). The main Awatere Valley-Hamner Springs road is open only between December and February and DOC imposes a user charge. PANZ believes that, with good public information and basic facilities provided, current

High country continued...

restrictions and charges are unnecessary. We have advised the Chairman of the Steering Committee of this and recommend that through-roads should be dedicated as public roads (either under government or district council control).

- The confinement of 'open foot access' to the western portion of Molesworth in the upper Clarence Valley (permission is required from the farm manager for entry into other areas).
- The lack of secure protection for RAPs while remaining within the lease and lack of provision for public access to these.
- The inadequate identification of all areas of public interest.
- Lack of legal access from roads to river-bank marginal strips.

What you can do

Write to Hon. Denis Marshall, Minister of Lands, Parliament Buildings, Wellington (no postage required) and ask for all through-roads on Molesworth Station to be made public roads.

The management plan is a significant improvement on earlier drafts which gave priority to pastoral farming, at the expense of all else. PANZ believes that all alpine areas of the station could have been separated out from grazed areas and reserved as public lands, rather than have a leasehold issued over them.

The plan highlights the reality that for much of the station there are overlapping production, nature conservation, and recreation values that are not so easily separated. This demonstrates that there is a place for new leaseholds over those parts of the South Island high country with a mix of values.

Contrary to the leanings of the New Right and The Treasury, in most high country situations a simple two-way split between public 'conservation' land and private land does not always reflect realities on the ground. We prefer the option of three-way splits—public land, special leaseholds, and freehold in place of pastoral leases—although all three categories may be unnecessary on every property.

We believe that at the end of the first 15 year term of the Molesworth lease that the property go through a categorisation assessment to determine a more confined leasehold and additions to public lands. In the interim DOC and Landcorp are negotiating in secret the future tenure of RAPs. We believe, for reasons set out in *Public Access No. 2*, that covenants provide inadequate protection and may not provide for public use. We believe that all the identified RAPs should be taken out of the lease and reserved for nature conservation and appropriate public use.

Sea coast

New Zealand Coastal Policy Statement

Cabinet approval has been given to a New Zealand Coastal Policy Statement. This is the culmination of a succession of drafts and public inputs since passage of the Resource Management Act (RMA) in 1990. It is a crucial government policy that will direct the actions of Crown agencies and local authorities in their management of the coastal marine area—this is deemed to extend out to the 12 mile territorial limit.

The present Government caused a redrafting of earlier versions of the policy and appointed a Board of Inquiry to hear a second round of public submissions. The new policy outlines principles and policies for the preservation of the natural character of the coast, characteristics of special value to tangata whenua, on subdivision and development, maintenance and enhancement of public access, maintenance of the Crown's interest, taking account of the principles of the Treaty of Waitangi, and matters to be included in regional plans. PANZ made a submission and was heard by the Board of Inquiry.

PANZ is very concerned that, despite public access being a matter of national importance, the policy document remains skewed, at the expense of access, towards giving priority either towards other matters of national importance or matters having lesser priority in the Act. We believe such bias to be contrary to the scheme of the Act and is an attempt to re-legislate. Despite our submissions to the Board of Inquiry, and seeking the Minister of Conservation's assurance that such matters would be rectified before final approval of the policy, it has now been approved.

The conduct of the Board of Inquiry in relation to the hearing of the PANZ submission is also cause for concern. PANZ representative Bruce Mason, after raising doubts as to the validity of a concept 'partnership' between Maori and the Crown as implied in the policy, was lectured by two Board members on the meaning of the Treaty. He was told not to interrupt by the chair, despite this supposing to be an *inquiry into community views* rather than a platform for Board members to advance their own. The content of their dissertations were highly challengeable, but Bruce was not permitted to do so.

The chairman, Judge Arnold Turner, also asked Bruce three times "who is going to pay?" in relation to enhancing public access, despite this being beyond the brief of the inquiry, and that enhancement of access is a duty under the Resource Management Act. Bruce's impression was that it was an access-hostile environment. The chairman terminated the PANZ submission by saying that "he had heard quite enough from Mr. Mason"—a feeling that was reciprocated, but not verbalised!

Sea coast continued...

The legislative purpose of the New Zealand coastal policy statement is "to state policies in order to achieve the purpose of the Act". PANZ believes that, in relation to *protecting and enhancing public access to and along the coastal marine area,* being a matter of national importance (section 6(d)), the policy fails in that duty.

Our concerns about the policy are—

- Proper interpretation of the Act requires measuring the degree of recognition of matters of national importance (section 6), and those provided for under sections 7 and 8, against the purpose of the Act ("sustainable management of natural and physical resources") as set out in section 5.
- Section 6 creates a duty to *"(shall) recognise and provide for"* certain matters of national importance. The duty is to recognise and provide for *all* matters of national importance, not some at the expense of others as the policy does.
- The policy makes section 6(d) subservient to sections 7 and 8 of the Act. We believe such bias to be improper, and in effect is re-legislating the Act.
- Policies restricting public access for reasons of "security", and "exceptional circumstance".
- A policy to elevate the requirement under section 8 to "*(shall) take into account* the principles of the Treaty of Waitangi", to one of— "*shall recognise and facilitate* the special relationship between the Crown and the tangata whenua as established by the Treaty of Waitangi", affording a *higher* status than a matter of national importance.

Regional coastal plans to follow

Regional councils are now required to prepare plans in accordance with the national policy. We believe that many councils are already well advanced with plan preparation. It is obvious that if the national policy is wrong there are going to be flow-on problems with regional plans. Help us get the New Zealand coastal policy back on-track!

It is critically important that concerned recreationists take an active interest in regional plans, by asking councils to keep them informed of progress and availing themselves of opportunities for making submissions and speaking at public hearings.

Policies that may impact on the open space character of foreshores and the Queen's Chain need close attention, for instance those that allow private occupation and permanent structures such as boat sheds or baches. These may result in the physical exclusion of the public.

Foreshores are part of New Zealand's public open space endowment and are under severe local pressure. Many areas have become unavailable for public access or very unattractive for recreation due to encroachment by private structures.

It is long overdue that there be reassessment of the need for private foreshore structures for boat storage and launching. Given increasing public recreational pressure on the coast, particularly near population centres, and the trend towards lighter transportable recreational craft, policies for actively phasing out boatsheds should be promoted. We acknowledge that there is still a place for such structures, and slipways, for community and club use where there are proven needs and alternative off-site boat storage is impractical. In regard to many existing structures we doubt the legality of many of these, despite official sanction over the years. It is about time that all district councils faced up to their legal obligations (see Taylors Mistake story).

Coastal Access Fund

PANZ has established a Coastal Access Fund. This is to be used for advocating public access to the coastal marine area as well as the protection of our shores as public open space. Coastal 'Queen's Chain', beaches, foreshores, sea bed and the sea will be within the scope of the fund.

Such is the importance of THE BEACH and coasts to the New Zealand psyche that a special fund is necessary to provide for on-going efforts. People rightly believe that the coast—both land and water—should be freely available for public use and enjoyment. However the coasts are also eyed covetously by many who seek development or occupation to the exclusion of others. We will advocate public rather than private interests.

Legal and other avenues will be used to ensure that laws and public policy are properly applied and that public rights of access are protected.

Our first target is the New Zealand Coastal Policy Statement. We need funds for a campaign to make it more 'access friendly'. In its present form the policy perverts the standing of public access as a matter of national importance. It is important that the policy is amended quickly before regional coastal plans are in place.

We invite you to contribute to the Fund. Donors will be kept informed of how it is spent.

As a registered charitable trust donations of $5 or more are tax deductible.

Please help us ensure a future for kids on the coast

Public Access New Zealand
Coastal Access Fund
P O Box 5805, Moray Place, Dunedin

Taylors Mistake

A legacy of civic dereliction

"Our glorious coast is part of our lives. Childhood holidays, adolescent discovery and old age's serene meditations are often set on beaches and rocky shores. James K. Baxter said that the yellow tree-lupin should be our national flower because most of us were conceived under them.

Public access to the foreshore is therefore a precious legal right. Its price, like that of all freedoms, is eternal vigilance. Our public lands—not just the coastline—are eyed covetously by many." David Round, *The Press*, July 29, 1993

Taylors Mistake is a highly valued recreational asset of Christchurch. It is an attractive, popular beach, enclosed by spectacular rocky headlands and close to the metropolitan area. It lies between the city suburb of Sumner and the Godley Head entrance to Lyttleton harbour. In addition to the attractions of the beach, Taylors Mistake provides access to a large area of public open space (Godley Heads Farm Park), and coastal walkways.

The foreshore (from low to high tide marks) is abutted by an unformed legal road. Behind the road at the beach is a recreation reserve. On a fine summer's day the beach and surrounds are crowded.

In spite of its proximity to a large city there is a strong element of isolation. As an enclosed and relatively small-scale environment, it is very vulnerable to physical and visual encroachment from development or private occupation. There are 48 baches at Taylors Mistake and adjoining bays squatting on legal road. Some of these baches have a history originating from the early 1900s. The scale of private encroachment is probably unmatched by any other location in New Zealand.

Taylors Mistake has become the scene of an intense tug-of-war between those who wish to secure their occupation of publicly owned shoreline, and others who want it returned to its prime status as public open space. For decades the debate has raged, with the Christchurch City Council alternatively siding one way then the other, depending on which interest holds sway at the time. Council's legal obligations over public lands, and to uphold public rights of use, have often taken back-stage as a consequence—a situation not uncommon among local authorities.

This has been a classic case of a battle over the commons, of conflict between public and private interest, and of local government equivocation on issues that have long been resolved in law. There are salutary lessons for the rest of New Zealand.

PANZ believes that physical detraction of the environment and degraded public recreational opportunities are plain to see and totally unacceptable. They are long overdue for permanent resolution.

Background to the dispute—

1910: The Mayor of the Sumner Borough Council and a Councillor inspected Taylors Mistake and found ten or a dozen cave dwellings in use at that time (all these particular baches had been removed by 1976).

1911 onwards: Bach holders paid annual licence fees to the Borough Council.

1945 onwards: Christchurch City Council continued to issue or renew these licences in an ad hoc manner.

1968: Christchurch City promulgated the first review of its district scheme which included a provision for holiday cottages. After objections were received this provision was deleted.

Hobsons Bay baches. Some of the 48 private dwellings squatting on public road at Taylors Mistake.

BRUCE MASON

Taylors Mistake continued...

1976: As a result of concerns about sewerage in the bay, and to give bach occupants time to find alternative accommodation, the City Council granted licences which authorised their continued occupation for a period of ten years to expire in 1986. The baches were to be then removed.The licences were signed by the bach holders (PANZ believes that the Council had no legal power to issue such licences over a public road).

1979: The City Council promulgated the second review of the District Scheme. Objections were lodged complaining that the second review did not adequately recognised and provide for the existing bach community. Those objections were disallowed and the objectors appealed to the Planning Tribunal.

1983: The Planning tribunal declined the objections and noted: "the legal status of the bach owners' occupancy is...a different matter altogether."

1986: The licences expire. The City Council resolves to allow baches to remain a further year to allow a holiday bach zone proposal to be considered.

1989: Scheme changes for the closure of the legal road (to become esplanade reserve) and the creation of a holiday bach zone are publicly notified.

1990 : The City Council resolves to adopt the recommendation of an independent commissioner to implement road closure and reservation but decline the bach zone. Bach owners lodge appeals with the Planning Tribunal.

1991: Before the appeals were heard, bach owners approached the City Council asking for mediation between the parties. The Council agreed to mediation and withdrew the plan changes (this denied supporters of the Council's 1990 decision to argue their case before the Tribunal).

1992: Complaint lodged with Ombudsman that the City Council's delay in requiring the removal of the baches is unreasonable. Ombudsman advises that as appeals are lodged with the Planning Tribunal he is precluded from investigating the complaint.

1992: Mediation proceeded but without the main objectors to the baches who declined involvement on the basis that any mediated outcome would necessarily involve a compromise of fundamental principal—that the appeals be dealt with by the Planning Tribunal first and that public land is not a negotiable commodity.

May 1993: The mediated solution involved the retention of 30 baches on the road (with freehold and leasehold offered), those baches with most impact removed, one relocated, and a new zone created for 17 new batches.

July 1993: The appeals against the proposed scheme changes were withdrawn.

July 1993: Council appoints an independent Hearings Commissioner to hear submissions on a proposed plan change to give effect to the mediated solution and make recommendations. A total of 1021 submissions received, 641 of which objected to the mediated solution and wanted the baches removed.

December 1993: The Commissioner rejects the "mediated solution" and recommends removal of all but three 'historic' baches from the foreshore. The Commissioner considered that "the requirements of sections 5, 6, 7, and 8 of the Resource Management Act are to be kept in mind as weighing various considerations appropriately, *but differently in accordance with Parliament's instruction*" (note our emphasis, and relevance to PANZ's concerns over the national coastal policy). The Commissioner concluded that a new bach development zone "would offend against a number of matters to be recognised and provided for as being of national importance." Such matters included "inappropriate use and development", detraction from public access, and being "the antithesis of the preservation of the natural character of the coastal environment."

December 1993: City Council adopts Commissioner's recommendations.

February 1994: Bach holders lodge appeal with Planning Tribunal against Council's decision—yet to be heard and determined.

It is crucial that the Christchurch City Council's latest decision stands. Otherwise a disastrous precedent would be set for privatising the Queen's Chain and the NZ coastline.

PANZ was pleased to provide assistance to the Save The Bay Campaign and complements those involved on their strenuous, professional, and public-spirited efforts. For those who wish to learn more about the conduct of the campaign, or offer assistance, contact:

Save The Bay Campaign, P O Box 13331, Christchurch
(major appeal costs are involved)

Taylors Mistake is said to be named after a Captain Taylor of the USA who mistook the bay for Lyttelton Harbour

Public Roads

Formed and unformed roads provide the primary, and usually only, means of public access through the countryside and to public lands and waters. New Zealand is very well-endowed with these publicly-owned access strips. It is an inheritance from the time of first British settlement, as surveyors subdivided, and continue to subdivide, land for closer settlement. Lamentably however, *roads are the very neglected and abused mainstay of our public access network.*

Consider where we would be without public roads. Without an interconnecting system of public rights of way New Zealanders would be denied the means of freedom of movement, recognised as a civil right under the New Zealand Bill of Rights Act. That right applies through the countryside, and to public lands and waters, as much as anywhere else.

Largely through lack of public awareness as to the nature, and location of many public roads, and of common law rights of use, lack of resolve by local authorities to act on the public

Public roads continued...

behalf, unlawful annexation of roads by adjoining landowners has become the norm. There is now a generic problem of obstruction of public use of roads throughout New Zealand. PANZ receives more reports of obstruction of roads, often with official connivance, than any other category of public land in New Zealand. A sample of such cases is outlined below. The push towards privatisation during the last decade has greatly exacerbated the problem—we believe that a crises situation is developing to the point that requires legislative intervention to prevent violent confrontations arising and possibly deaths.

Before the last election PANZ put to political parties a very simple solution to the problem, but there has been a singular lack of commitment to any action.

The problem is not a lack of public rights or a lack of official powers. The 'roads problem' is a lack of will by most district councils who administer roads, reinforced by a lack of a legal duty on them to assert and protect public rights of use. If such a duty existed, as it does in the UK, we predict that most problems would disappear overnight. Councils would know that if an obstruction was reported to them and they failed to act appropriately, they would be liable to end up in court. The message would be rapidly transmitted to their counterparts elsewhere. Our solution is a socially responsible response—it would remove most of the heat and conflict that is increasingly occurring between recreationists and adjoining private landowners. It would put the onus for settling problems where it must surely belong—with the public authorities charged with road administration.

On page 14 is a summary of the law of highways in New Zealand. This consists of a centuries-old inheritance of British common law rights, common law developed in New Zealand, and New Zealand legislation (i.e., statute or Act of Parliament). As a common law country our legal system, and your rights, are based on common law *as modified if at all by statute.* Common law is based on ancient law developed and tested over time and applied commonly throughout the realm. The courts have the leading role in developing common law based on past conventions and court decisions, new situations not covered either by common law or statute, and from interpreting statutory law.

Papuni Road—Wairoa district

Gisborne Herald, March 30, 1994
By Sheridan Gundry

Recreational user groups in the region have gone to the public for support in their 30-year battle over access to part of Urewera National Park.

In a quarter page advertisement in the Gisborne Herald today four groups express their concern over the ban of access through Papuni Station to the Waitangi Falls and Ruakituri area. The region is used extensively by hunting, fishing, tramping, and other recreational user groups.

They plan to take action to define a legal unformed road to ensure that users have unrestricted access for all time.

The advertisement was placed by the Raukumara Urewera Hunting Club, Wairoa branch of the New Zealand Deerstalkers Association, Poverty Bay and East Coast Pighunters' Club, and the Gisborne Canoe and Tramping Club.

A request was earlier made (by the groups) for the access ban to be lifted but this was declined.

Raukumara Urewera Hunting Club spokesperson Brian Burgess said the group's patience had been stretched to the limit.

A public notice announcing Papuni's total ban on access some weeks ago was a disappointment and a bitter blow, he said. "When it became obvious that the agreement was not going to be finalised prior to Easter, Papuni were requested to allow access for two weeks including Easter. "As far as we are concerned their refusal to grant the one gesture of goodwill to fishermen, trampers and hunters was the last straw. In their paranoid attempts to keep total control over a situation, which legally they do not control, they have shot themselves in the foot".

"That one gesture of goodwill would have given the user groups the incentive to continue with the negotiations in the knowledge that Papuni management have at least some sympathies for the outdoor recreationists who appreciate and use that area," Mr. Burgess said.

The groups now hold little hope that the negotiations will be resolved.

The road through Papuni Station from the front entrance to the Lockwood house is a public road maintained by the Wairoa District Council. An unformed public road exists from the Lockwood house to Urewera National Park boundary and beyond.

Mr. Burgess said access to the park through Papuni Station during the past 30 years had been tenuous at times and not without acrimony.

During this time Wairoa District Council was aware of the access problems experienced by some members of the public, but did not take up its responsibility to ensure the public were not left at the end of a formed road, three kilometres short of their legal and rightful destination, the advertisement states.

The Lands and Survey Department and its successor the Department of Conservation, together with past and present boards governing the park has failed to bring about a lasting agreement within the 15 years of attempting to do so.

"The latest attempts to resolve the matter have now stretched out to 20 months of intensive deliberations. Although some parties believed the solution was within sight, the groups believed negotiations were far from finalised", Mr. Burgess said.

Matters came to a head around 1980 when Papuni placed a total ban on access. An on-site meeting at Papuni Station called by Lands and Survey and the National Park Board drew over 60 people to discuss the matter.

"As a result of the meeting an agreement over access was entered into and the historically-used track to Waitangi Falls was officially surveyed, benched and signposted at considerable cost to the taxpayer.

"That agreement was only for a five-year period and has never been renewed."

Mr. Burgess said it was DOC's responsibility to ensure ongoing public access to the popular public asset.

Meanwhile, pighunters believed impositions were being forced on them by Papuni with regard to pig dogs. They felt they were being singled out unfairly, particularly as there were already strict controls on anyone hunting with dogs in the national park...

Public roads continued...

DOC backs Papuni over access row

Gisborne Herald, April 4, 1994

Department of Conservation regional conservator Peter Williamson is disappointed by "inflammatory statements" made by hunting and tramping clubs last week regarding the controversial Papuni Station route to Te Urewera National Park.

Mr. Williamson said that through the goodwill of the station owners, access to the park had been allowed over a long period after the expiry of a previous easement. This was despite concerns over "unnatural stock losses and disturbance".

DOC had a good working relationship with Papuni Station owners, he said. The owners were keen to ensure public access had minimal impact on farming operations...Using the existence of the unformed legal road to try to enforce conditions on the Papuni owners was both unreasonable and unhelpful, Mr. Williamson said.

(Raukumara Urewera Hunting Club spokesman) Brian Burgess believed the majority should not suffer for the minority's behaviour. "We, as responsible members of the public, we will not be held to ransom because of the few. Rather than put blanket controls and inconveniences on the public at large, those who such behaviour affects should put more effort into having an example made of the few individuals causing problems," Mr. Burgess said.

Owhango farmer Jim Davis wondering how he will get his horse along the old bridle track on Kokako Road. The obstructing deer fence ends a few metres into private property. The "trampers' gate" was approved by the Ruapehu District Council.

BRUCE MASON

Proposed grant of a right of way (5 April 1994) between Papuni Station (Grantor) and DOC as Grantee. Conditions include—

- foot access only.
- only DOC dogs permitted, on a leash, with prior notice to Papuni Station, with right of refusal.
- all persons using the ROW to notify Papuni of name and address beforehand or to sign a visitors book.
- any hunters using the ROW for access to produce on demand by Papuni Station their hunting permit for the national park.
- the ROW to be terminated in the event that the legal road is formed or clearly marked for foot or vehicular access. DOC required to have regard to the expressed wish of Papuni Station not to have the legal road defined on the ground for encouragement of public access.

Kokako Road—Ruapehu district

Kokako Road is an old bridle track between Ruatiti Stream and Upper Retaruke in the headwaters of the Wanganui. There is a variety of interesting terrain and scenery on-route, making it potentially very attractive for tramping and horse riding.

A couple of years ago an adjoining landowner put deer fences across the road. As a result of protests the Ruapehu District Council approved the installation of "trampers' gates" after it decided to "allow" only pedestrian use. However horse riders also wish to use the road. Those who enter this 'private wilderness' are observed by security cameras.

PANZ has inspected the road and believes that both the Council and the landowner concerned are legally liable for "appreciable interferences" with the public right of passage (see page 14). We believe that Council has exceeded its powers by limiting use to pedestrians only. The "trampers' gates" do not meet legal requirements. PANZ has advised the council of these matters and, despite a local petition asking for the fences to be removed, the obstructions remain. The Council has the power it needs to remove them, given the will to do so.

Rangitata Terrace Road—Ashburton district

Crusade to open public roads keeps on going

High Country Herald, November 3, 1993

When Ruapuna farmer Ivan McKeown set off for an evening's fishing in December 1991 he didn't realise he would enter into a battle that would still be running today.

It was the locked gate on Rangitata Terrace Road—a public road through private land—that started the ball of red tape rolling. Nine months and an Ombudsman's inquiry later, the Ashburton District Council hung "public road" signs on gates across the road and the padlocks were removed.

But the fisherman's fight for access did not end there—although at times he wished it had. "I had to take a break from it for a while—it started to get me down. I think it's pretty important this sort of thing—we are all entitled to our access."

Two days of travelling around Mid-Canterbury revealed some 40 roads, leading either to rivers or the sea, to which access was unclear. He was not interested in the roads literally going nowhere, only those which people could use for recreation. "One lot of owners said people came down all the time, turned around and went back the other way. "These people were

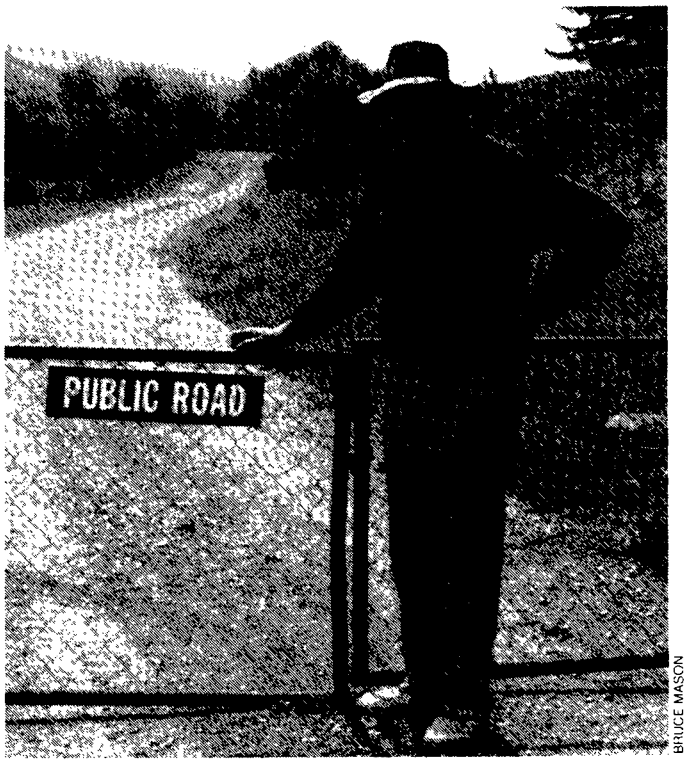
hoping to get to the sea but they couldn't." Had the legal requirement of identifying roads been met, those who turned back would have known they had the right to access beyond the gate concerned.

Mr. McKeown agrees that he shouldn't have to crusade to get public roads identified but says if he doesn't, then other recreational users will suffer. "There are fences and trees across them (public roads) and even one with a private property notice on it—there were new ones being put up all the time." None (of the 40) had public road signs on them. "The council should comply with the law and see the obstructions removed or put a style [up] so people can get through—and public road signs so we know it is a road.

"I like going out on the beach, walking around, fishing or just using the Queen's Chain—it is sort of sacred to me."

A map with the offending roads has been sent to the Ashburton District Council via councillor Bev Tasker who says the matter will be raised as the district plan gets thrashed out. She is also keen to sort out which roads have access to valuable recreational areas and then, quietly work with the landowners concerned to arrange for clearly identified access.

Meanwhile Mr. McKeown just hopes that one day he and others will be able to take rightful passage along public roads into areas where everyone can enjoy the great outdoors.



Ivan McKeown beside a small victory for public use of Rangitata Terrace Road

Otago Peninsula roads

Much has been achieved on the Otago Peninsula during the last four years in opening up unformed legal roads for public use. Considerable heat and friction was generated in the process, by application of 'the law of highways' by a determined group of walkers.

On a fine weekend hundreds of people are now using a network of approximately 20 well marked walking tracks that were either the direct result of the labours of the Otago Peninsula Walkers, or the result of political pressure by them on the Dunedin City Council.

A year after cessation of hostilities most people are wondering what all the fuss was about. Dunedin City now has a major recreational facility on its doorstep and civilisation has not yet ended, despite earlier predictions to that effect.

The events on the Otago Peninsula are worthy of much fuller treatment, being a significant part of New Zealand's recreation history. A full account will be published in the future. In the meantime the following account in a farmers' paper, with our commentary, gives an insight of the arguments and problems that were faced and overcome.

Paper lines let townies loose on Otago land

By Neal Wallace. *The New Zealand Farmer,* April 27,1994

For 150 years they were lines drawn on a map by Otago's founding fathers in a 19th century Edinburgh office.

But now those lines, legally constituted roads and boundaries, are causing problems for Otago Peninsula landowners.

Walking enthusiast and public rights campaigner Bruce Mason, Dunedin, forced Dunedin City Council to open a number of the roads for freedom walkers. Critics say his actions have polarised and hardened attitudes counter-productive to public access.

Mason says there was a lack of walking opportunities. Those that existed were confined to walking tracks opened by the Otago Peninsula Trust, informal agreements without security.

Landowners say the first they knew of the opening of many of these paper roads were signs pointing to tracks on their land. Portobello farmer Ron Cross says the roading network is historic and has no place today. Allans Beach farmer Des Neill says when the Otago Peninsula was settled there were small holdings everywhere which required access.

As New Zealand becomes more urbanised and city dwellers demand access over private farmland for walking and tramping, events of the last three years on the Otago Peninsula are likely to be repeated elsewhere.

Legally, Bruce Mason was within his rights even though the law took no account that many paper roads crossed cliffs and in one case 14 fence lines.

A landowner could even be forced to remove fences and obstacles blocking a paper road, says Dunedin City Council roading manager Peter Morton. "Any farmer with a fixed fenceline or structure on a legal road line which prevents someone walking on a legal road has a potential problem."

Des Neill says Bruce Mason tried to change access to a right rather than a privilege...

Well-used tracks to many of the area's highlights such as Lover's Leap, Allans Beach, Soldiers Monument and Harbour Cone were closed and people were forced to take longer, less direct routes.

"I understand people want to walk to places but they were never restricted," says Portobello farmer Ron Cross. The new unrestricted access is largely unpoliced and farmers say it has given less desirable people unhindered movement over property, to snoop around farm buildings.

Ron Cross is under no illusions that public access pressure groups cut their teeth on the scrap with Otago Peninsula landowners and their attention will turn to gaining access in other areas. "What happened on the Otago Peninsula could happen elsewhere in New Zealand."

Large legal fees block farmers seeking to close paper roads

There is little point in farmers taking action to legally close paper roads crossing their farms, says Dunedin City Council roading manager Peter Morton.

"If farmers do have paper roads on their property they shouldn't do anything unless they have a problem." If there is a problem he urges both parties to discuss the matter. To try and close roads, says Mr. Morton, is a public process which could end up in a Planning Planning Tribunal, incurring expensive legal fees.

The law is weighted in favour of the general public if someone wants to open a paper road. All obstacles on a road, from vegetation to fences and stock yards, should be cleared and Mr. Morton says this can be demanded if a road is to be reopened.

"Farmers are on poor legal grounds as people have a right to pass and repass on legal roads."

There was nothing illegal in Bruce Mason and his group opening legally constituted roads on the Otago Peninsula, says Mr. Morton, but many roads had not been surveyed and existed only on maps.

"There is no benefit to ratepayers in knowing where paper roads are generally. It is not as issue they need to know about," he says.

Farmer pays the bill

To Otago Peninsula farmer Eddie Lyttle the situation was black and white. Access to the historic soldiers' monument at Highcliff had been granted across his family's land for the last 50 years.

But when Bruce Mason and his Peninsula Walkers' group tried to open a paper road though his property to the monument things started to get ugly. It is an example of the supercharged emotion, polarised attitudes and the way not to solve such issues.

But Mr. Lyttle felt he had no choice. "Bruce Mason found a paper road with legal access to it (41 peg road) and demanded it be opened," says Mr. Lyttle. "That 900mm wide access is over steep rocks and is impractical as it goes to the corner of the rock (monument) yet the steps are around the corner on our private property."

The 41 peg road followed Mr. Lyttle's boundary and if access was pushed to its limit would result in Mr. Lyttle losing an 8m strip of land and his neighbour a 12m strip. Mr. Mason's group wanted access to the monument from Ocean Grove and back out on to the Highcliff Road via the access granted by the Lyttle family.

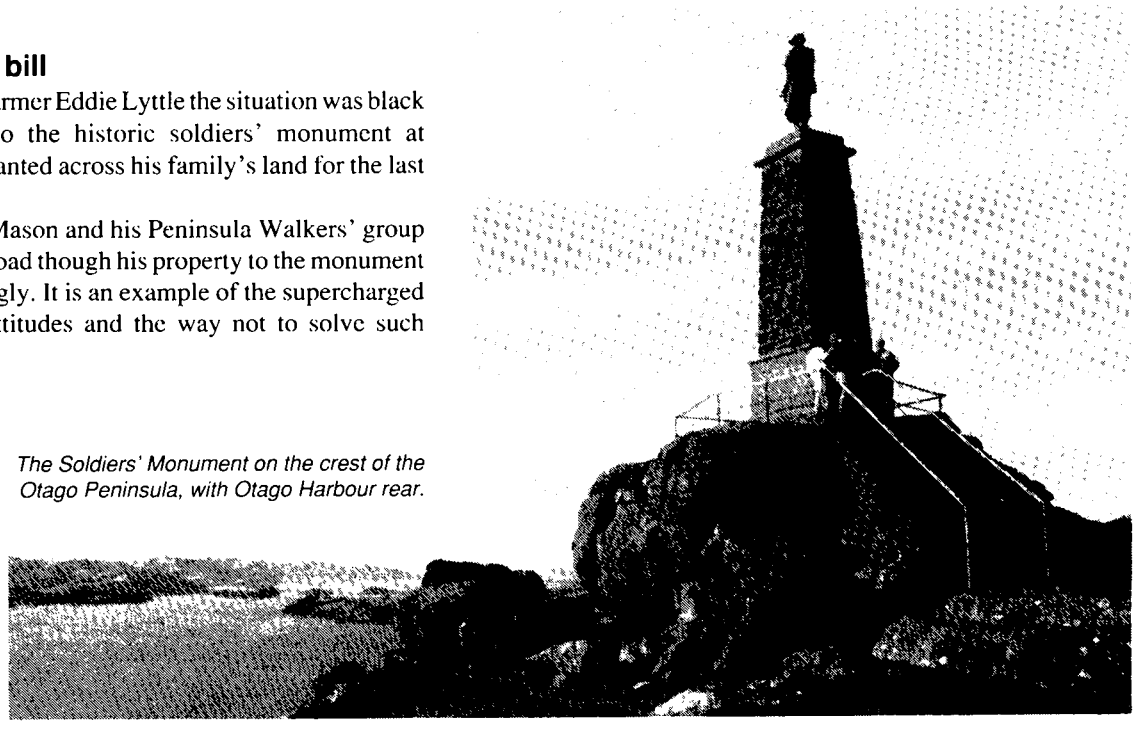
Then things did get ugly. Negotiations started to falter, stiles were built and fences on the Lyttle property crossing 41 peg were cut, allowing stock to destroy a woodlot.

Mr. Lyttle says he was forced to shut off access to the monument for a year. "It was good enough for Peninsula Walkers to feel they had a legal right to cut fences and erect stiles, so I had the legal right to insist they use the legal track to the monument".

Today, tempers have eased and access to the monument is open again but the Lyttles have had the expense of fencing 41 peg road.

PANZ Commentary

1. The '41 peg' road goes within 80m of the monument. A registered right of way over Lyttle's land (the '900mm wide access') then legally should provide public foot access to the monument.
2. There was no question of Lyttle or his neighbour losing grazing over the road. The Peninsula Walkers wanted grazing to continue to keep the grass down. Unlike his neighbour, Lyttle decided to fence his boundary with the road, and was not forced to do so by the Walkers or the Dunedin City Council. This electrified fence unlawfully obstructed the right of way.



The Soldiers' Monument on the crest of the Otago Peninsula, with Otago Harbour rear.

Public roads continued...

3. The Peninsula Walkers offered, at their expense, to erect pedestrian gates in fencing Lyttle had across the 41 peg road—the offer was rejected.
4. Electric wires across the road were insulated by the Walkers, but the insulation was removed. The wires were then cut.
5. Styles were then erected through the remaining non-electric fencing. These were damaged and Lyttle was warned that any further damage would result in removal of his fencing. The stiles were repaired by the Walkers and remain in place.
6. The legal ROW to the monument is still obstructed. Lyttle has provided longer, alternative access across his property to the monument. Negotiations by the city council to have this access formalised have reached an impass. Lyttle wants 50 cents per person who crosses his land. This would cost the Council at least $27,000 for the first 25 years. Councillors have asked their staff to investigate shifting the monument!
7. Meanwhile public use of the '41 peg road' continues to grow and people are wondering why they cannot hop across 80 metres of gentle paddock to reach the monument as they are legally entitled to.

Intending farm buyer beware
Onus on landowners to know boundaries

Demand for access to public land is going to increase, says Dunedin's Bruce Mason, a researcher and spokesman for Public Access NZ.

This is likely to force the opening of more paper roads for public use but it places an onus on landowners to know what they own, he says. "Let the buyer beware."

He says Otago Peninsula farmers are not receptive to the idea of opening walking tracks, to the point of paranoia in some cases, and that was why he bulldozed the issue through. "The point is they are not the owners of roads yet they constantly insist they are, with the right of veto."

He is saddened by the way the battle became personal, which included violence and death threats, but says better leadership from the Dunedin City Council could have defused the situation.

He says the Christchurch City Council has a walking network on the Port Hills and the Southland District Council has a policy that gives the public the right of passage on paper roads (**Correction:** the Southland policy *recognises*, not "gives", a right of passage).

There is little doubt, says Mr. Mason, public demand will see paper roads reopened elsewhere in the country, which landowners will have to accommodate. "It could be as simple as putting a gate in a fence or changing management, for example, at lambing.

"Just because a road is disused doesn't mean it will continue to be disused."

Letter to Editor

Your feature of April 27 on the issue of so-called 'paper' roads on the Otago Peninsula contains many errors and myths. I comment here on the most extravagant claims—

Myth number one

The concept of "paper roads". In the context of the Otago Peninsula, and most of New Zealand, there are no such legal entities, only public (legal) roads, formed or unformed. See section 315 Local Government Act 1974.

Myth number two

"Unformed roads were drawn on a map by Otago's founding fathers in a 19th century Edinburgh office", and, **"many roads had not been surveyed and exist only on maps."** I have inspected all the official survey records of the approximately 20 roads concerned. *All* were prepared locally and deposited in the Otago Survey Office. Only one of them was found to be unsurveyed. In any event they don't need to be surveyed to be legal, just properly dedicated.

Myth number three

"Many paper roads cross cliffs". This is a flow-on myth from the 'planned in Edinburgh' myth. Only one of the tracks opened up over legal roads crosses a steep rock outcrop, most of the rest follow old bridle or cart tracks. The early surveyors traversed most of them, and recorded the fact in their field books.

Myth number four

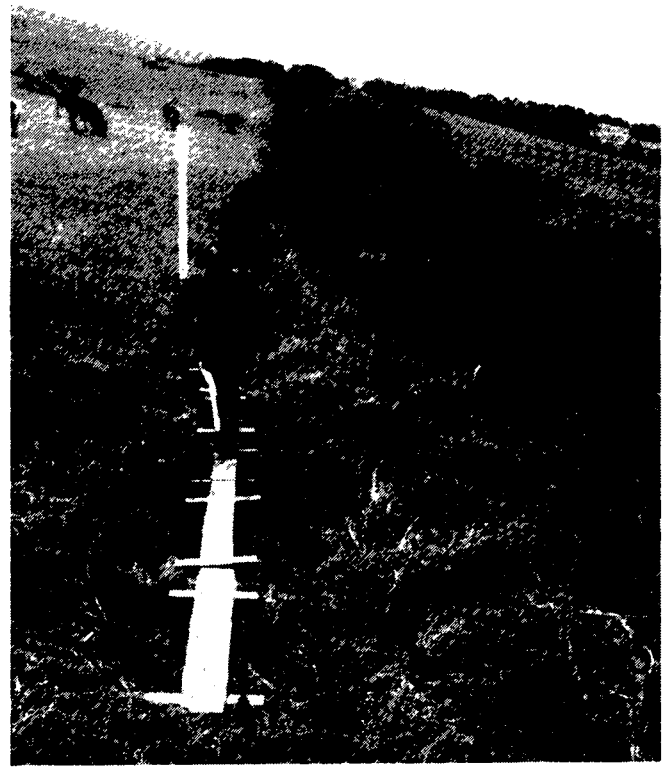
"Bruce Mason tried to change access to a right rather than a privilege." As you report the public already have *the right* to pass and repass along public roads, how can your statement possibly be true? The adjoining landowners want public *rights* of access replaced by a privilege at their pleasure—the reverse of what you state.

Monster myth number five

" 'Paper roads' are not publicly-owned but cross private land". You repeatedly state that the roads are on *private* land. This is completely untrue—on dedication, the land (usually 20 metres wide), vests in the ownership of the district council (subject to the public's common law rights of use). The continual 'theft' of public property by the use of your loose language has been the hallmark of this debate. Until farming interests (and district councils) distinguish between public and private property, and recognise that the former belongs to everyone, the conflicts will continue.

Bruce Mason, Otago Peninsula Walkers

On the '41 Peg' road developed by the Otago Peninsula Walkers



SUE LEVICK

Public Roads — A Users' Guide

The key concept behind the law of highways is *the right of passage*. Your rights, and limitations on your actions, and those of administering district councils, hinge on this concept.

Whether a public road is formed or unformed (including so-called 'paper roads') has no bearing on their legal status, or on your rights of use. There is the same right of passage.

New Zealand public roads are strips of land normally 20 metres wide with ownership vested in district councils. Adjoining land owners have the same rights of use as members of the general public, plus a right of 'frontage' (access) to their property along their legal boundary with the road. They are not 'THE OWNERS' of public roads, as frequently asserted or implied.

The following advice reflects current New Zealand statutory and common law. The direct-actions noted below have been repeatedly 'field-tested' without any legal liabilities falling on the practitioners.

What you can do—

- each and every member of the public can *assert their right to pass and repass without hindrance*, by whatever means they choose (provided it doesn't damage the surface).
- do other things related to passage, e.g., parking, resting etc.
- remove 'public nuisances'*, erected without statutory authority, sufficient† to enable your passage.

  * Recommend leaving to one side without unnecessary damage. Not every encroachment amounts to a 'nuisance'—needs to be 'an appreciable interference' with, or an obstruction to, your rights of passage. What amounts to 'appreciable interference' is a matter of fact on a case by case basis.

  † Meaning no more than what is necessary.

  NOTE: There may be liability if stock escapes on to vehicular roads and causes a traffic hazard. If a risk, we recommend removing fencing when stock are absent then immediately notifying owner in writing that fencing is not stock-proof—then their liability.
- remove vegetation sufficient for passage (ie. clear tracks).
- as an adversely affected member of the public, sue the person responsible for a nuisance, and the district council if it authorised it.

What you cannot do—

- occupy or obstruct a road to the exclusion of the public.
- encroach on a road by any building, fence, ditch, or other obstacle, or plant any tree or scrub, without authorisation from the district council.
- dig up, remove, or alter in any way the soil or surface or scarp or a road, without authorisation from the council.
- damage or remove or alter any gate or cattle stop lawfully erected.

What you must do—

- leave a lawfully erected gate in the position (whether open or closed) in which it is found.

What district councils can do—

- close roads temporarily to traffic or any specified type of traffic with public notification, for reasons of road construction or repair, resolution of traffic problems, when public disorder exists or is anticipated, for temporary diversion to other roads, for exhibitions, fairs, public functions etc., and to motor vehicle use, or any class of motor vehicle, when climatic conditions may cause road damage.
- close roads temporarily (for motor races or other special events) to vehicular traffic, with public notification and right of objection.
- 'stop' or permanently close roads after a public notification and objection procedure (watch out for public notices in local newspaper). Council decisions to 'stop' roads are subject to a right of appeal to the Planning Tribunal. The key determinate is the need for the road (e.g., provides sole legal (not necessarily practical) access to individual allotments), not any perceived need for 'stopping', such as claimed undesirability of public access.
- grant leases of airspaces above roads, provided that sufficient airspace remains for the free and unobstructed passage of vehicles and pedestrians.
- permit in writing the erection of a swing gate with a 'Public Road' sign, or a cattle stop, or both across a road, where it is not practical or reasonable to fence the boundaries of the road.
- sue any person in respect of a nuisance arising from an unreasonable interference with the public right of passage.
- compel or recover the cost of removal of an obstruction.

What district councils cannot do—

- create a nuisance, or deprive any person of any right or remedy they would have against the council or any other person in respect of any such nuisance.
- lawfully authorise obstructions (e.g., fences, stock yards, buildings) across roads.
- grant rights of use or occupation that create a public nuisance or interfere with public rights.

What district councils are liable for—

- obstructions it has authorised when they become nuisances, should they become aware of them.
- permitting an obstruction it has authorised, once it becomes a nuisance, to remain on a road or otherwise fails to abate the nuisance.

What district councils are not liable for—

- spending money on road construction or maintenance (a Council discretion).
- obstructions to roads of which it has no knowledge.

Caution

1. This is a summary and not the complete law relating to roads. Consult a lawyer.
2. This advice is dependent on the road being properly dedicated.
3. You must be certain you are on the correct alignment.

For a fuller explanation of legal rights and how to research the status and location of roads see *Public Roads—A Guide to Rights of Access to the Countryside.* Available from Public Access New Zealand, P O Box 5805, Dunedin for $11, postage inclusive

Wairarapa WATERS

Last year PANZ Trustee Bruce Mason was invited by the Wairarapa Access to Earth, River and Sea Society (WATERS) to inspect access problems on the Tora coast and on rivers in South Wairarapa. A preliminary inspection of survey plans revealed a poor provision of the Queen's Chain along rivers, but a reasonable provision of public roads giving access *to* rivers and the coast.

Alarmingly the situation on the ground was markedly worse than the plans indicated. Except for where main roads cross rivers, it is almost impossible for the public to reach most rivers. Many public roads, both formed and unformed, are obstructed either by locked gates or fences. The overall impression was one of exclusion—by fences and 'keep out' signs, including one setting charges for access to the Ruamahanga River.

Access charges to Ruamahanga River, with money box.
There is a legal road from left of the gate across paddock, but it is obstructed by fencing.

BRUCE MASON

Along the South Wairarapa coast at Tora the situation was a little better with some public reserves along the shore. Again the prevailing impression was one of exclusion—by kilometres of electric fencing between the coastal road and the beach, often only a few metres apart. There was little apparent benefit for stock management from much of this fencing. Bruce was shown the scene of bitter conflicts over the use of an unformed section of road leading to the coast where a commercial fisherman had his boat and livelihood smashed up one night as it was left unguarded on the Queen's Chain (see 'The fishy tale of Barry Guthrie'). A gate normally locked on this road was unlocked on the day—word apparently got out of the PANZ representative's impending visit!

It became clear what is generating most of the access problems along the Wairarapa coast. There is big money to be made, not just from fishing, but from landowners controlling and levying commercial fishers' access to the sea. The rights of the general public has suffered as a consequence. There are also a large number of unemployed people, mainly Maori, collecting agar along the shore. Their presence is not appreciated by all the local farmers, who, it is alleged, resent the invasion and have persuaded the District Council to impose two-week camping limits. The Council has gone further by proposing total bans on camping in reserves, and toll gates on roads.

Fishermen and campers accuse the Council and local farmers of trying to hijack the coast "to screw revenue out of visitors making a living out of coastal industries".

The only bright spot on the coast has been the recent establishment of many kilometres of esplanade reserve along the shoreline of White Rock Station, filling in a major gap in the Queen's Chain. This reserve resulted from a subdivision application under the Resource Management Act prior to its reserves provisions being knee-capped by the National government. It is most unlikely such an improvement to public access will be repeated.

One of the most disturbing aspects of the Wairarapa access situation is the record of the local authorities and the Department of Conservation on access matters. It appears that these authorities see themselves more as protectors of established private interests than as trustees of the public assets under their control. Inspection of extensive records on a number of cases reveal a pattern of officials and Councillors confusing landowners' private interests, being beyond their jurisdiction, with their legal responsibilities. The inevitable results are 'trade-off's' using public lands and rights as expendable chattels in the interest of reaching "compromise" and protecting agency "relationships" with farmers. Invariably it is the public's few existing rights that are being 'compromised' as a result.

For the last 6 years WATERS has been making representations and petitions to the South Wairarapa District Council, and its predecessor the Featherson County Council, to have locked gates and fences removed from across public roads. All its representations, backed by a substantial body of local opinion, have come to nought. It has even offered to meet survey costs to have roads defined. The County Council obtained its own legal advice which confirmed that the public has a right of unimpeded access over 'paper' roads, but still failed to act.

Previous Minister of Lands Peter Tapsell took an interest in the obstructed road access to the Ruamahanga River—again without any impact on the Council. The farmer concerned continues to deny, through obstructing fencing, access along this portion of Glenmorven Road except for payment of a fee to use his private road, part of which traverses the legal road. Mr. Tapsell described this action as "seeming to be illegal".

After WATERS showed an interest in progress in implementing a 1983 Lands and Survey agreement to create a recreation reserve at Te Oroi Bay, which depends on an unformed road for access, the new Department of Conservation

Wairarapa continued...

renegotiated the agreement to provide a markedly inferior alternative. This was a swampy addition to another previously agreed reserve to the north, which, unlike Te Oroi Bay, is unsuitable for camping and boat launching. The department cited fisherman Barry Guthrie exercising his rights of passage along the road to Te Oroi Bay, to avoid paying an access charge to the local farmer, as "a problem", and cause for reneging on the earlier agreed reserve. DOC's local manager recorded that it is "completely reasonable" for farmers to request such fees from commercial fishers.

It was separately reported that one property was charging $50,000 a year from one fishing concern with a number of boats.

If you are interested in supporting WATERS, their address is—c/-Bush House, Bidwells Cutting Road, R D 1, Greytown.

BRUCE MASON

WATERS member Gay Rodgers inspecting locked gate on public road leading to Tauherenikau River, near Featherson.

Te Oroi Bay on the South Wairarapa coast. Site of recreation reserve foregone by DOC.

BRUCE MASON

BRUCE MASON

The fishy tale of Barry Guthrie

For 23 years cray and wet fisherman Barry Guthrie launched his boat from private farm land through the wild surf at Little Oroi, south of Tora. In "consideration for launching" he did road maintenance and helped with docking on the farm.

In February 1988 the farmers demanded 18 crayfish per day and $100 per week in the off-season. Guthrie calculated this would cost him $45,000 per year. He refused to pay and was served a trespass notice, denying him access to his leased boat for nearly three months, causing a loss of $60,000 in income.

He engaged a surveyor to locate an unformed road leading to a marginal strip at Te Oroi Bay which he opened up as alternative access to the sea. Te Oroi is one of very few bays and natural launching sites on the rugged south Wairarapa coast. The District Council reprimanded Guthrie for some minor earthworks on the road.

Sometime later a deep trench was bulldozed across the road preventing access to his relocated boat.

One night in February 1991 more than $25,000 of wilful damage was done to his boat, trailer, and bulldozer. Equipment was also stolen. The dozer was used to smash the hull of the boat, before it in turn was wrecked. Guthrie rebuilt the boat at Featherson and two days before completion, in May 1991, the uninsured craft was gutted in an early morning arson attack. Guthrie, with a young family of four to support, faced bankruptcy over debts and mortgages of $60,000. Guthrie's wife received anonymous threats that they would "do her and bury her" if Guthrie continued fishing. Similar threats were received by the owner of the boat.

Barry Guthrie became bankrupt in 1993 and may loose his house this year.

Wairarapa Times Age

TENDER
FISHING ACCESS TO COAST

Tenders are invited for the right for commercial fishing boat access to a prominent Wairarapa beach for the period April 1, 1993 to March 31, 1994.

Tenders close at the offices of:
Eastwood & Partners,
Chartered Accountants,
P O Box 450, Masterton at
4.00pm on Friday
March 5, 1993.

Highest or any tender not necessarily accepted.

Treaty claims

The Principle of 'Partnership' and the Treaty of Waitangi

Since publication late last year of PANZ's monograph on the Treaty, there has been lack of reaction, good or bad, from Government. There has been a marked reluctance to address the issues raised by the paper, or to substantiate the basis for government actions in fostering a 'partnership' with iwi Maori.

The monograph concluded that the concept of a 'partnership' between the Crown and Maori was a myth, having no basis in the Treaty of Waitangi or in law. Other conclusions were that there is an irreconcilable conflict between 'partnership' and 'equal citizenship' views of the Treaty whereby all New Zealanders have the same rights and duties of citizenship.

There is also a major gulf between the legislative 'preservation' purposes of national parks and other protected areas and 'conservation-for-utilisation' preferences of many iwi. Tribal authority over public access to and use of natural areas contrasts markedly with existing rights of access, conveyed equally on everyone.

Leading academics and constitutional lawyers have variously praised the paper or see no major problems with it. There has been some comment about "rhetoric" or "bias" from some Maori but no substantive criticism.

Before Christmas PANZ asked the Director-General of Conservation what the legal basis was for DOC pursing 'partnership' policies and in preparing a 'Partnership Plan'. Considerable staff time is going into preparation of such a plan, it appears to provide an official basis for divesting public ownership and control of public lands and other resources to iwi. No answers have been forthcoming from DOC five months later.

Similar requests to the Minister of Conservation for him to itemise the legal basis for his repeated statements that a 'partnership' exists have been met with — "I do not see it as a matter of public policy over which I should be called to account" (D. Marshall, May 13, 1994).

PANZ intends, one way or another, to hold Government and its officials to account for any unjustifiable alienation of public lands.

Public lands cheap fix

Increasingly fears from non-government conservation and recreation groups (NGOs), that Government sees public lands as cheap fixes for land claims by Maori, are being confirmed. In 1991 Mr. Marshall decided to give away East Cape's Mt. Hikurangi under a spirit of 'partnership', in the absence of a claim. DOC has reluctantly backed off giving Stephens Island in Cook Strait away in the face of Crown Law Office advice that there is no valid claim over the island. However the Crown Titi and Codfish Islands near Stewart Island are currently been considered as part settlement with Ngai Tahu despite Waitangi Tribunal findings against their claim over the islands. The Greenstone and Caples valleys are in the same category — invalidated claims.

Other than zealous righteousness, what could be driving such moves? Answers come from recently released Cabinet papers and Ministerial statements on settling Ngai Tahu land claims. In September 1991 Cabinet agreed to offer freehold ownership over the Crown Titi Islands and provide special access rights to the Codfish Island Nature Reserve, while noting there would be "little cost to the Crown" (CAB (91) M 38/27).

In June and August 1992 Cabinet, in agreeing to purchase the Greenstone, Elfin Bay and Routeburn pastoral leases (the land being already owned by the Crown) decided that these areas "be designated as the first priority assets to comprise any settlement" and that "an equivalent value of properties in the 'land bank' are released for immediate sale" (CAB (92) M22/21, CAB (92) M30/22).

SOE lands closeted away

In March last year Minister of Justice Doug Graham stated that "Landcorp farms would be among the most suitable for settlement of the Ngai Tahu land claim" (*Otago Daily Times* March 24, 1994). This year they have dropped from sight. The schedule of the Ngai Tahu 'landbank', with the exception of the Greenstone Valley etc., consists of lots of small surplus government properties mainly in urban centres. There are no state-owned enterprise lands listed. A direct consequence for public lands, and the Greenstone Valley, is that the latter have become 'first priority' assets for settlement.

It appears that SOE assets have been safely closeted away. As Mr. Graham states: "if the Crown settles a claim by the return of a Landcorp farm, *it buys the farm from Landcorp*..." (*The NZ Farmer*, May 4, 1994). By tricky bookkeeping, Government has created its own internal disincentive to use SOE lands in settlement by requiring itself to buy what it already owns! Whereas public lands are free!

Parliamentary Commissioner's inquiry gutted

Late last year Parliamentary Commissioner for the Environment Helen Hughes initiated an "investigation into Treaty negotiations and the involvement of affected parties". This was as a result of increasing complaints about the process employed by Government in its dealings with public lands. The initial terms of reference looked very promising, as was what appeared to be genuine consultations with NGOs. It appeared to be the intention to look fully at the public interest in public lands as well as the processes of Treaty settlement employed by government. PANZ and other groups were invited to contribute and it appeared that an independent review of Government's less than satisfactory performance, and recommended changes in the process, might result.

However the inquiry recently became an "investigation into procedures for maintaining the quality of the environment in the settlement of Treaty claims", a quite different, and much narrower focus from that embarked upon. The questions of process and public consultation, being the prime matters at issue, will "not now constitute the main focus".

Public consultation essential

Meaningful public consultation on proposed Treaty settlements involving public lands is essential. PANZ is pursuing such a goal. This is to ensure government accountability for its decisions, and to meet legal requirements arising from the duty of trust under which the government holds such lands on the public behalf. These are *public* lands, not *government* SOE lands where no such obligations exists.

Jim Guthrie, lawyer and chairman of the New Zealand Conservation Authority, disagrees. Mr. Guthrie has stated that in "strictly legal terms" the land belongs to the Crown, which has no legal requirement to consult, but he was confident Government would allow public input (*Otago Daily Times*, March 10, 1994). However the Minister of Justice earlier stated that, in relation to the Greenstone properties, that the Government does not consider that the public has a "clear and appropriate interest" sufficient to warrant consultation (D Graham to PANZ, February 2, 1994).

PANZ has submitted to Mr. Graham a three-step public consultation process (available on request) to restore public confidence in the Treaty settlement process generally. It is known that officials are developing a consultation process but Government has not announced any commitment to this. Please do your bit to encourage Government to take the public interest seriously.

What you can do

Write to the Prime Minister and the Minister of Justice asking for a public consultation process prior to decisions being made to use public lands in settlement of Treaty claims.

Hands off the Greenstone Valley

The 'Hands off Greenstone Valley Campaign', run in conjunction with the Otago Fish and Game Council, is attracting a lot of public and media attention. 10,000 copies of PANZ's colour pamphlet on the subject have been distributed nationally and has been well received. The Fish and Game Council has printed 15,000 bumper stickers—they are increasingly evident around the streets of Dunedin and in Central Otago.

On May 24 Alliance leader Jim Anderton presented the petition of Queenstown resident Kaj Christensen and 6954 others to Parliament opposing the development of a monorail or road in the Greenstone Valley.

PANZ is planning a series of public meetings to give Government an opportunity to explain their intentions, and handling of the issue, and for members of the public to ask questions and voice their concerns. Justice Minister Doug Graham has been asked for his availability during the next two months so that the first meeting, planned for Dunedin, can proceed. Further meetings elsewhere may result. The meetings will be publicly advertised.

STOP PRESS

Minister of Conservation Denis Marshall has advised (23 May) that "the Government has considered the strong message it has received from the public that a formal public consultation round should be undertaken". Government has agreed to enter into such a process for the Greenstone, Elfin Bay and Routeburn Stations. "The nature of this process is still under development".

Note that Government, while looking at public consultation on use of any other Crown or public lands in claims settlement, has not agreed to such. *Your letters to Government are still necessary.*

Conservation estate

"The department's vision for the future has conservation playing an appropriate role in support of an economic environment based on sustainable management of New Zealand's natural resources".
DOC's briefing to incoming government, November 1993.

And so in one sentence the Department of Conservation has changed the purposes of public lands in disregard of their legislative duty to preserve such areas in perpetuity and for public inspiration, enjoyment and recreation. Inevitable consequences of such a receptivity to economic goals, ahead of protection and public need, have been offensives by the tourism industry seeking access user charges as a way of funding park development. This sector apparently sees New Zealand's parks merely as raw material for generating private wealth. Domestic users are been asked to subsidise tourism growth ambitions through payments in addition to taxation, diminished recreational opportunities, and displacement by more lucrative overseas visitors.

Track-user charges mooted

Bid to charge walkers abhorrent

The Dominion, April 29, 1994
A move to charge walkers on main walking tracks would be abhorrent to most people, according to Public Access New Zealand.

Spokesmen Brian Turner and Bruce Mason were responding to a suggestion by Conservation Authority member John Davies, of Queenstown, that the Conservation department charge people $25 a head to walk the Routeburn, Kepler, Abel Tasman, Heaphy and Milford tracks.

The charge would produce $1 million a year to provide for maintenance and replacement of facilities, Mr Davies told a meeting of the authority in Wellington this week. He intended to put a motion on the charge to the authority's August meeting.

Mr Turner said the charge ran contrary to the feeling of most track users. "If this kind of thing occurs, then increasing numbers of people will find it more difficult to get access," Mr Turner said. "The minute you start making charges you set up a kind of exclusivity. Large numbers of New Zealanders visit parks because they don't have to fork out large sums of money to do so," he said.

Mr Mason said the proposal showed how much the tourist industry had been allowed to capture the management of public lands.

'Utterly opposed' to charging trampers

Nelson Evening Mail, May 3, 1994
By Kirsty Fyfe
The Nelson Conservation Board is "utterly opposed" to charging people to walk to the Heaphy and Abel Tasman tracks and the proposed idea is illegal, according to chairman Bill Winstanley.

Mr Winstanley was responding to a suggestion by Conservation Authority member John Davies, of Queenstown, that the Conservation Department charge people $25 a head to walk the Heaphy, Abel Tasman, Milford and Routeburn tracks.

Section four of the National Parks Act 1980 provided for public freedom of entry and access to the parks, Mr Winstanley said. New Zealanders have fought hard for that legislation and will jealously guard its provisions of free access. By comparison the Queen's Chain debate might be thought to be restrained."

Charging for access was not in the interests of New Zealanders and "entrepreneurs like Mr Davies, who live off tourism, should be told so", he said. "If tourism is making so much money for the country and tourists are paying so much in GST, why can't the tax advantages from the enterprise be fed into maintaining the conservation estate?"

Mr Winstanley said the New Zealand Tourism Board determined a target of three million tourists by the year 2000 back in 1989 but it was not until this year that a parliamentary enquiry was initiated into whether New Zealand could sustain that number. "Only now is the tourism board looking for ways to fund the growth almost entirely reliant on the under-funded conservation estate."..."One must question whether a major increase in tourism is in the long-term interests of New Zealanders."

What you can do

Write to the NZ Conservation Authority, P O Box 10-420, Wellington opposing walking track user charges.

Inquiry into Tourism Board

Parliament's Commerce Select Committee has commenced an inquiry into the New Zealand Tourism Board. The terms of reference are to ensure that strategies and facilities are in place to ensure that New Zealand's conservation estate can meet international visitor arrival projections, and that *"the full income-earning potential of the estate will be realised"*, within environmentally sustainable limits.

PANZ has submitted to the committee that the terms of reference must be amended to include opportunity to comment on the appropriateness of increasing numbers of international visitors, and on the continuation of Government funding to achieve that end. We are dismayed that $100 million of public money has already been spent on tourism promotion without the public being given the chance to first comment on the social and environmental impacts arising from increases in visitation to public lands.

Otago Conservation Board chairman Prof Alan Mark has said that conservation board members were "incensed" by a tourism board push for tourism growth which paid little regard to the effects on the environment. "They put out some very glossy brochures pushing tourism virtually without condition. "They expect everybody else with an interest in conservation or a concern about tourism to fall into line". The Department of Conservation had to manage national parks and other natural attractions primarily for conservation, with tourism allowed as a secondary consideration where it did not compromise the environment, Prof Mark said.

The conservation board's submission urges the tourism board to consider that as well as being physically limited in the number of visitors they could carry, natural areas also had "social" carrying capacities. The presence of too many other people could spoil the wilderness experience that drew many tourists to the areas, Prof Mark said (*Otago Daily Times*, May 4, 1994).

Queen's Chain

Clarification of access to water due

Otago Daily Times, April 8, 1994

Nelson (PA) — Access to waterways as set out in the Resource Management Act will be clarified after a problem highlighted in the Nelson district.

Nelson-Marlborough Fish and Game Council has been battling an interpretation of the Act that it says is restricting public access to local waterways. Manager Mace Ward said the council had been concerned for some time that Nelson district land registrar Maurice Higgs was interpreting the Act differently from Ministry for the Environment staff who wrote the policy. As a result, access to rivers, lakes and coastal areas near subdivisions was being severely restricted, he said.

Mr Ward said the registrar was ruling that when an area of 4 ha or less was subdivided, public access was required only on the land that was subdivided off.

The council had raised its concerns with the ministry, which in turn had approached lands registrar-general Brian Hayes, but nothing had yet been done, Mr Ward said. "It's the council's role to promote public access to waterways and we are seeking to remedy the problem as soon as possible before too many other access areas are restricted," Mr Ward said.

Bills before select committee

The Conservation Amendment Bill No. 2 and Queen's Chain Protection Bill are still before the Planning and Development Select Committee. The report of the working party on the Amendment Bill has been released to everyone who made submissions on the Bills. Further submissions were invited on the working party's recommendations.

Due to changed committee membership, all who made submissions on the Bills have been invited to reappear before the committee with their views on the Bills, and the working party report. During the Parliamentary recess 30 out of 90 persons and groups who wished to be heard appeared before the committee. The Amendment Bill is likely to be split in two, with the controversial marginal strip provisions receiving greater Committee attention.

PANZ understands that DOC officials have put before the committee schedules of alleged difficulties with the current Conservation Act as justification for leases over marginal strips. The Department couldn't, or wouldn't, produce such information for the scrutiny of the Ministerial working party of which PANZ was a member. PANZ correctly predicted in its submission to the select committee that DOC would likely produce 'new' evidence to support leases. We remain determined that the Bill is amended in accordance with the working party's recommendations—that is to drop any suggestion of private occupation over marginal strips. PANZ will advise supporters of any adverse developments.

Resource Management Act failing

Indications from around the country are that since changes to the RMA last year, very few district councils are requiring the establishment of esplanade reserves when private land is subdivided. Compensation requirements are, predictably, deterring most councils. Developers on the shores of the Whangaparaoa Harbour in Northland, have applied to establish 17 small rural blocks with "exclusive frontage to the tidal estuaries", with road access protected by security gates.

Access News

Please send clippings (with date and source) to PANZ

Otago Daily Times, March 30, 1994

Privatisation of public gardens squashed

Plans to put a perimeter fence around the Queenstown Botanical Gardens and charge $8 for entry have been dropped. The gardens are a public recreation reserve vested under the control of the Queenstown-Lakes District Council. 300 objectors at a council meeting persuaded it to decline an application by Youngs Greenworld for a $2 million upgrade, under a 20-year lease. The council's corporate services manager Michael Ross said that the council should investigate all avenues of obtaining revenue from visitors. However the major stumbling block was loss of freedom to enjoy the open spaces of the gardens (*ODT* & Radio NZ, May 11 & 12, 1994).

Resource consents could be bought in future—judge

Otago Daily Times, April 4, 1994

Nelson (PA)— Developers might be able to buy resource planning consent for their projects in future, a Planning Tribunal judge said in Nelson yesterday.

In a speech to the Planning Institute's annual conference, Judge John Treadwell there there was now more consultation among planners, lawyers, developers and people potentially affected by a development before projects went ahead.

It was possible that in future developers would pay people who would otherwise make submissions against a planned project, in order to achieve their consent. "I suspect that a time may be reached when resource consents can, to a degree, be bought," the judge said. This approach may be more economic for a developer rather than having to "run the gamut of the consent process"..."there is an old Italian proverb which says: 'Where gold speaks every tongue is silent'."

Sea access protected

In February 1994 the Marlborough District Council declined an application to occupy space in the coastal marine area for growing scallops. This was for 285 hectares of Croisilles Harbour in the Marlborough Sounds. 207 objections were received. Adverse impacts on recreational activities were the primary concern.

The Council declined the application because consent would require a restriction on public access, amenity values would be adversely affected, and that, on balance, it was not satisfied that the purposes of the Resource Management Act would be achieved. Doubts were also raised as to the jurisdiction of the Council under the Resource Management Act verses the role of the Fisheries Act.

In the greater Sounds region there are a further 20 applications for marine farms greater than 48 hectares in area, 5 of which are of a similar nature to the Croisilles Harbour proposal.

Land's End

The Press, September 14, 1993

Sir,—Three years ago my wife and I enjoyed a holiday in the UK, travelling thousands of miles by car from Scotland's John O'Groats to Land's End in Cornwall. To our surprise, the Land's End road was fenced off some miles from our southernmost destination ("Land's End Private Theme Park") and a gatekeeper had his hand out for £3.50 a head (about $10). More because of a principle than the costs we chose to return to a small village called Sennen Cove and from there walked the cliff track around to the point, and the inevitable gift shop overlooking the ocean. Thankfully, the coastal strip was accessible and the point itself, but free access by road has been denied to the public. Do not let it happen in this country. Privately owned coastal areas are not acceptable to most New Zealanders.

Alan Wills

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