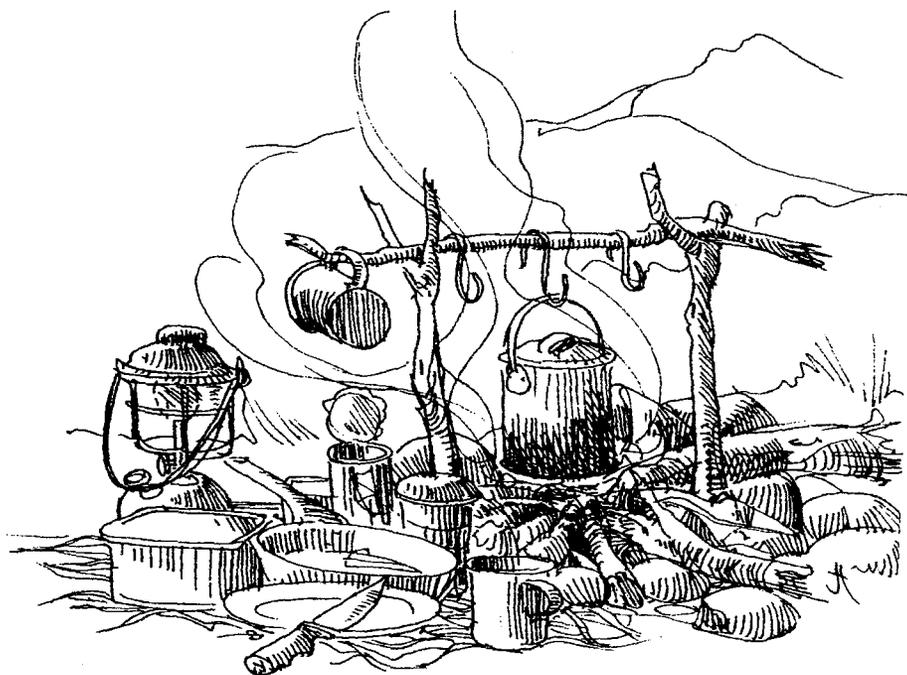


# New Zealand Outdoor Recreation Charter



***Election 1999***

# *Foreword*

This Charter is a New Zealand first. It is the result of a broad coalition of outdoor recreational national bodies, the recently formed Council of Outdoor Recreation Associations (CORANZ), working together to identify and protect the common basic values of outdoor recreation, for all New Zealanders.

The Charter specifically targets outdoor recreational issues centred on public ownership and management of public natural lands, and other recreational resources. Although the Council supports concerns for nature protection and sustainability, we consider that recreational issues should be accorded the importance of a stand-alone national policy rather than be treated as an incidental adjunct to environmental policy, as has been the case to date.

Over one million New Zealanders actively participate in outdoor recreation. Therefore it is amazing that political parties have generally not recognised this massive sector.

The Council is apolitical. CORANZ does not have any affiliations or leanings to any political party. We present this Charter to all political parties, and will be analysing and publicising their responses.

We urge all outdoors-conscious New Zealanders to take these issues up with MPs and aspiring MPs in the forthcoming election. We suggest raising these issues through letters to newspapers, and by attending political meetings. We welcome your feedback and your support\*.

New Zealand urgently needs an awareness among those who wish to govern us that recreational use of the public estate is a highly valued, traditional right belonging to all New Zealanders – and that to do justice to the electorate their policies must reflect this.

Tony Orman

Hugh Barr

Co Chairmen

\* Please send comments, donations, subs (\$20 Individuals, \$70 Clubs) to CORANZ, P O Box 1876, Wellington. Phone (04) 934 2244

# New Zealand Outdoor Recreation Charter

Almost all New Zealanders have enjoyed the outdoors at some time in their lives. Walking for pleasure, salt and freshwater fishing, tramping, yachting, surfing and mountain biking are among the twenty most popular recreational and sporting activities in the country. It has been estimated that more than a million New Zealanders have an active outdoor recreational interest. Most New Zealanders greatly value the right to recreate, as part of our quality of life. Outdoor recreation is a major component of our national heritage.

This Charter has been compiled by the Council of Outdoor Recreation Associations (CORANZ) after wide consultation. It is an action list for government policy and legislative changes that are necessary to recognise and support the important and widespread role that outdoor recreation plays in New Zealand life.

We hope that this Charter will be discussed widely, and considered sympathetically by all political parties. We ask that parties adopt as many of these proposals as possible into their election manifestos, and action them should they become or support the next Government.

## Council of Outdoor Recreation Associations

The Council was formed to promote the common interests of outdoor recreationists at the national level. This was because of concern among many outdoor users that, although the outdoors and recreation are very important components of the New Zealand psyche, this has not been reflected by political and official decision-making in recent years.

Our member associations are—

NZ Bowhunters Association	NZ Deerstalkers Association
NZ Federation of Freshwater Anglers	NZ Salmon Anglers Association
Marlborough Recreational Fishers Association	Public Access New Zealand

The Council advocates the common interests of the million or more New Zealanders who fish, shoot, tramp, ski, canoe, climb, walk, mountain-bike, botanise, photograph and relax in New Zealand's great outdoors.

The combined membership of our member bodies is 18,000 with a much wider support-base of approximately 200,000 individuals. The latter are represented by CORANZ member groups' constituent organisations who have pledged support for their objects. Those objects, in so far as they are common to the member bodies of CORANZ, are reflected by this Charter.

Our programme below is listed under each of the four Council Constitution Objects

1. A Strong Outdoor Recreational User Voice
2. Land and Water Protection and Wise Management
3. Public Ownership and Management
4. Public Access

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## **Object 1 – Strong Outdoor Recreational User Voice**

“To promote the welfare and strength of its member associations and outdoor recreation generally.”

### **1.1 Fair Funding for Outdoor Recreation from the Hillary Commission**

National recreation associations raise money directly from their members. But they need a fair share of public funding compared to sporting groups, to be able to adequately represent the interests of their outdoor recreation public. Unlike sports groups, public access to our natural resource - natural lands and waters, fisheries and game, and advocacy for our interests, in the face of competition from non recreational interests, are fundamental to adequate protection for and recognition of public outdoor recreation.

There are almost no public funds provided for the major outdoor recreation associations in New Zealand. The Hillary Commission, in spite of being named after our most famous outdoor recreationist, Sir Edmund, is **unsupportive** of the national outdoor recreation associations. Its byline “Sport on the Move” highlights its narrow sports focus.

It grants a minuscule amount, less than \$100,000 per year, for all national

outdoor recreation associations combined. This is less than 0.5% of its \$35 million annual budget. This compares with its \$470,000 for rugby. Professional and competitive sport has scooped the funding pool, to the detriment of outdoor recreation.

### *Policies*

#### **1.1.1 Set up an Outdoor Recreation Funding Commission for Volunteer Outdoor Recreation**

Set up an Outdoor Recreation Funding Commission, independently funded through the Lotteries Commission, to fund amateur outdoor recreation associations and sports. We seek an annual allocation of \$4 million to set up the Commission and for its Grants. There would be direct nomination of Outdoor Recreational representatives to this Commission.

#### **1.1.2 Provide Financial support to Protect the Outdoor Recreation Resource**

As part of its annual grants, require the Outdoor Recreation Funding Commission to fund recreation Non Government Organisation (NGO) advocacy to protect and enhance the outdoor recreation resource and opportunities, as one of its key funding areas. For example, financial support for advocacy for public access, or Associations seeking Water Protection orders for wild and scenic rivers. This

will be a key funding area, beside the Commission's funding of membership promotion, skills and training/coaching promotion. There would be no funding of professional sport or tourist activities.

Note: Usually the involved Recreation Association has to fight for the resource solely from its own resources, while non-member individuals get the benefit. This public benefit to the wider outdoor recreation community is a major reason for Lotteries Grants funding.

## **1.2 Fair Funding – Other Sources**

Though gambling activity has expanded massively in the last ten years (Casinos, Poker machines etc) the proportion going to Lotteries Grants or back into the community from the new owners, has all but vanished.

### **Policies**

#### **1.2.1 Provide More Gambling Taxes for Community Activities**

We propose that all non Lotteries Commission commercial gambling be taxed at the same average rate as the contribution given by Lotteries Commission activities. These taxes would go to the Lotteries Grants Board for community grants, including Outdoor Recreation.

#### **1.2.2 Gain Funds from Vote Health**

We seek a direct contribution from government health vote towards healthy lifestyles including outdoor recreation.

## **1.3 Better Management of Recreational Firearms**

Ability to use a recreational firearm is an important privilege for New Zealanders, as is the obligation to use it without danger or threat to others. We seek to make recreational user registration less difficult, yet discourage criminal use of firearms. We are concerned that systems for individual registration of recreational firearms are usually expensive, unwieldy and ineffective.

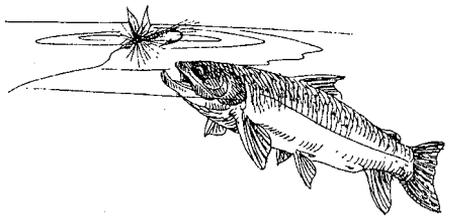
### **Policies**

#### **1.3.1 Accept Recreational Firearms User Registration**

We ask political parties to support the registration of recreational firearm users, based on appropriate levels of qualification, as at present. Recreational firearms do not include military style semi-automatics.

#### **1.3.2 Maintain Sensible Firearms Storage Laws**

Support the present legal requirements for the secure storage of firearms which, by their economy and efficiency, do not discourage recreational use.



## **Object 2 – Protection and Wise Management**

“To promote the protection and wise management of outdoor recreation resources, and related natural environments, for the protection of intrinsic values, and for the benefit of recreational users, now and in the future.”

### **2.1 Department of Conservation (DOC) Administered Areas**

The Department of Conservation is underfunded and with distorted priorities, for both its outdoor recreation and nature protection tasks. It is a constant struggle to persuade DOC to honour its legislative responsibilities to “foster recreation” and to “allow” rather than “promote” tourism. DOC maintained facilities, both back country and front country, have been starved of maintenance since DOC was set up. A more cost effective approach to getting more dollars spent wisely is needed.

#### **Policies**

#### **2.1.1 Ensure Adequate Facilities Funding**

Ensure government funding for the present basic system of front country and backcountry huts, tracks and other facilities, so allowing New Zealanders to access and enjoy their publicly owned natural lands and waters.

#### **2.1.2 Create User Say in Facilities Provision**

Create a joint DOC-User Groups Trust to plan, fund and maintain back-country huts.

#### **2.1.3 Change DOC’s Name to Department of Conservation and Recreation**

Change DOC’s name to Department of Conservation and Recreation (DOC&R) to create greater staff and public awareness of the Department’s dual roles. Create a Recreation Directorate to provide consistency in recreational policy and practice throughout the department.

#### **2.1.4 Foster Recreation, Allow Tourism**

Seek party commitments that preference will be given to public recreational needs ahead of the demands of the tourism industry. This is required by the Conservation Act.

#### **2.1.5 Increase DOC Funding**

Increase government funding for DOC so that it can function without excessive dependence on income from commercial activities or concessionaire fees.

#### **2.1.6 Retain the Department**

Retain DOC as the Crown’s primary public lands manager.

### **2.2 Better Water Quality for Recreation, and More Wild and Scenic Rivers**

Some prime freshwater fishing areas, eg the lower Waimakariri River, and trout streams in Mid Canterbury, are being ruined by farm and industrial effluent. The important Wild and Scenic River protection legislation, passed in 1981, has languished and become bogged down. River protection is now a very expensive process, beyond the reach of

most recreational groups. Many outstanding wild and scenic rivers are not protected, but should be.

*Policies*

**2.2.1 Stop the Decline in both Water Quality and Quantity**

Stop the increasing degradation of fresh water quality and volume, especially where recreationally important, eg. fishing waters, swimming/canoeing waters.

**2.2.2 Gain Water Conservation Orders for Unprotected Outstanding Rivers**

Many outstanding recreational and scenic rivers in New Zealand eg the Clarence, and Mohaka, are not protected from damming, adverse industrial development or abstraction. We ask political parties to support National Water Conservation Orders by providing funding to recreational groups to protect these rivers, including the Clarence and Mohaka Rivers and others.

**2.2.3 Have adequate Water Quality Monitoring**

Have a more active water quality monitoring programme by authorities, and a remedial programme to match.

**2.3 Enhance Public Participation in the Resource Management Act (RMA)**

Only 5% of RMA resource consents are publicly notified. The Minister for the Environment has introduced legislation that will-

- reduce public participation in RMA hearings even further
- compromise the independence of

the assessment process by allowing private consultants to process applications rather than local Councils

generally weaken the protective features of the Act

Recreational and other genuine public interest groups face an uphill battle to have their viewpoints as stakeholders allowed and adequately represented at hearings and Appeals.

*Policies*

**2.3.1 Oppose Weakening RMA Public Participation Opportunities**

Oppose proposals that disenfranchise the public, or compromise the consent process by making it contestable.

**2.3.2 Oppose Weakening the RMA, Part 2, or giving Compensation for Lost Opportunity**

Part 2 states what most New Zealanders want, by protecting sustainability, our natural and cultural heritage, and access to it, as matters of national importance. We strongly oppose any moves to allow compensation for lost opportunity.

**2.3.3 Reduce Possible Costs of Public Interest Group Participation**

Support Sandra Lee’s RMA Costs Amendment Bill that gives community groups protection against award of Costs.

**2.3.4 Provide an Environmental Defence Fund for Recreational/ Environmental Defence**

Support an Environmental Defence Fund to allow communities of interest, including those advocating for outdoor recreation and amenity values, to have some funds for research and advocacy to pro-

tect themselves against adverse developments, under the RMA. This funding should include support for Wild and Scenic Rivers protection by NGO groups.

## 2.4 Managing Big Game Recreational Hunters

Big game hunting, the hunting of deer, thar and chamois, has been part of New Zealand's cultural heritage for almost 100 years. It should be recognised as such, and adequately managed, while agreeing that game management on public land means harvesting adequate numbers to achieve compatibility with conservation values.

### *Policies*

#### 2.4.1 Seek Management by a Statutory User Body

Seek the management of recreational hunters of New Zealand's naturalised big game animals by an independent statutory body, which would be elected from the ranks of recreational hunters. Its task will be to encourage and direct recreational hunters to be the first and effective means of achieving DOC's target levels for big game animals. Target densities for big game animals would be set by DOC as would priority areas, as at present.

## 2.5 Environmental Watchdog

The Nature Conservation Council was set up during the Save Manapouri Campaign, to provide public environmental advice. It provided an environmental conscience against the development-at-any-cost ethos, but was eliminated by the fourth Labour government and not replaced by National. This independent citizen watchdog role is now badly needed. It is not provided by either the Ministry for the Environment or the Parliamentary Commissioner, neither of whom are answerable to the public.

### *Policies*

#### 2.5.1 Establish an Independent Environmental Protection Council

Set up a strong politically independent Environmental Protection Council, reporting to Parliament, to advocate for the environment. It would be similar to the Nature Conservation Council of the 1970s, with the power to delay development until full Parliamentary scrutiny of a project is carried out. The Council could be stand alone, or attached to the Ministry for the Environment, or the Parliamentary Commissioner for the Environment.



## **Object 3 – Public Ownership and Management**

“To advocate the continuation in public ownership, and government responsibility for management, of all currently publicly owned outdoor recreation resources, and for the addition of further such resources to public ownership and management as the Council believes wise or appropriate. This includes working for a strong recreational user voice in the management of those resources.”

### **3.1 Public Ownership of Natural Lands in the South Island High Country**

Seventeen percent of the South Island is in Crown owned High Country pastoral leases. These rainshadow lands make up some of the most spectacular mountain and river landscapes and recreational areas in New Zealand.

But, unlike other parts of New Zealand, they have very few public reserves. So their recreational and natural values are not readily available to the public nor managed for public recreation or conservation. Voluntary tenure review of these 350 leases is proceeding under the new Crown Pastoral Land Act. The intention is that land with primarily natural values should be surrendered to the public conservation estate, together with public access to it. In return, only sustainable farm land should be freeholded. It will require vigilance by future governments to ensure that the intent of this Act is honoured.

Lease rentals at a minuscule 50c/ha/year are still highly subsidised. This is a public subsidy for continuation of the present unsustainable pastoralism. Action is needed to phase out these anachronistic tenures.

## *Policies*

### **3.1.1 Surrender Pastoral Lease Conservation Land**

Ensure public reservation of lands of value for public recreation, with secure public access rights to such lands, as a result of tenure review of Crown pastoral leases and licences.

### **3.1.2 Double Government Funding to Speed Tenure Review**

Double Government funding (DOC and LINZ) to speed up the tenure review process.

### **3.1.3 Oppose Private Parks**

Oppose proposals that create private parks, or freeholding of lands important for outdoor recreation.

### **3.1.4 Oppose Further Commercial Recreation Rights**

Withhold granting further commercial recreation rights over leases until tenure review agreements are reached with individual lessees.

### **3.1.5 Remove Government Pastoral Lease Subsidies**

Introduce market rentals for all pastoral leases and licences from 2003.

## **3.2 Public Ownership – Public Conservation Estate**

The Department of Conservation was set up to unify management over New Zealand’s publicly owned natural lands and waters - held in trust under the National Parks, Reserves and Conservation Acts as the Public Conservation Estate. It is important in this age of privatisation, to retain these lands and waters in public

ownership and management, for protection and the public good. This is for broad recreation and conservation goals, for the whole community. This also requires fair citizen and stakeholder group involvement in management and policy decisions.

### *Policies*

#### 3.2.1 Retain and Expand **the Public Conservation Estate** in full Crown Ownership and Control

Retain land currently reserved under the Conservation, Reserves, and National Parks Acts in full Crown ownership, held and administered under these Acts by the Department of Conservation and (for some Reserves) territorial local bodies, for the benefit of present and future New Zealanders. Expand this holding of natural land as opportunity arises.

#### 3.2.2 Deter Sale of **the Public Conservation Estate**

Discontinue the issuing of certificates of title for these lands, as titles simplify future land sales. The Crown does not need 'titles' to establish ownership. Instead record these lands at each Land Registry in separate Crown land registers.

### 3.3 **Public Ownership – Rivers, Lakes, Fresh Water**

The public ownership and stewardship of rivers, lakes and freshwater is under increasing threat from non-recreational user groups, as there are increasing demands on a diminishing resource. The roles and rights of recreational user groups must be protected and enhanced in the management of these public resources.

### *Policies*

#### 3.3.1 **Retain Public Ownership and Control and Oppose Trading in Water**

Retain the ownership and administration of all water within New Zealand in public hands. Public ownership and management of water should include the beds and margins of waterways. Make it illegal to sell or trade shares in publicly owned water, or in the rights to use such water (also Policy 3.6.10).

#### 3.3.2 **Discourage Stock in Public Waterways**

The damage to habitats and water quality caused by stock in streams and rivers is highly detrimental. This shall be acknowledged and managed as part of regional water quality plans, and regional plans for the management of the beds of lakes and rivers.

#### 3.3.3 **Protect against Damming or Abstraction**

Give greater recognition to the public values of natural waterways, eg., public rivers and their natural, wilderness or recreational values. These values should be fully weighed against proposals to build a dam or modify the flow.

#### 3.3.4 **Encourage Riparian Enhancement**

Government supported national and regional programmes should be established to encourage and support the provision of vegetation buffers along water margins, with compensation where appropriate.

#### 3.3.5 **Allow Public Interest Prosecution of Authorities**

Create a mechanism where, when local/regional water management authorities fail to enforce or litigate approved legal

water standards, or consent conditions, recreational bodies can insist on compliance.

### **3.3.6 Require Crown Monitoring for Health, Disease**

The obligation to monitor and manage both public health and recreational fisheries disease risks in public waterways shall reside with the Crown. The Crown shall make the results of such monitoring and management public information.

## **3.4 Public Management – Freshwater Sports Fisheries**

The management of the habitats and resources supporting freshwater sports fisheries, and those fisheries themselves, are under increasing threat from commercial and secular interests. Despite eight years of RMA education, and in some cases litigation, figures on the non-compliance to regional water quality plans show no improvement. New threats to existing sports fisheries, and the habitat and ecosystems that sustain them, continue to emerge, frequently driven by the desire to commercialise such fisheries.

### *Policies*

#### **3.4.1 Prohibit Imports or Liberation of Harmful Species**

Prohibit the importation or liberation of any species, including diploid grass carp, for either commercial or recreational reasons, which may threaten New Zealand freshwater sports fish, their habitat and environment.

#### **3.4.2 Make Release of Genetic Fish a Criminal Offence**

Make it a criminal offence. to either de-

liberately or accidentally liberate or release into natural waterways, any salmonid that has been genetically modified from the original genome by any means other than by natural selection.

#### **3.4.3 Prohibit Import of Raw Salmon or Sale of Trout and Charr**

Declare all species of trout and charr as “recreational sportsfish only” and make it illegal to sell their flesh within New Zealand, regardless of where that flesh originated. Ban the importation of any uncooked, unprocessed salmon flesh.

#### **3.4.4 Retain User Control of F&G Councils**

Fish and Game Councils should remain licence holder elected/appointed, (ie. the sport remain user controlled) with no Government or Maori appointees.

#### **3.4.5 Prohibit Commercial Trout or Charr Farming**

Strictly prohibit the commercial farming of any trout or charr species, including *Oncorhynchus mykiss* (rainbow trout).

#### **3.4.6 Retain Equal Recreational Fishing Access Rights for all New Zealanders**

The rights of all New Zealanders to participate in New Zealand’s sports fisheries shall be equal under all laws and regulations governing such fisheries.

#### **3.4.7 Make Natural Salmon Non-Commercial**

Any salmonid found in a natural waterway (or ocean within New Zealand’s fishery zone) shall be deemed to be a recreational sports fish, and shall be subject only to such laws, regulations and

management practices that are enacted by recognised recreational fisheries authorities, or conservation authorities.

### **3.5 Public Ownership and Management – Recreational Sea Fisheries**

The Government has privatised the right to fish commercially, through allocation of tradeable commercial sea fish quota. There are pressures to privatise both recreational and Maori fishing rights in the same way. New Zealand’s sea fishery is a national public resource whose management should not be privatised.

The rights of the public and Maori to fish for food and recreation are essential common law rights. Sustaining and managing our sea fishery and its diversity adequately are important community obligations that all New Zealanders have a responsibility for, eg. under the Convention on Biological Diversity. The sea fishery is not being managed adequately. There are environmentally damaging practices by commercial fishers, poaching, and overfishing of some species, for example.

#### *Policies*

#### **3.5.1 Retain Public Ownership of the Sea, Foreshores, and the Sea Bed**

Retain these resources in Crown ownership. Oppose commercial/private claims of ownership and control. If necessary pass legislation over-riding any Court determinations to the contrary.

#### **3.5.2 Recognise and Protect the Public Recreational Sea Fishery**

Require equitable management of sea fisheries, by the Government for all New

Zealanders, not only the commercial sector. Give full recognition to and protection of the public recreational fishery.

#### **3.5.3 Provide Adequate Funding for Public Recreational Sea Fishery Advocacy**

Provide adequate funding of the viewpoint and negotiating interests of recreational sea fishers to protect their resource, eg. through the New Zealand Recreational Fishing Council.

#### **3.5.4 Provide Legislative Backing for Recreational Fishing Zones**

Provide legislative backing for recreational fishing zones. Establish such zones, eg. Hauraki Gulf, Marlborough Sounds.

#### **3.6 Settlement of Maori Treaty Claims**

New Zealanders have been overwhelmed by escalating claims from Maori for ownership and control over all manner of public resources. Such claims are inferred to be based on breaches of the Treaty of Waitangi, or nefarious ‘Principles of the Treaty’. Increasingly it is becoming apparent that many claims and grievances are figments of imagination or wilful invention, having no lawful basis whatsoever. Claim WAI 262 to all the nation’s flora and fauna is a prime example of such an approach.

A prevailing climate of political correctness, news media compliance and censure on anyone who dares to question such claims, including the legitimacy of government’s ‘settlements’, is met by defensive accusations of racism. The fact that it is racist to uncritically accept

'claims' for no other reason that they come from Maori, seems to have escaped the accusers. In such a climate the Maori grievance industry has been encouraged to go out of control. This has been greatly assisted by Government's unprincipled use of public resources as evidenced by the Ngai Tahu settlement, which is now being used as a model for other settlements.

Contrary to Government's own policy, claimants have been given ownership or a prevailing influence over substantial areas of national parks and conservation areas, effectively disenfranchising the vast majority of the population from having an effective voice over the management and future of these lands. In many cases such arrangements run contrary to the findings of the Waitangi Tribunal, and contrary to the recently published views about the Treaty from the Crown's chief negotiator Sir Douglas Graham (Government press release 23 Feb 1999). It seems that political expediency and opportunism is the driving force. The Treaty appears to be little more than a convenient ploy for the alienation and privatisation of public assets.

Giving Maori whatever they want is having the opposite effect to that intended by Government, which is the rapid and permanent cessation of claims. There are ever-expanding demands extending variously to separate 'sovereignty' or joint 'partnership' or 'co-management' with the Crown. Appeasement has failed.

So too has due process with the Waitangi Tribunal increasingly acting as a propagandist or public 'educator', and advocate for Maori, rather than as an impartial commission of inquiry. By making recommendations to Government

contrary to its own findings, with no requirement for normal rules of evidence and cross-examination, essential public confidence has been destroyed. Neither are appointees neutral in their position, but are appointed on the recommendation of the Minister of Maori Affairs. For the Crown to regain public trust, a winding in of the scope of possible claims is urgently required, as is there-establishment of fair and disinterested inquiry and procedure. Checks are also necessary on the excesses of Government. The following policies are designed to this end.

### *Policies*

#### **3.6.1 Require Independent Proof of Claims**

Disband the Waitangi Tribunal and require public hearing of Maori grievances against the Crown before the High Court constituted as a Commission of Inquiry, involving full judicial rules for evidence and cross examination. Any member of the public or body other than the claimants and the Crown to have standing to be heard and to present evidence, to obtain legal aid where appropriate, and to cross examine. The Commission of Inquiry to have power of recommendation to the Crown for settlement of proven grievances only.

#### **3.6.2 No Government-Claimant Negotiation before Confirmation of a Treaty Breach by an Independent Public Inquiry**

Require all claims to be independently heard through the inquiry process described in 3.6.1. There to be no direct negotiations between the Crown and claimants without prior findings and recommendations from the Commission of Inquiry.

### **3.6.3 Remove the “Principles” of the Treaty from Legislation**

Removal of requirements on public bodies in legislation to have regard or give effect to ‘the principles of the Treaty of Waitangi’. The “principles” are mainly untested interpretations of the Waitangi Tribunal and Government officials, that in some instances have little or no connection with the Treaty or the Courts’ determinations: eg the “principle” of “partnership” – nowhere in the Treaty does the word “partnership” appear. Sir Douglas Graham has confirmed that no principle of ‘equal’ partnership and attendant assumptions of Maori sovereignty, dual governance or co-management exists. Legal obligations should be confined to honouring the actual provisions of the Treaty, with a reciprocal obligation on Maori.

### **3.6.4 Require that Public Conservation Lands are not readily available for Claim Settlements**

Require that in Treaty settlements, public conservation lands and assets are not *usually* used, in any form, including ‘co-management’. Where they are, they should be confined to small discrete parcels for well-founded reasons, as in Government’s 1994 Policy for the Settlement of Treaty Claims.

### **3.6.5 Remove Vesting of Public Lands with Maori via the Maori Land Court**

Remove ability for vesting of public lands with Maori via the Maori Land Court (eg. no more ‘Mt Hikurangi’ decisions) with consequent sustained breaching of agreed terms of vesting by Ngati Porou, and no legal remedies for members of the public.

### **3.6.6 Review the Proposed Disposal of Mt Hikurangi**

Review the previous Minister of Conservation’s decision to give the highly valued conservation block that includes the top of Mt Hikurangi on the East Coast, to the Ngati Porou iwi, as freehold land.

### **3.6.7 Remove Public Roads from the Jurisdiction of the Maori Land Court**

Remove the ability of the Maori Land Court to deal with public road matters, ie. no more ‘Papuni Road’ fiascos, where the Court of Appeal has conclusively demonstrated the land court’s incompetence in such matters.

### **3.6.8 Require an Open System of Public Consultation**

Require an open process for public consultation on Treaty claims settlement. Once government has considered recommendations from the Commission, require a public consultation process on proposals for settlement involving public lands, waters or their management, with government to have particular regard to the legislative purposes of such lands.

### **3.6.9 Confirm all New Zealanders Inheritance and Responsibility for Native Species**

Confirm that New Zealand’s native plant and animal species are the common inheritance and responsibility of all New Zealanders, with the government charged with their management and survival, for the benefit of all current and future New Zealanders (this would limit the expense and acrimony of the Wai 262 Claim).

### **3.6.10 Confirm that water in rivers, lakes and the sea cannot be privately owned**

Take statutory or other actions necessary to prevent private ownership or ‘possession’ as recommended by the Waitangi Tribunal for the Whanganui River.

### **3.6.11 Oppose “Topuni” and Co-management**

Oppose creation of ‘Topuni’ or similar racially based concepts overlaying national parks and other conservation lands etc., or any systems of parallel or co-management’ involving private interests.

### **3.6.12 Seek Constructive Change to the Ngai Tahu Settlement**

- Remove Ngai Tahu “co-management” rights over the public conservation estate, over and above the rights of other New Zealanders, eg. protocols, Codfish Island etc.
- Remove requirement for authorities to have ‘particular regard’ to Ngai Tahu ‘values’.
- Reduce the number of direct Ngai Tahu appointees on South Island conservation boards to at most one.
- Remove the ability to freehold nohoanga ‘camping reserves’ and surrounding areas.
- Remove Ngai Tahu’s right of first refusal over surplus conservation lands. Such areas are usually required for offer to adjoining owners as part of land exchanges arising from road realignments or to achieve more practical boundaries.

## **3.7 Recreational Representation on Conservation Boards**

Having outdoor users playing a role in

Outdoor Recreation management is important for recreational advocacy. Under the present government, representatives of outdoor recreational groups have not been appointed to conservation boards in adequate numbers. As well the size of conservation boards has been reduced, making adequate public representation for recreation even more unlikely.

### *Policies*

#### **3.7.1 Require Adequate Outdoor Recreation Representation on Boards and the Authority**

Require the New Zealand Conservation Authority and Conservation Boards to have adequate, ie. at least three, outdoor recreation representatives on them. Boards should be representative of the users of the public conservation estate in their area.

#### **3.7.2 Appoint Ten Public Conservation Board Members**

Set the minimum size for a Conservation Board as ten publicly appointed members, as distinct from appointments from iwi.

#### **3.7.3 Return to Concurrent Three Year Terms for all Board Members**

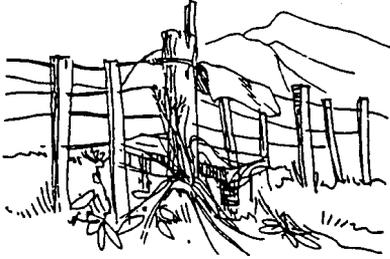
Remove the 1998 change that rotated one third of Boards every year.

#### **3.7.4 Don’t Select Boards on Racial Grounds**

Maori Board members resolved (1998) that half of all board members should be Maori. Oppose this racial selection proposal, or a quota. Such an approach is contrary to the Treaty, as confirmed by the Minister of Treaty Settlements, Sir Douglas Graham (23 Feb 1999).

### **3.7.5 Require Recreational Representation on the Hauraki Gulf Forum**

Require threerecreationalrepresentatives on the Hauraki Gulf Maritime Park Forum.



## **Object 4 – Improve Public Access**

“To work to retain free, egalitarian public access to, and use of, publicly managed lands, waters, and other resources, subject to wilderness protection and user conflict reduction considerations.”

### **4.1 Public Roads**

New Zealand’s public roads provide the essential framework for our property-owning society to function. Roads consist of strips of land generally 20 metres wide that are vested in the ownership of district councils but subject to centuries-old common law. This law establishes rights of unhindered passage for everyone. Roads also provide rights of ‘frontage’ to private and public properties. Without assured legal access, properties become landlocked and valueless. Half the Queen’s Chain consists of public roads and all public lands and waters are dependent on them for access. Roads are of primal importance for everyday life, both urban and rural. Everyone uses them and there are no alternatives.

Freedom of passage is essential for a democratic society to function, for without this, citizens have no means of exercising their right of freedom of movement as provided under the Bill of Rights Act. The road ‘reforms’ attack these basic human rights.

The National Government proposes a commercial model for managing roads that depends on direct user pays. This envisages electronic surveillance of users by overhead gantries or satellites, and direct tolling and billing of vehicle owners. This is in place of the existing mix of indirect taxes, levies and rates. Government envisages that eventually all roads, not just congested motorways or new roads, will become toll roads. Passage will be allowed only to those who pay.

Government has stated that roads will not be privatised, that existing rights of public use will remain unchanged, that there is no provision for pedestrians or cyclists to be charged, and that current road closing procedures will be used. However analysis of Cabinet papers and a draft Roads Bill reveals all of these assurances to be untrue.

Roads will become private for all practical purposes with only nominal land ownership retained by councils or Government. Roading companies will have possession and occupation rights. In law such places are deemed to be private, not public. Consequently all users, including even the nominal land owners, will be liable to become criminal trespassers if they enter onto roads without consent or cannot pay their way.

Despite explicit Cabinet decisions that common law rights of use will not be extinguished, Cabinet has approved a comprehensive raft of measures that will totally extinguish such rights. They aren’t

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even proposing limited replacement rights codified under statute—there simply will not be any. While roading companies will be prevented from charging pedestrians and cyclists, Government has made provision for *it* to charge all users.

Road closing procedures will mirror existing provisions but with one crucial omission—there will be no right of appeal over decisions to close roads. The profit-driven companies will enjoy a discretion as to whether they forward objections to their decisions to the Environment Court! Government is also instigating amendments to the Resource Management Act that remove requirements for road frontage. If enacted this will likely remove the retention of property frontage as the primary protection against permanent road closure—that is if the roading companies ever allow objections to get to appeal!

Currently whether a road is formed or unformed has no bearing on its legal status or public rights of use. Tens of thousands of kilometres of unformed roads, giving public access to the countryside, water bodies and coasts, account for approximately half the roading network, but will now be deemed to be ‘non-operative’. Through redefinition of the meaning of ‘road’ they will become prime targets for disposal. Maori have already laid claim to these newly designated non-roads.

A widespread existing problem is the unlawful obstruction of unformed roads by adjoining landowners. Whilst district councils have sufficient powers to deal with this they rarely have the will to do so. ***This is the biggest single problem currently faced by users of these roads, outside the road “Reforms”.*** We propose a solution that has been successfully applied in the United Kingdom.

### **4.1.1 Retain Roads as Publicly Owned and Controlled Essential Public Infrastructure**

Recognise roads as essential public infrastructure serving individual freedom, community and property access needs, and not just the interests of the transport sector. Retain state and local authority road ownership and management.

### **4.1.2 Reject the Corporate Roading Model**

Reject commercial, profit-driven management of public roads, but enhance public management as an essential community service through a variety of indirect taxes, levies, rates and by better targeting high road wear heavy transport.

### **4.1.3 Confine Road Tolling**

Prohibit road tolls over public roads. Confine tolling to designated motorways, provided convenient alternative public roads are available for vehicle and other road users (the option of tolls over private roads, eg. skifield roads, remains).

### **4.1.4 Retain the National Road Network**

Retain the national urban and rural road network, including formed and unformed roads, subject to all existing road closing procedures and ‘frontage’ criteria.

### **4.1.5 Protect Public Rights of Passage**

Enact a statutory duty on district councils to assert and protect public rights of passage. Reject the extinguishment or modification of common law rights of passage and property frontage.

#### **4.1.6 Ensure Property Frontage to Public Roads**

Re-enact the primacy of retaining (other) “adequate public road access to lands and waters in the vicinity of a road”, as a requirement for the Environment Court to decline a decision to close or ‘stop’ a road. Repeal of such a key protection has been sneaked through by amending the Local Government Act (Clause 6, 10th Schedule) via the Resource Management Act. Loss of the central access purpose of roads would be completed by further Government-intended removal of any statutory requirement for providing or maintaining property ‘frontage’ to roads. Such moves pervert the primary reason for the existence of roads and greatly assist their future closure and disposal.

#### **4.2 Public Access to Public Lands, Waters and Game**

Public lands, waters and game are held by various Crown agencies under a duty of trust to all New Zealanders. It is not these agencies’ estate, but public estate that must be managed for various purposes set out in legislation. Public recreation and enjoyment is the principal purpose for some categories of public land, and an inseparable if secondary purpose for most other areas with a preservation or conservation requirement.

In the latter cases public recreation is generally to be fostered while maintaining natural values. However this is often misinterpreted by administering officials as a pretext for unwarranted restrictions on public use. With the exception of nature reserves and sanctuaries, free and ready accessibility and enjoyment of these places must be maintained to satisfy public needs and to maintain public

sympathy for important conservation goals. Public access and enjoyment of the outdoors is very much part of the national consciousness. Some specific law changes are needed to remind administering agencies of this.

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##### **4.2.1 Enact Public Access as Matter of National Importance in the RMA and other Statutes**

Enact the preservation and enhancement of public access to public lands and waters as a matter of national importance in relevant statutes (RMA, National Parks, Conservation Acts etc).

##### **4.2.2 No Entry Charges**

Prohibit public entry charges to public lands (except as already allowed for some recreation reserves).

##### **4.2.3 Public Roads**

Retain and create public roads (formed or unformed) as the preferred access provision to public areas, because they have guaranteed rights.

##### **4.2.4 Ensure Public involved in Altering Nature Protection and Access Covenants/ Easements**

Create a statutory obligation on Crown or local government agencies for a public notification and objection process before any modification or extinguishment of public access easements or covenants they are party to, and require that they must have particular regard to the purposes of the areas being accessed.

##### **4.2.5 Compliance with Access Easements**

Create a statutory right for any citizen to

sue any easementing or covenanting authority for non-compliance with the terms of easements by them or affected landowners.

#### **4.2.6 No Charging for Fishing or Hunting Access**

Make it an offence to charge for the right to fish or hunt, or walking access thereto, ie. retain Section 23 of the Wildlife Act and Section 26ZN of the Conservation Act prohibiting charging for access to fisheries or hunting.

#### **4.2.7 Remove OSH Recreational Liability Ambiguity**

Amend Section 16 of the Health and Safety in Employment Act, to remove any remaining ambiguities that may create liabilities for persons in control of work places for non-client recreational users, for natural or other hazards to which work practices do not contribute.

Background: The HSE Act is being used arbitrarily by some landowners to stop benign recreational access. Recent law changes do not appear to have overcome the difficulties.

#### **4.2.8 Restrict Foreign Ownership of Land**

Apply more searching scrutiny and criteria to lands proposed for foreign ownership, eg. no more than 25% foreign ownership, directly and indirectly.



### **4.3 The Queen's Chain**

The Queen's Chain is the popular name for publicly owned strips of land along the banks of rivers and lakes, and above the high water mark of the sea. It consists of public roads, marginal strips, esplanade and other reserves. Approximately 70 per cent of major waterways and the coast have a 'Queen's Chain' along them. This is a unique and internationally envied provision highly valued by generations of New Zealanders. It is widely considered part of our birthright. However it is capable of further improvement to ensure that public access is available to all major waterbodies. Also recent limitations and privatisation measures introduced by successive Governments need to be overturned.

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##### **4.3.1 Complete the Queens Chain**

Actively investigate the means for completing the Queen's Chain along all of New Zealand's sea shore, and along the banks of all major rivers and lakes.

##### **4.3.2 Allow Closure only by Emergency Agencies**

Change relevant legislation (Conservation, Resource Management, Local Government Acts) restricting powers of closure to emergency agencies (police, civil defence, fire services) for public order and public safety reasons only.

##### **4.3.3 Restore Public Access as Primary Purpose of Marginal Strips**

Restore public access and recreation as the primary purposes for marginal strips and esplanade reserves.

#### **4.3.4 No Private Managers**

Repeal provisions for private managers over marginal strips (proven to be unnecessary but is a highly dangerous provision).

#### **4.3.5 Make all Marginal Strips Movable**

Amend the Conservation Act to make all marginal strips movable (currently only newly created marginal strips are movable).

#### **4.3.6 No Leasing of Marginal Strips**

Remove provisions for leases and occupation licences over marginal strips.

#### **4.3.7 Remove RMA Esplanade Reserve Compensation**

Remove compensation entitlement, and review waiver, and the less-than-4-hectare subdivision provisions for esplanade reserves under the RMA.

#### **4.3.8 Review RMA Access**

Review appropriateness of esplanade strip and access strip provisions, and repeal restrictions on public access under 10th Schedule to the RMA.

