

Council of Outdoor Recreation Associations of New Zealand Inc

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To: John Acland, Chair and the
Walking Access Consultation Panel
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Dear John and Panel

Submission to the Acland Walking Access Consultation Panel

This submission is made on behalf of the Council of Outdoor Recreation Associations - CORANZ. The Council is the national association of five major national outdoor recreation associations - Federation of Freshwater Anglers, Public Access New Zealand, New Zealand Deerstalkers Association, New Zealand Bowhunters Society, New Zealand Salmon Anglers Association; and the Marlborough Recreational Fishers Association - who seek discussion and common ground on outdoor recreation issues. This submission is also made on behalf of option 4, the sea fishers' advocacy group, so also advocates for improved public access to the coasts.

Many of our executive, including myself have extensive experience on access issues, going back many years. Our members are also making their own submissions, enlarging specifically on access matters that specifically affect them. We have tramping, deerstalking, angling, sea fishing, climbing etc experience, and have an interest in access both locally and nationally.

CORANZ is also a member of the Recreational Access Rights Coalition (RARC). RARC's primary goals are to gain recognition and enforcement of current recreational access rights, and to work with Government and land occupiers to improve public access to the countryside.

1 Need for a broader approach:

Thank you for the opportunity to submit on the need for better public walking access to public lands, and to and along water bodies (Queen's Chain). We appreciated being able to discuss our views with your Panel last February.

We strongly support the importance of improving public walking access to water bodies and public lands. But such access only covers part of the recreational public's interest in maintaining and improving public access to the Outdoors. It does not include for instance, recreational access with a firearm or dog, or vehicular access eg bicycle, 4WD. All these modes of access are statutorily allowed in various situations, and their rights need to be recognised and protected, as well as those of walkers.

2 Recognising and Enhancing Public Recreational Access Rights – Support for all recreationists:

All recreational statutory access rights need to be recognised and enhanced, not just walking rights without a recreational firearm, bow or dog to water margins. The six most important initiatives to support and enhance all statutory public access rights are:

1 A Parliamentary Commissioner for Public Access – backed by a Public Access Enhancement Act

2 A significant and contestable **Public Access Enhancement Fund** – eg \$10 million/year annually. See also Appendix 1.

3 **Public access shown on paper topo maps** and as well public and important private land boundaries – this is essential to showing the public where they have a right to go. TerraLink has shown it is straightforward to do. LINZ has done nothing. There also needs to be better consultation with the public over accuracy of maps

4 **Greater recognition of unformed public (legal) roads**, and their valuable use, as publicly owned strips, for public access to the countryside. However, many district councils appear keen to get rid of them. Note the almost impossibility of negotiating such secure public access to replace them, once they are stopped and sold off in a “willing seller – willing buyer” system. See also Appendix 2.

5 **Relocating the Queens Chain to restore its access purpose**, where it is no longer on its water margins

6 **Stopping charging for access to public resources** – trout, salmon, game birds, as is an outcome of the Wildlife (S 23) and Conservation (S 26ZN) Acts. **Section 23 of the Wildlife Act states that the sale of game and the sale of shooting rights is prohibited and Subsection (2) No person shall sell or let for fee or reward any right to hunt or kill game on any land or any water or any adjoining land .**

However there are areas where land occupiers do charge for access to fisheries, and game-bird estates where there is a charge per bird to shoot game-birds. This private charging for access to publicly owned natural recreational resources should be stopped, and the law enforced.

These initiatives can and should provide for all outdoor recreational users’ access rights, including recreational hunters, 4WD-ers, dog owners, cyclists and horseriders.

3 Essential for an Independent Commissioner:

Prior to 1987, the Lands and Survey Department (L&S) provided paper cadastral (access and property) maps, and acted to some extent to protect public access rights. Since L&S’s demise, there has been no government guardian of public access-ways. These guardian functions need to be restored by an independent Public Access Commission, with it’s own empowering legislation.

The departments/agencies with public access responsibilities see them as low priority, and do very little about them. They are:

- a) **Department of Conservation (DOC):** Responsible for marginal strips, and public access to public conservation land. Does not even know where all marginal strips are. Has no annual budget for access matters. Argues on occasion its duty is to uphold private property owners rights. Also argued against recording and showing marginal strips.

Recently has been responsible for locking the public out of the Crown land at the North End of Kapiti Island for 15 months, in favour of a private home-stay operator. Actively discourages responsible 4WD recreational access on the land it controls, but allows 4WD access for its own staff. Poor at providing 4WD public access in tenure review

- b) **Land Information NZ (LINZ):** Made an agreement with the previous government in 1996, that its primary mapping priority was to service govt departments, not the public. Abolished producing cadastral paper maps. Doesn’t show public land boundaries, or other access information on topo maps, even though its predecessor Land & Survey did. LINZ, as the lead agency in Tenure Review, has been poor in providing public access in Reviews.

LINZ is also the guardian of public access to Crown (Exotic) Forests. But there is almost no readily available information provided on the 800,000 Ha of such forests, or where they are. These are the ultimate “lost lands”.

One is reminded of far right UK Prime Minister Margaret Thatcher's government. They doled out forest subsidies to their friends on the basis they allowed public access to the forests. However, nowhere could the public find out where these subsidised forests were.

- c) **District Councils:** Responsible for unformed public (legal) roads. These are Crown owned, and Councils are supposed to look after them. Hunters and cyclists or people with dogs have the right to pass and repass on them, just as they do on formed public roads. Smaller less well financed, or more farmer controlled, councils don't do their access duties well, or sometimes at all! Re unformed public roads, see Appendix 3. The fox appears in charge of this particular henhouse.
- d) **Queen Elizabeth II National Trust:** The Trust provides covenants, almost always without public access. It is also farmer dominated. It is not an appropriate agency for public access.

Neither are the Ministries of Environment or Agriculture, or the Department of Internal Affairs, or regional councils suitable. Given the poor access performance of all these agencies, one of the key matters for a Parliamentary Access Commissioner will be to get them to perform better. Therefore he must be independent of them, not an office within one. Hence also the need to report to Parliament.

4 Commissioner's Purposes:

The Parliamentary Commissioner for Public Access should be an official guardian of our public access heritage, ie

- a) be **an access ombudsman** for citizen complaints about agencies not carrying out their statutory access responsibilities
- b) a **leader in constructively improving public access matters**
- c) report to Parliament on public access matters
- d) promote **cost effective public access mapping**
- e) have **regional representatives** to engage and assist the public locally with access issues
- f) be a **mediator, negotiator, facilitator** with access agencies and stakeholders on improving public access
- g) **encourage greater understanding and co-operation on access between outdoor recreationists and rural landowners**

It may well be that this last role is one of the most important. The Commissioner's role should greatly benefit both recreational public access and reduce land occupier concerns about public access. Getting both groups to see the positive side of responsible public access, and work together, eg to lessen the adverse effects of criminals, would be significant benefit, as well as helping bridge the rural-urban ignorance divide.

5 Many Issues and no-one at present to address them:

The Public Access New Zealand "Public Access Strategy" of June 2003, "**Improving Public Access to the Outdoors – a strategy for implementing Government's election policies**" is of major interest. It lists many straightforward things that can be done to improve public access immediately. So the way in which leadership is to be strengthened is central to the success of the Strategy. Copies of it were supplied to the Acland Committee. See also Appendix 3

6 Purpose of the Access Enhancement Fund:

This would be disbursed by the Public Access Commissioner, to projects, including access easements or purchase, to cost effectively improve public access. The Fund and Commissioner would also greatly benefit landowners, and recognition of landowner rights and responsibilities. See also Appendix 1.

7 Benefits to both recreational users and land Occupiers:

These proposals have significant benefits to both recreational users and land occupiers from an even handed approach, through a Commissioner and Access Enhancement Fund. This should be

a motivator for getting both groups to see the mutual gains, and work together, eg to lessen the adverse effects of crime in rural areas by being eyes and ears, would be significant benefit, as well as helping bridge the rural-urban ignorance divide. It is essential for successful acceptance of a Commissioner that both major stakeholder groups see and acknowledge the benefits aimed at.

8 Importance of Unformed Public (legal) roads:

These are publicly owned strips of land across private land. They are very valuable as they provide an important access right that can be used as is when marked, or can be negotiated to gain more direct or other access of the same quality, across private land. I/We strongly oppose moves by some district councils to abolish such roads. See Appendix 3

9 Realign the Queens' Chain:

To restore its access purpose, where it is no longer on its water margins

10 Reaffirm and protect New Zealand's proud heritage network of publicly owned public access strips and Parks/Reserves:

New Zealand's achievements with statutory mechanisms for public access to the outdoors dates back to 1840. These mechanisms are usually successful because they involve the very strong rights of public ownership of land/strips eg marginal strips, public parks and reserves with access rights, unformed and formed public roads, esplanade reserves etc.

The very strong rights against blockage and other constraints provided by Crown ownership mean that these strips provide very strong rights of passage to the public. The problem is often that these very strong public property rights are not enforced by their guardian agencies.

This publicly owned land for public access is a superb heritage. We should all be proud of it and be prepared to defend and improve it. But official indifference and neglect has made it frayed at the edges. This is why an independent Commissioner, Access Fund, and better access information on maps, as well as other measures, are urgently needed. They will benefit all access stakeholders, as well as land occupiers.

11 Need for urgent political action:

This walking access consultation has dragged on since January 2003. The longer it has gone on, the more the need for change has become evident. The arguments put forward in this submission, and in similar submissions by recreational groups and individuals make a very strong case for government to proceed.

Your Panel owes it to the public to push for a Commissioner, a Public Access Facilitation Fund and empowering legislation. There are significant benefits both to recreational interests and land occupiers in setting up a proactive system fair to both groups, as proposed in this submission.

It is also essential that the Public Access Commissioner is backed by legislation, eg a **Public Access Enhancement Act** establishing the office. Otherwise the Office will not be taken seriously.

CORANZ is available to talk to the Panel in support of this submission, or answer further questions from the Panel. The two most important matters are the role of a Public Access Commissioner and of the Public Access Facilitation Fund. See also the 4 appendices.

Yours truly

Dr Hugh Barr
Secretary

Appendices: 1 Public Access Enhancement Fund;
2 Importance of Unformed Public Roads
3 PANZ Analysis of Public Access tasks
4 Other Matters – Vandalism, Hunting, the Future

Appendix 1: Public Access Enhancement Fund

There is no national fund available to assist improve public access. One can compare this with the Forest Heritage Fund, which was set up as a land purchase fund to protect native forest remnants. This was found so effective for protecting biodiversity that it was enlarged to the Nature Heritage Fund, and so able to purchase wetlands, tussocklands, sand dune ecosystems etc.

However, there is **no Fund available to purchase land for its access value, or for that matter for its recreational, open space, scenic, amenity or landscape value**. Public access is equally as important in terms of public enjoyment of land and water eg for recreation, amenity as is biodiversity. It was New Zealand's dramatic natural scenery that was the drawcard for setting up wildland national and conservation parks, and reserves, far more than protection of indigenous biodiversity.

Because DOC has become a nature preservation agency, rather than a balanced recreational and conservation agency, no such access/recreation/amenity/scenic/landscape purchase fund, matching the Nature Heritage Fund, exists.

A Fund, specifically to facilitate public access, including by means other than by land/corridor/easement purchase, is badly needed. It would give a lubricant to assist catalyse a number of public access solutions.

A Fund for important recreation, amenity, scenery and landscape protection and access is also needed, but not part of this exercise.

The Public Access Commissioner (PAC) should have a **Public Access Facilitation Fund**, which among other things, can be used for negotiated new access provision. This for instance should be mostly available for the poorer rural local bodies, or for specific negotiations the Commissioner feels he needs to undertake directly.

The Fund should also be available to assist improve public access in any other ways apart from buying access. For example, erecting access signs, showing public access on paper maps, assisting mark or clear or improve access routes eg unformed public roads etc.

The annual amount needed for this fund is unclear. CORANZ proposes an **initial figure of \$10 million annually** be available for all the PAC's facilitation of access including new access.

Appendix 2: Importance of Unformed Public Roads

These provide for a range of users including hunters with disarmed recreational firearms, people with dogs, bicycles, even where appropriate, 4WDs and trailbikes. They are a very valuable, if sleeping, access asset. It is essential that they are not lost, and that the Panel recognises their value, and recommends strongly that they be retained for current and future generations.

Three examples of unformed public roads under fire are:

1 Tararua District Council, where connecting roads across an amalgamated farm, and to a major scenic reserve (Waewaepa SR) are proposed for removal.

2 Wellington City - Makara Village: Snowdon's Road from Makara Village to Te Ika a Maru bay, which runs through the proposed Meridian windfarm

3 Palmerston North City Council: Appears to have a policy of removing unformed public roads

Tasman District Council is removing names from all unformed public roads, in an apparent move to make them "disappear", as part of its unique property GPS identification system. Councils behaving suspiciously.

So, action is needed urgently to protect unformed public roads from inappropriate closure. Certainly adjacent landowners, especially when on a Council, are not neutral judges of the value of unformed public roads.

Appendix 3: Access Issues categorised and ranked in terms of time difficulty

The Public Access Strategy (Version 1) of Public Access New Zealand, **of June 2003**, "*Improving Public Access to the Outdoors – a strategy for implementing Government's election policies*" is of major interest. It lists many straightforward things that can be done to improve public access immediately. It is a very worthwhile and complementary template for moving forward.

It is broader and more detailed than the Acland Report, and has six themes:

- **Lost lands** – reclaiming and distributing information on the public estate (Queen's Chain, legal roads, publicly owned lands cf Acland's Object 2)
- **Public Roads and Paths** – publicly owned access for all to the countryside
- **Queen's Chain** – maintain and extend public reserves along water margins (Acland's Object 3)
- **Rivers, Lakes and Lake beds** – securing public ownership and public recreation
- **Foreshore and Seabed** – ensuring public access & ownership
- **Fishing and Hunting Access** – public access to publicly owned natural resources

It has a simple action plan with detailed action at three levels:

Level 1 (easy) – apply existing law; no law changes, just action

Level 2 (medium) – Extension of existing law; build on what's already there

Level 3 (hard) – New law and significant change

There are 41 proposed actions, including such simple steps as showing the Queen's Chain on maps. These highlight the woeful neglect by officials and others. Instant action to improve public access can be taken on many issues, should the government will exist.

This is direct proof as to why an independent Access Commissioner to achieve change is so important. The PANZ Strategy also has the advantage of delivering benefits quickly.

Appendix 4: Other matters

4.1 Vandalism Disincentive

Often a disincentive to access is likely damage to parked vehicles. In the 1970s and 1980s when I was in Hawkes Bay this was a problem on roads such as the Napier-Taihape road with parked cars being trashed or burned. Often this was caused by aggressive landowners, reportedly in those cases tribal/group multi-ownership adjoining public lands. Recent reports indicate this still occurs e.g. Bay of Plenty.

This is a law and order issue but it **also** becomes an access issue if it deters or discourages rightful public access to recreation.

4.2 Hunting

In the access debate, hunting has been put aside. However there is no reason why hunters should not be given the right to use any access strips on the condition

- (a) the bolt is removed from the rifle and
- (b) no firearm can be discharged from an access strip.

Importantly fines for breaches of these conditions, should be considerable and not just a paltry one.

4.3 The Future.

New Zealand sits on a knife edge with respect to public access. Commercial interests (e.g. exclusive capture, shooting preserves) are against the very egalitarian principles our European forbears set down. If these practices are allowed to become established, the erosion will continue like a cancerous growth.

Some pertinent words to recall are of the late John F Kennedy, USA president.

"The race between education and erosion, between wisdom and waste has not run its course--- each generation must deal anew with the raiders, with the scramble to use public resources for private profit and with the tendency to prefer short run profits to long term necessities."

Most of the major access problems are associated with "the scramble to use public resources for private profit."