

Recreational off-road vehicles destroying the environment, and others' enjoyment of the outdoors

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Recreational vehicle manufacture, marketing and consumption is global big business. The environmental impacts are universal. New South Wales beach. June 2007.

"The off-road vehicle is already an American institution. At first they came quietly, encroaching on many fronts, snowmobiles, trail bikes, dune buggies ... Then came an explosion, like a cloudburst they surrounded us. The stealthy approach coupled with their sudden eruption out-finessed governments, land managing agencies, and the non-user, catching them off-guard and unawares. They conquered quickly and entrenched solidly."

"The Environmental Consequences of the Off-Road Vehicle: with profiles of the industry and the enthusiast". Heath, Russell. 1974. Friends of the Earth. Washington, DC.

Synopsis

This paper discusses the issue of off-road vehicle damage to New Zealand's lightly formed and unformed rural roads, as well as protected areas, and notes adverse impacts of vehicle use on the experiences of non-motorised recreationists. Claims by Government advisers and the Department of Conservation (DOC) that there are inadequate powers to deal with vehicles is found to be without legal foundation. A range of statutory and bylaw mechanisms are outlined that could be usefully applied to manage vehicle use of public roads and conservation areas. Policy considerations are raised and conclusions drawn as to the appropriateness of vehicle use of unformed roads, and 'off-road' vehicle use in protected areas.

Introduction

There is now widespread dismay at the damage caused by recreational vehicles to New Zealand's protected areas, and unformed and poorly surfaced rural roads. Dismay is not just over physical damage. There are strong objections to the presence (noise, sight and smell) of vehicles in many natural and recreation areas that detract from quiet and safe use for passive and unobtrusive recreation. Remote experiences are destroyed in an instant by whining snowmobiles or a swarm of throttle-revving trail bikes appearing over the horizon.

Huge increase in SUV's

Rapid expansion in the number of four-wheeled drives has implications for many areas used and appreciated by other recreationists. Sports Utility Vehicles (SUV's) now account for 20 percent of the New Zealand-new market, compared with just 12 percent in 2000 (*Otago Daily Times*, 9/3/07). The number of SUV's may not correlate directly with damage as many vehicles do not venture off sealed roads. However the quantum of four-wheel drives and their relative affordability has resulted in a marked increase in back country use and consequence deterioration of the environment.

Users' freedom paramount

The potential for damage to the environment from wheeled vehicles is immense. These mechanical extensions of self, especially trail bikes, are increasingly removing limits to the terrain that can be traversed. Restraint, or any perceived need for such, is considered by most riders and drivers to be a fundamental infringement of personal freedom, no matter what the environmental cost. The last inch to the hut door must be driven; the wet track must be traversed; bog and rut must be conquered. No turning back, or postponing an excursion until there are dry conditions.

Damaging the environment on route to a destination is only one dimension of the problem. Other users are going no where in particular, rather they are pitting their vehicle against nature and the consequences are predictable. For example, as Dunedin City transportation manager Don Hill observed, the unformed Abbots Hill Road on the city limits *"...was one track badly damaged by drivers, despite being designated primarily as a walking and cycling track...Off-road driving enthusiasts had apparently organised a "mud-pug" event on it. They wait until it was really wet and then try to get up it, winching each other up and wrecking it in the process"* (*Otago Daily Times*, 3/9/04). On the nearby Halfway Bush Road neighbour Steve Anderson was reported as saying, *"drivers queued up to test themselves on the road whenever it rained or snowed"*. A 4WD club's response to impending closure was that this *"would just push 4WD enthusiasts on to a diminishing number of other roads"* (*Otago Daily Times*, 23/10/03). For the majority, there appears to be no consideration of only using tracks when dry, expressing instead an angry, frustrated imperative to use (and destroy) other areas before they too are closed to them.

The thrills and excitement of four-wheeled driving, as advertised by manufacturers and retailers, is expressed by thump, splash, mud and spinning wheel—feeding on an ever-present desire to speed, unrestrained, across the countryside. Television and the print media are full of it. They know what their market is and to whom they are appealing.

Public relations 'green-wash'

Four-wheel drive clubs have formed national associations with the object of promoting and protecting their interests through lobbying for access to, and vehicle use within, public lands. To lessen criticism of their activities most clubs have adopted an imported American code of 'Tread Lightly' ethics that projects an environmentally responsible face, with the slogan of "travel & recreate with minimum impact". Despite its 'environmental' title, the Tread Lightly code has major emphasis on safety and vehicle operation. There are significant deficiencies concerning avoiding environmental impacts of wheels—especially in wet conditions (Appendix 1). There is no advice to defer trips or turn back in conditions that will result in damage to vehicle tracks or the wider environment. Within New Zealand this would be the biggest single behaviour-change capable of avoiding environmental damage. Even DOC's 'Four-wheel driving in conservation areas' pamphlet (September 2006) says nothing about the merits of driving in unfavourable conditions.

'Tread Lightly New Zealand' describes the use of 4WD vehicles as a "recreation industry" (Appendix 2). Industry influence is strong. The parent international 'Tread Lightly' organisation is sponsored by a major off-road vehicle (ORV) manufacturer. The skills of the PR industry have been

well utilised, with the main emphasis on “leaving a good impression”, and, “building a positive image for [predominately motorised] outdoor recreationists” (www.treadlightly.org).

In New Zealand worthy community endeavours such as unofficial ‘search and rescue’ exercises and fund-raising safaris for charity are frequently paraded in the news media.

However, realities on the ground are very different from what is projected publicly. Any ‘codes’ of ethics appear more honoured in the breach. Many 4WD owners show little apparent concern for the environment or for other recreationists. ‘Tread lightly’ codes of practice have not moderated overall driver behaviour or attitudes discernibly. While it will be asserted that this is because most users are not club members subject to restraining peer influence, there is plenty of antidotal as well as direct evidence of non-compliance with codes of practice by club members (see Appendix 3).

Whilst ‘Remuera’ and ‘Fendalton tractors’ contribute to problems, just through their huge numbers, lack of driver training and specialist equipment, and concern for their shiny exteriors, deters many from venturing off-road.

Clubs provide driver training and carry special equipment in the eventuality of getting stuck. In the company of similarly equipped vehicles there is confidence to ‘push the limits’ of both vehicles and drivers. There is a high proportion of modified vehicles among club members and others intent on back-country excursions: raised chassis, turbo-charged motors, and oversized tyres. Low speed, low-torque travel, including with chains, is now only one option. Large spinning wheels and ‘heaps of grunt’ will propel vehicles through most bogs and wet terrain, with maximum environmental effect.

Major disconnect between codes and reality

The New Zealand Four Wheel Drive Association’s web Gallery of Safaris and Club Trips is dominated by images of deep ruts, mud, water crossings and vehicles at odd angles. Of 30 images only 5 are of low-impact driving, scenery, viewing thereof, or camping (Appendix 3). Unlike other users of 4WD, who use vehicles for access to enable some other recreational activity, organised ‘off-road’ vehicle use has become an end in itself. Rather than visiting natural areas to see and appreciate their inherent values particular to that location, such areas appear to be little more than backdrops for self-motorised-expression and destructive behaviour.

Club leaderships assert that is a few “bad apples” that do all the damage. Even if so, clubs’ inability or unwillingness to rein-in such ‘apples’ seriously undermines the credibility of all off-road participants.

Observation of actual behaviours indicates that wet conditions are the attractant for many, no matter what their affiliations. Conquering mud, ruts and other obstacles provides an underlying, primeval attraction. The more mud-caked vehicles become, the better to later show-off back in town.

Alternatively, 4WD safaris provide easy fund-raising for community groups. Whilst no intention of causing damage can be attributed to the organisers, with possibly hundreds of eager participants booked for a particular day, paying \$60 to \$100 per vehicle to participate, there are major pressures to proceed regardless of ground conditions. Large numbers of vehicles, even in slightly marginal conditions, will cause lasting damage.

The ability to sustain wheeled traffic varies greatly throughout New Zealand. Generally, alpine areas, swamps, waterways, sand dunes and river beds are easily damaged. In wet conditions any unhardened surface is liable to harm.

Public roads under pressure

An exponential increase in damage to many roads has created potential liabilities for local authorities. This is a basis for their reluctance to encourage public use of unformed and poorly surfaced roads. This issue became very apparent during Government’s on-going Land Access Review.

Public roads of all types are the foremost means of passage throughout New Zealand. They extend for more than 156,000 km. Thirty-six percent (56,900 km) of these are unformed (Walking Access Consultation Panel, 2007)—the equivalent of four times the distance by road from Peking to Paris. The unformed road network is an immense, but largely overlooked, strategic asset, much of which

is amenable to recreational use. However this does not automatically mean vehicle use. At the time of dedication many roads were only suitable for foot or horse traffic, and they remain so. Unless upgraded to formed carriage-ways, many would become rutted and potentially unusable by vehicle, as well as unsuitable for other users. Councils are under no obligation to spend monies on road formation or maintenance, however, they have a duty to protect the road resource.

Contrary to the beliefs of many four-wheeled drivers, the right of unhindered passage over public roads does not extend to creating damage. If a driver ruts or muddies the surface to the extent that this becomes an “appreciable interference” with others’ use of the road, then, under common law, legal action can be taken. Likewise, adjoining land occupiers inhibited from accessing their properties can sue (Mason, 1991).

Statutory and bylaw powers apply to all roads

Local authorities, as road controllers, have plenty of statutory and bylaw powers available to them to prevent damage, and to prosecute offenders, contrary to the official advice tended to Government’s Walking Access Consultation Panel (Hayes, 2007a, Mason 2007c). Only a few councils have done so. For instance, the Central Otago District Council has closed roads to vehicles during winter to prevent damage. However their application of the law is questionable due to discrimination between classes of user, rather than classes of motor vehicle as the law stipulates (Clause 13, Tenth Schedule, Local Government Act 1974). On Waikaia Bush Road the Council has permitted tracked vehicles, a commercial snow cat operation, which has destroyed sections of snow-free road-surface. Adjoining landholders have been permitted to use vehicles on Central Otago’s closed roads, with no stipulation that they do not cause damage. Such partiality of administration weakens public confidence in local government.

The temporary closure provisions have been partly successful in preventing road damage as these provisions are tied to ‘periods’ of most likely adverse climatic conditions. This has been interpreted to mean seasonal closures, whereas at any time of the year roads can be wet and vulnerable to damage. Conversely there can be times in any season when roads are dry and capable of use. It is road condition, no matter when, which should be the focus if prevention of road damage is to be most effectively addressed. Measures additional to seasonal closures may be necessary.

Section 357 of the Local Government Act 1974 makes it an offence, amongst other matters, to do or cause “any act whatsoever by which any damage is caused to a road or any work or thing in, on, or under the same”. This creates liability for anyone who damages a road, including an unformed road, from vehicle use. Fines “not exceeding \$1,000 and, where the offence is a continuing one, to a further fine not exceeding \$50 for every day on which the offence has continued” are provided for. Such offence provisions can be supplemented by bylaws.

The range of bylaws permitted by s 684 of the Local Government Act 1974 “concerning roads...and the use thereof” is unlimited.

“Section 684. Subject-matter of bylaws

(1) Without limiting the power to make bylaws conferred on the council by any other provision of this Act or by any other Act, the council may from time to time make such bylaws as it thinks fit for all or any of the following purposes:

Roads

(13) Concerning roads and cycle tracks and the use thereof, and the construction of anything upon, over, or under a road or cycle track”

The Dunedin Consolidated Bylaw 1991: Part 11 Roading, illustrates the application of section 684 LGA 1974.

“11.5 Activities that Damage Roads

(1) No person shall undertake any activity that causes or may cause damage to any road.

(2) Without limiting the generality 11.5 (1) no person shall:

(c) Use any vehicle whose wheels or tracks causes or may cause damage to the surface or any part of any road.

(d) Drag or trail anything whether on a sledge or skids or otherwise so as to damage any road”.

The Transport Act 1962 contains powers to make the following bylaws.

“Section 72. Bylaws as to the use of roads

- (1) Subject ... to the provisions of this Act or of any other enactment in respect of any of the matters referred to in this subsection, any Minister of the Crown in respect of any roads under his control, or any local authority in respect of any roads under its control, may from time to time make bylaws for any of the following purposes:
 - (f) Prohibiting any specified class of heavy traffic that has caused or is likely to cause serious damage to any road unless the cost of reinstating or strengthening the road, as estimated by the said Minister or the local authority, as the case may be, is previously paid:
 - (i) Prohibiting or restricting absolutely or conditionally any specified class of traffic (whether heavy traffic or not), or any specified motor vehicle or class of motor vehicle which by reason of its size or nature or the nature of the goods carried is unsuitable for use on any road or roads specified in the bylaw:
- (1) Prescribing fines, not exceeding \$500, for the breach of any bylaw made under this section.
- (2) Any bylaws made under this section may apply generally to all roads under the care, control, or management of the Minister or local authority making the bylaws, or to any specified road, or to any specified part or parts thereof, and may apply to all vehicles or traffic or to any parts thereof, and may apply to all vehicles or traffic or to any specified class or classes of vehicles or traffic, and may operate at any time or at any specified time or times”.

It is section 72 that has been utilised by the Dunedin City Council for protection of unformed roads from damage by recreational vehicles. Bylaws have been applied to five sections of road on the urban fringes. Pedestrian, cycle, and horse traffic remain unobstructed. There is no bar to wider application of such bylaws in rural areas.

Vehicle use not being restricted in conservation areas

In response to repeated statements by Department of Conservation (DOC) staff that “it is not possible to restrict vehicle use within conservation areas”, this writer obtained, with difficulty, the official basis for such claims. Given the protection status of conservation areas it seemed most improbable that DOC is powerless to prevent vehicle use and damage.

Eventually, rather than provide copies of legal and other advice as requested, DOC's Acting General-Manager Strategy and Planning made a statement of current departmental position (10 October 2006) in regard to vehicles and enclosed copy of correspondence with the New Zealand Four-Wheeled Drive Association (Appendices 4, 5). This, and other related documentation, amounts to a most illuminating misrepresentation of law and derogation of duty to protect conservation areas, for the purpose of justifying law changes that would be amendable to the organised 4WD sector.

Doris Johnston of DOC's Head Office stated that “...at present, unless there are specific bylaws or other restrictions in place, vehicles are not restricted in their use of conservation areas. Department staff, however, encourage users to keep to formed vehicle tracks to control the potential harmful effects of off-road vehicle use.”

Ms Johnston continued... “you may be aware the Department proposes to limit the use of motorised vehicles on conservation areas and some types of reserves to roads, and to allow it elsewhere on a case-by-case basis as the circumstances allow. Drafting of proposed legislation which would include this, has not yet been completed.”

In a record of a meeting between DOC and the NZ Four-Wheel Drive Association (3 August 2004, Appendix 5), the main points that arose from a discussion a few days' previously were recorded. In regard to “illegals” it was stated:

“There was general agreement that DOC needs powers to be able to control illegal off-road use by vehicles, including 4WD, motorbikes and quads.”

Examination of the law reveals the proposition that there is currently no legal ability to control vehicle use within conservation areas is ‘Concocted Rubbish And Piffle’ (C..P).

Current law regulating vehicle use in protected areas

Conservation Act 1987

DOC's over-arching legislation is the Conservation Act 1987 whereby DOC has a duty to preserve and protect natural resources (sections 2, 6(a)). Recreational use is conditional on preservation and protection (sections 2, 6(e)). The Act addresses both entry of vehicles and resultant damage.

Section 39 (1)(b) makes it an offence to enter any conservation area with a vehicle, without authority, in breach of any prohibition or restriction imposed pursuant to the Act. In other words, there have to be specific regulations in place before entry becomes an offence.

Despite having powers to pass regulations DOC has not seen fit to do so. Such regulations could be either of general or local application. Regulation-making powers are set out in section 48, including "prohibiting, restricting, or regulating, the entry of aircraft, ships, or vehicles of any class or description, into any conservation area".

Failure to utilise existing law is erroneously implied to be failure of the law. In reality it has been failure within DOC's administration over two decades that presents the primary difficulty. Most conservation areas are unregulated. There have only been sporadic efforts to prevent vehicle entry, such as the recent controls effected in the upper Ahuriri Valley. At any time since 1987 the Governor-General could have been asked to approve regulations restricting vehicles to formed roads/vehicle tracks or setting other restrictions or prohibitions for use of vehicles. Apparently this has not occurred.

Section 39(1)(e) makes it an offence to interfere with, or damage in any way, historic or natural features, with or without specific bylaws or regulations in place. This is applicable in any situation arising from damage from any source, including vehicles.

The penalties for offences by individuals are for imprisonment for a term not exceeding 1 year or to a fine not exceeding \$10,000; by corporations to a fine not exceeding \$80,000 (section 44). There is provision for forfeiture of property including vehicles (section 46).

Section 47 permits the Director-General of Conservation to make payments to any person or persons who have supplied information that has led to the conviction for an offence against the Act or who has procured or assisted in procuring any such conviction. This provides scope and reward for members of the public who witness damaging activity to record and report such events.

Transport Act 1962

The Transport Act contains power for any Minister of the Crown to make bylaws in respect of any roads under his control.

Section 2 defines 'road' as having the same meaning as it has in section 2(1) of the Land Transport Act 1998:

"Road includes—

(d) A place to which the public have access, whether as of right or not".

Therefore paragraph (d) covers any area under DOC's control.

"Section 72 Bylaws as to the use of roads

(1) Subject ... to the provisions of this Act or of any other enactment in respect of any of the matters referred to in this subsection, any Minister of the Crown in respect of any roads under his control, or any local authority in respect of any roads under its control, may from time to time make bylaws for any of the following purposes:

...

(f) Prohibiting any specified class of heavy traffic that has caused or is likely to cause serious damage to any road unless the cost of reinstating or strengthening the road, as estimated by the said Minister or the local authority, as the case may be, is previously paid:

...

(i) Prohibiting or restricting absolutely or conditionally any specified class of traffic (whether heavy traffic or not), or any specified motor vehicle or class of motor vehicle which by reason of its size or nature or the nature of the goods carried is unsuitable for use on any road or roads specified in the bylaw:

(1) Prescribing fines, not exceeding \$500, for the breach of any bylaw made under this section.

(2) Any bylaws made under this section may apply generally to all roads under the care, control, or management of the Minister or local authority making the bylaws, or to any specified road, or to any specified part or parts thereof, and may apply to all vehicles or traffic or to any parts thereof, and may apply to all vehicles or traffic or to any specified class or classes of vehicles or traffic, and may operate at any time or at any specified time or times".

The powers above could not be more empowering in respect to any possible need to prohibit or control motor vehicles in conservation areas. Ignoring these and other powers seems to only serve a departmental agenda of taking a new, unjustified course.

DOC's Proposals

DOC considers that "vehicle use on land DOC administers could be better managed if an offence provision provide flexibility to do so. We thought this could be achieved [by] repealing the existing provisions and replacing them with another that included a notice linked to the General Policy, Conservation Management Strategies and Plans" (Appendix 6).

This is an admission that there are existing provisions, not that there are no provisions as continue to be implied by the department.

In effect, DOC now wants more flexible powers than the flexible powers they have had for the last 20 years and chosen not to use.

The DOC email continues:

"Note that it is not possible to create an offence by making a notice so it is not possible for an offence provision to say that anything is not an offence unless allowed by notice. An offence must be in legislation or in bylaws or regulations. This is why we are suggesting making vehicle use other than on roads an offence. Then we can authorise use as appropriate by notice. Some notices may open places permanently, at other times notices may be issued for very limited times and places and there may well be other permutations."

The fact that provisions for offences are already in legislation rather negates any necessity for further provision. The above proposition is also misguided in assuming that the only places requiring control of vehicles is off-road, whereas many vehicle tracks are unsuitable for year-round, all-weather use and are in need of control, not open-slasher exemption as this new regime envisages.

Undue influence of 4WD sector

A DOC email to the 4WD Association after their 2004 meeting (Appendix 5) records a disturbing "understanding of where to next" reached between the parties.

1. "The definition of vehicles also needed to be considered so that non-registered/non-warranted off-road vehicles could still be used legitimately".

The above incorrectly implies an existing right.

As anyone conversant with destructive vehicle use can attest, including any DOC field staff charged with managing public land, the ONLY prospect of identifying offenders is by identifying vehicles. For this writer, both as a former Lands and Survey ranger policing the annual 4WD and trail bike rampage at Macetown, and as a private individual attempting to stop trail bike damage to high country conservation areas, the inevitable result is that the helmeted offenders on unregistered machines laugh at you before roaring off. It seems that the policy managers in DOC Head Office are devoid of field reality.

2. The 4WD Association expressed "concern that DOC does not recognise heritage values of roads, and that walking access sometimes compromises those values." DOC undertook to check if 'heritage roads' were covered by policy.

Besides being a reversal of human and roading history (legs arrived long before motorised wheels), this indicates a wish for vehicle use without having to look at walkers, which DOC is amenable to consider.

3. "Some concern was expressed about the perception that local managers with strong personal views about off-road vehicles may use their decision-making powers unfairly", in relation to the granting of proposed notices. DOC recognised this possibility and undertook to look further at decision-making systems.

The statutory purpose of conservation areas combined with the experience of wanton vehicle damage would tend to make local DOC managers' views more professional than personal.

4. "In return for significant support and compliance with DOC management decisions in the past and future, the organised 4WD organisations would like to be appropriately recognised. It was agreed that the proposed system of 'notices' would provide flexibility to be able to open some areas on limited occasions for limited times if conditions were suitable."

This assumes there has been 'compliance' by all members of these organisations. There are plenty of people who could assert that this is not the case. The most disturbing aspect of this 'quid pro quo' for 'support' is the seeking of special privileges not necessarily available to others. What the 4WD association and DOC have in mind is indicated in the following proposed changes to the law.

5. At the end of a paper entitled 'Vehicle Use on DOC Administered Land' sent by DOC to the 4WD Association on 3 August 2004, is a table setting out 'CLE Bill suggested offence provisions relating to vehicles' (Appendix 6).

In conservation areas, national parks, and over Walkways, it is proposed to "provide for allowing vehicle use in specified places etc by permitting for individuals".

So no longer is control to be on the basis of class of vehicle and possible damage but by class of user and the nature of their relationship with DOC. The door would be opened to favourable treatment of 4WD clubs and concessionaires—serving private interests rather than the public at large.

An email copy of this memo obtained by this writer in 2004 states that the "suggested changes [are] from the 4 Wheel Drive Association" (Appendix 7).

Conclusions

The impacts of inappropriate vehicle use may be similar throughout rural areas, however official management regimes must be in accord with the purposes for which lands are administered. Two sets of solutions are required – one for public roads, and the other for lands held as public protected areas.

1. Public Roads

'The Law of Highways', a unique mix of statute and common law, governs public use and roading authorities' ownership and management (Hayes, 2007a, Mason, 2007c). Councils hold in trust public roads for the sole purposes of enabling and protecting public passage, and adjoining land occupiers' rights of access to and from their properties. It is for no other reason that ownership of the soil of roads is vesting in local authorities. The rights of passage and access are owned by the beneficiaries. Others', including councils, can be held to account if those rights are obstructed or permitted to be obstructed.

Conservation and environmental protection, per se, are not primary considerations. It is the prevention of 'nuisance' to the public right of passage and private rights of access that must, by law, preoccupy the minds of councils.

Review of existing law reveals that is not alleged inadequacies that prevents district and city councils, as road-controlling authorities, from dealing with nuisances such as vehicle damage to roads (Mason, 2007c). The primary issues requiring attention are matters of strategy and policy, such as—

- What are the most effective measures for preventing road damage on unmetalled rural roads generally, and on specific sections of road?

- To what extent can education or codes of conduct assist?
- In the absence of fencing and gates to physically bar vehicle entry, how practical is it to rely on prosecution as a basis for legal action and as a deterrent?
- Should bylaws be devised, for instance to prohibit vehicle use in wet ground conditions, rather than have blanket or seasonal vehicle bans?
- To what extent can information from members of the public be used for successful prosecution?
- Should members of the public be encouraged to instigate legal action, under common law, against drivers of road-damaging vehicles?
- Can the Police be used to a greater extent to deal with unregistered vehicles and dangerous driving? Will the Police respond to mobile phone *555 complaints in rural areas? Could other state agencies be given powers to prosecute?

Both common law and statute are well equipped to deal with damage to roads and to prevent damage of any origin. The primary need is for local authorities to assess the extent and scale of damage occurring to roads under their control, resolve to take action, then devise comprehensive remedies. The 'displacement factor' must be anticipated—isolated restrictions transfer problems to other areas.

The public should be consulted as they, not councils, own the right of passage over roads.

2. Protected Areas

Land management agencies have been caught off-guard, being often too slow to perceive the magnitude of adverse vehicle impacts and too prone to half-measures. Local and regional authorities have generally been more proactive in managing such impacts on public reserves and parks than DOC, or Land Information New Zealand in the case of Crown land.

At a national level, key public policy issues need to be addressed –

- Should areas formally protected for their natural values, including quiet, be sacrificed to whatever technological demands are placed on them?
- Should other, more benign, forms of recreation be allowed to be discouraged and displaced by machines?
- Should dependency on recreational vehicles be discouraged as public health and energy conservation measures?
- Should motor vehicle use off formed roads within protected areas be recognised as inherently incompatible with their purposes and banned?
- Should land in private ownership be the primary place for off-road vehicle recreation?

Parks, reserves, and conservation areas are protected for a variety of similar, but not identical purposes. Since establishment of DOC there has been a strong institutional leaning towards homogenising the management of all lands under the department's control, as a matter of administrative convenience. This has resulted in loss of distinction between areas, and the evolution of a 'one-size-fits-all' approach that seeks maximum policy discretion so as to avoid statutory restraints on decision-making. This is in the inherent nature of any bureaucracy—this must always be guarded against.

The accord that DOC has reached with the New Zealand Four Wheel Drive Association is especially relevant to this discussion. The conservation purposes of the lands held in trust by DOC are liable to be subverted as a direct consequence. In the case of off-road vehicle use, such use is in most areas so antagonistic to the purposes for which public lands are held that this should not be accommodated. Vehicle use should be confined 'on-road', to roads constructed specifically for such use, and for access to the boundaries of public lands—drivers and passengers are then entitled to recreate on the same terms as everyone else—without inflicting damage to the environment and others' recreational experiences. Like Government's recent decision to remove hut fees for under-18 year-olds, weaning people off vehicle dependency for recreation would be a positive public health measure.

A proven antidote to the acquisition of unbridled administrative power is greater management prescription for protected areas, through management plans for specific reserves—rather than rely, as at present, on omnibus Conservation Management Strategies (CMS) covering vast areas of differing status.

Consistent with the legal imperative of protection and preservation of natural and historic resources, greater effort should be made for zoning for a range of recreational opportunities, separating incompatible recreational activities (see for instance Mason 1988, 1989). The

recreational opportunity spectrum (ROS) approach to planning has been internationally recognised as the most adept experiences-based scheme devised so far, however DOC has subverted ROS into a crude tool for facility provision and enlargement. Restoration of the spiritual and inspirational should be returned to recreation planning—natural quiet is an essential prerequisite.

Allowing mechanised onslaughts over supposedly protected areas is anathema to the public purposes for which they are held. Attempting to make all areas all things to all people is a recipe for degradation. Other natural treasures such as held by Te Papa or in the National Archives are not permitted to have unbridled public use by any means so far devised by mankind. Preservation for future generations is the rightful imperative. So too is it for protected areas.

As the desire of men to play with machines appears to be genetically immutable there is clearly need for outlets for such activity. The well-resourced industry-backed vehicle sector should make their own arrangements, either by purchasing their own land, or negotiating access with private landowners who are willing to accommodate such use. Two-thirds of New Zealand is potentially available.

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Appendices

- [Appendix 1](#) Tread Lightly 'tips for responsible recreation'
[Appendix 2](#) Tread Lightly NZ to Wellington Regional Council
[Appendix 3](#) NZ Four Wheel Drive Association Gallery of Club Trips and Safaris
[Appendix 4](#) DOC to Mason re official information request. 10 October 2006
[Appendix 5](#) DOC to andic@ohnz.com 3 August 2004
[Appendix 6](#) DOC to vahry.photo@xtra.co.nz. Vehicle use on DOC administered land - proposed Conservation Law Enforcement Bill. 3 August 2004.
[Appendix 7](#) Vehicle use on DOC administered land. Email received 16 August 2004.
[Appendix 8](#) A Gallery of 'Treading Lightly' on the Environment

Recreation Access New Zealand is a research-based advocate

RANZ's central aims are the promotion of minimum impact recreation, and obtaining secure access to public lands and waters

RANZ advocates public ownership and control of resources of value for public recreation with the supremacy of the public interest ahead of private or commercial interests

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