



Federated Mountain Clubs of NZ (Inc)

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Walking Access Commission
P O Box 12348
Thorndon
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Dear Sir

GUIDELINES FOR THE MANAGEMENT OF UNFORMED LEGAL ROADS

Thank you for the opportunity to comment on the Guidelines. In general, it is a document that reflects our understanding of the position in regard to these vital public assets. If used wisely by territorial local authorities, it will assist in ensuring that unformed roads are available as public access to the maximum extent practicable.

There are a few areas where we see room for clarification or improvement.

Maintenance by adjoining landholders (p12)

Some recognition is needed of the fact that not all “maintenance” by an adjoining landowner benefits other users and that it may actually adversely affect the experience of other users. Bulldozing, formation, drainage and surfacing can all destroy the underlying historical character of these roads. In some cases, that character is worthy of protection and is an attraction for recreational users. It can also change the recreational character of the road, for example replacing a lightly formed path or single-track mountain bike route with a bulldozed scarred quagmire or a hard surfaced road. While recognising that an important *raison d’etre* for roads is to provide access to adjacent properties, owners of those properties should not be able to unilaterally alter the character of the road without some consideration of the effects on other users. We note that s357 of the Local Government Act 1974 requires anyone (including adjacent landowners) to seek permission from the local authority before taking any action that adversely affects the road.

Impounding Act (p21)

It is unfortunate that the provisions of the Impounding Act 1955 relating to removing stock (p21) refer to motor traffic.

“is satisfied that any road or any portion of a road within its district is so infrequently used by motor traffic that stock depasturing on or near the road will not constitute an inconvenience or danger to the users thereof”

Perhaps the Commission could signal to the appropriate government agency that, when this Act is next reviewed, that the words “by motor traffic” could be deleted. That would give councils a right to enforce problems with bulls etc on roads.

Recommended best practice – private rights (p30)

The current wording states “*Private landholders have a right to privacy and not to have their property or stock interfered with or damaged by recreational users of unformed legal roads*”. This could be taken as implying private property rights apply to roads. A better wording would be “*Private landholders have a right to privacy and not to have their property or stock interfered with or damaged on private land by recreational users of adjoining unformed roads*”

Recommended best practice – use by motor vehicles (p31)

The current wording states “*Councils should be sensitive to landholders’ concerns about vehicles driving over farmland or fragile tracks and work with them to resolve such concerns. Any bylaws should be made in compliance with the relevant statutory powers in force*”. Groups other than landowners can have concerns over vehicles. The Dunedin City Council bylaws referred to in the Guidelines came about because of Council and public concerns about damage to track surfaces and about conflicts with other recreational users.

Recommended best practice – public safety (p32)

In addition to stating

Councils should:

- *be aware of any potential hazards that might arise from structures on unformed legal roads*
- *be familiar with the provisions of the Health and Safety Act in Employment Act 1992 as it applies to authorised visitors to farms or other rural land.*

the 2nd bullet point should continue “*and to those in the vicinity of a place of work*”

A 3rd bullet point should say

- *be aware that the Act is often cited incorrectly (either through lack of understanding or as a deliberate tactic) as a reason to deny access.*

Thank you again for seeking comment. Please let us know if you would like to discuss the points raised.

Yours sincerely,



Phil Glasson
Secretary