



CONSERVATION

(1726)
LAN0001

TO: Those Listed Below

FROM: Land and Fauna Directorate

MARGINAL STRIP POLICY AND MANAGEMENT PRINCIPLES

BACKGROUND

1. As regions are probably aware an officials committee has been considering marginal strips for the past six months or more. Government has now reached decisions on marginal strip policy and proposed legislation amendments. Two memorandum to Cabinet are attached along with Cabinet minute, CM 88/24/21 detailing the policy decisions. The memoranda are for your information. The Cabinet minute should be taken as the definitive state of marginal strip policy until legislative amendments flowing from the decisions are in place.
2. The following summary is provided as an interim guide to marginal strip management. The physical and financial management implications flowing from the decisions are significant. It is important that a cooperative rapport be maintained with contiguous SOE land owners. You should also appreciate that the policy guidance which follows does not yet have statutory backing.

STATEMENT OF POLICY

3. Upon the disposal (including transfer to an SOE) of land of the Crown, marginal strips 20 metres in width will be established around the coast, around lakes greater than 8 hectares and along rivers and streams greater than 3 metres in width, except in urban areas, or where the land in question is included in the assets to be transferred of Electricorp. The strips will be held for Conservation purposes and will be administered under the Conservation Act.
4. Strips established under Section 58 of the Land Act will also be declared to be held for conservation purposes and will be administered under the Conservation Act. The current width of Section 58 strips will not be affected by recent policy decisions.
5. Strips will remain in Crown ownership although they will be included in the title of the adjoining SOE. The title will show a statutory exception over the marginal strip area indicating that it is owned by the Crown. This decision will require changes to Land Transfer legislation. Both the Crown, and the contiguous land owner, therefore, have rights to the land. In essence the Crown will be the owner and the adjoining SOE the occupier or titleholder.

6. The Crown may exclude the adjoining owner from the marginal strip (that is, resume the strip) without payment of compensation for the land, after serving 90 days notice of the intention to do so. Compensation for assets legitimately located on the strip, (excluding fencing), and appropriate administrative costs is payable by the department according to valuation procedures to be established. A resumption will generally be triggered by inappropriate management of a strip, although there may be occasions when conservation requirements dictate that any other use of the strip can not be countenanced. The Minister of Conservation may impose a management requirement upon the titleholder and/or may restrict the use of the strip after prior consultation with the titleholder.
7. The Crown retains the ad medium filium rights of ownership of adjacent river and lake beds. The objectives and principles governing marginal strip management will be included in the amending legislation. These objectives and principles will essentially be the same as those currently set out in Section 24(2) of the Conservation Act.
8. The titleholder may, subject to the management objectives and principles, occupy and use strips. The titleholder will be required to ensure that public access is maintained, subject to operational and/or public safety constraints. The titleholders (except Electricorp, see 13(e) below) are considered to be occupiers of the strips and are therefore liable for pest and weed control.
9. Amendments to the Forest and Rural Fires Act will remove marginal strips from the definition of a "State Area". This will remove the department's fire control responsibilities for strips.
10. Subsequent on-selling or sub-division of land will have no effect on the rights of the Crown as owner of the marginal strip.

DISPOSAL OF STRIPS

11. Legislation will be amended to enable the Minister of Conservation, by notice in the Gazette, to dispose of an interest in a strip, dispose of part or all of a strip, or grant an exemption from the requirement for a strip.

The owner of adjoining land must be given first right of refusal when strips are disposed of. Documentation of a disposal will be by way of a note on the title.

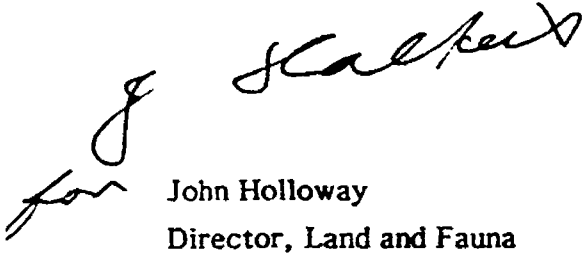
FURTHER PROVISIONS

13. a. All marginal strips will be exempt from the Fencing Act.
- b. Titleholders must be consulted prior to the issuing of a mining licence over the strip.
- c. The consent of the Minister of Conservation (or delegated agent) is required before an easement may be granted over a strip.
- d. The titleholder must inform the Minister of Conservation when management regimes are significantly altered and when structures on a strip are to be significantly modified. Both actions must be compatible with the strip management principles, and authorised by the Minister (or delegated agent). There is room for some uncertainty here which relates to how one defines 'significant'.
- e. Strips around hydro lakes commence at the "maximum normal operating level" and extend for 20 metres or to the "maximum flood level" whichever is the lesser. Costs of strip management relating to electricity generation requirements are to be met by Electricorp. The 20 metre extension is, of course, only possible if the land over which the strip is to extend is land of the Crown.

FOLLOW-UP ACTION REQUIRED

14. a. Amendments to the Conservation, State Owned Enterprises and Land Act will be drafted.
- b. A set of management objectives and principles, which reflect the intent of Section 24(2) of the Conservation Act, will be prepared as a guide to facilitate dialogue between the department, as owner, and SOEs as titleholder/occupier.

15. Any inquiries you wish to make regarding the above, or the ongoing management of marginal strips, should be directed at John Halkett or Chris Baddeley of the Land and Fauna Directorate, Central Office.

A handwritten signature in black ink, appearing to read "John Holloway". The signature is written in a cursive style with a large initial "J".

John Holloway
Director, Land and Fauna

Distribution List

Deputy Director-General (Conservation Management)
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