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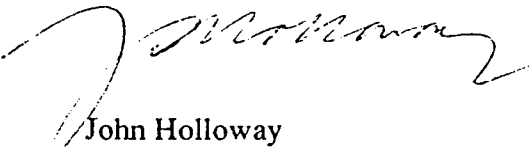
CONSERVATION  
TE PAPA ATAWHAI

12 October 1990

LAND CIRCULAR 1990/5

**MARGINAL STRIPS : RECORDING BY DOSLI**

1. Attached for your information is a copy of DOSLI Technical Circular 1990/4 which deals mainly with how marginal strips will be recorded in survey office records. This will be of particular use to staff doing land status checks and for giving information to the public if they receive enquiries.
2. The following points are of particular note in that Technical Circular:
  - (a) S. 24A Reduction in width - it is the responsibility of the Regional Conservator to inform the relevant Chief Surveyor of any approval to the reduction in width of a marginal strip.
  - (b) S. 24B(1) If marginal strip is to be dispensed with - it is the responsibility of the Crown agency disposing of the land to notify the relevant Chief Surveyor. He will then rely on the Gazette notice as advice of approval. If a dispensation is declined the Regional Conservator should inform the Chief Surveyor. [Neither notice, under (a) or (b), is a statutory step.]
  - (c) S. 24B(4) & (5) Electricorp dispensations - if you have any approach at the local level please let Head Office know before taking any action. Head Office will be consulting with DOSLI and Electricorp centrally in the first instance.
  - (d) S. 24E Marginal strip exchanges - the procedures required will initially be considered further at a Head Office level in conjunction with a Forestcorp proposal. The outcome will be the subject of a separate circular.
  - (e) Notification under s.24D(2) - should be by the agency granting the lease or licence.
3. I will refer the Technical Circular to Timothe Mansfield for perusal. If any further points of note emerge you will be informed.
4. What are your views on the need to record marginal strips in DOC records?



John Holloway  
for Director-General

Department of  
**Survey and Land Information**



DOSLI-C4

Your reference:

2100-C03

In reply quote:

To: ALL DMS/CSS, DSS, CMG MEMBERS  
AND D(L), D(PROP), D(CDB), D(S), O/S, D(STAT)  
HEAD OFFICE  
From:

TECHNICAL CIRCULAR 1990/4

SECTION 15 CONSERVATION LAW REFORM ACT 1990  
- MARGINAL STRIPS

INTRODUCTION

By now you will be aware that section 15 of the Conservation Law Reform Act 1990 substitutes section 24 of the Conservation Act 1987 with a new Part IV A to that Act and that it sets out new requirements for the reservation from sale of marginal strips.

To ensure that this department maintains consistency in the carrying out of the recording and other responsibilities required by this legislation an interpretation of the relevant provisions is considered necessary. The following instructions by way of "comment" and "action" for the new subsections which impact on our functions have been compiled to give guidance in this respect.

S.24(1) and (2)

Comment:

These sub-sections deem that a strip of land 20 metres wide is reserved along any foreshore, lake (in certain circumstances - refer to the definition in S.3) or any river and stream 3 metres or more in width (not being a canal etc).

Any land of the Crown covers all lands held by H.M. the Queen despite the purpose or statutory authority under which it is held, unless specifically exempted from the provisions of S.24 by statutory authority.

Action:

Refer to the following paragraphs.

S. 24(3)

Comment:

Under this subsection "section 58" and similar strips are deemed to be marginal strips. The provision includes any marginal strips created under the repealed S. 24(8) of the Conservation Act. This subsection only applies where the disposition has occurred. Otherwise new plans to satisfy the provisions of the new S.24 will be needed.

The landward boundaries defining these existing strips will not move, like new strips in terms of S.24G, but will continue to be shown as fixed boundaries.

Action:

It is considered quite appropriate for the existing notations on record sheets or plans to be retained as they reflect how the strip originated.

All staff will need to be made aware however of the new status of these existing strips.

S.24(5)

Comment:

This subsection provides that nothing in section 24 limits or affects S.289 Local Government (LG) Act 1974. Until the Resource Management Bill is enacted therefore, where S.272 of the LG Act applies, the circumstances under which you presently operate have not changed.

Action:

No change to current practice. Provide for local purpose reserves where applicable.

Note:

Despite the absence of a marginal strip in these cases the DLR will still be required to note the titles issued for the lands on the plans which are disposed of as being "subject to Pt IV A of the Conservation Act" (Refer S.24 D(1)).

S.24(6)

Comment:

This subsection provides that all disposals of any land of the Crown to SOE's made since 10.4.90 are subject to S.24. This supersedes the old S.24(8) which only applied to former State Forest land and Crown land subject to the Land Act when it was transferred or vested.

Vesting by Order in Council (OIC) for unregistered land and applications under S.25(1) SOE Act for registered lands are dispositions.

Action

- (a) When dealing with unregistered lands, before the schedules for the OIC are prepared, determine whether or not S.24 (1) or (2) could apply.

If either could apply, and a plan for the purposes of S.24(1) SOE Act is required, the following note is to be placed in the plan margin.

"Note: Land of the Crown disposed of to a State Owned Enterprise is subject to the provision of marginal strips pursuant to S.24 Conservation Act 1987".

If S.24 (1) or (2) could apply but there is a plan with an adequate legal description available, at the time of recording the vesting action on the legalisation card for that plan the following note should also be added:-

"- subject to the provision of marginal strips pursuant to S.24 Conservation Act 1987".

However if the land to be disposed of abuts foreshore (refer to the definition in S.3) a plan for the purposes of S.24(1) SOE Act is to be prepared to clearly show that the disposition is to the "Mean High Water Springs" mark (MHWS).

In the above situations, at the time the notice of the OIC in the Gazette is recorded on the legalisation cards, the following note is to be placed in the margin of the appropriate record sheet.

"For marginal strip details on this record sheet see the following plans".

Plan numbers can then be listed.

Also at the time of recording, the note "subject to the provision of marginal strips" is to be entered into the "purpose" field and "S.24 Conservation Act 1987" in the "legality" field of the attribute data of DCDB for the polygons affected.

Furthermore in the above mentioned situations, before a certificate under S.26 SOE Act is prepared it will be necessary for a plan to be produced to exclude the beds of lakes, rivers and streams from the disposition in accordance with S.24F and the vesting order. And, in the case of land abutting foreshore, to define the MHWS mark.

A note as illustrated in Appendix 'A' is to be placed alongside the relevant parcel boundaries on title plans.

- (b) When dealing with registered lands, before preparing an application under S.25(1) SOE Act, determine whether or not S.24 (1) or (2) could apply.

If it does apply it will be necessary for a plan to be produced to exclude the beds of lakes, rivers and streams from the disposition in accordance with government policy that and S.24F these remain in Crown "ownership". And in the case of land abutting a foreshore, to define that MHWS mark.

A note as illustrated in Appendix 'A' is to be placed alongside the relevant parcel boundaries on title plans.

In addition to the normal recording undertaken for new plans the plan number is to be added to the list in the margin of

the appropriate record sheet and marginal strip details added to DCDB as outlined in item (a) above.

- (c) If S.24 (1) and (2) do not apply to a proposed disposition the only change to current practice is that no notes are required in the margin on plans prepared for the purposes of S.24(1) SOE Act.
- (d) Where rivers or streams abut land to be disposed of the following note is to be shown in the margin of the plan and as a notation on the S.26 SOE Act certificate to illustrate that *ad medium filum aquae* does not apply

"NB: The bed of ..... River/Stream is excluded from Section(s) ....."

"See Gaz ..... page ...." [being the page containing the vesting order] can also be shown on S.26 certificates, and on plans if the land has been vested before the plan is approved.

### S.24(7)

#### Comment:

This subsection provides that the transfer to Landcorp of land subject to a lease or licence, which does not have a right of freehold, will only attract the marginal strip provisions at the time the lease or licence is renewed or when the freehold is transferred to the lessee or licensee, whichever ever occurs first.

#### Action:

When dealing with lands being vested or transferred to Landcorp proceed as outlined in actions (a) to (c) under S.24(6) but if any lease or licence without a right to freehold exists:

- (i) The note in the margin of a plan for the purposes of S.24(1) SOE Act should read

"Land of the Crown disposed of to Land Corporation of NZ Ltd is subject to the provisions of marginal strips pursuant to S.24(7) Conservation Act 1987".

- (ii) The note on any legalisation card or in DCDB attribute data should show "S.24(7)" instead of "S.24".

- (iii) The note of any title plan should show "S.24(7)" instead of "S.24".

#### Note:

S.24(7) is only applicable where there is no right to acquire the freehold written into the lease or licence. For a lease or licence with these rights the renewal of the lease or licence or the acquisition of the freehold by the lessee or licensee does not constitute a disposition and Part IVA will not apply at all. Refer to S.64(4) and (4A) as inserted by S.33 Conservation Law Reform Act 1990.

S. 24(8)Comment:

This subsection confirms the second comment under S.24(1) and (2) above.

S.24(9)Comment:

This subsection provides that the marginal strip provisions apply when a Crown Forestry licence is issued under the Crown Forest Assets Act 1989, when a lease or licence is issued under the Land Act 1948 and when an existing lease or licence under the Land Act, without a right of freehold, is renewed.

Action:

- (a) For Crown Forest land when a request for a certificate under S.30(4) Crown Forest Assets Act 1989 is received, determine whether or not S.24(1) or (2) applies.

If either does a plan to be approved "for record purposes" is to be prepared identifying those lakes, rivers, streams or sea coast alongside which the marginal strips will exist, upon the granting of the licence.

A note as illustrated in Appendix "B" is to be placed alongside the relevant water boundaries on the plan.

Note:

As no alienation from the Crown is involved definition to full cadastral standards is not expected and use of photogrammetric methods, existing forest mapping or aerial photography should be utilised.

Once approved, in addition to the normal recording for new plans, the plan number is to be added to the list in the margin of the appropriate record sheet and the note "subject to the provision of marginal strips" and "S.24(9) Conservation Act 1987" is to be added to the "purpose" and "legality" fields of the attribute data of DCDB respectively for the polygons affected.

- (b) For Crown Land subject to the Land Act 1948 which is being considered for the grant of a lease or licence or the renewal of a lease and licence Lands and Property staff should refer each case to the Chief Surveyor for investigation of the requirements of S.24(1) or (2) Conservation Act.

If either S.24(1) or (2) apply proceed as outlined in the second, third and fourth paragraphs of action (b) for S.24(6).

S.24AComment:

This section provides that the Minister of Conservation may reduce the width of a marginal strip but to not less than 3 metres and only along the sea or lakes.

There is no provision for notification in the Gazette and DOC has advised that the appropriate Chief Surveyor will be informed by way of a memorandum from that department.

Action:

Record the reduction on the legalisation card for the plan with a reference to the date of the memorandum and your file upon which the memorandum is placed.

Also note the reduction in the "legality" field of the attribute data of DCDB for the polygons affected.

Note: All staff must be continually made aware of the importance of treating the legalisation card as an integral part of any plan.

S.24B(1)Comment:

This subsection provides that before a disposition of land the Minister of Conservation may, by notice in the Gazette, declare that S.24 shall not apply to that disposition.

DOC has advised that such a declaration will result from an application made by the agency which is disposing of the land.

On the basis that all new survey plans of dispositions of lands of the Crown will require to show a marginal strip note along any qualifying waterway unless exempted by a declaration in the gazette it is assumed that the agency responsible for the disposal will advise the Chief Surveyor of any such proposed declaration before the plan is approved.

Action:

The following note is to be shown in the margin of the title plan

"Note: By notice on page .... of the 19... Gazette the land in this plan is not subject to S.24 Conservation Act 1987".

In those cases where advice is not received before approval of the plan, or there is already a suitably approved plan in your records upon which the disposition can be based, the notation is to be recorded on the plan's legalisation card. In the "purpose" field of the attribute data of DCDB show "Exempted from the provisions of S.24 Conservation Act 1987" and in the "legality" field show "Gaz .... p...." for the polygons concerned.

S.24B(4)&(5)Comment:

These subsections provide that the Minister of Conservation may by notice in the Gazette declare that S.24 shall not apply to proposed dispositions to Electricorp or in connection with electricity works but only so long as the asset remains with the Corporation.

Action:

- (a) Upon receipt of the gazette with such a notice enter the following note in the "other interests" field of LARES against the lands affected.

"Subject to subsections (4) and (5) of Section 24B Conservation Act 1987 - Gaz 19 ... p..."

Note: Until responsibility for maintaining the Electricorp data in LARES is placed with districts this action will be undertaken in head office.

- (b) When dealing with lands being vested or transferred to Electricorp proceed as outlined in actions (a) to (c) under S.24(6) but if a declaration has been made by notice in the gazette:
- (i) The note in the margin of a plan for the purpose of S.24(1) SOE Act should read:
- "Land depicted on this plan disposed of to Electricity Corporation of NZ Ltd is exempted from the provisions of S.24 Conservation Act 1987 - Gaz 19... p... but is subject to the provisions of S.24B(5) Conservation Act 1987".
- (ii) The note on any legalisation card should read
- "exempted from the provisions of S.24 Conservation Act 1987 - Gaz 19... p... but subject to the provisions of S.24B(5) Conservation Act 1987".
- (iii) The notes in the "purpose" and "legality" fields of DCDB attribute data should read
- "Exempted from the provisions of S.24 but subject to the provisions of S.24B(5) Conservation Act 1987" and "Gaz .... p...." respectively.
- (iv) The note on any title plan should show "S.24B(5)" instead of S.24.

S.24D(2)Comment:

This subsection provides that upon being notified of a disposition of Crown land not registered under the Land Transfer Act the Chief



Surveyor shall record on the proper plans and records that the land is subject to Pt IVA Conservation Act 1987.

This requirement affects grants and renewals of unregistered Crown leases or licences and lands vested in a SOE by OIC and applies whether the land is affected by waterways or not. It is difficult to see when this will apply otherwise as most dispositions are prepared in a form to enable registration under the LT Act.

Action:

- (a) In dealing with unregistered leases and licences Lands and Property staff will need to inform recording staff of any grants or renewals.

Upon notification the following note is to be placed on the legalisation card of the appropriate plans and entered in the "purpose" field of the attribute data of DCDB for the polygons affected.

"Subject to Pt IVA Conservation Act 1987".

Also, in the "legality" field of the DCDB attribute data show "S.24D(2) Conservation Act 1987".

- (b) In dealing with lands vested in a SOE the same action outlined in the preceding paragraph is to be followed on receipt of the gazette notice containing the OIC.

S.24D(3)

Comment:

This subsection requires the Chief Surveyor, without fee, to cause the proper plans to show the marginal strips in a manner the Chief Surveyor considers most appropriate.

Action:

Refer to the preceding paragraphs.

S.24D(4)

Comment:

This subsection requires that the recording required by S.24D(2) shall be recorded on the plans and records of any subsequent subdivision and shall never be removed once recorded.

Action:

In the event of any subsequent subdivision of unregistered land record the following note in the subdivisional plan's margin.

"The land in this plan is subject to Pt IVA Conservation Act 1987".

S.24 D(7)Comment:

This subsection provides that marginal strips shall not be required to be surveyed.

Action:

Refer to the preceeding paragraphs.

S.24EComment:

This section provides for the authorisation of an exchange of a marginal strip for another strip of land by notice in the gazette and deems that the land exchanged shall be reserved as marginal strip.

DOC has advised that this provision is most likely to be used where waterways have moved away from "fixed" strips reserved from sale under S.58 Land Act 1948 and its predecessors but DOC is not sure how such an action will be put into practice.

Action:

Upon receipt of the gazette with such a notice record the authorisation of the exchange on the legalisation card(s) of the plan(s) affected and in the legality field of DCDB.

Note: It is presumed that survey plans will be required to effect the exchange but until the first such action occurs it is difficult to formulate procedures for our responsibilities. Procedures will therefore need to be addressed when knowledge of the first exchange is received. Head Office should be notified accordingly.

S.24FComment:

This subsection provides that half the bed of a non navigable river or stream adjoining any land which the Crown disposes shall remain in the ownership of the Crown.

Action:

Staff will need to be made aware of this provision for activities requiring the identification of and the reporting on the status of rivers and streams.

S.24GComment:

This section provides that if for any reason a water boundary with an existing marginal strip (but excluding those reserved under S.58 Land Act 1948 and its predecessors) moves a new marginal strip is deemed to be reserved in every new position if the land affected is subject to Pt IV Conservation Act 1990.

Action:

No action can be considered until such time as the land affected is the subject of a survey plan. At this time the marginal strip is to be noted as illustrated in Appendix A and the appropriate recording action is to follow on record sheets and in DCDB.

S.24IComment:

This section provides for the granting of easements over marginal strips by the Minister of Conservation.

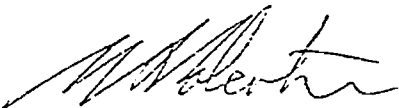
DOC has inferred that this provision is most likely to be used where an easement is required by a party other than the owner of the land adjoining the strip.

Action:

When required to be portrayed on a plan the normal standards of definition for easements will apply.

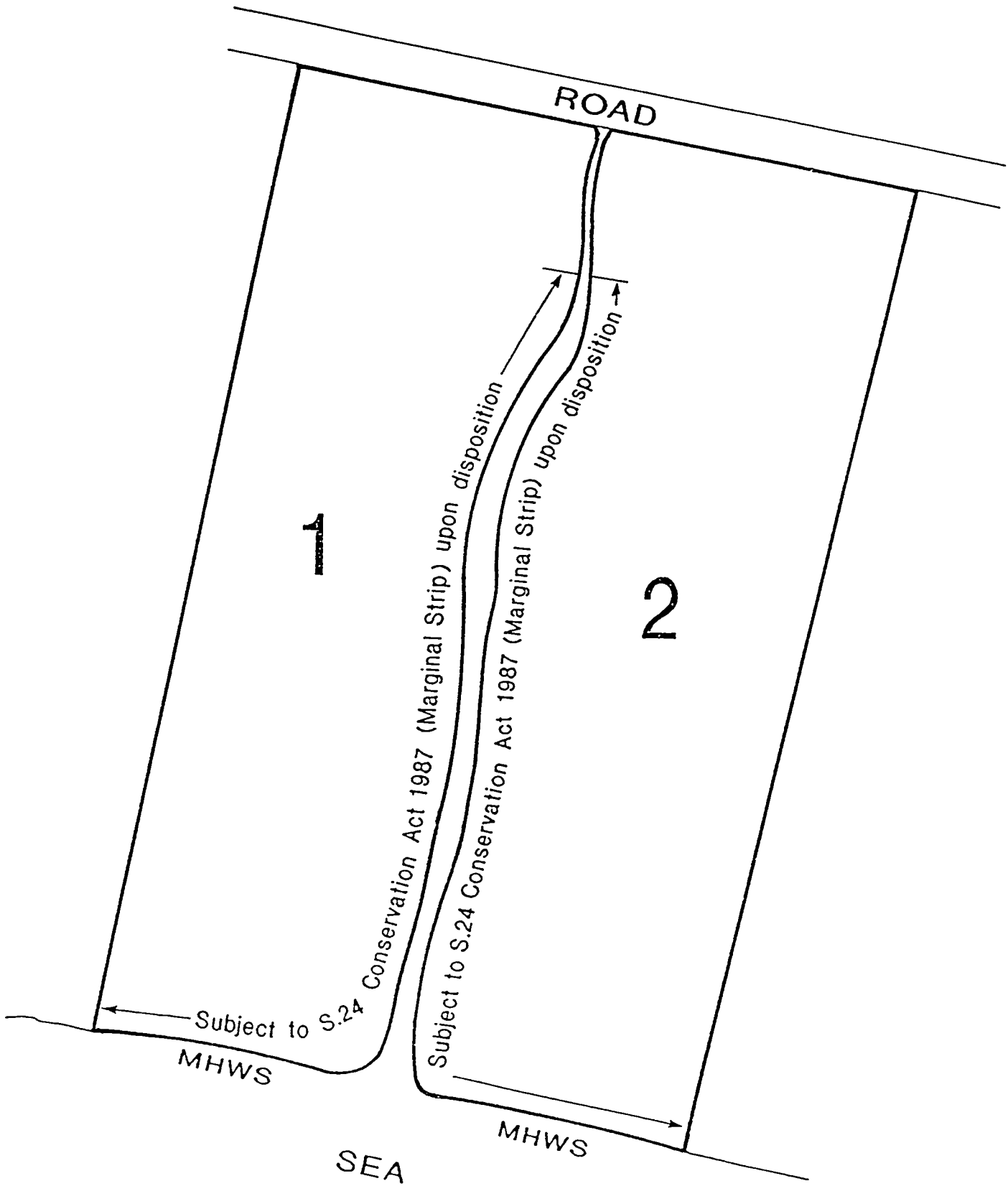
GENERAL:

All work in connection with the identification of marginal strips which cannot be legitimately charged to a client as part of a job being undertaken to effect the disposal of land plus the recording actions are to be charged to a job number specifically allocated for this work using sub-output code 250-13.

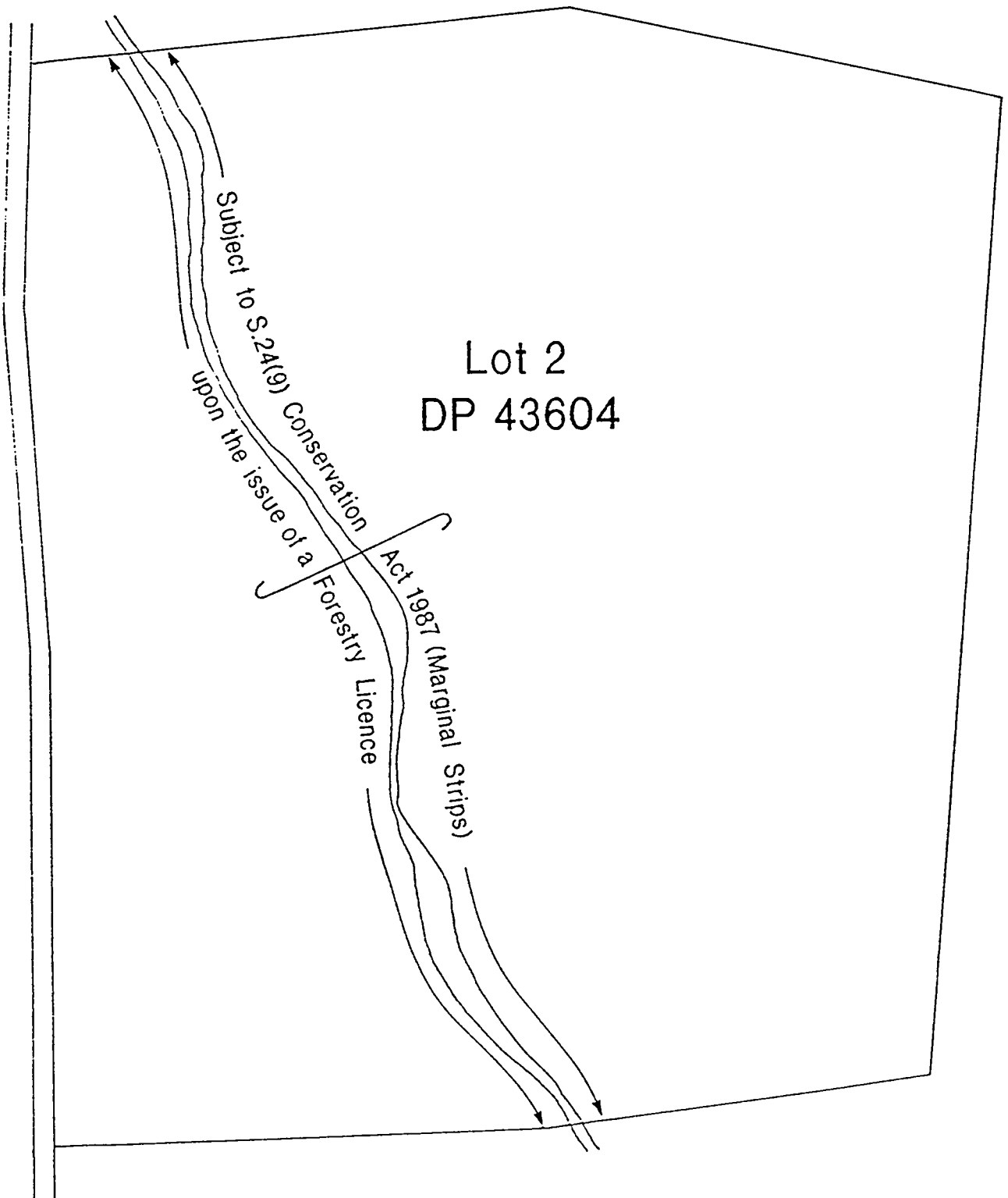


W A Robertson  
DIRECTOR-GENERAL/SURVEYOR-GENERAL

# APPENDIX A



# APPENDIX B



"Plan of waterways in . . . . . Forest  
along which S24 Conservation Act 1987 applies."