

PUBLIC LANDS COALITION

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24 October 1989

TO ALL MEMBERS OF PARLIAMENT

Dear Member,

CONSERVATION LAW REFORM BILL – MARGINAL STRIP PROVISIONS

As a result of changes proposed in the Conservation Law Reform Bill 1989 considerable public concern has arisen over the possible loss of traditional public access rights to New Zealand's riparian lands, coasts and waterways.

The potential for serious erosion of every New Zealander's right of access to the outdoors arising from this legislation is such that the Public Lands Coalition feels compelled to make the enclosed commentary on Ministerial statements directly available to you. The possible consequences of the proposed changes cannot be fully appreciated while erroneous messages as to the Bill's contents continue to come from Government.

There has probably been no other single piece of legislation concerning public lands, that encroaches on the personal freedoms of citizens to the extent contemplated by this Bill. The PLC cannot agree with the interpretations of the Minister of Conservation that this Bill provides greater protection for the Queen's Chain.

The PLC considers that the main issues of contention should be quickly identified, and resolved at the time the Bill is reported back to the House.

The Coalition believes that substantial redrafting of Clause 15 is required to ensure that:

- **the Crown's present undisputed ownership of 'Section 58' and 'marginal strips' is retained;**
- **the Crown retains direct management responsibility for all strips;**
- **public access at all times remains a legal right, rather than become a privilege.**

We therefore wish to draw to your attention to the following check list of desirable changes to Clause 15.

1. ss 24(1). **Marginal strips reserved.** (Page 38, lines 18-20).
Amend to read - "(1) Upon disposal by the Crown of any land, there shall be deemed to be reserved [from sale or other disposition] ~~on such land~~ a strip of land [not less than] 20 metres wide..."
The above wording retains the key phrases of s 58 Land Act 1948 -provisions which have clearly established the Crown's full jurisdiction over these strips. If the Government's intention is to retain Crown ownership, no good reason has been advanced for departing from the established phraseology of the Land Act 1948.
2. ss 24 (1)(c). **Marginal strips reserved.** (Page 38, lines 28-31).
Delete "(not being a canal under the control of Electricity Corporation of New Zealand Limited used by the Corporation for, or as part of any scheme for, the generation of electricity)"...
3. ss 24 (4). **Marginal strips reserved.** (Page 39, line 7).
"affect". Replace by "create".
4. ss 24 (5)(6). **Marginal strips reserved.** (Page 39, lines 11-18).
Delete.
5. ss 24 (9). **Marginal strips reserved.** (Page 39, line 31).
"any". Replace by "this".
The pending review of the Land Act should deal with 'Section 58 strips' before bringing them under the ambit of the Conservation Act as 'marginal strips'. This is due to complex issues on pastoral leases which have been overlooked by the Bill.
6. ss 24 (10). **Marginal strips reserved.** (Page 39, lines 34-35).
Delete "...and also includes the grant of a lease or licence under the Land Act 1948."
7. s 24B. **Reservation and disposal of marginal strips to be recorded.** (Page 40).
Delete.
The existing system of recording of strips on certified plans has proved sufficient proof of their existence; recording on Certificates of Title transfers ownership to the holder of that title.
There should be no provisions for disposals under the Conservation Act. Reserves and Other Lands Disposals Bills can be used, as has been the very infrequent practice in the past, for essential disposals.
8. s 24C. **Power to declare land not to be a marginal strip.** (Pages 40-41).
Delete.
9. s 24D. **Disposal of former marginal strips.** (Pages 41-42)
Delete.

10. s 24E. **Right of Crown to half of bed of river adjoining former marginal strip.** (Page 42).

Delete.

Unnecessary if Crown ownership of strip is retained.

11. s 24G. **Management of marginal strips.** (Pages 43-44).

Delete.

The ability to vest management control away from the Crown is an entirely new provision. Government has provided no justification for such a radical change.

Provision for 'temporary' closure of public access is at complete variance with the explanatory note to the Bill (top page vi), which gives as the objective for marginal strips - "to...provide permanent access for recreational purposes...".

Discretionary judgements, as to the most appropriate management for conservation and public access purposes, is placed with private individuals. This creates an inherent conflict of interest with private development or other objectives.

Long experience indicates that Ministers' powers of intervention will only be exercised rarely despite pressing public reasons for action. An additional obstacle is that major compensation disincentives are created in the way of the Crown resuming management of strips.

A whole new bureaucracy will be necessary to establish and maintain the Crown's record and oversight of many thousands of managers, negating savings from divesting management away from Government.

12. s 24H. **Easements over marginal strips.** (Page 44).

Delete ss (1) and (2) and replace with a provision allowing the Minister alone to grant easements subject to non-obstruction to public access and prior public notice and objection procedures.

13. s 24I. **Resumption of marginal strips by Crown.** (Page 44).

Delete.

Unnecessary if Crown ownership and control is retained.

14. **Schedule to the Bill.** (page 126).

Delete reference to "1948, No 64 - The Land Act 1948..."

Section 58 strips require legal confirmation to provide certainty as to their existence in all eligible cases on pastoral leases. This can only be done at the same time as the review of pastoral lease provisions in the Land Act. Extinguishing s 58 via the Conservation Law Reform Bill will seriously undermine the Land Act review of pastoral leases currently underway.

Yours faithfully,

B. J. Mason
On behalf of the Public Lands Coalition

...Enclosures

1. *PLC Commentary On Government Statements.*
2. Press coverage.