

THE QUEEN'S CHAIN
Clause 15 Conservation Law Reform Bill

Key Points

1. • Free, unimpeded public access at all times.

New Zealand has a proud history of generally available access to waterways for all its citizens.

The private rural sector has come to accept public access through rural lands on legal roads and Queen's Chain without any legal ability to obstruct public access. Rural based state-owned enterprises should operate on the same basis as the private sector.

The Minister's existing powers of closure under the Conservation Act should be removed. These have proved to be unnecessary and are out of step with 'Section 58' strips through private lands.

Rather than introduce restrictions on public access, Government should be promoting wider public rights generally.

2. • Retention of Crown ownership

The existing situation under the Land Act of full Crown ownership of the strips should apply to any transfers of adjoining land to SOEs.

'Section 58' strips are recorded on publicly available maps and provide certainty of Crown ownership and public assurance of their existence.

The Bill's proposed recording on Certificates of Title transfers ownership to the title holder, only 'reserving' limited rights back to the Crown. Private property rights will likely prevail over the public interest.

New strips will not be surveyed and therefore not recorded on public maps. In future a lawyer will be required to determine whether an access strip exists.

3. • Survey costs for laying off marginal strips have been grossly exaggerated.

Government has decided that riverbeds will stay in Crown ownership. These will have to be defined by survey. Therefore little extra would be involved in fixing the position of marginal strips at the same time.

4. • The movable strip provisions are welcome but limited in effect.

The Bill does not address the widespread historical situation of river and coastal movement which has obliterated legal access in many localities. Only new strips will be movable. The relative gains of moveable strips on SOE lands is minor compared to the fixed strips now in existence.

5. • The ability to dispose of strips should be limited to land exchanges to create practical access along new strips.

This would allow a 'movable' strip by negotiation.

6. • The Ministerial discretion to waiver the establishment of strips should be limited to banks of rivers and streams, subject to the objectives for strips being satisfied.

7. • Informal grazing use of strips by adjoining farmers has worked well.

No administrative costs fall on the Crown; public access is assured, and conservation measures can be effected by the Crown without any occupier, or owner of improvements, having to be compensated.

8. • The proposed appointment of private managers is cumbersome and unnecessary.

A huge administrative burden will fall on DOC and any ability to close or obstruct strips by changes in land use, or for operational reasons, cannot be adequately restrained in law to prevent abuse.

In return for free grazing, adjoining land occupiers should be responsible for weed and pest control in the same manner as for adjoining legal roads. Informal use can continue.