Resource Management Bill
Commentary on Reported Back Version in Relation to Public Access

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Only matters that require further attention commented on. **This will require lots of urgent lobbying.** All the rest of Bill that relates to public access generally good to okay.

Clause 5. Principles.
The principles are there to achieve the purpose of the Act. In the words of the select committee the principles are "durable matters to be taken into account." with no particular weight given between them but with a new provision that weight should be given as circumstances require.

5(1)(e) the addition of 'enhancement' and replacement of inappropriate' by unneccessary' subdivision and development etc is most welcome, as is 'preservation' in stead of 'maintenance' of natural character.

The BIG plus is new 5(1)(h)—

> "The maintenance and enhancement of public access to and along the public estate, including the coastal marine area, lakes and rivers."

This should provide the rule for the exercise of public access related provisions in the Bill. *It is an absolute imperritive that this principle be enacted* because some of the other provisions are still inadequate or potentially very dangerous (in particular see new clause 66A below).

Legal advice should be sought as to how 5(1)(h) will rank in relation to subsequent provisions in the Bill. Should it predominate for instance when district councils are setting rules for reduction in width or waivers for esplanade reserves?

Clause 7. Restrictions on use of land.
This is an improvement by removal of "by any person, animal, vehicle, or craft" from 7(f), however entry or passage across the bed of a river or lake is still a restricted use. As a matter of principle mere entry should be a right. This is a case where principle 5(1)(h) may or may not predominate. Clarification should be sought from Government as to why the necessity for 5(3)(f). If not justifiable it should be deleted.

Clause 27. Functions of regional councils under this Act.
Changes appear to be an improvement with the striking out of the control of public access and recreational use over all water bodies, but is this partly retained by the addition of control of actions on the surface of rivers and lakes?
Definite improvement by DOC control over DOC areas.
Control of occupation of space on foreshore and seabed a bit of a worry.

New Clause:
66A. Rules about esplanade reserves on subdivision and road stopping—(1) "Subject to subsection (2), a territorial authority may include in its district plan a rule that makes provision (either generally or in a particular locality) for—
(a) Esplanade reserves required to be set aside under section 189 of this Act or section 345(3) of the Local Government Act 1974, along the mark of mean high water springs of the sea, or along the margin of any lake, to be of a width of greater than 20 metres or to be reduced to a width of not less than 3 metres:
(b) Esplanade reserves required to be set aside under section 189 of this Act or section 345(3) of the Local Government Act 1974 along the bank of any river to be of a width greater or less than 20 metres; or
(c) Section 189 of this Act and section 345(3) of the Local Government Act not to apply in respect of land along the bank or banks of rivers or part of the bank or banks of rivers.
(2) Before a territorial authority includes in a district plan a rule under subsection (1), the regional council shall be satisfied that—
(a) In the case of a rule under subsection (1)(a) or (1)(b), the value of the esplanade reserve, in terms of the purposes specified in section 188, will not be diminished:
(b) In the case of a rule made under subsection (1)(c)—
(i) The land has little or no value in terms of the purposes specified in section 188; or
(ii) Any value the land has in those terms can be adequately provided by other means."

This is the big worry and the worst aspect of the reported back version of the Bill in relation to esplanade reserves.

It will allow district councils to establish rules for the reduction in width, and waiving reserves in place of unwanted roads along shorelines.

Although the provisos contained in 66A(2) are very similar to those now in the hands of the Minister of Conservation for marginal strips, the key difference is that district councils will make the decisions. Currently under the Local Government Act the Minister has the power of veto—this must be retained.

From a practical point of view, the major problem with 66A is that the recreational and conservation values of all roads along water margins, and all private lands without 'Queen's Chains' that are capable of subdivision will have to be assessed at the time that district plans/rules are prepared. This will be a huge if not impossible task. It would be better, and safer, to continue to deal with situations on an ad hoc basis. Such situations would be relatively few in number at any one time. This would allow time for proper assessment of each case.

See also pages 492-3: Second Schedule Part II. If changes made to 66A, then this needs changing as well.

Clause 103. Consents not real or personal property.
An improvement, whereby all consents do not now carry exclusion powers, however discretion will reside with district councils.
Should ask Government hy necessity for exclusion of persons?
Will 5(1)(h) override 103?

FORTH SCHEDULE:
Coal Mines Act 1979 No 21.
Section 261 is still repealed

Government needs to be asked what explicit Crown ownership of the beds of navigable rivers remains?

SIXTH SCHEDULE:
Local Government Act 1974 No 66:
Section 345.
The proposed changes are okay except for new 345(4). This reads—
"(4) The obligation under subsection (3) of this section to set aside a strip of land not less than 20 metres in width as an esplanade reserve is subject to *any rule included in a district plan under section 66 A of the resource Management Act 1990*."
The italicised segment above should be replaced by— "...the consent of the Minister of Conservation."