PUBLIC LANDS COALITION

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2 March 1990

Genevieve Orr,
Committee Secretary,
Select Committee on the Resource Management Bill,
Parliament House,
Wellington.

Dear Ms Orr,

SUBMISSION ON RESOURCE MANAGEMENT BILL

On behalf of the Public Lands Coalition I submit this submission on aspects of the Bill of direct concern to our coalition.

Our member organisations are making separate submissions on broader aspects of the Bill than covered here. The function of the coalition, and this paper, is to concentrate on areas of public lands policy that affect the Crown's ownership and control of public lands and waters of recreational and conservation significance, and the public's rights of access to such areas. This submission concentrate, as far as possible, on such aspects.

The coalition's representatives would appreciate the opportunity of appearing before the select committee to elaborate on our concerns and to answer questions from committee members. We would prefer being heard in Wellington.

Please contact myself (Bruce Mason) (024) 761 544) to make arrangements if this is suitable to the committee.

Summary

The coast, lakes and rivers, above as well as below the water line, are special places and nationally important. There is a universal community of interest in lakes, rivers, and the sea which is concerned with protection, access for recreation, and important open space values.

The Bill, by divesting a large measure of central government jurisdiction to regional / district councils and the Planning Tribunal, and by failing to straddle the high-water mark, has failed to provide the integrated, national resource management that the public anticipated might come from the current review of resource legislation.

The Bill's proposals are very different from the present situation where the control of lake and river beds, and the space above them, is the responsibility of local authorities and the Crown.

We do not believe that lands administered by the Department of Conservation should come within the jurisdiction of this Bill. We fear that the devolution of policy-making and control from central government to local and regional councils, over important public lands and waters, will result in loss of existing customary rights of public access and recreational use —that New Zealander's have enjoyed for at least the last 150 years. Also we anticipate that variable standards of environmental protection will occur for these key national assets.

Of particular concern to the coalition is the potential in the Bill for loss of public roads throughout the countryside in general, as well as 'Queen's Chain' along waterbodies, and with it the only means of public access for most New Zealanders to appreciate their country.

The PLC seeks amendment of the Bill to the extent necessary to remove the possibility of our fears being realised.

Note:
Recommended insertions to the Bill are shown as— .....insertion.
Recommended deletions are shown as— .....**(***deletion* **)**

PART I
INTERPRETATION AND APPLICATION

Clause 2. Interpretation.

Page 9 Line 10
"**Coastal marine area**" means that area of the foreshore and seabed bounded by **(***mean* **)** high water springs and the outer limits of the territorial sea:

WE SUBMIT THAT: "mean" be deleted from definition.
Explanation:
The word "mean", in relation to tidal waters, is difficult to define and has caused legal difficulties under existing legislation. The amended definition will cover the full extent of normal tidal influence up to the foredune and the area affected by normal wave action. The critical high spring tidal mark or seaward boundary of the land should be relatively easily determined from the presence of driftwood, vegetation etc.

Page 11 Line 1
"**Foreshore**" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at **(***mean* **)** spring tides:

WE SUBMIT THAT: "mean" be deleted from the definition.

Page 13 Line 3
"**Owner**", in relation to any land, means (except in **Part IX**) the person who is for the time being entitled to the rack rent of the land or who would be so entitled if the land were let to a tenant at a rack rent; and includes the—
(a) Owner of the fee simple of the land; and
(b) Any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land **(***or any leasehold estate or interest in the land, or to take a lease of the land,* **)** while the agreement remains in force:

WE SUBMIT THAT: the words "or any leasehold estate on interest in the land, or to take a lease of the land" be deleted.
Explanation:
The reference to leasehold estate suggests that lessees or intending lessees will be considered to be owners of the land. This defies common understandings and existing statutory definitions of 'owner'. The definition could exclude the Crown from consultation as lessor to at least 3 million hectares of pastoral and special leases. We consider that a lessee's rights must be confined to that of 'occupier' not 'owner'.

We have sought legal opinion on this aspect, and can make this available to the committee as part of a supplementary submission.

Clause 3. Act to bind the Crown
Page 17 Line 12
We support the exclusion of national parks from the application of the Bill.
The exemption from this Act under 3 (2) (b) and (c) should extend to reserves and covenants under the Reserves Act and other areas such as marine reserves, maritime parks, and 'section 58 strips' etc protected by special legislation. 'Section 58 strips' are intended to become 'marginal strips' under the Conservation Law Reform Bill. If this is not passed before the Resource Management Bill 'section 58 strips' will not have the desired exemption. Also areas covenanted under the Conservation Act are protected by subclause 3(2) but those covenanted under the Reserves Act are not.

WE SUBMIT THAT: paragraph (c) of subclause 3(2) be amended by adding reference to covenants and reserves under the Reserves Act 1977, marine reserves, and section 58 strips under the Land Act 1948.

PART II
PURPOSE AND PRINCIPLES

Clause 5. Principles.
Page 19 Line 22
Subsection (2) should be replaced by the requirement "to recognise and provide for the preservation of the natural character of the coastal environment and the margins of lakes and rivers and the protection of them from unnecessary subdivision and development."
(Cf a matter of national importance ss 3 (1)(c) Town and Country Planning Act 1977)
ie. broaden definition of 'coastal marine area' to include land margins.

An additional principle should be added to clause 5. This is—
"The protection and provision of legal rights of public access to and within the countryside, in particular to beds, lakes, rivers, foreshores, coastal marine areas, and the landward margins of such, and public parks, reserves, and conservation areas within the Conservation Act 1987."

PART III
DUTIES AND RESTRICTIONS UNDER THIS ACT

Clause 7. Restrictions on use of land.
"(1) No person may use any land (including the bed of a navigable water body) in a district in a manner that contravenes a rule of a plan or proposed plan unless the use is—

(a) Expressly allowed by a resource consent; or

(b) An existing use allowed by **section 8**.

(4) In this section and in section 8, the word "use" in relation to any land (including the bed of any water body), means—

(f) In the case of a bed of a water body—

(ii) Any entry onto or passage across the bed, or on or across any water over the bed, by any person, animal, vehicle, or craft."

We are very concerned that "any entry onto or passage across the bed, or on or across any water over the bed..." is defined as a use of land. By customary use and Government policy the public have had free rights of recreational access and use of all water bodies, the beds of which are Crown land. The implication of the Bill's provisions is that this right will be replaced by a privilege requiring either a resource consent or express allowance in a plan.

In our view this is a major violation of customary rights of public access and recreational use over Crown-owned lands and water bodies.

WE SUBMIT THAT: subsection 7 (f)(ii) be deleted.

Coastal Marine Area

10. Restrictions on use of coastal marine area—
"(2) Without limiting subsection (1), no person may use any coastal marine area, or any natural or physical resources associated with any coastal marine area, in a manner that contravenes a rule of a regional coastal plan or a proposed regional coastal plan unless the use is expressly allowed by a resource consent. "

WE SUBMIT THAT: this clause be redrafted to allow recreational use as of right., and allow integrated control of uses above as well as below the high water springs.

PART IV
FUNCTIONS, POWERS, AND DUTIES OF
CENTRAL AND LOCAL GOVERNMENT

Clause 27. Functions of regional councils under this Act.
"Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:
(c) The control of the use of the land for the purpose of—

(1) Soil conservation and its effect on the maintenance and enhancement of the quality of the water in water bodies and coastal water:

(ii) The avoidance or mitigation of natural hazards:

(iii) The prevention or mitigation of any adverse effects of the storage, use, or disposal of hazardous substances:"

WE SUBMIT THAT: new paragraph (iv) be added—

"(iv) The preservation of the natural character of the coastal environment and the margins of lakes and rivers and the protection of them from unnecessary development."

"(d) In respect of any coastal marine area in the region and for the purpose of maintaining the natural character of the area while allowing for its use and development where appropriate, the control (in conjunction with the Minister of Conservation) of—

(i) Land and associated natural and physical resources (other than the allocation, conservation, and management of fish stocks controlled under the Fisheries Act 1983 and the licensing of marine farming subject to the Marine Farming Act 1974):

(ii) The occupation of space on land of the Crown or lands vested in the regional council, that are foreshore or seabed and the extraction of sand, shingle, or other natural material from that land:

(iii) The taking, use, damming, and diversion of water:

(iv) Discharges of contaminants into or onto land, air or water and discharges of water into water:"

WE SUBMIT THAT: new paragraph (v) be added—

"(v) The preservation of the natural character of the coastal environment and its margins and their protection from unnecessary development."

"(g) The control of beds of lakes and rivers in the region, for the purpose of—
(*(i) Public access and related recreational use;*
(ii) The maintenance of areas having significant conservation value.**)**
(iii) The avoidance or mitigation of natural hazards:"

The PLC considers that the control of public access/recreation and conservation values must remain with the Department of Conservation. These are all matters of national importance which cannot be entrusted to regional councils when they are not obliged to implement national policies. Also there is no assurance that there are going to be national policies that protect existing public rights and expectations.

WE SUBMIT THAT: paragraphs (g) (i) and (ii) be deleted.

"(h) Without limiting paragraph (g), the control of the occupation of space on **(***lands of the Crown and* **)** lands of the regional council **(***that are beds of rivers and lakes* **)** and the extraction of sand, shingle, or other natural material from that land."

The PLC believes that control over occupation of space should remain with Crown. Rivers and lakes are Crown-owned and the control and management of them must ultimately reside with the Crown.

WE SUBMIT THAT: "lands of the Crown and" and "that are beds of rivers and lakes" be deleted.

PART V
POLICY STATEMENTS AND PLANS

Page 42, Line 3
Clause 48. Contents of national coastal policy statements—
"A national coastal policy statement **(***may* **)** shall state policies about any one or more of the following matters:
(a) National priorities for the maintenance of the natural character of the coastal environment of New Zealand, requiring protection from unnecessary subdivision and development. (cf s 39(c) Town and Country Planning Act 1977)
(b) The protection of the characteristics of the coastal environment of special value to the tangata whenua including waahi tapu, tauranga waka, mahinga maataitai, and taonga raranga:
(c) Appropriate activities involving the use and development of areas of the coastal environment:
(d) The matters to be included in any or all regional coastal plans in regard to the maintenance of the natural character of the coastal environment, including the specific circumstances in which the Minister of Conservation will decide resource consent applications relating to—
(i) Types of activities which have or are likely to have a significant and/or irreversible adverse effect on the coastal marine area; or
(ii) Areas in the coastal marine area **(***that have significant conservation value* **)**:
[They are all significant!]
(e) The implementation of New Zealand's international obligations affecting the coastal environment:
(f) The procedures and methods to be used to review the policies and to monitor their effectiveness:
(g) Any other matters relating to the purpose of a national coastal policy statement.
(h) Policies for ensuring the protection and provision of, legal rights of public access to and within the countryside, in particular to lakes and rivers and their beds, foreshores, coastal marine areas, and the landward margins of such, public parks and reserves, and conservation areas within the meaning of the Conservation Act 1987."

WE SUBMIT THAT: clause 48 to amended as above.

PART VI
RESOURCE CONSENTS

The PLC is perturbed that several well proven provisions relating to reserves contributions, arising from development and subdivision of land, have been repealed in Part XX of the Local Government Act without equivalent provisions being retained in the Bill.

The concept of urban developers being required to compensate the community at large with contributions of either land for public reserves, cash, services, or a combination of these, for loss of environmental and open space qualities has proven to be very necessary for the social welfare of urban residents. Urban slums, and their social consequences, would have developed without such requirements being placed on them up until the present.

In the view of the PLC the loss of a national overview and direction as to requirements for open space/reserve and/or financial contributions from developers and subdividers is a major flaw in the Bill. It even lacks the basic requirement that contributions that may be levied by district councils must be applied for the the intended purposes of reserve establishment or the provision of recreational, sporting, or cultural amenities.

Minimum and maximum contributions are currently prescribed in the Local Government Act. Such goals are also acknowledged to be desirable by the Town and Country Planning Act. We do not feel that basic human needs for recreational outlets for urban dwellers have changed sufficiently to warrant the loss of national prescriptions in this regard.

Clause 91. Subdivision consent not to be granted in certain circumstances—
"(1) A consent authority shall not grant a subdivision consent if it considers that either—
(a) Any land in respect of which the consent is sought is or is likely to be subject to erosion, subsidence, slippage, or inundation by water; or
(b) Subdividing, developing, or using the land is likely to accelerate, worsen, or result in erosion, subsidence, slippage, or inundation by water of the land or any other land—
unless the consent authority is satisfied that sufficient provision has been made or will be made to protect the land or any other land from erosion, subsidence, slippage, or inundation by water."
"(2) A consent authority shall also not grant a subdivision consent where it is satisfied that the proposed subdivision would adversely affect the purpose and principals of this Act, or the protection of the natural character of the coastal environment and the margins of lakes and rivers from unnecessary subdivision and development, or without provision being made for legal rights of public access through and to such environments." (Cf Section 3(c) Town and Country Planning Act 1977).

WE SUBMIT THAT: the above amendments be made to clause 91.
Explanation:
Clauses 4 and 5 of the Bill (relating to purpose and principals) do not provide the same level of protection for the coastal environment etc (protection from 'inappropriate' verses 'unnecessary' subdivision and development) that section 3 of the Town and Country Planning Act 1977 currently does. Also the requirement to ensure public access to these areas of key recreational value is seen as another matter of national importance that should be considered at the time subdivision consents are sought.

Clause 93. Conditions on resource consents.
"(1) A resource consent may be granted on such conditions as the consent authority considers appropriate.
(2) Without limiting subsection (1), the conditions on which a resource consent is granted may include one or more of the following:
(a) A condition requiring that a financial contribution (being a contribution of cash or services) be made for purposes specified in the plan, being a contribution that does not exceed the maximum amount specified in, or determined in accordance with, the plan:"
(b) In the case of a land use consent solely or principally for residential purposes, the council may require the developer to set aside land not more than 20 square metres for every household unit provided in the development, or equivalent money to purchase such land, as a reserves contribution: " (Cf section 294(2) Local Government Act 1974).
(c) In the case of a land use consent principally for administrative, commercial, or industrial purposes or any 2 or more such purposes, the council may require an amount not exceeding 0.5 percent of the value of the development. (Cf section 294(1)(a) Local Government Act 1974).

(“*(b) In respect of a subdivision consent—*

(i) A condition requiring that a contribution in the form of land or another form of financial contribution be made, being a contribution for reserves purposes that does not exceed the maximum amount specified in, or determined in accordance with, the plan: and “ **)**

“(d) In respect of a subdivision consent solely or principally for residential purposes—

(i) The council shall have regard to the desirability of providing reserves in the locality totalling not less than 4 hectares for every 1,000 of the likely maximum resident population of the locality; and” (Cf Section 284 Local Government Act 1974).

“(ii) May require that provision shall be made for public reserves under the Reserves Act 1977 within the land on the survey plan amounting to not more than 130 square metres for each allotment; or “ (Cf Section 285 Local Government Act 1974).

“(iii) Alternatively require a total contribution consisting of money, land, or works,or up to any 2 of these, not exceeding 7.5 percent of the value of the allotments shown on the survey plan.” (Cf Section 285 Local Government Act 1974).

“(e) In respect of a subdivision consent solely or principally for commercial or industrial purposes, the council may require that an amount specified by the council be paid not exceeding 10 percent of the value of each allotment shown on the survey plan, or an equivalent area of land for public reserves under the Reserves Act 1977, or a combination of both.” (Cf Section 286 Local Government Act 1974).

New clause 93A. Use of reserves contributions—

“Development and reserves contributions in the form of money derived under section 93 shall be applied by council in that district or region, for the purposes of—

purchase of land for public reserves under the Reserves Act 1977,or maintenance and protection of reserves within the meaning of that Act, or the improvement and development of sporting, recreational, or cultural amenities in that district or region.” (Cf section 288 Local Government Act 1974).

WE SUBMIT THAT: clause 93 be amended and new clause 93A be inserted, in view of our opening comments on Part VI of the Bill.

Clause 103. Consents not real or personal property.

We feel that most of the content of this clause contradicts the content of subclause (1) and the title. In particular—

(*“(4) A coastal permit may provide for the holder to occupy a coastal marine area which is land of the Crown or land vested in a regional council, to the exclusion of all or any specified class of persons, as if it were a lease of the area, and the holder of such a permit has, in relation to the use and occupation of that area, the same rights against other persons as if he or she were a tenant of the land.”*

“(5) A land use consent may provide for the holder to occupy the bed of a navigable water body which is land of the Crown or land vested in a regional council, to the exclusion of all or any specified class of persons, as if it were a lease of the area, and the holder of such a permit has, in relation to the use and occupation of that area, the same rights against other persons as if he or she were a tenant of the land.” **)**

“(6) A permit or consent ...may allow the holder to remove sand, shingle, or other natural material as if it were a profit a prendre.”

The PLC can see no necessity for the entitlements of resource use permits under subclauses (4) and (5), for the purposes set out in subclause (6) or any other unspecified purposes, to be extended to the holder having the status of lessee. The power of 'occupier' is conveyed with leasehold and with it the right to exclude others under the Trespass Act. The above clauses are in fact specific in this regard. This is a radical departure from the existing certainty of the public having the right of navigation, access and passage over sea, river and lake beds and their waters.

The provisions in the Bill are completely unconstrained, unlike the enactments they replace (eg. section 156 licences under the Harbours Act) or they duplicate alternative provisions elsewhere. There are no provisos in the Bill that no obstruction of navigation, public access, convenience or recreation must occur before the granting of 'lease-permits'. In conjunction with the definition of 'owner' in clause 2, the effect of these provisions is to convey private ownership status to the holders of permits.

In the view of the PLC subclauses 103(4) and (5) pave the way for the mass privatisation of Crown-owned resources and the alienation of New Zealanders from their birthright. The PLC is certain that the vast majority of citizens would find such a prospect abhorrent.

We consider that coastal and land use permits remain as true permits and do not become leases or licences. There are adequate provisions for secure tenures for legitimate 'permanent' activities, under the Marine Farming Act and the Harbours Act (sections 154 and 156), without being duplicated by the Bill. The Harbours and Marine Farming Acts both give precedence to maintaining rights of navigation and public convenience, key considerations that are lacking from the Bill.

The matter of who receives resource rents obtained from the granting of permits is not addressed by the Bill. The PLC believes that rental incomes must be directed into the protection of the coastal, lake and river environments.

WE SUBMIT THAT: Subclauses 103(4) and 103(5) be deleted and section 156 of the Harbours Act 1950 be retained (see Sixth Schedule, page 269).

PART VIII
SUBDIVISION

Esplanade Reserves

Clause 188. Meaning and purposes of "esplanade reserve"

Local Government Act 1974	Resource Management Bill 1989
s. 289(1). "...for the purpose of providing access to the sea, lake, river, or stream, as the case may be, and to protect the environment..."	**188**(1). In this Act the term "esplanade reserve" means a reserve within the meaning of the Reserves Act 1977, which shall be either— (a) A local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under **section 196**; or (b) A government purpose reserve within the meaning of section 22 of that Act, if transferred to the Crown under **section 192**. (2) The purposes of an esplanade reserve are— (a) To contribute to the protection of conservation values by, in particular— (i) Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or (ii) Maintaining or enhancing water quality; or (iii) Maintaining or enhancing aquatic habitats; or (iv) Protecting the natural, scientific, or aesthetic values associated with the esplanade reserve; or (v) Mitigating natural hazards; and (b) To enable public access to the sea, a river, or a lake; and (c) To enable public recreational use of the esplanade reserve and adjacent, sea, river, or lake, where that use is compatible with conservation values.

The PLC in general supports this clause. The purposes of esplanade reserves have been 'fleshed-out' from the existing provision (s 289 Local Government Act) and are more specific. However the purposes do not reflect potential for enhancing water quality or aquatic habitats, or recognise scientific and aesthetic values of esplanade reserves. We recommend the additions above.

It is important that esplanade reserves remain subject to the Reserves Act 1977, as provide for in the Bill. This requires continuing compliance with section 23(2) of the Reserves Act "...provided...that nothing in this paragraph shall authorise the doing of anything with respect to any esplanade reserve...that would impede the right of the public freely to pass and repass over the reserve on foot..."

We also submit that paragraphs (b) and (c) be re-ordered as (a) and (b), with (a) to become (c), in view of the historical public access and use reasons for 'esplanade reserves' and the continuing use of this term in the headings to clauses 188, 189, 190, 192, and 193.

(Concise Oxford Dictionary: "esplanade" = level piece of ground, especially one used for public promenade).

Clause 189. Esplanade reserve along areas of water.

Local Government Act 1974

s 289. Reserves along areas of water—

s 289(1) On every scheme plan submitted to the council under this Part of this Act, unless the council, with the consent of the Minister of Conservation, considers it unnecessary to do so, there shall be set aside as local purpose reserves for esplanade purposes under the Reserves Act 1977...along the mean high-water mark of the sea and its bays, inlets, or creeks, and along the margin of every lake with an area in excess of 8 hectares, and along the banks of all rivers and streams which have an average width of not less than 3 metres (not being rivers or streams or parts of rivers or streams exempted from this subsection pursuant to subsection (7) of this section):

s 289(3) Nothing in subsection (1) or subsection (2) of this section shall require a strip of land to be set aside as reserved for the purposes specified in the said subsection (1) or subsection (2), as the case may be, along the banks of any river or stream where that land adjoins any allotment having an area of 4 hectares or more and, in the opinion of the council, that allotment is intended to be used, or will continue to be used, wholly or principally in a manner conforming with accepted farming or management practices, for agricultural or horticultural or silvicultural or pastoral purposes or the keeping of bees or poultry or other livestock.

s 289(7) The Minister of Conservation may from time to time on the application of the council declare that subsection (1) of this section shall not apply with respect to the banks, or any specified bank, of any specified river or stream or part of any specified river or stream, or may on application of the council revoke any such declaration, in whole or in part. In making his decision under this section, the Minister of Conservation shall have regard to the provisions of any proposed or operative district scheme for the locality in which the river or stream is situated.

s 289(8) Every decision of the Minister of Conservation under this section shall be final.

Resource Management Bill 1989

189. Where—

(a) A boundary or any part of a boundary of land shown on a survey plan submitted for approval under **section 183** is at, below, or traverses—

(i) The **(***mean* **)** high water springs of the sea; or

(ii) The bank or the bed of a river; or

(iii) The margin of a lake; and

(b) **(***The district plan does not waive* **)** The Minister of Conservation has not waived the requirement for an esplanade reserve to be set aside, after having regard to any operative or proposed district scheme and subsection 188(2), the territorial authority concerned shall not approve the survey plan unless an esplanade reserve is set aside on the survey plan.

The current situation is that esplanade reserves are required along sea, lakes, and rivers. Any power to waiver establishment lies with the Minister of Conservation, with only specific ability to waiver along rivers and streams having regard to district schemes. However esplanade reserves are not required when the adjoining allotment is 4 hectares or greater in area and remains in 'farming' use.

Waivering under section 289(1) has been very rare as the combined purposes of public access and the protection of the environment must be considered. There are very few situations where one or other of these purposes are not important. Waiverings under section 289(7) are more prevalent but still uncommon. The powers under this subsection deliberately do not extend to lake and sea shores in recognition of the universal public interest in all of these, relative to all rivers and streams. This does not however make the latter unimportant.

The safeguard of the decision-making power resting with the Minister has proved itself by resisting often strong local pressures not to establish reserves. The pressures come either from subdividers/developers after maximum profits, councils' ignorance of the law, or them not wanting additional management responsibilities. The local viewpoint tends to disregard the national importance to all New Zealanders, regardless of their place of residence, that there is assurance of public access to and conservation of major waterways/bodies. We have detected a "here is a chance to do-away with esplanade reserves" reaction from many territorial authorities in response to the Bill. This confirms the necessity to maintain the existing checks and balances of the Local Government Act provisions for esplanade reserves.

The Bill proposes removing specific constraints on waivering and replacing with a general power determined through district plans, exercised by district councils. Combined with shifting compensation liability from the Crown to district councils, these changes will provide very strong incentives for district plans for not providing for the future creation of water-side reserves. As well there is no requirement on district councils to have regard to the purposes for establishing esplanade reserves when formulating their plans.

Omission from district plans of requirements for esplanade reserves will necessitate expensive appeals to the Planning Tribunal to seek provision for esplanade reserves within either the whole or part of a district. The PLC member organisations' experience indicates that there will be a major disparity of resources between objectors to a district plan on the one hand, and district councils and landowners/developers on the other. In the absence of any requirement on councils to give effect to national policies for the creation of esplanade reserves along all major waterways (if such policies will in fact exist in future) it is unlikely that those seeking such reserves can be successful. Every review of a district plan could cause relitigation of the same issues.

The proposals in the Bill totally shift the onus from the authorities, under the existing situation whereby esplanade reserves are required and the case having to be made for exceptions, to individuals objecting to deficient district schemes and having to justify every provision for reserves. What is the rule now will become the exception.

WE SUBMIT THAT: our objections to clause 189 be met by the amendments above and that a definition of 'bank' be inserted in clause 2.

Clause 190. Area of esplanade reserve and survey costs.

Local Government Act 1974	Resource Management Bill 1989
s 289(1) "...a strip of land not less than 20 metres in width	**190**(1) An esplanade reserve shall be a strip of land not less than 20 metres in width along the mark of **(***mean* **)** high water springs of the sea, or along the bank of any river or the margin of any lake, as the case may be.
s 289(1) Provided that the council, with the consent of the Minister of Conservation, may approve the reduction of the width of the strip of land to a width of not less than 3 metres if in its opinion the reduced width will be sufficient to give members of the public reasonable access to the sea, lake, river, or stream.	**(***(2) A territorial authority may, in accordance with any provisions to this effect in its district plan, provide that an esplanade reserve may be more or less than 20 metres from the mark of mean high water spring of the sea, or the bank of any river, or the margin of any lake, as the case may be.***)** (2) Provided that the district council, with the consent of the Minister of Conservation, may approve the reduction of the width of the strip of land to a width of not less than 3 metres if in its opinion the reduced width will be sufficient to give members of the public reasonable access to the sea, lake, river, or stream.
s 290(5) Where pursuant to subsection (1) or subsection (2) of section 289 of this Act a strip of land has been set aside as reserved for the purpose specified in section 289 (1) of this Act along the mean high-water mark of the sea or any of its bays, inlets, or creeks, or along the margin of any lake in excess of 8 hectares and adjoining any allotment having an area of 4 hectares or more, there shall be paid...to the subdividing owner or, if he is deceased, his personal representative, out of money appropriated by Parliament, an amount equal to any additional survey costs incurred by the subdividing owner in determining the land to be set aside (such costs to be determined in accordance with the scale of fees of the New Zealand Institute of Surveyors which as current at the date of deposit of the survey plan).	(3) **(***The territorial authority concerned* **)** The Minister of Conservation shall pay to the owner of the land on which an esplanade reserve is set aside, out of money appropriated by Parliament, any reasonable additional survey costs incurred by the owner in surveying the esplanade reserve, except in cases of adjoining allotments less than 4 hectares in area.

The PLC supports the width determination of "not less than" in subclause (1). This provides a normal minimum which has proved to be necessary in all other 'Queen's Chain' legislation. This phrase also allows reserves wider than 20 metres where necessary to provide practical access or conservation. 'Mean" should be deleted from 190(1).

190(2) should be substituted by our subclause (2) which retains the existing provision under the Local Government Act (s. 289(1)). The discretion for reductions in width must not be transferred from the Minister of Conservation to district councils. With discretions as to minimum widths set through district plans, rather

than in legislation, the intention in subclause 190 (1) of “not less than 20 metres” could be seriously undermined. Our substituted subclause retains the existing minimum width of 3 metres and the essential criteria of providing “reasonable access” as the basis for approving reductions in width.

The creation of esplanade reserves along the banks of major waterways/bodies is of national benefit. Therefore the costs associated with addition surveying, where appropriate, for laying off of reserves should remain the responsibility of the Crown. Subclause (3) creates a liability on district councils This must have the effect of being a disincentive to the creation of reserves and must be removed from the Bill. The PLC believes that the existing 4 hectare threshold should be retained. The cost to subdividers and developers of surveying esplanade reserves out of small allotments is minimal relative to the returns to them from the sale of land. The PLC opposes the Bill’s widening of survey compensation to all cases.

WE SUBMIT THAT: clause 190 be amended as above.

Clause 191. Transfer of ownership of land below (*mean*) high water springs or bed of lake or river to Crown.

Local Government Act 1974
s 289(5) Where a strip of land is set aside as required by subsection (1) or subsection (2) of this section, and any land below the mean high-water mark of the sea or of its bays, inlets, or creeks or, as the case may be, any part of the bed of the lake or river or stream is vested in the person in whom the land shown in the scheme plan is vested, the council may require, as a condition of its approval of the scheme plan, that the owner shall execute, or obtain the execution of, and register, a transfer to Her Majesty of the whole or a specified part of the land below the mean high-water mark or, as the case may be, of the bed of the lake, or river, or stream which is vested as aforesaid.

Resource Management Bill 1989
191. Where—
(a) An esplanade reserve is set aside on a survey plan submitted for approval under **section 183**; and
(b) Any land below **(***mean* **)** high water springs of the sea, or any part of the bed of the lake or river, is vested in the owner of the land to which the survey plan relates—
the territorial authority shall require, as a condition of its approval of the survey plan, that the owner shall execute or obtain the execution of, and register a transfer to the Crown of such part of that land as is below mean high water spring, or as forms part of the bed of that lake or river, as the case may be.

The PLC strongly supports clause 191 as an improvement on the existing situation. It is essential that residual *ad medium filum* (AMF) rights to the centre of water courses be reserved to the Crown on the creation of esplanade reserves.

WE SUBMIT THAT: the word “mean” should be removed from the heading to clause 191 and subclause 191(b).

Clause 192. Transfer of esplanade reserve to the Crown.

Local Government Act 1974	Resource Management Bill 1989
[No equivalent provision—all esplanade reserves become local purpose reserves vested in a territorial authority.]	**192**(1) Notwithstanding the provisions of the Reserves Act 1977, a territorial authority and the Minister of Conservation may agree in writing that an esplanade reserve, or any part of an esplanade reserve, shall cease to be vested in and administered by the territorial authority but instead shall vest in and be administered by that Minister as a (*government purpose* **)** reserve within the meaning of **(***section 22* **)** sections 17 to 21 or for wildlife purposes under subsection 22 (2) of the Reserves Act 1977. (2) Where an agreement is made between a territorial authority and the Minister of Conservation under **subsection (1)**, the Minister of Conservation shall, by notice in the *Gazette* and in accordance with section 16 of the Reserves Act 1977, classify the reserve or part **(***as a government purpose reserve within the meaning of section 22 of the Reserves Act 1977*.**)** thereof.

The PLC would welcome the creation of the ability to transfer the control of esplanade reserves to the Minister of Conservation and their reclassification under the Reserves Act if the purposes for esplanade reserves were to be better met by such a change, or the reserve was required for a 'higher' protective status.

Unfortunately the way clause 192 is worded it is wide open for the reverse to happen. Government purpose reserves under section 22 of the Reserves Act allow an unrestrained variety of utilitarian uses, with conservation and public access secondary considerations. With the exception of wildlife management reserves under subsection 22 (2) this is antagonistic to the purposes of esplanade reserves.

The reasons for transferring control of local purpose esplanade reserves back to the Minister should be broadened to allow classification as recreation, historic, scenic, nature, or scientific reserves (sections 17 to 21 Reserves Act 1977).

WE SUBMIT THAT: clause 192 be amended as above.

Clause 193. Compensation for taking of esplanade reserve.

Local Government Act 1974

s 290. Compensation in respect of land along areas of water set aside as reserves—

290(1) Where—

(a) Pursuant to subsection (1) or subsection (2) of section 289 of this Act a strip of land that—

(i) Is situated along the mean high-water mark of the sea or of its bays, inlets, or creeks or along the margin of any lake; and

(ii) Adjoins any allotment having an area of 4 hectares or more which, in the opinion of the Minister of Conservation, is to be retained by the subdividing owner for a period of not less than 5 years from the date of deposit of the survey plan and, in the opinion of that Minister, is to be used for that period for any of the purposes specified in subsection(3) of that section,—

has been set aside as reserved for the purpose specified in subsection (1) of that section; and

(b) No part of that allotment is zoned for residential or commercial or industrial purposes under any operative or proposed district scheme at the date of the deposit of the survey plan,—

there shall be paid, as compensation, to the subdividing owner, or, if he is deceased, to his personal representative, out of money appropriated by Parliament, an amount equal to the value, as at the date of deposit of the survey plan, of the land set aside, that amount to be determined by a valuation made by the Valuer-General.

290(2) If the subdividing owner, or, as the case may be, his personal representative, is dissatisfied with the amount of any valuation made for the purposes of subsection (1) of this section, he may, within one month after notice of the valuation has been given to him by the Valuer-General, object to that valuation by delivering or posting to the Valuer-General a written notice of objection stating shortly the grounds of his objection and the value at which he contends the land should be valued. Sections 20 to 23 of the Valuation of Land Act 1951, as far as they are applicable and with the necessary modifications, shall apply to that objection.

Resource Management Bill 1989

193(1) Subject to **subsection (2)**, where—

(a) An esplanade reserve is required as a condition of approval of a survey plan; and

(b) The esplanade reserve adjoins any allotment 4 hectares or larger beside the sea or any lake which, in the reasonable opinion of the **(***territorial authority,***)** Minister of Conservation is likely to be retained by the subdividing owner for 5 years or more, and in the opinion of that Minister, is to be used for that period, wholly or principally in a manner conforming with accepted farming or management practices, for agricultural, horticultural, silvercultural or pastoral purposes, or the keeping of bees, poultry, or other livestock, and is not zoned residential, commercial, or industrial in any operative or proposed district plan

the territorial authority shall pay compensation to the subdividing owner (or if the owner is deceased to the owner's personal representative) of an amount determined by a valuation made by the Valuer-General as being equal to the value, at the date of the deposit of the survey plan, of the land to be set aside as the esplanade reserve.

(2) The Valuer-General shall give a copy of a valuation made under **subsection (1)** to the subdividing owner who may, if dissatisfied, within one month of receipt of the valuation from the Valuer-General, object to the valuation. Any such objection shall be in writing, shall be addressed to the Valuer-General, and shall state the grounds for objection.

(3) Sections 20 and 22 of the Valuation of Land Act 1951 shall, so far as they are applicable and with the necessary modifications, apply to an objection made under **subsection (2)** as if that objection were an objection to an altered valuation under that Act.

The current entitlement situation is that compensation is only payable by the Minister of Conservation when adjoining allotments are 4 hectares or larger beside the sea or lakes , and where the subdividing owner retains ownership for not less than 5 years, and farming use is to continue for the same period. Conversely no compensation is payable when allotments are less than 4 hectares, beside rivers, or when zoned or used for non-farming purposes. Currently compensation is uncommon due to the constraints of the existing legislation.

The Bill proposes extending compensation to all cases of esplanade reserve establishment, and shifts liability for payment to district councils.

The PLC believes that there is no case for extending compensation beyond the existing scope of the Local Government Act. We believe that the current law is well founded and is designed to only compensate those who do not directly benefit from their subdivision activity. The proposal to extend payments to others who directly benefit from their actions, is not compensation but a subsidy.

Subdivision and intensification of land use is at the expense of the community's amenity values through loss of open space and greater adverse impacts on the environment. The principals in such activities should continue to be required to compensate the community through the donation of land for esplanade reserves as part of wider 'reserves contributions'.

WE SUBMIT THAT: clause 193 be amended as above.

Clause 194. Refund of compensation payment.

Local Government Act 1974

290(3) Where—
(a) Any payment is made to the subdividing owner or his personal representative under subsection (1) of this section; and
(b) Within 5 years after that date of the deposit of the survey plan the subdividing owner or, as the case may be, his personal representative or any successor in title of the subdividing owner subdivides the adjoining land or any part of it or transfers by way of sale or enters into an agreement to sell the adjoining land or any part of it,—
there shall be repayable to the Crown, by the subdividing owner or that successor in title, as the case may be, and charged against the land and recoverable as a debt, the amount of that payment to the extent that it has not already been repaid:
Provided that the Minister of Conservation, whose decision shall be final, may, in his discretion, waive such a repayment or may direct that an amount less than the full amount shall be repaid.

290(4) The right of the Crown to repayment under subsection (3) of this section shall be deemed to be an interest in the land for the purposes of section 137 of the Land Transfer Act 1952 (which relates to caveats against dealing with the land).

Resource Management Bill 1989

194(1) If—
(a) Within 5 years of the date of deposit of any survey plan on which an esplanade reserve is set aside, the land adjoining the esplanade reserve or any part of it is subdivided, sold, or made subject to any agreement to sell; and
(b) Compensation was paid under **section 193** for the esplanade reserve—
then the person to whom the compensation was paid (or their personal representative) shall, upon demand by the territorial authority, repay to the territorial authority the amount of that compensation.
(2) Any money repayable under **subsection (1)** shall be recoverable as a debt due to the territorial authority.
(3) The right of the territorial authority to repayment under **subsection (1)** shall be deemed to be an interest in that land for the purposes of section 137 of the Land Transfer Act 1952 (which relates to caveats against dealing with the land).

The PLC supports clause 194 on the proviso that our recommended amendments to clause 193 are accepted by the select committee.

Esplanade reserve provisions repealed but not replaced by Resource Management Bill

A Widening of riparian strips

Local Government Act 1974

289(2) Where—

(a) A strip of land less than 20 metres in width along the mean high-water mark of the sea or of any of its bays, inlets, or creeks, or along the margin of any lake, or along any bank of any river or stream has either—

(i) Been reserved for the purpose specified in subsection (1) of this section, or for public purposes pursuant to section 29 (1) of the Counties Amendment Act 1961 (as in force before the commencement of this Part of this Act); or

(ii) Been set aside or reserved for recreation purposes pursuant to any other enactment (whether passed before or after the commencement of this Part of this Act and whether or not in force at the commencement of this Part of this Act); or

(iii) Been reserved from sale pursuant to section 58 of the Land Act 1948 or the corresponding provisions of any former Act; and

(b) A scheme plan of subdivision of land contiguous to that strip of land is subsequently submitted to the council under this Part of this Act,—

then, notwithstanding that under subsection (1) of this section or under any former enactment the Minister of Conservation had consented to the setting aside of the strip of land of less than 20 metres in width, the council may, as a condition of its approval of the scheme plan, require the owner to set aside as reserved for the purposes specified in subsection (1) of this section a strip of land contiguous to the strip of land previously set aside and of a width determined by the council, being not more than the difference between the width of the strip of land previously set aside and 20 metres.

Recommended Changes to RM Bill

[Comparable, simplified provisions desirable.]

B Roads as part of land reserved

Local Government Act 1974	Recommended Changes to RM Bill
s 289 (4) Where, in the opinion of the council, it is in the public interest that a road or part of a road be dedicated within the area required to be set aside as reserved for the purpose specified in subsection (1) of this section, then, with the consent of the Minister of Conservation, the dedication of that road or part of that road which lies within the area set aside may be accepted in satisfaction of and in substitution for the area or part of the area, as the case may be, that would otherwise be required to be set aside under this section.	[Comparable provision desirable]

We are further considering the above matters.

Vesting of Roads and Reserves

Clause 196. Vesting of reserves—

"Except where **(*section*) sections 192** and 187 **(***applies* **)** apply , or, with the Minister of Conservation's consent when any reserves are classified under sections 18 to 22 of the Reserves Act 1977, when a District Land Registrar deposits a survey plan, any land shown on it as reserve vests in the territorial authority free from encumbrances, for the purposes shown on the survey plan, and subject to the reserves Act 1977.
(2) When the common seal of a territorial authority is affixed to a survey plan in accordance with **section 184** that seal shall be conclusive evidence that all reserves shown thereon have been authorised and accepted by the territorial authority insofar as they vest in the territorial authority."

WE SUBMIT THAT: clause 196 be amended as above.

Explanation:

The clause, as introduced, would automatically vest all reserves created by the Crown's actions, including those of the Department of Conservation,in the territorial authority. This is contrary to section 26 of the Reserves Act which retains vesting power with the Minister of Conservation. 'Government purpose reserves' are specifically excluded from vesting with a local authority under section 26, yet these are broader in purpose than just esplanade reserves. They include wildlife management reserves of national and international significance. The power of vesting control of historic, scenic, nature, and scientific reserves should remain with the Minister.

PART XI
DECLARATIONS, ENFORCEMENT, AND
ANCILLARY POWERS

Offences

Clause 383. Offences against this Act

"(1) Every person commits an offence against this Act who contravenes, or permits a contravention of any of the following:
(a) Sections **7**, 9, 10, 11, 12, and 15 (which impose duties and restrictions in relation to land, subdivision, the coastal marine area, water, discharges of contaminants, and minerals);" or

Damage to or obstruction of public access and use of esplanade reserves should be added as a specific offence, as should non-compliance with conditions of permits.

WE SUBMIT THAT: three new paragraphs be added—
"(b) Knowingly damages a esplanade reserve or causes to be damaged the reserve or any part of it; or
(c) Knowingly uses an esplanade reserve for any purpose contrary to any provision under this Act or the Reserves Act 1977.
(d) Obstructs the passing or repassing of the public along an esplanade reserve." (Cf Conservation law reform Bill).

PART XII
MISCELLANEOUS PROVISIONS

Clause 390. Regulations.

"(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
(c) Prescribing the circumstances and manner in which holders of consents and permits shall be liable to pay for the **(***occupation of the coastal marine area, the beds of navigable water bodies, and the* **)** extraction of sand, shingle, and other natural materials from lands of the Crown:"

WE SUBMIT THAT: the words "occupation of the coastal marine area, the beds of navigable water bodies, and the" be deleted.

PART XIII
TRANSITIONAL PROVISIONS

Subdivision and Development

Clause 423. Subdivision consent conditions.

This clause requires reserves contributions, applying for 2 years after commencement of Act, where no district plan, or where no provision in plan for contribution contemplated by section 93 (2)(b)(i).
The consent authority may impose—
Where principally for residential purposes max 130 m^2 reserves for each allotment or max 7.5% value of allotments, or combination.
Where principally for commercial or industrial purposes a max of 10% of each allotment or equivalent land as reserve, or combination.]
WE SUPPORT THIS CLAUSE.

Clause 424. Resource consents for development.
Provides for 2 year period, within meaning of S 271A Local Government Act 1974, where no district plan or plan does not contain provision contemplated by section 93 (2) (a), consent authority may impose a financial contribution max of 0.5 % of assessed value of development.

WE SUPPORT THIS CLAUSE.

SECOND SCHEDULE
Sections 52, 55, 57, and 65

MATTERS THAT MAY BE PROVIDED FOR IN POLICY STATEMENTS AND PLANS
PART 1
MATTERS RELATING TO REGIONS

"(1) Any matter relating to the use, development, or protection of any natural or physical resources for which the regional council has responsibility under this Act, including—
(*(e) Any use of beds of lakes and river beds for the purpose of public access and related recreational use, the maintenance of areas having significant conservation value, and the avoidance or mitigation of natural hazards:***)**"
"(f) The control of the occupation of space on lands **(***of the Crown and lands* **)** vested in the regional council, and the extraction of sand, shingle, and other natural material from those lands:
(*(g) Any use of the beds of navigable river bodies, including the planting of any exotic or introduced plants:***)**"
(g) The planting of any exotic or introduced plants on the beds of navigable river bodies.

"(2) Any matter relating to the use, development, or protection of a coastal marine area which a regional council has responsibility for under this Act, in conjunction with the Minister of Conservation, including—
(a) Any use of the coastal marine area described in section 10 including, where appropriate, the recognition of opportunities for recreation, the protection of conservation values, aquaculture, and other forms of development:
(c) Any use of the area for the purpose of—
(iv) The occupation of space on lands **(***of the Crown or lands* **)** vested in the regional council and the extraction of sand, shingle, and other natural material from those lands;"

WE SUBMIT THAT: the above amendments be made to Part I.
Explanation: As elaborated on earlier in this submission, The PLC considers that the control of conservation and recreation uses of river and lake beds should be within the jurisdiction of the Minister of Conservation.

PART 11
MATTERS RELATING TO DISTRICTS

Page 256
"**(***3. The circumstances when a financial contribution (whether in cash or services) described in section 93 (2) (a) may be imposed and the maximum amount of levy that may be imposed.***)**"

"**(***4. The circumstances when a reserve contribution (whether in the form of land or another form of financial contribution) described in section 93 (2)(b) may be imposed and the maximum amount of any contribution which may be imposed*.**)**"

"**(***5. The circumstances when—*
(a) Any esplanade reserve required to be provided may be wider or narrower than 20 metres; or
*(b) No esplanade reserve need be provided, including where other classes of reserve are to be provided or are otherwise established.***)**"

WE SUBMIT THAT: clauses 3 and 4 be deleted.
Explanation:
The circumstances and size of reserves contributions should be set out in the body of the Bill as statutory requirements, as is currently the case under the Local Government Act.

WE SUBMIT THAT: clause 5 be deleted.
Explanation:
The changes we recommend to the body of the Bill would necessitate the removal of clause 5's discretionary powers for district councils.

FOURTH SCHEDULE
ENACTMENTS REPEALED

"**1978, No 52—The Coal Mines Act 1979:** Sections 4 to 7, 20 to 121A, 200 to 209, **(***261* **)**, 264, and paragraphs (b) to (m) and (o) to (q) of section 266."

"**261. Right of Crown to bed of navigable river**—
(1) For the purpose of this section—
"Bed" means the space of land which the waters of the river at its fullest flow without overflowing its bank:
"Navigable river" means a river of sufficient width and depth (whether at all times so or not) to be used for the purpose of navigation by boats, barges, punts, or rafts.
(2) Save where the bed of a navigable river is or has been granted by the Crown, the bed of such river shall remain and shall be deemed to have always been vested in the Crown; and, without limiting in any way the rights of the Crown thereto, all minerals (including coal) within such bed shall be the absolute property of the Crown.
(3) Nothing in this section shall prejudice or affect the rights of riparian owners in respect of the bed of non-navigable rivers."

The repealing of section 261 is a grave error. If put into effect it will not only negate many of the provisions of the Bill, but will extinguish Crown ownership of the beds of navigable rivers.

WE SUBMIT THAT: the number "261" be deleted.

SIXTH SCHEDULE
ENACTMENTS AMENDED

1950, No 34—The Harbours Act 1950
Page 269
"By omitting from section 154(1) the words "low-water mark", and substituting the words "**(***mean* **)** high-water mark springs".

WE SUBMIT THAT: the word "mean" be deleted.

(*"By repealing section 156 (as amended by sections 7(1) and 8(1) of the Harbours Amendment Act 1959, and section 29(1) and (2) of the Harbours Amendment Act 1977)."* **)**

WE SUBMIT THAT: this provision be deleted, to retain the issuing of licences instead of 'lease-permits' under clause 103 of the Bill.

Page 282
1974, No 66— The Local Government Act 1974
PART XX [repealed].
WE SUBMIT THAT: sections 284, 285, 286, 288, 289, 290, and 294 not be repealed from this Act if our recommendations in the body of this submission are not adopted.

Section 325. Road widths— [repealed]
WE SUBMIT THAT: this section be retained, for the reasons below.*

Section 341. Leases of airspace or subsoil of roads—[proviso substituted].
"(1) Subject to section 357(2) of this Act, the council may—
(a) Grant a lease to any person of the airspace or any part of the airspace above the surface of the road; or
(b) Grant a leases to any person of the subsoil or any part of the subsoil beneath the surface of the road:"

Existing and proposed provisos:

Local Government Act 1974

Provided that no such lease shall be granted for any purpose that would be in contravention of of any provision of the Town and Country Planning Act 1977.

Provided also that, in exercising the powers conferred by this subsection in relation to any airspace, the council shall ensure that sufficient airspace remains above the surface of the road for the free and unobstructed passage of vehicles and pedestrians lawfully using the road.

Resource Management Bill 1989

Provided that no such lease shall be granted for any purpose that would be in contravention of any provision of the Resource Management Act 1989.

Common law has established that all persons are entitled to pass and re-pass along public roads, without hindrance by private interests. This must be retained. It is a fundamental right for all citizens wishing to have access to anywhere in New Zealand, whatever the reason. Also private property owners with the current legal expectation

of road access to their allotment frontages will also be severely affected by this change of provisos.

The Resource Management Bill for the first time allows district councils total discretion to determine the use of lands vested under their control, as well as the airspace above. As submitted earlier the PLC believes that such powers must be severely constrained by law on all public lands, including roads.

WE SUBMIT THAT: the second part of the existing proviso in the Local Government Act be added to the Bill.

Page 285. [proviso substituted].
Section 345(3). **Disposal of land not required for road**—
"(3) Where any land along the bank of a river or stream with an average width of not less than 3 metres or along the margin of any lake with an area in excess of 8 hectares or along the mean high-water mark of the sea or of any of its bays, inlets, or creeks, or any portion of any such road, is stopped or diminished in width, the land which thereby ceases to be road shall become a public reserve vested in the council as a local purpose reserve under the Reserves Act 1977 for the purpose of providing access to the river, stream, lake or sea, as the case may be, and to protect the environment:"

Existing and proposed provisos:

Local Government Act 1974	Resource Management Bill 1989
Provided that the council, with the consent of the Minister of Conservation, may waive this requirement in respect of the whole or any part or parts of the land which ceases to be road, subject to such conditions as the council may impose or as that Minister may require, and thereupon, subject to any such conditions, subsection (1) of this section [sell, lease, transfer to Crown as reserve or Crown land] shall apply with respect to the land or, as the case may be, that part or those parts thereof.	Provided that the council, with the consent of the Minister of Conservation, may waive this requirement in accordance with any policies regarding esplanade reserves in an operative district scheme, and, thereupon, subject to any conditions imposed on such a waivering, subsection (1) of this section shall apply with respect to the land or, as the case may be, that parts or parts thereof.

The PLC believes that the existing Minister of Conservation's power of consent to waiver the establishment of esplanade reserves on the 'stopping' of public roads must be retained.

A district council instigating a road 'stopping' is unlikely to provide a further check on its initial decision by not disposing of the land, particularly if its policies on the creation of esplanade reserves, and the new law under which they are to operate, do not require such.

Road reserves, formed and unformed, are critical for general countryside access away from public lands —which is the majority of New Zealand. They most often provide the only public access through rural lands that allow general appreciation of rural landscapes, and to reach discrete conservation areas and places of recreational interest. Without these the public would be totally barred from the greater bulk of New Zealand.

Formed and unformed legal roads are also a very major portion of the 'Queen's Chain' around seacoasts, harbours, estuaries, and the banks of lakes and rivers. They are second only to Land Act 'section 58 strips' in extent.

It is absolutely essential, particularly as rural allotments are amalgamated leading to pressures for closure of adjoining roads, that unformed roads are not 'stopped' and disposed of. Most still fulfil a role of providing access ways through the countryside for non-residents of the locality.

The proviso in the Bill provides one less key obstacle in the way of road 'stoppings' and disposals of land that, over time, could result in a grave loss of New Zealander's right of access to the countryside.

WE SUBMIT THAT: the words " with the consent of the Minister of Conservation" be added to the Bill.

ELEVENTH SCHEDULE (Section 325(1)) [repealed].
WIDTH OF ROADS, ACCESS WAYS, AND SERVICE LANES
Section (1) requires that every road shall not be less than 20 metres wide. This is a stop-gap measure in case a district scheme or council bylaw are not operative or proposed.

WE SUBMIT THAT: section (1) of the Eleventh Schedule be retained.
* Explanation: A large proportion of the Queen's Chain are road reserves at 20 metres wide. The retention of this provision is desirable to ensure that such roads remain at that width.

Page 303
1986, No 124—**The State Owned Enterprises Act 1986**
Section 28(1)(e) [repealed].
We support this removal of the power to exempt State-owned Enterprises from complying with reserves contributions, development levies, and contributions to works under the Local Government Act.

Yours faithfully,

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