

Appendix 6

Resource Management Act 'Access Strip' Provisions

Resource Management Act 1991

“237B Access strips

(1) A local authority may agree with the registered proprietor of any land to acquire an easement over the land, and may agree upon the conditions upon which such an easement may be enjoyed.

(2) Any such easement shall—

- (a) Be executed by the local authority and the registered proprietor; and
- (b) Be in the prescribed form; and
- (c) Contain the relevant provisions in accordance with **Schedule 10**.

(3) When deciding which matters shall be provided for in the easement, the parties shall consider—

- (a) Which provisions in clauses 2, 3, and 7 of Schedule 10 (if any) to modify (including by the imposition of conditions) or to exclude from the easement; and
- (b) Any other matters that the local authority and registered proprietor consider appropriate to include in the easement.

(4) When deciding under subsection (3) which provisions (if any) to modify or exclude or what other matters to include, the parties shall consider—

- (a) Any relevant rules in the district plan; and
- (b) The provisions and other matters included in any existing instrument for an esplanade strip, or easement for an access strip, in the vicinity; and
- (c) The purpose of the strip, including the needs of potential users of the strip; and
- (d) The use of the strip and adjoining land by the owner and occupier; and
- (e) Where appropriate, the use of the river, lake, or coastal marine area within or adjacent to the access strip; and
- (f) The management of any reserve in the vicinity.

(5) Any such easement shall take effect when registered at the office of the District Land Registrar.

(6) An access strip may be closed to public entry under **section 237C**.

(7) No easement for an access strip may be registered with the District Land Registrar unless every person having a registered interest in the land has endorsed his or her consent on the easement.

(8) The registered proprietor and the local authority may, by agreement, vary or cancel the easement if the matters in subsection (4) and any change in circumstances have been taken into account; and in any such case the provisions of **section 234(7) and (8)** shall apply, with all necessary modifications”.

“237C Closure of strips to public

(1) An esplanade strip or access strip may be closed to the public for the times and periods specified in the instrument or easement under **Schedule 10**, or by the local authority during periods of emergency or public risk likely to cause loss of life, injury, or serious damage to property.

(2) The local authority shall ensure, where practicable, that any closure specified in the instrument or easement, or any closure for safety or emergency reasons, is adequately notified (including notification that it is an offence to enter the strip during the period of closure) to the public by signs erected at all entry points to the strip, unless the instrument or easement provides that another person is responsible for such notification”.

“234 Variation or cancellation of esplanade strips

(1) The registered proprietor of any land subject to an esplanade strip may apply to the territorial authority to vary or cancel the instrument creating the strip.

- (2) The application shall include—
- (a) A description of the strip and its location; and
 - (b) An assessment of the effects of varying or cancelling the strip.
- (3) The territorial authority may at any time initiate a proposal to vary or cancel the instrument creating an esplanade strip by preparing a statement covering the matters specified in subsection (2); and references to an application in this section shall include a statement made under this subsection.
- (4) Upon receipt of an application under subsection (1) by the territorial authority, or after the preparation of a statement by the territorial authority under subsection (3), the provisions of sections 127 to 132 shall apply as appropriate, with all necessary modifications.
- (5) The territorial authority, when considering an application to vary or cancel any instrument creating an esplanade strip shall have regard to—
- (a) Those matters set out in section 104(1), with all necessary modifications; and
 - (b) The purpose or purposes, as set out in section 229, for which the strip was created; and
 - (c) Any change in circumstances which has made the strip or any of the conditions in the instrument creating the strip inappropriate or unnecessary.
- (6) After considering the application for variation or cancellation of an instrument creating an esplanade strip, the territorial authority—
- (a) May grant the application, with or without modifications; or
 - (b) May decline the application.
- (7) When all the appeals (if any) are finally determined, the territorial authority shall lodge for registration with the District Land Registrar a certificate, signed by the chief executive or other authorised officer of the territorial authority, specifying the variations to the instrument or that the instrument is cancelled, as the case may be.
- (8) The District Land Registrar shall make an appropriate entry in the register and on the instrument noting that the instrument has been varied or cancelled, and the instrument shall take effect as so varied or cease to have any effect, as the case may be”.

Schedule 10

“Requirements for instruments creating esplanade strips and access strips

“1 Prohibitions to be included in instruments

- (1) Every instrument creating an esplanade strip and every easement for an access strip shall specify that the following acts are prohibited on land over which the esplanade strip or access strip has been created:
- (a) Wilfully endangering, disturbing, or annoying any lawful user (including the land owner or occupier) of the strip:
 - (b) Wilfully damaging or interfering with any structure adjoining or on the land, including any building, fence, gate, stile, marker, bridge, or notice:
 - (c) Wilfully interfering with or disturbing any livestock lawfully permitted on the strip.
- (2) Notwithstanding subclause (1), the prohibitions in paragraphs (b) and (c) shall not apply to the owner or occupier.
- (3) For the purposes of this Schedule, owner and occupier includes any employees or agents authorised by the owner or occupier”.

“2 Other prohibitions

- Subject to sections 232(4) and 237B(3), every instrument creating an esplanade strip and every easement for an access strip shall specify that the following acts are prohibited on the land over which the esplanade strip or access strip has been created:
- (a) Lighting any fire:
 - (b) Carrying any firearm:
 - (c) Discharging or shooting any firearm:
 - (d) Camping:
 - (e) Taking any animal on to, or having charge of any animal on, the land:

- (f) Taking any vehicle on to, or driving or having charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised):
- (g) Wilfully damaging or removing any plant (unless acting in accordance with the Noxious Plants Act 1978):
- (h) Laying any poison or setting any snare or trap (unless acting in accordance with the Agricultural Pests Destruction Act 1967)".

“3 Fencing

The instrument or easement may include any fencing requirements, including gates, stiles, and the repositioning or removal of any fence”.

“4 Access on esplanade strips for conservation purposes” [NA]

“5 Access on strips for access purposes

Where an easement for an access strip or an esplanade strip for access purposes is created, the easement or instrument creating the strip shall specify that any person shall have the right, at any time, to pass and repass over and along the land over which the strip has been created, subject to any other provisions of the easement or instrument”.

“6 Access on [esplanade] strips created for recreational purposes” [NA]

“7 Closure

(1) Any instrument creating an esplanade strip or any easement for an access strip may specify that the strip may be closed for any specified period, including particular times and dates.

(2) Any instrument or easement may specify who is responsible for notifying the public by signs erected at all entry points to the strip, and any other means agreed, that a strip or easement is closed as a result of closure periods specified in the instrument or easement”.