

Provisions for the Queen’s Chain around New Zealand’s coasts, lakes, and rivers

Bruce Mason, Researcher, Public Lands Coalition. 17 October 1989

* *Notes:* ‘reserve’ does not mean in Reserves Act sense; rights, with or without Crown ownership can be ‘reserved’ to the Crown.
‘acquisition’ does not necessarily convey ownership; can be confined to acquisition of management rights.

CHARACTERISTIC	LAND ACT 1948	CONSERVATION ACT 1987	CONSERVATION LAW REFORM BILL 1989 and PRINCIPAL ACT
1. Common Name	Section 58 Strip	Marginal Strip	Marginal strip
2. Extent of strips	Around approximately 13,000 km of coast, 30,000 km river banks and lake shores.	Only 1 known to have been formally defined and layed off.	None created under proposed new provisions.
3. Nature of ‘reservation’*	“There shall be reserved* from sale or other disposition a strip of land not less than 20 metres in width...” [S. 58(1)]	(i) “Any land for the time being held for conservation purposes...” [S. 2]. Deemed to be a conservation area (not a stewardship area). [S. 2] Holding land does not guarantee Crown ownership (see Sections 6(a), 28, 29). (ii) Marginal strip over private land is equivalent to a covenant (see Section 27).	(i) A strip of land reserved* to the Crown, upon disposal of such land. [Bill S. 24 (1)] ie. rights, not necessarily ownership, reserved to the Crown. (ii) “Any land held for conservation purposes” [Act S.2]. ie. can be either a reservation of rights to the Crown or Crown ownership.
4. Tenures able to be ‘reserved’* as strips: —Crown Land	Unoccupied Crown Land, and on sale, disposal, leasing etc of UCL.	No provision; must be first ‘held’ for conservation purposes.	Any lands of the Crown. [Bill S. 24 (1) (2)].
5. —Conservation Areas	No	Yes, automatic. [S. 2].	Yes, automatic [Act S. 2].
6. —Closed roads, streets	Discretionary on disposal of such lands (D-G Lands).[S. 58 (2)].	No	Yes, if lands of the Crown. [Bill S. 24 (1) (2)].
7. —Private lands	No	Yes, if held for conservation purposes.	Yes, if conservation area (ie held for conservation purposes).

8. Objectives —Public Access	“...for reasonable access to the sea, lake, river, or stream. [S. 58 (1)].	Public access to adjacent water, subject to conservation objectives. [S. 24 (2)(b)]. ie. access is a secondary, conditional use.	“To enable public access to any adjacent water courses or bodies of water. [Bill S. 24A (b)].
9. —Public Recreation	No specific provision.	Not provided for specifically. Hunting permits may be required and charged for.	“For public recreational use of the marginal strips and adjacent water courses or bodies of water.” [Bill S. 24A (c)].
10. —Conservation	No specific provision.	“...conservation of...natural and historic resources and those of the adjacent water...” [S. 24 (2) (a)].	“For conservation purposes, in particular— (i) The maintenance of adjacent water courses or bodies of water; and (ii) The maintenance of water quality; and (iii) The maintenance of aquatic life and the control of harmful species of aquatic life; and (iv) The protection of the marginal strips and their natural values.” [Bill S. 24A (a)].
11. Application to: —Rivers & Streams	“Unless the Minister of Conservation considers it unnecessary to do so, along the banks of all rivers and streams which have an average width of not less than 3 metres.” [S. 58 (1) (c)].	“...along the bank of any river or stream (not being a canal under the control of Electricorp used for the generation of electricity) that has an average width of 3 metres or more...” [S. 2].	“...along and abutting the landward margin of—the bed of any river or stream (not being a canal under the control of Electricorp used for, or as part of any scheme for, the generation of electricity), being a bed that has an average width of 3 metres or more.” [Bill S. 24 (1) (c)].
12. Application to: —Lakes	“Along the margin of every lake with an area in excess of 8 hectares.” [S. 58 (1) (b)].	The normal level, or maximum control level, of any lake exceeding 8 hectares. [S. 2].	“...along and abutting the landward margin of—the maximum flood level of any lake not subject to control by artificial means (calculated on the basis of its maximum flood level of all its bays and inlets) that has a surface area exceeding 8 hectares at that level.” [Bill S. 24 (1) (b)].
13. Application to: —Sea Coast	“Along the mean high-water mark of the sea and of its bays, inlets, and creeks.” [S. 58 (1) (a)]	“Any foreshore.” [S. 2]	“...along and abutting the landward margin of—any foreshore.” [Bill S. 24 (1) (a)].

14. Width	“...not less than 20 metres...” [S. 58(1)]. ie. 20 metres or greater.	“...within 20 metres...” [S. 2] ie. maximum of 20 metres.	<p>(i) <i>For land disposals:</i> 20 metres wide, [Bill S. 24(1)] or “a width extending from the maximum operating level to the maximum flood level of any (artificially controlled) lake or reservoir, whichever is the greater.” [Bill S. 24(2)].</p> <p>(ii) <i>For conservation areas:</i> “within 20 metres.” [Act S. 2].</p> <p>(iii) Any (the same) width for any Crown land, immediately before commencement of this section, that was reserved from sale or other disposal. [Bill S. 24(3)].</p>
15. Reduction in width provisions	“...the Minister of Conservation may approve the reduction of the strip of land to not less than 3 metres if in his opinion the reduced width will be sufficient for reasonable access to the sea, lake, river, or stream.” [S. 58 (1)].	The Minister may reduce the width to not less than 3 metres, if “any marginal strip is neither necessary to ensure reasonable and practicable public access to the adjacent water nor desirable for conservation purposes,” by notice in the <i>Gazette</i> . [S. 24(3)].	No specific provision for reduction in width within Bill, however definition of ‘marginal strip’ in Act [S.2], being “within 20 metres”, provides opportunity to reduce.
16. Triggers for establishment	On sale or disposition of land, including unsurveyed farm or pastoral land without compensation, and on any renewals of any lease or licence under any former Land Act.	<p>(i) On acquisition* for conservation purposes [S. 7(1)]. This automatically creates a marginal strip but, on DOC vested land, no apparent requirement is created for definition on plans etc.</p> <p>(ii) On agreement, the acquisition* of any interest in land for conservation purposes. [S. 7(2)].</p> <p>(iii) On vesting or transfer of any Crown land or State Forest land to an SOE [S. 24(8)].</p>	<p>(i) “Upon disposal by the Crown of any land...” [Bill S. 24(1)&(2)].</p> <p>(ii) On the holding of any land for conservation purposes. [Act S. 2].</p> <p>(iii) On granting of a Crown forestry licence under the Crown Forests Assets Act 1989. [Bill S. 24 (10)].</p> <p>(iv) On the granting of a lease or licence under the Land Act 1948. [Bill S. 24(10)].</p>
17. Exemptions and waivers from establishment	Only along banks of rivers and streams if the Minister of Conservation considers it unnecessary to lay off. [S. 58 (1) (c)].	Cannot require establishment where canal under the control and use by Electricorp for the generation of electricity [S. 2] or where any ‘core’ assets of Electricorp or similar structures exist [S. 24 (4) (a)].	<p>(i) Urban areas managed by DOC [Bill S. 24 (5)].</p> <p>(ii) No marginal strip provisions apply to core assets of Electricorp while in their ownership, or to (other) electricity works. Declaration, by notice in the <i>Gazette</i> required. [Bill S. 24C (3)(4)(5)].</p>

18. Provisions for revoking	None , except for reductions in width.	Yes , and disposal (without further public notice or rights of objection) of ‘core’ assets of Electricorp due to public dangers. [S. 24 (4)].	“The Minister may declare any land not to be a marginal strip only if— (a) Either—(i) The strip has little or no value in terms of public access; or —(ii) Any value the strip has in terms of conservation and public access can be effectively protected by another means; and (b) The Minister is satisfied that the current productive value of the strip is greater than its conservation value.” Declaration, by notice in the <i>Gazette</i> required. [Bill S. 24C (2)].
19. Public notice and objections to revocations and waiverings	No requirement in regard to reduction in width.	Notice in the <i>Gazette</i> , with prior public notice and rights of objection.	<i>Gazette</i> notice only for revocations and waiverings of marginal strips; no provision for public objection.
20. Disposal/sale of (former) strips	Not applicable.	(i) “No interest in a marginal strip may be granted or disposed of.” [S. 24]. (ii) No interest in a conservation area (other than a lease, licence, easement) shall be disposed of at all [S. 16].	The Crown may sell or otherwise dispose of any land declared not to be a marginal strip to the person for the time being owning the adjoining land or to Electricorp if any of its core assets abut the land to be disposed of. [Bill S. 24D]. No provisions for public notice or objection to disposals.

21. <i>Effect of change to boundary of strip</i>	Strip fixed in original position. Accretion, arising from gradual changes to boundaries of river margins, added to strip: must be determined by survey.	Strip fixed in original position. Accretion, arising from gradual changes to boundaries of river margins, added to strip: must be determined by survey.	<p>(i) “Where for any reason the shape of any foreshore or of any margin of any lake or reservoir (or of any bay or inlet)...the course of any river or stream...is altered and the alteration affects an existing marginal strip, a new marginal strip shall be deemed to have been reserved* simultaneously with each and every such alteration.” [Bill S. 24F (1)(2)].</p> <p>(ii) Bill provisions only apply to all lands of the Crown, on all land the title to which is subject to ‘reservation’* and movable marginal strip provisions, and to no other land. [Bill S. 24F (3)].</p> <p>(iii) Movable strip provisions do not apply to strips reserved* from sale or other disposal for the purposes of the Conservation Act or any other Act (eg Land Act), immediately before commencement of the movable strip provisions. [Bill 24F (7)].</p>
22. <i>Survey requirements/ records</i>	Affirmation of Crown land status sufficient proof. Onus on other parties to prove not to be lands of the Crown [S. 176 (6)].	An “appropriate title or record.” [S. 50]. Certificates of title issued on request of D-G. [S. 60F].	Marginal strips not required to be surveyed for the purposes of the Land Transfer Act 1952. [Bill S. 24B (5)].
23. <i>Creation of Easements</i>	No restrictions on granting of easements, rights of way, water rights. [S. 60].	“The Minister...may..grant or reserve any right of way or other easement over any land held...for conservation purposes.” [S. 15].	<p>(i) The manager may, with the consent in writing of the Minister, grant an easement over the strip. [Bill S. 24H (1)].</p> <p>(ii) The Minister may, after giving notice to the manager, grant an easement over the strip. [Bill S. 24H (2)].</p>
24. <i>Vesting of management</i>	No. The Crown (Minister of Conservation) is owner and manager.	The Minister of Conservation is manager of land ‘held for conservation purposes’, including marginal strips.	Subject to the right (by written request) of the owner of adjoining land to be appointed the manager [Bill S. 24G (2)] “...the Minister shall from time to time appoint suitable persons to be managers of marginal strips [S. 24G (i)] “except around controlled lakes and reservoirs.” [Bill S. 24G (3)].

25. Powers of manager	Not applicable	Not applicable	<p>(i) “Subject to (Bill S. 24G) the manager...shall— —Manage the strip in a way that best serves the purposes specified in S. 24A; and —Provide access along the strip for members of the public.” [Bill S. 24G (4) (a-b)].</p> <p>(ii) “Subject to (Bill S. 24G) the manager...may— —Make improvements to the strip, and the improvements may include the planting or harvesting of crops or trees, or both; and — Prohibit or restrict the bringing of any animals onto the strip; and —Temporarily close the strip or any part of it to the public for operational or safety reasons, or both.” [Bill S. 24G (5)].</p>
26. Requirements on manager	Not applicable	Not applicable	<p>“...the manager of a marginal strip shall— (a) Manage the strip in a way that best serves the purposes specified in Section 24A of this Act; and (b) Provide access along the strip for members of the public.” [Bill S. 24G (4)&(9)].</p>
27. Exemptions for manager	Not applicable	Not applicable	<p>“The Minister shall not require the manager of any strip to fence off any part of that strip, or to undertake any other works on or relating to that strip, unless the expenses associated with such fencing or other works are borne by the Crown.” [Bill S. 24G (7)].</p>

28. Controls over manager	Not applicable	Not applicable	“The manager of a marginal strip shall comply with any reasonable requirements or restrictions imposed in respect of the strip by the Minister by notice in writing to the manager; and the Minister shall impose such requirements or restrictions, or both, as the Minister considers reasonably necessary or expedient to protect the strip, having particular regard to the maintenance of riparian vegetation, wildlife, water quality, the health of aquatic life, and to maintain access to and the recreational use of the strip.” [Bill S. 24G (6)].
29. Requirements on Minister	Not applicable	Not applicable	“The Minister shall consult the appropriate manager where— (a) An application for a licence to mine in a marginal strip is being considered; or (b) Any complaint relating to a marginal strip is being investigated; or (c) Any requirement or restriction under subsection 24G (6) is being proposed.” [Bill S. 24G (8)].
30. Resumption of management by Crown	Not applicable	Not applicable	“On giving 90 days notice in writing to the manager of a marginal strip or such longer period as may be provided for in any agreement between the manager and the Crown, the Minister, on behalf of the Crown, may resume the management of the strip.”[Bill S. 24 I (1)].
31. D-G’s powers and duties	“...the administration, management...protection and care of Crown land...” [S. 13].	D-G may do any work on strips, in accordance with management plan. [S. 24 (6)(c)].	D-G may do any work on strips, in accordance with management plan. [Act S. 24 (6)(c)].

<p>32. Provisions for partial alienation <i>eg. Leases, licences</i></p>	<p>Alienation under lease or licence not permitted. Authorisation of commercial recreation and grazing, without occupier status being conveyed, is available through the issue of permits under S. 66A, 68A Land Act.</p>	<p>(i) Implied power of Minister to grant leases or permits. ie. Minister has power to refuse to renew any lease or permit unless the lessee or permittee surrenders area of all marginal strips or those specified by the Minister. [S 24 (7)]. (ii) Minister may enter into agreement with any adjacent land owner, if in accordance with a management plan, to use or develop all or any part of a strip. [S24 (6) (a)]. (iii) The Minister may authorise a variety of major developments, uses, and businesses on any conservation area. [S. 17].</p>	<p>(i) Appointment of managers with rights to use, develop, and exclude the public amounts to a major alienation of the public interest. (ii) As for Conservation Act 1987, but with maximum term of leases and licences extended from 30 to 60 years.</p>
<p>33. Development or use rights</p>	<p>(i) No rights, however informal use by adjoining landowner/occupier has been a long-standing Land Settlement Board policy. (ii) May be formally granted under S. 66A and 68A if these do not constitute a disposition of interest in whole or in part.</p>	<p>The Minister may authorise a wide variety of major developments, uses, and businesses on any conservation area. [S. 17].</p>	<p>(i) “Subject to (S. 24G) the manager may —make improvements to the strip, and the improvements may include the planting or harvesting of crops or trees, or both.” [Bill S. 24G (5)(a)]. (ii) Subject to prior consultation with the Minister, the manager may make significant changes to the management regime of the strip, or make or erect any significant improvements to the strip. [Bill S. 24G (9)(a)].</p>
<p>34. Rights to improvements etc</p>	<p>No rights conveyed. No entitlements to compensation.</p>	<p>No rights conveyed. No entitlements to compensation, except where lease or licence issued, dependent on conditions of such.</p>	<p>(i) “Nothing...shall affect any right, title, or interest any person may have in respect of any assets or improvements existing on any marginal strip at the commencement of this section.” [Bill S. 24 (4)]. (ii) “Nothing.(in the section relating to movable strips [Bill S. 24F]) shall affect any right, title, or interest any person may have in respect of any assets or improvements existing on any marginal strip at the time such marginal strip was reserved* (by change of boundary)” [Bill S. 24F (5)].</p>

35. Entitlements to expenses or compensation	None. Use, occupation, and creation of improvements is an offence.	For leases and licences over conservation areas, entitlements depend on terms and conditions entered into.	<p>(i) The expenses associated with any fencing or other works the the Minister requires the manager to undertake are borne by the Crown. [Bill S.24G (7)(10)].</p> <p>(ii) “The manager shall have no right to be compensated for improvements made to or erected on the marginal strip without prior consultation with the Minister...” [Bill S. 24 I (3)].</p> <p>(iii) Subject to (ii) above “...where the Crown resumes the management of a marginal strip, it shall be liable to pay to the manager of the strip—</p> <p>(a) Compensation for any improvements made to the strip by the manager; and</p> <p>(b) The manager’s reasonable administration costs associated with the Crown’s resumption of the strip.” [S. 24 I (2)].</p> <p>(iv) Any dispute over (iii) above is settled under the Arbitration Act. [Bill S. 24 I (4-6)].</p>
36. Trespass Rights	No. (No legal occupier in terms of Trespass Act). [Land Act S. 58 (1)].	The ability to issue leases and licences carries with it the creation of legal occupier status and trespass rights.	<p>(i) The ability to issue leases and licences carries with it the creation of legal occupier status and trespass rights.</p> <p>(ii) Occupier status with trespass rights is implicit with manager having the ability to close the strips to the public.</p>
37. Closure of public access	No provision. Closure would be contrary to purpose of S. 58.	<p>(i) All or any part of a strip may be closed in accordance with any agreement with an adjacent landowner, and in accordance with any management plan. [S. 24 (6) (b) and S. 13 (1)(a)].</p> <p>(ii) The Minister may, “to the extent only that the conservation of any natural or historic resource of a conservation area that has no management plan requires the closure of the area or any part of it to public entry, close the area to public entry.” [S. 13 (1) (b)].</p> <p>(iii) The Minister may, “for reasons of public safety or emergency close any conservation area to public entry.” [S. 13 (1)(c)].</p>	<p>(i) As for Conservation Act 1987 plus—</p> <p>(ii) Subject to S. 24G...“the manger may —Temporarily close the strip or any part of it for operational or safety reasons, or both.” [Bill S. 24G (5)(c)], subject to:</p> <p>The Manager of a strip shall comply with any reasonable requirements or restrictions imposed by the Minister (in writing) to the manager, and the Minister shall impose such requirements and restrictions as he considers reasonably necessary or expedient to...maintain access to and the recreational use of the strip. [Bill S. 24G (6)].</p>

38. Offences	Trespass (exempt by Land Settlement Board policy), use, occupation. Causes or allows any cattle, sheep, horses, or other animals to trespass. Felling, removal, damage to forest, flax etc. Mining without authority.	Hunting except fishing; have in possession any animal or animal product other than fish; discharging firearm without permit; entering closed strip; taking any plant without authority; erecting any structure; constructs any apparatus; mining without other authority; all trespassing unbranded livestock become property of Crown; branded livestock may be destroyed after public notice.	Hunting except fishing; have in possession any animal or animal product other than fish; discharging firearm without permit; entering closed strip; taking any plant without authority; erecting any structure; constructs any apparatus; mining without other authority; all trespassing unbranded livestock become property of Crown; branded livestock may be destroyed after public notice.
39. Weed Control responsibility	DOC, as grants to noxious plant authorities.	DOC, as grants to noxious plant authorities.	Appears to be responsibility of manager due to occupier status —liability for rates etc.
40. Pest Control	DOC, as grants to pest boards.	DOC, as grants to pest boards.	Appears to be responsibility of manager due to occupier status —liability for rates etc.
41. Fire Control	S. 58 strip plus 1.5 km safety margin is ‘State Area’ in terms of Forests and Rural Fires Act 1977. Crown responsibility but Crown not bound. Policy is that fire control is County responsibility.	Marginal strip plus 1.5 km safety margin is “State Area’ in terms of Forests and Rural Fires Act 1977. Crown responsibility but Crown not bound. Policy is that fire control is County responsibility unless adjoining land is also conservation or stewardship area.	Manager as occupier, plus County.
42. Fencing	Crown exempt from provisions of Fencing Act.	Crown exempt from provisions of Fencing Act.	Liability for fencing costs falls on Crown. [Bill S. 24G (7)].