

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 3 August 1993

CONSERVATION AMENDMENT BILL (NO. 2)

Proposed Amendments

Hon. DENIS MARSHALL, in Committee, to move the following amendments:

Proposed clause 87A: To insert, after clause 87, the following clause:

87A. Foreshore and seabed to be land of the Crown—

The principal Act is hereby amended by inserting, after section 9, the following section:

“9A. (1) All—

“(a) Foreshore and seabed within the coastal marine area (as defined in section 2 (1) of the Resource Management Act 1991) that is for the time being vested in the Crown; and

“(b) Land reclaimed on or after the 1st day of October 1991 from within the coastal marine area (as so defined) that was, at the time of its reclamation, foreshore or seabed vested in the Crown—

is hereby declared to be land of the Crown to which this section applies and shall be administered by the Director-General of Conservation.

“(2) Subject to subsection (3) of this section, all land of the Crown to which this section applies shall be held by the Crown in perpetuity.

“(3) No land of the Crown to which this section applies shall be sold or otherwise disposed of except pursuant to the Resource Management Act 1991 or by the authority of a special Act of Parliament.

“(4) Subject to any other Act,—

“(a) The Director-General of Conservation shall manage all land of the Crown to which this section applies so as to maintain the conservation values of the land and public access to the land:

“(b) The Director-General shall have and may exercise, in relation to such land, all the functions, duties, and powers that the Crown has as owner of the land.

“(5) Nothing in the Land Act 1948 shall apply to any land of the Crown to which this section applies.

“(6) The provisions of this section shall apply notwithstanding anything in section 4 of this Act.”

Proposed clause 88A: To insert, after clause 88, the following clause:

88A. Enactments amended—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

Proposed Schedule: To add the following Schedule:

SCHEDULE
ENACTMENTS AMENDED

Enactment	Amendment
1948, No. 64—The Land Act 1948 (R.S. Vol. 23, p. 559)	By repealing subsection (1) of section 167 (as substituted by section 21 (1) of the Land Amendment Act 1965), and substituting the following subsection: “(1) The Minister of Conservation may from time to time, with the prior consent in writing of the Minister of Lands, by notice in the <i>Gazette</i> , set apart as a reserve any Crown land for any purpose which in his or her opinion is desirable in the public interest. Every such notice shall take effect from the date thereof or from such later date as is specified in the notice.”
1950, No. 34—The Harbours Act 1950 (R.S. Vol. 2, p. 551)	By omitting from section 167 (4) the words “or any foreshore” and “or foreshore”. By omitting from section 138 the words “Director-General of Lands” (as substituted by section 65 (1) of the Conservation Act 1987) where they first occur, and substituting the words “the Director-General of Conservation (in the case of any foreshore or seabed) and the Commissioner of Crown Lands (in any other case)”. By omitting from section 138 the words “Director-General of Lands” (as so substituted) where they secondly occur, and substituting the words “Director-General of Conservation or Commissioner of Crown Lands, as the case may be.”
1965, No. 48—The Land Amendment Act 1965 (R.S. Vol. 23, p. 725)	By omitting from section 168 (3) (as substituted by section 35 of the Harbours Amendment Act 1977) the word “In”, and substituting the words “Subject to section 9A of the Foreshore and Seabed Endowment Revesting Act 1991, in”.
1977, No. 52—The Forest and Rural Fires Act 1977 (R.S. Vol. 27, p. 331)	By repealing subsections (1) and (2) of section 21. By inserting in section 2 (1), after the definition of the term “firebreak”, the following definition: “‘Foreshore’ means such parts of the bed, shore, or banks of the sea or a river as are covered and uncovered by the flow and ebb of the tide at mean spring tides.”

SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1977, No. 52—The Forest and Rural Fires Act 1977 (R.S. Vol. 27, p. 331)— <i>continued</i>	By adding to the definition of the term “State area” (as substituted by section 2 (4) of the Forest and Rural Fires Amendment Act 1989) the following paragraph: “(k) Any foreshore (except to the extent that the fire safety margin of any State area encroaches on that foreshore):”.
1981, No. 35—The Public Works Act 1981	By inserting in the definition of the term “Government work” in section 2 (as substituted by section 2 (2) of the Public Works Amendment Act (No. 2) 1987), after the words “specified in the First Schedule to that Act” (as added by section 37 of the Conservation Law Reform Act 1990), the words “(except land to which section 9A of the Foreshore and Seabed Endowment Revesting Act 1991 applies)”.
1987, No. 65—The Conservation Act 1987	By repealing so much of the Second Schedule as relates to section 138 of the Harbours Act 1950.
1991, No. 69—The Resource Management Act 1991	By repealing subsection (3) of section 239 (as added by section 126 (3) of the Resource Management Amendment Act 1993), and substituting the following subsection: “(3) Any land vested in the Crown shall, unless this Act provides otherwise,— “(a) In the case of land to which section 9A of the Foreshore and Seabed Endowment Revesting Act 1991 applies, be vested in the Crown subject to that section: “(b) In any other case, be vested under the Land Act 1948.”
	By inserting in section 354 (3) (as substituted by section 159 of the Resource Management Amendment Act 1993), after the words “the Land Act 1948”, the words “or the Foreshore and Seabed Endowment Revesting Act 1991”.

EXPLANATORY NOTE

The purpose of this Supplementary Order Paper is to create a new category of land of the Crown comprising—

- (a) Foreshore and seabed within the coastal marine area that is for the time being vested in the Crown;
- (b) Land reclaimed from the coastal marine area on or after 1 October 1991 and vested in the Crown at the time of its reclamation.

The new category of land will be held subject to the new *section 9A* of the Foreshore and Seabed Endowment Revesting Act 1991 (as set out on page 1 of this Supplementary Order Paper) and shall not be subject to the Land Act 1948.

The principal features of *section 9A* are—

- (a) The land shall be managed by the Department of Conservation;
- (b) The land can be disposed of only pursuant to the Resource Management Act 1992 or by the authority of a special Act.