

18.1 Introduction

This chapter outlines the mechanisms for identifying present and future needs for the setting aside of esplanade reserves or esplanade strips and related access strips. Policies to determine the need for such provision are to be found in earlier chapters of the RPS – mainly in Chapter 6 – Heritage, Chapter 7 – Coastal Environment, Chapter 8 – Water Quality, and Chapter 11 – Natural Hazards.

18.1.1 Section 229 of the RM Act

Part X of the RM Act includes provision for the setting aside of esplanade reserves and the establishment of esplanade strips along the margins of the sea (the coastal marine area (CMA)), lakes (of greater than eight hectares in area) or rivers (whose beds have an average width of three metres or more), and for access strips. Section 229 of the RM Act enables esplanade reserves and strips to be established for the following purposes:

- “(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 values associated with the esplanade reserve or esplanade strip; or*
 - (v) *Mitigating natural hazards; or*
- (b) *To enable public access to or along any sea, river or lake; or*
- (c) *To enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river or lake, where the use is compatible with conservation values.”*

Generally, these provisions come into play when land adjoining lakes, rivers or the sea is subdivided, although they can be implemented at any time by negotiation between the local authority and landowner. They provide one set of mechanisms for managing the margins of lakes, rivers and the CMA. Other measures may also be used, including the provisions of other legislation.

18.1.2 Esplanade reserves

Esplanade reserves are required to be set aside along margins of lakes, rivers or the sea when land is subdivided into lots of less than four hectares in area, unless such a requirement is varied by means of a rule in a plan or a condition of a resource consent. Esplanade reserves may also be secured in relation to a resource consent, where the setting aside of an esplanade reserve is necessary to achieve the purposes of the RM Act in relation to the effects likely to arise from the development being approved. The setting aside of an esplanade reserve may be secured as a financial contribution, as provided by section 108(9) of the Act.

Reclamations, once they have been carried out pursuant to a resource consent, must be the subject of a survey plan. Such a plan is required to show an esplanade reserve if such a reserve has been required as a condition of consent. Esplanade reserves are generally required to be 20 metres in width, unless this width is varied by a rule in a plan or a condition of a resource consent. Where a greater width than 20 metres is taken, the landowner is to be compensated for the land over and above the 20 metre width. Sections 237E to 237H of the RM Act set out the circumstances where compensation is required and the procedures by which landowners and the TA determine the amount of compensation.

Esplanade reserves are vested in the TA as a local purpose reserve for esplanade purposes under the Reserves Act 1977. The classification of an esplanade reserve may be changed by following the processes set out in the Reserves Act for that purpose.

Esplanade reserves may be set aside where land bounded by the sea, a lake or a river is being subdivided into new lots more than four hectares in area, and a rule in a plan so requires. The local authority shall compensate the landowner for all of the land included in the reserve in accordance with the procedures in sections 237E-H of the RM Act.

18.1.3 Esplanade strips

Esplanade strips may be established as an alternative to esplanade reserves. Esplanade strips are created by means of easements registered against the titles of land adjoining lakes, rivers or the sea. The land subject to the easement continues to be owned by the landowner, and by virtue of the easement becomes subject to a number of conditions. Some of the conditions are mandatory (specified in the Tenth Schedule to the RM Act) and some may vary according to the purpose(s) which the esplanade strip is to serve, and the circumstances prevailing in respect of that particular strip. Compensation is payable for the establishment of esplanade strips in the same circumstances as apply to the taking of esplanade reserves. In addition, esplanade strips may be established pursuant to a resource consent or a reclamation, in similar terms as those for the establishment of esplanade reserves.

Esplanade strips may be created at any time by agreement between the local authority and landowner.

18.1.4 Access strips

Access strips provide a means of creating access over private land, and offer a means of enabling access to esplanade reserves or esplanade strips which would otherwise be inaccessible by land or sea and thus not accessible to the public. They may be established by the same means as esplanade strips, are subject to essentially the same required conditions, and may also be subject to conditions relating to the particular circumstances of the access strip. Compensation is payable to the landowner for the establishment of access strips (see sections 237E-H of the RM Act.)

18.1.5 Variation or cancellation of esplanade or access strips

The RM Act provides for the variation or cancellation of esplanade strips or access strips by a process which is essentially the same as that for an application for a resource consent.

18.2 Issues

18.2.1 Esplanade reserves, esplanade strips and access strips are mechanisms which may be used to facilitate the sustainable management of the margins of lakes, rivers and the sea, but there are choices in the way in which they can be applied which will influence their effectiveness

While section 229 of the RM Act sets out the purposes for which esplanade reserves and strips can be established, the Act also provides flexibility for TAs to determine the size and location of any esplanade reserve or esplanade strip and the circumstances under which it may or may not be established. These decisions affect the ability of this management mechanism to achieve its intended purpose.

Decisions to take esplanade reserves or establish esplanade strips and access strips at the time of new subdivision can facilitate or inhibit public access to lakes, rivers and the sea and access along their margins. This in turn can encourage or discourage recreational use of these margins. Equally the width of any esplanade reserve or strip will influence its usability by the public for access and recreational purposes.

In areas already subdivided, the creation of esplanade reserves and esplanade strips may be more limited and may need to be established by a process of negotiation between the landowner and the TA.

Use of appropriately located and managed esplanade reserves and strips, which are of a suitable width, can contribute to the protection of conservation values, both within the esplanade reserve or strip itself, on the land behind it or in the adjacent river, lake or stream. They can also provide for the operation of biological and physical processes by accommodating fluctuations in the natural movement of the banks of lakes and rivers and the shoreline of the CMA, thereby mitigating the effect of natural hazards.

Esplanade reserves and strips may form part of a wider area of significant natural value and accordingly they need to be managed as part of the larger habitat. They may also form an important link between land and water habitats and may provide opportunities for appropriate riparian management to reduce the discharge of contaminants, including sediment, from the land into the river, lake or stream.

Decisions made at the time of subdivision and development to waive the need for esplanade reserves or esplanade strips or to reduce their width, or to establish them only in limited and unconnected locations, may compromise or completely negate their effectiveness as a management tool for meeting their intended purpose.

18.2.2 Esplanade reserves, esplanade strips and access strips can achieve wider resource management objectives

Although section 229 prescribes the purposes of esplanade reserves and esplanade strips, the establishment of reserves and strips for these purposes can also have consequential resource management outcomes. In particular, esplanade reserves, esplanade strips and access strips can give effect to the provisions of sections 6, 7 and 8 of the RM Act.

This is recognised in the relevant chapters of this RPS, including Chapter 6 – Heritage, where provision is made for the protection of natural, cultural and landscape values.

Refer to Section 18.4.3 Reasons for more detailed cross-references.

18.2.3 There is a lack of esplanade reserves, esplanade strips and access strips in some parts of the Auckland Region and a lack of continuous linkages between existing reserves and strips

Parts of the Auckland Region are well served by a network of esplanade reserves, esplanade strips and access strips, while other areas have few or no esplanade reserves or strips along the margins of rivers, lakes or the sea. This may be due to the rural nature of the land and the retention in holding of greater than four hectares, or because historical subdivision occurred without provision being made for esplanade reserves.

There is a need to expand the linkages between existing esplanade reserves and strips and to develop new linkages in areas where these are absent. The establishment of continuous linkages around the margins of lakes, rivers and the sea requires the use of a number of mechanisms. These can include the establishment of formal protected areas under the Reserves Act 1977, the creation of esplanade reserves and strips under the RM Act or the use of covenants and access arrangements under other legislation such as the Queen Elizabeth II National Trust Act 1977.

The development of continuous linkages around the margins of the Region's coast, its major lakes and along appropriate stretches of its rivers provides for improved public access to these areas and facilitates their management for conservation, recreation or other related purposes.

18.3 Objectives

1. *To ensure that provision is made for esplanade reserves and esplanade strips in a way which achieves their purposes as described in section 229 of the RM Act.*
2. *To recognise the ability of esplanade reserves and strips described in section 229 to achieve the purpose and principles of Part II of the RM Act.*
3. *To allow for the establishment of access strips where these are necessary to enable any existing or proposed esplanade reserve or esplanade strip to fulfil any of the above purposes.*
4. *To encourage the establishment of continuous linkages along the margins of lakes, rivers and the sea.*

18.4 Policies, Methods and Reasons

The following policies and methods give effect to Objectives 18.3-1 to 4.

18.4.1 Policies

1. *Where the intrinsic values and/or imminence of change to patterns of land use or development make it necessary or desirable, esplanade reserves, esplanade strips or access strips shall be established and maintained.*

2. *Before significant development or redevelopment of land is enabled, the need for esplanade reserves or esplanade strips to be set aside for any of the purposes in section 229 of the RM Act shall be identified, and provision made for these to be established where appropriate.*
3. *In implementing Policies 18.4.1.1 and 18.4.1.2 consideration shall be given to whether esplanade reserves, due to their greater permanence, would be preferable to other alternatives, such as esplanade strips.*
4. *A greater or lesser width than 20 metres may be set aside as an esplanade reserve or established as an esplanade strip, or the requirement for an esplanade reserve or strip may be waived, where an assessment of the values of the margins of the lake, river or sea in that particular locality establish that:*
 - (i) *the objectives of section 229 for which the reserve or strip is required will be better or equally achieved by providing a lesser width, or better achieved by providing a greater width; or*
 - (ii) *for reasons of public safety, or for the protection of conservation values, or to ensure a level of security consistent with the purpose of a resource consent or other exceptional circumstances it is undesirable that a reserve or strip be provided.*
5. *The decision whether to set aside an esplanade reserve or to establish an esplanade strip will be made in each instance with regard to:*
 - (i) *the relative cost-effectiveness and appropriateness of the two methods; and*
 - (ii) *the objectives to be achieved in the particular situation; and*
 - (iii) *the relevant provisions of this RPS.*
6. *The ARC may provide financial assistance to TAs towards the establishment of esplanade reserves or esplanade strips or access strips relating to such esplanade reserves or strips, where it is satisfied that such provision:*
 - (i) *is necessary for the implementation of the relevant objectives and policies of this RPS (determined with particular reference to Chapter 6 – Heritage and Chapter 7 – Coastal Environment); and*
 - (ii) *will achieve the protection and/or use of coastal or heritage resources which are, in the opinion of the ARC, Regionally significant in terms of their actual or potential value for recreation, conservation, or public access purposes.*
7. *Continuous linkages around the coast and along the margins of rivers, lakes and streams shall be created as far as practicable by the use of appropriate mechanisms.*

18.4.2 Methods

1. *The need for esplanade reserves or esplanade strips will be assessed by planning processes such as those outlined in Appendix A, and the provision to be made will be identified in district plans.*
2. *Provision for the setting aside of esplanade reserves, or for the establishment of esplanade strips will generally be made in district plans, in a manner consistent with the above objectives and policies, and with the provisions of relevant chapters of this RPS.*
3. *Where Regionally significant resources or values are likely to be affected by the setting aside of esplanade reserves or esplanade strips, the ARC will be included by appropriate means in the processes of determining the need for such provision and of establishing reserves or strips.*
4. *TAs will advise the ARC of any application to waive or to reduce the width of any esplanade reserve where:*
 - (i) *the application is publicly notified under section 93 of the RM Act; or*
 - (ii) *the application relates to any land adjoining the CMA, or a lake or river over which the ARC exercises control under section 13 of the RM Act in recognition of the role of the ARC as an affected party under section 94(2).*

5. *In implementing Policy 18.4.1.7 above, DoC, TAs and other relevant agencies will consider the use of alternative legislation, including the Conservation Act 1987, the Reserves Act 1977, the NZ Walkways Act 1990 and Te Ture Whenua Act 1993 as well as the RM Act.*

18.4.3 Reasons

The foregoing provisions are referred to in Chapter 6 – Heritage, Chapter 7 – Coastal Environment, Chapter 8 – Water Quality and Chapter 11 – Natural Hazards of this RPS. Each of these chapters makes reference to the management of the margins of lakes, rivers or the CMA, and includes cross-references to this chapter. Particular policies which recognise the role of esplanade reserves and strips include:

Chapter 6 – Heritage:

Policies 6.4.4-2 and -3 and Method 6.4.5-4 relating to the maintenance and enhancement of public access to heritage resources.

Policy 6.4.2-2 which identifies mechanisms for the preservation and protection of heritage resources.

Chapter 7 – Coastal Environment:

Policies 7.4.13-1 and -2 and Methods 7.4.14-1 and -3 relating to the provision of public access to and along the CMA and publicly owned land in the coastal environment.

Chapter 8 – Water Quality:

Policy 8.4.4-1 and Method 8.4.5-3 relating to the establishment of riparian protection yards.

Policy 8.4.21-3 relating to requirements for urban development in areas susceptible to water quality degradation or areas that have already been degraded.

Chapter 11 – Natural Hazards:

Method 11.4.2-12 relating to the use of district plan provisions, including esplanade reserves and strips for coastal hazard management.

The need for provision to be made for esplanade reserves or strips can and should be assessed before development or redevelopment is initiated. It is best done at the time that provision is made in district plans enabling change of significant magnitude to occur, as part of the structure

planning process (See Appendix A). In assessing future needs, the long-term future must be considered, and sufficient provision made to cater flexibly for future generations. This is recognised by Policies 18.4.1-1 and 2 and Method 18.4.2-2. Once the needs have been identified, provision to secure the necessary setting aside of esplanade reserves or strips should be included in the district plan. This may be done when a plan is prepared or reviewed, or the necessary provisions may be introduced at other times by way of variation or change.

Reserves will generally be preferred to strips (Policy 18.4.1-3) because of the greater permanence of esplanade reserves than esplanade strips (the RM Act includes a procedure for variation or removal of the latter, which may be initiated by landowners).

The opportunities to secure provision of esplanade reserves or strips usually arise when land is subdivided, and the means of implementation therefore lies primarily with TAs. Such provision may also be effected as a condition of the granting of a resource consent, in situations where the provision of an esplanade reserve or strip is necessary to avoid, remedy or mitigate effects of the development. Policy 18.4.1-5 provides guidance on the circumstances when esplanade reserves and strips should be established, while Policy 18.4.1-4 provides criteria for assessing the circumstances when esplanade reserves or strips may be waived or their width changed from 20 metres.

Policy 18.4.1-6 envisages that, where the values or resources which are the subject of esplanade reserves or strips are of Regional significance, the ARC may contribute to the cost of establishing esplanade reserves or strips. In each case the ARC will have to be satisfied that the criteria of Policy 18.4.1-6 are met, and also those established by section 664A of the Local Government Act. Section 664A enables such contributions to be made, provided such provision is directly related to the functions of the regional council, and in the opinion of the regional council is generally for the benefit of the inhabitants of the region.

Although district plans are the primary mechanism for determining the strategy for the establishment of esplanade reserves and strips within each TA, this strategy must not be inconsistent with the provisions of this RPS. Methods 18.4.2-3 and 18.4.2-4 recognise that certain

resources or values are of Regional significance and the ARC should be consulted in the provision of reserves and strips where this will affect such Regional resources or values. ARC involvement in this process can be by:

- (i) Consultation and formal submissions in the preparation of district plans and in plan variations and changes.
- (ii) Submissions to notified applications relating to esplanade reserves and strips.
- (iii) Consultation under section 94(2) as an affected party in terms of the adjacent CMA, lake or river.
- (iv) Informal consultation and provision of technical advice on any effects on the values of the esplanade reserve or strip or adjacent water body.

Section 93 of the RM Act outlines the process for notification of applications for resource consents, while section 94 provides a framework for determining when applications need not be notified. In determining whether any application to waive or reduce the width of an esplanade reserve or strip should be publicly notified, TAs should consider the extent to which the general public may be adversely affected by the proposed waiver or reduction.

While certain parts of the Auckland Region are well served by esplanade reserves, other parts require additional reserves or strips. Objective 18.3-4 and Policy 18.4.1-7 encourage the creation of continuous linkages around the margins of lakes, rivers and the sea, while

Method 18.4.2-5 acknowledges that these linkages can be established for a range of purposes and under a range of legislation.

18.5 Environmental Results Anticipated

- (a) The conservation values and recreational use of, and public access to the margins of lakes, rivers and the CMA are protected.
- (b) A continuous linkage of esplanade reserves, strips and land protected under other mechanisms is established around the margins of lakes and rivers and the CMA.
- (c) Natural and cultural heritage values and landscape values are maintained by appropriate esplanade reserves, esplanade strips and access strips.

18.6 Monitoring

1. In addition to the monitoring carried out in relation to heritage, coastal environment, water quality and natural hazards, the ARC will monitor at appropriate intervals:
 - (i) the creation of esplanade reserves, esplanade strips and access strips, including the granting of any waivers or reductions in width;
 - (ii) the establishment of continuous linkages around the margins of lakes and rivers and the CMA.