



RIPARIAN RIGHTS

“A riparian proprietor is entitled to have the water of the stream on the banks of which his property lies, flow down as it has been accustomed to flow down to his property, subject to ordinary use of the flowing water by upper proprietors, and to such further use, if any, on their part in connection with their property as may be reasonable under the circumstances”¹

Riparian land is the land that runs along the margins or banks of rivers, sea, lakes and streams. While this term is commonly used for land abutting water, there is no defined separate title or strip of land that comprises riparian title. The owner of land, no matter how large the area, whose title includes riparian land is known as a riparian owner.

Land including or adjoining to water whether it is the sea, lake or river will have some specific Riparian rights. Typically these include: -

- The right of access to the water;
- Right of drainage;
- Rights relating to water quality;
- Rights relating to resources such as fish, gravel and sand;
- Rights relating to water flow;
- Rights relating to the use of the water – e.g. domestic household use, stock water, irrigation;
- Accretion and erosion rights.

AD MEDIUM FILUM RIGHTS

Ad medium filum aquae (to the middle line of the water) is a legal term which may be used where a river or lake abuts a property. If this connection is not interrupted by a legal road or other form of public land, the adjoining landowner may own the riverbed to the middle line of the river or lake bed and, hence, have rights over it. The extent and definition of navigable waterways can affect any claim over the river or lake bed.

QUEENS CHAIN

Esplanade reserves are usually created when property abutting water is subdivided. Under the Resource Management Act 1991, where an allotment of less than 4ha is created, the Local Authority will typically require that the land directly adjoining the water be vested in the Crown as public reserve as a condition of consent. This reserve is to be a minimum of 20 metres wide, a roughly metric conversion of an imperial measurement called a chain. This reserve is commonly known as the “Queen’s Chain”, although the Queen’s (or rather the Crown’s) instructions have never required that a chain strip be set aside along all waterways; merely for landing places and other places to be set aside to provide a public benefit. Therefore, a strip or reserve of land adjoining a river, lake or sea only exists if it has been specifically surveyed and set aside for access.

¹ John Young & Co. v Bankier Distiller Co. 1893