

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 29 October 1953

Words struck out by Local Bills Committee are shown in italics within bold brackets; words inserted are shown in black or in roman with rule down side.

Hon. Mr Corbett

LAND SUBDIVISION IN COUNTIES AMENDMENT

ANALYSIS

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	18. Section 126 of the Public Works Act 1928 excluded.

A BILL INTITULED

AN ACT to amend the Land Subdivision in Counties Title Act 1946.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

No. 70 - 2

Short Title, and commencement. 1946 No. 23	1. (1) This Act may be cited as the Land Subdivision in Counties Amendment Act 1953, and shall be read together with and deemed part of the Land Subdivision in Counties Act 1946 (hereinafter referred to as the principal Act).	5
Interpretation.	(2) This Act shall come into force on the <i>[first day of November, nineteen hundred and fifty-three]</i> first day of February, nineteen hundred and fifty-four.	
	2. Section two of the principal Act is hereby amended by adding to subsection one the following definition:	10
	“ ‘Town and Country Planning Appeal Board’ means the Town and Country Planning Appeal Board constituted under the <i>Town and Country Planning Act 1953.</i> ”	
Principal Act to apply to subdivisions of land in dependent town districts.	3. (1) Section three of the principal Act is hereby amended by inserting in subsection one, after the words “town district”, the words “not forming part of a county”.	15
	(2) Section three of the principal Act is hereby further amended by inserting, after subsection one, the following new subsection:	20
1933, No. 30	“(1A) Nothing in Part XXVIII of the Municipal Corporations Act 1933 shall apply with respect to any subdivision of land in a town district that forms part of a county.”	25
Minister of Lands to have sole authority to dispense with preparation of scheme plans.	4. (1) Section three of the principal Act is hereby further amended as follows:	
	(a) By omitting from subsection one the words “with the approval of the local authority”:	
	(b) By repealing paragraph (b) of subsection eight.	30
	(2) Section three of the principal Act is hereby further amended by adding to subsection one the following additional proviso:	
	“Provided also that before dispensing with the preparation of a scheme plan the Minister shall give to the local authority not less than <i>[fourteen]</i> twenty-one days’ notice of his intention to do so, and he shall not dispense with the preparation of the plan if within that period he receives notice from the local authority that it objects to the dispensation being granted.”	35
Appeals to Town and Country Planning Appeal Board.	5. (1) Section three of the principal Act is hereby further amended by omitting from subsection seven all words after the words “in the prescribed manner”, and substituting the words “to the Town and Country Planning Appeal Board, whose decision shall be final”.	45

(2) Section nine of the principal Act is hereby amended by omitting from subsection six the words “ the Minister ”, and substituting the words “ the Town and Country Planning Appeal Board ”.

5 6. Section three of the principal Act is hereby further amended by inserting, after subsection seven, the following new subsection:

Approval to lapse if plan of subdivision not deposited within two years.

10 “(7A) Where a scheme plan has been approved for the purposes of this Act but no plan of subdivision in respect of the land affected by the scheme plan is deposited under the Land Transfer Act 1952 or the Deeds Registration Act 1908, as the case may require, within a period of two years after the date of that approval or, in the case of a scheme plan approved before
15 the commencement of this subsection, within a period of two years after the commencement of this subsection, the approval shall be deemed to have lapsed at the expiration of that period, and thereupon the scheme plan shall cease to have any effect.”

1952, No. 52
See Reprint of Statutes, Vol. VII, p. 1143

20 7. The principal Act is hereby amended by inserting, after section three, the following new section:

Persons entitled to be heard on appeals and disputes.

25 “3A. Where an appeal or dispute under this Act is made or referred to the Town and Country Planning Appeal Board, the following persons shall be entitled to be heard and to produce evidence and cross-examine witnesses, namely:

“(a) The owner of the land to which the appeal or dispute relates:

30 “(b) The local authority within whose jurisdiction the land is situated:

“(c) Any Board, Commissioners, trustees, or other person or body however designated, having authority under any enactment to undertake in the locality in which the land is situated
35 the construction or management of any public work:

“(d) The controlling authority, where the appeal or dispute relates to any question arising under section nine of this Act:

40 “(e) The Minister of Lands:

“(f) The Minister of Works.”

Scheme plans and conditions to accord with district schemes under *Town and Country Planning Act 1953*.

8. (1) The principal Act is hereby amended by repealing section four, and substituting the following section:

“ 4. Notwithstanding anything in this Act or in any regulations made under this Act, where— 5

“(a) A district scheme under the *Town and Country Planning Act 1953* affecting any locality is for the time being operative; or

“(b) The local authority has prohibited the subdivision under section *thirty-seven* of that Act and that prohibition is for the time being effective under the provisions of that section,— 10

no scheme plan of land in that locality or to give effect to the subdivision shall be approved or varied under this Act, nor shall any conditions be imposed or varied, if the scheme plan or the conditions, or the variation thereof, are inconsistent with the district scheme or, as the case may be, have been prohibited by the local authority.” 15 20

(2) Section three of the principal Act is hereby amended by repealing the proviso to subsection four, and substituting the following proviso:

“ Provided that before approving any scheme plan the Minister shall submit a copy thereof to the local authority for the comments of the local authority thereon, and the local authority shall certify to the Minister whether or not— 25

“(a) The scheme plan is inconsistent with a district scheme under the *Town and Country Planning Act 1953* which affects the locality where the land in the scheme plan is situated and which is for the time being operative; and 30

“(b) The local authority has under section *thirty-seven* of that Act prohibited the subdivision and whether or not that prohibition is for the time being effective under the provisions of that section.” 35

Amending provisions as to roads.

9. (1) Section nine of the principal Act is hereby amended by repealing subsection three, and substituting the following subsection: 40

“ (3) Notwithstanding anything in section seven-
teen of this Act, the provisions of subsections five, *five A*,
five B, and *five C* of section one hundred and twenty-five
of the Public Works Act 1928 (as enacted by section
5 twenty-four of the Public Works Amendment Act 1948 1948, No. 39
and section *two* of the *Public Works Amendment Act*
1953) shall, as far as they are applicable and with the
necessary modifications, apply with respect to the
proposed roads shown on a scheme plan as if references
10 in those subsections to the local authority were references
to the controlling authority:

“ Provided that a controlling authority shall not
require an owner to supply and lay pipes for water
supply or sewage unless a water supply or, as the case
15 may be, a sewage disposal system is available for
connection thereto or is likely to be available within a
period of three years.”

New

20 (1A) Section nine of the principal Act is hereby
further amended by inserting, after subsection three,
the following subsections:

25 “ (3A) Without prejudice to the generality of the
provisions of subsection four of section three of this
Act, it is hereby declared that, in any case where any
part of the land on any scheme plan has a frontage to
an existing road, the Minister may, as a condition of his
approval of the plan, require that the owner pay, or
enter into a binding contract to pay, to the controlling
authority such amount as the Minister considers fair
30 and reasonable for or towards the cost of laying on that
portion of the existing road to which any part of that
land has a frontage necessary pipes for water supply or
sewage, not exceeding half the estimated cost thereof:

35 “ Provided that the Minister shall not require the
owner to pay or enter into a contract to pay any amount
in respect of the cost of laying pipes for water supply
or sewage unless a water supply or, as the case may
be, a sewage disposal system is available for connection
thereto or is likely to be available within a period of
40 three years.

“(3B) Where a scheme plan relates to land that has a frontage to an existing road and the Minister as a condition of his approval of the plan has pursuant to the provisions of subsection *threeA* of this section required the owner to pay or enter into a binding contract to pay to the controlling authority any amount for or towards the cost of laying pipes for water supply or sewage, then, when other land that is opposite the land the subject of the scheme plan is subdivided, the Minister may, as a condition of his approval of the scheme plan of the other land, require the owner of that other land to pay or enter into a binding contract to pay to the controlling authority such amount as the Minister considers fair and reasonable for or towards the cost of laying on that portion of the existing road which forms the common frontage of land on each scheme plan necessary pipes for water supply or sewage, not exceeding half the cost thereof.”

(2) Section nine of the principal Act is hereby further amended by adding to paragraph (b) of subsection four the words “ The controlling authority shall accept dedication of every such strip of land.”

Rights of way.

10. (1) The principal Act is hereby amended by inserting, after section nine, the following new section:

“ 9A. (1) Land shown on any scheme plan as being land over which it is proposed to grant or reserve a right of way shall be of such width and length as may be approved by the Minister.

“(2) No land which is the subject of a scheme plan shall become subject to a right of way, except with the approval of the Minister.

“(3) Where the Minister approves a scheme plan conditionally on any specified rights of way **or drainage easements** shown on the plan being duly granted or reserved, the following provisions shall apply:

“(a) No such right of way **or drainage easement** may be surrendered by the owner of the dominant tenement **or in the case of a drainage easement in gross, the grantee of the easement** or be merged by transfer to the

owner of the servient tenement, except with the approval of the Minister. The District Land Registrar shall endorse on the instrument by which the right of way **or drainage easement** is granted or reserved a memorial that the right of way **or drainage easement** is subject to the provisions of this paragraph:

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“(b) There shall be endorsed on the scheme plan and on every plan of subdivision of the land deposited under the Land Transfer Act 1952 or the Deeds Registration Act 1908, as the case may be, a memorandum showing with respect to each such right of way **or drainage easement** which is the dominant tenement and which is the servient tenement **or, in the case of a drainage easement in gross, the name of the proposed grantee and which is the servient tenement:**

1952, No. 52
See Reprint
of Statutes,
Vol. VII,
p. 1143

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“(c) The District Land Registrar or, as the case may require, the Registrar of Deeds shall refuse to register any instrument of transfer or conveyance of any allotment shown on the plan, unless he is satisfied that all rights of way **and drainage easements** so specified which are appurtenant to that allotment or to which that allotment is subject have been duly granted or reserved.

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“(4) Subsection three of this section shall not apply with respect to any scheme plan that was approved before the commencement of this section.”

(2) The following enactments are hereby repealed, Repeals.
namely:

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(a) Subsection five of section nine of the principal Act:

(b) Section sixteen of the Land Laws Amendment Act 1947. 1947, No. 64

40
11. (1) The principal Act is hereby amended by repealing section ten, and substituting the following section: Access ways and service lanes.

“ 10. (1) Subject to the approval of the Minister, any scheme plan may provide for the laying out of access ways and service lanes complying with the provisions of this section and of Part I of the Public Works Amendment Act 1948. In their application to access ways and service lanes created under this section, the provisions of that Part shall be read subject to the provisions of this section. 5

“(2) Notwithstanding anything in section three of the Public Works Amendment Act 1948, an Order in Council shall not be necessary for the constitution of an access way or service lane under the provisions of this section. 10

“(3) Every access way shall be of a width approved by the Minister and every service lane shall be of a width and grade approved by the Minister: 15

“ Provided that, notwithstanding anything in subsection two of section eight of the Public Works Amendment Act 1948, the Minister may approve an access way having a width of more than twelve feet measured at right angles to its course. 20

“(4) [*If any dispute arises as to the requirements of the local authority or the Minister under this section, the matter shall be referred*] **Any person who is dissatisfied with the decision of the Minister under this section may appeal in the prescribed manner** to the Town and Country Planning Appeal Board, whose decision shall be final. 25

“(5) Every proposed access way or service lane and every piece of land shown on the scheme plan as access way or service lane which is not vested in the Crown as access way or service lane shall be transferred to the Crown by instrument in writing which shall be registered by the owner in the office of the District Land Registrar or, as the case may require, of the Registrar of Deeds, and the Registrar shall refuse to register any such instrument as aforesaid unless he is satisfied that the requirements of this section have been complied with. 30 35

“(6) The control and management of access ways and service lanes created under this section shall vest in the local authority, which shall have power to maintain and repair any access way or service lane. 40

(2) Section three of the principal Act is hereby further amended by omitting from subsection three the words " and access ways " wherever they appear, and substituting in each case the words " access ways, and
5 service lanes ".

(3) Section five of the principal Act is hereby amended as follows:

(a) By inserting in paragraph (c) of subsection one, after the words " access way " wherever they
10 appear, the words " or service lane ":

(b) By omitting from subsection three the words " and ' access way ' includes a proposed access way ", and substituting the words " and ' access way ' and ' service lane ' include a
15 proposed access way and proposed service lane, respectively ".

(4) Section fifteen of the principal Act is hereby amended by inserting, after the words " access ways " wherever they appear, the words " service lanes ".

(5) The Public Works Amendment Act 1948 is hereby
20 amended as follows: 1948, No. 39

(a) By omitting from the definition of the term " access way " in subsection one of section
25 two the words " and the Land Subdivision in Counties Act 1946 " : 1946, No. 23

(b) By omitting from subsection three of section two the words " or the Land Subdivision in Counties Act 1946 " :

(c) By inserting in subsection one of section four, after the words " the Crown, and ", the words
30 " except in the case of an access way or service lane created under the Land Subdivision in Counties Act 1946 " .

12. Section eleven of the principal Act is hereby
35 amended by adding to subsection three the words " except to such extent (if any) as the Minister in his discretion allows. The Minister's decision under this subsection shall be final." Amending provisions as to reserves along seashore and banks of rivers, lakes, etc.

13. (1) Section twelve of the principal Act is hereby
40 amended as follows: Amending provisions as to setting aside reserves.

(a) By omitting from subsection one the words " building purposes ", and substituting the words " residential or commercial or industrial purposes " :

1951, No. 81

(b) By omitting from subsection two the words “ for building purposes ”, and substituting the words “ in the opinion of the Minister for residential purposes ”:

(c) By omitting from subsection six (as amended by section seventeen of the Statutes Amendment Act 1951) the words “ building allotments ” wherever they occur, and substituting in each case the words “ allotments for residential purposes ”.

(2) Section twelve of the principal Act is hereby further amended by repealing the first proviso to subsection two, and substituting the following proviso:

“ Provided that no area shall be required to be set aside as aforesaid in respect of any allotment of an area of two acres or more which in the opinion of the Minister will not be used for commercial or industrial purposes.”

(3) Section twelve of the principal Act is hereby further amended by inserting, after subsection three, the following new subsection:

“(3A) Where the Minister is of the opinion that any allotment will be used for commercial or industrial purposes, he shall make it a condition of his approval that an amount equal to ten per cent of the value as determined by him of each such allotment shown on the scheme plan shall be paid to the Receiver of Land Revenue for the land district in which the land is situated within such time as the Minister may specify, or that, at the option of the owner, there shall be set aside as reserved for public purposes or, at the discretion of the Minister, as Crown land available for disposal by way of sale for cash or on deferred payment licence under the Land Act 1948, an area of land of a value equal to the abovementioned ten per cent.”

1948, No. 64

Crown land set aside may be sold on deferred payment.

14. (1) Section twelve of the principal Act is hereby further amended by adding to subsection four (as amended by subsection four of section seventy-nine of the Land Act 1948) the words “ or on deferred payment licence under the Land Act 1948 ”.

(2) Section thirteen of the principal Act is hereby amended by adding to subsection two the words “ or on deferred payment licence under the Land Act 1948 ”.

15. Section twelve of the principal Act is hereby further amended by adding to subsection four (as amended by section *fourteen* of this Act) the following proviso:
- 5 “ Provided that, where land to be set aside under this subsection as Crown land has a frontage to any new road being constructed by the owner, the area to be so set aside shall amount to not less than three perches for each allotment of an area of less than two
- 10 acres which in the opinion of the Minister will be used for residential purposes.”
16. Section twelve of the principal Act is hereby further amended by adding to subsection seven the words “ or as Crown land ”.
- 15 17. Section fourteen of the principal Act is hereby amended by omitting from subsection three the word “ locality ”, and substituting the words “ county or counties ”.
- 20 18. Section seventeen of the principal Act is hereby amended by inserting, after the words “ one hundred and twenty-five ”, the words “ one hundred and twenty-six ”.
- Amending provisions as to area to be set aside as Crown land.
- Amending provisions as to Minister's power to refuse approval of reserves to be set aside.
- Proceeds of sale of land to be applied for benefit of residents in county.
- Section 126 of the Public Works Act 1928 excluded.