

NATIONAL DEVELOPMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

Clause 2 provides that the Act is to prevail over the Acts specified in the Schedule.

Clause 3 defines various terms used in the Bill.

The term "consent" includes authorisation, permission, a licence, a permit, a right, and any other approval of any type whatsoever.

Clause 4, subclause (1) provides that the Governor-General may by Order in Council, on the advice of the Minister of National Development, if he considers that any major Government work or major private work is in the national interest and if he considers that it is essential for the purposes of—

- (a) The orderly production, development, or utilisation of New Zealand's resources; or
 - (b) The development of New Zealand's self-sufficiency in energy; or
 - (c) The major expansion of exports or of import substitution; or
 - (d) The development of significant opportunities for employment—
- apply the provisions of this Act to the work or any part of it.

Subclause (2) provides that every application for the provisions of the Act to be applied to any work shall—

- (a) Specify the reasons why the applicant considers the work is of national importance by reference to its social and economic significance and why he considers it meets or will meet one or more of the criteria set out in *subclause (1)*;
- (b) Specify the land on which it is proposed to construct the work, and the reasons why it is preferred to other practicable sites;
- (c) Generally describe the method of construction of the proposed work;
- (d) Be accompanied by such plans as will generally describe the proposed work and by a plan of its proposed site;
- (e) Contain a specific list of every statutory provision, being an Act or a provision of an Act specified in the Schedule or a statutory provision in force under any such Act, by virtue of which the proposed work may not be lawfully constructed or operated without receiving consent under the statutory provision, and specify the type of consent required;
- (f) Be accompanied by a statement of the economic, social, and environmental effects of the proposed work:

(g) Be accompanied by such other reports, plans, statements, or information as the Minister of National Development thinks fit to require.

Subclause (3) provides that the validity of any Order in Council made under *subclause (1)* shall not be challenged or called in question in any Court.

Clause 5 provides for the matter to be referred to the Planning Tribunal for an inquiry, report, and recommendation.

At the same time, the Minister must give public notice of the fact that he has referred the matter to the Tribunal, and forward a copy of the application, documents, plans, and any other matters that have been so referred, to—

- (a) The united or regional council and to the territorial authority within whose region or district it is proposed that the work be situated;
- (b) The Commissioner for the Environment; and
- (c) Every person and body who will be entitled, under *clause 8 (1) (e)*, to be a party to the inquiry.

Subclause (4) requires the Tribunal to make the matters referred to it available to the public.

Clause 6 requires the applicant to forward to the Commissioner for the Environment and to the Tribunal an environmental impact report on the proposed work.

On receipt of the environmental impact report, the Commissioner for the Environment must—

- (a) Forthwith give public notice of the fact that he has received it:
- (b) Make it readily available for inspection by the public:
- (c) Call for submissions to be made to him in respect of it within 6 weeks after the date on which such public notice is given:
- (d) On application by any person and on the payment of such reasonable fee as may be fixed by the Commissioner, make a copy of it available to that person.

After considering any submissions received, the Commissioner for the Environment is to cause the environmental impact report to be audited and forward a certificate that the audit has been completed to the Tribunal within 3 months after the date on which public notice was given under *subclause (2)*.

At the same time as the Commissioner for the Environment forwards the certificate to the Tribunal, he must—

- (a) Forthwith give public notice of the fact that he has so forwarded it:
- (b) Make the audit readily available for inspection by the public:
- (c) On application by any person and on the payment of such reasonable fee as may be fixed by the Commissioner, make a copy of the audit available to that person.

Clause 7 provides for the Tribunal to conduct an inquiry and to report to the Minister on the matter and make recommendations in respect of it.

Within 21 days after receiving the certificate of completion of the audit, the Registrar of the Tribunal is to give public notice of the date on which the inquiry will commence, being a date not less than 28 days nor more than 42 days after the date of such public notice or such later date as the Tribunal specifies at the request of the applicant.

The applicant must file his evidence in writing with the Tribunal not less than 21 days before the date on which the inquiry will commence and forthwith serve a copy of a summary of it on every person and body who or which has applied to be a party to the inquiry.

Every person or body who or which has a right to be heard at the inquiry and who or which intends to exercise that right, must, not less than 7 days before the date on which the inquiry will commence, file with the Tribunal a copy of the evidence he or it proposes to call and forthwith serve copies of a summary of it on the applicant and on every other person and body who or which has applied to be a party to the inquiry.

Every such inquiry is to be held in public.

The holding of the inquiry, and the making of a report and recommendation, is to have priority over every other matter before the Tribunal.

The Tribunal must conduct the hearing at the nearest place to the proposed location of the work which the Tribunal considers convenient.

For the purposes of conducting the inquiry and making a report and recommendation, the Tribunal may in its discretion appoint as assessors not more than 2 persons who, in the Tribunal's opinion, have the ability to assist the Tribunal by virtue of their skills or qualifications or of their knowledge of the area in which it is proposed to construct the work.

Clause 8, subclause (1) provides that the following persons and bodies shall have the right to be present and be heard at every inquiry conducted by the Tribunal:

- (a) The applicant:
- (b) The Minister of Works and Development, where the subject-matter of the inquiry is a private work:
- (c) Any local authority within whose district or region it is proposed to construct the work or whose district or region will be directly affected by the proposed work:
- (d) The Commissioner for the Environment:
- (e) Any person or body who or which would have, but for the provisions of the Act, any independent statutory authority to grant any consent which is specified in the application made under *clause 4* and which has not been deleted by the Minister under *clause 5 (2)*:
- (f) Any person or body who or which will be directly affected by the proposed work:
- (g) Any organisation representing some relevant aspect of the public interest.

Subclause (2) provides that every person or body, other than the applicant, who or which wishes to be present and be heard at the inquiry must, not later than 21 days after the date of the public notice given by the Commissioner for the Environment under *clause 6 (2)*, give written notice to the Tribunal and to the applicant stating his or its interest in the matter, the reasons why he or it is entitled to be heard, and his or its address for service of notices.

Subclause (3) provides that within 6 weeks after the date of the public notice referred to in *subclause (2)*, the Tribunal is to forward to the applicant and to every person and body seeking the right to be heard, a list of the names, addresses, and interests of the persons and bodies who or which are considered by the Tribunal to have the right to be heard at the inquiry.

Subclause (4) provides that if at any time during the inquiry the Tribunal considers that 2 or more parties appearing under *paragraph (f)* or *paragraph (g)* of *subclause (1)* are presenting or will present similar submissions, the Tribunal may order that those parties are to present their submissions jointly.

Subclause (5) provides that any person or body entitled to be heard at the inquiry may be represented by counsel or any duly authorised representative.

Clause 9 provides that in conducting the inquiry and making the report and recommendation to the Minister, the Tribunal shall take into account only those matters which would have been taken into account if the applicant had applied for, in respect of the work, the grant of the consents specified in the application under the various statutory provisions so specified.

Clause 10 provides that on completion of the inquiry, the Tribunal is to prepare a written report and recommendation on the matters referred to it and submit the report and recommendation to the Minister.

Every such recommendation shall state whether the work should proceed as proposed, or proceed in a modified form, or not proceed at all.

Whatever recommendation is made under *subclause (2)*, every such recommendation shall also specify the conditions and restrictions which the Tribunal considers should be imposed by any Order in Council which may be made under *clause 11*, including any conditions and restrictions which could have been imposed under the statutory provisions specified in the applicant's application had those provisions applied.

Clause 11, subclause (1) provides that after considering the report and recommendation of the Tribunal, the Governor-General may by Order in Council, on the advice of the Minister, declare the Government work or private work to be a work of national importance, authorise it to proceed, and impose such conditions and restrictions as he thinks necessary or desirable in relation to its construction or operation.

Subclause (2) provides that within 1 month after he has received the report and recommendation of the Tribunal, the Minister must—

- (a) Forward a copy of the report and recommendation to every person and body who or which was a party to the inquiry;
- (b) Make the report and recommendation available for publication; and
- (c) Cause public notice to be given of the fact that he has made the report and recommendation available for publication.

Clause 12, subclause (1) provides that every Order in Council made under *clause 11* is to specify the consents to which *subclause (2)* will apply and specify the statutory provisions under which they would normally have been granted.

Subclause (2) provides that on the coming into force of the Order in Council, the applicant shall be deemed to have been granted the consents specified in the Order in Council, subject to such conditions and restrictions as may be so specified.

Subclause (3) provides for the actual issue of the consents.

Subclause (4) provides that conditions and restrictions may not be imposed under the various statutory provisions under which the consents would normally have been granted. (Such conditions and restrictions may be imposed by the Order in Council made under *clause 11*.)

Subclause (5) provides that the consents shall not be renewable or liable to cancellation or forfeiture, and shall not expire but continue in force and operate until provision to the contrary is made by Order in Council made under *clause 14 (3)*.

(If cancellation or forfeiture is at any time justified, this can be implemented by such an Order in Council.)

Subclause (6) provides for any annual payments, licence fees, or rents, etc., to be payable in the normal way.

Subclause (7) provides that, for the purposes of the Town and Country Planning Act 1977, the construction, undertaking, and operation of any work which has been declared to be of national importance and authorised to proceed shall be deemed to be a use permitted as of right under the relevant district scheme, to be in conformity with the relevant regional planning scheme, and to be in compliance with any relevant maritime planning scheme.

Subclause (8) provides that notwithstanding anything in the Town and Country Planning Act 1977, where *subclause (7)* applies in respect of the construction, undertaking, and operation of any work, the Regional Planning Authority, the Council, within the meaning of that Act, and the Maritime Planning Authority, shall forthwith without formality change its regional planning scheme, its district scheme, and its maritime planning scheme, as the case may be, to show in the scheme that the construction, undertaking, and operation of the work is a use permitted as of right in respect of the site of the work.

Clause 13 sets out the procedure to be taken for obtaining any further consents which may be found necessary at a later date, or for obtaining a review of any amendment, variation, or revocation of a condition or restriction or a review of the imposition of a new condition or restriction.

Basically, the same procedure is to be followed.

Clause 14, subclause (1) provides for the amendment and variation of any Order in Council made under *clause 11* or *clause 13*.

Subclause (2) provides for the amendment, variation, or revocation of conditions or restrictions and also for the imposition of new conditions and restrictions. (See also *clause 13*).

Subclause (3) provides that an Order in Council may be made to declare that any licence, permit, etc., has expired.

Clause 15 provides that the validity of any Order in Council made under *clause 11* or *clause 13* or *clause 14* may not be challenged or called in question in any Court.

Clause 16 limits the right of review by the Courts of proceedings before the Planning Tribunal. No proceeding before the Tribunal shall be held bad for want of form, or be void or in any way vitiated by reason of any informality or error of form.

Except on the ground of lack of jurisdiction, no recommendation, report, or proceeding of the Tribunal shall be removable to any Court by certiorari or otherwise or be liable to be challenged, appealed against, reviewed, quashed, or called in question in any Court.

For the purposes of the clause, the Tribunal suffers from lack of jurisdiction only where—

- (a) In the narrow and original sense of the term “jurisdiction” it has no right to enter upon the inquiry in question, or the report or recommendation it makes is outside the class of reports or recommendations that it is authorised to make:
- (b) It acts in a manner which is contrary to the principles of natural justice in the narrow and restricted sense in failing to give any hearing at all to any person or body entitled to appear before it or in acting so as to offend against the common law principle relating to bias:
- (c) The Tribunal acts in bad faith.

Any application or proceedings to which the clause applies must be made or commenced not later than 28 days after the date on which public notice is given under *clause 11 (2) (c)*; and the Court may not entertain any application or proceedings made or commenced after that period has elapsed.

The decision of the Supreme Court on any such matter shall be final and conclusive.

Clause 17 provides that every person who acts in contravention of or fails to observe or comply with any condition or restriction imposed by any Order in Council made under *clause 11* or *clause 13* or *clause 14* commits an offence and shall be liable on summary conviction to a fine not exceeding \$100,000, and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued.

Clause 18 provides that nothing in the Act or in any Order in Council in force under the Act shall prevent any person proposing to construct a work from applying at any time in the normal way, in respect of the construction, undertaking, or operation of any work, for a licence, permit, etc., under any of the Acts specified in the Schedule or under any statutory provision in force under any of those Acts.

Clause 19 provides that except as otherwise provided in the Act, nothing in it shall derogate from or affect the statutory rights, functions, powers, duties, and responsibilities of any person or body in respect of the construction, undertaking, or operation of any work to which this Act applies.

Clause 20, subclauses (1) and (2) repeals the provision in the Town and Country Planning Act 1977 under which an Order in Council may be made to authorise the construction or undertaking of a public work notwithstanding the fact that it is not in conformity with the district scheme or regional planning scheme.

Subclauses (3) to (7) establish a Fourth Division of the Planning Tribunal.

Hon. W. F. Birch

NATIONAL DEVELOPMENT

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A BILL INTITULED

An Act to provide for works of national importance to proceed promptly by the direct referral of proposed works to the Planning Tribunal for an investigation and report and by providing for such works to receive the necessary approvals and consents

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

1. Short Title—This Act may be cited as the National Development Act 1979.

2. Act to prevail over certain other Acts—This Act shall prevail over the Acts specified in the Schedule to this Act and over every regulation, rule, Order in Council, Proclamation, notice, or bylaw in force under any of those Acts, and the provisions of every such Act and of every such regulation, rule, Order in Council, Proclamation, notice, or bylaw shall be read subject to the provisions of this Act. 5

3. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Applicant” means—

(a) In respect of a Government work, the Minister of Works and Development:

(b) In respect of a private work, the person proposing to construct, undertake, or operate the work or cause the work to be constructed, undertaken, or operated: 15

“Commissioner for the Environment” means the person for the time being holding that office under the State Services Act 1962: 20

“Consent” includes authorisation, permission, a licence, a permit, a right, and any other approval of any type whatsoever:

“District”, in relation to a local authority, means the district or region of that local authority: 25

“Government work” means a work constructed or intended to be constructed by or on behalf of Her Majesty the Queen or the Government of New Zealand or any Minister of the Crown; and includes the construction, undertaking, and operation of the work: 30

“Land” includes water; and also includes—

(a) The foreshore, being the area between the high-water mark of the sea at ordinary spring tides and its low-water mark at ordinary spring tides: 35

(b) The seabed between the low-water mark at ordinary spring tides and the seaward limits of the territorial sea of New Zealand as defined in the Territorial Sea and Exclusive Economic Zone Act 1977: 40

(c) The continental shelf as defined in the Continental Shelf Act 1964:

“Local authority” has the same meaning as is ascribed to that term by section 2 of the Town and Country Planning Act 1977:

5 “Minister” means the Minister of National Development:

10 “Private work” means a work constructed or intended to be constructed by or on behalf of any person or body other than Her Majesty the Queen or the Government of New Zealand or any Minister of the Crown; and includes the construction, undertaking, and operation of the work:

“Public notice” means a notice published—

(a) Once in the *Gazette*;

15 (b) Twice in a newspaper circulating in the area in which it is proposed that the work which is the subject-matter of the notice will be situated, with an interval of not less than 5 nor more than 10 days between each notification;

20 (c) Once in a daily newspaper published in each of the Cities of Auckland, Wellington, Christchurch, and Dunedin; and

(d) Once in such other newspapers (if any) as the person required to give the notice thinks desirable:

25 “Statutory provision” means any Act, regulation, rule, Order in Council, Proclamation, notice, or bylaw; and includes any regional planning scheme, district scheme, or maritime planning scheme in force under the Town and Country Planning Act 1977:

30 “Tribunal” means the Planning Tribunal established under section 128 of the Town and Country Planning Act 1977.

(2) The date of any public notice required to be given under this Act shall be the date on which the requirements as to public notice have been complied with.

35 (3) In computing any period of time for the purposes of this Act, no account shall be taken of the period or any part of the period commencing on the 20th day of December in any year and ending with the 20th day of January next following.

40 **4. Application of this Act to works—**(1) The Governor-General may by Order in Council, on the advice of the Minister, if he considers that any major Government work or major private work is in the national interest and if he considers that it is essential for the purposes of—

- (a) The orderly production, development, or utilisation of New Zealand's resources; or
 - (b) The development of New Zealand's self-sufficiency in energy; or
 - (c) The major expansion of exports or of import substitution; or 5
 - (d) The development of significant opportunities for employment—
- apply the provisions of this Act to the work or any part of it. 10
- (2) Every application for the provisions of this Act to be applied to any work shall be made by the applicant by submitting 5 copies of it to the Minister. Every such application shall—
- (a) Specify the reasons why the applicant considers the work is of national importance by reference to its social and economic significance and why he considers it meets or will meet one or more of the criteria set out in subsection (1) of this section: 15
 - (b) Specify the land on which it is proposed to construct the work, and the reasons why it is preferred to other practicable sites: 20
 - (c) Generally describe the method of construction of the proposed work:
 - (d) Be accompanied by such plans as will generally describe the proposed work and by a plan of its proposed site: 25
 - (e) Contain a specific list of every statutory provision, being an Act or a provision of an Act specified in the Schedule to this Act or a statutory provision in force under any such Act, by virtue of which the proposed work may not be lawfully constructed or operated without receiving consent under the statutory provision, and specify the type of consent required: 30 35
 - (f) Be accompanied by a statement of the economic, social, and environmental effects of the proposed work:
 - (g) Be accompanied by such other reports, plans, statements, or information as the Minister thinks fit to require. 40
- (3) The validity of any Order in Council made under this section shall not be challenged or called in question in any Court.

5. Reference of application to Planning Tribunal—

(1) When the provisions of this Act are applied to any Government work or private work under section 4 of this Act, the Minister shall forthwith refer the application
5 received under that section, together with all documents and plans which accompanied it, and such other matters as he thinks fit, to the Tribunal for an inquiry, report, and recommendation.

(2) Before so referring the application, the Minister may
10 direct that any type of consent specified in the application under section 4 (2) (e) of this Act be deleted.

(3) At the same time as the Minister refers the matter to the Tribunal, he shall cause public notice to be given of the fact that he has so referred the matter, and forward a copy
15 of the application, together with all documents and plans which accompanied it, and any other matters that have been so referred, to—

(a) The united or regional council and the territorial authority, within the meaning of the Local Government Act 1974, within whose district it is proposed
20 that the work be situated;

(b) The Commissioner for the Environment; and

(c) Every person and body who will be entitled, under
25 section 8 (1) (e) of this Act, to be a party to the inquiry.

(4) On application by any person and on the payment of such reasonable fee as may be fixed by the Chairman of the Division of the Tribunal, the Registrar of the Tribunal shall
30 supply to that person a copy of the application which has been referred to the Tribunal, and all documents and plans which accompanied it.

6. Environmental impact report and audit—(1) The applicant shall, as soon as practicable after making an application under section 4 of this Act, forward to the
35 Commissioner for the Environment and to the Tribunal an environmental impact report on the proposed work.

(2) On receipt of the environmental impact report, the Commissioner for the Environment shall—

(a) Forthwith give public notice of the fact that he has
40 received it:

(b) Make it readily available for inspection by the public:

(c) Call for submissions to be made to him in respect of it within 6 weeks after the date on which such public notice is given:

- (d) On application by any person and on the payment of such reasonable fee as may be fixed by the Commissioner, make a copy of it available to that person.
- (3) After considering any submissions received, the Commissioner for the Environment shall cause the environmental impact report to be audited and forward a certificate that the audit has been completed to the Tribunal within 3 months after the date on which public notice was given under subsection (2) of this section. 5
- (4) At the same time as the Commissioner for the Environment forwards the audit of the environmental impact report to the Tribunal, he shall— 10
- (a) Forthwith give public notice of the fact that he has so forwarded it:
- (b) Make the audit readily available for inspection by the public: 15
- (c) On application by any person and on the payment of such reasonable fee as may be fixed by the Commissioner, make a copy of the audit available to that person. 20

7. Inquiry by Planning Tribunal—(1) The Tribunal shall, whenever any matter has been referred to it under section 5 of this Act, have jurisdiction to conduct and shall conduct an inquiry and shall report to the Minister on that matter and make recommendations in respect of it. 25

(2) Subject to the provisions of this Act, for the purposes of conducting an inquiry under this section, the Tribunal shall have all the powers, privileges, and immunities conferred on it by Part VIII of the Town and Country Planning Act 1977. 30

(3) Within 21 days after receiving the certificate of completion of the audit, the Registrar of the Tribunal shall advise the applicant of, and give public notice of, the date on which the inquiry will commence, being a date not less than 28 days nor more than 42 days after the date of such public notice or such later date as the Tribunal specifies at the request of the applicant. 35

(4) The applicant shall file his evidence in writing with the Tribunal not less than 21 days before the date on which the inquiry will commence and forthwith serve a copy of a summary of it on every person and body who or which has applied to be a party to the inquiry under section 8 (2) of this Act. 40

(5) Every person or body who or which has a right to be heard at the inquiry and who or which intends to exercise that right, shall, not less than 7 days before the date on which the inquiry will commence, file with the Tribunal a
5 copy of the evidence he or it proposes to call and forthwith serves copies of a summary of it on the applicant and on every other person and body who or which has applied to be a party to the inquiry under section 8 (2) of this Act.

(6) Every such inquiry shall be held in public.

10 (7) The holding of the inquiry, and the making of a report and recommendation, shall have priority over every other matter before the Tribunal.

(8) The Tribunal shall conduct the hearing at the nearest place to the proposed location of the work which the
15 Tribunal considers convenient.

(9) For the purposes of conducting the inquiry and making a report and recommendation, the Tribunal may in its discretion appoint as assessors not more than 2 persons who, in the Tribunal's opinion, have the ability to assist the
20 Tribunal by virtue of their skills or qualifications or of their knowledge of the area in which it is proposed to construct the work.

(10) An assessor appointed under subsection (9) of this section shall not be a member of the Tribunal but may sit
25 with the Tribunal and assist it in the preparation of the report and recommendation.

(11) There shall be paid, out of money appropriated by Parliament for the purpose, to every assessor appointed under subsection (9) of this section remuneration by way of fees,
30 salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the assessor was a member of a statutory Board.

8. Persons entitled to be heard—(1) The following persons
35 and bodies shall have the right to be present and be heard at every inquiry conducted by the Tribunal under this Act:

(a) The applicant:

(b) The Minister of Works and Development, where the subject-matter of the inquiry is a private work:

- (c) Any local authority within whose district it is proposed to construct the work or whose district will be directly affected by the proposed work:
- (d) The Commissioner for the Environment:
- (e) Any person or body who or which would have, but for the provisions of this Act, any independent statutory authority to grant any type of consent which is specified in the application made under section 4 of this Act and which has not been deleted by the Minister under section 5 (2) of this Act: 5 10
- (f) Any person or body who or which will be directly affected by the proposed work:
- (g) Any organisation representing some relevant aspect of the public interest. 10
- (2) Every person or body, other than the applicant, who or which wishes to be present and be heard at the inquiry shall, not later than 21 days after the date of the public notice given by the Commissioner for the Environment under section 6 (2) of this Act, give written notice to the Tribunal and to the applicant stating his or its interest in the matter, the reasons why he or it is entitled to be heard, and his or its address for service of notices. 15 20
- (3) Within 6 weeks after the date of the public notice referred to in subsection (2) of this section, the Tribunal shall forward to the applicant and to every person and body seeking the right to be heard, a list of the names, addresses, and interests of the persons and bodies who or which are considered by the Tribunal to have the right to be heard at the inquiry. 25
- (4) If at any time during the inquiry the Tribunal considers that 2 or more parties appearing under either paragraph (f) or paragraph (g) of subsection (1) of this section, are presenting or will present similar submissions, the Tribunal may order that those parties are to present their submissions jointly. 30 35
- (5) Any person or body entitled to be heard at any such inquiry may be represented by counsel or by any duly authorised representative.

9. Matters to be taken into account—In conducting the inquiry and making the report and recommendation to the Minister, the Tribunal shall take into account only those 40

matters which would have been taken into account if the applicant had applied for, in respect of the work, the grant of the consents specified in the application under the various statutory provisions so specified.

5 **10. Tribunal to report to Minister**—(1) On completion of the inquiry, the Tribunal shall prepare a written report and recommendation on the matters referred to it and shall submit the report and recommendation to the Minister.

10 (2) Every such recommendation shall state whether the work should proceed as proposed, or proceed in a modified form, or not proceed at all.

15 (3) Whatever recommendation is made under subsection (2) of this section, every such recommendation shall also specify the conditions and restrictions which the Tribunal considers should be imposed by any Order in Council which may be made under section 11 of this Act, including any conditions and restrictions which could have been imposed under the statutory provisions specified in the applicant's application had those provisions applied.

20 **11. Work may be declared to be of national importance**—

25 (1) After considering the report and recommendation of the Tribunal, the Governor-General may by Order in Council, on the advice of the Minister, declare the Government work or private work to be a work of national importance, authorise it to proceed, and impose such conditions and restrictions as he thinks necessary or desirable in relation to its construction, undertaking, or operation.

(2) Within 1 month after he has received the report and recommendation of the Tribunal, the Minister shall—

30 (a) Forward a copy of the report and recommendation to every person and body who or which was a party to the inquiry;

(b) Make the report and recommendation available for publication; and

35 (c) Cause public notice to be given of the fact that he has made the report and recommendation available for publication.

12. Effect of authorisation—(1) Every Order in Council made under section 11 of this Act shall specify the consents

to which subsection (2) of this section will apply and specify the statutory provisions under which they would normally have been granted.

(2) On the coming into force of the Order in Council, the applicant shall be deemed to have been granted the consents specified in the Order in Council, subject to such conditions and restrictions as may be so specified. 5

(3) Without in any way limiting the provisions of subsection (2) of this section—

(a) On application by the applicant, every person or body who or which would normally grant any consent specified in such Order in Council shall forthwith without formality grant the consent to the applicant, and endorse on it the fact that this section applies to it: 10 15

(b) Every person or body (including every District Land Registrar) who or which is empowered or required to take some action to register or otherwise deal with, or to fully implement the statutory provisions normally applicable to or in respect of, any consent granted under paragraph (a) of this subsection, is hereby authorised and empowered to take that action, notwithstanding anything to the contrary in those statutory provisions. 20

(4) Notwithstanding anything in any such statutory provision, the fact that the applicant is deemed to have been granted consent under subsection (2) of this section, and is granted consent under subsection (3) of this section, shall not empower any person or body who or which has granted it to impose any conditions or restrictions in respect of it under the statutory provision. 25 30

(5) Notwithstanding anything in any such statutory provision, every consent deemed to have been granted to the applicant under subsection (2) of this section, and granted under subsection (3) of this section, shall not be renewable or be liable in any way to cancellation or forfeiture, and shall not expire but continue in force and operate until provision to the contrary is made by Order in Council made under section 14 (3) of this Act. 35

(6) If, under any such statutory provision, the applicant would be liable to make a continuing annual payment of any type whatsoever if the consent had been granted under that provision, the applicant shall make such payments. 40

(7) For the purposes of the Town and Country Planning Act 1977 and any other Act, the construction, undertaking, and operation of any work which has been declared to be of national importance and authorised to proceed shall be
5 deemed to be a use permitted as of right under the relevant district scheme, to be in conformity with the relevant regional planning scheme, and to be in compliance with any relevant maritime planning scheme.

(8) Notwithstanding anything in the Town and Country
10 Planning Act 1977, where subsection (7) of this section applies in respect of the construction, undertaking, and operation of any work, the Regional Planning Authority, the Council, within the meaning of that Act, and the Maritime Planning Authority, shall forthwith without formality change its
15 regional planning scheme, its district scheme, and its maritime planning scheme, as the case may be, to show in the scheme that the construction, undertaking, and operation of the work is a use permitted as of right in respect of the site of the work.

20 **13. Application for further approvals, etc.**—(1) Where any work has been declared to be of national importance and has been authorised to proceed under section 11 of this Act, and—

25 (a) It is necessary to obtain some consent of a type not specified in the Order in Council made under that section; or

(b) An Order in Council has been made under section 14 (2) of this Act amending, varying, or revoking any condition or restriction or imposing any new condition or restriction—
30

the applicant, or any party to the original inquiry conducted under section 7 of this Act, may apply to the Minister for the matter to be referred to the Tribunal.

35 (2) The applicant may make an application under subsection (1) (a) of this section at any time, whether or not he has applied for consent in the normal way in accordance with section 18 of this Act.

(3) Every application made under subsection (1) (b) of this section shall be made not later than 1 month after the
40 date on which the Order in Council is gazetted.

(4) The provisions of section 4 (2) (e) of this Act shall apply to every application made under subsection (1) (a) of this section.

(5) On receiving such an application, the Minister shall refer it to the Tribunal for an inquiry and report and recommendation, and at the same time give public notice of the fact that he has so referred the matter.

(6) Within 21 days after the date on which the matter has been so referred, the Registrar of the Tribunal shall advise the person or body who or which applied under subsection (1) of this section of, and give public notice of, the date on which the inquiry will commence, being a date not less than 28 days nor more than 42 days after the date of such public notice or such later date as the Tribunal specifies at the request of the applicant within the meaning of section 3 of this Act.

(7) The provisions of sections 7 (2), (4) to (7), (9), and (10), 8, 9, and 10 (1) of this Act shall, so far as they are applicable and with the necessary modifications, apply in respect of every inquiry, report, and recommendation held and made under this section.

(8) Every recommendation made by the Tribunal in respect of an application made under subsection (1) (a) of this section shall specify the conditions and restrictions which should be imposed by any Order in Council which may be made under subsection (9) of this section, including any conditions and restrictions which could have been imposed under the statutory provisions specified in the applicant's application had those provisions applied.

(9) After considering such report and recommendation, the Governor-General may by Order in Council, on the advice of the Minister, specify the consents to which section 12 (2) of this Act will apply, and specify the statutory provisions under which they would normally have been granted.

(10) The provisions of section 12 (2) to (6) of this Act shall apply to and in respect of every Order in Council made under subsection (7) of this section.

(11) Every recommendation made by the Tribunal in respect of an application made under subsection (1) (b) of this section shall state—

- (a) Whether or not the amendment, variation, or revocation of the condition or restriction or the new condition or restriction should stand or be revoked;
- or
- (b) Specify any alteration which should be made in respect of the amendment, variation, or revocation; or

(c) Specify whether or not the new condition or restriction should be amended, varied, or revoked.

(12) After considering such report and recommendation, the Governor-General may by Order in Council, on the advice of the Minister, alter or revoke any such amendment, variation, or revocation, or amend, vary, or revoke the new condition or restriction.

14. Variation, etc., of Order in Council—(1) Any Order in Council made under section 11 or section 13 of this Act may from time to time be amended or varied by Order in Council.

(2) Without limiting the generality of subsection (1) of this section, any Order in Council made under section 11 or section 13 of this Act may be amended or varied by an Order in Council amending, varying, or revoking any condition or restriction imposed by the Order in Council or imposing new conditions or restrictions.

(3) The Governor-General may by Order in Council, on the advice of the Minister, declare that any consent deemed to have been granted under section 12 (2) of this Act shall expire on such date as he thinks fit to specify.

15. Validity of Orders in Council not to be questioned—The validity of any Order in Council made under section 11 or section 13 or section 14 of this Act shall not be challenged or called in question in any Court.

16. Limiting review of proceedings before Tribunal—

(1) No proceeding before the Tribunal shall be held bad for want of form, or be void or in any way vitiated by reason of any informality or error of form.

(2) Except on the ground of lack of jurisdiction, no recommendation, report, or proceeding of the Tribunal shall be removable to any Court by certiorari or otherwise or be liable to be challenged, appealed against, reviewed, quashed, or called in question in any Court.

(3) For the purposes of subsection (2) of this section, the Tribunal suffers from lack of jurisdiction only where—

(a) In the narrow and original sense of the term “jurisdiction” it has no right to enter upon the inquiry in question, or the report or recommendation it makes is outside the class of reports or recommendations that it is authorised to make:

(b) It acts in a manner which is contrary to the principles of natural justice in the narrow and restricted sense in failing to give any hearing at all to any person or body entitled to appear before it or in acting so as to offend against the common law principle relating to bias: 5

(c) The Tribunal acts in bad faith.

(4) Any application or proceedings to which subsection (2) of this section applies shall be made or commenced not later than 28 days after the date on which public notice is given under section 11 (2) (c) of this Act; and the Court shall not entertain any application or proceedings made or commenced after that period has elapsed. 10

(5) Section 10 of the Judicature Amendment Act 1972 (as substituted by section 14 of the Judicature Amendment Act 1977) shall apply to any proceedings to which subsection (2) of this section applies, and that section shall be read as requiring the Court to direct the holding of a conference of parties or interested parties, or their counsel, within 1 month after the commencement of proceedings. At such conference the Judge presiding shall fix a time and place for the hearing of the application for review. 20

(6) The decision of the Supreme Court on any such matter shall be final and conclusive.

17. Offences and penalties—Every person who acts in contravention of or fails to observe or comply with any condition or restriction imposed by any Order in Council made under section 11 or section 13 or section 14 of this Act commits an offence and shall be liable on summary conviction to a fine not exceeding \$100,000, and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence has continued. 30

18. Applicant may apply under other statutory provisions—Nothing in this Act or in any Order in Council in force under this Act shall prevent any applicant from applying at any time in the normal way, in respect of the construction, undertaking, or operation of any work, for consent under any of the Acts specified in the Schedule to this Act or under any statutory provision in force under any of those Acts. 40

19. Other statutory rights, duties, and responsibilities not affected—Except as otherwise provided in this Act or in any Order in Council in force under this Act, nothing in this Act shall derogate from or affect the statutory rights, functions, powers, duties, and responsibilities of any person or body in respect of the construction, undertaking, or operation of any work to which this Act applies.

20. Amendments to Town and Country Planning Act 1977—(1) Section 116 (1) of the Town and Country Planning Act 1977 is hereby amended by omitting the words “Subject to subsection (2) of this section, where”, and substituting the word “Where”.

(2) Section 116 (2) of the Town and Country Planning Act 1977 is hereby repealed.

(3) Section 128 (2) of the Town and Country Planning Act 1977 is hereby amended by omitting the figure “3”, and substituting the figure “4”.

(4) The said section 128 is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) The 4 Divisions of the Planning Tribunal shall be known as the Number One Division, the Number Two Division, the Number Three Division, and the Number Four Division, respectively.”

(5) Section 134 (1) of the Town and Country Planning Act 1977 is hereby amended by omitting the figure “3”, and substituting the figure “4”.

(6) Section 136 of the Town and Country Planning Act 1977 is hereby amended—

(a) By omitting from subsection (1) the figure “3”, and substituting the figure “4”:

(b) By omitting from subsection (2) the figure “3”, and substituting the figure “4”.

(7) The Town and Country Planning (Planning Tribunal) Order 1978 is hereby revoked.

SCHEDULE

The Clean Air Act 1972.
The Coal Mines Act 1979.
The Counties Act 1956.
The Dangerous Goods Act 1974.
The Electric Power Boards Act 1925.
The Electricity Act 1968.
The Explosives Act 1957.
The Forest and Rural Fires Act 1977.
The Forests Act 1949.
The Geothermal Energy Act 1953.
The Harbours Act 1950.
The Health Act 1956.
The Historic Places Act 1954.
The Land Act 1948.
The Land Settlement Promotion and Land Acquisition Act 1952.
The Local Government Act 1974.
The Marine Reserves Act 1971.
The Mining Act 1971.
The Municipal Corporations Act 1954.
The National Parks Act 1952.
The New Zealand Ports Authority Act 1968.
The Petroleum Act 1937.
The Public Works Act 1928.
The Reserves Act 1977.
The Soil Conservation and Rivers Control Act 1941
The Town and Country Planning Act 1977.
The Tramways Act 1908.
The Water and Soil Conservation Act 1967