

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 18 October 1963

Words struck out by the Local Bills Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Mr Kirk

SUMMIT ROAD (CANTERBURY) PROTECTION

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to provide for the preservation and protection of the scenic amenities associated with the Summit Road and other roads in the Port Hills in Canterbury, and to provide
5 for the improvement of facilities for the public enjoyment of those amenities

WHEREAS, for the purpose of making provision for the preservation of the scenic amenities of the Summit Road and other roads in the Port Hills in Canterbury and the improve-
10 ment of facilities for the enjoyment of these amenities, and for defraying the cost thereof, the local authorities mentioned in the First Schedule hereto, considering it to be for the benefit

and advantage of their respective districts, have decided that the Christchurch Regional Planning Authority should be charged with responsibility therefor: And whereas it is desirable that the local authorities mentioned in the First Schedule hereto should contribute towards payment of the expenses of the Christchurch Regional Planning Authority in the exercise of the powers and functions conferred upon it by this Act: 5

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 10

1. Short Title—This Act may be cited as the Summit Road (Canterbury) Protection Act 1963.

2. Interpretation—(1) In this Act, unless the context otherwise requires,— 15

“Appeal Board” means the Town and Country Planning Appeal Board as constituted under the Town and Country Planning Act 1953:

“Authority” means the Christchurch Regional Planning Authority as constituted under the Town and Country Planning Act 1953: 20

“Contributory local bodies” means the Councils named in the First Schedule hereto:

“Structure” includes any building or other structure for the erection, repair, modification, or extension of which a permit is required from a City Council, Borough Council, or County Council, any hoarding or other structure for the display of an advertisement, and any pole or mast. 25

(2) Where this Act requires anything to be publicly notified or refers to public notification or public notice, the subject-matter shall be published in the *Gazette* and also twice, with an interval of not less than one week, in some newspaper circulating throughout the area affected by that subject-matter, and where time is to be counted from anything being publicly notified or from any public notification or public notice, it shall be counted from the last publication in a newspaper. 30 35

Cf. 1953, No. 91, s. 2 (2)

Struck Out

3. Act binds Crown—The provisions of this Act shall bind the Crown.

4. Advisory committee—The Authority shall, for the better administration of the provisions of this Act, appoint an advisory committee, which shall be deemed to be an advisory committee appointed under the provisions of subsection (2) of section 11 of the Town and Country Planning Act 1953, and shall include one or more members to represent contributory local bodies and one or more members to represent the owners of land in the area to which this Act applies.

Struck Out

5. Area to which Act applies—This Act shall apply to all that piece of land being parts of the City of Christchurch, the Borough of Lyttelton, and the Counties of Halswell, Heathcote, Mount Herbert, and Wairewa, and being more particularly delineated on plan number S.O. 10134/10135 and thereon coloured red and lodged in the office of the Chief Surveyor at Christchurch and the powers conferred upon the Authority by this Act may be exercised within all, or any part thereof.

New

5. Area to which Act applies—(1) This Act applies to all those pieces of land in the City of Christchurch, the Borough of Lyttelton, and the Counties of Halswell, Heathcote, Mount Herbert, and Wairewa delineated on the plans numbered S.O. 10134 and 10135, deposited in the office of the Chief Surveyor at Christchurch and thereon coloured red.

(2) The powers conferred upon the Authority by this Act may be exercised in respect of all or any part of the said pieces of land.

6. Authority to be a local authority—In respect of the area to which this Act applies the Authority shall, in relation to the contributory local bodies (*mentioned in section 5,*) for the city, borough, and counties mentioned in section 5 of this Act, be deemed for the purposes of the Town and Country Planning Act 1953 to be a local authority.

7. Land may be declared protected land—(1) The Authority may, by public notice, declare any land described in the notice to be protected land, and subject to the provisions of subsection (3) of section 10 of this Act may prohibit absolutely, or approve, or approve subject to any conditions, the subdivision of any such land into lots of a lesser area than ten acres, and the erection, placing, repair, modification, or extension of any structure on any such land, and the planting of any tree thereon. 5

(2) A copy of the notice and of any plan accompanying or forming part thereof shall be served on the owners and occupiers of the land described in the notice and on all other persons having any interest in the land so far as they can be ascertained. 10

(3) Within two months after the public notification of the notice, any owner or occupiers of any land described in the notice, or any other person having any interest in the land, may appeal to the Appeal Board. On the hearing of the appeal, the Appeal Board, whose decision shall be final, shall decide whether the notice should be confirmed, set aside, or varied. If the Appeal Board decides that the notice should be set aside it shall be deemed to be void; and if it decides that the notice should be varied the Authority shall amend the notice accordingly, and publish the notice as so amended in the *Gazette*. 15 20 25

(4) Any notice given under subsection (1) of this section may at any time in like manner be revoked or varied; and where the notice is varied the provisions of subsections (2) and (3) of this section shall apply to the notice as so varied: 25

Provided that no appeal under subsection (3) of this section shall lie in respect of the variation of a notice to accord with a decision of the Appeal Board. 30

Cf. 1935, No. 27, s. 4 (2)

Struck Out

8. Copy of Gazette notice to be deposited—A copy of the notice when gazetted shall be transmitted to the District Land Registrar or the Registrar of Deeds, as the case may require, who shall, without fee, deposit the copy in his office and register against the title to all land affected thereby a memorial that the land is subject to restrictions imposed by a notice issued under section 7 of this Act and identified by the deposit number, if any. 35 40

New

5 **8. Copy of *Gazette* notice to be deposited**—(1) Where no appeal is lodged within the period of two months specified in subsection (3) of section 7 of this Act a copy of the public notice issued by the Authority and gazetted under subsection (1) of that section shall be transmitted by the Authority to the District Land Registrar or Registrar of Deeds, as the case may require.

10 (2) Where the Appeal Board, in determining an appeal under subsection (3) of the said section 7, decides that the notice in respect of which the appeal was lodged should be confirmed, a copy of the public notice issued by the Authority and gazetted under subsection (1) of that section shall be transmitted by the Authority to the District Land Registrar or Registrar of Deeds, as the case may require, which copy shall be duly certified as confirmed by the Board.

15 (3) Where the Appeal Board, in determining an appeal under subsection (3) of the said section 7, decides that the notice in respect of which the appeal was lodged should be varied, a copy of the notice amended in accordance with the Board's decision and published in the *Gazette* shall be transmitted by the Authority to the District Land Registrar or Registrar of Deeds, as the case may require.

20 (4) Upon receiving a copy of any notice under any of the foregoing provisions of this section the Registrar shall without fee deposit the same in his office and register against the title to all land affected thereby a memorial that the land is subject to restrictions imposed by a notice issued under the said section 7 and identified by the deposit number, if any.

30 Cf. 1935, No. 27, s. 4 (5)

9. Notice to remedy breach—(1) If any structure is erected or placed or extended, or if any such work is commenced or continued, or if any tree is planted, in breach of a notice deposited in accordance with section 8 of this Act, or of the terms of the approval of an application given by the Authority or by the Appeal Board, as the case may be, under section 10 of this Act, the Authority may cause a notice to be served on the owner or occupier of the land or the person for whom the work is being done or for whom the tree is planted, requiring that owner or occupier or person, within such reasonable time as may be specified in the notice, to cease such work, and to take such action as may be specified in the

notice to remedy the breach and otherwise to comply with any requirement of the Authority in respect of the breach.

(2) Any person on whom any such notice of breach is served may, within the time specified in the notice for complying therewith, appeal to the Appeal Board against all or any of the requirements specified in the notice, and the Appeal Board may set aside or vary any of those requirements. 5

(3) Any person on whom a notice under subsection (1) of this section is served who fails to comply therewith commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and if the offence is a continuing one to a further fine not exceeding five pounds for every day or part of a day during which the offence continues. 10

(4) In respect of a continuing offence, whether or not a conviction has been entered in respect thereof, the Authority may apply to the Supreme Court or (where the matter is within the jurisdiction of a Magistrate's Court) to a Magistrate's Court for an injunction to restrain the continuance of the offence. 15 20

Cf. 1953, No. 91, s. 36 (2), (3)

9A. Inspectors—(1) The Authority may appoint inspectors for the purposes of this Act and any inspector so appointed may, between the hours of eight in the forenoon and five in the afternoon, on any day except Sunday, enter, inspect, and examine any land, structure, or tree *(at all reasonable hours by day and by night.)* 25

(2) Any person who obstructs or hinders any such inspector in the exercise of his powers under this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten pounds. 30

10. Applications to be sent to the Authority—(1) Whenever a contributory local body grants an application for a permit to erect, place, repair, modify, or extend any structure in, on, or over land to which this Act applies and which has not been declared to be protected land, or for approval of the subdivision of such land into allotments of a lesser area than ten acres, the local body shall inform the Authority of the application and its decision thereon. 35

(2) Whenever an application is made to any contributory local body for a permit to erect, place, repair, modify, or extend any structure in, on, or over land which has been declared to be protected land, or for approval of the subdivision of such land into allotments of a lesser area than 40

ten acres, if the local body does not refuse the application it shall forward it to the Authority and may make any recommendation it sees fit as to approval thereof or otherwise.

5 (3) (*Upon receipt of any such last-mentioned application the Authority*) The Authority, upon receipt of any application forwarded to it under subsection (2) of this section, may approve, or approve subject to conditions, or disapprove the proposals contained therein. Such approval, or approval subject to conditions, or disapproval of the Authority shall not
10 contravene the provisions of any bylaw or any district or regional planning scheme, whether operative or not.

(4) No application which relates to land declared to be protected land shall be granted by the local body before the Authority has made known its decision on the proposal, and
15 no such application shall be granted save in accordance with the Authority's decision.

(5) Any person adversely affected by any decision of the Authority given under this section may appeal against that decision to the Appeal Board.

20 **11. Compensation—**(1) Any person having any estate or interest in any land, building, or other improvements injuriously affected by any decision of the Authority given under subsection (3) of section 10 of this Act shall, subject to the provisions of this Act, be entitled to compensation from the
25 Authority for all loss sustained by him.

(2) Claims for compensation under this section shall be made and determined in accordance with the Public Works Act 1928. In respect of damage done from the exercise of any powers conferred by this Act, compensation shall be
30 assessed and paid as if the restrictions imposed under this Act were the taking under the Public Works Act 1928 of a corresponding interest in the land and, if the period of the restriction is limited, as if the interest were taken for that period, but otherwise as if the interest were taken perman-
35 ently.

(3) Compensation shall be payable under this Act in respect of any decision of the Authority to the extent only that the same could not have been made in pursuance of a regional or district planning scheme then operative, or in
40 pursuance of section 38 of the Town and Country Planning Act 1953; but in so far as it could so have been made shall be deemed to have been made by the Authority (in respect of a regional planning scheme) or the Council in whose district the land lies as the case may be.

(4) Nothing in this Act shall deprive any person of any right to compensation that he may have independently of this Act; but where any person would be entitled to claim compensation in respect of the same matter or thing under this Act and also under any other enactment he shall not be entitled to receive compensation both under this Act and that other enactment nor to receive any greater compensation under this Act than he would be entitled to receive under any other enactment. 5

12. Registration of certificate as to payment or refund of compensation—(1) Where under this Act compensation has been paid by the Authority in respect of any subdivision of land or in respect of any structure or tree, the Authority may lodge with the (*appropriate*) District Land Registrar or the Registrar of Deeds, as the case may require, a certificate to that effect, and the Registrar shall, without fee, deposit the certificate in his office, and register against the title (*of*) to the land affected thereby a memorial referring to the certificate. 10 15

(2) Where the Authority has paid compensation in respect of any restriction, prohibition, or refusal made or given by it under this Act, and such restriction, prohibition, or refusal is removed or cancelled in respect of the whole or any part of the land to which it applies, or if the restriction, prohibition, or refusal lapses, the compensation paid in respect of the period for which the restriction, prohibition, or refusal lapses or is removed or cancelled shall be paid to the Authority by the person who benefits by the removal, cancellation, or lapse. 20 25

(3) Any claim to the repayment of compensation shall be heard and determined by the Land Valuation Court, and for the purpose of enforcing any order of the Court a copy of the order under the seal of the Court may be filed, upon payment of such fee as may be prescribed, in any office of the Supreme Court or of a Magistrate's Court, as the Land Valuation Court directs, whereupon the order shall have the effect of a judgment of the Supreme Court or of the Magistrate's Court as the case may be and may be enforced accordingly. 30 35

(4) On receiving any such payment, the Authority shall notify the District Land Registrar or Registrar of Deeds of the payment and of the land to which it relates, and the Registrar shall forthwith cancel the memorial registered as aforesaid in respect of that land; and any such removal or cancellation shall become operative in respect of the land to which the payment relates upon such cancellation. The Registrar may cancel any such memorial at any time after the expiry of the period to which it relates. 40 45

13. **Withdrawal of restrictions**—(1) The Authority may, at any time within one month after the date of an award of compensation under this Act, give notice to the claimant of its intention to withdraw or modify all or any of the provisions of the restriction or disapproval which give rise to the claim for compensation.

(2) When any such notice has been given, the Authority shall, within three months from the date of the notice, withdraw or modify the refusal or prohibition and upon the payment by the Authority of the claimant's costs awarded by the Land Valuation Court, the award of the Court shall be discharged, without prejudice however to the right of the claimant to make a further claim for compensation under this Act in respect of the restriction or disapproval as modified.

(3) No award of compensation under this Act in respect of the injurious affection of any land, buildings, or other improvements, or in respect of any such restriction or disapproval shall be enforceable, if notice has been given by the Authority under subsection (1) of this section, until after the expiration of three months from the giving of the notice.

14. **Authority may acquire land**—(1) The Authority may, for the better carrying out of the objects of this Act, purchase, lease, or otherwise acquire land, to be held by it or by trustees on its behalf, and may improve such land as it sees fit (*and shall be a local authority for the purposes of the Reserves and Domains Act 1953*):

Provided that this section shall not confer on the Authority any power to take land compulsorily.

(2) The Authority may delegate any or all the powers of management of land so acquired to any one or more of the contributory local bodies.

New

(3) The Authority shall be a local authority for the purposes of the Reserves and Domains Act 1953.

15. **Authority may contract**—The Authority may make such contracts as it considers necessary for the exercise of its powers and for the performance of its duties under this Act.

16. Expenses of Authority—(1) All expenses and liabilities, including compensation awards, incurred by the Authority under this Act shall be apportioned between all contributory local bodies according to the adjusted rateable capital values as ascertained under the provisions of the Valuation Equalisation Act 1957 of so much of the district of each as is specified in the Second Schedule hereto; and, subject to the provisions of subsection (3) of this section, the amount to be paid at any time by any such local body in accordance with the apportionment shall be recoverable as a debt due to the Authority. 5 10

(2) Except with its prior consent, no contributory local body shall be required to contribute to the expenditure of the Authority in the operation of this Act in any one year a sum exceeding the amount of one-hundredth of a penny for every pound of capital value of all rateable property within all parts of its district to which this Act applies. 15

(3) The sums which a contributory local body is required to pay to the Authority under this section may be paid out of revenue or from the proceeds of a loan raised for the purpose in accordance with the provisions of the Local Authorities Loans Act 1956: 20

New

Provided that no loan shall be raised by a contributing local body under the authority of this subsection other than a loan for the purpose of assisting to finance extraordinary capital expenditure by the Authority and limited in amount to the sum by which the amount of the proposed contribution exceeds the amount of one-hundredth of a penny for every pound of capital value of all rateable property within all parts of its district to which this Act applies. 25 30

17. Estimates and reports—As soon as practicable after the coming into operation of this Act, and thereafter as soon as practicable after the first day of April in each year, the Authority shall, in respect of the administration of the provisions of the Act, cause to be prepared estimates of expenditure for the period of twelve months from the first day of April in each year to the thirty-first day of March in each succeeding year, and a report on the Authority's activities for the preceding year, and copies of the estimates and the report shall be forwarded to each of the contributory local bodies. 35 40

18. **Service of notices**—(1) A notice required by this Act to be served on any person or body may be sent by registered post in a letter addressed to that person or body at the last known place of abode or business of that person or body, and where it is so sent it shall be deemed to have been given at the time at which the letter would have been delivered in the ordinary course of post.

(2) If any person on whom a notice is required by this Act to be served is absent from New Zealand, or if his address is unknown, the notice may be sent to his agent; and, if he has no known agent, the notice shall be published in a newspaper circulating in the district.

(3) Where under this Act any notice or document is required to be served upon the owner or the occupier of any land that is registered under the Land Transfer Act 1952, the obligation of the person or body required to serve the notice or document shall be limited to serving the notice or document on each person whose name is recorded in the office of the District Land Registrar as having a registered interest as owner or occupier in the land, and on each person having an unregistered interest as such owner or occupier of which the person or body required to serve the notice or document has actual notice at the time when the notice or document is served.

19. **Appeals**—Appeals to the Appeal Board under this Act shall be made in the same manner as nearly as circumstances permit as appeals under the Town and Country Planning Act 1953.

SCHEDULES

FIRST SCHEDULE

CONTRIBUTORY LOCAL BODIES

Christchurch City Council.
Kaiapoi Borough Council.
Lyttelton Borough Council.
Rangiora Borough Council.
Riccarton Borough Council.
Eyre County Council.
Halswell County Council.
Heathcote County Council.
Mount Herbert County Council.
Paparua County Council.
Rangiora County Council.
Waimairi County Council.
Wairewa County Council.

SECOND SCHEDULE

DISTRICTS OF CONTRIBUTORY LOCAL BODIES SUBJECT TO LEVY

The whole of the City of Christchurch.
The whole of the Borough of Kaiapoi.
The whole of the Borough of Lyttelton.
The whole of the Borough of Rangiora.
The whole of the Borough of Riccarton.
The Eyreton Riding of County of Eyre.
The whole of the County of Halswell.
The whole of the County of Heathcote.
The whole of the County of Mount Herbert.
The whole of the County of Paparua.
The Rangiora Riding of the County of Rangiora.
The whole of the County of Waimairi.
The Kaituna Riding of the County of Wairewa.