

TOWN AND COUNTRY PLANNING AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Town and Country Planning Act 1953.

Clause 1 relates to the Short Title to the Bill.

Clause 2 provides that, where anything is to be publicly notified, there shall be an interval of not less than one week between the newspaper publications. The existing legislation provides for one week which is too exact.

Clause 3 makes it clear that section 2A of the principal Act binds the Crown in respect of housing development schemes only after the Minister has issued his full requirements under section 21 (6) of the Act.

Clause 4 amends section 4 of the principal Act so as to give the Minister of Works a right of appeal to the Appeal Board if a regional scheme conflicts with the public interest.

Clause 5 amends section 6 (7) of the principal Act so as to make it clear that an operative as well as an approved regional planning scheme may be cancelled or altered at any time.

Clause 6 amends section 21 (5) (b) of the principal Act so as to provide that copies of the recommended district scheme need be supplied only to the Councils of such adjoining districts as have community of interest with the district to which the scheme relates in respect of matters affected by the scheme. The clause also amends section 21 (9) of the principal Act by empowering the Council that prepares any district scheme to appeal to the Appeal Board against the proposed location of a public utility which by the Act is a predominant use if it considers that the location would detract from the amenities of the neighbourhood.

Clause 7 makes it clear that existing public works included in a district scheme as publicly notified, and proposed public works included in a scheme on the advice of the Minister or a local authority, are deemed to have been included pursuant to a requirement under section 21 (6) of the principal Act.

Clause 8 makes it clear that appeals against requirements are made against the maker of the requirement.

Clause 9 rewrites subsections (3) and (5) of section 30 of the principal Act, and adds a new subclause (5) in replacement of the subsection (4) repealed by the 1957 Act.

Subsection (3) is rewritten to remove the limitation of the right of appeal to the disallowance of objections and to omit the reference "to the last public notification under subsection (2)" as the requirement of public notification was removed from subsection (2) by the 1957 amendment Act.

Subclause (5) is new and ensures that persons who object to a scheme that has become due for review may have the matter brought before the Appeal Board if the Council fails to hear the objection or having heard and allowed the objection fails to incorporate it in the scheme within six months.

Clause 10 provides that land which is designated for a public work shall not be zoned for any purpose. When the land is certified to be no longer required for a public work it is to be given the same zoning as adjoining land. If the adjoining land is zoned for different purposes, the land freed of the public work is to be zoned for the purpose for which it was being used when so freed.

Clause 11 amends subsections (1) and (2) of section 35 of the principal Act so as to make it clear that the Minister may apply for a departure from a district scheme. A new subsection (8) is added to the section so as to provide that where an application is delegated to a Council for hearing, the Act and regulations shall apply to the Council as though it were the Appeal Board.

Clause 12 amends section 37 (5) of the principal Act so as to enable applications to have the provisions of a district scheme enforced to be made to a Magistrate's Court, where appropriate, instead of to the Supreme Court.

Clause 13: Subclause (1) amends section 38 of the principal Act in the following manner:

Paragraph (a) amends subsection (4) which provides that no refusal of a Council's consent to the carrying out of any detrimental work, and no prohibition of the carrying out of any such work, shall have effect for more than two years. The time limit in respect of refusals or prohibitions required by the Minister or a local authority other than the Council responsible for the scheme for the district is not in future to be subject to the two year limit:

Paragraph (b) amends subsection (7) by extending the power given to a Council by section 37 of the Act to remove buildings, etc., erected in contravention of a district scheme so as to make it clear that it covers work which has been refused or prohibited but which has been carried out or commenced without a permit before the refusal or prohibition:

Paragraph (c) amends subsection (13) so as to cover existing public works (in addition to proposed public works) and to require notice to be given to the Minister of applications to do anything that would or might adversely affect existing or proposed public works:

Paragraph (d) amends subsection (16) which gives the Minister and a local authority power to apply subsections (4) to (10) of the section where they are acting under subsections (14) and (15). The power to apply subsections (4) to (6) is being removed. Subsections (4) and (5) are meant to impose a limit of two years only on the Council's refusals or prohibitions; and subsection (6) applies to the Minister's requirements without special reference.

Subclause (2) rewrites subsection (14) of the said section 38 so as to enable the Minister to make requirements to prohibit any proposed work or any proposed change of use of land or buildings if contrary to the public interest (in addition to adversely affecting a public work).

Clause 14 rewrites clause 4 of the Second Schedule to the Act so as to provide that open spaces designated in a district scheme may include land and buildings used for purposes of value to the community but not intended to be the subject of public ownership. The clause also makes it clear that district schemes may prohibit, as well as regulate and control, outdoor advertising displays.

Hon. Mr Goosman

TOWN AND COUNTRY PLANNING AMENDMENT

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A BILL INTITULED

An Act to amend the Town and Country Planning Act 1953

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5 as follows:

1. Short Title—This Act may be cited as the Town and Country Planning Amendment Act 1961, and shall be read together with and deemed part of the Town and Country Planning Act 1953 (hereinafter referred to as the principal 10 Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting in subsection (2), before the words “one week”, the words “not less than”.

3. Liability of the Crown—Section 2A of the principal Act is hereby amended by inserting, after the word “under”, the words “subsection (6) of”.

4. Appeals—Section 4 of the principal Act is hereby amended by adding the following subsection: 5

“(3) The Minister shall have a right of appeal to the Board at any time so far as the regional planning scheme conflicts with the public interest. On any such appeal the Regional Planning Authority shall be given full opportunity of being heard, and the Board shall direct what amendments (if any) shall be made to the scheme.” 10

5. Alteration of regional planning scheme—Section 6 of the principal Act is hereby amended by omitting from subsection (7) the words “Any approved regional planning scheme”, and substituting the words “Any regional planning scheme that has been approved or become operative either before or after the commencement of the Town and Country Planning Amendment Act 1961”. 15

6. Ministerial and local authority requirements—(1) Section 21 of the principal Act is hereby amended by adding to paragraph (b) of subsection (5) the words “which has any community of interest with the district in any matter that could be affected by the scheme”. 20

(2) Section 21 of the principal Act is hereby further amended by adding to subsection (9) the following proviso: 25
“Provided that the Council may appeal to the Board against the proposed location of any such public utility if it considers that the location would detract from the amenities of the neighbourhood.”

7. Suggested requirements—The principal Act is hereby amended by inserting, after section 21, the following section: 30

“21A. Every existing public work included in the district scheme as publicly notified under section 22 of this Act, and every proposed public work that has been so included following advice to that effect given before the aforesaid public notification by the Minister or the local authority having financial responsibility for the work, shall be deemed to have been included pursuant to a requirement under subsection (6) of section 21 of this Act of the Minister or local authority, as the case may be.” 35 40

8. Appeals—Subsection (1) of section 26 of the principal Act is hereby amended by adding the following words:

“Where any such objection has been disallowed because of a requirement of the Minister or of a local authority, any such appeal shall be against the Minister who, or the local authority which, made the requirement.”

9. Review of district schemes—Section 30 of the principal Act is hereby amended by repealing subsections (3) and (5), and substituting the following subsections:

“(3) At any time while any district scheme remains due for review, the Minister and every person, Authority, local authority, and joint committee shall have the same rights to object to the scheme, and to be heard in support of or opposition to objections, and to appeal, as he or it would have if the scheme had not been approved:

“Provided that no objections to the scheme may be made after the expiration of three months from the date of the giving of the public notification of the review of the scheme in accordance with section 22 of this Act, unless the Council which approved the scheme fails, within one year after that date, to confirm it except so far as the Council cancels or changes it in accordance with this Act.

“(4) Every district scheme which is for the time being due for review shall continue to be operative except so far as it is cancelled or changed by the Council in accordance with this Act or by the Board on an appeal under this section. Where the scheme is changed by the Board on any such appeal, the change shall become part of the scheme and shall be operative accordingly.

“(5) If the Council fails to give a decision on any objection lodged in accordance with this section for six months after that objection is lodged, the objection shall be deemed to be disallowed and the objector and any person who supports or opposes any such objection shall have a right of appeal to the Board in accordance with sections 23 and 26 of this Act. If the Council fails for six months after allowing any such objection to incorporate in the scheme the allowed objection, the objector shall have the right to appeal to the Board to have the scheme changed accordingly.”

10. Reserves for public works and zoning—The principal Act is hereby amended by inserting, after section 33, the following section:

“33A. Where any land is shown on a district scheme as designated or reserved for a public work or a proposed public work, it shall not be zoned for any purpose. If the Minister, local authority, or council having financial responsibility for that work certifies that the land is no longer required for a public work or proposed public work, the land shall, pending the next review or earlier change of the scheme, be deemed to be zoned for the same purpose as the lands which immediately adjoin it: 5 10

“Provided that, if the adjoining lands are not all in the one zone, the land no longer required for a public work shall be deemed to be zoned for the purpose for which it was last been used when the certificate was issued as aforesaid.” 15

11. Departure from scheme—(1) Section 35 of the principal Act is hereby amended—

(a) By inserting in subsection (1), before the words “any Council”, the words “the Minister or”: 20

(b) By inserting in subsection (2), before the words “the Council”, the words “the Minister or by”.

(2) Section 35 of the principal Act is hereby further amended by adding the following subsection:

“(8) The provisions of this Act and of the regulations made thereunder shall apply to every application that is delegated to a Council for hearing and determination as if the Council were the Board, the Clerk of the Council were the Secretary to the Board, and the Council office were the office of the Board.” 25

12. Magistrate’s order for enforcement—Section 37 of the principal Act is hereby amended by inserting in subsection (5), after the words “Supreme Court”, the words “or (where the matter is within the jurisdiction of a Magistrate’s Court) to a Magistrate’s Court”. 30

13. Ministerial and local authority requirements— (1) Section 38 of the principal Act is hereby amended— 35

(a) By inserting in subsection (4), before the words “shall have effect”, the words “otherwise than pursuant to a requirement under subsection (14) or subsection (15) of this section”: 40

(b) By inserting in subsection (7), before the word “and”, the words “and to any such work that has been carried out or been commenced before that refusal or prohibition without a permit from the Council”:

5 (c) By omitting from subsection (13) the words “proposed public work”, and substituting the words “existing or proposed public work, or that would or might adversely affect any such existing or proposed public work, being in either case a public work”:

10 (d) By omitting from subsection (16) the word “four” and substituting the word “seven”.

(2) Section 38 of the principal Act is hereby further amended by repealing subsection (14), and substituting the following subsection:

15 “(14) Where any subdivision of land or any other proposed work (whether public or private) or any change of use of any land or building would in the opinion of the Minister be contrary to the public interest or would or might adversely affect any public work maintained or proposed to be constructed or established by the Minister, the Minister may at
20 any time require the Council to prohibit absolutely or conditionally the carrying out of the subdivision or other proposed work or the change of use or may prescribe and notify the Council of conditions subject to which it may be carried out.”

25 **14. Matters to be dealt with in district schemes**—(1) The Second Schedule to the principal Act is hereby amended by repealing clause 4, and substituting the following clause:

30 “4. The designation of land or buildings used for purposes of value to the community but not intended to be owned by the Crown, the Council, or any local authority.”

(2) The Second Schedule to the principal Act is hereby further amended by inserting in clause 9, after the word “including”, the word “prohibition”.