

# 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* amends section 2 of the principal Act by extending the definition of the term "Board" to include the new Board to be established under the Bill as well as the two existing Boards.

*Clause 3* amends section 28 (1) (b) of the principal Act by requiring consent to the approval by a Council of part of a district scheme to be given by the Appeal Board instead of by the Minister of Works as the Board is in a better position to consider the possible effects of outstanding appeals in respect of other parts of the scheme. It also requires correct copies of the approved parts of the district scheme to be distributed.

*Clause 4* amends section 30A (1) of the principal Act to make it clear that the authority given by section 28 (1) (b) of the principal Act for a Council to approve part of a proposed district scheme extends to the review of a district scheme.

*Clause 5* amends section 39 of the principal Act relating to the constitution of the Town and Country Planning Appeal Board.

*Subclause (1)* substitutes a new subsection (1) providing for the establishment of two permanent Appeal Boards instead of the present one permanent Board. *Subclause (2)* makes consequential amendments.

*Clause 6* amends section 39A of the principal Act which relates to the Special Town and Country Planning Appeal Board.

*Subclause (1)* makes three minor consequential amendments to section 39A as follows:

*Paragraph (a)* substitutes a reference to the two permanent Boards for the existing reference to the one Board.

*Paragraph (b)* amends the existing proviso to section 39A (1), which states that no special Appeal Board may be established while another Special Appeal Board is in existence, so as to allow the members of the existing Special Appeal Board to function for the balance of their term of appointment notwithstanding the establishment of a further Special Appeal Board.

*Paragraph (c)* also substitutes a reference to the two permanent Boards for the existing reference to the one Board.

*Subclause (2)* substitutes a new subsection (5) to section 39A enabling any member (other than the Chairman) of one Board to sit as a member of any of the other Boards.

*Clause 7* provides for the two Boards at present established to continue to operate. *Subsection (1)* provides for the present Appeal Board to be known as the Number One Board and for the present Special Appeal Board to be known as the Number Two Board. *Subsection (2)* provides that the members of these two existing Boards are to continue in office until the expiry of their present terms.

*Clause 8* empowers the Board to award costs in favour of the Crown against a party who fails to prosecute an appeal at the time fixed for the hearing or who abandons an appeal without notice or in circumstances where the Board considers it just so to do.

*Clause 9* amends section 42 of the principal Act by providing for the reference at the discretion of the Appeal Board of the matter in dispute to a conciliator for a preliminary hearing and report to the Board.

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*Hon. Mr Allen*

## TOWN AND COUNTRY PLANNING AMENDMENT

### ANALYSIS

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1. Short Title	6. Constitution of Board and Special Appeal Board
2. Interpretation	7. Existing Boards to continue to operate
3. Approval of district scheme	8. Procedure of Board
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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 1969, 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).

\*Reprinted with amendments 1966, Vol. 4, p. 3223  
Amendment 1968, No. 29

**2. Interpretation**—Subsection (1) of section 2 of the principal Act is hereby amended by omitting from the definition of the term “Board” (as inserted by section 2 (1) of the Town and Country Planning Amendment Act 1963) the words “means the Town and Country Planning Appeal Board”, and substituting the words “means any one of the two Town and Country Planning Appeal Boards”. 5

**3. Approval of district scheme**—(1) Section 28 of the principal Act (as amended by section 5 of the Town and Country Planning Amendment Act 1968) is hereby further amended 10 by omitting from paragraph (b) of subsection (1) the words “With the approval of the Minister and subject to such conditions as he”, and substituting the words “With the consent of the Board and subject to such conditions as it”.

(2) Section 28 of the principal Act is hereby further 15 amended—

(a) By inserting in subsection (3), after the words “approved scheme”, the words “or approved part thereof”:

(b) By inserting in subsection (4), after the word 20 “scheme”, the words “or part thereof”.

**4. Procedure in respect of changes and reviews of operative district schemes**—Section 30A of the principal Act (as substituted by section 28 (1) of the Town and Country Planning Amendment Act 1966) is hereby amended by adding to 25 subsection (1) the words “The authority of the Council under section 28 of this Act to approve any part of a scheme with the consent of the Board shall extend to any review of that scheme”.

**5. Constitution of Town and Country Planning Appeal Boards**—(1) Section 39 of the principal Act (as amended by section 41 of the Town and Country Planning Amendment Act 1966) is hereby further amended by repealing subsection (1), and substituting the following subsection: 30

“(1) There are hereby established two Boards to be called 35 the Number One Town and Country Planning Appeal Board and the Number Two Town and Country Planning Appeal Board respectively.”

(2) Section 39 of the principal Act (as so amended) is hereby further amended— 40

(a) By omitting from subsection (2) the words "The Board", and substituting the words "Each such Board":

5 (b) By omitting from subsection (3) the words "Every member of the Board", and substituting the words "Every member of each such Board".

**6. Constitution of Board and Special Appeal Board—**

(1) Section 39A of the principal Act (as inserted by section 10 of the Town and Country Planning Amendment Act 1963 and amended by section 41 of the Town and Country Planning Amendment Act 1966) is hereby further amended:

(a) By omitting from subsection (1) the words "the Board", and substituting the words "the two Appeal Boards":

15 (b) By inserting in the proviso to subsection (1), after the word "that", the words "subject to the provisions of section 7 of the Town and Country Planning Amendment Act 1969":

20 (c) By omitting from subsection (6) the words "relating to the Town and Country Planning Appeal Board", and substituting the words "relating to the two Town and Country Planning Appeal Boards".

(2) Section 39A of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection:

25 " (5) Any member (other than the Chairman) of the Number One Town and Country Planning Appeal Board, or of the Number Two Town and Country Planning Appeal Board, or of the Special Town and Country Planning Appeal Board, may, on the written direction of the Chairman of the Number One Town and Country Planning Appeal Board, sit as a member of any of the Town and Country Planning Appeal Boards at any meeting without further appointment."

**7. Existing Boards to continue to operate—**(1) From the commencement of this Act the Town and Country Planning Appeal Board as established under section 39 of the principal Act immediately before the commencement of this Act shall be called the Number One Town and Country Planning Appeal Board, and the Special Town and Country Planning Appeal Board as established under section 39A of the principal Act immediately before the commencement of this Act shall be called the Number Two Town and Country Planning Appeal Board.

(2) Notwithstanding anything to the contrary in this Act, the members of the Town and Country Planning Appeal Board as so established immediately before the commencement of this Act and the members of the Special Town and Country Planning Appeal Board as so established shall continue in office until the expiry of the terms for which they were then appointed under the principal Act. 5

**8. Procedure of Board**—Section 40 of the principal Act is hereby amended by adding to subsection (6) the words “and where through failure to prosecute an appeal at the time fixed for the hearing of the appeal or to give adequate notice of the abandonment of an appeal or for other good cause the Board considers it just so to do, it may award costs against the party in default in favour of the Crown”. 10

**9. Determination and review of appeals**—Section 42 of the principal Act is hereby amended by adding to subsection (1) the following proviso: 15

“Provided that, where the Board considers it appropriate so to do, it may, before hearing any appeal, require the parties to the appeal to refer the matter in dispute to a named member of the Board, or to such other person as may from time to time be appointed by the Minister of Justice, for a preliminary hearing and report to the Board.” 20