

**ANALYSIS**

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1977, No. 134

**An Act to amend the Counties Act 1956**

[23 December 1977]

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 Counties Amendment Act 1977, and shall be read together with and deemed part of the Counties Act 1956 (hereinafter referred to as the principal Act).

**2. Council may sell land not required for road**—(1) Section 191F of the principal Act (as inserted by section 2 of the Counties Amendment Act 1972) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to subsection (3) of this section, where in diverting or stopping or diminishing the width of any road any part thereof is no longer required for public use, the Council may sell that part to the owner or owners of any adjoining land for a price to be fixed by a competent valuer appointed by the Council to value the same, or may grant a lease of that part to the owner or owners of any adjoining land for a term and at a rental and subject to such conditions as the Council thinks fit; and, if no such owner or owners is or are willing to purchase the land at the price fixed or, as the

case may be, take a lease of the land for the term and at the rental and subject to the conditions fixed, the Council may sell or lease the land by public auction or public tender; and a transfer, conveyance, or lease under the seal of the Corporation shall constitute a good and valid title to the land."

(2) The said section 191F of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

"(3) Where any road along the bank of a river or stream with an average width of not less than 3 metres or along the margin of any lake with an area in excess of 8 hectares or along the high-water mark of the sea or of any of its bays, inlets, or creeks, or any portion of any such road, is stopped or diminished in width, the land which thereby ceases to be road shall become a public reserve for recreation purposes vested in the Corporation subject to the Reserves and Domains Act 1953:

"Provided that the Council, with the consent of the Minister of Lands, may waive this requirement in respect of the whole or any part or parts of the land which ceases to be road, subject to such conditions as the Council may impose or as the Minister may require, and thereupon, subject to any such conditions, subsections (1) and (2) of this section shall apply with respect to the land or, as the case may be, that part or those parts thereof."

**3. Bylaws as to thermal insulation of residential buildings**—The principal Act is hereby further amended by inserting, after section 402C (as inserted by section 36 of the Counties Amendment Act 1968), the following section:

"402D. (1) In this section, unless the context otherwise requires,—

“‘Minister’ means the Minister of Energy;

“‘New’, in relation to any residential building, means a residential building for which a building permit is issued by the council after the commencement of bylaws made pursuant to this section;

“‘Residential building’ means—

“(a) Any dwellinghouse;

“(b) Any owner-occupier flat as defined in section 317A of this Act;

“(c) Any apartment building as defined in section 317A of this Act;

“(d) Any single-storey building comprising wholly or principally apartments each of which is completely self-contained and has its own outside entrance:

“(e) Such other classes of buildings of any kind whatsoever used or intended to be used for human habitation purposes as are declared by the Minister, by notice in the *Gazette*, to be residential buildings for the purposes of this section;—

and includes any extension of or addition to a residential building, being an extension or addition used or intended to be used for human habitation purposes:

“Provided that the Minister may from time to time, by notice in the *Gazette*, declare that buildings of any of the kinds specified in paragraphs (a) to (d) of this definition or of any of the classes specified in a notice under paragraph (e) of this definition shall not be residential buildings for the purposes of this section, and that first-mentioned notice shall have effect accordingly.

“(2) The Council shall, for the purpose of preventing or reducing heat losses in residential buildings as an energy conservation measure, make bylaws, which shall apply to new buildings only, for the following purposes—

- “(a) Specifying the minimum thermal insulation requirements for residential buildings;
- “(b) Specifying the manner in which those requirements are to be met;
- “(c) Requiring owners of residential buildings to comply with those requirements.

“(3) No bylaw made under this section shall come into force unless and until it is approved by the Minister:

“Provided that where—

“(a) The Minister has approved a bylaw made under this section or regulations having the force of bylaws have been made under subsection (6) of this section; and

“(b) The bylaw adopts, under section 27 of the Standards Act 1965, the whole of a standard specification made under that Act or, as the case may be, the regulations adopt the whole of any such standard specification, without, in either case, any modification or addition,—

**any subsequent bylaw made by the Council amending the bylaw so approved by the Minister, or, as the case may be, amending the regulations, shall not require the approval of the Minister if it adopts under the said section 27 without modification or addition the whole of any standard specification amending the specification that was adopted in the original bylaw or in the regulations, as the case may be.**

“(4) The Council shall not later than the 1st day of April 1978 make and submit to the Minister for his approval bylaws providing for the matters specified in subsection (2) of this section.

“(5) The Minister may at any time, by writing under his hand, require the Council to revoke, alter, or extend any bylaws made by it under this section.

“(6) If the Council—

“(a) Does not on or before the 1st day of April 1978 make and submit to the Minister for his approval bylaws providing for the matters specified in subsection (2) of this section; or

“(b) Does not within 3 months from the receipt of a requisition of the Minister under subsection (5) of this section comply with the requisition,—

the Governor-General may make such regulations under section 449 of this Act as are necessary to provide for the matters specified in subsection (2) of this section, or, as the case may be, to give effect to the requisition, and those regulations shall have the force of bylaws made by the Council under this section and approved by the Minister.”

**4. Reserves along seashore and banks of rivers, lakes, etc.—(1) The Counties Amendment Act 1961 is hereby amended by repealing section 29, and substituting the following section:**

“29. (1) On every scheme plan submitted to the Council under this Part of this Act, unless the Council, with the consent of the Minister of Lands, considers it unnecessary to do so, there shall be set aside as reserved for recreation purposes, within the land proposed to be subdivided, a strip of land not less than 20 metres in width along the mean high-water mark of the sea and of its bays, inlets, or creeks, and along the margin of every lake with an area in excess of 8 hectares, and along the banks of all rivers and streams which have an average width of not less than 3 metres (not being rivers or streams or parts of rivers or streams exempted from this subsection pursuant to subsection (12) of this section):

"Provided that the Council, with the consent of the Minister of Lands, may approve the reduction of the width of the strip of land to a width of not less than 3 metres if in its opinion the reduced width will be sufficient to give members of the public reasonable access to the sea, lake, river, or stream.

"(2) Where—

"(a) A strip of land less than 20 metres in width along the mean high-water mark of the sea or of any of its bays, inlets, or creeks, or along the margin of any lake, or along any bank of any river or stream has either—

"(i) Been reserved for recreation purposes pursuant to subsection (1) of this section, or for public purposes pursuant to section 29 (1) of this Act as in force before the commencement of this section; or

"(ii) Been set aside or reserved for recreation purposes pursuant to any other enactment (whether passed before or after the commencement of this section and whether or not in force at the commencement of this section); or

"(iii) Been reserved from sale pursuant to section 58 of the Land Act 1948 or the corresponding provisions of any former Act; and

"(b) A scheme plan of subdivision of land contiguous to that strip of land is subsequently submitted to the Council under this Part of this Act,—

then, notwithstanding that under subsection (1) of this section or under any former enactment the Minister of Lands had consented to the setting aside of the strip of land of less than 20 metres in width, the Council may, as a condition of its approval of the scheme plan, require the owner to set aside as reserved for recreation purposes a strip of land contiguous to the strip of land previously set aside and of a width determined by the Council, being not more than the difference between the width of the strip of land previously set aside and 20 metres.

"(3) Nothing in subsection (1) or subsection (2) of this section shall require a strip of land to be set aside as reserved for recreation purposes along the banks of any river or stream where that land adjoins any allotment having an area of 4 hectares or more and, in the opinion of the Council, that allotment is intended to be used, or will continue to be used, wholly or principally in a manner conforming with accepted

farming or management practices, for agricultural or horticultural or silvicultural or pastoral purposes or the keeping of bees or poultry or other livestock.

“(4) Where, in the opinion of the Council, it is in the public interest that a road or part of a road be dedicated within the area required to be set aside as reserved for recreation purposes pursuant to subsection (1) or subsection (2) of this section, then, with the consent of the Minister of Lands, the dedication of that road or part of that road which lies within the area set aside may be accepted in satisfaction of and in substitution for the area or part of the area, as the case may be, that would otherwise be required to be set aside under this section.

“(5) Where—

“(a) Pursuant to subsection (1) or subsection (2) of this section a strip of land that—

“(i) Is situated along the mean high-water mark of the sea or of any of its bays, inlets, or creeks or along the margin of any lake; and

“(ii) Adjoins any allotment having an area of 4 hectares or more which, in the opinion of the Minister of Lands, is to be retained by the subdividing owner for a period of not less than 5 years from the date of deposit of the survey plan of subdivision and, in the opinion of that Minister, is to be used for that period for any of the purposes specified in subsection (3) of this section,—

has been set aside as reserved for recreation purposes; and

“(b) No part of that allotment is zoned for residential or commercial or industrial purposes under any operative or proposed district scheme under the Town and Country Planning Act 1953 at the date of deposit of the survey plan of subdivision,—

there shall be paid, as compensation, to the subdividing owner, or, if he is deceased, to his personal representative, out of money appropriated by Parliament, an amount equal to the value, as at the date of deposit of the survey plan, of the land set aside, that amount to be determined by a valuation made by the Valuer-General.

“(6) If the subdividing owner, or, as the case may be, his personal representative, is dissatisfied with the amount of any valuation made for the purposes of subsection (5) of this section, he may, within 1 month after notice of the valuation has been given to him by the Valuer-General, object to that

valuation by delivering or posting to the Valuer-General a written notice of objection stating shortly the grounds of his objection and the value at which he contends the land should be valued. Sections 20 to 23 of the Valuation of Land Act 1951, as far as they are applicable and with the necessary modifications, shall apply to the objection.

“(7) Where—

- “(a) Any payment is made to the subdividing owner or his personal representative under subsection (5) of this section; and
- “(b) Within 5 years after the date of the deposit of the survey plan the subdividing owner or, as the case may be, his personal representative or any successor in title of the subdividing owner subdivides the adjoining land or any part of it or transfers by way of sale or enters into an agreement to sell the adjoining land or any part of it,—

there shall be repayable to the Crown, by the subdividing owner or his personal representative or that successor in title, as the case may be, and charged against the land and recoverable as a debt, the amount of that payment to the extent that it has not already been repaid:

“Provided that the Minister of Lands may, in his discretion, waive such a repayment or may direct that an amount less than the full amount shall be repaid.

“(8) The right of the Crown to repayment under subsection (7) of this section shall be deemed to be an interest in the land for the purposes of section 137 of the Land Transfer Act 1952 (which relates to caveats against dealing with the land).

“(9) Where pursuant to subsection (1) or subsection (2) of this section a strip of land has been set aside as reserved for recreation purposes along the mean high-water mark of the sea or any of its bays, inlets, or creeks, or along the margin of any lake in excess of 8 hectares and adjoining any allotment having an area of 4 hectares or more, there shall be paid to the subdividing owner or, if he is deceased, his personal representative, out of money appropriated by Parliament, an amount equal to any additional survey costs incurred by the subdividing owner in determining the land to be set aside (such costs to be determined in accordance with the scale of fees of the New Zealand Institute of Surveyors which are current at the date of deposit of the survey plan of subdivision).

“(10) Where a strip of land is set aside as required by subsection (1) or subsection (2) of this section, and any land below the mean high-water mark of the sea or of its bays, inlets, or creeks or, as the case may be, any part of the bed of the lake or river or stream is vested in the person in whom the land shown in the scheme plan is vested, the Council may require, as a condition of its approval of the scheme plan, that the owner shall execute, or obtain the execution of, and register, a transfer to Her Majesty of the whole or a specified part of the land below the mean high-water mark or, as the case may be, of the bed of the lake, or river, or stream which is vested as aforesaid.

“(11) No land set aside as a reserve or transferred to Her Majesty pursuant to this section shall be taken into account for the purposes of section 28 of this Act, except to such extent (if any) as the Council allows.

“(12) The Minister of Lands may from time to time declare that subsection (1) of this section shall not apply with respect to the banks, or any specified bank, of any specified river or stream or part of any specified river or stream, or may revoke any such declaration, in whole or in part.

“(13) Every decision of the Minister of Lands under this section shall be final.

“(14) In this section a reference to bays, inlets, or creeks of the sea includes those that are artificial as well as those that are natural.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 41 of the Counties Amendment Act 1968;
- (b) So much of Part II of the Third Schedule to the Counties Amendment Act 1972 as relates to section 29 of the Counties Amendment Act 1961;
- (c) Section 9 of the Counties Amendment Act 1975.

**5. References to Administrative Division of Supreme Court**—(1) Section 191H of the principal Act (as enacted by section 2 of the Counties Amendment Act 1972) is hereby amended—

- (a) By omitting from subsection (3) and also from subsection (4) the words “the Administrative Division of the Supreme Court”, and substituting in each case the words “the Land Valuation Tribunal”;
- (b) By omitting from subsection (4) the words “the Court”, and substituting the words “the Tribunal”.

(2) Section 24A of the Counties Amendment Act 1961 (as inserted by section 19 (1) of the Counties Amendment Act 1964 and amended by section 2 (4) of the Land Valuation Proceedings Amendment Act 1968) is hereby further amended by omitting from subsection (4) the words "the Administrative Division of the Supreme Court", and substituting the words "the Land Valuation Tribunal".

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This Act is administered in the Department of Internal Affairs.

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