



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. Contents of district schemes</p> <p>3. Suggested requirements</p> <p>4. Objections by owners and occupiers</p> <p>5. Consideration and hearing of objections</p> <p>6. Appeals</p>	<p>7. Amendment of scheme to give effect to objections and appeals</p> <p>8. Conditional uses</p> <p>9. Road and street widths</p> <p>10. Compensation</p> <p>11. Designation or requirement to be removed or land to be taken</p> <p>12. Regulations</p>
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1972, No. 29

An Act to amend the Town and Country Planning Act 1953
 [13 October 1972]

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 Town and Country Planning Amendment Act 1972, and shall be read together with and deemed part of the Town and Country Planning Act 1953 (hereinafter referred to as the principal Act).

2. Contents of district schemes—(1) Section 21 of the principal Act is hereby amended by repealing subsection (7A) (as inserted by section 15 (4) of the Town and Country Planning Amendment Act 1966), and substituting the following subsection:

“(7A) On receipt of a notification that any requirement is withdrawn, the Council shall publicly notify the notification of withdrawal; and, if there is an operative district scheme, the public notification shall be at the expense of the Minister or local authority notifying the withdrawal.”

(2) The said section 21 is hereby further amended by omitting from subsection (8) (as substituted by section 15 (5) of the Town and Country Planning Amendment Act 1966) the words “at the next five-yearly review or at such convenient earlier opportunity as may arise in consequence of the hearing or disposal of objections to the scheme or of the Council proceeding of its own volition to vary or change the scheme”, and substituting the words “as soon as possible by varying or changing the scheme; and the Minister or local authority, as the case may be, shall, if the scheme is operative, reimburse the Council for the cost of publicly notifying the change, if the change provides only for the requirement, or for a reasonable share of such cost, if the change provides for other matters in addition to the requirement”.

(3) The following enactments are hereby consequentially repealed:

- (a) Subsection (4) of section 15 of the Town and Country Planning Amendment Act 1966:
- (b) Subsection (2) of section 3 of the Town and Country Planning Amendment Act 1971.

3. Suggested requirements—Section 21A of the principal Act (as inserted by section 7 of the Town and Country Planning Amendment Act 1961) is hereby amended by omitting the words “subsection (6) of”.

4. Objections by owners and occupiers—(1) The principal Act is hereby further amended by repealing section 23, and substituting the following section:

“23. (1) Every owner and occupier of land affected by a proposed district scheme or a proposed variation thereof, or by a proposed change or review of an operative district scheme, may object to the scheme, variation, change, or review by giving to the Council, at any time within the time specified in the public notice calling for objections, written notice of his objection stating the grounds of the objection and stating whether or not he desires to be heard by the Council in support of the objection.

“(2) Not later than 1 month before the date on which any such objection is to be considered or heard, the Council shall publish in a daily newspaper circulating in its district a summary of the subject-matter of the objection and an invitation to the owners and occupiers of land affected by the objection to give written notice to the Council, within 1 month after the date of such publication, stating whether they desire to support or oppose the objection and stating whether or not they desire to be heard by the Council.

“(3) Every owner and occupier of land affected by any such objection shall have the right to inspect and make copies of the objection.”

(2) The following enactments are hereby consequentially repealed:

- (a) Section 14 of the Town and Country Planning Amendment Act 1957:
- (b) Section 18 of the Town and Country Planning Amendment Act 1966.

5. Consideration and hearing of objections—(1) The principal Act is hereby further amended by repealing section 25, and substituting the following section:

“25. (1) As soon as practicable after the time for giving notices of objection has expired, the Council shall hear or consider all objections received by it or may, if it thinks fit, appoint any 2 or more of its members as a committee with power to hear or consider the objection and to make recommendations to the Council in respect thereof.

“(2) If any notice of objection states that the objector desires to be heard, the Council or committee shall, and in any other case the Council or committee in its discretion may, hear the objection in public.

“(3) If any objection is to be heard in public, the Council or committee shall give the objector not less than 10 days’ written notice of the time and place of the hearing, and the objector shall have the right to be heard, either personally or by his counsel, in support of his objection.

“(4) If any objection is heard in public, the Council or committee shall have power to summon witnesses and to hear evidence on oath.

“(5) If any committee constituted under subsection (1) of this section is discharged, or if any member of the committee

ceases to hold office or is removed from office by operation of law or otherwise before the committee has fully performed its functions under this section, the Council may alter or reconstitute the membership of the committee, or may reappoint the committee; and the committee as so altered or reconstituted or reappointed shall make its own recommendations or convey those of the previously existing committee to the Council:

“Provided that any altered or reconstituted committee shall not vary any recommendation of the previous committee which considered or heard the objection unless all the members of the altered or reconstituted committee have themselves considered the objection or, if the objection was heard in public, have themselves reheard the objection in public.

“(6) The Council shall not make any decision, and a committee shall not make any recommendation, in respect of any objection until the hearing or consideration of all objections in connection with the proposed district scheme or with any proposed variation thereof or with any proposed change or review of the operative district scheme has been completed.”

(2) The following enactments are hereby consequentially repealed:

(a) Subsection (2) of section 8 of the Town and Country Planning Amendment Act 1961:

(b) Section 3 of the Town and Country Planning Amendment Act 1968.

(3) Notwithstanding the provisions of subsection (1) of this section, every objection under section 23 or section 24 of the principal Act of which notice has been given within 3 months after the commencement of this section shall be heard and considered as if this section had not been enacted.

6. Appeals—(1) Section 26 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) If the Council wholly or partly disallows any objection made under section 23 or section 24 of this Act, or any separate part of any such objection, the objector may, within 2 months after the disallowance, appeal against the disallowance to the Board.

“(1A) If any such objection, or any separate part of any such objection, has been wholly or partly disallowed because of a requirement of the Minister or of a local authority, any

appeal under subsection (1) of this section shall be against the Minister, or the local authority which made the requirement, as the case may require.

“(1B) On any appeal against a provision of a proposed district scheme or of a variation thereof or of a change or review of an operative district scheme which has been included or implemented to satisfy a requirement of the Minister or of a local authority, the Board may order the provision to be varied or deleted.”

(2) The said section 26 is hereby further amended by repealing subsections (2) and (2A).

(3) The following enactments are hereby consequentially repealed:

- (a) Subsection (1) of section 15 of the Town and Country Planning Amendment Act 1957:
- (b) Section 9 of the Town and Country Planning Amendment Act 1961:
- (c) Subsection (1) of section 20 of the Town and Country Planning Amendment Act 1966.

7. Amendment of scheme to give effect to objections and appeals—Section 26A of the principal Act (as inserted by section 21 of the Town and Country Planning Amendment Act 1966) is hereby amended by adding the following subsection:

“(2) Unless directed to do so by the Board on appeal under section 26 of this Act, the Council shall not vary or delete any provision of the district scheme that has been made to satisfy a requirement of the Minister or of a local authority under section 21 of this Act without the written consent of the Minister, or of the local authority which made the requirement, as the case may be.”

8. Conditional uses—Section 28c of the principal Act (as inserted by section 24 of the Town and Country Planning Amendment Act 1966) is hereby amended by inserting in subsection (4), after the word “applicant”, the words “or his successor in title”.

9. Road and street widths—Section 34 of the principal Act (as substituted by section 33 (1) of the Town and Country Planning Amendment Act 1966) is hereby amended by omitting from the proviso to subsection (1) the words “forty feet”, and substituting the words “12 metres”.

10. Compensation—Section 44 of the principal Act is hereby amended by omitting from subparagraph (iii) of paragraph (b) of subsection (6) the words “ten acres”, and substituting the words “4 hectares”.

11. Designation or requirement to be removed or land to be taken—Subsection (1) of section 47A of the principal Act (as inserted by section 15 of the Town and Country Planning Amendment Act 1971) is hereby amended by repealing the definition of the term “public work”.

12. Regulations—(1) Section 51 of the principal Act is hereby amended by inserting, after paragraph (a) of subsection (2), the following paragraph:

“(aa) Prescribing the practice and procedure of the Board and the forms of proceedings therein, both under this Act and in relation to the exercise of any jurisdiction conferred on the Board by any other Act:”.

(2) The said section 51 is hereby further amended by adding to paragraph (d) of subsection (2) the words “, and in respect of the exercise of any jurisdiction conferred on the Board by any other Act”.

(3) The said section 51 is hereby further amended by inserting, after paragraph (d) of subsection (2), the following paragraph:

“(da) Providing for Councils to recover from applicants for consent to change of use, consent to a specified departure, consent under section 30B of this Act, and consent to a conditional use, the reasonable costs incurred by Councils in dealing with the applications, and providing for the fixing of scales of charges and maximum charges in respect of the recovery of such costs:”.

(4) Subclause (11) of regulation 32 of the Town and Country Planning Regulations 1960 (as substituted by regulation 23 of the Town and Country Planning Regulations 1960, Amendment No. 2), and the corresponding provisions of any previous regulation, are hereby validated and declared to have been lawfully made:

Provided that nothing in this subsection shall affect the rights of any party under any judgment of any Court given

before the 1st day of October 1972, or given on or after that date if the proceedings were commenced on or before that date.

This Act is administered in the Ministry of Works.
