



ANALYSIS

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 1987, No. 69

An Act to amend the Town and Country Planning Act 1977

[1 April 1987]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Town and Country Planning Amendment Act 1987, and shall be read together with and deemed part of the Town and Country Planning Act 1977 (hereinafter referred to as the principal Act).

(2) Section 3 of this Act shall come into force on the 1st day of April 1987.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the day on which it receives the Governor-General's assent.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the term "catchment authority" the words "and the Wellington Regional Water Board".

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "conditional use", the following definition:

" 'Controlled use' means any use or development permitted as a controlled use, subject to such controls and powers as are specified in the operative district scheme, in accordance with section 36 (4) (b) of this Act: ".

(3) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term "Regional Planning Authority".

(4) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term "variation", and substituting the following definition:

" 'Variation', in relation to any regional planning scheme, district scheme, or maritime planning scheme,

includes any enlargement, elaboration, modification, substitution, or other alteration made or to be made in—

“(a) The scheme, before it is approved or becomes operative, as the case may be; or

“(b) Any change or review of the approved regional planning scheme or the operative district scheme or the approved maritime planning scheme, as the case may be—

that has been publicly notified pursuant to this Act; but does not include a specified departure; and ‘vary’ has a corresponding meaning:”.

3. New Part I of principal Act—(1) The principal Act is hereby amended by repealing sections 5 to 28, and substituting the following sections:

“PART I

“REGIONAL PLANNING

“5. Regional planning to be function of united and regional councils—The function of regional planning shall be the responsibility of every united council and every regional council.

“6. Regional planning committee—(1) Every united or regional council shall establish a regional planning committee which shall be a committee of the council.

“(2) The membership of the regional planning committee shall consist of—

“(a) Not less than 3 members of the united or regional council appointed by the council, of whom one shall be appointed by the council as the Chairman of the committee:

“(b) A representative of each catchment authority whose district is entirely within the region:

“Provided that if there is no catchment authority which has its district entirely within the region, the catchment authority to be represented shall be the authority which has the responsibility for the largest part of the region:

“(c) A representative of any Maritime Planning Authority within or adjacent to the region:

“(d) A representative of each of such other local authorities as the united or regional council and the Minister agree should be represented:

“Provided that if there is more than one local authority of a similar nature in the region the united or regional council, after consultation with the Minister, may require those local authorities to appoint one person to represent all of them:

- “(e) A representative of the tangata whenua of the region:
- “(f) An officer of the Ministry of Works and Development appointed by the Minister to represent the Crown:
- “(g) Not more than 3 persons, not being members of a united or regional council, appointed by the united or regional council if, in the opinion of the council, they have knowledge which would assist the work of the committee.

“(3) Every member of the regional planning committee shall hold office at the pleasure of the body or person which or who appointed the member.

“(4) The functions of every regional planning committee shall include the following matters:

- “(a) To advise and make recommendations to the united or regional council in respect of the preparation, implementation, or review of a regional planning scheme for the region:
- “(b) To prepare such surveys, maps, plans, and reports as may be necessary for the preparation, implementation, or review of a regional planning scheme or any section of it:
- “(c) To consult with the Minister and with any Council, local authority, or other body or person on any matter affecting the preparation, implementation, or review of a regional planning scheme:
- “(d) Such other functions as may be delegated to it by the united or regional council.

“7. **Land resource advisory committee**—(1) A united or regional council may establish a land resource advisory committee, which shall be a subcommittee of the regional planning committee.

“(2) The members of any land resource advisory committee established under subsection (1) of this section shall be appointed by the united or regional council.

“(3) Any person may be appointed to be a member of a land resource advisory committee whether or not that person is a member of the united or regional council or of the regional planning committee.

“(4) The functions of every land resource advisory committee shall include the following matters:

- “(a) To advise the regional planning committee as to the land resources of the region, including their productive, ecological, recreational, and scenic values:
- “(b) To assemble information on land in a form suitable for planning purposes:
- “(c) To advise in the preparation of a statement of objectives and policies for the development of the region so far as they may affect the land resources of the region:
- “(d) To advise the regional planning committee on the preparation, changes, and reviews of the regional planning scheme, district schemes, and maritime planning schemes, and of development proposals, so far as they may affect the land resources of the region:
- “(e) To consult with the regional planning committee on any matter affecting the land resources of the region.

“8. **Appointment of subcommittees**—A united or regional council or regional planning committee may from time to time appoint subcommittees consisting of members of the council or committee, as the case may be, with power to perform such functions as the council or committee may from time to time delegate to it.

“9. **Advisory and technical subcommittees**—(1) A united or regional council or regional planning committee may appoint such advisory subcommittees and technical subcommittees as it thinks fit to advise it on such matters within its functions, rights, powers, and duties as it may refer to them.

“(2) Any person may be appointed to be a member of an advisory or technical subcommittee whether or not that person is a member of the united or regional council or of the regional planning committee.

“10. **Chairmen of subcommittees**—The united or regional council or the regional planning committee, as the case may be, may appoint any member of a subcommittee appointed under section 7 or section 8 or section 9 of this Act to be the Chairman of the subcommittee.

“11. **Alteration, etc., of subcommittees**—The united or regional council and the regional planning committee may from time to time discharge, alter, continue, or reconstitute any subcommittee appointed by it under section 7 or section 8 or

section 9 of this Act, or discharge any member of such a subcommittee and, if it thinks fit, appoint another member in the discharged member's place.

“12. Certain provisions of Local Government Act 1974 to apply to committees and subcommittees—The provisions of the Local Government Act 1974 relating to the meetings of committees and subcommittees of united and regional councils, so far as they are applicable and with the necessary modifications, shall apply in respect of the meetings of every committee and subcommittee established or appointed under section 6 or section 7 or section 8 or section 9 of this Act.

“13. Provision of regional planning scheme—Every united or regional council shall, in accordance with this Part of this Act, provide and maintain for its region a regional planning scheme.

“14. Additional functions and powers—Every united or regional council shall, in addition to the powers and functions given to it by this or any other Act, have the following additional powers and functions:

“(a) To advise or make recommendations to the Minister and to local authorities and other bodies and persons concerned in the operation of any regional planning scheme, district scheme, or maritime planning scheme in respect of any matters relating to the scheme, including the provision and maintenance of works, services, amenities, and facilities if the united or regional council considers them to be necessary to fulfil the objectives and policies of the regional planning scheme:

“(b) To make recommendations with respect to the preparation, changes, and review of district schemes and maritime planning schemes for areas within and adjacent to the region and, where it thinks it necessary, to lodge an objection or appeal in respect of—

“(i) Any provision proposed to be included in a district scheme or maritime planning scheme that conflicts with any provision in any proposed or approved regional planning scheme:

“(ii) The variation of any proposed district scheme or proposed maritime planning scheme:

“(iii) The granting, under Part IV of this Act or any provision of a district scheme, of a consent to an application made with notice:

“(iv) The granting of consent under Part II of this Act:

“(v) Any application to commence an activity or work contrary to a maritime planning scheme:

“(c) To assist in the consideration of planning within its region, other regions, districts, and maritime planning areas.

“15. Obligation to prepare regional planning scheme—

(1) As soon as practicable after it has been constituted a united or regional council shall prepare a regional planning scheme for its region.

“(2) The scheme shall—

“(a) Include a statement of the objectives and policies for the future development of the region and of the means by which they can be implemented, having regard to national, regional, and local interests, and to the resources available; and

“(b) Make provision for such of the matters referred to in the First Schedule to this Act as are appropriate to the circumstances and to the needs of the region.

“(3) Every regional planning scheme shall be prepared in accordance with such regulations in force under this Act as apply to it, and shall include such maps and other particulars and material as the united or regional council considers necessary for the proper explanation of the scheme.

“(4) Every regional planning scheme may be prepared and approved in sections which may relate to all or any of the matters specified in the First Schedule to this Act, and to the whole of the region or any convenient subdivision of it.

“16. Preparation of draft regional planning scheme—

(1) The united or regional council, in such manner as it thinks fit, shall undertake such studies, enquiries, discussions, and negotiations in relation to the preparation of the scheme as it considers necessary.

“(2) As soon as practicable after the united or regional council has completed those studies, enquiries, discussions, and negotiations it shall prepare a draft regional planning scheme and shall—

“(a) Publicly notify the place or places at which it has been deposited for public inspection; and

“(b) Include in that public notification an invitation to all interested bodies and persons to send written submissions on the draft scheme to the united or regional council before such date as may be specified in the notification; and

“(c) Forward copies of it to the Minister and to every local authority within or adjacent to the region.

“(3) The united or regional council shall consider all submissions received by it following public notification of the draft scheme, and for that purpose—

“(a) May convene meetings, either jointly or separately, with—

“(i) The bodies and persons which or who have sent submissions under subsection (2) of this section; and

“(ii) Any local authority within or adjacent to the region:

“(b) If so requested by the Minister or by any local authority within or adjacent to the region, shall convene a meeting with the Minister or with that local authority, as the case may be.

“17. **Consideration of proposed regional planning scheme**—(1) After all submissions received under section 16 of this Act have been considered and after making such alterations to the draft scheme as it considers necessary, the united or regional council shall—

“(a) Forward copies of the scheme as a proposed scheme to the Minister and to every local authority within or adjacent to the region; and

“(b) Publicly notify the place or places at which the proposed scheme has been deposited for public inspection.

“(2) The Minister or any local authority within or adjacent to the region, within 3 months after public notification of the proposed scheme or within such further time as the united or regional council may allow, may lodge a written request with the Tribunal to conduct an inquiry into any provision included in, or matter not included in, the proposed scheme.

“(3) As soon as practicable after lodging a written request under subsection (2) of this section, the Minister or local authority shall forward a copy of the request to—

“(a) The united or regional council and every local authority within or adjacent to the region, where the Minister has lodged the request:

“(b) The Minister, the united or regional council, and every other local authority within or adjacent to the region, where a local authority has lodged the request.

“18. Inquiry by Tribunal—(1) On the lodging of a written request under section 17 (2) of this Act the Tribunal shall have jurisdiction to conduct an inquiry into and make a report on the matters referred to it.

“(2) The parties to the inquiry shall be the united or regional council, the Minister, and every local authority within or adjacent to the region; and each party may be represented by counsel or by any duly authorised representative.

“(3) For the purposes of conducting an inquiry and making a report and recommendation under this section and section 19 of this Act the Tribunal shall have all the powers, privileges, and immunities conferred on it by Part VIII of this Act.

“(4) Every inquiry under this section shall be held in public.

“(5) For the purposes of ensuring that the inquiry may be conducted in a convenient and expeditious manner, and that all matters in dispute may be effectively and completely determined, a Planning Judge may at any time, either on the application of any party to the inquiry or without any such application, and on such terms as the Planning Judge thinks fit, direct the holding of a conference of parties or their counsel or duly authorised representatives to be presided over by a Planning Judge.

“(6) At any such conference the Planning Judge may—

“(a) Settle the issues to be determined:

“(b) Require further or better particulars of any matters connected with the inquiry:

“(c) Give such further or other directions as the Planning Judge considers necessary:

“(d) Adjourn the conference to allow for consultations among the parties.

“(7) The Tribunal shall conduct the inquiry as soon as practicable at such time and place as it may appoint.

“(8) Any party to the inquiry may bring to the attention of the Tribunal at the inquiry any matter which the party considers should be taken into account by the Tribunal in conducting the inquiry.

“(9) Where there are several requests for an inquiry under section 17 (2) of this Act relating to the same scheme, the Tribunal may consider at the same hearing all of the matters referred to it or such of them as the Tribunal considers most appropriate.

“19. Report of Tribunal—(1) On completion of the inquiry the Tribunal shall make a report on the matters into which it has inquired, and may include in the report a direction to the

united or regional council to make such amendments or modifications to, or deletions from, the proposed regional planning scheme as the Tribunal thinks fit.

“(2) The Tribunal shall send a copy of its report to—

“(a) The Minister;

“(b) The united or regional council;

“(c) Each local authority that was represented at the inquiry;
and

“(d) Such other persons as the Tribunal thinks fit.

“20. **Minister may require amendments, etc.**—(1) The Minister may—

“(a) Within 3 months after the expiry of the period during which, under section 17 (2) of this Act, an inquiry may be requested, if no such inquiry is to be held;
or

“(b) If such an inquiry has been held, within 3 months after receiving the Tribunal’s report and after considering that report—

direct the united or regional council in writing to make such amendments or modifications to, or deletions from, the proposed regional planning scheme as the Minister thinks fit.

“(2) If any direction given by the Minister is in conflict with or inconsistent with any direction of the Tribunal, the Minister’s direction shall prevail, and the Minister shall include in the Ministerial direction the reasons for not agreeing with the Tribunal’s direction.

“21. **Tribunal’s and Minister’s directions to be given effect to**—(1) On receiving a report from the Tribunal under section 19 of this Act, the united or regional council, as soon as practicable after the expiry of the period of 3 months following the date of receipt, shall make such amendments or modifications to, or deletions from, the proposed regional planning scheme as are necessary to give effect to any directions contained in the report which are not in conflict with or not inconsistent with any Ministerial direction given under section 20 of this Act.

“(2) As soon as practicable after receiving a Ministerial direction under section 20 of this Act, the united or regional council shall make such amendments or modifications to, or deletions from, the proposed regional planning scheme as are necessary to give effect to the direction.

“22. **Variation of proposed regional planning scheme**—
If, at any time after the public notification of the proposed regional planning scheme, or of any proposed change or review

of the regional planning scheme, the united or regional council wishes to vary the scheme or the proposed change or review, the provisions of this Part of this Act relating to the preparation and approval of regional planning schemes, so far as they are applicable and with the necessary modifications, shall apply in respect of any such variation commencing at the point where the scheme is ready for public notification as a draft scheme under section 16 (2) of this Act.

“23. Draft and proposed regional planning schemes may be withdrawn—(1) The united or regional council may at any time withdraw a draft regional planning scheme or a proposed regional planning scheme by giving public notification to that effect.

“(2) On withdrawing a draft or proposed regional planning scheme the united or regional council shall proceed to prepare a new draft regional planning scheme in accordance with section 16 of this Act.

“24. Approval of regional planning scheme—(1) As soon as practicable after—

“(a) Complying with section 21 of this Act; or

“(b) If no directions have been given under section 19 or section 20 of this Act, the expiry of the period during which any such direction could have been given—
the united or regional council shall refer the proposed regional planning scheme to the Minister.

“(2) After the proposed scheme has been received by the Minister, the Governor-General may by Order in Council approve it as a regional planning scheme and fix the date on which it shall come into force.

“(3) If the Governor-General in Council does not approve the scheme the Minister shall advise the united or regional council accordingly.

“25. Validity of regional planning scheme—(1) If a united or regional council, in the preparation, variation, changing, or review of any regional planning scheme or any section or part of a regional planning scheme, has failed to comply with any of the requirements of this Act or of any regulations in force under this Act, the united or regional council, the Minister, and any local authority within or adjacent to the region may make an application to the Tribunal, but not to any other Court, in respect of the failure.

“(2) In the case of the united or regional council, the application may be made at any time.

“(3) In the case of the Minister or any local authority within or adjacent to the region, the application may be made at any time within 4 months after the date on which the regional planning scheme or section or part came into force.

“(4) In the case of the united or regional council, the application shall be for a dispensation from the requirement which has not been complied with and from repetition of procedure subsequently taken; and in any other case the application shall be to require repetition of procedure taken after the requirement which has not been complied with.

“(5) On hearing any application made under this section in respect of any failure—

“(a) If the Tribunal considers that, in spite of the failure, the requirements of this Act and of the regulations have been reasonably met, the Tribunal may grant the united or regional council a dispensation from the requirement not complied with and from repetition of procedure subsequently taken:

“(b) If the Tribunal considers that any public or private interest so requires, it shall direct the united or regional council to comply with the requirement to such extent as the Tribunal considers necessary, and the repetition of subsequent procedure or the partial repetition of subsequent procedure to such extent as the Tribunal considers necessary.

“(6) On an application by the united or regional council under this section in respect of a regional planning scheme or of any section or part or change or review which has been approved under section 24 of this Act, the Tribunal may suspend the operative effect thereof or any part thereof until the united or regional council has taken such steps to meet the requirements of this Act and of the regulations in force under this Act as the Tribunal may specify. Nothing in this Act shall require the consent of the Minister to any such suspension.

“(7) Any such suspension may be made to take effect on the date fixed for the coming into force of the scheme, part, section, change, or review, as the case may be, or on any subsequent date.

“(8) No such suspension shall affect any Court order or other matter made or done before the date of the suspension, but nothing in this subsection shall prevent any Court from adjourning any proceedings pending the determination of any application or proposed application under this section.

“(9) No suspension under this section shall affect matters that are not the subject-matter of the application, and the scheme,

part, section, change, or review, as the case may be, shall be deemed not to be suspended in respect of matters in respect of which no application has been made under this section.

“(10) An approved regional planning scheme shall not be invalid because it does not deal with any matter referred to in section 3 or section 4 of this Act or in the First Schedule to this Act which is appropriate to the circumstances, but any such matter shall be dealt with by a change to the scheme or to a separate section of the scheme as soon as practicable after the omission is discovered.

“**26. Operation of regional planning scheme—**(1) The Crown and every local authority and public authority shall adhere to the provisions of an approved regional planning scheme.

“(2) In accordance with sections 37 and 112 of this Act, every district scheme and every maritime planning scheme shall give effect to the provisions of an approved regional planning scheme; and Councils without operative district schemes, in their consideration of applications for consent under Part II of this Act, shall give effect to the provisions of the relevant approved regional planning scheme.

“(3) In the event of any conflict between the provisions of an approved regional planning scheme and an operative district scheme or operative maritime planning scheme, the provisions of the regional planning scheme shall, subject to sections 28A, 37, and 112 of this Act, prevail.

“**27. Effect of alteration of boundaries of region—**(1) An alteration of the boundaries of the region of any united or regional council, or of any district within that region, shall not of itself require anything which has already been done in or towards the preparation or approval of the regional planning scheme for that region to be done again.

“(2) Where any such alteration involves the addition of any area to the region, the united or regional council shall provide for the added area by varying the proposed scheme under section 22 of this Act or by preparing a new draft section of the scheme in respect of the added area, as the case may require.

“**28. Inclusion of areas of water in region—**(1) On the constitution of any maritime planning area in accordance with section 96 of this Act, that area shall, for the purposes of this Act, be deemed to be included in the region of the appropriate adjacent united or regional council.

“(2) At the request of any united or regional council the Minister may, by notice published in the *Gazette*, include any lake or harbour or any area of the territorial sea or any part thereof in the region of a united or regional council, whether or not those areas are within a maritime planning area.

“(3) The area to be included in any region shall be defined by the notice with such particularity as the Minister thinks necessary and may from time to time in like manner be altered by the Minister.

“28A. Changes of approved regional planning scheme—

(1) A united or regional council may from time to time and at any time change any approved regional planning scheme and, in particular, may initiate a change whenever—

“(a) A local authority or other public authority advises the council that it wishes to proceed with a public work or other undertaking not in conformity with the scheme; or

“(b) A Council or Maritime Planning Authority advises the united or regional council that it wishes to proceed with a change to its district scheme or maritime planning scheme when the proposed change would not be in conformity with the regional planning scheme.

“(2) A united or regional council shall initiate a change whenever requested to do so by the Minister.

“(3) Where the united or regional council initiates a change, it shall follow the procedure prescribed for the preparation and approval of a regional planning scheme starting at the point where (under section 16 (2) of this Act) the scheme is ready for public notification.

“28B. Review of regional planning scheme—(1) Every regional planning scheme shall be reviewed by the united or regional council whenever the council considers a review to be necessary, and shall be so reviewed whenever any provision of it has been in force for 10 years.

“(2) All the provisions of this Act relating to the preparation and approval of regional planning schemes, so far as they are applicable and with the necessary modifications, shall apply to every such review.

“28C. Consideration to be given to draft or proposed regional planning scheme—(1) In any region in which a draft or proposed regional planning scheme, or a change or review of an approved regional planning scheme, has been prepared, the Council, the Maritime Planning Authority, and the Tribunal

shall take into account the provisions of the draft or proposed scheme or change or review in determining any matter arising in the course of preparing, implementing, and administering a district scheme or a maritime planning scheme.

“(2) For the purposes of this section, if there is any inconsistency or conflict between any provision of an approved regional planning scheme and any provision of a change or review of that scheme, the provision of the approved scheme shall prevail.

“28D. **Government contribution**—There may from time to time be paid to any united or regional council, from the Consolidated Account out of money appropriated by Parliament for the purpose, such sums as the Minister considers appropriate towards the costs of—

“(a) Carrying out the council’s functions under this Part of this Act (including the costs of any committee or subcommittee established or appointed under this Part of this Act):

“(b) Any work or development carried out in accordance with the regional planning scheme.”

(2) Sections 3 to 5 of the Town and Country Planning Amendment Act 1980 are hereby consequentially repealed.

(3) Every regional planning scheme and every section of a regional planning scheme which, immediately before the date of commencement of this section,—

(a) Was deemed to be wholly or partly approved under the principal Act by virtue of section 23 (4) of the principal Act; and

(b) Had not been reviewed under section 21 of the principal Act—

shall continue in all respects to have the same force and effect as if it were an operative regional planning scheme under the Town and Country Planning Act 1953 until it is reviewed in accordance with section 28B of the principal Act (as substituted by subsection (1) of this section).

(4) Subject to subsection (3) of this section, Part I of the principal Act (as substituted by subsection (1) of this section) shall apply in respect of—

(a) Every draft regional planning scheme or draft section of a regional planning scheme; and

(b) Every draft change or review of a regional planning scheme or section; and

(c) Every proposed regional planning scheme or proposed section of a regional planning scheme; and

(d) Every proposed change or review of a regional planning scheme or section—
notwithstanding that it was prepared, or was in the course of preparation, before the commencement of this section.

(5) If an inquiry by the Tribunal has been requested under section 12 of the principal Act before the date of commencement of this section and the inquiry has not been completed before that date, the inquiry shall be conducted and completed in accordance with Part I of the principal Act (as substituted by subsection (1) of this section); and the provisions of Part I of the principal Act (as so substituted) shall apply in respect of the inquiry, all matters arising from it, and the proposed regional planning scheme, change, or review to which the inquiry relates.

4. Interpretation—Section 30 of the principal Act is hereby amended—

- (a) By omitting from paragraph (a) (ii) the word “draft”;
- (b) By omitting from paragraph (b) the word “draft”;
- (c) By omitting from paragraph (c) the word “draft”;

5. Control of use or development of land, areas, and buildings—(1) Section 33 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Except with the consent of the Council—

“(a) No use or development of any land, area, or building that is not of the same character as the use of the land, area, or building which immediately preceded it shall be commenced by any person before the relevant district scheme or section of it becomes operative; and

“(b) No such use or development (having been commenced on or after the commencement of section 38A of the Town and Country Planning Act 1953) shall be continued by any person—

if the use or development detracts or is likely to detract from the amenities of the locality.”

(2) Section 33 (3) (b) of the principal Act is hereby amended—

- (a) By inserting, after the word “use”, the words “or development”;
- (b) By adding the word “; and”.

(3) Section 33 (3) of the principal Act is hereby amended by adding the following paragraph:

“(c) The provisions of any proposed district scheme.”

(4) Section 33 (4) of the principal Act is hereby amended by omitting the words “of any land”, and substituting the words “or development of any land, area,”.

(5) Section 6 of the Town and Country Planning Amendment Act 1980 is hereby consequentially repealed.

6. Contents of district scheme—(1) Section 36 of the principal Act is hereby amended by repealing subsections (4) and (5), and substituting the following subsections:

“(4) Every district scheme may distinguish between classes of use or development in all or any part or parts of the district in any one or more of the following ways or any combination of them:

“(a) Those which are permitted as of right provided that they comply in all respects with all conditions, restrictions, and prohibitions specified in the scheme:

“(b) Those which would be permitted as of right but which, because of the controls and powers reserving discretions specified in the scheme under subsection (5) of this section, require approval as controlled uses:

“(c) Those which are appropriate to the area but which may not be appropriate on every site or may require special conditions, and which require approval as conditional uses under section 72 of this Act.

“(5) Any district scheme may provide for such specified controls and powers in respect of controlled uses as are necessary or desirable to achieve the policies and objectives contained in the scheme relating to—

“(a) The design and external appearance of buildings; and

“(b) Landscape design and site layout; and

“(c) The location and design of vehicular access to and from the site; and

“(d) Such other matters as may be specified in that behalf by any regulations in force under this Act.

“(5A) Any district scheme may confer on the Council such specified powers and discretions as are necessary or desirable to give effect to the policies and objectives contained in the scheme relating to—

“(a) The preservation or conservation of—

“(i) Buildings, objects, and areas of architectural, historic, scientific, or other interest, or of visual appeal; and

“(ii) Trees, bush, plants, landscape, and areas of scientific, wildlife, or historic or other interest, or of visual appeal; and

“(b) Areas of special character or amenity value; and

“(c) The avoidance or reduction of danger, damage, or nuisance caused by earthquake, geothermal or volcanic activity, flooding, erosion, landslip, subsidence, silting, and wind; and

“(d) Such other matters as may be specified in that behalf by any regulations in force under this Act.”

(2) Section 36 (7) of the principal Act is hereby amended by inserting, after the words “class or classes of application for”, the words “a controlled use or for”.

(3) Section 3 (3) of the Town and Country Planning Amendment Act 1983 is hereby consequentially repealed.

7. Regional planning scheme to prevail—(1) Section 37 (3) of the principal Act is hereby amended—

(a) By omitting the words “, the united or regional council, or the Regional Planning Authority” where they first occur, and substituting the words “or the united or regional council”:

(b) By omitting the words “or the Regional Planning Authority” where they secondly occur.

(2) Section 37 (4) of the principal Act is hereby amended—

(a) By omitting the words “or the Regional Planning Authority”:

(b) By omitting the expression “20”, and substituting the expression “28A”.

8. Obligation to provide district scheme—Section 38 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) While a Council is exempt from the obligation to provide and maintain an operative district scheme, Part II of this Act shall apply in respect of the Council’s district.”

9. Council and Maritime Planning Authority may unite for combined scheme—The principal Act is hereby amended by inserting, after section 40, the following section:

“40A. (1) Notwithstanding anything in this Act, a Council and a Maritime Planning Authority which are of the opinion that their interests may be served by a combined scheme may, by resolution, agree to unite for the purpose of preparing and administering a combined scheme and reviewing a combined scheme for the whole or a defined portion of the total areas under their jurisdictions.

“(2) In any such case, the Council and the Maritime Planning Authority shall from time to time, by resolution, appoint such persons (whether or not members of the Council or Maritime Planning Authority) as may be agreed upon between the Council and the Maritime Planning Authority to a combined committee; and, subject to the provisions of this section, the combined committee so appointed shall be the responsible authority within the combined area for the matters for which the combined scheme is to provide.

“(3) Every such combined committee shall consist of not less than 3 nor more than 15 members.

“(4) Every member of the combined committee shall hold office at the pleasure of the Council or Authority the member represents or, in the case of a member who is not a member of the Council or Maritime Planning Authority, at the pleasure of either the Council or Maritime Planning Authority.

“(5) The members of the combined committee shall appoint one of their number to be the presiding member of the committee who shall hold office as presiding member at the pleasure of the committee. A person appointed by the combined committee, not being a member of the committee, shall preside at any meeting of the committee while the presiding member is being elected and, in the case of an equality of votes, shall determine the election by lot in such manner as the committee determines.

“(6) The provisions of the Local Government Act 1974 relating to the meetings of councils (within the meaning of that Act), so far as they are applicable and with the necessary modifications, shall apply in respect of meetings of the combined committee.

“(7) On a date agreed upon by the Council and the Maritime Planning Authority—

“(a) The obligation of the Council and the Maritime Planning Authority to provide a scheme for the area in respect of which they have agreed to unite shall be suspended; and

“(b) Any proposed or operative district scheme and any proposed or operative maritime planning scheme relating to that area shall be suspended; and

“(c) The combined committee shall proceed to provide a combined scheme for that area; and

“(d) Until the combined scheme becomes operative, Part II of this Act, with the necessary modifications, shall apply to that area as if—

“(i) It were a district in respect of which a district scheme is not operative; and

“(ii) The combined committee were a Council administering that area; and

“(iii) Any proposed combined scheme for that area were a proposed district scheme.

“(8) The combined scheme shall make provision for such matters as are required under this Act to be provided for in district schemes and maritime planning schemes.

“(9) Subject to subsections (10) and (11) of this section, the provisions of this Act relating to the preparation, implementation, and administration of district schemes, with the necessary modifications, shall apply in respect of the preparation, implementation, and administration of the combined scheme as if the proposed or operative combined scheme were a proposed or operative district scheme, as the case may be, and as if the combined committee were a Council.

“(10) A combined scheme shall be subject to approval by both the Council and the Maritime Planning Authority under section 52 of this Act; and for that purpose the said section 52 shall apply in respect of the Maritime Planning Authority as if it were a Council.

“(11) On the date on which it is so approved, or on such later date as may be agreed upon by the Council and the Maritime Planning Authority, the combined scheme shall become operative.

“(12) If the Council and the Maritime Planning Authority agree to cease to be united for the purposes of a combined scheme, on the agreed date of cessation—

“(a) If the combined scheme is operative, it shall—

“(i) Be deemed to be part of the operative district scheme in respect of that part of the combined area which is within the district of the Council:

“(ii) Lapse and no longer have any force or effect in respect of that part of the combined area which is within the maritime planning area:

“(b) If the combined scheme is not operative—

“(i) The obligation of the Council to provide a district scheme in respect of that part of the combined area which is within its district; and

“(ii) The obligation of the Maritime Planning Authority to provide a maritime planning scheme in respect of that part of the combined area which is within the maritime planning area— shall cease to be suspended.

“(13) The expenses of uniting and of preparing, implementing, and administering a combined scheme under this section and of providing advisory and administrative services for the combined committee shall be borne and paid as the Council and the Maritime Planning Authority from time to time agree. If they are unable to agree, the Minister, after such inquiry as the Minister thinks proper to direct, may apportion the expenses which shall be paid by the Council and the Maritime Planning Authority in accordance with that apportionment.”

10. Provision of district scheme by sections—Section 41 (2) of the principal Act is hereby repealed.

11. Appeals—(1) Section 49 (1) of the principal Act is hereby amended by repealing the proviso.

(2) Section 10 (1) of the Town and Country Planning Amendment Act 1980 is hereby consequentially repealed.

12. Operative district scheme to be changed to give effect to regional planning scheme—Section 57 (2) of the principal Act is hereby amended by omitting the words “or the Regional Planning Authority”.

13. Variation and cancellation of conditions—Section 71 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) If the original condition, restriction, or prohibition was imposed in respect of a consent given on a notified application or on an application which was publicly notified pursuant to any former Act, the application under subsection (1) of this section shall be a notified application unless the Council considers that—

“(a) The application relates to a minor matter; and

“(b) Every objector to the original application has consented to the variation or cancellation or that it is unreasonable in the circumstances existing to require such consent; and

“(c) No person will be prejudiced if the application is granted—

in which case it may determine that the application need not be a notified application.”

14. Works in conformity with proposed change, etc., permitted—Section 74A of the principal Act (as inserted by section 17 of the Town and Country Planning Amendment Act 1980) is hereby amended—

- (a) By omitting the words “use of any land or building”, and substituting the words “use, subdivision, or development of any land, area, or building”;
- (b) By omitting the words “that use”, and substituting the words “that use, subdivision, or development”.

15. Works contrary to proposed change, etc., prohibited—(1) Section 75 (1) (b) of the principal Act is hereby amended by omitting the expression “61”, and substituting the expression “61B”.

(2) Section 75 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

- “(4) Nothing in this section shall apply in respect of—
 - “(a) An existing use, within the meaning of section 90 of this Act, of any land or building; or
 - “(b) A work which would be an existing use, within the meaning of section 90 of this Act, were the proposed change or new district scheme operative.”

16. Maritime Planning Authority—Section 98 (1) of the principal Act is hereby amended by omitting the words “a Regional Planning Authority,”.

17. Proposed maritime planning schemes—The principal Act is hereby amended—

- (a) By omitting from section 102A (2) (b) (as inserted by section 27 of the Town and Country Planning Amendment Act 1980) the word “draft”, and substituting the word “proposed”;
- (b) By omitting from section 104 (1) the word “draft” in both places where it occurs, and substituting in each case the word “proposed”;
- (c) By omitting from section 105 the word “draft”, and substituting the word “proposed”.

18. Conflict with regional planning schemes—(1) Section 112 (3) of the principal Act is hereby amended by omitting the words “or the Regional Planning Authority” in both places where they occur.

- (2) Section 112 (4) of the principal Act is hereby amended—
- (a) By omitting the words “or the Regional Planning Authority”;
 - (b) By omitting the expression “20”, and substituting the expression “28A”.

19. Maritime planning scheme to be changed to give effect to regional planning scheme—Section 113 (2) of the principal Act is hereby amended by omitting the words “or the Regional Planning Authority”.

20. Public works of the Crown to be designated or authority obtained—Section 116 (1) of the principal Act is hereby amended by omitting the words “or a conditional use of that land”.

21. Requirements for public works—(1) Section 118 of the principal Act is hereby amended by inserting, after subsection (8), the following subsection:

“(8A) The Minister or local authority, at any time before a requirement has been confirmed or modified, may withdraw the requirement in whole or in part.”

(2) Section 118 (10) of the principal Act is hereby amended by omitting the words “or the Regional Planning Authority”.

(3) Section 118 of the principal Act is hereby amended by adding the following subsections:

“(11) Notwithstanding the provisions of section 17 of this Act, in determining any appeal under this section, if, for special reasons specified by the Tribunal, it considers that the requirement should be modified or revoked notwithstanding that it complies with the regional planning scheme, the Tribunal may—

“(a) Modify or revoke the requirement or impose such conditions, restrictions, or prohibitions in respect of the requirement as the Tribunal thinks fit; and

“(b) Direct the united or regional council to amend the regional planning scheme accordingly.

“(12) On receiving a direction under subsection (11) (b) of this section, the united or regional council shall without further formality amend the regional planning scheme to give effect to the direction.”

22. Indication of purpose for which designated land may be used if designation removed—Section 121 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Subject to subsection (1A) of this section, if land is designated in a district scheme for any public work, the district scheme shall indicate the purposes for which, and the conditions (if any) subject to which, the land could be used if it were not so designated.

“(1A) This section shall not apply to any land designated for—

“(a) A national park constituted under the National Parks Act 1980; or

“(b) An existing highway, unless—

“(i) There is a proposal to grant a lease of any airspace over the highway pursuant to section 341 of the Local Government Act 1974, or such a lease has been granted; or

“(ii) There is a proposal to stop the highway pursuant to the Local Government Act 1974 and the proposal is shown in the district scheme; or

“(iii) There is a proposal to declare the highway to be a pedestrian mall pursuant to section 336 of the Local Government Act 1974.”

23. Removal of designation—(1) Section 122 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Where land is designated in a district scheme for a public work and the body or person having financial responsibility for the public work requires only part of that land to be so designated, the body or person shall inform the Council and the owner and occupier of the land affected of that fact. The Council shall thereupon, without further formality, alter the district scheme in accordance with that information to reduce the area designated for the public work, and notify all bodies and persons to whom the scheme has been sent under section 42 of this Act of that reduction.”

(2) Section 122 (2) of the principal Act is hereby amended—

(a) By inserting, after the words “Nothing in”, the words “subsection (1) of”;

(b) By omitting the words “or amend”.

24. Outline plans of works to be submitted to Council—Section 125 (7) of the principal Act is hereby amended by omitting the words “date of refusal”, and substituting the words “date of notification of the decision”.

25. Matters may be heard together—(1) The principal Act is hereby amended by repealing section 150A (as inserted by section 28 of the Town and Country Planning Amendment Act 1983), and substituting the following section:

“150A. Where there are 2 or more proceedings relating to the same subject-matter which the Tribunal has jurisdiction to hear or consider under—

“(a) This Act; or

“(b) Any other Act or Acts; or

“(c) This Act and any other Act or Acts—

the Tribunal may in its discretion conduct the proceedings together.”

(2) Section 28 of the Town and Country Planning Amendment Act 1983 is hereby consequentially repealed.

26. Omitting references to Regional Planning Authorities—The principal Act is hereby amended—

(a) By omitting from section 152 the words “the Regional Planning Authority,”;

(b) By omitting from section 157 the words “or Regional Planning Authority”;

(c) By repealing section 163 (1) (c).

27. Matters may be determined by arbitration instead of by Tribunal—The principal Act is hereby amended by repealing section 165, and substituting the following section:

“165. If the Minister, the united or regional council, the Council, the local authorities, the Maritime Planning Authority, and the combined committees concerned are unable to agree upon any matter in respect of which this Act gives any of them a right to request an inquiry by, or a right of appeal to, the Tribunal, they may by agreement have the matter determined by arbitration in the manner set out in the Arbitration Act 1908; and where any such agreement has been made, no party to the arbitration shall have the right to request an inquiry by the Tribunal or have any right of appeal to the Tribunal in respect of the decision reached by arbitration.”

28. Requirements as to serving notice, etc., may be waived—(1) Section 167 of the principal Act is hereby amended by omitting the words “or the Regional Planning Authority”.

(2) Section 167 of the principal Act is hereby amended by adding the following subsection:

“(2) In any proceedings or intended proceedings before it, the united or regional council, the Council, or the Maritime Planning Authority, on application to it in that behalf, may waive compliance with any requirement of this Act or of any regulations in force under this Act as to the time or method of serving documents, and as to the documents to be served and the persons on whom any documents are to be served, if it is satisfied that no party to the proceedings will be prejudiced by the waiver.”

29. Council may delegate to committees or Commissioner—(1) Section 169A of the principal Act (as inserted by section 41 of the Town and Country Planning Amendment Act 1980) is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Whether or not it has exercised the powers conferred by subsections (1) and (2) of this section, any Council having an operative district scheme may appoint any person (whether or not a member of the Council) to act as a Commissioner to whom the Council may delegate, generally or specially, any of its functions, powers, duties, and discretions under this Act for the purpose of making a recommendation to the Council.”

(2) Section 33 of the Town and Country Planning Amendment Act 1983 is hereby consequentially repealed.

30. Delegation of certain powers to officers—(1) The principal Act is hereby amended by inserting, after section 169A, the following section:

“169AA. Any united or regional council, Council, or Maritime Planning Authority may delegate to any officer of the council, Council, or Authority all or any of its powers, duties, and discretions under this Act or under any regulations in force under this Act in any way relating to—

“(a) The giving of notice; and

“(b) The service of documents; and

“(c) The persons or classes of persons on whom copies of applications and other documents are to be served; and

“(d) The payment of deposits of money; and

“(e) The requiring of applicants to supply further information, plans, documents, and reports.”

(2) If any officer of a united or regional council, Council, or Maritime Planning Authority has, before the commencement of this section, exercised or performed any power, duty, or discretion, and that action would have been valid if—

- (a) Section 169AA of the principal Act (as inserted by subsection (1) of this section) had been in force at the time of the action; and
- (b) The action had been carried out pursuant to a valid delegation by the united or regional council, Council, or Maritime Planning Authority pursuant to the said section 169AA—

the exercise or performance of that power, duty, or discretion shall be deemed to have been valid.

31. Joint hearing of proceedings, etc.—(1) The principal Act is hereby amended by repealing section 169B, and substituting the following section:

“169B. (1) Where there are applications or proceedings relating to the same subject-matter under this Act involving—

“(a) Two or more Councils; or

“(b) Two or more Maritime Planning Authorities; or

“(c) A Council and a Maritime Planning Authority—

the Councils, the Maritime Planning Authorities, or the Council and the Maritime Planning Authority, or any appropriate committee, subcommittee, or Commissioner, as the case may require, may hear or consider the applications or conduct of the proceedings together.

“(2) Where there are applications or proceedings relating to the same subject-matter under this Act and any other Act, the Council, the Maritime Planning Authority, and the Regional Water Board, or any appropriate committee, subcommittee, Commissioner, or standing or special Tribunal appointed or established by the Council, Maritime Planning Authority, or Regional Water Board, may hear or consider the applications or conduct the proceedings together.”

(2) Section 42 of the Town and Country Planning Amendment Act 1980 is hereby consequentially repealed.

32. Matters to be dealt with in district schemes—

(1) Clause 3 of the Second Schedule to the principal Act is hereby amended by adding the words “, and Maori reservations set apart under section 439 of the Maori Affairs Act 1953”.

(2) The said Second Schedule is hereby amended by inserting, after clause 4, the following clause:

“4A. Provision for the establishment and operation of such tourist facilities and services as are appropriate to the circumstances of the district and the purposes and objectives of the scheme.”

(3) Clause 7 (f) of the said Second Schedule is hereby amended by inserting, after the word “roads,” the words “pedestrian malls,”.

(4) Clause 8 of the said Second Schedule is hereby amended by adding the following paragraph:

“(c) The storage, transport, and disposal of hazardous substances.”

33. Matters to be dealt with in maritime planning schemes—(1) The Third Schedule to the principal Act is hereby amended by inserting, after clause 2, the following clause:

“2A. Provision for Maori traditional and cultural uses, including fishing grounds.”

(2) Clause 3 of the said Third Schedule is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Tourist facilities and activities:”.

(3) The said Third Schedule is hereby amended by inserting, after clause 3, the following clause:

“3A. Provision for the implementation of any fishery management plan approved pursuant to section 8 of the Fisheries Act 1983.”

This Act is administered in the Ministry for the Environment.
