

## AMERICA'S CUP (PLANNING) BILL

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### EXPLANATORY NOTE

*Clause 1* relates to the Short Title.

*Clause 2* defines various terms used in the Bill. The more important definitions are as follows:

“America’s Cup” means the yachting event known as the America’s Cup; and includes the preceding Challenger Series, Defender Series, and World Series:

“Consent” means any consent, right, authorisation, permit, licence, dispensation, waiver, or other approval granted or authorised under any statutory provision:

“Facility” means a work, structure, or use constructed or undertaken, or intended to be constructed or undertaken, within the region of the Auckland Regional Authority:

NOTE—The effect of the above definition is that the Bill will apply only within the Auckland region.

“Statutory provision” means any provision of any Act set out in the Schedule to the Bill; and includes every regulation, rule, Order in Council, Proclamation, notice, or bylaw in force under any such Act; and also includes any regional planning scheme, district scheme, and maritime planning scheme in force under the Town and Country Planning Act 1977:

Thus the only “consents” (as defined) which may be granted under this Bill are consents which could be granted under a “statutory provision” (as defined). The statutory provisions are set out in the Schedule to the Bill.

*Clause 3* establishes a Planning Authority to be called the America’s Cup Planning Authority.

*Clause 4, subclause (1)* provides that the membership of the Planning Authority is to comprise—

(a) Three members of the Auckland Regional Authority to be appointed by that Authority, of whom one shall be appointed by that Authority as presiding member:

(b) One person appointed jointly by the Minister for the Environment and the Minister for the America’s Cup:

(c) Three persons appointed pursuant to *subclause (2)*.

*Subclause (2)* provides that where an application is made under the Bill, the Council of the district within which the facility or proposed facility to which the application relates is situated or proposed to be situated is to appoint 3 of its members to be members of the Planning Authority. Those persons are to be members of the Planning Authority while it considers and makes decisions relating to the application.

*Subclause (3)* provides that the members of the Planning Authority are to hold office at the pleasure of the body or persons which or who appointed them.

*Subclauses (4) and (5)* provide for resignations from office and the filling of extraordinary vacancies.

*Clause 5* provides for deputies of members of the Planning Authority.

*Clause 6* provides for the remuneration of members.

*Clause 7* provides for the calling and conduct of meetings of the Planning Authority, and empowers the Planning Authority to regulate its own procedure.

*Clause 8* provides that the Auckland Regional Authority is to provide such secretarial, accounting, technical, and other administrative facilities and services as are necessary to enable the Planning Authority to carry out its functions.

The clause also provides that the costs and expenses incurred by the Planning Authority in carrying out its functions are to be borne by the Auckland Regional Authority so far as those costs and expenses are not met by fees and charges set by the Planning Authority.

*Clause 9* sets out the functions of the Planning Authority, namely—

- (a) To determine whether any facility or proposed facility in respect of which an application has been made under *clause 12* meets the criteria set out in *clause 13*;
- (b) If it considers that the facility or proposed facility does meet those criteria, to determine whether the consents sought should be granted.

*Clause 10, subclause (1)* provides that the Planning Authority is to have such powers as are reasonably necessary or expedient to enable it to carry out its functions.

*Subclause (2)* provides that the Planning Authority is to have the same functions, powers, privileges, and immunities in respect of every consent sought under the Bill as the statutory authority which would normally consider the application for consent if it was made in the normal way.

*Clause 11* provides for application fees.

*Subclause (1)* provides that the Planning Authority or its Secretary is to require every person who makes an application under *clause 12* or *clause 24* (but not any statutory authority applying under *clause 24*) to pay such fees as will reasonably meet all costs and expenses which will be incurred by the Planning Authority in considering the application and making a decision.

*Subclause (2)* provides that if the fee charged is more than those costs and expenses, the excess is to be refunded.

*Subclause (3)* provides that if the fee charged is less than those costs and expenses, the Planning Authority is to require the applicant to pay the deficiency before releasing its decision.

*Clause 12, subclause (1)* provides that any person may apply for any consent to be granted under the Bill in respect of any facility or proposed facility by submitting a written application to the Planning Authority.

*Subclause (2)* provides that any such application may include an application for a change to a district scheme, or for a variation of a proposed scheme, change, or review, applicable to the district within which the facility or proposed facility is situated or proposed to be situated. Every such application for a change or variation is to be deemed to be an application for a consent within the meaning of the Bill.

*Subclause (3)* provides that every application under this clause is to—

- (a) Specify the reasons why the applicant considers the facility or proposed facility meets or will meet the criteria set out in *clause 13*;
- (b) Describe the land on which the facility or proposed facility is situated or proposed to be situated, and the reasons why the site is preferred to other practicable sites;
- (c) Specify every consent that is required for the facility or proposed facility;
- (d) Specify the statutory provision under which each such consent would normally be granted and the statutory authority which would normally grant it;
- (e) Give such particulars as would be required if an application for each such consent were made in the normal way;
- (f) Be accompanied by an environmental impact assessment in respect of the facility or proposed facility;
- (g) Be accompanied by such plans as will generally describe the facility or proposed facility;
- (h) Be supplemented by such other reports, plans, or information as the Planning Authority considers necessary.

*Clause 13* provides for the initial consideration of the application by the Planning Authority.

The Planning authority is to determine whether—

- (a) The facility or proposed facility is reasonably necessary for the conduct of the America's Cup; or
- (b) The facility or proposed facility is reasonably necessary to enable participation in the America's Cup; or
- (c) The facility or proposed facility is ancillary to the conduct of or to participation in the America's Cup—

and it is unlikely that the consents sought would be granted in time to enable the facility or proposed facility to be ready in time for the America's Cup events if applications for the consents were made in the normal way.

*Clause 14, subclause (1)* provides that if the Planning Authority is satisfied that the facility or proposed facility meets the criteria set out in *clause 13*, it is to forthwith advise the applicant that the application will be dealt with under the Bill and as soon as practicable serve a copy of the application, together with a copy of all documents and plans which accompanied it, on—

- (a) The Auckland Regional Authority;
- (b) The Council within whose district the facility or proposed facility is situated or proposed to be situated;
- (c) Every statutory authority which would normally grant the consents set out in the application;
- (d) The Parliamentary Commissioner for the Environment;
- (e) The Minister for the Environment;
- (f) The Minister for the America's Cup;
- (g) The Minister of Conservation;
- (h) The Minister of Transport;
- (i) The Auckland District Maori Council.

*Subclause (2)* provides that if a consent under the Town and Country Planning Act 1977 is specified in the application, the Council which would normally consider the application must, at the applicant's expense, as soon as practicable serve notice of the application on every person who would be required to be served if application for that consent had been made in the normal way.

*Clause 15* provides for public notice of the application and for the calling for written objections or submissions.

The public notice must—

- (a) Specify the place or places where a copy of the application, together with a copy of all documents and plans which accompanied it, may be inspected without charge; and
- (b) Give the time and place of the hearing of the application.

*Clause 16* provides that, on application by any person and on the payment of such reasonable fee as may be fixed by the Secretary of the Planning Authority, the Secretary is to supply to that person, a copy of the application and of all documents and plans which accompanied it.

*Clause 17, subclause (1)* provides for the Planning Authority to conduct a hearing of the application.

*Subclause (2)* provides that the Planning Authority may not conduct a hearing into an application made under *clause 12 (2)* for a change or variation without the prior written consent of the Council which administers the district scheme or which is preparing the proposed scheme, change, or review, as the case may be, to which the application relates.

*Clause 18* sets out the bodies and persons having the right to be heard at the hearing.

*Clause 19* provides that the matters to be taken into account, recognised, and provided for by the Planning Authority in conducting the hearing and deciding whether to grant each consent sought are to be those matters which would properly have been taken into account, recognised, and provided for if application for the consent had been made in the normal way.

*Clause 20* empowers the Planning Authority to grant such of the consents sought as it thinks fit.

The Planning Authority may impose conditions relating to the removal of any facility or proposed facility and the restoration of the site on which it is situated or proposed to be situated.

In addition, if a hearing has been conducted into an application made under *clause 12 (2)* for a change or variation, the Planning Authority may direct the appropriate Council to make the change or variation sought, and the Council must without further formality or notice or other proceedings make that change or variation.

*Clause 21* provides that as soon as practicable after reaching a decision the Planning Authority is to supply each party to the hearing with a written copy of its decision and the reasons for it, and give public notice of its decision.

*Clause 22* provides that a copy of every plan referred to in any consent granted is to be kept at such place or places as may be specified by the Planning Authority, and is to be available for public inspection, without charge, during ordinary office hours at that place or those places.

*Clause 23* provides that every consent granted is to have the same force and effect as if it had been granted in the normal way.

*Clause 24* sets out the procedure for the variation or cancellation by the Planning Authority of conditions imposed in respect of consents or for the imposition of new conditions.

*Clause 25, subclause (1)* provides that any party to any hearing held by the Planning Authority under *clause 17* or *clause 24* may appeal to the Planning Tribunal against the Planning Authority's decision.

*Subclause (2)* provides that the provisions of the Town and Country Planning Act 1977 and of the regulations in force under that Act are to apply to and in respect of every such appeal, and to and in respect of the Tribunal, as if the appeal was an appeal under section 69 of that Act.

*Subclause (3)* shortens the minimum period of notice of the appeal hearing from 21 days to 5 working days.

*Subclause (4)* provides that the hearing and determination of any appeal is to have priority over every other matter before the Planning Authority, except any other appeal before it under this clause.

*Clause 26* provides that so long as they act bona fide in the performance of their duties no action is to lie against the members of the Planning Authority or the Planning Tribunal or any of them for anything they may say or do in the exercise of the powers, duties, and functions under the Bill.

*Clause 27* provides that the Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to the Bill and for its due administration.

*Clause 28, subclause (1)* provides that, except as otherwise provided in the Bill, nothing in the Bill is to derogate from or affect the statutory rights, functions, powers, duties, and responsibilities of any body or person in respect of the construction, undertaking, or operation of any facility or proposed facility which the Planning Authority has determined meets the criteria set out in *clause 13*.

*Subclause (2)* provides that the specified provisions of the Acts set out in the Schedule to the Bill and the provisions of every regulation, rule, Order in Council, Proclamation, notice, bylaw, regional planning scheme, district scheme, and maritime planning scheme in force under any of those provisions are to be read subject to the provisions of the Bill so far as is necessary to give effect to the Bill.

*Clause 29* provides that, where approval is sought, under the Harbours Act 1950, to a reclamation for the purposes of or in respect of a facility or proposed facility which the Planning Authority has determined meets the criteria set out in *clause 13*, the Harbours Act 1950 is to be modified to shorten the periods within which certain procedures are to be carried out.

*Clause 30, subclause (1)* provides that the Bill is to be deemed to be repealed on the expiry of the period of 5 years commencing on the date on which it comes into force.

*Subclause (2)* provides for consents granted under the Bill to continue in force notwithstanding the expiry of the Bill.

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*Hon. Mike Moore*

## AMERICA'S CUP (PLANNING)

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### A BILL INTITULED

5 **An Act to enable certain consents required in connection with facilities reasonably necessary for the conduct of the America's Cup, or reasonably necessary to enable participation in the America's Cup, to be obtained expeditiously**

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

**1. Short Title**—This Act may be cited as the America's Cup (Planning) Act 1989.

10 **2. Interpretation**—In this Act, unless the context otherwise requires,—

“America's Cup” means the yachting event known as the America's Cup; and includes the preceding Challenger Series, Defender Series, and World Series:

- “Applicant” means any person proposing to construct, undertake, or operate a facility:
- “Consent” means any consent, right, authorisation, permit, licence, dispensation, waiver, or other approval granted or authorised under any statutory provision: 5
- “Council” means any City Council, District Council, Borough Council, or County Council:
- “District”, in relation to a Council, has the same meaning as in section 2 (1) of the Town and Country Planning Act 1977: 10
- “Facility” means a work, structure, or use constructed or undertaken, or intended to be constructed or undertaken, within the region of the Auckland Regional Authority: 15
- “Land” includes water, the foreshore, and the seabed:
- “Planning Authority” means the America’s Cup Planning Authority established under section 3 of this Act:
- “Public notice” has the same meaning as in the Town and Country Planning Act 1977: 20
- “Statutory provision” means any provision of any Act set out in the Schedule to this Act; and includes every regulation, rule, Order in Council, Proclamation, notice, or bylaw in force under any such Act; and also includes any regional planning scheme, district scheme, and maritime planning scheme in force under the Town and Country Planning Act 1977: 25
- “Tribunal” means the Planning Tribunal established under section 128 of the Town and Country Planning Act 1977: 30
- “Working day” means any day of the week other than—
- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, Waitangi Day, and Auckland Anniversary Day; and
- (b) A day in the period commencing on the 25th day of December and ending with the following day of January. 35

**3. America’s Cup Planning Authority**—There is hereby established a Planning Authority to be called the America’s Cup Planning Authority. 40

**4. Membership of Planning Authority**—(1) The membership of the Planning Authority shall comprise—

(a) Three members of the Auckland Regional Authority to be appointed by that Authority, of whom one shall be appointed by that Authority as presiding member:

5 (b) One person appointed jointly by the Minister for the Environment and the Minister for the America's Cup:

(c) Three persons appointed pursuant to subsection (2) of this section.

(2) Where an application is made under this Act, the Council of the district within which the facility or proposed facility to  
10 which the application relates is situated or proposed to be situated shall forthwith appoint 3 of its members to be members of the Planning Authority. Those persons shall be members of the Planning Authority while it considers and makes decisions relating to the application.

15 (3) The members of the Planning Authority shall hold office at the pleasure of the body or persons which or who appointed them.

(4) Any member of the Planning Authority may at any time resign from office by written notice to the body or persons  
20 which or who appointed the member.

(5) If any member dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made.

**5. Deputies**—If any member of the Planning Authority is  
25 prevented by illness, absence, or other sufficient cause from acting as a member of the Planning Authority, the body or persons which or who appointed the member may appoint a deputy to act in place of the member. While the deputy is so acting he or she shall be deemed to be a member of the  
30 Planning Authority. The fact that any deputy so acts shall be conclusive evidence of his or her authority to do so, and no person shall be concerned to inquire whether the occasion requiring or authorising him or her to do so has arisen or has ceased.

35 **6. Remuneration**—The Minister of Local Government may from time to time determine the remuneration to be paid to members of the Planning Authority by way of fees, salary, or allowances, and travelling allowances or expenses.

**7. Meetings and procedure**—(1) Subject to the provisions  
40 of this Act, the provisions of the Local Government Act 1974 relating to the calling and conduct of meetings of Councils, with

the necessary modifications, shall apply in respect of the calling and conduct of meetings of the Planning Authority.

(2) Subject to the provisions of this Act, the Planning Authority may regulate its own procedure.

**8. Administrative services, etc.**—(1) The Auckland Regional Authority shall provide such secretarial, accounting, technical, and other administrative facilities and services as are necessary to enable the Planning Authority to carry out its functions.

(2) The costs and expenses incurred by the Planning Authority in carrying out its functions shall be borne by the Auckland Regional Authority so far as those costs and expenses are not met by fees and charges set by the Planning Authority.

**9. Functions of Planning Authority**—The Planning Authority shall have the following functions:

(a) To determine whether any facility or proposed facility in respect of which an application has been made under section 12 of this Act meets the criteria set out in section 13 of this Act:

(b) If it considers that the facility or proposed facility does meet those criteria, to determine whether the consents sought should be granted.

**10. Powers of Planning Authority**—(1) The Planning Authority shall have such powers as are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting subsection (1) of this section, the Planning Authority shall have the same functions, powers, privileges, and immunities in respect of every consent sought under this Act as the statutory authority which would normally consider the application for consent if it was made in the normal way.

**11. Application fees**—(1) The Planning Authority or its Secretary shall require every person who makes an application under section 12 or section 24 of this Act (but not any statutory authority applying under section 24 of this Act) to pay such fees as will reasonably meet all costs and expenses which will be incurred by the Planning Authority in considering the application and making a decision.

(2) If the fee charged is more than those costs and expenses, the excess shall be refunded.

(3) If the fee charged is less than those costs and expenses, the Planning Authority shall require the applicant to pay the deficiency before releasing its decision.

5 **12. Application for consent**—(1) Any person may apply for any consent to be granted under this Act in respect of any facility or proposed facility by submitting a written application to the Planning Authority.

10 (2) An application under this section may include an application for a change to a district scheme, or for a variation of a proposed scheme, change, or review, under the Town and Country Planning Act 1977, applicable to the district within which the facility or proposed facility is situated or proposed to be situated. Every such application for a change or variation shall be deemed to be an application for a consent within the  
15 meaning of this Act.

(3) Every such application shall—

- (a) Specify the reasons why the applicant considers the facility or proposed facility meets or will meet the criteria set out in **section 13** of this Act:
- 20 (b) Describe the land on which the facility or proposed facility is situated or proposed to be situated, and the reasons why the site is preferred to other practicable sites:
- 25 (c) Specify every consent that is required for the facility or proposed facility:
- (d) Specify the statutory provision under which each such consent would normally be granted and the statutory authority which would normally grant it:
- 30 (e) Give such particulars as would be required if an application for each such consent were made in the normal way:
- (f) Be accompanied by an environmental impact assessment in respect of the facility or proposed facility:
- 35 (g) Be accompanied by such plans as will generally describe the facility or proposed facility:
- (h) Be supplemented by such other reports, plans, or information as the Planning Authority considers necessary.

40 **13. Initial consideration of application**—On receiving an application under **section 12** of this Act, the Planning Authority shall as soon as practicable, after giving the applicant the opportunity to be heard, determine whether—

- (a) The facility or proposed facility is reasonably necessary for the conduct of the America's Cup; or
  - (b) The facility or proposed facility is reasonably necessary to enable participation in the America's Cup; or
  - (c) The facility or proposed facility is ancillary to the conduct of or to participation in the America's Cup—
- and it is unlikely that the consents sought would be granted in time to enable the facility or proposed facility to be ready in time for the America's Cup events if applications for the consents were made in the normal way.

**14. Service of application**—(1) If the Planning Authority is satisfied that the facility or proposed facility meets the criteria set out in **section 13** of this Act, it shall forthwith advise the applicant that the application will be dealt with under this Act and as soon as practicable serve a copy of the application, together with a copy of all documents and plans which accompanied it, on—

- (a) The Auckland Regional Authority;
- (b) The Council within whose district the facility or proposed facility is situated or proposed to be situated;
- (c) Every statutory authority which would normally grant the consents set out in the application;
- (d) The Parliamentary Commissioner for the Environment;
- (e) The Minister for the Environment;
- (f) The Minister for the America's Cup;
- (g) The Minister of Conservation;
- (h) The Minister of Transport;
- (i) The Auckland District Maori Council.

(2) If a consent under the Town and Country Planning Act 1977 is specified in the application, the Council which would normally consider the application shall, at the applicant's expense, as soon as practicable serve notice of the application on every person who would be required to be served if application for that consent had been made in the normal way.

**15. Public notice of application**—(1) At the same time as the Planning Authority serves copies of the application under **section 14** of this Act, it shall cause public notice to be given of the application and call for written objections or submissions in support to be lodged with the Planning Authority and the Parliamentary Commissioner for the Environment, within such period as the Planning Authority specifies in the notice, being not less than 10 working days after the date of the public notice, by—

- (a) Any body or person affected by the proposed facility:
- (b) Any body or person representing some relevant aspect of the public interest.
- (2) The public notice given under **subsection (1)** of this section shall also—
  - (a) Specify the place or places where a copy of the application, together with a copy of all documents and plans which accompanied it, may be inspected without charge; and
  - (b) Give the time and place of the hearing of the application.

**16. Obligation to supply copy of application**—On application by any person and on the payment of such reasonable fee as may be fixed by the Secretary of the Planning Authority, the Secretary shall supply to that person a copy of the application and of all documents and plans which accompanied it.

**17. Hearing of application**—(1) On the expiry of the period specified in **section 15 (1)** of this Act, the Planning Authority shall as soon as practicable conduct a hearing of the application.

(2) The Planning Authority shall not conduct a hearing into an application made under **section 12 (2)** of this Act for a change or variation without the prior written consent of the Council which administers the district scheme or which is preparing the proposed scheme, change, or review, as the case may be, to which the application relates.

**18. Right to be heard**—(1) The following bodies and persons shall have the right to be present and be heard at every hearing under **section 17** of this Act:

- (a) The applicant;
- (b) Every body and person specified in **section 14 (1)** of this Act;
- (c) Every body and person which or who has properly lodged an objection or submissions pursuant to **section 15 (1)** of this Act.
- (2) Any body or person entitled to be present at the hearing may be represented by counsel or by any duly authorised representative.

**19. Matters to be taken into account**—The matters to be taken into account, recognised, and provided for by the Planning Authority in conducting the hearing and deciding whether to grant each consent sought shall be those matters

which would properly have been taken into account, recognised, and provided for if application for the consent had been made in the normal way.

**20. Granting of consents**—(1) On completion of the hearing the Planning Authority may grant such of the consents in respect of which it conducted the hearing as it thinks fit, and shall—

(a) If appropriate, grant each consent for such term or period of time as it thinks fit; and

(b) Impose such conditions, restrictions, and prohibitions as are normally required, and such other conditions, restrictions, and prohibitions as it thinks fit, in respect of each such consent—

being in each case a term or period of time, and conditions, restrictions, and prohibitions that must or could have been lawfully provided for or imposed if the consent had been granted in the normal way.

(2) The Planning Authority may also impose conditions relating to the removal of any facility or proposed facility and the restoration of the site on which it is situated or proposed to be situated.

(3) Notwithstanding anything in the Town and Country Planning Act 1977, if a hearing has been conducted into an application made under section 12 (2) of this Act for a change or variation, the Planning Authority may direct the appropriate Council to make the change or variation sought; and the Council shall without further formality or notice or other proceedings make that change or variation.

**21. Notice of decision**—As soon as practicable after reaching a decision the Planning Authority shall supply each party to the hearing with a written copy of its decision and the reasons for it, and give public notice of its decision.

**22. Public inspection of plans**—A copy of every plan referred to in any consent granted under section 20 (1) of this Act shall be kept at such place or places as may be specified by the Planning Authority, and shall be available for public inspection, without charge, during ordinary office hours at that place or those places.

**23. Effect of granting consents**—(1) Every consent granted under section 20 of this Act shall have the same force and effect as if it had been granted in the normal way.

(2) Subject to this Act, the provisions of each statutory provision under which each such consent would normally have been granted shall, so far as is practicable and with the necessary modifications, apply in respect of that consent as if it had been granted under that statutory provision.

**24. Right to apply for variation or cancellation of conditions**—(1) Where a consent has been granted under section 20 of this Act, the applicant or the statutory authority which would normally have granted the consent may apply to the Planning Authority for the variation or cancellation of any condition, restriction, or prohibition imposed in respect of the consent or for the imposition of a new condition, restriction, or prohibition.

(2) On receiving the application the Planning Authority shall consider whether or not the variation or cancellation or the new condition, restriction, or prohibition sought is of such significance as to justify conducting a full hearing.

(3) If the Planning Authority considers that a full hearing should not be conducted, it shall call for written submissions from the applicant and the statutory authority which would normally have granted the consent and, after considering those submissions, may vary or cancel the condition, restriction, or prohibition or impose the new condition, restriction, or prohibition, as the case may require.

(4) If the Planning Authority considers that a hearing should be held, the provisions of this Act (other than section 13), with the necessary modifications, shall apply in respect of the application as if it had been an application made under section 12 of this Act.

(5) On completion of a hearing held pursuant to subsection (4) of this section, the Planning Authority may vary or cancel the condition, restriction, or prohibition or impose the new condition, restriction, or prohibition, as the case may require.

(6) As soon as practicable after reaching a decision under this section, the Planning Authority shall—

(a) Supply the applicant and the appropriate statutory authority with a written copy of its decision and the reasons for it, where the decision is made under subsection (3) of this section; or

(b) Supply each party to the hearing with a written copy of its decision and the reasons for it, where the decision is made under subsection (5) of this section—

and give public notice of its decision.

(7) The powers conferred on the Planning Authority by this section are subject to the provisions of **section 20 (1)** of this Act.

(8) Nothing in this section shall prevent any person from applying in the normal way for the variation or cancellation of any condition, restriction, or prohibition or for the imposition of a new condition, restriction, or prohibition notwithstanding that the consent in respect of which application is made was granted under this Act. 5

**25. Appeals**—(1) Any party to any hearing held by the Planning Authority under **section 17 or section 24** of this Act may, within 5 working days after the date of public notice of the decision, appeal to the Tribunal against the Planning Authority's decision or against any variation, condition, restriction, or prohibition granted or imposed in respect of any consent granted. 10 15

(2) Subject to this section, the provisions of the Town and Country Planning Act 1977 and of the regulations in force under that Act shall apply to and in respect of every such appeal, and to and in respect of the Tribunal, as if the appeal were an appeal under section 69 of that Act. 20

(3) In respect of every appeal made under this section, regulation 58 (1) of the Town and Country Planning Regulations 1978 shall be read as if—

(a) There were substituted, for the expression "21 days" where it first occurs, the expression "5 working days as defined in **section 2 of the America's Cup (Planning) Act 1989**"; and 25

(b) The proviso were omitted.

(4) The hearing and determination of any appeal under this section shall have priority over every other matter before the Tribunal, except any other appeal before it under this section. 30

**26. Members to be protected**—So long as they act bona fide in the performance of their duties no action shall lie against the members of the Planning Authority or the Tribunal or any of them for anything they may say or do in the exercise of the powers, duties, and functions under this Act. 35

**27. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration. 40

**28. Certain Acts to be read subject to this Act—**

(1) Except as otherwise provided in this Act, nothing in this Act shall derogate from or affect the statutory rights, functions, powers, duties, and responsibilities of any body or person in  
5 respect of the construction, undertaking, or operation of any facility or proposed facility which the Planning Authority has determined meets the criteria set out in **section 13** of this Act.

(2) The specified provisions of the Acts set out in the Schedule to this Act and the provisions of every regulation,  
10 rule, Order in Council, Proclamation, notice, bylaw, regional planning scheme, district scheme, and maritime planning scheme in force under any of those provisions shall be read subject to the provisions of this Act so far as is necessary to give effect to this Act.

15 **29. Modification of Harbours Act 1950—**Where a consent under the Harbours Act 1950 is sought for the purposes of or in respect of a facility or proposed facility which the Planning Authority has determined meets the criteria set out in **section 13** of this Act, the Harbours Act 1950 shall be read  
20 as if—

- (a) In section 175A (b) (v) there were substituted, for the expression “2 months”, the expression “3 weeks”:
- (b) In section 175A (d) there were substituted, for the expression “2 months”, the expression “3 weeks”:
- 25 (c) In section 175A (e) there were substituted, for the expression “2 months”, the expression “3 weeks”:
- (d) In section 175A (f) there were substituted, for the expression “3 months”, the expression “2 weeks”:
- 30 (e) In section 175C (b) there were substituted, for the expression “2 months”, the expression “2 weeks”.

**30. Expiry of this Act—**(1) This Act shall be deemed to be repealed on the expiry of the period of 5 years commencing on the date on which it comes into force.

(2) Notwithstanding the repeal of this Act pursuant to  
35 **subsection (1)** of this section, every consent granted under this Act, and every condition, restriction, and prohibition subject to which every such consent was granted, shall continue in force and have effect as if it had been granted or imposed in the normal way pursuant to the statutory provision referred to in  
40 the decision granting the consent; and the provisions of the statutory provision so referred to, with the necessary modifications, shall accordingly apply in respect of the consent

and of the conditions, restrictions, and prohibitions subject to which the consent was granted.

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**Sections 2, 28**

### **SCHEDULE**

#### **STATUTORY PROVISIONS**

The Historic Places Act 1980: Part II.

The Local Government Act 1974: Parts XX, XXXVII, and XLIII.

The Marine Pollution Act 1974: Section 22B.

The Reserves Act 1977: Part III and section 106.

The Town and Country Planning Act 1977: Parts II, III, IV, V, and VIA.

The Water and Soil Conservation Act 1967: Sections 20J, 21, 24, 24B, 34A, and 37.