

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 9 September 1981

OTAGO HARBOUR BOARD VESTING, RECLAMATION, AND EMPOWERING BILL

Proposed Amendments

HON. W. E. COOPER, in Committee, to move the following amendments:

Clause 6: To omit this clause, and substitute the following clause:**6. Power to develop reclaimed land and adjacent land—**

(1) Subject to section 16 of this Act, the Board is hereby empowered to develop for the purposes of an aluminium smelter and for other industrial purposes all or any part or parts of—

(a) The land described in the Schedule to this Act; and

(b) Any land which is adjacent to the land described in the Schedule to this Act and which is vested in the Board by the Otago Harbour Board Indemnity and Lands Vesting Act 1888 or by the Otago Harbour Board Lands Vesting Act 1910; and

(c) Any stopped road adjacent to the land described in paragraph (a) or paragraph (b) of this subsection which is vested in the Board.

(2) In exercising the power conferred on it by subsection (1) of this section, the Board may, subject to subsection (3) of this section, subdivide and resubdivide any land to which subsection (1) of this section relates, or any part or parts of that land, into allotments suitable for the purpose for which that land or the part or parts are to be developed.

(3) Except as provided in section 10 of this Act and in any other Act, any subdivision or resubdivision effected pursuant to subsection (2) of this section shall be subject to the statutory provisions relating to the subdivision of land (including the relevant provisions of the Local Government Act 1974).

(4) In exercising the power conferred by subsection (1) of this section, the Board may construct or provide such harbour works and such public works or amenities as the Board deems necessary or desirable for the use, convenience, or enjoyment of the land referred to in that subsection, or any part or parts of that land, which works and amenities may include—

- (a) The vesting, creation, or provision of roads, service lanes, access ways, rights of way, and other means of communication and access:
- (b) Services for water supply, drainage, sewerage, electric lighting, power, gas, and other amenities:
- (c) A boat launching ramp:
- (d) Works necessary to comply with any lawful requirement of any local or public authority.

Clause 8 (1): To omit from lines 32 to 34 on page 4 the words “described in the Schedule to this Act licence or permit any part of the foreshore or bed of the harbour to such person or”, and substitute the words “referred to in section 6 (1) of this Act grant licences in respect of the whole or any part thereof to such”.

Clause 10: To omit this clause, and substitute the following clause:

10. Reserves provision not to apply—Section 289 of the Local Government Act 1974 shall not apply to the land referred to in section 6 (1) of this Act nor to any subdivision or resubdivision of that land.

Clause 11: To omit this clause, and substitute the following clause:

11. Land Settlement Promotion and Land Acquisition Act 1952 not to apply—The Land Settlement Promotion and Land Acquisition Act 1952 shall not apply to the leasing by the Board of the whole or any part or parts of the land referred to in section 6 (1) of this Act.

Clause 15: To add the words “or of any Order in Council made under section 18 of this Act”.

Clause 16: To omit this clause, and substitute the following clause:

16. Authority to reclaim and develop to lapse—If, by the 1st day of January 1987, the reclamation authorised by section 5 of this Act has not been substantially completed, the authority conferred on the Board by that section and section 6 of this Act shall lapse on that day, and no reclamation or development, or no further reclamation or further development, as the case may require, shall be undertaken by the Board, on or after that day, pursuant to either of those sections.

New Clauses

To add the following clauses:

17. Amending Otago Harbour Board Indemnity and Lands Vesting Act 1888—Section 7 of the Otago Harbour Board Indemnity and Lands Vesting Act 1888 is hereby amended by omitting the words “, but such lands shall not be capable of being charged with the payment of any borrowed moneys, or with the debts of the Board”.

18. Stopping of roads—(1) Notwithstanding anything in the Local Government Act 1974 or in any other enactment, the Governor-General, from time to time, by Order in Council on the advice of the Minister of Local Government, may stop all or any part of any road, as defined in section 315 of the Local Government Act 1974, which is adjacent to any of the land referred to in section 6 (1) (a) and (b) of this Act.

(2) An Order in Council shall not be made under subsection (1) of this section unless the construction of an aluminium smelter (either alone or together with related works or together with harbour works) on the land referred to in section 6 (1) of this Act, or on any part or parts thereof, has either—

- (a) Been authorised or permitted by consents granted under the National Development Act 1979; or
- (b) Been approved or consented to, or otherwise included as a permitted use in the district scheme, pursuant to the provisions of the Town and Country Planning Act 1977.

(3) If a road or part of a road has been stopped under subsection (1) of this section, the land comprising the stopped road may be dealt with by the Silverpeaks County Council in the same manner and in all respects as if the road had been stopped pursuant to the Local Government Act 1974.

(4) The provisions of section 17 of the National Development Act 1979 shall apply in respect of any Order in Council made or purporting to be made under subsection (1) of this section as if it had been made or purported to have been made under the National Development Act 1979.

(5) Notwithstanding anything to the contrary in any other Act or rule of law, if any person wishes to bring any proceedings in any Court, or make an application to any Court, which in any way touch or touches upon or relate or relates to—

- (a) The status of all or part of any road or land purported to be road which is adjacent to any of the land referred to in section 6 (1) (a) and (b) of this Act; or
- (b) Any road stopped or purported to have been stopped under subsection (1) of this section; or
- (c) Any dealing, under subsection (3) of this section, with the land comprising any such stopped road or road purporting to have been so stopped—

the proceedings or application shall be brought in or made to the Court of Appeal—

(d) Not later than the 1st day of November 1981, if paragraph (a) of this subsection is applicable:

(e) Not later than 21 days after the date on which the Order in Council stopping the road came into force, if paragraph (b) of this subsection is applicable:

(f) Not later than 21 days after the date on which the dealing in question took place, if paragraph (c) of this section is applicable—
and the Court shall not entertain any proceedings or application brought or made after that date or after that period has elapsed, as the case may be.

(6) The provisions of subsections (6) to (9) of section 17 of the National Development Act 1979, with the necessary modifications, shall apply to all proceedings and applications referred to in subsection (5) of this section.

(7) All proceedings which have been brought in the High Court or District Court, and every application which has been made to the High Court or District Court, before the commencement of this section, to which subsections (5) and (6) of this section would have applied if this section had been in force before the proceedings were brought or the application made, are or is hereby removed into the Court of Appeal subject to such directions relating to the procedure for such removal as may be given by the Court of Appeal or a Judge thereof; and the proceedings or application shall thereafter be dealt with in accordance with and subject to the said subsections (5) and (6).

19. Inquiry under National Development Act 1979 may be conducted in respect of land not owned by applicants—The Planning Tribunal may conduct an inquiry and make a report and recommendation under the National Development Act 1979 in respect of the consents sought in the application referred to in the National Development Order (No. 2) 1981, and the Governor-General in Council may grant those consents under that Act, notwithstanding that parts of the land in respect of which the consents are sought are roads as defined in section 315 of the Local Government Act 1974 and are not owned by either of the applicants.

EXPLANATORY NOTE

Clauses 6, 8 (1), 10, and 11: The proposed amendments extend the operation of the 4 clauses. At present they apply only to the area authorised to be reclaimed and described in the Schedule to the Bill.

The amendments provide for the 4 clauses to also apply to land adjacent to the area authorised to be reclaimed which is vested in the Otago Harbour Board.

Clause 15: The proposed amendment authorises the District Land Registrar to do all such things as are necessary to give effect to the provisions of any Order in Council made under the new *clause 18*.

Clause 16: The amendment provides for the authority to reclaim and develop to lapse if the reclamation has not been substantially completed by 1 January 1987.

New Clauses

New clause 17 amends section 7 of the Otago Harbour Board Indemnity and Lands Vesting Act 1888. The amendment removes the provision under which the land vested by that Act is not to be charged with the payment of borrowed money, or with the debts of the Otago Harbour Board.

New clause 18, subclause (1) provides that, notwithstanding anything in the Local Government Act 1974 or in any other enactment, the Governor-General may by Order in Council stop all or any part of any road which is adjacent to the land described in (new) *clause 6 (1) (a) and (b)* of the Bill.

Subclause (2) provides that an Order in Council shall not be made unless the construction of an aluminium smelter on the land referred to in (new) *clause 6 (1)* has either—

- (a) Been authorised or permitted by consents granted under the National Development Act 1979; or
- (b) Been approved or consented to, or otherwise included as a permitted use in the district scheme, pursuant to the provisions of the Town and Country Planning Act 1977.

Subclause (3) provides that if a road or part has been stopped under *subclause (1)* the land comprising the stopped road may be dealt with by the Silverpeaks County Council as if it had been stopped pursuant to the Local Government Act 1974.

Subclause (4) applies section 17 of the National Development Act 1979 (which provides for proceedings to be brought in the Court of Appeal) to any proceedings relating to the validity of any Order in Council made under *subclause (1)*.

Subclause (5) provides that if any person wishes to bring any proceedings in any Court, or make an application to any Court, which in any way touch or touches upon or relate or relates to—

- (a) The status of all or part of any road or land purported to be road which is adjacent to any of the land described in *clause 6 (1) (a) and (b)*; or
 - (b) Any road stopped or purported to have been stopped under *subclause (1)*; or
 - (c) Any dealing, under *subclause (3)*, with the land comprising any such stopped road or road purporting to have been so stopped—
- the proceedings or application must be brought in or made to the Court of Appeal.

The time within which the proceedings or application must be brought or made are specified.

Subclause (6) applies subsections (6) to (9) of section 17 of the National Development Act 1979 to proceedings and applications referred to in *subclause (5)*.

Subclause (7) provides for proceedings brought in, and applications made to, the High Court or District Court before the commencement of the clause to be removed into the Court of Appeal and to be dealt with under *subclauses (5) and (6)* if those subclauses would have applied if they had been in force when the proceedings were brought or the application made.

New clause 19 provides that the Planning Tribunal may conduct an inquiry and make a report and recommendation under the National Development Act 1979 in respect of the consents sought in the application referred to in the National Development Order (No. 2) 1981, and the Governor-General in Council may grant those consents under that Act, notwithstanding that parts of the land in respect of which the consents are sought are roads and are not owned by either of the applicants.