

# **Town and Country Planning Amendment Act 1968**

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## **Contents**

	Page
Title	1
1 Short Title	2
2 Interpretation	2
3 Hearing of objections	2
4 Certificate of compliance	2
5 Approval of district scheme	3
6 Validity of district scheme	3
7 Conditional uses	3
8 Appeals in respect of conditional uses	4
9 Changes or cancellation of district scheme	4
10 Procedure in respect of changes and reviews of operative district schemes	4
11 Works contrary to proposed change prohibited	4
12 Councils may unite for combined scheme	4
13 Effect of designating land	5
14 Duty to keep objectionable elements in connection with certain uses of land to a minimum	5

**An Act to amend the Town and Country Planning Act 1953**

**BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:**

**1 Short Title**

This Act may be cited as the Town and Country Planning Amendment Act 1968, and shall be read together with and deemed part of the Town and Country Planning Act 1953 (hereinafter referred to as the principal Act).

**2 Interpretation**

Subsection (1) of section 2 of the principal Act is hereby amended—

- (a) By inserting in the definition of the term “combined scheme”, after the word “prepared”, the words “or in the course of preparation”:
- (b) By omitting from the definition of the term “operative” the expression “subsection (2) of section 19 or”:
- (c) By adding to the definition of the term “public work”, as inserted by section 2(1)(m) of the Town and Country Planning Amendment Act 1966, the words “and includes any public reserve within the meaning of the Reserves and Domains Act 1953”.

**3 Hearing of objections**

Section 25 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every objection under section 23 or section 24 of this Act shall be heard in public; and the Council shall as soon as practicable consider all such objections, or it may, if it thinks fit, appoint any two or more of its members as a committee with power to hear the objections and to make recommendations to the Council with respect thereto. If any such committee is at any time discharged or if any member thereof ceases to hold office or is removed from office by operation of law or otherwise before the committee has fully performed its functions under this section, the Council may alter or reconstitute the membership of the committee, or may reappoint the committee; and the committee as so altered or reconstituted or reappointed shall make its own recommendations or convey those of the previously existing committee to the Council:  
“Provided that any altered or reconstituted committee shall not vary any recommendation of the previous committee unless all its members have heard the objection to which the recommendation relates.”

**4 Certificate of compliance**

Section 27 of the principal Act is hereby amended by omitting the words “No district scheme prepared by any Council”, and substituting the words “No district scheme prepared otherwise than by the Minister”.

## 5 Approval of district scheme

Section 28 of the principal Act (as amended by section 17(1) of the Town and Country Planning Amendment Act 1957) is hereby further amended by omitting the word “section” in each place where it appears in paragraph (b) of subsection (1) and in subsections (2) and (2a), and substituting in each case the word “part”.

## 6 Validity of district scheme

- (1) Section 28a of the principal Act (as inserted by section 17(2) of the Town and Country Planning Amendment Act 1957) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) In the case of the 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.”

- (2) The said section 28a of the principal Act is hereby further amended by omitting from subsection (5) the words “by the Council or a local authority”.

## 7 Conditional uses

- (1) Section 28c of the principal Act (as inserted by section 24 of the Town and Country Planning Amendment Act 1966) is hereby amended by inserting, after subsection (3), the following subsection:

“(3a) In allowing or refusing the application, the Council shall have regard to—

“(a) The suitability of the site for the proposed use determined by reference to the provisions of the operative district scheme; and

“(b) The likely effect of the proposed use on the existing and foreseeable future amenities of the neighbourhood, and on the health, safety, convenience, and the economic and general welfare of the inhabitants of the district.”

- (2) The said section 28C of the principal Act is hereby further amended by adding the following subsection:

“(5) Every consent to a conditional use given by any Council before the first day of January, nineteen hundred and sixty-seven, shall lapse on the first day of June, nineteen hundred and sixty-nine, unless the applicant has before the said first day of June established the use of the land or buildings to which the consent relates for the purpose for which the consent was given or, in the opinion of the Council, is continuing to make substantial progress towards establishing that use.”

## **8 Appeals in respect of conditional uses**

Section 28d of the principal Act (as inserted by section 25 of the Town and Country Planning Amendment Act 1966) is hereby amended by adding the following subsection:

“(3) In deciding any appeal under this section, the Board shall have regard to the matters set out in subsection (3a) of section 28C of this Act.”

## **9 Changes or cancellation of district scheme**

Section 29 of the principal Act (as substituted by section 26 of the Town and Country Planning Amendment Act 1966) is hereby amended by adding to subsection (1) the following proviso:

“Provided that nothing in this subsection shall empower the Council to enlarge the area of any operative territorial section of its district scheme otherwise than for the purposes of paragraph (a) of subsection (1) of section 28b of this Act.”

## **10 Procedure in respect of changes and reviews of operative district schemes**

Section 30a of the principal Act (as inserted by section 28 of the Town and Country Planning Amendment Act 1966) is hereby amended—

- (a) By omitting from subsection (4) the expression “subsection (2)”, and substituting the expression “subsections (1a) and (2)”;
- (b) By adding to subparagraph (i) of paragraph (a) of subsection (4) the words “and also forward two copies thereof to the District Commissioner of Works”;
- (c) By inserting in paragraph (d) of subsection (4), after the word “requirements”, the words “or objections”.

## **11 Works contrary to proposed change prohibited**

Section 30b of the principal Act (as inserted by section 12 of the Town and Country Planning Amendment Act 1961) is hereby further amended by inserting in the proviso to subsection (1), after the word “Minister”, the words “or the Council”.

## **12 Councils may unite for combined scheme**

- (1) Section 31 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) The provisions of this Act (including the operation of section 38a, but excluding the operation of section 38) shall apply to the preparation and administration of the combined scheme until the combined scheme is made operative as if the joint committee were the Council of each district of the united area.”

- (2) Section 31 of the principal Act is hereby further amended by omitting from subsection (6) the words “be the district scheme of that Council”, and substitut-

ing the words “be the operative district scheme of that Council. Notwithstanding anything to the contrary in this Act, anything done by that Council in operating the combined district scheme before the commencement of the Town and Country Planning Amendment Act 1968 that would have been valid if done after the commencement of that Act is hereby declared to have been done validly and effectually”.

- (3) Section 31 of the principal Act is hereby further amended by inserting in subsection (7), after the word “section”, the words “until the combined scheme becomes operative and of providing any advisory services thereafter”.

### **13 Effect of designating land**

Section 33a of the principal Act (as inserted by section 32 of the Town and Country Planning Amendment Act 1966) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where the Minister, local authority, or Council having financial responsibility for any existing or proposed public work requires that the land be no longer designated for the existing or proposed public work for which the land is designated, that land shall, if zoned, continue to be so zoned until the zoning is varied or changed by the Council, and shall, if not zoned, be included in such zone as the Council shall determine.”

### **14 Duty to keep objectionable elements in connection with certain uses of land to a minimum**

Section 34a of the principal Act (as inserted by section 21 of the Town and Country Planning Amendment Act 1957) is hereby amended by omitting from subsection (3) the words “either to cease that use or”, and substituting the words “to cease that use or requiring him within a like time so specified”.

This Act is administered in the Ministry of Works.