Historic Places Amendment Act 2006

Public Act 2006 No 33
Date of assent 30 June 2006

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal Act amended	2
	Part 1	
	Amendments to Historic Places Act 1993	
4	Interpretation	3
5	Rights of appeal	3
6	New section 20A inserted	3
	20A Commencement of authority	3
7	Provisions relating to historic places	4
8	Provisions relating to wahi tapu	4
9	Interim registration	4
10	New section 28 substituted	4
	28 Procedure if registration of historic place or wahi tapu proposed	4
11	Sections 29 and 30 repealed	5
12	Provisions relating to historic areas	5
13	Provisions relating to wahi tapu areas	6
14	New sections 32A to 32D inserted	7
	32A Procedure if registration of historic area or wahi tapu area proposed	7
	32B Registration may be confirmed by agreement	8

	32C	When registration occurs	8
	32D	Territorial authorities and regional councils must have particular regard to recommendations	9
15	Proposals affecting registered wahi tapu areas		9
16	Records to be supplied to territorial authorities		10
17	New sections 37 and 37A substituted		10
	37	Review, variation, or removal of registration	10
	37A	Removal of registration in cases of destruction or demolition	11
18	Functions of Trust		11
19	New section 42 substituted		12
	42	Membership of Board	12
20	Term of office of elected members of Board		12
21	Section 51 repealed		12
22	Powers of Trust		12
23	Rules of Trust		12
24	Maori Heritage Council		13
25	Strict liability and defences		13

Part 2
Transitional provisions

26	Transitional provisions		13

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Historic Places Amendment Act 2006.

2 Commencement

This Act comes into force on 1 August 2006.

3 Principal Act amended

This Act amends the Historic Places Act 1993.

Part 1
Amendments to Historic Places Act 1993

4 Interpretation

(1) Section 2 is amended by adding to paragraph (a)(iii) of the definition of **historic place** "; or", and also by inserting the following subparagraph after that subparagraph:

"(iv) any combination of land, buildings or structures, and associated buildings or structures (including any part of those buildings or structures, or associated buildings or structures)".

(2) Section 2 is amended by inserting in paragraph (a) of the definition of **historic place** "a place that is" after "forms".

(3) Section 2 is amended by repealing paragraph (b) of the definition of **regional council**.

(4) Section 2 is amended by omitting from paragraph (b) of the definition of **working day** "15th" and substituting "10th".

5 Rights of appeal

Section 20(6) is amended by adding the following paragraph:

"(f) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga."

6 New section 20A inserted

The following section is inserted after section 20:

"**20A Commencement of authority**

"(1) An authority granted under this Act by the Trust commences when—

"(a) the time for lodging appeals under section 20(1)(c), (d), (e), (f), or (g) expires and no appeals have been lodged; or

"(b) the Environment Court determines any appeals lodged under section 20(1)(c), (d), (e), (f), or (g); or

"(c) all appellants withdraw their appeals lodged under section 20(1)(c), (d), (e), (f), or (g).

"(2) Subsection (1) applies subject to the authority or a determination of the Environment Court specifying a later commencement date.

"Compare: 1991 No 69 s 116(1)".

7 Provisions relating to historic places

Section 24(3)(b)(iii) is amended by inserting "and regional council" after "authority".

8 Provisions relating to wahi tapu

Section 25(3)(b)(ii) is amended by inserting "and regional council" after "authority".

9 Interim registration

(1) Section 26(3)(a) is amended by omitting "section 29 or section 30" and substituting "section 32B or section 32C".

(2) Section 26(3)(a) and (b) are amended by omitting "final".

10 New section 28 substituted

Section 28 is repealed and the following section substituted:

"**28 Procedure if registration of historic place or wahi tapu proposed**

"(1) The following persons may make written submissions on a proposal under section 24 to register an historic place or on an application under section 25 to enter a wahi tapu on the Register:

"(a) the owner of the historic place or wahi tapu:

"(b) any occupier of the historic place or wahi tapu:

"(c) any person having a registered interest in the historic place or wahi tapu:

"(d) any incorporated society or body corporate engaged in or having as one of its objects the protection of historical and cultural heritage:

"(e) the territorial authority and regional council having jurisdiction in the area:

"(f) the appropriate iwi.

"(2) Submissions may be made on a proposal or application whether or not interim registration of the historic place that the proposal relates to or of the wahi tapu that the application relates to has been granted.

"(3) In the case of an interim registration, submissions must be made to the Trust or Council, as the case may require, within

20 working days after the date of the public notification of the grant of interim registration

"(4) In all other cases, submissions must be made to the Trust or Council, as the case may require, within—

"(a) 20 working days after the public notification of the proposal or application; or

"(b) any longer period specified by the Trust or Council in a particular case, but not longer than 40 working days after the public notification of the proposal or application.

"(5) The Council may make any inquiries that it sees fit before deciding whether to register a wahi tapu.

"(6) If the Trust considers that an historic place proposed for registration is of Maori interest, the Trust must refer the proposal to the Council for its recommendation as to whether the historic place should be registered.

"(7) When deciding whether to register an historic place, the Trust may reconsider the category of registration proposed of the place concerned and alter the category if it considers this action appropriate."

11 Sections 29 and 30 repealed

Sections 29 and 30 are repealed.

12 Provisions relating to historic areas

Section 31 is amended by repealing subsections (3) to (6) and substituting the following subsections:

"(3) If satisfied that the proposal is supported by sufficient evidence, the Trust must—

"(a) publicly notify the proposal for registration in the manner that the Trust considers appropriate; and

"(b) give notice in writing of the proposal to—

"(i) any person that—

"(A) is an owner of the historic area or part of the historic area; or

"(B) has a registered interest in the historic area or part of the historic area; and

"(ii) the relevant territorial authority and regional council.

"(4) Despite subsection (3)(b), the Trust is not required to give notice under subsection (3)(b)(i) if—

"(a) the person is both—

"(i) unknown to the Trust; and

"(ii) unidentifiable by the Trust from publicly available records; or

"(b) the person's address is both—

"(i) unknown to the Trust; and

"(ii) unidentifiable by the Trust from publicly available records.

"(5) An owner of an historic area or part of an historic area who receives a notice under subsection (3)(b)(i)(A) must give notice in writing of the proposal to any occupiers of the historic area or part of the historic area owned by the owner.

"(6) Failure to give notice under subsection (5) does not invalidate the registration process.

"(7) In the case of an application affecting Maori land, the Trust must give notice of the application to the appropriate Registrar of the Maori Land Court, who must record the notice in the Court records.

"(8) For the purposes of this section, **address** means usual or last known place of—

"(a) residence; or

"(b) business."

13 Provisions relating to wahi tapu areas

Section 32 is amended by repealing subsections (3) to (6) and substituting the following subsections:

"(3) If satisfied that the proposal is supported by sufficient evidence, the Council must—

"(a) publicly notify the proposal for registration in the manner that the Council considers appropriate; and

"(b) give notice in writing of the proposal to—

"(i) any person that—

"(A) is an owner of the wahi tapu area or part of the wahi tapu area; or

"(B) has a registered interest in the wahi tapu area or part of the wahi tapu area; and

"(ii) the relevant territorial authority and regional council; and

"(iii) the appropriate iwi

"(4) Despite subsection (3)(b), the Council is not required to give notice under subsection (3)(b)(i) if—

"(a) the person is both—

"(i) unknown to the Council; and

"(ii) unidentifiable by the Council from publicly available records; or

"(b) the person's address is both—

"(i) unknown to the Council; and

"(ii) unidentifiable by the Council from publicly available records.

"(5) An owner of a wahi tapu area or part of a wahi tapu area who receives a notice under subsection (3)(b)(i)(A) must give notice in writing of the proposal to any occupiers of the wahi tapu area or part of the wahi tapu area owned by the owner.

"(6) Failure to give notice under subsection (5) does not invalidate the registration process.

"(7) In the case of an application affecting Maori land, the Trust must give notice of the application to the appropriate Registrar of the Maori Land Court, who must record the notice in the Court records.

"(8) For the purposes of this section, **address** means usual or last known place of—

"(a) residence; or

"(b) business."

14 New sections 32A to 32D inserted

The following sections are inserted after section 32:

"**32A Procedure if registration of historic area or wahi tapu area proposed**

"(1) The following persons may make written submissions on a proposal under section 31 to register an historic area or on a proposal under section 32 to enter a wahi tapu area on the Register:

"(a) every owner of the historic area or wahi tapu area, or part of the historic area or wahi tapu area:

"(b) any occupier of the historic area or wahi tapu area, or part of the historic area or wahi tapu area:

"(c) every person having a registered interest in the historic area or wahi tapu area, or part of the historic area or wahi tapu area:

"(d) any incorporated society or body corporate engaged in or having as one of its objects the protection of historical and cultural heritage:

"(e) the relevant territorial authority and regional council:

"(f) the appropriate iwi.

"(2) The submissions must be made to the Trust or Council, as the case may require, within—

"(a) 20 working days after the public notification of the proposal or application; or

"(b) any longer period specified by the Trust or Council in a particular case, but not longer than 40 working days after the public notification of the proposal or application.

"(3) The Council may make any inquiries that it sees fit before deciding whether to register a wahi tapu area.

"(4) If the Trust considers that an historic area proposed for registration is of Maori interest, the Trust must refer the proposal to the Council for its recommendation as to whether the historic area should be registered.

"**32B Registration may be confirmed by agreement**

The Trust or the Council (as the case may be) may confirm the registration of the historic place, wahi tapu, historic area, or wahi tapu area at any time—

"(a) after notice of a proposal has been given under section 24(3)(b), section 25(3)(b), section 31(3)(b), or section 32(3)(b); and

"(b) with the agreement of all owners and all persons holding a registered interest.

"**32C When registration occurs**

"(1) An historic place, a wahi tapu, an historic area, or a wahi tapu area is registered when—

"(a) either—

"(i) the Trust (in the case of an historic place or historic area) or the Council (in the case of a wahi tapu or wahi tapu area) has confirmed its registration; or

"(ii) its registration has been confirmed by agreement under section 32B; and

"(b) every owner of the historic place, wahi tapu, historic area, or wahi tapu area has received a notice under subsection (2)(b).

"(2) The Trust or the Council (as the case may require) must—

"(a) publicly notify the registration; and

"(b) give written notice of the registration to any person that has been given notice under section 24(3)(b), section 25(3)(b), section 31(3)(b), or section 32(3)(b).

"32D Territorial authorities and regional councils must have particular regard to recommendations

"(1) In respect of any registered historic area, the Trust may make recommendations to the territorial authority and regional council where the historic area is located as to the appropriate measures that the authority or council should take to assist in the conservation and protection of the historic area.

"(2) In respect of any registered wahi tapu area, the Council may make recommendations to the territorial authority and regional council where the wahi tapu area is located as to the appropriate measures that the authority or council should take to assist in the conservation and protection of the wahi tapu area.

"(3) A territorial authority or regional council receiving recommendations under subsection (1) or subsection (2) must have particular regard to the Trust's or the Council's recommendations."

15 Proposals affecting registered wahi tapu areas

Section 33(2) is amended by inserting "the relevant regional council," after "authority,".

16 Records to be supplied to territorial authorities

Section 34(2)(b) is amended by omitting "section 30(2)(b) of this Act of final" and substituting "section 32C(2)(b) or section 37(7) or section 37A(b) of".

17 New sections 37 and 37A substituted

Section 37 is repealed and the following sections are substituted:

"**37 Review, variation, or removal of registration**

"(1) The Trust (in the case of an historic place or historic area) or the Council (in the case of a wahi tapu or wahi tapu area) may, at any time, review the registration of the historic place, historic area, wahi tapu, or wahi tapu area.

"(2) Any person may—

"(a) apply to the Trust for a review of the registration of any historic place or historic area:

"(b) apply to the Council for a review of the registration of any wahi tapu or wahi tapu area.

"(3) However, no person may apply for a review of a registration within 3 years after the date of—

"(a) the registration; or

"(b) the last review of the registration.

"(4) An application for the review of a registration must be made in the prescribed form (if any) and state the grounds for review.

"(5) An application for the review of registration must be considered by the Trust or the Council (as the case may be) not later than 1 year after the date of its receipt by the Trust or the Council.

"(6) However, the Trust or the Council (as the case may be)—

"(a) may decline to consider any application that does not state any grounds for review or if it considers that the grounds stated are insufficient to justify a review; and

"(b) must notify the applicant of its decision in writing.

"(7) If the Trust or the Council decides to review a registration (whether on its own initiative or as a result of an application), the Trust or the Council (as the case may be) must conduct the review in the same manner as if it were a proposal for registra-

tion or an application to enter on the Register (as appropriate) under this Act.

"(8) When its review is completed, the Trust or the Council (as the case may be) may—

"(a) vary the registration; or

"(b) remove the registration; or

"(c) confirm the registration; or

"(d) in the case of an historic place, change or confirm the category of registration.

"(9) If the Trust has, as part of its review, publicly notified a proposal to change the category of a registered historic place to Category I,—

"(a) the Trust may apply section 194 of the Resource Management Act 1991 until the Trust has finally dealt with the application, as if the application were a notice of a requirement for a heritage order; and

"(b) if the Trust applies section 194 of the Resource Management Act 1991, section 195 of that Act applies.

"**37A Removal of registration in cases of destruction or demolition**

If an historic place, a wahi tapu, an historic area, or a wahi tapu area is destroyed or demolished, the Trust or the Council (as the case may be)—

"(a) may, after making any inquiries that it sees fit, remove the registration of that historic place, wahi tapu, historic area, or wahi tapu area; and

"(b) must, as soon as practicable after removing a registration, notify in writing the relevant territorial authority and regional council."

18 Functions of Trust

(1) Section 39(a) is amended by inserting "wahi tapu," after "conserve".

(2) Section 39(b) is amended by inserting "wahi tapu," after "of".

(3) Section 39(d) is amended by inserting "wahi tapu," after "of".

19 New section 42 substituted

Section 42 is repealed and the following section substituted:

"**42 Membership of Board**

"(1) The membership of the Board consists of 9 persons, of whom—

"(a) 3 are elected by the members of the Trust in accordance with regulations made under section 113(a); and

"(b) 6 are appointed by the Minister.

"(2) The persons appointed under subsection (1)(b) must have the skills, knowledge, or cultural background appropriate to the functions and powers of the Trust.

"(3) At least 3 of the persons appointed under subsection (1)(b) must, in the opinion of the Minister after consultation with the Minister of Maori Affairs, be qualified for appointment, having regard to their knowledge of te ao Maori (Maori worldview) and tikanga Maori (Maori protocol and culture).

"(4) One of the persons appointed under subsection (1)(b) must be appointed as Chairperson.

"(5) The appointments made under subsections (1)(b) and (4) must be made in accordance with the Crown Entities Act 2004."

20 Term of office of elected members of Board

Section 43(2) is amended by omitting "section 42(c)" and substituting "section 42(1)(a)".

21 Section 51 repealed

Section 51 is repealed.

22 Powers of Trust

Section 54(2) is amended by repealing paragraph (l) and substituting the following paragraph:

"(l) appoint and remove Board committees and their members, and establish and disestablish Branch committees:".

23 Rules of Trust

(1) Section 60(1)(d) is amended by inserting "disestablishment," after "establishment,".

(2) Section 60(1)(e) is amended by omitting "and branch committees".

(3) Section 60(1) is amended by inserting the following paragraph after paragraph (e):

"(ea) providing for the election and removal of members of branch committees:".

24 Maori Heritage Council

Section 84 is amended by repealing subsection (2) and substituting the following subsections:

"(2) The membership of the Council consists of—

"(a) 3 members of the Board who have been appointed in accordance with section 42(3); and

"(b) 1 member of the Board who has been either appointed or elected under section 42(1); and

"(c) 4 persons who—

"(i) are Maori; and

"(ii) have the skills, knowledge, or cultural background appropriate to the functions and powers of the Council; and

"(iii) are appointed by the Minister after consultation with the Minister of Maori Affairs and the Board."

25 Strict liability and defences

Section 106(2)(b) is amended by omitting "either".

Part 2
Transitional provisions

26 Transitional provisions

(1) A person elected to the Board under the principal Act before the commencement of this Act continues in office until new elections are held under regulations made under section 113(a) of the principal Act.

(2) Any appointment to the Board under the principal Act before the commencement of this Act expires when this Act comes into force.

(3) Any appointment to the Council made—

(a) under section 84(2)(a), (b), or (c) of the principal Act before the commencement of this Act expires when this Act comes into force; and

(b) by the Minister under the principal Act before the commencement of this Act expires when the term of that appointment ends.

Legislative history

5 August 2004	Introduction (Bill 162-1)
9 September 2004	First reading and referral to Government Administration Committee
21 February 2005	Reported from Government Administration Committee (Bill 162-2)
10 May 2006	Second reading
16 May, 13, 21, 22 June 2006	Committee of the whole House (Bill 162-3)
27 June 2006	Third reading