Resource Legislation Amendment Bill

Government Bill

As reported from the Local Government and Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Resource Legislation Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The Resource Legislation Amendment Bill seeks to principally amend the following Acts:

- Resource Management Act 1991
- Reserves Act 1977
- Public Works Act 1981
- Conservation Act 1987
- Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

The bill's intended purpose is to create a resource management system that achieves the sustainable management of natural and physical resources in an efficient and equitable way.

This commentary covers the main amendments that we, by majority, recommend to the bill. The use of the term "we" throughout this report refers to the majority of the committee. Minority views are included at the end of this report.

This report does not cover minor or technical amendments.

Amendments to the Resource Management Act 1991

Part 1 of the bill (clauses 3–161) contains the proposed changes to the Resource Management Act 1991 (RMA). Part 1 makes up the largest section of the bill.

Interpretation clause

We recommend several amendments to the interpretation clause (clause 4).

We recommend deleting the definition of "iwi participation arrangement". In its place, we recommend inserting a definition of "Mana Whakahono a Rohe". We discuss the reasons for this change later in this commentary, along with our recommended changes to the arrangements themselves.

We recommend amending the definition of "iwi participation legislation" to note instead that this term is defined in proposed new section 58K of the RMA (clause 38 of the bill).

We recommend renaming the "national planning template" as "national planning standard". We realised from public submissions that the use of the word "template" was unclear, and could be misinterpreted contrary to the policy intent. The phrase "national planning standard" better reflects the intended purpose and scope of the tool. We discuss our proposed changes to this national guidance tool later in this commentary.

As a result of these amendments, we recommend updating all references to these definitions throughout the bill.

We recommend inserting new clause 4A, which would insert new section 3B in the RMA. New section 3B notes that the transitional, savings, and related provisions are set out in Schedule 12 of the RMA.

Procedural principles

We recommend amending clause 8, new section 18A, to make it less prescriptive. Our recommended amendment would require anyone exercising powers and performing functions under the RMA to ensure that they "take all practicable steps" to fulfil the subsequently listed procedural principles.

Delegation of functions by Ministers

We recommend some amendments to clause 10.

We recommend amending clause 10(1), new section 29(1)(da), to make it clear that a chief executive may be empowered by the relevant Minister to make changes to a national planning standard if they are minor or technical in nature, or correct obvious errors or omissions.

We recommend amending clauses 10(2) and 10(3) to insert new sections 29(4B) and 29(6) in the RMA. New section 29(4B) would allow the Environmental Protection Authority (EPA), under specified conditions, to sub-delegate any of the functions, powers, and duties set out under sections 149ZD(4), 357B(b), 357C, or 357D, that

have been delegated to it by the Minister of Conservation. New section 29(6) outlines the conditions of such a sub-delegation.

Functions of regional councils under the RMA

We recommend amending the definition of "development capacity" in clause 11(4), new section 30(5) of the RMA. Our amendments would clarify that this term only applies to urban areas, and that sufficient development capacity must be provided to meet short-term and medium-term demand, in addition to long-term demand.

Our amended definition of development capacity would align with the proposed functions and definitions in the National Policy Statement on Urban Development Capacity 2016.[1]

We consider that, for clarity, it would be beneficial to add definitions of "business land" and "development infrastructure" in clause 11(4). These terms are used in the definition of development capacity.

We note that many of the concerns raised by submitters about development capacity have been addressed in the National Policy Statement on Urban Development Capacity 2016, which came into effect on 1 December 2016. For example, the national direction sets out how regional councils should estimate the expected urban growth demands of a region.

Fixed fees payable to hearings commissioner

We recommend deleting clause 17. In the bill as introduced, this clause proposes to insert new section 34B into the RMA. It would provide more certainty to those applying for resource consents and plan changes, by allowing a consent authority to fix the fee payable to a hearings commissioner under certain circumstances.

We consider clause 17 to be unnecessary, as it duplicates the provisions in section 36 of the RMA. We were advised that the clause also goes beyond its policy intent as it could potentially allow fees to be fixed for all powers, functions, and duties delegated to hearings commissioners under section 34A(1). The intention was to fix the fees payable to hearings commissioners for resource consent and plan hearings.

The deletion of this clause would entail two consequential changes: deleting new section 36AAA(5) in clause 21, and new section 360E(1)(b) in clause 105.

Administrative charges

We recommend an amendment to clause 20, section 36 of the RMA, to clarify that a local authority cannot impose additional fees when fees are required to be fixed under the regulations made under new section 360E.

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[1] You can read the National Policy Statement on Urban Development Capacity 2016 here: http://www.mfe.govt.nz/sites/default/files/media/Towns%20and%20cities/National_Policy_Statement_on_Urban_Development_Capacity_2016-final.pdf, as at 27 January 2017.

Cost recovery for specified EPA function

We recommend an amendment in clause 23, which inserts new section 42CA into the RMA. Our proposed insertion of the phrase "supported person" would make it clear that any person who receives secretarial and support services from the EPA may be required to pay back the cost of these services, whether they are an applicant or not.

Regulations prescribing national environmental standards

We recommend amending clause 25, section 43 of the RMA.

We recommend inserting new clause 25(1AA), which would insert new section 43(2)(da) into the RMA, to allow non-technical methods or requirements to be included in national environmental standards.

In the bill as introduced, clause 25(1) would replace section 43(3) of the RMA. We recommend that these provisions instead be inserted after section 43(3), so that they apply in addition to the regulation-making powers set out in section 360(2) of the RMA.

Contents of national environmental standards

We recommend some amendments to clause 26, which would amend section 43A of the RMA regarding the contents of national environmental standards.

We recommend inserting new clause 26(1AA), to allow a national environmental standard to require local authorities to review land-use consents administered by the regional council.

We recommend inserting new clause 26(1AB) to clarify that the duration of a consent, as a condition of the consent, may be specified in a national environmental standard.

We recommend inserting new clause 26(1AC), new section 43A(3A). Our insertion clarifies that, as an exception to section 43A(3)(b), a national environmental standard may classify an activity as a permitted activity if it involves a hazardous substance or new organism that has been approved under the Hazardous Substances and New Organisms Act 1996. New section 43A(3B) clarifies that this is an exception only to the extent that adverse environmental effects are managed according to the conditions of the hazardous substance or new organism's approval.

We recommend replacing "consent authority" with "local authorities" in clause 26(1), new section 43A(8), as no consent is granted for a permitted activity, so there is no associated consent authority. We have moved proposed new section 43A(8)(b), which refers to how consent authorities must perform their functions in order to achieve the standard, to proposed new section 43(2)(da) in clause 25.

Relationship between national environmental standards and rules or consents

We recommend amending clause 27, which would amend section 43B of the RMA. Our amendments would provide more detail about when a more lenient rule or resource consent would prevail over a national environmental standard.

To align with this change, we recommend inserting new clause 28A, which would amend section 44A of the RMA to clarify the hierarchy of rules.

Relationship between national environmental standards and bylaws

We recommend inserting new clause 27A, which would replace section 43E(3) of the RMA, to make it clear that a bylaw could be more lenient than a national environmental standard if the standard specifically allowed for this.

Restriction on power to make national environmental standards

We recommend removing clauses 28, 30, 31, and 32 so that where a national environmental standard or a national policy statement is made for a specified district, region, or part of New Zealand, public notification will be made nationally.

We recommend replacing clause 28, which would amend section 44 of the RMA. Our proposed provisions specify what the Minister must do before recommending to the Governor-General that a national environmental standard be made.

Single process for preparing national directions

We recommend inserting clause 30A, which would replace section 46A of the RMA. Our proposed section 46A would provide for a single process for the Minister to go through to prepare a "national direction" for both national environmental standards and national policy statements.

New section 46A(5) would allow the Minister to consult on a draft national direction at any time during its preparation.

New section 46A(7) provides that, if the Minister decided to recommend regulations (through sections 360–360G) on a subject that had already been consulted on, the requirement to consult would be considered to have already been met.

As a result of our proposed single process for preparing national directions, we recommend the consequential changes set out in clauses 30B–30H (sections 46B and 47–52 of the RMA), the deletion of redundant clause 34, and the addition of new clause 35A.

Local authority recognition of national policy statements

We recommend inserting clauses 33(1AA) and 33(1AAB), to require documents (as defined in section 55(1) of the RMA) to be consistent with any constraints or limits set out in national policy statements.

National planning standards

We recommend several amendments in clause 37, new sections 58B–58J of the RMA, which are the provisions that cover national planning standards.

We note that submitters strongly supported the policy intent to standardise the structure and format of plans, and to provide standard definitions. Submitters considered that standardisation would increase efficiency and reduce costs. However, there was some confusion about the scope, purpose, and implementation of the tool.

We have responded to this uncertainty by recommending that the tool be renamed, from "national planning template" to "national planning standard". We consider that this phrase more accurately describes the scope of this instrument, which is potentially very broad. This breadth was not captured by the term "template", which is generally considered to be a kind of model or pattern.

We also considered submitter concerns about the need for another national direction instrument when there are already national policy statements, national environmental standards, and regulations. Submitters stressed the need for clear distinctions between these instruments. We agree that it is important for any new instrument to have a clearly defined place in the planning system.

We therefore recommend the following amendments to make the purpose and implementation of the instrument clearer. As a result of these amendments to clause 37, we suggest a number of consequential amendments, such as the deletion of redundant clauses 83, 85, 87, and 88.

Purpose of national planning standards

Clause 37, new section 58B(1), specifies the purposes of national planning standards. One purpose is to set out the required parameters for regional policy statements and plans, to ensure they address matters that the Minister considers "to be nationally significant" (proposed section 58B(1)(i) in the bill as introduced). We consider that this provision could be confusing, as it overlaps with the purpose of national policy statements, which is to set out objectives and policies of national significance. To avoid this overlap, we recommend deleting proposed new section 58B(1)(b)(i).

Instead, we recommend inserting new section 58B(1)(b)(iia). This would make it clearer that national planning standards are designed to set the parameters for regional policy statements and plans, to support the implementation of broader national direction. This direction includes:

- national environmental standards
- national policy statements
- New Zealand coastal policy statements
- regulations made under the RMA.

For clarity, we recommend inserting new section 58B(2). It points out that, in relation to coastal marine area matters, any reference to "the Minister" in sections 58C–58J means the Minister of Conservation.

Scope and content of national planning standards

We recommend amending new section 58C to require national planning standards to give effect to national policy statements, and be consistent with:

- national environmental standards
- regulations made under the RMA
- water conservation orders.

Consequentially, we recommend moving paragraphs (b)–(d) of proposed section 58C(1) to new section 58C(1A).

We recommend clarifying the requirement in proposed section 58C(1)(f), and moving it to new section 58C(1A)(d). This would provide that national planning standards may include a requirement for a local authority to review a discharge, coastal, or water permit, or a land-use consent in relation to a regional rule.

We recommend amending the provisions in sections 58C(1)(a), (e), (3) and (4), and moving them to new section 58C(3).

We also recommend adding two new provisions to our rearranged new section 58C(3). The first is new section 58C(3)(b), which clarifies that a national planning standard may direct local authorities to:

- use a particular structure and form for regional policy statements and plans
- include specified provisions in their policy statements and plans
- choose from a number of specific provisions to be included in their policy statements and plans.

Our second provision responds to a suggestion from submitters to clarify when local circumstances can be accommodated. New section 58C(3)(e) states that a national planning standard may specify where local provisions must or may be included in regional policy statements and plans.

Preparation of national planning standards

We recommend a slight amendment in new section 58D(1), to replace the word "determines" with "decides". This would respond to submitters' concern about a perceived conflict between the Minister's required action in this section, and in section 58I(2) of the bill as introduced (new section 58FA).

We recommend deleting new section 58D(2)(a), as it would no longer apply. Our recommendation to delete new section 58B(1)(b)(i) means that the Minister would not use national planning standards to address matters of national significance. Matters of national significance would be addressed through national policy statements.

We recommend inserting three new matters that the Minister may consider in preparing or amending a national planning standard. These matters may not apply in all cases, and therefore would need to be applied at the Minister's discretion when considered relevant. These matters would become new sections 58D(2)(ba)–(bc), and state that the Minister may have regard to whether the standard:

- supports the implementation of national environmental standards, national policy statements, New Zealand coastal policy statements, and regulations made under the RMA

- should allow for local circumstances and, if so, to what extent
- should apply to a specified area instead of nationally.

We recommend amending new section 58D(3)(d)(i), to make it clear that it is preferable for public submissions to be sought, instead of the more vaguely worded requirement for public "comment". We also note that the process set out in section 58D contains minimum requirements. The Minister could choose to provide additional opportunities for public input.

Approval of national planning standards

We recommend changes in new section 58E to simplify and condense its provisions.

Publication of national planning standards and other documents

We recommend several amendments in new section 58F.

We recommend deleting the subjective phrase "in any manner the Minister sees fit" in new section 58F(1)(a). We also recommend inserting the phrase "public notice", to align with the definition in clause 114, as well as the requirements for national policy statements.

For public accessibility reasons, we recommend inserting new section 58F(1)(ab) to require all national planning standards to be published together in an integrated and helpful format.

We recommend an amendment in new section 58F(1)(b), to require more than one copy of national planning standards to be provided to each local authority.

First set of national planning standards

We recommend inserting new section 58FA into the RMA. This would build on new section 58I in the bill as introduced, by stipulating the requirements for production of the first set of national planning standards. The main change is to propose minimum requirements for the first set of national planning standards. We consider that these minimum requirements would facilitate the transition to a more consistent planning system.

Changing, replacing, or revoking national planning standards

We recommend an amendment in new section 58G(2), to include an additional requirement for the Minister to upload information about minor changes to a national planning standard to the internet site referred to in section 58F(2).

Local authority recognition of national planning standards

We recommend amendments to make new section 58H clearer. The amendments respond to suggestions and concerns raised by submitters which arise mainly from the drafting of this section.

We note that the bill provides three processes for implementing national planning standards:

- The standards may direct councils to implement specific provisions without any choice or local customisation. In this case, the RMA's Schedule 1 process would not be followed. We note that these provisions would need to apply in all circumstances, so they are likely to be limited in number and scope.
- The standards may provide some discretion to account for local circumstances, in which case one of the processes set out in Schedule 1 must be followed.
- The standards may allow for an additional submission process about the provisions' application to a local context (but not about the content of the provisions). In this case, a partial Schedule 1 process would be followed, to avoid duplicating the consultation required during the development of the provisions.

The proposed new section 58H(2) covers the first process, and states how a local authority must amend its documents if directed to do so by a national planning standard. The proposed new section 58H(2A) is largely a rearrangement of proposed section 58H(3) of the bill as introduced, but with an additional requirement that these kinds of amendments to local authority documents must not use any of the processes set out in Schedule 1 of the RMA.

The proposed new section 58H(3) covers the second process, and includes the steps that local authorities must take when a national planning standard directs a local authority to choose from a number of specific provisions. We also recommend inserting new section 58H(4A), stating that a national planning standard may specify how local authorities are to choose relevant provisions from the national planning standard.

We recommend amending new section 58H(5). Our amendment would require local authorities to notify all of their amendments no later than 1 year after the date that the directed change is published in the *Gazette*, or by a time specified in the national planning standard. This would give local authorities more flexibility, and encourage them to complete the necessary changes sooner than the 5 year timeframe suggested in the bill as introduced.

Timeframes applying under the first set of national planning standards

We recommend replacing new section 58I, and merging its provisions from the bill as introduced into proposed new section 58FA.

Our recommended new section 58I would set out the deadlines by which local authorities must have made amendments in response to the first set of national planning standards.

Mana Whakahono a Rohe: Iwi Participation Arrangements

We recommend changes to clause 38, proposed new sections 58K–58P. We therefore recommend replacing these sections with our new sections 58K–58T.

We recommend changing the name "iwi participation arrangements" to the dual name "Mana Whakahono a Rohe: Iwi Participation Arrangements". Mana Whakahono a Rohe is an alternative iwi and local authority relationship arrangement. This was pro-

posed in the Next Steps for Fresh Water discussion document, released after this bill was referred to the committee.[2]

We consider that elements of Mana Whakahono a Rohe arrangements improve upon the proposed iwi participation arrangements because they are initiated by iwi, and have a broader scope that includes consenting and monitoring. The dual name "Mana Whakahono a Rohe: Iwi Participation Arrangements" reflects the proposed combination of both arrangements.

Definitions

To make clause 38 clearer and to help with its interpretation, new section 58K contains a list of definitions.

Purpose of Mana Whakahono a Rohe arrangements

Proposed new section 58L brings content from new section 58K in the bill as introduced, and incorporates some other changes we recommend.

The bill clarifies the extent and nature of involvement of iwi in resource management and decision-making processes under the RMA. The bill as introduced would restrict iwi to participating in the preparation, change, or review of a policy statement or plan, in accordance with the processes set out in Schedule 1.

We also recommend an amendment to provide that one purpose of Mana Whakahono a Rohe arrangements should be to help local authorities to comply with their statutory duties under the RMA. This change aims to improve the working relationships between iwi and local authorities, and to encourage better national collaboration on resource management issues.

Guiding principles

Proposed new section 58M sets out the principles that would guide participating local authorities when initiating, developing, and implementing a Mana Whakahono a Rohe. These principles are consistent with those used in Treaty settlement arrangements. The list is not intended to be exhaustive; parties could agree on additional principles.

We consider that the inclusion of guiding principles would support the implementation of our proposed new section 58L. Having a clear set of principles would also provide criteria that could be used in the arbitration of disputes.

Initiation of a Mana Whakahono a Rohe

Proposed section 58N (section 58L in the bill as introduced) would remove the requirement for local authorities to initiate a Mana Whakahono a Rohe, along with the

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[2] You can read this discussion document here: http://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/next-steps-for-freshwater.pdf, as at 26 January 2017.

associated timeframes. Instead, it would allow iwi authorities to initiate a relationship at any time other than 90 days before a local body election.

This amendment responds to points raised by submitters about the capacity of iwi to engage in a meaningful way. Submitters stressed that arrangements initiated by local authorities place a significant burden on iwi, as they do not allow iwi to undertake negotiations at a time that suits them.

Additionally, iwi-initiated arrangements would remove a barrier to the initiation of arrangements, as iwi would not need to wait for a local authority to invite them to enter into an arrangement within 30 days of a triennial general election.

New section 58N would require a local authority to convene a meeting (hui) on receipt of an invitation to initiate an arrangement. Under new section 58N(4) the meeting would be to discuss and agree on:

- the process for negotiating 1 or more arrangements
- who will be involved in the negotiations
- the times by which negotiations must be concluded.

New section 58N(2) would allow a local authority to choose whether to write to any other relevant iwi authorities and local authorities about the initiation of the arrangement, and to invite them to attend the meeting (hui).

New section 58N(3) would require the meeting to be convened within 60 working days from the day on which the invitation was received, unless the parties agree otherwise.

New section 58N(5) specifies that, if agreement on the above three points is reached at a meeting, the parties must proceed to negotiate the terms of the Mana Whakahono a Rohe.

Where a local authority has been invited by more than one iwi authority to initiate separate arrangements, new section 58N(6) would allow local authorities and iwi authorities to agree on the order in which the arrangements are negotiated.

New section 58N(7) would allow the parties, by agreement in writing, to treat an existing resource management related arrangement as if it were a Mana Whakahono a Rohe. However, only the contents of an existing arrangement that relate to the provisions of new section 58Q could be treated as Mana Whakahono a Rohe arrangements. We consider that this amendment would address the feedback we received from submitters that the bill as introduced is unclear about how established arrangements would be affected.

New section 58N(8) would require the participating authorities to take into account the extent to which resource management matters are included in iwi participation legislation, including Treaty settlements. The aim would be to minimise any duplication of functions.

New section 58N(9) notes that a local authority could commence, continue, or complete RMA processes while it is waiting for a response from, or negotiating an agreement with, iwi authorities.

We are aware that iwi-initiated arrangements could create uncertainty for local authorities and impose unforeseen resource pressures. However, we consider that this uncertainty would be minimised by our recommended provisions that:

- allow for an extension to the time by which an arrangement must be concluded, to be granted by mutual agreement of the participants
- prevent the initiation of a Mana Whakahono a Rohe within 90 working days of a local body election.

We also note that iwi initiation may ease local authority resource pressures because local authorities would not need to initiate an arrangement with all iwi authorities in their area at the same time. This would otherwise be the case under the provisions in the bill as introduced.

Other opportunities to initiate a Mana Whakahono a Rohe

Proposed new section 58O provides for an iwi authority to initiate or participate in an arrangement. It also covers provisions around local authority initiation of a Mana Whakahono a Rohe.

New section 58O(1) would allow an iwi authority to participate in, or initiate, a Mana Whakahono a Rohe when it is ready, even if it had previously declined an invitation from a local authority. The provisions preventing an authority from initiating an arrangement within 90 days of a local body election would apply.

New section 58O(2) would require an iwi authority to consider joining established arrangements before initiating a new one in the same area.

New section 58O(4) notes that a local authority may initiate a Mana Whakahono a Rohe with an iwi authority or with hapū. The inclusion of hapū responds to submitter concerns about the definition of iwi authority and the benefits to be gained from engaging with other, more relevant, groups.

New section 58O(5) would require a local authority and iwi authority or hapū to agree on:

- the process to be adopted
- the time by which negotiations must be concluded
- how the Mana Whakahono a Rohe is to be implemented.

New section 58O(6) notes that, if one or more hapū are invited, the provisions in new sections 58L, 58M, 58Q, 58S, and 58T would apply as if the hapū were iwi authorities.

Time frame for concluding a Mana Whakahono a Rohe

Our proposed new section 58P (new section 58N in the bill as introduced) would extend the timeframe by which participating local authorities must conclude a Mana Whakahono a Rohe.

Our new provision would extend the date from 6 months after the date that an iwi authority accepts a local authority's invitation to enter into an arrangement, to 18

months after the date that an invitation is received by a local authority. It would allow the parties to decide jointly on a different timeframe.

Contents of a Mana Whakahono a Rohe

Proposed new section 58Q would carry over several provisions from new section 58M in the bill as introduced. The proposed provisions in section 58Q aim to reduce the risk of disputes, delays, cost pressures, and litigation. They also intend to support the establishment of positive working relationships.

Our new section 58Q(1) specifies that a Mana Whakahono a Rohe must identify the participating local and iwi authorities. It also requires the agreement to record how an iwi authority may participate in the preparation or change of a policy statement or plan, including the use of any of the pre-notification, collaborative, or streamlined planning processes under Schedule 1 of the RMA.

Our new provisions in section 58Q(1)(c) would require the participating local and iwi authorities to record:

- how they will undertake consultation and satisfy the requirements of both section 34A(1A) and clause 4A of Schedule 1 of the RMA
- how they will work together to develop and agree on methods for monitoring under the RMA
- a process for identifying and managing conflicts of interest
- the process for resolving disputes (previously this provision was optional).

Our new section 58Q(2) specifies the matters that must be included in the dispute resolution process as required by section 58Q(1). These matters include the extent to which the outcome of a dispute resolution process constitutes an agreement to alter, terminate, conclude at a later time, or jointly review the effectiveness of a participation arrangement, or undertake additional reporting on the arrangement. This new section also clarifies that local and iwi authorities would need to bear their own costs in any dispute resolution process between the parties.

New section 58Q(3) states that a dispute resolution process must not deliberately inhibit local authority processes under the RMA.

New section 58Q(4) expands on new section 58M in the bill as introduced. It adds that an arrangement may specify:

- how a local authority is to consult or notify an iwi authority on resource consent matters when it is required to do so
- the circumstances in which an iwi authority may be given limited notification as an affected party
- any arrangement relating to other functions, duties, or powers under the RMA.

New section 58Q(4)(e) states that a Mana Whakahono a Rohe may specify whether a participating iwi authority has delegated a role to a person or group of persons (including hapū) to participate in particular processes under the RMA. We consider that

it is appropriate to make specific reference to hapū, as they often have strong relationships with particular areas and resources.

New section 58Q(5) states that the content of a Mana Whakahono a Rohe must not be altered or terminated unless all participating local and iwi authorities agree.

New section 58Q(6) relates to 2 or more iwi authorities in a Mana Whakahono a Rohe with a local authority. If one of the iwi authorities wishes to amend the content of the arrangement, it must negotiate with the local authority instead of seeking to enter into a new Mana Whakahono a Rohe.

Resolution of disputes arising during the negotiation of a Mana Whakahono a Rohe

We recommend amending clause 38 to insert new section 58R. The provisions in this section would apply if a dispute arose among local and iwi authorities in the course of negotiating a Mana Whakahono a Rohe.

Our new section would require local and iwi authorities to specify a binding or non-binding process for resolving disputes, to jointly appoint an arbitrator, and to meet their own costs of participating in a dispute resolution process.

If a dispute remains unresolved following a non-binding process, the participating authorities could, individually or jointly, seek the assistance of the Minister. The Minister may then appoint a Crown facilitator or direct the parties to use a particular alternative dispute resolution process.

Review and monitoring

We recommend amending clause 38 to insert new section 58S.

This new section would require local authorities that enter into a Mana Whakahono a Rohe to review their policies and processes to ensure they are consistent with the arrangement. This requirement aims to minimise delays that could affect the ability of an iwi authority to engage with the matters agreed to in the relationship arrangement. The local authority's review must be completed within six months of the arrangement's initiation, unless a later date is agreed by all parties.

New section 58S(3) would require all parties to jointly review the effectiveness of the arrangement every six years, or at any other time agreed on. The parties must consider the purpose and guiding principles of a Mana Whakahono a Rohe, as set out in this legislation.

New section 58S(4) specifies that these review requirements would be additional to the obligations of local authorities in sections 27 and 35 of the RMA.

New section 58S(5) notes that any additional reporting could be undertaken by the agreement of the participating local and iwi authorities.

Relationship with iwi participation legislation

New section 58T is essentially an updated version of proposed new section 58P in the bill as introduced.

Streamlined planning process

We recommend several amendments in clause 52, which would insert new Subpart 5 into the RMA.

Purpose, scope, application of Schedule 1, and definitions

We recommend amending new section 80B(1) to remove reference to variations and changes. These terms are included in the definition of "planning instrument" in new section 80B(3), and therefore are unnecessary.

We recommend amending new section 80B(2) to specify how Schedule 1 of the RMA applies to the streamlined planning process. By referring to clauses 4, 9, and 13 of Schedule 1, this amendment provides for designations and heritage orders to be incorporated where applicable.

We recommend moving paragraphs (a)–(c) from new section 80C(1) to new section 80B(3) as we consider that they sit better within the definition of "responsible Minister".

Application to responsible Minister for direction

We recommend inserting new section 80C(2A) to require a local authority to obtain the agreement of a person requesting a private plan change under clause 25(2)(b) of Schedule 1 of the RMA, before it applies for a direction from the Minister.

We also recommend inserting a new provision in new section 80C(3). It would clarify that the application to use the streamlined planning process must be made to the Minister before any private plan change is notified.

Compensation not payable in respect of controls on land

We recommend amending clause 54 to clarify the meaning of new sections 85(3A) and (3D).

New section 85(3D) clarifies that it must be the land owner, and not the spouse or partner, that consents to a direction to acquire all or part of the estate or interest in the land.

When rules in plans must be treated as operative

We recommend inserting new clause 60A to amend section 86F of the RMA.

Section 86F of the RMA states that any rule in a proposed plan that does not receive any submissions in opposition to it must be treated as operative. Therefore, it would be possible for a rule introduced through a limited notification plan change to be treated as operative if no opposing submissions were received.

The insertion of new section 86F(2) would exclude rules introduced through limited notification plan changes from being treated as operative before decisions on submissions had been publicly notified.

Amendments to Part 6 of the RMA

We recommend moving the provisions of clauses 62–64 to new clauses 131A, 133A, and 133B to provide for their delayed commencement.

Duration of consent for aquaculture activities

We recommend inserting new clause 64A to amend section 123A of the RMA.

New clause 64A(2) makes it clear that a national environmental standard could specify a period shorter than 20 years for the duration of a consent for aquaculture activities. A specified period would remove uncertainty for communities and resource users. It could also reduce costs for councils by supporting their ability to manage natural resource use strategically and at the plan stage, rather than on a case-by-case basis.

Circumstances when consent conditions can be reviewed

We recommend inserting new clause 64B to replace section 128(1)(ba) of the RMA.

Under section 128, a consent authority may review a resource consent condition in certain circumstances. We were advised that when a council is reviewing a land-use consent it is highly constrained in its ability to change any conditions of the consent to comply with a national environmental standard or national planning standard.

To address this problem, our proposed clause would allow regional councils to review the conditions of a coastal, water, or discharge permit, or a land-use consent granted by a regional council, when relevant national environmental standards or national planning standards have been made.

EPA to receive submissions on matter if public notice of direction has been given

Clause 69 would amend section 149E of the RMA to specify the EPA's process for receiving electronic submissions.

We recommend amending clause 69 to make it clearer, and to align it with the document servicing provisions in clause 142 of the bill.

We also recommend consequential changes to clauses 70 and 76.

Minister to appoint board of inquiry

We recommend amending clause 72, section 149J of the RMA, to make it clear that the Minister may set the terms of reference about administrative matters relating to the inquiry on a proposal of national significance. The purpose of this amendment is to address cost-efficiency issues. Our amendment also responds to submitter feedback that the wording in the bill as introduced, which would allow the Minister to set the terms of reference for the board of inquiry, could impede natural justice when running an inquiry.

We also recommend amending clause 73 to reinstate the requirement in section 149K of the RMA for the Minister to consider the need for the board to have the applicable knowledge, skill, and experience relating to tikanga Māori.

Board to produce report

We recommend amending clause 78 to remove reference to a "final" report in the heading of section 149R. As there is no requirement for a draft report, this is unnecessary.

Cost recovery of debt due to the EPA

We recommend amending clause 81, which would insert new sections 149ZF and 149ZG into the RMA.

New section 149ZF would apply when the EPA or the Minister requires a person to pay costs recoverable under sections 149ZD(2), (3), or (4) of the RMA. Our amendment to new section 149ZF(2) provides that such debts would be recoverable by the EPA on behalf of the Crown.

In response to submitter feedback about the unworkability of a 20 working day notice period to pay recoverable costs, we recommend removing reference to this deadline.

Discretion to include requirement in proposed plan

Our proposed insertion of new clause 82A, amending section 170 of the RMA, would align this section of the RMA with the bill's proposed new collaborative and streamlined plan-making processes in Schedule 1. It would require a territorial authority to notify, and seek the consent of, the relevant requiring authority (which can be a Minister, a local authority, or a network utility operator approved under the RMA) as to which planning process it intends to use under Schedule 1. Where a collaborative planning process is to be used, the requiring authority must be informed of the need to nominate a representative for appointment to the collaborative group.

Proposed new sections 170(3)–(6) specify the procedural processes that would apply when a proposal is to use a collaborative planning process.

Proposed new sections 170(7)–(8) specify the procedural processes that would apply when a proposal is to use a streamlined planning process.

Recommendation by territorial authority

We recommend deleting clause 83 as it would be redundant as a result of our amendments to the bill.

Notice of requirement to territorial authority

We recommend amending clause 84, which would amend section 189 of the RMA, to clarify that a heritage protection authority is a body corporate approved under section 188 of the RMA.

This amendment would rectify an error pointed out by submitters. It was not the bill's intention to exclude Heritage New Zealand and local authorities from giving notice of heritage orders over private land.

Transfer of heritage order

We recommend amending clause 86, proposed new section 195B.

Our proposed section 195B(1A) would make it clear that the Minister may not transfer responsibility of an existing heritage order to another heritage protection authority if the order relates to private land, and the transfer of the order is to a body corporate approved under section 188 of the RMA.

New section 195B(6) notes that a definition of "private land" is contained in new section 189(6).

Conferences and alternative dispute resolution

We recommend amending clause 90, which would replace section 267(1) of the RMA.

Our amendment would clarify the roles around legal or technical representation at a conference. Only one representative per party to the proceedings must have the authority to make decisions on matters that could arise at the conference.

We recommend a similar amendment in clause 91 regarding participants in an alternative dispute resolution process. This clause would replace section 268 of the RMA with new sections 268 and 268A.

Environment Court to have regard to decisions that are the subject of an appeal or inquiry

We recommend deleting clause 97.

We agree with submitters that this clause would have no real effect on court processes in practice, as it provides no more power to the court than it already has. It could also create variability in how the court treats appeals about plans.

Regulations to exclude stock from waterways

We recommend amending clause 103, section 360 of the RMA, to adjust the proposed infringement regime relating to the exclusion of stock from waterways.

We agree with submitters that, to be an effective deterrent, the fee for an offence should be higher than the $750 proposed in the bill as introduced. Our proposed new section 360(1)(bb) would impose a fee of up to $100 per animal observed in a water body, up to a maximum of $2,000 per infringement. It also allows regulations to prescribe fines of up to $2,000 for other specified offences relating to the stock exclusion regulations.

Our proposed new section 360(1)(hq) in clause 103(7) provides that a more stringent rule in a plan would prevail over a regulation relating to the exclusion of stock from waterways.

Our proposed new section 360(2)(2AA) in clause 103(8) would validate any consultation that had already been undertaken prior to the commencement of the new regulation-making powers relating to stock exclusion from waterways.

Our proposed new section 360(2F) would allow regulations to specify that any rules that are inconsistent with new regulations on stock exclusion from waterways must be withdrawn or amended. New section 360(2G) would also require local authorities to

publicly notify any withdrawals or amendments within 5 working days after their withdrawal or amendment.

Regulations that permit or prohibit certain rules

We recommend amending clause 105, which would insert new section 360D into the RMA.

Clause 105 proposes to introduce new regulation-making powers for the Minister, on the proviso that the Minister prepares and has regard to an evaluation report as required under section 32. Such reports require an assessment of the likely environmental, economic, social, and cultural effects of a proposal.

Feedback from submitters on section 360D

The committee received a number of submissions on the proposed new regulation-making powers under section 360D. Submitters questioned the need for such powers, and expressed concern about their fit within the current resource management system, and the lack of an adequate process for public comment.

Submitters also expressed concern about the effect the regulation-making power might have on local decision-making processes. In particular, submitters considered that the power could be used to prevent local councils from regulating genetically modified organisms within their region.

Response to submitter feedback on section 360D

In response to the concerns raised by submitters, we recommend amending clause 105.

We consider that current national direction tools in the RMA allow the Minister to perform similar functions as the bill would provide for in sections 360D(1)(a)–(c), although the outcomes are less certain, and take longer.

In addition to deleting sections 360D(1)(a)–(c), we recommend removing all related powers contained in sections 360D(2)–(3).

We recommend retaining section 360D(1)(d), but relocating it to 360D(1). This provision would remove rules or types of rules that would duplicate, overlap, or deal with the same subject matter as is included in other legislation. This cannot be easily achieved through other national direction tools, and would help to reduce duplication between the RMA and other legislation.

As consequential changes, we recommend deleting sections 360D (10) and (11).

We recommend deleting proposed section 360D(9). This would retain nationwide notification and consultation, which is consistent with the requirement to consult nationally in relation to the development of national environmental standards, national policy statements, and New Zealand coastal policy statements. We consider it appropriate for notification and consultation to be at a national level, as the intent of these regulations is to prevent councils from making rules that duplicate or overlap with other

legislation. Duplication of legislation in one location is likely to be undesirable across the country.

We recommend inserting new section 360DA, to specify the procedures that must be followed in recommending regulations under new section 360D(1). Consequentially, we recommend deleting sections 360D(7) and (8).

In response to concerns about regulations overriding local decisions, we note that this is true of all regulations that provide national direction. The benefit of national directions is that they provide national-level consistency. We note that the costs of implementing a regulation are considered as part of a section 32 evaluation. We have also been assured that regulations should only be made when the national-level benefits outweigh the effects on local decision-making.

The section 360D(1)(d) regulation-making power could be used in relation to genetically modified organisms or hazardous substances, to the extent that there is duplication or overlap with the Hazardous Substances and New Organisms Act 1996.

We note too that the proposed process for making a regulation under section 360D would entail very similar public engagement as used for national environmental standards. This includes notifying the public and inviting public comment.

The proposed amendments would remove subjective language from clause 105 to alleviate this concern.

Regulations relating to administrative charges and other amounts

We recommend amending new section 360E in clause 105. This new section would introduce a regulation-making power to specify the administrative charges that local authorities must fix.

We recommend removing the reference to new section 34B because local authorities already have an existing ability to fix fees for hearings commissioners.

Proposed section 360E(2)(a) notes that regulations must not fix the amount chargeable by local authorities under section 36(1).

Proposed section 360E(2)(b)(i) would allow regulations to require councils to pay, on a fixed-fee basis, hearings commissioners who determine plan changes or resource consent applications where a hearing is held.

Regulations under proposed new section 360E(2)(b)(ii) would allow regulations to require councils to set the overall charge payable by the applicant for a plan change or resource consent hearing, as long as this is done before a hearing commences.

Proposed section 360E(2)(c) would allow regulations to require local authorities to fix administrative charges for the receiving, processing, and granting of resource consents, as specified in section 36(1)(b) of the RMA.

Proposed section 360E(3) would require that regulations relating to a local authority receiving, processing, and granting resource consents should:

- specify the class or classes of application in respect of which each charge is to be fixed

- include a schedule of charges to be applied by local authorities, fixed on the basis of the class of application and the complexity of the class of application to which the charges apply.

The regulations may also specify a class or classes of additional charges that may apply.

Amendments that commence 6 months after Royal assent

Terminology

We recommend amending clause 112, section 2 of the RMA, to replace the term "affected boundary" with "infringed boundary". We consider that this term would be more precise, and that it better reflects the related processes being established in the bill. The definition of "infringed boundary" is contained in new section 87AAB.

We recommend amending clause 113, section 2AA of the RMA, to remove the reference to a consent authority deciding who an "affected person" is. This amendment reflects the fact that it may either be the consent authority or the Minister making such a decision, depending on whether the decision is made under section 95E or 149ZCF. We also recommend modifying the definition of "public notification" to ensure that prescribed persons are given notice when public notification occurs, consistent with the provisions in new section 2AB.

Submissions that may be struck out

We recommend amending clause 120, which would insert new section 41D into the RMA.

New section 41D would introduce a mandatory requirement, in certain circumstances, to strike out submissions on an application for, or review of, a resource consent, or an application to change or cancel a condition of a resource consent. If a submission was struck out, the submitter would be prevented from appealing the decision. This provision aims to save on the time and costs associated with unhelpful or irrelevant submissions.

The majority of submitters who commented on this clause opposed it. Submitters considered that it would discourage the participation of non-experts, and could result in useful information being struck out. Submitters were also concerned about the bill's lack of guidance around what would constitute "evidence" and a "factual basis".

We agree that clause 120 could introduce complexity, uncertainty, and litigation to the consent process. We also agree that not all adverse effects are known to consent authorities at the time of notification, and that the clause's provisions could potentially prevent new matters from being discussed at a hearing.

To address these concerns, we recommend removing the mandatory strike-out of submissions on resource consents, and reworking this clause to delete new section 41D(2) and amend new section 41D(1).

Our recommended new section 41D(1)(d) would make the provisions around independent expert advice clearer. We stress that the intention of section 41D(1)(d) is not

to provide a consent authority with the discretion to strike out a submission if it is not supported by "independent expert advice".

The discretion to exercise the strike-out option could only be used if the evidence is provided by a person who falsely claims to be independent, or an expert. We stress that all the grounds to strike out submissions would be discretionary, and that only a part of a submission could be struck out, rather than the whole.

We recommend inserting new section 41D(1)(e), to allow submissions containing offensive language to be struck out.

The changes we recommend would entail consequential amendments in clause 152.

The majority of us consider that these amendments would address submitter concerns.

Public notification of proposed policy statement

We recommend inserting new clause 120A to replace section 48(1) of the RMA.

This new clause would require a board of inquiry to ensure that public notice of a proposed national policy statement and inquiry is given as soon as practicable. It would also require a short summary of the notice to be provided, in accordance with the requirements of our new section 48(1)(b).

Fast-track applications

Clause 121 would introduce a truncated 10 working day resource consent process for more straightforward applications (the standard 20 working day process would still apply to a wide range of activities). This proposal aims to deliver cost and time savings for councils and applicants.

Some submitters were concerned that a truncated process would place time pressure on councils. While we are not recommending the removal of this fast-track option, we recommend several changes in response to submitter concerns.

Proposed section 87AAC(1)(a)(i) narrows the scope of what qualifies as a fast-track application, to a controlled activity that requires a land-use consent under a district plan.

We recommend inserting new section 87AAC(2)(c) to allow an applicant to opt out of the fast-track process when lodging an application.

We recommend inserting new section 87AAC(4) to clarify that an application would be subject to the standard processing requirements if it were no longer a fast-track application.

Boundary activities approved by neighbours on infringed boundaries are permitted activities

We recommend amending section 87AAB(2) in clause 121 to change the term "affected boundary" to "infringed boundary". This new term would better reflect its intended meaning. We have also recommended changes to the content of this definition so that it clarifies how corner sites and private ways would be considered.

We recommend amending clause 122, which would insert new section 87BA into the RMA.

We recommend amending section 87BA(1) and section 95B(7) to require the owner to provide written approval of the allotment with an infringed boundary, rather than the "owner or occupier".

Proposed section 87BA(2A) would require a consent authority's decision on a boundary activity exemption to be made within 10 working days (aligning with the timeframe for fast-track processes). This deadline would increase certainty and promote timely processing. We consider that 10 working days is long enough for councils to carry out any required assessment of an application.

We recommend inserting section 87BA(5) to require a 5 year expiry date for any written notice for boundary exemptions. We also recommend applying this timeframe to activities that are deemed permitted, where there is marginal or temporary non-compliance, by inserting new section 87BB(5).

Where an exemption has been granted for boundary activities or minor or temporary activities, no certificate of compliance is required, or could be applied for. This clarification is contained in new section 139(8A), new clause 136(1AA).

Public notification and limited notification of applications for resource consent

Clauses 125–129 would amend sections 95–95E of the RMA. These sections cover the public notification and limited notification of resource consent applications.

We recommend amending clause 125, new section 95A(5)(a). This amendment would clarify that all activities in an application for a resource consent must be subject to the rules or national environmental standards that preclude public notification, in order for the public notification preclusion to apply. We recommend the same clarification for limited notification in section 95B(6)(a).

The change we recommend to new sections 95A(5)(b)(ii) and (iia) clarifies that, for boundary activities, public notification is precluded for resource consent applications that have non-complying activity status (in addition to those with restricted discretionary or discretionary activity status).

Our amendment to section 95A(6) would clarify the definition of "residential activity". We have added that this means an activity that requires resource consent under a regional or district plan, and that relates to the construction, alteration, or use of one or more dwellinghouses (residential properties).

We also recommend amending new section 95A(8)(a), to clarify that an application is to be publicly notified where any of the activities within the application are subject to rules or national environmental standards that require public notification.

Submitters shared their concern with us about the time and cost implications of requiring consent authorities to specify relevant adverse effects in public notices. Submitters were also concerned about the difficulty of identifying all potential adverse effects, and the consequences of inadvertently omitting some. We agree that this requirement could lead to unintended consequences, and so we recommend removing it

from new sections 95A(7), 95B(4), and 95B(9), and consequentially deleting proposed new section 95E(3).

For the same reason, we recommend removing the requirement in new sections 95A(9) and 95B(10) for consent authorities to specify the special circumstances that warrant an application's notification.

In response to submitter concerns, we recommend amending new section 95B to largely revert to the RMA's section 95E "affected person" test for determining whether limited notification of resource consent applications is required. Clause 128 of the bill as introduced contains a list of the persons who would be "eligible" to be considered an "affected person". Only those persons who were both eligible and affected would be notified of an application. The only eligibility restrictions that remain as a result of our recommended changes are for boundary activities and activities that may be prescribed in regulations (through new section 360G). We recommend consequentially deleting clause 128.

We recommend that new section 95B(6)(b)(i) only preclude controlled district land-use activities from limited notification, instead of all controlled activities.

We recommend deleting new section 95B(11) as it would be redundant.

We believe that submitters' concerns are valid regarding the bill's provisions allowing a consent authority when determining whether to notify a consent application, to disregard adverse effects if they are taken into account in the objectives and policies of the relevant plan. We therefore recommend the deletion of proposed sections 95D(ca) and 95E(2)(c). We recommend amending section 95E(4) in clause 129 to clarify that a person is not an affected person for limited notification if they have given the consent authority written notice approving the proposed activity, and not withdrawn that approval, before the authority has decided whether there are any affected persons.

Consideration of applications

To provide for its delayed commencement, we recommend moving the provisions of clause 62 to new clause 131A.

We recommend a small change to the clause's provisions, to require a consent authority to consider any measure "agreed to" by the applicant for the purpose of ensuring positive effects on the environment to offset adverse effects. We also recommend a change to include any adverse effects that would be compensated for.

Conditions of resource consents

To provide for its delayed commencement, we recommend moving the provisions of clause 63 to new clause 133A.

Requirements for conditions of resource consents

Similarly, to provide for its delayed commencement, we recommend that the provisions of clause 64, which would insert new section 108AA into the RMA, be moved to new clause 133B. We also recommend making some amendments to new section 108AA.

We recommend amending new section 108AA(1)(b)(ii) to allow a consent authority to include a condition in a resource consent for an activity relating to a national environmental standard. We also recommend inserting new section 108AA(1)(c), allowing a condition to relate to administrative matters that are essential for the efficient implementation of the consent.

Proposed section 108AA(2) clarifies that the provisions in the RMA, and regulations made under it, would prevail over a consent authority's powers under this new section.

New section 108AA(3) clarifies that the provisions in section 108AA do not limit section 77A, section 106, or section 220.

Proposed section 108AA(5) adds a disclaimer that the provisions in section 108AA would not prevent a resource consent from including a condition requiring a financial contribution.

Right to appeal

Clause 135 would amend section 120 of the RMA relating to rights of appeal to the Environment Court. It would remove the right of appeal against decisions on resource consent applications for certain activities. It would also limit a submitter's right of appeal to the matters raised in their submission, other than any matters struck out.

Submitters who opposed this clause did so for a variety of reasons, including that the rationale for limiting appeals was considered unclear, that the limitation would go against the participatory nature of the RMA, and that it would remove a check and balance on decision-making.

One intention of this proposal is to increase certainty by removing the "dampening effect" that the threat of an appeal could have on the choices made by applicants. We note that judicial review would remain for decisions where there have been process errors.

We note submitter concerns about the provision's restraint on public engagement. However, the intent is to encourage greater involvement in policy decisions at the planning stage instead of re-litigating policy decisions on a case-by-case basis. We were also advised that the provision aims to promote clearer and more timely decision-making on housing developments.

We note the concern raised by submitters about the removal of a check on decision-making. We acknowledge this concern, but note that even with full knowledge of all available information, decisions on resource consents entail trade-offs between competing interests. We stress that the intent of this provision is to provide certainty to all parties that the council's decision is final. Again, we note that judicial review would remain, allowing decisions relating to process errors to be contested.

We recommend several amendments to this clause to make its provisions clearer.

We recommend amending section 120(1A) to clarify that all of the activities that a decision relates to must fall within the list of activities that are restricted from appeal, in order for the preclusion on appeal to apply.

We recommend amending new section 120(1A)(a) to clarify that decisions on boundary activities with a non-complying activity status would be open to appeal.

The content of new section 120(1A)(c) would amend the content from section 120(1A)(b) in the bill as introduced, so that it aligns the restriction on appeals for consents on residential activities with our proposed amendments to the restrictions on public notification for these activities in clause 125, sections 95A(5) and (6).

We recommend removing section 120(1A)(b)(ii) in the bill as introduced. This provision would preclude appeals against a decision on a resource consent for a residential activity, but only where the activity was to occur on a "single allotment" of land. Its deletion would address concerns that the reference to a "single allotment" is confusing and could hamper the progress of people proposing residential activities in residential zones.

Minister to decide whether application or notice of requirement is to be notified

As a consequence of the amendments we propose in clause 125, we recommend inserting clause 137C, new sections 149ZCA–149ZCF.

The intention of these new sections is to retain the notification test contained in sections 95A–95F of the RMA for the applications specified in section 149ZB(2) of the RMA.

Notices of requirement for designations and heritage orders

We recommend inserting clauses 138B–138F. They would amend sections 168A, 169, 189A, and 190 of the RMA so that they cross-reference, and apply with all necessary modifications, to all of our recommended amendments to the notification test contained in sections 149ZCB–149ZCF.

We also recommend inserting new sections 168A(3A) and 171(1B). These new sections would require territorial authorities to consider any positive effects on the environment that will offset, or compensate for, any adverse effects that will or may result from the activity. The positive effects would need to be from measures proposed, or agreed to, by the requiring authority.

Proposed section 169(2) notes that the provisions in sections 92–92B and 96–103 would apply to the notice requirement unless a territorial authority applies section 170 of the RMA.

Proposed section 189A(9) notes that the provisions in sections 99–103 apply to the notice requirement, as specified in this new section.

Proposed section 190(7) notes that the provisions in sections 92–92B and 98–103 apply to the notice requirement as specified in this new section.

Service of documents

We recommend amending clause 142, which would replace section 352(1) of the RMA. Our amendment notes which valid non-electronic methods may be used to deliver a notice or other document required under the RMA.

Decision on objections made under sections 357–357B

We recommend deleting clause 147, as we do not consider it to be necessary to amend section 357D.

Appeals against certain decisions or objections

Currently under the RMA there is an ability to appeal to the Environment Court on a decision on an objection in certain instances. Clause 148 would amend section 358 of the RMA in two ways.

Proposed section 358(1A)(aa) clarifies that the ability to appeal to the Environment Court would not be allowed if an appeal on the substantive decision of the consent authority is excluded by section 120(1A).

Proposed section 358(1A)(a) would clarify that appeals to the Environment Court would not be allowed on objections to submissions that have been struck out under section 41D, and which relate to: an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent.

Regulations

We recommend a consequential amendment in clause 149 as a result of our amendments to clause 122. This would extend the range of matters for which discounts on administrative charges may be given by regulation, to include applications on permitted boundary activities.

We recommend amending clause 150, to account for our amendments to clause 105. Section 360E(2)(a)(i) would now be redundant, and section 360E(2)(a)(ii) would move to section 360E(2)(d).

We recommend amending clause 151, new section 360G, to update its cross references, and to account for our recommendations in clauses 125, 128, and 129 in respect of the limited notification requirements and the eligibility of affected parties.

Amendments to RMA Schedules

We recommend various consequential amendments in Schedules 1 and 2 of the bill, to align with the changes proposed in this commentary. The Schedules would amend Schedules 1 and 12 of the RMA.

We discuss below the amendments that we consider warrant some explanation.

Schedule 1 amendments: miscellaneous

We recommend deleting proposed new clauses 1AA and 20AB of Schedule 1, as they are no longer relevant because of our amendments to the bill.

Schedule 1 amendments: requirements to be inserted prior to notification of proposed district plans

We recommend inserting new clauses 4(1)–(2B), which apply to a review of a district plan (including a review in sections) under section 79(1) of the RMA. Our new

clauses 4(1)–(1D) would specify the written notice requirements that a territorial authority must give to a requiring authority, including when a territorial authority wishes to use a collaborative planning process or to apply to the Minister to use the streamlined planning process.

New clauses 4(2)–(2B) would require a territorial authority to provide written notice to both a requiring authority and any heritage protection authority that has a current heritage protection order when it intends to use a collaborative planning process. The notice would ask the relevant authorities to advise whether they wish to be part of the collaborative group and, if so, to provide the name of the representative. New clause 4(2B) sets out provisions for when the authorities do not agree to be a part of the collaborative group.

Schedule 1 amendments: limited notification

The bill seeks to amend Schedule 1 of the RMA to introduce limited notification as an option where only the parties directly affected must be notified of minor plan changes. The expected benefits of a limited notification process would be a reduction in hearing times, costs, and the number of appeals. However, we have been advised that only a few plan changes would be likely to qualify for this limited notification option, as the majority of plan changes directly affect a large range of people who are difficult to fully identify and notify.

We note the concerns raised by submitters about the challenge of identifying affected parties, and the need to consider reverse sensitivities, as well as any adverse effects on the environment. We do not consider it appropriate to specify in this legislation a definition of "directly affected", as we consider that this would be inhibiting. Additionally, this term is already present in clause 5 of Schedule 1 and has so far been interpreted by practitioners on a case-by-case basis. The High Court has also previously determined that the most suitable approach is on a case-by-case basis.[3]

We recommend consequential amendments in clause 5A to extend the limited notification of a proposed change to include plan variations. The bill as introduced provides for limited notification of plan changes, and our arguments supporting limited notification equally apply to plan variations (defined in section 43AA of the RMA as an alteration by a local authority to a proposed policy statement or plan, or to a change).

Clause 5A incorrectly refers to consent authorities. We recommend correcting this to local authorities.

Schedule 1 amendments: relating to an application to the Minister for direction

The amendments to clauses 25 and 26 align with our amendments to new section 80C (clause 52 of the bill).

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[3] Campaign for a Better City Incorporated v New Zealand Historic Places Trust (Pouhere Taonga) and Transit New Zealand (CIV-2003-485-1783 and CIV-2003-485-2048).

Schedule 1 amendments: collaborative planning process

The definition of "proposed policy statement or plan" in clause 36 is redundant and should be deleted, as the definition of "proposed plan" in section 43AAC of the RMA applies.

We recommend inserting new clause 37(2)(ca) to require a local authority to consider whether a requirement, designation, or heritage order could be considered within a collaborative planning process.

We consider that there is merit in providing for situations where a collaborative group and local authority agree not to proceed with a policy statement or plan if there is insufficient consensus following a dispute resolution process. We have accounted for this in our new clause 38(3)(c).

If the terms of reference under clause 41 include a requirement, designation, or heritage order, the amendments to clause 40 would require a local authority to appoint a nominated representative of a requiring or heritage protection authority to a collaborative group. New clause 40(1A) would require the local authority to also invite affected persons to nominate representatives for the collaborative group. New clause 40(4A) would provide for elected or appointed members of the local authority to be included on the collaborative group.

The amendments to clause 41 emphasise the need for a collaborative group to reach consensus.

The insertion of clause 41A sets out how a collaborative group would deal with notices of requirement in the collaborative planning process. The notices would need to be introduced following notification of the planning process, but prior to the delivery of the collaborative group's report.

New clauses 42(3A) and (3B) would extend the powers of collaborative groups to commission reports without the approval of a local authority (except where the local authority will meet the costs). New clause 42(3C) would allow local authority officers and employees to be invited to provide technical, executive, or secretarial support. New clause 42(3D) would allow officers and employees to attend the meetings of the collaborative group as technical advisers with the chairperson's permission.

Schedule 1 amendments: notification of report and preparation of proposed policy statement, plan, or change

The amendment to clause 45(1)(a) would require a proposed policy or plan change to be prepared in conjunction with the collaborative group. New clause 45(4) would clarify that a requirement, designation, or heritage order must be included in a proposed plan as notified by the relevant authority, unless there are consensus recommendations which amend it.

The proposed amendment to clause 48 would require a plan or policy statement notified under this clause to be treated as if it were publicly notified under clause 5 of Schedule 1.

Schedule 1 amendments: role of review panel

We recommend amending clause 53 to extend the review panel's powers. This would allow the panel to recommend changes to proposed policy statements or plans which are contrary to the consensus position. The comment of the collaborative group must be sought as to whether the group agrees or not with the recommendation. This comment must be included in the review panel's report.

New clauses 53(4A) and (4B) set out provisions for when a review panel proposes to change a requirement, designation, or heritage order.

Schedule 1 amendments: decision of local authority following recommendations of review panel

The amendments to clause 54 are consequential to the inclusion of decision-making requirements, designations, and heritage orders in the collaborative planning process.

Clause 54(4B) specifies when a territorial authority must not make a recommendation or decision in respect of an existing designation or heritage order which was included without modification, and on which no submissions were received. Clauses 54(6) and (7) require a territorial authority to report back to the requiring authority or heritage protection authority about the relevant designation or heritage order in instances where the requiring authority chose not to be on the collaborative group. Clause 54(8) clarifies that in this case, following the report back of the territorial authority, the provisions of Part 1 in Schedule 1 would apply.

The proposed new clause 56(1)(b) specifies that a local authority must provide electronic notification to submitters of its decision on a proposed policy statement or plan.

New clause 56(1A) relates to when a territorial authority publicly notifies a decision on a requirement, designation, or heritage order. This clause would require a territorial authority to inform the landowners and occupiers identified by the local authority as likely to be directly affected.

Schedule 1 amendments: appeals

Clause 59 has been amended to broaden the right of appeal to the Environment Court by way of rehearing. The full scope for appeals by way of rehearing is on the parts of a proposed policy statement or plan where a local authority has made a decision:

- which is inconsistent with the recommendations of the review panel
- to include matters that were not based on a consensus position
- to include a matter recommended by the review panel which the collaborative group did not agree with
- to include a change to a requirement, designation, or heritage order that a requiring authority or heritage protection authority did not fully support.

Proposed clause 59(2)(d) would include the relevant requiring authority or heritage protection authority as groups that may appeal to the Environment Court.

Schedule 1 amendments: makeup and powers of review panels

Proposed clause 64(3)(ba) would require the membership of a review panel to have the appropriate knowledge, skills, and expertise to conduct cross-examination in legal proceedings.

We recommend moving the provisions from clause 69(2) of Schedule 1 to clause 152 of the bill, as they would not come into force until 6 months after the bill's enactment.

Schedule 1 amendments: streamlined planning process

Changes to clause 74(b)(i) would clarify that an application to a Minister for a direction to use the streamlined planning process must identify the inclusion of any requirement, designation, or heritage order in the required planning instrument. Amended clause 74(b)(v) would clarify that the consultation summary must be on the proposed planning instrument. Clause 74(b)(vi) would replace the word "proposal" with "process that the local authority wishes to use". This would clarify that the streamlined process proposed by the local authority is to be assessed for its implications on iwi participation legislation or Mana Whakahono a Rohe, and not the proposed planning instrument.

The amendment in clause 75 would increase the organisations and persons that the Minister must consult regarding a direction on an application to use a streamlined planning process. This includes the Minister's requirement to consult with private plan change initiators and requiring authorities when relevant. Clause 75(6) could be deleted to encourage meaningful consultation.

The amendment in clause 76 outlines how the Minister's decision (and direction, if issued) must be delivered on a local authority's application to use a streamlined planning process.

Clause 77 has been amended to ensure that Schedule 1 notification processes and tests in Part 1 apply, and to provide for cross-examination at any council hearing.

We propose removing the requirement in clause 78(1) regarding the Minister's statement of expectations, and merging the provisions of clause 78(2) into clause 77.

We propose amending clause 80 to allow the Minister to initiate an amendment to a direction. The consultation requirements in clause 75(4) of Schedule 1 would also apply.

Schedule 1 amendments: other matters relevant to Minister's direction

We propose amending clause 81 to explain when section 37 (the power of waiver and extension of time) does and does not apply.

We propose amending clause 82 to require a local authority to comply with the terms of a direction (except in relation to the statement of expectations, to which the local authority must have regard).

Schedule 1 amendments: process for approval of proposed planning instrument

Before submitting the required information to the Minister in relation to a requirement, designation, or heritage order, proposed clause 83(1A) would require a territorial authority to consult the relevant requiring authority or heritage protection authority on recommendations. We propose deleting the requirement in clause 83(d) for a local authority to submit a cost-benefit analysis rather than a section 32 report. This would maintain consistency with other plan-making process requirements.

We propose amending clause 84(1)(i) to give the Minister the option of referring the proposed planning instrument back to the local authority for further consideration with, or without, any recommendations for change. Amendments to clause 84(2) would require the Minister to consider:

- whether a local authority has complied with the procedural requirements required by the direction
- whether, and how, the local authority has had regard to the statement of expectations and the requirements of the RMA.

Clause 84(3) notes what the Minister may decide to consider in making his or her decision on a proposed planning instrument.

Clause 84(4) would require the Minister to include the reasoning behind his or her decision on a proposed planning instrument.

Our amendments to clause 85 clarify that there would be no further round of decision-making by the local authority once a proposed planning instrument is approved. It also outlines the decision-making process for requirements, designations, and heritage orders. If the Minister approves the planning instrument, any recommendation made by the territorial authority on a requirement, designation, or heritage order would become an approved recommendation. If the Minister does not approve the planning instrument, the recommendation on a requirement, designation, or heritage order would become not to proceed with any changes or new requirements. The recommendation would then go to the requiring authority to make its decision on the recommendation.

We recommend inserting clause 86(4)(ba) to require a local authority, upon being referred back a proposed planning instrument by the Minister, to consult the requiring authority or heritage protection authority if a recommendation relates to the inclusion of a requirement, designation, or heritage order.

We recommend deleting clause 87, which removes the Minister's ability to insert mandatory changes into the proposed planning instrument, and we propose merging the remainder of its provisions with clause 86.

Clause 88 would specify how a local authority must publicly notify the Minister's decision declining a proposed planning instrument.

Proposed clause 89(1A) would allow a person who has requested a private plan change to withdraw at any time before the Minister makes a decision.

Clause 90 would require the Minister to consult with the local authority before publicly consulting on a proposed revocation. If a direction is revoked, the proposed planning instrument would be withdrawn.

Schedule 1 amendments: notification of responsible Minister's decision

Clause 91 would be amended to:

- apply both when a planning instrument has been approved or declined by the Minister
- require the Minister's decision on approving or declining the planning instrument to be publicly notified; where it is approved, the provisions of clause 20 of Schedule 1 would apply
- remove the reference to the local authority's final decision in clause 91(2) of the bill as introduced
- remove the requirement to provide the approval to all directly affected landowners and occupiers; instead, all submitters (and, if relevant, the private plan change requester) would need to be provided with a copy of the public notice and the statement of where the decision is available
- require any recommendations on requirements, designations, or heritage orders approved by the Minister to be sent to the relevant requiring authority if applicable
- apply clauses 9 and 13 of Schedule 1 for any designation and heritage order decisions.

Clause 92 would be deleted as it is redundant; the time at which a planning instrument becomes operative is in clause 91(2) of Schedule 1.

Schedule 1 amendments: scope of appeal rights

Proposed new clause 93 notes that a right to appeal is provided for in new clauses 94 and 95 of Schedule 1 (which relate to appeals by a territorial authority or by a submitter regarding notice of requirements, designations, and heritage orders). Clause 93(2) notes that Part 11 of the RMA (provisions relating to the Environment Court) and 11A (Act not to be used to oppose trade competitors) apply to appeals made under clauses 94 and 95.

Proposed clause 96 outlines the procedural requirements for a notice of appeal.

Schedule 12 amendments: overview

We recommend inserting new clause 1AA in Schedule 12, to note which other transitional, savings, and related provisions might apply.

Schedule 12 amendments: provisions relating to Part 1 of this bill

We recommend amending clause 14 of Schedule 12, to remove the subjective wording "in the opinion of the Minster". We also recommend amending clause 14(6) to delete the phrase "or on a later prescribed date". The Regulations Review Committee

brought to our attention that the RMA's definition of "prescribed" means that this clause would authorise delegated legislation to override primary legislation, which was not the intent. We have also recommended an extension to the timeframe, from 1 to 2 years.

We recommend amending clause 15, to clarify the transitional exemption for existing resource consents that are unaffected by the change to water quality rules.

Amendments to the Reserves Act 1977

Part 2 of the bill (clauses 162–165) contains the proposed changes to the Reserves Act.

Exchange of reserves for other land

The proposed amendments in clauses 163 and 164 would reinstate the provisions of section 15 in the RMA (relating to the exchange of reserves for other land), but with minor amendments.

Proposed section 15AA in clause 164 would provide for the joint notification and hearing process, previously contained in sections 14A and 14B of clause 163, in a more user-friendly, step-by-step format.

Consequential amendments to the RMA

We recommend amending clauses 165(2)–(7), (9), and (10), to clarify that a decision on a resource consent or plan is made under the RMA, and a decision on a reserve exchange is made under the Reserves Act.

We recommend amending clauses 165(8) and (11), to remove the requirement for notification to be given to the Minister.

New clause 165(8A) would insert an overlooked cross-reference to new section 116B.

Amendments to the Public Works Act 1981

Part 3 of the bill (clauses 166–175) contains the proposed changes to the Public Works Act.

Interpretation

We recommend amending clause 170, section 59, to exclude a statutory tenancy from the definition of "owner".

Additional compensation

We recommend amending clause 172, new section 72A(2), to insert a requirement for a written notice to be provided from a notifying authority to a landowner regarding an acquisition of land under section 17 of the Public Works Act.

We recommend deleting unnecessary words in the definition of "category value" in new section 72B, clause 172.

We recommend amending new section 72E to:

- allow compensation limits to be increased by Order in Council, but not decreased; however, the percentages in new section 72C(2) (referred to in section 72E(1)(c)) could be increased or decreased
- impose a requirement that the Minister must not recommend an Order in Council unless satisfied that it is necessary or desirable to do so, having regard to the matters listed in new section 72E(2); the Minister must also have publicly consulted about the proposed change
- limit the frequency of Orders in Council to once every 5 years.

We recommend amending clause 173, section 75, to include a statutory tenancy in the meaning of "tenant".

Amendments to the Conservation Act 1987

Part 4 of the bill (clauses 176–182) contains the proposed changes to the Conservation Act.

Definition of working day

We recommend inserting new clause 176A, which would amend the definition of "working day" to align with the definition used in the RMA.

Contents of application

We recommend amending clause 178, new section 17S(g), to delete references to *profit à prendre.* They are unnecessary because the clause also refers to a licence, which is defined as including a *profit à prendre*.

We recommend rearranging new sections 17SA–17T in a step-by-step format and clarifying their operation and their relationship to each other.

As amended, new section 17SA would remove the unclear concept of an application's "compliance". It would also clarify that the Minister may return an application, and it would remove the suggestion that the Minister must in all cases make a decision about the completeness of an application within 10 working days.

As amended, new section 17SB would clarify that the Minister may decline obviously non-complying applications (without having to make a decision on this within the originally proposed 20-working-day period).

As amended, new section 17SC would clarify when an application does not have to be notified. New section 17SC(4)(b) continues the public notification requirements from section 17T(6) of the Conservation Act.

New section 17SD(4) would clarify that the Minister may return an application if an applicant does not provide all requested information within the specified timeframe. New section 17SD(5) specifies when the Minister would be unable to return an application.

As amended, new section 17ST would remove the concept of "completeness", and more clearly set out which applications the Minister is required to consider, and when those applications must be considered.

Public notice and rights of objection

We recommend amending clause 181, section 49, to remove the reference to "interested parties", as the process of lodging a submission would determine who is an interested party.

New Schedule 1AA of the Conservation Act

We recommend amending proposed new Schedule 1AA of the Conservation Act (contained in Schedule 7 of the bill) to make it clearer, by specifying what is meant by a pending application.

Amendments to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

Part 5 of the bill (clauses 183–237) contains the proposed changes to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act (EEZ Act).

The bill includes amendments to the EEZ Act that simply move provisions around to create a more orderly structure to aid readability. Consequently, a significant number of cross-references in the EEZ Act need to be updated. Many of our suggested amendments make these and other minor drafting changes.

Outline of the EEZ Act

To assist with interpretation of the EEZ Act, we recommend inserting clause 183A. This would amend section 3 to update the outline of the Act.

Definitions

We recommend updating the definition of marine consent in new clause 184(1A). Marine discharge consents and marine dumping consents would now be granted under the same process set out in the same provisions as other consents.

Proposed new clauses 184(2A) and (2B) would include in the definition of "non-notified activities" all applications that relate to decommissioning activities that are in accordance with the relevant decommissioning plan.

We recommend inserting a definition of "accepted decommissioning plan" in clause 184(3) as part of the new provisions relating to decommissioning.

We recommend inserting a definition of "EEZ policy statement" in clause 184(3). This was unintentionally omitted in the bill as introduced.

We recommend amending the definition of "marine consent authority" in clause 184(3). In the event that a board is appointed to make a decision on a marine consent application, this amendment would clarify the different responsibilities of the EPA and the appointed board of inquiry.

We propose amending the definition of "publicly notifiable application" in clause 184(3) to ensure consistency of terminology.

We recommend inserting the meaning of public notice in new clause 184A, new section 7A. This definition would improve the ability for electronic provision of, and ac-

cess to, information related to consent applications, and better align with the new RMA definition while retaining the current EEZ requirement to publish newspaper notices in Auckland, Wellington, Christchurch, and Dunedin, as well as in the affected region.

Accounting for transitional, savings, and related provisions

We recommend inserting new clause 184A, which would insert new section 7B, to provide for the transitional, savings, and related provisions in new Schedule 1 (inserted by clause 233 of the bill).

Amendments to preliminary provisions

We recommend inserting new clause 184E, which would amend section 13 of the EEZ Act. This new clause would mirror the new function set out in Schedule 3 of the bill, for the EPA to provide advice, administrative, and secretarial services to boards of inquiry.

We recommend inserting new clause 184EA, which would amend section 16 of the EEZ Act, to note that a reference to a marine consent in section 16(1) would not include a marine discharge consent or a marine dumping consent. This amendment would enable the status quo to continue in respect of how decisions on marine discharge consents and marine dumping consents are delegated.

We recommend expanding the provisions in section 18 of the EEZ Act by inserting new clause 184F, to clarify the advisory functions of the Māori Advisory Committee.

Duties, restrictions, and prohibitions

We recommend amending clause 184G, section 20 of the EEZ Act, to add the abandonment of submarine pipelines on or under the seabed as an activity that is regulated under the EEZ Act.

Regulations

We recommend inserting new clause 185A. This provides for regulations to be made on decommissioning plans.

New clause 185B would require the EEZ Act's section 32 process for developing or amending regulations to be applied to the new section 29E regulations on decommissioning plans.

Activities and consents

We recommend several amendments to clause 188, which would amend sections 35–58 of the EEZ Act.

EEZ policy statements

We recommend amending section 37A(1) to expressly provide that EEZ policy statements must be in accordance with the purpose of the EEZ Act.

We propose amending section 37D(3) in clause 188 to clarify that if the Minister withdraws a proposed policy statement, he or she must notify the same people who were notified of the proposal to make the policy statement.

We recommend inserting section 37G to expressly provide that an EEZ policy statement is a disallowable instrument, but not a legislative instrument.

We consequentially recommend deleting sections 37D(5)(e) and 37E(4)(d) because of the insertion of our proposed new section 37G.

Applying for marine consents

We recommend amending new section 38(2) to require all marine consent applications relating to an activity specified in sections 20(2)(a)–(c) to include a general description of how and when the structure, submarine pipeline, or submarine cable will be dealt with at the end of its life.

We recommend inserting new section 38(3), to require applications relating to the decommissioning of petroleum activities to include an accepted decommissioning plan, and for this plan to be carried out. We note that this requirement would not apply retrospectively, in accordance with the transitional provisions in Schedule 1, clause 2 (being inserted by Schedule 7A of the bill).

We propose deleting new section 40, as its provisions are captured in new section 54.

We recommend amending new section 43(1) to clarify that further information may be requested by the EPA if an applicant's impact assessment does not comply with the requirements of section 39 of the EEZ Act.

Considering applications

We recommend amending section 53(2) to limit the terms of reference to administrative matters, aligning with the equivalent changes to the RMA.

We recommend inserting new section 53(9) to insert a provision that would protect inquiry board members from being liable for actions made in good faith while performing their duties. This provision mirrors section 149J(4) of the RMA.

We recommend amending new section 54 to require the EPA to make a decision within 9 months on a complete application relating to the decommissioning of petroleum infrastructure.

Decisions from the EPA

We recommend amending clause 190 to insert new clauses 190(3A) and (3B) which would amend section 59(2). They would ensure that EEZ policy statements are not inadvertently captured in the list of matters that the EPA must take into account when considering an application for a marine consent. For clarity, we recommend rearranging the contents of new section 59(2A) and (2B) in clause 190(5).

We recommend amending clauses 190, 192, and 193 (sections 59, 61, and 62) so that applications relating to the abandonment of a pipeline are treated in the same way as applications for marine dumping consents.

We recommend amending clause 195, new section 64(1AA). This new section would ensure that marine consents for activities under section 20(2)(ba) are treated in the same manner as marine dumping consents, in respect of the application of an adaptive management approach.

Consents

We recommend rearranging clause 200 to exclude discharge and dumping consents from section 73(1), and instead provide for the duration of these consents in our proposed new section 73(1A).

We also recommend deleting clause 201, which would be redundant as a result of our amended clause 200.

To avoid misinterpretation, we recommend amending clause 210 to insert new section 93(1A). Our amendment would make it clear that the EPA could not make a decision about whether a marine consent application for a cross-boundary activity ought to be processed and heard with an application for resource consent, if the consent has been referred to a board of inquiry.

Decommissioning plans

In clause 217, we recommend replacing "Subpart 4–Miscellaneous" with "Subpart 4–Decommissioning plans". We note that the provisions of this subpart would only apply when regulations are made under new section 29E of the EEZ Act.

New subpart 4 would insert new sections 100A–100D, which set out the procedure and requirements for submitting a decommissioning plan, the EPA's assessment of a plan, and the process for amending a plan.

New section 100D would require public consultation to be provided for in regulations made in relation to decommissioning plans. Regulations may set out that consultation on revised decommissioning plans may be limited or not required in the circumstances set out in 100D(2).

Appeals against decisions of boards of inquiry

We recommend rearranging clause 224, which would insert new subparts 1B and 1C (new sections 113A–113J).

We recommend deleting new section 113E and moving its provisions to new subpart 1C, new section 113J. This is because the provisions of new section 113J would not be limited to High Court appeals. They would apply to all proceedings before the High Court and therefore warrant the creation of new subpart 1C, entitled "proceedings generally".

Consequentially, we recommend inserting new clause 223A, which would repeal redundant section 109 of the EEZ Act.

Miscellaneous, transitional provisions, and consequential amendments

Process may be suspended if costs outstanding

We recommend deleting clause 229, which would insert new section 147A. We consider that the provisions in section 147 of the EEZ Act are sufficient, as they would enable the EPA to suspend its processing of an application with outstanding debts.

Savings provisions relating to 2015 amendments

We recommend replacing clause 233, which would insert new sections 167B and 167C. We recommend that clause 233 instead insert these provisions as our proposed new Schedule 1, containing transitional provisions, in new Schedule 7A of the bill.

Consequentially, we propose renumbering all of the schedules in the EEZ Act (with the current schedule of the EEZ Act becoming Schedule 2), as stipulated in amended clauses 234 and 235.

Consequential amendment to Environmental Protection Authority Act 2011

We recommend inserting new clause 236 to insert a provision that mirrors new section 57 of the EEZ Act, whereby a marine consent authority may seek advice from the Māori Advisory Committee.

Consequential amendment to Maritime Transport Act 1994

We recommend inserting new clause 237 to make a consequential amendment to section 261(5)(b) of the Maritime Transport Act. This reflects the fact that under the amended EEZ Act, decisions on marine consent applications would be made under section 62 of the EEZ Act instead of section 87F.

New Schedule 1 of the EEZ Act

New Schedule 1 of the EEZ Act is set out in Schedule 7A of the bill.

Clause 1 of new Schedule 1 would have the same effect as proposed clause 233 of the bill as introduced (which proposes to insert new sections 167B and 167C). Our new clause 1 also includes definitions of "commencement day", "pending consent application", "pending proceeding", and "pending review".

Clause 2 of new Schedule 1 specifies that the provisions relating to decommissioning plans would not apply until regulations are made under new section 29E of the EEZ Act.

Consequential amendments commencing on the day after Royal Assent

As a result of our proposed amendments to the bill, we recommend inserting consequential amendments to the Environmental Protection Authority Act 2011 and the Hazardous Substances and New Organisms Act 1996.

We also recommend deleting the proposed consequential amendments to the Housing Accords and Special Areas Act 2013. We have been advised that it is not appropriate

to change the cross-references in the Housing Accords and Special Areas Act. Section 6(2) of that Act specifies that every reference to the RMA, or regulations made under it, applies as they were in force on 4 September 2013.

New Zealand Labour Party minority view

The New Zealand Labour Party opposes this bill and recommends that it not proceed.

The assertion that the bill is needed because the RMA is the cause of the Auckland housing crisis is wrong, and is no justification for this flawed bill. The following table shows that more new houses were consented in Auckland and New Zealand in 2004 than in 2016. The RMA was in force throughout.

New Zealand

Calendar Year	Number of consents	Value of consents ($m)	Average value ($)	Average floor area (sqm)	Average cost per sqm ($)
2004	31,423	5,891.70	187,498	180	1,040
2016	29,970	10,647.60	355,274	182	1,950
Change	−1,453	4,755.80	167,777	2	910
% Change	−5%	81%	89%	1%	88%

Auckland Region

Calendar Year	Number of consents	Value of consents ($m)	Average value ($)	Average floor area (sqm)	Average cost per sqm ($)
2004	12,115	2,060.30	170,062	154	1,103
2016	9,930	4,004.90	403,314	186	2,166
Change	−2,185	1,944.60	233,252	32	1,063
% Change	−18%	94%	137%	21%	96%

The very broad range of submitters opposed to the bill included Local Government New Zealand and a great many regional and district councils, major land developers including Fulton Hogan, major corporates including Fonterra, infrastructure owners including airport and quarry owners, all environmental non-governmental organisations, the New Zealand Law Society, and numerous others.

Even amongst the minority of submitters who supported parts of the bill, many used guarded words like "we support the intent of the bill" before criticising much of its detail.

The bill if passed would add complexity to the Resource Management Act 1991 (RMA), and make it less effective and more expensive to use, rather than better. Legitimate complaints by submitters include:

- The draconian ministerial regulatory powers to override plans and control consents, and to limit rights of participation. These are tantamount to a return to the National Development Act 1979, and are on the spectrum of the patently excessive regulation-making powers abused under the former Economic Stabilisation Act 1987.
- The power to standardise plan formats and definitions inappropriately extends to the content and substantive provisions of plans.

- The rule-making powers of the Minister are also far too broad.
- These three forms of ministerial powers are so poorly constrained and patently excessive as to be constitutionally outrageous.
- The bill also overrides, and allows the Minister to further override local and district council functions in such a broad and fundamental way that it overturns the traditional division of power and roles between central and local government.
- The limits to public notification and participation, including on the subdivision of land, are wrong. Those concerned include land developers, and the owners of existing infrastructure concerned about reverse sensitivity effects on their operations. Many submitters said that earlier changes to notification have worked in recent years, and that further change is unnecessary.
- The department said the regulatory powers that can limit rights of participation are intended to apply in urban areas, but the sections as drafted also apply to regional councils and could be used to stop people advocating against pollution of rivers.
- Water conservation orders are undermined.
- New provisions introducing unreasonably short time limits for some council processes will have the unintended consequence of councils making more activities discretionary rather than controlled. Overall this will complicate and delay consent applications rather than speed them up.
- The codification of collaborative processes is unnecessary, wrong in its detail, and adds further complexity to the RMA.
- Plan-making processes are curtailed, with insufficient safeguards to ensure that single-step processes are fair and robust when appeal rights are abrogated.
- Appeal rights are curtailed to the detriment of adversely affected private parties, councils, communities, and the environment.
- The important experience and wisdom of the Environment Court is lost from many decisions.
- Many changes introduce more complexity to the RMA, through convoluted decision-making criteria and extra process alternatives. The multiple flow diagrams helpfully produced by the department to assist us illustrated how this bill makes the RMA processes more complex.
- There are a myriad of other changes to the RMA and other Acts being amended by the bill, many of which are wrong.

Some of the changes proposed to national guidance through policy statements and environment standards are appropriate, but others are unnecessarily complex and will give rise to less consistency, not more.

Committee process

The process for passage of this bill has been shambolic, and that is no fault of the committee. The bill was referred to our committee 14 months ago on 3 December 2015. We advertised for submissions and heard them in the new year.

We heard a total of 137 submissions in Wellington, Auckland, and Christchurch. Many were complex with enormous effort from submitters. Those submissions exposed many, and major, flaws with the bill.

We finished hearing submissions on 2 June 2016. The departmental report was delayed month upon month, with numerous provisional time periods passing. Two extensions to the report-back date were obtained from the Business Committee. Further delays followed. The committee was told this was because Cabinet had not signed off proposed changes to policy positions in the bill as introduced.

Although not confirmed by officials, it was apparent that much of the delay was because the National Government has not had the voting numbers to pass the bill in the House, even if it uses its majority at this committee to force the bill through select committee.

The many months of delay have meant that some members of the committee may have forgotten details of many of the submissions heard many months earlier.

The second-stage departmental report, which the committee only had in draft form until 2 November 2016, ran to over 400 pages.

The Executive plainly could not make up its mind on what it wanted to do, and was consumed by horse trading behind the scenes. The select committee process was being abused.

Government committee members displayed an unwillingness to make whatever changes they believed were necessary, preferring to await direction from the Executive via the long-delayed departmental report. This is a worrisome trend on some committees, where even relatively minor decisions are increasingly given across to the Executive. This delays committee processes, and underutilises the skills and experience of committee members, who after all are the ones who hear the submissions on bills.

Opposition members, after many months of cooperation in agreeing to extensions of time, refused to agree to yet another extension.

The time delays meant that the bill was due to be reported back. The Labour opposition members were blocked by the National Party members from including a minority report, which had been prepared and submitted. The National Party members also blocked any report from the committee as a whole, which had been prepared by committee staff. National members took this course after the Clerk of the House of Representatives had been called to the committee, when he advised it would be highly unusual for the majority to block a minority report, and highly unusual for the committee not to report to the house about its proceedings on the bill. The motions were on notice.

As a consequence, the bill was reported back to the House without amendment and without any report from the committee on either the delayed process or the substance of the flawed bill.

A deal was then done between National and the Māori Party, and the Minister announced they had agreed to support the bill through subsequent stages. The House then took the unusual step of resubmitting the bill to the committee for further consideration, rather than proceeding to second reading.

The bill was not re-advertised. The complexity of the changes in the 400 page departmental report were substantial and amount to an effective rewrite of substantial parts of the bill. This is shown by the myriad amendments shown in the version of the bill now being referred back, and the months of redrafting required from Parliamentary Counsel Office.

The substantially different bill will not have the benefit of submitter scrutiny.

Excessive Ministerial powers remain. The regulation-making power under clause 105 of the bill, to override rules in district and regional plans, came in for broad criticism from submitters.

There are clearly extensions to the Minister's regulation-making powers under the bill. The Minister said on Radio New Zealand on 1 February 2017 that "…there is nothing in the Resource Legislation Amendment Bill before Parliament that makes any changes in respect of the way genetically modified organisms are regulated in New Zealand." This is patently incorrect. Court decisions have found that RMA plans can legally include rules relating to the use of genetically modified organisms, and that the Hazardous Substances and New Organisms Act 1996 is not a code. The bill introduces a new regulation-making power for the Minister to override those plan rules. The Minister is wrong to assert the contrary. He is also incorrect to assert this as being the same as national direction under national policy statements or national environment standards. Obviously if there was no change being made, the new regulation powers would be redundant.

This bill is fatally flawed. It should not proceed.

Green Party of Aotearoa / New Zealand minority view

The bill amends the Resource Management Act (RMA), the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act (EEZ), the Conservation Act, the Reserves Act, and the Public Works Act.

The RMA is a crucial foundation of New Zealand's environmental law and planning system. Changes to it should be based on sound analysis and evidence and have broad cross-party support so that they are enduring. The bill has neither. Many of the changes appear driven by ideology and anecdote, rather than robust analysis and evidence.

The bill attracted 647 unique submissions and 94 form-style submissions, many of them critical of its fundamental aspects. Many included detailed technical analysis of

the bill's clauses and their implications, and represented a significant investment of time and expertise by submitters.

Resource users such as Fonterra, quarry operators, and infrastructure operators such as airports made similar points in opposition as environmental interests such as Fish and Game New Zealand, the Environmental Defence Society, and Forest and Bird.

Federated Farmers, for example, described the proposed Ministerial regulation-making powers as "excessive" and the provisions which allow central Government to intervene directly in local council plans as "heavy handed".

Sir Geoffrey Palmer, presenting evidence for Fish and Game, described the regulation-making powers which would override the provisions of regional and district plans as a "constitutional outrage". "Due process is replaced by Executive fiat."

The Green Party opposed the bill when introduced. Reading and hearing sweeping criticism of the bill in submissions at select committee confirmed our opposition. The changes made by the select committee are at the margins and do not satisfy our, or submitters', substantive concerns.

The bill's changes put Executive power and individual property rights ahead of community and environmental well-being. They insert new processes for national direction, plan-making, consideration of land-use and other activities, and public notification while previous changes in 2013 are still bedding in. The changes emphasise fast decision-making ahead of good outcomes. The bill is likely to make the RMA and its implementation more complex and litigious, and increase costs for councils and users of the Act.

Limits on rights to appeal council decisions to the Environment Court restrict access to justice and the court's ability to be a guardian of the RMA's purpose of sustainable management and a check on poor decision-making.

Some of the major reasons for the Green Party's opposition to the bill, and its view that the bill should not proceed, are set out below.

Poor process

Through no fault of the committee or its chairperson, the process for considering the bill has been a shambles. The Executive has dominated the select committee's consideration of the bill and stalled progress on it. Hearings on public submissions ended on 2 June 2016, yet officials were unable to provide the select committee with a full departmental report for some five months. The Minister's influence on the content of the departmental report, and when the committee should receive it, has compromised an effective committee process. It has cut across the committee's ability to consider submissions and potential amendments in a robust and thoughtful way. Officials repeatedly told committee members that provisions in the bill (such as a national planning template which determines plan content and not just structure) were "policy issues". The strong implication was that there was no scope for them or the select committee to recommend changes.

The ability of select committees to scrutinise bills, seriously consider submissions, and recommend changes is an important check on the power of the Executive and helps improve bills and parliamentary law-making. The public expects select committees to be much more than a rubber stamp for Ministers. Yet, the process around the Resource Legislation Amendment Bill has been a sham. A political agreement between the National and Māori parties to give the Government the numbers to pass the bill through the House has trumped proper select committee consideration and decision-making. Having the Executive strangle the mandate and effective operation of the select committee is an abuse of parliamentary process.

A bill of this size and complexity, and with the number of changes proposed to the principal Acts, should have been subject to much greater public consultation, such as an exposure draft prior to introduction, and by inviting further submissions on the bill as proposed for amendment by select committee. The failure to do this is likely to make its interpretation and implementation more difficult.

National direction and Ministerial powers

The new regulation-making powers for the Environment Minister. inserted as new sections 360D, 360F, and 360G, are excessive and were opposed by virtually all submitters. They are unconstitutional in weakening the role of local government and the checks and balances it provides on Executive powers. The regulation-making powers enable the Minister to intervene in, and dominate, district and regional plan-making in an ad hoc way, fast-track consent applications, and restrict public participation. They continue the centralisation of environmental management and decision-making and undermining of local democracy which has been a hallmark of the current Government.

The regulation-making powers cut across the ability of local authorities to represent and consult their communities to develop the policy framework to guide consent decisions. These decisions are about how land, rivers, lakes, aquifers, air, and the coast are used, developed and protected; and which environmental, economic, cultural, social, and other effects are acceptable and which are not.

The exercise of the regulation-making powers relies on the Minister's opinion about broad, subjective criteria. There is no indication in the bill about what these powers would be used for, so they create an uncertain operating environment for councils. Judicial review and the Regulations Review Committee are inadequate checks on their use.

As Fonterra said, "these provisions can detract from local decision-making on local issues; compromise the principles of natural justice for stakeholders, and compromise robust resource management decision-making".

New powers in clause 105, inserting section 360D, enable the Minister to make regulations prohibiting or removing plan rules whenever the Minister considers these rules "duplicate" the same subject matter included in other legislation. This appears to be intended to override recent Court decisions upholding the right of communities and

local authorities to regulate land-uses and the planting and use of genetically modified organisms in their regions. Again, this cuts across local democracy.

The removal of explicit council functions in relation to the management of hazardous substances is opposed, as it prevents councils from controlling the effects on amenity values and community and public health of the establishment and operation of facilities such as fertiliser plants and petrochemical storage areas.

Plan-making

Submitters supported a national planning template providing guidance on plan structure and format and definitions, but 77 percent opposed using the template to insert mandatory content in plans. The Green Party agrees, and believes adequate national direction on plan content can be provided through national policy statements and national environmental standards. The committee's renaming of the national planning template as national planning standards does not address these concerns.

Submitters, from Meridian to Forest and Bird, highlighted the value of well-informed participation in helping produce better outcomes for both plan development and resource consents. Yet the bill substantially limits public participation rights in both plan-making and consenting decisions through new processes.

The bespoke streamlined planning process gives the Minister significant power in plan-making while restricting public involvement. The Minister determines the process, there is no guarantee of a hearing, the Minister can request changes to the plan and has final approval rights, and there are no appeal rights, even on questions of law. More than half of submitters oppose the streamlined process. The provisions around limited notification of plan changes also curtail public comment.

The bill's changes to the RMA, which allow a streamlined planning process to be used for private plan changes accepted by councils, notices of requirement, and designations are likely to result in less intense scrutiny of these proposals. They significantly advantage private developers and requiring authorities such as irrigation companies. The Green Party opposes plan amendments which the public has had no chance to comment on.

The provisions around collaborative planning processes are muddled and overly prescriptive. They provide no certainty that there will be an open and transparent process for appointing collaborative group members. They give too much power to the group and too little to elected councils and the review panel. They fail to ensure there is sufficient expertise on the review panel, and reduce the safeguards which appeal rights to the courts provide, by restricting appeals to points of law only.

The bill allows landholders to challenge any plan provisions which make "land incapable of reasonable use" or "place an unfair and unreasonable burden" on landholders. This is likely to have a chilling effect on councils' efforts to use plans to regulate to protect assets of value to the wider public, such as indigenous vegetation and habitats for indigenous wildlife and water quality.

Public participation

The bill's changes to notification were seen almost universally as making the RMA more complicated. There was a consistent and widespread view among submitters that the RMA's notification procedures, as amended in 2009, were working well with no need for further changes or more limits on public involvement. Many submitters were concerned about the bill providing for blanket non-notification of controlled activities, restricted discretionary and discretionary boundary infringement, and most subdivision and residential activities. For example, not all neighbours are likely to be consulted about developments which infringe on the boundary.

The notification changes also prevent infrastructure owners and operators (such as airport authorities) from raising issues of reverse sensitivity.

The provisions, which allow councils to limit the notification of plan changes to persons they determine are affected, are undemocratic because they restrict public debate on public policy at local and regional levels.

While the provisions requiring councils to strike out certain public submissions or parts of submissions have been amended to make this power discretionary, they still unnecessarily curtail public participation. They risk making the consent process more uncertain, confused, and adversarial, with arguments over rights to submit because of the broad, subjective decision-making criteria for council officers.

Permissive approach to subdivision and residential activities

The bill's permissive approach to subdivision, making it a permitted activity unless plans provide otherwise, and its failure to allow councils adequate time to amend their district plans, risks allowing uncontrolled subdivision, urban sprawl, and poorly planned ad hoc development throughout the country.

While the Government claims these provisions respond to urban growth pressures, the permissive subdivision provisions also apply to rural areas including sensitive sites such as outstanding natural landscapes, significant natural areas, and along the coast. These provisions, and the changes to notification, are likely to restrict citizens' ability to have a say on new building developments affecting places of high natural and landscape value and places they care about.

Fast-track consenting

The bill provides for controlled activities and activities which the Minister identifies in regulations to be decided by councils within 10 working days under a "fast-track" process. This is an inappropriate interference by the Minister in local decision-making. It will increase the pressure on councils and prevent adequate scrutiny of activities and their effects, even if it is restricted to land-use consents as the departmental report recommends.

Conservation Act

Halving the time for public to submit on major commercial developments on public conservation land from 40 to 20 working days, as part of an alignment of concessions

processes under the Conservation Act, and notified resource consent processes under the RMA, is opposed. Public notification can be the first opportunity for the public to consider the development and its impacts on biodiversity, landscape, and recreational values. Conservation land is held and managed on behalf of the public and our indigenous species. A longer submission period provides for better scrutiny of commercial development proposals and their effects.

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act

The Green Party opposes the politicisation of decision-making in Part 3A of the bill which has the Minister, rather than the Environmental Protection Authority, appointing decision-making panels for publicly notifiable marine consent applications in the EEZ. Prior to the bill's introduction, officials advised against this and suggested that the EPA appoint RMA boards of inquiry, as well as EEZ ones. The proposal to consolidate decision-making around the Minister is not supported by any evidence or analysis.

Conclusion

The bill is not fit for purpose. It significantly increases ministerial powers while removing or restricting basic rights of public participation. It will expedite development activities with few environmental safeguards and scant consideration of sustainable management. The bill puts private rights and development ahead of the public interest and environmental and community well-being. It should not proceed.

New Zealand First minority view

New Zealand First strongly opposes every part of the bill. A detailed minority view is therefore pointless. New Zealand First also deplores the extremely poor process by which the bill has been considered by the committee.

For all of these reasons, everything reported in the committee's report will not be supported by New Zealand First.

Appendix

Committee process

The Resource Legislation Amendment Bill was referred to the Local Government and Environment committee on 3 December 2015. The closing date for submissions was 14 March 2016.

We received and considered 647 unique submissions from interested groups and individuals. We also received 94 form-style submissions. We heard oral evidence from 137 submitters in Auckland, Christchurch, and Wellington from 7 April 2016 to 2 June 2016.

We received advice from the Ministry for the Environment. The committee received the final version of part two of the departmental report on 2 November 2016.

The bill reverted back to the House on 7 November 2016, before being referred back to the committee on 10 November 2016.

The committee received further advice on the bill before deliberating.

We received legal drafting assistance from the Parliamentary Counsel Office. The Regulations Review Committee reported to us on the powers contained in clauses 105, 172, and Schedule 2 of the bill.

Committee membership

Scott Simpson (Chairperson)

Andrew Bayly

Matt Doocey

Hon Craig Foss

Joanne Hayes

Tutehounuku Korako

Ron Mark

Mojo Mathers

Eugenie Sage

Meka Whaitiri

Dr Megan Woods

Marama Fox was a non-voting member for this item of business.

Denis O'Rourke participated in the consideration of this item of business.

Sarah Dowie, Paul Foster-Bell, and Hon David Parker were members of our committee for much of the consideration of this item of business.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Dr Nick Smith

Resource Legislation Amendment Bill

Government Bill

Contents

Part 2
Amendments to Reserves Act 1977

Part 3
Amendments to Public Works Act 1981

Part 4
Amendments to Conservation Act 1987

Part 5
Amendments to Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

Schedule 8 239
New ~~Schedules 2 and 3~~ Schedules 3 and 4 of Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 inserted

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Legislation Amendment Act **2015**.

2 Commencement

(1) **Subpart 2 of Part 1** (amendments to Resource Management Act 1991) and **Part 4** (amendments to Conservation Act 1987) come into force on the day that is 6 months after the date on which this Act receives the Royal assent.

(2) **Subpart 3 of Part 1** (amendments to Resource Management Act 1991 relating to financial contributions) comes into force on the day that is 5 years after the date on which this Act receives the Royal assent.

(3) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

Part 1
Amendments to Resource Management Act 1991

3 Principal Act

This **Part** amends the Resource Management Act 1991 (the **principal Act**).

Subpart 1—Amendments that commence on day after Royal assent

Amendments to Part 1 of principal Act

4 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

collaborative group has the meaning given in **clause 36** of Schedule 1

collaborative planning process means the process by which a proposed policy statement or plan is prepared or changed in accordance with **Part 4** of Schedule 1

combined document means any instrument for which section 80 makes provision

development capacity has the meaning given in **section 30(5)**

(2) In section 2(1), definition of **infrastructure**, delete ", in section 30,".

(3) In section 2(1), insert in their appropriate alphabetical order:

~~**iwi participation arrangement** means an arrangement entered into under **section 58L**~~

iwi participation legislation ~~means legislation (other than this Act), including any legislation listed in Schedule 3 of the Treaty of Waitangi Act 1975, that provides a role for iwi or hapū in processes under this Act~~ has the meaning given in **section 58K**

Mana Whakahono a Rohe means an iwi participation arrangement entered into under **subpart 2 of Part 5**

national planning ~~template~~ standard means any of the national planning ~~template~~ standards approved under **section 58E**~~, as amended from time to time~~

4A New section 3B inserted (Transitional, savings, and related provisions)

After section 3A, insert:

3B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 12 have effect according to their terms.

Amendment to Part 2 of principal Act

5 Section 6 amended (Matters of national importance)

After section 6(g), insert:

(h) the management of significant risks from natural hazards.

Amendments to Part 3 of principal Act

6 Section 12 amended (Restrictions on use of coastal marine area)

After section 12(6), insert:

(7) This section does not prohibit a regional council from removing structures from the common marine and coastal area, in accordance with the requirements of **section 19(3) to (3C)** of the Marine and Coastal Area (Takutai Moana) Act 2011, unless those structures are permitted by a coastal permit.

7 Section 14 amended (Restrictions relating to water)

In section 14(3)(b)(ii), replace “an individual’s” with “a person’s”.

8 New section 18A and cross-heading inserted

After section 18, insert:

Procedure

18A Procedural principles

Every person exercising powers and performing functions under this Act must take all practicable steps to—

(a) use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised; and

(b) ensure that policy statements and plans—

(i) include only those matters relevant to the purpose of this Act; and

(ii) are worded in a way that is clear and concise; and

(c) promote collaboration between or among local authorities on their common resource management issues.

Amendments to Part 4 of principal Act

9 Section 24 amended (Functions of Minister for the Environment)

(1) After section 24(b), insert:

(ba) the approval of ~~the~~ a national planning ~~template~~ standard under **section 58E**:

(2) In section 24(f), after "national policy statements,", insert "~~the~~ national planning ~~template~~ standards,".

10 Section 29 amended (Delegation of functions by Ministers)

(1) After section 29(1)(d), insert:

(da) approving, changing, replacing, or revoking ~~the~~ a national planning ~~template~~ standard under **section 58E or 58G**, other than to make changes that have no more than a minor effect, correct obvious errors or omissions, or make similar technical changes:

(2) After section 29(4A), insert:

(4B) The Environmental Protection Authority may, in writing and with the consent of the Minister of Conservation, delegate any of the functions, powers, and duties that the Minister has delegated to the Authority—

(a) under section 149ZD(4); and

(b) under sections 357B(b), 357C, and 357D, in relation to a delegation to which **paragraph (a)** applies.

(3) After section 29(5), insert:

(6) A delegation under **subsection (4B)**—

(a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the delegate; and

(b) does not prevent the Environmental Protection Authority from performing the functions or duties, or exercising the powers, concerned.

11 Section 30 amended (Functions of regional councils under this Act)

(1) After section 30(1)(b), insert:

(ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to ~~residential~~ housing and business land to meet the expected ~~long-term~~ demands of the region:

(2) Repeal section 30(1)(c)(v).

(3) In section 30(1)(d)(v), delete "and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances".

(4) After section 30(4), insert:

~~(5) In this section and section 31, **development capacity**, in relation to residential and business land, means the capacity of the land for development, taking into account the following factors:~~

~~(a) the zoning of the land; and~~

~~(b) the provision of adequate infrastructure, existing or likely to exist, to support the development of the land, having regard to —~~

~~(i) the relevant proposed and operative policy statements and plans for the region; and~~

~~(ii) the relevant proposed and operative plans for the district; and~~

~~(iii) any relevant management plans and strategies prepared under other Acts; and~~

~~(c) the rules and methods in the operative plans that govern the capacity of the land for development; and~~

~~(d) other constraints on the development of the land, including natural and physical constraints.~~

(5) In this section and section 31,—

business land means land that is zoned for business use in an urban environment, including, for example, land in the following zones:

(a) business and business parks:

(b) centres, to the extent that this zone allows business uses:

(c) commercial:

(d) industrial:

(e) mixed use, to the extent that this zone allows business uses:

(f) retail

development capacity, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—

(a) the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and

(b) the capacity required to meet—

(i) the expected short and medium term requirements; and

(ii) the long term requirements; and

(c) the provision of adequate development infrastructure to support the development of the land

development infrastructure means the network infrastructure for—

(a) water supply, wastewater, and storm water; and

(b) to the extent that it is controlled by local authorities, land transport as defined in section 5(1) of the Land Transport Management Act 2003.

12 Section 31 amended (Functions of territorial authorities under this Act)

(1) After section 31(1)(a), insert:

(aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of ~~residential~~ housing and business land to meet the expected ~~long-term~~ demands of the district:

(2) Repeal section 31(1)(b)(ii).

13 Section 32 amended (Requirements for preparing and publishing evaluation reports)

(1) In section 32(3), after "statement,", insert "national planning ~~template~~ standard,".

(1A) In section 32(4), after "greater", insert "or lesser".

(2) After section 32(4), insert:

(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—

(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and

(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.

(2A) In section 32(5)(b), delete "publicly".

(3) In section 32(6), definition of **proposal**, after "statement,", insert "national planning ~~template~~ standard,".

14 Section 32AA amended (Requirements for undertaking and publishing further evaluations)

~~(1) In section 32AA(1)(d)(i), after "New Zealand coastal policy statement", insert "or the national planning template".~~

(1) In section 32AA(1)(d)(i),—

(a) after "New Zealand coastal policy statement", insert "or a national planning standard"; and

(b) delete "publicly".

(2) In section 32AA(3), after "statement,", insert "national planning ~~template~~ standard,".

15 Section 32A amended (Failure to carry out evaluation)

In section 32A(3), after "statement,", insert "national planning ~~template~~ standard,".

16 Section 34A amended (Delegation of powers and functions to employees and other persons)

After section 34A(1), insert:

(1A) If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under Part 1 of Schedule 1,—

(a) the local authority must consult tangata whenua through relevant iwi authorities on whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū; and

(b) if the local authority considers it appropriate, it must appoint at least 1 commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.

~~17 New section 34B inserted (Consent authority may fix fee payable to hearings commissioner)~~

~~After section 34A, insert:~~

~~34B Consent authority may fix fee payable to hearings commissioner~~

~~(1) A consent authority may, from time to time, fix the fee payable to a hearings commissioner for hearing and deciding a matter in accordance with a delegation by the consent authority under section 34A(1).~~

~~(2) A fee fixed under this section must be either a specific amount or determined by reference to scales of fees or other formulae fixed by the consent authority.~~

~~(3) A fee may be fixed under this section only—~~

~~(a) in the manner set out in section 150 of the Local Government Act 2002; and~~

~~(b) after using the special consultative procedure set out in section 83 of the Local Government Act 2002.~~

~~(4) A consent authority must fix a fee under this section if required to do so by regulations made under **section 360E**.~~

~~(5) A consent authority must publish and maintain, on an Internet site to which the public has free access, an up-to-date record of any fee that it fixes under this section.~~

18 Section 35 amended (Duty to gather information, monitor, and keep records)

(1) After section 35(2)(c), insert:

(ca) the efficiency and effectiveness of processes used by the local authority in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness, cost, and the overall satisfaction of those persons or bodies in respect of whom the ~~functions,~~ powers, functions, or duties are exercised or performed; and

(2) After section 35(2), insert:

(2AA) Monitoring required by subsection (2) must be undertaken in accordance with any regulations.

19 Section 35A amended (Duty to keep records about iwi and hapu)

(1) In section 35A(1)(c), after "kaitiakitanga", insert "; and".

(2) After section 35A(1)(c), insert:

(d) any ~~iwi participation arrangement~~ Mana Whakahono a Rohe entered into under **section 58L**.

20 Section 36 amended (Administrative charges)

(1) In section 36(1), delete ", subject to subsection (2),".

(2) After section 36(1)(cb), insert:

(cc) charges payable by a person who carries out a permitted activity, for the monitoring of that activity, if the local authority is empowered to charge for the monitoring in accordance with **section 43A(8)**:

(3) In section 36(1), delete "Charges fixed under this subsection shall be either specific amounts or determined by reference to scales of charges or other formulae fixed by the local authority."

(4) Replace section 36(2) to (8) with:

(2) Charges fixed under this section must be either specific amounts or determined by reference to scales of charges or other formulae fixed by the local authority.

(3) Charges may be fixed under this section only—

(a) in the manner set out in section 150 of the Local Government Act 2002; and

(b) after using the special consultative procedure set out in section 83 of the Local Government Act 2002; and

(c) in accordance with **section 36AAA**.

(4) A local authority must fix a charge under this section if required to do so by regulations made under **section 360E**.

Additional charges

(5) ~~Where~~ Except where regulations are made under **section 360E**, if a charge fixed under this section is, in any particular case, inadequate to enable a local authority to recover its actual and reasonable costs in respect of the matter concerned, the local authority may require the person who is liable to pay the charge to also pay an additional charge to the local authority.

(6) A local authority must, on request by any person liable to pay a charge under this section, provide an estimate of any additional charge likely to be imposed under **subsection (5)**.

(7) Sections 357B to 358 (which deal with rights of objection and appeal against certain decisions) apply in respect of the requirement by a local authority to pay an additional charge under **subsection (5)**.

Other matters

(8) **Section 36AAB** sets out other matters relating to administrative charges.

21 New sections 36AAA and 36AAB inserted

After section 36, insert:

36AAA Criteria for fixing administrative charges

(1) When fixing charges under section 36, a local authority must have regard to the criteria set out in this section.

(2) The sole purpose of a charge is to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates.

(3) A particular person or particular persons should be required to pay a charge only—

(a) to the extent that the benefit of the local authority's actions to which the charge relates is obtained by those persons as distinct from the community of the local authority as a whole; or

(b) where the need for the local authority's actions to which the charge relates results from the actions of those persons; or

(c) in a case where the charge is in respect of the local authority's monitoring functions under section 35(2)(a) (which relates to monitoring the state of the whole or part of the environment),—

(i) to the extent that the monitoring relates to the likely effects on the environment of those persons' activities; or

(ii) to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole.

(4) The local authority may fix different charges for different costs it incurs in the performance of its various functions, powers, and duties under this Act—

(a) in relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or

(b) where any activity undertaken by the persons liable to pay any charge reduces the cost to the local authority of carrying out any of its functions, powers, and duties.

~~(5) If a local authority fixes a charge under section 36 that includes a component payable to a hearings commissioner for hearing and deciding a matter, the amount of that component must be the amount of the fee fixed under **section 34B** (if any).~~

36AAB Other matters relating to administrative charges

(1) A local authority may, in any particular case and in its absolute discretion, remit the whole or any part of any charge of a kind referred to in section 36 that would otherwise be payable.

(2) Where a charge of a kind referred to in section 36 is payable to a local authority, the local authority need not perform the action to which the charge relates until the charge has been paid to it in full.

(3) However, **subsection (2)** does not apply to a charge to which section 36(1)(ab)(ii), (ad)(ii), or (cb)(iv) applies (relating to independent hearings commissioners requested by submitters or reviews required by a court order).

(4) A local authority must publish and maintain, on an Internet site to which the public has free access, an up-to-date list of charges fixed under section 36.

21A Section 39B amended (Persons who may be given hearing authority)

In section 39B(1)(f), after "Schedule 1", insert "or given limited notification under **clause 5A** of that schedule".

Amendments to Part 4A of principal Act

22 Section 42C amended (Functions of EPA)

After section 42C(d), insert:

(daa) to provide planning advice under section 149L to a board of inquiry:

(dab) if requested by the Minister, to provide secretarial and support services to a person appointed under another Act to make a decision requiring the application of provisions of this Act as applied or modified by the other Act:

(dac) if requested by the Minister, to provide advice and secretarial and support services to the Minister in relation to the Minister's functions under the streamlined planning process (*see* **subpart 5** of Part 5 and **Part 5** of Schedule 1).

23 New section 42CA inserted (Cost recovery for specified function of EPA)

After section 42C, insert:

42CA Cost recovery for specified function of EPA

(1) If the Minister asks the EPA under **section 42C(dab)** to provide secretarial and support services to a person (a **supported person**),—

(a) the Minister may direct the EPA to recover from ~~the~~ that person the actual and reasonable costs incurred by the EPA in providing the services; and

(b) the EPA may recover those costs in accordance with the direction, but only to the extent that they are not provided for by an appropriation under the Public Finance Act 1989.

(2) The EPA must, on request by ~~an applicant~~ the supported person, provide an estimate of the costs likely to be recovered under this section.

(3) When recovering costs under this section, the EPA must have regard to the following criteria:

(a) the sole purpose is to recover the reasonable costs incurred in providing the services:

(b) the ~~applicant~~ supported person should be required to pay for costs only to the extent that the benefit of the services provided by the EPA is obtained by ~~the applicant~~ that person as distinct from the community as a whole:

(c) the extent to which any activity by the ~~applicant~~ supported person reduces the cost to the EPA of providing the services.

(4) If the EPA requires a supported person to pay costs recoverable under this section, the costs are a debt due to the Crown that is recoverable by the EPA on behalf of the Crown in any court of competent jurisdiction.

Amendments to Part 5 of principal Act

23A Section 43AA amended (Interpretation)

In section 43AA, definition of **proposed policy statement**,—

(a) after "clause 5 of Schedule 1", insert ", or given limited notification under **clause 5A** of that schedule,"; and

(b) replace "clause 20 of Schedule 1" with "clause 20 of that schedule".

23B Section 43AAC amended (Meaning of proposed plan)

In section 43AAC(1)(a),—

(a) after "clause 5 of Schedule 1", insert "or given limited notification under **clause 5A** of that schedule,"; and

(b) replace "clause 20 of Schedule 1" with "clause 20 of that schedule".

24 Cross-heading above section 43 replaced

Replace the cross-heading above section 43 with:

Subpart 1—National ~~instruments~~ direction

National environmental standards

25 Section 43 amended (Regulations prescribing national environmental standards)

(1AA) After section 43(2)(d), insert:

(da) non-technical methods or requirements:

(1) ~~Replace~~ After section 43(3) ~~with~~, insert:

(~~3~~4) Regulations made under this section ~~or any provisions of those regulations~~ may apply—

(a) generally; or

(b) to any specified district or region of any local authority; or

(c) to any ~~other~~ specified part of New Zealand.

26 Section 43A amended (Contents of national environmental standards)

(1AA) In section 43A(1)(f), after "permits", insert "or consents".

(1AB) In section 43A(2)(a)(i), after "standard", insert ", including the duration of a consent".

(1AC) After section 43A(3), insert:

(3A) However, despite subsection (3), an activity that, in whole or in part, involves a hazardous substance or new organism may be classified as a permitted activity by a national environmental standard.

(3B) **Subsection (3A)** applies only—

(a) if the hazardous substance or new organism has been approved under the Hazardous Substances and New Organisms Act 1996; and

(b) to the extent that any adverse effects of the hazardous substance or new organism on the environment are managed under conditions imposed on the approval granted under that Act.

(1) After section 43A(7), insert:

(8) A national environmental standard may~~—~~ empower local authorities to charge for monitoring any specified permitted activities in the standard.

~~(a) empower a consent authority to charge for monitoring any permitted activities specified in the standard; and~~

~~(b) specify how consent authorities must perform their functions in order to achieve the standard.~~

27 Section 43B amended (Relationship between national environmental standards and rules or consents)

(1) Replace section 43B(3) with:

(3) A rule or resource consent that is more lenient than a national environmental standard prevails over ~~that~~ the standard~~, so long as~~ if the standard expressly ~~permits~~ says that a rule or consent ~~to~~ may be more lenient than ~~the standard~~ it.

(2) In section 43B(5), after "granted", insert "under the district rules".

(3) Replace section 43B(6) with:

(6) The following permits and consents prevail over a national environmental standard:

(a) a coastal, water, or discharge permit:

(b) a land use consent granted in relation to a regional rule.

(6A) **Subsection (6)** applies—

(a) if those permits or consents are granted before the date on which a relevant national environmental standard is notified in the *Gazette*:

(b) until a review of the conditions of the permit or consent under section 128(1)(ba) results in some or all of the standard prevailing over the permit or consent.

27A Section 43E amended (Relationship between national environmental standards and bylaws)

Replace section 43E(3) with:

(3) A bylaw may be more lenient than a national environmental standard if the standard expressly specifies that the bylaw may be more lenient.

27B Section 43G repealed (Incorporation of material by reference in national environmental standards)

Repeal section 43G.

28 Section 44 amended (Restriction on power to make national environmental standards)

~~After section 44(2), insert:~~

~~(2A) In relation to a proposal for a national environmental standard that relates to a specified district, region, or other part of New Zealand, the references in subsection (2) to the public and iwi authorities must be read as references to the public and iwi authorities within the specified region, district, or other part of New Zealand.~~

(1) Replace section 44(1) and (2) with:

(1) Before recommending the making of a national environmental standard to the Governor-General, the Minister must—

(a) comply with **section 46A(3)**; and

(b) prepare an evaluation report for the standard in accordance with section 32; and

(c) have particular regard to that report when deciding whether to recommend the making of the standard; and

(d) publicly notify the report and recommendation made under section **46A(4)(c)** or 51(2), as the case requires.

(2) In section 44(3), after "steps", insert "in **section 46A**".

28A Section 44A amended (Local authority recognition of national environmental standards)

Replace section 44A(2)(b) with:

(b) the rule in the plan is more lenient than a provision in the standard and the standard does not expressly specify that a rule may be more lenient than the provision in the standard.

29 New section 45A inserted (Contents of national policy statements)

After section 45, insert:

45A Contents of national policy statements

(1) A national policy statement must state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.

(2) A national policy statement may also state—

(a) the matters that local authorities must consider in preparing policy statements and plans:

(b) methods or requirements ~~that local authorities must, in developing the content of~~ in policy statements or plans, ~~apply in the manner specified in the national policy statement,~~ and any specifications for how local authorities must apply those methods or requirements, including the use of models and formulas:

(c) the matters that local authorities are required to achieve or provide for in policy statements and plans:

(d) constraints or limits on the content of policy statements or plans:

(e) objectives and policies that must be included in policy statements and plans:

(f) directions to local authorities on the collection and publication of specific information in order to achieve the objectives of the statement:

(g) directions to local authorities on monitoring and reporting on matters relevant to the statement, including—

(i) directions for monitoring and reporting on their progress in relation to any provision included in the statement under this section; and

(ii) directions for monitoring and reporting on how they are giving effect to the statement; and

(iii) directions specifying standards, methods, or requirements for carrying out monitoring and reporting under **subparagraph (i) or (ii)**:

(h) any other matter relating to the purpose or implementation of the statement.

(3) A national policy statement ~~or any provisions of it~~ may apply—

(a) generally; or

(b) to any specified district or region of any local authority; or

(c) to any ~~other~~ specified part of New Zealand.

(4) A national policy statement may include transitional provisions for any matter, including its effect on existing matters or proceedings.

(5) Consultation undertaken before this section comes into force in relation to a matter included in a national policy statement satisfies the requirement for consultation under **section 46A**.

~~30~~ ~~Section 46A amended (Minister chooses process)~~

~~After section 46A(2), insert:~~

~~(2A) If the Minister uses the process in subsection (1)(b) in relation to a proposed national policy statement that relates to a specified district, region, or other part of New Zealand, the reference in that subsection to public and iwi authorities must be read as a reference to the public and iwi authorities within the specified region, district, or other part of New Zealand.~~

30 Section 46 repealed (Proposed national policy statement)

Repeal section 46.

30A Section 46A replaced (Minister chooses process)

Replace section 46A with:

46A Single process for preparing national directions

(1) This section and sections 47 to 51 set out the requirements for preparing a national direction.

(2) In this section and sections 47 to 51, **national direction** means both or either of the following documents:

(a) a national environmental standard:

(b) a national policy statement.

(3) If the Minister proposes to issue a national direction, the Minister must either—

(a) follow the requirements set out in sections 47 to 51; or

(b) establish and follow a process that includes the steps described in **subsection (4)**.

(4) The steps required in the process established under **subsection (3)(b)** must include the following:

(a) the public and iwi authorities must be given notice of—

(i) the proposed national direction; and

(ii) why the Minister considers that the proposed national direction is consistent with the purpose of the Act; and

(b) those notified must be given adequate time and opportunity to make a submission on the subject matter of the proposed national direction; and

(c) a report and recommendations must be made to the Minister on the submissions and the subject matter of the national direction; and

(d) the matters listed in section 51(1) must be considered as if the references in that provision to a board of inquiry were references to the person who prepares the report and recommendations.

(5) In preparing a national direction, the Minister may, at any time, consult on a draft national direction.

(6) When choosing between **subsection (3)(a) and (b)**, the Minister may consider—

(a) the advantages and disadvantages of preparing the proposed national direction quickly:

(b) the extent to which the proposed national direction differs from—

(i) other national environmental standards:

(ii) other national policy statements:

(iii) regional policy statements:

(iv) plans:

(c) the extent and timing of public debate and consultation that took place before the proposed national direction was prepared:

(d) any other relevant matter.

(7) If the Minister decides, after consulting as required by **subsection (3)**, to recommend that regulations on the same subject matter as that consulted on be made under any of sections 360 to **360G**, the consultation under **subsection (3)** satisfies the requirement to consult the public and iwi authorities in relation to those regulations.

(8) A national policy statement prepared in accordance with this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

30B Section 46B amended (Incorporation of material by reference in national policy statements)

(1) In the heading to section 46B, replace "**policy statements**" with "**direction**".

(2) In section 46B, replace "policy statement" with "direction".

30C Section 47 amended (Board of inquiry)

In section 47(1), replace "policy statement" with "direction".

30D Section 48 amended (Public notification of proposed national policy statement and inquiry)

(1) Replace the heading to section 48 with "**Public notification of proposal for national direction and inquiry**".

(2) In section 48(1), replace "policy statement" with "direction".

(3) In section 48(2)(a), (ab), and (b), replace "policy statement" with "direction".

30E Section 49 amended (Submissions to board of inquiry)

In section 49(1), replace "policy statement" with "direction".

30F Section 50 amended (Conduct of hearing)

In section 50(1), replace "policy statement" with "direction" in each place.

30G Section 51 amended (Matters to be considered and board of inquiry's report)

In section 51(1)(b) and (c), replace "policy statement" with "direction".

30H Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)

(1) In section 52(1), replace "The Minister,—" with "In the case of a national policy statement, whether made in accordance with **section 46A(3)(a) or (b)**, the Minister—".

(2) In section 52(1)(a), replace "section 51" with "section **46A(4)(c)** or 51, as the case requires".

(3) In section 52(1)(c),—

(a) replace "a further" with "an"; and

(b) replace "section 32AA" with "section 32".

~~**31 Section 48 amended (Public notification of proposed national policy statement and inquiry)**~~

~~After section 48(1), insert:~~

~~(1A) However, if a proposed national policy statement applies only to a specified district, region, or other part of New Zealand, the obligations under subsection (1) do not apply and are replaced by the obligation—~~

~~(a) to publish a notice of the proposed national policy statement and the inquiry in a newspaper in regular circulation in the specified district, region, or other part of New Zealand; and~~

~~(b) to serve the notice on the local authorities and other persons and authorities within that district, region, or other part of New Zealand, as the board considers appropriate.~~

~~**32 Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)**~~

~~After section 52(3), insert:~~

~~(4) However, if a national policy statement applies only to a specified district, region, or other part of New Zealand, the obligation under subsection (3)(b) is—~~

~~(a) to publicly notify the statement and report in whatever form the Minister thinks appropriate; and~~

~~(b) to send copies to the local authorities in the specified district, region, or other part of New Zealand to which the national policy statement applies.~~

33 Section 55 amended (Local authority recognition of national policy statements)

(1AA) In section 55(2)(b), after "statement", insert "; or".

(1AB) After section 55(2)(b), insert:

(c) if it is necessary to make the document consistent with any constraint or limit set out in the statement.

(1) In section 55(3), replace "specified in" with "directed by".

(2) Repeal section 55(4).

~~34~~ ~~New section 55A inserted (Combined process for national policy statement and national environmental standard)~~

~~After section 55, insert:~~

~~55A~~ ~~Combined process for national policy statement and national environmental standard~~

~~(1) The Minister may prepare a national policy statement and a national environmental standard using a combined process by—~~

~~(a) preparing the proposed national policy statement in accordance with section 46; and~~

~~(b) preparing the proposal for a national environmental standard in accordance with section 44; and~~

~~(c) proceeding in accordance with **subsection (2)**.~~

~~(2) For the purposes of **subsection (1)(c)**, the Minister must—~~

~~(a) use the process set out in sections 47 to 51 or the process set out in section 46A(1)(b)(iaaa), (i), and (ii), and a reference to a proposed national policy statement must be read as a reference to the proposed national policy statement and a proposal for a national environmental standard; and~~

~~(b) comply with sections 52 and 54 in relation to the proposed national policy statement; and~~

~~(c) decide whether to make a recommendation to the Governor-General for the making of the national environmental standard and comply with section 44(2)(ba) before making that decision.~~

35 Section 56 amended (Purpose of New Zealand coastal policy statements)

In section 56, after "state", insert "objectives and".

35A Section 57 amended (Preparation of New Zealand coastal policy statements)

In section 57(1), replace "section 46A(1)" with "**section 46A(3)**".

36 Section 58 amended (Contents of New Zealand coastal policy statements)

In section 58, insert as subsections (2) and (3):

(2) A New Zealand coastal policy statement may also include any of the matters specified in **section 45A(2) and (4)** (which applies as if ~~a New Zealand coastal policy statement were a national policy statement~~ references to a na-

tional policy statement were references to a New Zealand coastal policy statement).

(3) A New Zealand coastal policy statement or any provisions of it may apply—

(a) generally within the coastal environment; or

(b) to any specified part of the coastal environment.

36A Section 58A repealed (Incorporation of material by reference in New Zealand coastal policy statements)

Repeal section 58A.

37 New sections 58B to 58J and cross-heading inserted

After section 58A, insert:

National planning ~~template~~ standards

58B Purposes of national planning ~~template~~ standards

(1) The purposes of ~~the~~ national planning ~~template~~ standards are—

(a) to assist in achieving the purpose of this Act; and

(b) to set out requirements or other provisions relating to any aspect of the structure, format, or content of regional policy statements and plans to address ~~matters~~ any matter that the Minister considers—

~~(i) to be nationally significant:~~

(ii) ~~to require~~ requires national consistency:

(iia) is required to support the implementation of a national environmental standard, a national policy statement, a New Zealand coastal policy statement, or regulations made under this Act:

(iii) ~~to be required to address any of~~ is required to assist people to comply with the procedural principles set out in **section 18A**.

(2) In this section and **sections 58C to 58J**, references to the Minister are to be read as references to the Minister of Conservation if, and to the extent that, a matter relates to the coastal marine area.

58C ~~Contents~~ Scope and contents of national planning ~~template~~ standards

~~(1) The national planning template may specify—~~

~~(a) the structure and form of regional policy statements and plans:~~

~~(b) any of the matters specified in **section 45A(2) and (4)** (which applies as if the national planning template were a national policy statement):~~

~~(c) objectives, policies, methods (including rules), and other provisions that must or may be included in plans:~~

~~(d) objectives, policies, methods (but not rules), and other provisions that must or may be included in regional policy statements:~~

~~(c) a time frame or time frames for councils to give effect to the whole or part of the national planning template, including different time frames for—~~

~~(i) different local authorities:~~

~~(ii) different parts of the national planning template:~~

~~(f) if the national planning template specifies that a rule must or may be included in plans, whether the local authority must review a discharge, coastal, or water permit under section 130 to ensure compliance with the rule.~~

(1) National planning standards must—

(a) give effect to national policy statements; and

(b) be consistent with—

(i) national environmental standards; and

(ii) regulations made under this Act; and

(iii) water conservation orders.

(1A) National planning standards may specify—

(a) any of the matters specified in **section 45A(2) and (4)** (which applies as if the national planning standard were a national policy statement):

(b) objectives, policies, methods (including rules), and other provisions to be included in plans:

(c) objectives, policies, methods (but not rules), and other provisions to be included in regional policy statements:

(d) that a local authority must review, under section 128(1), a discharge, coastal, or water permit, or a land use consent required in relation to a regional rule.

(2) For the purpose of **subsection ~~(1)(c)~~ (1A)(b)**, ~~the~~ national planning ~~template~~ standards may include any rules that could be included in any ~~regional or district~~ plan under section 68 ~~or~~, 68A to 70A, 76, or 77A to 77D.

~~(3) The national planning template may specify requirements that relate to the electronic accessibility and functionality of policy statements and plans.~~

~~(4) The national planning template or any provisions of it may apply generally or to specific regions or districts or other parts of New Zealand.~~

(3) A national planning standard may also—

(a) specify the structure and form of regional policy statements and plans:

(b) direct local authorities—

(i) to use a particular structure and form for regional policy statements and plans:

(ii) to include specific provisions in their policy statements and plans:

(iii) to choose from a number of specific provisions to be included in their policy statements and plans:

(c) direct whether a national planning standard applies generally, to specific regions or districts, or to other parts of New Zealand:

(d) include time frames for local authorities to give effect to the whole or part of a national planning standard, including different time frames for different local authorities:

(e) specify where local provisions must or may be included in regional policy statements and plans:

(f) include requirements that relate to the electronic accessibility and functionality of policy statements and plans.

(5) ~~The national~~ National planning ~~template~~ standards may incorporate material by reference, and Schedule 1AA applies for the purposes of this subsection as if references to a national environmental standard, national policy statement, or New Zealand coastal policy statement ~~were~~ included references to the national planning ~~template~~ standards.

(6) ~~The national~~ National planning ~~template~~ standards may, for ease of reference, set out (or incorporate by reference) provisions of a national policy statement, ~~a~~ New Zealand coastal policy statement, or regulations (including a national environmental standard), but those provisions do not form part of ~~the~~ a national planning ~~template~~ standard for the purposes of any other provision of this Act or for any other purpose.

58D Preparation of national planning ~~template~~ standards

(1) If the Minister ~~determines~~ decides to prepare a national planning ~~template~~ standard, the Minister must prepare it in accordance with this section and **sections 58E to 58J**.

(2) In preparing or amending ~~the~~ a national planning ~~template~~ standard, the Minister may have regard to—

~~(a) the matters set out in section 45(2)(a) to (h):~~

(b) whether it is desirable to have national consistency in relation to a resource management issue:

(ba) whether the national planning standard supports the implementation of national environmental standards, national policy statements, a New Zealand coastal policy statement, or regulations made under this Act:

(bb) whether the national planning standard should allow for local circumstances and, if so, to what extent:

(bc) whether it is appropriate for the national planning standard to apply to a specified district, region, or other parts of New Zealand rather than nationally:

(c) any other matter that is relevant to the purpose of the national planning ~~template~~ standard.

(3) Before approving ~~the~~ a national planning ~~template~~ standard, the Minister must—

(a) prepare a draft national planning ~~template~~ standard; and

(b) prepare an evaluation report in accordance with section 32 and have particular regard to that report before deciding whether to publicly notify the draft; and

(c) publicly notify the draft; and

(d) establish a process that—

(i) the Minister considers gives the public, local authorities, and iwi authorities adequate time and opportunity to ~~comment~~ make a submission on the draft; and

(ii) requires a report and recommendations to be made to the Minister on those comments.

~~(4) If a draft national planning template includes provisions that relate to the content or preparation of a regional coastal plan, the Minister must consult the Minister of Conservation about all of the steps referred to in **subsection (3)**.~~

58E Approval of national planning ~~template~~ standard

(1) Before approving ~~the~~ a national planning ~~template~~ standard, the Minister must—

(a) consider the report and recommendations made under **section 58D(3)(d)(ii)**; and

(b) carry out a further evaluation of the draft national planning ~~template~~ standard in accordance with section 32AA and have particular regard to that evaluation when deciding whether to approve the national planning ~~template~~ standard.

(2) The Minister may—

~~(a) approve the national planning template after making any changes or no changes to the draft national planning template (except to the extent that it relates to the preparation or content of regional coastal plans) as he or she thinks fit; or~~

(a) approve a national planning standard after changing the draft in the manner that the Minister thinks fit; or

(b) withdraw all or part of ~~the draft template (except to the extent that it relates to the preparation or content of regional coastal plans)~~ a draft national planning standard and give public notice of the withdrawal, including the reasons for the withdrawal.

~~(3) The Minister of Conservation may amend, withdraw, or approve the draft national planning template, but only to the extent that it relates to the preparation or content of regional coastal plans.~~

(4) The Minister must give notice of the approval of ~~the~~ a national planning ~~template~~ standard in the *Gazette*.

(5) ~~The national planning template is a~~ National planning standards are disallowable ~~instrument~~ instruments, but not ~~a~~ legislative ~~instrument~~ instruments, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

58F Publication of national planning ~~template~~ standards and other documents

(1) The Minister must ensure that—

(a) public notice is given of the approval of ~~the~~ a national planning ~~template is publicly notified in any manner the Minister thinks fit~~ standard; and

(ab) all national planning standards are published together in an integrated format that will assist the implementation of the national planning standards; and

(b) ~~a copy of the~~ copies of all national planning ~~template is~~ standards are provided to every local authority.

(2) The Minister must publish ~~the~~ all the national planning ~~template~~ standards and the ~~report~~ reports and any recommendations on them made to ~~him or her~~ the Minister under **section 58D(3)(d)** on an Internet site to which the public has free access, and may publish the national planning ~~template~~ standards and the ~~report~~ reports and recommendations in any other way or form ~~he or she~~ that the Minister considers appropriate.

58FA First set of national planning standards

(1) The Minister must ensure that a first set of national planning standards is approved not later than 2 years after the date on which this section comes into force.

(2) The first set of national planning standards must include the following minimum requirements (the **minimum requirements**):

(a) a structure and form for policy statements and plans, including references to relevant national policy statements, national environmental standards, and regulations made under this Act; and

(b) definitions; and

(c) requirements for the electronic functionality and accessibility of policy statements and plans.

(3) The Minister must ensure that, at all times after the approval of the first set of national planning standards, the minimum requirements are included in a planning standard.

58G ~~Amending,~~ Changing, replacing, or revoking national planning ~~template~~ standards

(1) The Minister may ~~amend~~ change or replace ~~the~~ a national planning ~~template~~ standard, ~~after~~ following the process set out in **sections 58D and 58E**.

(2) If ~~an amendment to the~~ a change to a national planning ~~template~~ standard has not more than a minor effect or corrects errors or makes similar technical alterations, the Minister may make the ~~amendment~~ change without following the process set out in **sections 58D and 58E**, other than to give notice of the ~~amendment~~ change in the *Gazette* and on the Internet site referred to in **section 58F(2)**.

(3) If the Minister wishes to revoke ~~the~~ a national planning ~~template~~ standard in whole or in part ~~(except to the extent that it relates to the preparation or content of regional coastal plans)~~, the Minister—

(a) must give the public and iwi authorities notice, with adequate time and opportunity to comment on the proposed revocation; but

(b) may make the revocation and give notice of it ~~without following any further the process set out in **sections 58D and 58E**~~ in the manner provided for notification of a change in **subsection (2)**.

~~(4) If the Minister of Conservation wishes to revoke the national planning template in whole or in part, to the extent that it relates to the preparation or content of a regional coastal plan, the Minister of Conservation—~~

~~(a) must give the public and iwi authorities notice, with adequate time and opportunity to comment on the proposed revocation; but~~

~~(b) may make the revocation and give notice of it without following any further the process set out in **sections 58D and 58E**.~~

(5) The revocation of the whole or part of ~~the~~ a national planning ~~template~~ standard does not have the effect of revoking any provision of a plan included at the direction of, or in reliance on, a revoked provision of the national planning ~~template~~ standard.

58H Local authority recognition of national planning ~~template~~ standards

(1) In this section and ~~**section**~~ **sections 58I and 58J**, **document** means ~~—~~ any of the following:

(a) a regional policy statement~~; or~~;

(b) a proposed regional policy statement~~; or~~;

(c) a proposed plan~~; or~~;

(d) a plan~~; or~~;

(e) a variation:

(f) a change.

~~(2) A local authority must amend a document, if the national planning template directs so, to include specific provisions set out in the national planning template.~~

~~(3) If **subsection (2)** applies, the local authority must—~~

~~(a) make the amendments to the document as directed and make any consequential amendments to any document that are necessary to avoid duplication or conflict with the directed amendments, without using any of the processes set out in Schedule 1; and~~

~~(b) make all amendments within the time specified in the national planning template or (in the absence of a specified time) within 1 year after the date of the notification in the *Gazette* of the approval of the national planning template; and~~

~~(c) give public notice of the amendments within 5 working days after making them.~~

Mandatory directions

(2) If a national planning standard so directs, a local authority must amend each of its documents—

(a) to include specific provisions in the documents; and

(b) to ensure that the document is consistent with any constraint or limit placed on the content of the document under **section 58C(1A)(a) to (c)**.

(2A) An amendment required by **subsection (2)** must—

(a) be made without using any of the processes set out in Schedule 1; and

(b) be made within the time specified in the national planning standard or (in the absence of a specified time) within 1 year after the date of the notification in the *Gazette* of the approval of the national planning standard; and

(c) amend the document to include the provisions as directed; and

(d) include any consequential amendments to any document as necessary to avoid duplication or conflict with the amendments; and

(e) be publicly notified not later than 5 working days after the amendments are made under **paragraph (d)**.

Discretionary directions

(3) If a national planning standard directs a local authority to choose from a number of specific provisions in a national planning standard, the local authority must—

(a) choose an appropriate provision; and

(b) use one of the processes set out in Schedule 1 in order to apply the provision to the local circumstances, but not to decide the content of the provision set by the national planning standard; and

(c) notify any amendment required under this section within the time specified in the national planning standard, using any of the processes provided for by Schedule 1; and

(d) make any consequential amendments to its documents needed to avoid duplication or inconsistency, but without using a process set out in Schedule 1; and

(e) publicly notify any amendments made under **paragraph (d)** not later than 5 working days after the amendments are made.

(4) A document is amended as from the date of the relevant public notice under **subsection ~~(3)(c)~~ (2A)(e) or (3)(c)**.

(4A) For the purpose of **subsection (3)(a)**, a national planning standard may specify how local authorities are to choose relevant provisions from the national planning standard.

Other changes that may be directed

(5) A local authority must—

(a) make all other amendments to any document that are required to give effect to any provision in ~~the~~ a national planning ~~template~~ standard that affects the document, using one of the processes set out in Schedule 1; and

(b) ~~make~~ notify all amendments ~~within the time specified in the national planning template or (in the absence of a specified time) within 5 years~~ required under **paragraph (a)** not later than 1 year after the date of the notification in the *Gazette* of the approval of the national planning ~~template, unless **subsection (6)** applies~~ standard or at another time specified in the national planning standard.

~~(6) However, **subsection (7)** applies if an amendment relates to matters that are the subject of a proposed policy statement or plan that was notified under clause 5 or **48** of Schedule 1, but had not become operative before the approval of the national planning template.~~

~~(7) If this subsection applies, the local authority—~~

~~(a) is not required to amend the document within the time specified in **subsection (5)(b)**; but~~

~~(b) must make the amendments under **subsection (5)(a)** within the time specified in the template or (in the absence of a specified time) within 5 years after the date on which the proposed policy statement or plan becomes operative.~~

(8) A local authority must also take any other action that is directed by ~~the~~ a national planning ~~template~~ standard.

(9) This section ~~is~~ and **section 58I** are subject to the obligations ~~placed on~~ of local authorities, or ~~on~~ of any particular local authority, ~~by or~~ under any other

Act that relates to the preparation or change of a policy statement or plan under this Act.

58I Time frames applying under first set of national planning standards

(1) In the case of the first set of national planning standards, if a process provided by Schedule 1 is required, a local authority must make any amendments required not later than the fifth anniversary of the date on which the first set is notified in the *Gazette* under **section 58J**, unless—

(a) a different time is specified in the first set; or

(b) **subsection (3)** applies.

(2) **Subsection (3)** applies if—

(a) a local authority has notified a proposed policy statement or plan before the first set of national planning standards is notified in the *Gazette*; and

(b) a process provided by Schedule 1 is required.

(3) If this subsection applies, the local authority must make the amendments required—

(a) within the time specified in the national planning standard; or

(b) if no time is specified, not later than 5 years after the date on which the proposed policy statement or plan becomes operative.

~~**58I First national planning template to be made within 2 years and template to be kept in force at all times**~~

~~(1) The Minister must ensure that the first national planning template is approved within 2 years after the date on which **Part 1 of the Resource Legislation Amendment Act 2015** receives the Royal assent.~~

~~(2) The Minister must ensure that, at all times after the approval of the first national planning template, a national planning template is for the time being in force.~~

Publication of documents

58J Obligation to publish ~~planning~~ documents

Not later than 1 year after the date on which the approval of the first set of national planning ~~template~~ standards is notified in the *Gazette*, a local authority must make ~~the following~~ its documents publicly available, free of charge on a single searchable Internet site, as they relate to a particular district or region~~:~~.

~~(a) plans, both operative and proposed, and changes to plans; and~~

~~(b) policy statements, both operative and proposed.~~

38 New subpart 2 of Part 5 and new subpart 3 heading in Part 5 inserted

After **section 58J** (as inserted by **section 37** of ~~this Act~~ the Resource Legislation Amendment Act **2015**), insert:

~~Subpart 2—Iwi participation arrangements~~

~~58K Purpose of iwi participation arrangements~~

~~The purpose of an iwi participation arrangement is to provide an opportunity for local authorities and iwi authorities to discuss, agree, and record ways in which tangata whenua may, through iwi authorities, participate in the preparation, change, or review of a policy statement or plan in accordance with the processes set out in Schedule 1.~~

~~58L Local authorities to invite iwi to enter into iwi participation arrangement~~

~~(1) The requirement for an invitation to be extended under this section applies when a triennial general election is held under section 10 of the Local Electoral Act 2001.~~

~~(2) Not later than 30 working days after the date of a relevant event referred to in **subsection (1)**, a participating local authority must invite iwi authorities representing tangata whenua to enter into 1 or more iwi participation arrangements.~~

~~(3) However, the local authority need not extend the invitation to an iwi authority if it has already agreed to an iwi participation arrangement with that iwi authority.~~

~~(4) If an iwi authority wants to enter into an iwi participation arrangement with a local authority, it must notify its acceptance of the invitation given under **subsection (2)** to the local authority within 60 working days after the date on which the invitation is issued, but nothing in this section requires an iwi authority to respond to an invitation or enter into an iwi participation arrangement.~~

~~(5) Nothing in this section prevents a local authority from preparing, changing, or reviewing a policy statement or plan in accordance with Schedule 1 while the local authority is waiting for a response from, or is negotiating an iwi participation arrangement with, 1 or more iwi authorities.~~

~~58M Content of iwi participation arrangements~~

~~An iwi participation arrangement—~~

~~(a) must be recorded in writing and identify the parties to the arrangement; and~~

~~(b) must record the parties' agreements about—~~

~~(i) how an iwi authority party may participate in the preparation or change of a policy statement or plan; and~~

(ii) how the parties will give effect to the requirements of any provision of any iwi participation legislation, including any requirements of any agreements entered into under that legislation; and

(iii) whether any other arrangement agreed between the local authority and any 1 or more iwi authority parties that provides a role for those iwi authority parties in the preparation or change of a policy statement or plan should be maintained or, if applicable, modified or cancelled; and

(iv) ways in which iwi authority parties can identify resource management issues of concern to them; and

(v) the process for monitoring and reviewing the arrangement; and

(e) may—

(i) specify a process that the parties will use for resolving disputes about the implementation of the arrangement; and

(ii) indicate whether an iwi authority party has delegated to any person or group of persons the role of participating in the preparation, change, or review of a policy statement or plan; and

(iii) if there are 2 or more iwi authority parties or other parties, set out how those parties will work together collectively under the arrangement.

58N Time frame for concluding iwi participation arrangement

(1) If an iwi authority accepts a local authority's invitation to enter into an iwi participation arrangement, the local authority and the iwi authority must use their best endeavours to conclude an arrangement within—

(a) 6 months after the date of the acceptance; or

(b) any other period agreed by all the parties.

(2) If a local authority and an iwi authority are not able to conclude an iwi participation arrangement within the period that applies under **subsection (1)**, the local authority must invite the iwi authority to participate in mediation or some other form of alternative dispute resolution for the purpose of concluding an arrangement.

(3) No dispute resolution provisions in an iwi participation arrangement may require the local authority to suspend—

(a) the preparation, change, or review of a policy statement or plan; or

(b) any other part of a process provided for in Schedule 1.

58O Parties may seek assistance from Minister

(1) This section applies if a local authority and an iwi authority that accepted an invitation to enter into an iwi participation arrangement—

~~(a) have endeavoured, but have been unable, to conclude an arrangement within the time specified in **section 58N(1)**; and~~

~~(b) in their endeavours to conclude an arrangement, have used mediation or some other form of alternative dispute resolution.~~

~~(2) The local authority or iwi authority may apply to the Minister for assistance to conclude an iwi participation arrangement.~~

~~(3) If the local authority and the iwi authority agree, the Minister may—~~

~~(a) appoint a person to assist the local authority and the iwi authority to conclude an iwi participation arrangement; or~~

~~(b) direct them to use a particular alternative dispute resolution process for that purpose.~~

~~**58P Relationship with iwi participation legislation**~~

~~An iwi participation arrangement does not limit any relevant provision of any iwi participation legislation or any agreement under that legislation.~~

Subpart 2—Mana Whakahono a Rohe: Iwi participation arrangements

58K Definitions

In this subpart and Schedule 1,—

area of interest means the area that the iwi and hapū represented by an iwi authority identify as their traditional rohe

initiating iwi authority has the meaning given in **section 58N(1)**

iwi participation legislation means legislation (other than this Act), including any legislation listed in Schedule 3 of the Treaty of Waitangi Act 1975, that provides a role for iwi or hapū in processes under this Act

Mana Whakahono a Rohe means an iwi participation arrangement entered into under this subpart

participating authorities has the meaning given in **section 58N(5)**

participating iwi authorities means the iwi authorities that—

(a) have agreed to participate in a Mana Whakahono a Rohe; and

(b) have agreed the order in which negotiations are to be conducted

relevant iwi authority means an iwi authority whose area of interest overlaps with, or is adjacent to, the area of interest of an initiating iwi authority

relevant local authority means a district or regional council whose area of interest overlaps with, or is adjacent to, the area of interest represented by the initiating iwi authority.

Purpose and guiding principles

58L Purpose of Mana Whakahono a Rohe

The purpose of a Mana Whakahono a Rohe is—

(a) to provide a mechanism for iwi authorities and local authorities to discuss, agree, and record ways in which tangata whenua may, through their iwi authorities, participate in resource management and decision-making processes under this Act; and

(b) to assist local authorities to comply with their statutory duties under this Act, including through the implementation of sections 6(e), 7(a), and 8.

58M Guiding principles

In initiating, developing, and implementing a Mana Whakahono a Rohe, the participating authorities must use their best endeavours—

(a) to achieve the purpose of the Mana Whakahono a Rohe in an enduring manner:

(b) to enhance the opportunities for collaboration amongst the participating authorities, including by promoting—

(i) the use of integrated processes:

(ii) co-ordination of the resources required to undertake the obligations and responsibilities of the parties to the Mana Whakahono a Rohe:

(c) in determining whether to proceed to negotiate a joint or multi-party Mana Whakahono a Rohe, to achieve the most effective and efficient means of meeting the statutory obligations of the participating authorities:

(d) to work together in good faith and in a spirit of co-operation:

(e) to communicate with each other in an open, transparent, and honest manner:

(f) to recognise and acknowledge the benefit of working together by sharing their respective vision and expertise:

(g) to commit to meeting statutory time frames and minimise delays and costs associated with the statutory processes:

(h) to recognise that a Mana Whakahono a Rohe under this subpart does not limit the requirements of any relevant iwi participation legislation or the agreements associated with that legislation.

Initiating Mana Whakahono a Rohe

58N Initiation of Mana Whakahono a Rohe

Invitation from 1 or more iwi authorities

(1) At any time other than in the period that is 90 days before the date of a triennial election under the Local Electoral Act 2001, 1 or more iwi authorities representing tangata whenua (the **initiating iwi authorities**) may invite 1 or more relevant local authorities in writing to enter into a Mana Whakahono a Rohe with the 1 or more iwi authorities.

Obligations of local authorities that receive invitation

(2) As soon as is reasonably practicable after receiving an invitation under **subsection (1)**, the local authorities—

(a) may advise any relevant iwi authorities and relevant local authorities that the invitation has been received; and

(b) must convene a hui or meeting of the initiating iwi authority and any iwi authority or local authority identified under **paragraph (a)** (the **parties**) that wishes to participate to discuss how they will work together to develop a Mana Whakahono a Rohe under this subpart.

(3) The hui or meeting required by **subsection (2)(b)** must be held not later than 60 working days after the invitation sent under **subsection (1)** is received, unless the parties agree otherwise.

(4) The purpose of the hui or meeting is to provide an opportunity for the iwi authorities and local authorities concerned to discuss and agree on—

(a) the process for negotiation of 1 or more Mana Whakahono a Rohe; and

(b) which parties are to be involved in the negotiations; and

(c) the times by which specified stages of the negotiations must be concluded.

(5) The iwi authorities and local authorities that are able to agree at the hui or meeting how they will develop a Mana Whakahono a Rohe (the **participating authorities**) must proceed to negotiate the terms of the Mana Whakahono a Rohe in accordance with that agreement and this subpart.

(6) If 1 or more local authorities in an area are negotiating a Mana Whakahono a Rohe and a further invitation is received under **subsection (1)**, the participating iwi authorities and relevant local authorities may agree on the order in which they negotiate the Mana Whakahono a Rohe.

Other matters relevant to Mana Whakahono a Rohe

(7) If an iwi authority and a local authority have at any time entered into a relationship agreement, to the extent that the agreement relates to resource management matters, the parties to that agreement may, by written agreement, treat

that agreement as if it were a Mana Whakahono a Rohe entered into under this subpart.

(8) The participating authorities must take account of the extent to which resource management matters are included in any iwi participation legislation and seek to minimise duplication between the functions of the participating authorities under that legislation and those arising under the Mana Whakahono a Rohe.

(9) Nothing in this subpart prevents a local authority from commencing, continuing, or completing any process under the Act while waiting for a response from, or negotiating a Mana Whakahono a Rohe with, 1 or more iwi authorities.

58O Other opportunities to initiate Mana Whakahono a Rohe

Later initiation by iwi authority

(1) An iwi authority that, at the time of receiving an invitation to a meeting or hui under **section 58N(2)(b)**, does not wish to participate in negotiating a Mana Whakahono a Rohe, or withdraws from negotiations before a Mana Whakahono a Rohe is agreed, may participate in, or initiate, a Mana Whakahono a Rohe at any later time (other than within the period that is 90 days before a triennial election under the Local Electoral Act 2001).

(2) If a Mana Whakahono a Rohe exists and another iwi authority in the same area as the initiating iwi wishes to initiate a Mana Whakahono a Rohe under **section 58N(1)**, that iwi authority must first consider joining the existing Mana Whakahono a Rohe.

(3) The provisions of this subpart apply to any initiation under **subsection (1)**.

Initiation by local authority

(4) A local authority may initiate a Mana Whakahono a Rohe with an iwi authority or with hapū.

(5) The local authority and iwi authority or hapū concerned must agree on—

(a) the process to be adopted; and

(b) the time period within which the negotiations are to be concluded; and

(c) how the Mana Whakahono a Rohe is to be implemented after negotiations are concluded.

(6) If 1 or more hapū are invited to enter a Mana Whakahono a Rohe under **subsection (4)**, the provisions of this subpart apply as if the references to an iwi authority were references to 1 or more hapū, to the extent that the provisions relate to the contents of a Mana Whakahono a Rohe (*see* **sections 58L, 58M, 58Q, 58S, and 58T**).

58P Time frame for concluding Mana Whakahono a Rohe

If an invitation is initiated under **section 58N(1)**, the participating authorities must conclude a Mana Whakahono a Rohe within—

(a) 18 months after the date on which the invitation is received; or

(b) any other period agreed by all the participating authorities.

Contents

58Q Contents of Mana Whakahono a Rohe

(1) A Mana Whakahono a Rohe must—

(a) be recorded in writing; and

(b) identify the participating authorities; and

(c) record the agreement of the participating authorities about—

(i) how an iwi authority may participate in the preparation or change of a policy statement or plan, including the use of any of the pre-notification, collaborative, or streamlined planning processes under Schedule 1; and

(ii) how the participating authorities will undertake consultation requirements, including the requirements of **section 34A(1A)** and **clause 4A** of Schedule 1; and

(iii) how the participating authorities will work together to develop and agree on methods for monitoring under the Act; and

(iv) how the participating authorities will give effect to the requirements of any relevant iwi participation legislation, or of any agreements associated with, or entered into under, that legislation; and

(v) a process for identifying and managing conflicts of interest; and

(vi) the process that the parties will use for resolving disputes about the implementation of the Mana Whakahono a Rohe, including the matters described in **subsection (2)**.

(2) The dispute resolution process recorded under **subsection (1)(c)(vi)** must—

(a) set out the extent to which the outcome of a dispute resolution process may constitute an agreement—

(i) to alter or terminate a Mana Whakahono a Rohe (*see* **subsection (5)**):

(ii) to conclude a Mana Whakahono a Rohe at a time other than that specified in **section 58P**:

(iii) to complete a Mana Whakahono a Rohe at a later date (*see* **section 58S(2)**):

(iv) jointly to review the effectiveness of a Mana Whakahono a Rohe at a later date (*see* **section 58S(3)**):

(v) to undertake any additional reporting (*see* **section 58S(5)**); and

(b) require each of the participating authorities to bear its own costs for any dispute resolution process undertaken.

(3) The dispute resolution process must not require a local authority to suspend commencing, continuing, or completing any process under the Act while the dispute resolution process is in contemplation or is in progress.

(4) A Mana Whakahono a Rohe may also specify—

(a) how a local authority is to consult or notify an iwi authority on resource consent matters, where the Act provides for consultation or notification:

(b) the circumstances in which an iwi authority may be given limited notification as an affected party:

(c) any arrangement relating to other functions, duties, or powers under this Act:

(d) if there are 2 or more iwi authorities participating in a Mana Whakahono a Rohe, how those iwi authorities will work collectively together to participate with local authorities:

(e) whether a participating iwi authority has delegated to a person or group of persons (including hapū) a role to participate in particular processes under this Act.

(5) Unless the participating authorities agree,—

(a) the contents of a Mana Whakahono a Rohe must not be altered; and

(b) a Mana Whakahono a Rohe must not be terminated.

(6) If 2 or more iwi authorities collectively have entered into a Mana Whakahono a Rohe with a local authority, any 1 of the iwi authorities, if seeking to amend the contents of the Mana Whakahono a Rohe, must negotiate with the local authority for that purpose rather than seek to enter into a new Mana Whakahono a Rohe.

58R Resolution of disputes that arise in course of negotiating Mana Whakahono a Rohe

(1) This section applies if a dispute arises among participating authorities in the course of negotiating a Mana Whakahono a Rohe.

(2) The participating authorities—

(a) may by agreement undertake a binding process of dispute resolution; but

(b) if they do not reach agreement on a binding process, must undertake a non-binding process of dispute resolution.

(3) Whether the participating authorities choose a binding process or a non-binding process, each authority must—

(a) jointly appoint an arbitrator or a mediator; and

(b) meet its own costs of the process.

(4) If the dispute remains unresolved after a non-binding process has been undertaken, the participating authorities may individually or jointly seek the assistance of the Minister.

(5) The Minister, with a view to assisting the participating authorities to resolve the dispute and conclude a Mana Whakahono a Rohe, may—

(a) appoint, and meet the costs of, a Crown facilitator:

(b) direct the participating authorities to use a particular alternative dispute resolution process for that purpose.

58S Review and monitoring

(1) A local authority that enters into a Mana Whakahono a Rohe under this subpart must review its policies and processes to ensure that they are consistent with the Mana Whakahono a Rohe.

(2) The review required by **subsection (1)** must be completed not later than 6 months after the date of the Mana Whakahono a Rohe, unless a later date is agreed by the participating authorities.

(3) Every sixth anniversary after the date of a Mana Whakahono a Rohe, or at any other time by agreement, the participating authorities must jointly review the effectiveness of the Mana Whakahono a Rohe, having regard to the purpose of a Mana Whakahono a Rohe stated in **section 58L** and the guiding principles set out in **section 58M**.

(4) The obligations under this section are in addition to the obligations of a local authority under—

(a) section 27 (the provision of information to the Minister):

(b) section 35 (monitoring and record keeping).

(5) Any additional reporting may be undertaken by agreement of the participating authorities.

58T Relationship with iwi participation legislation

A Mana Whakahono a Rohe does not limit any relevant provision of any iwi participation legislation or any agreement under that legislation.

Subpart 3—Local authority policy statements and plans

39 Section 61 amended (Matters to be considered by regional council (policy statements))

(1) After section 61(1)(d), insert:

(da) a national policy statement, a New Zealand coastal policy statement, and ~~the~~ a national planning ~~template~~ standard; and

(2) In section 61(2), replace “62(2)” with “62(3)”.

40 Section 62 amended (Contents of regional policy statements)

(1) Repeal section 62(1)(i)(ii).

(2) In section 62(3), replace "or New Zealand coastal policy statement" with ", a New Zealand coastal policy statement, or ~~the~~ a national planning ~~template~~ standard".

41 Section 65 amended (Preparation and change of other regional plans)

(1) Replace section 65(3)(c) with:

(c) any risks from natural hazards:

(2) In section 65(4), after "set out in", insert "Part 2 of".

(3) In section 65(5), replace "by the regional council in the manner set out in Schedule 1" with "in the manner set out in the relevant Part of Schedule 1".

(4) In section 65(7), replace "local authority" with "regional council".

42 Section 66 amended (Matters to be considered by regional council (plans))

After section 66(1)(e), insert:

(ea) a national policy statement, a New Zealand coastal policy statement, and ~~the~~ a national planning ~~template~~ standard; and

43 Section 67 amended (Contents of regional plans)

After section 67(3)(b), insert:

(ba) ~~the~~ a national planning ~~template~~ standard; and

44 Section 69 amended (Rules relating to water quality)

After section 69(3), insert:

(4) On and from the commencement of this subsection, Schedule 3 ceases to be applicable to fresh water.

45 Section 73 amended (Preparation and change of district plans)

(1) Replace section 73(1) with:

(1) There must at all times be 1 district plan for each district, prepared in the manner set out in the relevant Part of Schedule 1.

(2) Replace section 73(1A) with:

(1A) A district plan may be changed in the manner set out in the relevant Part of Schedule 1.

(3) In section 73(2), after "set out in", insert "Part 2 or **5** of".

46 Section 74 amended (Matters to be considered by territorial authority)

After section 74(1)(e), insert:

(ea) a national policy statement, a New Zealand coastal policy statement, and ~~the~~ a national planning ~~template~~ standard; and

47 Section 75 amended (Contents of district plans)

After section 75(3)(b), insert:

(ba) ~~the~~ a national planning ~~template~~ standard; and

48 Cross-heading above section 78 repealed

Repeal the cross-heading above section 78.

49 New cross-heading above section 79 inserted

Before section 79, insert:

Review

50 New cross-heading above section 80 inserted

Before section 80, insert:

Combined documents

51 Section 80 amended (Combined regional and district documents)

(1) After section 80(6), insert:

(6A) In preparing or amending a combined document, the relevant local authorities must apply the requirements of this Part, as relevant for the documents comprising the combined document.

(6B) The relevant local authorities may also, in preparing the provisions of a regional plan or a district plan, as the case may be, for a combined document that includes a regional policy statement,—

(a) give effect to a proposed regional policy statement; and

(b) have regard to an operative regional policy statement.

(2) In section 80(7), replace "(6)" with "**(6B)**".

52 New subparts 4 and 5 of Part 5 and new subpart 6 heading in Part 5 inserted

After section 80, insert:

Subpart 4—Collaborative planning process

80A Use of collaborative planning process

(1) This subpart, **subpart 7**, and **Part 4** of Schedule 1 apply if a local authority gives public notice in accordance with **clause 38** of Schedule 1 of its intention to use the collaborative planning process—

(a) to prepare or change a proposed policy statement or plan~~, or change a policy statement or plan~~:

(b) to prepare or change a combined regional and district document under section 80.

(2) If this subpart applies,—

(a) clauses 1, **1A(1), 1B**, 20, and 20A of Schedule 1 apply; but

(b) the rest of Part 1 of Schedule 1 does not apply, except to the extent that it is expressly applied by this subpart or **Part 4** of Schedule 1.

Subpart 5—Streamlined planning process

80B Purpose, scope, application of Schedule 1, and definitions

(1) This subpart and **Part 5** of Schedule 1 provide a process, through a direction of the responsible Minister, for the preparation~~ or variation of, or change to,~~ of a planning instrument in order to achieve an expeditious planning process that is proportionate to the complexity and significance of the planning issues being considered.

~~(2) If this subpart applies,—~~

~~(a) Part 11 does not apply; and~~

~~(b) clauses **1A** to 3C and 20A of Schedule 1 apply; but~~

~~(c) the rest of Part 1 of Schedule 1 does not apply unless it is expressly applied by—~~

~~(i) this subpart; or~~

~~(ii) **Part 5** of Schedule 1; or~~

~~(iii) a direction given under **clause 77** of Schedule 1.~~

(2) Under this subpart, Schedule 1 applies as follows:

(a) clauses **1A** to 3C, 6, **6A**, 16, and 20A apply; and

(b) clauses 4, 9, 13, 21 to 27 (other than clauses 25(2)(a)(i) and (ii) and 26(b)), and 28(2) to (6) apply; but

(c) the rest of Part 1 does not apply unless it is expressly applied by—

(i) this subpart; or

(ii) **Part 5** of Schedule 1; or

(iii) a direction given under **clause 77** of Schedule 1.

(3) In this subpart and **Part 5** of Schedule 1,—

national direction means a direction made by—

(a) a national planning template; or

(b) a national environmental standard; or

(c) regulations made under section 360; or

(d) a national policy statement

planning instrument—

(a) means a policy statement or plan; and

(b) includes a change or variation to a policy statement or plan

responsible Minister means the Minister or Ministers who give a direction in accordance with this subpart and **Part 5** of Schedule 1~~.~~, namely,—

(a) the Minister of Conservation, in the case of a regional coastal plan:

(b) both the Minister and the Minister of Conservation, in the case of a proposed planning instrument that is to encompass matters within the jurisdiction of both those Ministers:

(c) the Minister, in every other case.

80C Application to responsible Minister for direction

(1) If a local authority determines that, in the circumstances, it would be appropriate to use the streamlined planning process to prepare a planning instrument, it may apply in writing to the responsible Minister in accordance with **clause 74** of Schedule 1 for a direction to proceed under this subpart~~ to—~~.

~~(a) the Minister of Conservation, in the case of a regional coastal plan:~~

~~(b) both the Minister and the Minister of Conservation, in the case of a proposed planning instrument that is to encompass matters within the jurisdiction of both those Ministers:~~

~~(c) the Minister, in every other case.~~

(2) However, a local authority may apply for a direction only if the local authority is satisfied that the application satisfies at least 1 of the following criteria:

(a) the proposed planning instrument will implement a national direction:

(b) as a matter of public policy, the preparation~~ or change~~ of a planning instrument is urgent:

(c) the proposed planning instrument is required to meet a significant community need:

(d) a plan or policy statement ~~an operative planning instrument~~ raises an issue that has resulted in unintended consequences:

(e) the proposed planning instrument will combine several policy statements or plans to develop a combined document prepared under section 80:

(f) the expeditious preparation of a planning instrument is required in any circumstance comparable to, or relevant to, those set out in **paragraphs (a) to (e)**.

(2A) In relation to a private plan change accepted under clause 25(2)(b) of Schedule 1, a local authority must obtain the agreement of the person requesting the change before the local authority applies for a direction under this section.

~~(3) An application under this clause must be submitted to the responsible Minister before the local authority gives notice,—~~

~~(a) under clause 5 or **5A** of Schedule 1, of a proposal to prepare a planning instrument; or~~

~~(b) under **clause 38** of Schedule 1, of its intention to use the collaborative planning process.~~

(3) If an application is made under this section, it must be submitted to the responsible Minister before the local authority gives notice—

(a) under clause 5 or **5A** of Schedule 1, in relation to a proposed planning instrument; or

(b) under **clause 38** of Schedule 1, if it intends to use the collaborative planning process; or

(c) under clauses 25(2)(a)(i) and 26(b) of Schedule 1, in relation to a request for a private plan change.

Subpart 6—Miscellaneous matters

53 Section 82 amended (Disputes)

(1) In section 82(1)(c), after "New Zealand coastal policy statement", insert "or ~~the~~ a national planning ~~template~~ standard".

(2) In section 82(2), after "New Zealand coastal policy statement,", insert "~~the~~ a national planning ~~template~~ standard,".

(3) In section 82(4), after "New Zealand coastal policy statement", insert "or ~~the~~ a national planning ~~template~~ standard".

(4) In section 82(4), after "the other policy statement", insert "or ~~the~~ a national planning ~~template~~ standard".

(5) In section 82(4), after "section 55", insert "or **58H**".

(6) In section 82(5), after "the other policy statement", insert "or ~~the~~ a national planning ~~template~~ standard".

(7) In section 82(5), after "purpose of the policy statement,", insert "national planning ~~template~~ standard,".

(8) In section 82(6), after "section 55(2)", insert ", and giving effect to the national planning ~~template~~ standard includes giving effect to it by complying with **section 58H(2)**".

54 Section 85 amended (Compensation not payable in respect of controls on land)

(1) Replace the heading to section 85 with "**Environment Court may give directions in respect of land subject to controls**".

(2) In section 85(2)(a), delete "Part 1 of".

(3) Replace section 85(3) and (4) with:

(3) **Subsection (3A)** applies in the following cases:

(a) on an application to the Environment Court to change a plan under clause 21 of Schedule 1:

(b) on an appeal to the Environment Court in relation to a provision of a proposed plan or change to a plan.

(3A) The Environment Court, if it is satisfied that the grounds set out in **subsection (3B)** are met, may,—

(a) in the case of a plan or proposed plan (other than a regional coastal plan or proposed regional coastal plan), direct the local authority to do whichever of the following the local authority considers appropriate:

(i) modify, delete, or replace the provision in the plan or proposed plan in the manner directed by the court:

~~(ii) if the requirements of **subsection (3D)** are met, by agreement with the person with an estate or interest in the land or part of it, acquire all or part of the estate or interest in the land under the Public Works Act 1981; and~~

(ii) acquire all or part of the estate or interest in the land under the Public Works Act 1981, as long as—

(A) the person with an estate or interest in the land or part of it agrees; and

(B) the requirements of **subsection (3D)** are met; and

(b) in the case of a regional coastal plan or proposed regional coastal plan,—

(i) report its findings to the applicant, the regional council concerned, and the Minister of Conservation; and

(ii) include a direction to the regional council to modify, delete, or replace the provision in the manner directed by the court.

(3B) The grounds are that the provision or proposed provision of a plan or proposed plan—

(a) ~~renders~~ makes any land incapable of reasonable use; and

(b) places an unfair and unreasonable burden on any person who has an interest in the land.

(3C) Before exercising its jurisdiction under **subsection (3A)**, the Environment Court must have regard to—

(a) Part 3 (including the effect of section 9(3); and

(b) the effect of subsection (1) of this section.

~~(3D) The Environment Court must not give a direction under **subsection (3A)(a)(ii)** unless the owner of the estate or interest in the land or part of the~~

~~land concerned (or the spouse, civil union partner, or de facto partner of the owner)—~~

~~(a) had acquired the estate or interest in the land or part of it before the date on which the provision or proposed provision was first publicly notified or otherwise included in the relevant plan or proposed plan and the provision or proposed provision remained in substantially the same form; and~~

~~(b) consents to the direction being given.~~

(3D) The Environment Court must not give a direction under **subsection (3A)(a)(ii)** unless—

(a) the person with the estate or interest in the land or part of the land concerned (or the spouse, civil union partner, or de facto partner of that person)—

(i) had acquired the estate or interest in the land or part of it before the date on which the provision or proposed provision was first notified or otherwise included in the relevant plan or proposed plan; and

(ii) the provision or proposed provision remained in substantially the same form; and

(b) the person with the estate or interest in the land or part of the land consents to the giving of the direction.

(4) Any direction given or report made under **subsection (3A)** has effect under this Act as if it were made or given under clause 15 of Schedule 1.

(4) Replace section 85(5) to (7) with:

(5) Nothing in **subsections (3) to (3D)** limits the powers of the Environment Court under clause 15 of Schedule 1 on an appeal under clause 14 of that schedule.

(6) In this section,—

provision of a plan or proposed plan does not include a designation or a heritage order or a requirement for a designation or a heritage order

reasonable use, in relation to land, includes the use or potential use of the land for any activity whose actual or potential effects on any aspect of the environment or on any person (other than the applicant) would not be significant.

55 Section 86 amended (Power to acquire land)

In section 86(2), replace "section 185 and section 198" with "**sections 85(3A)(a)(ii)**, 185, and 198".

56 Cross-heading above section 86A replaced

Replace the cross-heading above section 86A with:

Subpart 7—Legal effect of rules

57 Section 86A amended (Purpose of sections 86B to 86G)

In section 86A(1), delete "or change described in section 86B(6)".

58 Section 86B amended (When rules in proposed plans and changes have legal effect)

(1) In the heading to section 86B, delete "**and changes**".

(2) In section 86B(2)(a), delete "publicly".

(3) In section 86B(2)(b), delete "public".

59 Section 86D amended (Environment Court may order rule to have legal effect from date other than standard date)

(1) In section 86D(1)(a), delete "or change".

(2) In section 86D(1)(b), delete "or (6)".

60 Section 86E amended (Local authorities must identify rules having early or delayed legal effect)

(1AA) In section 86E(1)(a), after "clause 5", insert ", or given limited notification under **clause 5A**".

(1) Repeal section 86E(2).

(2) In section 86E(3), delete "or change" in each place.

(3) In section 86E(3), delete "or (2)".

60A Section 86F amended (When rules in proposed plans must be treated as operative)

In section 86F, insert as subsection (2):

(2) However, until the decisions have been given under clause 10(4) of Schedule 1 on all submissions, **subsection (1)** does not apply to the rules in a proposed plan that was given limited notification.

61 Section 86G amended (Rule that has not taken legal effect or become operative excluded from references to rule in this Act and regulations made under this Act)

(1) In section 86G(1), delete "or a change".

(2) In section 86G(1), delete "or change".

Amendments to Part 6 of principal Act

~~**62 Section 104 amended (Consideration of applications)**~~

~~(1) After section 104(1)(a), insert:~~

~~(ab) any measure proposed by the applicant for the purpose of ensuring positive effects on the environment to offset any adverse effects on the environment that will or may result from allowing the activity; and~~

~~(2) After section 104(1), insert:~~

~~(1A) The consent authority must also have particular regard to the objectives and policies in the national planning template that —~~

~~(a) are required to be included in regional policy statements or plans in accordance with **section 58G(1)(c) or (d)**, as the case may be; and~~

~~(b) are specified as an objective or a policy that is intended to deal with matters that the Minister considers are nationally significant.~~

~~63~~ ~~Section 108 amended (Conditions of resource consents)~~

~~In section 108(1), replace "subject to any regulations" with "subject to **section 108AA** and any regulations".~~

~~64~~ ~~New section 108AA inserted (Requirements for conditions of resource consents)~~

~~After section 108, insert:~~

~~108AA Requirements for conditions of resource consents~~

~~(1) A consent authority must not include a condition in a resource consent for an activity unless —~~

~~(a) the applicant for the resource consent agrees to the condition; or~~

~~(b) the condition is directly connected to 1 or both of the following:~~

~~(i) an adverse effect of the activity on the environment:~~

~~(ii) an applicable district rule or regional rule.~~

~~(2) For the purpose of this section, a district rule or a regional rule is **applicable** if the application of that rule to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.~~

64A Section 123A amended (Duration of consent for aquaculture activities)

(1) In section 123A(2)(b), after "managed", insert "; or".

(2) After section 123A(2)(b), insert:

(c) a national environmental standard expressly allows a shorter period.

64B Section 128 amended (Circumstances when consent conditions can be reviewed)

Replace section 128(1)(ba) with:

(ba) in the case of a coastal, water, or discharge permit, or a land use consent granted by a regional council, when relevant national environmental standards or national planning standards have been made; or

(bb) in the case of a land use consent, in relation to a relevant regional rule; or

65 Section 139 amended (Consent authorities and Environmental Protection Authority to issue certificates of compliance)

(1) In section 139(13)(c), after "making the request", insert "; and".

(2) After section 139(13)(c), insert:

(d) if the EPA requires a person to pay costs recoverable under paragraph (c), the costs are a debt due to the Crown that is recoverable in any court of competent jurisdiction.

Amendments to Part 6AA of principal Act

65A Section 141 amended (Interpretation)

(1) In section 141, definition of **matter**, paragraph (c), after "local authority)", insert "or part of such a request".

(2) In section 141, definition of **matter**, paragraph (d), after "local authority)", insert "or part of such a request".

(3) In section 141, definition of **matter**, paragraph (e), after "plan", insert "or part of a change to a plan".

(4) In section 141, definition of **matter**, paragraph (f), after "plan", insert "or part of a variation to a proposed plan".

66 Section 142 amended (Minister may call in matter that is or is part of proposal of national significance)

(1) After section 142(3)(a)(iii), insert:

~~(iiia) if it is a matter specified in any of paragraphs (c) to (f) of the definition of matter in section 141, gives effect to a national policy statement or the national planning template; or~~

(iiia) gives effect to a national policy statement and is one that is specified in any of paragraphs (c) to (f) of the definition of matter in section 141; or

~~(2) After section 142(8), insert:~~

~~(9) In subsections (2) to (6A), references to a matter include references to a —~~

~~(a) part of a change to a plan:~~

~~(b) part of a variation to a proposed plan:~~

~~(c) part of a request for the preparation of a regional plan:~~

~~(d) part of a request for a change to a plan.~~

67 Section 144 amended (Restriction on when Minister may call in matter)

Replace section 144(a) with:

(a) later than 5 working days before the date fixed for the commencement of the hearing, if the local authority has notified the matter; or

68 Section 149C amended (EPA must give public notice of Minister's direction)

After section 149C(3)(e), insert:

(ea) specify an electronic address for sending submissions; and

69 Section 149E amended (EPA to receive submissions on matter if public notice of direction has been given)

(1) After section 149E(3), insert:

~~(3A) A person who makes an electronic submission is to be treated as—~~

~~(a) having specified the electronic address from which the submission is received as an address for service; and~~

~~(b) having consented to receive electronically further correspondence relating to the matter to which the submission relates.~~

~~(3B) **Subsection (3A)** does not apply, however, if the submission includes a request that further information relating to the matter to which the submission relates be provided in hard copy form and not electronically.~~

(3A) If a person who makes an electronic submission on a matter to which the submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in **section 352(1)(b)** (as applied by **subsection (3B)**), any further correspondence relating to the matter must be served by sending it to that electronic address.

(3B) If **subsection (3A)** does not apply, the further correspondence may be served by any of the methods specified in **section 352(1)(b)**.

(2) In section 149E(9), replace "20 working days" with "30 working days".

70 Section 149F amended (EPA to receive further submissions if matter is request, change, or variation)

(1) After section 149F(2)(d), insert:

(da) an electronic address for sending further submissions; and

(2) After section 149F(5), insert:

~~(5A) A person who makes a further electronic submission is to be treated as—~~

~~(a) having specified the electronic address from which the further submission is received as an address for service; and~~

~~(b) having consented to receive electronically further correspondence relating to the matter to which the further submission relates.~~

~~(5B) **Subsection (5A)** does not apply, however, if the further submission includes a request that further correspondence relating to the matter to which the further submission relates be provided in hard copy form and not electronically.~~

(5A) If a person who makes a further electronic submission on a matter to which the further submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in **section 352(1)(b)** (as applied by **subsection (5B)**), any further correspondence relating to the matter must be served by sending it to that electronic address.

(5B) If **subsection (5A)** does not apply, the further correspondence may be served by any of the methods specified in **section 352(1)(b)**.

71 Section 149G amended (EPA must provide board or court with necessary information)

In section 149G(3)(a), after "New Zealand coastal policy statement,", insert "~~the~~ a national planning ~~template~~ standard,".

72 Section 149J amended (Minister to appoint board of inquiry)

(1) In section 149J(3)(b), replace "must be" with "may (but need not) be".

(2) After section 149J(3), insert:

(3A) The Minister may, if he or she considers it appropriate,—

(a) invite the EPA to nominate persons to be members of the board:

(b) appoint a member of the EPA board to be a member of the board of inquiry.

(3B) The Minister may, as he or she sees fit, set terms of reference ~~for the board of~~ about administrative matters relating to the inquiry.

73 Section 149K amended (How members appointed)

Replace section 149K(4) with:

(4) In appointing members, the Minister must consider the need for the board to have available to it, from its members,—

(a) knowledge, skill, and experience relating to—

(i) this Act; and

(ii) the matter or type of matter that the board will be considering; and

(iia) tikanga Māori; and

(iii) the local community; and

(iv) the exercise of control over the manner of examining and cross-examining witnesses; and

(b) legal expertise; and

(c) technical expertise in relation to the matter or type of matter that the board will be considering.

74 New section 149KA inserted (EPA may make administrative decisions)

After section 149K, insert:

149KA EPA may make administrative decisions

(1) The EPA may—

(a) make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this Part; or

(b) allow the board of inquiry to make those decisions.

(2) The EPA must have regard to the purposes of minimising costs and avoiding unnecessary delay when exercising its powers or performing its functions under **subsection (1)(a) or (b)**.

75 Section 149L amended (Conduct of inquiry)

Replace section 149L(2) to (4) with:

(2) If a hearing is to be held, the EPA must—

(a) fix a place for the hearing, which must be near to the area to which the matter relates; and

(b) fix the commencement date and time for the hearing; and

(c) give not less than 10 working days' notice of the matters stated in **paragraphs (a) and (b)** to—

(i) the applicant; and

(ii) every person who made a submission on the matter stating that he or she wished to be heard and who has not subsequently advised the board that he or she no longer wishes to be heard.

(3) The EPA may provide a board of inquiry with an estimate of the amount of funding required to process a nationally significant proposal.

(4) A board of inquiry—

(a) must conduct its inquiry in accordance with any terms of reference set by the Minister under **section 149J(3B)**:

(b) must carry out its duties in a timely and cost-effective manner:

(c) may direct that briefs of evidence be provided in electronic form:

(d) must keep a full record of all hearings and proceedings:

(e) may allow a party to question any other party or witness:

(f) may permit cross-examination:

(g) may, without limiting sections 39, 40 to ~~41C~~ **41D**, 99, and 99A,—

(i) direct that a conference of a group of experts be held:

(ii) direct that a conference be held with—

(A) any of the submitters who wish to be heard at the hearing; or

(B) the applicant; or

(C) any relevant local authority; or

(D) any combination of such persons:

(h) must, in relation to a nationally significant proposal, have regard to the most recent estimate provided to the board of inquiry by the EPA under **subsection (3)**.

(5) A board of inquiry may obtain planning advice from the EPA in relation to—

(a) the relevant district and regional plans, regional and national policy statements, ~~the~~ a national planning ~~template~~ standard, national environmental standards, and other similar documents:

(b) the issues raised by the matter being considered by the board.

76 Section 149O amended (Public notice and submissions where EPA receives proposed plan or change from local authority under section 149N)

(1) Replace section 149O(2) with:

(2) On receiving a copy of the proposed plan or change, the EPA must give public notice of the proposed plan or change that—

(a) states the Minister's reasons for making a direction in relation to the matter; and

(b) states where the proposed plan or change, accompanying information, and any further information may be viewed; and

(c) specifies any rule in the proposed plan or change that has legal effect on and from the date that public notice of the proposed plan or change is given under this section; and

(d) states that any person may make submissions to the EPA on the proposed plan or change; and

(e) specifies the closing date for receiving submissions; and

(f) specifies an electronic address for sending submissions; and

(g) specifies the address for service of the EPA and the applicant.

(2) In section 149O(4), replace "20 working days" with "30 working days".

(3) After section 149O(4), insert:

~~(4A) A person who makes an electronic submission under subsection (3) is to be treated as—~~

~~(a) having specified the electronic address from which the submission is received as an address for service; and~~

~~(b) having consented to receive electronically further correspondence relating to the matter to which the submission relates.~~

~~(4B) **Subsection (4A)** does not apply, however, if the submission includes a request that further correspondence relating to the matter to which the submission relates be provided in hard copy form and not electronically.~~

(4A) If a person who makes an electronic submission under subsection (3) on a matter to which the submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in **section 352(1)(b)** (as applied by **subsection (4B)**), any further correspondence relating to the matter must be served by sending it to that electronic address.

(4B) If **subsection (4A)** does not apply, the further correspondence may be served by any of the methods specified in **section 352(1)(b)**.

77 Section 149Q repealed (Board to produce draft report)

Repeal section 149Q.

78 Section 149R amended (Board to produce final report)

(1AA) In the heading to section 149R, delete "**final**".

(1) Replace section 149R(1) with:

(1) As soon as practicable after the board of inquiry has completed its inquiry on a matter, it must—

(a) make its decision; and

(b) produce a written report.

(2) In section 149R(2), replace "do everything under subsection (1)" with "perform the duties in **subsection (1)**".

(3) Replace section 149R(2A) and (2B) with:

(2A) For the purposes of subsection (2), the 9-month period excludes—

(a) the period starting on 20 December in any year and ending with 10 January in the following year:

(b) any time while an inquiry is suspended under **section 149ZG(3)** (as calculated from the date of notification of suspension under **section 149ZG(5)** to the date of notification of resumption under **section 149ZG(5)**).

(4) In section 149R(3)(e), after "New Zealand coastal policy statement", insert "or to ~~the~~ a national planning ~~template~~ standard".

(5) In section 149R(3)(f), after "New Zealand coastal policy statement,", insert "~~the~~ a national planning ~~template~~ standard,".

(6) In section 149R(4), replace "must send" with "must provide".

(7) After section 149R(7), insert:

(8) For the purposes of subsection (4)(d), the EPA is to be taken to have provided a copy of the final report to a submitter if—

(a) the EPA has published the final report on an Internet site maintained by the EPA to which the public has free access; and

(b) the submitter has specified an electronic address as an address for service (and has not requested that the final report be provided in hard copy form); and

(c) the EPA has sent the submitter at that electronic address a link to the final report published on the Internet site referred to in **paragraph (a)**.

79 Section 149RA amended (Minor corrections of board decisions, etc)

In section 149RA(1), replace "minor mistakes or defects" with "minor omissions, errors, or other defects".

80 Section 149S amended (Minister may extend time by which board must report)

After section 149S(3), insert:

(3A) For the purposes of subsection (2)(b), the period of 18 months excludes any time while an inquiry is suspended under **section 149ZG(3)** (as calculated from the date of notification of suspension under **section 149ZG(5)** to the date of notification of resumption under **section 149ZG(5)**).

81 New sections 149ZF and 149ZG inserted

After section 149ZE, insert:

149ZF Liability to pay costs constitutes debt due to EPA or the Crown

(1) This section applies when—

(a) the EPA or the Minister has required a person to pay costs recoverable under section 149ZD(2), (3), or (4); and

(b) the requirement to pay is final, in that the person who is required to pay—

(i) has not objected under section 357B or appealed under section 358 within the time permitted by this Act; or

(ii) has objected or appealed and the objection or the appeal has been decided against that person.

(2) The costs referred to in **subsection (1)** are a debt due to either the EPA or the Crown that is recoverable by the EPA, or the EPA on behalf of the Crown, in any court of competent jurisdiction.

149ZG Process may be suspended if costs outstanding

(1) This section applies if—

(a) the EPA or the Minister has required a person to pay costs recoverable under section 149ZD(2), (3), or (4); and

(b) the EPA has given the person written notice that, unless the costs specified in the notice are paid ~~within 20 working days of the date of notice~~,—

(i) the EPA may cease to carry out its functions in relation to the matter; and

(ii) if it does so, ~~any board of~~ the inquiry will be suspended.

(2) If the person referred to in **subsection (1)(b)** fails to pay the costs in the required time, the EPA may cease carrying out its functions in respect of the matter.

(3) If the EPA ceases to carry out its functions in respect of the matter, the inquiry is suspended.

(4) If the EPA ceases to carry out its functions in respect of the matter, but subsequently the person required to pay the costs does so,—

(a) the EPA must resume carrying out its functions in respect of the matter; and

(b) the inquiry is resumed.

(5) The EPA must, as soon as practicable after an inquiry is suspended under **subsection (3)** or is resumed under **subsection (4)(b)**, notify the following that the inquiry is suspended or has resumed (as the case may be):

(a) the applicant; and

(b) the board; and

(c) the Minister; and

(d) the relevant local authority; and

(e) every person who has made a submission on the matter.

(6) Nothing in this section affects or prejudices the right of a person to object under section 357B or appeal under section 358, but an objection or an appeal does not affect the right of the EPA under **subsection (2)** of this section to cease carrying out its functions.

Amendments to Part 8 of principal Act

~~**82 Section 168A amended (Notice of requirement by territorial authority)**~~

~~After section 168A(3)(a)(ii), insert:~~

~~(iia) the national planning template:~~

82A Section 170 amended (Discretion to include requirement in proposed plan)

(1) In section 170, delete "publicly".

(2) In section 170, insert as subsections (2) to (8) and subsection cross-headings:

(2) To obtain consent for the purposes of **subsection (1), (4), or (8)**, the territorial authority must—

(a) notify the requiring authority as to which planning process it intends to use under Schedule 1; and

(b) seek the consent of the requiring authority to use that planning process for considering the requirement; and

(c) if a collaborative planning process is to be used, inform the requiring authority that it must nominate a representative for appointment to the collaborative group.

Where proposal is to use collaborative planning process

(3) **Subsection (4)** applies if a territorial authority—

(a) receives notice of a requirement under section 168; and

(b) proposes to notify that it will use a collaborative planning process under **clause 38** of Schedule 1 within 40 working days of receiving the requirement.

(4) If this subsection applies, the territorial authority may, if the requiring authority consents,—

(a) include the requirement with the matters that will be subject to the proposed plan when it gives a notice under **clause 38** of Schedule 1; and

(b) include the requirement in the terms of reference set under **clause 41** of Schedule 1, instead of complying with section 169.

(5) If the requiring authority agrees to be part of the relevant collaborative group, the provisions of **Part 4** of Schedule 1 apply to the notice of requirement.

(6) If the requiring authority does not agree to be part of the collaborative group, or withdraws from the group before the group delivers its report under **clause 43** of Schedule 1, the notice of requirement must not proceed using the collaborative planning process proposed under **subsection (3)(b)**.

Where proposal is to use streamlined planning process

(7) **Subsection (8)** applies if a territorial authority—

(a) receives a notice of requirement under section 168; and

(b) within 40 working days of receiving that notice of requirement, proposes to apply to the responsible Minister under **section 80C** for a direction to use a streamlined planning process.

(8) If this subsection applies, the territorial authority may, if the requiring authority consents, include in its application to the responsible Minister the requirement as well as the matters that will be the subject of the proposed planning instrument, instead of complying with section 169.

~~83~~ ~~Section 171 amended (Recommendation by territorial authority)~~

~~Before section 171(1)(a), insert:~~

~~(aa) the objectives and policies in the national planning template that are—~~

~~(i) required to be included in regional policy statements or plans in accordance with **section 58C(1)(c) or (d)**, as the case may be; and~~

~~(ii) specified as an objective or a policy intended to deal with matters that the Minister considers are nationally significant; and~~

84 Section 189 amended (Notice of requirement to territorial authority)

(1) After section 189(1), insert:

(1A) However, a heritage protection authority that is a body corporate approved under section 188 must not give notice of a requirement for a heritage order in respect of any place or area of land that is private land.

(2) After section 189(5), insert:

(6) In this section,—

Crown includes—

(a) the Sovereign in right of New Zealand; and

(b) departments of State; and

(c) State enterprises named in Schedule 1 of the State-owned Enterprises Act 1986; and

(d) Crown entities within the meaning of section 7 of the Crown Entities Act 2004; and

(e) the mixed ownership model companies named in Schedule 5 of the Public Finance Act 1989; and

(f) local authorities within the meaning of the Local Government Act 2002

private land—

(a) means any land held in fee simple by any person other than the Crown; and

(b) includes—

(i) Maori land within the meaning of section 4 of Te Ture Whenua Maori Act 1993; and

(ii) land held by a person under a lease or licence granted to the person by the Crown.

~~**85 Section 191 amended (Recommendation by territorial authority)**~~

~~After section 191(1)(c), insert:~~

~~(ca) the objectives and policies in the national planning template that are—~~

~~(i) required to be included in plans or regional policy statements in accordance with **section 58C(1)(c) or (d)**, as the case may be; and~~

~~(ii) specified as an objective or a policy intended to deal with matters that the Minister considers are nationally significant; and~~

86 New sections 195B and 195C inserted

After section 195A, insert:

195B Transfer of heritage order

(1) The Minister may, on the Minister's own initiative, transfer responsibility for an existing heritage order to another heritage protection authority ~~(other than a body corporate)~~.

(1A) However, the Minister must not exercise the power under **subsection (1)** if—

(a) the heritage order relates to private land; and

(b) the transfer of the order is to a body corporate approved under section 188.

(2) In determining whether to transfer responsibility for an order under **subsection (1)**, the Minister must take into account—

(a) the heritage values of the place or area subject to the heritage order; and

(b) the reasonable use of the place or area despite it being subject to a heritage order; and

(c) any other matters that the Minister considers relevant, such as—

(i) the effect of the heritage order on the property rights of the owner and occupier (if any) of the place or area:

(ii) the ability of the heritage protection authority to whom the Minister proposes to transfer the heritage order to protect the place or area.

(3) Before the Minister may make a determination to transfer responsibility for a heritage order under this section, the Minister must serve written notice of the Minister's intention to do so on—

(a) the heritage protection authority currently responsible for the heritage order; and

(b) the heritage protection authority to whom the Minister proposes to transfer that responsibility; and

(c) the owner and occupier (if any) of the place or area subject to the heritage order and any other person with a registered interest in that place or area; and

(d) the territorial authority in whose district the place or area subject to the order is located.

(4) The persons or organisations served with a notice under **subsection (3)** may, within 20 working days after being served, make a written objection or submission to the Minister on the Minister's proposal.

(5) The Minister must take into account all objections and submissions received within the specified time before making a final determination.

(6) In **subsection (1A)**, **private land** has the meaning given in **section 189(6)**.

195C Notice of determination

(1) The Minister must publish a notice in the *Gazette* of the Minister's determination under **section 195B**.

(2) The territorial authority in whose district the place or area subject to an order under **section 195B** is located must note the transfer of responsibility for the heritage order by amending the district plan accordingly as soon as is reasonably practicable without using a process set out in Schedule 1.

~~*Amendments to Part 9 of principal Act*~~

~~**87 Section 207 amended (Matters to be considered)**~~

~~In section 207, insert as subsection (2):~~

~~(2) A special tribunal must also have particular regard to the objectives and policies in the national planning template that are—~~

~~(a) required to be included in plans or regional policy statements in accordance with **section 58G(1)(c) or (d)**, as the case may be; and~~

~~(b) specified as an objective or a policy intended to deal with matters that the Minister considers are nationally significant.~~

~~**88 Section 212 amended (Matters to be considered by Environment Court)**~~

~~In section 212(b), replace "and any proposed plan;" with "any proposed plan, and the national planning template;".~~

Amendments to Part 11 of principal Act

89 Section 265 amended (Environment Court sittings)

In section 265(1)(c), after "Principal Environment Judge", insert "or an Environment Judge".

90 Section 267 amended (Conferences)

Replace section 267(1) with:

(1) An Environment Judge—

(a) must, as soon as practicable after the lodging of proceedings, consider whether to convene a conference presided over by a member of the court; and

(b) may, at any time after the lodging of proceedings, require the parties, or any Minister, local authority, or other person that or who has given no-

tice of intention to appear under section 274, to be present at a conference presided over by a member of the court.

~~(1A) A person required to be present at a conference may be present in person or by a representative.~~

(1A) Each person required to be present at a conference must—

(a) be present in person; or

(b) have at least 1 representative present who has the authority to make decisions on behalf of the person represented on any matters that may reasonably be expected to arise at the conference.

~~(1B) However, a person (**person A**) may represent a person required to be present at a conference (**person B**) only if person A has the authority to make decisions on behalf of person B in respect of matters that may arise at the conference.~~

91 Section 268 replaced (Alternative dispute resolution)

Replace section 268 with:

268 Alternative dispute resolution

(1) At any time after ~~the lodgement of~~ proceedings are lodged, the Environment Court may, for the purpose of facilitating the resolution of any matter, ask a member of the Environment Court or another person to conduct an ADR process before or at any time during the course of a hearing.

(2) The Environment Court may act under this section on its own motion or on request.

(3) A member of the Environment Court who conducts an ADR process is not disqualified from resuming his or her role to decide a matter if—

(a) the parties agree that the member should resume his or her role and decide the matter; and

(b) the member concerned and the court are satisfied that it is appropriate for him or her to do so.

(4) In this section and **section 268A**, **ADR process** means an alternative dispute resolution process (for example, mediation) designed to facilitate the resolution of a matter.

268A Mandatory participation in alternative dispute resolution processes

(1) This section applies to an ADR process conducted under **section 268**.

(2) Each party to the proceedings must participate in the ADR process in person or by a representative, unless leave is granted under this section.

~~(3) A person (**person A**) may represent a person required to participate in an ADR process (**person B**) only if person A has the authority to make decisions on behalf of person B in respect of matters that may arise during the ADR process.~~

(3) Each person required to participate in an ADR process must—

(a) be present in person; or

(b) have at least 1 representative present who has the authority to make decisions on behalf of the person represented on any matters that may reasonably be expected to arise in the ADR process.

(4) A party to the proceedings may apply to the Environment Court for leave not to participate in the ADR process.

(5) The Environment Court may grant leave if it considers that it is not appropriate for the party to participate in the ADR process.

92 Section 276 amended (Evidence)

After section 276(3), insert:

(4) This section applies subject to **section 277A**.

93 New section 277A inserted (Powers of Environment Court in relation to evidence heard on appeal by way of rehearing)

After section 277, insert:

277A Powers of Environment Court in relation to evidence heard on appeal by way of rehearing

(1) This section applies to an appeal brought by way of a rehearing under **clause 59** of Schedule 1.

(2) In conducting the appeal, the Environment Court has full discretion to rehear all or any part of the evidence received by the local authority or panel whose decision is the subject of the appeal.

(3) The Environment Court must rehear the evidence of a witness if the court has reason to believe that the record of evidence of that person made by direction of the local authority or panel is or may be incomplete in any material way.

(4) A party to the appeal may introduce new evidence with the leave of the Environment Court.

(5) The Environment Court may grant leave under **subsection (4)**, but only if it considers that the proposed new evidence was not able to be produced at the hearing conducted by the local authority or panel.

94 Section 279 amended (Powers of Environment Judge sitting alone)

After section 279(4), insert:

(5) In the case of an appeal under section 120, in addition to exercising the powers conferred by subsections (1) to (4), an Environment Judge sitting alone may—

(a) exercise any other powers of the Environment Court that may be conferred by the Principal Environment Judge either generally or in relation to a particular matter; and

(b) exercise those powers on any terms and conditions that the Principal Environment Judge may think fit.

95 Section 280 amended (Powers of Environment Commissioner sitting without Environment Judge)

(1) After section 280(1), insert:

(1AA) If proceedings relate to an appeal under section 120, 1 or more Environment Commissioners sitting without an Environment Judge may,—

(a) in relation to a particular matter, exercise any of the powers conferred by section 279(1) to (4) on an Environment Judge sitting alone that may be conferred by the Environment Judge after a conference held under section 267 in relation to that matter; and

(b) exercise the powers referred to in **paragraph (a)** on any terms and conditions that the Environment Judge may think fit.

(2) Repeal section 280(1A).

96 Section 281A replaced (Registrar may waive, reduce, or postpone payment of fee)

Replace section 281A with:

281A Registrar may waive, reduce, or postpone payment of fee

(1) A person may apply to the Registrar for a waiver, reduction, or postponement of the payment to the court of any fee prescribed by regulations made under this Act.

(2) The application must be made in the prescribed form (if any).

(3) The Registrar may waive, reduce, or postpone the payment of the fee only if the Registrar is satisfied, after applying any prescribed criteria, that—

(a) the person responsible for paying the fee is unable to pay the fee in whole or in part; or

(b) in the case of proceedings concerning a matter of public interest, the proceedings are unlikely to be commenced or continued if the powers are not exercised.

~~97 Section 290A replaced (Environment Court to have regard to decision that is subject of appeal or inquiry)~~

~~Replace section 290A with:~~

~~290A Environment Court to have regard to decision that is subject of appeal or inquiry, and to related reports and processes~~

~~In determining an appeal or inquiry, the Environment Court must have regard to—~~

~~(a) the decision that is the subject of the appeal or inquiry; and~~

~~(b) in the case of an appeal under section 120,~~

~~(i) any reports prepared by the consent authority for the purpose of a hearing on the decision; and~~

~~(ii) the outcome of any related pre-hearing meeting or alternative dispute resolution process.~~

98 Section 293 amended (Environment Court may order change to proposed policy statements and plans)

(1) In section 293(3)(b), replace "the" with "a".

(2) After section 293(3)(b), insert:

(ba) ~~the~~ a national planning ~~template~~ standard:

(3) In section 293(5)(a), replace "the New Zealand coastal policy statement," with "a New Zealand coastal policy statement, ~~the~~ a national planning ~~template~~ standard,".

Amendment to Part 11A of principal Act

98A Section 308B amended (Limit on making submissions)

In section 308B(3), delete "clause 6(4) or 29(1B) of".

Amendments to Part 12 of principal Act

99 Section 310 amended (Scope and effect of declaration)

(1) In section 310(b)(i), after "New Zealand coastal policy statement", insert "or ~~the~~ a national planning ~~template~~ standard".

(2) In section 310(ba)(i), after "for the region", insert "or a relevant provision or proposed provision of ~~the~~ a national planning ~~template~~ standard".

(3) In section 310(bb)(i), after "regional policy statement", insert "or a relevant provision or proposed provision of ~~the~~ a national planning ~~template~~ standard".

Amendments to Part 14 of principal Act

100 Section 352A amended (Mode of service of summons on master or owner of ship)

In section 352A(4), definition of **Registrar**, replace "section 2(1)" with "section 5".

101 Section 357B amended (Right of objection in relation to imposition of additional charges or recovery of costs)

In section 357B(a), replace "section 36(3)" with "**section 36(5)**".

102 Section 357D amended (Decision on objections made under sections 357 to 357B)

In section 357D(1)(c), replace "section 36(3)" with "**section 36(5)**".

103 Section 360 amended (Regulations)

(1) After section 360(1)(b), insert:

(baa) prescribing, for the purpose of the Registrar deciding whether to waive, reduce, or postpone the payment of a fee under **section 281A**, the criteria that the Registrar must apply to—

(i) assess a person's ability to pay a fee; and

(ii) identify proceedings that concern matters of public interest:

(2) In section 360(1)(ba), after "under this Act", insert "(including offences prescribed under **paragraph (ho)**)".

~~(3) In section 360(1)(bb), replace "$1,000" with "$750 in the case of any offence prescribed under **paragraph (ho)** and not exceeding $1,000 in any other case".~~

(3) Replace section 360(1)(bb) with:

(bb) prescribing forms for infringement notices and any particulars to be contained in infringement notices, including infringement fees (which may be different fees for different offences)—

(i) not exceeding a fee of $2,000 for each infringement offence prescribed under **paragraph (ho)**:

(ii) not exceeding a fee of $100 per stock unit for each infringement offence prescribed under **paragraph (ho)** that is differentiated on the basis of the number of stock units, to a maximum fee of $2,000 for each infringement offence:

(iii) not exceeding a fee of $1,000 in any other case:

(4) After section 360(1)(d), insert:

(da) prescribing the form and content (including conditions) of water permits and discharge permits:

(5) In section 360(1)(hk), replace "section 35(2)(a)(ii)" with "section 35(2) and **(2AA)**".

(6) After section 360(1)(hk)(i), insert:

(ia) matters by reference to which monitoring must be carried out:

(7) After section 360(1)(hm), insert:

(hn) prescribing measures for the purpose of excluding stock from water bodies, estuaries, and coastal lakes and lagoons, including regulations that—

(i) apply generally in relation to stock or to specified kinds of stock (for example, dairy cattle):

(ii) apply generally in relation to water bodies, estuaries, and coastal lakes and lagoons or to specified kinds of water bodies, estuaries, and coastal lakes and lagoons:

(iii) apply different measures to different kinds of stock or to different kinds of water bodies, estuaries, and coastal lakes and lagoons:

(iv) prescribe technical requirements for the purposes of the regulations (for example, the minimum height and other specifications with which any required means of exclusion must comply, such as requirements for fencing or riparian planting):

(ho) prescribing infringement offences for the contravention of, or non-compliance with, any regulations made under **paragraph (hn)**:

(hp) prescribing requirements that apply to the use of models (being simplified representations of systems, for example, farms, catchments, and regions) under this Act by—

(i) local authorities:

(ii) the holders of resource consents:

(iii) other persons:

(hq) provide that, despite sections 68(2) and 76(2), a more stringent rule in a plan prevails over a regulation made under **paragraph (hn)**:

(8) After section 360(2), insert:

(2AA) Any consultation undertaken before the commencement of **subsection (1)(bb), (hn), or (ho)**, in relation to a regulation made under those paragraphs, satisfies the consultation requirements in relation to that regulation.

(9) After section 360(2E), insert:

(2F) Regulations made under **subsection (1)(hn) or (ho)** may specify—

(a) that rules inconsistent with those regulations be withdrawn or amended—

(i) to the extent necessary to remove the inconsistency; and

(ii) as soon as practicable after the date on which the regulations come into force; but

(iii) without using any of the processes under Schedule 1 for changing a plan or proposed plan; and

(b) in relation to a rule made before the commencement of the regulations,—

(i) the extent to which a matter that the regulations apply to continues to have effect; or

(ii) the period for which a matter that the regulations apply to continues to have effect.

(2G) If regulations specify a matter under **subsection (2F)**, the local authorities concerned must publicly notify that the rules have been withdrawn or amended not later than 5 working days after they are withdrawn or amended.

104 Section 360B amended (Conditions to be satisfied before regulations made under section 360A)

After section 360B(2)(c)(iii)(B), insert:

(BA) ~~the~~ a national planning ~~template~~ standard; and

105 New sections 360D, 360DA, and 360E inserted

After section 360C, insert:

360D Regulations that permit or prohibit certain rules

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations— to prohibit or remove specified rules or types of rules that would duplicate, overlap with, or deal with the same subject matter as is included in other legislation.

~~(a) to permit a specified land use:~~

~~(b) to prohibit a local authority from making specified rules or specified types of rules:~~

~~(c) to specify rules or types of rules that are overridden by the regulations and must be withdrawn:~~

~~(d) to prohibit or override specified rules or types of rules that meet the description in **subsection (3)(b)**.~~

~~(2) Regulations made under **subsection (1)(a)** may provide for a land use to be a permitted activity, but only for the purpose of avoiding restrictions on land use that are not reasonably required to achieve the purpose of the Act.~~

~~(3) Regulations must not be made —~~

~~(a) under **subsection (1)(b) or (c)** unless, in the Minister's opinion, the rules would restrict land use for residential development in a way that is not reasonably required to achieve the purpose of the Act:~~

~~(b) under **subsection (1)(d)** unless, in the Minister's opinion, the rules would duplicate, overlap with, or deal with the same subject matter as is included in other legislation and that duplication, overlap, or repetition would be undesirable.~~

~~(4) Regulations made under **subsection (1)** may require that —~~

~~(a) rules inconsistent with those regulations be withdrawn or amended —~~

~~(i) to the extent necessary to remove the inconsistency; and~~

~~(ii) as soon as practicable after the date on which the regulations come into force; and~~

~~(iii) without using any of the processes under Schedule 1 for changing a plan or proposed plan; and~~

~~(b) their withdrawal or amendment be publicly notified by the local authority concerned.~~

(4) Regulations made under this section may require that rules inconsistent with those regulations be withdrawn or amended—

(a) to the extent necessary to remove the inconsistency; and

(b) as soon as practicable after the date on which the regulations come into force; but

(c) without using any of the processes under Schedule 1 for changing a plan or proposed plan.

(4A) If regulations include a requirement under **subsection (4)**, their withdrawal or amendment must be publicly notified by the local authority not later than 5 working days after they have been withdrawn or amended.

(5) Regulations made under this section—

(a) may specify, in relation to a rule made before the commencement of the regulations,—

(i) the extent to which a matter that the regulations apply to continues to have effect; or

(ii) the period for which a matter that the regulations apply to continues to have effect; and

(b) may apply—

(i) generally; or

(ii) to any specified district or region; or

(iii) to any specified part of New Zealand.

(6) Section 360(2) and (4) applies to regulations made under this section.

~~(7) Before recommending that regulations be made under this section, the Minister must—~~

~~(a) prepare an evaluation report under section 32; and~~

~~(b) have particular regard to that report when deciding whether to recommend that regulations be made.~~

~~(8) The Minister must not recommend the making of regulations under this section unless the Minister is of the opinion that it is necessary or desirable to do so, after the Minister has—~~

~~(a) notified the public, relevant local authorities, and relevant iwi authorities of the proposed regulations; and~~

~~(b) established a process that—~~

~~(i) the Minister considers gives the public, the relevant local authorities, and the relevant iwi authorities adequate time and opportunity to comment on the proposed regulations; and~~

~~(ii) requires a report and recommendation to be made to the Minister on the comments received under **subparagraph (i)**; and~~

~~(c) publicly notified the report and recommendation.~~

~~(9) In the case of regulations relating to a specified district, region, or part of New Zealand, the requirements of **subclause (8)** may apply only to that district, region, or part of New Zealand.~~

~~(10) The power to make regulations conferred by **subsection (1)(a), (b), and (c)** expires and is repealed on and from the day that is 1 year after the first national planning template is notified in the *Gazette* under **section 58E(4)**.~~

~~(11) Regulations made under **subsection (1)(b) or (c)** that are still in force expire and are revoked on and from the day specified in **subsection (10)**.~~

360DA Procedures relevant to making rules under section 360D

Before recommending that regulations be made under **section 360D**, the Minister must—

(a) notify the public, relevant local authorities, and relevant iwi authorities of the proposed regulations; and

(b) establish a process that—

(i) the Minister considers gives the public, the relevant local authorities, and the relevant iwi authorities adequate time and opportunity to comment on the proposed regulations; and

(ii) requires a report and recommendation to be made to the Minister on the comments received under **subparagraph (i)**; and

(c) ensure that an evaluation report is prepared under section 32; and

(d) have particular regard to that report when deciding whether to recommend that regulations be made; and

(e) publicly notify the report and recommendation required under **paragraph (b)(ii)**.

360E Regulations relating to administrative charges and other amounts

~~(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations specifying —~~

~~(a) the charges that a local authority is required to fix under section 36 (*see* **section 36(4)**); and~~

~~(b) whether a consent authority is required to fix a fee under **section 34B**.~~

~~(2) Regulations made under this section —~~

~~(a) may require a local authority to fix a charge listed in section 36(1) only if the charge relates to an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent (including charges for certificates of compliance and existing use certificates); and~~

~~(b) must specify the class or classes of application in respect of which each charge or fee is to be fixed; and~~

~~(c) may include a schedule of charges or fees to be fixed; but~~

~~(d) must not fix any charges or fees.~~

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the purpose of specifying the charges that a local authority is required to fix under section 36(1) (*see* **section 36(4)**).

(2) Regulations made under this section—

(a) must not fix the amount to be charged by local authorities under section 36(1); but

(b) may require local authorities—

(i) to fix charges for hearings commissioners determining plan changes or resource consent applications, in accordance with a delegation from the local authority under section 34A(1), where a hearing is held:

(ii) before a hearing commences, to set the overall charge payable by the applicant for a plan change or resource consent hearing:

(c) may require local authorities to fix charges for the functions referred to in section 36(1)(b).

(3) Regulations that relate to a function referred to in section 36(1)(b)—

(a) must specify the class or classes of application in respect of which each charge is to be fixed; and

(b) must include a schedule of charges to be applied by local authorities, fixed on the basis of—

(i) the class of application; and

(ii) the complexity of the class of application to which the charges apply; and

(c) may specify a class or classes of additional charges that may apply.

Amendment to Part 15 of principal Act

106 Section 401B amended (Obligation to pay coastal occupation charge deemed condition of consent)

Replace section 401B(a) with:

(a) authorises the holder to occupy any part of the common marine and coastal area; and

Part 16 of principal Act ~~replaced~~ repealed

107 Part 16 ~~replaced~~ repealed

~~Replace~~ Part 16 is repealed. ~~with:~~

~~**Part 16**~~

~~**Transitional, savings, and related provisions for amendments made on or after 4 September 2013**~~

~~**434 Transitional, savings, and related provisions for amendments made on or after 4 September 2013**~~

~~The transitional, savings, and related provisions set out in Schedule 12 have effect according to their terms.~~

Amendments to Schedule 1 of principal Act

108 Schedule 1 amended

Amend Schedule 1 as set out in **Schedule 1** of this Act.

Amendment to Schedule 1AA of principal Act

108A Schedule 1AA amended

In Schedule 1AA, after clause 1(3), insert:

(4) Any material or documents that may be incorporated by reference under this schedule may be in electronic form, and may include any electronic tools, models, and databases that are appropriate for inclusion in a national environmental standard, a national policy statement, or a New Zealand coastal policy statement.

(5) A requirement to provide a copy of any material or document incorporated by reference under this schedule is satisfied if an electronic copy is provided.

Amendments to Schedule 4 of principal Act

109 Schedule 4 amended

In Schedule 4,—

(a) clause 6(1)(c), delete "substances and"; and

(b) clause 7(1)(f), delete "or the use of hazardous substances".

Amendments to Schedule 12 of principal Act

110 Schedule 12 amended

Amend Schedule 12 as set out in **Schedule 2** of this Act.

Consequential amendments commencing on day after Royal assent

111 Consequential amendments commencing on day after Royal assent

Amend the enactments specified in **Schedule 3** as set out in that schedule.

Subpart 2—Amendments that commence 6 months after Royal assent

Amendments to Part 1 of principal Act

112 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

~~**affected boundary**, in relation to a boundary activity, has the meaning given in **section 87AAB**~~

boundary activity and **boundary rule** have the meanings given in **section 87AAB**

fast-track application has the meaning given in **section 87AAC**

infringed boundary, in relation to a boundary activity, has the meaning given in **section 87AAB**

public boundary has the meaning given in **section 87AAB**

(2) In section 2(1), replace the definition of **public notice** with:

public notice has the meaning given in **section 2AB**

113 Section 2AA amended (Definitions relating to notification)

Replace section 2AA(2) with:

(2) In this Act, unless the context otherwise requires~~another meaning~~,—

affected customary marine title group has the meaning given in section 95G

affected person means a person who, under **section 95E or 149ZCF**, ~~a consent authority decides~~ is an affected person in relation to the application or matter

affected protected customary rights group has the meaning given in section 95F

limited notification means serving notice of the application or matter ~~in accordance with **section 95B** and~~on any affected person within the time limit specified by **section 95, 169(1), or 190(1)**

notification means public notification or limited notification of the application or matter

~~**public notification** means giving public notice of the application or matter in accordance with **section 95A**, in the manner required by **section 2AB**, and within the time limit specified by **section 95**.~~

public notification means giving public notice by—

(a) giving notice of the application or matter in the manner required by **section 2AB**; and

(b) giving that notice within the time limit specified by **section 95, 169(1), or 190(1)**; and

(c) serving notice of the application or matter on every prescribed person.

114 New section 2AB inserted (Meaning of public notice)

After section 2AA, insert:

2AB Meaning of public notice

(1) If this Act requires a person to give **public notice** of something, the person must—

(a) publish on an Internet site to which the public has free access a notice that—

(i) includes all the information that is required to be publicly notified; and

(ii) is in the prescribed form (if any); and

(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates.

(2) The notice and the short summary of the notice must be worded in a way that is clear and concise.

Amendments to Part 3 of principal Act

115 Section 11 amended (Restrictions on subdivision of land)

(1) Replace section 11(1)(a) with:

(a) a subdivision permitted by **subsection (1A)**; or

(2) After section 11(1), insert:

(1A) A person may subdivide land under **subsection (1)(a)** if—

(a) either—

(i) the subdivision is expressly allowed by a resource consent; or

(ii) the subdivision does not contravene a national environmental standard, a rule in a district plan, or a rule in a proposed district plan for the same district (if there is one); and

(b) the subdivision is shown on a survey plan that is—

(i) deposited under Part 10 by the Registrar-General of Land, in the case of a survey plan described in paragraph (a)(i) or (b) of the definition of survey plan in section 2(1); or

(ii) approved as described in section 228 by the Chief Surveyor, in the case of a survey plan described in paragraph (a)(ii) of the definition of survey plan in section 2(1).

Amendments to Part 4 of principal Act

116 Section 35 amended (Duty to gather information, monitor, and keep records)

In section 35(5)(ga), after "37", insert ", **87BA, 87BB**".

117 Section 36 amended (Administrative charges)

After section 36(1)(ad), insert:

(ae) charges payable by persons proposing to undertake an activity, for the carrying out by the local authority of its functions in relation to issuing a notice under **section 87BA or 87BB** stating whether the activity is a permitted activity:

(af) charges payable by a person making an objection under section 357A(1)(f) or (g), if the person requests under **section 357AB** that the objection be considered by a hearings commissioner, for the cost of the objection being considered and decided in accordance with the request:

118 Section 41A amended (Control of hearings)

In section 41A, replace "section 41B or section 41C" with "any of sections 41B to **41D**".

119 Section 41C amended (Directions and requests before or at hearings)

Repeal section 41C(7) to (9).

120 New section 41D inserted (Striking out submissions)

After section 41C, insert:

41D Striking out submissions

(1) An authority conducting a hearing on a matter described in section 39(1) may direct that a submission or part of a submission be struck out if the authority is satisfied that at least 1 of the following applies to the submission or the part:

(a) it is frivolous or vexatious:

(b) it discloses no reasonable or relevant case:

(c) it would be an abuse of the hearing process to allow the submission or the part to be taken further:

(d) it is supported only by evidence that, though purporting to be independent expert evidence, has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert evidence on the matter:

(e) it contains offensive language.

~~(2) However, the authority must direct that a submission or part of a submission be struck out if—~~

~~(a) the submission is on an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent; and~~

~~(b) the authority is satisfied that at least 1 of the following applies to the submission or the part:~~

~~(i) it does not have a sufficient factual basis:~~

~~(ii) it is not supported by any evidence:~~

~~(iii) it is supported only by evidence that purports to be independent expert evidence on a matter but that is prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert evidence on the matter:~~

~~(iv) it is unrelated to an activity's actual or likely adverse effects, if those effects were the reason for notifying the application or review; and~~

~~(c) the authority considers that the direction would not materially compromise the authority's ability to fulfil its obligations under Part 2.~~

(3) An authority—

(a) may make a direction under this section before, at, or after the hearing; and

(b) must record its reasons for any direction made.

(4) A person whose submission is struck out, in whole or in part, has a right of objection under section 357.

Amendment to Part 5 of principal Act

120A Section 48 amended (Public notification of proposed national policy statement and inquiry)

Replace section 48(1) with:

(1) As soon as practicable after its appointment, a board of inquiry must ensure that—

(a) public notice of the proposed national policy statement and inquiry is given; and

(b) a copy of the short summary of the notice referred to in **section 2AB(1)(b)**, along with details of the Internet site where the notice can be accessed, is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin.

Amendments to Part 6 of principal Act

121 New sections 87AAB to 87AAD inserted

After section 87AA, insert:

87AAB Meaning of boundary activity and related terms

(1) An activity is a **boundary activity** if—

(a) the activity requires a resource consent because of the application of 1 or more boundary rules, but no other district rules, to the activity; and

(b) no ~~affected~~ infringed boundary is a public boundary.

(2) In this section,—

~~**affected boundary**, in relation to a boundary activity, means a boundary that is affected by the application of a boundary rule to the activity~~

boundary rule means a district rule, or part of a district rule, to the extent that it relates to—

(a) the distance between a structure and 1 or more boundaries of an allotment; or

(b) the dimensions of a structure in relation to its distance from 1 or more boundaries of an allotment

infringed boundary, in relation to a boundary activity,—

(a) means a boundary to which an infringed boundary rule applies:

(b) if there is an infringement to a boundary rule when measured from the corner point of an allotment (regardless of where the infringement is to be measured from under the district plan), means every allotment boundary that intersects with the point of that corner:

(c) if there is an infringement to a boundary rule that relates to a boundary that forms part of a private way, means the allotment boundary that is on the opposite side of the private way (regardless of where the infringement is to be measured from under the district plan)

public boundary means a boundary between an allotment and any road, river, lake, coast, esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown.

87AAC Meaning of fast-track application

(1) An application is a **fast-track application** if—

(a) the application is for a resource consent for 1 or both of the following, but no other, activities:

(i) a controlled activity that requires consent under a district plan (other than a subdivision of land):

(ii) an activity prescribed, or identified in the manner prescribed, under **section 360F(1)(a)**; and

(b) the application includes an address for service that is an electronic address.

(2) An application described in **subsection (1)** ceases to be a fast-track application if—

(a) a consent authority gives public or limited notification of the application; or

(b) a hearing is to be held for the application~~.~~; or

(c) at the time the application is lodged, the applicant notifies the consent authority that the applicant wishes to opt out of the fast track process.

(3) To avoid doubt, if an application ceases to be a fast-track application under **subsection (2)(a) or (b)**,—

(a) the application is not incomplete by reason only that it does not include the information referred to in **section 88(2)(c)**; but

(b) a consent authority may, under section 92, request the applicant to provide any of the information referred to in **section 88(2)(c)**.

(4) To avoid doubt, when an application ceases to be a fast-track application,—

(a) the application becomes subject to the standard processing requirements (including any time periods for doing anything) under this Act that would have applied if the application had not been a fast-track application; and

(b) those time periods are deemed to have been running from the time they would have begun if this section had not applied and are not reset as from the time the application ceases to be fast-track.

87AAD Overview of application of this Part to boundary activities and fast-track applications

(1) If an activity is a boundary activity,—

(a) the activity may be a permitted activity if the requirements of **section 87BA** are satisfied:

(b) there are restrictions on who may be notified of an application for a resource consent for the activity (*see* **sections 95A(4) and (5) and ~~95DA(4)~~ 95B(7)**):

~~(c) there is no right of appeal under section 120 against the whole or any part of a decision of a consent authority referred to in section 120(1) to the extent that the decision relates to resource consent for the activity.~~

(c) the right of appeal under section 120 against the whole or any part of a decision of a consent authority is excluded unless the decision relates to a resource consent for a non-complying activity.

(2) If an application is a fast-track application,—

(a) a consent authority must, within the time limit specified in **section 95** for fast-track applications, decide whether to give public or limited notification of the application; and

(b) notice of a decision on the application must be given within the time limit specified in **section 115(4A)**; and

(c) except as provided for in **paragraphs (a) and (b)**, this Act applies to the application in the same way as it applies to any other application for a resource consent.

(3) This overview is by way of explanation only. If any provision of this Act conflicts with this overview, that provision prevails.

122 New sections 87BA and 87BB inserted

After section 87B, insert:

87BA Boundary activities approved by neighbours on ~~affected~~ infringed boundaries are permitted activities

(1) A boundary activity is a permitted activity if—

(a) the person proposing to undertake the activity provides to the consent authority—

(i) a description of the activity; and

(ii) a plan (drawn to scale) of the site at which the activity is to occur, showing the height, shape, and location on the site of the proposed activity; and

(iii) the full name and address of each owner ~~or occupier~~ of the site; and

(iv) the full name and address of each owner ~~or occupier~~ of an allotment with an ~~affected~~ infringed boundary; and

(b) each owner ~~or occupier~~ of an allotment with an ~~affected~~ infringed boundary—

(i) gives written approval for the activity; and

(ii) signs the plan referred to in **paragraph (a)(ii)**; and

(c) the consent authority notifies the person proposing to undertake the activity that the activity is a permitted activity.

(2) If a person proposing to undertake an activity provides information to a consent authority under this section, the consent authority must,—

(a) if **subsection (1)(a) and (b)** are satisfied, give a notice under **subsection (1)(c)**; or

(b) if **subsection (1)(a) and (b)** are not satisfied, notify the person of that fact and return the information to the person.

(2A) The consent authority must take the appropriate action under **subsection (2)** within 10 working days after the date on which it receives the information it needs to make a decision under **subsection (2)(a) or (b)**.

(3) A notice given under this section must be in writing.

(4) If a person has submitted an application for a resource consent for a boundary activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant.

(5) A notice given under **subsection (1)(c)** lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.

87BB Activities meeting certain requirements are permitted activities

(1) An activity is a permitted activity if—

(a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, regulations (including any national environmental standard), a plan, or a proposed plan; and

(b) any adverse environmental effects of the activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance referred to in **paragraph (a)**; and

(c) any adverse effects of the activity on a person are less than minor; and

(d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity that the activity is a permitted activity.

(2) A consent authority may give a notice under **subsection (1)(d)**—

(a) after receiving an application for a resource consent for the activity; or

(b) on its own initiative.

(3) The notice must be in writing and must include—

(a) a description of the activity; and

(b) details of the site at which the activity is to occur; and

(c) the consent authority's reasons for considering that the activity meets the criteria in **subsection (1)(a) to (c)**, and the information relied on by the consent authority in making that decision.

(4) If a person has submitted an application for a resource consent for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant.

(5) A notice given under **subsection (1)(d)** lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.

123 Section 88 amended (Making an application)

(1) Replace section 88(2)(b) with:

(b) in the case of a fast-track application, include the prescribed information relating to the activity (if any) (*see* **section 360F(1)(b)**); and

(c) in the case of any other application or a fast-track application where there are no prescribed information requirements relating to the activity, include the information relating to the activity, including an assessment of the activity's effects on the environment, that is required by Schedule 4.

(2) Replace section 88(3)(b) with:

(b) include the information required by **subsection (2)(b) or (c)** (as applicable).

~~124 Section 88E amended (Excluded time periods relating to other matters)~~

~~In section 88E(3), replace "95E(3)" with "**95E(4)**".~~

125 Sections 95 to 95B replaced

Replace sections 95 to 95B with:

95 Time limit for public notification or limited notification

(1) A consent authority must, within the time limit specified in **subsection (2)**,—

(a) decide, in accordance with **sections 95A and 95B**, whether to give public or limited notification of an application for a resource consent; and

(b) notify the application if it decides to do so.

(2) The time limit is,—

(a) in the case of a fast-track application, 10 working days after the day the application is first lodged; and

(b) in the case of any other application, 20 working days after the day the application is first lodged.

95A Public notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.

Step 1: mandatory public notification in certain circumstances

(2) Determine whether the application meets any of the criteria set out in **subsection (3)** and,—

(a) if the answer is yes, publicly notify the application; and

(b) if the answer is no, go to step 2.

(3) The criteria for step 1 are as follows:

(a) the applicant has requested that the application be publicly notified:

(b) public notification is required under section 95C:

(c) the application ~~includes a proposal to exchange recreation reserve land under **section 14B**~~ is made jointly with an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977.

Step 2: if not required by step 1, public notification precluded in certain circumstances

(4) Determine whether the application meets either of the criteria set out in **subsection (5)** and,—

(a) if the answer is yes, go to step 4 (step 3 does not apply); and

(b) if the answer is no, go to step 3.

(5) The criteria for step 2 are as follows:

~~(a) a rule or national environmental standard precludes public notification of the application:~~

(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification:

(b) the application is for a resource consent for 1 or more of the following, but no other, activities:

(i) a controlled activity:

~~(ii) a restricted discretionary or discretionary activity, but only if the activity is a boundary activity, a subdivision of land, or a residential activity:~~

(ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity:

(iia) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity:

(iii) a prescribed activity (*see* **section 360G(1)(a)(i)**).

(6) In **subsection (5)**, **residential activity** means an activity that requires resource consent under a regional or district plan and that is associated with the construction, alteration, or use of ~~a dwellinghouse~~ 1 or more dwellinghouses on

land that, under a district plan, is intended to be used solely or principally for residential purposes.

Step 3: if not precluded by step 2, public notification required in certain circumstances

(7) Determine whether the application meets either of the criteria set out in **subsection (8)** and,—

(a) if the answer is yes, publicly notify the application~~ and specify in the notice the adverse effects that the consent authority considers to be relevant under section 95D (if applicable)~~; and

(b) if the answer is no, go to step 4.

(8) The criteria for step 3 are as follows:

~~(a) a rule or national environmental standard requires public notification of the application:~~

(a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification:

(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

Step 4: public notification in special circumstances

(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—

(a) if the answer is yes, publicly notify the application~~ and specify in the notice the special circumstances that warrant the application being publicly notified~~; and

(b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under **section 95B**.

95B Limited notification of consent applications

(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under **section 95A**.

Step 1: certain affected groups and affected persons must be notified

(2) Determine whether there are any—

(a) affected protected customary rights groups; or

(b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).

(3) Determine—

(a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and

(b) whether the person to whom the statutory acknowledgement is made is an affected person under **section 95E**.

(4) Notify the application to each affected group identified under **subsection (2)** and each affected person identified under **subsection (3)**~~, and specify in the notice the adverse effects that the consent authority considers to be relevant for the purpose of **section 95E**, 95F, or 95G (as applicable)~~.

Step 2: ~~notification of other affected persons~~ if not required by step 1, limited notification precluded in certain circumstances

(5) Determine whether the application meets either of the criteria set out in **subsection (6)** and,—

(a) if the answer is yes, go to step 4 (step 3 does not apply); and

(b) if the answer is no, go to step 3.

(6) The criteria for step 2 are as follows:

~~(a) a rule or national environmental standard precludes limited notification of the application:~~

(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification:

(b) the application is for a resource consent for either or both of the following, but no other, activities:

(i) a controlled activity that requires consent under a district plan (other than a subdivision of land):

(ii) a prescribed activity (*see* **section 360G(1)(a)(ii)**).

Step 3: if not precluded by step 2, certain other affected persons must be notified

~~(7) Determine—~~

~~(a) whether the proposed activity is on or adjacent to, or may affect,—~~

~~(i) land in respect of which a nohoanga, an overlay classification, or a vest and vesting back is granted in accordance with an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or~~

~~(ii) land that is the site of a wāhi tapu that is recognised in a plan or entered on the New Zealand Heritage List/Rārangi Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; and~~

~~(b) whether the person to whom the nohoanga, overlay classification, or vest and vesting back is granted, or the iwi to whom the site is wāhi tapu, is an affected person under **section 95E**.~~

~~(8) Determine —~~

~~(a) which other persons are eligible under **section 95DA** to be considered affected persons in relation to the application (**eligible persons**); and~~

~~(b) which of the other persons are affected persons under **section 95E**.~~

~~(9) Notify each affected person identified under **subsections (7) and (8)** of the application, and specify in the notice the adverse effects that the consent authority considers to be relevant for the purpose of **section 95E**.~~

(7) Determine whether, in accordance with **section 95E**, the following persons are affected persons:

(a) in the case of a boundary activity, an owner of an allotment with an infringed boundary; and

(b) in the case of any activity prescribed under **section 360G(1)(b)**, a prescribed person in respect of the proposed activity.

(8) In the case of any other activity, determine whether a person is an affected person in accordance with **section 95E**.

(9) Notify each affected person identified under **subsections (7) and (8)** of the application.

Step 4: further notification in special circumstances

(10) Determine whether special circumstances exist in relation to the application that warrant notification of the application ~~to any other persons~~ to any persons to whom limited notification would otherwise be precluded and,—

(a) if the answer is yes, notify those persons ~~and specify in the notice the special circumstances that warrant their being notified of the application~~; and

(b) if the answer is no, do not notify anyone else.

~~*Meaning of nohoanga, overlay classification, and vest and vesting back*~~

~~(11) In **subsection (7)**, —~~

~~**nohoanga** means an instrument, whether known as a nohoanga or by another name, that provides for the grant of an entitlement to occupy 1 or more specified sites for the purpose of undertaking customary fishing and the gathering of natural resources~~

~~**overlay classification** means an instrument, whether known as an overlay classification or by another name, that declares 1 or more specified areas to be subject to the Crown's acknowledgement of particular values in relation to the site and the agreement by the Crown and the governance entity of the relevant iwi of certain protection principles that are directed at avoiding harm to, or avoiding the diminishing of, the values of the site~~

~~**vest and vesting back** means an instrument, whether known as a vest and vesting back or by another name, that provides for the Crown to vest the fee simple estate in a specified area of land in an entity on a specified date, and for the fee simple estate in that land to vest back in the Crown on a specified date.~~

126 Section 95C amended (Public notification of consent application after request for further information or report)

In section 95C(1), replace "Despite section 95A(1), a consent authority must publicly notify an application for a resource consent if" with "A consent authority must publicly notify an application for a resource consent (*see* **section 95A(2) and (3)**) if".

127 Section 95D amended (Consent authority decides if adverse effects likely to be more than minor)

(1) In section 95D, replace "section 95A(2)(a)" with "**section 95A(8)(b)**".

(1A) In section 95D(c),—

(a) delete "controlled or"; and

(b) delete "reserves control or".

~~(2) After section 95D(c), insert:~~

~~(ca) may disregard an adverse effect of the activity if the adverse effect, considered in the context of the relevant plan or proposed plan, is already taken into account by the objectives and policies of that plan; and~~

~~128 New section 95DA inserted (Persons eligible to be considered affected persons for purpose of limited notification)~~

~~After section 95D, insert:~~

~~95DA Persons eligible to be considered affected persons for purpose of limited notification~~

~~(1) This section specifies, for the purpose of limited notification of an application for a resource consent, which persons other than those identified in **section 95B(3) and (7)** are eligible to be considered affected persons under **section 95E** in relation to the application and notified of the application under **section 95B(9)** if that subsection applies.~~

~~*Applications for which eligibility is not limited*~~

~~(2) Any person is eligible to be considered an affected person in relation to the following applications:~~

~~(a) an application for a resource consent for an activity that may be granted only by a regional council, unless the activity is an activity prescribed under **section 360G(1)(b)** (in which case eligibility is determined under **subsection (3)**).~~

~~(b) any other application for a resource consent for an activity, unless—~~

(i) the activity is an activity prescribed under **section 360G(1)(b)** (in which case eligibility is determined under **subsection (3)**); or

(ii) the activity is described in the first column of the table in **subsection (4)** (in which case eligibility is determined under that subsection).

Limitations on eligibility

(3) To the extent that an application is for a resource consent for an activity prescribed under **section 360G(1)(b)**, only a person who is a prescribed person in relation to that activity is eligible to be considered an affected person in relation to the application. This subsection prevails over **subsections (2) and (4)**.

(4) To the extent that an application is for a resource consent for an activity described in the first column of the following table, a person is eligible to be considered an affected person in relation to the application only if—

(a) the activity is not an activity prescribed under **section 360G(1)(b)** (in which case eligibility is determined under **subsection (3)**); and

(b) the person is listed in the second column alongside 1 or more of the descriptions in the first column that applies to the activity:

Activity for which consent is sought	**Persons eligible to be considered affected**
A boundary activity	The owner or occupier of any allotment with an affected boundary
Any activity, other than a non-complying activity, that is to occur on land that is subject to a designation	The requiring authority responsible for the designation
A subdivision of land, unless the subdivision is a non-complying activity	The owner of infrastructure associated with providing services to the land
	The medical officer of health (as defined in section 2(1) of the Health Act 1956) for the health district (within the meaning of that Act) in which the proposed subdivision is located
	The New Zealand Fire Service
	A Civil Defence Emergency Management Group (as defined in section 4 of the Civil Defence Emergency Management Act 2002) of which the consent authority is a member
Any activity other than a boundary activity, a subdivision of land, or a non-complying activity	The owner or occupier of an allotment that is adjacent (*see* **subsection (5)**) to the allotment on which the activity is to occur
	The owner of infrastructure assets that pass through, over, or under the allotment on which the activity is to occur

Meaning of adjacent

(5) For the purpose of **subsection (4)**, an allotment (**allotment A**) is **adjacent** to another allotment (**allotment B**) if—

~~(a) any part of the boundary of allotment A touches the boundary of allotment B; or~~

~~(b) allotment A—~~

~~(i) is on the other side of a road, right-of-way, or watercourse from allotment B; and~~

~~(ii) is directly or diagonally opposite allotment B.~~

129 Section 95E replaced (Consent authority decides if person is affected person)

Replace section 95E with:

95E ~~Affected persons for purpose of limited notification under section 95B~~ Consent authority decides if person is affected person

(1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under **section 95B(4) and (9)** (as applicable), a person is an **affected person** if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).

(2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,—

(a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and

(b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and

~~(c) may disregard an adverse effect of the activity if the adverse effect, considered in the context of the relevant plan or proposed plan, is already taken into account by the objectives and policies of that plan; and~~

(d) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

~~(3) A consent authority must record the adverse effects that are the basis for any decision that a person is an affected person.~~

(4) A person is not an affected person in relation to an application for a resource consent for an activity if—

(a) the person has given, and not withdrawn, ~~written~~ approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or

(b) the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.

(5) **Subsection (4)** prevails over **subsection (1)**.

130 Section 95F amended (Status of protected customary rights group)

(1) In the heading to section 95F, replace "**Status of**" with "**Meaning of affected**".

(2) In section 95F, replace "A consent authority must decide that a protected customary rights group is an affected protected customary rights group" with "A protected customary rights group is an **affected protected customary rights group**".

131 Section 95G amended (Status of customary marine title group)

(1) In the heading to section 95G, replace "**Status of**" with "**Meaning of affected**".

(2) In section 95G, replace "A consent authority must decide that a customary marine title group is an affected customary marine title group" with "A customary marine title group is an **affected customary marine title group**".

131A Section 104 amended (Consideration of applications)

After section 104(1)(a), insert:

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

132 Section 104D amended (Particular restrictions for non-complying activities)

In section 104D(1), replace "for the purpose of section 95A(2)(a)" with "for the purpose of notification".

133 Section 106 amended (Consent authority may refuse subdivision consent in certain circumstances)

(1) Replace section 106(1)(a) and (b) with:

(a) there is a significant risk from natural hazards; or

(2) After section 106(1), insert:

(1A) For the purpose of **subsection (1)(a)**, an assessment of the risk from natural hazards requires a combined assessment of—

(a) the likelihood of natural hazards occurring (whether individually or in combination); and

(b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and

(c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in **paragraph (b)**.

133A Section 108 amended (Conditions of resource consents)

In section 108(1), replace "subject to any regulations" with "subject to **section 108AA** and any regulations".

133B New section 108AA inserted (Requirements for conditions of resource consents)

After section 108, insert:

108AA Requirements for conditions of resource consents

(1) A consent authority must not include a condition in a resource consent for an activity unless—

(a) the applicant for the resource consent agrees to the condition; or

(b) the condition is directly connected to 1 or both of the following:

(i) an adverse effect of the activity on the environment:

(ii) an applicable district or regional rule, or a national environmental standard; or

(c) the condition relates to administrative matters that are essential for the efficient implementation of the relevant resource consent.

(2) **Subsection (1)** does not limit this Act or regulations made under it.

(3) This section does not limit section 77A (power to make rules to apply to classes of activities and specify conditions), 106 (consent authority may refuse subdivision consent in certain circumstances), or 220 (condition of subdivision consents).

(4) For the purpose of this section, a district or regional rule or a national environmental standard is **applicable** if the application of that rule or standard to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.

(5) Nothing in this section affects section 108(2)(a) (which enables a resource consent to include a condition requiring a financial contribution).

134 Section 115 amended (Time limits for notification of decision)

After section 115(4), insert:

(4A) Despite anything else in this section, if the application is a fast-track application, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority.

135 Section 120 amended (Right to appeal)

(1) After section 120(1), insert:

~~(1A) However,—~~

~~(a) there is no right of appeal under this section against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to resource consent for —~~

~~(i) a boundary activity; or~~

~~(ii) a subdivision, unless the subdivision is a non-complying activity; and~~

~~(b) there is no right of appeal under this subsection against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to resource consent for an activity that —~~

~~(i) is a residential activity (being an activity associated with the construction, alteration, or use of a dwellinghouse on land that, under a district plan, is intended to be used solely or principally for residential purposes); and~~

~~(ii) is to occur on a single allotment; and~~

~~(iii) is a controlled, restricted discretionary, or discretionary activity; and~~

~~(c) a person described in subsection (1)(b) may appeal under this section only in respect of a provision or matter raised in the person's submission (excluding any part of the submission that is struck out under **section 41D**).~~

(1A) However, there is no right of appeal under this section against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to 1 or more of the following, but no other, activities:

(a) a boundary activity, unless the boundary activity is a non-complying activity:

(b) a subdivision, unless the subdivision is a non-complying activity:

(c) a residential activity as defined in **section 95A(6)**, unless the residential activity is a non-complying activity.

(1B) A person who has a right of appeal under this section may appeal only in respect of a matter raised in the person's submission (excluding any part of the submission that is struck out under **section 41D**).

(2) In section 120(2), after "sections 357A,", insert "**357AB**,".

136 Section 139 amended (Consent authorities and Environmental Protection Authority to issue certificates of compliance)

(1AA) After section 139(8), insert:

(8A) The authority must not issue a certificate if a notice for the activity is in force under **section 87BA(1)(c) or 87BB(1)(d)**.

(1) In section 139(9), after "357A", insert ", **357AB**,".

(2) In section 139(12), replace "120" with "120(1) or (2)".

137 Section 139A amended (Consent authorities to issue existing use certificates)

(1AA) In section 139A(9), after "119", insert ", **120(1A) and (1B)**,".

(1) In section 139A(10), after "357A", insert ", **357AB**,".

Amendments to Part 6AA of principal Act

137A Section 149ZB amended (How EPA must deal with certain applications and notices of requirement)

In section 149ZB(3), replace "sections 95A to 95G" with "**sections 149ZCB to 149ZCF**".

137B Section 149ZC amended (Minister to decide whether application or notice of requirement to be notified)

(1) In section 149ZC(2), replace "sections 95A to 95G (but without the time limit specified by section 95)" with "**sections 149ZCB to 149ZCF**".

(2) In section 149ZC(4), delete "(but ignoring the time limit specified by section 95)".

137C New sections 149ZCA to 149ZCF inserted

After section 149ZC, insert:

149ZCA Application of sections 149ZCB to 149ZCF

Sections 149ZCB to 149ZCF apply to the EPA's recommendation under section 149ZB and the Minister's decision under section 149ZC on whether to notify an application or a notice to which section 149ZB relates.

149ZCB Public notification of application or notice at Minister's discretion

(1) The Minister may, in his or her discretion, decide whether to require the EPA to publicly notify an application or a notice.

(2) Despite **subsection (1)**, the EPA must publicly notify an application or a notice if—

(a) the Minister decides (under **section 149ZCE**) that the activity that is the subject of the application or notice will have, or is likely to have, adverse effects on the environment that are more than minor; or

(b) the applicant requests public notification of the application or notice; or

(c) a rule or national environmental standard requires public notification of the application or notice.

(3) Despite **subsections (1) and (2)(a)**, the EPA must not publicly notify the application or notice if—

(a) a rule or national environmental standard precludes public notification of the application or notice; and

(b) **subsection (2)(b)** does not apply.

(4) Despite **subsection (3)**, the EPA may publicly notify an application or a notice if the Minister decides that special circumstances exist in relation to the application or notice.

(5) To avoid doubt, if an application or notice is to be publicly notified in accordance with this section, section 149ZC(3) applies.

149ZCC Limited notification of application or notice

(1) If the Minister decides not to require the EPA to publicly notify an application or a notice, the Minister must decide if there are any affected persons (under **section 149ZCF**), affected protected customary rights groups, or affected customary marine title groups in relation to the activity.

(2) The EPA must give limited notification of the application or notice to any affected person unless a rule or national environmental standard precludes limited notification of the application or notice.

(3) The EPA must give limited notification of the application or notice to an affected protected customary rights group or affected customary marine title group even if a rule or national environmental standard precludes public or limited notification of the application or notice.

(4) In **subsections (1) and (3)**, the requirements relating to an affected customary marine title group apply only in the case of applications for accommodated activities.

(5) To avoid doubt, if an application or notice is to be limited notified in accordance with this section, section 149ZC (4) applies.

149ZCD Public notification of application or notice after request for further information

(1) Despite **section 149ZCB(1)**, the EPA must publicly notify an application or notice if—

(a) the Minister has not already required the EPA to give public or limited notification of the application or notice; and

(b) **subsection (2)** applies.

(2) This subsection applies if the EPA requests further information on the application or notice under section 149(2), but the applicant—

(a) does not provide the information before the deadline concerned; or

(b) refuses to provide the information.

(3) This section applies despite any rule or national environmental standard that precludes public or limited notification of the application or notice.

149ZCE Minister to decide if adverse effects likely to be more than minor

For the purpose of deciding under **section 149ZCB(2)(a)** whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the Minister—

(a) must disregard any effects on persons who own or occupy—

(i) the land in, on, or over which the activity will occur or apply; or

(ii) any land adjacent to that land; and

(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and

(c) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and

(d) must disregard trade competition and the effects of trade competition; and

(e) must disregard any effect on a person who has given written approval in relation to the relevant application or notice.

149ZCF Minister to decide if person is affected person

(1) The Minister must decide that a person is an affected person, in relation to an activity, if the adverse effects of the activity on the person are minor or more than minor (but are not less than minor).

(2) The Minister, in making his or her decision,—

(a) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and

(b) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity on the person if the activity does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and

(c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

(3) Despite anything else in this section, the Minister must decide that a person is not an affected person if—

(a) the person has given, and not withdrawn, approval for the activity in a written notice received by the authority before the authority has decided whether there are any affected persons; or

(b) it is unreasonable in the circumstances to seek the person's written approval.

Amendment to Part 7 of principal Act

138 Section 151 amended (Interpretation)

In section 151, repeal the definition of **public notice**.

Amendment to Part 7A of principal Act

138A Section 165C amended (Interpretation)

In section 165C, definition of **public notice**, replace "section 151" with "**section 2AB**".

~~*Amendment*~~ *Amendments to Part 8 of principal Act*

138B Section 168A amended (Notice of requirement by territorial authority)

(1) Replace section 168A(1A) with:

(1A) The territorial authority must decide whether to notify the notice of requirement under **sections 149ZCB to 149ZCF**, which apply with all necessary modifications and as if—

(a) a reference to an application or notice were a reference to the notice of requirement; and

(b) a reference to an applicant, the Minister, or the EPA were a reference to the territorial authority; and

(c) a reference to an activity were a reference to the designation.

(2) Replace section 168A(2) with:

(2) Sections 96, 97, and 99 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant or a consent authority were a reference to the territorial authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to an activity were a reference to the designation.

(3) After section 168A(3), insert:

(3A) The effects to be considered under subsection (3) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority.

138C Section 169 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)

(1) Replace section 169(1) with:

(1) If a territorial authority is given a notice of requirement under section 168, the territorial authority must, within 10 working days, decide whether to notify the notice under **sections 149ZCB to 149ZCF**, which apply with all necessary modifications and as if—

(a) a reference to an application or notice were a reference to the notice of requirement; and

(b) a reference to an applicant were a reference to the requiring authority; and

(c) a reference to the Minister or the EPA were a reference to the territorial authority; and

(d) a reference to an activity were a reference to the designation.

(1A) Despite **section 149ZCB(1)**, a territorial authority must publicly notify the notice if—

(a) it has not already decided whether to give public or limited notification of the notice; and

(b) the territorial authority notifies the requiring authority under section 92(2)(b) that it wants to commission a report, but the requiring authority—

(i) does not respond before the deadline concerned; or

(ii) refuses to agree to the commissioning of the report.

(2) Replace section 169(2) with:

(2) Unless the territorial authority applies section 170, sections 92 to 92B and 96 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant were a reference to the requiring authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to a consent authority were a reference to the territorial authority; and

(e) a reference to an activity were a reference to the designation; and

(f) a reference to a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 171.

138D Section 171 amended (Recommendation by territorial authority)

After section 171(1), insert:

(1B) The effects to be considered under subsection (1) may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.

138E Section 189A amended (Notice of requirement for heritage order by territorial authority)

(1) Replace section 189A(2) with:

(2) The territorial authority must decide whether to notify the notice of requirement under **sections 149ZCB to 149ZCF**, which apply with all necessary modifications and as if—

(a) a reference to an application or notice were a reference to the notice of requirement; and

(b) a reference to an applicant, the Minister, or the EPA were a reference to the territorial authority; and

(c) a reference to an activity were a reference to the heritage order.

(2) Replace section 189A(9) with:

(9) Sections 99 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant or a consent authority were a reference to the territorial authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to an activity were a reference to the heritage order.

138F Section 190 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)

(1) Replace section 190(1) with:

(1) If a territorial authority is given a notice of requirement under section 189, the territorial authority must, within 10 working days, decide whether to notify the notice under **sections 149ZCB to 149ZCF**, which apply with all necessary modifications and as if—

(a) a reference to an application or notice were a reference to the notice of requirement; and

(b) a reference to an applicant were a reference to the heritage protection authority; and

(c) a reference to the Minister or the EPA were a reference to the territorial authority; and

(d) a reference to an activity were a reference to the heritage order.

(1A) Despite **section 149ZCB(1)**, a territorial authority must publicly notify the notice if—

(a) it has not already decided whether to give public or limited notification of the notice; and

(b) the territorial authority notifies the requiring authority under section 92(2)(b) that it wants to commission a report, but the requiring authority—

(i) does not respond before the deadline concerned; or

(ii) refuses to agree to the commissioning of the report.

(2) Replace section 190(7) with:

(7) Sections 92 to 92B and 98 to 103 apply to the notice of requirement with all necessary modifications and as if—

(a) a reference to a resource consent were a reference to the requirement; and

(b) a reference to an applicant were a reference to the requiring authority; and

(c) a reference to an application for a resource consent were a reference to the notice of requirement; and

(d) a reference to a consent authority were a reference to the territorial authority; and

(e) a reference to an activity were a reference to the heritage order; and

(f) a reference to a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 191.

139 Section 198AD amended (Excluded time periods relating to other matters)

In section 198AD(1), replace "95E(3)" with "~~**95E(4)**~~**149ZCF(3)**".

Amendment to Part 9 of principal Act

140 Section 204 amended (Public notification of application)

Replace section 204(1)(a) with:

(a) public notice of the application is given; and

(ab) a copy of the short summary of the notice referred to in **section 2AB(1)(b)**, along with details of the Internet site where the notice can be

accessed, is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; and

Amendments to Part 10 of principal Act

141 Section 220 amended (Condition of subdivision consents)

In section 220(1)(d),—

(a) replace "erosion, subsidence, slippage, or inundation" with "natural hazards"; and

(b) replace "subsidence, slippage, erosion, or inundation" with "natural hazards".

Amendments to Part 14 of principal Act

142 Section 352 amended (Service of documents)

(1) Replace section 352(1) with:

(1) Where a notice or other document is to be served on a person for the purposes of this Act,—

(a) if the person has specified an electronic address as an address for service for the matter to which the document relates, and has not requested a method of service listed in **paragraph (b)**, the document must be served by sending it to the electronic address~~; and~~:

(b) if~~ **paragraph (a)** does not apply~~ the person has not specified an electronic or other address as an address for service or if the person has requested any of the following methods of service, the document may be served by the requested method or any of the following methods:

(i) delivering it personally to the person (other than a Minister of the Crown):

(ii) delivering it at the usual or last known place of residence or business of the person:

(iii) sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person:

(iv) posting it to the PO box address that the person has specified as an address for service:

(v) leaving it at a document exchange for direction to the document exchange box number that the person has specified as an address for service:

(vi) sending it to the fax number that the person has specified as an address for service.

(1A) However, if the document is to be served on a person to commence, or in the course of, court proceedings, **subsection (1)** does not apply if the court,

whether expressly or in its rules or practices, requires a different method of service.

(2) In section 352(4A)(b), replace "email address" with "electronic address".

(3) In section 352(5), replace "subsection (1)(c) or (d)" with "**subsection (1)(b)(iii) or (iv)**".

143 Section 357 amended (Right of objection against certain decisions)

In section 357(2), replace "section 41C(7)" with "**section 41D**".

144 New section 357AB inserted (Objection under section 357A(1)(f) or (g) may be considered by hearings commissioner)

After section 357A, insert:

357AB Objection under section 357A(1)(f) or (g) may be considered by hearings commissioner

(1) An applicant for a resource consent who has a right of objection under section 357A(1)(f) or (g) (as applied by section 357A(2) to (5)) may, when making the objection, request that the objection be considered by a hearings commissioner.

(2) If a consent authority receives a request under this section, the authority must, under section 34A(1), delegate its functions, powers, and duties under sections 357C and 357D to 1 or more hearings commissioners who are not members of the consent authority.

145 Section 357C amended (Procedure for making and hearing objection under sections 357 to 357B)

After section 357C(2), insert:

(2A) A notice of an objection made under section 357A(1)(f) or (g) may include a request that the objection be considered by a hearings commissioner instead of by the consent authority.

146 New section 357CA inserted (Powers of hearings commissioner considering objection under section 357A(1)(f) or (g))

After section 357C, insert:

357CA Powers of hearings commissioner considering objection under section 357A(1)(f) or (g)

(1) This section applies if a hearings commissioner is considering an objection made under section 357A(1)(f) or (g) (*see* **section 357AB**).

(2) The hearings commissioner may do 1 or more of the following:

(a) require the person or body making the objection to provide further information:

(b) require the consent authority to provide further information:

(c) commission a report on any matter raised in the objection.

(3) However, the hearings commissioner must not require further information or commission a report unless he or she considers that the information or report will assist the hearings commissioner to make a decision on the objection.

~~147~~ ~~Section 357D amended (Decision on objections made under sections 357 to 357B)~~

~~In section 357D(3), replace "consent authority" with "person to whom, or body to which, the objection is made".~~

148 Section 358 amended (Appeals against certain decisions or objections)

(1) In section 358(1), delete "Appeals from objections under section 357(3A), (4), or (8) or, for objections only to a board of inquiry, under section 357(2) are excluded."

(2) After section 358(1), insert:

(1A) However, appeals from the following objections are excluded:

(aa) an objection under section 357A(1)(f) or (g) in respect of a consent authority's decision on an application or a review described in section 357A(2) to (5), if the right of appeal against the decision to the Environment Court in the first instance is excluded by section 120**(1A)**:

(a) an objection to an authority under section 357(2), if the~~ objection relates to a decision that the authority made under **section 41D(2)**~~ submission relates to an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent:

(b) an objection to an authority under section 357(3A) or (8):

(c) an objection to a board of inquiry under section 357(2) or (4).

149 Section 360 amended (Regulations)

(1) In section 360(1)(hi), replace "sections 41B and 41C" with "sections 41B to **41D**".

(2) In section 360(1)(hj), after "section 127", insert ", or for decisions on activities permitted under **section 87BA(1)(c)**,".

150 Section 360E amended (Regulations relating to administrative charges and other amounts)

~~Replace **section 360E(2)(a)** (as inserted by **section 105 of the Resource Legislation Amendment Act 2015**) with:~~

~~(a) may require a local authority to fix a charge listed in section 36(1) only if the charge relates to—~~

~~(i) an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a re-~~

~~source consent (including charges for certificates of compliance and existing use certificates); or~~

~~(ii) a notice issued under **section 87BA or 87BB** stating whether an activity is a permitted activity; and~~

After **section 360E(2)(c)** (as inserted by **section 105 of the Resource Legislation Amendment Act 2015**), insert:

(d) may require local authorities to fix charges listed in section 36(1) for notices issued under **section 87BA or 87BB** stating whether an activity is a permitted activity.

151 New sections 360F and 360G inserted

After **section 360E** (as inserted by **section 105 of the Resource Legislation Amendment Act 2015**), insert:

360F Regulations relating to fast-track applications

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—

(a) prescribing, for the purpose of **section 87AAC** (meaning of fast-track application), particular activities or classes of activities, or the methods or criteria that a consent authority must use to identify particular activities or classes of activities; and

(b) prescribing, for the purpose of **section 88(2)(b)** (making an application), the information that an application for a resource consent must include if it is a fast-track application.

(2) The Minister—

(a) must not recommend that regulations be made under **subsection (1)(a)** unless he or she is satisfied that the scale and complexity of the activities are unlikely to warrant a consent authority taking more than 10 working days to notify an applicant of the authority's decision on a relevant application; and

(b) must not recommend that regulations be made under **subsection (1)(b)** unless he or she is satisfied that the prescribed information requirements are proportional to the likely effects of activities that may be the subject of a fast-track application.

(3) In **subsection (2)**, **relevant application**, in relation to an activity, means an application for a resource consent for the activity.

(4) Section 360(2) and (4) applies to regulations made under this section.

360G Regulations relating to notification of consent applications

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) prescribing particular activities or classes of activities, or the methods or criteria that a consent authority must use to identify particular activities or classes of activities,—

(i) for the purpose of **section 95A(5)(b)(iii)** (to preclude public notification of an application for a resource consent for the activity):

(ii) for the purpose of **section 95B(6)(b)(ii)** (to preclude limited notification of an application for a resource consent for the activity ~~to certain affected persons~~):

(b) prescribing, for the purpose of **section ~~95DA(3)~~ 95B(7)** (to limit who may be considered an affected person in respect of an application for a resource consent),—

(i) particular activities or classes of activities, or the methods or criteria that a consent authority must use to identify particular activities or classes of activities:

(ii) particular persons or classes of persons, or the methods or criteria that a consent authority must use to identify particular persons or classes of persons.

(2) The Minister must not—

(a) make a recommendation for the purpose of **subsection (1)(a)(i)** unless the Minister is satisfied that the nature and likely effects of the activities are unlikely to warrant public notification of a relevant application or review ~~in the absence of special circumstances~~ in accordance with section 95D; or

~~(b) make a recommendation for the purpose of **subsection (1)(a)(ii)** unless the Minister is satisfied that the nature and likely effects of the activities are unlikely to warrant limited notification of a relevant application or review under **section 95B(9)** to affected persons referred to in **section 95B(7) and (8)**; or~~

(b) make a recommendation for the purpose of **subsection (1)(a)(ii)** unless the Minister is satisfied that the nature and likely effects of the activities are unlikely to warrant limited notification of a relevant application or review in accordance with **section 95B** to affected persons under **section 95E**; or

~~(c) make a recommendation for the purpose of **subsection (1)(b)** unless the Minister is satisfied that the nature and likely effects of the activities referred to in **subsection (1)(b)(i)** are unlikely to warrant limited notification of a relevant application or review under **section 95B(9)** to affected persons referred to in **section 95B(8)** other than persons or classes of persons referred to in **subsection (1)(b)(ii)**.~~

(c) make a recommendation for the purpose of **subsection (1)(b)** unless the Minister is satisfied that the nature and likely effects of the activities

referred to in **subsection (1)(b)(i)** are unlikely to warrant limited notification of a relevant application or review in accordance with **section 95B** to affected persons referred to in **section 95B(8)** other than persons or classes of persons referred to in **subsection (1)(b)(ii)**.

(3) In **subsection (2)**, **relevant application or review**, in relation to an activity, means an application for a resource consent for the activity, a review of a resource consent for the activity, or an application to change or cancel a condition of a resource consent for the activity.

(4) Section 360(2) and (4) applies to regulations made under this section.

Amendment to Schedule 1 of principal Act

152 Schedule 1 amended

(1) In Schedule 1, after clause 10, insert:

10A Application to Minister for extension of time

(1) A local authority must, before the time for making its decision under clause 10, apply to the Minister for an extension of the time for giving a decision under that clause if the local authority is unable, or is likely to be unable, to meet the requirement of clause 10(4)(a) (under which decisions must be given within 2 years of notification of a proposed policy statement or plan).

(2) An application under **subclause (1)** must be in writing, and must set out—

(a) the reasons for the request for an extension; and

(b) the duration of the extension required.

(3) Before applying for an extension, a local authority must take into account—

(a) the interests of any person who, in its opinion, may be directly affected by an extension; and

(b) the interests of the community in achieving adequate assessment of the effects of the proposed policy statement or plan or change to a policy statement or plan; and

(c) its duty under section 21 to avoid unreasonable delay.

(4) The Minister—

(a) may decline or agree to an extension applied for under **subclause (1)**; but

(b) in the case of a regional coastal plan, must consider the views of the Minister of Conservation before granting an extension.

(5) The Minister must serve notice of his or her decision on the local authority.

(6) If the Minister grants an extension, the local authority must give public notice of that extension.

(7) This clause applies instead of section 37 if the time limit prescribed by clause 10(4)(a) is to be extended.

(2) In Schedule 1, after **clause 69(1)(g)** (as inserted by **section 108 of the Resource Legislation Amendment Act 2015**), insert:

(h) **section 41D** (which provides for submissions to be struck before or at a hearing).

(3) In Schedule 1, after **clause 69(1)** (as inserted by **section 108 of the Resource Legislation Amendment Act 2015**), insert:

(1A) If a panel exercises a power under **section 41D**,—

(a) a person whose submission is struck out has a right to objection under section 357 as if the references in that section to an authority were references to the panel; and

(b) sections 357C to 358 apply to the panel as the body to which the objection is made under section 357.

Subpart 3—Amendments that commence 5 years after Royal assent

Amendments to Part 6 of principal Act

153 Section 108 amended (Conditions of resource consents)

Repeal section 108(2)(a), (9), and (10).

153A Section 108AA amended (Requirements for conditions of resource consents)

Repeal section 108AA(5) (as inserted by **section 133B of the Resource Legislation Amendment Act 2015**).

154 Section 110 repealed (Refund of money and return of land where activity does not proceed)

Repeal section 110.

155 Section 111 repealed (Use of financial contributions)

Repeal section 111.

Amendments to Part 10 of principal Act

156 Section 222 amended (Completion certificates)

In section 222(1),—

(a) delete "or on the making of a financial contribution (as defined in section 108(9))"; and

(b) delete "or make the financial contribution (as the case may be)".

Amendments to Part 15 of principal Act

157 Section 407 amended (Subdivision consent conditions)

In section 407(1), delete "108(2)(a) or".

158 Section 409 repealed (Financial contributions for developments)

Repeal section 409.

159 Section 411 repealed (Restriction on imposition of conditions as to financial contributions)

Repeal section 411.

Amendment to Schedule 12 of principal Act

160 Schedule 12 amended

In Schedule 12, after **clause 16** (as inserted by **section 110 of the Resource Legislation Amendment Act 2015**), insert the clauses set out in **Schedule 4** of this Act.

Consequential amendments

161 Consequential amendments relating to financial contributions

Amend the enactments specified in **Schedule 5** as set out in that schedule.

Part 2
Amendments to Reserves Act 1977

162 Principal Act

This **Part** (other than section 165) amends the Reserves Act 1977 (the **principal Act**).

~~**163 New sections 14A and 14B and cross-heading inserted**~~

~~After section 14, insert:~~

~~*Exchange of reserves for other land*~~

~~**14A Minister may authorise exchange of reserve land for other land**~~

~~(1) The Minister may, by notice in the *Gazette*, authorise the exchange of the whole or any part of the land comprised in any reserve for any other land to be held for the same purposes.~~

~~(2) If the land is vested in an administering body, the Minister may authorise the exchange under **subsection (1)** only on the request of the administering body.~~

~~(3) Before making a request under **subsection (2)**, either —~~

(a) the administering body must pass a resolution authorising the request; or

(b) a change must have been made to a district plan under the Resource Management Act 1991 to enable the exchange to be made.

(4) Before passing a resolution for the purpose of **subsection (3)(a)**, the administering body must —

(a) publish a notice of the proposal in 1 or more newspapers circulating —

(i) in the district of the administering body; or

(ii) in the district or locality of the people who benefit from or enjoy the reserve; and

(b) give interested parties no less than 1 month to comment; and

(c) consider any submissions received within that period.

(5) The administering body must forward to the Commissioner for transmission to the Minister —

(a) a copy of all submissions (including any objections) received on the proposed exchange; and

(b) the administering body's comments on any of those submissions; and

(c) a copy of any resolution made for the purpose of **subsection (3)(a)**.

Compare: 1977 No 66 s 15(1), (2)

14B Administering body may authorise exchange of recreation reserve land for other land

(1) An administering body may, by notice in the *Gazette*, authorise the exchange of the whole or any part of the land comprised in a recreation reserve that is vested in that administering body for other land to be held for the same purposes in accordance with this section if —

(a) a person (the **applicant**) applies to a consent authority for —

(i) a resource consent under section 88 of the Resource Management Act 1991; or

(ii) a change to a district plan or a regional plan (including a regional coastal plan) under section 65(4) or 73(2) of the Resource Management Act 1991; and

(b) as part of an application under **paragraph (a)**, —

(i) the applicant proposes an exchange of any land comprised in a recreation reserve for other land to be held for the same purposes; and

(ii) the proposed exchange has been processed in accordance with —

(A) sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B of the Resource Management Act 1991; or

~~(B) Part 2 of Schedule 1 of the Resource Management Act 1991; and~~

~~(iii) the proposed exchange was publicly notified —~~

~~(A) under **section 95A** of the Resource Management Act 1991 as part of the application for a resource consent; or~~

~~(B) under clause 26 of Schedule 1 of the Resource Management Act 1991; and~~

~~(c) the relevant consent authority or local authority (as the case may be) is also the administering body in which the recreation reserve land is vested; and~~

~~(d) in the case of a resource consent, the resource consent is subject to the exchange of recreation reserve land; and~~

~~(e) all appeals (if any) in relation to the application for resource consent or the request for a change to the district plan or regional plan (as the case may be) are completed.~~

~~(2) Before authorising an exchange under this section, the administering body must —~~

~~(a) have regard to any submissions received on the exchange of recreation reserve land; and~~

~~(b) consider that the exchange would result in a net benefit for recreation opportunities to the community that benefits from or enjoys the reserve.~~

~~(3) To avoid doubt, this section does not limit **section 14A**.~~

~~164~~ ~~Section 15 amended (Exchange of reserves for other land)~~

~~(1) Replace the heading to section 15 with "**Giving effect to reserves exchanges**".~~

~~(2) Repeal section 15(1) and (2).~~

~~(3) In section 15(3), —~~

~~(a) replace "Sovereign or the administering body, as the case may require," with "Crown or the administering body (as the case may be)"; and~~

~~(b) replace "any exchange authorised as aforesaid" with "an exchange for the purposes of **section 14A(1) or 14B(1)**".~~

~~(4) In section 15(5), replace "this section" with "**section 14A(1) or 14B(1)**".~~

~~(5) In section 15(7)(a), replace "this section" with "**section 14A(1) or 14B(1)**".~~

~~(6) In section 15(8), replace "this section" with "**section 14A(1) or 14B(1)**".~~

163 Section 15 amended (Exchange of reserves for other land)

(1) In the heading to section 15, replace "**Exchange**" with "**Minister may authorise exchange**".

(2) In section 15(2), replace "scheme under the Town and Country Planning Act 1977" with "plan under the Resource Management Act 1991".

164 New section 15AA inserted (Administering body may authorise exchange of recreation reserve land for other land)

After section 15, insert:

15AA Administering body may authorise exchange of recreation reserve land for other land

(1) A person may apply to the administering body of a recreation reserve to exchange all or part of the land comprised in the reserve (the **recreation reserve land**) for other land to be held for the same purposes if—

(a) the application is made jointly—

(i) with an application for a resource consent under section 88(1) and **(1A)** of the Resource Management Act 1991 (the **RMA**); or

(ii) with a request for a change to a district plan or a regional plan (including a regional coastal plan) under section 65(4) and **(4A)** or 73(2) and **(2A)** of the RMA; and

(b) the recreation reserve land is vested in the administering body for the reserve; and

(c) the administering body of the reserve is also the relevant local authority under the RMA.

(2) If an application is made under **subsection (1)(a)(i)**, **subsection (4)** applies if—

(a) the application to exchange the recreation reserve land has been—

(i) processed in accordance with **section 88(6)(a)** of the RMA; and

(ii) publicly notified under **section 95A** of the RMA; and

(b) the resource consent—

(i) has been granted; but

(ii) is subject to the granting of the application to exchange the recreation reserve land; and

(c) the time allowed under the RMA for appeals against the decision to grant the resource consent has expired and any appeals have been determined.

(3) If an application is made under **subsection (1)(a)(ii)**, **subsection (4)** applies if—

(a) the application to exchange the recreation reserve land has been—

(i) processed in accordance with **clause 21(5)(a)** of Schedule 1 of the RMA; and

(ii) publicly notified under clause 26 of Schedule 1 of the RMA; and

(b) the plan change—

(i) has been approved by the local authority; but

(ii) is subject to the granting of the application to exchange the recreation reserve land; and

(c) the time allowed under the RMA for appeals against the decision to change the plan has expired and any appeals have been determined.

(4) If this subsection applies, the administering body must—

(a) make a decision on the application to exchange the recreation reserve land; and

(b) if it decides to grant the application, authorise the exchange of the recreation reserve land by notice in the *Gazette*; and

(c) advise the applicant of the decision.

(5) The administering body must not grant the application unless—

(a) it has had regard to any submissions that were made on the application during the public notification process under the RMA and that relate to the exchange; and

(b) it considers that the exchange would result in a net benefit for recreation opportunities for the community that uses, benefits from, or enjoys the reserve.

(6) If the administering body authorises the exchange, section 15(3) to (8) applies as if the exchange were an exchange effected under section 15.

165 Consequential amendments to Resource Management Act 1991

(1) This section amends the Resource Management Act 1991.

Section 36

(2) After section 36(1), insert:

(1A) To avoid doubt, charges may be fixed under subsection (1) to recover costs incurred by the consent authority for performing its functions under—

(a) sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B in relation to an application ~~for the exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 that is made as part of~~ to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977 that is made jointly with an application for a resource consent:

(b) Part 2 of Schedule 1 in relation to an application ~~for the exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 that is made as part of an application~~ to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977 that is made jointly with a request for a change to a district plan or regional plan.

Section 65

(3) After section 65(4), insert:

~~(4A) A request may include a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 if the regional council is also the administering body in whom the recreation reserve land is vested.~~

(4A) A request for a plan change may be made jointly with an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977 if the regional council—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the request and application may be made jointly.

Section 73

(4) After section 73(2), insert:

~~(2A) A request may include a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 if the territorial authority is also the administering body in whom the recreation reserve land is vested.~~

(2A) A request for a plan change may be made jointly with an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977 if the territorial authority—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the request and application may be made jointly.

Section 88

(5) After section 88(1), insert:

~~(1A) A person may make a joint application for a resource consent and an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 if the relevant consent authority is also the administering body in whom the recreation reserve land is vested.~~

(1A) A person may make a joint application for a resource consent and an exchange of recreation reserve land under **section 15AA** of the Reserves Act 1977 if the relevant consent authority—

(a) is also the administering body in which the recreation reserve land is vested; and

(b) agrees that the applications may be made jointly.

(6) After section 88(5), insert:

~~(6) In the case of a joint application for a resource consent and an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977, the application for the exchange of recreation reserve land must be processed in ac-~~

~~cordance with sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B.~~

(6) If a joint application is made under **subsection (1A)**, the application to exchange recreation reserve land must be—

(a) processed, with the resource consent application, in accordance with sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B; then

(b) decided under **section 15AA** of the Reserves Act 1977.

Section 95A

(7) After section 95A(2)(b), insert:

(ba) the application ~~includes a proposal to exchange recreation reserve land under **section 14B**~~ is made jointly with an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977; or

Section 114

(8) After section 114(7), insert:

~~(8) If a resource consent is subject to a decision to grant a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977, the consent authority must —~~

~~(a) send the Minister responsible for the administration of the Reserves Act 1977 —~~

~~(i) a copy of the decision on the application for a resource consent; and~~

~~(ii) any notice served under subsection (2); and~~

~~(iii) advice of the administering body's likely decision on the request for an exchange of recreation reserve land (if the decision on the application for a resource consent is not changed on appeal); and~~

~~(b) advise the applicant that —~~

~~(i) the resource consent is still subject to a decision by the administering body on the request for an exchange of recreation reserve land (which will be made following the determination of all appeals, if any, against the decision on the application for resource consent); and~~

~~(ii) the consent may commence only in accordance with **section 116B**.~~

(8) If a resource consent is subject to the grant of an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977, the consent authority must advise the applicant that—

(a) the resource consent is subject to a decision by the administering body on the application to exchange the recreation reserve land; and

(b) the decision on the exchange will be made under **section 15AA** of the Reserves Act 1977 after the time allowed for appeals against the decision to grant the resource consent has expired and any appeals have been determined; and

(c) the resource consent will not commence until the date determined under **section 116B**.

~~(9) If there is no appeal relating to the decision on the application for a resource consent, or following the determination of any such appeal, the administering body must—~~

~~(a) make a decision under **section 14B** of the Reserves Act 1977 on the request for an exchange of recreation reserve land; and~~

~~(b) advise the applicant of the decision; and~~

~~(c) send a copy of the decision to the Minister responsible for the administration of the Reserves Act 1977.~~

Section 116

(8A) In section 116(1), replace "section 116A" with "sections 116A and **116B**".

New section 116B

(9) After section 116A, insert:

116B When resource consent commences ~~where application includes request for exchange of~~ if subject to grant of application to exchange recreation reserve land

If a resource consent is subject to ~~a decision to grant a request for an exchange of recreation reserve land under **section 14B**~~ the grant of an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977,—

(a) the consent authority must notify the applicant when the procedures in ~~**sections 14B** and 15~~ sections 15 and **15AA** of that Act are complete; and

(b) the resource consent commences on—

(i) the date of the notification under **paragraph (a)**; or

(ii) any later date that is specified in the notification.

Schedule 1

~~(10) In Schedule 1, clause 26(b)(ii), after "clause 27", insert "; and".~~

(10) In Schedule 1, after clause 21(4), insert:

(5) If a request for a plan change is made jointly with an application to exchange recreation reserve land (as permitted by **section 65(4A) or 73(2A)**), the application must be—

(a) processed, with the request for a plan change, in accordance with this Part, other than clauses 27 and 29(4) to (8); then

(b) decided under **section 15AA** of the Reserves Act 1977.

(11) In Schedule 1, after clause 29(8), insert:

~~(8A) If the decision to make a change to the district plan or regional plan is subject to a decision to grant a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977, the local authority must—~~

~~(a) send the Minister responsible for the administration of the Reserves Act 1977—~~

~~(i) a copy of the notice served under **paragraph (b)**; and~~

~~(ii) advice of the administering body's likely decision on the request for an exchange of recreation reserve land (if the decision to change the district plan or regional plan is not changed on appeal); and~~

~~(b) advise the person who made the request under clause 21 that the decision on the request for an exchange of recreation reserve land will be made following the determination of all appeals, if any, against the decision to change the district plan or regional plan.~~

~~(8B) If there is no appeal relating to the decision to change the district plan or regional plan, or following completion of any such appeal, the administering body must—~~

~~(a) make a decision under **section 14B** of the Reserves Act 1977 on the request for an exchange of recreation reserve land; and~~

~~(b) advise the person who made the request under clause 21 of the decision; and~~

~~(c) send a copy of the decision to the Minister responsible for the administration of the Reserves Act 1977.~~

(8A) If the decision to change a plan is subject to the grant of an application to exchange recreation reserve land under **section 15AA** of the Reserves Act 1977, the local authority must advise the person who requested the plan change that—

(a) the plan change is subject to a decision by the administering body on the application to exchange the recreation reserve land; and

(b) the decision on the exchange will be made under the Reserves Act 1977 after the time allowed for appeals against the decision on the plan change has expired and any appeals have been completed.

Part 3
Amendments to Public Works Act 1981

166 Principal Act

This **Part** amends the Public Works Act 1981 (the **principal Act**).

167 New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

168 Section 4C amended (Delegation of Minister's powers)

Replace section 4C(2) with:

(2) Despite subsection (1), the Minister for Land Information must not delegate the power to issue a notice of intention to take land under section 23(1).

169 Section 24 amended (Objection to be heard by Environment Court)

After section 24(6), insert:

(6A) The Environment Court may, whether or not the parties consent,—

(a) accept evidence that was presented at a hearing described in section 39(1) of the Resource Management Act 1991, or at a related inquiry or appeal heard by the court; and

(b) direct how evidence is to be given to the court.

170 Section 59 amended (Interpretation)

In section 59, replace the definition of **owner** with:

owner, in relation to land, includes—

(a) a person who occupies the land under a lease, sublease, or licence, or a renewal of a lease, sublease, or licence, that—

(i) is granted by the owner of the fee simple of the land or by the lessee of the land; and

(ii) is not—

(A) a weekly tenancy agreement; or

(B) a monthly tenancy agreement; or

(C) a tenancy to which the Residential Tenancies Act 1986 applies~~.~~; or

(D) a statutory tenancy (as defined in section 207 of the Property Law Act 2007):

(b) a tenant for life of the land:

(c) a beneficial owner of the land

171 Section 72 amended (Additional compensation for acquisition of notified dwelling)

(1) Replace section 72(1) with:

(1) Compensation of up to $50,000 must be paid to the owner of land if—

(a) the land has been notified; and

(b) the land is taken or acquired for the public work for which it was notified; and

(c) the land contains a dwelling that is used as the land owner's principal place of residence; and

(d) the payment of compensation is not excluded by subsection (2)~~, (3), or (3A)~~ or (3).

(1A) The amount of compensation paid under **subsection (1)** must be determined in accordance with **section 72A**.

(1B) The compensation paid under **subsection (1)** must not in total exceed $50,000 regardless of—

(a) the number of owners of the land; or

(b) the nature of the estate or interest that the various owners of the land may hold.

~~(2) After section 72(3), insert:~~

~~(3A) Compensation must not be paid under **subsection (1)** to the owner of land if that person is paid compensation for that land under **section 72C(1)**.~~

(3) In section 72(6), replace "had he been a weekly or a monthly tenant" with "if the lessee or sublessee had been a tenant (as defined in **section 75(4)**)".

172 New sections 72A to 72E inserted

After section 72, insert:

72A Amount of compensation to be paid under section 72

(1) The amount of compensation paid under **section 72(1)** must be determined as follows:

(a) $35,000 must be paid to the owner of the land if the owner qualifies for compensation under **section 72(1)**; and

(b) a further $10,000 must be paid to the owner if—

(i) the Minister or local authority, as applicable, and the owner, within 6 months after the negotiation start date, execute an agreement for the sale and purchase of the land under section 17; and

(ii) the agreement specifies a date on which vacant possession of the land, and all buildings and structures on the land, will be given to the notifying authority; and

(c) a further $5,000 may be paid to the owner if the Minister (if the land is taken or acquired for a Government work) or local authority (if the land is taken or acquired for a local work) decides, in his, her, or its discretion, that—

(i) the personal circumstances of the owner warrant such a payment and compensation is not otherwise paid under this Act for this purpose; or

(ii) the circumstances concerning the acquisition of the owner's principal place of residence warrant such a payment and compensation is not otherwise paid under this Act for this purpose.

(2) In this section, **negotiation start date** means the earlier of the following:

(a) the date on which the notifying authority notifies the owner of land in writing that it intends to acquire the land under section 17:

(b) the date on which the notifying authority serves notice in relation to land in accordance with section 18(1)(a).

72B Definitions of terms used in sections 72C and 72D

In this section and **sections 72C and 72D**, unless the context otherwise requires,—

category value means the portion of total land value ~~that is payable under this Act, as assessed in accordance with section 62,~~ for each category of interest or estate in land (for example, for all leasehold interests in land)

individual value means the portion of category value that is payable to a qualifying owner, determined by the percentage of the relevant category of interest or estate that is held by the owner in land

land means all land that is acquired or taken from an owner under this Act by the Minister or a local authority for a particular notified public work

notification date means the date on which land is notified

qualifying owners means the owners of land who qualify for compensation under **section 72C(1)** and are not disqualified under **section 72D(2)**

total land value means the total amount of compensation payable under this Act, as assessed in accordance with section 62, for land

vacant possession date means the date on which vacant possession of land, and all buildings and structures on the land, is given to the notifying authority.

72C Additional compensation for acquisition of notified land

(1) Compensation must be paid to an owner of land if—

(a) the land has been notified; and

(b) the land is taken or acquired for the public work for which it was notified; and

(c) either of the following applies:

(i) the land does not contain a dwelling that was used as the owner of the land's principal place of residence for the period between the notification date and the vacant possession date:

(ii) the owner used a dwelling on the land as his or her principal place of residence for less than a substantial part of the period between the notification date and the vacant possession date; and

(d) the payment of compensation is not excluded by **section 72D**.

(2) The compensation paid under **subsection (1)** must—

(a) equal 10% of the total land value; or

(b) be $250 if 10% of the total land value is equal to or less than $250; or

(c) be $25,000 if 10% of the total land value is equal to or more than $25,000.

(3) However, the compensation paid under **subsection (1)** must not in total exceed $25,000 regardless of—

(a) the number of owners of the land; or

(b) the nature of the estate or interest each of the owners has in the land.

(4) If compensation is paid under **subsection (1)** for land that is owned by more than 1 person, the compensation must be—

(a) paid only to the qualifying owners; and

(b) apportioned between the qualifying owners in proportion to the individual value each owner has in the land.

(5) The amount of compensation paid under this section to an owner who is a lessee or sublessee of the land under a lease or sublease that will expire less than 5 years after the vacant possession date—

(a) must be reduced so that it bears the same proportion as the period from the vacant possession date to the date of expiry of the lease or sublease bears to a period of 5 years; but

(b) must not be reduced to less than the amount that the owner would have received under section 75 if the owner had been a tenant (as defined in **section 75(4)**).

(6) For the purposes of **subsection (5)**, the date on which a lease or sublease that contains a right of renewal will expire is deemed to be the date on which it would have expired if the right of renewal had been exercised.

72D Circumstances in which compensation must not be paid under section 72C

(1) Compensation must not be paid to an owner of land under **section 72C(1)** unless vacant possession of the land and all buildings and structures on the land is given to the notifying authority by that owner—

(a) on or before the vacant possession date, or any later date that the authority allows, if the land is acquired under an agreement that specifies a vacant possession date:

(b) within 1 month after the date on which the authority serves notice on the vendor or the person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the authority allows, if—

(i) the land is acquired under an agreement that does not specify a vacant possession date; or

(ii) no agreement for sale is entered into and the land is taken by Proclamation.

(2) Compensation must not be paid under **section 72C(1)** unless the person giving vacant possession—

(a) is one of the following:

(i) an owner of the land on the notification date:

(ii) the spouse, civil union partner, or de facto partner of an owner of the land on the notification date:

(iii) the person beneficially interested in the land if an owner dies after the notification date; and

(b) was an owner of the land on the vacant possession date; and

(c) was an owner of the land for a substantial part of the period between the notification date and the vacant possession date; and

(d) was—

(i) not a willing party to the taking or acquisition of the land; or

(ii) a willing party to the taking or acquisition principally because the land had been notified.

(3) Compensation must not be paid under **section 72C(1)** to an owner of land if that person is paid compensation for the loss of a dwelling on that land under **section 72(1)**.

72E Adjustment of compensation payable under section 72 or 72C

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend section 72, **72A, or 72C** by ~~increasing or decreasing~~ doing any or all of the following:

(a) increasing the compensation limit in **section 72(1) and (1B)**:

(b) increasing the compensation limits in **section 72A(1)(a) to (c)**:

(c) increasing or decreasing the percentages in **section 72C(2)(a) to (c)**:

(d) increasing the compensation limits in **section 72C(2)(b) and (c) and (3)**.

(2) The Minister must not recommend the making of an Order in Council under this section unless the Minister is of the opinion that it is necessary or desirable to do so having regard to the following:

(a) the purposes of the compensation payable under sections 72 and **72C** (including the differences between the acquisition of land that includes the owner's home and the acquisition of land that does not include the owner's home):

(b) national average land and house sale prices:

(c) the New Zealand Consumer Price Index;

(d) the level of solatium or similar compensation payable in comparable circumstances in jurisdictions outside New Zealand that have similar property rights and land acquisition regimes:

(e) changes to the matters referred to in **paragraphs (b) to (d)** since the compensation limits and percentages were last changed:

(f) comments received in response to public consultation under **subsection (3)**.

(3) Before recommending the making of an Order in Council under this section, the Minister must publicly consult about the proposed changes.

(4) An Order in Council cannot be made under **subsection (1)**—

(a) until after the expiry of 5 years from the date of commencement of **Part 3 of the Resource Legislation Amendment Act 2015**; or

(b) more frequently than once every 5 years.

173 Section 75 amended (Compensation for tenants of residential and business premises)

(1) In section 75(1)(b), delete "weekly or monthly".

(2) After section 75(3), insert:

(4) In this section, **tenant** means a person who has—

(a) a weekly tenancy agreement; or

(b) a monthly tenancy agreement; or

(c) a tenancy to which the Residential Tenancies Act 1986 applies~~.~~; or

(d) a statutory tenancy (as defined in section 207 of the Property Law Act 2007).

174 Section 249 repealed (Transitional provision)

Repeal section 249.

175 New Schedule 1AA inserted

Before Schedule 1, insert the **Schedule 1AA** set out in **Schedule 6** of this Act.

Part 4
Amendments to Conservation Act 1987

176 Principal Act

This **Part** (other than **sections 182A and 182B**) amends the Conservation Act 1987 (the **principal Act**).

176A Section 2 amended (Interpretation)

In section 2(1), definition of **working day**, paragraph (c), replace "25 December in any year and ending with 15 January" with "20 December in any year and ending with 10 January".

177 New section 3A inserted (Transitional, savings, and related provisions)

After section 3, insert:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in **Schedule 1AA** have effect according to their terms.

178 ~~Section 17S replaced (Contents of application)~~ Sections 17S and 17T replaced

Replace ~~section 17S~~ sections 17S and 17T with:

17S Contents of application

Every application for a concession must include the following information:

(a) a description of the proposed activity:

(b) a description identifying the places where the proposed activity will be carried out (including the status of those places):

(c) a description of—

(i) the potential effects of the proposed activity:

(ii) any actions that the applicant proposes to take to avoid, remedy, or mitigate any adverse effects of the proposed activity:

(d) details of the type of concession for which the applicant is applying:

(e) a statement of—

(i) the proposed duration of the concession; and

(ii) the reasons for the proposed duration:

(f) relevant information relating to the applicant, including any information relevant to the applicant's ability to carry out the proposed activity:

(g) if the applicant applies for a lease, ~~a *profit à prendre*, or~~ a licence granting an interest in land, or an easement,—

(i) reasons for the request; and

(ii) sufficient information to satisfy the Minister that, in terms of section 17U, it is both lawful and appropriate to grant the lease, ~~*profit à prendre*~~, licence, or easement (as the case may be).

~~**17SA Returning non-compliant applications**~~

~~(1) The Minister may, within 10 working days after receiving an application for the purposes of **section 17S**, determine if the application complies with **section 17S**.~~

~~(2) If the Minister determines that an application does not comply with section **section 17S**, he or she must return the application to the applicant with the reasons for the determination.~~

~~(3) If an application is resubmitted after having been returned, the application is to be treated as a new application.~~

~~Compare: 1991 No 69 s 88(3)–(4)~~

17SA Minister may return application that lacks required information

(1) If the Minister is satisfied that an application does not contain all of the information required by **section 17S**, he or she may return the application to the applicant.

(2) The Minister may only do so within 10 working days after receiving the application.

(3) If the Minister returns an application, he or she must give the applicant reasons for the decision to do so.

(4) If an application is resubmitted after having been returned, the application is to be treated as a new application.

~~**17SB Minister may decline application that is inconsistent**~~

~~If the Minister is satisfied that an application does not comply with or is inconsistent with the provisions of this Act (including section 17R) or any relevant conservation management strategy or conservation management plan, he or she must, within 20 working days after an application is received,—~~

~~(a) decline the application; and~~

~~(b) inform the applicant—~~

~~(i) that he or she has declined the application; and~~

~~(ii) of the reasons for declining the application.~~

17SB Minister may decline application that is obviously inconsistent with Act, etc

(1) If the Minister is satisfied that an application obviously does not comply with, or is obviously inconsistent with, the provisions of this Act or any relevant conservation management strategy or conservation management plan, he or she may decline the application.

(2) The Minister may make his or her decision on the basis of the information provided in or with the application, and without making further inquiry.

(3) The Minister may only do so within 20 working days after the expiry of the period referred to in **section 17SA(2)**.

(4) If the Minister declines an application, he or she must inform the applicant and give the applicant reasons for the decision.

17SC Public notification of application for leases, licences, permits, or easements

(1) The Minister must publicly notify every application for—

(a) a lease; or

(b) a licence for a term (including renewals) of more than 10 years.

(2) ~~Despite **subsection (1)(b)**, the~~ The Minister may publicly notify any other application for a licence if, having regard to the effects of the licence, he or she considers it appropriate to do so.

(3) The Minister may publicly notify any application for a permit or an easement if, having regard to the effects of the permit or easement, he or she considers it appropriate to do so.

(4) However, this section does not apply to—

(a) an application that—

(i) does not comply with section 17R(2); or

(ii) is returned under **section 17SA or 17SD**; or

(iii) is declined under **section 17SB**

(b) an application for the grant of a lease or licence resulting from the exercise of a right of renewal or extension, or a right to a new lease or licence, that is contained in a lease or licence.

17SD Minister may require applicant to provide further information

(1) The Minister may, by notice in writing, require an applicant for a concession to supply any further information (including an environmental impact assessment) that the Minister considers necessary to enable a decision to be made.

(2) The applicant must provide the information within any reasonable time that is specified in the notice.

(3) An environmental impact assessment that is provided for the purposes of this section must be—

(a) in the form set out in Schedule 4 of the Resource Management Act 1991; or

(b) in any other form that the Minister requires.

(4) If the applicant does not provide all of the information within the specified time and the Minister determines that the information not provided is necessary to enable a decision to be made on the application, the Minister may return the application to the applicant with the reasons for the determination.

(5) However, the Minister cannot return the application under **subsection (4)** if—

(a) the applicant, within the specified time, advises the Minister that some or all of the requested information will not be provided and requests that the application be considered anyway; or

(b) the application has been publicly notified.

17SE Minister may commission report or advice

(1) The Minister may, at the applicant's expense,—

(a) commission a report or seek advice from any person (including the Director-General) on any matters raised in relation to an application:

(b) obtain, from any source, any existing relevant information on the proposed activity (or structure) that is the subject of the application.

(2) The Minister must—

(a) provide the applicant with a copy of any information obtained under **subsection (1)**; and

(b) provide the applicant with any reasonable time that the Minister considers appropriate in which to comment on the information provided.

(3) To avoid doubt, the report or advice under **subsection (1)** may include a review of the application and any information provided by the applicant.

17T Minister to consider applications

(1) The Minister must consider an application for a concession if the application—

(a) complies with section 17R(2); and

(b) is not returned under **section 17SA**; and

(c) is not declined under **section 17SB**; and

(d) is not returned under **section 17SD(4)**.

(2) The Minister must consider the application when,—

(a) if public notification is required or the Minister considers it appropriate under **section 17SC**, section 49 has been complied with; and

(b) if the Minister sought further information under **section 17SD**,—

(i) the information has been provided; or

(ii) the time specified in the notice for providing the information has expired and the information has not been provided; and

(c) if the Minister obtained any information under **section 17SE**, **section 17SE(2)** has been complied with.

~~**179 Section 17T amended (Process for complete application)**~~

~~Replace section 17T(2) to (7) with:~~

~~(2) In this section, an application is **complete** if—~~

~~(a) it complies with **section 17S**; and~~

~~(b) where the Minister has requested information under **section 17SD**, either—~~

~~(i) the applicant has provided the requested information; or~~

~~(ii) the applicant has not provided the requested information but the date specified under **section 17SD(2)** has passed; and~~

~~(c) any information requested under section **section 17SE(1)** has been obtained by the Minister and the applicant has been given reasonable time to comment on that information under **section 17SE(2)(b)**.~~

180 Section 17U amended (Matters to be considered by Minister)

(1) In section 17U(1)(d), replace "section 17S or section 17T" with "**sections ~~17SC and 17SD~~ 17S, 17SD, and 17SE**".

(2) After section 17U(7), insert:

(8) Nothing in this Act or any other Act requires the Minister to grant any concession if he or she considers that the grant of a concession is inappropriate in the circumstances of the particular application having regard to the matters set out in this section.

181 Section 49 amended (Public notice and rights of objection)

(1) In section 49(2), after "gives public notice of intention to exercise any power conferred by this Act", insert "or gives public notice of an application for a concession".

(2) Replace section 49(2)(b) with:

(b) the Minister must give~~ interested parties,—~~ persons and organisations wishing to make objections or submissions the following time to do so:

(i) in the case of the exercise of a power, at least 40 working days~~ to comment~~:

(ii) in the case of an application for a concession, at least 20 working days ~~to comment~~; and

(ba) every objection or submission must be sent to the Director-General at the place, and ~~before~~ by the date, specified in the notice; and

182 New Schedule 1AA inserted

Before Schedule 1, insert as **Schedule 1AA** the schedule set out in **Schedule 7** of this Act.

182A Consequential amendment to Crown Minerals Act 1991

(1) This section amends the Crown Minerals Act 1991.

(2) In section 61C(3)(a), after "application were", insert "an application for a concession that is".

182B Consequential amendment to Wild Animal Control Act 1977

(1) This section amends the Wild Animal Control Act 1977.

(2) In section 12A(3)(a), after "modifications", insert "as if the giving of the notice under subsection (2) were an exercise of power under that Act".

Part 5
Amendments to Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

183 Principal Act

This **Part** (other than **sections 236 and 237**) amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **principal Act**).

183A Section 3 amended (Outline of Act)

(1) Replace section 3(6) to (8A) with:

(6) Part 3 provides for the making of regulations for the purposes of this Act.

Part 3A

(7) **Subpart 1** provides for activities to be permitted, discretionary, or prohibited activities.

(8) **Subpart 2** provides for the Minister to make EEZ policy statements that state objectives and policies to support decision-making on applications for marine consents.

(8A) **Subparts 2A to 2D** set out the processes for—

(a) applying for marine consents; and

(b) disclosure and notification of applications for marine consents and the making of submissions; and

(c) consideration of applications for marine consents, including the appointment of boards of inquiry for applications relating to publicly notifiable section 20 activities; and

(d) deciding applications for marine consents, including the matters that must be considered by the marine consent authority deciding the application.

(8B) **Subpart 2E** sets out matters relating to marine consents, including their nature, when they commence, their duration, and their review, correction, and cancellation.

(2) After section 3(9), insert:

(9A) **Subpart 4** sets out the processes for acceptance of decommissioning plans and for amendment of accepted plans.

(3) Replace section 3(10) with:

(10) **Subpart 1** provides for objections to decisions of marine consent authorities.

(10A) **Subparts 1A and 1B** provide for appeals to the High Court on questions of law against decisions of the EPA and of boards of inquiry.

(10B) **Subpart 1C** provides for representation at proceedings before the High Court.

184 Section 4 amended (Interpretation)

(1AA) In section 4(1), definition of **applicant**, delete "or 87B".

(1) In section 4(1), replace the definition of **dumping** with:

dumping—

(a) means—

(i) any deliberate disposal into the sea of waste or other matter from ships, aircraft, and structures at sea; and

(ii) any deliberate disposal into the sea of ships, aircraft, and structures at sea; and

(iii) any storage of waste or other matter in the seabed and the subsoil of the seabed from ships, aircraft and structures at sea; and

(iv) any abandonment or toppling at site of structures at sea for the sole purpose of deliberate disposal; but

(b) does not include—

(i) the disposal into the sea of waste or other matter incidental to, or derived from, the normal operations of ships, aircraft, and structures at sea and their equipment, other than waste or other matter transported by or to ships, aircraft, and structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such waste or other matter on such ships, aircraft and structures; or

(ii) placement of matter for a purpose other than the mere disposal of the matter, but only if the placement is not contrary to the aims of the 1996 Protocol to the London Convention; or

(iii) abandonment in the sea of matter (for example, cables, pipelines, and marine research devices) placed for a purpose other than the mere disposal of it; and

(c) does not include the disposal or storage of waste or other matter directly arising from, or related to, the exploration, exploitation, and associated offshore processing of seabed mineral resources

(1A) In section 4(1), replace the definition of **marine consent** with:

marine consent or **consent** means—

(a) a marine consent (including a marine discharge consent or a marine dumping consent) granted under section 62; or

(b) an emergency dumping consent

(2) In section 4(1), definitions of **marine discharge consent** and **marine dumping consent**, replace "under section 87F" with "under section 62".

(2A) In section 4(1), definition of **non-notified activity**, paragraph (b), replace "notified" with "notified; or".

(2B) In section 4(1), definition of **non-notified activity**, after paragraph (b), insert:

(c) is the subject of an application to which **section 38(3)** applies

(2C) In section 4(1), definition of **permitted activity**, replace "is permitted" with "is a permitted activity".

(2D) In section 4(1), definition of **prohibited activity**, replace "is prohibited" with "is a prohibited activity".

(2E) In section 4(1), replace the definition of **public notice** with:

public notice has the meaning given in **section 7A**

(2F) In section 4(1), definition of **submitter**, replace "section 46" with "**section 48**".

(3) In section 4(1), insert in their appropriate alphabetical order:

accepted decommissioning plan means a decommissioning plan accepted under **section 100B**

EEZ policy statement means a statement issued under **section 37D**

London Convention means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)

marine consent authority, in relation to an application for a marine consent, means,—

(a) in the case of a non-notified activity, the EPA:

(b) in the case of a publicly notifiable activity that is a section 20 activity,—

(i) a board of inquiry appointed under **section 53**:

(ii) the EPA—

(A) before a board of inquiry is appointed:

~~(B) after a marine consent is granted (in whole or in part):~~

(B) in respect of any matter that is outside the scope of the functions, powers, and duties of the board of inquiry:

(c) in the case of a publicly notifiable activity other than a section 20 activity, the EPA

publicly notifiable application means an application for a marine consent for a publicly notifiable activity

section 20 activity means an activity referred to in section 20(2) or (4)

treat, in relation to waste or other matter, means to treat so as to avoid, remedy, or mitigate the adverse effects of dumping

184A New sections 7A and 7B inserted

After section 7, insert:

7A Meaning of public notice

(1) If this Act requires the Environmental Protection Authority to give **public notice** of something, the EPA must—

(a) publish on its Internet site a notice that—

(i) includes all the information that is required to be publicly notified; and

(ii) is in the prescribed form (if any); and

(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in—

(i) the cities of Auckland, Wellington, Christchurch, and Dunedin; and

(ii) the region adjacent to the area that is the subject of the matter to which the notice relates.

(2) The notice and the short summary of the notice must be worded in a way that is clear and concise.

7B Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

184B Section 9 amended (Application to ships and aircraft of New Zealand Defence Force and foreign States)

Replace section 9(1A)(c) with:

(c) **subparts 2A to 2E of Part 3A**, to the extent that they relate to marine dumping consents and marine discharge consents:

184C Section 10 amended (Purpose)

In section 10(3)(b), after "regulations", insert "under section 27, 29A, 29B, or **29E**".

184D Section 12 amended (Treaty of Waitangi)

(1) In section 12(a), replace "the Environmental Protection Authority" with "marine consent authorities".

(2) In section 12(c), replace "the EPA" with "a marine consent authority".

(3) In section 12(d), replace "section 45" with "**section 47**".

184E Section 13 amended (Functions of Environmental Protection Authority)

(1) Replace section 13(1)(d)(i) with:

(i) **Part 3A**, which deals with marine consents:

(2) After section 13(1)(e), insert:

(ea) to provide advice and administrative and secretarial services to boards of inquiry:

184EA Section 16 amended (Restriction on Environmental Protection Authority's power to delegate)

In section 16, insert as subsection (2):

(2) In **subsection (1)**, a reference to a marine consent does not include a marine discharge consent or a marine dumping consent.

184F Section 18 replaced (Function of Māori Advisory Committee)

Replace section 18 with:

18 Function of Māori Advisory Committee

The Māori Advisory Committee may provide advice as follows:

(a) to the Environmental Protection Authority in accordance with sections 19 and 20 of the Environmental Protection Authority Act 2011:

(b) to a marine consent authority, if its advice is sought under **section 57(1)(b)**.

184G Section 20 amended (Restriction on activities other than discharges and dumping)

After section 20(2)(b), insert:

(ba) the abandonment of a submarine pipeline that is on or under the seabed:

184H Section 21 amended (Certain existing activities may continue)

(1) In section 21(3), replace "one that is described in section 20" with "a section 20 activity or a discharge of a harmful substance,".

(2) In section 21(3)(b), replace "section 41" with "**section 44**".

(3) Replace section 21(4) and (5) with:

(4) If the application for a marine consent described in subsection (3) is returned by the EPA under **section 44**, subsection (3) applies to any new application that replaces the returned application.

184I Section 22 amended (Planned petroleum activities may commence)

(1) In section 22(4), replace "Section 41 applies" with "**Sections 41 to 44** apply".

(2) In section 22(6)(b), replace "section 41" with "**section 44**".

(3) Replace section 22(7) and (8) with:

(7) If the application for a marine consent described in subsection (6) is returned by the EPA under **section 44**, subsection (6) applies to any new application that replaces the returned application.

184J Section 25 amended (Duty of persons operating in exclusive economic zone or on continental shelf)

In section 25(4), replace "Part 3" with "Part 4".

185 Part 3 heading and subpart 1 heading in Part 3 replaced

Replace the Part 3 heading and the subpart 1 heading in Part 3 with:

Part 3
Regulations

185A New section 29E and cross-heading inserted

After section 29D, insert:

Decommissioning plans

29E Decommissioning plans

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing 1 or more of the following:

(a) information that must be included in a decommissioning plan under **section 100A(2)**:

(b) the process for dealing with a decommissioning plan under **section 100B(1)(a)**:

(c) the criteria against which a decommissioning plan must be assessed under **section 100B(1)(b)**.

(2) However, the Minister must not recommend the making of regulations under this section unless section 32 has been complied with.

185B Section 32 amended (Process for developing or amending regulations)

(1) In section 32(1), after "29A,", insert "**29E**,".

(2) In section 32(2)(a)(ii), replace "or 29A" with ", 29A, or **29E**".

186 Section 34A amended (Matters to be considered for regulations relating to discharges and dumping)

In section 34A(3)(c)(ii), after "waste", insert "or other matter".

187 Cross-heading above section 35 replaced

Replace the cross-heading above section 35 with:

Part 3A
Activities and consents

188 Sections 35 to 58 and cross-headings replaced

Replace sections 35 to 58 (and the headings and cross-headings in between) with:

Subpart 1—Activities

Types of activity

35 Permitted activities

(1) An activity is a **permitted activity** if it is described in regulations as a permitted activity.

(2) A person may undertake a permitted activity without a marine consent if the activity complies with any terms and conditions specified (for the activity) in regulations.

(3) A person intending to undertake a permitted activity must notify the Environmental Protection Authority before undertaking the activity if required to do so by regulations.

36 Discretionary activities

(1) An activity is a **discretionary activity** if regulations—

(a) describe the activity as discretionary; or

(b) allow the activity with a marine consent; or

(c) do not classify the activity as permitted, discretionary, or prohibited.

(2) A person must have a marine consent before undertaking a discretionary activity.

(3) **Subsection (2)** is subject to section 21.

37 Prohibited activities

(1) An activity is a **prohibited activity** if it is described in regulations as a prohibited activity.

(2) No person may apply for a marine consent for a prohibited activity.

(3) No marine consent may be granted for a prohibited activity.

(4) Subject to section 23, no person may undertake a prohibited activity.

Subpart 2—EEZ policy statements

EEZ policy statements

37A Purpose and scope of EEZ policy statements

(1) The purpose of EEZ policy statements is to state objectives and policies to support decision-making on applications for marine consents in accordance with the purpose of this Act.

(2) An EEZ policy statement may apply to all or part of the exclusive economic zone and the continental shelf.

(3) In determining whether it is desirable to prepare an EEZ policy statement, the Minister may have regard to—

(a) the actual or potential effects of the use, development, or protection of natural resources:

(b) New Zealand's obligations under any international conventions that relate to the marine environment:

(c) the matters in subpart 2 of Part 1:

(d) any other relevant matter.

37B Notification of, and consultation on, proposed EEZ policy statement

Before issuing an EEZ policy statement, the Minister must—

(a) notify the public, iwi authorities, regional councils, and persons whose existing interests may be affected of—

(i) the proposed statement; and

(ii) the Minister's reasons for considering that the proposed statement will support decision-making on applications for marine consents; and

(b) establish a process that the Minister considers gives the public, iwi authorities, regional councils, and persons whose existing interests are likely to be affected adequate time and opportunity to comment on the subject matter of the proposed statement.

37C Matters to be considered by Minister when determining whether to issue EEZ policy statement

In determining whether to issue the EEZ policy statement, the Minister must consider—

(a) the actual or potential effects of the use, development, or protection of natural resources; and

(b) New Zealand's obligations under any international conventions that relate to the marine environment; and

(c) the matters in subpart 2 of Part 1; and

(d) any submissions received on the proposed EEZ policy statement; and

(e) any other matter that the Minister considers relevant.

37D Revision, withdrawal, and approval of proposed EEZ policy statements

(1) The Minister, after considering the matters in **section 37C**, may make any changes, or no changes, to the proposed EEZ policy statement, as he or she thinks fit.

(2) The Minister may withdraw all or part of a proposed EEZ policy statement at any time before the statement is approved under **subsection (4)**.

(3) The Minister must ~~give public notice~~ notify the persons mentioned in **section 37B(a)** of any withdrawal under **subsection (2)**, including the reasons for the withdrawal.

(4) The Governor-General may, by Order in Council, on the recommendation of the Minister, approve an EEZ policy statement.

(5) The Minister must, as soon as practicable after an EEZ policy statement has been approved,—

(a) issue the statement by notice in the *Gazette*; and

(b) publicly notify the statement; and

(c) send a copy of the statement to the EPA; and

(d) provide every person who made a submission on the proposal with a copy of the approved statement~~; and~~.

~~(e) present a copy of the approved statement to the House of Representatives.~~

37E Changes to, or review or revocation of, EEZ policy statements

(1) The Minister may review, change, or revoke an EEZ policy statement in accordance with **sections 37B to 37D** as if the review, change, or revocation were a proposed EEZ policy statement.

(2) Despite **subsection (1)**, the Minister may amend an EEZ policy statement without regard to **sections 37B to 37D** if the amendment is of minor effect or corrects a minor error.

(3) When an EEZ policy statement is reviewed, the Minister must give notice of the review in the *Gazette*.

(4) If an EEZ policy statement has been changed, the Minister must—

(a) issue the revised statement by notice in the *Gazette*; and

(b) send a copy of the revised statement to the EPA; and

(c) provide every person who made a submission on the proposal with a copy of the approved statement~~; and~~.

~~(d) present a copy of the revised statement to the House of Representatives.~~

(5) When an EEZ policy statement is revoked, the Minister must notify the revocation by notice in the *Gazette*.

37F Incorporation of material by reference in EEZ policy statements

An EEZ policy statement may incorporate material by reference under sections 150 to 157.

37G EEZ policy statement is disallowable instrument

An EEZ policy statement is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

Subpart 2A—Applying for marine consents

38 Application for marine consent

(1) Any person may apply to the Environmental Protection Authority for a marine consent, marine discharge consent, or a marine dumping consent to undertake a discretionary activity.

(2) An application must—

(a) be made in the prescribed form; and

(b) fully describe the proposal; and

(c) include an impact assessment prepared in accordance with **section 39** and any requirements prescribed in regulations~~.~~; and

(d) if the application relates to an activity referred to in section 20(2)(a), (b), or (c), include a description in general terms of how and when it is pro-

posed that the structure, submarine pipeline, or submarine cable will be dealt with at the end of its life.

(3) If the application relates to an activity that is to be undertaken in connection with the decommissioning of an offshore installation used in connection with petroleum production, or a structure, submarine pipeline, or submarine cable associated with such an installation,—

(a) the application must include an accepted decommissioning plan that covers the activity; and

(b) the proposed carrying out of the activity must be in accordance with that plan.

39 Impact assessment

(1) An impact assessment must—

(a) describe the activity (or activities) for which consent is sought; and

(b) describe the current state of the area where it is proposed that the activity will be undertaken and the environment surrounding the area; and

(c) identify persons whose existing interests are likely to be adversely affected by the activity; and

(d) identify~~, in terms of section 59(2)(a),~~ the effects of the activity on the environment and existing interests (including cumulative effects and effects that may occur in New Zealand or in the sea above or beyond the continental shelf beyond the outer limits of the exclusive economic zone); and

(e) identify the effects of the activity on the biological diversity and integrity of marine species, ecosystems, and processes; and

(f) identify the effects of the activity on rare and vulnerable ecosystems and habitats of threatened species; and

(g) describe any consultation undertaken with persons described in **paragraph (c)** and specify those persons who have given written approval to the activity; and

(h) include copies of any written approvals to the activity; and

(i) specify any possible alternative locations for, or methods for undertaking, the activity that may avoid, remedy, or mitigate any adverse effects; and

(j) specify the measures that could be taken to avoid, remedy, or mitigate the adverse effects identified (including measures that the applicant intends to take).

(2) An impact assessment must also,—

(a) if it relates to an application for a marine discharge consent, describe the effects of the activity on human health:

(b) if it relates to an application for a marine dumping consent,—

(i) describe the effects of the activity on human health~~:~~ ; and

(ii) specify any practical opportunities to reuse, recycle, or treat the waste or other matter:

(c) if it relates to any other application, describe the effects on human health that may arise from the effects of the activity on the environment.

(3) An impact assessment must contain the information required under **subsections (1) and (2)** in—

(a) such detail as corresponds to the scale and significance of the effects that the activity may have on the environment and existing interests; and

(b) sufficient detail to enable the Environmental Protection Authority and persons whose existing interests are or may be affected to understand the nature of the activity and its effects on the environment and existing interests.

(4) The impact assessment complies with **subsections (1)(c) to (f) and (2)** if the Environmental Protection Authority is satisfied that the applicant has made a reasonable effort to identify the matters described in those provisions.

(5) The measures that must be specified under **subsection (1)(j)** include any measures required by another marine management regime and any measures required by or under the Health and Safety at Work Act 2015 that may have the effect of avoiding, remedying, or mitigating the adverse effects of the activity on the environment or existing interests.

~~**40 Obligation to deal with application promptly**~~

~~After receiving an application for a marine consent, the Environmental Protection Authority must deal with the application as promptly as is reasonable in the circumstances.~~

41 Environmental Protection Authority must determine if application complete

The Environmental Protection Authority must, within 20 working days after receiving an application, determine whether the application complies with **section 38**.

42 Environmental Protection Authority may commission independent review of impact assessment

(1) The Environmental Protection Authority may commission an independent review of an impact assessment for the purpose of determining whether the impact assessment complies with **section 39**.

(2) If the EPA intends to commission a review, it must—

(a) advise the applicant in writing; and

(b) include, with that advice, the EPA's reasons for wanting to commission a review.

(3) The applicant may object under section 101 to a decision by the EPA to commission a review.

(4) The EPA must, as soon as is reasonably practicable after receiving the results of a review, send a copy of the results to the applicant.

43 Environmental Protection Authority may ask applicant to complete incomplete application

(1) ~~The Environmental Protection Authority~~ If the Environmental Protection Authority considers that an application does not comply with **section 38** (including because the impact assessment does not comply with **section 39** or any requirements prescribed in regulations), the EPA may, in writing, request further information from an applicant to complete an application.

(2) An applicant must, within 5 working days after receiving a request under **subsection (1),**—

(a) provide the information; or

(b) write to the EPA telling it that the applicant refuses to provide the information.

(3) The EPA must continue to process an application even if the applicant—

(a) does not respond to the request; or

(b) refuses to provide the information.

44 Environmental Protection Authority must return incomplete application

(1) The EPA must, within 20 working days after an incomplete application is received by the EPA,—

(a) return the incomplete application; and

(b) give the applicant a written explanation for its finding that the application is incomplete.

(2) If, after the EPA returns an application as incomplete, the application is sent to the EPA again, the application must be treated as a new application.

(3) The applicant may object under section 101 to a decision under **subsection (1)**.

45 Joint processing and decision making on related applications

(1) This section applies if—

(a) the Environmental Protection Authority receives more than 1 application for a marine consent in relation to the same proposal (**related applications**); and

(b) at least 1 of the related applications must be publicly notified under **section 47(1)(b)(i)**; and

(c) the EPA considers that—

(i) the related applications should be heard (if more than 1 are to be heard) at the same time and place; or

(ii) decisions on the related applications should be made on the same date.

(2) The EPA may extend a time period that applies to the processing of the related applications in order to ensure that—

(a) they are heard (if more than 1 are to be heard) at the same time and place:

(b) decisions on the related applications are made on the same date.

(3) However, the EPA may not extend the time period beyond the latest date that applies to any of the related applications.

(4) If any of the related applications is a publicly notifiable application for a section 20 activity, the EPA must delegate its functions under sections **51** to 75 in relation to any other applications to the board of inquiry to allow all of the applications to be determined together unless the applicant requests otherwise.

Subpart 2B—Disclosure and notification

46 Copy of application for non-notified activity

If the Environmental Protection Authority is satisfied that an application for a marine consent for a non-notified activity is complete, the EPA—

(a) must serve a copy of the application on any of the following that the EPA considers may be affected by the application:

(i) iwi authorities:

(ii) customary marine title groups:

(iii) protected customary rights groups:

(b) may serve a copy of the application on the following if the EPA considers it appropriate in the circumstances:

(i) Ministers with responsibilities that may be affected by the activity for which consent is sought:

(ii) Maritime New Zealand:

(iii) other persons that the EPA considers have existing interests that may be affected by the application:

(iv) regional councils whose regions may be affected by the application.

47 Copy of application for publicly notified activity

(1) If the Environmental Protection Authority is satisfied that an application for a marine consent for a publicly notifiable activity is complete, it must,—

(a) if the application is for a section 20 activity, immediately notify the Minister in writing that an application has been made (to allow a board of inquiry to be appointed under **section 53**); and

(b) within 20 working days,—

(i) give public notice of the application; and

(ii) serve a copy of the notice on—

(A) every other Minister with responsibilities that may be affected by the activity for which consent is sought:

(B) Maritime New Zealand:

(C) iwi authorities that the EPA considers may be affected by the application:

(D) customary marine title groups that the EPA considers may be affected by the application:

(E) protected customary rights groups that the EPA considers may be affected by the application:

(F) other persons that the EPA considers have existing interests that may be affected by the application:

(G) regional councils whose regions may be affected by the application.

(2) The notice under **subsection (1)(b)(i)** must—

(a) be in the prescribed form; and

(b) give a summary of the application for consent; and

(c) specify where the application is available for inspection.

48 Making of submissions

(1) Any person may make a submission to the Environmental Protection Authority about an application for a marine consent.

(2) A submission must be in the prescribed form.

(3) A submitter must provide a copy of the submission to the applicant as soon as is reasonably practicable after serving it on the EPA.

49 Time limit for submissions

Submissions must be made not later than 30 working days after public notification of the application under **section 47**.

50 Advising applicants of submissions

As soon as is reasonably practicable after the closing date for submissions, the Environmental Protection Authority must give the applicant a list of all the submissions that it has received in relation to the relevant application.

Subpart 2C—Considering applications

Non-notified activities

51 Hearings in respect of applications for non-notified activities

(1) The Environmental Protection Authority must conduct a hearing on an application for a marine consent for a non-notified activity if the applicant requests a hearing.

(2) The EPA may conduct a hearing, even if the applicant does not request one, if the EPA considers it necessary or desirable.

(3) ~~Schedule 1~~ **Schedule 2** applies to hearings of applications for marine consents for non-notified activities.

Publicly notifiable activities other than section 20 activities

52 Hearings in respect of applications for publicly notifiable activities other than section 20 activities

(1) If an application is for a publicly notifiable activity other than a section 20 activity, the Environmental Protection Authority must conduct a hearing on an application if the applicant or a submitter requests a hearing.

(2) The EPA may conduct a hearing, even if ~~no applicant or~~ neither the applicant nor any submitter requests one, if the EPA considers it necessary or desirable.

(3) ~~**Schedule 2**~~ **Schedule 3** applies to hearings under this section.

Publicly notifiable section 20 activities

53 Minister must appoint boards of inquiry for applications for publicly notifiable section 20 activities

(1) As soon as practicable on being notified in accordance with **section 47(1)(a)**, the Minister must appoint a board of inquiry to—

(a) decide an application for a section 20 activity; and

(b) complete the performance or exercise of the functions, duties, and powers prescribed in this Part, in relation to the application (including any appeals in relation to the matter that are filed in any court).

(2) The Minister may, as the Minister sees fit, set terms of reference ~~for the board of~~ about administrative matters relating to the inquiry.

(3) The Minister must appoint 3 to 5 suitable persons to be members of the board of inquiry.

(4) The Minister may, if he or she considers it appropriate,—

(a) invite the EPA to nominate persons to be members of the board:

(b) appoint a member of the EPA board to be a member of the board of inquiry.

(5) In appointing a person to the board, the Minister must consider the need for the board to have available to it from its members, knowledge, skill, and experience relating to—

(a) this Act; and

(b) the activity or type of activities that the board will be considering; and

(c) tikanga Māori; and

(d) legal expertise; and

(e) relevant technical expertise.

(6) The Minister must appoint a chairperson.

(7) The chairperson may (but need not) be a current, former, or retired Environment Court Judge or a retired High Court Judge.

(8) ~~**Schedule 3**~~ **Schedule 4** applies to boards of inquiry and applications considered by a board of inquiry.

(9) A member of a board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

~~Compare: 1991 No 69 s 149J(2), (3)~~

Provisions that apply to all applications

54 Obligation to deal with application promptly

(1) A marine consent authority must deal with any application for a marine consent as promptly as is reasonable in the circumstances.

(2) If **section 38(3)** applies to the application (and it is not returned under **section 44**), the Environmental Protection Authority must decide the application no more than 9 months after it determines under **section 41** that the application is complete.

55 Request for further information

(1) A marine consent authority may request that an applicant provide further information relating to an application.

(2) A request may be made at any reasonable time—

(a) before a hearing under **section 51 or 52 or Schedule ~~3~~ 4**; or

(b) if no hearing is held, before the marine consent authority makes a decision on the application.

(3) A request must be in writing and set out the marine consent authority's reasons for requesting further information.

(4) The marine consent authority must, in the case of a publicly notified application, provide a copy of the information provided by the applicant to every submitter as soon as practicable after the later of—

(a) the date on which it receives the information; and

(b) the date on which the submitter makes a submission.

56 Response to request

(1) An applicant who receives a request under **section 55(1)** must, within 5 working days after the date of the request,—

(a) provide the information; or

(b) write to the marine consent authority telling it that the applicant agrees to provide the information; or

(c) write to the marine consent authority telling it that the applicant refuses to provide the information.

(2) After the marine consent authority receives the applicant's letter under **subsection (1)(b)**, the marine consent authority must—

(a) set a reasonable time within which the applicant must provide the information; and

(b) write to the applicant advising the applicant of the date by which the applicant must provide the information.

(3) The marine consent authority must consider the application under section 59 even if the applicant—

(a) does not respond to the request; or

(b) agrees to provide the information under **subsection (1)(b)** but does not do so; or

(c) refuses to provide the information under **subsection (1)(c)**.

57 Marine consent authority may obtain advice or information

(1) A marine consent authority may—

(a) commission an independent review of an impact assessment (if no review was commissioned under **section 42**):

(b) seek advice from the Māori Advisory Committee on any matter related to the application:

(c) seek advice or information from any person on any aspect of—

(i) an application for a marine consent; or

(ii) the activity to which an application relates:

(d) commission any person to provide a report on any aspect of—

(i) an application for a marine consent; or

(ii) the activity to which an application relates.

(2) The marine consent authority must advise an applicant in writing—

(a) if it intends to commission a review or report or seek advice or information; and

(b) of the reasons for wanting to do so.

(3) **Subsection (1)** applies at any reasonable time—

(a) before a hearing is held; or

(b) if no hearing is to be held, before a decision on the application is made.

(4) An applicant may object under section 101 to a decision to commission a review or a report, or to seek advice or information.

(5) The marine consent authority must, as soon as is reasonably practicable after receiving any advice or report under this section, notify the applicant and every submitter that the advice or report is available at the EPA's office.

58 Meetings and mediation to resolve matters before decision

(1) The marine consent authority may request that an applicant for a marine consent and 1 or more submitters—

(a) meet to discuss any matters in dispute in relation to the application for consent; or

(b) enter mediation to resolve any matters in dispute in relation to the application for consent.

(2) The person who conducts the meeting or mediation must report on the outcome of the meeting or mediation to—

(a) the marine consent authority; and

(b) the persons who were at the meeting or mediation.

(3) The report must set out—

(a) the matters that were agreed at the meeting or mediation; and

(b) the matters that were not resolved.

(4) The report must not include anything communicated or made available on a without prejudice basis at the meeting or during the mediation.

189 Cross-heading above section 59 replaced

Replace the cross-heading above section 59 with:

Subpart 2D—Decisions

190 Section 59 amended (Environmental Protection Authority's consideration of application)

(1) In the heading to section 59, replace "**Environmental Protection Authority's**" with "**Marine consent authority's**".

(2) In section 59(1), replace "the Environmental Protection Authority" with "a marine consent authority".

(3) In section 59(2), replace "The EPA" with "~~A~~ If the application relates to a section 20 activity (other than an activity referred to in **section 20(2)(ba)**), a marine consent authority".

(3A) In section 59(2)(k), after "regulations", insert "(other than EEZ policy statements)".

(3B) In section 59(2)(l), after "law", insert "(other than EEZ policy statements)".

(4) In section 59(2)(m), (3), (4), (5), and (6), replace "EPA" with "marine consent authority" in each place.

(5) After section 59(2), insert:

~~(2A) If the application is for a marine discharge consent or a marine dumping consent, the EPA must also take into account,—~~

~~(a) in relation to the discharge of harmful substances,—~~

~~(i) the matters described in subsection (2), except paragraph (c); and~~

~~(ii) the effects on human health of the discharge of harmful substances if consent is granted; and~~

~~(b) in relation to the dumping of waste or other matter,—~~

~~(i) the matters described in subsection (2), except paragraphs (c), (f), (g), and (i); and~~

~~(ii) the effects on human health of the dumping of waste or other matter if consent is granted; and~~

~~(iii) any alternative methods of disposal that could be used; and~~

~~(iv) whether there are practical opportunities to reuse, recycle, or treat the waste or other matter.~~

(2A) If the application is for a marine discharge consent, the EPA must take into account—

(a) the matters described in subsection (2), except paragraph (c); and

(b) the effects on human health of the discharge of harmful substances if consent is granted.

(2B) If the application is for a marine dumping consent or relates to an activity referred to in **section 20(2)(ba)**, the EPA must take into account—

(a) the matters described in subsection (2), except paragraphs (c), (f), (g), and (i); and

(b) the effects on human health of the dumping of waste or other matter, or the abandonment of the pipeline, if consent is granted; and

(c) any alternative methods of disposal of the waste, other matter, or pipeline that could be used; and

(d) whether there are practical opportunities to reuse, recycle, or treat the waste, other matter, or pipeline.

(6) Before section 59(3)(a), insert:

(aa) EEZ policy statements; and

(7) Replace section 59(3)(b) with:

(b) any advice, reports, or information sought under this Part and received in relation to the application; and

191 Section 60 amended (Matters to be considered in deciding extent of adverse effects on existing interests)

In section 60, replace "the Environmental Protection Authority" with "a marine consent authority".

192 Section 61 amended (Information principles)

(1) In section 61(1), replace "the Environmental Protection Authority" with "a marine consent authority".

(2) In section 61(2) and (3), replace "EPA" with "marine consent authority".

(3) Replace section 61(4) with:

(4) Subsection (3) does not—

(a) apply to an application for—

(i) a marine dumping consent; or

(ii) a marine discharge consent; or

(iii) a marine consent in relation to an activity referred to in **section 20(2)(ba)**; or

(b) limit section 63 or 64.

193 Section 62 amended (Decisions on applications for marine consents)

(1) In section 62(1), replace "the EPA" with "a marine consent authority".

(2) After section 62(1), insert:

(1A) However, the marine consent authority must refuse an application for a marine dumping consent or an application relating to an activity referred to in **section 20(2)(ba)** if—

(a) the marine consent authority considers that the waste ~~or other matter~~, other matter, or pipeline may be reused, recycled, or treated without—

(i) more than minor adverse effects on human health or the environment; or

(ii) imposing costs on the applicant that are unreasonable in the circumstances; or

~~(b) the waste or other matter is identified in such a way that it is not possible to assess the potential effects of dumping the waste or other matter on human health or the environment; or~~

(b) the waste, other matter, or pipeline is identified in such a way that it is not possible to assess the potential effects of dumping or abandoning it on human health or the environment; or

~~(c) the marine consent authority considers that dumping the waste or other matter is not the best approach to the disposal of the waste or other matter in the circumstances.~~

(c) the marine consent authority considers that dumping the waste or other matter or abandoning the pipeline is not the best approach to its disposal in the circumstances.

(3) In section 62(2) and (3), replace "EPA" with "marine consent authority".

194 Section 63 amended (Conditions of marine consents)

(1) In section 63(1), replace "The Environmental Protection Authority" with "A marine consent authority".

(2) In section 63(2), (3), and (4), replace "EPA" with "marine consent authority".

(3) In section 63(2)(b), after "that", insert ", if section 64 applies,".

195 Section 64 amended (Adaptive management approach)

(1) ~~Above~~ Before section 64(1), insert:

~~(1AA) This section applies to marine consents other than marine discharge consents and marine dumping consents.~~

(1AA) This section does not apply to—

(a) a marine dumping consent; or

(b) a marine discharge consent; or

(c) a marine consent in relation to an activity referred to in **section 20(2)(ba)**.

(2) In section 64(1), replace "The Environmental Protection Authority" with "A marine consent authority".

(3) In section 64(3), replace "the EPA" with "a marine consent authority".

196 Section 65 amended (Bonds)

(1) In section 65(1), replace "the Environmental Protection Authority" with "a marine consent authority".

(2) In section 65(2)(d), (e), and (f), and (3), replace "EPA" with "marine consent authority" in each place.

196A Section 68 amended (Time limits for Environmental Protection Authority's decision)

In section 68(1)(b), replace "section 47" with "**section 49**".

197 Section 69 replaced (Decision of Environmental Protection Authority to be in writing)

Replace section 69 with:

69 Decision of marine consent authority to be in writing

Every decision of a marine consent authority on an application for a marine consent must—

(a) be in writing; and

(b) include the reasons for the decision.

198 Section 70 amended (Notification of Environmental Protection Authority's decision)

(1) In the heading to section 70, replace "**Environmental Protection Authority's**" with "**marine consent authority's**".

(2) In section 70(1), replace "Environmental Protection Authority" with "marine consent authority".

(3) In section 70(1)(a)(iv) and (3), replace "EPA" with "marine consent authority".

199 New subpart 2E heading in Part 3A inserted

Above section 71, insert:

Subpart 2E—Consents

200 Section 73 amended (Duration of marine consent)

(1) In section 73(1), after "marine consent", insert "(other than a marine discharge consent or a marine dumping consent)".

(2) After section 73(1), insert:

(1A) The duration of a marine discharge consent or a marine dumping consent is—

(a) the term specified in the consent, which must not be more than 35 years; or

(b) if no term is specified, 5 years after the date of the granting of the consent.

(3) In section 73(2), replace "the Environmental Protection Authority" with "a marine consent authority".

~~**201 New section 73A inserted (Duration of marine discharge consents and marine dumping consents)**~~

~~After section 73, insert:~~

~~**73A Duration of marine discharge consents and marine dumping consents**~~

~~(1) The duration of a marine discharge consent or a marine dumping consent is the term specified in the consent.~~

~~(2) However, the duration must not be more than 35 years.~~

~~(3) If no duration is specified in a consent, its duration is 5 years.~~

~~(4) When determining the duration of a consent, the marine consent authority must—~~

~~(a) comply with sections 59 and 61; and~~

~~(b) take into account the duration sought by the applicant; and~~

~~(c) take into account the duration of any other legislative authorisations granted or required for the activity that is the subject of the application for consent.~~

202 Section 74 amended (Exercise of marine consent while applying for new consent)

(1) In section 74(2)(d), replace "the EPA" with "a marine consent authority".

(2) In section 74(3)(b), replace "declined" with "refused".

203 New section 75A and cross-heading inserted

After section 75, insert:

EPA responsibility for marine consents granted by board of inquiry

75A Residual powers of EPA

(1) This section applies to a marine consent that has been granted by a board of inquiry under section 62(1)(a).

(2) The EPA has all the functions, duties, and powers in relation to the marine consent as if it had granted the consent itself.

203A Section 78 amended (Public notice of review)

In section 78(2), replace "section 45(1)" with "**section 47(1)(b)(ii)**".

203B Section 78A amended (Copy of notice of review of non-notified activity)

In section 78A, replace "section 44A(a)" with "**section 46(a)**".

203C Section 79 amended (Further information, advice, submissions, and hearing)

(1) In section 79(1), replace "Sections 42 to 44 and 45 to 58" with "**Sections 45 to 57** (other than **sections 46, 51, 53, and 54**)".

(2) In section 79(1A), replace "Sections 42 to 44B (and the Schedule)" with "**Sections 46, 51, and 55 to 57**".

(3) In section 79(2), replace "section 44(1)(a)" with "**section 57(1)(a)**".

204 New cross-heading above section 84 inserted

Above section 84, insert:

Minor corrections of marine consents

205 Section 84 amended (Minor corrections of marine consents)

In section 84,—

(a) replace "The EPA" with "A marine consent authority":

(b) replace "minor mistakes or defects" with "minor omissions, errors, or other defects".

205A Section 87 amended (Change or cancellation of consent conditions on application by consent holder)

In section 87(3)(a), replace "section 45" with "**section 47**".

206 Subpart 2A of Part 3 repealed

Repeal subpart 2A of Part 3.

207 Section 88 amended (Interpretation)

(1) In section 88, repeal the definitions of **consent authority** and **relevant consent authority**.

(2) In section 88, insert in their appropriate alphabetical order:

processing, in relation to an application, means processing—

(a) before a hearing is held; or

(b) if no hearing is held, before a decision is made on the application

relevant resource consent authority means—

(a) the resource consent authority responsible for a district or region in which part of a cross-boundary activity is or is intended to be undertaken; or

(b) the Minister of Conservation, in relation to the coastal marine areas of the Kermadec Islands, the Snares Islands, the Bounty Islands, the Antipodes Islands, the Auckland Islands, Campbell Island, and the islands adjacent to Campbell Island

resource consent authority means a consent authority as that term is defined in section 2(1) of the Resource Management Act 1991

208 Section 91 amended (Joint application for consent for cross-boundary activity)

Replace section 91(1) and (2) with:

(1) If a person makes a joint application for consent, the joint application must be sent to—

(a) the relevant resource consent authority; and

(b) the Environmental Protection Authority.

209 Section 92 amended (Separate applications for consents for cross-boundary activity)

In section 92, replace "Subpart 2 applies" with "**Subparts 2A to 2D** apply".

210 Section 93 amended (Environmental Protection Authority may require joint application)

~~(1) In section 93(1), replace "or during the processing of an application for a marine consent for a cross-boundary activity," with "an application for a marine consent for a cross-boundary activity is referred to a board of inquiry,".~~

(1) After section 93(1), insert:

(1A) However, the EPA cannot make a decision under subsection (1) if the application for a marine consent has been referred to a board of inquiry.

(2) In section 93(3)(a), replace "relevant consent authority" with "relevant resource consent authority".

(3) In section 93(3)(b), replace "as incomplete under section 41" with "under **section 44** as if it were incomplete".

211 Section 94 amended (Decision to separate joint application for consent)

(1) Replace the heading to section 94 with "**Joint processing must cease when application for resource consent referred to Environment Court**".

(2) Repeal section 94(1) to (3).

(3) In section 94(7), replace "subpart 2" with "**subpart 2A**".

212 New section 94A inserted (Environmental Protection Authority may decide to separate joint application)

After section 94, insert:

94A Environmental Protection Authority may decide to separate joint application

(1) The Environmental Protection Authority may decide that the application for a resource consent and the application for a marine consent that comprise the

joint application must cease to be processed as a joint application and continue to be processed separately.

~~(2) A decision under **subsection (1)** can be made at any time before a joint application for consent is referred to a board of inquiry.~~

(2) However, the EPA cannot make a decision under **subsection (1)** if the joint application for consent has been referred to a board of inquiry.

(3) **Subsection (1)** applies only if—

(a) the EPA and the relevant resource consent authority agree that the applications are sufficiently unrelated that a joint process is not necessary; or

(b) one application must be publicly notified, but not the other; or

(c) a hearing is required for one application, but not the other; or

(d) the joint processing of the applications for resource consent and marine consent that comprise the joint application for consent is not administratively efficient.

(4) In any case described in **subsection (1)**,—

(a) the relevant resource consent authority must resume processing the application for resource consent under the Resource Management Act 1991; and

(b) the EPA must resume processing the application for a marine consent under **subpart 2A**.

213 Section 96 replaced (Environmental Protection Authority to administer process)

Replace section 96 with:

96 Environmental Protection Authority to administer process

(1) The Environmental Protection Authority is responsible for ensuring the efficient and co-ordinated processing of a joint application for consent for a cross-boundary activity.

(2) The EPA must, in relation to the joint application, liaise with the relevant resource consent authority to—

(a) prepare a request for further information under **section 55** so that, where practicable, the request covers all the information needed in relation to the whole cross-boundary activity; and

(b) ensure that, if both applications must be publicly notified, they are notified jointly by the EPA and the relevant resource consent authority; and

(c) set a closing date for the making of submissions (if applicable); and

(d) receive submissions and provide copies of them to the relevant resource consent authority; and

(e) provide general administrative services.

(3) The EPA may extend a time period that applies to the processing of the application for a marine consent in order to ensure that (where applicable)—

(a) the application for a marine consent is notified jointly with the application for resource consent:

(b) submissions on the applications close on the same date.

214 Section 98 replaced (Separate decisions on marine consent and resource consent applications)

Replace section 98 with:

98 Separate decisions on marine consent and resource consent applications

(1) Subject to sections 99 and **99A**,—

(a) the relevant marine consent authority must decide an application for a marine consent, a marine discharge consent, or marine dumping consent that is part of a joint application for consent; and

(b) the relevant resource consent authority must decide the application for a resource consent that is part of a joint application.

(2) Sections 59 to 71 apply to an application for a marine consent, a marine discharge consent, or a marine dumping consent.

(3) Sections 104 to 116 of the Resource Management Act 1991 apply to the application for a resource consent.

215 Section 99 amended (Application for consent for nationally significant cross-boundary activity referred to board of inquiry)

(1) In section 99(3), replace "sections 44B, 50 to 58, and 68" with "**sections 51 and 52**".

(2) In section 99(4)(a), replace "section 45(2)" with "**section 47**".

(3) In section 99(4)(a)(ii), replace "section 46" with "**section 48**".

(4) In section 99(4)(b), replace "the EPA" with "a marine consent authority".

216 New section 99A inserted (Joint applications for section 20 activity and for nationally significant activity to be referred to board of inquiry)

After section 99, insert:

99A Joint applications for section 20 activity and for nationally significant activity to be referred to board of inquiry

(1) This section applies to a joint application for consent if—

(a) the application for a marine consent is for a section 20 activity; and

(b) the application for a resource consent that is or is part of a proposal of national significance is to be referred to a board of inquiry under section 142(2)(a) or 147(1)(a) of the Resource Management Act 1991.

(2) The responsible Ministers must, as soon as practicable after being notified in accordance with **section 47(1)(a)**, appoint a board of inquiry to—

(a) decide the joint application; and

(b) perform or exercise the functions, duties, and powers of a marine consent authority, prescribed in **subparts 2C to 2E**, in relation to the application (including any appeals in relation to the matter that are filed in any court).

(3) The responsible Ministers must appoint 3 to 5 suitable persons to be members of the board of inquiry.

(4) The Minister may, if he or she considers it appropriate, invite the EPA to nominate persons to be members of the board.

(5) In appointing a person to the board, the responsible Ministers must consider the need for the board to have available to it, from its members,—

(a) knowledge, skill, and experience relating to—

(i) this Act and the Resource Management Act 1991; and

(ii) the matter or type of matter that the board will be considering; and

(iii) tikanga Māori; and

(b) legal expertise; and

(c) technical expertise in relation to the matter or type of matter that the board will be considering.

(6) The EPA must—

(a) process the application for a marine consent together with the associated application for a resource consent; and

(b) publicly notify the application under **section 47(1)(a)** if the application has not already been notified; and

(c) receive submissions made under **section 48**.

(7) **Sections 51 to 53** do not apply to the application for a marine consent.

(8) Despite **subsection (7)**, **clauses 1 to 4 and 14 of ~~Schedule 3~~ Schedule 4** do apply to the processing of the application for a marine consent.

(9) The following provisions of the Resource Management Act 1991 apply to the processing of the application for a marine consent as if the application were part of the associated application for a resource consent:

(a) section 149L (which deals with the conduct of the inquiry):

(b) section 149R (which requires the board to produce a final report), but not subsections (3)(e) and (f) and (4)(b) and (c):

(c) section 149RA(1) and (2) (which allows the board to make minor corrections to board decisions and resource consents):

(d) section 149S (which allows the Minister for the Environment to extend the time by which the board must report), but not subsection (4)(b):

(e) section 149V (which provides for appeals against decisions to be on questions of law only) as if the reference in that section to section 149R(4)(a) to (f) were a reference to section 149R(4)(a), (d), (e), and (f).

(10) In this section, **responsible Ministers** means—

(a) the Minister; and

(b) the Minister for the time being responsible for the administration of the Resource Management Act 1991.

217 New subpart 4 of new Part 3A inserted

After section 100, insert:

~~Subpart 4—Miscellaneous~~

~~**100A Owner must submit decommissioning plan**~~

~~(1) The EPA may, by written notice, require the owner of an offshore installation to prepare a decommissioning plan.~~

~~(2) The decommissioning plan must be prepared in accordance with regulations (if any) prescribed under section 27.~~

~~(3) The owner must—~~

~~(a) consult the EPA about the decommissioning plan within the period (if any) prescribed by regulations; and~~

~~(b) apply for a marine consent for every discretionary activity that is proposed as part of the decommissioning plan.~~

Subpart 4—Decommissioning plans

100A Submitting decommissioning plan for acceptance

(1) The owner or operator of an offshore installation used in connection with petroleum production, or a structure, submarine pipeline, or submarine cable associated with such an installation, may submit a decommissioning plan to the Environmental Protection Authority for acceptance.

(2) The decommissioning plan must—

(a) identify the offshore installations, structures, submarine pipelines, and submarine cables that are to be decommissioned; and

(b) fully describe how and when they are to be decommissioned; and

(c) if it is a revised decommissioning plan referred to in **section 100C**, identify the changes from the accepted decommissioning plan that it is intended to replace; and

(d) include any other information required by the regulations.

(3) The regulations may elaborate on what information is required to be included in the plan under **subsection (2)(a) to (c)**.

100B Assessment and acceptance of decommissioning plan

(1) When a decommissioning plan is submitted, the Environmental Protection Authority must—

(a) deal with the plan in accordance with the process prescribed by the regulations; and

(b) assess the plan against the criteria prescribed by the regulations.

(2) Having assessed the plan, the EPA must,—

(a) if it is satisfied that the plan meets those criteria, accept the plan as the accepted decommissioning plan for the installations, structures, pipelines, and cables to which it relates; or

(b) otherwise, refuse to accept the plan.

(3) To avoid doubt, the EPA may refuse to accept a plan if it considers that it does not have adequate information to determine whether it meets the criteria.

(4) The EPA must give to the owner or operator—

(a) written notice of its decision under **subsection (2)**; and

(b) if it refuses to accept the plan, written reasons for that decision.

100C Amendment of accepted decommissioning plan

(1) If the owner or operator of an offshore installation, structure, submarine pipeline, or submarine cable wishes to amend the accepted decommissioning plan (the **current plan**), it may submit a revised decommissioning plan to the Environmental Protection Authority under **section 100A**.

(2) If the EPA accepts the revised plan under **section 100B(2)(a)**,—

(a) the current plan ceases to be the accepted decommissioning plan; and

(b) the revised plan becomes the accepted decommissioning plan in its place.

100D Requirement for public consultation

(1) Regulations made for the purposes of **section 100B** must provide for public consultation in relation to a decommissioning plan that has been submitted for acceptance.

(2) However, in relation to a revised decommissioning plan referred to in **section 100C**, the regulations may provide for either or both of the following:

(a) that public consultation is required only in relation to the changes from the current plan (as defined in **section 100C**) to the revised plan:

(b) that public consultation is not required if the EPA is satisfied that the effect on the environment and existing interests of implementing the re-

vised decommissioning plan would not be materially different from, or would be less than, the effect of implementing the current plan.

(3) Regulations are to be regarded as **providing for public consultation** in relation to a plan if the regulations—

(a) require the EPA to publicly notify the plan; and

(b) allow any person who wishes to make a submission about the plan a reasonable opportunity to do so; and

(c) require the owner or operator of the offshore installation, structure, submarine pipeline, or submarine cable to consider each submission and either—

(i) amend the plan in response to the submission; or

(ii) explain to the EPA why it does not propose to amend the plan in response to the submission.

218 Subpart 1 heading in Part 4 replaced

In Part 4, replace the subpart 1 heading with:

Subpart 1—Objections to decisions of marine consent authority

219 Section 101 amended (Right of objection to Environmental Protection Authority against certain decisions)

~~(1) In section 101(1),~~

~~(a) replace "the Environmental Protection Authority" with "a marine consent authority"; and~~

~~(b) replace "section 44" with "**section 42 or 57**".~~

(1) Replace section 101(1) with:

(1) An applicant for a marine consent may object to a decision of a marine consent authority—

(a) under **section 41** that an application is incomplete; or

(b) under **section 42** to commission a review; or

(c) under **section 57** to commission a review or seek advice.

(2) In section 101(2),—

(a) delete "under section 58(5)"; and

(b) replace "the EPA" with "a marine consent authority".

220 Section 102 amended (Procedure for making or hearing objection)

(1) In section 102(1), replace "the Environmental Protection Authority" with "a marine consent authority".

(2) In section 102(3), replace "EPA" with "marine consent authority".

221 Section 103 amended (Decision on objection)

(1) In section 103(1), replace "The Environmental Protection Authority" with "A marine consent authority".

(2) In section 103(2), replace "EPA" with "marine consent authority" in each place.

222 New subpart 1A heading in Part 4 inserted

After section 104, insert:

Subpart 1A—Appeals against Environmental Protection Authority decisions

223 Section 105 amended (Appeals on question of law)

In section 105(1)(b), replace "decline" with "refuse".

223A Section 109 repealed (Representation at proceedings)

Repeal section 109.

224 New ~~subpart 1B~~ subparts 1B and 1C of Part 4 inserted

After section 113, insert:

Subpart 1B—Appeals against decisions of boards of inquiry

Appeal to High Court on question of law

113A Appeals on question of law

(1) The applicant for a consent or any submitter on an application for a consent may appeal to the High Court against the whole or a part of a decision of a board of inquiry to—

(a) grant an application for a consent; or

(b) refuse an application; or

(c) impose any conditions on a consent.

(2) An appeal lodged under this section may be only on a question of law.

(3) This section is in addition to the rights provided for in section 101.

113B Notice of appeal

(1) An appellant must file a notice of appeal with the Registrar of the High Court in Wellington within 15 working days after the date on which the appellant is notified of the decision of a board of inquiry.

(2) The appellant must also serve a copy of the notice of the appeal on the board of inquiry and the EPA within the time limit specified in **subsection (1)**.

(3) The notice of appeal must specify—

(a) the decision or part of the decision appealed against; and

(b) the error of law alleged by the appellant; and

(c) the grounds of appeal with sufficient particularity for the court and other parties to understand them; and

(d) the relief sought.

(4) The appellant must serve a copy of the notice of appeal on—

(a) the applicant or consent holder, if the appellant is not the applicant or consent holder; and

(b) any submitter on the application for consent, or a change of the consent conditions, or a review of consent conditions.

(5) The appellant must comply with **subsection (4)** no later than 5 working days after the appeal is filed.

(6) The board of inquiry must send a copy of the whole of the decision appealed against to the Registrar of the High Court as soon as is reasonably practicable after receiving the notice of appeal.

113C Right to appear and be heard on appeal

(1) The applicant for, or holder of, the consent to which the appeal relates and any submitters who wish to appear on an appeal to the High Court must give notice of intention to appear to—

(a) the appellant; and

(b) the Registrar of the High Court; and

(c) the Environmental Protection Authority; and

(d) the board of inquiry.

(2) The notice to appear must be served within 10 working days after the person is served with the notice of appeal.

113D Parties to appeal

The parties to an appeal before the High Court are—

(a) the appellant; and

(b) the board of inquiry whose decision is being appealed; and

(c) the Environmental Protection Authority; and

(d) a person who gives notice of intention to appear under **section 113C**; and

(e) a person who becomes a party to an appeal under **section 113E**.

~~**113E Representation at proceedings**~~

~~(1) The following persons may be a party to any proceedings before the High Court under this Act:~~

~~(a) the Attorney-General, representing a relevant aspect of the public interest:~~

~~(b) the relevant resource consent authority in relation to proceedings affecting a cross-boundary activity to which subpart 3 of Part 3 applies.~~

~~(2) A person described in **subsection (1)** may become a party to the proceedings by giving notice to the High Court and to all other parties within 15 working days after —~~

~~(a) the period for lodging a notice of appeal ends, if the proceedings are an appeal:~~

~~(b) the proceedings are commenced, in any other case.~~

~~(3) The notice given under **subsection (2)** must state —~~

~~(a) the proceedings in which the person has an interest; and~~

~~(b) whether the person supports or opposes the proceedings and the reasons for that support or opposition; and~~

~~(c) if applicable, the grounds for seeking representation under **subsection (4)(a)**; and~~

~~(d) an address for service.~~

~~(4) A person who becomes a party to the proceedings under this section may appear and call evidence in accordance with **subsection (5)**.~~

~~(5) Evidence must not be called under **subsection (4)** unless it is on matters within the scope of the appeal or other proceeding.~~

~~(6) A person who becomes a party to the proceedings under this section may not oppose the withdrawal or abandonment of the proceedings unless the proceedings were brought by a person who made a submission in the previous proceedings on the same matter.~~

113F Dismissal of appeal

The High Court may dismiss an appeal if—

(a) the appellant does not appear at the hearing of the appeal; or

(b) the appellant does not proceed with the appeal with due diligence and another party applies to the court to dismiss the appeal.

113G Date of hearing

(1) An appeal is ready for hearing when the appellant notifies the Registrar of the High Court that the notice of appeal has been served on all parties to the proceedings.

(2) The Registrar must arrange a hearing date as soon as practicable after being notified that the notice of appeal has been served on all parties to the proceedings.

113H Application of High Court Rules

The High Court Rules apply if a procedural matter is not provided for by **sections 113A to 113G**.

Appeal to Supreme Court

113I Appeal to Supreme Court

(1) Any party to an appeal under **section 113D** may apply to the Supreme Court for leave to appeal a decision of the High Court under this subpart, but only on a question of law.

(2) The Supreme Court may—

(a) grant leave; or

(b) deny leave; or

(c) remit the appeal to the Court of Appeal.

(3) No appeal may be made from any appeal determined by the Court of Appeal under **subsection (2)(c)**.

(4) An application for leave for the purposes of **subsection (1)** must be filed no later than 10 working days after the determination of the High Court.

Subpart 1C—Proceedings generally

113J Representation at proceedings

(1) The following persons may be a party to any proceedings before the High Court under this Act:

(a) the Attorney-General, representing a relevant aspect of the public interest:

(b) the relevant resource consent authority in relation to proceedings affecting a cross-boundary activity to which **subpart 3 of Part 3A** applies.

(2) A person described in **subsection (1)** may become a party to the proceedings by giving notice to the High Court and to all other parties within 15 working days after—

(a) the period for lodging a notice of appeal ends, if the proceedings are an appeal:

(b) the proceedings are commenced, in any other case.

(3) The notice given under **subsection (2)** must state—

(a) the proceedings in which the person has an interest; and

(b) whether the person supports or opposes the proceedings and the reasons for that support or opposition; and

(c) if applicable, the grounds for seeking representation under **subsection (1)(a)**; and

(d) an address for service.

(4) A person who becomes a party to the proceedings under this section may appear and call evidence in accordance with **subsection (5)**.

(5) Evidence must not be called under **subsection (4)** unless it is on matters within the scope of the appeal or other proceeding.

(6) A person who becomes a party to the proceedings under this section may not oppose the withdrawal or abandonment of the proceedings unless the proceedings were brought by a person who made a submission in the previous proceedings on the same matter.

224A Section 134G amended (Other offences)

In section 134G(2)(b), replace "section 55" with "a provision of the Commissions of Inquiry Act 1908 as applied by **clause 4 of Schedule 2**, **clause 5 of Schedule 3**, or **clause 9 of Schedule 4**".

225 Section 137 amended (Limitation period)

In section 137(1) and (2), replace "6" with "12".

226 Section 141 amended (Power of entry for inspection)

Replace section 141(2) with:

(2) The power to enter and inspect allows the person to—

(a) inspect any item found in a place, vehicle, vessel, or structure entered in accordance with subsection (1):

(b) take a sample of any substance:

(c) seize anything that may be lawfully seized:

(d) conduct examinations, tests, inquiries, and demonstrations:

(e) require the production of, and copy, any document or part of a document.

227 Section 142 amended (Protection of the Crown and others)

After section 142(d), insert:

(e) a board of inquiry appointed under **section 53**, 99, or **99A**.

228 Section 143 amended (Principles of cost recovery)

In section 143(2), replace "include" with "include (but are not limited to)".

~~**229 New section 147A inserted (Process may be suspended if costs outstanding)**~~

~~After section 147, insert:~~

~~**147A Process may be suspended if costs outstanding**~~

~~(1) This section applies if—~~

~~(a) a person is required to pay costs under section 143 or 146; and~~

(b) the EPA has given the person written notice that, if the costs specified in the notice are not paid within 20 working days of the date of notice,—

(i) the EPA may cease to carry out its functions in relation to the matter; and

(ii) if a board of inquiry has been appointed under **section 53**, 99, or **99A**, the inquiry will be suspended.

(2) If the person to whom a notice has been given under **subsection (1)(b)** fails to pay the costs in the required time, the EPA may—

(a) cease carrying out its functions in respect of the matter:

(b) direct a board of inquiry appointed under **section 53**, 99, or **99A** to suspend the inquiry and cease carrying out its functions in respect of the matter.

(3) If after the EPA or a board of inquiry has ceased carrying out its functions under **subsection (2)**, the person required to pay the costs does so,—

(a) the EPA and the board must resume carrying out their functions in respect of the matter; and

(b) if a board of inquiry has been appointed under **section 53**, 99, or **99A**, the inquiry is resumed.

(4) The EPA must notify the persons specified in **subsection (5)** as soon as practicable after—

(a) the EPA or a board of inquiry has ceased carrying out its functions under **subsection (2)(a)**:

(b) an inquiry is suspended under **subsection (2)(b)**:

(c) the EPA or a board of inquiry has resumed carrying out its functions under **subsection 3(a)**:

(d) an inquiry has resumed under **subsection (3)(b)**.

(5) The specified persons are—

(a) the applicant; and

(b) the board of inquiry; and

(c) the Minister; and

(d) the relevant regional council; and

(e) every person who has made a submission on the matter.

(6) Nothing in this section affects or prejudices the right of a person to object under section 101 or appeal under section 104, but an objection or an appeal does not affect the right of the EPA under **subsection (2)** of this section—

(a) to cease carrying out its functions in respect of the matter; or

(b) to direct a board of inquiry to cease carrying out its functions in respect of the matter.

230 Section 148 amended (Service of documents)

Replace section 148(1) with:

(1) If a notice or other document is to be served on a person for the purposes of this Act,—

(a) it must, if the person has specified an electronic address as an address for service for the matter to which the document relates, be served by sending it to the electronic address; and

(b) it may, if **paragraph (a)** does not apply, be served by any of the following methods:

(i) delivering it personally to the person, except if the person is a Minister of the Crown:

(ii) delivering it at the usual or last known place of residence or business of the person:

(iii) sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person:

(iv) sending it to the usual or last known electronic address of the person:

(v) posting it to the post office box address that the person has specified as an address for service:

(vi) leaving it at a document exchange for direction to the document exchange box number that the person has specified as an address for service:

(vii) sending it to the fax number that the person has specified as an address for service.

231 New section 158BA inserted (EPA and WorkSafe to share information)

After section 158B, insert:

158BA EPA and WorkSafe to share information

(1) The Environmental Protection Authority may provide WorkSafe with any information that the EPA holds and that the EPA considers may assist WorkSafe in the performance of WorkSafe's functions under the WorkSafe New Zealand Act 2013.

(2) WorkSafe may provide the EPA with any information that WorkSafe holds and that it considers may assist the EPA in the performance of the EPA's functions under this Act.

(3) If any information provided by the EPA under **subsection (1)** is the subject of a direction made under section 158, that section continues to apply to the information and WorkSafe must comply with that section.

231A Section 161 amended (Existing petroleum activities that become discretionary)

(1) In section 161(4), replace "Section 41" with "**Section 44**".

(2) In section 161(5)(b)(ii) and (6), replace "section 41" with "**section 44**".

232 Section 162 amended (Existing petroleum mining activities involving structures or pipelines)

In section 162(2),—

(a) after "subsection (3)", insert "where the activity has adverse effects on the environment or existing interests"; and

(b) delete "on the environment or existing interests of an activity".

232A Section 163 amended (Other existing activities that become discretionary)

In section 163(3)(b)(ii) and (4), replace "section 41" with "**section 44**".

232B Section 164A amended (Dumping permits issued under Maritime Transport Act 1994)

In section 164A, delete "section 87F of".

232C Section 164B amended (Provisions of discharge management plans approved under Maritime Transport Act 1994 become marine discharge consents)

In section 164B(2), replace "section 87F" with "this Act".

232D Section 166 amended (Planned petroleum activities that become discretionary)

(1) In section 166(4), replace "Section 41" with "**Section 44**".

(2) In section 166(5)(b)(ii) and (6), replace "section 41" with "**section 44**".

~~**233 New sections 167B and 167C inserted**~~

~~After section 167A, insert:~~

~~*Savings provisions relating to **2015** amendments*~~

~~**167B Savings provisions in relation to marine consent applications**~~

~~All applications, matters, and proceedings that were pending or in progress under subpart 2 of Part 3 of this Act (as the Act read) immediately before the day on which **Part 5 of the Resource Legislation Amendment Act 2015** came into force must be continued and completed as if this Act had not been amended by that Act.~~

~~**167C Savings provisions in relation to review of consent duration or conditions**~~

~~A review that had commenced under section 76 immediately before the day on which **Part 5 of the Resource Legislation Amendment Act 2015** came into force must be continued and completed as if this Act had not been amended by that Act.~~

233 New Schedule 1 inserted

Insert the **Schedule 1** set out in **Schedule 7A** of this Act as the first schedule to appear after the last section of the principal Act.

234 Schedule amended

(1) In the Schedule heading, after "**Schedule**", insert "**2**".

(2) In the Schedule heading, replace "s 44B" with "**s 51(3)**".

235 New ~~Schedules 2 and 3~~ Schedules 3 and 4 inserted

After the Schedule (which is renamed by **section 234** as **Schedule 2**), insert as ~~**Schedules 2 and 3**~~ **Schedules 3 and 4** the schedules set out in **Schedule 8** of this Act.

236 Consequential amendment to Environmental Protection Authority Act 2011

(1) This section amends the Environmental Protection Authority Act 2011.

(2) In the heading to section 19, replace "**Function**" with "**Functions**".

(3) Replace section 19(1) with:

(1) The functions of the Māori Advisory Committee are—

(a) to provide advice and assistance to the EPA on matters relating to policy, process, and decisions of the EPA under an environmental Act or this Act; and

(b) to provide advice to a marine consent authority when the committee's advice is sought under **section 57(1)(b)** of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

237 Consequential amendment to Maritime Transport Act 1994

(1) This section amends the Maritime Transport Act 1994.

(2) In section 261(5)(b), delete "section 87F of".

Schedule 1
Amendments to Schedule 1 of Resource Management Act 1991

s 108

~~**New clause 1AA**~~

~~In Schedule 1, after the Part 1 heading, insert:~~

~~**1AA Overview and application of this Part**~~

~~This Part applies to the preparation of, or a change to,—~~

~~(a) a regional policy statement by a regional council:~~

~~(b) a regional plan by a regional council:~~

~~(c) a district plan by a territorial authority:~~

~~(d) a combined document by local authorities under section 80.~~

New clauses 1A and 1B

In Schedule 1, after clause 1, insert:

1A ~~Iwi participation arrangements~~ Mana Whakahono a Rohe to be complied with

(1) A proposed policy statement or plan must be prepared in accordance with any applicable ~~iwi participation arrangement~~ Mana Whakahono a Rohe.

(2) A local authority may comply with clause 3(1)(d) in any particular case by consulting relevant iwi authorities about a proposed policy statement or plan in accordance with ~~an iwi participation arrangement~~ a Mana Whakahono a Rohe.

1B Relationship with iwi participation legislation

Nothing in this schedule limits any relevant iwi participation legislation or agreement under that legislation.

Clause 4

In Schedule 1, replace clause 4(1) and (2) with:

(1) This clause applies to a new district plan or review of a district plan under section 79(1).

(1A) The territorial authority must give written notice to any requiring authority that has a designation that has not lapsed in the relevant part of the district plan.

(1B) The purpose of the notice is to invite those requiring authorities to give written notice to the territorial authority stating whether the requiring authority requires the designation to be included, with or without modification, in the proposed plan.

(1C) **Subclause (1A)** applies before the territorial authority—

(a) notifies the district plan, change, or variation under clause 5; or

Clause 4—*continued*

(b) notifies a decision to use a collaborative planning process under **clause 38**; or

(c) applies to the Minister for a direction under **section 80C** to enter the streamlined planning process.

(1D) The written notice must—

(a) give the requiring authority at least 30 working days to respond; and

(b) state which planning process under this schedule it proposes to use or request; and

(c) specify the final date for the requiring authority to provide its written notice; and

(d) advise the requiring authority whether the territorial authority intends to include the designation in the matters that the collaborative group may consider under the terms of reference set under **clause 41**.

(2) If a territorial authority intends to use a collaborative planning process under **clause 38**, the written notice it gives under **subclause (1A)** requesting the requiring authority or heritage protection authority to advise the territorial authority of the following matters must also be given to any heritage protection authority that has a heritage order that has not lapsed:

(a) whether the requiring authority or heritage protection authority wishes to be part of the collaborative group; and

(b) if so, the name of the person to represent the requiring authority or heritage protection authority on the collaborative group.

(2A) If the requiring authority or heritage protection authority agrees to be part of the collaborative group, the provisions of **Part 4** of this schedule apply to the processes for review, the making of submissions, hearings, decision making on the designation or heritage order, and appeal rights.

(2B) If the requiring authority or heritage protection authority does not agree to be part of the collaborative group,—

(a) the collaborative group may consider the designation or heritage order, but only if it is within the terms of reference of the collaborative group; and

(b) the territorial authority must include in the proposed plan—

(i) the designation or heritage order; and

(ii) any consensus recommendations on the designation or heritage order; and

(c) the provisions of **Part 4** of this schedule apply to the processes for review, the making of submissions, and hearings; and

Clause 4—*continued*

(d) the provisions of Part 1 of this schedule apply to decision making on a designation or heritage order and on any appeal rights.

In Schedule 1, clause 4(5), after "apply", insert "or any requirement to which **clause 41A** applies".

In Schedule 1, repeal clause 4(8).

New clause 4A

In Schedule 1, after clause 4, insert:

4A Further pre-notification requirements concerning iwi authorities

(1) Before notifying a proposed policy statement or plan, a local authority must—

(a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and

(b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

(2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with **subclause (1)**, it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.

Clause 5

In Schedule 1, replace clause 5(1)(b) with:

(b) if the local authority decides to proceed with the proposed policy statement or plan, do one of the following, as appropriate:

(i) publicly notify the proposed policy statement or plan:

(ii) give limited notification, as provided for in **clause 5A**.

New clause 5A

In Schedule 1, after clause 5, insert:

5A Option to give limited notification of proposed change or variation

(1) This clause applies to a proposed change or variation ~~to a policy statement or plan~~.

(2) The local authority may give limited notification, but only if it is able to identify all the persons directly affected by the proposed change or a variation of a proposed policy statement or plan.

(3) The local authority must serve limited notification on all persons identified as being directly affected by the proposed change or variation.

(4) A notice given under this clause must state—

(a) where the proposed change or variation may be inspected; and

New clause 5A—*continued*

(b) that only the persons given limited notification under this clause may make a submission on the proposed change or variation; and

(c) the process for participating in the consideration of the proposed change or variation; and

(d) the closing date for submissions; and

(e) the address for service of the local authority.

(5) The local authority may provide any further information relating to a proposed change or variation that it thinks fit.

(6) The closing date for submissions must be at least 20 working days after limited notification is given under this clause.

(7) If limited notification is given, the ~~consent~~ local authority may adopt, as an earlier closing date, the last day on which the ~~consent~~ local authority receives, from all the directly affected persons, a submission, or written notice that no submission is to be made.

(8) The local authority must provide a copy of the proposed change or variation, without charge, to—

(a) the Minister for the Environment; and

(b) for a change to, or variation of, a regional coastal plan, the Minister of Conservation and the Director-General of Conservation; and

(c) for a change to, or variation of, a district plan, the regional council and adjacent local authorities; and

(d) for a change to, or variation of, a policy statement or regional plan, the constituent territorial authorities and adjacent regional councils; and

(e) tangata whenua of the area, through iwi authorities.

(9) If limited notification is given in relation to a proposed change under this clause, the local authority must make the change or variation publicly available in the central public library of the relevant district or region, and may also make it available in any other place ~~considered~~ that it considers appropriate.

(10) The obligations on the local authority under **subclause (4)** are in addition to those under section 35 (which relates to the keeping of records).

Clause 6

In Schedule 1, heading to clause 6, after "**submissions**", insert "**under clause 5**".

New clause 6A

In Schedule 1, after clause 6, insert:

New clause 6A—*continued*

6A Making of submissions under clause 5A

(1) If limited notification is given under **clause 5A** on a proposed change to a policy statement or plan, the only persons who may make submissions or further submissions on the proposed change are—

(a) the persons given limited notification under **clause 5A(3)**; and

(b) the persons provided with a copy of the proposed change under **clause 5A(8)**.

(2) However, if a person with a right to make a submission could gain an advantage in trade competition through making a submission, that person may make a submission only if directly affected by an effect of the proposed change that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(3) The local authority in its own area may make a submission.

(4) Submissions must be made in the prescribed form.

Clause 7

In Schedule 1, after clause ~~7(1)~~ 7(2), insert:

(~~1A~~3) However, in the case of a submission on a proposed change to a policy statement or plan, if a local authority has given limited notification under **clause 5A**, it must give notice of the matters listed in subclause (1), as relevant ~~to~~, instead of giving public notice, to—

(a) the persons given limited notification under **clause 5A(3)**; and

(b) the persons provided with a copy of the proposed change under **clause 5A(8)**.

Clause 8

In Schedule 1, after clause 8(1), insert:

(1A) However, in the case of submissions on a proposed change to a policy statement or plan, the only persons (in addition to the relevant local authority) who may make a further submission are—

(a) the persons given limited notification under **clause 5A(3)**; and

(b) the persons given a copy of the proposed change under **clause 5A(8)**.

In Schedule 1, clause 8(2), after "further submission", insert "given under subclause (1) or **(1A)**".

In Schedule 1, clause 8(2), after "clause 6", insert "or **6A**".

Clause 8A

In Schedule 1, clause 8A(1), after "clause 8", insert "(1) or **(1A)**".

Clause 8A—*continued*

In Schedule 1, clause 8A(1)(b), after "clause 6", insert "or **6A**".

Clause 16B

In Schedule 1, clause 16B(2), delete "public".

~~**New clause 20AB**~~

~~In Schedule 1, after the Part 2 heading, insert:~~

~~**20AB Overview of this Part and application of clause 1B**~~

~~(1) This Part applies if a request described in clause 21(1) or (2) is made.~~

~~(2) If this Part applies,—~~

~~(a) **clause 1B** applies; but~~

~~(b) Part 1 of this schedule does not otherwise apply except to the extent that it is expressly applied by this Part.~~

Clause 21

In Schedule 1, after clause 21(3), insert:

(3A) However, in relation to a policy statement or plan approved under **Part 4** of this schedule, no request may be made to change the policy statement or plan earlier than 3 years after the date on which it becomes operative under clause 20 (as applied by **section 80A(2)(a)**).

Clause 25

In Schedule 1, clause 25(2)(a)(i), after "clause 5", insert "or **5A**".

In Schedule 1, after clause 25(2), insert:

(2AA) However, if a direction is applied for under **section 80C**, the period between the date of that application and the date when the application is declined under **clause 76(1)** must not be included in the calculation of the 4-month period specified by subclause (2)(a)(i).

In Schedule 1, clause 25(5), after "that decision", insert ", including the decision on notification".

Clause 26

In Schedule 1, clause 26(b), delete "publicly".

In Schedule 1, clause 26, insert as subclause (2):

(2) However, if a direction is applied for under **section 80C**, the period between the date of that application and the date when the application is declined under **clause 76(1)** must not be included in the calculation of the 4–month period specified in **subclause (1)(b)(i)**.

New clause 26A

In Schedule 1, after clause 26, insert:

26A ~~Iwi participation arrangements~~ Mana Whakahono a Rohe

In exercising or performing any powers, functions, or duties under this Part, a local authority must comply with any ~~iwi participation arrangement~~ Mana Whakahono a Rohe that specifically provides a role for iwi authorities in relation to any plan or change requested under this Part.

New Parts 4 and 5

In Schedule 1, after clause 35, insert:

Part 4
Collaborative planning process

36 Interpretation

In this Part,—

appointer means the local authority that appoints a review panel for the purposes of this Part

collaborative group means a group of persons appointed by a local authority under **clause 40** for the purpose of assisting the local authority to prepare or change a proposed policy statement or plan that relates to its functions under section 30 or 31, as the case may be

~~**proposed policy statement or plan**, if prepared under the collaborative planning process,—~~

~~(a) means a proposed policy statement or plan that relates to the local authority's functions under section 30 or 31, as the case may be; and~~

~~(b) includes a combined document described in section 80~~

review panel and **panel** mean a panel established under **clause 63**.

Choice of collaborative planning process

37 Considerations relevant to decision on choice of process

(1) A local authority may decide to use the collaborative planning process to prepare or change a policy statement or plan.

(2) In determining whether the collaborative planning process is to be used to prepare or change a policy statement or plan, a local authority must consider—

(a) whether the resource management issues to be dealt with in the policy statement or plan would benefit from the use of the collaborative planning process, having regard to the scale and significance of the relevant resource management issues; and

New Parts 4 and 5—*continued*

(b) the views and preferences expressed by persons who are likely to be affected by those resource management issues or who have an interest in them; and

(c) whether the local authority has the capacity to support the collaborative planning process, having regard to the financial and other costs of the process; and

(ca) whether a requirement, designation, or heritage order could be considered within a collaborative planning process; and

(d) whether there are people in the community able and willing to participate effectively in the collaborative planning process as members of a collaborative group; and

(e) whether any matters of national significance are likely to arise and, if so, whether these could be dealt within the collaborative planning process; and

(f) whether the relevant provisions of any iwi participation legislation that applies in an area could be accommodated within the collaborative planning process, as required by this Part.

(3) Before determining to use the collaborative planning process, a local authority must be satisfied that use of the process is not inconsistent with the local authority's obligations under any relevant iwi participation legislation or ~~iwi participation arrangement~~ Mana Whakahono a Rohe.

38 Notification of planning process to be adopted

(1) A local authority must give public notice of its decision made under **clause 37**, stating—

(a) the extent of the area that will be subject to the proposed policy statement or plan and the subject matter, including any requirement, designation, or heritage order; and

(b) where the decision and reasons for the decision of the local authority may be inspected.

(2) If a local authority gives notice that it intends to use the collaborative planning process to prepare or change a policy statement or plan, it is not permitted to withdraw from that process at any stage and progress the preparation of a policy statement or plan under any of the other processes in this schedule.

(3) However, **subclause (2)** does not apply if—

(a) a local authority has been unable to appoint a collaborative group in accordance with **clause 40**; or

(b) a collaborative group has breached its terms of reference and the local authority has followed the process specified for dispute resolution in the terms of reference, but the dispute is not resolved~~.~~; or

New Parts 4 and 5—*continued*

(c) the collaborative group and the local authority, after following the dispute resolution process specified in the terms of reference, agree that there are insufficient consensus recommendations on which to proceed to prepare a policy statement or plan.

Collaborative group

39 Collaborative group to be established

If a local authority gives notice under **clause 38** of its decision to use the collaborative planning process, it must establish a collaborative group.

40 Appointments

(1) In establishing a collaborative group, a local authority must appoint—

(a) at least 1 person chosen by iwi authorities to represent the views of tangata whenua; and

(b) in the case of a regional policy statement or plan (other than one prepared by a unitary authority), at least 1 person to represent the views of territorial authorities within the relevant area; and

(c) in the case of a regional coastal plan, 1 person chosen by any customary marine title holder to represent the views of any customary marine title groups within the relevant area; and

(d) other persons who, in the opinion of the local authority, have the knowledge, experience, and skills (including skills in collaboration) that are relevant to the resource management issues to be considered by the group~~.~~; and

(e) the nominated representative of a requiring authority or heritage protection authority, as the case requires, if the relevant authority has indicated its willingness to be a member of the collaborative group under **section 170(2)(c)** or **clause 4(2)** of this schedule.

(1A) If the terms of reference under **clause 41** include a requirement, designation, or heritage order, the local authority must invite the following persons to nominate representatives for the collaborative group:

(a) landowners and occupiers likely to be directly affected by decisions relating to the requirement, designation, or heritage order; and

(b) any other person that the local authority identifies as being affected.

(1B) The local authority may, as it considers necessary, appoint 1 or more representatives from those nominated under **subclause (1A)**.

(2) A local authority may appoint as many persons as it considers appropriate, having regard to—

New Parts 4 and 5—*continued*

(a) the scale and significance of the resource management issues to be dealt with; and

(b) the need to comply with **subclauses (4) and (5)**.

(3) A local authority must not appoint persons who are employees or officers of any local authority within the relevant area.

(4) However, the collaborative group may include 1, but not more than 1, elected or appointed member from— the local authority that is using the collaborative planning process to prepare or change a policy statement or plan.

~~(a) the local authority that is using the collaborative planning process to prepare or change a policy statement or plan; or~~

~~(b) in the case of a combined instrument under section 80, each local authority that is using the collaborative planning process to prepare or change a policy statement or plan.~~

(4A) If a combined instrument is to be prepared under section 80, the collaborative group may include 1, but not more than 1, elected or appointed member from each local authority that is using the collaborative planning process to prepare or change a policy statement or plan.

(5) The appointments made under this clause must result in a collaborative group whose membership, collectively, reflects a balanced range of the community's interests, values, and investments in the relevant area as they relate to the resource management issues to be considered by the group.

(6) The Local Government Official Information and Meetings Act 1987 applies to a collaborative group established under this Part as if it were a committee of the local authority under the Local Government Act 2002.

41 Terms of reference for collaborative group

(1) A local authority must set the terms of reference for a collaborative group that it establishes, in consultation with that group.

(2) The terms of reference must direct a collaborative group—

(a) to consider specified matters; and

(b) to report to a local authority with consensus recommendations for a proposed policy statement or plan within a specified time; and

(c) to consider how to comply with the obligations identified by the local authority that arise under this Act or any other enactment that applies to the preparation or changing of a policy statement or plan under this Act; and

(d) to consider how to give effect to the provisions of a national policy statement, a New Zealand coastal policy statement, or ~~the~~ a national planning

New Parts 4 and 5—*continued*

~~template~~ standard that are identified by the local authority as relevant; and

(e) to consider how to comply with the provisions in regulations (including any national environmental standards) and water conservation orders that are identified by the local authority as relevant; and

(f) to consider how to comply with the obligations that are identified by the local authority as arising under—

(i) the provisions of any relevant iwi participation legislation, or any agreement entered into under that legislation:

(ii) the provisions of any relevant legislation that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under other legislation; and

(g) to establish and use a process for seeking the views of the community of the relevant area on the work that the collaborative group is carrying out and to specify how the local authority will support the collaborative group; and

(h) to prepare an evaluation of the costs and benefits of any recommendations it makes to the local authority.

(3) The terms of reference must include—

(a) the period for which a collaborative group is established (including the period until any appeals are completed); and

(b) whether, and, if so, how much, members of a group are to be paid; and

(c) how the local authority will provide resources to a group for the period between the establishment of a collaborative group and the date on which the local authority's decision is made under **clause 54**; and

~~(d) a dispute resolution process that the local authority is to use if necessary in relation to a collaborative group, including the process for removing and replacing any of the group's members or discharging the group.~~

(d) a dispute resolution process that the local authority must use if necessary in relation to a collaborative group, including—

(i) the process for removing and replacing any of the group's members or discharging the group:

(ii) the decisions that are required to withdraw from the collaborative planning process under **clause 38(3)(c)**.

(4) A local authority may, at any time after consulting a collaborative group, amend the terms of reference that apply to the group.

New Parts 4 and 5—*continued*

(5) The local authority must give public notice and notice to the chairperson of the collaborative group if amendments are made to the terms of reference under **subclause (4)**.

(6) A notice given under **subclause (5)** must state where a copy of the amended terms of reference may be inspected.

(7) The terms of reference are binding on both the local authority and the collaborative group.

41A Discretion to include requirements in collaborative planning process

(1) This clause applies if, after a notice is given under **clause 38** and before the collaborative group reports under **clause 43**, a territorial authority—

(a) receives a notice of requirement under section 168; or

(b) issues a notice of requirement under section 168A.

(2) If the collaborative group, requiring authority, and territorial authority agree,—

(a) a notice of requirement may proceed through the collaborative planning process instead of using the procedures of Part 8 of this Act; and

(b) the requiring authority responsible for the notice of requirement must nominate, and the territorial authority must appoint, a representative for the collaborative group; and

(c) the territorial authority must apply the provisions of **clause 40(1A) and (1B)**.

(3) However, if the requiring authority does not agree to be part of the collaborative group, or withdraws from the group before the collaborative group delivers its report under **clause 43**, the notice of requirement may not proceed using a collaborative process, but must proceed using another process under this Act.

(4) The terms of reference set under **clause 41** must be amended as necessary to reflect the new notice of requirement.

(5) The territorial authority must give public notice in accordance with **clause 42** of the new notice of requirement.

42 Other matters relevant to collaborative group

(1) As soon as practicable after establishing a collaborative group and providing the terms of reference, a local authority must give public notice that it has appointed a collaborative group and has set its terms of reference.

(2) The public notice must—

(a) include details of the appointments; and

(b) state where the terms of reference may be inspected.

(3) A collaborative group must determine its own procedure.

New Parts 4 and 5—*continued*

(3A) A collaborative group may commission 1 or more reports on a matter relevant to its terms of reference without the approval of the local authority.

(3B) However, the local authority must approve a commission if the local authority is to meet the costs of the commission.

(3C) Officers and employees of the local authority may, at the request of a collaborative group, provide technical, executive, or secretarial support to a collaborative group.

(3D) Officers and employees of any other local authority may attend the meetings of a collaborative group as technical advisers, if the chairperson of the group agrees.

(4) Section 43 of the Local Government Act 2002 (which relates to indemnification) applies to the members of a collaborative group as if the group were a committee of a local authority.

43 Report of collaborative group

(1) A collaborative group must report to the local authority in accordance with the terms of reference.

(2) The report must include—

(a) a record of the recommendations on which the collaborative group has reached consensus and the reasons for the consensus position; and

(b) a summary of the costs and benefits that the collaborative group has identified in relation to those recommendations; and

(c) a summary of any alternative options that the collaborative group considered; and

(d) a record of the matters that the collaborative group considered but on which it did not reach consensus; and

(e) a summary of how the collaborative group obtained and considered the views of the community of the relevant area.

Notification of report and preparation of ~~planning document~~ proposed policy statement, plan, or change

44 Notification of report of collaborative group

A local authority must publicly notify the report received under **clause 43**, stating where the report may be inspected.

45 Preparation of proposal

(1) As soon as is reasonably practicable after the report of ~~the~~ a collaborative group is publicly notified under **clause 44**, the local authority must—

New Parts 4 and 5—*continued*

(a) prepare a proposed policy statement or plan or change in conjunction with the collaborative group; and

(b) comply with **subclauses (2) and (3)** and clauses 2 and 3.

(2) A proposed policy statement or plan—

(a) must give effect to the consensus position reached by a collaborative group; and

(b) may include provisions—

(i) that are necessary or appropriate for giving effect to or implementing the consensus position; and

(ii) for matters on which the collaborative group did not reach a consensus position, provided those matters were within the terms of reference given to the collaborative group.

(3) However, **subclause (2)(a)** does not apply if, in giving effect to the consensus position, the proposed policy statement or plan would not comply with—

(a) the relevant provisions of Parts 4 and 5 of this Act; or

(b) any other provisions of this Act or of any other enactment that apply to the preparation or changing of a policy statement or plan under this Act.

(4) A requirement, designation, or heritage order must be included in a proposed plan notified by the requiring authority under section 168 or clause 4, unless—

(a) the requirement, designation, or heritage order is included in the terms of reference set under **clause 41**; and

(b) there are consensus recommendations that apply (*see* **subclause (2)(a)**).

46 Advice from iwi authorities

(1) Before notifying a proposed policy statement or plan prepared or changed under **clause 45(1)**, a local authority must—

(a) provide a copy of the relevant draft proposed policy statement or draft plan to tangata whenua of the relevant area through the relevant iwi authorities, ensuring that the iwi authorities have adequate time and opportunity to provide advice to the local authority; and

(b) have particular regard to any advice received on the draft policy statement or draft plan from the iwi authorities if, and to the extent that, the advice is not inconsistent with the consensus position.

(2) This section applies only if the local authority does not have ~~an iwi participation arrangement~~ a Mana Whakahono a Rohe with any relevant iwi authority.

New Parts 4 and 5—*continued*

47 Evaluation report

(1) Before a local authority may notify a proposed policy statement or plan prepared or changed under **clause 45(1)**, it must prepare an evaluation report under section 32 for the proposed policy statement or plan or ~~the changing of~~ a change to a policy statement or plan.

(2) The evaluation report must state the extent (if any) to which the proposed policy statement, plan, or change does not give effect to the consensus position, and the reasons for that.

(3) The local authority must have particular regard to the evaluation report before ~~deciding whether to notify~~ notifying a proposed policy statement or plan or change.

48 Notification of proposed policy statement or plan or change

(1) A local authority must publicly notify a proposed policy statement or plan prepared or changed under **clause 45**.

(1A) A proposed policy statement or plan notified under **subclause (1)** must be treated as if it were publicly notified under **clause 5(1)(b)(i)**.

(2) In carrying out its obligation to give public notice under **subclause (1)**, the local authority must comply with—

(a) clause 5(2) and (3) (which relates to the contents and timing of the notice); and

~~(b) clause 5(1C) and (4) to (6) (which relates to the distribution of the notice and the proposed policy statement or plan).~~

(b) clause 5 (other than subclause (1)).

Public submissions

49 Submissions on proposed policy statement or plan or change

(1) Clauses 6 to 8A apply to the making of submissions to a local authority on a proposed policy statement, ~~or~~ plan, or change notified under **clause 48**.

(2) A challenge to any part of a proposed policy statement or plan or change on the grounds that it does not comply with **clause 45(2)** may be made only in a submission to the relevant local authority under clause 6 or 8 (as applied by **subclause (1)**).

50 Local authority report on submissions

(1) Not later than 3 months after the closing date for further submissions as notified under clause 7(1)(d) (as applied by **clause 49**), a local authority must prepare a report that includes—

New Parts 4 and 5—*continued*

(a) an analysis of whether the decisions requested by submitters are consistent or inconsistent with the consensus position of the collaborative group; and

(b) the response of the local authority to the decisions requested.

(2) The local authority must—

(a) provide a copy of that report to the collaborative group and to tangata whenua of the relevant area through iwi authorities; and

(b) invite comments on the report and the proposed policy statement or plan from the collaborative group and the iwi authorities.

Role of review panel

51 Hearing of submissions by review panel

(1) A review panel established by a local authority under **clause 63** must hold a hearing on any submissions lodged under clause 6 or 8 (as applied by **clause 49**).

(2) Notice of the date, time, and place of any hearing must be given to every submitter and to the chairperson of the collaborative group at least 10 working days before the hearing.

(3) **Clauses 63 to 73** apply to the establishment and procedures of a review panel.

52 Role of collaborative group in procedures of review panel

(1) At the same time as a collaborative group gives comments to a local authority under **clause 50(2)(b)**, the collaborative group may give notice to the local authority that the group has appointed one of its members to attend the hearing of the review panel in order to assist the panel by—

(a) clarifying matters included in the proposed policy statement or plan:

(b) discussing with the panel issues raised in submissions:

(c) providing any relevant information that the panel may request.

(2) **Subclause (1)** does not exclude any member of the collaborative group from making a submission to the panel on the proposed policy statement or plan.

53 ~~Decision and~~ Recommendations of review panel

(1) A review panel established by the local authority must provide a report to the local authority with recommendations on—

(a) the proposed policy statement or plan; and

(b) the matters raised in submissions.

(2) The report must include—

New Parts 4 and 5—*continued*

(a) a statement about the extent to which a proposed policy statement or plan, as notified, is inconsistent with the consensus position of the collaborative group; and

(b) the panel's reasons for accepting or rejecting submissions and, for that purpose, the panel may group submissions according to—

(i) the provisions of the proposed policy statement or plan to which they relate; or

(ii) any other provisions of this Act or of any other Act that apply to the preparation or changing of a policy statement or plan under this Act; and

(c) a further evaluation of the proposed policy statement or plan in accordance with section 32AA; and

(d) the panel's recommendations in respect of—

(i) any changes it proposes to the policy statement or plan; and

(ii) whether the recommended changes would be consistent with the consensus position of the relevant collaborative group~~.~~; and

(iii) a requirement, designation, or heritage order that complies with sections 168A(2A) and (3), 171, 189A(10), and 191.

~~(3) The review panel may also include in its report—~~

~~(a) any changes that the panel considers necessary to the proposed policy statement or plan that arise from submissions:~~

~~(b) any other matters that the panel considers to be relevant to the proposed policy statement or plan that arise from submissions or from other information provided to the panel.~~

~~(4) However, the review panel must not recommend changes to a proposed policy statement or plan unless it is satisfied—~~

~~(a) that changes are needed to ensure that a proposed policy statement or plan is consistent with the consensus position; or~~

~~(b) that changes are needed to ensure that the proposed policy statement or plan complies with—~~

~~(i) the relevant provisions of Parts 4 and 5 of this Act; or~~

~~(ii) the provisions in any other enactment that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under that other enactment; or~~

~~(c) that there are matters identified in submissions that were not, or not fully, considered by the collaborative group or by the local authority when preparing the proposed policy statement or plan.~~

New Parts 4 and 5—*continued*

(4) The review panel must not recommend changes to a proposed policy statement or plan—

(a) unless it is satisfied that the changes are needed to ensure that the proposed policy statement or plan complies with—

(i) the relevant provisions of Parts 4, 5, and 8 of this Act; or

(ii) the provisions in any other enactment that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under that other enactment; or

(b) unless—

(i) the collaborative group is given the opportunity to comment on the review panel's proposed changes; and

(ii) those comments, whether in support or otherwise, are included in the report.

(4A) If a review panel proposes to change a requirement, designation, or heritage order,—

(a) the review panel must seek comments from the relevant requiring authority or heritage protection authority (including an authority that is a territorial authority); and

(b) the relevant authority must advise the review panel whether it—

(i) supports the proposed changes; or

(ii) seeks further changes; or

(iii) disagrees with the changes proposed by the review panel; and

(c) the review panel must include the comments of the authority in the report the panel provides under **subclause (1)**.

(4B) A review panel must not recommend changes to an existing designation or heritage order—

(a) that is included without modification in a proposed plan; and

(b) on which no submissions have been received.

(5) In making recommendations to the local authority, the review panel may only make recommendations that are within the scope of—

(a) the proposed policy statement or plan as notified; and

(b) the submissions on the proposed policy statement or plan; and

(c) any comments—

(i) received under **clause 50(2)(b)**; or

(ii) provided to the review panel under **clause 73**.

New Parts 4 and 5—*continued*

(6) A review panel is not required to deal individually with each submission, and may group submissions according to the provisions or matter to which they relate.

Decision

54 Decision of local authority following recommendations of review panel

(1) As soon as is reasonably practicable after receiving a report from a review panel, a local authority must decide whether to accept or reject each recommendation in the report.

(2) If a local authority rejects a recommendation, it must develop an alternative provision for its proposed policy statement or plan, giving reasons for the alternative provision.

(3) An alternative provision must be within the scope of—

(a) a matter raised in a submission; or

(b) the reports and comments provided to a review panel under **clause 73**; or

(c) comments received under **clause 50(2)(b) or 53(4)(b)**.

(4) Before deciding on an alternative provision, a local authority must—

(a) prepare an evaluation of the alternative provision under section 32; and

(b) ascertain whether the alternative provision is inconsistent with the consensus position; and

(c) ascertain whether any inconsistency is necessary to ensure that the proposed policy statement or plan complies with—

(i) the relevant provisions of Parts ~~4 and 5~~ 4, 5, and 8 of this Act; and

(ii) the provisions of any relevant enactment, including any enactment specified in Schedule 3 of the Treaty of Waitangi Act 1975, that require a local authority, in preparing or changing a proposed policy statement or plan under this Act, to give particular consideration to a document prepared under any other enactment; and

(d) specify any other reasons why the alternative provision is preferred.

(4A) When making a decision under **subclause (1)**, a local authority—

(a) is not required to consult any person or to consider the submissions or other evidence of any person; and

(b) must not consider any submission or other evidence unless it was made available to the review panel before the panel made the recommendation on which the local authority makes its decision.

(4B) A territorial authority must not make a recommendation or decision in respect of an existing designation or heritage order that—

New Parts 4 and 5—*continued*

(a) is included without modification in a proposed plan; and

(b) on which no submissions were received.

~~(5) A local authority is not required, when making a decision under **subclause (1)**, to consult or consider submissions, evidence, or other information that was not before the review panel when it made its decision under **clause 53**.~~

(6) **Subclause (7)** applies to a designation or heritage order—

(a) that must be included in a proposed plan under clause 4(5) (because the requiring authority or heritage protection authority gave notice under clause 4(3)); and

(b) to which **clause 4(2B)** applies.

(7) The territorial authority must—

(a) recommend to the requiring authority or heritage protection authority that it confirm, modify, impose conditions on, or withdraw the designation or heritage order concerned; and

(b) provide the recommendations to the requiring authority or heritage protection authority for its decision under clause 13.

(8) If **subclause (7)** applies, the designation or heritage order must be considered in accordance with Part 1 of this schedule from the point when the recommendations of the territorial authority are sent to the requiring authority for its decision under clause 13.

55 Approval of regional coastal plan

(1) If the collaborative planning process is used by a regional council to prepare or change a regional coastal plan, the Minister of Conservation must approve the proposed plan.

(2) Clauses 18 and 19 apply, with the necessary modifications, to the consideration and approval of a proposed regional coastal plan prepared or changed using the collaborative planning process.

56 Notification of local authority's decision

(1) Not later than 2 years after notifying a proposed policy statement or plan or change under **clause 48(1)**, a local authority must ~~publicly notify —~~

~~(a) its decision under **clause 54(1) and (2)**; and~~

~~(b) the report and recommendations of the review panel; and~~

~~(c) the place where the decision and reasons may be inspected.~~

(a) publicly notify—

(i) its decision under **clause 54(1) and (2)**; and

(ii) the report and recommendations of the review panel; and

New Parts 4 and 5—*continued*

(iii) the place where the decision and reasons may be inspected; and

(b) serve copies of the public notice electronically on each person who made a submission under **clause 49**.

(1A) When publicly notifying a decision in respect of a requirement, designation, or heritage order under this clause, the territorial authority must serve the notice on landowners and occupiers identified under **clause 40(1A)** who, in the opinion of the local authority, are likely to be directly affected by the decision.

(2) On and from the date on which the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.

Transitional arrangement

57 Early use of collaborative planning process

Clause 14 of Schedule 12 provides the transitional arrangements for the early use of a collaborative planning process.

Rights of appeal under collaborative planning process

58 Overview

The only rights of appeal that are available in respect of decisions made under **clause 54** are—

(a) by way of a rehearing under **clause 59**:

(b) on a question of law under **clause 60**.

59 Appeals by way of rehearing

(1) An appeal by way of rehearing may be made in respect of a decision by a local authority under **clause 54(1) or (2)** ~~to change a provision of the proposed policy statement or plan in a way that is inconsistent with the decision and recommendations of the review panel given under **clause 53**~~:—

(a) to change a provision of a proposed policy statement or plan in a way that is inconsistent with the recommendations of the review panel under **clause 53**:

(b) to include a matter in the proposed policy statement or plan that was not based on a consensus position, because—

(i) it had been included under **clause 45(2)(b)(ii)**; or

(ii) it was recommended by the review panel but opposed by the collaborative group under **clause 53(4)(b)**:

(c) to accept or reject a recommendation of the review panel under **clause 53(1)** for a provision in the proposed plan in relation to a requirement, designation, or heritage order that the requiring authority or heritage pro-

New Parts 4 and 5—*continued*

tection authority did not support, or supported with changes under **clause 53(4A)(b)**.

(2) The following groups and persons may appeal to the Environment Court under **subclause (1)**:

(a) a collaborative group that provided, in relation to the provision or matter that is the subject of the appeal,—

(i) comments to a local authority under **clause 50(2)(b)**:

(ii) information to a panel under **clause 52**:

(b) an iwi authority that provided comments to a local authority under **clause 50(2)(b)**, but only in relation to a provision or matter on which it provided those comments:

(c) a person who made a submission to the local authority under clause 6 or 8 (as applied by **clause 49**), but only in relation to a provision or matter on which the person made a submission~~.~~:

(d) the relevant requiring authority or heritage protection authority, in relation to a decision under **subclause (1)(c)**.

(3) However, there is no right of appeal under this clause if the local authority records in its decision that a change has been made (or not made) to a provision of a proposed policy statement or plan to ensure that the proposed policy statement or plan complies with—

(a) Parts 4~~ and 5~~, 5, and 8 of this Act, as relevant:

(b) the provisions in any enactment, including any enactment specified in Schedule 3 of the Treaty of Waitangi Act 1975, that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under any other enactment.

(4) **Section 277A** applies to an appeal under this clause.

60 Appeals on questions of law

(1) A group or person specified in **clause 59(2)** may appeal to the Environment Court against a decision of a local authority made under **clause 54(1)** if there is no right of appeal in relation to that matter under **clause 59**.

(2) An appeal under this clause is an appeal on a question of law only.

61 Procedural matters

(1) A notice of appeal under **clause 59 or 60** must,—

(a) not later than 30 working days after a local authority publicly notifies a decision under **clause 56**,—

(i) be lodged with the Environment Court in the prescribed form; and

New Parts 4 and 5—*continued*

(ii) be served on the local authority whose decision is the subject of the appeal; and

(iii) in relation to a designation or heritage order included in the proposed plan, be served on the relevant requiring authority or heritage protection authority; and

(b) if the notice of appeal relates to the coastal marine area, be served on the Minister of Conservation not later than 5 working days after the notice of appeal is lodged with the Environment Court.

(2) Parts 11 and 11A of this Act apply to appeals under **clauses 59 and 60**.

Approval of proposed policy statement or plan

62 Amendment, variation, merger, and approval

(1) The following provisions of Part 1 of this schedule apply, as far as they are relevant and with the necessary modifications, to a proposed policy statement or plan:

(a) clauses 16 to 16B (which relate to amending, varying, or merging a variation with, a proposed policy statement or plan); and

(b) clause 17 (which relates to the final consideration and approval of a proposed policy statement or plan, other than a regional coastal plan); and

(c) clauses 18 and 19 (which relate to the consideration and ministerial approval of a regional coastal plan).

(2) If a proposed policy statement or plan is prepared in accordance with the collaborative planning process, any variation to that statement or plan must also be undertaken in accordance with the collaborative planning process.

Review panels

63 Establishment of panel

A review panel must be established by a local authority (the **appointer**) to hear submissions and make recommendations on a proposed policy statement, plan, or ~~plan~~ change in the course of the collaborative planning process undertaken under this Part.

64 Membership of panel

(1) Every panel established under **clause 63** must comprise at least 3, but not more than 8, members, including the chairperson of the panel.

(2) The majority of the members of a panel must be persons who are not elected or appointed members of an appointer.

(3) A panel must consist of members who collectively have the appropriate knowledge, skills, and experience in relation to—

New Parts 4 and 5—*continued*

(a) this Act; and

(b) the matter or type of matter that is to be the subject of the hearing; and

(ba) the conduct of cross-examination in legal proceedings; and

(c) the local community.

(4) All the members of a panel must be accredited.

(5) Every panel must include at least 1 member who—

(a) has an understanding of tikanga Māori and the perspective of tangata whenua; and

(b) is appointed after consultation with tangata whenua through the relevant iwi authorities.

(6) A panel (other than one provided for in **subclause (7)**) must include the chairperson or ~~another person~~ other member nominated by the Minister if the Minister gives notice, not later than 5 working days after the date by which further submissions must be lodged under clause 7(1)(d), of his or her intention to make a nomination.

(7) A panel established to hear submissions that relate to a proposed regional coastal plan must include the chairperson or ~~another person~~ other member nominated jointly by the Minister and the Minister of Conservation if the Ministers give notice, not later than 5 working days after the date by which further submissions must be lodged under clause 7(1)(d), of their intention to make a nomination.

(8) Members must be appointed in accordance with **clause 65**.

65 How members are appointed

(1) ~~An~~ In making appointments as required by **clauses 63 and 64**, an appointer must give written notice ~~that states~~ to each member appointed, stating—

(a) the date on which the appointment takes effect; and

(b) the term of the appointment.

(2) As soon as practicable after the members of a panel have been appointed, the appointer concerned must notify the appointments on an Internet site to which the public has free access, stating—

(a) that the panel has been established; and

(b) the purpose for which the panel is established.

(3) An appointer may appoint—

(a) a member to replace a member who ceases to hold office:

(b) additional members, after the initial appointments, if the total number of members on a panel is not more than 8, including the chairperson.

New Parts 4 and 5—*continued*

(4) This clause applies, to the extent that it is relevant, to the appointment of a replacement member or an additional member.

Terms and liabilities

66 Term of panel and term of office of members

(1) Every panel continues until it has performed its functions and exercised its powers in relation to the matters for which the panel is established (including the period required to complete any appeals).

(2) A member of a panel remains a member until the earliest of the following:

(a) the panel to which the member is appointed ceases to exist:

(b) the member's term of office ends:

(c) the member dies or is no longer able to perform the functions and duties of a member on account of ill health or other indisposition:

(d) the member resigns by giving 20 working days' written notice to the appointer:

(e) the member is removed from office under **subclause (3)**.

(3) An appointer may, at any time for just cause, remove a member from a panel by providing written notice to the member, and a copy of that notice to the chairperson of the panel, that states—

(a) the date on which the member's removal takes effect, which must not be earlier than the date on which the notice is received by the member; and

(b) the reasons for the removal.

(4) A member of a panel is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.

(5) In **subclause (3)**, **just cause** includes misconduct, an inability to perform the functions of office, a neglect of duty, and any breach of the collective duties of the panel or the individual duties of members.

67 Liability of members of panel

A member of a panel is not liable for anything the member does, or omits to do, in good faith in performing the functions and duties or exercising the powers of a panel.

Functions and powers

68 Functions of panel

The function of every panel is—

(a) to conduct a public hearing of submissions; and

New Parts 4 and 5—*continued*

(b) to make recommendations to a local authority on a proposed policy statement or plan under the collaborative planning process.

69 Powers of panel

(1) A panel has the same powers and duties as a local authority under the following provisions:

(a) section 39 (which provides for how hearings are to be conducted), except section 39(2)(c) and (d):

(b) section 39C (which sets out the effect of a lack of accreditation):

(c) section 40 (which provides for the persons who may be heard at hearings):

(d) section 41 (which provides for the application of certain provisions of the Commissions of Inquiry Act 1908):

(e) section 41A (which relates to the control of hearings):

(f) section 41B (which provides for the giving of directions as to the time for providing evidence in relation to a hearing):

(g) section 41C (which sets out the directions and requests that may be given before or at a hearing), except section 41C(4)~~:~~.

~~(h) **section 41D** (which provides for submissions to be struck out before or at a hearing).~~

~~(2) If a panel exercises a power under **section 41D**,—~~

~~(a) a person whose submission is struck out has a right of objection under section 357 as if the references in that section to an authority were references to the panel; and~~

~~(b) sections 357C to 358 apply to the panel as the body to which the objection is made under section 357.~~

(3) A panel may exercise the powers conferred by clause 8AA, except that in clause 8AA(2) to (6) the references to a local authority are to be read as references to a panel.

(4) **Subclause (3)** applies for the purpose of clarifying or facilitating the resolution of a matter relating to a proposed policy statement or plan.

(5) If a panel considers it appropriate, it may on its own initiative, or if requested, invite anyone who made a submission on a proposed policy statement or plan to meet with the local authority.

Procedural matters

70 Procedures of panel

(1) Every panel must—

New Parts 4 and 5—*continued*

(a) regulate its own procedure in a manner that is appropriate and fair in the circumstances; and

(b) keep a full ~~written~~ record of its proceedings.

(2) Parts 1 to 6 and sections 48 and 53 of the Local Government Official Information and Meetings Act 1987 apply to a panel as if that panel were a committee appointed by a local authority under the Local Government Act 2002.

(3) In the event of an equality of votes, the chairperson of the panel has a casting vote.

Evidentiary matters

71 Reports

(1) At any time before or during a hearing, a panel may commission, or require an appointer to commission, a report on any matter, including a report by an officer of a local authority, as the panel considers necessary.

(2) A report does not need to repeat material included in submissions.

(3) An appointer must—

(a) make any report commissioned under this clause available for inspection as soon as practicable at its offices or on an Internet site to which the public has free access; and

(b) give written notice to the persons who made submissions that a report has been commissioned and is available for inspection.

(4) A panel may request, from the person making a report under this clause, any information and advice that the panel considers is relevant and reasonably necessary to enable the panel to make recommendations under **clause 68(b)**.

72 Conference of experts

(1) A panel may, at any time during a hearing, direct that a conference of experts be convened for the purpose of—

(a) clarifying a matter relating to the proposed policy statement or plan:

(b) facilitating the resolution of a matter relating to a proposed policy statement or plan.

(2) A member of the panel, or a person appointed for the purpose by the panel, must be appointed to act as the facilitator of the conference.

(3) If directed by the panel to do so, the facilitator must prepare a report on the conference and provide it to the panel and persons attending the conference.

(4) No information given or made available to the conference on a without prejudice basis may be included in a report given under **subclause (3)**.

New Parts 4 and 5—*continued*

(5) The appointer or his or her representatives may not attend a conference unless authorised to do so by the panel.

73 Information provided to review panel

(1) An appointer must provide a review panel with copies of—

(a) the publicly notified proposed policy statement or plan that is the subject of a hearing before the panel; and

(b) the report of the relevant collaborative group provided under **clause 43**; and

(c) an evaluation report required by **clause 47**; and

(d) the submissions that were received on the proposed policy statement or plan by the closing date for submissions; and

(e) the report prepared by the relevant local authority under **clause 50**; and

(f) any planning documents recognised by an iwi authority and lodged with the relevant local authority; and

(g) any documentation relevant to obligations arising for the relevant local authority under any relevant iwi participation legislation or ~~iwi participation arrangement~~ Mana Whakahono a Rohe; and

(h) any comments provided to the relevant local authority under **clause 50(2)(b)** by an iwi authority or the relevant collaborative group; and

(i) any other relevant information held by the local authority and requested by the panel.

(2) Information may be provided under this clause electronically or on an Internet site to which the review panel has access.

Part 5
Streamlined planning process

74 Contents of application for directions

An application to a Minister for a direction under **section 80C** to ~~enter~~ use the streamlined planning process must—

(a) be in writing; and

(b) set out the following matters:

(i) a description of the planning issue (including any requirement, designation, or heritage order) for which a planning instrument is required, with an explanation as to how the proposal meets any of the criteria set out in **section 80C(2)**; and

New Parts 4 and 5—*continued*

(ii) an explanation of why use of the streamlined planning process is appropriate as an alternative to using the process under Part 1 of this schedule; and

(iii) a description of the process that the local authority wishes to use and the time frames that it proposes for the steps in that process, having regard to the relevant criteria under **section 80C(2)**; and

(iv) the persons that the local authority considers are likely to be affected by the proposed planning instrument; and

(v) a summary of any consultation undertaken on the proposed planning instrument by the local authority, or intended to be undertaken, including consultation with iwi authorities under clauses **1A** to 3C; and

(vi) the implications of using the ~~proposal~~ process that the local authority wishes to use for any relevant iwi participation legislation or ~~iwi participation arrangement~~ Mana Whakahono a Rohe entered into under **subpart 2 of Part 5** of this Act.

75 How responsible Minister considers request

(1) The requirements of this clause apply to a local authority's request to use the streamlined planning process.

(2) The responsible Minister must have regard to—

(a) the local authority's written request; and

(b) whether the local authority has, in the Minister's opinion, provided sufficient information in support of its request; and

(c) any relevant obligations set out in any iwi participation legislation or ~~iwi participation arrangement~~ Mana Whakahono a Rohe; and

(d) any other matters that the Minister considers relevant; and

(e) the purpose of the streamlined planning process, as stated in **section 80B(1)**.

(3) The responsible Minister may require the local authority to provide any further information in support of its request that he or she may reasonably specify in writing.

~~(4) The responsible Minister—~~

~~(a) must consult the local authority and any other relevant Ministers of the Crown about the streamlined planning process he or she is proposing to implement by way of a direction under **clause 77**; and~~

~~(b) may consult any other person about the content of that streamlined process.~~

New Parts 4 and 5—*continued*

(4) In relation to the streamlined planning process that he or she is proposing to implement by way of a direction under **clause 77**, the responsible Minister must consult—

(a) the local authority; and

(b) any other relevant Ministers of the Crown; and

(c) any person who has requested a private plan change that is accepted under clause 25(2)(b); and

(d) any requiring authority that has consented under section 170 to include a requirement.

(4A) The responsible Minister may consult any other person about the content of the streamlined planning process that the Minister is proposing.

(5) The responsible Minister must ensure that the streamlined planning process to be implemented by a direction given under **clause 77** is not inconsistent with obligations under any relevant iwi participation legislation or ~~iwi participation arrangement~~ Mana Whakahono a Rohe.

~~(6) Nothing in **subclause (4)** requires the responsible Minister to obtain the local authority's prior agreement to the streamlined planning process before making his or her decision on the local authority's request.~~

76 Responsible Minister's decision

(1) The responsible Minister may decide a local authority's application for a direction to enter the streamlined planning process by—

(a) giving a direction under **clause 77** that the local authority ~~follow~~ use the streamlined process set by the Minister in that direction; or

(b) declining the local authority's request.

(2) The responsible Minister's decision (and direction, if issued) must be ~~in writing.~~—

(a) given in writing with reasons; and

(b) served by the Minister on the relevant local authority; and

(c) served by the local authority,—

(i) in the case of a notice of requirement, designation, or heritage order, on the relevant requiring authority or heritage protection authority; and

(ii) in the case of a private plan change, on the person who requested the change.

~~(3) A decision declining a local authority's request must contain or be accompanied by the reasons for the decision.~~

New Parts 4 and 5—*continued*

77 Direction and its content

(1) A direction applied for under **section 80C** is given under this clause.

(2) In deciding the content of the direction, the responsible Minister must have regard to—

(a) the purpose of the proposed streamlined planning process, the local authority's request, and any supplementary information provided by the local authority; and

(b) the views of persons and bodies consulted under **clause 75(4) or (4A)**.

(3) The direction—

(a) must provide for the matters set out in **subclause (4)**; and

(b) must include ~~a~~ the Minister's statement of expectations for the local authority ~~that complies with **clause 78**~~; and

(c) may include any matters provided for in **subclause (5)**.

(4) The streamlined planning process set out in the direction must, at a minimum, provide for—

(a) consultation with affected parties on the proposed planning instrument, including with the responsible Minister and iwi authorities (if not already undertaken); and

~~(b) a requirement for public notification or limited notification of the proposed planning instrument; and~~

(b) public notification of the proposed planning instrument in accordance with clause 5 (other than clause 5(3)), or limited notification under **clause 5A** (other than **clause 5A(6)**); and

(c) an opportunity for written submissions under clause 6 or **6A**; and

(d) a report showing how submissions have been considered and the changes (if any) made to the proposed planning instrument; and

(e) ~~an assessment of the costs and benefits of~~ the preparation of an evaluation report on the proposed planning instrument~~, or reports under sections 32 and~~ under section 32 or 32AA, as may be relevant~~.~~; and

(f) decision makers to give particular regard to the report prepared under **paragraph (e)**; and

(g) the time period within which the streamlined planning process must be completed.

(5) The responsible Minister may also include in the streamlined planning process any other procedural requirements and time frames not provided for under **subclause (4)(g)** that the Minister considers appropriate, including—

~~(a) any time frames within which the process must be completed; and~~

New Parts 4 and 5—*continued*

(b) any reporting requirements; and

(c) any relevant planning process requirements set out in this schedule or elsewhere in this Act.

~~(6) The direction must be given in writing, be dated, and be served on the relevant local authority.~~

(6) If a direction includes a requirement for a hearing, the restrictions of section 39(2)(c) and (d) (which relates to questioning and cross-examination in a hearing) do not apply.

~~**78 Statement of expectations**~~

~~(1) The responsible Minister's statement of expectations in the Minister's direction to a local authority must include a time frame within which the relevant direction must be complied with.~~

~~(2) The statement of expectations may also include any other matters that the responsible Minister considers relevant.~~

79 Form and status of directions under Legislation Act 2012

(1) A direction under **clause 77** is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

(2) As soon as is reasonably practicable after a direction has been made in accordance with **clause 77**, the responsible Minister must notify it in the *Gazette*.

(3) The relevant local authority must ensure that, as soon as is reasonably practicable after a direction has been notified in the *Gazette*, the public can access or download the direction free of charge at or from an Internet site maintained by the local authority or on its behalf.

80 Amendment ~~of terms~~ of direction

~~(1) A local authority may apply to the responsible Minister in writing to request that the Minister amend a direction that applies to the local authority, including if the local authority considers that this is necessary or expedient because of a change in circumstances.~~

~~(2) The local authority must provide to the responsible Minister a statement that explains why the amendment is requested.~~

(1) The responsible Minister may initiate an amendment of a direction.

(2) A local authority may request in writing that the responsible Minister amend a direction that applies to that local authority, setting out the reasons for the request.

(3) The responsible Minister may amend his or her direction as the Minister thinks appropriate.

New Parts 4 and 5—*continued*

(4) Unless an amendment made under this clause has no more than a minor effect or is made to correct a technical error, **clauses 75(2)~~, (3), (5), and (6), 77(6),~~ to (5), 76(2), 77(3), and 79** apply.

Other matters relevant to direction

81 Time limits

(1) A local authority may apply in writing to request that the responsible Minister approve an extension to any time frames that apply to the local authority under the Minister's direction.

(2) The Minister must consider and determine the application.

~~(3) If no time limit is set in a direction, section 21 (obligation to avoid unreasonable delay) applies, but section 37 (power of waiver and extension of time) does not apply.~~

(3) If a time limit is set in a direction,—

(a) section 37 does not apply to permit a time period set in a direction to be extended; but

(b) section 37 applies to permit a local authority to waive a failure of a person to comply with the time or method of serving a document, but not to waive a failure of the local authority to comply with the direction.

82 Local authority must comply with direction

~~(1) A local authority must comply with the terms of a direction served on it under **clause 77(6)**.~~

(1) A local authority—

(a) must comply with the terms of a direction given under **clause 77** (other than in respect of the Minister's statement of expectations included in the direction); but

(b) must have regard to that statement.

(2) The direction applies as from time to time amended in accordance with **clause 80** and subject to any extension of time allowed under **clause 81**.

Process for approval of proposed planning instrument

83 Local authority must submit proposed planning instrument to responsible Minister

(1) A local authority that is subject to a direction under **clause 77** must submit to the responsible Minister, within the time required by the direction,—

(a) the proposed planning instrument, including any recommendations it contains in respect of requirements, designations, or heritage orders; and

New Parts 4 and 5—*continued*

(b) a summary report of the written submissions; and

(c) a report showing how submissions have been considered and any modifications made to the proposed planning instrument in light of the submissions; and

~~(d) the required assessment of costs and benefits, or reports under sections 32 and 32AA, as may be relevant; and~~

(d) the evaluation reports required by sections 32 and 32AA; and

(e) a summary document showing how the local authority has ~~met~~ had regard to the statement of expectations; and

(f) a summary document showing how the proposed planning instrument complies with the requirements of—

(i) any relevant national direction; and

(ii) ~~the requirements of~~ this Act or regulations made under it; and

(g) any other information and documentation that is specified in the direction.

(1A) However, the territorial authority must consult the relevant requiring authority or heritage protection authority on the recommendations before it submits to the Minister information required by **subclause (1)(a)** that relates to a requirement, designation, or heritage order.

(2) The local authority may provide any further information in addition to the requirements of **subclause (1)**.

84 Responsible Minister to consider proposed planning instrument

(1) The responsible Minister may—

(a) refer the proposed planning instrument submitted under **clause 83(1)(a)** back to the local authority—

(i) with his or her approval; or

(ii) for further consideration, with or without specific recommendations for changes to the proposed planning instrument; or

~~(iii) with specific recommendations for changes to the proposed planning instrument; or~~

(b) decline to approve the proposed planning instrument.

(2) In deciding which action to take under **subclause (1)**, the responsible Minister must have regard to—

(a) whether the local authority has complied with the ~~terms set out in~~ procedural requirements, including time frames, required by the direction~~, including the statement of expectations~~; and

New Parts 4 and 5—*continued*

~~(b) whether the proposed planning instrument complies with any relevant national direction; and~~

(b) whether, and if so, how the local authority—

(i) has had regard to the statement of expectations; and

(ii) has met the requirements of this Act, regulations made under it, and any relevant national direction.

~~(c) whether the proposed planning instrument meets the requirements of this Act.~~

(3) In making his or her decision on a proposed planning instrument, the responsible Minister may have regard to ~~the purpose of the streamlined planning process.~~—

(a) the purpose of the streamlined planning process; and

(b) any other matter relevant to the Minister's decision.

(4) The responsible Minister's decision on a ~~local authority's~~ proposed planning instrument must be in writing with reasons and be served on the local authority.

85 ~~Decision to approve local authority's~~ Proposed planning instrument approved or declined

(1) This clause applies if the responsible Minister approves or declines, under **clause 84(1)(a)(i) or (b),** a local authority's proposed planning instrument ~~under **clause 84(1)(a)(i)**~~ that includes a requirement, designation, or heritage order.

~~(2) The responsible Minister must refer the local authority's proposed planning instrument back to the local authority for the local authority's further action and, in referring it back to the local authority, must notify the local authority of his or her approval and give the local authority the reasons for the decision.~~

~~(3) The local authority must give a final decision on the proposed planning instrument, and publicly notify that decision in the time frame specified in the Minister's direction.~~

~~(4) On and from the date on which the local authority's decision is publicly notified, the proposed planning instrument is amended in accordance with that decision.~~

(2) If the responsible Minister approves the proposed planning instrument under **clause 84(1)(a)(i)**, any recommendation of the territorial authority included in the instrument on a requirement, designation, or heritage order becomes an approved recommendation.

(3) If the responsible Minister declines to approve the proposed planning instrument under **clause 84(1)(b)**, any recommendation of the territorial authority

New Parts 4 and 5—*continued*

approved by the Minister on a requirement, designation, or heritage order, must be treated,—

(a) in the case of a requirement, as a recommendation to withdraw the requirement:

(b) in the case of an existing designation or heritage order, as a recommendation to confirm the designation or heritage order without change.

(4) The local authority must serve the approved recommendations on the relevant requiring authority or heritage protection authority, and clauses 9, 11(2) and (3), and 13 apply, as the case requires,

(5) *See* **clause 91** for notification requirements.

86 Responsible Minister may refer proposed planning instrument back to local authority

(1) This clause applies if the responsible Minister ~~decides that~~ refers a local authority's proposed planning instrument ~~needs~~ back to the local authority for further consideration under **clause 84(1)(a)(ii)**, with or without any recommended changes.

~~(2) The responsible Minister must notify the local authority of his or her decision and give the local authority the reasons for the decision.~~

(3) The responsible Minister may extend any time frame in the relevant direction as may be required for the purposes of this clause to ensure that the local authority can comply with the direction.

(4) The local authority must—

(a) reconsider the proposed planning instrument in light of the responsible Minister's stated reasons and any recommended changes; and

(b) make any changes that the local authority considers appropriate; and

(ba) consult the requiring authority or heritage protection authority if the local authority has reconsidered a recommendation relating to the inclusion of a requirement, designation, or heritage order in the proposed planning instrument; and

(c) resubmit the revised proposed planning instrument to the responsible Minister.

(5) The responsible Minister may reconsider the local authority's revised proposed planning instrument and approve it once he or she is satisfied that it meets the requirements for approval in **clause 84**.

~~**87 Decision to recommend specific changes**~~

~~(1) This clause applies if the responsible Minister recommends that a local authority adopt specific changes to its proposed planning instrument under **clause 84(1)(a)(iii)**.~~

New Parts 4 and 5—*continued*

~~(2) The responsible Minister must notify the local authority of his or her decision and give the local authority the reasons for the decision.~~

~~(3) The responsible Minister may extend any time frame in the relevant direction as may be required for the purposes of this clause to ensure that the local authority can comply with the direction.~~

~~(4) The local authority must adopt the responsible Minister's specified changes and submit a revised proposed planning instrument (incorporating the specified changes) for approval by the Minister.~~

88 Decision to decline to approve proposed planning instrument

(1) ~~This clause applies if~~ If the responsible Minister declines to approve a local authority's proposed planning instrument under **clause 84(1)(b)**, the local authority must notify the Minister's decision under **clause 91**, giving the Minister's reasons for the decision.

~~(2) The responsible Minister must notify the local authority of his or her decision and give the local authority the reasons for the decision.~~

(3) The local authority must not proceed further with the proposed planning instrument under this subpart.

(4) However, this clause does not apply to recommendations on any provisions of the instrument that relate to a requirement, designation, or heritage order (*see* **clause 85**).

89 ~~Local authority may withdraw from proposed planning instrument~~ Power to withdraw

(1) ~~A~~ If a local authority that is subject to a direction under **clause 77** has initiated the preparation of a policy statement or plan, the local authority may withdraw the proposed planning instrument set out in the direction at any time before the responsible Minister's decision is made under **clause 84**.

(1A) A person who has requested a private plan change may withdraw the request at any time before the Minister makes a decision under **clause 84**.

(2) The local authority must give public notice of ~~any~~ a withdrawal under **subclause (1) or (1A)**, including the reasons for the withdrawal.

(3) ~~On the public notification of the local authority's withdrawal of the proposed planning instrument, the direction~~ The direction given under **clause 77** ceases to have effect and is revoked when the withdrawal under **subclause (1) or (1A)** is publicly notified.

90 Responsible Minister may revoke direction

(1) If the responsible Minister wishes to revoke, in whole or in part, a direction given under **clause 77**, the Minister—

New Parts 4 and 5—*continued*

~~(a) must give public notice, with adequate time and opportunity for the public to comment on the proposed revocation, and then give notice of the revocation in the *Gazette*; but~~

(a) must consult the relevant local authority about the proposal to revoke the direction; and

(ab) must give public notice, with adequate time and opportunity for the public to comment on the proposal; and

(ac) must give notice of the revocation in the *Gazette*; but

(b) may otherwise make the revocation without further consultation.

~~(2) The revocation of the whole or part of a direction does not have the effect of revoking any provision of a plan included as a consequence of that direction.~~

~~(3) The proposed planning instrument is deemed to be withdrawn unless the local authority decides to continue its preparation of the proposed planning instrument under Part 1 of this schedule.~~

(2) If a direction is revoked, the proposed planning instrument is withdrawn.

(3) The relevant local authority must give public notice if the proposed planning instrument is withdrawn.

Notification and operation of planning instrument

91 Notification of ~~local authority's~~ responsible Minister's decision

(1) This clause applies ~~if a local authority makes~~ when the responsible Minister has made a decision on a proposed planning instrument under ~~**clause 85(3)**~~ **clause 84(1)(a)(i) or (b)**.

~~(2) As soon as is reasonably practicable after the local authority is notified of the responsible Minister's approval, the local authority must publicly notify—~~

~~(a) the Minister's approval; and~~

~~(b) the local authority's final decision under **clause 85(3)**.~~

(2) The local authority concerned must give public notice of the responsible Minister's decision on the proposed planning instrument as follows:

(a) if the Minister approves the instrument,—

(i) the Minister's decision must be publicly notified; and

(ii) the planning instrument becomes operative in accordance with clause 20 and the provisions of that clause apply:

(b) if the Minister does not approve the proposed planning instrument, the Minister must—

(i) give public notice of the decision; and

New Parts 4 and 5—*continued*

(ii) state in that notice that the proposed planning instrument has no further effect.

~~(3) At the same time as the local authority gives public notice of the Minister's approval under **subclause (2)(a)**, it must serve a copy of that public notice on landowners and occupiers who, in the local authority's opinion, are directly affected by the Minister's approval and the local authority's decision.~~

(3) Not later than 5 working days after the Minister's decision is publicly notified, the local authority must serve the public notice on—

(a) all submitters; and

(b) if relevant, the person who requested a private plan change to be included in the planning instrument; and

(c) if relevant, the requiring authority or heritage protection authority whose requirement, designation, or heritage order is included in the planning instrument; and

(d) in the case of a territorial authority's own requirement, designation, or heritage order, the landowners and occupiers who, in the opinion of the territorial authority, are directly affected by the decision.

(4) The local authority must also—

(a) make a copy of the public notice and the reports prepared under **clause 83(1)** publicly available (whether physically or by electronic means) at all of its offices, and all public libraries in the district (if it relates to a district plan) or region (in all other cases); and

(b) include with the notice a statement of the places where a copy of the decision is available; and

(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

~~**92 Operative date**~~

~~The planning instrument that is approved by the responsible Minister under **clause 84(1)** and decided by the local authority under **clause 85(3)** becomes operative on and from the day after the date on which public notice is given in accordance with **clause 91(2)**.~~

Effect of decisions under this Part~~ on appeal rights~~

~~**93 Appeal rights**~~

~~(1) No right of appeal under this Act lies against any decision or action of the responsible Minister, a local authority, or any other person under this Part.~~

New Parts 4 and 5—*continued*

~~(2) However, the fact that a planning instrument is prepared under a streamlined planning process under this Part does not affect any right of appeal under this Act against any decision or action of a person under the planning instrument.~~

~~(3) Nothing in this clause affects a person's right to apply, in accordance with the law, for judicial review in relation to any decision or action of the responsible Minister, a local authority, or any other person under this Part.~~

93 Scope of appeal rights

(1) There is no right of appeal under this Act against any decision or action of the responsible Minister, a local authority, or any other person under this Part, except as provided under **clauses 94 and 95**.

(2) Parts 11 and 11A of this Act apply to appeals under **clauses 94 and 95**.

94 Appeals in relation to requirements, designations, and heritage orders

(1) An appeal may be made to the Environment Court against any aspect of a decision of a requiring authority or heritage protection authority that rejects the recommendation referred to in **clause 85(2) or (3)**, but only in relation to those aspects of the recommendation that have been rejected.

(2) An appeal under this clause may be made by—

(a) the territorial authority with responsibility for the relevant planning instrument:

(b) any person who made a submission on the designation or heritage order that referred to the matter under appeal.

95 Appeals on questions of law in relation to requirements, designations, and heritage orders

(1) An appeal may be made to the High Court against any aspect of a decision of a requiring authority or heritage protection authority that accepts the recommendation referred to in **clause 85(2) or (3)** on a designation or heritage order.

(2) An appeal may be made by—

(a) the territorial authority with responsibility for the relevant planning instrument:

(b) any person who made a submission on the requirement, designation, or heritage order that referred to the matter under appeal.

(3) An appeal under this clause is an appeal on a question of law only.

96 Procedural matters

(1) A notice of appeal under **clause 94 or 95** must—

New Parts 4 and 5—*continued*

(a) be lodged in accordance with **subclause (2)** in the appropriate registry of the Environment Court or the High Court, as the case requires, in the prescribed form (if any); and

(b) be served,—

(i) on the territorial authority with responsibility for the relevant planning instrument at the same time as the appeal is lodged:

(ii) if the planning instrument includes a designation or heritage order, on the relevant requiring authority or heritage protection authority at the same time as the appeal is lodged:

(iii) on any person who made a submission on the requirement, designation, or heritage order that referred to the matter under appeal not later than 5 working days after the appeal is lodged.

(2) A notice of appeal must be lodged, as the case requires, not later than 30 working days—

(a) after the decision of the local authority is given under clause 11(2); or

(b) after the decision of the requiring authority or heritage protection authority is served under clause 13(4).

Schedule 2
Amendments to Schedule 12 of Resource Management Act 1991 commencing on day after Royal assent

ss 3B, 110

Schedule 12 heading

Replace the Schedule 12 heading with "**Transitional, savings, and related provisions**".

New clause 1AA inserted (Overview)

After the Schedule 12 heading, insert:

1AA Overview

In addition to the transitional, savings, and related provisions set out in this schedule, other transitional, savings, and related provisions that may apply are those set out in—

(a) Part 15, in relation to the principal Act:

(b) subpart 3 of Part 2 of the Resource Management Amendment Act 2003:

(c) Part 2 of the Resource Management (Energy and Climate Change) Amendment Act 2004:

(d) sections 131 to 135 of the Resource Management Amendment Act 2005:

(e) Part 2 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

New Part heading

In Schedule 12, above clause 1, insert:

Part 1
Provisions relating to Resource Management Amendment Act 2013

Clause 1

In Schedule 12, clause 1, replace "schedule" with "Part".

Clause 4

In Schedule 12, clause 4(1), replace "this section" with "this clause".

New Part 2

In Schedule 12, after clause 10, insert:

New Part 2—*continued*

Part 2
Provisions relating to Part 1 of Resource Legislation Amendment Act 2015

11 Interpretation

In this **Part**,—

amendment Act means **Part 1 of the Resource Legislation Amendment Act 2015**

commencement, in relation to a provision of the amendment Act or an amendment made by that provision, means the date on which that provision comes into force.

12 Specified matters subject to transitional arrangements

(1) An amendment made by the amendment Act does not apply in respect of a matter specified in **subclause (2)** if, immediately before the commencement of the amendment, the matter—

(a) has been lodged with a local authority, the EPA, or a Minister, or called in by the Minister; but

(b) has not proceeded to the stage at which no further appeal is possible.

(2) The matters referred in **subclause (1)** are—

(a) an application for a resource consent (or anything treated by this Act as if it were an application for a resource consent):

(b) any other matter in relation to a resource consent (or in relation to anything treated by this Act as if it were a resource consent):

(c) a challenge under section 85 in relation to a provision or proposed provision of a plan or proposed plan that would render any land incapable of reasonable use:

(d) an application relating to a nationally significant proposal lodged with the EPA or called in by the Minister under Part 6AA:

(e) a notice of requirement—

(i) for a designation or heritage order; or

(ii) to alter a designation or heritage order:

(f) an application for a water conservation order made under section 201(1) or to amend or revoke an order under section 216(2):

(g) an application or a proposal to vary or cancel an instrument that creates an esplanade strip under section 234(1) or (3):

(h) the creation of an esplanade strip by agreement under section 235(1).

(3) This clause does not limit **clauses 13 to 15**.

New Part 2—*continued*

13 Proposed policy statement or plans, changes, or variations

(1) This clause applies to a proposed policy statement or plan, change, or variation that, immediately before the commencement of a relevant amendment made by the amendment Act,—

(a) has been publicly notified under clause 5 or 26(b) of Schedule 1; but

(b) has not proceeded to the stage at which no further appeal is possible.

(2) The proposed policy statement, plan, change, or variation must be determined as if the amendments made by the amendment Act had not been enacted.

14 Transitional arrangements for early use of collaborative process

(1) A collaborative planning process may be used in accordance with this clause if, before the commencement of **subpart 4** of Part 5 (which provides for the use of a collaborative planning process), a local authority—

(a) has commenced preparing, changing, or reviewing a policy statement or plan; but

(b) has not publicly notified the proposed policy statement or plan or change under Part 1 of this schedule.

(2) If a local authority wishes to use a collaborative process in the circumstances set out in **subclause (1)**, the local authority must—

(a) publicly notify its intention to apply to the Minister for approval to continue its process of preparing or changing a policy statement or plan using the collaborative planning process under this Part; and

(b) invite submissions, to be submitted within 20 working days of the notice, on the proposal to use the collaborative planning process; and

(c) submit to the Minister a summary of the submissions and a report setting out how the collaborative planning process meets the criteria set out in **subclause (3)**.

(3) The criteria are as follows:

(a) whether there has been a clear intention to set up a collaborative group and appoint its members:

(b) whether the composition of the collaborative group reflects the requirements set out in **clause 40** of Schedule 1:

(c) whether~~, in the opinion of the Minister,~~ the commitment of the local authority to the consensus of the collaborative group is consistent with the requirement of **clause 45(2)(a)** of Schedule 1:

(d) whether~~, in the opinion of the Minister,~~ the terms of reference for the collaborative group are consistent with the terms of reference required by **clause 41** of Schedule 1.

New Part 2—*continued*

(4) After considering any submissions and the report submitted under **subclause (2)(c)**, the Minister—

(a) may accept the application if the Minister is satisfied that the local authority meets the criteria set out in **subclause (3)**, but must otherwise reject the application; and

(b) if the Minister accepts the application, must notify that decision to the local authority not later than 2 months after the date of the application.

(5) If the Minister accepts the application under **subclause (4)**, the local authority must—

(a) give public notice that the Minister has accepted the local authority's application to continue its process of preparing, changing, or reviewing a policy statement or plan using the collaborative planning process; and

(b) amend the terms of reference in accordance with **clause 41** of Schedule 1.

(6) This clause ceases to apply on the date that is ~~1 year~~ 2 years after the commencement of this clause ~~or on a later prescribed date~~.

15 Application to fresh water of rules relating to water quality

Nothing in **section 69(4)** (as inserted by the amendment Act) affects any plan approved, resource consent granted, or water conservation order made~~, immediately~~ before the commencement of that amendment if that plan, resource consent, or order refers to or incorporates any standards set out in Schedule 3.

16 Matters before the Environment Court

An amendment made by the amendment Act does not apply to any proceeding lodged with the Environment Court immediately before the commencement of that amendment.

Schedule 3
Consequential amendments commencing on day after Royal assent

s 111

Environmental Protection Authority Act 2011 (2011 No 14)

After section 13(c)(ii), insert:

(iia) to provide secretarial and support services to a person appointed under an Act to make a decision requiring the application of provisions of the Resource Management Act 1991 as applied or modified by the Act under which the person is appointed:

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

Repeal section 142(2) and (3).

Health and Safety at Work Act 2015 (2015 No 70)

Repeal section 230(1) and (2).

~~Housing Accords and Special Housing Areas Act 2013 (2013 No 72)~~

~~In section 77(1), replace "section 36(4) of the Resource Management Act 1991" with "**section 36AAA** of the Resource Management Act 1991".~~

~~Replace section 77(2) with:~~

~~(2) **Sections 36(5) to (7) and 36AAA** of the Resource Management Act 1991 apply to charges fixed by the authorised agency under this section —~~

~~(a) as if the reference in **section 36(5)** of that Act to that section were a reference to this section; and~~

~~(b) as if the reference in **section 36AAA(1)** of that Act to section 36 of that Act were a reference to this section; and~~

~~(c) with all other necessary modifications.~~

~~In section 81(1)(g), replace "section 36(3) of the Resource Management Act 1991" with "**section 36(5)** of the Resource Management Act 1991".~~

~~In section 83(b), replace "36(3) of the Resource Management Act 1991" with "**36(5)** of the Resource Management Act 1991".~~

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)

Replace section 19(3) with:

(3) This subsection and **subsections (3A) to (3C)** apply—

(a) if the ownership is uncertain in respect of a structure in a part of the common marine and coastal area for which a regional council has responsibility; and

(b) there is no current resource consent in respect of the structure.

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)—*continued*

(3A) The regional council must—

(a) undertake an inquiry under subsection (2); or

(b) remove the structure under **section 12(7)** of the Resource Management Act 1991.

(3B) The regional council may take action under **subsection (3A)(b)** if, in the opinion of the council, an inquiry under subsection (2) is not warranted because—

(a) the structure is likely to have no, or minimal, value to any owner or to the community; and

(b) efforts to locate the owner have not been successful, including, as a minimum,—

(i) a search of the relevant records held by the council; and

(ii) a reasonable effort to locate the owner from any contact details in those records.

(3C) A regional council may determine whether to remove a structure, in whole or in part,—

(a) in accordance with the provisions of the regional coastal plan; or

(b) without complying with any conditions in the regional coastal plan or obtaining a resource consent if, in the council's opinion, any adverse effects of removing the structure would be no more than minor.

Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 (2010 No 119)

In section 13(1)(b), after "1991", insert "; and".

After section 13(1)(b), insert:

(c) ~~the~~ a national planning ~~template~~ standard published under **section 58F** of the Resource Management Act 1991, to the extent that it contains provisions referred to in **section 58C(1)(b)** of that Act (which refers to matters that may be included in a national policy statement):

After section 13(3), insert:

(3A) A local authority must not amend under **section 58H** of the Resource Management Act 1991 a document defined in that section, to the extent that the document contains provisions referred to in **section 58C(1)(b)** of that Act, if the amendment would make the document inconsistent with the vision and strategy.

Resource Management Amendment Act 2005 (2005 No 87)

Repeal section 115(2) to (4).

Repeal section 117.

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)

In section 12(1)(b), after "1991", insert "; and".

After section 12(1)(b), insert:

(c) ~~the~~ a national planning ~~template~~ standard published under **section 58F** of the Resource Management Act 1991, to the extent that it contains provisions referred to in **section 58C(1)(b)** of that Act (which refers to matters that may be included in a national policy statement):

After section 13(3), insert:

(3A) A local authority must not amend under **section 58H** of the Resource Management Act 1991 a document defined in that section, to the extent that the document contains provisions referred to in **section 58C(1)(b)** of that Act, if the amendment would make the document inconsistent with the vision and strategy.

Schedule 4
Amendments to Schedule 12 of Resource Management Act 1991 commencing 5 years after Royal assent

s 160

17 Matters relating to financial contributions

(1) An amendment specified in **subclause (2)** does not apply in respect of an application for a resource consent that is lodged before the commencement of the amendment.

(2) The amendments referred to in **subclause (1)** are the amendments, made by the amendment Act, that repeal or amend the following provisions:

- (a) section 108(2)(a), (9), and (10):
- (b) sections 110 and 111:
- (c) section 222(1):
- (d) section 407(1):
- (e) section 409:
- (f) section 411:
- (g) the provisions of the enactments set out in **Schedule 5** of the amendment Act.

18 Local authorities must amend plans to remove financial contributions provisions

(1) This clause applies to a plan or proposed plan that, for the purpose of section 108(10), includes any provision that—

- (a) specifies the purposes for which conditions requiring a financial contribution may be included in a resource consent; or
- (b) describes the manner in which the level of a financial contribution is to be determined.

(2) A local authority must, before the expiry of 5 years after the date of Royal assent of the amendment Act, change the plan or proposed plan to remove the provisions described in **subclause (1)**.

(3) The local authority—

- (a) need not make the change in the manner set out in Schedule 1; but
- (b) must give public notice of the change as soon as practicable after it has been made.

Schedule 5
Consequential amendments commencing 5 years after Royal assent

s 161

Part 1
Amendments to Acts

Goods and Services Tax Act 1985 (1985 No 141)

In section 5(7B)(a) and (7C)(a), after "condition of a resource consent under the Resource Management Act 1991", insert ", where the condition is imposed under section 108(2)(a) of that Act (before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**").

Local Government Act 2002 (2002 No 84)

In section 102(2)(d), delete "or financial contributions".

Repeal section 103(2)(h).

In the heading to section 106, delete "**or financial contributions**".

Repeal section 106(1) and (4).

Replace section 106(2) with:

(2) A policy adopted under section 102(1) must, in relation to the purposes for which development contributions may be required,—

(a) summarise and explain the total cost of capital expenditure identified in the long-term plan, or identified under clause 1(2) of Schedule 13, that the local authority expects to incur to meet the increased demand for community facilities resulting from growth; and

(b) state the proportion of that total cost of capital expenditure that will be funded by—

(i) development contributions:

(ii) other sources of funding; and

(c) explain, in terms of the matters required to be considered under section 101(3), why the local authority has determined to use those funding sources to meet the expected total cost of capital expenditure referred to in **paragraph (a)**; and

(d) identify separately each activity or group of activities for which a development contribution will be required and, in relation to each activity or group of activities, specify the total amount of funding to be sought by development contributions; and

(e) if development contributions will be required, comply with the requirements set out in sections 201 to 202A.

Local Government Act 2002 (2002 No 84)—*continued*

In section 200(1)(a), after "under section 108(2)(a) of the Resource Management Act 1991", insert "(before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)".

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37)

Repeal sections 58 to 60 and the cross-heading above section 58.

Ngāti Awa Claims Settlement Act 2005 (2005 No 28)

Repeal section 159(4).

Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74)

Repeal section 59(5).

Repeal section 68(7).

Repeal section 85(2).

Ngāti Manawa Claims Settlement Act 2012 (2012 No 27)

Repeal section 87(3).

Ngāti Whare Claims Settlement Act 2012 (2012 No 28)

Repeal section 90(3).

Repeal section 105(4).

Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122)

In section 144(2), after "condition of a resource consent under the Resource Management Act 1991", insert ", where the condition is imposed under section 108(2)(a) of that Act (before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)".

Part 2
Amendment to legislative instrument

Local Government (Financial Reporting and Prudence) Regulations 2014 (LI 2014/76)

In regulation 3, definition of **financial contribution**, after "under section 108(2)(a) of the Resource Management Act 1991", insert "(before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)".

Schedule 6
New Schedule 1AA of Public Works Act 1981 inserted

s 175

Schedule 1AA
Transitional, savings, and related provisions

s 2A

Part 1
Provisions relating to **Part 3 of the Resource Legislation Amendment Act 2015**

1 Interpretation

In this schedule,—

amendment Act means **Part 3 of the Resource Legislation Amendment Act 2015**

commencement date means the date on which the amendment Act comes into force.

2 New rule on evidence does not apply to hearings that have begun

Section 24(6A) does not apply to any hearing of the Environment Court under section 24 that begins on or before the commencement date.

3 Circumstances in which this Act applies as if unamended

(1) If the Minister or a local authority, as applicable, and the owner of land have, before the commencement date, executed an agreement for the sale and purchase of the land under section 17, this Act continues to apply to the agreement, and to any claim for compensation for or in respect of the land, as if the amendments referred to in **subclause ~~(2)~~ (3)** had not come into force.

(2) If a Proclamation taking land has been issued in accordance with section 26 before the commencement date, this Act continues to apply to the Proclamation, and to any claim for compensation for or in respect of the land, as if the amendments referred to in **subclause ~~(1)~~ (3)** had not come into force.

(3) The amendments referred to in **subclause (1) and (2)** are the amendments, made by the amendment Act, that repeal, amend, replace, or insert the following provisions:

(a) section 4C(2):

(b) section 24:

(c) section 59:

(d) section 72:

(e) **sections 72A to 72E**:

(f) section 75.

4 Negotiation start date includes dates before commencement of amendment Act

To avoid doubt, the dates specified in **paragraphs (a) and (b)** of the definition of **negotiation start date** in **section 72A(2)** include dates that occur before the commencement date.

5 Extended time to comply with section 72A(1)(b) in certain circumstances

(1) If the negotiation start date that applies to the owner of land under **section 72A(1)(b)(i)** is 4 months or more before the commencement date, **section 72A** must be read as if—

(a) it requires the agreement referred to in that section to be executed within 2 months after the commencement date; and

(b) the deadline referred to in that section ("within 6 months after the negotiation start date") does not apply.

(2) However, no compensation must be paid to the owner of land under **section 72A(1)(b)** if—

(a) the negotiation start date that applies to the owner under **section 72A(1)(b)(i)** is 6 months or more before the commencement date; and

(b) the notifying authority serves notice in relation to the owner's land in accordance with section 18(1)(a) within 2 months after the commencement date.

Schedule 7
New Schedule 1AA of Conservation Act 1987 inserted

s 182

Schedule 1AA
Transitional, savings, and related provisions

s 3A

Part 1
Provisions relating to **Part 4 of the Resource Legislation Amendment Act 2015**

~~**1 Savings provisions relating to Part 4 of the Resource Legislation Amendment Act 2015**~~

~~1 All applications for a concession under section 17R that were pending or in progress immediately before the day on which **Part 4 of the Resource Legislation Amendment Act 2015** came into force must be continued and completed as if this Act had not been amended by **Part 4 of the Resource Legislation Amendment Act 2015**.~~

1 Pending applications for concessions

(1) All pending applications for a concession under section 17R must be dealt with and determined as if this Act had not been amended by **Part 4 of the Resource Legislation Amendment Act 2015**.

(2) In this clause, an application is **pending** if it was received by the Minister before the commencement of **Part 4 of the Resource Legislation Amendment Act 2015** and, as at that commencement, it had not been finally determined.

Schedule 7A
New Schedule 1 of Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 inserted

s 233

Schedule 1
Transitional, savings, and related provisions

s 7B

Part 1
Provisions relating to Part 5 of the Resource Legislation Amendment Act 2015

1 Matters pending on commencement day

(1) All pending consent applications and pending proceedings must be dealt with and determined as if this Act had not been amended by **Part 5** of the **Resource Legislation Amendment Act 2015**.

(2) All pending reviews must be continued and completed as if this Act had not been amended by **Part 5** of the **Resource Legislation Amendment Act 2015**.

(3) In this clause,—

commencement day means the day on which **Part 5** of the **Resource Legislation Amendment Act 2015** comes into force

pending consent application means an application for a marine consent that—

(a) was made under section 38 or 87B before the commencement day; and

(b) as at the commencement day,—

(i) had not been returned as incomplete under section 41(3) (or that section as applied by section 87C); and

(ii) had not been finally determined

pending proceeding means an objection, appeal, or proceeding under Part 4 of this Act that was commenced before the commencement day and as at that day had not been finally determined

pending review means a review under section 76 that was commenced before the commencement day and as at that day had not been completed.

2 Certain provisions inserted by Resource Legislation Amendment Act 2015 do not apply until decommissioning regulations date

(1) **Section 38(3)** does not apply in relation to an application made before the decommissioning regulations date.

(2) **Subpart 4 of Part 3A** does not apply until the decommissioning regulations date.

(3) In this clause, **decommissioning regulations date** means the date on which the first regulations made under **section 29E** come into force.

Schedule 8
New ~~Schedules 2 and 3~~ Schedules 3 and 4 of Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 inserted

s 235

Schedule ~~2~~ 3
EPA hearings for publicly notifiable activities ~~(~~other than section 20 activities~~)~~

s 52

1 Hearing date and notice

(1) If a hearing of an application for a marine consent is to be held, the Environmental Protection Authority must fix the commencement date and the time and place of the hearing.

(2) The date for the commencement of any hearing must not be later than 40 working days after the closing date for submissions on the application.

(3) The EPA must give at least 20 working days' notice of the commencement date, time, and place of a hearing to—

(a) the applicant; and

(b) every submitter on the application who stated that he or she wished to be heard and who has not subsequently advised that he or she does not wish to be heard.

(4) The EPA may give directions as to evidence and the general conduct of the hearing.

2 Time limit for hearing

A hearing must be completed not later than 40 working days after the first day of the hearing.

3 Hearings to be public and without unnecessary formality

(1) A hearing must be held in public unless the Environmental Protection Authority directs, under section 158(3)(a), that the whole or part of a hearing is to be held with the public excluded.

(2) The EPA must establish a procedure for a hearing that is appropriate and fair in the circumstances.

(3) In determining an appropriate and fair procedure for a hearing, the EPA must—

(a) avoid unnecessary formality; and

(b) recognise tikanga Māori where appropriate, and receive evidence written or spoken in Māori, and the Māori Language Act 1987 applies accordingly.

(4) No person may question a party or witness unless the EPA gives permission to do so.

4 Persons who may be heard at hearings

(1) At a hearing, the applicant and every submitter who stated that he or she wished to be heard at the hearing may speak (either personally or through a representative) and call evidence.

(2) However, the Environmental Protection Authority may, if it considers that excessive repetition is likely, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.

(3) The Environmental Protection Authority may proceed with a hearing even if the applicant or a submitter who stated that he or she wished to be heard fails to appear at the hearing if the EPA considers it fair and reasonable to do so.

5 Provisions relating to hearings

(1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing:

(a) section 4 (which gives powers to maintain order):

(b) section 4B (which relates to evidence):

(c) section 4D (which gives power to summon witnesses):

(d) section 5 (which relates to the service of a summons):

(e) section 6 (which relates to the protection of witnesses):

(f) section 7 (which relates to allowances for witnesses).

(2) Every summons to a witness to appear at a hearing must be in the prescribed form and be signed on behalf of the Environmental Protection Authority or by the chairperson of the committee that is to conduct the hearing.

(3) All allowances for a witness must be paid by the party on whose behalf the witness is called.

(4) At a hearing, the following persons must give to the EPA any information and advice that is relevant and reasonably necessary to decide the application if the EPA asks for it:

(a) a person who reviewed the impact assessment or provided advice under **section 42 or 57**:

(b) a person who is heard or represented at the hearing.

6 Control of hearings

The Environmental Protection Authority may exercise a power under **clause 7 or 8** after considering whether the scale and significance of the hearing make the exercise of the power appropriate.

7 Directions to provide evidence within time limits

(1) The Environmental Protection Authority may direct the applicant to provide briefs of evidence to the EPA before the hearing.

(2) The applicant must provide its briefs of evidence at least 15 working days before the hearing.

(3) The EPA may direct a submitter who intends to call expert evidence to provide briefs of the evidence to the EPA before the hearing.

(4) The submitter must provide the briefs of evidence at least 10 working days before the hearing.

(5) The EPA must, as soon as practicable after the EPA receives the briefs of evidence, give—

(a) a copy of the applicant's brief of evidence to every submitter; and

(b) a copy of a submitter's briefs of evidence to the applicant.

8 Directions before or at hearings

(1) Before or at the hearing, the Environmental Protection Authority may do 1 or more of the following:

(a) direct that a conference of a group of experts be held:

(b) direct that a conference be held with—

(i) any of the submitters who wish to be heard at a hearing; or

(ii) the applicant; or

(iii) in the case of a cross-boundary application, any relevant resource consent authority; or

(iv) any combination of such persons:

(c) specify the order of business at the hearing, including the order in which evidence and submissions are presented:

(d) direct that evidence and submissions be—

(i) recorded; or

(ii) taken as read; or

(iii) limited to matters in dispute:

(e) direct the applicant, when presenting evidence or a submission, to present it within a time limit:

(f) direct a submitter, when presenting evidence or a submission, to present it within a time limit.

(2) At the hearing, the EPA may, under **section 57(1)**, seek advice on an application or the activity to which the application relates, if the applicant agrees.

(3) The EPA must provide copies of the advice to the applicant and submitters.

(4) At the hearing, the EPA may direct a person presenting a submission not to present—

(a) the whole submission, if none of it is relevant or in dispute; or

(b) any part of the submission that is not relevant or not in dispute.

(5) Before or at the hearing, the EPA may direct that a submission or a part of a submission be struck out if the EPA considers that—

(a) the submission, or the part, is frivolous or vexatious; or

(b) the submission, or the part, discloses no reasonable or relevant case; or

(c) it would be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.

(6) If the EPA gives a direction under **subclause (5)**, it must record the reasons for the direction and give a copy of the reasons to the submitter whose submission is affected by the direction.

Schedule ~~3~~ 4
Boards of inquiry for publicly notifiable section 20 activities

s 53(8)

General

1 EPA must provide board with necessary information

(1) The EPA must provide the board of inquiry with each of the following things as soon as is reasonably practicable after the board is appointed and the things are received:

(a) the application:

(b) all the information received by the EPA that relates to the application:

(c) the submissions received by the EPA on the application.

(2) The EPA must also—

(a) prepare or commission a report on the key issues relating to the application and the activity, including—

(i) any relevant provisions in regulations; and

(ii) a statement on whether the application covers all aspects of the activity for which a marine consent is required:

(b) provide a copy of the report to—

(i) the board of inquiry; and

(ii) the applicant; and

(iii) every submitter.

~~Compare: 1991 No 69 s 149G(2)~~

2 EPA must provide support to board

(1) The EPA must provide all reasonable administrative and secretarial services that are necessary to enable a board of inquiry to discharge its functions and responsibilities under this Act.

(2) The EPA may—

(a) make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this schedule; or

(b) allow the board of inquiry to make those decisions.

(3) The EPA must have regard to the purposes of minimising costs and avoiding unnecessary delay when performing its functions under **subclause (2)(a) or (b)**.

3 EPA may provide board with advice

The EPA may provide a board of inquiry with—

(a) technical advice:

(b) an estimate of the amount of funding required to process an application.

4 How board must carry out duties

A board of inquiry must—

(a) carry out its duties in a timely and cost-effective manner:

(b) conduct its inquiry in accordance with any terms of reference set by the Minister under **section 53(2)**:

(c) have regard to the most recent estimate provided to the board of inquiry by the EPA under **clause 3(b)**.

Hearings

5 Hearings

(1) The board of inquiry must conduct a hearing on an application if the applicant or a submitter requests a hearing.

(2) The board of inquiry may conduct a hearing, even if no applicant or submitter requests one, if the board considers it necessary or desirable.

(3) The board of inquiry—

(a) must keep a full record of any hearings or proceedings:

(b) may direct that a conference of a group of experts be held:

(c) may direct that a conference be held with—

(i) any of the submitters who wish to be heard at a hearing; or

(ii) the applicant; or

(iii) in the case of a cross-boundary application, any relevant resource consent authority; or

(iv) any combination of the persons described in **paragraphs (i) to (iii)**.

6 Hearing date and notice

(1) If a hearing is to be held, the ~~board of inquiry~~ EPA must—

(a) fix the commencement date, time, and place of the hearing; and

(b) give 20 working days' notice of the commencement date, time, and place of the hearing to—

(i) the applicant; and

(ii) every submitter on the application who stated that he or she wished to be heard and who has not subsequently advised that he or she does not wish to be heard.

(2) The board of inquiry may give directions as to evidence and the general conduct of the hearing.

7 Hearings to be public and without unnecessary formality

(1) A hearing must be held in public unless the Environmental Protection Authority, under section 158(3)(a), directs that the whole or part of a hearing is to be held with the public excluded.

(2) The board of inquiry must establish a procedure for a hearing that is appropriate and fair in the circumstances.

(3) In determining an appropriate and fair procedure for a hearing, the board of inquiry must—

(a) avoid unnecessary formality; and

(b) where appropriate, recognise tikanga Māori; and

(c) receive evidence written or spoken in te reo Māori (and the Māori Language Act 1987 applies accordingly to the evidence so received).

(4) No person may question a party or witness unless the board of inquiry gives permission to do so.

8 Persons who may be heard at hearings

(1) At a hearing, the applicant and every submitter who stated that he or she wished to be heard at the hearing may speak (either personally or through a representative) and call evidence.

(2) However, the board of inquiry may, if it considers that excessive repetition is likely, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.

(3) The board of inquiry may proceed with a hearing even if the applicant or a submitter who stated that he or she wished to be heard fails to appear at the hearing if the board of inquiry considers it fair and reasonable to do so.

9 Provisions relating to hearings

(1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing:

(a) section 4 (which gives powers to maintain order):

(b) section 4B (which relates to evidence):

(c) section 4D (which gives power to summon witnesses):

(d) section 5 (which relates to the service of a summons):

(e) section 6 (which relates to the protection of witnesses):

(f) section 7 (which relates to allowances for witnesses).

(2) Every summons to a witness to appear at a hearing must be in the prescribed form and be signed on behalf of the board of inquiry or by the chairperson of the committee that is to conduct the hearing.

(3) All allowances for a witness must be paid by the party on whose behalf the witness is called.

(4) At a hearing, the following persons must give to the board of inquiry any information and advice that is relevant and reasonably necessary to decide the application if the board of inquiry asks for it:

(a) a person who reviewed the impact assessment or provided advice under **section 42 or 57**:

(b) a person who is heard or represented at the hearing.

10 Control of hearings

A board of inquiry may exercise a power under **clause 11 or 12** after considering whether the scale and significance of the hearing make the exercise of the power appropriate.

11 Directions to provide evidence within time limits

(1) A board of inquiry may direct the applicant to provide briefs of evidence to the board before the hearing.

(2) The applicant must provide its briefs of evidence at least 15 working days before the hearing.

(3) The board of inquiry may direct a submitter who intends to call expert evidence to provide briefs of the evidence to the board before the hearing.

(4) The submitter must provide the briefs of evidence at least 10 working days before the hearing.

(5) The board of inquiry must, as soon as practicable after the board receives the briefs of evidence, give—

(a) a copy of the applicant's brief of evidence to every submitter; and

(b) a copy of a submitter's briefs of evidence to the applicant.

12 Directions before or at hearings

(1) Before or at the hearing, the board of inquiry may do 1 or more of the following:

(a) specify the order of business at the hearing, including the order in which evidence and submissions are presented:

(b) direct that evidence and submissions be—

(i) recorded; or

(ii) taken as read; or

(iii) limited to matters in dispute:

(c) direct the applicant, when presenting evidence or a submission, to present it within a time limit:

(d) direct a submitter, when presenting evidence or a submission, to present it within a time limit.

(2) At the hearing, the board of inquiry may seek advice on an application or the activity to which the application relates under **section 57(1)**, if the applicant agrees.

(3) The board of inquiry must provide copies of the advice to the applicant and submitters.

(4) At the hearing, the board of inquiry may direct a person presenting a submission not to present—

(a) the whole submission, if none of it is relevant or in dispute; or

(b) any part of the submission that is not relevant or not in dispute.

(5) Before or at the hearing, the board of inquiry may direct that a submission or a part of a submission be struck out if the board considers that—

(a) the submission, or the part, is frivolous or vexatious; or

(b) the submission, or the part, discloses no reasonable or relevant case; or

(c) it would be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.

(6) If the board of inquiry gives a direction under **subclause (5)**, it must record the reasons for the direction and give a copy of the reasons to the submitter whose submission is affected by the direction.

13 Board to produce report

(1) As soon as practicable after the board of inquiry has completed its inquiry on a matter, but not later than 9 months after the relevant application was publicly notified, the board of inquiry must—

(a) make its decision; and

(b) produce a written report; and

(c) send its report to the EPA.

(2) The report must—

(a) state the board's decision; and

(b) give reasons for the decision; and

(c) include a statement of the principal issues that were in contention; and

(d) include the main findings on the principal issues that were in contention.

(3) For the purposes of **subclause (1)**, the 9-month period excludes the period starting on 20 December in any year and ending on 10 January in the following year.

Remuneration

14 Remuneration, allowances, and expenses

(1) The Fees and Travelling Allowances Act 1951 (the **1951 Act**) applies to a board of inquiry appointed under **section 53** as if the board were a statutory board within the meaning of the 1951 Act.

(2) The Minister may direct that a member of a board of inquiry be paid the following out of money appropriated by Parliament for the purpose:

(a) remuneration by way of fees, salary, or allowances under the 1951 Act; and

(b) travelling allowances and travelling expenses under the 1951 Act for time spent travelling in the service of the board.

~~Compare: 1991 No 69 s 149ZE~~

Legislative history

26 November 2015	Introduction (Bill 101–1)
3 December 2015	First reading and referral to Local Government and Environment Committee
7 November 2016	Discharged from Local Government and Environment Committee
10 November 2016	Referral to Local Government and Environment Committee

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