Natural and Built Environment Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Natural and Built Environment Bill and recommends by majority that it be passed. We recommend all amendments by majority.

About the bill as introduced

This bill would repeal the Resource Management Act 1991 (the RMA), and is one of three bills designed to replace that Act. The others are the Spatial Planning Bill and the Climate Adaptation Bill.

The Natural and Built Environment Bill is the main piece of legislation that would replace the RMA. It seeks to provide a new framework for regulating both environmental planning and land-use planning. The purpose of the bill is to enable the use, development, and protection of the environment in the ways specified in clause 3(a) and to recognise and uphold te Oranga o te Taiao, as defined in clause 7. As stated in the bill's explanatory note, the bill seeks to shift the focus of the current resource management system from managing adverse effects to promoting positive outcomes. Clause 5 sets out the system outcomes that must be achieved at the national and regional level to achieve the legislation's purpose.

The Spatial Planning Bill would require the development of a long-term regional spatial strategy (RSS) in each region of New Zealand, except for the Chatham Islands Territory which could develop an RSS but would not have to.[1] The Natural and Built Environment Bill and the Spatial Planning Bill are expected to work together as a

[1] Aotearoa New Zealand consists of 17 regions including the Chatham Islands which is defined as a region for the purposes of this bill and the Spatial Planning Bill. Each region would have

single system. We have considered the Spatial Planning Bill alongside our consideration of this bill; we are reporting back separately on each bill.

The Climate Adaptation Bill has not yet been introduced to the House. We understand that it is expected to address legal issues associated with managed retreat from areas affected by climate change.

Main features of the new system

The bill (together with the Spatial Planning Bill) would create a new resource management system. The main features of the system would be:

- a National Planning Framework (Part 3 of the bill), which would be created as secondary legislation
- 16 Natural and Built Environment plans (Part 4 of the bill), which would replace the current system's regional policy statements and district and regional plans
- regional planning committees (to be established under clause 100).

Planning documents

The National Planning Framework (NPF) would be secondary legislation. The first NPF would be transitional and would incorporate most of the RMA national direction instruments. It would have regard to the resource allocation principles listed in clause 36: sustainability, efficiency, and equity.

The Natural and Built Environment (NBE) plans would replace the current system's regional policy statements and district and regional plans. Local authorities would be responsible for implementing and administering the plans.

The 15 or 16 RSSs (provided for in the Spatial Planning Bill) are expected to deal with high-level decisions and reduce disputes later. RSSs would be informed by the NPF. In turn, each RSS would inform each region's plan.

Clause 5 lists the system outcomes that should be provided for in the NPF and plans. These documents would guide the decision-making on resource consents.

Decision-making

Clause 100 would require the establishment of 16 regional planning committees (RPCs). RPCs would be responsible for deciding RSSs and plans. RPC members would represent local authorities in each region, Māori, and (for RSSs) a representative appointed by the Minister responsible for the spatial planning legislation.

Clause 6 sets out the principles that would have to be followed in decision-making on the NPF and plans.

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an RSS except that Nelson and Tasman would share one RSS and the Chatham Islands Territory could, but would not have to, have one.

Slow transition to the new system

To transition to the new resource management system, many existing RMA instruments and processes would continue to have effect until replacements are developed. We were advised that the transition to the new system—including development of the NPF and 16 finalised NBE plans—could take 10 years after the bill received Royal assent. Schedules 1 and 2 set out the transitional provisions.

Legislative scrutiny

As part of our consideration of the bill, we examined its consistency with principles of legislative quality. We considered issues relating to several clauses (identified in Appendix A) and discuss these in the commentary below.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

We propose to restructure the bill to improve its flow and readability. As a result, many clauses have been renumbered in this revision-tracked version of the bill containing our proposed amendments. We refer to the original clause numbers through much of this commentary. References to recommended new clauses are based on version 22 of the draft revision-tracked bill. To help find the new clause number, we refer readers to a table (Appendix B) produced by the Parliamentary Counsel Office.

Part 1—Purpose and preliminary matters

Purpose to recognise and uphold te Oranga o te Taiao

Clause 3 sets out the purpose of the bill in two limbs:

- to enable the use, development, and protection of the environment in a certain way
- to recognise and uphold te Oranga o te Taiao.

We agree with submitters that the purpose clause should be as certain, clear, and coherent as possible. Also, where the policy intent remains the same as in the RMA, and it is desirable to retain the same interpretation, the same or very similar wording should be used to reflect existing case law.

We consider that having one purpose with two limbs could potentially be interpreted as a dual purpose. We think that clause 3 should make clear that te Oranga o te Taiao (as defined) is the purpose or goal that the legislation seeks to achieve. We recommend amending clause 3 so that the bill has a single, clear purpose: to uphold te Oranga o te Taiao.

We recommend inserting clause 3(2) to provide that the purpose must be achieved in a way that protects the health of the natural environment. Subject to this, it must be achieved in a way that enables the use and development of the environment in a way that promotes intergenerational well-being. We agree with submissions that the word

"compromising", in clause 3(a)(i), could create uncertainty and be difficult to assess. That is why we recommend that new clause 3(2)(b) refer to "promoting" intergenerational well-being. We consider this change adds clarity and does not diminish the responsibility that the present generation has to future generations.

Definition of te Oranga o te Taiao

We recommend moving the definition of "te Oranga o te Taiao" from clause 7 into clause 3(3) because it is specifically relevant to clause 3. We also recommend amending it. We understand that the concept "te Oranga o te Taiao" was developed specifically to be a shared environmental ethic for everybody in Aotearoa New Zealand. We recommend making this clear by inserting new clause 3(3)(c). The new paragraph specifies that te Oranga o te Taiao includes the relationship between the health of the natural environment and the health and well-being of people and communities.

How to achieve the purpose of the legislation

The purpose clause would be simpler and clearer if references to system outcomes, limits and associated targets, and managing adverse effects were moved into a different clause. In our view, they are means for achieving the legislation's purpose; that is, they support the purpose clause.

New clause 3A sets out the key means to achieve the bill's purpose:

- System outcomes would have to be provided for at a national level in the NPF and at a regional level in the plans.
- Limits and associated mandatory targets for the domains in clause 38 (air, indigenous biodiversity, coastal water, estuaries, freshwater, and soil) would have to be set through the NPF and plans).
- Discretionary targets for progressing system outcomes could be set through the NPF and plans.
- The NPF and plans.
- RSSs (prepared under the proposed Spatial Planning Act) would have to promote integration in the performance of functions under the NBE bill, the Land Transport Management Act 2003, the Local Government Act 2002, and the Water Services Entities Act 2022.
- The decision-making principles would apply.
- Provisions would have to be made to protect places of regional and national importance and highly vulnerable biodiversity areas (HVBAs).
- Management of the effects of activities on the environment.

System outcomes

Clause 5 was the subject of many submissions and criticism over the lack of a hierarchy between the outcomes as provided for in sections 6 and 7 of the RMA. New clause 5 sets out the various system outcomes that the NPF and plans should provide

for while new clause 5A describes how these documents should provide for the outcomes to ensure that the bill's purpose was achieved.

Geoheritage sites

Proposed new clause 5(2) is based on clause 5(a). New clause 5(2)(b) covers outstanding natural features and landscapes. We heard that the term "outstanding natural features" has been interpreted differently by different local authorities. Some have interpreted it to include geoheritage while others have not.[2] As a result, some geoheritage sites have not been protected. We heard that a national inventory of geopreservation sites deserving recognition and protection exists. We agree with the submissions that the bill should expressly cover geoheritage. We recommend incorporating it into new clause 5(2)(b).

Greenhouse gas emissions

New clause 5(3), about climate change, is based on clause 5(b)(i) and (ii).

Aotearoa New Zealand's emissions reduction goals are set by the Climate Change Response Act 2002. We recommend that new clause 5(3) refer to the target set under section 5Q of that Act. This would help to show the connection between the resource management system and the wider emissions reduction effort.

We also recommend moving clause 5(b)(iii), which is the outcome about risks from natural hazards and the effects of climate change. It would be clearer standing alone as its own system outcome in new clause 5(4).

Coastal marine area

We agree with the submitters who suggested an additional system outcome relating to the use of the coastal marine area. We recommend inserting clause 5(5) to provide a system outcome that the coastal marine area is used sustainably to support the well-being of present and future generations.

We also note some overlap in references to the areas in clause 5(a)(i)(B) and 5(a)(iii). We recommend aligning them.

Recreational use and enjoyment

We recommend that the system outcomes also provide for public recreational use and enjoyment of the natural environment being maintained and enhanced.

Trout and salmon habitat as far as consistent with the protection of indigenous freshwater species

We recommend that the system outcomes also provide for the protection of the habitat of trout and salmon, so far as consistent with the protection of indigenous species. We

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[2] Geoheritage refers to places that have scientific value from a geological and palaeontological perspective.

note that this outcome would be consistent with that in the National Policy Statement on Freshwater Management (NPS–FM).

Supply of land in urban and rural areas

Clause 5(c)(ii) is about the supply of land for development. This could be interpreted as promoting urban expansion. However, urban expansion is not necessarily compatible with other system outcomes. We recommend that new clause 5(7)(b) refer not to the "ample supply" of land but to its "development capacity" and the outcome of demand not outstripping capacity.

We also recommend amending the definition of "development capacity" in the interpretation clause to explicitly include "brownfield" and "greenfield" developments. Brownfield developments are on land that has been previously built on; greenfield developments are on land that has not previously been built on.

We also recommend incorporating clause 5(c)(iii), which relates to housing choice and affordability, into the definition of development capacity.

We recommend amending clause 5(d) (new clause 5(9)) to reflect the objective of the National Policy Statement for Highly Productive Land, which is "highly productive land is protected for use in land-based primary production, both now and for future generations".[3]

Protected customary rights

Clause 5(f) provides for protected customary rights. We consider that protected customary rights would be better protected by requiring decision makers to recognise and provide their protection and exercise as a decision-making principle. Consistent recognition of statutory acknowledgments remains an outcome.[4]

Protection of cultural heritage

Clause 5(g) as introduced provides for the conservation of cultural heritage. It was submitted that "conservation" could be interpreted as implying a lower standard than "protection". We agree. We recommend that the outcome provide for the protection and, if degraded, the restoration of cultural heritage; and be included in the outcome in new clause 5(2).

Maintenance of public access

The system outcome in clause 5(h) as introduced is enhanced public access to and along the coastal marine area, lakes, and rivers. This outcome was based on section

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[3] Ministry for the Environment, National Policy Statement for Highly Productive Land, September 2022, page 7.

[4] A statutory acknowledgement provides recognition by the Crown of a group's association with a specified area. Statutory acknowledgements are found in Treaty of Waitangi settlement legislation.

6(d) of the RMA. However, the RMA provided for maintenance as well as enhancement of public access. In new clause 5(6), we recommend aligning the new provision with the RMA.

Infrastructure services

We recommend amending clause 5(i) as introduced so that it uses the term "both present and future generations" rather than "people and communities". This would acknowledge the benefits that infrastructure provides both currently and in the future.

Principles to apply when providing for outcomes

We recommend inserting another clause to provide more direction on the outcomes in clause 5. New clause 5A(1) would require the NPF and plans to provide for the system outcomes. New clause 5A(2) would set out the approach to take when providing for outcomes:

- The health of the natural environment and its capacity to sustain life must be protected.
- Not all outcomes must be achieved in all places or at all times.
- Conflict between or among outcomes must be identified at the highest practicable level in the planning regime—that is, in the NPF, then in plans.
- Achieving compatibility between or among outcomes must be preferred over achieving one outcome at the expense of another.
- The goal of achieving outcomes must be preferred over the goal of avoiding conflict.

Principles

Clause 6 sets out the principles that would govern decision-making.

Many submitters suggested that the procedural principles (in clause 804) and the information principle (in clause 805) should be positioned closer to the decision-making principles. We agree that this would be helpful. The clauses are widely applicable and would be important in achieving the purpose of the bill. We recommend inserting new clauses 6A and 6B to achieve this, as discussed below.

Decision-making principles

The principles in clause 6(1), as introduced, would apply to the responsible Minister and RPCs. However, we consider that they should apply to all aspects of decision-making for the NPF and plans. We recommend amending clause 6(1) so that it would apply to all people who make recommendations or decisions on the NPF and plans.

Clause 6(1)(c) would require the decision maker to recognise the positive effects of using and developing the environment to achieve the system outcomes. We consider that paragraph (c) should also refer to the positive effect of environmental protection. We recommend amending clause 6(1)(c) accordingly.

We also recommend inserting three new decision-making principles into clause 6(1). New paragraph (f) would require decision makers to focus on achieving the intended outcomes without a default preference about whether the outcomes might be achieved by new or existing uses. This would help to address the management of conflicting uses. Under the current system, just the fact that the environment will change can be perceived as a negative effect. A new use can be assessed as having an unacceptable impact on existing uses without consideration of the relative value of the uses. We expect our change to reduce this "status quo bias".

New paragraph (g) would address submissions that the bill should contain a "polluter pays" principle. The "polluter pays" principle is in the bill and is defined in clause 417. However, it is confined to the provisions relating to contaminated land. We agree that "polluter pays" should be incorporated at a higher level so it is applied more broadly. This would ensure that appropriate consideration was given, at the right level of the planning regime, to minimising or avoiding environmental damage and reinforcing the concept of environmental responsibility. The change would ensure that considerations around costs of pollution were addressed at the most appropriate level. This would help to make the system efficient and provide certainty for development.

Clause 6(1)(d) and (e) are about managing effects of using and developing the environment. We recommend also requiring decision makers to consider whether an approach such as the effects management framework (EMF) in clause 61 is appropriate. New paragraph (h) sets this out.

We recommend replacing "area of interest" with "rohe or takiwā" in new clause 6(2). "Rohe or takiwā" is a better description for the area in which the mana and responsibility of iwi and hapū apply.

Procedural principles

New clause 6A would provide separately for procedural principles. Clause 6A(1) and (2) are based on clause 804.

A key feature of the bill is that fewer resource consents would be required. For example, we were advised that plans would make greater use of permitted activities (activities that do not need a resource consent), including permitted activity notices. We consider that this should be provided for more expressly. We recommend inserting new clause 6A(3) to add a requirement that the NPF and plans be developed to reduce the reliance on resource consent processes. However, this should still take account of the general restrictions (set out in Part 2 of the bill) on the use of natural resources.

Information principles

We recommend inserting clause 6B to provide more comprehensively for information principles. It would draw on clauses 6(2) and 805(1) and (4) and on section 61 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act).

We consider the detail in clause 805(2) and (3), about differentiating between scientifically robust information and other information, is too complicated and should be removed from the bill.

New clause 6B would require all decision makers to use the best available information, defines "best available information", and would apply to decision-making across the system.

Application to courts

The procedural and information principles could be interpreted as applying to the courts. We do not wish to alter the usual roles of courts in interpreting and administering legislation. Courts should regulate their own procedural principles and must be able to consider the relevant laws of evidence.

We recommend making clear in the bill that new clauses 6(2) and (3), 6A, and 6B would not apply to the courts, except when they were seeking to interpret and apply the legislation to others acting under it, or when the Environment Court was determining a plan as the primary decision maker. For the same reasons, we also recommend making clear that clause 4 (which would require the principles of te Tiriti o Waitangi to be given effect to) not apply to the courts except in the circumstances noted above.

Interpretation

We make recommendations in various parts of this report about definitions of particular words or phrases. In addition, we make the following recommendations to amend clause 7, the interpretation clause.

Braided rivers

Many submitters said that the bill should better recognise and protect the distinctive characteristics of braided river systems, which have multiple channels, continuous or intermittent flow, and a riverbed that changes. Concerns were focused around the definitions of "river" and "bed" in clause 7 and the limited ability of councils to control encroachment of the riverbed under the current definition of river. We heard concerns about the importance of managing these rivers well, including to mitigate flood risks. It was suggested that we replace or modify the definitions of "river" and "bed", and add new definitions describing features of braided rivers; including the braid plain. The suggestions sought to recognise multiple channels, continuous or intermittent flow, and the need for the riverbed to change over time.

We recommend changing the definition of "bed" to enable the bed of a braided river to be determined according to requirements set out in regulations, by agreement, or by a declaration. We believe this would provide the flexibility that is needed to enable best practice, which can depend on the evidence available in any given case. It would also enable consultation with affected parties, including Māori.

Framework policies

For clarity and consistency, we recommend inserting a new definition of "framework policy" in the same form as the definitions of "framework outcomes" and "framework rule". The term could then be used in clause 60(1)(a), which provides for NPF content.

Natural environment

We agree with submitters that the reference to "resources" in the definition of "natural environment" is unnecessary. We recommend removing it.

Natural hazard

Clause 7 contains a definition of "natural hazard". Part (a) of that definition replicates the existing definition in the RMA. Part (b) adds geogenic contamination to the definition, providing that "natural hazard" includes "soil that contains concentrations of naturally occurring contaminants that pose an ongoing risk to human health".

We think the interaction of natural hazards and climate change effects should be clarified throughout the bill. When considering natural hazards and planning for the associated risks, both the current and future states should be included to account for the effects (such as frequency or intensity) that climate change will have on those hazards. We propose amending the interpretation clause (and, later in this report, certain other clauses of the bill) to reflect the connection between natural hazards and climate change.

Outcomes

We note that system outcomes, framework outcomes, and plan outcomes are defined in clause 7. We recommend inserting a definition of "outcomes" to refer to each of these.

Region

Clause 7 provides that the definition of the "region" of a regional council would be as determined in accordance with the Local Government Act. We recommend an amendment to state that the Chatham Islands are a region.

The definition of "regional council" under the bill has the meaning given in section 5(1) of the Local Government Act, but also includes a unitary authority. We note that various parts of the bill have been redrafted to reflect this definition.

Risk

The term "risk" in clause 7 is cross-referenced to the Civil Defence and Emergency Management Act 2002. We agree with submitters that the definition is not appropriate for the breadth of environmental risks under the bill. We recommend an amendment so the definition of "risk" would only apply in new clause 5(4) (the system outcomes clause relating to climate change and natural hazards).

Tikanga

The bill defines tikanga Māori as Māori customary values and practices. This is the same as the definition in the RMA. We recommend amending it to include customary law. This would reflect the definition in the Oranga Tamariki Act 1989 and the growing body of common law.

Part 2—Duties and restrictions

Duties applying to all persons carrying out activities under the legislation

Part 2, subpart 1 sets out the duties that would apply to all persons when carrying out activities under the bill. As introduced, these include:

- environmental responsibility (clause 13)
- duty to avoid, minimise, remedy, offset, or provide redress for adverse effects (clause 14)
- duty to avoid unreasonable noise (clause 15).

Clause 16 provides that other legal requirements are not affected.

We propose some changes to the drafting.

Environmental responsibility

Clause 13 as introduced provides that, consistently with the ethic of stewardship, every person has a responsibility to protect and sustain the health and well-being of the natural environment for the benefit of all New Zealanders. We support this duty, but think it should also refer to the benefits for future generations. We recommend amending it to refer to "the benefit of all present and future New Zealanders".

Submitters queried whether the environmental responsibility duty as set out in clause 13 is intended to be enforceable in and of itself. They noted that clause 14, which sets out another duty, discussed below, includes a clarification that the duty "is not in and of itself enforceable against any person, and no person is liable to any other person for a breach of that duty". We recommend amending the environmental responsibility duty in clause 13 to include an equivalent clarification.

Duty to avoid, minimise, remedy, offset, or provide redress for adverse effects

Clause 14 would create a general duty to address the effects of activities on the environment. The duty mostly replicates the duty in section 17 of the RMA, although with some different wording. Clause 14 would create a duty to "avoid, minimise, remedy, offset, or take steps to provide redress for any adverse effect on the environment", even if the activity was being carried out in accordance with other legal requirements under the bill. The intention is to create a form of safety net for situations where, despite other legal requirements under the bill, there are still adverse effects. The clause provides that the duty would not be in and of itself enforceable, but that would not limit the powers under the bill to make an enforcement order or serve an abatement notice.

We recommend replacing the phrase "take steps to provide redress" with "provide compensation for". We think reference to "compensation" rather than "redress" would better draw on existing jurisprudence relating to the RMA.

Duty to avoid unreasonable noise

Clause 15 largely replicates section 16 of the RMA. It would require people carrying out activities to adopt the best practicable option to ensure that noise emitted from the land or water does not exceed a reasonable level. The clause is intended to allow enforcement action to be taken in situations where noise issues have not been appropriately managed in earlier decision-making.

We acknowledge that noise needs to be carefully managed and setting rules to prescribe what the best practicable options are for different situations could help provide certainty for common situations. We therefore recommend inserting clause 15(3A) to provide that a framework rule (a rule made under the NPF) may be used to prescribe the best practicable option for an activity.

Clause 15(3) provides that "noise emission standards" could be prescribed in a framework rule, a plan rule, or a resource consent for the purposes of the restrictions in clauses 17 to 24 (relating to land, the coastal marine area, river and lake beds, water, and discharges). We understand that this provision is not intended to apply to the subdivision of land. We therefore recommend amending it to exclude reference to clause 18.

Clause 15(4) provides that the duty to avoid unreasonable noise applies to overflying aircraft, but only to the extent that noise emission controls for airports, including those in the coastal marine area, are prescribed by a framework rule or by a rule in a plan.

Restrictions relating to land, the coastal marine area, river and lake beds, water, and discharges

Part 2, subpart 2 (clauses 17 to 25) sets out the general duties and restrictions that would apply to land, the subdivision of land, the coastal marine area, lake and river beds, water, and discharges. The duties and restrictions would be determined by reference to rules in the NPF, rules set by plans, and resource consents. We note the subpart largely reflects Part 3 of the RMA, with updates to reflect the new mechanisms under the bill.

Land

Clause 17 sets out restrictions on the use of land. Clause 17(1) provides that land could not be used in a way that contravenes a framework rule or a plan rule. The subclause should also refer to clauses 559(1) and 563, which relate to the protection of places of national importance and highly vulnerable biodiversity areas (HVBAs).

Clause 17(2) describes the ways that different uses of land could be allowed, such as through resource consents and plan rules. Permitted activity notices are a new mechanism in the bill for authorising activities. We recommend clarifying in this clause

that permitted activity notices could permit uses of land, if they expressly provide for it.

Coastal marine area

Clause 19 sets out the restrictions on activities in the coastal marine area. We recommend amending clause 19(1) so that it:

- expressly includes "anchoring" as a disturbance
- refers to "cultural heritage" rather than "historic heritage", so there is consistent terminology throughout the bill.

We note that paragraphs (h) and (i) refer to the common marine and coastal area, which is a different area to the coastal marine area. We propose moving the matters in paragraphs (h) and (i) to a new subclause (1A).

Water

Clause 21 sets out the restrictions relating to water. We note some submitters' concerns that the water uses allowed as permitted activities might create a significant information gap about total water takes. This could make it difficult to determine how much water is available to allocate within environmental limits. We received advice about ways this could be addressed, including record-keeping requirements for people taking, using, damming, or diverting water. We discuss this later in relation to clause 81.

Discharges

Clauses 22 to 25 set out the restrictions and prohibitions relating to discharges. We propose various amendments.

Restrictions on discharging contaminants

Clause 22 sets out the restrictions on discharging contaminants.

Clause 22(1)(b) provides that a person must not discharge a contaminant onto or into land in a way that may result in it entering water. The equivalent provision under the RMA used the phrase "in circumstances" rather than "in a way". There could be situations where changing local circumstances affect the likelihood of the contaminant entering water, but the "way" of the discharge remains the same. We note that clause 118(1)(b) of the bill, regarding rules about discharges, continues to use the phrase "in circumstances". We recommend amending clause 22(1)(b) to refer to "in circumstances", which is broad enough to also cover "in a way".

Subclauses (2) and (4) state the instruments that could allow a contaminant to be discharged. They include a framework rule, a plan rule, and a resource consent. We think that regulations made under the bill should also be listed as an instrument that could allow a contaminant to be discharged. We recommend amending subclauses (2) and (4) to refer to regulations made under the bill.

We note that exemptions to clause 22 could be made under clause 81(c) of the bill. That clause would expressly allow the NPF to prescribe exemptions to clause 22 for

the purpose of biosecurity control or pest control. We recommend including a cross-reference to clause 81(c).

Restrictions on discharging harmful substances in coastal marine area

Clause 24 sets out the restrictions on discharging harmful substances in the coastal marine area. Subclause (1) provides that a person must not discharge a harmful substance or contaminant from a ship or offshore installation in the coastal marine area. Subclause (3) provides that a person must not discharge water from a ship or offshore installation into the coastal marine area water.

Subclauses (2)(a) and (4)(a) state the instruments (including a framework rule, a plan rule, and a resource consent) that could permit discharges in contravention of subclauses (1) and (3). The equivalent section of the RMA also expressly includes regulations made under that Act. We think that regulations made under the bill should also be listed as an instrument that could permit or control a discharge, and recommend amending subclauses (2) and (4) accordingly.

Subclauses (2)(b) and (4)(b) describe circumstances where harmful substances could be discharged after "reasonable mixing". Subclause (5) provides that a person could not act in reliance on those subclauses if a framework rule, a plan rule, or a resource consent applied to the discharge. In line with the equivalent section of the RMA, we recommend also adding regulations in subclause (5).

Existing uses that are protected

Part 2, subpart 3 sets out what existing uses of land could continue under the bill.

Certain existing uses in relation to land may continue

Clause 26(1) would protect certain existing uses of land, as long as the effects of the use remained the same or similar in character, intensity, and scale. We recommend restructuring subclause (1) to make clearer how it is intended to operate. We also recommend adding the equivalent of section 10(1)(b) of the RMA. It provides that land may be used in a way that contravenes a rule in a district plan if the use was lawfully established by way of a designation. These existing use rights would be lost if the adverse effects did not remain the same or similar after the designation is removed.

Subclause (2) would allow existing use rights to be changed or extinguished through a rule administered by territorial authorities, but only if the rule related to either the natural environment (paragraph (a)) or the risks associated with natural hazards, climate change, or contaminated land (paragraph (b)). Further, rules on the natural environment can only be made if authorised by the NPF. We propose several amendments to clause 26(2).

First, we propose redrafting the matters into subclauses (2)(b)–(e) to better explain the provision. Second, in clause 26(2)(b), natural hazards, climate change, and contaminated land would only be covered to the extent that rules reduce, mitigate, or adapt to risks. We recommend that reference to natural hazards should include avoidance, as well as reduction and mitigation of the risks.

We also recommend amending the clause so that rules could be made in regards to new subclauses (2)(b)–(e) regardless of whether the NPF expressly states that the power applies.

We also propose clarifying the circumstances when rules related to the natural environment could modify or extinguish existing use rights. We propose (subclause (3)) that they cover situations where:

- a change is reasonably necessary to ensure compliance with a limit or achieve an associated target
- the activity is generating adverse effects on the attributes that make an area a highly vulnerable biodiversity area (HVBA)
- the activity is causing or contributing to significant harm or damage to other aspects of the natural environment, human health, or property.

When existing use protections may be lost

Clause 27 specifies when existing use rights would be lost due to the discontinuance of an activity. To better reflect the nature of the clause, we think the clause heading should be reworded by replacing the word "rights" with "protections".

Under the equivalent section of the RMA, rights are lost when an activity is discontinued for a continuous period of more than 12 months. In contrast, under clause 27 as introduced, rights would be lost when an activity is discontinued for "a continuous period of 6 months (or any longer period specified in a plan rule)". That is, the default time period would be shorter, but rules could be made to extend the period. We consider that a 12-month period should be the default to better take into account seasonal activities over a year. We recommend amending clause 27 accordingly.

Certain existing activities allowed

Clauses 28 to 30 would provide existing-use rights in relation to the surface of water in lakes and rivers, existing building works, and existing lawful activities. We recommend some minor amendments to these clauses, including aligning them with our proposed changes to clause 26(1)(b).

Part 3—National planning framework

Part 3 of the bill (clauses 31 to 94) provides for the national planning framework, including the content it would have to and could include. Clause 32 would require an NPF to exist at all times. Under clause 34, the NPF would be secondary legislation.

Purpose of NPF

Clause 33 sets out the purpose of the NPF. Under paragraph (b), the purpose includes "helping to resolve" conflicts about environmental matters. To ensure consistency with our amendments in clause 5 to system outcomes, we recommend amending clause 33(b) so that the purpose would be achieved by providing "direction on the resolution of" such conflicts.

NPF to be regulations

Clause 34 provides that the NPF would be made as regulations. We recommend clarifying at the beginning of Schedule 6 that any changes to the NPF would also be made as regulations—by the Governor-General by Order in Council, on the Minister's recommendation.

Environmental limits and targets

Clauses 37 to 46 provide for environmental limits. Clauses 47 to 53 relate to targets. Limits and targets would play an important role in protecting and improving the environment. They could be set in the NPF or in plans. Submissions sought greater clarity around how limits and targets would work and opposed limits being set to lock in existing degradation.

Proposed changes to clause 37 and new clauses 37A to 37C clarify that limits seek to prevent any degradation in relation to the current ecological integrity, with targets driving improvement.

Ecological integrity and human health

Under clause 37, environmental limits would seek to:

- prevent ecological integrity from degrading from the state it was in at the commencement of the legislation
- protect human health.

If the current state of the environment was acceptable, clause 37(1) would require it to at least be maintained. If the current state was at an unacceptable level of degradation, then a "minimum level target" (minimum acceptable limit) would be set under clause 50.[5] The current state would have to be brought to the minimum acceptable limit.

Human health limits would apply to aspects of the natural environment that affect human health. If the current state was below the human health limit, it would have to be improved until the human health limit was reached. If it was above the human health limit, it would not be allowed to fall below the human health limit.

Limits to protect human health should be set to achieve health outcomes informed by relevant health guidelines. We recommend inserting a new subclause into clause 40 to make this clear.

Purposes of limits and targets

Clause 37 defines the purpose of environmental limits. Clause 47 sets out the purpose of targets. We recommend replacing clause 47 with separate purpose statements for minimum acceptable limits, mandatory targets, and discretionary targets. We propose

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[5] We recommend, in the discussion below regarding clause 50, that "minimum level targets" be renamed "minimum acceptable limits".

locating them below clause 37 as new clauses 37A, 37B, and 37C. New clause 37A is a reframing of minimum acceptable limits and is discussed below in relation to clause 50.

New clause 37B provides that the purpose of mandatory targets would be to define a desired future state to drive improvement in ecological integrity and reduce human health risk. The National Policy Statement on Freshwater Management (NPS–FM) provides for the maintenance and, if communities choose, improvement of water bodies and freshwater ecosystems. We consider that the bill needs a method to promote the achieving of mandatory targets. In our view, the "maintain and improve" approach in the NPS–FM should be considered when setting mandatory targets. This would create an expectation, but not a requirement, that once a mandatory target is reached it should be maintained or improved. New clause 49(6) reflects this.

Discretionary targets

Clause 51 would enable discretionary targets to be set. We expect that they could be used for additional social, economic, and ecological outcomes. We recommend providing in new clause 37C that the purpose of discretionary targets is to drive improvement in a manner for which a target is not required but was relevant to achieving a system outcome, a framework outcome, or a plan outcome.

We also recommend amending clause 51 to ensure that discretionary targets could not undermine a limit or a mandatory target.

Environmental limits

Clause 38 would require the setting of environmental limits in relation to six aspects of the environment. We note that definitions are included in the bill for three of these: indigenous biodiversity, coastal water, and freshwater. However, the bill does not define the other three aspects: air, soil, or estuaries. We think that all mandatory aspects of the natural environment should be defined. We recommend inserting definitions of air and soil into clause 38.

We note that "estuary" is not defined in the RMA nor in the NPS–FM. However, some regional councils may have developed their own definitions of "estuary" which have been the subject of testing through the courts. Inserting a new definition in the bill could lead to unintended consequences. Although we do not recommend inserting a definition of estuary in the bill, we expect that a definition could be tested through the development of the NPF.

Clause 40 specifies how an environmental limit would be expressed. Under clause 40(2), they would be set for certain areas ("management units"). They would be set as either (a) a minimum biophysical state or (b) the maximum amount of harm or stress to the natural environment that was permitted. We consider that setting limits for ecological integrity at the state they were in at the commencement of the legislation (under clause 37(a)) would be inconsistent with clause 40(2). We recommend removing the reference to "minimum" and "maximum" in clause 40(2)(a) and (b).

For clarity, we also recommend inserting new subclause (5) into clause 40 to specify that, in addition to being qualitative or quantitative, a limit must be able to be assessed.

The decision-making principles in clause 6 would provide for situations when information is uncertain. Uncertain information could inadvertently delay, or result in a decision to not set, a limit. To address this, we recommend amendments so that:

- new clause 6B(4)(a)—which is about favouring caution—would not apply to the setting of limits (or minimum acceptable limits)
- decision makers could not cite lack of full scientific certainty as a reason to postpone the setting of any limit (or minimum acceptable limit).

Similarly, with the exceptions of paragraphs (a), (e), (g), and (h), the principles in clause 6(1) are not appropriate for setting limits; nor is our additional procedural principle about reducing reliance on resource management processes, in new clause 6A(3). We recommend specifying in new clause 40C(b) that they would not apply to setting limits.

Removal of interim limits

Clauses 41 to 43 provide for interim limits to be set in the NPF. We recommend removing these. We agree that interim limits could enable further environmental degradation, conflict with the purpose of limits and targets, conflict with Treaty obligations, and undermine the bill's purpose and system outcomes. Removing interim limits would encourage strategic planning and design.

To ensure public transparency when limits are not met, we recommend an amendment to require councils to notify:

- breaches of a limit and relevant information such as the cause of the breach (if known)
- the extent of the breach
- how the council plans to manage the breach
- when compliance is expected to be achieved.

We think that this requirement would complement other transparency, reporting, and publishing mechanisms in the bill.

Exemptions

Clauses 44 to 46 provide for exemptions to limits relating to ecological integrity.

The need to clarify the exemptions application process was a recurrent theme in submissions. We agree, and recommend amending clause 44 to require the NPF to outline the exemptions process.

Under clause 44, only an RPC could apply for an exemption. This could cause issues. For example, an RPC might decide to not apply for an exemption for a nationally significant project if the activity was not supported locally. We recommend amending clause 44 so that Crown agencies and requiring authorities could apply to the Minister

for an exemption. Local effects should still be considered: under new subclause (3), Crown agencies and requiring authorities would have to consult with the relevant RPCs on any proposed exemptions.

Clause 44(4) would require the RPC to demonstrate how it considered options for complying with the relevant limit, including by applying the effects management framework (EMF, clause 61). We recommend removing reference to the EMF from subclause (4). Although the EMF could be used to demonstrate efforts that have been made to meet a limit, it does not need to be specified in amended clause 44.

For consistency, we recommend applying the exemptions regime for environmental limits also to minimum acceptable limits that have been achieved. Exemptions from minimum acceptable limits would be subject to the same provisions as for limits, under clauses 44 to 46.

Minimum acceptable limit (minimum level target)

The phrase "minimum level target" in clause 50 could be interpreted as meaning a minimum level of ecological integrity rather than a pathway to a natural environment that is not unacceptably degraded. We recommend replacing the term with "minimum acceptable limit". We also recommend relocating the clause under the heading "Environmental limits" (when minimum acceptable limit must be set).

Our new clause 40A(2) would require the Minister to consider certain matters when determining whether the level of an environmental limit represented an unacceptable degradation of the natural environment. We think new clause 40A(2) is clearer than clause 50(2), and uses more active, future-focused language. Also, subclause (2)(c) includes an additional matter that the Minister would have to consider: the impact of any recent disaster event.

There will be situations where remedying degradation of an aspect of the natural environment is not fully possible. We recommend inserting new clause 40A(3) to recognise these situations and enable the Minister to set the minimum acceptable limit at a level that would improve that aspect to the extent practicable.

The "maintain and improve" approach in the NPS–FM should be required for minimum acceptable limits as well as for mandatory targets. We recommend reflecting this in clause 40A(4).

New clause 40B sets out the time frames for achieving minimum acceptable limits.

Considerations when setting limits or targets

Clause 52 sets out issues that the Minister would have to consider when deciding to set limits or targets. Under paragraph (a), the Minister would have to consider whether the limit would directly affect a customary marine title group and (if the answer was yes) consider what was most appropriate for that group. This requirement should be stronger. We recommend aligning it with section 77 of the Marine and Coastal Area (Takutai Moana) Act 2011, so that, if the Minister considered that the limit or target would directly affect a customary marine title group, the Minister

would have to consider that as a factor in favour of setting the limit or target regionally in a plan.

Monitoring limits and targets

Clause 53 would require the NPF to:

- require the monitoring and reporting of limits and targets
- enable the aggregation of that data
- enable Māori to be involved in monitoring.

We propose that the aggregated data obtained from monitoring be made publicly available. This would be consistent with the approach in the NPS–FM under which councils must annually publish actual data from monitoring done for the purpose of freshwater management. We recommend inserting new clause 53(ba) to provide for this.

We agree with submitters that clause 53 should include a provision requiring that the NPF enable the application of mātauranga Māori in the monitoring of limits and targets. We recommend amending clause 53(c) to achieve this.

Management units

Clause 31 defines "management unit" as a geographic area defined for the purpose of planning and managing activities to meet an environmental limit or a target. Clause 54 provides for the setting of management units. We note that detailed guidance on management units is expected to be in the NPF.

Offsetting in the system is expected and is provided for in clause 55(3). However, offsetting is not the only approach that could be used in management units to achieve or uphold environmental limits and targets. We recommend amending clause 55(3) to incorporate other management approaches.

Under subclause (4), clause 55 would not apply to management units set for limits or targets relating to freshwater or air. This is to recognise that existing management units set under the RMA are intended to carry over into the new system via the NPF.[6] We recommend inserting new clause 55A to provide that the NPF may set management units for freshwater and air and provide direction on them.

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[6] See the National Policy Statement for Freshwater Management, 2020; and the Resource Management (National Environmental Standards for Air Quality) Regulations, 2004 (as amended in 2011).

Other content in the NPF

Mandatory content

Part 3, subpart 3 of the bill sets out other matters that the NPF would have to provide direction on. Clause 58 lists five specific items it would have to cover. We recommend some amendments to clause 58.

First, we recommend removing clause 58(a), which would require direction on non-commercial housing on Māori land. This requirement could inappropriately restrict the use of Māori land for housing. We also recommend amending paragraph (b) to make clear that the NPF should provide direction on "enabling" papakāinga on Māori land. This would reduce the risk of inappropriately restricting the use of Māori land.

We received many submissions that urban trees should be covered, and we agree with them. We recommend inserting paragraph (f) to require that the NPF provide direction on protecting urban trees.

We also recommend inserting paragraph (h) to cover the supply of fresh vegetables and fruit. We consider that ensuring the domestic supply of fresh vegetables and fruit is specifically worth attention in the NPF.

We also recommend inserting new paragraph (a) to require the NPF to provide direction on the components of ecosystems that should be managed to protect the ecological integrity of the natural environment and human health. This would provide more clarity on what needs to be managed to achieve the purpose of limits and targets.

Other content

We recommend inserting clause 60(2A) to require the NPF to clearly identify content that is intended to have the status of a framework rule.

Clause 81 lists other specific matters that could be included in the NPF. We recommend inserting paragraph (da) to allow the NPF to also prescribe record-keeping requirements for people taking, using, damming, or diverting water:

- under clause 21(4)(b)(ii) (reasonable needs of animals for drinking water)
- as a permitted activity.

Our proposed change should help local authorities to understand how much freshwater is being taken and used in these circumstances.

We recommend removing clause 84, which would allow "other matters" to be included in the NPF. It is superfluous and is covered by clause 60(1)(g).

Customary fishing rights

We note the potential for interaction between customary fishing rights and framework (and plan) rules. Existing legislation sets out the basis for the Māori-Crown relationship in respect of fisheries management—in particular, the Crown's obligations in relation to customary, non-commercial food-gathering.[7] Ensuring that customary food-gathering rights are upheld in the wider resource management framework is crit-

ical to maintaining the Māori-Crown relationship. We therefore recommend inserting new clause 60A to ensure that a framework rule made under the new system would not restrict customary food-gathering and fishery-management practices.

In relation to plan rules, we recommend inserting subclause (6A) into clause 117 to provide similarly.

Enforcing framework rules

Clause 74 would require the NPF to specify whether the regional council, the territorial authority, or both were responsible for enforcing a framework rule. We recommend amending it to allow the NPF to make an NBE regulator other than a local authority responsible for enforcing a framework rule. We also recommend amending clause 74 to require the NPF to state which is the appropriate consent authority for each framework rule.

Conflicts between framework rules and plan rules

Clause 71 would require RPCs to amend a plan if one of its rules duplicated or conflicted with a framework rule. We recommend an amendment to clarify that plan rules could be more stringent than framework rules where clause 155 applied. Clause 155 would require decision makers to have regard to any statutory acknowledgements that may apply to, or affect, the area where the proposed activity would be carried out.

Clauses 89 to 92 set out how framework rules would relate to other instruments. We recommend amending clause 89 in a similar way to our proposed change to clause 71 to make clear that plan rules could be more stringent than framework rules where clause 155 applied.

We recommend removing clause 89(3)(c) as it was included in error and would not work in practice.

Adaptive management approach

Clause 86 would allow the NPF to require a plan to direct the use of an "adaptive management approach" if there was likely to be a significant change in the environment but the timing and magnitude of the change were uncertain. An adaptive management approach, as described in clause 233, would allow an activity to commence on a small scale, or for a short period, or in stages, allowing its effects to be monitored.

Clause 110 would enable plans to direct the adoption of an adaptive management approach.

We recommend:

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[7] See the Fisheries Act 1996 (and certain regulations made under it) and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

- making clauses 86(1)(a) and 110(1)(a) clearer by changing the phrase "significant change" to "significant adverse change"
- removing the phrase "under section 233" in these clauses, and provide that a direction adopting an adaptive management approach must meet the requirements in clause 233(2)(a), (c), and (d).

Preparation, change, and review of the NPF—Schedule 6

Schedule 6 sets out the process for preparing, changing, and reviewing the NPF.

Clause 2 of the schedule would require collaboration between the Government and various groups before the NPF proposal was publicly notified. We recommend amending it to require engagement on the development of the NPF proposal. The Minister would not have to engage on the NPF proposal itself, but would not be prevented from doing so. We think this reflects the policy intent.

We also note that, under clause 2(1)(a) of the schedule as introduced, the Ministry for the Environment would need to invite the National Māori Entity to collaborate with it on the NPF proposal.[8] We recommend an amendment to require the Minister, not the ministry, to engage with the entity.

Under clause 3 of the schedule, if the NPF proposal contained limits or targets, the Minister would have to appoint a review panel to provide advice. We recommend an amendment to require the panel to also advise on exemption applications. The advice should include whether the science and evidence underpinning an application is robust, and any recommendations on appropriate time limits and conditions. We recommend requiring that the panel evaluate and advise on the overall sufficiency and comprehensiveness of limits (and minimum acceptable limits). We also recommend aligning the role of the panel in the schedule with the functions in clause 557(2).

Schedule 6 clause 5 would require the Minister to prepare an evaluation report of the NPF proposal. Clause 6 sets out the required content of an evaluation report. We recommend amending clause 6 to provide more specific requirements for the content of evaluation reports and for consistency, as appropriate, with evaluation report requirements in Schedule 7.

Under clause 7 of Schedule 6 as introduced, people could challenge a framework rule through a submission if an evaluation report had not been made or had not been complied with. We think that an NPF proposal should be able to be challenged on the grounds that an evaluation report had not been prepared, or not been prepared appropriately. However, such a challenge should be made through a submission to the board of inquiry. We recommend amending clause 7 of the schedule to make this clear, and to also make clear that this would not restrict the board of inquiry from considering the content of an evaluation report.

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[8] Under clauses 659 and 660 of the bill as introduced, the National Māori Entity would be established to independently monitor decisions.

Clause 8 of the schedule would require the Minister to give public notice of an NPF proposal and call for submissions. "Submission" is defined in the bill and includes written and electronic submissions. We recommend removing clause 8(3) and incorporating it in new clause 8A of the schedule, which sets out the requirements for submissions.

Inquiry would be conducted into NPF proposal

Clauses 9 to 14 of Schedule 6 provide for the setting up and reporting of a board of inquiry into an NPF proposal. We recommend an amendment to widen the possible candidates who could convene and chair the board of inquiry. Under clauses 10 and 11 of the schedule, only a current or former Environment Court Judge would qualify. Our amendment would allow the appointment of a person who was eligible to be a District Court Judge and who the Minister considered had the appropriate skills, knowledge, and experience.

The Minister could require the convener to appoint the chairperson of the board. It could be that the convenor appoints themselves as chairperson. We recommend an amendment to require that, if the convenor decides to not chair the board themselves, they must choose a chair based on the same criteria as above: the chair should be eligible to be a District Court Judge and have the appropriate skills, knowledge, and experience.

Review of the NPF

Under clause 27 of the schedule, the NPF would have to be reviewed at least every 9 years. We recommend amending subclause (4) to require the Minister, not the ministry, to engage with the National Māori Entity. This aligns with our recommendations above on clause 2 of the schedule.

Process for preparing the first NPF

Part 1 of Schedule 6 as introduced sets out the standard process for developing the NPF. Clause 31 of the schedule provides certain modifications for the preparation of the first NPF. We make several recommendations for amending this clause.

Under the exclusion in subclause (1)(b), the review panel would not have to be appointed to advise the Minister on limits or targets in the first NPF proposal. However, clause 557 would require the panel to be appointed to advise on criteria for identifying significant biodiversity areas (SBAs). We recommend clarifying that clause 31 of the schedule would not require a panel to provide advice on criteria for identifying SBAs for the first NPF.

The Regulations Review Committee pointed out that the bill is unclear as to when the first NPF would be considered to have been superseded by a second NPF. We recommend clarifying this in the schedule, ensuring that the process modifications would only apply to the first NPF required to be publicly notified, and not to subsequent changes to, or reviews of, that first NPF.

The Regulations Review Committee was also concerned that Part 3 did not indicate that a different process would apply to the first NPF. Clause 93(4) of the bill states that clause 31 of Schedule 6 would apply to the preparation of the first NPF. However, it does not identify that clause 31 provides for a modified process for the first NPF. New clause 1(5) in Schedule 6 notes that a different process applies to the preparation of the first NPF as set out in Schedule 6 clause 31.

Required content of first NPF

We recommend inserting new clause 30B into Schedule 6 to provide that the first NPF must:

- carry over the policy of RMA national direction
- provide direction for the development of regional spatial strategies (RSSs).

We recommend that the requirements in the bill relating to the content and purpose of the NPF only apply to the first NPF to the extent they are relevant to the content required in the two points above. Content required by the bill beyond this scope would need to be included in an NPF proposal by 1 January 2028, but could be included prior to then.

We also recommend that some content that the bill would require to be in the NPF not be required at all until 1 January 2028 (but could be included prior to then).

Under clause 31(1)(c) of the schedule as introduced, clauses 50(1) and 58(b) (requiring NPF direction on minimum acceptable limits and papakāinga on Māori land) would not apply for the first NPF.[9] We recommend amending Schedule 6 so that this also applied to other provisions, including:

- the components of ecosystems that should be managed to protect the ecological integrity of the natural environment and human health
- enabling the supply of fresh fruit and vegetables
- identifying places of national importance
- setting criteria for identifying significant biodiversity areas (SBAs)
- some clauses relating to limits and targets (detailed further below).

We recommend that an NPF proposal with that content be required to be notified by 1 January 2028. The content could be included prior to then.

Clause 32 of the schedule as introduced would require the Minister to notify an NPF proposal containing minimum acceptable limits (required by clause 50) by 1 January 2028. We recommend extending this requirement to include all mandatory content for limits and targets. This would allow time for the development of robust content for limits and targets in the NPF. Our recommendation would mean that content could be

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[9] In the bill as introduced, clause 58(a) would also not apply; however, we have elsewhere recommended the removal of clause 58(a). Also, we have recommended that clause 50 as introduced become clause 40A.

in the first NPF, but would not be required for all aspects of the natural environment. This is set out in new clause 30B(3) of the schedule.

Relationship of first NPF with RMA national direction

Clause 31(1)(e)(i) of the schedule would require the first NPF to be prepared "on the basis of RMA national direction". We recommend clarifying that the first NPF must be prepared on the basis of RMA national direction to the extent compatible with the bill.

Under Schedule 6 as introduced, if RMA national direction was finalised even on the day before notification of the first NPF, the NPF would still have to be prepared "on the basis of" that recent RMA national direction. We recommend inserting a cut-off date. We think that the requirements should apply only to RMA national direction finalised through the relevant RMA process at 31 May 2023. The Minister could still include national direction finalised through the relevant RMA process after 31 May 2023, if desirable and practicable.

Clause 31 of the schedule defines "RMA national direction" as the national direction prepared under the RMA, including the medium-density residential standards in Schedule 3A of the RMA. We think the following should not be required to be incorporated into the first NPF:

- the National Environmental Standards for Plantation Forestry (NES–PF)
- the National Environmental Standards for Sources of Human Drinking Water (NES–DW)
- the National Policy Statement for Renewable Energy Generation 2011 (NPS–REG)
- the National Policy Statement on Electricity Transmission 2008 (NPS–ET)
- National Planning Standards.

We recommend reflecting this in new clause 31A of the schedule. We also recommend including certain regulations made under the RMA in the definition of "RMA national direction".

Effects management framework

Part 3, subpart 5 provides a framework for managing adverse effects—the EMF. The EMF would require all practicable steps to be taken to:

- avoid
- then minimise
- then remedy
- then offset adverse effects.

If adverse effects remained, the activity could only proceed if redress was provided by compensation.

In clause 61(e), and in other relevant clauses and schedules, we recommend replacing the word "redress" with "compensation". "Compensation" is defined in the bill and its meaning has been established.

Under clause 62, the EMF would generally apply to adverse effects on SBAs and specified cultural heritage. Under clause 63, when the EMF applied, the requirements for offsetting and compensation in Schedules 3, 4, and 5 would have to be complied with. Schedules 3, 4, and 5 set out principles for offsetting and compensation in relation to biodiversity and cultural heritage.

We recommend rearranging the EMF provisions and moving them into Part 6, along with clauses 555 to 567 (which provide for places of national importance and biodiversity areas and are discussed later in this report). This includes moving the substance of clause 63 into clause 61.

Where the EMF is not compulsory, the NPF and plans should be able to apply some or all of its requirements as appropriate. However, clause 62 does not need to expressly authorise this. We recommend removing clause 62(2) and (3). We recommend relocating clause 62(3) in clause 64, to provide that framework rules can require effects to be managed in a way that is more stringent than the EMF.

Principles for biodiversity offsetting and compensation—schedules

Schedules 3 and 4 set out frameworks for the use of biodiversity offsets and biodiversity redress (which we recommend be referred to as compensation). In Schedule 3, principles 1 to 12 would have to be complied with for an action to qualify as a biodiversity offset; principles 13 and 14 would be optional. We recommend amending the schedule so that all the principles would have to be complied with.

We recommend combining Schedules 3 and 4 into one schedule that sets out the principles for biodiversity offsetting and compensation, similar to the structure of Schedule 5. We also recommend changing several of the principles to make them clearer and to better align them with provisions in the bill. This includes:

- defining "vulnerable" in clause 2 of the new schedule
- in clause 8 of the new schedule, requiring a time lag of less than 35 years between the loss of indigenous biodiversity and the gain or maturity of indigenous biodiversity at an offset site
- removing Schedule 3 clause 9 (trading up) from the principles about offsetting, as it was included in error
- strengthening Schedule 3 clause 11 to include time-bound requirements, to ensure the long-term outcomes required by clause 7.

Principles for cultural heritage offsetting—Schedule 5

Schedule 5 sets out principles for use in cultural heritage offsetting and redress. In line with our recommendations elsewhere in this report, we recommend replacing the word "redress" with "compensation" and the word "minor" with "trivial".

We recommend aligning the wording of the principles in Schedule 5 with those in Schedules 3 and 4 where possible. We recommend making clear that Schedule 5 refers to compensation as well as offsetting, and requiring that all clauses in the schedule be complied with.

Schedule 5 clause 2(1) sets out when cultural heritage offsetting would not be appropriate. Paragraph (b) provides that cultural heritage offsetting would not be appropriate if cultural heritage values would be permanently lost. We recommend removing paragraph (b). We consider it would be unworkable because all offsetting is likely to be responding to a permanent loss of value. We recommend inserting new paragraphs to cover the following situations:

- Residual adverse effects could not be offset because the cultural heritage affected was irreplaceable or vulnerable.
- There were no technically feasible or socially acceptable options by which to secure enhancement within acceptable time frames.
- The effects on cultural heritage were uncertain, unknown, or little understood, but there was a potential for significant adverse effects.

We recommend amending clause 2(2) of Schedule 5 to provide that it reflects a standard of acceptability for offsetting and to require a proposed offset to be assessed positively against the three points above.

We recommend amending clause 4 of the schedule to provide that:

- a cultural heritage offset must achieve enhancement in cultural heritage greater than the enhancements that would have been achieved without the offset, including enhancements that are additional to any that would be achieved by avoiding, minimising, or remedying the adverse effects of the activity
- the design and implementation of offsetting must avoid displacing activities that are harmful to cultural heritage in other locations.

We recommend inserting clause 4A in the schedule to require that, where practicable, the enhancement being gained at the offset site is the same or similar to the cultural heritage values being lost at the impact site.

We recommend strengthening clause 6 to require that the offset be close to the impact site and in the same district.

Clauses 8 and 19 of the schedule are about the time lag between the loss of cultural heritage at the impact site and the enhancement at the offset site or compensation site. We think that any time lag should be the least necessary and should not exceed the earlier of the consent period or 35 years. We recommend amending clauses 8 and 19 of the schedule accordingly. We also recommend incorporating the following points as new clauses 8A and 8B of the schedule, respectively:

- A cultural heritage offset developed in advance of an application for resource consent must provide a clear link between the offset and the future effect. That is, it must show that the offset was created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.

- A proposed cultural heritage offset must include a specific cultural heritage offset management plan. The plan must include time-bound requirements to assist in ensuring the long-term outcomes required under clause 7 of Schedule 5.

We recommend amending clauses 9 and 22 of Schedule 5 to align them more closely with Schedules 3 and 4 and to require the appropriate consideration of mātauranga Māori.

We consider that clause 10 of Schedule 5 should be more specific: it should state who should be engaged with. We recommend changing its title from "Stakeholder participation" to "Engagement". We also recommend amending it to require engagement with:

- Māori, on sites of significance to Māori
- Heritage New Zealand Pouhere Taonga, when a national historic landmark or a place on the New Zealand Heritage List/Rārangi Kōrero is involved.

In regard to stakeholder participation, we recommend aligning clauses 10 and 23 of Schedule 5 with clause 13 of Schedule 3 and clause 12 of Schedule 4.

We recommend amending clause 14 of Schedule 5 to align it with clause 3 of Schedule 4. Our change would require that the compensation must be "proportionate to" rather than "outweigh" the adverse effects of the relevant activity.

We recommend amending clause 15 of the schedule so that:

- cultural heritage compensation would have to achieve enhancements in cultural heritage greater than would have occurred in the absence of compensation, including that enhancements are additional to any avoidance, minimisation, remediation, or offsetting undertaken in relation to the adverse effects of the activity
- the design and implementation of compensation would have to avoid displacing activities harmful to cultural heritage to other locations.

We recommend removing clause 16 from Schedule 5.

Cultural heritage compensation developed before an application for resource consent should provide a clear link between the compensation and the future effect. We recommend adding clause 21A into Schedule 5 to provide for this. It would mirror clause 10 in Schedules 3 and 4.

EMF for places of national importance

Under clause 559(1), activities would not be allowed to have more than trivial effects on places of national importance. Exemptions are set out in clauses 64 to 67. We think the EMF should apply to activities with adverse effects on specified cultural heritage or significant biodiversity areas (SBAs) with very limited exceptions, as explained in the next section.

Exemptions to the effects management framework

Clauses 64 to 67 provide for exemptions to the EMF.

Some submitters were concerned about any exemptions from the EMF. However, we consider that, in some cases, not allowing exemptions could result in overregulation or perverse outcomes. To help address submitters' concerns, we recommend only allowing exemptions in a narrow range of circumstances. We recommend amending clause 64 to specify that exemptions could be made through framework rules and could be made both for categories of activity and for one-off activities.

If the adverse effects of an activity were managed by an exemption, they should not be considered under any other rule or in decisions on a notice of requirement (NOR).[10] To remove doubt, we recommend making this clear in clause 64.

We recommended, above, relocating clause 62(3)(a) to the EMF exemptions clause (clause 64) to allow effects to be managed in a more stringent way than in the EMF. We also recommend providing that the framework rules could only allow effects to be managed less stringently than under the EMF if:

- applying the EMF would result in more serious or extensive adverse effects than not applying it
- applying the EMF would not result in less serious or extensive adverse effects than applying the rule, including because the effects would be managed under other legislation
- less stringent management was needed to enable the place to be relocated to avoid a natural hazard or other risk
- the activity is to maintain or repair existing infrastructure.

It was submitted that clause 65 (about the assessment of alternatives) should be amended to make clear that financial costs are a consideration in establishing whether there is an operational need or a reasonably practicable alternative location. We recommend making this clear in new clause 64(7).

Limits to exemptions

Clause 66 (new clause 561C) sets out the types of activities that would be eligible for exemptions from the EMF. Under clause 559(1), the list in clause 66(1) would also apply to exemptions from the provisions that prevent activities with more than trivial effects on places of national importance.

Paragraph (f) in clause 66(1) would allow exemptions for activities with effects on SBAs within areas of geothermal activity. In new clause 561C, we recommend amending paragraph (f) so that it is more specific.

Paragraph (j) would allow exemptions for activities that would contribute to the outcome described in clause 5 relating to climate change. We recommend amending it in new clause 561C so that it explicitly refers to renewable energy.

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[10] A notice of requirement is a notice that designates an area of land for a particular purpose. The physical work may not start until after approval is granted, but once there is a NOR, restrictions apply to any uses of the land that might prevent or hinder the proposed activity.

Paragraph (l) would allow exemptions for activities managed under other legislation, as long as the Minister was satisfied that the other legislation provided an appropriate level of protection. Paragraph (l) would help to avoid duplication and empower the use of exemptions to create integrated regulatory arrangements. However, the word "appropriate" in paragraph (l) makes the discretion too broad. We recommend replacing "appropriate" with "similar".

Paragraph (o) would allow exemptions for activities that provide nationally significant benefits that outweigh any adverse effects of the activity. We recommend amending paragraph (o) to make clear that an activity could be exempted if it was part of a nationally significant network, even if it was not nationally significant if taken in isolation.

We also recommend including a requirement that, before making any rule for a fishing activity described in new paragraph (l), the Minister consult the Minister responsible for the Fisheries Act 1996.

Part 4—Natural and built environment plans

The bill would consolidate planning documents into a single natural and built environment (NBE) plan for each region. NBE plans would have similar functions to those currently performed by regional policy statements and district and regional plans, of which there are over 100. There would be 16 plans. This consolidation is intended to improve efficiency in the resource management system.

Chatham Islands

Clause 95 would require there to be a plan for each region at all times. To avoid any doubt, we recommend amending the definition of "region" in clause 7 to include the Chatham Islands. This would ensure that the Chatham Islands had a plan.

Purpose and scope of plans

Clause 96 sets out that the purpose of a plan would be to further the purpose of the bill by providing for the integrated management of the natural and built environment. Clause 97 would require plans, in furthering the purpose of the legislation, to give effect to the NPF. It would also require plans to be consistent with the relevant RSS. Clause 104 would require every plan to be consistent with the relevant RSS, with two exemptions.

We think these clauses are repetitive and recommend that they be combined to improve readability. We also recommend an amendment so the purpose of the plan is "to achieve the purpose of the Act", rather than just furthering its purpose.

NBE plans as secondary legislation

Section 161A of the Local Government Act states that if any instrument made by a local authority has significant legislative effect it is secondary legislation for the purposes of the Legislation Act 2019.

However, because NBE plans and rules would be prepared by an RPC, the Local Government Act would not have a role in determining whether the Legislation Act applied to plans. Instead, we recommend inserting a reworded clause 97 to specify that rules in plans are secondary legislation under the Legislation Act.

We also recommend exempting plan rules from having to be presented to the House of Representatives. Rules would already be subject to extensive public-facing processes, including appeal rights, which we view as sufficient.

Consistency with regional spatial strategies

Clause 104 would require every plan to be consistent with the relevant RSS. As introduced, there would be two exemptions:

- if new information superseded the information used to determine the content of the RSS
- if there had been a significant change since the RSS was developed, such as a major environmental or economic event.

These exemptions, and the phrase "must be consistent with" (as opposed to "must give effect to") would give RPCs flexibility to translate high-level strategic direction from an RSS into detailed plan provisions.

We recommend creating further exemptions. We recommend allowing a plan to be inconsistent with an RSS:

- if it would conflict with achieving limits and mandatory targets set by or under the NPF
- if the Environment Court had considered a challenge to a plan provision on the basis of land being incapable of reasonable use, and had directed a modification, deletion, or replacement to the provisions of the plan
- if a place of national importance had been identified.

These additional exemptions would allow for appropriate flexibility, and specifying exactly when a plan could depart from an RSS would protect the system's integrity.

We recommend deleting clause 109 as it is identical to clause 104. We propose combining clause 104 with clause 96.

General considerations relevant to RPC decisions

Clause 99 would require an RPC to consider the decision-making principles articulated in clause 6 of the bill. It would also require committees to have regard to the extent to which it was appropriate for conflicts between system outcomes to be resolved by the plan.

We think the changes we have recommended to the bill's purpose and related matters would improve the bill's conflict-resolution provisions, and make clause 99 redundant. We recommend deleting it.

Required content of plans

Clause 102(1) would require a plan to include "strategic content that reflects the major policy issues of a region and its constituent districts". We recommend amending this clause to make it clear that strategic content means content that:

- identifies the issues of importance to a region or to 1 of its constituent districts
- deals with the matters necessary to ensure consistency with an RSS
- gives effect to the NPF and indicates how limits and targets would be achieved.

We also recommend changes to clarify that strategic content can be made as outcomes and policies but not rules.

We recommend a number of other changes to clause 102 to make the wording more active, and to align with system outcomes and other parts of the bill:

- We recommend amending clause 102(2)(a) to specify that the plan should enable the management of natural and built environmental resources.
- We recommend amending clause 102(2)(b) to specify that the plan should enable management of the effects of using and developing the environment. We also recommend deleting the reference to cumulative effects. We believe it is not needed because it is a decision-making principle.
- Clause 102(2)(c) as introduced would require a plan to achieve environmental limits and targets. We recommend amending this provision so the plan would have to specify how environmental limits and targets would be achieved, rather than requiring plans to achieve limits. A plan itself could not achieve outcomes, but could guide how outcomes would be achieved.
- We recommend amending clause 102(2)(e) to state that a plan must assist in resolving conflicts in accordance with any direction provided in the NPF.
- Clause 102(2)(h) would require a plan to include provisions that give effect to any water conservation order applying to a river within the region to which the plan applies. We recommend referring to "waterbody" rather than river, and deleting the words "include provisions that".
- Clause 102(2)(j) would require a plan to ensure that there is sufficient development capacity of land for housing and business to meet the expected demands of the region and its district. We recommend deleting this provision. We think it is not needed because it is already provided for as a system outcome.

We agree with submitters that plans should be aspirational and forward-looking. We recommend inserting a reworded clause 102(2)(j) to require plans to describe the preferred state of the future environment.

What plans may include

Clause 105 sets out what a plan could include. We recommend amending it so a plan could also include plan outcomes and policies, rules, and other methods that provide for:

- the application of adaptive management in accordance with clause 110
- aquaculture areas in accordance with clause 115
- environmental contributions to be taken in accordance with clause 112.

These additional matters would link to other parts of the bill, and make it clear that they can be part of a plan.

Non-regulatory methods

Clause 105(1)(b) as introduced would allow a plan to specify a non-regulatory method for achieving plan outcomes and policies, as long as the relevant local authority has agreed to the funding necessary to implement a method.

Submitters were concerned that this requirement would be unworkable. We recommend rewording this provision so a plan could specify a non-regulatory method for achieving plan outcomes and policies, provided the RPC is satisfied that the local authority will fund and implement the method.

Relationship with the Fisheries Act

Clause 105(1)(f) of the bill as introduced is closely related to clause 124 and they are discussed together later in this commentary.

Rules relating to water

Clause 105(2) concerns rules relating to:

- levels, flows, or rates of use of water
- minimum standards of water quality or air quality
- ranges of temperature or pressure of geothermal water.

The content in clause 105(2) is repeated in clause 124. Clause 124 is in the section of the bill that deals with rules in plans, which is the appropriate location for this material. We therefore recommend deleting the content of clause 105(2).

Te Oranga o te Taiao statements

Clause 106 would enable iwi or hapū to provide a statement on te Oranga o te Taiao to the relevant RPC.

Submitters noted that te Oranga o te Taiao statements would not have a statutory weighting. This could create uncertainty for RPCs. We recommend deleting clause 106, and including te Oranga o te Taiao statements in clause 107 as a matter that committees "must have particular regard to". This weighting would ensure that the statements were properly considered, while giving committees some discretion.

To provide more certainty about the role of these statements, we also recommend defining them to be "any statement prepared by an iwi or hapū of a region to express their view on how te Oranga o te Taiao can be upheld at the regional and local levels."

Considerations relevant to preparing and changing plans

Clause 107 as introduced lists matters that an RPC must have regard to and have particular regard to.

Additional matters for committees to have regard to

We understand that the intent was for clause 107 to list all of the same matters as those that are considered for plans made under the RMA. However, a number of matters were omitted from the bill as introduced. To include them, we recommend amending clause 107 to require RPCs to have regard to:

- any management plans or strategies prepared under other Acts
- any legislation or other regulatory instruments made to ensure sustainability or the conservation or management of fisheries resources (including regulations and bylaws relating to taiāpure, mahinga mātaitai, or other non-commercial Māori customary fishing)
- objectives for a relevant project or project area, as defined in section 9 of the Urban Development Act 2020, if section 98 of that Act applies
- the Crown's interest in the coastal marine area.

We also recommend that RPCs must have regard to the national adaptation plan and emissions reduction plans made under the Climate Change Response Act. Although these would be covered by "any management plans or strategies prepared under other Acts", we believe specifically identifying these plans would highlight their importance.

Matters that must be disregarded when preparing or changing plans

Clause 108(a) to (d) would require an RPC, in preparing or changing a plan, to disregard:

- trade competition or the effects of trade competition
- any effect on scenic views from private properties or land transport assets that are not stopping places
- any effect on the visibility of commercial signage or advertising
- any adverse effect arising from the use of the land by people on low incomes, people with special housing needs, or people whose disabilities mean that they need support or supervision in their housing.

Stopping places

We believe RPCs should disregard scenic views from private property. This would facilitate urban development.

However, we believe it is too broad to disregard any effect on scenic views from land transport assets that are not stopping places. We recommend amending clause 108(b) to delete "or land transport assets that are not stopping places".

We initially considered whether we could narrow this provision to the effects of certain activities on land transport assets. However, this narrowing could introduce uncertainty and increase ambiguity.

Commercial signage

In the bill as introduced, clause 108(c) could be interpreted as protecting commercial signage and advertising. This is not the intent. Rather, the intent is to prevent RPCs from considering whether a new building may block the visibility of a billboard or other commercial signage. We recommend amending clause 108(c) so an RPC must disregard "the visibility of commercial signage or advertising being obscured as an effect of an activity".

Social and economic characteristics of people

We recommend amending clause 108(d) so an RPC must disregard any adverse effect, real or perceived, arising from the use of the land for housing, if that effect is attributed to:

- the social or economic characteristics of residents
- types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries
- residents requiring support or supervision in their housing because of their legal status or disabilities.

This wording would not give the identified groups licence to create any adverse effect, and would better meet the policy intent that the resource management system should be neutral as to whether a home is social housing, rented, or owned.

Amendments to similar clauses

Clause 223(8), clause 512(1), Schedule 6 clause 19(2), and Schedule 7 clause 126(2) contain similar provisions to clause 108. We recommend amending those clauses in the same manner as we have recommended amending clause 108.

Adaptive management approach in plan

Clause 110 would enable a plan to direct the use of an adaptive management approach, if there is likely to be a significant change in the environment and the timing and magnitude of that change are uncertain. We recommend amending this clause so a plan can also direct that a specific activity uses an adaptive management approach.

Specific requirements relating to environmental contributions

Clause 112 would allow an RPC to make rules requiring an environmental contribution[11] for all activities other than prohibited activities. It also sets out what rules relating to environmental contributions could specify.

We recommend amending clause 112 to specify that environmental contributions can be for the purpose of minimising adverse effects, and for achieving positive outcomes (not just positive effects). We believe these changes are appropriate to ensure that environmental contributions can be required for a range of matters.

Aquaculture activities

Requirement to register all permitted aquaculture activities

Clause 113 would require all aquaculture activities that are permitted activities to be registered with the relevant consent authority as permitted activity notices. The intent of this clause is to provide a mechanism for the rights under the Marine and Coastal Area (Takutai Moana) Act to continue to apply. We recommend amending clause 113 to refer to the Marine and Coastal Area (Takutai Moana) Act so it is clear that this is the purpose of the clause.

Requirements for permitted aquaculture activities

Under the RMA, a customary marine title group has a permission right to approve or decline certain resource consents. The intent behind clause 114 was to uphold this right. However, the bill as introduced would not succeed in doing this because clause 114 only contains a partial description of the permission rights of customary marine title groups.

We recommend deleting clause 114.

Aquaculture areas (zones)

Clause 115 would allow plans to prescribe aquaculture areas, and specifies what those plans must contain. It would also allow a plan to include aquaculture rules for the management of aquaculture activities.

We think it would be useful to clarify that an aquaculture area should principally be used for aquaculture activities. We recommend inserting clause 115(3)(ba) to this effect.

We note that there is no direct expectation for RPCs to provide space for aquaculture settlement. This is a central government obligation. We believe it would be useful to amend clause 115 to state that an aquaculture area may be created for the purpose of providing for, and managing, aquaculture activities in an aquaculture settlement area, where these have been established under the Māori Commercial Aquaculture Claims

[11] In the RMA, environmental contributions are referred to as financial contributions.

Settlement Act 2004. This would provide greater certainty in relation to aquaculture area rules that would apply to a coastal permit application.

Clause 115(3)(a) would require a plan that contains aquaculture areas to specify the geographic boundaries of each aquaculture area. We believe the term "geographic boundaries" is not specific enough to support the Ministry for Primary Industries to make an aquaculture area decision under the Fisheries Act. We recommend amending this clause to refer to geographic coordinates. This wording would be similar to clause 6(2)(a) of the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020.

Amendments to plan that affect customary marine title area

Under the Marine and Coastal Area (Takutai Moana) Act, customary marine title groups have the right to prepare a planning document. Under the RMA, regional councils must initiate a process to:

- recognise and provide for any matters identified in the customary marine title planning document for the customary marine title area
- take into account any matters identified in the wider common marine and coastal area where the customary marine title group exercises kaitiakitanga.

Regional councils also have to take into account iwi management plans.

We propose a change to maintain the weighting of customary marine title planning documents in the wider common marine and coastal area relative to iwi management plans. We recommend replacing "actively consider" in clause 116(2)(b) with "have particular regard to". We note that this phrase has already been interpreted by the courts, whereas "actively consider" would be a new term.

We also think changes are needed to ensure that the obligations of RPCs in respect of customary marine title planning documents apply from when they prepare the first versions of plans and RSSs. In the bill as introduced, the requirement would only apply to reviews of the documents.

We recommend inserting "a proposed plan" in clause 116(1) to ensure that the clause also applies to the preparation of plans. We also recommend amending section 93 of the Marine and Coastal Area (Takutai Moana) Act to insert the words "the first proposed relevant regional document" into new subsection (8)(b).

We have also recommended corresponding amendments to the Spatial Planning Bill.

Activities affecting relationship of customary marine title group with their customary marine title area

Clause 119 would require an RPC to identify activities that will (or are likely to) affect the relationship of a customary marine title group with their customary marine title area. It would also place requirements on these activities if they are carried out within a customary marine title area.

In clause 119, we recommend that, if an activity is identified as having more than a minor adverse effect on the relationship between a customary marine title group and

their area, then the activity should require a resource consent or a permitted activity notice in the manner described in sections 66 to 70 of the Marine and Coastal Area (Takutai Moana) Act.

Imposition of coastal occupation charges

Clause 120 (new clause 112A) would require an RPC to consider whether a coastal occupation charging regime should be included in a plan. This clause is carried over from the RMA. It is part of the Crown's ability to regulate (but not own) the common marine and coastal area.

We believe clause 120(7) needs to be updated to reflect the purposes of this bill, rather than the RMA. We recommend updating the clause so the money collected can only be used for the purposes of the bill as they apply in the coastal marine area.

We believe the clause could also be better aligned with wording in the Marine and Coastal Area (Takutai Moana) Act that exempts groups from coastal occupation charges. We recommend amending the clause to ensure that a charge cannot be imposed on customary marine title groups in relation to a customary marine title area, or on protected customary rights groups when exercising a protected customary right.

Limitations applying to making of rules relating to water and coastal marine area

Clause 124 would impose limitations on rules relating to water and the coastal marine area.

Clause 124(3) would limit the types of aquaculture activities that plan rules can provide for as permitted activities. To ensure that permitted aquaculture activities do not trigger a Treaty settlement obligation, we recommend amending clause 124(3) so plan rules cannot provide for permitted aquaculture activities in any new space.

Section 69 and Schedule 9 of the RMA concern rules for water quality in coastal marine areas. Clause 124(7) and (8) of the bill replicate section 69(3) of the RMA. We recommend amending clause 124 to also replicate section 69(1) and (2). We think these provisions should also be carried over to enable plans to appropriately manage water quality and discharges in the coastal marine area.

The RMA addressed fresh water and coastal water in the same sections. The NPS–FM now comprehensively addresses freshwater. However, there is no equivalent for coastal water. We recommend amending clause 124(7) and (8) to specify that these provisions only apply to the coastal marine area.

Relationship with the Fisheries Act

The relationship between the bill and the Fisheries Act is addressed in clauses 105(1)(f) and 124(9). Clause 105(1)(f) would allow a plan to include provisions that manage the effects of fishing in the coastal marine area. Many submitters considered that this clause duplicates section 8 of the Fisheries Act and that it is ambiguous to refer to "the effects of fishing" in this clause and in clause 124. We recommend retaining clause 105(1)(f) (although as paragraph (e)) but rewording it to expressly

allow a plan to include "provisions that control fishing in the coastal marine area". We also recommend including a reference to related clauses—new clause 124(9) and (10), which limit the provisions that may be included in certain respects.

Clause 124(9) would limit the content of rules relating to fisheries resources in a coastal marine area. The subclause is intended to carry over section 30(2) of the RMA subject to amendments so that the restriction directly relates to the content of rules rather than the functions of regional councils (which, under the RMA, indirectly affect the content of regional coastal plans).

We recommend amending clause 124(9) to specify (subject to new clause 124(10), discussed below) that a plan must not include rules that control taking, allocating, or enhancing fisheries resources in the coastal marine area for the purpose of managing fishing or fisheries resources controlled by or under the Fisheries Act.

We recommend inserting new clause 124(10) to prevent a plan from including discretionary, anticipated, or permitted activity rules for fishing controlled by or under the Fisheries Act.

Limitations applying to making rules relating to tree protection

Clause 125 would restrict the ability for plans to contain rules relating to tree protection. It would require that trees can only be protected in a plan if the tree, or group of trees, is described and located by site.

We recommend deleting clause 125. We think that trees should be managed through plans, with the NPF providing direction as required. We have recommended amending clause 58 to require the NPF to provide direction on protecting urban trees.

Clause 646 sets out that a territorial or unitary authority is responsible for "the protection of trees if the location and value of the trees justifies their protection". We recommend an amendment to also include the protection of the urban tree canopy. We also think that the specific location of a tree should not need to be identified for a territorial authority to provide protection. We recommend amending clause 646(e) to remove the reference to a specific location.

Legal effect of rules

Clause 130 specifies when a rule in a proposed plan would have legal effect. We recommend amending this clause so that any rules or requirements that identify a place of national importance, or an area of highly vulnerable biodiversity, have immediate legal effect.

There is a risk that people could remove trees before rules that would protect them came into force. We recommend amending clause 130(4) so a rule would have immediate legal effect if it protected a significant individual tree or groups of trees, and these trees are expressly identified in a plan.

We believe requiring trees to have been identified as significant is an appropriate threshold for triggering immediate legal effect. We also note that clause 133 would

allow an RPC to apply to the Environment Court for an order that would give immediate legal effect to a rule.

We recommend amending clause 133 to allow an RPC to apply to the Environment Court before a plan is notified. We recommend deleting clause 134 because it repeats provisions already contained in clause 131.

When rules would be treated as operative

Clause 135 sets out when a rule in a proposed plan would need to be treated as operative. We recommend amending this clause to specify that any previous rule should be treated as inoperative on and after the day on which the replacement rule takes legal effect.

Controls over land

Land subject to controls

Clause 139 would enable a person with an interest in land to challenge a provision in a plan that they consider would make the land incapable of reasonable use. The person would be able to do so by making a submission on the provision or applying to change the plan under clause 69 of Schedule 7.

We recommend amending clause 139(3)(b) to specify that a person applying to change the plan under clause 69 of Schedule 7 could apply directly to the Environment Court.

Court's determination

Clause 141 sets out the actions the Environment Court could take if it received an application to change a plan under clause 69 of Schedule 7. In determining the application, the Environment Court could direct the relevant RPC to either:

- modify, delete, or replace the provision in the plan or proposed plan
- notify the relevant local authority that it is required to offer to acquire all or part of the estate or interest in the land under the Public Works Act 1981.

We note that the bill as introduced does not put a time frame on notifying the relevant local authority. We recommend amending this clause to require the RPC, when it receives the Environment Court's direction, to notify the relevant local authority of the direction.

We also recommend removing clause 141(1)(b)(i) so that the landowner's agreement would not be needed to direct the relevant local authority to offer to acquire land under the Public Works Act.

Preparation, change, and review of plans

Schedule 7 outlines the process for preparing, changing, and reviewing plans.

Preliminary matters

Definition of proposal

Schedule 7 clause 1 defines "proposal" to mean "a proposed plan or plan change" and "includes consideration of the plan outcomes, policies, rules, and methods associated with a plan or plan change before the plan or plan change is notified."

We recommend amending the definition of "proposal" to include plan variations. We also recommend amending the definition to include "consideration of the plan outcomes" and "in light of those outcomes, evaluation of the policies and rules or methods that deal with the same matter or issue". We believe this approach would ensure policies, rules, and methods properly respond to the intent of the plan outcome.

Overview of time frames

Schedule 7 clause 2 would require RPCs, within 40 working days of deciding to adopt the applicable RSS, to resolve to begin drafting a new plan. We recommend amending this deadline so committees are required to make this resolution no later than 40 working days after adoption, rather than within 40 working days. This change would enable plans and RSSs to be developed concurrently.

Schedule 7 clause 2(1)(c) would require the submission, hearing, and recommendations processes that enable the RPC to issue decisions to be completed within the latter 2 years of the 4-year planning cycle. We recommend amending this clause so an RPC would be required to release its "decisions version" of the plan within the prescribed time frame, in the manner required under clause 127.

Forms to be approved

Schedule 7 clause 3 concerns forms to be approved by the chief executive of the Ministry for the Environment. We recommend amending this clause to refer to the Secretary for the Environment, and to give the secretary the ability to approve forms and templates required to carry out practical functions, unless they have already been prescribed by regulations. We believe this would allow forms and templates to be made more efficiently, and to be updated as needed.

We therefore also recommend deleting Schedule 7 clause 3(a) to (d), which list the specific forms that would have to be approved.

We recommend deleting Schedule 7 clause 3(e), which would require the chief executive to approve forms for notices of appeal to Environment Court. This deletion would mean that the Environment Court would create the required forms for appeals.

Plan change processes

Initiating plan changes

Schedule 7 clause 5 would require all changes to plans to be initiated by a request to an RPC. This request could be made by a local authority, a person, or the committee itself. We recommend amending Schedule 7 clause 5 to clarify that a local authority

may jointly initiate a plan change with other local authorities. This was always the policy intent, but was omitted from the bill as introduced.

Schedule 7 clause 51 sets out an obligation for each local authority to provide a report to its RPC every 3 years. Schedule 7 clause 52 states the purpose of this report is to set out the plan changes the local authority believes should be included in a programme of work for the next 3 years. We recommend linking Schedule 7 clauses 5 and 52. Linking these clauses would clarify how the local authority can initiate a request for a plan change.

Standard plan change process

Schedule 7 clause 14 would require RPCs to identify the major regional policy issues (draft strategic content) for their region. Schedule 7 clause 17 would require committees to have an engagement policy. The policy must outline how the committees will engage with constituents on the major regional policy issues. These are requirements for the development of the first plan and undertaking plan reviews, which follow the standard process.

To increase efficiency, we recommend that an amended version of the standard process be established for plan changes. Identifying and engaging on regional policy issues, as well as using an engagement policy and engagement register, would not be required for all matters dealt with through the standard process for plan changes.

Time frames for the standard plan change process

We recommend requiring RPCs to publicly notify their decision to accept or reject recommendations made by an independent hearings panel (IHP) on the submissions received on a plan change within 2 years of the plan change being notified. This would align with the time frames for the proportionate plan change process.

Under Schedule 7 clause 29, an RPC must submit a report with details about how the plan will give effect to the NPF and set and apply environmental limits. The bill as introduced would require this report to be submitted at least 3 months before the committee notified a standard plan change. We recommend replacing 3 months with 20 working days. This would align with the time frames for the urgent and proportionate plan change processes.

Schedule 7 clause 31 would require an RPC to publicly notify the proposed plan and the associated evaluation report. Schedule 7 clause 32 sets out the required form and time frame for this public notice. To further clarify how the standard process for a plan change would operate, we recommend that Schedule 7 clauses 31 and 32 apply to a standard plan change except that:

- the closing date for primary submissions on a proposed plan change must be at least 40 working days after the public notice is given
- the RPC could set a later closing date if it chooses to do so.

Withdrawing a proposal to prepare, change, or vary a plan

Schedule 1 clause 8D of the RMA enables a local authority to withdraw its proposal to prepare, change, or vary a plan. A similar clause was inadvertently omitted from the bill as introduced.

We recommend inserting a clause similar to Schedule 1 clause 8D of the RMA. We believe this provision should be retained under the new regime to allow RPCs to respond to unforeseen circumstances.

Engagement agreements

Clauses 9 to 13 of Schedule 7 provide for engagement agreements between RPCs and Māori groups. The purpose of these agreements is to provide a mechanism for parties to agree and record how they will participate in preparing a plan for the region.

Schedule 8 clause 38 sets out the process for RPCs to prepare a statement of intent. The statement must include provision of funding for participation in the development, implementation, and monitoring of plans. Some of this pool of funding is intended to be used for engagement agreements. We believe it would be useful for Schedule 7 clause 9 to link to Schedule 8 clause 38 to show the source of funding for engagement agreements. We recommend amending Schedule 7 clause 9 to this effect.

Schedule 7 clause 11 deals with the initiation and formation of engagement agreements. To provide certainty, we recommend amending this clause to specify what would happen if an engagement agreement could not be agreed. We recommend that, if the parties cannot agree on the content of an engagement agreement at least 60 working days before the plan change is notified, the process ceases.

Schedule 7 clause 13 states that an engagement agreement may remain in place as long as parties wish, but would cease to apply after the plan or plan change is publicly notified. We recommend amending this clause so that, if the parties agree, the agreement can remain in place but not be active, so it could be used for future RSSs or plan processes.

Major regional policy issues (draft strategic content)

Identification of major regional policy issues (draft strategic content)

Schedule 7 clause 14 would require RPCs to identify the major policy issues for their region. Schedule 7 clause 16 would require RPCs to publicly notify these issues. The purpose of identifying and notifying the major regional policy issues is to test aspects of a plan through consultation early in the process.

We initially considered amending Schedule 7 clause 14 to refer to "matters that an RPC must publicly notify", rather than "major regional policy issues". However, during consideration, we received advice that it should be changed to "draft strategic content". We also recommend amending this clause to require an RPC to notify:

- draft strategic content that

  - reflects the environmental issues of importance to a region or its constituent districts
  - outlines the requirements necessary to be consistent with the RSS and give effect to the NPF
- draft zoning for the region
- places of national importance
- any other matters that are significant to the region or districts within the region.

We recommend these changes to ensure that the RPCs are able to consider and respond to the views of their communities before public notification of a proposed plan. Specifying the matters that must be notified also provides clarity.

Schedule 7 clause 14(3) would require the RPC to have regard to statements of community outcomes and regional environmental outcomes. We recommend deleting this clause because it repeats clause 107.

Engagement register

Schedule 7 clause 15 would require RPCs to maintain an engagement register of people interested in being consulted in the plan development process. The committee would be required to act in good faith when considering matters known to be of interest to people on the register.

We recommend amending Schedule 7 clause 15 to require RPCs, as far as practicable, to seek feedback from a party if they have registered an interest in a topic. We also recommend that RPCs must allow time for responses. This change would clarify the requirement to engage.

Schedule 7 clause 15(3) lists groups that do not need to register, but have a right to be consulted. In the bill as introduced, these groups are: government departments and ministries, local authorities in the region, requiring authorities, iwi authorities, and customary marine title groups. For completeness, we recommend adding "hapū with an engagement agreement" to this list.

How engagement register and draft strategic content would be notified

Schedule 7 clause 16 states that, within 12 months of resolving to commence the plan development process, RPCs must publicly notify how persons can register to engage. We recommend amending this clause so that people who do register are required to identify the topics they are interested in. This would be more efficient and ensure parties do not get consulted on matters they are not interested in.

Planning committees to have engagement policy

Schedule 7 clause 17 would require an RPC to prepare an engagement policy. This policy would state how the committee will ensure it engages with the constituents of each district on the approach to major regional policy issues.

We recommend requiring engagement policies to be prepared within 3 months of an RPC resolving to begin drafting a new plan.

Schedule 7 clause 17(1)(b) would require the engagement policy to state the "innovative ways" the committee would reach its constituents. We recommend amending this clause to refer to "effective and innovative ways". Whether something is innovative is immaterial if it is not effective.

Provision of feedback on draft strategic content

Schedule 7 clause 18 states that feedback on the document containing the draft strategic content must be submitted to the RPC within 30 working days of the document being publicly notified. We recommend:

- that feedback be in the form of enduring submissions
- amending the time frame to 90 working days.

Enduring submissions

Schedule 7 clause 20 concerns enduring submissions. Under the bill as introduced, these would be received in advance of the notified plan, be formally recorded, and have weight through the plan development process.

Under Schedule 7 clause 20(1), enduring submissions could be made as soon as public notice of draft strategic content was given, up until the plan was notified. We recommend amending this clause so the submission period is only 90 working days. This would align with our recommended amendment to Schedule 7 clause 18.

We recommend amending Schedule 7 clause 20 so enduring submissions can be updated, withdrawn, carried over, or replaced. This would mitigate the risk of early submissions becoming overlooked or irrelevant.

Schedule 7 clause 20(2) would allow "affected local authorities" to make enduring submissions. We recommend amending this clause to remove the word "affected". This would mean the clause would only apply to the regional council of a region and every territorial authority whose district is wholly or partly in the region. We note that adjacent local authorities outside the region could make a submission under Schedule 7 clause 20(3).

Clauses relating to the provision of evidence with submissions

Schedule 7 clause 21 states that persons making an enduring submission must provide evidence, either with the submission or during the primary submission period. We agree with concerns raised about time frames and the quality, nature, and scope of evidence that would be supplied. We believe the fundamental issue does not sit with enduring submissions, but the provision of evidence at the primary submission stage generally.

To address these concerns, and to encourage efficiency by seeking information up front, we recommend the following changes to clauses related to the provision of evidence with submissions:

- replacing the term "evidence" with "all supporting information"

- requiring persons making a submission to provide all supporting information they are going to rely on
- requiring primary submissions to specify the details of the relief sought and the supporting information that will be provided
- allowing an additional 80 working days to provide "supporting information" that accompanies submissions
- requiring the supporting information provided at the 80-working-day mark to be made public with the summary of submissions
- requiring a summary of submissions to be prepared based on the information submitted at the 40-working-day mark.

Consultation during preparation of plan

Schedule 7 clause 22(2)(b) states that an RPC would not have to consult Ministers if the proposed plan change is minor and relates to the coastal marine area. We recommend deleting this provision because it is unclear what would constitute a minor plan change.

Evaluation reports

Schedule 7 clause 24 would require an RPC that had prepared a proposal for a proposed plan or plan change to prepare an evaluation report. Schedule 7 clause 25 sets out the content that must be included in an evaluation report.

We recommend amending clause 25 to require evaluation reports to include consideration of:

- how the proposal would achieve the purpose of the legislation
- how the decision-making principles have been used to determine how the system outcomes are most appropriately provided for
- the effectiveness of the proposal to achieve the system outcomes
- how the implementation of the proposal can be monitored.

We recommend these amendments to provide transparency over how the system outcomes in clause 5, and the decision-making principles of clause 6, have been addressed in the evaluation report.

We also recommend amending clause 25 to require evaluation reports to assess the environmental and economic impacts of any proposal to regulate (or not), and where those impacts would lie. We believe these are important considerations that should inform decision-making.

Schedule 7 clause 25(1)(b) would require evaluation reports to include "an examination of any alternative options to the proposal". We recommend narrowing this clause so the evaluation report only has to include an examination of any alternative options that are "reasonably practicable". This would avoid unnecessary consideration of clearly unfeasible options.

We believe Schedule 7 clause 25(2) could be reworded to be more easily understood. We recommend amending this clause so:

- the analysis for an evaluation report must begin early in the process of developing a plan
- evaluation reports must:
    - be made in the form prescribed by regulations
    - be prepared and presented in a way that is cost-effective and provides a level of detail that is proportionate to the scale and significance of the proposal
    - be succinct and plainly expressed
    - optimise the usefulness of the evaluation to decision makers and the public.

Planning committee to report on compliance with NPF

Schedule 7 clause 29 would require an RPC to submit a report to the Secretary for the Environment, or the Director-General of Conservation if applicable. The report would contain information about how a plan will give effect to the NPF, and set and apply environmental limits.

Schedule 7 clause 29(5) would require the Secretary for the Environment or the Director-General of Conservation to review the report, and would allow them to take any action in respect of the report they think appropriate. We believe this clause could be made less vague. We recommend amending it to explicitly state that alternative provisions can be identified for the RPC to consider.

Review of full plan development and review by appointing body

Schedule 7 clause 30(2) would allow an appointing body to request to review a proposed plan before an RPC decides to proceed with it. We recommend amending this clause so it is mandatory, not optional, for draft plans to be referred to appointing bodies for review. We believe it is important to allow appointing bodies to familiarise themselves with the content of a proposed plan.

Planning committee to notify proposed plan

Schedule 7 clause 31(2)(a)(ii) would require an RPC to publicly notify a proposed plan to every ratepayer in the constituent local authorities of the region by electronic notice. It would be inefficient and burdensome to electronically notify people directly affected, as this could involve emailing every landowner in the region.

We recommend that a plan must be publicly notified by at least giving public notice:

- on an internet site of the RPC that is open and free to the public
- on the public internet sites of the constituent local authorities of the region
- through access to a copy in the library of each constituent local authority.

Public notice of submissions

Schedule 7 clause 35 would require an RPC to publish public notice of primary and enduring submissions on its internet site. We recommend broadening this requirement to include secondary submissions so there is notice of all submissions.

Certain persons may make secondary submissions

Schedule 7 clause 36 would allow certain listed persons to make a secondary submission on a proposed plan. We recommend amending this clause to allow RPCs to make a secondary submission so they can reply to other primary submissions.

Schedule 7 clause 36(1)(a) would allow "any person directly affected by the subject matter dealt with in an enduring or a primary submission" to make a secondary submission. Schedule 7 clause 36(2)(d) would require the secondary submission to "explain how the submitter is directly affected by a provision in the plan."

We recommend amending Schedule 7 clause 36(1)(a) to allow any person representing a relevant aspect of the public interest to make a secondary submission. We also therefore recommend amending Schedule 7 clause 36(2)(d). We recommend these changes because we believe more participation will contribute to better quality decision-making.

We recommend allowing 40 working days for secondary submissions to allow adequate time for submitters.

Regional planning committee to provide information to an independent hearings panel

Schedule 7 clause 39 would require the RPC to submit all relevant documents to the IHP (or commissioners if relevant) no later than 40 working days after secondary submissions are notified. For completeness we recommend two changes:

- Schedule 7 clause 39(1)(b) would require RPCs to provide copies of any notices about designations, or notices of requirements for designations. We recommend broadening this to include any requiring authorities' responses.
- Schedule 7 clause 39(1)(c) would require RPCs to provide copies of their evaluation reports prepared under Schedule 7 clause 25. We recommend broadening this to include evaluation reports prepared by entities other than the RPC.

Removing a scheduled item from a plan

Schedule 7 clause 43(2) would allow an RPC to remove a scheduled item from a plan, if the scheduled item has been partly or wholly destroyed by a natural hazard. We recommend extending this ability to include scheduled items that have been removed or demolished as a result of an approved resource consent.

Urgent process for changing an NBE plan

Schedule 7 clause 47 would allow an RPC to initiate an urgent process for changing a plan outside the 3-yearly reporting cycle, if certain criteria are met. We recommend

amending clause 47 to make it clear that the committee itself can initiate this urgent process, not only in response to a request.

Schedule 7 clause 48(4) would prevent the urgent process from being used to change the strategic content of a plan, unless directed by the NPF or by the Minister for the Environment. We note concerns from submitters about the open-ended powers of the Minister to direct a plan change. We recommend amending Schedule 7 clause 47 so the standard process for changing a plan must be used when the Minister directs a change affecting the strategic content of a plan.

Schedule 7 clause 50 sets out the notification and submission requirements for a plan change under the urgent process. We recommend amending this clause to allow RPCs to extend the notification period, but not allow less than 20 working days after the date on which the plan change is notified. This time frame would allow for proper review, and preparation of submissions.

Duty of local authorities to report to relevant planning committee

Schedule 7 clause 51 would require each local authority to report to its relevant RPC every 3 years. Schedule 7 clause 53 sets out what must be included in these reports. To simplify, we recommend amending Schedule 7 clause 53. Our suggested Schedule 7 clause 53(a) specifies that the reports must include consideration of the results from monitoring conducted under clause 783 of the bill, including the state of the environment and the effectiveness and efficiency of the relevant plan.

Appointing commissioners for urgent plan changes

Schedule 7 clause 55 would require an RPC to appoint one or more commissioners to hear submissions and make recommendations on any proportionate or urgent plan changes. Schedule 7 clause 60 sets out the matters commissioners must have regard to when formulating their recommendations.

Similarly, in the regular process for developing a plan, an IHP would hear submissions and make recommendations to the RPC on the proposed plan. This is set out in Schedule 7 clause 124. Schedule 7 clause 126 sets out what the IHP must have regard to when formulating its recommendations.

We believe there should be greater alignment between Schedule 7 clause 60 and Schedule 7 clause 126. We recommend amending these clauses so the matters that affect recommendations made by IHPs and commissioners are consistent.

We also recommend amending these clauses so that IHPs and commissioners must "have particular regard" to evaluation reports. The phrase "have particular regard" is intended to give strong direction to decision makers to consider the evaluation reports and give them weight accordingly.

Independent plan change requests

Schedule 7 clause 69 would allow any person (other than a local authority) to request a change to a plan, unless the proposed change would affect the strategic content of

the plan. This request is called an independent plan change request in the bill as introduced.

We recommend replacing the term "independent plan change" with "private plan change" as this was the colloquial term developed and used under the RMA. We note that this change would not limit who could make a request.

Addressing requests to more than one local authority when there is disagreement

The bill as introduced did not anticipate a situation where a private plan change request was made jointly to more than one local authority, and those authorities were unable to agree on how to proceed. To account for this possibility, we recommend inserting Schedule 7 clause 72A so that:

- when a private plan change request was made jointly to more than one local authority and those authorities were unable to agree on how to proceed, the local authorities must, within 30 working days, forward the information to the RPC and notify the person who made the initial request
- the RPC must, within 30 working days of receiving all of the information, decide how to deal with the request
- the RPC must, within 10 working days of making its decision, notify the person who made the initial request about the reasons for the decision
- whether the RPC accepts, changes, or rejects the request, the same provisions as in Schedule 7 clauses 72 to 78 apply, including the right to appeal.

Rejecting a private plan change request

Schedule 7 clause 73 sets out the grounds for a local authority to reject a request for a private plan change. We recommend some amendments.

Schedule 7 clause 73(1)(c)(ii) would allow a local authority to reject a request if it was inconsistent with this legislation. We recommend amending clause 73 so a request could only be granted if it gives effect to the NPF. Requiring a request to give effect to the NPF provides a strong directive and firm obligation, whereas the language "not be inconsistent with" is not consistent with the other requirements in the bill in relation to the relationship between the NPF and plans.

We recommend that a local authority should be required to reject a request if it seeks to change a plan that has been operative for less than 2 years. New plans need time to embed.

We recommend that a local authority should be able to reject a request if there is insufficient infrastructure or funding, unless the person who has made the request has entered into an agreement with the relevant infrastructure provider. We recommend this change for the following reasons:

- Out-of-sequence development needs to have adequately planned for infrastructure.

- Out-of-sequence plan changes could undermine committed infrastructure investments and allow developers to take unfair precedence over planned development.
- RSSs may not fully mitigate out-of-sequence development.

We recommend that a local authority should be able to reject a request for a private plan change if it would be inconsistent with the strategic content of the plan, as suggested by submitters.

Schedule 7 clause 73(1)(d) would allow a local authority to reject a request if it "relates to the strategic content of the plan". We recommend replacing the phrase "relates to" with "proposed to amend" because all matters would relate to the strategic content of the plan.

For consistency with the RMA, we recommend amending Schedule 7 clause 73(1)(c)(i) so a request could be rejected if it was non-compliant with Part 4, rather than with the whole bill.

General hearings provisions

Schedule 7 subpart 3 (clauses 79 to 92) sets out processes for hearings that would take place under the bill.

Excessive repetition at hearings

Schedule 7 clause 85 would allow the applicant, and any submitter who wishes to be heard, to speak at a hearing. If these parties do not appear, the authority may proceed with the hearing if it believes it is fair and reasonable to do so. Schedule 7 clause 85(2) would allow the authority to "limit the circumstances in which parties having the same interest in a matter may speak", "if there is likely to be excessive repetition".

For efficiency, we believe it is important not to delay hearings through repetitive submissions. However, we acknowledge that public participation is an important aspect of a democratic plan-making process and hearings enable engagement with decision makers. We note that Schedule 7 clause 85(2) uses the word "may", not "must". To ensure this discretion is used prudently, we recommend amending Schedule 7 clause 85(2) so the power to expedite hearings is required to be exercised with caution.

Protection of sensitive information

Schedule 7 clause 90 would enable an authority holding a hearing to make orders to protect sensitive information. This clause is based on section 42 of the RMA and section 141 of the Local Government (Auckland Transitional Provisions) Act 2010. Schedule 7 clause 118 mirrors Schedule 7 clause 90, but instead relates to hearings held by IHPs.

We note that, in carrying over section 42 of the RMA, subsection 42(5) was omitted. This subsection allows a party to apply to the Environment Court if they disagree with a decision not to make a sensitive information order. We believe this is an

important safeguard, and recommend amending Schedule 7 clauses 90 and 118 to include similar appeal provisions.

Schedule 7 clause 90(2)(a) would allow an authority to exclude "the public" from a hearing. However, Schedule 7 clause 90(4) would only allow "a party to a hearing session or class of hearing sessions" to appeal an exclusion to the Environment Court. We believe this is too narrow. We recommend amending this clause so a party to the proceedings, not just to the hearing, could appeal an exclusion.

Cross reference to the Inquiries Act

Schedule 7 clause 92 states the provisions of the Inquiries Act 2013 that would apply to hearings held by an RPC. These provisions relate to keeping order, evidence, and witnesses. We believe these provisions should also apply to hearings held by local authorities and IHPs, and recommend amending the bill to this effect.

Establishment of independent hearings panels

Schedule 7 clause 93 would establish an IHP for each region. The panels would consist of:

- a chairperson appointed by the Chief Environment Court Judge
- 3 to 6 other members appointed by the Chief Environment Court Judge from the regional pool of IHP candidates
- up to 2 additional other members from the regional candidate pool who are approved by the Minister for the Environment and appointed by the Chief Environment Court Judge.

Eligibility to be chairperson

Schedule 7 clause 93(3) sets out that the chairperson must be an Environment Judge or someone who has previously chaired hearings panels, meets all of the other requirements to be a panel member, and is considered by the Chief Environment Court Judge to be suitable.

We are mindful of the limited resources of the courts and the number of Judges who would be required to carry out this work. We believe the eligibility criteria to be appointed a Judge in New Zealand, as set out in the District Court Act 2016, would also be appropriate for a chairperson. We recommend amending Schedule 7 clause 93(3) so someone who is not a Judge could chair an IHP if they met the requirements of section 15 of the District Court Act.

We also recommend exempting chairpersons from the requirement to be accredited under Schedule 7 clause 82. We believe being a Judge or meeting the requirements of section 15 of the District Court Act would be sufficient, and do not want to reduce the pool of potential chairpersons unnecessarily.

We recommend amending Schedule 7 clause 93 to require the Chief Environment Court Judge to appoint members in each region who collectively have skills, knowledge, and experience of:

- relevant legislation and legal processes, planning, and cultural heritage
- te Tiriti o Waitangi and its principles
- local kawa and tikanga, and the mātauranga of the iwi and hapū in the region
- Māori in the region
- the local community and local government
- environmental science, including freshwater quality, quantity, and ecology
- the built environment and infrastructure, and any other skills, knowledge, and experience that the Chief Environment Judge considered appropriate for the region.

Regional pool of independent hearings panel candidates

Schedule 7 clause 94(2) states that the regional pool of candidates for IHPs would include, among others, "all iwi-approved commissioners in the relevant region". For clarity, we believe iwi-approved commissioners should be defined. We recommend defining iwi-approved commissioners to mean "commissioners indicated by iwi and hapū to be suitable appointees to serve where statutory provision is made for iwi participation, as in an IHP or joint management agreement". This definition should be applicable for the purposes of Schedule 7 only.

Pre-hearing meetings

Overall, the bill seeks to achieve more upfront participation and engagement, with submitters providing relevant information earlier.

Schedule 7 clause 105 would allow an IHP to invite or require certain people to attend a pre-hearing meeting to clarify or resolve a matter relating to a proposed plan. Schedule 7 clause 105(4) would also allow the chairperson to require submitters and the RPC to provide a written statement.

Schedule 7 clause 106 sets out the consequences for not attending a pre-hearing session meeting if required by a panel to attend. We recommend amending this clause to also apply to failure to provide a written statement under Schedule 7 clause 105(4). Not fulfilling a chairperson's request for a written statement would be contrary to the goal of having more upfront participation. It would be inefficient and unfair to other submitters who do prepare a statement.

Extension of deadlines for decisions

Schedule 7 clause 127 would require RPCs to accept or reject recommendations made by IHPs. Schedule 7 clause 131 would allow an RPC to ask the Minister for the Environment to extend the deadline to decide on recommendations by up to 20 working days.

We believe RPCs should have the flexibility to alter this deadline without having to involve the Minister. We recommend amending this clause so RPCs could extend the deadline by up to 20 working days. We believe this would be more efficient and give committees the time to resolve complex or contentious issues.

Incorporation of documents by reference in plans

Schedule 12 would allow written material to be incorporated into a plan or proposed plan if that material is referenced. Material incorporated by reference would have legal effect as part of the plan or proposed plan. We recommend some changes to improve workability:

- We recommend amending Schedule 12 clause 1(4) to enable maps to be included in any material that is incorporated.
- Schedule 12 clause 5(2)(c) would require an RPC to give public notice that material proposed to be incorporated by reference is available for inspection. We recommend amending this clause so that the public can be informed by way of the internet, rather than by way of public notice.
- We recommend amending Schedule 12 clause 6(1)(c) so the notification of how to access material incorporated by reference occurs at the same time as public notification of a plan or plan change under Schedule 7 clause 31.

Water quality classes

Schedule 9 of the bill describes the water quality classes relevant to the management of coastal and other waters. Clauses 1 to 11 list the classes of water, which replicate those listed in the RMA. Following the NPS–FM, some of the classes are no longer needed. Therefore, we recommend the deletion of clauses 6 and 7 in Schedule 9.

Part 8—Matters relevant to NBE plans

Designations

Part 8 of the bill relates to matters relevant to plans. Subpart 1 provides for designations.

Similar to the RMA system, the new system would allow for "requiring authorities" (such as a local authority, Minister, or utility operator) to notify the territorial authority that an area of land is required to be designated for a public work (such as a road, telecommunications facility, school, or prison). The territorial authority would hold hearings if needed. The area would be identified in a plan and known as a designation.

Definition of protected Māori land (identified Māori land)

Clause 497(1) includes a definition of protected Māori land. However, we are aware that the same term has already been defined and used in the Infrastructure, Funding and Financing Act 2020. The definitions are different.

To avoid confusion, we recommend changing the term "protected Māori land" in the bill to "identified Māori land", with one exception. The exception is that the term "protected Māori land" should be retained in clause 525(7)(b) because the definition in the Infrastructure, Funding and Financing Act should apply there.

The definition includes paragraph (g): land held by or on behalf of an iwi or hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over that land. This term should cover land that was vested or transferred pursuant to an agreement with a Crown agency or local authority, but not as part of a Treaty settlement. We recommend making this clear in new paragraph (g).

We recommend expanding the definition of "public work" so that it includes "natural and green infrastructure". This would enable natural and green infrastructure to be provided for as a public work in the designations process.

Who could exercise designation powers?

Clauses 499 to 502 set out who would be able to exercise designation powers (the power to be a requiring authority). Designation powers would be available to Ministers, local authorities, and network utility operators. Network utility operators are defined in clause 7 of the bill. We recommend amending paragraph (m) of the definition so that it includes inland ports. Ports are essential infrastructure and the ability to designate inland areas would remove pressure on limited and sensitive land adjacent to the coastal marine area.

We think the term "additional utility operators" could be confusing. We recommend:

- removing it from clauses 7, 499, and 500
- referring instead to "applicants, other than network utility operators", or simply "other applicants"
- providing separate criteria in clause 500 for network utility operators and other applicants
- removing the word "activity" in clause 500 where it is used in addition to "project or work".

We recommend amending clause 500 with respect to the "public good" test. New subclause (5) makes clear that, in deciding whether to approve "other applicants" as a requiring authority, the Minister should be satisfied that:

- the approval was appropriate for the purposes of carrying out the project or work
- the applicant was likely to satisfactorily carry out all the responsibilities of a requiring authority and would give proper regard to the interests of those affected and to the interests of the environment.

New subclause (6) would require that, when approving a project or work, the Minister must be satisfied that:

- the project or work would provide a significant and identifiable public benefit necessary for the functioning of the economy, for people's health and safety, or the protection of the environment

- there are limited options for locating the project or work due to operational requirements, or the project or work responds to a defined need in a specific location
- the size and scale of the project or work is such that approval as a requiring authority is appropriate
- the public benefit must be for the general public or a sufficient section of the public
- the project or work must not be a commercial retail activity (such as a petrol station or supermarket) or a facility to support a commercial retail activity (such as warehousing or a distribution facility)

New subclauses (7) and (8) would include provisions that:

- a project or work that had a significant public benefit should not be precluded just because the operator charges a fee for access or obtains a commercial benefit from it
- the Minister could consider whether a project would be more appropriately progressed using the other processes in the bill such as a plan change or a resource consent
- the Minister could consider any other matter relevant and reasonably necessary to determine the application.

Under clause 501 as introduced, if a Minister approved an "additional utility operator" (other applicant) as a requiring authority, they would have to recommend amending the NPF to include the applicant in a schedule. We recommend requiring the Minister to recommend amending the NPF to include all requiring authorities. We recommend amending clause 502 to require that the NPF be amended to remove requiring authorities when an approval was revoked.

Environmental limits

As with other activities, designation activities should comply with, and not override or be contrary to, environmental limits. Breaches would have to be authorised by the exemptions process in clauses 44 to 46. We recommend making this clear in clause 516.

Designation instruments

Clauses 503 to 505 provide for designation instruments.

Clause 504 sets out the requirements for primary and secondary construction and implementation plans (CIPs), including lodgement and the type of information that would have to be included in a CIP. We recommend amending subclause (2) to ensure that the primary CIP included all the information needed for a recommendation to be made under clause 512.

We recommend renaming the "route protection process" in clause 505(c) to "spatial footprint process", to reflect that such notices of requirement (NORs) would be for spatial footprints rather than only providing for linear infrastructure.

We recommend inserting a new sub-paragraph in clause 505(1)(c) to state that spatial footprint applications include an assessment of the effect of the restrictions on landowners and occupiers of the designation being in place. We make clear in the new sub-paragraph that spatial footprint information requirements need not duplicate the assessment of construction, operation, or implementation activities required under a primary CIP.

The bill does not state whether designations could be made in relation to the coastal marine area. We recommend making clear in new clause 503(4) that they could not. Designations enable a requiring authority to compulsorily purchase private land. The coastal marine area is not privately owned and access to the compulsory purchase provisions of the Public Works Act would not be needed. A resource consent would be appropriate for the ongoing use of such an area or resource. Extending designations to these areas could also affect Treaty obligations.

Processing NORs and CIPs is a technical process, similar to processing a resource consent. Apart from making plans, the responsibility for making recommendations to a requiring authority should therefore sit with territorial authorities rather than RPCs. We recommend:

- amending clause 503 to provide that territorial authorities (not RPCs) would be responsible for processing NORs and CIPs outside of the plan-making process, and would have the respective powers, functions, and duties
- inserting new clause 507A to enable a territorial authority to serve a NOR on itself where it is the requiring authority (as is currently provided in section 168A of the RMA).

Designations process

Notifying NORs and CIPs

Clause 507 provides the notification requirements for NORs and CIPs and sets out what must be considered when assessing a CIP for the purpose of notification and engagement.

We recommend amending clause 507 to:

- require that NORs and primary CIPs only be given limited notification when affected persons are identified, with the determination of who is an affected person depending on whether they:
    - had an interest in the project or work that was greater than the general public, or
    - were likely to experience adverse effects that are more than minor when compared to the level of adverse effects anticipated in the NPF or plan
- require the territorial authority to, in all cases, notify:
    - landowners and occupiers in the NOR
    - landowners and occupiers adjacent to the boundaries of the NOR

- relevant iwi authorities and groups that represent hapū.

Secondary CIPs

Clause 508 sets out the process to be followed when a secondary CIP was received. This includes confirming whether the matters addressed in the secondary CIP were in the primary CIP. The territorial authority should be able to ask the requiring authority to change a secondary CIP within 20 working days, and if it was not done, treat it as a new primary CIP. We recommend changing clause 508 to reflect this.

Clause 508(4) would require the Environment Court, in an appeal, to consider whether the requested changes would "give effect to" the bill's purpose. We recommend changing this to considering whether the changes were "in accordance with" the bill's purpose.

Other provisions about the designation process

Clause 509 provides for further information, submissions, and hearings for NORs.

We recommend amending clause 510(1) to enable any persons notified of a NOR or a primary CIP to make a (written or electronic) submission.

We recommend amending clause 509 to reflect the approach in section 100 of the RMA, so that a hearing need not be held unless:

- the territorial authority considered one necessary
- the applicant or a submitter had requested to be heard (and had not subsequently advised that they no longer wished to be heard).

We recommend amending clause 510(1) to enable joint hearings to be held for a resource consent and a NOR or CIP.

Several procedural steps are missing or unclear in relation to the NOR and CIP processes. We recommend amending clause 510(1) to provide more detail, including:

- time frames for submissions, hearings, decisions, appeals
- cost recovery
- a cross-reference to the general hearing provisions in Schedule 7.

Further provisions about designations

Clause 511 would allow an RPC, when given a NOR and a primary CIP, to include the requirement in a proposed plan instead of notifying it. We recommend amending clause 511 to also allow this for a NOR submitted on its own. We recommend also providing for situations where a primary CIP is submitted after the NOR (alone) was included in a proposed plan.

Clause 512 sets out the matters that the RPC would have to consider in relation to a requirement and any submissions received. It also sets out what the RPC could recommend to the requiring authority.

We note that designations under the RMA are subject to the RMA's purpose and principles. In the new system, recourse back to the purpose of the legislation should only

occur when matters have not been adequately addressed in the plan or the NPF. For clarity, and to prevent any unintended consequences, we recommend that clause 512 be amended to provide for how the bill's purpose would be considered.

For spatial footprint (route protection) applications, the NOR would be submitted before a primary CIP was submitted. In that situation, the provisions in clause 512 should apply to the extent that they were within scope and relevant to a NOR or a primary CIP. We recommend amending clause 512 to reflect this. We also recommend making clear that the reference to "requirement" in clause 512 includes:

- a NOR and primary CIP
- for the spatial footprint process, either a NOR or a primary CIP.

Under section 171(1)(c) of the RMA, the territorial authority must have particular regard to (among other things) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority. We recommend incorporating this requirement into clause 512(2)(d) and (4).

Clause 512(2)(d) and (4) use the word "identified" in referring to "infrastructure" in an RSS. We recommend changing this to "described" for consistency with the rest of Part 8, subpart 1. Also for consistency, we recommend replacing the word "infrastructure" with the phrase "project or work for the designation" in clause 512(2)(c) and (d), (3), and (4).

If the project or work was spatially identified in an RSS, then under clause 512(3), the territorial authority or RPC would not consider whether adequate consideration had been given to alternatives. We recommend amending clause 512(3) so that this would apply when the alternatives were adequately considered at the RSS stage. We recommend a similar amendment to subclause (2)(c). Our amendments would ensure that the assessment of alternatives happened at some stage in the process while avoiding unnecessary duplication.

Clause 512 generally carries over from the RMA the matters for consideration when making recommendations on a new designation. One of the two new matters for consideration under the bill as introduced is whether adequate consideration had been given to opportunities for co-location of infrastructure (subclause (2)(e)).[12]

Several submissions opposed subclause (2)(e). Submitters were concerned that it might be impracticable or create an inappropriate focus on other providers' activities. We agree that consideration of the co-location of infrastructure would not always be practicable, given operational requirements. We recommend removing subclause(2)(e). However, independent of the bill, we wish to encourage providers to consider, where appropriate, the co-location of infrastructure.

Clause 513(2) and (3) refer to "designations" but this is an error. We recommend replacing "designation" with "requirement".

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[12] The other is consistency with the RSS, mentioned above.

Clause 516 sets out the effect of a designation that was included in a plan, including what could and could not be done on the land subject to the designation. Clause 517 provides for a designation that was included in a plan when the land was already the subject of an earlier or existing designation. Under clause 17(1), land could not be used in a way that contravened a framework rule or a plan rule. However, submitters pointed out a conflict between clauses 516(1)(a) and 517(3) in the application of clause 17. We recommend amending clauses 516 and 517 to confirm that both clauses would be subject to clause 17.

Clause 518(4), relating to interim time frames for designations, needs to be clearer. The interim effect of a designation should not apply in perpetuity if the requiring authority fails to take one of their procedural steps to confirm (or otherwise) a designation. The time frame should be consistent with the lapse date for confirmed designations that have not been given effect to. We recommend making this clear in clause 518(4).

We also recommend inserting more information on time frames for designations, in new clauses 527A to 527D.

Relationship between designations and framework rules

Clause 92 sets out the relationship between framework rules and designations. The relationship changes at different steps in the process. We recommend amending clause 92 to:

- make clear how and when the NPF would apply to designations at different points in time
- be more specific with terms related to designations and with the steps in the process for making designations.

It would be inefficient if, when a framework rule regulated the same or similar activities as were covered by a designation, the requiring authorities had to get consents for the activities. To ensure efficiency, we recommend clarifying in clause 92 that the NPF could specify that activities carried out in accordance with a designation would not need to comply with a given framework rule even if the designation was made after the framework rule.

Heritage protection orders

The bill would provide for heritage protection orders as an option for protecting values associated with heritage. Under the RMA, heritage orders exist in perpetuity once in place. Under the bill, however, heritage protection orders would be interim until a decision was made through the plan change process about whether protection would be included in the plan.

We recommend inserting clause 544(2) to clarify that a heritage protection order would cease to have effect when a plan change was notified. This is because the provisions of the plan change would have immediate legal effect.

Heritage protection authorities

Heritage protection orders would be issued by a heritage protection authority. The bill as introduced defines a heritage protection authority to mean any Minister of the Crown, a local authority, Heritage New Zealand Pouhere Taonga, or any Māori entity or body corporate that is approved as a heritage protection authority under clause 541 of the bill.

Clause 541 would allow "any Māori entity with mana whenua in relation to a place" to apply to be a heritage protection authority. We recommend replacing this phrase with "any Māori group with interests in relation to a place". This change would ensure that the terms used for Māori in the bill are consistent. It would continue to include iwi authorities, groups representing hapū, and other Māori groups.

We also recommend replacing "Māori entity or body corporate" with "any heritage protection authority approved under clause 541" when used in provisions related to heritage protection orders.

We recommend amending clause 541(3) so that when a Minister is considering whether to approve an application to be a heritage protection authority, the Minister can "have regard to any matter that the Minister considers relevant and reasonably necessary to determine the application".

We recommend amending clause 543 so heritage protection orders can only apply to land within the responsibility of the territorial authority. This is how heritage orders apply under the RMA.

Ability to place a heritage protection order on private land

We acknowledge concerns about the ability of a non-governmental entity having the power to place a heritage protection order on private land. We also note that, without additional safeguards, orders could be used unreasonably to prevent legitimate development and use of private land.

To address these concerns, we recommend:

- amending clauses 543 and 552 so that any heritage protection authority approved under clause 541 of the bill cannot apply for a heritage order for private land. The exceptions should be if the authority owns the land, or if the landowner agrees to the order being placed over their land.
- defining Crown land and private land for the purposes of clause 543.

Protecting a place

In the bill as introduced, clause 543(1) would only provide for the protection of the land surrounding a place, not the place itself. We recommend amending clause 543(1) so the place itself could also be protected.

Notice to territorial authority

Clause 543 states that a heritage protection authority may give notice of a heritage protection order to a territorial authority.

Clause 543(2) would require the notice given to support at least one outcome from a list. We recommend extending the list to include "the protection of any outstanding geoheritage natural feature". Geoheritage is an aspect of natural heritage that is distinct from other biophysical aspects of the environment. Specifically including it in clause 543(2) would ensure that heritage protection orders could be used to protect important geoheritage sites.

Clause 543(3) lists the information the notice must contain. We believe this list could be improved, and recommend adding:

- outcomes from consultation with mana whenua and Heritage New Zealand Pouhere Taonga
- outcomes from any assessments or advice obtained from a suitably qualified person
- an assessment of the significance of the site. This assessment must be undertaken by a suitably qualified person and demonstrate whether protection by a heritage protection order is warranted.

There is no reason why a new order should be made over an area that is covered by an existing order. We therefore recommend inserting clause 543(7) to prohibit a heritage protection order being placed over land that is already subject to an order under this legislation, or under the RMA.

Territorial authority to act on notice

Clause 546 would require a territorial authority, as soon as practicable after receiving notice under clause 543, to notify the affected landowners (among other things). We consider that affected occupiers should also be notified, and recommend an amendment to this effect.

Plan change process following notification of heritage protection order

Clause 548 would require "a lead body" to be identified as the entity that would be responsible for processing a plan change. We recommend replacing this clause so that an RPC would be responsible for processing a plan change in relation to the place or area affected by a heritage protection order.

Land subject to existing heritage protection order or designation

If land subject to a heritage protection order is already subject to an order or designation, clause 549 states that whichever came first takes precedence. We recommend amending this clause to also refer to NORs in addition to designations. This would preserve the intent that whichever comes first takes precedence.

Unnecessary clauses

Clause 551(3) would allow a territorial authority to alter a heritage protection order in its plan. Clause 553(2) would require plans to be amended when responsibility for a heritage protection order was transferred. Clause 554 sets out how heritage protection orders would be removed from plans.

Because plans would not contain heritage protection orders, we recommend deleting clauses 551(3), 553(2), and 554. They are unnecessary.

Places of national importance

Part 8, subpart 3 (clauses 555 to 567) provides for places of national importance, including areas of significant biodiversity (SBAs). It also provides for areas of highly vulnerable biodiversity (HVBAs). Places of national importance would be protected under clause 559. We recommend moving these clauses, along with clauses 61 to 67 about the EMF, into Part 10, subpart 8 (Places of national importance, areas of highly vulnerable biodiversity, and effects management).

We propose adding a new purpose for places of national importance to make it clear that the aim is to recognise, protect, and sustain their attributes.

Clause 555 sets out definitions relating to the subpart. We propose updating the phrasing about outstanding natural character, outstanding natural features, and outstanding natural landscape. In paragraph (a) of the place of national importance definition, we recommend replacing the phrase "outstanding natural character" with "exceptional natural character on a national scale". We recommend a corresponding amendment in paragraph (b), plus making clear that geoheritage (which we have discussed earlier in this report) is a natural feature.

Definition (e) of places of national importance includes areas that provide public access to certain water areas. The effect of the definition and clause 559(1) would be to allow no more than trivial effects on public access to those areas. We recommend removing paragraph (e) from the definition of place of national importance.

Decisions made under the new legislation about which places meet the criteria for inclusion in the New Zealand Heritage List/Rārangi Kōrero should not have the effect of amending the list. We recommend inserting clause 556(6) to make this clear.

Identification of places of national importance

Plans would have to identify all places of national importance, except for the places mentioned in clause 556(1). We recommend amending clause 556 to require that natural landscapes and features that qualify as places of national importance be identified in the NPF, to ensure that a consistent approach was taken across the country and that a national lens was applied. We were advised, however, that this work would be unlikely to be completed in time for the first NPF so it was not realistic to require the first NPF to identify the places of national importance.

It would be beneficial to require the specific values of a place of national importance to be stated. This would make clear the values that are being protected. We recommend inserting clause 556(5) to require the NPF or plan provisions that identify places to set out the attributes or values of a place that qualify it as a place of national importance.

Significant biodiversity areas

Clause 556 would not require SBAs to be identified as places of national importance if they were a coastal marine area or a freshwater body and the NPF has exempted them from identification requirements. We consider that identification should be required for some parts of the coastal marine area. We recommend inserting new clause 556(3)(b) to prevent the Minister from making an SBA exempt from the identification requirements if it has already been assessed by an RPC or regional council or if it is an intertidal area or on land not covered by water.

We think that the bill should specify the matters the Minister should consider when deciding which SBAs must be identified in plans. We recommend inserting clause 556(1B) to require the Minister, in determining which SBAs must be identified, to consider:

- the costs of identification
- the likelihood that the type of SBA could be used or developed, with more than trivial adverse effects
- whether identification would improve investment certainty.

Clause 557 would require the Minister to set criteria for identifying SBAs in the NPF. Clause 558 lists the things that the Minister would have to consider when setting criteria.

We understand that the concept of representativeness was originally developed to apply to land. We heard concerns from ecologists and marine scientists that coastal marine areas should be included. After considering their submissions we recommend modifying subclause (2) so that the Minister could (but would not have to) apply representativeness to marine coastal areas.

Protection of places of national importance

Within the limits set out in clause 559, the bill would prevent activities that would have a "more than trivial" adverse effect on a place of national importance. The word "trivial" has not been used in the RMA system. We were advised that it is meant to refer to what is known as "de minimis" effects. We recommend inserting a definition of it into clause 555 as "minimal", which is the English word for "de minimis".

Clause 559(3) should also apply to permitted activities, that is, ones that do not need a resource consent. We recommend amending clause 559(3) accordingly.

Consent authorities and requiring authorities should not have to undertake surveys or other assessments each time a new activity is about to commence. They should only have to make reasonable efforts to confirm that an activity would not have a more than trivial effect on an SBA. This might include requiring a survey if appropriate. We recommend making this clear in subclause (3). We also recommend making subclause (3) clearer about timing. Instead of checks being done before the activity commenced, they should be done before a permitted activity notice is issued, a consent is granted, or a designation is made (whichever applies).

Under clause 559(4)(b), the check would not be required if the Minister had made a rule creating an exemption for the activity. We recommend removing this. Confirmation should be required even if an activity had a rule.

We recommend amending clause 559(1)(a) and 561 and inserting new clauses 561A to 561C to set out the requirements specific to places of national importance. Our amendments are based on clauses 64 to 67. They:

- make clear that exemptions would be made through rules
- state that the rules could be made for categories of activities or for particular activities
- provide that if an activity is covered by a rule then its effects on the relevant place of national importance could not be considered under any other rule or in decisions on a NOR.

Under clause 67(2), exemptions would have to be designed to diminish harm to a place to the greatest extent compatible with enabling the activity to proceed. This provision should not apply for effects on specified cultural heritage or SBAs because they would be managed using the EMF. It should also not apply when activities are managed under other legislation under clause 66(1)(l). We recommend amending the bill accordingly.

Protection of SBAs

We make two recommendations to amend clause 561, which provides that SBAs would be protected if they meet the criteria. The first is to relocate the provision into clause 559 to improve navigability for readers. The second is to change the word "significant" to "substantive" in new clause 559(2)(b)(i).

Closed registers

Clause 560 would empower RPCs to use closed registers for specified cultural heritage. A good reason would be needed for not showing their precise location in a plan. We recommend amending clause 560 to require the provision of the place's general location, name, or unique identifier, as appropriate.

People should be able to ask for information on whether an activity might have adverse effects on the cultural heritage values of a place. We recommend amending clause 560 to enable this. We also recommend amending clause 560 so that requiring authorities could get information about places on a closed register.

Considerations for rules that create exemptions

We recommend rewording the provisions on rules that create exemptions to require consideration of the new purpose instead of the purpose of the bill as a whole, and to make clear that the usual requirement to not be inconsistent with emissions reduction plans or national adaptation plans would not apply. In addition, we recommend making clearer that these rules are made using the same process as other framework rules. We also recommend (below) the same changes to the provisions on framework rules for activities with adverse effects on HVBAs.

Highly vulnerable biodiversity areas

Clauses 562 to 567 provide for the protection of HVBAs. Clause 563 would limit activities in HVBAs.

As for places of national importance, we recommend inserting a new purpose provision for HVBAs to make the aim of the framework clearer.

We think that, generally, HVBAs should be identified in plans. However, in some cases this could increase risk to an HVBA (for example, if a species is sought after by collectors). In such cases we consider a closed register appropriate. We recommend that new clause 562AAAB:

- require HVBAs to be appropriately identified in a relevant plan
- provide an exemption to the above requirement where the RPC considered that there would be undue risk of loss to the HVBA values if the public in general knows of the area, in which case the location of the HVBA should be recorded in a closed register held by the relevant consenting authority.

We recommend in new clause 562AA ensuring that the HVBA provisions align with the provisions on closed registers for specified cultural heritage (discussed above). New clause 562AAAB(7) would require RPCs to treat the identification of HVBAs as a major regional policy issue (draft strategic content, as provided for in Schedule 7 clause 14).

We also propose that an extra step be taken before a permitted activity notice is issued, a consent is granted, or a notice of requirement is made. Amended clause 563(3) would require the consenting authority or requiring authority to take reasonable steps to confirm whether the activity would have more than trivial effects on an HVBA.

Exemptions

Clause 565(a) provides that exemptions relating to HVBAs would be made through framework rules. For consistency, we recommend that clause 564 also refer to framework rules.

Under clause 565(b)(vii) of the bill as introduced, the Minister could exempt an area from HVBA protection if the area had not been identified as an HVBA and the activity was fishing (but not aquaculture). We recommend removing the provision.

In clause 565, the list of activities for HVBA exemptions is narrow. It does not include activities that would contribute to the mitigation of climate change or to energy security. The need to prioritise those activities was a key focus of some submissions. We consider that the bar should be very high, and activities should only be allowed if they would make a nationally significant contribution and could not be practicably located elsewhere. We propose inserting a provision that would allow such a scheme to be eligible for an exemption if needed. Under clause 566, the adverse effects would have to be diminished to the greatest extent compatible with enabling the activity to proceed.

We therefore recommend inserting a new type of eligible activity into clause 565. The new exemption would cover any activity that:

- was reasonably necessary to construct, operate, or maintain a scheme that would make a nationally significant contribution to:
  - managing or mitigating dry-year risk in the electricity system
  - managing intermittency in the electricity system arising from renewables such as wind and solar
- was unable practicably to be located outside the HVBA.

Regional planning committees—establishment and functions

Clause 100(1) would require regional planning committees (RPCs) to be established for each region as statutory bodies. Each RPC would be a committee of all the local authorities in the region. Subclause (2) would require one RPC for the Nelson and Tasman unitary authorities. RPCs would have roles under both this bill and the Spatial Planning Bill, and would be required to act independently of the local authorities.

Clause 642 sets out the functions of an RPC. They would include:

- making and maintaining the NBE plan for the region using the process set out in Schedule 7
- approving or rejecting recommendations made by an IHP after it considered submissions on the plan
- setting any environmental limits and interim limits for the region that were required to be set by the NPF
- monitoring how effectively the plan was being implemented by each local authority in the region
- making and maintaining an RSS as set out in the Spatial Planning Bill (although the RPC for the Chatham Islands could, but would not be required to, prepare an RSS).

We recommend adding a reference to "any other functions" that are specified in the bill or the Spatial Planning Bill. We also propose deleting reference to making and maintaining RSSs, as that is more appropriately specified in the Spatial Planning Bill.

We think the bill should provide additional direction about how RPCs should go about carrying out their roles, in order to emphasise the integrated and collaborative approach expected of them. We propose inserting an additional subclause to provide that, in carrying out its functions, an RPC must enable integrated and strategic decision-making for the region. It should do this by taking a collaborative approach to plan development and considering the perspectives of different communities.

RPCs—membership, support, and operations

Schedule 8 as introduced would set out provisions relating to the membership, support, and operations of RPCs.

Membership of RPCs

Schedule 8 clause 2 sets out the requirements for RPC membership. There would be a minimum of 6 members, with no limit on the total number of members:

- Each local authority in the region could appoint at least 1 member.
- At least 2 members must be appointed by 1 or more Māori appointing bodies.
- The Minister could appoint 1 member to participate in the functions of the committee under the Spatial Planning Bill.

Regarding the Māori appointing bodies, Schedule 8 clause 2 would require iwi authorities and hapū in the region to establish an iwi and hapū committee for the purposes of determining the Māori appointing body or bodies. We recommend clarifying that there could only be one iwi and hapū committee for each region. We also recommend shifting the provision into clause 3 with other composition arrangements.

We recommend providing that the Minister must (rather than may) appoint a member to participate in the functions of the RPC under the Spatial Planning Bill. We also recommend making it clear that this member should be in addition to the minimum of 6 members from local authority and Māori appointing bodies.

Composition arrangements for RPCs

Schedule 8 clause 3 would require the local authorities and the iwi and hapū committee in a region to reach agreement on a "composition arrangement" for an RPC.

Who determines the different aspects of the composition arrangement

The term "composition arrangement" refers to the number of members (how many local authority members and how many Māori members), and who appoints them. As introduced, subclause (1) could imply that local authorities and the iwi and hapū committee have to jointly agree on all aspects of the composition arrangement. We think the clause should be clearer about who is responsible for agreeing or determining the different aspects of a composition arrangement. We recommend specifying that:

- The local authorities and the iwi and hapū committee must reach agreement on the total number of members of the RPC, how many will be appointed by local authorities, and how many by one or more Māori appointing bodies.
- The local authorities would determine who the local authority appointing bodies are.
- The iwi and hapū committee would determine who the Māori appointing bodies are.

Section 85 of Local Government (Auckland Council) Act 2009

Under section 85 of the Local Government (Auckland Council) Act 2009, the Independent Māori Statutory Board (IMSB) must appoint up to two members to any Auckland Council committee that deals with the management and stewardship of natural and physical resources.

We recommend that the bill clarify that the IMSB would not have appointment rights to an RPC based on the provisions of the Local Government (Auckland Council) Act. However, this would not prevent the IMSB from undertaking any role under Schedule 8 of this bill if that role was determined by iwi authorities and groups that represent hapū in Auckland or the relevant iwi and hapū committee.

Requirements that must be met by a composition arrangement

Schedule 8 clause 3(2) would require a composition arrangement to meet or have regard to certain requirements. As introduced, one of these is to have considered the purpose of local government under section 10 of the Local Government Act. We understand that this reference was to reinforce the expectation that the interests of regions' diverse communities are represented. We agree with this intention, but think it is best expressed within the bill through a reference to the purpose of RPCs at clause 642 as introduced. That clause refers to considering the perspectives of different communities within the region. We recommend amending Schedule 8 clause 3(2) accordingly.

When a composition arrangement is agreed

Schedule 8 clause 3(4) would require the regional council or unitary authority to inform the Local Government Commission of the details of a composition arrangement before "statutory deadline A", which would be set by regulations. Clause 3(5) provides for a process through the Local Government Commission if the parties cannot agree on a composition arrangement by the deadline.

We think Schedule 8 clause 3(4) should be clearer about when a composition agreement is considered to be agreed or not agreed. We also propose including time frames for developing and implementing the composition arrangement, rather than relying solely on regulations setting the dates. We recommend the following amendments:

- The composition arrangement should be treated as agreed when the Local Government Commission receives a written statement from the regional council or unitary authority setting out the arrangement and a statement of how the arrangement meets the statutory requirements.
- The statements referred to above should be provided no later than 8 months after the council or authority is notified by the Local Government Commission that the region should set up an RPC.
- If the composition arrangement is agreed within the 8 month time frame, the iwi and hapū committee should notify the Local Government Commission of the names of the Māori appointing body (or bodies) within that period. The Māori appointing body or bodies for a region should be treated as having been agreed when the commission receives that notice.
- If the local authorities and the iwi and hapū committee cannot reach agreement on a composition arrangement, the regional council or unitary authority should provide the Local Government Commission with a proposed composition arrangement and any dissenting views within the 8 month time frame. The

information should be sufficient to enable the Local Government Commission to understand the substance of the disagreement and the views of the iwi and hapū committee and the local authorities. The iwi and hapū committee should inform the Local Government Commission of the Māori appointing bodies no later than 6 months after the final determination is received.

Although we have proposed setting these dates in the schedule, and removing the Minister's power to set the deadlines, we acknowledge the need for flexibility. We recommend amending Schedule 8 clause 41 to allow the Minister to extend the deadlines if certain criteria are met.

Unitary authorities' ability to transition an existing committee to an RPC

We considered whether unitary authorities other than Nelson City Council and Tasman District Council should be able to deem one of their existing committees to be an RPC for efficiency reasons. We recommend inserting new clause 43 into Schedule 8 to provide an optional process for transitioning a unitary authority's existing committee to an RPC. If a unitary authority opted for this, the Schedule 8 composition and appointment processes, including the processes for Māori and central government membership, would still apply to maintain the joint decision-making model of RPCs and ensure consistency with the RPC arrangements in regions with multiple local authorities. We note that an RPC established under this process would operate in the same way as other RPCs—it would have all the functions, powers, and duties of an RPC under the legislation, and would be an enduring, independent, joint decision-making committee.

Review of the appointment process for Māori members

Schedule 8 clause 5 would require the Minister to carry out a review of the process for appointing Māori members to RPCs. The review would be led by iwi authorities and groups that represent hapū, and would take place 3 years after the first RPC was established. We were informed that the provision for a review was included in the bill at the suggestion of the Waitangi Tribunal. However, some issues have since come to light which we think could make the review provision problematic.

We recommend deleting the review process set out in Schedule 8 clause 5(4) and (5) for the following reasons.

- Some key matters, such as the composition process and the Local Government Commission's role, would be outside the scope of the review. If those matters were included, there could be significant disruptions to RPCs.
- The timing of the review might be too soon. A 3-year period may not allow enough time for many of the appointment processes to have been repeated. Therefore, there might be limited experiences to review. On the other side, the intended timing for establishing RPCs around the country could mean that the review would occur after most regions had commenced their appointment processes.

However, we do consider that the appointment process should be reviewed. We note that Māori groups within a region could still choose to review the processes they undertook. We expect the Ministry to provide opportunities for Māori to give feedback through other mechanisms.

Dispute resolution process for appointing Māori members to RPCs

Schedule 8 clause 4 would require the iwi and hapū committee to proactively appoint arbitrators and mediators before appointments to the RPC are made, in case they are required in that process.

Schedule 8 clause 12 sets out processes to resolve disputes that may occur when determining Māori appointing bodies. Under that clause, the dispute-resolution processes include facilitation, mediation, and arbitration. There would also be recourse to the Māori Land Court and the Māori Appellate Court.

We expect that these dispute resolution provisions would be used infrequently. However, we agree with submitters' concerns about the inconsistency and complexity of the provisions. We propose replacing them with a new process to help resolve any disputes about a region's first Māori appointment process under Schedule 8. The key points of the proposed process include the following:

- Disputes could be resolved through optional tikanga-based facilitation, optional tikanga-based mediation, or arbitration if necessary.
- Iwi authorities and groups that represent hapū must appoint an arbitrator following Local Government Commission notification to ensure arbitration is readily available. If an arbitrator is not appointed by agreement within three months, then the Māori Land Court would appoint an arbitrator.
- Arbitration must be undertaken if a dispute remains and an iwi and hapū committee has yet to form by the time the composition discussions would have otherwise occurred or if a Māori appointing body or Māori appointments have yet to be agreed by the time the RPC has formed.
- Arbitration could be commenced if any party entitled to participate in the process gave notice to the other parties. The arbitrator would have 20 days to make a determination.
- There would be recourse to the Māori Land Court and Māori Appellate Court.

We recommend deleting clauses 4 and 12, and replacing them with new clauses 12 and 12A to set out the new process described above.

Role of Local Government Commission in composition process

Schedule 8 clause 8 sets out the role of the Local Government Commission in the composition process for RPCs.

Notifying local authorities, iwi, and hapū that an RPC needs to be established

At the time when the legislation requires a region to establish its RPC, the Local Government Commission would be required to notify the local authorities, iwi authorities,

and groups that represent hapū in the region. We recommend amending clause 8(1) to specify that the notice must be as soon as possible after the Order in Council is made, and that the notice should include the time frames for the composition and appointment process.

Elsewhere in our report we have discussed clause 819(2) of the bill, which requires central government to keep records about iwi and hapū. We recommend that the bill specify that the Local Government Commission may rely on the information in clause 819(2) for the purposes of notifying iwi authorities and groups that represent hapū.

Actions when advised that a composition arrangement is agreed

Subclause (2) would require the Local Government Commission to confirm that a composition arrangement complies with the legislation. The commission would need to make both the composition arrangement and its confirmation publicly available. We recommend that this should be done by notice in the *Gazette*.

Situations when the Local Government Commission must make a determination

Subclause (3) sets out the situations when the Local Government Commission must make a determination about the composition arrangements of an RPC. One of those situations would be if a composition arrangement submitted to it did not meet the requirements of Schedule 8. We also think the Local Government Commission should make a determination if the composition arrangement did not meet the requirements of relevant arrangements in any Treaty settlement legislation.

Requirements when making a determination

Subclause (5) sets out requirements for the Local Government Commission when it is determining an RPC's composition. We recommend three changes to these requirements.

First, the clause should make it clear that the Local Government Commission must consider the same matters as the local authorities and iwi and hapū committee under clauses 2, 3(2), and 3(3).

Second, for the matters detailed in subclause (5)(a) and (b), the Local Government Commission should engage with the iwi and hapū committee (rather than iwi authorities and groups that represent hapū, who would work with their iwi and hapū committee at this point in the process).

Third, the Local Government Commission should be required to publish its final determination as soon as possible, but within 4 months after receiving the proposed composition arrangement.

Changing the composition arrangement

Schedule 8 clause 13 sets out the situations in which the Local Government Commission could undertake a review of an RPC's composition.

Subclause (1)(a) would allow the Local Government Commission to review an RPC's composition if there has been "significant local government reform that impacts the

local government arrangements in the region". However, the review should be held if there are effects on the RPC rather than local government arrangements. Therefore, we recommend that the reference should instead be to "reform or reorganisation of local government that affects the operation of the RPC".

Subclause (2) would stop a review being undertaken unless the first RSS had been published, all appeals on the first plan had been determined, and at least 3 years had elapsed since any other review under the clause. We understand that this is intended to minimise disruption to the RPC's first planning cycle. However, we think a reorganisation of local authorities would have a significant effect on the RPC that would still warrant a review. We recommend allowing a review if subclause (1)(a)—which we discussed above—applied.

Changing an appointing body

Schedule 8 clause 16 provides a process for changing an appointing body. We think this provision could be made clearer. In particular, there should be a distinction between changes that would affect the balance of the composition arrangement, and changes that would not.

In our proposed new clause 13A, we recommend the following:

- Appointing bodies may be changed at any time where the change did not affect the overall number of members on the RPC (or the balance of Māori and local government members).
- A Māori appointing body could be changed if the iwi and hapū committee notified the Local Government Commission of a change to the appointing body.
- A local authority appointing body could be changed if the existing appointing body notified the Local Government Commission of the change.
- If a change would affect the overall number of members (or the balance of Māori and local government members), this must be considered as part of a Local Government Commission review under Schedule 8 clause 13(1)(b).

Appointing bodies' process for appointing RPC members

Schedule 8 clause 14 sets out the obligations on appointing bodies when they are determining their appointments to the RPC. We propose some amendments to this clause, which we discuss below.

Appointing bodies must have an "appointing policy"

Subclause (1) would require appointing bodies to develop an "appointing policy" to set out the processes it will follow for making appointments. We are supportive of appointing bodies setting their own criteria for their RPC appointments. We think the appointing bodies should set their criteria out in their appointment policies for transparency.

We think that a person should be disqualified from being an RPC member if convicted of an offence punishable by a term of imprisonment of 2 years or more. We con-

sider this appropriate as it aligns with the requirements on elected members of local authorities under the Local Government Act. This provision would both prevent appointments and trigger automatic removal, where applicable.

As introduced, the clause would require local authorities' appointment policies to be consistent with relevant requirements of the Local Government Act. We recommend making it clear that the voting system for making appointments set out in the Local Government Act (at Schedule 7 clause 25) would apply to appointments to RPCs made by local authority members. Where two or more local authorities were making a single appointment, both local authorities should be compliant with this clause.

Requirements when appointments are made

Subclause (5) as introduced would require appointing bodies to notify the host local authority of their appointments by "statutory deadline B", with the time frames set by regulations. For reasons similar to those discussed regarding clause 3, we think the expected time frames for composition and appointments should be specified in the bill rather than regulations. We recommend that the bill require appointing bodies to make and notify their appointments as follows:

- If there is agreement between the local authorities and iwi and hapū committee on the composition arrangement, then within 4 months following the confirmation of the composition arrangement.
- If the Local Government Commission is determining the composition arrangement, then within 6 months following receipt of the final determination.

The appointments would have to be made public. We recommend requiring, in new subclause (6), that they be published on the host local authority's website.

We note that we have proposed in clause 41(2) that the Minister should be able to extend any time frames specified in Schedule 8 if certain criteria are met.

Establishment of an RPC

Schedule 8 clause 15 provides for when RPCs would be treated as being established and when they could commence operating. We propose providing more direction in the bill about the expected time frames for establishing RPCs. We recommend that RPCs be treated as established and begin operating at the earliest of either:

- the end of the 4-month or 6-month time periods for appointing members after a composition arrangement is confirmed (under Schedule 8 clause 14(7), discussed above)
- any time before those periods end when all members have been appointed.

Duty to act collectively

Schedule 8 clause 17 would impose a duty on members of an RPC to work collectively to achieve the purposes of the two Acts across the region. We recommend clarifying that the scope of the duty also includes working collaboratively, and that it

would also apply to members of subcommittees and cross-regional planning committees.

Subclauses (2) and (3) would place some requirements on the role of the central government member. We propose moving these provisions to new clause 17A, which we discuss later.

RPC decision-making—procedural provisions

Quorum

Schedule 8 clause 22 provides that a quorum for decisions by RPCs would be 50% plus 1 of the members. We acknowledge that RPCs might wish to set their own quorum requirements. For example, an RPC might wish to specify a minimum attendance for its different membership types. Under the bill as introduced, the RPC would be able to set its own standing orders, except as otherwise provided by the bill. We recommend amending clause 22 to provide that an RPC may set in its standing orders its own quorum for the transaction of business that is at least 50% plus 1 of all members.

Voting

Schedule 8 clause 20 provides that an RPC must "do all things reasonably possible to achieve consensus" in its decision-making. If the chairperson determines that consensus cannot be achieved, the chairperson must convene a vote.

In those cases, clause 23 provides that the matter must be decided by a majority (50% plus 1) of all members. We recommend amending clause 23 to provide that the 50% plus 1 requirement is of the whole RPC membership, not just those members present at the meeting. We note that there are requirements under the Local Government Official Information and Meetings Act 1987 that should help address the risk that members are not present for a vote. Also, the chairperson must consider when it is appropriate to convene the vote.

Schedule 8 clause 23(2) as introduced provides that the RPC member appointed by the Minister would be entitled to vote on matters arising under the Spatial Planning Bill, but not on matters arising under this bill that relate to a plan. We recommend amending the bill to make it clear that the member appointed by the Minister could vote on matters relating to the operation of the RPC. These matters would include the appointment of the director of the secretariat, establishment of subcommittees, standing orders, and codes of conduct, and other matters set out in Schedule 8 of the bill. This would be consistent with their carrying out the functions under the Spatial Planning Bill. We have included this amendment in proposed new clause 17A, which we discuss below.

Participation of the central government member in decision-making

Similar to the above recommendation, we propose clarifying the central government member's participation rights. Schedule 8 clause 18(1) provides that RPC members may "participate fully in the committee's decision-making without the appointing body's prior authority". We recommend amending the schedule to provide that clause

18(1) only applies to the member appointed by the Minister responsible for the spatial planning legislation to the extent the decision-making is related to the functions of the RPC under that legislation, and the procedural issues in Schedule 8.

To effect this recommendation, we propose inserting new clause 17A to set out the role and participation rights of the central government member. We note the clause would provide that the central government member could participate and vote on matters arising under the spatial planning legislation and matters relating to the RPC's operation, but not on other matters arising under the NBE bill.

Intervention by Minister

Schedule 8 clause 27 as introduced provides for intervention by the responsible Minister if the RPC was unable to fulfil its responsibilities. The power would be consistent with the ministerial intervention powers under the Local Government Act. We recommend several amendments to clarify this intervention process and improve its workability.

Under Schedule 8 clause 27, if certain criteria were met, the Minister would be able to appoint a Crown observer to assist the RPC to address the problem and make recommendations to the Minister. We recommend adding subclause (3A) to note that the RPC could respond to the recommendations made by the Crown observer.

Subclause (5) would allow the Minister to dissolve an RPC and replace it with a commission. Subclause (6) sets out how the Minister would notify the appointment of a commission. We recommend specifying that the Minister's notification must include the same details required for a notification under section 258S of the Local Government Act.

We also recommend inserting subclause (6B) to make it clear that a commission would have all the powers of an RPC.

Under subclause (7), at the end of the commission's term the RPC's membership would revert to that specified in the composition arrangement at the time the commission was appointed. We think that the Minister should have the power to require the appointing bodies to make new appointments, if the commission recommends this.

Application of other legislation

Local Government Official Information and Meetings Act 1987 and Public Records Act 2005

Schedule 8 clause 29 would apply the Local Government Official Information and Meetings Act (LGOIMA) and the Public Records Act 2005 to RPCs and their members.

Subclause (3) states that parts of the LGOIMA would apply "as if the regional planning committee were part of the host authority". We recommend rewording this to make it clearer that the RPC has these responsibilities in regards to its own official information, meetings, and public records work, and not the host local authority.

Local Authority (Members' Interests) Act 1968

Schedule 8 clause 30 would apply the Local Authority (Members' Interests) Act 1968 to RPCs and their members. We think there should be limits on the ability of an RPC member to contract to the RPC's secretariat, as this may raise conflict of interest issues. Those limits should not apply to RPC members who have contracted to local authorities.

We recommend inserting the qualifiers set out in new clause 30(3) of Schedule 8. We consider that this amendment would align with section 3 of the Local Authority (Members' Interests) Act.

Local Government (Pecuniary Interests Register) Amendment Act 2022

For transparency, we think that RPC members should be covered by the requirements created under the Local Government (Pecuniary Interests Register) Amendment Act 2022. This would require RPC members to submit annual returns of their pecuniary interests. We recommend amending the Local Government Act accordingly.

Ombudsmen Act 1975

We recommend amending Schedule 15 of the bill to provide that RPCs are entities subject to the Ombudsmen Act 1975.

RPCs may delegate functions, duties, or powers

Schedule 8 clause 31 would enable an RPC to delegate functions, duties, and powers to a subcommittee or any other person or organisation. The RPC could not delegate the power to make decisions on a plan or an RSS, except as otherwise provided in the NBE legislation, the spatial planning legislation, or any Treaty settlement legislation.

We consider that there is a gap in the exception for delegating plan or RSS decision-making. The exception should be extended to allow delegations provided for in existing Joint Management Agreements or Mana Whakahono ā Rohe that were agreed between iwi or hapū and local authorities prior to the enactment of this bill. This would help ensure that existing agreements would be upheld under the transitional provisions. We recommend inserting new clause 31(1A) into Schedule 8 accordingly.

Subcommittees

Schedule 8 clause 32 provides for the establishment of subcommittees by an RPC to provide advice as it sees fit. The RPC could establish a joint committee that included members of other planning committees.

Schedule 8 clause 42 provides a process to require an RPC to establish a freshwater subcommittee for a transitional period. On the recommendation of the Minister, an Order in Council could be made directing an RPC to establish a freshwater subcommittee. The members of the freshwater subcommittee must have been nominated by the regional council (or unitary authority) and the Māori appointing bodies.

We note that RPCs would be able to choose to set up subcommittees for freshwater matters, without being directed to do so. The option for the Minister to require one is

to ensure that existing work on freshwater plans would be transitioned into the new plans. Regional councils and unitary authorities are currently carrying out this work.

We note the matters for which regional councils are responsible are set out in clause 644. We think that the bill should provide a mechanism to ensure these matters are sufficiently considered in plan making, if the Minister thought the RPC was not doing so. We propose the regulatory power under Schedule 8 clause 42.

We recommend amending Schedule 8 clause 42 so that the Order in Council could direct the establishment of a subcommittee for the purpose of providing advice and recommendations on the matters for which the regional council is responsible under clause 644 of this bill. We propose two provisos:

- The Order in Council could only direct an RPC to establish one subcommittee, and could direct that it is established either for a temporary period or on an ongoing basis.
- The purpose of any subcommittee directed under the clause would be to provide advice and recommendations to the RPC on provisions of the plan that relate to the matters listed in clause 644. The Order in Council could specify a particular matter of focus for this subcommittee.

We note the transitional nature of the clause. An Order in Council could not be made after an RPC notified its first plan.

Secretariat support for RPCs and hosting by local authorities

Committee secretariats

Schedule 8 clause 33 sets out provisions for secretariat support to an RPC. We recommend changing the title of clause 33 to "Secretariat arrangements" and reordering some of the subclauses in clauses 33 and 34 to make them easier to understand.

Subclause (1) provides that an RPC must appoint a director of the secretariat. The bill as introduced provides that the host local authority would be the legal employer of the director, but would delegate its power and duties as the employer to the RPC. The host local authority would delegate to the director rights, powers, and duties to carry out the RPC's work. Many submitters noted the complexity of this arrangement and expressed concerns about the possible liability for host councils.

We think the employment arrangements should be simplified to reflect the likely practical operation of the secretariat. We recommend amending clause 33(3) to provide that the RPC would employ the director, and the director would be responsible for the employment of staff (who would be employees of the RPC). We also recommend clarifying in new subclause (1A) that an existing employee of a local authority could be appointed as the director.

The director would be required to prepare a resourcing plan for the secretariat. In preparing it, the director would have to consider the expertise and skills across all the groups represented on the RPC. The director would have to consult the RPC on the resourcing plan. We think the director should also consult the appointing bodies on

the draft resourcing plan, and collaborate with local authorities if the director proposed to draw on the skills and expertise of council staff. We recommend inserting subclauses (1B) and (1C) to provide for this.

We think that, in many cases, it would be desirable to second existing local authority staff to work in the secretariat, rather than employing or contracting new staff. We recommend inserting subclause (1D) to indicate that the director may wish to consider this when preparing the resourcing plan.

The resourcing plan should be completed before any decisions are taken on employing or appointing staff.

Subclause (2) provides that the director "must" appoint any employees necessary for carrying out the RPC's work. We think that, in practice, some people will be directly employed or contracted to the secretariat. However, many are expected to be resourced from appointing bodies under different, more flexible arrangements. In light of this, we recommend providing that the director may appoint employees, but is not required to. Ultimately, staffing should be a matter for the director to consider.

Subclause (4) provides for the director to have certain rights, powers, and duties to enable the RPC and secretariat to do its work. This would include the power to enter into contracts, leases, and other agreements. We think that the RPC should be able to give the director the power to enter into multi-year contracts that are outside the time period of the RPC's budget. We recommend inserting paragraph (b) into subclause (4) accordingly.

Later in this commentary we propose inserting new clause 33A into Schedule 8. This would vary the secretariat arrangements where the host local authority is a unitary authority (except in the case of Nelson and Tasman).

Responsibilities of director of secretariat

Clause 34 sets out the responsibilities of the director of a secretariat. They include:

- providing technical advice and administrative support to the committee
- establishing and facilitating collaborative working arrangements with and between local authorities and Māori in the region for the purposes of plan making
- ensuring that the secretariat has the technical expertise and skills in local kawa, tikanga, and mātauranga of the iwi and hapū in the region
- providing administrative support to IHPs in a way that maintains the independence of panels.

Host local authority

Clause 35 sets out the role of a host local authority for an RPC, and the process to determine an RPC's host local authority. The host local authority would provide administrative support to the RPC and the secretariat, and manage the RPC's finances on its behalf.

A region's local authorities would appoint one of the local authorities as host, and must do so by the same time that agreement on the RPC's composition must be reached. They could only do so after consultation with iwi authorities and groups that represent hapū in the region. We think that the consultation should instead occur with the iwi and hapū committee, and could take place during the composition arrangement discussions. We recommend amending the wording in the clause accordingly.

Subclause (3) provides for the appointment of a host local authority by a simple majority of the local authorities. It also provides for a deadline for the appointment to be made. The clause as introduced sets the deadline as "statutory deadline A" which would be set by regulations. We think the bill should specify this deadline. We recommend that the appointment of a host authority be made no later than 8 months following notification that an RPC needs to be established. We note that our proposed amendments to the regulation-making power would enable the Minister to extend the deadline if certain criteria were met.

Secretariat arrangements for unitary authorities

We think RPCs provide an important mechanism for local government, iwi and hapū, and central government to collaborate in the system, but acknowledge that unitary authorities and RPCs overlap in some ways that could be better reconciled under the bill.

We propose inserting clause 33A into Schedule 8. It would apply to unitary authorities, excluding Nelson City Council and Tasman District Council. We intend this clause to better ensure efficiencies for areas where a unitary authority corresponds with an area of an RPC, while maintaining the integrity of joint decision-making. Our proposed clause provides the following for unitary authorities (other than Nelson and Tasman):

- Any references to the host local authority are deemed to be references to the unitary authority
- The RPC's director would be employed by the unitary authority on the direction of the RPC, following consultation with the chief executive of the unitary authority.
- The unitary authority must provide staff (whether employed, contracted, or seconded) in accordance with the resourcing plan prepared under Schedule 8 clause 33 to support the RPC, and to enable the director to meet the responsibilities in Schedule 8 clauses 33(1) and 34(1).
- Under our proposal, the director would not directly appoint employees—the unitary authority would—and there would be no requirement for separate employment arrangements for staff of the secretariat.

Transitional provisions

We recommend inserting new clause 39A into Schedule 8, containing transitional provisions for the establishment of RPCs.

An RPC may not be in a position to commit expenditure immediately after its establishment. The host local authority should be authorised to commit expenditure from the establishment of the RPC until the RPC's first statement of intent takes effect. That expenditure should be reimbursed from the subsequent budget of the RPC.

We note that there would likely be a time gap between an RPC's establishment and the RPC's appointment of a director. In that intervening period, which could be several months, the RPC would still require advice and support. We think that the host local authority should be able to appoint an interim director to support the RPC until a permanent appointment could be made.

Changing host local authorities

Schedule 8 clause 35(6) and (7) set out what requirements must be met to change the host local authority. The bill as introduced provides that local authorities could ask the Local Government Commission to change the host local authority. The Local Government Commission could do so if:

- the request is supported by all local authorities in the region
- the local authorities have consulted iwi authorities and groups that represent hapū who would be eligible to participate in the composition arrangement discussions.

A change in a host local authority would likely have significant administrative and cost implications, and we expect that changes would be infrequent. However, we do not think that a request to the Local Government Commission is needed where the local authorities all support a change. For the reasons set out earlier, we also think that the consultation should occur with the iwi and hapū committee. We recommend amending Schedule 8 clause 35 to provide that local authorities could change the host local authority by unanimous agreement after consulting the iwi and hapū committee.

Funding arrangements and requirements for RPCs

Funding and resourcing

Schedule 8 clause 36 sets out an obligation on local authorities to fund and resource RPCs. Schedule 8 clause 37 provides the mechanism to resolve funding disputes.

We recommend clarifying that, where multiple local authorities are required to contribute funding for an RPC, they must have regard to the draft statement of intent prepared under clause 38(1). This would include draft forecast expenditure for the RPC.

We recommend inserting subclause (7) to clarify that the funding and resourcing of an RPC is deemed to be within the functions and duties of a local authority for the purposes of the Local Government Act.

Remuneration for RPC members would be set by the Remuneration Authority in accordance with Schedule 7 of the Local Government Act. However, subclause (2) provides that the remuneration of the RPC member appointed by the Minister must be paid out of money appropriated by Parliament (as opposed to local authority funding). Therefore, we propose that the remuneration arrangements for the central government

member instead be set through the framework in the Remuneration Authority Act 1977. We recommend amending Schedule 8 clause 36(3) accordingly and inserting an amendment to the Remuneration Authority Act in Schedule 15 of the bill.

Statements of intent

Schedule 8 clause 38 would require an RPC to prepare an annual statement of intent.

RPCs would be required to prepare and publish a draft statement of intent for the upcoming financial year, and submit it to the appointing bodies. The RPC would then prepare and publish a final statement of intent that reflected the agreed funding. We note that, while local authorities would determine the overall funding for an RPC (subject to any determination made under the dispute resolution procedure in clause 37), we do not think it is appropriate for appointing bodies to have approval rights over the content of the statement of intent, which would set out how the RPC's funding is to be spent. However, we think RPCs should take into account the views of appointing bodies. We recommend inserting new subclause (5) to specify that the RPC must take into account the view of the appointing bodies when finalising the statement of intent.

Schedule 8 clause 38(3) would require statements to include any information prescribed by regulations. Those regulations could be made under clause 41(1)(d) of Schedule 8.

Schedule 8 clause 38(4) sets out a specific requirement for what must be included in statements of intent. We propose a minor amendment to the existing requirement and adding a new one:

- As introduced, the subclause provides that the statements must include provision of funding for Māori participation in the development, implementation, and monitoring of RSSs and plans, in accordance with any regulations made under clause 41(1)(f). We think it is unlikely that specific regulations would be needed for this purpose. If regulations were needed, they could be made under the general regulation-making power. Instead, we recommend requiring statements to include provision of funding for Māori participation in plans in accordance with Parts 4 and 10 and Schedule 5 of the bill, and in RSSs in accordance with the Spatial Planning Bill.
- We think that statements should include a 3-year forecast expenditure to provide greater funding certainty and reduce the potential frequency for funding disputes. We recommend specifying that a statement must include a 3-year forecast expenditure and a description of the work planned for the following three years, including key activities and milestones, that is consistent with the overall funding agreed under clause 36 (or determined under clause 37).

Changing a statement of intent

There may be situations in which a statement of intent needs to change. For example, there may be unforeseen circumstances that require the overall funding for the committee to increase. We think that amendments to the agreed funding should be permit-

ted if the RPC and all local authorities agree. We recommend inserting subclause (6) accordingly.

Annual reports

Schedule 8 clause 39 would require RPCs to publish an annual report for each financial year. We recommend clarifying that an annual report would not be required if the host local authority is a unitary authority (other than Nelson or Tasman).

Unitary authorities

We propose some changes to help some unitary authorities to avoid unnecessary duplication of work as host local authorities. We recommend amending the bill to:

- disapply the requirement for a statement of intent and annual report for RPCs operating within unitary authority regions (Schedule 8 clauses 38(7) and 39(4))
- provide that the budget for the RPC be included in the annual plan or long-term plan for the unitary authority in accordance with the Local Government Act (Schedule 8 clause 38(7)).

Relationship between Schedule 8 and legislation relating to local government

Schedule 8 clause 40 sets out the relationship between the schedule, the Local Government Act (LGA), and the Local Government (Auckland Council) Act (LGACA). It provides that, in the event of a conflict between a provision in Schedule 8 and a provision in the LGA or the LGACA, the provision in Schedule 8 would prevail. We think that the bill should instead be clearer about which provisions of LGA and LGACA are intended to apply, and how they would apply. There is a lot of legislation relating to local government that would cross over with Schedule 8 matters, and that interaction also needs to be clarified. We propose expanding the clause to provide specific direction about which sections of related legislation would apply. However, ultimately the provisions of the Natural and Built Environment Bill and the Spatial Planning Bill should take precedence. We recommend amending Schedule 8 clause 40 accordingly.

Secondary legislation relating to RPCs

Schedule 8 clause 41 sets out the regulations that could be made relating to RPCs, including setting statutory deadlines for the establishment of an RPC. We propose some changes to these powers—most of which we have discussed earlier.

Schedule 8 clause 41(1)(a), 41(2), and 41(3) relate to a regulation-making power that could set, vary, or allow the Minister to set or vary certain statutory deadlines for the composition and appointment process. We have recommended the inclusion of statutory deadlines in the primary legislation. However, we think that the Minister should be able to grant extensions to the statutory deadlines specified in Schedule 8. We recommend amending the clause to empower the Minister to extend any of the time frames described in Schedule 8. To do so, the Minister must:

- consider that the extension would assist in reaching an agreement on a matter that must be agreed to support the timely formation of an RPC
- consider whether anyone would be disadvantaged by the extension and whether that impact can be mitigated
- consider any other matters the Minister considers relevant
- consult the relevant local authorities and the iwi and hapū committee on the proposed extension.

We recommend that the Minister be able to grant an extension more than once in relation to the same matter, but not be able to extend a time frame by more than 6 months in total at any point in the process.

We note some other changes we propose:

- As we noted earlier, we recommend deleting clause 41(1)(f). That specific regulation-making power is not needed as the bill already provides engagement processes. To the extent any further processes are needed, they could be provided for under the general regulation-making power in clause 41(1)(c).
- We recommend moving clause 41(1)(g) and (h) to a different part of the bill, as they do not relate to RPCs.

Resource allocation framework

The bill includes an allocation framework for certain resources. It seeks to provide methods and processes for decision makers to allocate resources. Rather than being located in a single Part or subpart of the bill, the allocation framework provisions are in various areas in the bill. We note that, although it provides methods and processes, the allocation framework does not specify how resources are to be allocated. We recommend changes to the allocation framework as described below.

Allocation framework definition

The bill defines "allocation framework" as any directions in the NPF under clause 87 relating to allocation methods, including provisions in any plan that gives effect to them. We recommend extending the definition to include other relevant provisions, but not Part 7. Part 7 includes a specific, separate allocation framework for coastal resources, so the definition should preclude the development of allocation methods subject to Part 7.

Resource allocation methods and principles

The bill defines "allocation method" as a method to determine the allocation of a resource (except in Part 7). It could include consensus, the standard consenting process, the affected application pathway, or auctions or tenders.

We consider that the meaning of "consensus" allocation methods is unclear. It might be incorrectly interpreted to mean that RPCs and resource users must reach consensus when developing an allocation method. We recommend removing "consensus" from the definition of allocation method.

We also recommend removing "auction or tender" from the definition of allocation method, because they are already covered by the definition of "market-based allocation method".

Under clauses 88 and 128, market-based allocation methods could not be used for freshwater takes or diversions. We recommend an amendment to clarify that the transferring of water permits would remain enabled under the bill.

We think the standard consenting process, modified by a market-based allocation method, should also be included as a specific allocation method enabled under the bill. We recommend inserting this in the definition of "allocation method" (but not for freshwater takes or diversions, consistent with clauses 88 and 128).

Clause 36 lists the three resource allocation principles. The principles would apply to clauses 87, 88, 126, and 128.[13] We recommend inserting subclause (2) to specify this. We also recommend relocating clause 36 to Part 3, subpart 9 so that it can be read more easily alongside the four clauses to which it is connected.

The principle in paragraph (a) is sustainability. We recommend changing it to "environmental sustainability". We expect this to encourage a focus on environmental protection when decision makers (the Minister or RPCs, as the case may be) are developing allocation methods in the NPF and plans.

Clauses 87, 88, 126, and 128 would require decision makers to "have regard to" the allocation principles when developing allocation methods. We consider that the phrase should be stronger. It should still allow decision makers to balance factors between the principles. We recommend amending the phrase to "have particular regard to" the principles.

The obligation in clause 87(2) should only apply when the direction relates primarily to the allocation of resources. It should not apply when developing directions with a primary focus on effects management. We recommend amending clause 87(2) to make this clear.

Clause 88 would allow the NPF to require or permit the use of market-based allocation methods for various activities, excluding the taking, diverting, or use of freshwater. To align with the RMA system, we recommend inserting the taking of coastal water (other than open coastal water) to the list of resources in clause 88(1). We recommend a corresponding amendment to clause 126(3).

Clause 126 sets out when and how RPCs would apply the allocation framework to mandatory or discretionary resources. Under subclause (3), they could develop plan rules that require an allocation method for greenhouse gas emissions to air. However, greenhouse gases are regulated under the Climate Change Response Act. We recom-

[13] In clause 306 of the bill as introduced, they would also apply to consent authorities when they are determining the required time period within which applications could be lodged under the comparative consenting process, but we recommend, below, removing this.

mend amending clause 126(3) to exclude greenhouse gas discharges from the allocation framework.

Under clause 126(1)(b), plans would have to include rules for allocation methods for the capacity of freshwater to assimilate a contaminant discharge. We think this is too wide. We note the widespread over-allocation of nitrogen, which in our view should be included, but allocation methods for all other contaminants could be included in plans on a discretionary basis. We recommend amending the clause to:

- require plans to include an allocation method for the discharge of nitrogen to freshwater
- enable (but not require) plans to include an allocation method for other discharges of contaminants to freshwater.

Section 30(4) of the RMA enables plan rules to allocate resources to specified activities, including across competing types of activities. We recommend amending clause 126 to enable plans to do the same.

Clause 126 would require RPCs to ensure that allocation methods were consistent with directions or definitions in the NPF. We recommend removing the requirement. It does not align with the requirement, under clause 97, that plans give effect to the NPF.

We also recommend amending clause 126(4) and (5) to make clear that for discretionary resources the standard consenting process would be the default allocation method.

Comparative (affected application) consenting process

Clause 127 and 304 to 314 provide for the affected application consenting process as an allocation method. The process would enable consent authorities to nominate periods of time in which to receive applications. They would then process and determine those applications collectively. Order of lodgement would have no weight on decision-making.

We think the term would benefit from a different name to make its intent clear. We recommend changing it to "comparative consenting process".

We also recommend amending clause 127 so that it refers to the resources listed in clause 126 rather than to "applications" more broadly. This would limit its use in plans to the resources for which plans could, or would be required to, include an allocation method.

We also consider that consent authorities should not have to assess the nominated time period for applications against the resource allocation principles. We recommend removing this requirement from clause 306.

Clause 314 would require consent decision makers to consider the merits of each competing application and have regard to any applicable criteria in the NPF or plan. We propose making clause 314 more specific. We recommend amending it to:

- require decision makers, when having regard to the matters in clause 223(2), to compare each application against those matters

- preclude decision makers from determining consents in the order that the applications were lodged.

Consent authorities holding and not processing consent applications under new allocation methods

Clause 129 would enable consenting authorities to receive consent applications outside the time frames associated with the comparative consenting process. They would have to hold and not process those applications until the conclusion of the next nominated period of time it called for applications. We recommend amending the clause so that it would also apply to consent applications lodged prior to the running of a market-based allocation method, where this was required by a rule.

Market-based allocation method

Clause 128 provides for the use of market-based allocation methods. We do not think that local authorities should be able to require the use of a market-based allocation method unless required by the NPF or a plan. We recommend amending clause 128 to make this clear.

Duration of freshwater consents prior to plans being updated on receipt of allocation statements

Clause 275 would require resource consents for freshwater-related activities to not exceed 10 years until plans were updated on receipt of allocation statements. Clause 276 sets out exemptions for the 10-year maximum, allowing a consent duration to be sought up to 35 years for certain activities.

We recommend refining the scope of clause 275 to exclude geothermal and coastal water. The 10-year duration should apply only to freshwater activities.

We also propose some changes to expand the exemptions in clause 276. We recommend amending subclause (3) to include the following activities:

- the construction, operation, upgrading, or maintenance of infrastructure that forms part of a public wastewater, storm water, or sewerage network
- the operation, upgrading, or maintenance of existing hydroelectricity generation schemes with an operational capacity of at least 5 megawatts
- the construction, upgrading, or maintenance of infrastructure for renewable electricity generation facilities that connect to local distribution networks
- replacement, repair, and removal activities across all grounds.

To help alleviate investment certainty concerns raised by submitters, longer consent durations should be possible when needed for key infrastructure projects. We recommend amending the bill to include a regulation-making power that would enable the Minister to introduce further exemptions for:

- nationally or regionally significant infrastructure
- water storage that would deliver better outcomes related to resilience to environment change or climate change.

Consent applicants should be able to object to a consent authority's determination on whether an exemption ground applied to their activity. Otherwise, their only avenue could be judicial review. We recommend amending the bill to enable applicants to object to such a decision.

Freshwater Working Group

Clause 693 provides for engagement with iwi and hapū after the Minister responded to the Freshwater Working Group report. An allocation statement could be prepared. Under subclause (4) engagement must commence no later than 12 months after the Minister is notified by the iwi or hapū of an area "for which an allocation statement is agreed". The purpose of initiating the engagement is to produce that allocation statement. We recommend removing this wording to correct this discrepancy.

Under subclause (6), when an RPC received an allocation statement it would have to determine how the plan should be updated, and to update it. We recommend an amendment to require the RPC to update its plan in accordance with Schedule 7. Consequently, we recommend removing the requirement for an RPC to determine how to update its plan as it is no longer necessary.

Setting administrative charges

Clauses 825 to 827 deal with money that would be obtained through a market-based allocation method. Clause 827(3)(a) could be read to imply that local authorities could permit the use of market-based allocation methods where not required by a rule. However, plans should only be able to require—not to permit—market-based allocation methods. We recommend amending subclause (3)(a) to make this clear.

We recommend extending clause 826(1)(f) so that it refers to iwi and hapū as well as Māori. We also recommend removing "Māori groups" from clause 827(2)(c)(i) so that it refers just to iwi and hapū. This recognises that the role relates to rangatiratanga and kaitiaki responsibilities.

For consistency and clarity, we recommend changing the phrase "other natural disasters" in clause 826(1)(b) to "natural hazard events".

Transitional consents under the RMA

Clause 861(3) would amend the RMA as set out in Part 3 of Schedule 15 of the bill. The item in Schedule 15 relating to Schedule 12 of the RMA seeks to insert a new Part into Schedule 12 of the RMA. Proposed new clause 39 of Schedule 12 of the RMA would restrict the duration of certain resource consents to a maximum of 3 years after the relevant NBE plan was notified. Affected resource consents are defined in new clause 38 of the schedule and are water-related. New clause 40 of the schedule sets out exemptions to this restricted duration, and would allow a consent duration to be sought up to 35 years for certain activities.

We recommend refining the scope of clause 38 of the schedule to exclude geothermal and coastal water. The restricted duration should apply only to freshwater activities.

We consider that the duration of affected resource consents should be based on the time that allocation methods in NBE plans took effect, rather than when NBE plans were notified. We also think the bill should enable the granting of affected resource consents for longer than 3 years after NBE plans took effect. Consent holders need more certainty and consent authorities need greater flexibility in managing their re-consenting burdens. We recommend amending proposed new clause 39 of Schedule 12 of the RMA to increase the maximum duration that affected resource consents could be granted to 5 years after allocation methods in NBE plans take effect.

We do not expect all affected consents to be granted with this new maximum duration. Our amendment would increase the potential maximum duration that affected resource consents could be granted for and would enable consent authorities to stage the expiry of affected resource consents before consenting under NBE plans commenced.

To reflect the changes made to clauses 275 and 276 outlined above, we also propose changes to the exemptions so that:

- the exemptions set out in new clause 40 are the same as those set out in new clause 276
- the RMA also includes a regulation-making power that would enable the Minister to introduce further exemptions for:
    - nationally or regionally significant infrastructure
    - water storage that would deliver better outcomes related to resilience to environment change or climate change
- consent applicants can object to a consent authority's determination on whether an exemption ground applied to their activity.

We also recommend amending the bill to provide that:

- new clauses 38 to 42 in Schedule 12 of the RMA would commence on the day after Royal assent, so that affected resource consents lodged after the day of Royal assent would be processed and determined in accordance with new clauses 38 to 40
- affected resource consents lodged prior to, or on the day of, Royal assent would be processed and determined as if new clauses 38 to 40 had not been enacted
- if clauses 38 to 40 applied, consent authorities would have to notify applicants of that fact within 10 working days of receiving the application in the interests of transparency.

Part 5—Resource consenting and proposals of national significance

Part 5 of the bill provides for resource consenting, certificates, notices, and alternative pathways including direct referral, fast-track consenting, and proposals of national significance.

Activity categories

The bill has only four activity categories, compared to six under the RMA system. Clause 153 describes the four categories: permitted, controlled, discretionary, and prohibited. "Controlled" and "discretionary" activity categories would trigger requirements for consents.

We think that the phrase "controlled" activity could cause confusion because it has a different meaning in the bill than in the RMA. We recommend renaming them as "anticipated" activities. This term is suitable because the category is for activities that the NPF or plan clearly anticipates. Relevant standards, controls, and conditions could still be imposed in plans.

We recommend amending clause 153 to provide that people undertaking activities regulated by the rules must comply with relevant rules (or requirements for prohibited activities).

The bill retains the current system's presumptions. Their effect is that land uses would be a permitted activity unless controlled by a rule in a plan or the NPF. In contrast to land uses, the use of natural resources (under clauses 19 to 22) would require consent unless expressly provided for in a plan or the NPF. Decision makers may depart from this presumption, through categorising activities in accordance with the requirements under the bill (such as clause 154). We recommend requiring decision makers developing the NPF or plans (and those making recommendations) to consider the presumptions of land use and natural resource use when making rules to regulate or deregulate activities or uses as part of the procedural principle, in clause 804 (new clause 6A(3)), to reduce reliance on consenting processes.

Clause 154 sets out how to decide which category applies to an activity. We make several recommendations for amending it:

- clarifying that the NPF (or other regulations) and plans could make rules to specify activity categories
- making clear that clause 154 would apply to the Minister responsible for aquaculture when making decisions under clauses 851 and 852
- in subclauses (2) and (5), amendments to:
    - make clearer that the activity should be consistent with relevant outcomes
    - require the activity to comply with any relevant prescribed limits
- amending subclause (2) so that an activity would be in the "permitted" category if:
    - the effects of the activity could be identified and were well understood
    - the known effects could be managed through requirements, standards, or similar in a planning instrument without the need for bespoke consent conditions

- in subclause (4)(a) (prohibited activities), removing the phrase in brackets (it is not needed and we found it confusing; it could also conflict with the decision-making principle about focusing on achieving outcomes without a default preference as to whether they might be achieved by new or existing uses)
- amending subclause (5)(b) so that an activity would be in the "anticipated" category if its effects had to be determined through assessment so that bespoke consent conditions were needed (this would add certainty and reflect the need for consenting to allow for bespoke conditions to manage effects relevant to outcomes).

Consideration of statutory acknowledgements

Clause 155 would require RPCs and the Minister to have regard to any statutory acknowledgement when considering the appropriate category for an activity in plans and the NPF. We recommend changing this clause so that the detailed analysis of statutory acknowledgements would be taken at a regional level rather than at a national level in the NPF.

RPCs should also have to assess whether, because of statutory acknowledgements in their region, the permitted activity status or rule needed changing. We recommend amending clause 155 accordingly.

Conditions or requirements for permitted activities

Under clause 156, the NPF or a plan could specify that a permitted activity was subject to conditions or requirements. We recommend making clearer the link between clause 156 and clauses 302 and 303.

Unlike consents, permitted activity notices are not applications. The consent authority would not assess them and would not have the discretion to decline. We recommend amending clause 156 to provide that, for aquaculture activities that require a permitted activity notice, the notice must include written approval from:

- any protected customary rights group in the area
- any customary marine title group that has a wāhi tapu condition in its customary marine title order or agreement
- any applicant group for customary marine title in the relevant area.

Suspension of applications

Under clause 181, non-notified applications could be returned if they had been suspended (at the applicant's request) for 20 working days. We recommend lengthening the time frame to 130 working days.

Processing time frames

Clause 187 sets out maximum processing time frames for the various types of resource consent application. Clause 188 lists the matters that could be excluded when calculating the overall processing time frames. We consider that these exclu-

sions should be mandatory, and recommend replacing "may be excluded" with "must be excluded" in clauses 188 and 194.

We consider that the time taken to conduct and complete an alternative dispute resolution should also be excluded. We recommend amending clause 188(l) accordingly.

Purpose of notification

Part 5, subpart 4 provides for the notification of resource consent applications. Clause 198 sets out the purpose of notification.

In contrast to the RMA system, the purpose of notification under the new system should be more outcomes-focused and take a more principled approach. The point of getting additional information should be to enable better understanding of three things:

- whether the proposed activity was consistent with relevant outcomes
- how it would comply with or contribute to complying with any relevant prescribed limits
- the extent to which the activity's adverse effects on the environment or on affected persons could be avoided, minimised, or remedied.

We recommend amending clause 198 to reflect this approach. We also recommend an amendment to apply the purpose of notification to all decision makers, including:

- the Minister, when developing the NPF
- RPCs, when developing plans
- consent authorities, when processing consents.

Notification requirements

We propose several amendments to clauses 199 and 200, which set out notification requirements. We recommend amending clause 199 to provide more specific time frames:

- When there is no discretion (the NPF and the plan set a clear notification status and affected persons are identified, if applicable), consent authorities would have to make notification decisions within 15 working days of lodgement (unless other provisions applied).
- When consent authorities have discretion, they would have to make a notification decision or identify affected persons within 20 working days of lodgement.

We note that, under clause 199(3), authorities could not make limited notification if written approvals from affected persons were received. This retains the RMA approach.

Clause 200 provides for the NPF or plans to set an activity's notification requirements, or provide for consent authorities to determine the requirements. We recommend retaining the general approach of the clause that the NPF and plans should direct or guide notification decisions. We recommend making the following matters clear:

- Decision makers (including those making recommendations) on the NPF and plans should have to provide for notification should consents be required. In doing this, the decision makers on the NPF and plans would have to assess whether the presumption of notification (in clauses 203 and 204) was appropriate, and consider the matters in new clauses 198AAB (for the NPF) and 198AAC (for plans).
- Therefore, the NPF and plans should have to contain consent notification provisions, including:
    - notification status or the identification of affected persons
    - a methodology for the authority to determine notification or the acceptable level of adverse effects.
- Where the NPF provides discretion, the plan should be able to be more specific regarding notification decisions, providing more certainty for consent authorities.
- In subclause (2)(a), only affected persons should have to be identified (removing reference (inserted wrongly) to "persons from whom approval must be obtained").
- Subclause (3)(b) would require RPCs or the Minister to consider whether any information obtained from the notification process was likely to make a material difference to the consent decisions. This would not be easily ascertained at the planning stage and we recommend removing it. The Minister or RPC should have to consider the matter in subclause (3)(a) but not the matter in subclause (3)(b).

Affected persons and groups

Clauses 201 and 202 set out the process for decision makers when identifying:

- affected persons in relation to a resource consent
- persons from whom approval must be obtained in relation to a permitted activity
- affected protected customary rights groups
- affected customary marine title groups.

Under clause 201(2)(c), the person would have to have an interest in the application that is greater than that of the general public. We recommend adding a second requirement: that the person was likely to experience adverse effects that are more than minor, compared to what is anticipated by a plan or the NPF. This would support the shift away from the RMA's focus on minor adverse effects, towards the bill's focus on outcomes.

We recommend removing clause 201(2)(a), (b), and (d). Some of that content could result in additional uncertainties and some is already covered in clause 198. Consequential to removing paragraph (b), we recommend amending clause 156(3)(f) to make clear that a person who has given written approval for a permitted activity is a

person who may be adversely affected by an activity that breaches a rule and triggers the need for a consent.[14]

Under sections 95B(2), 95F, and 95G of the RMA, consent authorities identify affected protected customary rights and customary marine title groups. If identified, these affected groups must be notified. We recommend inserting clause 201(2)(g) to retain this approach.

We recommend amending subclause (2)(e) and removing subclause (4) regarding statutory acknowledgements. Our amendments would apply to Ministers developing the NPF, RPCs developing plans, and consent authorities. New clause 201(2)(e) and (2A) would ensure they took the following approach:

- determine whether the proposed activity is on or adjacent to, or could affect land that is the subject of a statutory acknowledgement
- determine whether the adverse effects of the activity on the person to whom the statutory acknowledgement was made were minor or more than minor, having regard to the statutory area and any statutory acknowledgement with which the person was associated
- when the effect was minor or more than minor, the person would be an affected person.

We note that "minor or more than minor" is a lower threshold than the test for other types of affected person. We consider this appropriate because it would fully uphold the effect of statutory acknowledgements.

Requirements to notify or non-notify

Clauses 205 to 207 set out when notification would be required in the NPF and plans, and when it would be precluded. Consent authorities also need to make some decisions on notification. The matters for them to consider are distinct from matters that a Minister and RPCs would have to consider when developing planning documents. The bill should clearly incorporate the two sets of considerations:

- for decision makers on the NPF and plans
- for consent authorities when processing a consent application.

Consent authorities

Applicants could request public notification regardless of what is directed in a planning instrument. Also, consent authorities should have to publicly notify an application that is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977. We recommend providing in new clause 207 that, when determining an application, consent authorities conform with the following approach to notification:

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[14] We note also our recommendation to relocate clause 156 to new clause 301A.

- They would not need to notify (new subclause (1)) if—
  - either the presumption for anticipated (controlled) activity applied, or the NPF or plan did not require notification, and
  - no affected persons were identified.
- They would need to give limited notification (new subclause (2)) if—
  - either the presumption for anticipated activity applied, or the NPF or plan required limited notification, and
  - there was an affected person in relation to the activity or an affected customary marine title or protected customary rights group was identified.
- They would need to publicly notify (new subclause (3)) if either—
  - the presumption for discretionary activities applied
  - the NPF or plan required public notification
  - there was a joint application to exchange reserve land under the Reserves Act
  - the applicant requested it.

Ministers and RPCs

We recommend relocating the provisions on notification and non-notification that relate to decisions on the NPF and plans, to better reflect requirements that apply at different decision-making levels.

We recommend that the notification clauses for Ministers and RPCs (in new clauses 198AAB and 198AAC) reflect the following approach when deciding on the content of the NPF or plans and assessing whether the presumption of notification was appropriate:

- They would not notify if the activity was consistent with relevant outcomes, complied with limits, had effects that were understood, and there were no affected persons.
- They would give limited notification if the activity was consistent with relevant outcomes, complied with relevant prescribed limits, and there were affected persons.
- They would publicly notify if there was adequate information to understand the extent to which the proposed activity contributed to achieving relevant outcomes or complied with relevant prescribed limits, or the activity was likely to have effects that are not well understood.

Mediation

Clause 214 as introduced would enable a consent authority, with the consent of all parties, to refer applicants and submitters to mediation. The outcome of the mediation would be reported to the consent authority. We recommend amending subclause (5) to

also require the outcome to be provided to the applicant and any submitters. This would ensure that all parties were aware of the outcome.

Decisions

Clause 223 sets out:

- the matters a consent authority would have to have regard to when considering a resource consent application
- the matters it would have to disregard
- how it would regard the NPF, plans, and the purpose of the bill
- the situations in which consent authorities could not grant resource consents.

Mandatory matters for consent authorities to regard

Subclause (2) lists the matters the consent authority would be required to have regard to. Consistent with our other recommendations, we recommend changing the word "mitigate" in subclause (2)(b) to "minimise".

Under subclause (2)(c), the consent authority must have regard to an activity's contribution to any relevant outcomes, limits, targets, and policies in planning documents. However, it would be difficult to determine how an activity "contributes to" a limit. Also, subclause (11) would prevent a consent being granted if "contrary to" a limit. We recommend removing "limits" from subclause (2)(c).

Under subclause (2)(e), the consent authority must have regard to the "likely state" of the future environment as specified in a planning document. We recommend amending clause 223(2)(e) so that it refers to the "preferred state" rather than the "likely state".

Subclause (2)(f) would require the consent authority to have regard to any prior non-compliance by the applicant. We recommend relocating this provision as new subclause (3B) and amending it as follows:

- To avoid potential time delays in getting the information, prior non-compliance should be a discretionary rather than compulsory consideration.
- Authorities should be able to look at previous non-compliance with the RMA as well as with the bill.
- The definition of "applicant" could limit the consideration of all relevant compliance history. We recommend amending the subclause so that the compliance history of people who would be responsible for complying with the consent conditions (for example, company directors) could also be considered.

We recommend correcting an error in subclause (2)(g) to make it not subject to subclause (9).

Recourse to NPF and purpose of bill

Under clause 223(10), the consent authority could have regard to:

- the NPF if, and to the extent that, the plan does not adequately deal with the matter
- the purpose of the bill if, and to the extent that, the NPF does not adequately deal with the matter.

Decisions about desired outcomes, and particularly any choices between outcomes, should be made at the highest level of the planning regime possible. Consenting decisions should not need to relitigate these matters when the NPF and plans have already dealt with them.

To reflect this approach in the bill, we recommend making subclause (2) subject to subclause (10). We also recommend amending subclause (10) as follows:

- The consent authority could have regard to the NPF only to the extent necessary to resolve a conflict or an ambiguity or to address a matter that was not addressed in the plan. This limitation would not apply where framework rules had a direct effect.
- The consent authority could have regard to the purpose of the bill only to the extent necessary to resolve a conflict or an ambiguity or to address a matter that was not addressed in the NPF.

Matters for which consent would not be granted

We recommend inserting a new paragraph into subclause (11), which sets out the situations in which a consent would not be allowed. The new paragraph would prohibit consent if an activity would have a more than trivial effect on a place of national importance, subject to the exclusions in clause 559(1).

Exclusion of the "permitted baseline" test

The current system's "permitted baseline" test allows the consent authority to disregard any adverse effects that are permitted by a planning instrument. In our view, the permitted baseline test is not compatible with the bill's outcomes-focused approach. It could also create a status quo bias and lead to conservative planning outcomes. Clause 223(2) sets out which matters the consent authority would have to have regard to when considering an application for a resource consent. We recommend inserting a new subclause so that the presumption is that a consent authority considering the effects of an activity must have regard to the adverse effects of activities permitted by the NPF or a plan. However, to avoid unnecessary relitigation of adverse effects considered acceptable by the NPF or plan in the context of achieving desired outcomes, there should be a discretion to disregard those adverse effects, but only to the extent that doing so would be consistent with relevant outcomes.

Matters relevant to certain applications

Clause 227 would require a consent authority to have regard to additional matters for certain discharge permits, coastal permits, and reclamations. Under subclause (1)(d), it might be impossible to know, at the time of a decision, what the best practicable option for discharge is in future. We therefore recommend removing the phrase "over

the duration of consent". The consent authority could review consent conditions under clause 277.

Subdivisions

Clause 228 sets out when a consent authority could decline a subdivision or grant it subject to conditions. Under subclause (1)(a), it could do so if necessary to reduce risks arising from natural hazards.

We agree with the submission that reducing risks is challenging in places affected by ongoing and increasing climate hazards. We recommend amending subclause (1)(a) so that subdivisions could also be refused or made subject to conditions if necessary to avoid or mitigate risks. "Avoid" is aimed at preventing new risks in a known high-hazard area. "Mitigate" recognises that land could be used for a period before further controls were needed as the environment changed.

We also recommend changing subclause (3) to align it with amended subclause (1)(a).

Consent authorities should consider not only present natural hazard risks, but also the extent to which those risks may change over time as a result of climate change. We recommend amending subclause (1)(b) to provide for this.

Restrictions for certain discharge and coastal permits

Clause 229(2) would restrict consents from being granted for certain discharge or coastal permits. Under paragraph (a)(ii), the permit could not be granted if, before reasonable mixing, the discharge was likely to give rise to "irreversible effects on the waterbody". This provision should only apply to adverse effects and they should be significant. We recommend amending paragraph (a)(ii) to make this clear.

Conditions of resource consents

Clause 232 sets out the types of condition that could be included when granting a resource consent and the circumstances where particular types of conditions could be included. We recommend amending subclause (1) to allow consent duration as a condition. This would align with amended clause 277(7), under which the consent authority could review duration.

Subclause (5) sets out prerequisites before a condition could be imposed on a consent to discharge under subclause (1)(e). We recommend amending subclause (5)(b) to ensure that a condition would be the most efficient and effective means of:

- preventing or minimising any actual or likely adverse effect on the environment
- achieving environmental limits or targets in the NPF or a plan.

Adaptive management approach

Clause 233 would enable consent authorities to grant resource consents with conditions that require an adaptive management approach. As described in clause 233(2)(a), this type of approach would include allowing an activity to commence on a small scale, for a short period, or in stages to allow its effects to be monitored.

We consider that clause 233(2) should allow more flexibility and the ability to adapt to different circumstances. We recommend amending it so that any adaptive management approach would:

- require inclusion of the following elements:
    - the activity to commence on a small scale, for a short period, or in stages
    - baseline monitoring
    - ongoing monitoring or reporting
- allow discretion to include the following elements:
    - certification or review of environmental management plans
    - provisions to step back or cease temporarily when triggers were met
    - provisions to allow for an activity to be discontinued permanently.

We recommend amending subclause (2)(c) to make it more workable and to reflect a Supreme Court decision that baseline information is normally needed for monitoring and reporting to ensure that any adaptive management approach is appropriate.[15] Also, subclause (2)(c), as introduced, refers to "enforcement limits". In the context of the subclause, these would not necessarily mean the limits set in planning documents. We recommend removing this term and in subclause (2)(f) clarifying that "unacceptable" effects are those that were not anticipated at the time the consent was granted.

Time limits for notifying decisions

Clause 242 provides time frames for issuing decisions on applications. We agree with a suggestion that the provision should be extended to allow for a scenario when requests to be heard are withdrawn and a hearing is cancelled. We recommend inserting new subclause (5) to require that the notice of decision be given within 20 working days of the cancellation of the hearing.

Alternative dispute resolution

Clauses 244 to 252 provide for alternative dispute resolution (ADR) before applications for resource consents are decided.

Clause 251 sets out the adjudication process, provides that the adjudicator's decision is binding, and sets out the circumstances in which it could not be appealed. We consider that the adjudicating process should be consistent with the NPF and plan, as well as with the clauses in Part 5 relating to decisions and conditions of resource consents. We recommend inserting a provision to specify that Part 5 of the bill would apply to applications going through the ADR process, except and to the extent that Part 5, subpart 5 provided otherwise.

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[15] See *Sustain Our Sounds Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 40.

Under clause 252, parties could appeal to the Environment Court about a decision from an ADR that was required by a plan. We recommend amending subclause (3) to provide that the adjudicator would not be a party to such an appeal.

Clause 254 provides the procedure for appeals. Under subclause (2), appellants would have to notify others about the appeal within 15 working days of lodging it. However, we understand this was a drafting error. The subclause should carry over section 121(2) of the RMA, under which the time frame is 5 days.

Applications by existing holders of a resource consent

Clause 270 provides for applications by existing resource consent holders. Subclause (4)(c) would require the consent authority to consider, among other things, the applicant's "full compliance history". This phrase is not clear enough. We recommend removing the word "full" and clarifying that the history that needs to be considered is any convictions or enforcement orders imposed by a court, including under the RMA.

When and how could consent conditions be reviewed?

Clauses 277 to 284 provide for the review of consent conditions. Clause 277(4) sets out when a consent issued by a regional consent authority could be reviewed. We recommend amending it to clarify that the review of a consent issued by a regional consent authority would be discretionary. It would not be limited to only when specifically directed in the NPF or plan.

Clause 277(3) and (4) refer to circumstances when it is necessary to reduce risks from natural hazards. In line with our recommendations about clause 26, earlier in this report, we recommend inserting reference to "avoiding" and "mitigating" (as well as "reducing") natural hazard risks. We recommend similar amendments to clause 281(7).

Clause 277(7) would allow a plan to require a consent's duration to be reviewed. We recommend extending subclause (7) so that it also applied to the NPF. The NPF should also be able to direct a review of a consent's duration.

In our view, subclause (7) should be a better reflection of the provisions in subclauses (3) and (4), which would apply to territorial and regional consent authorities respectively. We recommend amending subclause (7) to align the circumstances to review duration of consent with subclauses (3) and (4).

Clause 282 would require a consent authority to report to the RPC on its reviews of consent conditions. We recommend removing the clause. We agree with submitters that these reports to the RPC would not be necessary.

Transferring consents

Clauses 286 to 288 provide for the transfer of coastal permits, water permits, and discharge permits. Under clause 289, a consent authority could prevent such transfers if, based on prior non-compliance, there was reason to believe that the transferee might not comply with consent conditions. In line with our earlier comment, we think this provision should be narrower. The only enforcement action that should be considered

is that resulting in a conviction or a court order. We recommend amending clause 289 accordingly.

We also recommend amending the clause to:

- enable consent authorities to cancel a resource consent that had been transferred
- require them to notify a transferee whose transfer was being prevented or cancelled
- provide for transferees to challenge the prevention or cancellation of a transfer.

For certainty and clarity, we recommend amending clauses 289 and 290 to:

- replace the phrase "reason to believe" with "believes on reasonable grounds"
- remove the phrase "be able".

The heading of clause 292 is "Activities allowed under consents". This is not descriptive enough. We recommend renaming it "Person acting under resource consent with permission".

No certificate of compliance if permitted activity notice is needed

Clauses 294 to 298 provide for the issuing of certificates of compliance and are based on section 139 of the RMA. Under clause 294, a person could request a certificate of compliance from a consent authority. A certificate of compliance means that an activity in a certain location is permitted and does not need a resource consent.

Certificates of compliance are different from permitted activity notices. They have different purposes and time frames. We recommend amending clause 296 to specify that a certificate of compliance could not be issued if a permitted activity notice was required (under clause 302) or a deemed permitted activity notice was issued (under clause 157).

Permitted activity notices

Clauses 302 and 303 provide for permitted activity notices. We recommend removing clause 302(7) because it repeats clause 303(2).

Consent authorities should have no discretion to decline a permitted activity notice or to request further information. To make this clearer, the language of "applying for" a permitted activity notice should be changed. We recommend amendments to clause 302 to ensure that:

- people would have to provide information rather than apply
- the consent authority could not decline a permitted activity notice if all the required information was provided
- the authority could not request further information.

If a consent authority returned a permitted activity notice as incomplete under clause 302(4), it should have to return the relevant information and provide the reasons for doing so. We recommend amending subclause (4) to reflect this.

Not all permitted activities would require a permitted activity notice. The NPF or plan would set out which activities required one. We recommend providing in amended clauses 156 and 302 that all information requirements would be prescribed in the plan or the NPF. We also recommend making clear that a permitted activity notice would only be required if directed by the NPF or a plan.

The heading of clause 303 is inaccurate. We recommend changing it to reflect the language in clause 303(2) that a permitted activity notice "lapses" 3 years after issuance if it has not been implemented.

We propose a change relating to takutai moana rights, in relation to the Marine and Coastal Area (Takutai Moana) Act. We recommend amending clause 303 to provide that, if a permitted activity notice was for an area where a customary marine title order or agreement was in effect, section 68(1) of the Act would apply with any necessary modifications.

Fast-track consenting

Part 5, subpart 8 provides an alternative consenting process for:

- resource consent applications for an eligible activity
- notices of requirement (NORs) for a designation for an eligible activity.

People wanting to use the process would apply to the Environmental Protection Authority (EPA), which would check the referral application before forwarding it to the Minister. If the Minister accepted the referral application, it would go to an expert consenting panel for the substance of the application to be considered.

The fast-track provisions in the bill are based on those in the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA). The FTCA was passed in 2020 as emergency legislation, and expires in July 2023.

For brevity, we recommend renaming the "Specified housing and infrastructure fast-track consenting process". Our proposed name for subpart 8 is "Fast-track consenting process".

Minister would decide which activities might be fast-tracked

Clause 316 sets out which activities would be eligible for fast-tracking. Clause 317 sets out ineligible activities. We propose amending clause 317 to set out discretionary grounds for the Minister to decline fast-track applications. New paragraph (a) would enable the Minister to decline a fast-track application if another consenting process was more appropriate. New paragraph (a) is relocated from clause 318(6). Expanded clause 317 would also enable the Minister to decline an application if:

- the project could have significant adverse environmental effects, including greenhouse gas emissions (paragraph (b))
- the applicant had a poor history of environmental regulatory compliance (paragraph (c))

- the activity would be inconsistent with a Treaty settlement or would involve land returned under a Treaty settlement or that was considered necessary for Treaty settlement purposes (paragraphs (d), (e), and (f)).

Under clause 317 as introduced, fast-track consenting could not be used for an activity in a customary marine title area that had not been agreed to by the holder of the relevant customary marine title order. This provision should also cover activities in a protected customary rights area.

Fast-track applications

Under clause 318, people wanting to use the fast-track consenting process would apply to the EPA. The Minister (or Ministers, if it included a coastal marine area) would then have to decide whether to accept the application.

Under clause 316(f), certain housing developments would be eligible for the fast-track process. Because the housing-related tests need an additional assessment, we think they would be appropriate as part of the ministerial decision-making process. We therefore recommend amending clause 318(3)(b) to require applications to describe how the activity satisfied those housing-related tests.

We agree with the submission that the additional tests in clause 318, which relate to NORs, are surplus. We therefore recommend removing subclauses (3)(d) and (5).

We propose clarifying the EPA's role at this stage of the fast-track consenting process. We recommend inserting subclause (9) in clause 318 to require the EPA to give the Minister its view on whether to accept or decline the application. We note that the Minister could still decide differently from that advice (and we recommend making this explicit in new clause 318B(1)).

Under section 22 of the FTCA, the Minister could ask for further information about an application. We recommend providing similarly in new clause 318A(5).

In clause 318A(4) we recommend inserting a similar provision to section 17 of the FTCA, with an amendment so the EPA would prepare a report for the Minister to consider. The report would have to identify relevant iwi authorities, Treaty settlement entities, relevant principles and provisions in those Treaty settlements (including those relating to the composition of a decision-making body for the purpose of the RMA), any recognised mandates or current negotiations for Treaty settlement, and court orders granted under the Marine and Coastal Area (Takutai Moana) Act or similar.

Similar to the approach in the FTCA, we recommend inserting new clause 318B detailing the Minister's decision process.

We also recommend inserting new clause 318C to set out detail about the process after the Minister accepted a referral application. New clause 318C(2) would require the Minister's decision to be set out in writing with reasons, signed, and served on the relevant parties. The Minister could also specify restrictions or other matters for the lodging of the relevant substantive document (application for consent or lodgement of NOR).

New clause 318C(3) would require the EPA to:

- notify the applicant and other relevant parties, including the Chief Environment Court Judge
- make the information publicly available.

We recommend that people wanting to use the fast-track process should have to withdraw any application lodged under the standard process. New clause 318C(4)(b) would require them to do so.

Under clause 319, referral applications that the Minister accepted would be referred to an expert consenting panel. We think that the EPA should support the panel, including being able to request information from an applicant at any point until the panel made its final decision. We recommend inserting new subclause (1C) into clause 319 to this effect.

Expert consenting panel

We recommend inserting new clause 319A to set out the notification requirements once an application has been referred to a panel.

Schedule 6 clause 17 of the FTCA lists the people and groups from whom a panel must invite written comments. New clause 319A would copy those invitations, with some key differences:

- Ministers with affected portfolios should be invited, rather than the bill listing specific portfolios (subclause (4)(g)).
- The bill should not include the groups listed in Schedule 6 clause 17(6)(k) to (u) of the FTCA.
- The panel could also invite any person who the panel considers represents a relevant aspect of the public interest.

We consider that the notification provisions for fast-track NOR applications should align with the notification provisions for standard NORs, with some modifications. We recommend providing for this in new clause 319A(3).

Clause 320 would apply clauses 209 to 213 (the submissions provisions for standard resource consenting) to fast-track applications. We recommend amending clause 320 to clarify that it refers to substantive fast-track applications or NOR lodgements, not applications to a Minister to get referred to the panel.

Submissions

Clauses 321 to 327 set out the hearing procedure and decision-making processes for fast-track consenting. Clause 321 would require the panel to decide whether a hearing is appropriate in each case.

Under clause 321(1)(b), the panel could require submitters to provide evidence before a hearing. We recommend making this more specific so that it refers to the start of the hearing. We also recommend amending it to make clear that applicants, as well as submitters, could provide evidence.

Fast-track decisions

Clause 326 provides for final decisions from the panel. We recommend inserting subclause (1A) into clause 326 to confirm that the panel could make one of the following decisions:

- about a fast-tracked resource consent application:
    - grant it, with or without conditions
    - decline it
- about a fast-tracked NOR:
    - cancel it
    - confirm it, with or without modifications or conditions.

Some submitters were concerned about the time period in clause 326(5) and (6). It would allow 2 years for the applicant to start the activity. To allow the process to be flexible, we recommend amending subclause (6) to enable a longer period before an application lapsed, of up to 5 years.

Schedule 6 clause 41 of the FTCA provides for the inclusion of fast-tracked designations in plans. We recommend inserting new clause 326A as an equivalent provision in the bill.

Any resource consent or designation granted or confirmed by a panel should have the same effect as if it had been granted or authorised under Part 5 of the bill. The relevant local authority should have all the necessary functions, powers, and duties in relation to these consents and designations. We recommend inserting new clause 326B to reflect this.

Appeal process should be the same as for proposals of national significance

Clause 327 sets out appeal rights against a panel's decision. Like the rest of subpart 8, it is based on the FTCA. We consider that it would be inappropriate for the permanent appeal process to follow the truncated appeal process established by emergency legislation. We recommend amending clause 327 so that the fast-track appeal process follows the appeal process for proposals of national significance.

Expert consenting panel—new schedule

Compared with the FTCA, the bill does not contain enough detail about the make-up of the expert consenting panel. Schedule 5 of the FTCA sets out the purpose and functions of such panels and provides for their procedure and administration. We recommend inserting new Schedule 10A to provide similarly.

Clause 2(1) of the new schedule provides that the Chief Environment Court Judge would appoint panel members. Clause 2 also provides that a panel would consist of up to 4 members. One would be nominated by the relevant local authorities, one by the relevant RPC, and one by relevant iwi authorities. A period of 10 working days would be allowed for the nomination of panel members.

Under clause 3 of our new schedule, the panel would be chaired by a current or former Judge or another suitably qualified person with legal expertise. Under clause 4, the panel collectively would have the following skills:

- knowledge, skills, and expertise relevant to resource management issues
- technical expertise relevant to the project
- an understanding of te Tiriti o Waitangi and its principles, tikanga Māori, and mātauranga Māori.

Our new schedule also provides for:

- the removal, resignation, and replacement of panel members
- their remuneration
- their liability
- advice and secretariat support from the EPA.

Proposals of national significance

Part 5 subpart 9 provides for proposals of national significance. Clauses 334 to 337 deal with the lodging of applications for resource consent or NORs with the EPA.

Clause 334 would enable resource consent applications for potentially nationally significant proposals to be lodged with the EPA. It would also enable NORs to be lodged for a designation or to alter a designation. A matter could not be lodged with the EPA if it had been lodged with a local authority or RPC and the applicant or local authority had requested that the Minister "call in" (make a direction under) the matter.

We recommend the following amendments to clause 334 to:

- clarify that an application for a change to a resource consent, or cancellation of the conditions of one, could be lodged with the EPA
- allow a NOR for a designation or to alter a designation to be lodged with the EPA
- provide that matters could not be lodged with the EPA if an RPC had asked that the Minister call in the matter
- insert new subclause (4), similar to section 145(10) of the RMA, to require a person who lodges a matter with the EPA to notify the local authority.

We recommend correcting an error in clause 336(2)(b). It should only apply when the Minister referred the matter back to a local authority or RPC. That is, the reference to the Minister's directions should only apply to clause 337(1)(c) and (d). This aligns with the approach in the RMA.

Other matters related to resource consents

Cost recovery

Under clause 374, the local authority, the EPA, the Minister, or the RPC could recover costs from the applicant for processes under Part 5 of the bill. We recommend amend-

ing clause 374 so that it would apply only to subparts 8 to 10 of Part 5. Subparts 8 to 10 include fast-track consenting and proposals of national significance.

We also recommend replacing "may" with "must" in clause 374. This would ensure that each of the mentioned agencies would have to recover costs.

In subclause (6), we recommend removing mention of local authorities and RPCs. For them, the general cost-recovery criteria in clauses 821 to 824 would apply.

Information required in resource consent applications

Schedule 10 sets out the information that would be required in applications for resource consent[16]. Clause 6 of the schedule sets out the information that an assessment of environmental effects would have to contain. Clause 6(1)(c) would apply if the activity included the use of hazardous installations. We recommend amending clause 6(1)(c) to include an assessment of any risks to the environment that are low probability but with a high potential impact. Clause 6 of the schedule sets out the information that an assessment of environmental effects would have to contain. Clause 6(1)(c) would apply if the activity included the use of hazardous installations. We recommend amending clause 6(1)(c) to include an assessment of any risks to the environment that are low probability but with a high potential impact.

We recommend amending clause 6(2) to clarify that the NPF and plans could also have a role in directing an assessment of environmental effects.

Part 6—Management of water and contaminated land

Part 6 as introduced sets out provisions about the management of water and contaminated land.

Water conservation orders

Part 6, subpart 1 provides for water conservation orders. Any person could apply to the Minister to make a water conservation order for a water body.

Purpose and meaning

Clause 378 as introduced states the purpose of water conservation orders. Subclause (2) sets out the matters that a water conservation order could provide for. We recommend an amendment to the subclause to make it more consistent with the RMA. Paragraph (b)(v) should refer to spiritual purposes, in addition to recreational, historical, and cultural purposes.

Under clause 379, water conservation orders could impose restrictions or prohibitions on the powers and functions of RPCs. Possible restrictions and prohibitions are set out in subclause (2). We recommend amending subclause (2)(e) to refer to the "maximum contaminant concentrations and loading", so that the paragraph is consistent with the terminology in the NPS–FM.

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[16] We discuss Schedule 10 more fully later in this commentary.

Special tribunals

If the Minister receives an application for a water conservation order, and does not reject the application, the Minister must appoint a special tribunal to hear and report on the application.

Clause 383 as introduced would require the special tribunal to make a public notice about the application. One of the requirements includes servicing notice of the application to certain parties. We recommend amending the clause so that notice of the application must be served to relevant groups that represent hapū (as well as iwi authorities) and persons who hold relevant resource consents.

Clause 385 as introduced provides for hearings by special tribunals. Subclause (2) would apply the hearings provisions in Parts 3 and 8 as introduced (for RPCs in relation to resource consents) to special tribunals in relation to water conservation orders. The references to Parts 3 and 8 should be deleted. The hearing provisions of sections 39 to 42 of the RMA should continue to apply to the hearing procedures for water conservation orders. Therefore, we recommend that clause 385(2) refer to the provisions under clauses 79 to 92 of Schedule 7.

Clause 387 as introduced would require a special tribunal to prepare a report on an application after the hearing, and give notice of it to certain parties. We recommend that iwi authorities and groups that represent hapū be included as parties that will be sent the notice of the tribunal's decision.

Environment Court

Clauses 388 to 392 set out provisions about water conservation orders in relation to the Environment Court. Following a report by a special tribunal, certain parties would have the option to submit to the Environment Court in respect of a special tribunal's report on a water conservation order. Clauses 388 and 390 include lists of parties who would have rights to make submissions to the court or be heard at a public inquiry. We recommend including iwi authorities and groups that represent hapū in these lists.

Making, revoking, or amending water conservation orders

Clause 393 sets out how a Minister could recommend a water conservation order be made for any water body.

As introduced, clause 396 defines what the legal effect of water conservation orders would be on existing and new resource consents. Clause 397 sets out what the relationship would be between plans, resource consent decisions, and water conservation orders.

We think the interaction of the two clauses should be clarified. Clause 396 specifically lists situations where a consent authority must not grant any water permit, coastal permit, or discharge permit unless certain circumstances are met. Clause 397 states more broadly that, when considering an application for a resource consent, a consent authority must take into account any relevant water conservation order. The intention is that the more strict requirements of clause 396 would apply in the first instance,

and then clause 397 would apply if the circumstances in clause 396 were not met. We recommend making this clear in clause 397.

Freshwater farm plans

Part 6, subpart 2 contains provisions relating to freshwater farm plans. Its purpose is to better control the adverse effects of farming on freshwater and freshwater ecosystems within specified districts, regions, or parts of Aotearoa New Zealand through the use of certified freshwater farm plans.

We note that Part 6, subpart 2 as introduced comprises Part 9A of the RMA, which was enacted in July 2020. We note that RMA regulations relating to freshwater farm plans have recently been made. We think that as few changes to these provisions should be made as possible in light of their recent enactment.

Definitions

Clause 400 as introduced contains definitions in relation to subpart 2—freshwater farm plans.

- We recommend that a definition of "farm" be included to replicate that used in section 217B of the RMA.
- We recommend clarifying that "regulation" refers to those regulations made under the subpart.
- Throughout the subpart, we recommend clarifying that "outcomes" refers to "freshwater farm plan outcomes".

General

If a farm meets the land-use threshold, it must have a certified freshwater farm plan. Clauses 405 and 406 set out how certification and audits would occur.

Some submitters, particularly from the horticulture sector, suggested that the bill should provide recognition of certified sector schemes, which could be used as a pathway for meeting the freshwater farm plan requirements. We agree that there could be benefits in allowing approved industry organisations to provide freshwater farm plan certification and audit services to their members. However, we note that, for this to happen, some industry organisations would have to extend or amend the scope of their assurance services to encompass all freshwater farm planning regulatory requirements.

In light of the above, we propose amending provisions in the RMA and the bill to provide a pathway for some industry organisations to provide certification and audit services. The Minister would have a role in setting criteria for approvals, which regional councils would assess industry organisations against. The key points of our proposed amendments are as follows:

- Clause 409 would require regional councils to appoint auditors and certifiers. We recommend expanding subclause (1)(a) and (b) to enable regional councils to also both approve and appoint certifiers and auditors.

- Clause 411 sets out the regulation-making powers relating to freshwater farm planning. We recommend inserting a new regulation-making power so that an Order in Council could prescribe the requirements for approval of industry organisations, including any further obligations for approved industry organisations.
- We recommend creating a new clause 409A setting out how regional councils could approve industry organisations to provide certification and audit services.
- We recommend that the Minister should be able, by notice in the *Gazette*, to issue standards by which industry organisations must be assessed for determining their suitability to be an approved industry organisation. The standards should also be able to set out the kinds of organisations eligible for approval, the content, and processes to provide for compliance with the standards, such as training programmes and appropriate conflict management.
- To approve the standard, the Minister should be satisfied that there has been appropriate consultation on the standard, and that it is consistent with the subpart and regulations and supports the efficient and effective running of the farm plan system.
- In light of the above, we recommend amending clause 407 to expand the functions of regional councils to reflect the additional responsibilities.

Contaminated land

Part 6, subpart 4 would provide a framework, based on the polluter-pays principle, for the management of contaminated land.

Territorial authority duties

Clause 421 sets out the obligations for territorial authorities when dealing with a proposal for contaminated land. Territorial authorities would be required to consider environmental effects, and to control the use and development of the land to prevent and mitigate adverse effects on the environment and human health.

We think the reference to "dealing with a proposal" should be further defined, so that there is a clearer point at which the matters must have been considered and decisions made regarding control. In this regard, we recommend that the clause explicitly refer to the consideration of a consent application for an activity under clause 223 or 421.

Significant contaminated land sites

Clause 422 would enable the Minister to classify and declassify a site as a "significantly contaminated land site". Clause 423 would enable the EPA to take a role as a lead regulator for sites classified under clause 422. The intention of the provisions is to provide a pathway for central government to assist local councils to deal with high-risk and nationally significant contaminated land. Submitters queried the language used in the provisions.

We note that the level of contamination should not be the only factor when determining whether land should be classified under clause 422. Therefore, we recommend

rewording "significantly contaminated land site" to "significant contaminated land site", and aligning the language in the two clauses. We also recommend making it clear that land may be classified as a "significant contaminated land site" if the contamination is significant because of factors such as the location of the land, its proximity to water or a water body, or to land that is culturally or environmentally sensitive.

Part 7—Coastal matters

Part 7 of the bill provides for coastal matters. It seeks to provide a separate framework for the allocation of certain coastal resources, separate to allocation methods for other resources under clause 87 of the bill. This separation is an existing feature of the system under Parts 7 and 7A of the RMA. The separation is designed to preserve the preferential rights of iwi as set out in clauses 450 and 488 of the bill, and to ensure obligations under the Māori Commercial Aquaculture Claims Settlement Act continue to be upheld.

Clause 428 as introduced provides that the allocation framework (defined in clause 7) would not apply to the resources and activities managed under Part 7. Those resources and activities include:

- the occupation of the common marine area and the coastal marine area
- the removal of any sand, shingle, shell, or other natural material
- the reclamation or drainage of any foreshore or seabed.

Occupation of common marine and coastal area

Part 7 subpart 1 (clauses 429 to 472) sets out matters relating to the occupation of the common marine and coastal area. Clause 429 provides that consenting for coastal permits authorising the occupation of coastal space would be subject to the requirements in subpart 1 of Part 7.

Applications in relation to aquaculture settlement areas

Clause 431 would restrict anyone from getting a coastal permit in aquaculture settlement areas unless either of the following apply:

- They hold the authorisation to do so under the Māori Commercial Aquaculture Claims Settlement Act.
- It is an activity compatible with aquaculture and certain parties have been consulted.

There is a gap in the clause as introduced that could enable a regional council to issue a permitted activity notice for an activity within an aquaculture settlement area that is not compatible with aquaculture. This could undermine the aquaculture settlement areas that are part of negotiations or settlements under the Māori Commercial Aquaculture Claims Settlement Act. We recommend amending clause 431 to also prevent permitted activity notices from being issued in an aquaculture settlement area unless either of the above two requirements as set out in clause 431 apply.

Provisions in a plan relating to occupation of common marine and coastal area

Provisions about occupation of common marine and coastal area

Clause 432 provides that a plan could address the effects of occupation in the common marine and coastal area, as well as manage competition for occupation, by specifying certain matters. The plan could provide that no application could be made for a coastal permit to occupy space before a date to be specified in a public notice. We recommend clarifying that the regional council would be the entity required to issue a public notice.

Offer of authorisations for activities in common marine and coastal area in accordance with plan

Clause 435 provides that the regional council must offer authorisations for coastal permits for the occupation of space in the common marine and coastal area, by public notice, if a rule in a plan provides for an allocation process. We recommend amending clause 435 so that this requirement would not apply to the circumstances in which the Minister responsible for aquaculture was responsible for issuing authorisations under clause 436.

Power to give directions relating to allocation of authorisations for space provided for in plan

Clause 438 provides for the Minister to give directions to a regional council where the NBE plan includes a method of allocating authorisations by the regional council. We recommend amending the clause to clarify that the relevant Minister is the Minister of Conservation.

Authorisations

Clauses 445 to 454 relate to authorisations. Clause 448 sets out the requirements for public notices about authorisations issued by a regional council or the Minister responsible for aquaculture. Subclause 2(h) would enable the notice to specify any other matter that the regional council considered appropriate. We recommend amending this paragraph to make it clear that the Minister could do the same.

Ministerial powers regarding applications for coastal permits to undertake aquaculture activities in common marine and coastal area

Clauses 455 to 460 set out several ministerial powers in relation to applications for coastal permits to undertake aquaculture activities in the common marine and coastal area. We propose two amendments.

Clause 455 provides that a regional council or RPC could request that the Minister responsible for aquaculture suspend receipt of applications to occupy coastal space for aquaculture. Two reasons would allow this: a situation of actual or anticipated high demand or competing demand, or an emerging biosecurity concern. Clause 455 also sets out the requirements that must be met for either reason to apply. One is that a suspension must be desirable to enable the plan or "other measures" to manage a bio-

security concern. We recommend amending the clause to make it clear that controls under other legislation, such as the Biosecurity Act 1993, could be considered "other measures"' to address a biosecurity concern. This would better align with the wording in clause 456.

Clause 460 provides that the Minister responsible for aquaculture could issue a further *Gazette* notice to extend a suspension on receipt of applications to occupy space for aquaculture. The Minister would have to be satisfied that the circumstances in subclause (1) are met. One of those, at paragraph (b), requires the Minister to consider that the regional council does not have satisfactory planning (or other measures) in place. However, we think measures by other persons, including the Minister responsible for aquaculture, are also a relevant consideration. We recommend amending clause 460(1)(b) so the clause applies more generally.

Ministerial power to direct that applications for coastal permits be processed and heard together

Clauses 463 and 464 set out the process the Minister must follow if they were directing that applications for coastal permits to occupy space for aquaculture must be processed and heard together. We recommend making it clear that the Minister responsible for aquaculture is the Minister referred to under these clauses.

Aquaculture areas (zones)

Subpart 3 of Part 7 (clauses 477 to 480) relates to aquaculture areas. Under the RMA, aquaculture decisions under the Fisheries Act can only be made at the consenting stage. In contrast, the bill would allow aquaculture area decisions to be made at the planning stage, and if not made then, at the consenting stage.

We propose renaming these as "aquaculture areas". We also recommend inserting new clause 476A to assist with interpreting some of the terms used in the subpart.

Request for aquaculture area decision

Clause 477 would allow any person to request an aquaculture area decision from the chief executive of the ministry responsible for the Fisheries Act. Subclause (4) sets out the timing for such requests, depending on the circumstances in which the plan was finalised. We recommend clarifying that the reference to the plan being notified by the RPC means the notification of a plan becoming operative, and not notification of a proposed plan.

Aquaculture area subject to quota management system reservation

Clause 478 sets out the process for the management of an aquaculture area if the chief executive under the Fisheries Act had made a reservation that related to stock subject to the quota management system. A reservation decision means the chief executive was not satisfied that the aquaculture activities provided for in the aquaculture area would not have an undue adverse effect on fishing. We recommend amending the clause to make it clearer what the effect of a decision should be.

We note the interaction with the Fisheries Act. Clause 478 sets out what could happen if an aquaculture agreement or compensation declaration is registered under that Act. In those situations, we recommend adding a requirement for each applicant to demonstrate that the negotiator agreed they had met the terms of the aquaculture agreement or compensation declaration before an application was granted.

Coastal permits for aquaculture activities in aquaculture area

Clause 479 sets out what must be included in a public notice if an RPC is issuing one to allow coastal permit applications for aquaculture in an aquaculture area. The clause also sets out how this process would relate to the aquaculture area decision process under the Fisheries Act.

We think that clause 479 is too long and parts of it are not needed. Some of the matters provided for in the clause are best provided elsewhere in the bill.

We propose deleting clause 479 as introduced and making the following amendments to the bill:

- We recommend amending clause 121 to clarify that if aquaculture area rules are already in place subject to an aquaculture area decision, and where the specific rules are subject to section 186JF(3) of the Fisheries Act, then those rules may not be changed or cancelled unless a further aquaculture area decision is made.
- We recommend amending sections 186ZH(2) and 186ZHA(2) of the Fisheries Act to require the chief executive to notify the consent authority that an agreement or declaration has been registered.
- We recommend inserting new clause 479 to apply if an application is granted in the part of an aquaculture area where the chief executive has made a reservation under the Fisheries Act in relation to fishing. It would make clear that, if the stocks or species are not subject to the quota management system, then the application must commence in accordance with clause 264 of the bill.

Extension of aquaculture area decision

Clause 480 provides for the extension of an aquaculture area decision by the chief executive if the RPC requested it. We recommend amending the clause to clarify that only the duration of an aquaculture area decision could be extended under this clause.

Coastal tendering relating to certain activities

Coastal tendering is currently provided for under the RMA. It is a mechanism that the Minister of Conservation could use where there are competing demands on coastal space.

Part 7 subpart 4 sets out provisions for coastal tendering. Under the bill, an Order in Council could be made to stop consents for certain activities from being granted for a specified part of the marine and coastal area. Consents could be granted if the Minister gave an authorisation through a tender process. We propose some amendments to the subpart.

First, clause 485 would require the Minister of Conservation to serve a copy of an Order in Council on the appropriate regional council. We think this should be served on the RPC. The Minister would also need to notify certain parties, including tangata whenua through iwi authorities. We think that groups that represent hapū should also be directly served a notice.

Second, clause 486 would require a regional council, once it got a copy of the Order in Council, to endorse the particulars of the order on the plan. We recommend amending clause 486 so that an RPC must endorse the particulars on a plan (or proposed plan).

Part 9—Subdivision and reclamation

Part 9 of the bill covers the subdivision of land, reclamations, esplanade reserves, esplanade strips, and access strips.

Clause 568, the interpretation clause, includes a definition of "certificate of code compliance". The definition refers to a certificate described in clause 584. We agree with submitters that the definition should be clearer. We recommend removing the definition from clause 568 and amending clause 584(2) to provide that a certificate of code compliance is one issued pursuant to section 116A of the Building Act 2004 that must be lodged with the Registrar-General of Land.

Part 10—Exercise of functions, powers, and duties

Part 10 provides for the exercise of functions, powers, and duties under the bill.

Functions, powers, and duties of Ministers

Part 10, subpart 1 sets out the functions, powers, and duties of Ministers under the bill.

Power of Minister for Environment to appoint substitute for local authority

Clause 632 as introduced would enable the Minister to appoint one or more persons to perform a local authority's function, duty, or power if that local authority was not exercising or performing one or more of its functions, duties, or powers under the legislation. This power reflects the power in the RMA, but with an added requirement for the Minister to set out terms of reference for the appointed person.

Subclauses (4) and (5) set out the process requirements the Minister must or may follow before making an appointment. We think the process should be refined. In particular, the local authority should be given a reasonable opportunity to satisfy the Minister that it has not failed to exercise or perform any of its functions, powers, or duties.

As introduced, the clause would also require the Minister to specify a date by which the default must be remedied. Instead, we think the Minister's notice should provide a time frame within which steps must be taken to remedy the fault.

We recommend amending the clause to reflect the above proposals.

Minister may direct preparation of plan change or variation or may direct that review of plan be commenced

Clause 633 as introduced would enable the Minister to direct an RPC to prepare a change to a plan (or a variation to a proposed plan) to address a resource management issue. Clause 634 would enable the Minister to direct an RPC to begin a review of their plan. It would enable the Minister of Conservation to direct an RPC to review its plan in relation to the coastal marine area.

The clauses put several requirements on a Minister if they seek to exercise these powers. One is that the Minister must prepare a statement of expectations setting out what they expect the plan change, variation, or review to achieve. The RPC "must have regard to" this statement. The RPC would be required to report back to the Minister on how the plan change, variation, or review "meets" the statement of expectations. We think this terminology could be inconsistent. The RPC should instead report back to the Minister to explain how the plan change, variation, or review has "had regard to" the statement of expectations. We think this would also make it clearer that the Minister would not have the power to direct the outcome of the plan change, variation, or review.

Minister may direct that other action be taken

Clause 635 as introduced would enable the Minister to direct a local authority or RPC to exercise or perform a power, function, or duty under the legislation, if the Minister was not satisfied it was doing so to the extent needed to achieve the purpose of the legislation. We recommend redrafting the clause to make it clear that not meeting the time frames required under the legislation, NPF, or relevant plan would also be a reason for the Minister to make a direction.

As introduced, the clause would not apply to the preparation of a plan, a plan change, a variation, or a review of a plan. The clause incorrectly excludes the preparation of a plan. The Minister should be able to direct an RPC to prepare a plan under this clause. We note that directions for a plan change, variation, or review would be possible under clauses 633 and 634 discussed above.

Functions of Minister of Conservation

Clause 636 sets out what the functions of the Minister of Conservation would be under the legislation. They relate to coastal matters. We recommend that two of the listed functions be deleted to correct an error.

Subclause (b) refers to the Minister of Conservation being able to direct the preparation of plans, changes, or variations that relate to the coastal marine area. However, the Minister of Conservation's powers under the bill are not that broad. Clause 634 of the bill only provides for the Minister of Conservation to direct a review of a plan as far as it relates to the coastal marine area.

Subclause (d) states that the Minister of Conservation has a function to "monitor the effect and implementation of coastal permits". Under the RMA, this function was limited to monitoring coastal permits for restricted coastal activities. Under this bill,

restricted coastal activities would no longer be a feature of the system. Therefore, we think that subclause (d) would be an unintended expansion of the Minister of Conservation's role under the new system to include monitoring coastal permits.

Delegations and directions

Clause 638 would enable Ministers to delegate their functions, powers, or duties under the legislation to the chief executive of the Minister's department, with some exceptions. The Regulations Review Committee wrote to us about this clause.

Subclause (3) sets out which functions, powers, or duties must not be delegated. We recommend two main changes to this subclause.

- Paragraph (h) would prohibit delegation of recommending the appointment of an Environment Judge, alternate Environment Judge, or Chief Environment Court Judge. However, we note that the Attorney-General, not the Minister, is responsible for recommending those appointments; the Minister for the Environment is consulted in some instances. On that basis, we recommend deleting paragraph (h).
- Paragraph (i) would prohibit a Minister delegating the power to recommend the making of regulations under Part 12 of the bill. We note that other regulation-making powers in other parts of the bill would not be covered by this clause. We think it should be expanded to cover the delegation of all regulation-making powers. For clarity, we recommend a drafting change so that the prohibition on delegation relates to the "making, or recommending the making of, regulations".

Environmental Protection Authority

Part 10, subpart 2 would set out the functions of the EPA under the bill, along with possible delegations to the EPA by Ministers, and what ministerial directions would be prohibited.

Clause 639(d) would allow the Minister to request the EPA to provide secretarial and support services to a person appointed under another Act to make a decision requiring the application of provisions under the bill that are applied or modified by that other Act. For example, a hearings panel appointed under emergency response legislation that modifies the application of this legislation might require the support of the EPA.

We also envisage other situations where the EPA could provide secretariat or support services to persons appointed under this NBE legislation to make decisions under it. An example would be a board of inquiry considering an NPF proposal under Schedule 6 of the bill.

In light of this, we recommend expanding the function of the EPA under clause 639(d) to include providing support to persons appointed under the NBE legislation to make recommendations or decisions requiring the application of the legislation. We propose that the request for support to a person should be made by the Minister.

We understand that the Environmental Protection Authority Act 2011 would already allow the EPA to provide support, but we think a direct reference in the bill would make the option clearer.

Matters for which local authorities are responsible

Part 10, subpart 4 sets out matters for which local authorities would be responsible.

Functions of regional councils

Clause 643 sets out the functions of regional councils and unitary authorities. They would include participation in plan making, preparing statements of regional environmental outcomes, and monitoring and enforcement. We propose removing reference to unitary authorities in this clause, and some other clauses, as they are included in the definition of regional council.

We propose amending some of the requirements about statements of regional environmental outcomes:

- We think their purpose should be to express the values of the communities of the region and their aspirations for the use, development, and protection of the natural environment.
- We think the regional council should provide the statement to the RPC within the same time frame that applies to territorial authorities' statements (which we discuss below). This would be as soon as reasonably practicable after a director is appointed to the RPC secretariat.
- We also think the bill should clarify that the regional council would not need to ensure that the statement complies with the NPF, or any regulation or other planning document under this bill or the Spatial Planning Bill. The regional council would, however, be subject to the general obligations on decision makers in subpart 1 of Part 1.

Clause 643(3) would require a regional council to carry out any delegated or transferred functions in accordance with the delegation. The subclause refers to delegations from a Minister, RPC, or territorial authority. However, as there are no powers for the Minister or RPC to delegate functions to regional councils, we propose deleting reference to them.

Matters for which regional councils would be responsible

Clause 644 as introduced sets out the responsibilities of regional councils in relation to the use of land, the coastal marine area, water, discharges of contaminants, the beds of water bodies, indigenous biodiversity, and infrastructure.

Regarding the use of land, we recommend that "avoiding" be added to "mitigating or reducing the risks arising from natural hazards". We note that, when regional councils (and territorial authorities in clause 646) are considering natural hazards, our proposed amendment to "natural hazard" means they should give consideration to the effects of climate change which might exacerbate those natural hazards.

Regarding the beds of water bodies, we recommend "managing historic heritage" on the beds of lakes and rivers be replaced with "the management of cultural heritage" as we think this better reflects the intended coverage of the paragraph.

Functions of territorial authorities

Clause 645 as introduced sets out the functions of territorial authorities, which would include participation in plan making, statements of community outcomes, and monitoring and enforcement.

Statements of community outcomes would be optional, and at the territorial authority's discretion. Subclause (2) states that the purpose of the statements are to record a summary of the views of a district or local community within the region. We recommend refining the purpose of the statements so that they express the values of the community and its aspirations for the use, development, and protection of the environment.

Earlier we proposed an amendment to clause 643(3) about regional councils carrying out delegated or transferred functions. We think a similar provision should be inserted for territorial authorities as new clause 645(5).

We propose deleting clause 645(5) as introduced because it duplicates the requirements in clause 647.

Matters for which territorial authorities would be responsible

Clause 646 sets out the responsibilities of territorial authorities, including controlling the effects of land use, natural hazards, subdivision, indigenous biodiversity, noise, activities on the surface of rivers and lakes, and the protection of trees.

We propose some amendments to the wording of these matters:

- In paragraph (a) regarding land, we recommend that "avoiding" be added to "mitigating or reducing the risks arising from natural hazards".
- We recommend amending paragraph (a) so that the reference to indigenous biodiversity includes both maintaining and enhancing it.
- We recommend amending paragraph (b) to provide that the emission of light pollution and its effects is a responsibility for territorial authorities.
- We note that, when discussing clause 125 earlier in our report, we recommended that clause 646(e) be amended regarding the protection of trees to remove the requirement for a tree's location to justify its protection. We recommend including a responsibility for the protection of the urban tree canopy.

Local authorities to have compliance and enforcement strategy

Clause 649 as introduced would require local authorities to prepare and publish a compliance and enforcement strategy.

Subclause (1) would require the strategy to take into account relevant Treaty settlements, and voluntary or statutory agreements with local iwi or Māori (including Mana Whakahono ā Rohe agreements). For clarity, we recommend adding agreements with

hapū to the subclause. We also think that the clause should specify that when local authorities are developing a compliance and enforcement strategy, they should work with iwi authorities and groups that represent hapū within the region. We recommend inserting new subclause (1A) accordingly.

Clause 649(2) details what must be included in the strategy. We propose some amendments to the requirements. We think paragraph (a) should be reworded to require strategies to set out how compliance monitoring will be carried out, including how mātauranga Māori and other specialist input will be integrated into compliance monitoring.

We recommend adding some requirements to subclause (2). We think the strategy should also detail what matters a local authority will consider when determining to waive compliance under clause 157, and how local authorities will monitor and enforce their own compliance.

Transfer of powers

Clauses 650 to 652 as introduced would provide for local authorities and RPCs to transfer functions, powers, or duties to another public authority.

Clause 650(3) sets set out the requirements and limits on the transfer of powers. This subclause as introduced applies only to local authorities, but it should also apply to RPCs.

One of the requirements in clause 650(3)(b) as introduced is that the authority must have used "the special consultative procedure described in section 83 of the Local Government Act" before a power can be transferred. We recommend that the paragraph should instead require a local authority or RPC to use a process that gives effect to section 82 of the Local Government Act. We think this change would provide more flexibility for local authorities and RPCs. The special consultative procedure could still be used if desirable.

We think that if a request is received to transfer a power under clause 650, then the relevant local authorities and RPC should respond to the requester within 6 months of receiving the request. We recommend inserting new clause 652(4)(aa) accordingly.

Delegation of functions, powers, or duties

Clause 653 would enable a local authority to delegate functions, powers, or duties to one of its committees, to community boards, or to local boards (as the case may be). Clause 654 sets out processes and provisions for delegations under clause 653, including revocations. We recommend amending clause 654 to refer to "body" instead of "person", as that clause does not provide for delegations outside the bodies referred to earlier.

Clause 655 as introduced provides for local authorities to delegate powers and functions to employees, hearings commissioners, or other persons. The clause sets out the exceptions. We recommend deleting clause 655(2) as the local authority does not have a role in the planning decisions. The subclause is not required, and its general

intent is sufficiently covered in clause 55(2) of Schedule 7 (plan-development provisions).

Joint management agreements

Clauses 656 to 658 provide for joint management agreements (JMAs). Under the RMA, local authorities can enter into JMAs to jointly manage functions with another public authority, which includes an iwi authority or group that represents hapū. The bill would also enable RPCs to enter into JMAs, but they must not enter into a JMA that provides for final approval of a plan to be given jointly.

We think the bill should be clearer that the possible parties to a JMA can be any combination of one or more of local authorities, RPCs, groups that represent hapū, and iwi authorities. We recommend inserting clause 656(7) accordingly.

National Māori Entity

Part 10, subpart 5 would establish and make provision for a National Māori Entity to provide independent monitoring.

Establishment

Clause 659 would establish a National Māori Entity as an independent statutory entity. The bill is not clear about when the entity would be expected to start carrying out its statutory duties and functions. We recommend setting an establishment date of 1 March 2024 into the bill, but provide that the entity can only exercise its statutory duties and functions once its members have been appointed.

Purpose of the National Māori Entity

Clause 660 sets out the purpose of the entity as an independent monitoring body. We recommend amending the purpose of the entity. The purpose should be to provide independent monitoring of the cumulative effect of decisions made by persons exercising powers and performing functions and duties in giving effect to the principles of te Tiriti o Waitangi under the bill and the Spatial Planning Bill.

We think our proposed change better reflects the intention for the entity to provide independent monitoring in regard to te Tiriti o Waitangi, and that it is not to act in the place of iwi, hapū, or Māori. The entity's monitoring or advice would not replace requirements on those exercising functions, duties, or powers under the legislation to engage directly with relevant iwi, hapū, and Māori, or uphold Treaty settlements, takutai moana customary rights, and other existing agreements. The entity's monitoring would not replace other monitoring undertaken by iwi, hapū, Māori, or other actors at the local, regional, or system levels. We note that the entity would also be subject to clause 6.

Functions, powers, and duties of National Māori Entity

Clause 662(1) as introduced sets out the primary function of the National Māori Entity. As introduced, it would be to monitor and assess the cumulative effect of the exercise of functions, powers, and duties under the legislation (by monitored entities)

in giving effect to the principles of te Tiriti o Waitangi. We think the way this is worded could inadvertently limit the scope of the entity's intended primary function. The entity should look at both cumulative effects and the effect of individual functions, duties, and powers (of monitored entities) in developing its independent assessment of overall system performance. Therefore, we recommend amending the wording for the primary function in clause 662(1).

Clause 662(3) as introduced would enable the National Māori Entity to provide advice or undertake monitoring outside of the regular cycle, either on its own initiative or upon request from a monitored entity. In regards to this subclause:

- We do not think requests should be limited to those from monitored entities. For example, iwi, hapū, and Māori may wish to lodge requests. We recommend amending clause 662(3) accordingly so any person could request advice. We note that the entity would still be able to respond to requests at its discretion.
- We recommend clarifying that the entity would provide expert advice based on the knowledge and insights gained through its primary function.
- We recommend expressly stating the scope of the entity's advisory roles across the system, which would be in relation to: the NPF; the required collective skills, knowledge, and experience for appointments of members to IHPs; the evaluation framework; and any other matter relevant to its primary function.

Monitored entities

Subpart 5 of Part 10 sets out which entities would be monitored. We propose clarifying the scope of "monitored entities". Under new clause 659(5) it would include Ministers, public service agencies, local and unitary authorities, RPCs, and other persons acting under the relevant legislation, except for courts or tribunals. It is not appropriate for the Executive (of which the entity would be a part) to provide such direction to the judiciary. We note that the entity would still be able to report to the Minister on broader matters, which could include comment on how the courts are applying the law.

National Māori Entity's reporting functions

Clause 664 as introduced would require the Minister and monitored entities to respond to the National Māori Entity's reports. The Minister would be required to respond within 6 months, and monitored entities within the time frame specified in the report. We do not think 6 months should become a default time frame for the Minister to respond. We recommend amending clause 664(1)(a) to require the Minister to reply as soon as practicable and no later than within 6 months of receiving the National Māori Entity's reports.

Membership of the National Māori Entity

Clause 666 provides for the entity's membership and appointments. As introduced, the Minister would appoint 7 members nominated by iwi, hapū, or Māori in a process set out in any regulations made under clause 672.

The appointments process should be appropriately flexible and inclusive with iwi, hapū, and Māori participation. We do not think that regulations are the best way to set the nominations process. Instead we think the bill should create a 5-person nominating committee to recommend members for appointment to the entity. Those 5 members would be appointed by the responsible Minister, who must be satisfied that the members have the skills and expertise to identify suitable candidates. The nominating committee would call for expressions of interest from iwi, hapū, and Māori, and consider those nominations before making recommendations to the Minister. The nominating committee would only be able to recommend a person if that person met the collective skill requirements in clause 666 and was nominated by iwi, hapū, and Māori.

We recommend inserting new clause 665A to provide for a nominating committee, and recommend amending the processes in clause 666 accordingly. We also recommend deleting clause 672 to remove the regulation-making power, which would become redundant.

Name of the National Māori Entity

Clause 671 would enable the National Māori Entity to adopt a new name. Under the bill as introduced, the Minister would give notice of the name change in the Gazette. We think that a name change should be done via Order in Council, and recommend amending clause 671 accordingly.

Mana Whakahono ā Rohe

Mana Whakahono ā Rohe arrangements provide a mechanism for two or more parties to agree ways in which iwi authorities or groups that represent hapū will participate in resource management and decision-making processes. These arrangements are currently provided for under the RMA.

Part 10, subpart 6 provides for Mana Whakahono ā Rohe arrangements to be made under the Natural and Built Environment Bill. The arrangements may also have content that applies to RSS development under the Spatial Planning Bill. We do not propose many changes to these provisions, except for the following.

- Clause 676, which sets out the purpose of adopting a Mana Whakahono ā Rohe, should clarify that the arrangements set out how the iwi and hapū parties (rather than "the 2 parties") would participate in resource management and decision-making processes.
- Clause 676 should clarify that the parties to a Mana Whakahono ā Rohe could be any 2 or more iwi authorities, groups that represent hapū, local authorities, or RPCs, but at least one party must be an iwi authority or group representing hapū.
- Clause 679 sets out how a Mana Whakahono ā Rohe could be initiated by invitation from one of the potential parties. We recommend specifying that, following an invitation being received, local authorities and RPCs must attend the hui

or meeting referred to in subclause 679(2)(b). Iwi authorities and groups that represent hapū would not have to attend or participate if they did not wish to.

Part 11—Compliance, monitoring, and enforcement

Part 11 sets out provisions relating to compliance, monitoring, and enforcement.

Clause 694 defines "NBE regulator" for the purposes of Part 11. NBE regulator:

- means a local authority, an RPC, and the EPA, when acting under the bill
- includes any person empowered under any Act to exercise or perform any functions, powers, or duties of an NBE regulator under the bill.

We recommend some changes to the bill relating to this definition:

- The definition of "NBE regulator" should not include RPCs, as they would not have compliance and enforcement responsibilities under the bill.
- Throughout Part 11, references to "local authority, a consent authority, or the EPA" should be replaced with "NBE regulator". We note that, while consent authorities are mostly local authorities, other bodies may be consent authorities that are not intended to be NBE regulators.
- For clarity, the definition of "enforcement officer" in clause 7 as introduced should refer to NBE regulator.
- The definition of "NBE regulator" allows for other persons to be empowered to act as NBE regulators. We recommend replacing "person" with "public service agencies" to be clearer about who should be appointed as an NBE regulator.

Enforcement and compliance measures ordered by Environment Court

Part 11, subpart 1 contains provisions relating to enforcement and compliance measures ordered by the Environment Court.

How certain proceedings to be heard

Clause 695 sets out how certain compliance proceedings under the bill should be heard. The clause specifies which proceedings should be heard by the Environment Court, the District Court, an Environment Judge, an Environment Judge who is a District Court Judge, or an Environment Commissioner.

The bill does not specify how an applicant should choose whether to file proceedings in the District Court or the Environment Court. We acknowledge concerns that it is not clear how different jurisdictions would be allocated between the District Court and Environment Court.

We think that the Environment Court should be able to transfer enforcement actions associated with an offence to the District Court, so that the proceedings can be heard together. We recommend amending clause 695 accordingly.

Declarations

Clauses 696 to 699 set out matters relating to declarations by the Environment Court. These matters include the scope and effect of declarations, the application process, the notification of applications, and decisions on applications.

Clause 696 describes the information that could be declared in a declaration by a court. We recommend that the court should also have the power to make a declaration about:

- the existence or extent of any function, duty, right, or power under the spatial planning legislation
- any other issue or matter relating to the interpretation or administration under the spatial planning legislation.

Clause 697 sets out who may apply to the Environment Court for a declaration. We think that the Environment Court should be able to make a declaration in the course of proceedings where a formal application for a declaration has not been made. This would give the court and parties an additional tool to resolve difficult issues as they arise, and help reach a confirmed position. We recommend inserting clause 696(2) accordingly.

Enforcement orders

Clauses 700 to 707 as introduced set out matters relating to enforcement orders that could be made by the Environment Court. Clause 700 describes the actions that the Environment Court could require to be taken under an enforcement order.

The bill also contains new civil remedies that the Environment Court could impose, such as monetary benefit orders (clause 718), adverse publicity orders (clause 731), or pecuniary penalties (clause 776).

We recommend amending clause 700 to include the new civil remedies within the scope of an enforcement order by the Environment Court.

Abatement notices

Clauses 708 to 713 set out matters relating to abatement notices that could be served by an enforcement officer. We propose the following amendments.

Clause 708(5) as introduced incorrectly refers to the power to make an "enforcement order" under the clause, instead of "abatement notice".

Clause 710 describes the form and content of abatement notices. Subclause (1)(d) would require the notice to state the period within which an action must be taken or cease. Subclause (2)(b) would require a time period to be given of 7 days or more. We recommend specifying that this 7-day period should only apply if the person was complying with the legislation, regulation, plan rule, or resource consent. In cases of non-compliance with those instruments, a reasonable period (which could be less than 7 days) could be given.

Clause 713 provides for the cancellation of abatement notices by an NBE regulator. We recommend clarifying that, if an abatement notice is issued on behalf of the Min-

ister of Conservation, that Minister would be the NBE regulator for the purposes of this clause.

Abatement notices are important tools for addressing non-compliance. Regulations will be needed to stipulate set forms and content for the notices. Submitters noted that there would likely be a time interval between the bill coming into force and the regulations being made. We recommend amending the transitional provisions of the bill to ensure that abatement notices under the RMA can continue to be used when this bill is enacted, and until the bill has legal effect.

Excessive noise

Clause 714 defines "excessive noise". Clause 715 would provide for enforcement officers to issue an excessive noise direction, and describes the effect of that direction. Clause 716 sets out what could happen if an excessive noise direction is not complied with.

Clause 715(4) provides that an excessive noise direction could be in effect for up to 72 hours. We think that the maximum duration of a direction should be increased to help address situations of significant and repeated nuisance behaviour. We recommend that clause 715 be amended to increase the maximum duration of an excessive noise direction from 72 hours to 8 days.

Water shortage directions

Section 329 of the RMA provides for water shortage directions to be made to control the use of water if there is a serious temporary shortage. We recommend that an equivalent provision be included in the bill as new clause 716A.

Monetary benefit orders

Clause 718 would enable the Environment Court to order a person to pay an amount representing the monetary benefits the person gained from the commission of an offence or contravention. We recommend specifying that "contravention" refers to a contravention of the requirements in the bill.

We note that, before any monetary benefit order was made, the person would have been either convicted of an offence, or identified through an appealable process for a contravention, such as an enforcement order or abatement notice. We consider that a process should be specified for making an application to the District Court (where an offence has been committed) or the Environment Court (in the case of a contravention) for this type of order. We recommend amending clause 718 to enable an NBE regulator to apply to the District Court or the Environment Court for a monetary benefit order.

Subclause (3) would enable the NBE regulator to submit to the court the amount the regulator considered a reasonable estimate of the monetary benefits. In the interests of natural justice, we recommend inserting subclause (3A) to provide that the person who would be subject to the order may respond to the NBE regulator's submission, and the court may take that into account.

Revocation or suspension of resource consent for non-compliance with legislation

Clause 719 would enable an NBE regulator to apply to the Environment Court for an order to revoke or suspend a resource consent, if there had been "ongoing and severe" non-compliance with the bill in relation to a resource consent.

We note concerns about the phrase "ongoing and severe", and suggest it be replaced with "significant or repeated". "Severe" is not commonly used in planning, nor defined in the bill, and we think "significant" would be better understood. We think that non-compliance where instances were repeated should also be covered. Further, an instance of non-compliance may be so significant that it warrants cancellation or suspension, even though it may not be ongoing or repeated.

Clause 719(2) would require the NBE regulator to demonstrate that the revocation or suspension is in the best interests of the public and will not result in any further adverse effects on the environment. We recommend that the word "further" be removed, as proof of adverse effects arising from the non-compliance is not required for a revocation or suspension. We recommend adding that the public interest must be demonstrated on the balance of probabilities.

We recommend allowing an application for a revocation or suspension of a resource consent to be made to the District Court, if prosecution proceedings are being taken in that court.

Clause 719(5) provides that a revocation or suspension by the court would not apply until the court had heard from the person to whom an order would apply. The clause is not clear about what would happen if the consent holder does not respond or chooses not to be heard. We recommend amending the clause to provide that the court must instead give the person the opportunity to be heard by the court before a revocation or suspension (under subclause (4)) applies.

We also recommend amending the clause to make it clear that:

- suspension or revocation of a consent could be in full or in part
- non-compliance with the RMA could also be considered
- the holder of the resource consent would not be entitled to any compensation or redress as a result of any losses that might be suffered by the revocation or suspension
- the civil standard of proof (the balance of probabilities) would apply when determining whether the requirements in the clause are met.

Enforceable undertakings

Part 11, subpart 2 covers enforceable undertakings. These would be commitments offered by offenders to address the consequences of their offending, and are intended to address low- to mid-level non-compliance. Clause 723 would allow an NBE regulator to accept an enforceable undertaking from a person in writing relating to a contravention (or an alleged contravention) of the legislation.

Undertaking may include requirements as to compensation or penalties

Clause 724(1) provides that an undertaking could include paying compensation to any person or to an NBE regulator.

Subclause (1)(b) would allow an undertaking to pay an NBE regulator an amount in compensation for any actual or likely adverse effects. The intention is that money would be provided as compensation for costs associated with remediating adverse effects, but this is not clearly specified. We recommend amending clause 724(1)(b) to link the amount provided in compensation to the remediation of any actual or likely adverse effects arising from the contravention.

Subclause (2) would allow the NBE regulator to retain 90% of the amount collected, and they must pay the rest to the Crown. However, we note that compensation for remediation is not a financial penalty, and so should not be subject to a 90% fine retention. We think that all of the money received should instead be applied to the remediation or given as compensation. We recommend that the NBE regulator should instead be required to apply the amount collected under the undertaking to the purpose for which it was collected.

Publication of enforceable undertakings

If an undertaking was given to pay compensation to an NBE regulator under clause 724(1)(b), clause 724(3) would require a notice of the undertaking to be published on the NBE regulator's website. Subclause (4) sets out what must be included in the notice. Paragraph (b) requires a statement of the amount that has been undertaken to be paid, and a brief explanation of what the amount relates to and how it will be applied. We recommend amending the paragraph so that there is also a requirement to specify the compensation or action taken to avoid, remedy, or mitigate any actual or likely effects of the contravention. For transparency, we also recommend amending clause 724(4) to require the name of the person providing the undertaking to be published.

Clause 729 as introduced would enable the withdrawal or variation of an enforceable undertaking. Subclause (3) provides that a notice of the withdrawal or variation must be published on the NBE regulator's website. We note submitters' comments about the inconsistencies in the publication requirements for enforceable undertakings. We think that all enforceable undertakings accepted by NBE regulators should be published on their respective websites. We recommend amending clause 724 accordingly.

Notice of decision and reasons for decision

Clause 725 would require an NBE regulator to give a reason in writing for its decision to accept or reject an undertaking. We think the bill should specify an appropriate time frame for the NBE regulator to respond to a person seeking to make an enforceable undertaking, taking into account the time needed for other enforcement decisions to be considered. We recommend requiring a written notice to be given by the NBE regulator within 15 working days after receiving a proposed enforceable undertaking.

Contravention of enforceable undertaking, and proceedings for alleged contravention

Clauses 728 and 730 both address the possibility of proceedings if an enforceable undertaking is contravened. We recommend that they be amended to make it clear that proceedings for the original contravention could be brought if the enforceable undertaking was not complied with.

Adverse publicity orders

Clause 731 provides for adverse publicity orders and appeal rights against these orders. Adverse publicity orders could require a person to publicise certain matters set out in subclause (2), such as their non-compliance, impacts on human health or the environment, or any penalty imposed.

Submitters queried why adverse publicity orders would only apply to "non-compliance" in relation to a resource consent. Other new enforcement tools, such as monetary benefit orders and enforceable undertakings, cover all contraventions under the bill, and not just those relating to a resource consent. We agree that adverse publicity orders should be available for all contraventions of the bill, and recommend amending clause 731.

Clause 731(1) specifies who could make an adverse publicity order. We recommend that the District Court should be able to make an adverse publicity order in proceedings, as well as the Environment Court.

Clause 731(3) provides that a person on whom an adverse publicity order is served could appeal to the Environment Court. We propose some improvements and clarifications relating to the appeals process. We recommend amending the clause so that:

- if the Court made the adverse publicity order, there could be an appeal to a higher court
- if an appeal was made, the order would be automatically stayed; otherwise, the appeal could end up being a nullity
- if the person subject to the adverse publicity order had offered it as part of an enforceable undertaking (as opposed to having it served on them by the court), they would not have appeal rights.

Clause 731(4) sets out the process for a notice of an appeal. We recommend that the notice of appeal also be served on the NBE regulator.

We also recommend clarifying that the civil standard of proof (the balance of probabilities) would apply in relation to this clause.

Financial assurances

Part 11, subpart 3, contains provisions relating to financial assurances. The purpose of financial assurance is to provide security for the costs and expenses of remediation or clean-up in connection with a particular activity.

Clause 732 would enable an NBE regulator to require a person undertaking a particularly activity to provide financial assurance, if authorised by the relevant plan or regulations. We do not think NBE regulators should need authority from plans or regula-

tions before requiring financial assurance. We recommend amending clause 732 accordingly. We also recommend making it clear that financial assurance could be required by consent authorities (as NBE regulators) as a condition of a resource consent.

Forms of financial assurance

Clause 733 sets out the forms of financial assurance that NBE regulators could require, such as bonds or insurance.

Clause 736 as introduced would allow an NBE regulator to require an applicant for a resource consent to make payment to the Commissioner of Inland Revenue for entry in the applicant's environmental restoration account under section EK 4 of the Income Tax Act 2007. We think that the potential administrative problems in implementing the proposed provision would outweigh the benefits. We therefore recommend deleting clause 736 and amending clause 733. We note that there are other financial assurance mechanisms available.

Claims on financial assurance by NBE regulator

Clause 743 would enable an NBE regulator to make a claim on financial assurance for costs in certain conditions. Subclause (6) would require all money that is recovered to be paid to the Crown Bank Account. We consider that the money recovered should go to the NBE regulator, as the purpose is to recover the cost of undertaking work required due to a default by the consent holder. We recommend amending clause 743(6) accordingly.

Clauses 744 and 745 set out procedures for a claim on financial assurance by an NBE regulator. Clause 744 would cover events where a person had failed to remediate or clean up. Clause 745 would cover events where there was an immediate or serious risk. We think that the relationship between the two clauses should be clarified so that it is clear when each might apply. We recommend amending clause 745 to clarify that it would apply in the event of immediate or serious risk to life or the environment.

Offences, penalties, and related provisions

Part 11, subpart 5 sets out provisions about offences and associated penalties, infringement offences, pecuniary penalties, and cost recovery.

Limitation periods

Clause 759 states the limitation periods that would apply in respect of offences (2 years under paragraph (a)) and the imposition of pecuniary penalties (6 years under paragraph (b)).

Paragraph (b) refers only to the imposition of pecuniary penalties. However, the limitation period should apply to other enforcement mechanisms. We recommend amending the clause to include a 6 year limitation period for enforceable undertakings, monetary benefit orders, and adverse publicity orders in addition to pecuniary penalty orders.

Also, the clause does not specify a limitation period for private prosecutions. We recommend amending paragraph (b) to reflect that persons other than the regulator might take enforcement action.

Offences

Clauses 760 to 764 set out matters about offences under the legislation.

We recommend updating clause 760(1), which sets out offences under the legislation. New paragraphs (da) and (f) would make it an offence to contravene monetary benefit orders (under clause 719) or adverse publicity orders (under clause 731).

Clause 761 sets out when a person could be liable for an offence committed by someone acting as their agent. Given the increased severity of the possible penalties for an offence under this clause, we think the clause should be clearer that the person must have had knowledge that they had allowed the act to happen. Accordingly, we recommend that clause 761(2) be amended by removing the word "permitted".

Penalties for offences

Clause 765 sets out the penalties that could apply for offences under the legislation.

The bill reflects a desire to increase penalties. We recognise the importance of deterring offending, and propose increasing the maximum amounts for some of the penalties:

- The maximum amount of the fine set out in clause 765(2) should remain at $10,000 for individuals, but be increased to $50,000 in any other case.
- The maximum amount of the fine set out in clause 765(3) should be increased to $15,000, and the daily fee for a continuing offence be increased to $1,500.
- The maximum amount of the fine set out in clause 765(4) should be increased to $5,000.

We note that the court would assess the severity of the offending and the environmental impact, and determine an appropriate penalty based on the circumstances of the case.

Under section 342 of the RMA, a local authority is entitled to 90% of a court-imposed fine. We think the bill should provide for an equivalent arrangement. We recommend inserting new clause 765A into the bill to provide that fines should be paid to the NBE regulator that instituted the prosecution, so that the NBE regulator could retain 90% of the fine.

Insurance against fines unlawful

Clause 766 as introduced would prohibit insurance that indemnifies a person from paying a fine under the legislation. The ban on insurance is only in relation to fines, fees, and pecuniary penalties. We recommend amendments to clarify the limits of the prohibition:

- People would still be able to insure for remediation work and legal fees connected with an activity.

- People would still be able to enter into contracts or arrangements to indemnify against their liability, as long as the apportionment of liability was not in respect of liability to pay a fine, infringement fee, or pecuniary penalty.

Infringement offences

Clauses 767 to 775 set out matters about infringement offences. Infringement offences are a subset of criminal offences that do not result in criminal convictions.

Clause 771 provides that infringement notices must be in the form prescribed in regulations and must contain certain particulars. The clause should specify that the regulations in question would be those made under clause 775, which sets out regulation-making powers relating to infringement offences.

Clause 773 would require all infringement fees to be paid to the NBE regulator. We recommend amending this clause to reflect section 342 of the RMA, so that fines would be paid to the relevant NBE regulator, with 10% credited to a Crown Bank Account. We recommend inserting new clause 765A to set out the process.

Clause 775 would allow regulations to be made relating to infringement offences. The Regulations Review Committee wrote to us about this clause, pointing out some duplication with clause 857, except that clause 857 also has an additional regulation-making power (to make regulations specifying infringement offences for the breach of regulations). We recommend deleting clause 775 and retaining clause 857.

Pecuniary penalties

Clause 776 would enable the Environment Court to order pecuniary penalties. We acknowledge concerns that the trigger is broad: failure to comply with a requirement of the legislation. We recommend amending it so that pecuniary penalty orders would be available if the court was satisfied that a person had contravened, or permitted a contravention of, the legislation. This would align with similar enforcement provisions in the bill.

Clause 776(2) sets out the defences that would be available. We recommend amending the wording of the defences of natural disaster and mechanical failure to align with clause 762.

Clause 778 sets out how a court should determine the appropriate amount of a pecuniary penalty. Clause 779 would enable the court to make other orders instead of (or in addition to) a pecuniary penalty order. The considerations set out in those clauses refer to the effects on a "natural and physical resource". We think the term "natural environment" would be more comprehensive and appropriate for these provisions, and recommend amending the clauses accordingly.

Cost recovery

Clause 781 would enable an NBE regulator to recover costs from a person that are incurred in taking action to monitor or enforce that person's compliance with the legislation.

Submitters queried the interaction between this clause and clause 821, which relates to administrative charges. The intention is that administrative charges under clause 821 would not limit the ability for NBE regulators to recover costs under clause 781. We recommend amending clause 781 to make it clear that it would also provide for cost recovery for consent and permitted activity monitoring and taking enforcement action, including any investigations or monitoring related to that enforcement action.

Subclauses (2) and (3) set out the matters for which costs could be recovered. We think that costs should also be recoverable in relation to the new compliance, monitoring, and enforcement tools introduced in the bill. We recommend specifying that costs could be recovered in relation to monetary benefit orders, enforceable undertakings, and adverse publicity orders. We also recommend making clear that prosecution costs, including reasonable legal costs, are also covered within the clause's ambit.

We think that a person should have a right to object to an order of costs by an NBE regulator, and in the interests of natural justice a person should have a right to appeal. We recommend amending clause 781 to provide that a person subject to an order of costs would have the opportunity to appeal to a higher court.

Provisions relating to monitoring and compliance

Subpart 6 of Part 11 sets out provisions about compliance and monitoring. We propose amendments to some of the provisions.

Local authorities to monitor to effectively carry out their functions and duties under the legislation

Clause 783 would require local authorities to undertake monitoring to effectively carry out their functions and duties.

Subclause (1) sets out what local authorities must monitor. Paragraph (g) would require them to monitor permitted activities that have effect in the region or district. As introduced, this appears to require a very broad coverage of monitoring permitted activities, which would be impractical. We recommend clarifying that permitted activities must only be monitored where monitoring is required by the NPF or relevant plan.

As introduced, subclause (3) sets out the priorities for monitoring the state of the environment. It would require monitoring in a way that complies with any requirements on mātauranga Māori and tikanga Māori methods. We think the clause should be clear that it is not intended that local authorities unilaterally carry out mātauranga Māori monitoring. Subclause (5) provides for local authorities and iwi authorities and groups that represent hapū to agree what mātauranga Māori methods and approaches should be used in monitoring, and who carries that out. This would then be reflected in the regional monitoring and reporting strategy. In light of that obligation in subclause (5), we recommend deleting subclause (3)(b) to avoid confusion.

Subclause (7) would require an RPC to publish every 5 years an assessment of the "state of environmental monitoring" that demonstrates the environmental changes,

trends, pressures, emerging risks, and outlooks within the region. The phrase "state of environmental monitoring" does not fully reflect the intended nature of the assessment, which is about the state of the environment based on the monitoring results. We recommend that the clause refer to an assessment of the "state of the environment". We also recommend that the reports be required every 6 years to better align with related monitoring and reporting requirements.

Local authorities and planning committees to take action in significant risk situations and other circumstances

Clause 784 as introduced would require local authorities and RPCs to take action to respond to a significant risk to ecological integrity or human health, if one were shown during monitoring. The intent of the clause was to help ensure that councils would act when issues that pose a significant risk are identified during monitoring. Submitters noted several potential problems with the interpretation and application of the clause. Other requirements within the bill would address the issue the clause is seeking to address. There is a general requirement for local authorities to act under clause 783(4), and the NPF could specify response requirements under clauses 53 and 73. There would also be a three-year cyclical plan review process under Schedule 7 (clauses 51 to 53) requiring local authorities to report on the results of the environmental and plan effectiveness.

We think that there is sufficient direction to local authorities in the bill without clause 784, and that clause could add additional complexity and duplicate the other requirements. We recommend that clause 784 be deleted.

Regional monitoring and reporting strategies

Clause 785 would require RPCs to prepare regional monitoring and reporting strategies. These strategies are intended to help link the plan content developed by the RPC with the monitoring that would be required by local authorities. RPCs and councils should collaborate in the development of the strategy; it is not the intention that RPCs should direct local authorities to monitor through the strategy. Therefore, we recommend amending clause 785 to require RPCs to develop the strategy in collaboration with local authorities, and to have particular regard to their input.

NBE regulators to publish information about their functions, duties, and powers

Clause 786 would require regulators to publish information about their functions, duties, and powers. This would include "a register of all their enforcement activities". We acknowledge that this could be very broad, impractical, and costly. To achieve a better balance, we think that only enforcement activities that result in a conviction or court order need to be recorded. We recommend amending clause 786(b) accordingly.

Powers of entry and search

Clauses 790 to 794 as introduced set out enforcement officers' powers relating to entry and search.

The entry and search powers contained in clauses 790 and 791 would prohibit an enforcement officer from carrying them out in a dwelling house. The term is defined in the bill, but is essentially a residential dwelling. We also do not consider that marae should be subject to the entry and search powers in these clauses, and recommend amending clauses 790 and 791 accordingly.

Clause 791 (Powers of entry for survey) provides for enforcement officers who are specifically authorised with powers of entry to carry out inspections, surveys, investigations, tests, or measurements. We recommend removing reference to "inspections", as that matter is provided for in clause 790.

Clause 791(2) provides that the powers of entry for survey can be exercised at any reasonable time, with or without "assistance, vehicles, appliances, machinery, and equipment as is reasonably necessary". The power is intended for environmental monitoring purposes, including monitoring for limits and targets. We recommend clarifying that the "assistance" could include expert or technical assistance on the matter. We think this will help make it clearer that the enforcement officer can use scientific expertise to assist in carrying out the surveys, investigations, tests, or measurements.

Enforcement functions of the EPA

Subpart 7 of Part 11 sets out the enforcement functions of the EPA.

Clause 796 would require the first instance of enforcement action to be taken by a local authority. The EPA could only take enforcement action at its own initiative if a local authority had not commenced taking enforcement action. We note submitters' comments about a possible conflict of interest if the local authority was itself suspected of breaching the legislation. If a district or city council was suspected of a breach, the relevant regional council would be responsible for taking enforcement action for matters within its jurisdiction. We think that if a regional council was suspected of a breach, the EPA should be able to initiate a compliance investigation. We recommend amending clause 796 accordingly.

Part 12—General matters

Part 12 of the bill sets out miscellaneous provisions. We recommend changing the heading to "General matters". Most of our recommended amendments to Part 12 are minor or technical and are not mentioned in this commentary.

Obligations relating to gathering information and record keeping

Duty to gather information and keep records

Clause 816(1) would require local authorities to gather information and undertake or commission research as necessary to carry out their functions effectively. This information must be reasonably available to the public at the local authority's principal office. We recommend also requiring that, where possible, the information should be available free of charge on an internet site.

Subclause (3) sets out the purpose of making information publicly available. We recommend adding a further purpose to this list: the public exercising their right to access the information.

In line with similar clauses regarding natural hazards, we recommend amending subclause (4)(j) so that local authorities' records of natural hazards should include the effects of climate change on those hazards.

Duty to keep records relating to iwi and hapū

Clause 819 sets out duties on local authorities and the Crown for maintaining and sharing records about iwi and hapū.

Subclause (1) would require local authorities to keep certain records about the iwi and hapū in their region or district, for the purposes of the legislation. The records would include contact details, the planning documents recognised, the areas where kaitiakitanga is exercised, and any Mana Whakahono ā Rohe.

Subclause (2) sets out a requirement for the Crown to maintain and share with local authorities its records about iwi and hapū.

We recommend some amendments to improve the information held:

- The clause should clarify that the records are for the purposes of both the Act and regulations.
- The records of both local authorities and the Crown should include information about Māori groups with interests, in addition to iwi and groups that represent hapū. In the case of the Crown, this information should set out who holds resource management interests within the area.
- As introduced, a local authority would not have to hold information about a hapū unless the group representing the hapū requested that the record includes their information. We think this places the onus of record keeping on hapū, when it should be on local and central government in order to foster participation. We propose deleting subclause (3) containing this exemption.
- The Minister should ensure that the information kept by the Crown under subclause (2) is published in the Gazette. We think this would provide more certainty to users of the information, and encourage groups representing hapū and Māori with interests to register their interests on the central record.
- We think local authorities should be required to keep details of their engagement about record keeping with iwi authorities, groups that represent hapū, and groups with Māori interests. We do not envisage this being an onerous requirement, but one that will help provide clarity and transparency about how the records have been put together.
- We think that regulations might be needed to provide guidance and requirements about how the information is provided. We recommend stating that the information to be kept and maintained under clause 819 must be provided in accordance with any prescribed requirements, which could be made by regulations under clause 782.

Purpose of records relating to iwi and hapū

Clause 820 would set out the purpose of the records relating to iwi and hapū. The purpose would be to provide guidance to local authorities and others about the iwi authorities, groups that represent hapū, and Māori groups with interests in an area. The clause would clarify that the records are not intended to presume that any group has a mandate to represent an iwi, hapū, or Māori group with interests. We recommend clarifying that information kept and maintained under this section may be used by the local authority only for the purposes of the legislation.

We recommend inserting subclause (5) to provide that local authorities and others acting under the legislation are deemed to have satisfied the requirements of the bill and the spatial planning legislation where they have used their best endeavours to contact these entities on the central record as at the date the information is relied on.

System performance

Clauses 836 to 839 as introduced contain provisions relating to system performance:

- Central government would be required to develop an integrated monitoring, reporting, and evaluation framework for the two bills (clause 836).
- Central government would be required to report annually on the monitoring of system performance and at least every 6 years with an evaluation of system effectiveness (clause 837).
- The Parliamentary Commissioner for the Environment (PCE) would be required to review each evaluation report and report to the House of Representatives. The Minister(s) responsible for the legislation would be required to respond to the review (clause 838).
- Local authorities would be required to prepare an annual report on the costs, drivers, and funding associated with discharging their functions, duties, and powers under the two bills (clause 839).

We recommend amending clause 838 to provide that the independent review of the evaluation report by the PCE would be optional. We acknowledge that the PCE has other responsibilities. Our recommendation is intended to give the PCE discretion to carry out the review within the resources and expertise they have at the time. The bill would not prevent the PCE from carrying out their own reviews and investigations under the Environment Act 1986, which could include other investigations relating to the Acts.

Regulations amending plans in relation to aquaculture activities and allocation processes

Clause 851(1) provides for the making of regulations that could:

- (a) amend provisions in a plan that relate to the management of aquaculture activities in the coastal marine area
- (b) amend a plan to establish a process for the allocation of specified aquaculture-related authorisations.

The clause should be clear that regulations could amend more than one plan at the same time. The regulations should only be able to amend an operative plan, and not a proposed plan. Otherwise, amendments to proposed plans could interfere with the plan-making process.

We think paragraph (b) should provide that the provisions of a plan can be amended to establish rules (rather than a process) for the allocation of specified aquaculture-related authorisations.

As introduced, the clause defines "aquaculture-related authorisation" as meaning the exclusive right to apply for a resource consent for an aquaculture-related resource. We recommend it be amended so that it includes both the right to apply (under clause 160(2)) and an authorisation under Part 7 (clause 429).

We recommend that the definition of "aquaculture-related resource" be amended so that it includes:

- the occupation of space in a common marine and coastal area for aquaculture activities
- the capacity of coastal water (including estuaries) to assimilate a discharge of a contaminant from an aquaculture activity
- any other resource related to aquaculture identified in the NPF under clause 88(1)(i)
- any other resource related to aquaculture.

Conditions to be satisfied before regulations made

Clause 852 sets out the conditions that must be met before the Minister responsible for aquaculture could recommend the making of regulations under clause 851. We recommend inserting subclause (3A) to require the Minister to have particular regard to the allocation principles when deciding whether to recommend the making of regulations for an aquaculture-related resource defined in clause 851(5)(b).

The clause as introduced provides for the Minister responsible for aquaculture to consider customary marine title planning documents. There are existing mechanisms in the Marine and Coastal Area (Takutai Moana) Act, and we recommend that Act be amended so that customary marine title planning documents are lodged with the Minister responsible for aquaculture.

Emergency response regulations

Clause 854 provides for the making of regulations for:

- responding to a natural disaster or other emergency in an area
- recovery efforts in the affected area, including any work required to improve the resilience or standard of assets.

The regulations could change processing time frames and override plans for a period of time.

We recommend changing the term "natural disaster" to "natural hazard event". The former term is no longer widely used—it is the vulnerability of communities and infrastructure that make a disaster.

Subclause (2) sets out what the Minister would have to do before recommending emergency response regulations. Actions include consulting with councils, RPCs, and the Regulations Review Committee. We recommend the following amendments to clause 854 to improve certainty and workability and to address comments from the Regulations Review Committee:

- require the Minister to consult the Minister for Emergency Management before recommending emergency response regulations
- require the Minister to provide a draft of the regulations to the Regulations Review Committee (so that it can provide comments under paragraph (d))
- require affected councils and RPCs to be invited to make written comments about proposed regulations
- enable the Minister to invite written comments from others as appropriate, including local Māori, local community groups, or the public generally
- require that any written comments be provided within 5 working days, and enable the Minister to extend this period where appropriate.

General regulation-making power

Clause 858 would empower the Governor-General to make regulations by Order in Council for certain purposes. We recommend amending clause 858(1) to make it clear that they should only do so on the Minister's recommendation.

Under subclause (1)(h), regulations could be made prescribing exemptions from clause 22 (which would restrict the discharge of contaminants). Because the power in paragraph (h) is broad, the Regulations Review Committee recommended that we consider an amendment to provide safeguards. We agree, and recommend inserting new subclauses (3A) and (4A). New subclause (3A) would prevent regulations affecting the Environment Court from being made without prior consultation with the Chief Environment Court Judge. New subclause (4A) would require that, before recommending regulations under subclause (1)(h), the Minister be satisfied that affected persons had been consulted.

Forms

We recommend inserting new clause 858A to allow the Secretary for the Environment to approve forms and templates for applications, certificates, or notices under Part 5 (resource consenting), unless a regulation was prescribed for the specific form or template.

Environment Court

Schedule 13 provides for the continuation of the Environment Court.

Immunity from legal proceedings

Clause 42 of the schedule sets out the protection from legal proceedings for members of the Environment Court, the Registrar, and special advisers. We recommend inserting new subclause (1A) to ensure that the protection would also apply to current, former, or retired Environment Court Judges and retired High Court Judges appointed as members of boards of inquiry and IHPs.

Who could be a party?

Clause 53 of Schedule 13 sets out who could be represented at Environment Court proceedings. Subclause (1) would allow the following to be a party:

- the Minister
- a local authority
- the Attorney-General representing a relevant aspect of the public interest
- any other person representing a relevant aspect of the public interest (paragraph (d)).

Paragraph (d) would be new, as it is not currently part of the RMA system. The RMA does have a provision similar to subclause (2), allowing representation from people with an interest greater than the public generally. The provision in paragraph (d) is broader and should allow public interest groups to provide assistance to the court. However, we consider that it is too broad. We recommend replacing paragraph (d) with new subclause (1A) to allow participation by a public interest group if the court agreed that participation would assist it in addressing the issues in the proceeding.

Evidence at proceedings

Clause 65 would enable parties to appear and call evidence. We recommend clarifying in subclause (2)(b) that the person making a submission would have to be a party to the proceedings under clause 53(5).

Clause 66 is about evidence in the Environment Court and is based on section 276 of the RMA. Neither clause 66 nor section 276 provide for the application of the Evidence Act 2006. We consider that the Evidence Act should apply to the Environment Court and recommend amending clause 66 to reflect a recent practice note. However, the court would be able to accept, admit, and call for any evidence that it considered appropriate even if the evidence was not otherwise admissible.

Amendments to other legislation

Schedule 15 of the bill sets out the amendments to other legislation necessitated by the changes proposed in the bill. We recommend further changes to help make clear the interaction between different legislation, including the following:

- We propose some changes to the Fisheries Act to further align it with the bill.
- Earlier in our commentary we have discussed some proposed amendments to the RMA. These changes are reflected in Schedule 15 of the bill, along with some additional technical changes.

- Schedule 15 includes amendments to the Marine and Coastal Area (Takutai Moana) Act to ensure takutai moana rights would be upheld. We recommend changing and adding to the proposed amendments to ensure that takutai moana rights are upheld in the new system, through that Act.
- We recommend numerous amendments to the Urban Development Act 2020 to align it with the new system.

Commencement of bill and transition from RMA

The commencement clause and Schedules 1 and 2 provide for the transition to the new system. The RMA would not be repealed immediately and would continue to apply during a transition period. The new processes in the bill are expected to begin at different times in different regions. The total transition time could be up to 10 years—from Royal assent until every region had a completed "decisions version" of a plan.

Some submitters were concerned that the transition was not clearly set out. Others wanted it more flexible to account for local circumstances.

In the new system, spatial and strategic direction would flow down through the hierarchy of planning instruments. Interdependencies include:

- the need to transition and uphold Treaty settlements and other arrangements
- the need to form RPCs
- the requirement for RPCs to develop RSSs and plans
- the need for NPF content to be completed in time to inform RSSs and plans.

We recommend changes to the timetabling-related provisions to address these interdependencies. Our key changes are as follows:

- Clause 2 of the bill sets out the start dates of various parts of the legislation. Subclause (6) would allow the RPC composition process (in Schedule 8 Part 1) to begin, region by region, by secondary legislation. The timing in each region would depend on time frames in relation to upholding Treaty settlements and other arrangements in the new system. We propose amending clause 2(3), which covers the rest of the legislation, to make clear that its Order-in-Council commencement power is different from the one in clause 2(6).
- Under clause 2(7), the RPC composition process could only commence after amendments to the relevant Treaty settlement legislation had been enacted and agreement had been reached on how to uphold other arrangements, or if 2 years had elapsed since the bill received Royal assent. We recommend amending subclause (7) to be more flexible. Our amendment would allow RPC formation to start when either: the relevant entities had agreed how Treaty settlements, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and other arrangements would be upheld in the new system; or legislation to amend Treaty settlements or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act had been enacted to give effect to those agreements. RPC formation could still be initi-

ated in the absence of any such agreement after at least two years following Royal assent.

- We recommend an amendment to prescribe time frames in Schedule 8 for the process to form an RPC, instead of time frames being set out in secondary legislation. Under new clause 41(2) in Schedule 8 the Minister could also provide extensions to the time frame.
- We also recommend amending Schedule 7 clause 2 so that RPCs would have to determine to begin drafting their plans no later than 40 working days after deciding to adopt the RSS. This would allow, but not require, plans to develop alongside RSSs as appropriate.

Definitions relating to transition

Schedule 1 of the bill sets out transitional, savings, and related provisions. In Schedule 1 clause 1, we recommend amending the definition of "transition period" to make it clearer. We note that the length of the transition period would vary between regions. Clauses 6 and 7 should apply until the last region had issued the "decisions version" of its plan.

RMA documents and instruments

Under Schedule 1 clause 2, RMA documents would stay in force after the bill came into force. We recommend amending Schedule 1 to enable the information and science used for RMA plans to be used in developing NBE plans.

The application of Schedule 1 clause 2 to national direction instruments (as opposed to documents) is unclear. We recommend amending Schedule 1 to ensure that national direction instruments (as well as any other secondary legislation made under the RMA) would continue to have effect in each region until the end of the region's transition period.

Transition to NBE plans

We recommend that most plan provisions be treated as operative from the date of the decisions version of a plan, replacing relevant RMA documents. This should not affect any rights of appeal in relation to RPC decisions on any recommendations from the IHP.

We also recommend an amendment to apply to any RMA plan change or change to a regional policy statement that was issued after an RSS was notified in a region. Our amendment would ensure that any such changes were not inconsistent with a proposed or finalised RSS, and that they had regard to relevant limits and targets under the NPF.

We also recommend providing, in new Schedule 1 clause 9(3), that local authorities could not start a plan change or a regional policy statement change after their RPC had adopted an RSS for the region. The exceptions would be to fix an error, implement RMA national direction, or address an emerging or urgent issue.

We recommend amending the bill to provide that councils should not initiate full RMA plan reviews in the period between the bill's Royal assent and before the RPC starts preparing the NBE plan. We recommend amending Schedule 1 and the RMA to provide for this.

Immediate commencement date

Under clause 2(3), a large number of provisions would come into force on dates specified by Order in Council. We recommend amending clause 2 so more provisions commenced on Royal assent. New clause 2(1) sets them out.

Although they would come into force on Royal assent, many of these provisions would only become relevant after the regional transition date. We recommend amending Schedule 1 to make clear which provisions would take effect in each region after the regional transition date.

Delayed legal effect of rules relating to comparative consenting process and market-based allocation methods in first plans

Two types of resource allocation method in the bill are the market-based allocation methods (such as auctions or tenders) and the comparative (affected application) consenting process.[17] We recommend amending Schedule 1 so that any first NBE plan rules that relate to these methods would not have legal effect until they were beyond legal challenge, that is, until all appeals were resolved or the period for lodging appeals had passed and no appeals had been lodged.

Resource consents

Schedule 1 should also be clearer about how existing resource consents would transition into the new system. We recommend amending the bill to enable consent applications under the RMA to continue to be received and processed in each region until the regional transition date. After that date, Part 6, Part 6AA, and Schedule 4 of the RMA should cease, with one exception: processes that had already commenced under those provisions should continue to operate after the regional transition date.

Consent reviews

Clause 277 of the bill sets out the circumstances in which consent authorities could review resource consent conditions. We think that reviews directed by a planning instrument under subclauses (1)(b) and (7) should not be allowed until the relevant plan rule is beyond legal challenge, that is, until any appeals were resolved or the period for lodging appeals had passed and no appeals had been lodged. We recommend amending Schedule 1 to provide for this.

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[17] We have earlier recommended that the term "affected allocation consenting process" be renamed "comparative consenting process".

Fast-track provisions

We have recommended that the resource consenting provisions—including the fast-track provisions—come into force on Royal assent. We recommend inserting new clause 26 into Schedule 1 to make clear that:

- the ministerial decision to refer an activity to the expert consenting panel would be made under the NBE legislation
- the appointment of the expert consenting panel would also be made under the NBE legislation
- decisions on resource consents and designations would be made under the RMA (including RMA planning instruments) during transition.

Designations

We recommend amending two sections of the RMA. They are section 168A (notice of requirement by territorial authority) and section 171(1) (territorial authority must consider the effects on the environment of allowing the requirement). The amended sections would require territorial authorities to have particular regard to an RSS. The amendments would apply 3 months after Royal assent.

We recommend that Part 8 subpart 1 (Designations) commence 3 months after Royal assent.

We recommend amending Schedule 1 to provide that no RMA designation provisions would apply after the regional transition date, except in the case of notices of requirement lodged under the RMA and not confirmed before the regional transition date. Those NORs should continue to be processed and have interim effect under the RMA. Once confirmed, they should be included in the NBE plan.

We recommend amending Schedule 1 to allow an RPC to invite a requiring authority to include a NOR in a proposed plan if the NOR was lodged within 40 days before notification of the plan for public submissions and it was a first plan.

We recommend amending Schedule 1 to apply the extended lapsing provisions (10 years) to new designations confirmed after the regional transition date.

National Planning Framework commencement

We recommend an amendment to provide that framework rules (and other NPF provisions directly regulating activities) that are intended to sit alongside plans would only apply in a region after the regional transition date. All other provisions in the NPF (for example, those relevant to the preparation of RSSs and plans) should apply from the commencement of the NPF.

Transitional arrangements relating to Treaty of Waitangi settlements

Schedule 2 seeks to uphold the integrity, intent, and effect of Treaty settlements and certain other arrangements. This includes the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act. We also recommend amending the interpretation clause in Schedule 2 to provide that the Hawke's Bay Regional Planning Committee Act 2015 is a Treaty

settlement Act. It gives effect to certain deeds of settlement and should be included in the Schedule 2 process.

We recommend amending Schedule 2 of this bill (and the Spatial Planning Bill) so that the Māori Commercial Aquaculture Claims Settlement Act is not included in the definition of a Treaty settlement Act for the purpose of the schedule. The amendments required to uphold that Act are provided in Schedule 15 of this bill.

New Zealand National Party differing view on the Natural and Built Environment Bill and Spatial Planning Bill

National is opposed to the Natural and Built Environment Bill (NBEB) and the Spatial Planning Bill (SPAB).

Introduction

National has long supported reform of the RMA. At first reading of the bills, we expressed scepticism that they would be a step forward for economic development and the environment. Sadly, our fears have been borne out through the select committee process.

There is now widespread consensus that the RMA is broken. However, substantive reform of the RMA must actually improve the status quo, and the reforms need to be worth the considerable cost of change.

National members approached the task of considering the bills by asking a simple question: would the bills make it easier to get things done in New Zealand, whilst protecting the environment?

The answer is no. The bills repeat the mistakes of the current RMA and are worse than what we have now. For that reason we cannot support them.

Poor process

The process around the passage of these two bills has been shambolic and detrimental to good law making. The Government introduced both the NBEB and SPAB close to Christmas in 2022. Submitters complained about the short time to make submissions, made worse by the Christmas and summer break. Unfortunately the Government has been determined to advance the bills before the 2023 General Election. There simply has not been enough time to properly consider the complicated issues dealt with across both bills. The departmental report alone ran to more than a thousand pages and members had inadequate time to engage properly with the content. Perhaps a temporary, separate committee to deal only with the two bills would have improved the process.

Legal uncertainty and complexity

National members are extremely worried about increased legal uncertainty and complexity if the bills pass into law. This will act as a deterrent to investment and development, raise costs for all involved in the system, and make things worse than they are now.

We note a variety of submissions to this effect including from the Environmental Defence Society, which said "the NBEB uses drafting and concepts that are unnecessarily complex, overlapping and unclear".

We are concerned about the introduction of te Oranga o te Taiao, a concept replacing "sustainable management" as the purpose of the new NBEB. This term is completely new to New Zealand law and is likely to cause significant confusion and potential legal disputes. Inevitably, the meaning of the term will be decided by the courts. Various submitters made this point.

Moreover, the subtle change from "take account of the principles of the Treaty of Waitangi" to "give effect to the principles of the Treaty" might seem minor, but carries significant legal implications. The strengthened provision will likely make things more difficult to do things, not easier.

The Chief Justice has stated:

> The Bill is long and complex. It deals with issues of great significance for communities in Aotearoa New Zealand, that are frequently litigated before the Environment Court and other courts. To date there has been little consultation with the judiciary about the implications of the proposals contained in the Bill for the operation of the Environment Court, or for other courts.

Federated Farmers submitted:

> The proposed reform package is riddled with new, amorphous terms. These include the need for key decisions, such as the National Planning Framework, to "uphold" the "interconnectedness of all parts of the environment" and not compromise "the well-being of future generations."
>
> When legislation does not clearly articulate Parliament's intent, the courts are forced to define what new terms and concepts mean. All of the unclear terms and concepts in the reform package will need to be defined over the course of a decade or more of expensive court cases.

The Environmental Defence Society noted that "A purpose outlining a clear legal relationship is needed, not 'word soup' that allows fertile ground for litigation." The Parliamentary Commissioner for the Environment said "there is a field day of opportunities in such sweeping, all-inclusive language."

None of these issues have been fixed by the amendments proposed by the committee.

New Zealand does not need, and cannot afford, extensive litigation over new legal terms in our planning regime.

Increased bureaucracy

The bills introduce an additional layer of bureaucracy through the formation of regional planning committees, superimposed on existing city, district, and regional councils. This threatens to further convolute our planning process. Furthermore, these new committees, which include mandatory Māori membership, will be composed of appointed members, introducing a democratic deficit into our system.

Loss of local democracy

The bills have faced near-universal hostile opposition from local government. Hamilton City Council's submission reflects what was a constant theme:

> The framework for that local decision-making, set out in Schedules 7 and 8 of the Bill, destroys Hamilton City Council's ability to make timely, cost-effective, democratically accountable decisions. The Regional Planning Committee Plan making process is unwieldy, costly, time consuming, undemocratic, reliant on territorial and regional boundaries which are irrelevant and unreflective of communities of interest, unrepresentative, and lacks political accountability.

Local government also rightly complained about the lack of coordination around local government reform. Simultaneously (or at least contemporaneously) with the bills, the Government's reforms to 3 Waters were before Parliament, while the Future of Local Government Inquiry was also underway. It is obvious there has been very little integration between the reforms. The net effect has been frustration and exhaustion in the sector. Reform is occurring in a piecemeal way and there is no coherence. Indeed, even while the bills were before the committee, the Government made substantial changes to the 3 Waters reforms which have necessitated even more legislation.

Decarbonisation will be put at risk

National supports the development of our abundant renewable energy resources in order to grow our economy while decarbonising the country. However, the bills will make this harder, not easier. Contact Energy warned in their submission that:

> The Bills risk delaying the decarbonisation of the energy sector, putting New Zealand's emission reduction goals at risk. The Bills risk increasing energy prices for New Zealanders and the businesses and activities that urgently need to transition to low-cost, carbon-free, energy sources.

The joint submission by the Electricity Sector Environment Group was blunt in their assessment, stating, "The NBE Bill is very large and complex, even unwieldy" and that "as currently drafted, the NBE Bill is considered to be unworkable." The Wind Energy Association said it would make it harder to build a wind farm in New Zealand.

Cost and extended timeframe of change

A constant theme of submissions was concern about the cost and long lead-in time for the new regime. Many worried that the costs of change had been underestimated. The Government is confident the benefits of change will outweigh the costs but we remain immensely sceptical in view of the strong submissions.

Fletcher Building's submission summarises a constant theme from industry:

> As it currently stands, the proposed regime will also make it very difficult for businesses to invest in new projects in NZ or make decisions to expand businesses.

Diminution of property rights

The bills are notable for their contempt for property rights, the foundation of market economies. The change from an effects-based regime to an outcomes-based approach further weakens the respect for private property. As Professor Lew Evans and Kevin Counsell noted in their submission, New Zealand is already distinguished by having the weakest protection of private property rights in the OECD. The NBEB diminishes those protections further.

Conclusion

National's differing view only scratches the surface of the dangers of the bills. There are many further matters we are concerned about that we have not commented on.

Like many, National supports reform of the RMA. But reform must improve on the status quo, regardless of how long was spent on them. The bills fail on almost every front. They are anti-democratic. They disregard fundamental property rights. They will lead to extensive, time-consuming and costly litigation. They will increase bureaucracy. They put at risk our climate goals. They will likely increase the costs, time, and uncertainty of resource consents. We cannot support these bills.

ACT New Zealand differing view on Natural and Built Environment Bill

ACT opposes this bill. We believe the Government is putting in place a regulatory regime that will empower the forces that currently frustrate development and restrict progress toward an improved environment.

The bill is sweeping in its scope—it covers everything from urban planning to "geo-heritage sites", supply of land, greenhouse gas emissions, coastal areas, cultural heritage—in short just about every aspect involving people's lives in some way. Faced with a once in a generation chance to cut through restrictive planning rules, allow for sensible environmental regulation, and empower development of new infrastructure, the Government has elected for a plan that would add even more bureaucracy to the system.

At the highest level, the bill's purpose is to "to uphold te Oranga o te Taiao". This is given a list of vague definitions with completely new terminology without any hierarchy. The bill throws in vague and puzzling concepts without any definition. How courts will interpret such confusing statements is unknown. This is a recipe for judicial mayhem. The overarching intent of the bill is to protect the natural environment over all other considerations. There is no ability to make assessments or cost/benefit decisions between potentially competing, or in some cases even conflicting, system outcomes.

The bill would centralise planning and direction-setting powers into the Ministry for the Environment through a National Planning Framework with few, if any, checks and balances. The bill is about creating an apparatus of sweeping state power, without any attempt to balance legitimate government powers to protect the common environment in the interests of all with the rights of individuals to use their property as they want.

The bill has long lists of different targets, limits, outcomes, and principles that the National Planning Framework will have to make sense of. It is likely that the courts will have to sort out this logjam of bad law.

The reform proposes that regional planning rules to give effect to the national plan will be made by appointees from local and central government and iwi, but without representation from developers and businesses required to operate within the planning system. The lack of democratic legitimacy for such bodies making decisions that directly impact their citizens' lives and property, with no direct election or other democratic controls, means that it is likely that regional planning councils will become resented and unsustainable.

The proposed reform introduces unworkable environmental limits and rules that will result in more prohibitions and endless bureaucratic consenting processes, rather than more freedom for the range of urban and rural activities essential to New Zealanders' social, economic, and environmental wellbeing.

Federated Farmers told the committee that the Natural and Built Environment Bill and Spatial Planning Bill will strip away local decision making in favour of centralisation, and a bill filled with amorphous terms and principles will make it impossible for the courts to define what the legislation really means.

Projects will still be held up by years of hearings, appeals, consultants' reports, and iwi consultations. As a result, the Government is squandering an opportunity to create meaningful change that could improve the lives of New Zealanders and restore the ideal of a democracy founded on respect for self-determination and property rights.

ACT engaged with the select committee process in the hope that the considerable input by submitters into the development of this reform would lead to constructive changes to the bill.

The regional planning provisions risk sterilising resources and development in large parts of New Zealand which means that vital construction materials will be further from where they are needed and will cost more.

The bill ignores local and international environmental best practice and introduces new and poorly defined concepts which would take decades to litigate and settle, introducing great uncertainty for investors, developers, and councils.

ACT believes that the proposed reforms will establish a highly restrictive bureaucratic regime rather than a system that balances environmental protection and ensures urban planning with building infrastructure and buildings which is vital to improve social, economic, and environmental outcomes.

The proposed reforms will create a planning system that provides less certainty and less accountability than the RMA does today, at a time when more localised, adaptive, and agile processes are needed to manage development and natural hazards.

Instead of progressing this approach, ACT supports repealing the RMA and replacing it with separate Environmental Protection and Urban Development Acts. Separating environmental protection and urban planning is critical to recognise that a one size fits all approach is not workable.

A shift in principle on resource management to a property rights basis, where people can do anything that does not harm others' enjoyment of property. It dramatically reduces the range of people who have an interest in someone else's use of their own property.

A new Environmental Protection Act (EPA) that would allow people to do what they like on their land unless specifically prohibited under the Act. Discharges to common property would be forbidden unless specifically allowed under such an Act. Such discharges will be managed under one of two regimes: freshwater, or other discharges, noting the special importance of freshwater.

The freshwater regime would involve local councils deciding on acceptable environmental limits in consultation with their community. This decision making would be based on clearly demarcated, scientifically measurable parameters. Within these measures, property owners will be able to trade their permits. This approach is a far more localised and flexible way of achieving cleaner freshwater than the current command and control approach.

Non-freshwater pollution would be managed by two regimes, one for high risk activities, and another for leakage. A regime of clean-up bonds being required for high risk activities, so that the taxpayer is not left carrying the can for clean-up costs. Leakage, such as ground water pollution, would be managed using processes based on the tort of nuisance.

Urban development would be managed under a separate Urban Development Act (UDA). The UDA would set out three processes for streets or neighbourhoods to negotiate up their zoning either by consensus, bilaterally, or unilaterally. This introduces more control for property owners, while allowing cities to organically intensify.

If we want to get cheaper goods to market and more houses built for the next generation, we need to reduce government interference and allow Kiwis to maintain property rights. That is the only way we will realise our economic potential.

All parties agree resource management reform is necessary, but this bill is not the reform we need. We do not believe it improves the status quo, which is why we do not support further progress of this bill.

Green Party of Aotearoa New Zealand differing view on Natural and Built Environment Bill

The Green Party recognises the need for reform of the Resource Management Act, and acknowledges the considerable work that officials and others have put into developing the bill and recommending changes in response to public submissions and further departmental analysis. Many changes through the select committee process have improved the bill. With only one member on the select committee, the Green Party has sought to participate constructively, despite the compressed timeframe for dealing with such substantial and complex legislation.

The bill's purpose in upholding the new legislative concept of te Oranga o te Taiao, is ambitious. As are some of the system outcomes such as protecting, or if degraded

restoring, the ecological integrity, mana and mauri of air, water, soils, the coastal environment and indigenous biodiversity, and cultural heritage.

Nevertheless the Green Party is not confident that the Natural and Built Environment Bill and its legislative companion, the Spatial Planning Bill, will avoid or substantially reduce further environmental harm or degradation, respond adequately to the depth and extent of the nature crisis; or support human health and wellbeing and liveable cities and towns by sustaining a healthy natural environment.

The Government's policy intent—to facilitate the construction and development of hard infrastructure from roading to wind turbines by speeding up planning decisions and reducing decision-making constraints; and to facilitate subdivision and land development for housing—has limited the scope for substantive changes to some provisions in response to submissions.

The bill's shortcomings include:

First, the large number of outcomes and the lack of priority for environmental outcomes together with the decision-making principles risk a return to a subjective "overall broad judgment" approach by decision makers. Under the RMA, before the *King Salmon* decision, this often favoured development as economic benefits were balanced off against (and seen to outweigh) adverse environmental effects. At the same time, an "overall broad judgment" approach will not achieve reform that provides greater certainty about what activities are likely to be consented.

Second, there is no requirement to include environmental limits and targets in the first National Planning Framework (NPF). Environmental limits are intended to identify a safe space for human activity and avoid ecological tipping points leading to irreversible environmental harm and damage. Targets aim to drive improvements in ecological integrity. We consider there should be a requirement to develop and include limits and targets in the first NPF[18] to guide the development of regional spatial strategies and plans by regional planning committees (RPCs). Instead the bill provides that there will be no limits and targets in the NPF, unless these are part of existing national direction under the RMA; such as the National Policy Statement for Freshwater Management which will be become part of the first NPF.

Environmental limits and targets and significant areas (places of national importance, significant biodiversity areas, and highly vulnerable biodiversity areas) are supposed to be key environmental protection tools in the new regime. The first NPF will also be notified without identifying places of national importance or significant biodiversity areas. With an expected 8 to 10 year transition period from the current RMA system to the NBE regime, natural areas risk being adversely affected by poorly constrained development during that time. Regional spatial planning will identify areas that are appropriate for urban development and new infrastructure over the next 30 years will occur despite considerable uncertainty around the location and extent of areas to be

[18] Required to be notified by 1 January 2028.

protected. The risk is greater because the NPF, regional spatial strategies, and plans are the primary guide for decision making, and parties involved in resource consents and designations cannot refer back to and rely on the bill's purpose and outcomes.

The effectiveness of limits and targets is further weakened because infrastructure providers and others using the designation or notice of requirement process do not need to comply with them. The bill also expands the utility and commercial operators which can seek a notice of requirement or designation.

Third, the ministerial powers are excessive and risk politicising far too much of the management framework. They include: deciding environmental limits; directing exemptions to the limits and targets and to the protective provisions around places of national importance; directing regional planning committees to take specific actions; and replacing poorly performing committees with a commissioner. The Green Party would prefer having an expanded independent agency such as the Environmental Protection Authority make decisions on environmental limits and targets. This would avoid what should be a science and evidence-based process becoming politicised and subject to industry and stakeholder lobbying.

Fourth, the threshold that areas of natural character, outstanding natural landscapes and natural features have to be "exceptional on a national scale" to be recognised as places of national importance (PONIs) is too high. The natural and ordinary meaning of "importance" is not the same as "exceptional". PONIs are one of the key tools to protect natural areas. The high threshold limits the number and extent of natural areas that the NPF and plans can protect against inappropriate use and development.

The problem is compounded by the lack of recognition for regionally and locally outstanding landscapes and natural features and natural character, and the absence of any requirement for RPCs to identify and protect these areas in regional spatial strategies and plans. For example, while parts of the Mackenzie Basin and some of Auckland's volcanic maunga may be recognised as "exceptional on a national scale" in the NPF and the relevant plan, areas such as Christchurch's Port Hills which are locally outstanding will not be recognised. "Exceptional" is not used in the RMA so the new wording potentially makes redundant a large body of case law on the definition and application of the terms "natural character" and "outstanding natural features and landscapes" over the last 30 years. Further litigation to clarify the meaning and application of the new terms is likely—once again reducing the certainty of the new framework.

The Minister can exempt a wide range of activities, including common activities such as subdivision from the bill's requirements to have no more than "trivial" effects on the attributes that make an area a place of national importance. The Minister also has a power to override the effects management framework applying to places of national importance in favour of a less stringent approach. The effects management framework provides a stepped process to avoid, then minimise, remedy, offset, or compensate (in that order) for adverse effects on places of national importance and high value biodiversity areas. These exemption powers weaken the protection that these import-

ant natural areas (once identified) should have from the impacts of economic use and development.

The high threshold for declaring an area to be a critical habitat (it must be "essential" for the long-term viability of a species) risks the Minister of Conservation declaring relatively few areas to be critical habitat because of the challenges in proving that an area is "essential" in the long term, rather than "important".

Fifth, in an increasingly urbanised society the bill does not adequately provide for liveable, high quality urban development by ensuring good urban design and the type of development that enhances wellbeing and reduces transport emissions. This would include providing master-planning requirements for new brownfield developments, ensuring access to sunlight and access to open space and green space for community connections, recreation, and mental wellbeing. The new system outcome in clause 5(7)(c)—"…there are well-functioning urban and rural areas" that promote "adaptable and resilient urban forms that provide access for people and communities to and between social, economic, recreational, and cultural opportunities"—needs to give stronger protection for the liveability in urban environments. It is a weak substitute for the RMA requirement to maintain and enhance amenity values and the quality of the environment.

Sixth, the bill promotes aquaculture development and allows RPCs to establish aquaculture management areas in plans without requiring the mapping or identification of significant biodiversity areas or high value biodiversity areas in the coastal marine area as part of this process. This prioritises commercial aquaculture development and use ahead of protection of areas of seabed, reef habitat, and coastal environment which merit protection because of their habitat and ecological values.

Seventh, the bill provides for an unnecessary fast-track consenting process where the Minister accepts applications for referral to an "expert consenting panel". It is based on the COVID-19 Recovery (Fast-track Consenting) Act 2020. The fast-track process for large scale housing developments and infrastructure is opposed as the COVID emergency has passed, the reform is supposed to streamline decision making, alternative processes are available such as direct referral to the Environment Court, and public participation is more limited than the standard resource consent process.

Finally, there are major knowledge gaps across environmental domains, including for the marine environment and inconsistent data collection and analysis. For the NBE Bill to be effective we need increased investment in understanding natural systems, the biophysical environment, and environmental processes to inform environmental regulation and monitor its effectiveness and ensuring this information is publicly available. That commitment has yet to be made.

Appendix A

Committee process

The Natural and Built Environment Bill was referred to the committee on 22 November 2022. We called for submissions with a closing date of 5 February 2023. On 16 December 2022, we presented an interim report on this bill and the Spatial Planning Bill for the purposes of making the initial briefing documents publicly available.

We received and considered submissions (including form submissions) from 2,945 interested groups and individuals. Submitters included 121 businesses, 120 environment or community groups, 111 iwi, hapū, or Māori groups, 107 industry or professional organisations, 103 local government submitters, 103 legal or academic submitters, and 23 government organisations. We record our gratitude for the considerable effort that submitters made in preparing and presenting their submissions, their analysis, and the many detailed suggestions for changes to improve the bill and its implementation.

We considered this bill alongside the Spatial Planning Bill. In particular, oral submissions covered both bills. We heard oral evidence on both bills from 365 submitters at hearings in Auckland, Christchurch, Tauranga, and Wellington; and by videoconference; over 28 meetings.

We received advice on the bill from the Ministry for the Environment. We acknowledge the large number of ministry officials who have contributed considerable time and effort to the development and consideration of the bill.

We also thank the Ministry for Primary Industries for its advice.

The Office of the Clerk provided advice on the bill's legislative quality. As part of our legislative scrutiny, we considered matters relating to clauses 34, 40, 55, 87, 106–7, 108, 223, 318–19, 512, 632, 672–74, 715–16, 718, 743, and 770, and Schedules 6 and 15.

The Regulations Review Committee reported to us on the powers contained in clauses 2, 34, 44, 88, 117, 120, 121, 122, 124, 438, 567, 638, 775, 782, 827, 851, 854, 856, 857, and 858, and Schedules 6 and 7.

The Parliamentary Counsel Office undertook legal drafting. We acknowledge the challenges in dealing with such a large and complex bill in the time frame required and appreciate their professional expertise and commitment.

We received independent advice (separately) from Emily Grace and Paula Hunter which was helpful. We also received and are grateful for advice from the Parliamentary Commissioner for the Environment.

Staff in the Environment Committee secretariat have made a substantial contribution to the bill through their tracking of submissions, organisation of hearings, and preparation of this report.

Committee membership

Hon Eugenie Sage (Chairperson)

Hon Rachel Brooking (until 3 May 2023)
Tāmati Coffey
Simon Court
Anahila Kanongata'a (until 8 February 2023)
Barbara Kuriger (from 8 February 2023)
Hon Stuart Nash (from 3 May 2023)
Hon Scott Simpson
Stuart Smith (until 8 February 2023)
Lemauga Lydia Sosene
Hon Phil Twyford (from 3 May 2023)
Angie Warren-Clark
Hon Aupito William Sio (8 February 2023 to 3 May 2023)

Appendix B

Clause Comparison

This table sets out corresponding provisions of the 2 versions of the revision tracked bill:

- Tables 1 and 2 read in numerical order when reading version 22. Version 22 is the un-restructured version. References to clauses in this commentary are to provisions in version 22. Version 22 will be available on the Parliament website.
- Tables 3 and 4 read in numerical order when reading version 23. Version 23 is the restructured version. It is the final version, as reported back to the House. Version 23 is attached to this commentary.

Table 1—body of bill

Version 22 (unrestructured)	Version 23 (reported back)
61	427V
62	427W
63	Deleted
64	427X
65	427Y
66	Deleted
67	Deleted
555	427A
555A	427B
556	427C
557	427D
558	427E
559	427F
560	427G
561	427H
561A	427I
561B	427J
561C	427K
561D	427L
562AAA	427M
562AAAB	427N
562AA	427O
562	427P
563	427Q
564	427R
565	427S
566	427T
567	427U
630	30A

631	30B
632	30C
633	30D
634	30E
635	30F
636	30G
637	30H
638	30I
639	30J
639A	30K
640	30L
641	30M
642	30N
643	30O
644	30P
645	30Q
646	30R
647	30S
648	30T
649	30U
650	30V
651	30W
652	30X
653	30Y
654	30Z
655	30ZA
656	30ZB
657	30ZC
658	30ZD
659	30ZE
660	30ZF
661	30ZG
662	30ZH
663	30ZI
664	30ZJ
665	30ZK
665A	30ZL
666	30ZM
667	30ZN
668	30ZO
669	30ZP
670	30ZQ
671	30ZR
672	Deleted
673	30ZS

674	30ZT
675	30ZU
676	30ZV
677	30ZW
678	30ZX
679	30ZY
680	30ZZ
681	30ZZA
682	30ZZB
683	30ZZC
684	30ZZD
685	30ZZE
686	30ZZF
687	30ZZG
688	30ZZH
689	30ZZI
690	30ZZJ
691	30ZZK
692	30ZZL
693	30ZZM

Table 2—Schedule 10A

Version 22 (unrestructured)	Version 23 (reported back)
1	34
2	35
3	36
4	37
5	38
6	39
7	40
304	1
305	2
306	3
307	4
308	5
309	6
310	7
311	8
312	9
313	10
314	11
315AAA	12
315	13
316	14
317	15

317A	16
318	17
318A	18
318B	19
318C	20
319	21
319A	22
320	23
321	24
322	25
323	26
323A	27
324	28
325	29
326	30
326A	31
326B	32
327	33
328	41
329	42
330	43
331	44
332	45
333	46
334	47
335	48
336	49
337	50
338	51
339	52
340	53
341	54
342	55
343	56
344	57
345	58
346	59
347	60
348	61
349	62
350	63
351	64
352	65
353	66
354	67

355	68
356	69
357	70
358	71
359	72
360	73
361	74
362	75
363	76
364	77
365	78
366	79
367	80
368	Deleted
369	Deleted
370	Deleted
371	Deleted
372	Deleted
373	Deleted
374	81
375	82
376	83
377	84

Table 3—body of bill

Version 23 (reported back)	Version 22 (unrestructured)
30A	630
30B	631
30C	632
30D	633
30E	634
30F	635
30G	636
30H	637
30I	638
30J	639
30K	639A
30L	640
30M	641
30N	642
30O	643
30P	644
30Q	645
30R	646
30S	647

30T	648
30U	649
30V	650
30W	651
30X	652
30Y	653
30Z	654
30ZA	655
30ZB	656
30ZC	657
30ZD	658
30ZE	659
30ZF	660
30ZG	661
30ZH	662
30ZI	663
30ZJ	664
30ZK	665
30ZL	665A
30ZM	666
30ZN	667
30ZO	668
30ZP	669
30ZQ	670
30ZR	671
30ZS	673
30ZT	674
30ZU	675
30ZV	676
30ZW	677
30ZX	678
30ZY	679
30ZZ	680
30ZZA	681
30ZZB	682
30ZZC	683
30ZZD	684
30ZZE	685
30ZZF	686
30ZZG	687
30ZZH	688
30ZZI	689
30ZZJ	690
30ZZK	691
30ZZL	692

30ZZM	693
427V	61
427W	62
427X	64
427Y	65
427A	555
427B	555A
427C	556
427D	557
427E	558
427F	559
427G	560
427H	561
427I	561A
427J	561B
427K	561C
427L	561D
427M	562AAA
427N	562AAAB
427O	562AA
427P	562
427Q	563
427R	564
427S	565
427T	566
427U	567

Table 4—Schedule 10A

Version 23 (reported back)	Version 22 (unrestructured)
1	304
2	305
3	306
4	307
5	308
6	309
7	310
8	311
9	312
10	313
11	314
12	315AAA
13	315
14	316
15	317
16	317A

17	318
18	318A
19	318B
20	318C
21	319
22	319A
23	320
24	321
25	322
26	323
27	323A
28	324
29	325
30	326
31	326A
32	326B
33	327
34	1
35	2
36	3
37	4
38	5
39	6
40	7
41	328
42	329
43	330
44	331
45	332
46	333
47	334
48	335
49	336
50	337
51	338
52	339
53	340
54	341
55	342
56	343
57	344
58	345
59	346
60	347
61	348

62	349
63	350
64	351
65	352
66	353
67	354
68	355
69	356
70	357
71	358
72	359
73	360
74	361
75	362
76	363
77	364
78	365
79	366
80	367
81	374
82	375
83	376
84	377

Appendix C

List of abbreviations used in the commentary

Acronym	Meaning
ADR	alternative dispute resolution
CIP	construction and implementation plan
EEZ Act	Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
EMF	effects management framework
FTCA	COVID-19 Recovery (Fast-track Consenting) Act 2020
HVBA	highly vulnerable biodiversity area
IHP	independent hearings panel
JMA	joint management agreement
NBE	Natural and Built Environment
NOR	notice of requirement
NPF	National Planning Framework
NPS–FM	National Policy Statement on Freshwater Management
RMA	Resource Management Act
RPC	regional planning committee
RSS	Regional Spatial Strategy
SBA	significant biodiversity area

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon David Parker

Natural and Built Environment Bill

Government Bill

Contents

Part 2A
Exercise of functions, powers, and duties under this Act

Subpart 4—Notification of applications for resource consent

Purpose of notification

Notification requirements

Submissions on applications

Subpart 5—Hearings and decisions

Hearings

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Natural and Built Environment Act **2022**.

2 Commencement

(1) The following provisions come into force on the day after Royal assent:

- (a) **Parts 1 to 3**:
- (b) **Part 2A** (**sections 30A to 30ZZM**):
- (c) **Part 4** (except **section 100**):
- (d) **Part 5 (sections 152 to 377**:
- (e) **Part 6** (**sections 378 to 427Y**):
- (f) **Part 7** (**sections 428 to 496**):
- (g) **subpart 2 of Part 8** (**sections 541 to 553**):
- (h) **Part 9** (**sections 568 to 629**) **and Schedule 11**:
- (i) **Part 11** (except for the sections specified in **subsections (2A) and (2B)**):
- (j) **sections 695 and 708(1)(e) and subpart 3 of Part 11** (**sections 732 to 750**) **and sections 751 to 757, 759, 760(1)(c), 765, 767, 775, 782, and 785 to 794**:
- (k) **Part 12** (except **sections 803 and 860**):
- (l) **Schedules 1 to 7, Parts 2 and 3 of Schedule 8, and Schedules 9 to 12 and 14 to 15**.
- ~~(a) **Parts 1 and 3**, **Part 12** (except **sections 860 and 861**), and **Schedule 14**:~~
- ~~(b) **section 16:**~~
- ~~(c) **subpart 3 of Part 2 (sections 26 to 30):**~~
- ~~(d) **subpart 5 of Part 4** (**sections 147 to 151**):~~

~~(e) **sections 399 to 411**:~~

~~(f) **section 782**:~~

~~(g) **section 789**:~~

~~(h) **Schedules 1, 2, 3, 4, 5, 6, 10, and 13**:~~

~~(i) **clause 8 of Schedule 11**.~~

(2) ~~**Sections 499 to 502** come~~ **Subpart 1 of Part 8** (**sections 497 to 540**) comes into force 3 months after Royal assent.

(2A) **Sections 289 and 723 to 731** come into force 6 months after Royal assent.

(2B) **Sections 718, 766, and 776 to 780** come into force 2 years after Royal assent.

(2C) **Section 803 and Schedule 13** come into force on the earlier of—

(a) a date appointed by the Governor-General by Order in Council made on the recommendation of the Minister for the Environment:

(b) 2 years after the date on which this Act receives the Royal assent.

(3) The rest of this Act (except for provisions commenced under **subsection (6)**) comes into force on a date appointed by the Governor-General by Order in Council made on the recommendation of the Minister for the Environment.

(4) One or more Orders in Council may be made under this section appointing different dates for the commencement of different provisions and for different purposes.

(5) An Order in Council may bring different provisions of this Act into force on different dates for—

(a) different districts or regions of local authorities; or

(b) any area of New Zealand specified in the order.

(6) An Order in Council may be made under this ~~section~~ subsection on the recommendation of the Minister for the Environment and the Minister for Māori Crown Relations: Te Arawhiti and, in the case of the Gisborne region, also on the recommendation of the Minister for Treaty of Waitangi Negotiations, ~~may bring~~ that brings into force on 1 or more dates provisions to enable the regional planning committee composition process set out in **Part 1 of Schedule 8** to be initiated for any region or regions.

~~(7) The Ministers may make a recommendation under **subsection (6)** only if—~~

~~(a) amendments to provisions of the relevant Treaty settlement legislation, as agreed by the relevant governance entities, have been enacted; or~~

~~(b) the relevant governance entities, Ngā hapū o Ngāti Porou, and the relevant iwi or hapū have reached agreement on the transitioning of existing Mana Whakahono ā Rohe and Joint Management Arrangements; or~~

~~(c) in the absence of that enactment or those agreements, 2 years has elapsed since the date on which this Act received the Royal assent.~~

(7) The Ministers may make a recommendation under **subsection (6)** only if the preconditions set out in both **paragraphs (a) and (b)** or in **paragraph (c)** are met:

(a) either—

(i) the process described in **clause 4(2)(c) of Schedule 2** (in relation to entering into agreements with the relevant party that are necessary to uphold the relevant Treaty settlement or the NHNP Act) has been completed in relation to the region for which the Order in Council is to be made (regardless of whether agreement has been reached with the relevant post-settlement governance entity or ngā hapū o Ngāti Porou on upholding its settlement in relation to other regions) and the relevant post-settlement governance entity or ngā hapū o Ngāti Porou has consented to the regional planning committee composition process commencing by the Order in Council; or

(ii) the process described in **clause 4(3) of Schedule 2** (in relation to the enactment of amendments to a Treaty settlement Act or the NHNP Act) has been completed and the amendment legislation described in that provision has been enacted:

(b) the relevant governance entities or the relevant iwi or hapū have reached agreement on the transitioning of the Mana Whakahono ā Rohe and Joint Management Arrangements (the other arrangements referred to in **clause 4(2)(c) of Schedule 2**) that are in force on the day after Royal assent:

(c) 2 years has elapsed since the date on which this Act received the Royal assent.

(8) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1
Purpose and preliminary matters

Subpart 1—Purpose and related matters

~~3 Purpose of this Act~~

~~The purpose of this Act is to—~~

~~(a) enable the use, development, and protection of the environment in a way that—~~

~~(i) supports the well-being of present generations without compromising the well-being of future generations; and~~

~~(ii) promotes outcomes for the benefit of the environment; and~~

~~(iii) complies with environmental limits and their associated targets; and~~

~~(iv) manages adverse effects; and~~

~~(b) recognise and uphold te Oranga o te Taiao.~~

3 Purpose of this Act

(1) The purpose of this Act is to uphold te Oranga o te Taiao.

(2) The purpose must be achieved in a way that—

(a) protects the health of the natural environment; and

(b) subject to **paragraph (a)**, enables the use and development of the environment in a way that promotes the well-being of both present and future generations.

(3) **Te Oranga o te Taiao** means all of the following:

(a) the health of the natural environment; and

(b) the relationship between the health of the natural environment and its capacity to sustain life; and

(c) the relationship between the health of the natural environment and the health and well-being of people and communities; and

(d) the interconnectedness of all parts of the environment; and

(e) the relationship between iwi and hapū and te Taiao that is based on whakapapa.

3A Means for achieving purpose of Act

This section sets out the following key means to achieve the purpose of the Act:

(a) system outcomes must be provided for—

(i) at the national level, through the national planning framework (*see* **section 57**); and

(ii) at the regional level, in plans (*see* **section 107**); and

(b) limits and their associated mandatory targets must be set and complied with, for each of the domains listed in **section 38(1)**, in the national planning framework and in plans; and

(c) discretionary targets for achieving outcomes may be set in the national planning framework and in plans (*see* **section 51)**; and

(d) the national planning framework whose purpose is described in **section 33**; and

(e) regional spatial strategies must be prepared under the **Spatial Planning Act 2022** to—

(i) assist in achieving the purpose of this Act and the system outcomes provided under it; and

(ii) promote integration in the performance of functions under this Act, the Land Transport Management Act 2003, the Local Government Act 2002, and the Water Services Entities Act 2022 (*see* **sections 3 and 4 of the Spatial Planning Act 2022**; and

(f) plans whose purpose is described in **section 96**; and

(g) decision-making principles must be applied by decision-makers (*see* **section 6**); and

(h) the protection of places of national significance and areas of highly vulnerable biodiversity must be provided for; and

(i) provision may be made to protect regionally significant features; and

(j) the effects of activities on the environment must be managed.

4 Tiriti o Waitangi

All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.

~~**5 System outcomes**~~

~~To assist in achieving the purpose of this Act, the national planning framework and all plans must provide for the following system outcomes:~~

~~(a) the protection or, if degraded, restoration, of —~~

~~(i) the ecological integrity, mana, and mauri of —~~

~~(A) air, water, and soils; and~~

~~(B) the coastal environment, wetlands, estuaries, and lakes and rivers and their margins; and~~

~~(C) indigenous biodiversity:~~

~~(ii) outstanding natural features and outstanding natural landscapes:~~

~~(iii) the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins:~~

~~(b) in relation to climate change and natural hazards, achieving —~~

~~(i) the reduction of greenhouse gas emissions:~~

~~(ii) the removal of greenhouse gases from the atmosphere:~~

~~(iii) the reduction of risks arising from, and better resilience of the environment to, natural hazards and the effects of climate change:~~

~~(c) well functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes —~~

~~(i) the use and development of land for a variety of activities, including for housing, business use, and primary production; and~~

~~(ii) the ample supply of land for development, to avoid inflated urban land prices; and~~

~~(iii) housing choice and affordability; and~~

~~(iv) an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities; and~~

~~(d) the availability of highly productive land for land-based primary production:~~

~~(e) the recognition of, and making provision for, the relationship of iwi and hapū and the exercise of their kawa, tikanga (including kaitiakitanga), and mātauranga in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga:~~

~~(f) the protection of protected customary rights and recognition of any relevant statutory acknowledgement:~~

~~(g) the conservation of cultural heritage:~~

~~(h) enhanced public access to and along the coastal marine area, lakes, and rivers:~~

~~(i) the ongoing and timely provision of infrastructure services to support the well-being of people and communities.~~

5 System outcomes

(1) The purpose of providing system outcomes in **subsections (2) to (10)** is to establish what must be achieved at the national and regional levels to ensure that the purpose of the Act is achieved.

(2) The following aspects of the environment are protected or, if degraded, are restored:

(a) the ecological integrity, mana and mauri of—

(i) air, water, and soils; and

(ii) the coastal environment (including the coastal marine area and estuaries), wetlands, and lakes and rivers and their margins; and

(iii) indigenous biodiversity:

(b) outstanding natural features (including geoheritage), and outstanding natural landscapes:

(c) the natural character of the coastal environment (including the coastal marine area and estuaries), wetlands, and lakes and rivers and their margins:

(d) cultural heritage.

(3) In relation to climate change,—

(a) greenhouse gas emissions are reduced to assist New Zealand to meet the target set under section 5Q of the Climate Change Response Act 2002; and

(b) greenhouse gases are removed from the atmosphere.

(4) The risks arising from natural hazards and the effects of climate change are reduced and other measures are taken to achieve an environment that is more resilient to those risks.

(5) The coastal marine area is used sustainably to promote the well-being of both present and future generations.

(6) Public access to and along the coastal marine area, lakes, and rivers is maintained and enhanced.

(6A) Public recreational use and enjoyment of the natural environment is maintained and enhanced.

(6AB) The habitat of trout and salmon is protected, so far as consistent with the protection of indigenous species.

(7) There are well-functioning urban and rural areas that are responsive to the diverse and changing needs of people and their communities in a way that promotes—

(a) the use and development of land for a variety of activities, including for housing, business use, and primary production; and

(b) development capacity, in relation to housing and business land, being available well ahead of expected demand; and

(c) adaptable and resilient urban forms that provide access for people and their communities to and between social, economic, recreational, and cultural opportunities.

(8) Infrastructure is provided in a timely and ongoing manner to promote the well-being of both present and future generations.

(9) In order to promote the well-being of both present and future generations, highly productive land is protected—

(a) for use in land-based primary production; and

(b) from inappropriate subdivision, use, and development.

(10) The relationship of iwi and hapū, and the exercise of their kawa, tikanga (including kaitiakitanga), and mātauranga in respect of their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga, are recognised and provided for.

(11) Statutory acknowledgements are recognised consistently with the provision made for them in the relevant legislation.

5A Providing for outcomes

(1) The system outcomes described in **section 5(2) to (11)** must be provided for,—

(a) at the national level, in the national planning framework; and

(b) at the regional level, in plans.

(2) When providing for outcomes, the following approach must be taken:

(a) the health of the natural environment and its capacity to sustain life must be protected in accordance with the purpose of this Act:

(b) not all outcomes are required to be achieved in all places or at all times:

(c) conflict between or among outcomes must be identified and resolved at the highest practicable level within the national planning framework and plans made under this Act:

(d) as a means of avoiding conflict between outcomes, achieving compatibility between or among outcomes must be preferred rather than achieving 1 outcome at the expense of another:

(e) the goal of achieving outcomes, at both the national and regional levels, must be preferred over the goal of avoiding conflict.

Decision-making, procedural, and information principles

6 Decision-making principles

(1) ~~To assist in achieving the purpose of this Act, the Minister and every regional planning committee, in making decisions under the Act,~~ All persons making recommendations or decisions on the national planning framework or plans must—

(a) provide for the integrated management of the environment; and

(b) actively promote the outcomes provided for under this Act; and

(c) recognise the positive effects of using, ~~and~~ developing, and protecting the environment to achieve the outcomes; and

(d) manage the adverse effects of using and developing the environment in a way that achieves, and does not undermine, the outcomes; and

(e) manage the cumulative adverse effects of using and developing the environment~~.~~; and

(f) not prefer a use because it is either a new or existing use when considering how the outcomes are to be best achieved; and

(g) have regard to the polluter pays principle; and

(h) in relation to managing effects, have regard to whether it is appropriate to apply the effects management framework (*see* **section 427V**) or a similar approach.

~~(2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, all persons exercising functions, duties, and powers under this Act must favour—~~

~~(a) caution; and~~

~~(b) a level of environmental protection that is proportionate to the risks and effects involved.~~

~~(3) All persons exercising powers and performing functions and duties under this Act must recognise and provide for the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their area of interest.~~

(2) All persons exercising powers and performing functions and duties under this Act must recognise and provide for the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their rohe or takiwā.

(3) All persons exercising powers and performing functions and duties under this Act must recognise and provide for the protection and exercise of protected customary rights.

6A Procedural principles

(1) All persons exercising powers and performing functions and duties under this Act must take all practical steps—

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

(b) to promote collaboration between or among local authorities, communities, and Māori on their common resource management issues.

(2) If no time limit is prescribed for taking an action or making a decision under this Act, the person responsible for the action or decision must take that action or make that decision as promptly as is reasonable in the circumstances.

(3) All persons making recommendations or decisions on the national planning framework or on a plan must develop framework rules and plan rules that will reduce reliance on the resource consenting processes in accordance with the restrictions imposed on activities by or under **sections 17 to 22**.

6B Information principles

(1) All persons exercising powers and performing functions and duties under this Act must use the best available information.

(2) In this section, **best available information** means the best information that, in the circumstances is available, without unreasonable costs, effort, or time.

(3) A person who is required to use the best available information must not delay making decisions solely because of uncertainty about the quality or quantity of the information available.

(4) If information required for making a decision under this Act is uncertain or inadequate, a person exercising powers and performing functions and duties under this Act must favour—

(a) caution; and

(b) providing a level of protection for the natural environment that is proportionate to the risks and effects involved.

Subpart 2—Other preliminary matters

Definitions

7 Interpretation

(1) In this Act, unless the context otherwise requires,—

abatement notice means a notice served under **section 708**

abiotic, in relation to a part of the environment, means non-living ~~parts of the environment~~

access strip means a strip of land created by the registration of an easement in accordance with **clause 6 of Schedule ~~12~~ 11**

accommodated activity has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

accredited means holding a qualification approved and notified under **clause 82 of Schedule 7**

ADR process has the meaning given in **clause 60 of Schedule 13**

adverse effect does not include a trivial effect

affected application has the meaning given in ~~**section 304**~~ **clause 1 of Schedule 10A**

~~**affected application consenting process** means the process described in **sections 305 to 314**~~

affected person means a person who is specified by or under this Act as an affected person in relation to an application for a resource consent or a matter

agent and **agent of a ship** ~~means~~ mean—

(a) an agent in New Zealand of the owner of a ship; or

(b) an agent of a ship

aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of the earth

airport means any defined area of land or water intended or designed to be used, whether wholly or partly, for the landing, departure, movement, or servicing of aircraft

~~**allocation framework** means any directions in the national planning framework under **section 87** relating to allocation methods and includes provisions in any plan that give effect to those directions~~

allocation framework—

(a) means the provisions of this Act, the national planning framework, plans, and regulations that relate to allocation methods and the allocation of resources (other than natural resources subject to **Part 7**); and

(b) includes **sections 86A, 87, 88, 126 to 129, and 851 and clauses 1 to 11 of Schedule 10A**

allocation method means, except in **Part 7**, a method to determine the allocation of a resource, and includes (but is not limited to) the following:

~~(a) consensus:~~

(b) standard consenting process:

~~(c) affected application pathway:~~

~~(d) auction or tender~~

(c) comparative consenting process:

(d) standard consenting process modified by a market-based allocation method (but *see* **sections 88(5) and 128(4)**)

allotment has the meaning given in **section 570**

applicant, for the purposes of **Part 5**, has the meaning given in ~~**section 328**~~ **clause 41 of Schedule 10A**

aquaculture ~~**activities**~~ **activity**—

(a) means any activity described in **section 19** that is carried out for the purpose of the breeding, hatching, cultivating, rearing, or ongrowing fish, aquatic life, or seaweed for harvest if the breeding, hatching, cultivating, rearing, or ongrowing involves the occupation of a coastal marine area; and

(b) includes the taking of harvestable spat if the taking involves the occupation of a coastal marine area; but

(c) does not include an activity specified in **paragraph (a)** if the fish, aquatic life, or seaweed—

(i) is not in the exclusive and continuous possession or control of the person undertaking the activity; or

(ii) cannot be distinguished or kept separate from naturally occurring fish, aquatic life, or seaweed; and

(d) does not include an activity specified in **paragraph (a) or (b)** if the activity is carried out solely for the purpose of monitoring the environment

aquaculture area means an area established in a plan for the purpose of managing aquaculture activities

aquaculture area decision has the meaning given in section 186C of the Fisheries Act 1996

aquaculture settlement area has the meaning given in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004

~~**aquaculture zone** means an area established in a plan for the purpose of managing aquaculture activities~~

~~**aquaculture zone decision** has the meaning given in section 186C of the Fisheries Act 1996~~

aquatic life has the meaning given in section 2(1) of the Fisheries Act 1996

arable land use means the use of land to grow any of the following crops for harvest:

(a) grain cereal, legumes, or pulse grain:

(b) herbage seed:

(c) oilseed:

(d) maize grain, maize silage, cereal silage, or mangels:

(e) crops grown for seed multiplication:

(f) a crop prescribed in regulations made under **section 411(1)(a)**

area of interest means the area that iwi authorities or groups representing hapū identify as their traditional rohe

auditor, in relation to freshwater farm plans, has the meaning given in **section 400**

bed means,—

(a) in relation to a river,—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivisions, the space of land that the waters of the river cover at its annual fullest flow without overtopping its banks:

(ia) for the purposes of **Part 2 and section 644**, the bed of a braided river (or other meandering river) is determined as follows:

(A) in accordance with criteria or methodologies set out in the national planning framework or other regulations; or

(B) if no regulations apply, by agreement between a regional planning committee and the Minister; or

(C) if no regulations or agreement applies, by the Environment Court, using its powers to make a declaration; or

(D) if no regulations, agreement, or declaration determine the matter, the space of land that the waters cover at its fullest flow without overlapping its banks:

(ii) in all other cases, the space of land that the waters of the river cover at its fullest flow without overtopping its banks; and

(b) in relation to a lake (other than a lake controlled by artificial means),—

(i) for the purposes of esplanade reserves, esplanade strips, and subdivisions, the space of land that the waters of the lake cover at its highest level without exceeding its margin:

(ii) in all other cases, the space of land that the waters of the lake cover at its highest level without exceeding its margin; and

(c) in relation to a lake controlled by artificial means, the space of land that the waters of the lake cover at its maximum permitted operating level:

(d) in relation to the sea, the submarine areas covered by the internal waters and the territorial sea

benefits and costs includes benefits and costs of any kind, whether monetary or non-monetary

best practicable option, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment, having regard, among other things, to—

(a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and

(b) the financial implications, and the effects on the environment, of that option when compared with other options; and

(c) the current state of technical knowledge and the likelihood that the option can be successfully applied

biophysical means relating to biotic or abiotic physical features

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

(a) business and business parks:

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

(c) commercial:

(d) industrial:

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

(f) retail

cadastral survey dataset has the meaning given in section 4 of the Cadastral Survey Act 2002

certificate of approval has the meaning given in **section 568**

~~**certificate of code compliance**, in relation to a survey plan for a subdivision of land, has the meaning given in **section 568**~~

certificate of completion, in relation to a subdivision consent, has the meaning given in **section 568**

certificate of compliance means a certificate granted by a consent authority or the EPA under **section 295**

~~**certificate of compliance with consent conditions**, in relation to a subdivision consent, has the meaning given in **section 568**~~

certificate that consent conditions are complied with, in relation to a subdivision consent, has the meaning given in **section 568**

certified freshwater farm plan has the meaning given in **section 400**

certifier has the meaning given in **section 400**

chief executive means the chief executive of the Ministry for the Environment

CIP has the meaning given in **section 497**

clause 94 order has the meaning given in **clause 1 of Schedule 13**

climate change means a change of climate that ~~is~~ —

(a) can be attributed directly or indirectly to human activity that alters the composition of the global atmosphere; and

(b) in addition to natural climate variability, can be observed over comparable time periods

closed register has the meaning given in **section ~~555~~ 427A**

coastal marine area means the foreshore, seabed, and coastal waters, and the ~~air space~~ airspace above the water,—

(a) of which the seaward boundary is the outer limits of the territorial sea; and

(b) of which the landward boundary is the line of mean high-water springs, except that where that line crosses a river, the landward boundary at that point is whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5

coastal permit has the meaning set out in **section 152**

coastal water means seawater within the outer limits of the territorial sea, and includes—

(a) seawater with a substantial freshwater component; and

(b) seawater in estuaries, fiords, inlets, harbours, or embayments

commercial aquaculture has the meaning given in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004

commercial fishing has the meaning given in section 2(1) of the Fisheries Act 1996

common marine and coastal area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

company lease means a lease or licence (including a licence within the meaning of section 122 of the Land Transfer Act 2017) or other right of occupation of any building or part of any building on, or to be erected on, any land—

(a) that is granted by a company owning an estate or interest in the land; and

(b) that is held by a person by virtue of being a shareholder in the company

comparative consenting process means the process described in **clauses 2 to 11 of Schedule 10A**

conditions, in relation to plans and resource consents, includes terms, standards, restrictions, and prohibitions

consent authority means a local authority or other person whose permission is required to carry out an activity for which a resource consent is required under this Act

conservation area has the meaning given in **section 568**

conservation planning document has the meaning given in **section ~~555~~ 427A**

constable has the meaning given in section 4 of the Policing Act 2008

constituent districts, in relation to a region, means the districts that lie wholly or in part within the boundaries of the region

contaminant includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat that either by itself or in combination with the same, similar, or other substances, energy, or heat,—

(a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of the water; or

(b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged

contaminated land means land where a contaminant is present—

(a) in any physical state in, on, or under the land; and

(b) in concentrations that—

(i) exceed an environmental limit; or

(ii) pose an unacceptable risk to human health or the environment

contravene includes to fail to comply with

controlled activity means an activity described in **section ~~453~~ 75AAA**

critical habitat has the meaning given in **section ~~555~~ 427A**

cross lease means a lease of a building or part of a building on, or to be erected on, ~~on~~ land that is—

(a) granted by an owner of the land; and

(b) held by a person who has an estate or interest in an undivided share in the land

Crown organisation has the meaning given in section 4 of the Crown Organisations (Criminal Liability) Act 2002

cultural heritage—

(a) means those aspects of the environment that contribute to an understanding and appreciation of New Zealand's history and cultures that possess any of the following qualities:

(i) archaeological:

(ii) architectural:

(iii) cultural:

(iv) historic:

(v) scientific:

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu and wāhi tūpuna; and

(iv) the surroundings associated with sites referred to in **subparagraphs (i) to (iii)**; and

(v) cultural landscapes

customary marine title agreement means an agreement entered into under section 95 of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

customary marine title order has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

deposit, in relation to a survey plan or reclamation plan,—

(a) means a deposit by the Registrar-General of Land under the Land Transfer Act 2017; and

(b) includes approval by the chief executive of Land Information New Zealand under **section 579(3)** (which **section 579(4)(a)** deems to be a deposit by the Registrar-General of Land)

deposit requirements has the meaning given in **section 568**

designation means a provision made in a plan to give effect to a notice of requirement made by a requiring authority under **section 503** and any associated primary CIP

determination, in relation to coastal permits for aquaculture activities, has the meaning given in **section 264**

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

(a) the zoning, outcomes, policies, rules, and overlays that apply to the land under the relevant proposed and operative plans; and

~~(b) the capacity to meet—~~

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

~~(ii) the long-term requirements~~

(b) the capacity to meet the expected long-, medium-, and short-term requirements, including enabling housing choice and affordability; and

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

development infrastructure means the network of infrastructure for—

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

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

Director of Maritime New Zealand and **Director** mean the person for the time being holding the office of Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994

discharge includes to emit, deposit, and allow to escape

discharge permit has the meaning set out in **section 152(e)**

discretionary activity means an activity described in **section ~~453~~ 75AAA**

district, in relation to a territorial authority,—

(a) means the district of the territorial authority as determined in accordance with the Local Government Act 2002; and

(b) includes, for the purposes of **section 196**, any area in the coastal marine area

dumping—

(a) means,—

(i) in relation to waste or other matter, its deliberate disposal; and

(ii) in relation to a ship, an aircraft, or an offshore installation, its deliberate disposal or abandonment; but

(b) does not include the disposal of waste or other matter incidental to, or derived from, the normal operations of a ship, aircraft, or offshore installation~~,~~ if—

(i) those operations are prescribed as the normal operations of a ship, aircraft, or offshore installation; or

(ii) the purpose of those operations does not include the disposal, or the treatment or transportation for disposal, of that waste or other matter

~~**dwellinghouse**~~ **dwelling house** means—

(c) any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and

(d) includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but

(e) does not include the land upon which the residence is sited

ecological integrity means the ability of the natural environment to support and maintain the following:

(a) representation: the occurrence and extent of ecosystems and indigenous species and their habitats; and

(b) composition: the natural diversity and abundance of indigenous species, habitats, and communities; and

(c) structure: the biotic and abiotic physical features of ecosystems; and

(d) functions: the ecological and physical functions and processes of ecosystems

ecosystem means any system of organisms interacting with their physical environment and with each other, at any scale

effect—

(a) includes, irrespective of the scale, intensity, duration, or frequency,—

(i) any positive or adverse effect; and

(ii) any temporary or permanent effect; and

(iii) any past, present, or future effect; and

(iv) any cumulative effect arising over time or in combination with other effects; and

(b) also includes—

(i) any potential effect of high probability; and

(ii) any potential effect of low probability which has a high potential impact

effects management framework means the framework described in **section ~~31 in Part 3~~ 427V**

eligible infrastructure has the meaning given in ~~section 8 of the Infrastructure Funding and Financing Act 2020~~ **section 497**

emissions reduction plan means the emissions reduction plan ~~or national adaptation plan~~ prepared under the Climate Change Response Act ~~2000~~ 2002

employee includes,—

(a) in relation to a Crown organisation, the chief executive or principal officer (however described) of the organisation; and

(b) in relation to the New Zealand Defence Force, a member of the Armed Forces (as defined in section 2(1) of the Defence Act 1990)

enforceable undertaking means an undertaking accepted by an NBE regulator under **section 723**

enforcement action has the meaning given in **section 795**

enforcement function has the meaning given in **section 795**

enforcement officer, in relation to any provision of this Act, means a person appointed by a local authority, consent authority, the Department of Conservation, or the EPA or an NBE regulator to exercise the functions, powers, or duties of an enforcement officer under that provision

engagement agreement means an agreement provided for under **Part 1 of Schedule 7**

environment means, as the context requires,—

(a) the natural environment:

(b) people and communities and the built environment that they create:

(c) the social, economic, and cultural conditions that affect the matters stated in **paragraphs (a) and (b)** or that are affected by those matters

Environment Court means the Environment Court continued by **clause 3 of Schedule 13**

environmental contribution and **contribution** mean a contribution—

(a) in money:

(b) in land, including an esplanade or esplanade strip (other than if required in respect of a subdivision):

(c) as a combination of money and land; but

(d) do not include Maori land (within the meaning of Te Ture Whenua Maori Act 1993), unless that Act provides otherwise

~~**environmental limit** means a limit set for ecological integrity of human health, as provided for in **sections 39 and 40**~~

environmental limit—

(a) means an environmental limit set under **section 39**—

(i) that relates to the ecological integrity of an aspect of the natural environment; or

(ii) that relates to human health; but

(b) if a minimum acceptable limit is set under **section 40A** that relates to an aspect of the natural environment for which an environmental limit is required, means the minimum acceptable limit

Environmental Protection Authority and **EPA** mean the authority established by section 7 of the Environmental Protection Authority Act 2011

esplanade reserve means a reserve within the meaning of the Reserves Act 1977—

(a) that is—

(i) a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under **section 588**; or

(ii) a reserve vested in the Crown or a regional council under **section 614**; and

(b) that is vested in the territorial authority, regional council, or the Crown for 1 or more of the purposes set out in **section 604**

esplanade strip means a strip of land created by the registration of an instrument in accordance with **section 612** for~~ a purpose or~~ 1 or more of the purposes set out in **section 604**

existing use certificate means a certificate issued under **section 299 or 300**

exploration has the meaning given in section 2(1) of the Crown Minerals Act 1991

extended order means a **clause 94** order with the extended effect described in **clause 94(4) of Schedule 13**

farm operator has the meaning given in **section 400**

fish has the same meaning as in section 2(1) of the Fisheries Act 1996

fisheries resources has the ~~same~~ meaning ~~as~~ given in section 2(1) of the Fisheries Act 1996

fishing has the ~~same~~ meaning ~~as~~ given in section 2(1) of the Fisheries Act 1996

foreshore—

(a) means any land covered and uncovered by the flow and ebb of the tide at mean spring tides; but

(b) in relation to land that forms part of the bed of a river, does not include any area that is not within the coastal marine area

framework outcomes means outcomes provided for in the national planning framework

framework policy means a policy provided for in the national planning framework

framework rule means a rule in the national planning framework

freshwater means all water except coastal water and geothermal water

geothermal energy—

(a) means energy derived or derivable from, and produced ~~with~~ within the earth by, natural heat phenomena; and

(b) includes all geothermal water

geothermal water—

(a) means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more; and

(b) includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena

greenhouse gas has the meaning given in section 4(1) of the Climate Change Response Act 2002

HAIL means the Hazardous Activities and Industries List published on an Internet site maintained by the Ministry for the Environment

harmful substance ~~means any substance prescribed by regulations as a harmful substance for the purpose of this definition~~ has the meaning given in **section 24(7)**

harvestable spat has the meaning given in section 2(1) of the Fisheries Act 1996

hazardous substance includes any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance

heritage protection authority means—

(a) any Minister of the Crown, including—

(i) the Minister of Conservation acting either on their own initiative or on the recommendation of the New Zealand Conservation Authority, a local conservation board, the New Zealand Fish and Game Council, or a Fish and Game Council; and

(ii) the Minister for Māori Development acting either on their own initiative or on the recommendation of any iwi authority, group representing hapū, or other Māori entity with interests in a given place:

(b) a local authority acting either on its own initiative or on the recommendation of any iwi authority, group representing hapū, or other Māori entity with interests in a given place:

(c) Heritage New Zealand Pouhere Taonga, in so far as it carries out its functions under section 13(1)(i) of the Heritage New Zealand Pouhere Taonga Act 2014:

(d) any Māori entity or body corporate that is approved as a heritage protection authority under **section 541**

heritage protection order means an interim order made by a heritage protection authority and notified under **section 543** to protect the place identified in the order until the order ends under **section 545(4)(b)**

highly vulnerable biodiversity area and **HVBA** have the meaning given in **section ~~555~~ 427A**

horticultural land use has the meaning given in **section 400**

IHP means an independent hearings panel

incident, for the purposes of **Part 11**, ~~have~~ has the meaning given in **section 795**

incinerate, in relation to waste or other matter, means its deliberate combustion for the purpose of its thermal destruction

identified Māori land has the meaning given in **section 497**

indigenous biodiversity—

(a) means the variety of indigenous living organisms and the ecological complexes of which they are a part; and

(b) includes diversity within species, between species, and the diversity of ecosystems

industrial or trade premises—

(a) means—

(i) premises used for industrial or trade purposes; and

(ii) premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes; or

(iii) premises used for composting organic materials; or

(iv) other premises from which a contaminant is discharged in connection with any industrial or trade process; but

(b) does not include any production land

industrial or trade process includes—

(a) every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material; and

(b) any intervening storage of the raw material, partly processed matter, or product

infrastructure means the structures, facilities and networks required to support the functioning of ~~communities and the health and safety of people~~ the economy, communities, the health and safety of people, or the protection of the environment, and includes:

(a) infrastructure provided by a requiring authority; and

(b) infrastructure provided by a network utility operator; and

(ba) infrastructure provided by a requiring authority other than a network utility operator for a project or work that meets the significant public benefit criteria in **section 500(6)**; and

(c) eligible infrastructure within the meaning of section 8 of the Infrastructure Funding and Financing Act 2020; and

(d) activities undertaken by Kāinga Ora under section 131 of the Urban Development Act 2020; and

(e) nationally significant infrastructure within the meaning of section 9 of the Urban Development Act 2020; and

(f) district or regional resource recovery or waste disposal facilities; and

(g) a relevant school or institution as defined in the Education and Training Act 2020; and

(h) a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001; and

(i) fire and emergency services facilities

infringement fee, in relation to an infringement offence, means the amount fixed by regulations made under **section 775** as the infringement fee for the offence

infringement offence means an offence specified as such in regulations made under **section 775**

interim enforcement order means an order made under **section 702**

internal waters has the meaning given in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

intrinsic values, in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including—

(a) their biological and genetic diversity; and

(b) the essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience

iwi authority means the authority that represents an iwi and which is recognised by that iwi as having the authority to do so

iwi and hapū participation legislation means legislation (other than this Act) that provides a role for iwi or hapū in processes under this Act, including Treaty settlement legislation—

~~(a) the Acts listed in of the Treaty of Waitangi Act 1975; and~~

~~(b) the Acts listed in **Schedule 14**~~

joint management agreement means an agreement that—

(a) is made by a local authority with 1 or more—

(i) public authorities, as defined in **paragraph (b)** of the definition of public authority:

(ii) iwi authorities or groups that represent hapū; and

(b) provides for the parties to the joint management agreement jointly to perform or exercise any of the local authority's functions, powers, or duties under this Act relating to a natural or physical resource; and

(c) specifies the functions, powers, or duties; and

(d) specifies the natural or physical resource; and

(e) specifies whether the natural or physical resource is in the whole of the region or district or part of the region or district; and

(f) may require the parties to the joint management agreement to perform or exercise a specified function, power, or duty together; and

(g) if **paragraph (f)** applies, specifies how the parties to the joint management agreement are to make decisions; and

(h) may specify any other terms or conditions relevant to the performance or exercise of the functions, powers, or duties, including but not limited to terms or conditions for liability and funding

kaitiakitanga means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources

lake means a body of freshwater which is entirely or nearly surrounded by land

land—

(a) includes land covered by water and the airspace above land; and

(b) in a framework rule or plan rule dealing with a matter within the responsibility of a regional council under **section 644**, does not include the bed of a lake or river; and

(c) in a framework rule or a plan rule dealing with a matter within the responsibility of a territorial authority under **section 646**, includes the surface of water in a lake or river

land use consent has the meaning given in **section 152** and may be a regional land use consent or a district land use consent

lawyer has the meaning given in section 6 of the Lawyers and Conveyancers Act 2006

limited notification means serving notice on any affected person within any applicable time limit specified by or under this Act

limited order means an order with the limited effect described in **clause 94(3) of Schedule 13**

local authority, other than for the purposes of **Part 5**,—

(a) means a regional council or territorial authority; and

(b) includes a unitary authority; but

(c) for the purposes of ~~**Part 5**~~ **Part 3 of Schedule 10A**, has the meaning given in ~~**section 328**~~ **clause 41 of Schedule 10A**

local board has the meaning given in section 5(1) of the Local Government Act 2002

mahinga mātaitai means ~~the~~ an area from which food resources are gathered

Mana Whakahono ā Rohe means an iwi and a hapū participation arrangement entered into under **subpart 6 of Part ~~10~~ 2A**

mana whenua means customary authority exercised by an iwi or hapū in an identified area

management unit ~~has the meaning given in **section 31**~~ means a geographic area defined for the purpose of planning and managing activities to meet an environmental limit or target

Māori land has the meaning given in section 4 of Te Ture Whenua Maori Act 1993

marine and coastal area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

marine incineration facility has the meaning given in section 257 of the Maritime Transport Act 1994

Maritime New Zealand means the authority continued by section 429 of the Maritime Transport Act 1994

market-based allocation method means auction, tender, or any other method by which the allocation of a right to apply for a resource consent is determined through a process involving competing offers (*see* also **sections 88(6) and 128(5)**)

master, in relation to a ship, has the meaning given in section 2(1) of the Maritime Transport Act 1994

mātaitai means food resources from the sea

mineral has the meaning given in section 2(1) of the Crown Minerals Act 1991

minimum acceptable limit means a limit set in the national planning framework or a plan that relates to the ecological integrity of an aspect of the natural environment for which an environmental limit is required (*see* **section 40A**)

minimum level target has the meaning given in **section 49(3)**

mining has the meaning given in section 2(1) of the Crown Minerals Act 1991

Minister means the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

~~**Minister for Oceans and Fisheries** means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, has overall responsibility of fisheries~~

Minister of Conservation means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Conservation Act 1987

Minister responsible for aquaculture means the Minister who under the authority of a warrant or with the authority of the Prime Minister, has overall responsibility for aquaculture activities

Minister responsible for oceans and fisheries means the Minister who under the authority of a warrant or with the authority of the Prime Minister, has overall responsibility for fisheries

mouth, for the purpose of defining the landward boundary of the coastal marine area, means the mouth of the river, either—

(a) as agreed and set by the Minister of Conservation, the regional council, and the appropriate territorial authority in the period between consultation on, and notification of, the proposed plan or plan change; or

(b) as declared by the Environment Court under **section 696** upon application by the Minister of Conservation, the regional council, or the territorial authority before the plan or plan change becomes operative; but

(c) subject to **section 105(3)**, the area as agreed and set or declared must not be changed, varied, or altered

national adaptation plan means the national adaptation plan prepared under the Climate Change Response Act ~~2000~~ 2002

national park means a national park under the National Parks Act 1980

national planning framework means the national planning framework made by Order in Council under **section 34**

natural and physical resources includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures

natural environment means—

(a) ~~the resources of~~ land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and

(b) ecosystems and their constituent parts

~~**natural environmental limit** and **limit** mean a limit set under **section 39** to protect ecological integrity and human health~~

~~**natural hazard**—~~

~~(a) means any atmospheric or earth- or water-related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment; and~~

~~(b) includes soil that contains concentrations of naturally occurring contaminants that pose an ongoing risk to human health~~

natural hazard—

(a) means any atmospheric or earth- or water-related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment; and

(b) includes the effects of climate change on any of those occurrences; and

(c) includes soil that contains concentrations of naturally occurring contaminants that pose an ongoing risk to human health

NBE regulator has the meaning given in **section 694**

Nelson and Tasman unitary authorities has the meaning given in **section 95**

network utility operator means a person who—

(a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or

(b) operates or proposes to operate a network for the purpose of—

(i) telecommunication, as defined in section 5 of the Telecommunications Act 2001; or

(ii) radiocommunications, as defined in section 2(1) of the Radiocommunications Act 1989; or

(c) is an electricity operator or electricity distributor as defined in section 2(1) of the Electricity Act 1992 for the purpose of line function services as defined in that section; or

(d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or

(e) undertakes or proposes to undertake a drainage or sewerage system; or

(f) constructs, operates, or proposes to construct or operate a road or railway line; or

(g) is an airport authority as defined ~~by~~ in section 2(1) of the Airport Authorities Act 1966 for the purposes of operating an airport as defined ~~by that Act~~ in that section; or

(h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or

(i) is a responsible ~~SPV~~ special purpose vehicle that is constructing or proposing to construct eligible infrastructure; or

(j) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations ~~made under this Act~~; or

(k) is a provider of an emergency service (such as an ambulance or fire service); or

(l) operates the land part of a port operation (including warehousing and distribution facilities associated with the port) that is contiguous with and adjacent to the coastal marine area; or

(m) operates an inland port (not contiguous with the coastal marine area) or the landward operations of a seaward port operated under the Port Companies Act 1988~~; or~~

~~(n) is an additional utility operator approved as a requiring authority under **section 499(3)**~~

New Zealand Threat Classification System means the system administered by the Department of Conservation to assess the threat status of indigenous species of plants and animals

ngā hapū o Ngāti Porou has the meaning given in section 10 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

NHNP Act means provisions of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 that relate to the exercise of a power or the performance of a function or duty under the Resource Management Act 1991

nitrogenous fertiliser has the meaning given in **section 413**

noise includes vibration

notification means limited notification or public notification

notice of decision means—

(a) a copy of a decision on—

(i) an application for a resource consent; or

(ii) a requirement for a designation; or

(iii) a provision of a policy statement or plan; or

(b) a notice summarising a decision under **paragraph (a)**

notice of ongoing ~~conditions~~ requirements has the meaning given in **section 568**

~~**NPF proposal** has the meaning given in **clause 1 of Schedule 6**~~

NPF proposal means—

(a) a proposed national planning framework; or

(b) a proposed change to the national planning framework

occupier—

(a) means the person occupying a property; and

(b) includes, in relation to land, premises, and the coastal marine area, an agent, employee, or other person acting (or seeming to act) in the general management or control of the land, or of any premises, plant, or machinery on that land

occupy, in relation to the coastal marine area, means the activity of occupying any part of the coastal marine area—

(a) where the occupation is reasonably necessary for another activity; and

(b) where the occupation is to the exclusion of any persons or class of persons not expressly allowed to occupy that part of the coastal marine area under a rule in a plan or by a resource consent; and

(c) where a lease or licence to occupy that part of the coastal marine area would be necessary to give effect to the exclusion of other persons, whether in a physical or legal sense, but for a rule in the plan or the holding of a resource consent under this Act

offshore installation has the meaning given in section 222(1) of the Maritime Transport Act 1994

oil transfer site has the meaning given in section 281 of the Maritime Transport Act 1994

on-scene commander has the meaning given in section 281 of the Maritime Transport Act 1994

open coastal water means coastal water that is remote from estuaries, fiords, inlets, harbours, and embayments

operative, in relation to a provision in ~~the national planning framework or~~ a plan, means that the provision or plan—

(a) has come into force and has legal effect; and

(b) has not ceased to be operative

outcomes means system, framework, and plan outcomes

owner,—

(a) in relation to land, means the person entitled to the rack rent of the land or who would be if the land were let to a tenant at a rack rent, and includes—

(i) the owner of the fee simple estate in the land; and

(ii) any person who has agreed in writing, conditionally or unconditionally, to purchase the land or a leasehold estate or interest in the land, or take a lease of the land, while the agreement is in force:

(b) in relation to a ship, offshore installation, or oil transfer site, has the meaning given in section 222(2) of the Maritime Transport Act 1994

participating authorities, in relation to Mana Whakahono ā Rohe, has the meaning given in **section ~~679(5)~~ 30ZY**

pastoral land use has the meaning given in **section 400**

pecuniary penalty means a penalty imposed under **section 776**

permitted activity means an activity described in **section ~~453~~ 75AAA**

permitted activity notice or **PAN** means an activity described in **section 302**

person includes—

(a) the Crown, a corporation sole, and a body of persons, whether corporate or unincorporate; and

(b) the successor of that person

place of national importance has the meaning given in **section ~~555~~ 427A**

plan—

(a) means a natural and built environment plan made in accordance with **Schedule 7**; and

(b) includes a proposed natural and built environment plan, unless otherwise expressly stated

plan change means—

(a) a change proposed by a regional planning committee for a plan under **Schedule 7**; and

(b) includes an independent plan change proposed under **subpart 2 of Part 2 of Schedule 7**

~~**plan of survey** has the meaning given in **section 568**~~

plan outcomes means outcomes ~~that are to be delivered through~~ provided for in plans

plan rule means a rule in a plan or proposed plan

polluter has the meaning given in **section 424**

polluter pays principle ~~has the meaning given in **section 417**~~ means the principle that those who produce pollution should bear the cost of managing it to prevent damage to human health and the environment

primary CIP has the meaning given in **section 497**

primary submission means a submission made in accordance with **clause 34 of Schedule 7**

private road has the meaning given in section 315(1) of the Local Government Act 1974

private way has the meaning given in section 315(1) of the Local Government Act 1974

production land—

(a) means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products); but

(b) does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals

prohibited activity means an activity described in **section ~~453~~ 75AAA**

proposed plan—

(a) means a proposed plan or a variation or change to a proposed plan that has been notified under **clause 31 of Schedule 7** or given limited or targeted notification under **Schedule 7**, but that has not become operative in accordance with that schedule; and

(b) includes an independent plan or independent plan change proposed under **subpart 2 of Part 2 of Schedule 7**

prospecting has the meaning given in section 2(1) of the Crown Minerals Act 1991

protected customary right has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights area has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights order has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

~~**protected Māori land** has the meaning given in **section 497**~~

public authority,—

(a) for the purposes of a joint management agreement (*see* **section ~~656~~ 30ZB**), means—

(i) a local authority; and

(ii) a statutory body; and

(iii) the Crown; and

(b) for the purposes of a transfer of powers under **section ~~650~~ 30V**, has the meaning given in **section ~~650(5)~~ 30V(5)**

public notice has the meaning given in **section 8**

public notification means giving public notice of an application for a resource consent or a matter in the manner required by **section 8** and within any applicable time limit specified by or under this Act

public work, for the purposes of **Part 8**, has the meaning given in **section 497**

raft—

(a) means any moored floating platform which is not self-propelled; and

(b) includes platforms that provide buoyancy support for the surfaces on which fish or marine vegetation are cultivated or for any cage or other device used to contain or restrain fish or marine vegetation; but

(c) does not include booms situated on lakes subject to artificial control which have been installed to ensure the safe operation of electricity generating facilities

reclamation plan has the meaning given in **section 568**

record of title has the meaning given in section 5(1) of the Land Transfer Act 2017

~~**resource allocation principles** have the meaning given in **section 36**~~

~~**region**, in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002~~

region—

(a) has the meaning given in section 5(1) of the Local Government Act 2002; and

(b) includes the area administered by the Chatham Islands Council under the Chatham Islands Council Act 1995

regional council—

(a) has the meaning given in section 5(1) of the Local Government Act 2002; and

(b) includes a unitary authority

regional planning committee means a regional planning committee appointed under **section 100**

regional spatial strategy, in relation to a region, means the spatial strategy that is made for the region under the ~~Strategic~~ **Spatial Planning Act 2022**

registered owner means a person who is registered as an owner under the Land Transfer Act 2017

regulations means regulations made under this Act

remove any sand, shingle, shell, or other natural material has the meaning given in **section 19(7)**

renewable energy means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources

requiring authority means—

(a) a Minister of the Crown; or

(b) a local authority; or

(c) a council-controlled organisation; or

(d) a network utility operator approved as a requiring authority under **section 499~~(3)~~**; or

(e) ~~an additional~~ applicant other than a network utility operator, approved as a requiring authority under **section 499~~(3)~~**

~~**renewable energy** means energy produced from solar, wind, hydro, geothermal, biomass, tidal, wave, and ocean current sources~~

~~**reserve** means a reserve under the Reserves Act 1977~~

reservation has the ~~same~~ meaning ~~as~~ given in section 2(1) of the Fisheries Act 1996

reserve means a reserve under the Reserves Act 1977

resource allocation principles has the meaning given in **section 86A**

resource consent—

(a) means a consent or permit described in **section 152**; and

(b) includes any conditions to which a consent or permit is subject

responsible infrastructure authority has the meaning given in **section 497**

responsible ~~SPV~~ special purpose vehicle has the meaning given in **section 497**

risk, in relation to the system outcome established by **section 5(5)**, has the meaning given in section 4 of the Civil Defence and Emergency Management Act 2002

river—

(a) means a body of freshwater that is continuously or intermittently flowing; and

(b) includes a stream and modified watercourse; but

(c) does not include an artificial water course, including an irrigation canal, a water supply race, a canal for the supply of water for electric power generation, a farm drainage canal, or any other artificial watercourse

RMA permission right has the meaning given in **section 113**

road—

(a) has the meaning given in section 315(1) of the Local Government Act 1974; and

(b) includes a motorway within the meaning of section 2(1) of the Government Roading Powers Act 1989

rule means a rule in a plan (*see* **subpart 3 of Part 4**)

seaweed has the meaning given in section 2(1) of the Fisheries Act 1996

secondary CIP means a secondary construction and implementation plan under **section 504**

secondary submission means a submission made in accordance with **clause 36 of Schedule 7**

serve means service in accordance with **sections 806 to 808**, as relevant

ship has the meaning given in section 2(1) of the Maritime Transport Act 1994

significant biodiversity area means a place that meets the criteria for significant biodiversity set out in the national planning framework

soil conservation means avoiding, remedying, or mitigating soil erosion and maintaining the physical, chemical, and biological qualities of soil

space, in relation to the coastal marine area, means any part of the foreshore, seabed, and coastal water, and the airspace above the water

special purpose vehicle has the meaning given in **section 497**

specified cultural heritage means cultural heritage that—

~~(a) meets the criteria for inclusion in—~~

~~(i) the New Zealand Heritage List/Rārani Kōrero as a Category 1 historical place, historic area, wāhi tapu, wāhi tapu area, or wāhi tūpuna; or~~

~~(ii) the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna kōrero Tūturu; or~~

(a) meets the criteria for inclusion in the New Zealand Heritage List/Rārangi Kōrero as a Category 1 historic place, historic area, wāhi tapu, wāhi tapu area, or wāhi tūpuna; or

(aa) is on the list of National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna kōrero Tūturu; or

(b) is a wāhi tapu, wāhi tapu area, or wāhi tūpuna for which there is an application notified but not determined under section 68(4) of the Heritage New Zealand Pouhere Taonga Act 2014

specified instrument has the meaning given in **section 400**

specified housing and infrastructure fast-track consenting process means the consenting process set out in ~~**subpart 8 of Part 5**~~ **Part 2 of Schedule 10A** and which is available for—

(a) applications for resource consents for an eligible activity; or

(b) notices of requirements for a designation for an eligible activity

~~**SPV** means a responsible SPV that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure~~

standard consenting process means the consenting process set out in **Part 5**, excluding ~~**subparts 2, 7, and 8**~~ **subpart 2**

State highway has the meaning given in section 2(1) of the Government Roading Powers Act 1989

statutory acknowledgement means an acknowledgement made by the Crown in respect of a statutory area, on the terms set out in the relevant iwi and hapū participation legislation listed in **Schedule 14**

statutory area means the area subject to a statutory acknowledgement, as defined in the relevant iwi and hapū participation legislation

strategic content of a plan means the content described in **section 102(1)**

structure—

(a) means any building, equipment, device, or other facility that is made by people and fixed to land; and

(b) includes any raft

subdivision consent has the meaning given in **section 152**

subdivision of land has the meaning set out in **section 569**

submission means a written or an electronic submission

subsequent action, in relation to the enforcement functions of the EPA, has the meaning given in **section 795**

successor includes, in the case of a person that is a body that is not incorporated, the successor a body of persons which is incorporated and composed of substantially the same members

survey dataset has the meaning given in **section 571**

system outcome means an outcome specified in **section 5**

survey plan has the meaning given in **section 571**

tangata whenua, in relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area

target has the meaning given in **section 48**

tauranga waka means a canoe landing site

tender has the meaning given in **section ~~428~~ 429**

~~**te Oranga o te Taiao** means—~~

~~(a) the health of the natural environment; and~~

~~(b) the essential relationship between the health of the natural environment and its capacity to sustain life; and~~

~~(c) the interconnectedness of all parts of the environment; and~~

~~(d) the intrinsic relationship between iwi and hapū and te Taiao~~

territorial authority means a city council or a district council named in Part 2 of Schedule 2 of the Local Government Act 2002

territorial sea means the territorial sea of New Zealand as defined ~~by~~ in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

te Tiriti o Waitangi means the Treaty as defined in section 2 of the Treaty of Waitangi Act 1975

tikanga Māori means Māori customary law, customary values, and customary practices

trade competition is the activity described in **subpart 5 of Part 4**

Treaty settlement legislation means—

(a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; and

(b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act

trivial, in relation to adverse effects, means adverse effects that are no more than minimal

unit plan has the meaning given in **section 568**

unitary authority has the meaning given in section 5(1) of the Local Government Act 2002

urban form means the physical characteristics that make up an urban area, including the shape, size, density, and configuration of the urban area

use means,—

(a) in **sections 17, 27 to 29, 143(2), 516(1)(b)(i), and 545(1)(a)**,—

(i) alter, demolish, erect, extend, place, reconstruct, remove, or use a structure of part of a structure in, on, over, or under land:

(ii) drill, excavate, or tunnel land or describe land in a similar way:

(iii) damage, destroy, or disturb the habitats of plants or animals in, on, or under land:

(iv) deposit a substance in, on, or under land:

(v) any other use of land; and

(b) in **sections 17, 28, 143(2), 516, and 545(1)**, also means to enter onto or pass across the surface of water in a lake or river

variation has the meaning given in **clause 64 of Schedule 7**

wāhi tapu has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

wāhi tūpuna has the meaning given in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014

waste or other matter means materials and substances of any kind or description

water—

(a) means water in all its physical forms whether flowing or not and whether over or under the ground; and

(b) includes freshwater, coastal water, and geothermal water; but

(c) does not include water in any form while in any pipe, tank, or cistern

water body means freshwater or geothermal water in the whole, or any part, of a river, lake, stream, pond, wetland, or aquifer, or any part of any other of those that is not located within the coastal marine area

water conservation order has the meaning given in **section 379**

water permit has the meaning given in **section 152**

well-being means the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety

wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions

wildlife refuge and **wildlife sanctuary** have the meanings given in **section 568**

working day means a day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; and

(c) a day in the period commencing on 20 December in any year and ending with 10 January in the following year.

(2) For the purposes of the definition **development capacity**,—

(a) long-term means between 10 and at least 30 years:

(b) medium-term means between 3 and 10 years:

(c) short-term means within the next 3 years.

(3) In this Act and the **Spatial Planning Act 2022**, references in te reo Māori to any form of Māori group is inclusive of the equivalent Moriori language word (for example, iwi includes imi).

Compare: 1991 No 69 ss 2, 2AA, 2A, 3

8 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.

Compare: 1991 No 69 s 2AB

Miscellaneous

9 Application of Act to ships and aircraft of foreign States

Unless regulations ~~made under this Act~~ provide otherwise, this Act does not apply to the following:

(a) warships of a State other than New Zealand:

(b) aircraft of the ~~defences~~ defence force of a State other than New Zealand:

(c) any ship owned ~~of~~ or operated by a State other than New Zealand for government purposes (but not commercial purposes):

(d) the master or crew of a warship, aircraft, or ship referred to in **paragraphs (a) to (c)**.

Compare: 1991 No 69 s 4A

10 General transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

11 Transitional, savings, and related provisions for upholding Treaty settlements, NHNP Act, and other arrangements

The transitional, savings, and related provisions set out in **Schedule 2**, for the purpose of upholding the integrity, intent, and effect of Treaty settlements, the

NHNP Act (as defined in **Schedule 2**), and other arrangements, have effect according to their terms.

12 Act binds the Crown

(1) This Act binds the Crown, except as provided in this section.

Exclusions in respect of Crown work or activity on land

(2) This Act does not apply to any work or activity of the Crown that is—

(a) a use of land within the meaning of **section 17**; ~~or~~ and

(b) certified by the Minister of Defence as necessary for reasons of national security.

(3) **Section 17(2)** does not apply to work or activity of the Crown that—

(a) is undertaken within the boundaries of an area of land held or managed under the Conservation Act 1987 or any Act specified in Schedule 1 of that Act (unless that land is held for administrative purposes); and

(b) is consistent with a conservation management strategy, conservation management plan, or management plan made under the Conservation Act 1987 (or any Act specified in Schedule 1 of that Act); and

(c) does not have a significant adverse effect beyond the boundaries of the area of land.

(4) **Section 17** does not apply to the detention of prisoners in a court cell block if it is declared by notice in the *Gazette* to be a part of a corrections prison.

Exclusion of specified enforcement documents

~~(5) An abatement notice or direction must not be served on, or issued against, an instrument of the Crown under this Act unless it is served on or issued against—~~

~~(a) a Crown organisation; and~~

~~(b) in its own name.~~

~~(6) An enforcement order must not be made against an instrument of the Crown under this Act, unless it is made against—~~

~~(a) a Crown organisation; and~~

~~(b) a local authority or the EPA applies for the order; and~~

~~(c) the order is made against the organisation in its own name.~~

(5) An abatement notice or excessive notice direction may be served on, or issued against, an instrument of the Crown under this Act, but only if—

(a) the instrument of the Crown is a Crown organisation; and

(b) the notice or direction is served on or issued against the Crown organisation in its own name.

(6) An enforcement order may be made against an instrument of the Crown under this Act, but only if—

(a) the instrument of the Crown is a Crown organisation; and

(b) a local authority or the EPA applies for the order; and

(c) the order is made against the Crown organisation in its own name.

(7) **Subsections (5) and (6)** are not limited by section 17(1)(a) of the Crown Proceedings Act 1950.

(8) An infringement notice must not be served against an instrument of the Crown under this Act, unless—

(a) the instrument of the Crown is a Crown organisation; and

(b) the organisation is liable to be proceeded against for the alleged offence under **subsection (6)**; and

(c) the ~~enforcement~~ order is served against the Crown organisation in its own name.

(9) An instrument of the Crown ~~must not~~ may be prosecuted for an offence against this Act, ~~unless~~ but only if—

~~(a) the prosecution is made against a Crown organisation; and~~

(a) the instrument of the Crown is a Crown organisation; and

(b) the offence is alleged to have been committed by that Crown organisation; and

(c) the proceedings are commenced—

(i) by a local authority, the EPA, or an enforcement officer; and

(ii) against the Crown organisation in its own name, and not citing the Crown as a defendant; and

(iii) in accordance with the Crown Organisations (Criminal Liability) Act 2002.

(10) However, **subsections (8) and (9)** are limited by section 8(4)~~(c)~~ of the Crown Organisations (Criminal Liability) Act 2002 (which provides that a court may not sentence a Crown organisation to pay a fine in respect of an offence against this Act).

Further exceptions applying to enforcement against Crown organisation or the Crown

(11) If a Crown organisation is not a body corporate, it must be treated as a separate legal personality for the purposes of—

(a) serving or issuing an abatement notice or direction against the Crown organisation; and

(b) making an enforcement order against the Crown organisation; and

(c) serving an infringement order on the Crown organisation; and

(d) enforcing any order, direction, or notice referred to in **paragraphs (a) to (c)**.

(12) Unless **subsections (5) to (11)** provide otherwise, the Crown must not ~~be~~—

(a) be served or issued with a notice or direction referred to in **subsection (11)(a) or (c)**; or

(b) have an order referred to in **subsection (11)(b)** made against it; or

(c) be prosecuted for an offence against this Act.

Compare: 1991 No 69 s 4

Part 2
Duties, responsibilities, and restrictions

Subpart 1—Duties and responsibilities applying to all persons when carrying out activities under this Act

13 Environmental responsibility

(1) Consistently with the ethic of stewardship, every person has a responsibility to protect and sustain the health and well-being of the natural environment for the benefit of all present and future New Zealanders, including as required by ~~in~~ **section 14**.

(2) The responsibility referred to in **subsection (1)** is not, of itself, enforceable against any person and no person is liable to any other person for a breach of that responsibility.

14 Duty to avoid, minimise, remedy, offset, or ~~provide redress~~ compensate for adverse effects

(1) Every person has a duty to avoid, minimise, remedy, offset, or ~~take steps to provide redress~~ provide compensation for, any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with—

(a) any of **sections 26 to 30**:

(b) any applicable environmental limits or targets:

(c) a framework rule, a plan rule, a resource consent, or a designation.

(2) The duty referred to in **subsection (1)** is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

(3) However, **subsection (2)** does not limit the following powers:

(a) the power conferred by **section 700** to make an enforcement order:

(b) the power conferred by **section 708** to serve an abatement notice.

Compare: 1991 No 69 s 17(1) ~~to~~ (3)

15 Duty to avoid unreasonable noise

(1) ~~**Subsection (2)**~~ This section applies to—

(a) every person who occupies land (including any premises and any coastal marine area); and

(b) every person carrying out an activity in, on, or under a water body or the coastal marine area.

(2) ~~Persons~~ A person to whom this section applies must adopt the best practicable option to ensure that noise emitted from that land or water does not exceed a reasonable level.

(3) Noise emission standards may be prescribed in a framework rule, a plan rule, or a resource consent for the purposes of any of **sections 17 and 19 to 24**.

(3A) For the purposes of this section, a framework rule may prescribe the best practicable option for an activity.

(4) This section applies to overflying by aircraft, but only to the extent that noise emission controls for airports, including those in the coastal marine area, are prescribed by a framework rule or by a plan rule ~~in a plan~~.

Compare: 1991 No 69 ss 9(5), 12(5), 16

16 Other legal requirements not affected

(1) Compliance with this Act ~~is in addition to compliance~~ does not remove the need to comply with all other applicable legislation and rules of law.

(2) The duties and restrictions set out in this Part are enforceable against any person, but only through the provisions of this Act.

(3) No person is liable to another person for a breach of a duty or restriction under this Act, except in accordance with the provisions of this Act.

(4) **Subsections (2) and (3)** do not limit or affect a right of action which any person may have independently of the provisions of this Act.

Compare: 1991 No 69 s 23

Subpart 2—Restrictions relating to land, coastal marine area, river and lake beds, water, and discharges

Land

17 Restrictions relating to land

(1) A person must not use land in a way that contravenes—

(a) a framework rule; or

(b) a plan rule~~.~~; or

(c) **section 427F(1) or 427H**, unless an activity is expressly allowed or exempted under those provisions.

(2) However, ~~despite **subsection (1),**~~ a person may use land if the use~~;~~—

~~(a) in every case, is expressly allowed by a resource consent; or~~

(a) is expressly allowed by a permitted activity notice; or

(ab) is expressly allowed by a resource consent; or

(b) in the case of a ~~plan~~ rule ~~within the jurisdiction of the~~ administered by a regional council, is an activity allowed by **section 30**; or

(c) in the case of a ~~plan~~ rule ~~within the jurisdiction of~~ administered by a territorial authority, is an activity allowed by **section 26 or 28**.

(3) A person must not contravene **section 516, 518, 541, or 545** (which relate to designations and ~~interim~~ heritage protection orders) without the prior written consent of the requiring authority or heritage protection authority, as the case may require.

(4) This section does not apply to the use of the coastal marine area.

Compare: 1991 No 69 s 9(1)-(3)

Subdivision of land

18 Restrictions relating to subdivision of land

(1) A person must not subdivide land unless the subdivision—

(a) ~~the subdivision~~ complies with **subsection (3)**; or

(b) is given effect to under another Act in accordance with ~~another~~ that other Act as described in **subsection ~~(3)~~ (4)**.

(2) **Subsection (1)** does not apply to Māori land unless Te Ture Whenua Maori Act 1993 provides otherwise.

When subdivision may be undertaken under this Act

(3) A person may subdivide land if the subdivision—

(a) is expressly allowed by ~~or under~~ a framework rule, a plan rule ~~within the jurisdiction of~~ administered by a territorial authority, or a resource consent; and

(b) is shown on ~~1~~ one of the following:

(i) a survey plan of subdivision of land, or a building or part of a building, prepared in a form suitable to deposit under the Land Transfer Act 2017 and deposited by the Registrar-General under **Part 9**; or

(ii) a survey plan of a subdivision by or on behalf of a Minister of the Crown of land not subject to the Land Transfer Act 2017 and approved by the chief executive of Land Information New Zealand in accordance with **sections 579 and 586**; or

(iii) a survey plan that includes a unit plan and a survey dataset giving effect to the grant of a cross-lease or company lease.

Subdivision undertaken under other Acts

(4) A person may subdivide land if ~~it~~ the subdivision is given effect to in any of the following ways:

(a) by acquiring, taking, transferring, or disposing of part of an allotment under the Public Works Act 1981 (unless the requirement stated in **subsection (5)** applies):

(b) by establishing, changing, or cancelling a reserve under section 338 of Te Ture Whenua Maori Act 1993:

(c) by a transfer under section 23 of the State-Owned Enterprises Act 1986 or a resumption under section 27D of that Act:

(d) by any vesting in, or transfer or gift of, any land—

(i) in or to the Crown or any local authority or administering body for the purposes (other than administrative purposes) of the Conservation Act 1987 or any Act specified in Schedule 1 of that Act; or

(ii) by the Crown in exchange for land received under **subparagraph (i)**:

(e) under an exemption for subdivisions under section 25A of the New Zealand Railways Corporation Restructuring Act 1990:

(f) under a transfer or gift of any land to Heritage New Zealand Pouhere Taonga or the Queen Elizabeth the Second National Trust for the purposes of the Heritage New Zealand Pouhere Taonga Act 2014 or the Queen Elizabeth the Second National Trust Act 1977:

(g) under a transfer, exchange, or other disposition of land made by an order under subpart 3 of Part 6 of the Property Law Act 2007 (which relates to the granting of access to landlocked land):

(h) under an exemption for boundary adjustments under section 10 of the Canterbury Property Boundaries and Related Matters Act 2016.

(5) Each existing separate parcel of land disposed of under the Public Works Act 1981 must be disposed of without further division unless otherwise provided by that Act.

(6) Nothing in this section applies to the issuing of a record of title under **section 586**.

~~(7) **Subsection (1)** does not apply in respect of Māori land within the meaning of Te Ture Whenua Maori Act 1993 unless that Act provides otherwise~~

(8) In **subsection (4)(d)**, **administering body** has the meaning given in section 2 of the Reserves Act 1977.

Compare: 1991 No 69 s 11

Coastal marine area

19 Restrictions on use of coastal marine area

(1) A person must not carry out any of the following activities in the coastal marine area~~:~~ —

(a) reclaim or drain any part of the foreshore or seabed; or

(b) erect, reconstruct, place, alter, extend, or demolish any part of any structure or ~~any~~ part of a structure that is fixed in, on, under, or over any foreshore or seabed; or

(c) disturb any part of the foreshore or seabed (including by anchoring, excavating, drilling, or tunnelling) in a manner that has, or is likely to have, an adverse effect on the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal); or

(d) deposit in, on, or under any part of the foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on that part of the foreshore or seabed; or

(e) destroy, damage, or disturb any part of the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on plants or animals or their habitat; or

(f) introduce or plant any exotic or introduced plant in, on, or under any part of the foreshore ~~of~~ or seabed; or

(g) destroy, damage, or disturb any part of the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on ~~historic~~ cultural heritage~~.; or~~

~~(h) occupy any part of the common marine and coastal area; or~~

~~(i) remove sand, shingle, shell, or other natural material from the marine and coastal area.~~

(1A) A person must not—

(a) occupy any part of the common marine and coastal area; or

(b) remove any sand, shingle, shell, or other natural material from the common marine and coastal area.

(2) However, a person may carry out any of the activities listed in **subsections (1) or (1A)** if ~~the activity is~~ those activities are expressly allowed by a framework rule, a plan rule ~~within the jurisdiction of the~~ administered by a regional council, or by a resource consent.

(3) Without limiting **subsection (1)**, a person must not carry out the following in a way that contravenes a framework rule~~,~~ or a plan rule ~~within the jurisdiction of the~~ administered by a regional council~~, or a resource consent~~:

(a) an activity in, on, under, or over any part of the coastal marine area; or

(b) an activity relating to any natural resources in the coastal marine area.

(4) **Subsection (3)** does not apply to an activity that is expressly allowed by—

~~(a) a framework rule; or~~

~~(b) a plan rule within the jurisdiction of the regional council; or~~

(c) a resource consent; or

(d) a permitted activity notice; or

(e) **section 30**.

(5) 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.

(6) This section does not apply to an activity to which **section 22 or 23** applies.

(7) In this section, **remove any sand, shingle, shell, or other natural material** means to take any of that material in such quantities or circumstances that, but for a framework rule, a plan rule, or the grant of a resource consent, a licence or profit a prendre would be required.

Compare: 1991 No 69 s 12

River and lake beds

20 Restrictions relating to use of beds of lakes and rivers

(1) A person must not, in relation to the bed of a lake or river—

(a) use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or

(b) excavate, drill, tunnel, or otherwise disturb the bed; or

(c) introduce any plant or part of a plant, whether indigenous or exotic, in, on, or under the bed; or

(d) deposit any substance in, on, or under the bed; or

(e) reclaim or drain the bed.

(2) However, a person may carry out ~~an activity referred to in **subsection (1)** if the activity is~~ those activities if they are expressly allowed by a framework rule, a plan rule ~~within the jurisdiction of the~~ administered by a regional council, or by a resource consent.

(3) A person must not carry out any of the following in relation to the bed of a lake or river in a manner that contravenes a framework rule or a plan rule:

(a) enter onto or pass across the bed of a lake or river:

(b) damage, destroy, disturb, or remove a plant or a part of a plant, whether exotic or indigenous, in, on, or under the bed of a lake or river:

(c) damage, destroy, disturb, or remove the habitats of plants or parts of plants, whether exotic or indigenous, in, on, or under the bed of a lake or river:

(d) damage, destroy, disturb, or remove the habitats of animals in, on, or under the bed of a lake or river.

(4) A person may carry out ~~an activity referred to in **subsection (3)** if the activity is~~ those activities if they are—

(a) expressly allowed by a resource consent; or

(b) expressly allowed by a permitted activity notice; or

(c) ~~is~~ an existing lawful activity allowed by **section 30**.

(5) This section does not—

(a) apply to the use of land in the coastal marine area; or

(b) limit **section 17**.

Compare: 1991 No 69 s 13

Water

21 Restrictions relating to water

(1) A person must not carry out the following activities in relation to water in a manner that contravenes a framework rule or a plan rule ~~within the jurisdiction of the~~ administered by a regional council:

(a) take, use, dam, or divert any open coastal water:

(b) take or use any heat or energy from any open coastal water.

~~(2) However, a person may carry out the activities referred to in **subsection (1)** if—~~

~~(a) the activity is expressly allowed by a resource consent; or~~

~~(b) the activity is expressly allowed by a permitted activity notice; or~~

~~(c) is an existing lawful activity under **section 30**.~~

(2) However, a person may carry out those activities if they are—

(a) expressly allowed by a resource consent; or

(b) expressly allowed by a permitted activity notice; or

(c) existing lawful activities under **section 30**.

(3) A person must not take, use, dam, or divert any of the following:

(a) water other than open coastal water:

(b) heat or energy from water other than open coastal water:

(c) heat or energy from the material surrounding geothermal ~~energy~~ water.

(4) However, **subsection (3)** does not prohibit a person from taking, using, damming, or diverting any water, heat, or energy if—

(a) the taking, using, damming, or diverting is expressly allowed by—

(i) a framework rule; or

(ii) a plan rule ~~within the jurisdiction of the~~ administered by a regional council~~.~~; or

(iii) a permitted activity notice; or

(iv) a resource consent~~.~~; or

(b) in the case of fresh water, the water, heat, or energy is required for—

(i) an individual's reasonable domestic needs; or

(ii) the reasonable needs of ~~the~~ a person's animals for drinking water; or

(c) in the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Māori for the communal benefit of the tangata whenua of the area; or

(d) in the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual's reasonable domestic or recreational needs; or

(e) the water is required to be taken or used for emergency or training purposes in accordance with section 48 of the Fire and Emergency New Zealand Act 2017.

~~(5) The taking, use, and diversion allowed under **subsection 4(b), (c), and (d)** apply only to the extent that it does not, or is not likely to, have an adverse effect on the environment.~~

(5) **Subsection 4(b), (c), and (d)** apply only to the extent that the taking, use, and diversion allowed by those provisions does not, or is not likely to, have an adverse effect on the environment.

Compare: 1991 No 69 s 14

Discharges

22 Restrictions on discharging contaminants

(1) A person must not discharge—

(a) a contaminant or water into water:

(b) a contaminant onto or into land ~~in a way~~ in circumstances that may result in that contaminant (or any other contaminant ~~created~~ released as a result of natural processes associated with that contaminant) entering water:

(c) a contaminant from an industrial or trade premises into air:

(d) a contaminant from an industrial or trade premises onto or into land.

(2) However, a person may carry out ~~an activity referred to in **subsection (1)**~~ that activity if the discharge is expressly allowed by—

(a) a framework rule or other regulations; or

(b) a plan rule administered by a regional council; or

(c) a permitted activity notice; or

(d) a resource consent.

(3) A person must not discharge a contaminant into the air or onto or into land from a place or other source, moveable or not, in a manner ~~that contravenes~~, or in circumstances, that contravene a framework rule or a plan rule.

(4) However, a person may carry out an activity referred to in **subsection (3)**, if the discharge is—

(a) expressly allowed by ~~a framework rule~~ regulations; or

(b) expressly allowed by a resource consent; or

(c) expressly allowed by a permitted activity notice; or

(d) an existing lawful activity under **section 30**.

~~(5) This section does not apply to anything to which **section 23 or 24** apply.~~

(5) This section does not apply to anything—

(a) to which **section 23 or 24** applies; or

(b) for which an exemption is prescribed by the national planning framework under **section 81(c)**.

Compare: 1991 No 69 s 15

23 Restrictions on dumping and incinerating in coastal marine area

(1) A person must not carry out any of the following activities in the coastal marine area:

(a) dumping waste or other matter from a ship, aircraft, or offshore installation:

(b) incinerating any ~~water of~~ waste or other matter in a marine incineration facility:

(c) dumping any ship, aircraft, or offshore installation.

(2) A person may carry out ~~an activity referred to in **subsection (1)**~~ those activities if the dumping or incinerating is expressly allowed by— a resource consent.

~~(a) a permitted activity notice; or~~

~~(b) a resource consent.~~

(3) This section does not permit—

(a) the discharge of a harmful substance that would contravene **section 24**; or

(b) the dumping of radioactive waste or radioactive matter to which **section 25** applies.

Compare: 1991 No 69 s 15A

24 Restrictions on discharging harmful substances in coastal marine area

(1) A person must not discharge a harmful substance or contaminant from a ship or offshore installation in the coastal marine area into water, onto or into land, or into air.

(2) **Subsection (1)** does not apply if—

(a) the discharge is permitted or controlled by—

(i) a framework rule~~:~~; or

(ii) a plan rule~~:~~ administered by a regional council; or

(iii) a resource consent; or

(v) other regulations; or

(b) after reasonable mixing, the harmful substance or contaminant (whether or not in combination with another discharge) is unlikely to give rise to any of the ~~follow~~ following effects in the receiving waters:

(i) the production of a conspicuous oil or grease film, scum, or foam, or floatable or suspended materials:

(ii) a conspicuous change of colour or visual clarity:

(iii) an emission of an objectionable odour:

(iv) significant adverse effects on aquatic life; or

(c) the harmful substance or contaminant, if discharged into air, is not likely to be noxious, dangerous, offensive, or objectionable to the extent that ~~is~~ it has, or is likely to have, a significant adverse effect on the environment.

(3) A person must not discharge water into water in the coastal marine area from a ship or offshore installation.

(4) However, a person may carry out a discharge referred to in **subsection (3)** if—

(a) the discharge is permitted or controlled by—

(i) a framework rule; or

(ii) a plan rule administered by a regional council; or

(iii) a resource consent; or

(v) other regulations; or

(b) after reasonable mixing, the water discharged is unlikely to give rise to significant adverse effects on aquatic life.

(4A) Regulations and rules may be made to prohibit or control a discharge that would otherwise be permitted in accordance with **subsection (2)(b) or (4)(b)**.

(5) A person must not discharge a harmful substance or contaminant in reliance on **subsection (2)(b) or (c) or (4)(b)** if a framework rule, other regulations, a plan rule, or a resource consent applies to the discharge.

(6) Despite section 7 of the Biosecurity Act 1993, a discharge authorised by **subsection (2) or (4)** or by a resource consent may be prohibited or controlled under that Act to exclude, eradicate, or effectively manage pests or unwanted organisms.

(7) In this section, **harmful substance** means a substance prescribed in the national planning framework as a harmful substance for the purpose of this section.

(8) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 15B

25 Prohibitions relating to radioactive waste etc in coastal marine area

(1) A person must not, in the coastal marine area,—

(a) dump radioactive waste or other radioactive material from a ship, aircraft, or offshore installation:

(b) store radioactive waste or other radioactive matter, or toxic or hazardous waste on or in any land or water.

(2) In this section,—

radioactive waste or other radioactive material has the meaning given in section 257 of the Maritime Transport Act ~~1991~~ 1994

toxic or hazardous waste means any waste or other matter prescribed in the national planning framework as toxic or hazardous waste.

Compare: 1991 No 69 s 15C

Subpart 3—Existing uses that ~~are protected~~ may continue

~~26 Certain existing uses protected in relation to land~~

~~(1) A person may use land in a way that contravenes a plan rule within the jurisdiction of a territorial authority if—~~

~~(a) the use was lawfully established before the rule became operative or the proposed plan was notified; and~~

~~(b) the effects of the use—~~

~~(i) are the same or similar in character, intensity, and scale to those that existed before the rule became operative or the proposed plan was notified; or~~

~~(ii) any change in effects is limited to reducing the adverse effects on the environment or otherwise enhances the environment.~~

~~(2) Despite **subsection (1)**, an existing use of land must comply with the plan rules that give effect to the national planning framework as it relates to each of the following, as far as they are relevant, but only if the national planing framework or a plan expressly provides that this subsection applies:~~

~~(a) the natural environment; and~~

~~(b) the reduction or mitigation of, or adaptation to, the risks associated with —~~

~~(i) natural hazards:~~

~~(ii) climate change:~~

~~(iii) contaminated land.~~

~~(3) **Subsection (2)(a)** applies only if the national planning framework expressly states that it applies.~~

~~(4) **Subsection (2)(b)** applies —~~

~~(a) whether or not the rules give effect to provisions of the national planning framework; but~~

~~(b) only if the national planning framework or a plan expressly state that it applies.~~

~~(5) This section and **sections 27 and 28** do not apply to the use of land that is —~~

~~(a) controlled under **section 644** (regional control of certain land uses):~~

~~(b) restricted under **section 19** (coastal marine area):~~

~~(c) restricted under **section 20** (river and lake beds).~~

~~(6) Nothing in this section limits **section 30** (certain existing lawful uses allowed).~~

~~Compare: 1991 No 69 s 10(1)(4), (5)~~

26 Certain existing uses in relation to land may continue

(1) A person may use land in a way that contravenes a plan rule administered by a territorial authority if—

(a) the use was lawfully established—

(i) before the rule became operative; or

(ii) before the proposed plan was notified; or

(iii) by way of a designation; and

(b) the adverse effects of the use—

(i) are the same or similar in character, intensity, and scale as those that existed before the rule became operative, the proposed plan was notified, or the designation was removed; or

(ii) are reduced.

(2) Despite **subsection (1)**, an existing use of land must comply with a plan rule that relates to each of the following, as far as they are relevant, but only if the plan expressly provides that this subsection applies:

(a) the natural environment; and

(b) the avoidance, reduction, or mitigation of the risks associated with natural hazards; and

(c) adaptation to climate change; and

(d) mitigation of climate change; and

(e) contaminated land.

(3) **Subsection (2)(a)** applies only if the rule—

(a) is authorised by the national planning framework; and

(b) is reasonably necessary to—

(i) ensure compliance with a limit or associated target; or

(ii) avoid, minimise, or remedy any more than trivial adverse effects that the activity is generating on the attributes that make a place a significant biodiversity area or a highly vulnerable biodiversity area; or

(iii) manage any significant harm or damage to other aspects of the natural environment, human health, or property that is caused, or contributed to, by the activity.

(4) This section and **sections 27 and 28** do not apply to the use of land that is—

(a) controlled under **section 30P** (regional control of certain land uses):

(b) restricted under **section 19** (coastal marine area):

(c) restricted under **section 20** (river and lake beds).

(5) Nothing in this section limits **section 30** (certain existing lawful uses allowed).

Compare: 1991 No 69 s 10(1), (4), (5)

27 When existing use ~~rights~~ protection may be lost

(1) **Section 26** does not apply if a use of land that contravenes a plan rule ~~within the jurisdiction of~~ administered by a territorial authority is discontinued for a continuous period of ~~6~~ 12 months (or any longer period specified in a plan rule) after the rule becomes operative or the proposed plan is notified.

(2) However, **section 26** does apply if—

(a) an application for an extension of the existing use is made to the territorial authority within 2 years of the activity first being discontinued; and

(b) an extension is granted because—

(i) the effect of the extension will not be contrary to the ~~objectives~~ outcomes and policies of the applicable plan; and

(ii) the applicant has obtained approval from every person who may be adversely affected by the granting of an extension (unless the territorial authority considers that it would unreasonable in the circumstances to require the applicant to obtain every approval).

(3) **Section 26** does not apply if, as a result of reconstructing, altering, or extending a building to which that section would otherwise apply, the change to the use of the building increases the degree of non-compliance of the use with the relevant rule.

(4) **Subsection (2)** is subject to the right to object under **sections 828 to 835**.

Compare: 1991 No 69 s 10(2), (3)

28 Certain existing activities on surface of water ~~allowed~~ may continue

(1) This section applies to the use of the surface of water in lakes or rivers~~—~~ in the following circumstances:

(a) if that use was formerly a permitted activity or could have been carried out lawfully without a resource consent; ~~but~~ and

~~(b) as a result of a plan rule within the jurisdiction of a territorial authority becoming operative in accordance with **section 130 or 339**.~~

(b) as a result of a plan rule administered by a territorial authority becoming operative in accordance with **section 130**, consent is required.

(2) An activity within the scope of **subsection (1)** may continue to be carried on if—

(a) the activity was lawfully established before the plan rule became operative or took legal effect in accordance with **section 130**; ~~and~~ or

~~(b) the effects of the activity—~~

~~(i) are the same or similar in character, intensity, and scale to those existing before the rule became operative or took legal effect in accordance with 1 of those sections; or~~

~~(ii) any change in effects is limited to reducing the adverse effects on the environment or otherwise improving the environment; and~~

(b) the adverse effects of the use—

(i) are the same or similar in character, intensity, and scale as those that existed before the rule became operative, the proposed plan was notified, or the designation was removed; or

(ii) are reduced; and

(c) the person carrying on the activity has applied for a resource consent from the appropriate consent authority not later than 6 months after the rule becomes operative.

(3) If an application has been made for a resource consent for an activity to which this section applies, the activity may continue to be carried on until the application is decided and any appeals determined.

Compare: 1991 No 69 s 10A

29 Certain existing building works allowed

(1) Land may be used in a way that contravenes a plan rule ~~within the jurisdiction of~~ administered by a territorial authority~~,~~ if the use is a building work or intended use of a building that is to be treated as being lawfully established in accordance with **subsection (2)**.

(2) A building work or the intended use of a building is to be treated as being lawfully established if—

(a) a building consent was issued for the building work or the intended use of a building (including any amendments) in accordance with the Building Act 2004 before the plan rule took effect in accordance with **section 130**; and

(b) at the time that the building consent was issued and any amendments included, the building work or intended use of a building~~, as set out in the building consent,~~ —

(i) would not have contravened a rule in ~~the~~ a plan ~~at the time that the building consent was issued and any amendments included~~; or

(ii) could have been carried out without a resource consent for another reason.

(3) However, despite **subsection (2)**, a building work or the intended use of a building must not be treated as lawfully established if,—

~~(a) after the plan rule has taken legal effect in accordance with **section 130**), the building consent is amended so that —~~

~~(i) the effects of the building work or its intended use will not be the same or similar in character, intensity, and scale as the effects would have been before the amendment of the building consent; or~~

~~(ii) the change is limited to reducing the adverse effects on the environment or otherwise improving the environment; or~~

(a) the adverse effects of the use—

(i) are the same or similar in character, intensity, and scale as those that existed before the rule became operative, the proposed plan was notified, or the designation removed; or

(ii) are reduced; and

(b) the building consent has lapsed or been cancelled, but a code of compliance certificate issued under the Building Act 2004 for the building is

not to be treated as having cancelled the building consent for the building; or

(c) a code of compliance certificate for the building has not been issued under the Building Act 2004 within 2 years of the plan rule taking legal effect (or any further period the territorial authority may allow if satisfied that reasonable progress has been made towards completing the building work within the 2-year period).

(4) **Section 26(4) and (5)** applies to this section.

(5) In this section, **building**, **building work**, and **intended use** have the meanings given in sections 8 and 9 of the Building Act 2004.

Compare: 1991 No 69 s 10B

30 Certain existing lawful activities allowed

(1) If an activity requires a resource consent because a plan rule ~~within the jurisdiction of the~~ administered by a regional council has legal effect in accordance with ~~**sections 130**~~, **section 130 or clause 52 of Schedule 10A**, the activity may continue until the rule becomes operative.

(2) **Subsection (1)** applies if the following requirements are satisfied:

(a) before the rule had legal effect, the activity—

(i) was a permitted activity or could have been carried on lawfully without a resource consent; and

(ii) was lawfully established; and

~~(b) the effects of the activity—~~

~~(i) are the same or similar in character, intensity, and scale as the effects that existed before the rule took effect; or~~

~~(ii) the change is limited to reducing the adverse effects on the environment or otherwise improving the environment; and~~

(b) the adverse effects of the activity—

(i) are the same or similar in character, intensity, and scale to those that existed before the rule became operative, the proposed plan was notified, or the designation removed; or

(ii) are reduced; and

(c) the activity has not been discontinued continuously for more than 6 months since the rule took legal effect in accordance with **section 130 or clause 52 of Schedule 10A** (or a longer period that may be fixed by a rule in the proposed plan).

(3) If an activity requires a resource consent because a plan rule ~~within the jurisdiction of the~~ administered by a regional council becomes operative, the activity may continue after the rule becomes operative if,—

(a) before the rule became operative, the activity—

(i) was a permitted activity or was allowed to continue under **subsection (1)**, or could have been lawfully carried on without a resource consent; and

(ii) was lawfully established; and

(b) the adverse effects of the activity—

(i) are the same or similar in character, intensity, and scale to those that existed before the rule became operative; or

~~(ii) the change in effects is limited to reducing the adverse effects on the environment or otherwise improving the environment; and~~

(ii) are reduced from the adverse effects that existed at that time; and

(c) the person carrying on the activity has applied for a resource consent from the appropriate consent authority within 6 months after the date on which the rule became operative but that application has not been decided or appeals determined.

Compare: 1991 No 69 s 20A

Part 2A
Exercise of functions, powers, and duties under this Act

Subpart 1—Functions, powers, and duties of Ministers

30A Functions and powers of Minister for Environment

The Minister for the Environment has the following functions under this Act:

(a) to ensure that the national planning framework is prepared, approved, and maintained:

(b) to decide whether to intervene in, or give a direction on, a matter that is, or is part of, a proposal of national importance:

(c) to monitor the implementation of this Act (and of any secondary legislation made under it) and its effectiveness in achieving the purpose of the Act:

(d) to monitor the relationship between the functions, powers, and duties of central government and local government under this Act:

(e) to monitor and investigate, as the Minister considers appropriate, any matter of significance to the environment:

(f) to consider and investigate the use of economic instruments such as charges, levies, off-setting, and incentives as a means of achieving the purpose of this Act:

(g) any other functions specified in this Act.

Compare: 1991 No 69 s 24

30B Minister for Environment may investigate and make recommendations in respect of local authorities and regional planning committees

(1) The Minister for the Environment may—

(a) investigate the exercise or performance by a local authority or regional planning committee of any of its functions, powers, or duties under this Act; and

(b) make recommendations to the local authority or regional planning committee on its exercise or performance of those functions, powers, or duties; and

(c) investigate the failure or omission by a local authority or regional planning committee to exercise or perform any of its functions, powers, or duties under this Act; and

(d) make recommendations to the local authority or regional planning committee on its failure or omission to exercise or perform those functions, powers, or duties.

(2) The Minister for the Environment may require a local authority or regional planning committee to—

(a) set out how the local authority or committee is responding to the Minister's recommendations; and

(b) make that information publicly available.

Compare: 1991 No 69 s 24A

30C Minister for Environment may appoint substitute for local authority

(1) **Subsection (2)** applies if a local authority is not exercising or performing 1 or more of its functions, duties, or powers under this Act.

(2) If the Minister for the Environment considers it necessary for achieving the purpose of this Act, the Minister may appoint 1 or more persons, including a person from the public service, to exercise or perform 1 or more of the functions, duties, or powers concerned.

(3) An appointment under **subsection (2)**—

(a) may be made on the terms and conditions that the Minister thinks fit; and

(b) must be made publicly available, with the appointee's terms of reference, including—

(i) the appointee's functions, duties, and powers; and

(ii) the duration of the appointment.

(4) The Minister must not make an appointment under **subsection (2)**—

(a) until the Minister has given written notice to the local authority,—

(i) stating why the Minister proposes to make the appointment; and

(ii) giving the local authority a reasonable opportunity to satisfy the Minister that it has exercised or performed the function, power, or duty to the extent necessary; and

(iii) providing a time frame of not less than 20 working days after the date of the notice for taking steps to remedy the fault; and

(b) if the Minister is not satisfied with the response and the local authority has not taken the required steps within the specified time frame, the Minister may make the appointment.

(5) A person appointed under **subsection (2)** has the power to exercise or perform the functions, duties, or powers concerned as if the person were the local authority, and must act in accordance with this Act.

(6) **Subsection (7)** applies to the costs, charges, and expenses incurred by—

(a) the Minister for the purposes of this section; and

(b) the person appointed under **subsection (2)**.

(7) The costs, charges, and expenses referred to in **subsection (6)**—

(a) are recoverable as a debt due to the Crown; or

(b) may be deducted from money payable to the local authority by the Crown.

Compare: 1991 No 69 s 25

30D Minister for Environment may direct preparation of plan change or variation

(1) The Minister—

(a) may direct a regional planning committee—

(i) to prepare a plan change that addresses a resource management issue relating to a function of a local authority and any matters which local authorities are responsible for under this Act; or

(ii) to prepare a variation to a proposed plan that addresses a resource management issue relating to a function of a local authority and any matters which local authorities are responsible for under this Act; and

(b) may direct the committee, in preparing the plan change or variation, to deal with the whole or a specified part of the local authority's region or district; and

(c) must, in giving a direction, specify a reasonable period within which the plan change or variation must be notified.

(2) The Minister must—

(a) provide reasons why they are directing the preparation of the plan change (including the process to be used for the plan change, if applicable) or variation and make their reasons publicly available; and

(b) prepare a statement of expectations that sets out the objectives expected to be achieved, which the regional planning committee must have regard to; and

(c) consult any relevant ministers or any other person the minister considers appropriate to consult on the content in the statement of expectations.

(3) The regional planning committee must—

(a) report to the Minister on how the committee has had regard to the statement of expectations; and

(b) make the report publicly available.

(4) In this section, **resource management issue** includes any requirement in the national planning framework that relates to a function of a local authority under this Act.

Compare: 1991 No 69 s 25A

30E Ministers may direct that review of plan be undertaken

(1) The Minister for the Environment may direct a regional planning committee to commence a review of the whole or any part of a plan (except in relation to the coastal marine area) and, if the Minister does so, must specify a reasonable period within which the review must begin.

(2) The Minister of Conservation may direct a regional planning committee to commence a review of the whole or any part of a plan so far as it relates to the coastal marine area, and if the Minister does so, must specify a reasonable period within which the review must commence.

(3) The Minister must—

(a) provide reasons why they are directing the review and make their reasons publicly available; and

(b) prepare a statement of expectations that sets out the objectives expected to be achieved, which the regional planning committee must have regard to; and

(c) consult any relevant ministers or any other person the responsible minister considers appropriate to consult on the content in the statement of expectations.

(4) The regional planning committee must—

(a) report to the relevant Minister on how the committee has had regard to the statement of expectations; and

(b) make the report publicly available.

(5) **Section 839G(2) to (4)** applies to the review with any necessary modifications.

Compare: 1991 No 69 s 25B

30F Minister for Environment may direct that other action be taken

(1) This section applies to powers, functions, or duties under this Act, other than those for which a direction is made under **section 30D or 30E**.

(2) The Minister may direct a regional planning committee or local authority to exercise or perform a power, function, or duty if the Minister is satisfied that—

(a) the committee or local authority is not exercising or performing the power, function, or duty—

(i) to the extent that the Minister considers necessary to achieve the purpose of this Act; or

(ii) within the time frame required by this Act, the national planning framework, or the relevant plan; and

(b) reasonable steps have been taken to assist the committee or local authority to exercise or perform the power, function, or duty to that extent.

(3) The Minister must—

(a) provide reasons for giving the direction and make their reasons publicly available; and

(b) identify the power, function, or duty that must be exercise or performed.

(4) The local authority or regional planning committee must, within 20 working days of receiving the direction,—

(a) set out for the Minister how the committee and local authorities will carry out the direction, including any associated milestones, time frames, or monitoring; and

(b) make that information publicly available.

30G Functions of Minister of Conservation

The Minister of Conservation has the following functions under this Act:

(a) to ensure that the national planning framework is prepared, approved, and maintained, to the extent that the Minister is responsible under **section 94**:

(b) to monitor the effect and implementation of the national planning framework and plans in relation to the coastal marine area:

(c) any other functions specified in this Act.

Compare: 1991 No 69 s 28

30H Functions of Minister responsible for aquaculture

The Minister responsible for aquaculture has the following functions under this Act:

(a) suspending the receipt of applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area:

(b) making a direction to process and hear together applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area:

(c) recommending the making of regulations that amend plans in relation to aquaculture activities in the coastal marine area:

(d) making decisions on offers for authorisations under **section 451**.

Compare: 1991 No 69 s 28B

Delegations and directions

30I Delegation of functions by Ministers

(1) A Minister of the Crown may, generally or particularly, delegate to the chief executive of that Minister's department any of the Minister's powers, functions, or duties under this Act.

(2) A delegation made under this section must comply with clause 5 of Schedule 6 of the Public Service Act 2020.

(3) However, the following functions, powers, or duties must not be delegated:

(a) certifying any work or activity under **section 12(2)**:

(b) appointing persons to exercise powers or perform functions or duties in place of a local authority or regional planning committee under **section 30C**:

(c) approving, changing, replacing, or revoking the national planning framework or any part of it in accordance with **Part 1 of Schedule 6**:

(d) the following functions, powers, and duties under **Part 3 of Schedule 10A**:

(i) deciding whether to make a direction under **clause 42(2) or 50(1) of Schedule 10A** in relation to a matter that is or is part of a proposal of national significance:

(ii) appointing a board of inquiry under **clause 62 of Schedule 10A** to consider a matter for which a direction has been made under **clause 42(2) or 50(1) of Schedule 10A**:

(iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under **clause 42(2) or 50(1) of Schedule 10A**:

(iv) deciding whether to intervene in a matter under **clause 78 of Schedule 10A**:

(v) deciding under **clause 80 of Schedule 10A** whether to notify an application or notice of requirement to which **clause 83 of Schedule 10A** applies:

(e) approving an applicant as a requiring authority under **section 499**:

(f) approving an applicant as a heritage protection authority under **section 541**:

(g) recommending the issue or amendment of a water conservation order under **section 393 or 395**:

(h) making, or recommending the making, of regulations:

(i) this power of delegation.

(4) A chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, power, or duty delegated to them by a Minister under clause 5 of that schedule.

(5) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020, as the case may be.

Compare: 1991 No 69 ss 25, 29(1)–(3)

Subpart 2—Environmental Protection Authority

30J Functions of EPA

The functions of the EPA are—

(a) to perform functions under **Parts 2 to 5 of Schedule 10A**:

(b) to make decisions under **section 295** on applications for certificates of compliance for proposals or activities that are related to proposals of national significance:

(c) to provide secretarial and support services to—

(i) a board of inquiry appointed under **clause 62 of Schedule 10A**:

(ii) a special tribunal appointed under **section 381**:

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

(e) to provide technical advice to the responsible Minister on the development of the national planning framework:

(f) to exercise any powers or perform any functions or duties delegated to it by the Minister under **section 30L**:

(g) to perform the enforcement functions conferred by **section 796**:

(h) to perform functions under **subpart 4 of Part 6**:

(i) to perform any other functions specified in this Act.

Compare: 1991 No 69 s 42C

30K Cost recovery for specified function of EPA

(1) If the Minister asks the EPA under **section 30J** to provide secretarial and support services to a person (a **supported person**),—

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

(b) the EPA must 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 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) whether it is administratively efficient to allocate to and recover costs from the person.

(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.

Compare: 1991 No 69 s 42CA

30L Delegation to EPA by Ministers

(1) The Minister for the Environment may, in writing, delegate to the EPA the Minister's functions, powers, and duties under **section 30A(c)**, **Parts 2 to 5 of Schedule 10A**, and **sections 831 and 832** except the following:

(a) deciding whether to make a direction under **clause 42(2) or 50(1) of Schedule 10A** in relation to a matter that is or is part of a proposal of national significance:

(b) appointing a board of inquiry under **clause 62 of Schedule 10A** to consider a matter for which a direction has been made under **clause 42(2) or 50(1) of Schedule 10A**:

(c) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under **clause 42(2) or 50(1) of Schedule 10A**:

(d) deciding whether to intervene in a matter under **clause 78 of Schedule 10A**:

(e) deciding under **clause 80 of Schedule 10A** whether to notify an application or notice of requirement to which **clause 79 of Schedule 10A** applies.

(2) The Minister of Conservation may, in writing, delegate to the EPA the Minister's functions, powers, and duties—

(a) under **clause 81 of Schedule 10A**; and

(b) under **sections 831(b), 832, and 834**, in relation to a delegation to which **paragraph (a)** applies.

(3) The EPA 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 EPA—

(a) under **clause 81 of Schedule 10A**; and

(b) under **sections 831(b), 832, and 834**, in relation to a delegation to which **paragraph (a)** applies.

(4) A delegation under **subsection (1) or (2)**—

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

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

(5) A delegation under **subsection (3)**—

(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 EPA from performing the functions or duties, or exercising the powers, concerned.

Compare: 1991 No 69 s 29(4)–(6)

30M Certain directions prohibited

The Minister for the Environment must not give a direction under section 103 of the Crown Entities Act 2004 that relates to the exercise of the EPA's functions under **section 30J(b)** (that relates to applications for certificates of compliance in respect of proposals of national significance).

Compare: 1991 No 69 s 29A

Subpart 3—Functions of regional planning committees

30N Functions of regional planning committees

(1) A regional planning committee's functions are—

(a) to make and maintain the plan for its region using the process set out in **Schedule 7**; and

(b) to approve or reject recommendations made by an independent hearings panel after it considers submissions on the plan; and

(c) to set any environmental limits and interim limits for the region that the national planning framework requires the plan to prescribe (*see* **section 39**); and

(d) monitor how effectively its plan is being implemented by each local authority in the region; and

(e) any other functions specified in this Act or in the **Spatial Planning Act 2022**.

(2) In carrying out its functions under this Act, a regional planning committee must enable integrated and strategic decision making for the region, as by—

(a) taking a collaborative approach to developing a regional spatial strategy and plan for the region; and

(b) considering the perspectives of the different communities within the region.

(3) Each regional planning committee also has a duty, in relation to its role in preparing the plan for the region,—

(a) to initiate and comply with any engagement agreement (*see* **Part 1 of Schedule 7**); and

(b) to undertake consultation in accordance with **Schedule 7**.

(4) In the case of the Nelson and Tasman unitary authorities, this section applies to the combined regions.

Subpart 4—Matters for which local authorities are responsible

Local authorities

30O Functions of regional councils

(1) A regional council has the following functions under this Act:

(a) to participate with the regional planning committee appointed for the region in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the council and any matters which they are responsible for under this Act.

(b) at its discretion, to prepare statements of regional environmental outcomes; and

(c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to their functions; and

(d) to carry out any other functions specified in this Act.

(2) The purpose of the statements of regional environmental outcomes is to express the values of the communities of the region and their aspirations for the use, development, and protection of the natural environment.

(3) In preparing a statement of regional environmental outcomes, the regional council is subject to the general obligations on decision makers set out in **subpart 1 of Part 1**, but need not ensure that the statement complies with the national planning framework, or any regulation or other planning document under this Act or the **Spatial Planning Act 2022**.

(4) The regional council must provide the statements to the regional planning committee within 2 months of the regional planning committee resolving to commence the plan development process (*see* **clause 2 of Schedule 7**).

(5) If a function is delegated or transferred to a regional council, the council must carry out that function under the terms of the delegation or transfer.

Compare: 1991 No 69 s 30

30P Matters for which regional councils responsible

As far as they are relevant to a region, the regional council has responsibility for the following matters:

Use of land

(a) the use of land for the purpose of—

(i) soil conservation:

(ii) maintaining and enhancing the quality of freshwater in water bodies and coastal water:

(iii) maintaining the quantity of freshwater in water bodies and coastal water:

(iv) maintaining and enhancing ecosystems in water bodies and coastal water:

(v) avoiding, mitigating, or reducing the risks arising from natural hazards:

Coastal marine area

(b) in relation to the coastal marine area in the region, management (in conjunction with the Minister of Conservation) of—

(i) the use of land and its associated natural and built resources:

(ii) to the extent that it is within the common marine and coastal area, the occupation of space, and the extraction of sand, shingle, shell, or other natural materials from the coastal marine area:

(iii) the taking, use, damming, and diversion of water:

(iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:

(v) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:

(vi) any actual or potential effects of the use, development, or protection of land, including avoiding mitigating or reducing the risks arising from natural hazards:

(vii) the emission of noise and the mitigation of the effects of noise:

(viii) activities in relation to the surface of water:

Water

(c) the taking, using, damming, and diverting of water, and the control of the quantity, level, and flow of water in a water body, including—

(i) setting any maximum or minimum levels or flows of water:

(ii) controlling the range, or rate of change, of levels or flows of water:

(iii) controlling the taking or use of geothermal energy:

Discharges of contaminants

(d) the discharge of contaminants into or onto land, air, or water and discharges of water into water:

Bed of water body

(e) in relation to the bed of a water body,—

(i) the introduction or planting of any plant in, on, or under that land for the purpose of—

(A) soil conservation:

(B) maintaining and enhancing the quality of water in the water body:

(C) avoiding mitigating or reducing the risks arising from natural hazards:

(ii) the management of cultural heritage on the beds of lakes and rivers:

Indigenous biodiversity

(f) the maintenance and enhancement of indigenous biodiversity:

Infrastructure

(g) the strategic integration of infrastructure with land use.

30Q Functions of territorial authorities

(1) A territorial authority has the following functions under this Act:

(a) to participate with the regional planning committee appointed for the district in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the territorial authority and any matters which that authority is responsible for under this Act; and

(b) at the authority's discretion, to prepare statements of community outcomes; and

(c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to the territorial or unitary authority's functions; and

(d) any other functions specified in this Act.

(2) The purpose of a statement of community outcomes is to express the values of the community and its aspirations for—

(a) the use, development, and protection of the environment; and

(b) the maintenance and enhancement of a community's sense of a place.

(3) In preparing a statement of community outcomes, the territorial authority is subject to the general obligations on decision makers set out in **subpart 1 of Part 1**, but need not ensure that the statement complies with the national planning framework, or any regulation or other planning document under this Act or the **Spatial Planning Act 2022**.

(4) The territorial authority must provide the statements to the regional planning committee within 2 months of the regional council resolving to commence the plan development process (*see* **clause 2 of Schedule 7**).

(5) If a function is delegated or transferred to a territorial authority, that authority must carry out that function under the terms of the delegation or transfer.

Compare: 1991 No 69 s 31

30R Matters for which territorial authority is responsible

As far as they are relevant to 1 or more territorial authorities within a region, a territorial authority is responsible for the following matters:

(a) the effects of the use, development, or protection of land within a district, including—

(i) avoiding, mitigating, or reducing the risks arising from natural hazards:

(ii) preventing or mitigating any adverse effects of developing, subdividing, or using contaminated land:

(iii) maintaining and enhancing indigenous biodiversity; and

(b) the emission of noise and light and mitigating their effects; and

(c) the effects of activities relating to the surface of water in rivers and lakes; and

(d) the subdivision of land as required to—

(i) achieve the integrated management of the effects of the use, development, or protection of the resources of the environment:

(ii) ensure that there is sufficient development capacity of land for housing and business to meet the expected demands of the region; and

(e) the protection of trees and the urban tree canopy.

30S Local authorities to implement and administer plans and strategies

Each local authority in the region must, in relation to matters for which it has responsibility, implement and administer the plan for its region and its regional spatial strategy, including undertaking—

(a) the role of consent authority; and

(b) monitoring; and

(c) enforcement and compliance.

30SA Local authority must publicly notify breaches of environmental limits

(1) A local authority must publicly notify any breach of an environmental limit in its region.

(2) The following information must be included in the public notice:

(a) the cause and extent of the breach; and

(b) how the authority plans to manage the breach; and

(c) when compliance with the limit is expected to be achieved; and

(d) any other information the authority considers relevant.

Minister of Conservation

30T Minister of Conservation has certain powers of local authority

(1) The Minister of Conservation—

(a) has, in respect of 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, the functions, powers, and duties that a regional council would have under this Act if those coastal marine areas were within the region of that regional council; and

(b) may exercise, in respect of the islands specified in **paragraph (a)**,—

(i) the functions, powers, and duties that a regional council would have under this Act if those islands were within the region of that regional council; and

(ii) the responsibilities, duties, and powers that a territorial authority would have under this Act if those islands were within the district of that territorial authority; and

(iii) the power conferred by **section 788(3)**.

(2) The responsibilities, duties, and powers conferred on the Minister of Conservation by **subsection (1)(b)** are in addition to the powers conferred on that Minister by **subsection (1)(a)**.

(3) The responsibilities, duties, and powers conferred on the Minister of Conservation by this section are in addition to the responsibilities, duties, and powers conferred on that Minister by this Act.

Compare: 1991 No 69 s 31A

Local authorities to have compliance and enforcement strategy

30U Local authorities to prepare compliance and enforcement strategy

(1) A local authority must prepare and publish a compliance and enforcement strategy, which takes into account relevant Treaty settlements, and voluntary or statutory agreements with local iwi, hapū, or Māori (including Mana Whakahono ā Rohe agreements).

(2) When developing a compliance and enforcement strategy, local authorities must work with iwi authorities and groups that represent hapū within the region.

(3) A compliance and enforcement strategy must set out the following:

(a) how compliance monitoring will be carried out, including how mātauranga Māori and other specialist input will be integrated into compliance monitoring:

(b) how local authorities will monitor and enforce their own compliance:

(c) how the local authority will avoid inappropriate influence or bias in enforcement decision making:

(d) how the local authority will respond to incidents of non-compliance:

(e) how the local authority will deal with incidents of non-compliance:

(f) how compliance monitoring and enforcement will be resourced:

(g) how any reporting requirements will be met:

(h) what matters a local authority will consider when determining whether to waive compliance under **section 157**:

(i) how frequently the strategy will be reviewed and updated (which may, for example, be in accordance with the significance and engagement policy under section 76AA of the Local Government Act 2002).

Transfer of powers

30V Transfer of powers

(1) A local authority or regional planning committee may transfer 1 or more of its functions, powers, or duties to another public authority in accordance with this section.

(2) The power conferred by **subsection (1)** does not apply to the power of transfer itself.

(3) A local authority or regional planning committee must not transfer any function, power, or duty unless—

(a) it has used a process that gives effect to section 82 of the Local Government Act 2002; and

(b) it has first given notice of the Minister of its proposal to transfer a power, function, or duty; and

(c) the local authority or regional planning committee and the public authority receiving the transfer agree that the transfer is desirable for all of the following reasons:

(i) the authority to which the transfer is to be made represents the appropriate community of interest relating to the performance or exercise of the function, power, or duty:

(ii) the transfer will result in greater efficiency in the performance or exercise of the function, power, or duty:

(iii) the authority to which the transfer is made has the requisite technical or special capability or expertise.

(4) **Subsection (3)(c)** does not apply in the case of a transfer of power to an iwi authority or a group representing hapū.

(5) In this section, **public authority** includes—

(a) a local authority; and

(b) a regional planning committee; and

(c) an iwi authority; and

(d) a group representing hapū; and

(e) a statutory authority; and

(f) a government department; and

(g) a joint committee; and

(h) a local board.

Compare: 1991 No 69 s 33(1)–(4)

30W Limits to transfer of powers

Section 30V does not permit a regional planning committee to transfer the power under clause 41 of Schedule 7 (power to give final approval to plan).

30X Procedural and other matters relevant to transfer of powers

(1) A transfer of functions, powers, or duties under **section 30V** must be by agreement of the authorities concerned and on the agreed terms and conditions.

(2) A public authority may accept a transfer of a function, power, or duty under that section, unless the authority is expressly forbidden to do so by the terms of an Act under which it is constituted.

(3) A transfer under **section 30V** must enable the authority to undertake, exercise, or perform the function, power, or duty.

(4) If a request is received to transfer a power under **section 30V**, the relevant local authorities and regional planning committee must—

(a) give careful consideration to the request; and

(b) respond to the requester within 6 months of receiving the request; and

(c) every 3 years, report to the National Māori Entity on how they have—

(i) considered and dealt with any requests received from iwi authorities or groups representing hapū; and

(ii) considered on their own initiative any opportunities to transfer powers or undertake other initiatives to enable the participation of iwi and hapū in resource management processes.

(5) Local authorities and regional planning committees must notify the Minister when—

(a) a transfer of power is requested; and

(b) that transfer is achieved, altered, or terminated.

(6) An agreement to transfer a power under **section 30V** must include provisions describing—

(a) how the agreement may be altered or terminated; and

(b) how risks and liabilities will be allocated between or among the parties to the agreement.

Compare: 1991 No 69 s 33(6)–(9)

Delegation of functions, powers, or duties

30Y Delegation by local authorities

Delegation to committee

(1) A local authority may delegate any of its functions, powers, or duties under this Act to a committee of the local authority established in accordance with the Local Government Act 2002.

Delegation to community board

(2) A territorial authority may delegate any of its functions, powers, or duties under this Act to a community board established in accordance with the Local Government Act 2002 in respect of any matter of significance to that community.

Delegation to local board

(3) A unitary authority may delegate to a local board any of its functions, powers, or duties under this Act if a matter is of local significance to that board.

Compare: 1991 No 69 s 34(1)–(3B)

30Z Further provisions on delegation

(1) A delegation under **section 30Y** may—

(a) be made on the terms and conditions that the local authority thinks appropriate; and

(b) be revoked at any time by written notice to the delegate.

(2) Unless the instrument of delegation provides differently, a body to whom a function, power, or duty is delegated under **section 30Y** may exercise or perform the function, power, or duty as the local authority could itself have done and with the same effect, without confirmation of the local authority.

(3) A body authorised to act under a delegation under **section 30Y** is presumed to be acting in accordance with the terms of the delegation, unless there is proof to the contrary.

(4) A delegation under **section 30Y** does not affect the performance or exercise of any function, power, or duty by the local authority.

Compare: 1991 No 69 s 34(7)–(10)

30ZA Delegation of powers and functions to employees and other persons

(1) A local authority may delegate to an employee, or a hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers, or duties under this Act except this power of delegation.

(3) A local authority may delegate to any other person any functions, powers, or duties under this Act except the following:

(a) the power to delegate in **subsection (1)**:

(b) the power to make a decision on an application for a resource consent:

(c) the power to make a recommendation on a requirement for a designation.

(4) **Section 30Z** applies to a delegation under this section.

Compare: 1991 No 69 s 34A

Joint management agreements

30ZB Power to make joint management agreements

(1) If a local authority, regional planning committee, or other possible party receives a request for a joint management agreement from another possible party, it must, after carefully considering the request,—

(a) notify the Minister of the request; and

(b) satisfy itself that each public authority that is a party or possible party to the proposed joint agreement—

(i) represents the relevant community of interest; and

(ii) has the technical or special capability or expertise to perform or exercise the function, power, or duty jointly with the local authority.

(2) However, the requirements of **subsection (1)(b)** do not apply in the case of a joint management agreement entered into with an iwi authority or group representing hapū.

(3) A regional planning committee must not enter into a joint management agreement that provides for final approval of a plan to be given jointly.

(4) A local authority or regional planning committee must, in addition to the matters of substance agreed by the parties, also include in the joint management agreement details describing—

(a) the resources that will be required for the administration of the agreement; and

(b) how the administrative costs of the joint management agreement will be met; and

(c) how the agreement will be altered or terminated; and

(d) how risks and liabilities will be allocated between or among the parties to the joint management agreement.

(5) In addition, the requirements of **section 30X(4) and (5)** apply to a request to enter into a joint management agreement.

(6) A local authority or regional planning committee, as relevant, that meets the requirements of **subsections (1) and (2)** may enter into a joint management agreement.

(7) In this section and **section 30ZC**, **possible party** means a local authority, regional planning committee, iwi authority, or group representing hapū.

Compare: 1991 No 69 ss 36B, 36E

30ZC When local authority or regional planning committee may act alone

(1) This section applies if a joint management agreement requires the parties to perform or exercise a specified function, power, or duty together, but the agreement does not specify how such a decision is to be made.

(2) The local authority or regional planning committee may perform or exercise the function, power, or duty by itself if a decision is required before the parties are able to do so together.

Compare: 1991 No 69 s 36C

30ZD Effect of joint management agreement

A decision made under a joint management agreement has legal effect as a decision of the local authority or regional planning committee.

Compare: 1991 No 69 s 36D

Subpart 5—National Māori Entity

30ZE National Māori Entity established

(1) The National Māori Entity is, on 1 March 2024, established as an independent statutory entity.

(2) The National Māori Entity is a body corporate with perpetual succession.

(3) For the purpose of performing its functions and duties, and exercising its powers under this Act and the **Spatial Planning Act 2022**, it—

(a) has full capacity to undertake any business or activity, do any act, or enter into any transaction; and

(b) for the purposes of **paragraph (a)**, has full rights, powers, and privileges.

(4) **Subsection (3)** applies, subject to—

(a) the appointment under this subpart of the members of the National Māori Entity (*see* **section 30ZM**); and

(b) the provisions of this Act, any other enactment, and the general law.

(5) In this subpart, **monitored entities** means any of the following:

(a) Ministers:

(b) public service agencies:

(c) local authorities and unitary authorities:

(d) regional planning committees:

(e) any other persons or groups acting under either of the Acts referred to in **subsection (1)**, but excluding any court or tribunal acting under this Act or the **Spatial Planning Act 2022**.

30ZF Purpose of National Māori Entity

The purpose of the National Māori Entity is to provide independent monitoring of the cumulative effect of decisions made by persons exercising powers and performing functions and duties in giving effect to the principles of te Tiriti o Waitangi under this Act and the **Spatial Planning Act 2022**.

30ZG Independence of National Māori Entity

(1) In performing its functions and duties and exercising its powers under this Act, the National Māori Entity must act independently of—

(a) any Minister of the Crown or Crown agency:

(b) any persons, entities, or groups of persons with functions, powers, or duties under this Act or the **Spatial Planning Act 2022**:

(c) iwi, hapū, and Māori.

(2) However, the National Māori Entity may, at its discretion, operate collaboratively with, and be informed by information provided by, any person, entity, or group referred to in **subsection (1)**.

Monitoring and reporting functions

30ZH Functions, powers, and duties of National Māori Entity

(1) When monitoring entities that are monitored to assess whether the system is giving effect to the principles of te Tiriti o Waitangi (*see* **section 4** of this Act and **section 5 of the Spatial Planning Act 2022**), the primary function of the National Māori Entity is to assess—

(a) the significant actions taken by monitored entities; and

(b) the cumulative effects of those actions.

(2) In carrying out its primary function, the National Māori Entity must—

(a) develop, and make publicly available, a framework for its monitoring function; and

(b) regularly monitor the operations of those performing functions and duties and exercising powers under this Act and the **Spatial Planning Act 2022**; and

(c) assess whether any issues identified through monitoring are relevant to the duty of the monitored entities to give effect to the principles of te Tiriti o Waitangi; and

(d) make recommendations to the monitored entities, including whether Ministerial intervention is required—

(i) in relation to the performance of a monitored entity:

(ii) if issues at a national, regional, or local level are identified.

(3) The National Māori Entity, on its own initiative or upon request from any persons, may—

(a) carry out monitoring outside the regular cycle, if it considers it necessary to achieve its purpose; and

(b) through its primary function, provide expert advice in relation to—

(i) the national planning framework (*see* **clauses 2, 9, 16, and 27 of Schedule 6**); and

(ii) appointments of members to IHPs (*see* **clause 93(4) of Schedule 7**); and

(iii) the evaluation framework (*see* **section 836(3)**); and

(iv) any other matter relevant to the primary function of the Entity.

30ZI Obligation to report on monitoring activities

(1) The National Māori Entity, informed by its monitoring activities as required by **section 30ZH**,—

(a) must report to each monitored entity as soon as practicable after concluding its monitoring of that entity; and

(b) must advise the monitored entity of its duty to respond within the time specified; and

(c) may require any information.

(2) The National Māori Entity may prepare and provide reports under **subsection (1)(a)** by whatever means it considers appropriate.

(3) The National Māori Entity must also report to the Minister, at least once every 6 years, to show on a national basis whether the environment is being effectively managed to give effect to the principles of te Tiriti o Waitangi.

(4) Reports provided by the National Māori Entity to the Minister may include recommendations, including recommendations as to intervention by the Minister, if the National Māori Entity considers that significant issues have been identified in the performance by the monitored entity.

(5) All monitoring reports prepared by the National Māori Entity, and the associated responses of the monitored entities, must be made publicly available by the National Māori Entity.

30ZJ Responses to reports

(1) The Minister, and each monitored entity that receives a report from the National Māori Entity under **section 30ZI**, must respond to the report and its recommendations (if any),—

(a) in the case of the Minister, as soon as practicable, but no later than 6 months of receiving the report; and

(b) in the case of a monitored entity, within the time frame specified in the report.

(2) Responses must demonstrate that the monitored entity has considered—

(a) the findings and any recommendations included in the report; and

(b) what measures it intends to take in relation to those matters.

(3) The Minister must, as soon as practicable, present to the House of Representatives a copy of the report received by the Minister and a copy of the Minister's response.

30ZK Information held by National Māori Entity

(1) The National Māori Entity may share information to any monitored entity if the National Māori Entity is satisfied that providing the information—

(a) is necessary to further the purpose of the Entity; and

(b) may assist the monitored entity or the National Māori Entity to carry out their functions under this Act or other legislation.

(2) However, **subsection (1)** is subject to the National Māori Entity being satisfied that—

(a) sharing information under that provision will not have a substantial effect on the Entity's performance of its functions; and

(b) there are, or will be, appropriate protections in place to ensure that the confidentiality of information to be shared is maintained (in particular, information that is personal information within the meaning of the Privacy Act 2020).

Provisions relating to appointments to National Māori Entity

30ZL Nominating committee

(1) The Minister must establish a nominating committee whose role is to recommend persons for appointment as members of the National Māori Entity.

(2) The nominating committee must have 5 members who, in the opinion of the Minister, have the skills and expertise that qualify them to identify suitable candidates for membership of the Entity.

(3) The nominating committee must—

(a) call for expressions of interest for membership of the Entity from iwi, hapū, and Māori; and

(b) make recommendations to the Minister after considering the expressions of interest received.

(4) The nominating committee may only include in its recommendations persons who—

(a) have been nominated in accordance with **subsection (3)(a)**; and

(b) meet the requirements for the collective skills described in **section 30ZM(3)**.

30ZM Membership

(1) The National Māori Entity consists of 7 members appointed by the Minister.

(2) In making appointments, the Minister—

(a) must not appoint a person unless that person is recommended by the nominating committee (*see* **section 30ZL**); and

(b) must consult the Minister of Māori Development and the Minister for Māori Crown Relations–Te Arawhiti.

(3) When appointing members from the persons recommended by the nominating committee under **section 30ZL**, the Minister must be satisfied that the mem-

bers, collectively, have knowledge of, and experience and capability in relation to,—

(a) te Tiriti o Waitangi and its principles; and

(b) tikanga Māori, te reo Māori, and mātauranga Māori; and

(c) monitoring and reporting performance; and

(d) knowledge of this Act and the **Spatial Planning Act 2022**; and

(e) expertise in communication, particularly with iwi, hapū, Māori, and local government; and

(f) governance.

(4) No person may be appointed who is disqualified within the meaning of section 30(2) of the Crown Entities Act 2004.

(5) The Minister must give public notice of all appointments.

30ZN Term of office of members

(1) Members of the National Māori Entity may hold office for up to 6 years.

(2) However, the term of office must not expire in a calendar year for more than 3 members.

30ZO Chairperson and deputy chairperson

The members of the National Māori Entity must appoint the chairperson and deputy chairperson of the Entity.

30ZP Removal and resignation of chairperson, deputy chairperson, and members

(1) The Minister may, at any time for just cause, remove a member from the National Māori Entity, after consulting the Minister for Māori Crown Relations: Te Arawhiti and the chairperson.

(2) The chairperson or deputy chairperson may be removed from that office by the members of the National Māori Entity, but only by a two-thirds majority vote.

(3) The Minister must—

(a) give written notice of the removal to the member (with a copy to the National Māori Entity); and

(b) notify the removal in the *Gazette* as soon as practicable after that notice is given.

(4) By written notice to the members, the chairperson or deputy chairperson may resign from that office, without resigning as a member.

(5) In this section, **just cause** has the meaning given in section 40 of the Crown Entities Act 2004.

30ZQ Recovery of certain costs

If the National Māori Entity provides expert advice in response to a request under **section 30ZH(3)(b)**, the Entity is entitled to recover its reasonable costs from the monitored entity that made the request.

Power to adopt new name

30ZR National Māori Entity may change name

(1) The Governor-General, by Order in Council given on the recommendation of the Minister for the Environment after receiving a recommendation from the National Māori Entity, change the name of the National Māori Entity.

(2) To avoid doubt, the National Māori Entity does not cease to be an independent statutory entity merely because its name is changed under **subsection (2)**.

(3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 2009 No 32 s 83.

Application of Crown Entities Act 2004

30ZS Application of Crown Entities Act 2004 to National Māori Entity

The following provisions of the Crown Entities Act 2004 apply to the National Māori Entity, subject to this Act and all necessary modifications:

(a) sections 14 to 24 (general provisions on an entity); and

(b) sections 25 to 27A (role of Minister and entity); and

(c) sections 30, 31, 32(2) and (3), 34, 35, 43, 44, 45(a) and (d), 47 to 78 (role and responsibilities of members); and

(d) sections 105, 106, 112 to 115A (independence); and

(e) sections 117 to 130, 132 to 135 (administrative matters); and

(f) Part 4 (reporting and financial obligations); and

(g) Schedule 5 (other than clauses 1, 3, and 4) (administrative procedures).

Application of other Acts

30ZT Application of certain other Acts

(1) The National Māori Entity is an organisation for the purposes of the Ombudsmen Act 1975 and the Official Information Act 1982.

(2) The National Māori Entity is a public entity as defined in section 5 of the Public Audit Act 2001, and the Auditor-General is its auditor.

(3) The National Māori Entity is a public office for the purposes of the Public Records Act 2005.

Compare: 2016 No 17 ss 46, 47

Subpart 6—Mana Whakahono ā Rohe

30ZU Definitions

In this subpart,—

initiating parties has the meaning given in **section 30ZY**

participating authorities means the parties referred to in **section 30ZY(5)**, of which at least 1 party must be—

(a) an iwi authority or group that represents hapū; and

(b) a local authority or regional planning committee

participating iwi authority and group that represent hapū means an iwi authority and a group that represents hapū that—

(a) have agreed to participate in a Mana Whakahono ā Rohe; and

(b) have agreed the order in which negotiations are to be conducted

relevant party means, in relation to **section 30ZY(2)**, an iwi authority, a group that represents hapū, a local authority, or a regional planning committee whose area of interest overlaps with, or is adjacent to, the area of interest of an initiating party.

30ZV Purpose of Mana Whakahono ā Rohe

(1) The purpose of adopting a Mana Whakahono ā Rohe is—

(a) to provide a mechanism for iwi authorities, groups that represent hapū, local authorities, and regional planning committees to discuss, agree on, and record ways in which the iwi and hapū parties to the Mana Whakahono ā Rohe participate in resource management and decision-making processes under this Act; and

(b) to assist local authorities and regional planning committees to comply with their statutory duties under this Act, the **Spatial Planning Act 2022**, and iwi and hapū participation legislation.

(2) The parties to a Mana Whakahono ā Rohe may be any 2 or more iwi authorities, groups representing hapū, local authorities, or regional planning committees, but at least 1 party must be an iwi authority or group representing hapū.

Compare: 1993 No 69 s 58M

30ZW Guiding principles

In initiating, developing, and implementing a Mana Whakahono ā Rohe, the participating authorities must use their best endeavours—

(a) to achieve the purpose of a Mana Whakahono ā Rohe in an enduring manner:

(b) to achieve 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 ā Rohe:

(c) in determining whether to proceed to negotiate a joint or multi-party Mana Whakahono ā 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 ā Rohe under this subpart does not limit the requirements of any relevant iwi and hapū participation legislation or the agreements associated with that legislation.

Compare: 1991 No 69 s 58N

30ZX Limitations on implementing Mana Whakahono ā Rohe arrangement

(1) A Mana Whakahono ā Rohe arrangement cannot limit or otherwise constrain the engagement with iwi and hapū or other Māori groups with interests that is required by or under this Act or the **Spatial Planning Act 2022**.

(2) A Mana Whakahono ā Rohe does not limit any relevant provision of any iwi or hapū participation legislation or any agreement under that legislation.

(3) Unless the participating authorities agree,—

(a) the contents of a Mana Whakahono ā Rohe must not be altered; and

(b) a Mana Whakahono ā Rohe must not be terminated.

(4) If 2 or more iwi authorities or groups that represent hapū have, collectively, entered into a Mana Whakahono ā Rohe with a local authority or regional planning committee, any 1 of the participating authorities to the Mana Whakahono ā Rohe, if seeking to amend the contents of the Mana Whakahono ā Rohe, must negotiate with the other participating authorities, rather than seeking to enter into a new Mana Whakahono ā Rohe.

(5) Local authorities and regional planning committees must not discuss or agree matters as part of a Mana Whakahono ā Rohe, unless the matters are within the scope of their functions, powers, or duties under this Act or the **Spatial Planning Act 2022**.

Compare: 19993 No 69 ss 58R(5), (6), 58U

30ZY Initiation of Mana Whakahono ā Rohe

(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, groups representing hapū, local authorities, or regional planning committees (the **initiating parties**) may invite 1 or more relevant iwi authorities, groups representing hapū, local authorities, or regional planning committees in writing to enter into a Mana Whakahono ā Rohe with the 1 or more initiating parties.

(2) As soon as is reasonably practicable after receiving an invitation under **subsection (1)**, the local authorities and regional planning committees—

(a) must advise any relevant party that the invitation has been received; and

(b) must convene a hui or meeting of the initiating parties and any relevant party identified under **paragraph (a)** that wishes to participate to discuss how they will work together to develop a Mana Whakahono ā Rohe under this subpart.

(3) After an invitation has been received, local authorities and the regional planning committee must attend the hui or meeting convened under **subsection (2)(b)**.

(4) Iwi authorities and groups that represent hapū may attend and participate if they wish to participate in the Mana Whakahono ā Rohe arrangement but are not required to do so if they do not wish to.

(5) 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.

(6) The purpose of the hui or meeting is to provide an opportunity for the parties concerned to discuss and agree on—

(a) the process for negotiation of 1 or more Mana Whakahono ā 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.

(7) The parties that are able to agree at the hui or meeting how they will develop a Mana Whakahono ā Rohe (the **participating authorities**) must proceed to negotiate the terms of the Mana Whakahono ā Rohe in accordance with that agreement and this subpart.

(8) If 1 or more participating authorities in an area are negotiating a Mana Whakahono ā Rohe and a further invitation is received under **subsection (1)**, the participating authorities and parties that have given a further invitation may agree on the order in which they negotiate the Mana Whakahono ā Rohe.

(9) If an iwi authority, group representing hapū, a local authority, or a regional planning committee have at any time entered into a relationship agreement or engagement 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 ā Rohe entered into under this subpart.

(10) If a Mana Whakahono ā Rohe meets the purpose and functions of an engagement agreement, the participating authorities may agree in writing that the Mana Whakahono ā Rohe properly meets the requirements and a separate engagement agreement is not required.

(11) The participating authorities must take account of the extent to which resource management matters are included in any iwi or hapū participation legislation and seek to minimise duplication between the functions of the participating authorities under that legislation and those arising under the Mana Whakahono ā Rohe.

(12) Nothing in this subpart prevents a local authority or regional planning committee from commencing, continuing, or completing any process under the Act while waiting for a response from, or negotiating a Mana Whakahono ā Rohe with, 1 or more iwi authorities, groups that represent hapū, local authorities, or regional planning committees.

Compare: 1993 No 69 s 58O

30ZZ Other opportunities to initiate Mana Whakahono ā Rohe

(1) An iwi authority, group that represents hapū, local authority, or regional planning committee that, at the time of receiving an invitation to a meeting or hui under **section 30ZY(2)(b)**, does not wish to participate in negotiating a Mana Whakahono ā Rohe, or withdraws from negotiations before a Mana Whakahono ā Rohe is agreed, may participate in, or initiate, a Mana Whakahono ā 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 ā Rohe exists and another iwi authority, group representing hapū, or a local authority or regional planning committee in the same area as the existing Mana Whakahono ā Rohe wishes to initiate a separate Mana Whakahono ā Rohe under **section 30ZY(1)**, that other party must first consider joining the existing Mana Whakahono ā Rohe.

(3) If any party that is eligible to join an existing Mana Whakahono ā Rohe declines to do so, that party must explain to the parties to the existing arrangement why joining that arrangement would not adequately provide for the intended relationship before initiating a separate Mana Whakahono ā Rohe.

(4) Local authorities and regional planning committees must—

(a) regularly consider any opportunities to initiate a Mana Whakahono ā Rohe; and

(b) report annually to the National Māori Entity on how they have considered opportunities to initiate a Mana Whakahono ā Rohe.

(5) The provisions of this subpart apply to any initiation under **subsection (1)**.

Compare: 1993 No 69 s 58P(1)–(3)

30ZZA Time frame for settling Mana Whakahono ā Rohe

If an invitation is initiated under **section 30ZY(1)**, the participating authorities must conclude a Mana Whakahono ā Rohe—

(a) not later than 12 months after the date on which the invitation is received; or

(b) within any other period agreed by all the participating authorities.

Compare: 1993 No 69 s 58Q

30ZZB Contents of Mana Whakahono ā Rohe

(1) A Mana Whakahono ā 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 to implement the requirements of iwi and hapū participation legislation in the area of interest under the Mana Whakahono ā Rohe; and

(ii) how the participating authorities may undertake engagement and provide for technical input and funding to participate in planning processes under this Act and in the strategy processes under the **Spatial Planning Act 2022**; and

(iii) how the participating authorities may work together to develop and agree on methods for monitoring under this Act and under the **Spatial Planning Act 2022**; and

(iv) how the participating authorities may work together on matters relating to climate change adaptation and natural hazards relevant to the areas of interest of the participating authorities; and

(v) how opportunities will be created for the transfer of powers under **section 30V** and the establishment of joint management agreements under **section 30ZB**; and

(vi) how the participating authorities will provide support for particular regard to be taken of iwi and hapū management plans; and

(vii) how members of iwi authorities and groups that represent hapū can access opportunities for training as commissioners; and

(viii) how participating authorities may enable relationships to be created with council-controlled organisations that operate within the areas of interest of the participating authorities; and

(ix) how the participating authorities may provide for mutual capability-building (including capacity-building) in relation to cultural connections and mātauranga that are specific to the areas of interest of the participating authorities; and

(x) how opportunities may be provided for iwi authorities and groups that represent hapū jointly to manage a local authority's powers as a heritage protection authority; and

(xi) how the participating authorities may support the application and implementation of the national planning framework; and

(xii) the protocols and processes that apply to support the sharing of information among the participating authorities; and

(xiii) a process for identifying and managing conflicts of interest; and

(xiv) the process that the parties will use for resolving disputes about the implementation of the Mana Whakahono ā Rohe, including the matters described in **section 30ZZC**; and

(xv) the time frames for implementing matters that are agreed in any Mana Whakahono ā Rohe; and

(xvi) the time frame and method applying to a regular review of the effectiveness of a Mana Whakahono ā Rohe, as required by **section 30ZZH**.

(2) If the participating authorities agree, they may discuss and agree on any other matters relevant to their functions, duties, and powers under this Act or any other Act.

(3) The agreement recorded under **subsection (1)** may record an agreement to take no action on a matter.

Compare: 1993 No 69 s 58R(1)

30ZZC Dispute resolution process recorded in Mana Whakahono ā Rohe

(1) The dispute resolution process recorded in a Mana Whakahono ā Rohe under **section 30ZZB** must—

(a) set out the extent to which the outcome of the process may amount to an agreement—

(i) to alter or terminate a Mana Whakahono ā Rohe:

(ii) to complete the review of the policies and processes of a local authority or regional planning committee to ensure that they are consistent with a Mana Whakahono ā Rohe at a later date:

(iii) to conduct a joint review of the effectiveness of a Mana Whakahono ā Rohe at a later date:

(iv) to undertake any additional reporting; and

(b) require each participating authority to bear its own costs for any dispute resolution process undertaken.

(2) A dispute resolution process must not require a local authority or regional planning committee to suspend commencing, continuing, or completing any process under the Act or the **Spatial Planning Act 2022** while the dispute resolution process is in contemplation or is in progress.

Compare: 1993 No 69 s 58R(2), (3)

30ZZD Resolution of disputes in course of negotiations

(1) This section applies if a dispute arises among participating authorities in the course of negotiating a Mana Whakahono ā Rohe.

(2) The participating authorities—

(a) may undertake a binding process to resolve the dispute; but

(b) if they do not agree on a binding process, must undertake a non-binding process of dispute resolution.

(3) Whether the participating authorities choose a binding or non-binding process, each authority must—

(a) jointly appoint an arbitrator or a mediator; and

(b) meet its own costs.

(4) If the dispute is not resolved after a non-binding process has been undertaken, the participating authorities may individually or jointly seek the assistance of the Minister.

(5) The Minister, for the purpose of assisting the participating authorities to resolve the dispute and conclude a Mana Whakahono ā Rohe, may—

(a) appoint, and meet the costs of, a Crown facilitator:

(b) direct the participating authorities to use a specified dispute resolution process for that purpose.

Compare: 1993 No 69 s 58S

30ZZE Further dispute resolution methods

(1) This section applies if there is a dispute among iwi authorities and groups representing hapū, where—

(a) the disputing parties—

(i) have an overlapping area of interest; and

(ii) do not wish to work collectively on developing a Mana Whakahono ā Rohe arrangement; and

(b) the dispute would impact on the exercise of functions under this Act or any other Act that are proposed to be included in the Mana Whakahono ā Rohe.

(2) The parties to the dispute must—

(a) attend a hui facilitated by an independent person appointed by the Māori Land Court; and

(b) if the dispute remains unresolved, participate in a formal mediation process with an independent panel appointed by the Chief Judge of the Māori Land Court or the Judge's delegate.

(3) If the dispute is not resolved under **subsection (2)**, the Chief Judge of the Māori Land Court must make a final determination of the matter using the provisions of Te Ture Whenua Maori Act 1993 provided by **section 30ZZF**.

30ZZF Jurisdiction of Māori Land Court under this Act

(1) For the purpose of assisting to resolve a dispute of the kind described in **section 30ZZE(1)**, the Māori Land Court has jurisdiction to hear such a dispute if resolution has not been reached under **section 30ZZE**.

(2) Proceedings may be filed by or on behalf of—

(a) any party to the dispute; or

(b) any person bound, or materially affected, by the dispute.

(3) Proceedings must be commenced by notice given in the form and manner prescribed not later than—

(a) 2 months after the date of the hui referred to in **section 30ZZE(2)(a)** or the mediation process referred to in **section 30ZZE(2)(b)**; or

(b) any further period that the Māori Land Court may allow.

30ZZG Matters relevant to determination

(1) When a dispute is referred to the Māori Land Court under this subpart, the Judge or an officer of the court on behalf of the Judge, must—

(a) consider whether the parties have attempted to resolve the dispute by attending a hui or undertaking formal mediation (*see* **section 30ZZE(2)**; and

(b) if not satisfied that every effort was made to resolve the matter using one of those processes, direct that one of those dispute resolution measures be used before the court hears the matter.

(2) However, the Judge may proceed to hear the matter if the Judge is satisfied that using either of those measures—

(a) would not contribute constructively to resolving the dispute; or

(b) would undermine the urgent or interim nature of the proceedings; or

(c) would not, in all the circumstances, be in the public interest.

30ZZH Notifying, reviewing, and monitoring

(1) A local authority or regional planning committee must—

(a) notify the Minister when—

(i) a Mana Whakahono ā Rohe is initiated under **section 30ZY**; and

(ii) the arrangement is achieved, altered, or terminated; and

(b) after entering into a Mana Whakahono ā Rohe, must review its policies and processes in accordance with this section to ensure that they are consistent with the Mana Whakahono ā Rohe.

(2) The review must be completed not later than 6 months after the date of the Mana Whakahono ā Rohe, unless a later date is agreed by the parties to the Mana Whakahono ā Rohe.

(3) Every sixth anniversary after the date of a Mana Whakahono ā Rohe, or at any other time by agreement, the parties to the Mana Whakahono ā Rohe must jointly review its effectiveness, having regard to—

(a) the purpose of a Mana Whakahono ā Rohe; and

(b) the guiding principles set out in **section 30ZW**.

(4) The obligations under this section are in addition to the obligations of a local authority under—

(a) **section 841** (supply of information):

(b) **section 839B** (monitoring and record keeping).

Compare: 1991 No 69 s 58T

Subpart 7—Freshwater Working Group

Establishment and role of Working Group

30ZZI Establishment of Working Group

The Minister must establish a working group to be called the Freshwater Working Group (the **Working Group**).

30ZZJ Purpose of Working Group

The purpose of the Working Group is to produce a report that considers and makes recommendations—

(a) on matters relating to freshwater allocation; and

(b) on a process for engagement between the Crown and iwi and hapū, at the regional or local level, on freshwater allocation.

30ZZK Terms of reference for Working Group

The terms of reference for the Working Group must include the following:

(a) the skills and expertise required by members of the Working Group; and

(b) the process for the appointment, by the Crown and iwi and hapū, of the members of the Working Group; and

(c) any particular matters to be considered and dealt with by the Working Group; and

(d) any engagement that the Working Group should undertake with iwi and hapū or any other persons or groups in the course of deliberation.

30ZZL Requirement for report and response

(1) The Working Group must provide the required report to the Minister not later than 31 October 2024.

(2) The Minister must make the report publicly available by whatever means the Minister considers appropriate.

(3) Not later than 6 months after receiving the report, the Minister, on behalf of the Crown, must present a response on the report to the House of Representatives.

30ZZM Freshwater allocation matters

(1) After the Minister's response has been presented to the House of Representatives, the Minister, on behalf of the Crown, must engage with iwi and hapū at the regional or local level on matters of freshwater allocation that are relevant to the plan for the region.

(2) The outcome of the engagement undertaken under **subsection (1)** may be reflected in an allocation statement on the issues relevant to the allocation of freshwater, if agreed between the Minister and iwi and hapū.

(3) An allocation statement may be developed and agreed—

(a) at a regional, catchment, or sub-catchment level; or

(b) over another geographic area.

(4) The engagement required under **subsection (1)** must be commenced not later than 12 months after the date on which the Minister receives written notice from an iwi or hapū, or a group of iwi and hapū in relation to an area.

(5) The Minister must support the submission of the allocation statement to the relevant regional planning committee.

(6) When a regional planning committee receives an allocation statement submitted under **subsection (5)**, the regional planning committee must update the plan in accordance with **Schedule 7**.

(7) The updating required by **subsection (6)** must be completed by whichever date is the earlier of the following:

(a) the date of the next review of the plan; or

(b) the date that is 5 years after the regional planning committee receives the allocation statement.

Part 3
National planning framework

~~31~~ ~~Interpretation~~

~~In this Part and **Schedule 6**,~~

~~**management unit** means a geographic area defined for the purpose of planning and managing activities to meet an environmental limit or a target~~

~~**minimum level target** has the meaning given in **section 49(3)**.~~

Subpart 1—~~Requirement~~ Requirements for national planning framework

32 National planning framework

There must at all times be a national planning framework.

~~Compare: Exp draft s 9~~

33 Purpose of national planning framework

The purpose of the national planning framework is to ~~further~~ achieve the purpose of this Act by—

(a) providing ~~directions~~ direction on the integrated management of the environment in relation to—

(i) matters of national significance; and

(ii) matters for which national consistency is desirable; and

(iii) matters for which consistency is desirable in some, but not all, parts of New Zealand; and

(b) ~~helping to resolve~~ providing direction on the resolution of conflicts about environmental matters, including those between or among system outcomes; and

(c) setting environmental limits~~ and strategic directions~~.

~~Compare: Exp draft s 10~~

34 National planning framework to be made as regulations

(1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, make the national planning framework in the form of regulations.

(2) The regulations may apply—

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

(b) to any specified part of New Zealand.

(3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

~~Compare: Exp draft s 11~~

35 Te Ture Whaimana

(1) Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments affecting the rivers (*see* the legislation referred to in **subsection (3)**).

(2) Te Ture Whaimana—

(a) prevails over any inconsistent provision in the national planning framework; and

(b) in its entirety it is deemed to be part of any plan made under this Act that affects the Waikato River or the Waipā River or activities within the catchment of the river, and the remainder of the plan must give effect to Te Ture Whaimana.

(3) In this section, **Te Ture Whaimana** means the vision and strategy set out in—

(a) Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and

(b) Schedule 1 of the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and

(c) Schedule 1 of the Nga Wai o Maniapoto (Waipa River) Act 2012.

~~**36 Resource allocation principles**~~

~~The resource allocation principles are as follows:~~

~~(a) sustainability:~~

~~(b) efficiency:~~

~~(c) equity.~~

Subpart 2—Environmental limits and targets

Purpose of environmental limits and targets

37 Purpose of ~~setting~~ environmental limits

(1) The purpose of setting environmental limits ~~is~~—

(a) in relation to ecological integrity, is to prevent the ecological integrity of an aspect of the natural environment from degrading from the state it was in at the commencement of this Part:

(b) in relation to human health, is to protect human health.

(2) However, this section does not affect an environmental limit that is formed under **section 40A(1)(b) or (c)**.

~~Compare: Exp draft s 12A~~

37A Purpose of minimum acceptable limits

The purpose of setting a minimum acceptable limit is to drive improvement in the ecological integrity of an aspect of the natural environment—

(a) for which an environmental limit is required; but

(b) that is determined to be unacceptably degraded (*see* **section 40A**).

37B Purpose of mandatory targets

The purpose of setting a mandatory target in relation to an aspect of the natural environment (for which an environmental limit is required) is to present a desired future state in order to—

(a) drive improvement in ecological integrity; and

(b) reduce risks to human health.

37C Purpose of discretionary targets

The purpose of setting a discretionary target is to drive improvement in a matter for which a target is not required but is relevant to achieving—

(a) a system outcome (*see* **section 5**); or

(b) a framework outcome; or

(c) a plan outcome.

Environmental limits

38 Environmental limits

(1) Environmental limits must be set in relation to the following aspects of the natural environment:

(a) air:

(b) indigenous biodiversity:

(c) coastal water:

(d) estuaries:

(e) freshwater:

(f) soil.

(2) Environmental limits may be set for any other aspect of the natural environment in accordance with the purpose of ~~setting~~ environmental limits.

(3) In this section,—

air means the composition of the shallow layer of gases, vapours, and particulars surrounding the earth, that is, the lower atmosphere (troposphere) in which people live

soil means a natural evolving body that—

(a) is formed on the land surface; and

(b) is a product of its environment; and

(c) contains mineral and organic constituents.

~~Compare: Exp draft s 12B~~

39 How environmental limits are to be set

The responsible Minister ~~may~~ must, in the national planning framework,—

(a) set environmental limits; or

(b) prescribe the requirements for environmental limits to be set in plans, including—

(i) setting requirements for the process to be followed:

(ii) setting out the substantive requirements.

40 Form of environmental limits

(1) An environmental limit must be expressed as relating to the ecological integrity of an aspect of the natural environment or to human health.

(2) Environmental limits must be set as—

(a) a ~~minimum~~ biophysical state for a management unit; or

(b) the ~~maximum~~ amount of harm or stress to the natural environment that may be permitted in a management unit.

(3) ~~Environmental limits relevant to~~ An environmental limit that relates to the ecological integrity of an aspect of the natural environment must be set to reflect—

(a) the state existing in a management unit at the commencement of this Part; or

(b) the amount of harm or stress occurring to the natural environment in a management unit at the commencement of this Part.

(3A) An environmental limit that relates to human health must be informed by relevant health guidelines published or advised by the Ministry of Health or the Minister of Health.

(4) An environmental limit may be—

(a) qualitative or quantitative:

(b) set at different levels for different management units:

(c) set in a way that integrates more than 1 of the aspects of the natural environment listed in **section 38(1)**.

(5) An environmental limit must be able to be assessed.

(6) **Subsection (3)** does not affect an environmental limit formed under **section 40A(1)(b) or (c)**.

40A When minimum acceptable limit must be set

(1) If the responsible Minister is satisfied that the ecological integrity of an aspect of the natural environment for which an environmental limit is required, is unacceptably degraded,—

(a) the Minister must—

(i) set a minimum acceptable limit for that aspect in the national planning framework; or

(ii) require that a minimum acceptable limit for that aspect be set in a plan; and

(b) if an environmental limit has already been set for that aspect, on the date that the minimum acceptable limit applies, the minimum acceptable limit replaces the environmental limit; and

(c) if no environmental limit has been set for that aspect, the minimum acceptable limit is the environmental limit.

(2) In determining whether the ecological integrity of an aspect of the natural environment is unacceptably degraded, the responsible Minister must consider only the following matters:

(a) whether the degradation of that aspect compromises the ability of future generations to provide for their needs and wellbeing; and

(b) whether and how the state of that aspect,—

(i) poses risks to human health of current and future generations; and

(ii) increases the risk of indigenous species being displaced or made extinct; and

(iii) increases the risk of irreversible or significant harm to ecological integrity; and

(c) the impact of any recent disaster event on that aspect and on the matters described in **paragraphs (a) and (b)**; and

(d) New Zealand's international obligations that relate to that aspect.

(3) The responsible Minister must—

(a) be satisfied that the minimum acceptable limit is set at a level they are satisfied will remedy the degradation of the aspect of the natural environment to which it relates; but

(b) if satisfied that it is not possible to remedy the degradation of that aspect, set the minimum acceptable limit at a level they are satisfied will improve that aspect to the extent practicable.

(4) The responsible Minister must, in the national planning framework, require that a minimum acceptable limit that has been achieved must be maintained or improved.

40B Timeframes for achieving minimum acceptable limits

(1) The national planning framework may require a minimum acceptable limit relating to the ecological integrity of an aspect of the natural environment—

(a) to be achieved by a date specified in the framework or plan; or

(b) to be achieved through a series of steps designed to achieve progressive improvement over time.

(2) The national planning framework or a plan must for each step referred to in **subsection (1)(b)**, specify a start date and a date by which the step is to be achieved.

(3) When determining any timeframe under this section, the responsible Minister or the regional planning committee (as the case may be) may consider any relevant matter, including any cultural, social, wellbeing, or economic considerations.

(4) Any timeframe set in the national planning framework or a plan for achieving a minimum acceptable limit must be ambitious but reasonable.

40C Lack of scientific certainty no reason to delay or not set limits

When setting an environmental limit or a minimum acceptable limit that is required to be set in the national planning framework or a plan, the responsible Minister or the regional planning committee (as the case may be)—

(a) must not delay setting the limit for the sole reason that there is lack of scientific certainty about—

(i) the current state of the relevant aspect of the natural environment; or

(ii) the cause of any loss or degradation to the ecological integrity of the relevant aspect of the natural environment; and

(b) is not subject to **section 6(1)(b) to (d), (f), and (2)**; and

(c) is not subject to **section 6A**.

~~*Interim limits*~~

~~**41 Interim limits for ecological integrity**~~

~~(1) The national planning framework may, in prescribing environmental limits in relation to ecological integrity, also prescribe 1 or more interim limits in conjunction with that environmental limit.~~

~~(2) Despite **section 40(3)**, an interim limit for ecological integrity may be set as—~~

~~(a) a state in a management unit that is more degraded than it was at the commencement of this Part; or~~

~~(b) an amount of harm or stress occurring in a management unit to the natural environment that is worse than the amount existing at the commencement of this Part.~~

~~(3) **Subsection (1)** applies if the responsible Minister is satisfied that the harm or stress caused to a natural environment existing immediately before the commencement of this Part will cause continuing degrading of the natural environment beyond the commencement of this Part.~~

~~42 Interim limits for human health~~

~~(1) The national planning framework may, in prescribing environmental limits in relation to human health, also prescribe 1 or more interim limits in conjunction with that environmental limit.~~

~~(2) **Subsection (1)** applies if the responsible Minister is satisfied, in relation to the specified aspect of the natural environment,—~~

~~(a) that its state existing at the commencement of this Part is degraded below the level required to protect human health; or~~

~~(b) that the existing harm to, or stress on that aspect of the natural environment is too great to provide for the protection of human health.~~

~~43 Setting interim limits~~

~~(1) The national planning framework may prescribe an interim limit for ecological integrity or for human health by—~~

~~(a) requiring limits to be prescribed in plans; and~~

~~(b) prescribing how a regional planning committee must decide on the limit to set for its region (which may include setting substantive requirements or process requirements or both)~~

~~(2) In prescribing an interim limit, the national planning framework or a plan—~~

~~(a) must specify when the interim limit is to be replaced by a related environmental limit; and~~

~~(b) may specify when a more stringent interim limit is to apply.~~

~~(3) The details specified under **subsection (2)** may refer to a specific date or event.~~

~~(4) An interim applies until it is replaced by a related environmental limit.~~

Exemptions

~~44 Exemptions from environmental limits may be directed~~

~~(1) **Subsection (2)** applies if the responsible Minister is requested to direct an exemption by a regional planning committee under this Act or the Spatial Planning Act **2022**.~~

~~(2) The responsible Minister may direct in the national planning framework an exemption from an environmental limit or an interim limit relating to ecological integrity.~~

~~(3) Any request under this section must be made—~~

~~(a) by a planning committee; and~~

~~(b) in a form approved by the Minister; and~~

~~(c) during the process of preparing or revising the relevant plan or regional spatial strategy, as the case may be.~~

~~(4) A request for an exemption must demonstrate how the regional planning committee considered options for complying with the relevant environmental limit, including by applying the effects management framework (*see* **section 61**).~~

~~(5) If an exemption is directed, the responsible Minister must progress the direction as a change to the national planning framework and **Schedule 6** applies.~~

44 Exemptions from environmental limits or minimum acceptable limits may be directed

(1) The responsible Minister may, on request, direct in the national planning framework an exemption from—

(a) an environmental limit relating to ecological integrity; or

(b) a minimum acceptable target that has been achieved.

(2) A regional planning committee, a Crown agency, or a requiring authority (a **requester**) may request the Minister for an exemption during the process of preparing or revising a plan or regional spatial strategy.

(3) If the requester is a Crown agency or a requiring authority, it must consult the regional planning committee before requesting an exemption.

(4) The national planning framework must prescribe a process for making requests for an exemption.

(5) A requester must demonstrate how they have considered options for complying with the environmental limit or the minimum acceptable target that has been achieved.

(6) If an exemption is directed, the responsible Minister must progress the direction as a change to the national planning framework, and **Schedule 6** applies.

45 Essential features of exemption

(1) An exemption from an environmental limit or a minimum acceptable target that has been achieved must be designed to result in the least possible net loss of ecological integrity that is compatible with providing for the activity proposed.

(2) The activity must provide identifiable public benefits that justify the loss of ecological integrity.

(3) An exemption must be subject to a time limit that the responsible Minister thinks appropriate in the circumstances.

(4) If the responsible Minister imposes conditions when granting an exemption, the conditions and the time limits imposed must be published in the relevant plan or regional spatial strategy, as the case requires.

46 When exemptions not to be directed

The responsible Minister must not direct an exemption if the Minister ~~thinks~~ determines, after considering the matters set out in **section ~~50(2)~~ 40A(2)**,—

(a) that the current state of ecological integrity in the area where the exemption would apply is unacceptably degraded; or

(b) that an exemption would lead to an irreversible loss of ecological integrity.

Targets

~~**47 Purpose of setting targets**~~

~~The purpose of setting targets is to assist in improving the state of the natural and built environment.~~

48 Form of targets

(1) A **target** is a directive made in the national planning framework or in a plan.

(2) A target—

(a) ~~is~~ must be able to be ~~measured~~ assessed; and

(b) must be achieved by a specified time; and

~~(c) is designed to assist in achieving—~~

~~(i) a system outcome (*see* **section 5**); or~~

~~(ii) a framework outcome; or~~

~~(iii) in relation to a target set in a plan, a plan outcome specified in the plan.~~

(c) may be expressed as a series of steps, each with a time limit, designed to achieve progressive improvement over time.

~~(3) A target may be expressed as a series of steps, each with a time limit, designed to achieve progressive improvement over time.~~

49 Mandatory targets ~~associated with limits~~

(1) Mandatory targets must be set for each aspect of the natural environment for which limits are required by **section 38(1)**.

(2) The responsible Minister may, in the national planning framework,—

(a) set mandatory targets ~~required by **subsection (1)**~~; or

(b) prescribe the substantive or process requirements for targets that are to be set in plans.

(3) The requirements prescribed under **subsection (2)(b)** may include—

(a) a requirement that targets set in plans are to be set at or better than a minimum level specified in the national planning framework~~ (a minimum level target)~~:

(b) requirements relating to the time frame over which targets are to be achieved.

(4) ~~The targets required by **subsection (1)**~~ Mandatory targets must—

(a) in all cases, be set at a level equal to or better than that of the associated environmental limit; and

(b) for mandatory targets set in plans,~~ be set at a level equal to or better than any applicable minimum level target set~~ comply with the relevant requirements in the national planning framework.

(5) When determining the level of a mandatory target or the timeframe in which it must be achieved, the responsible Minister or the regional planning committee (as the case may be) may consider any relevant matter, including any cultural, social, wellbeing, or economic considerations.

(6) The responsible Minister may, in the national planning framework, require a regional planning committee to consider whether a mandatory target that has been achieved should be maintained or improved.

~~**50 Minimum level targets**~~

~~(1) The responsible Minister must set a minimum level target in the national planning framework if the Minister is satisfied that the associated environmental limit is set at a level that represents unacceptable degradation of the natural environment.~~

~~(2) In determining whether the level of an environmental limit represents an unacceptable degradation of the natural environment, the responsible Minister must consider the following matters:~~

~~(a) whether future generations will be able to use the natural environment to provide for their needs and well-being; and~~

~~(b) the risk that the state of the natural environment poses to human health, including the health of future generations; and~~

~~(c) whether the state of the natural environment—~~

~~(i) places indigenous plants or animals at increased risk of local displacement or extinction; or~~

~~(ii) poses a risk of irreversible or significant harm to ecological integrity; and~~

~~(d) New Zealand's international obligations that relate to the natural environment.~~

51 Discretionary targets

(1) ~~Targets~~ Discretionary targets may be set for any matter that is not a matter for which a mandatory target is required ~~by **section 50(1)**~~ if the matter is relevant to achieving—

(a) a system outcome (*see* **section 5**); or

(b) a framework outcome; or

(c) a plan outcome.

(2) **Section 49(2) and (3)** applies to discretionary targets ~~made under this section~~.

(3) A discretionary target must—

(a) be consistent with any environmental limit or mandatory target; and

(b) not undermine a minimum acceptable target that has been achieved.

(4) When determining the level of a discretionary target or the timeframe in which it must be achieved, the responsible Minister or the regional planning committee (as the case may be) may consider any relevant matter, including any cultural, social, wellbeing, or economic considerations.

52 ~~Matters to be considered when deciding to set limits or targets~~ Considerations relating to customary marine title area

The responsible Minister must,—

(a) in deciding whether to set an environmental limit or target in the national planning framework or whether to prescribe requirements for setting an environmental limit or target, consider whether the limit or target would directly affect a customary marine title group and (if they agree that it would) consider ~~what is most appropriate for that group~~ that as a factor in favour of setting the limit or target regionally; and

(b) if they are setting in the national planning framework an environmental limit or target that applies to a management unit that includes a customary marine title area, consider any relevant ~~customary marine title~~ planning document prepared ~~by a customary marine title group~~ under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011.

53 Monitoring of limits and targets ~~and responses~~

The national planning framework must—

(a) require the monitoring and reporting of environmental limits and targets; and

(b) enable data obtained from that monitoring to be aggregated at a national level; and

(ba) enable data obtained from that monitoring to be made publicly available; and

(c) enable ~~Māori~~ iwi and hapū to be involved in monitoring of environmental limits and targets, including through the application of mātauranga Māori.

Management units

54 Management units

(1) Management units must be set for ~~every~~—

(a) every environmental limit; and

(b) every target required under **section 49(1)** (which relates to mandatory targets).

(2) Management units may be set for discretionary targets (*see* **section 51**).

(3) The responsible Minister may, in the national planning framework,—

(a) set management units:

(b) prescribe substantive or procedural requirements to apply to setting management units in plans:

(c) prescribe a limit or target, but specify that the associated management unit is to be set in a plan.

(4) A management unit may relate to more than ~~one~~ 1 environmental limit or target.

55 Matters relevant to setting management units

(1) In setting a management unit, the responsible Minister or a regional planning committee, as the case may be, must ensure that the size and location of the management unit—

(a) are sufficient to enable environmental limits and their ~~associated~~ mandatory targets to meet the purposes set out in **sections 37 and 47** respectively; and

(b) are determined by reference to scientific knowledge and mātauranga Māori.

(2) In determining what is sufficient under **subsection (1)(a)**, the Minister or the planning committee, as the case may be, must consider the following matters:

(a) whether areas with similar environmental pressures and characteristics could be grouped within a management unit for greater effectiveness and efficiency; and

(b) the extent to which, in the particular location, it will be possible to measure factors such as—

(i) the biophysical state of the natural environment; and

(ii) the pressures on the environment; and

(iii) any losses or gains in the health of the natural environment in the management unit.

(3) Subject to **subsection (1)**, the size and location of a management unit should be set to provide flexibility and to maximise opportunities for ~~appropriate~~ off-setting and other management approaches to be applied.

(4) This section does not apply to management units set for environmental limits or targets relating to freshwater or air.

55A Management units for freshwater or air

The national planning framework may set management units for freshwater or air and provide direction on how they must be set or determined.

Subpart 3—Other required content

56 National planning framework must ~~include strategic~~ provide direction and provide for monitoring

(1) The national planning framework must, in accordance with **sections 5 and 5A**, ~~include strategic~~ provide direction on—

(a) how decision makers are to achieve the system outcomes; and

(b) how the use and development of the environment is to provide for the well-being of both present and future generations ~~is to be provided for~~ within the relevant environmental limits; and

(c) the key long-term environmental issues and priorities and how they are to be dealt with.

(2) The national planning framework must specify how the following will be monitored:

(a) the implementation of the framework; and

(b) the effectiveness of the framework.

~~Compare: Exp draft s 14~~

57 National planning framework must provide direction on system outcomes and resolution of conflict about environmental matters

(1) The national planning framework must, in accordance with **sections 5 and 5A**, include content that provides direction—

(a) for each system outcome; and

~~(b) for the resolution of conflicts about environmental matters, including those between or among the system outcomes.~~

(b) for the resolution of conflicts about environmental matters (including those between or among system outcomes) in a manner that is appropriate to the nature and scale of the conflict, including by—

(i) directing how conflict is to be resolved; or

(ii) providing criteria or guidance to decision makers under this Act.

(2) Direction provided under **subsection (1)** need only be in ~~such~~ the detail ~~as~~ that is appropriate to the particular system outcome or outcomes.

~~Compare: Exp draft s 13B~~

58 National planning framework must provide direction on certain matters

The national planning framework must include content that provides direction on~~:~~—

~~(a) non-commercial housing on Māori land:~~

(a) the components of ecosystems that should be managed to protect—

(i) the ecological integrity of the natural environment; and

(ii) human health:

(b) enabling papakāinga on Māori land:

(c) enabling development capacity well ahead of expected demand:

(d) enabling infrastructure and development corridors:

(e) enabling renewable electricity generation and its transmission~~:~~:

(f) urban trees:

(h) enabling supply of fresh fruit and vegetables.

Subpart 4—Matters that may be provided for

59 National planning framework may direct how certain provisions must be given effect

The national planning framework may direct that certain provisions in the framework must be given effect to through plans or regional spatial strategies or both.~~—~~

~~(a) must be given effect to through plans:~~

~~(b) must be given effect to through regional spatial strategies.~~

~~Compare: Exp draft s 15~~

60 Contents of national planning framework

(1) The national planning framework may—

(a) state outcomes (**framework outcomes**) and policies~~—~~ (**framework policies**):

(b) state rules (**framework rules**) and methods (other than rules) for implementing framework outcomes and policies:

(c) set substantive or procedural requirements for regional spatial strategies and plans, including~~:~~—

(i) matters that regional planning committees must consider in preparing regional spatial strategies and plans:

(ii) matters that regional planning committees are required to achieve or provide for in regional spatial strategies or plans:

(iii) constraints or restrictions on the content of regional spatial strategies and plans:

(iv) requirements relating to the structure and form of regional spatial strategies and plans:

(v) requirements for definitions in regional spatial strategies and plans:

(d) direct regional planning committees to insert specific provisions in their regional spatial strategies and plans:

(e) direct regional planning committees to choose from a number of specific provisions to be included in their regional spatial strategies and plans:

(f) direct regional planning committees and local authorities to collect or publish specified information in order to achieve the provisions of the national planning framework:

(g) include any other matter relevant to the purpose or implementation of the national planning framework.

(2) A framework rule may provide for any matter that a plan rule may provide for under **section 117(3) and (6) to (8)**.

(2A) The national planning framework must clearly identify those provisions of the framework that are framework rules.

(3) **Section 117(9)** applies to a framework rule made under this section.

60A National planning framework must not restrict Maori customary non-commercial fishing rights in certain secondary legislation

A provision of the national planning framework that restricts or controls fishing for the purposes of this Act must not prevent customary non-commercial fishing provided for in regulations made under any of sections 186, 297, or 298 of the Fisheries Act 1996 for the purpose of giving effect to the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

~~Subpart 5—Effects management framework~~

~~**61 Effects management framework**~~

~~The **effects management framework** is a means of managing adverse effects as follows:~~

~~(a) adverse effects must be avoided wherever practicable:~~

~~(b) any adverse effects that cannot be avoided must be minimised wherever practicable:~~

(c) any adverse effects that cannot be avoided or minimised must be remedied wherever practicable:

(d) any remaining adverse effects that cannot be avoided, minimised, or remedied must be offset wherever practicable:

(e) if adverse effects remain after applying the requirements, in that order, of **paragraphs (a) to (d)**, the activity cannot proceed unless redress is provided by enhancing the relevant aspect of the environment.

62 When effects management framework applies

(1) The effects management framework applies to adverse effects on significant biodiversity areas and specified cultural heritage.

(2) The framework does not apply to adverse effects on other resources unless the national planning framework directs that the framework apply.

(3) The national planning framework or a plan may require —

(a) a more stringent management of any particular adverse effect; or

(b) less stringent management of any particular adverse effect other than one on significant biodiversity areas or specified cultural heritage.

63 Requirements when effects management framework applies

When the effects management framework is applied to adverse effects on areas of significant biodiversity and specified cultural heritage, the follow requirements apply:

(a) offsetting for adverse effects on specified biodiversity or cultural heritage must be undertaken in accordance with **Schedule 3 or 5**, whichever applies; and

(b) enhancement to make up for adverse effects on biodiversity or cultural heritage must be undertaken in accordance with **Schedule 4 or 5**, whichever applies.

64 Scope of possible exemptions

(1) The responsible Minister may specify, in the national planning framework, exemptions from the effects management framework for activities that have adverse effects on a significant biodiversity area or specified cultural heritage.

(2) An exemption from the effects management framework may provide that an activity is exempt only if 1 or more of the following circumstances applies:

(a) the activity must be located, for functional or operational reasons, in the particular place, despite the fact that it will generate adverse effects:

(b) there is no reasonably practicable alternative location:

(c) the activity would, if carried out in an alternative location, result in a more than trivial adverse effect on the attributes that make the alternative location a place of national importance (*see* **section 559**):

~~(d) the activity meets other requirements specified for an exemption under this Act.~~

~~65 Assessment of alternatives~~

~~(1) The national planning framework may specify what is required for an assessment of alternative locations, including limiting the scope of assessment to—~~

~~(a) sites within a specified region or district; or~~

~~(b) sites within a specified distance of a particular place of national importance; or~~

~~(c) sites with other specified attributes.~~

~~(2) If an assessment for an activity is completed during the preparation of the national planning framework or a plan, and complies with requirements imposed under **subsection (1)**, a further assessment cannot be required under any rule applying to the activity.~~

~~66 Limits to exemptions~~

~~(1) Exemptions applying under **section 64** may be made only for the following types of activities:~~

~~(a) activities required to deal with a very high risk to public health or safety:~~

~~(b) activities for the purpose of maintaining or restoring a significant biodiversity area:~~

~~(c) the customary use of indigenous biodiversity carried out in accordance with tikanga:~~

~~(d) activities on Māori land or on other land required to facilitate the activities on Māori land:~~

~~(e) activities undertaken for the purpose of managing Te Urewera under the Te Urewera Act 2014:~~

~~(f) activities with effects on significant biodiversity areas within areas of geothermal activity:~~

~~(g) activities in a place identified as a significant biodiversity area solely because of the presence of a plant species listed as threatened or declining in the New Zealand Threat Classification System, unless the species is rare within the region or ecological area:~~

~~(h) activities lawfully established immediately before the commencement of **section 62(1)** (whichever is applicable):~~

~~(i) subdivision:~~

~~(j) activities that will contribute to an outcome described in **section 5(b)**:~~

~~(k) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990:~~

(l) activities managed under other legislation, as long as the responsible Minister is satisfied that the other legislation provides an appropriate level of protection:

(m) the lines and associated equipment used or owned by Transpower to convey electricity and for associated activities, including access tracks and maintenance activities:

(n) infrastructure operated by a lifeline utility operator as defined in the Civil Defence and Emergency Management Act 2002 and any directly associated activity:

(o) activities that will provide nationally significant benefits that outweigh any adverse effects of the activity:

(p) in the case of a specified cultural heritage place, activities required to ensure that the place and its cultural heritage values endure:

(q) activities of the Crown on conservation land and waters that are not inconsistent with any applicable conservation planning document:

(r) activities carried out by the customary marine title holder in the relevant customary marine title area.

(2) In **subsection (1)(g)**, the **New Zealand Threat Classification System** means the system maintained by the Department of Conservation for —

(a) assessing the risk of extinction of New Zealand species; and

(b) classifying the species according to that risk.

67 Considerations that apply to grant of exemptions

(1) The responsible Minister must, —

(a) in determining whether an activity will provide benefits that are nationally significant, have regard to **section 329(3)**; and

(b) before specifying an exemption, consider —

(i) the principles set out in **section 6** (other than those set out in **section 6(2)(b), (c), and (d)**; and

(ii) the relative cost of granting or declining to specify an exemption for an activity; and

(iii) any alternatives to specifying an exemption that would achieve the objective of the proposed exemption; and

(iv) any other matter the Minister considers relevant.

(2) An exemption provided for under **section 564** must be designed to diminish the harm that will be caused to a place to the greatest extent compatible with enabling the activity to proceed.

Subpart 6—Giving effect to national planning framework

68 Giving effect to the national planning framework in plans

(1) A regional planning committee must make any amendments required to give effect to a provision in the national planning framework in plans using a process in **Schedule 7**.

(2) For the purpose of **subsection (1)**, the national planning framework may specify which of the **Schedule 7** processes a regional planning committee must use.

(3) Despite **subsection (1)**, the national planning framework may direct that regional planning committees must amend their plans without using a process in **Schedule 7**;—

(a) to insert specific provisions set out in the national planning framework; or

(b) so that plan outcomes or policies in the plan give effect to framework outcomes or policies in the national planning framework; or

(c) to make the plan consistent with any constraint or restriction set out in the national planning framework.

(4) Amendments required under this section must be made as soon as practicable within the time, if any, specified in the national planning framework.

(5) A regional planning committee must give public notice of any amendments made under **subsection (3)** within 5 working days after making them.

69 Giving effect to the national planning framework in regional spatial strategies

~~(1) A regional planning committee must make any amendments required to give effect to a provision in the national planning framework in regional spatial strategies using a process adopted under **section 30 of the Spatial Planning Act 2022**.~~

(2) ~~Despite **subsection (1)**, the~~ The national planning framework may direct that regional planning committees must amend their regional spatial strategies without using a process adopted under **section 30 of the Spatial Planning Act 2022** to insert specific provisions set out in the national planning framework.

(3) Amendments required under this section or made by a regional planning committee in accordance with **section 47(2) of the Spatial Planning Act 2022** must be made as soon as practicable within the time, if any, specified in the national planning framework.

(4) *See* **section 47 of the Spatial Planning Act 2022** (which relates to the review and amendment of regional spatial strategies for the purpose of giving effect to or maintaining consistency with the national planning framework).

70 When regional planning committees directed to choose provisions from framework

(1) If the national planning framework directs a regional planning committee to choose from a number of specific provisions in the framework, the committee must—

(a) choose an appropriate provision; and

(b) use a process in **Schedule 7** in order to apply the provision to the local circumstances, but not to decide the content of the provision set by the framework; and

(c) notify any amendment required under this section within the time specified in the framework, using any process in **Schedule 7**; and

(d) make any consequential amendments to its plan needed to avoid duplication or inconsistency, but without using a process in **Schedule 7**; and

(e) publicly notify any amendments made under **paragraph (d)** not later than 5 working days after the amendments are made.

(2) A plan is amended as from the date of the relevant public notice under **subsection (1)(e)**.

(3) For the purpose of **subsection (1)(a)**, the national planning framework may specify how regional planning committees are to choose relevant provisions from the framework.

Compare: 1991 No 69 s 58(4)–(6)

71 Regional planning committee must amend plan if plan rule duplicates or conflicts with framework rule

(1) If a plan rule duplicates a framework rule or conflicts with a framework rule, the regional planning committee must amend the plan to remove the duplication or conflict.

(2) A plan rule **conflicts** with a framework rule if—

(a) both of the following apply:

(i) the plan rule is more stringent than the framework rule; and

(ii) the framework rule does not expressly say that a plan rule may be more stringent than the national planning framework rule; or

~~(b) the plan rule is more lenient than the framework rule and the framework rule does not expressly say that a plan rule may be more lenient than the national planning framework rule.~~

(b) both the following apply:

(i) the plan rule is more lenient than the framework rule; and

(ii) the framework rule does not expressly say that a plan rule may be more lenient than the framework rule.

(3) For the purpose of **subsection (1)**, the regional planning committee must amend the plan—

(a) without using a process in **Schedule 7**; and

(b) in accordance with any specification in the framework; and

(c) within any time frame specified in the framework, or if none is specified, as soon as practicable after the framework rule commences.

(4) *See* also **section 75AAC**.

Compare: 1991 No 69 s 44A

72 Regional planning committee may amend plan to refer to provision in framework

A regional planning committee may amend a plan to include a reference to a provision of the national planning framework—

(a) without using a process in **Schedule 7**; and

(b) after the date on which the provision commences.

Compare: 1991 No 69 s 44A(6)

73 Regional planning committee or local authority must take action directed by framework

A regional planning committee or local authority must take any action that the national planning framework directs ~~them~~ it to take.

Compare: 1991 No 69 s 55(8)

~~**74 Responsibility for enforcement of framework rules**~~

~~The national planning framework must specify, in relation to a framework rule, whether responsibility for enforcing the rule lies with the regional council, the territorial authority, or both.~~

~~Compare: 1991 No 69 s 44A(8)~~

74 Identification of appropriate consent authority and person responsible for enforcing framework rule

(1) The national planning framework must, in relation to a framework rule, state—

(a) who is the appropriate consent authority (whether a regional council or a territorial authority); and

(b) who is responsible for enforcing the rule.

(2) The national planning framework may state that responsibility for enforcing the framework rule lies with a regional council, a territorial authority, another NBE regulator, or any combination of them.

Compare: 1991 No 69 s 44A(8)

Subpart 7— ~~Consents and permits~~Resource consents

75AAA How activities are categorised

(1) In this Act, activities are categorised as follows:

	Category	Description of activities
1	Permitted	Activities that do not require a resource consent but may be subject to other requirements, including a requirement for a permitted activity notice.
2	Anticipated	Activities that require a resource consent, which the consent authority may grant (with or without conditions) or decline only in accordance with the relevant provisions of the national planning framework or plan (whichever applies) and the limited discretion conferred by those provisions.
3	Discretionary	Activities that require a resource consent, which the consent authority may grant (with or without conditions) or decline in accordance with the relevant provisions of the national planning framework or plan (whichever applies).
4	Prohibited	No person is entitled to apply for a resource consent for the activity, and no consent authority has power to grant a consent for the activity.

(2) An activity categorised as a permitted, anticipated, or discretionary activity must be carried out in accordance with the applicable requirements of this Act, the national planning framework, regulations, and the relevant plan, including any permissions granted under this Act and any conditions imposed by or under this Act.

(3) An activity categorised as a prohibited activity must not be carried out.

Compare: 1991 No 69 s 87A

75AAB How to decide which activity category applies

(1) This section applies to—

(a) the responsible Minister when deciding which activity category applies to an activity in the national planning framework; and

(b) the regional planning committee when deciding which activity category applies to an activity in a plan; and

(c) the Minister responsible for aquaculture when making decisions under **sections 851 and 852**.

(2) An activity is a **permitted activity** if the regional planning committee or the Minister is satisfied that—

(a) the activity is consistent with the relevant outcomes; and

(b) the effects of the activity can be identified and are well understood; and

(c) those effects can be avoided, minimised, remedied, offset, or compensated for—

(i) through requirements, standards, and criteria in the national planning framework or a plan; and

(ii) without requiring bespoke consent conditions; and

(d) the activity does not breach a relevant limit.

(3) An activity is a **permitted** activity if **section 75AAD or 157** applies.

(4) An activity is a **prohibited** activity if the regional planning committee or the Minister is satisfied that—

(a) the activity would breach a relevant limit or is not consistent with relevant outcomes; or

(b) the activity is of a kind described in **section 158A**.

(5) An activity is an anticipated activity if the regional planning committee or the Minister is satisfied that—

(a) the activity does not breach a relevant limit and is consistent with the relevant outcomes; and

(b) the effects of the activity can be identified and are generally known; but

(c) the activity needs to be assessed to consider whether consent conditions are required to avoid, minimise, remedy, offset, or compensate for those effects.

(6) An activity is a **discretionary** activity if the regional planning committee or the Minister is satisfied that—

(a) it is unclear or unknown whether the activity will breach a relevant limit, not achieve targets, or not be consistent with relevant outcomes; or

(b) the activity is likely to breach a relevant limit, not achieve targets, or not be consistent with the relevant outcomes; or

(c) the activity needs to be assessed to consider whether consent conditions are required to avoid, minimise, remedy, offset, or compensate for any effects of the activity.

75AAC Consideration to be given to statutory acknowledgements

(1) When considering the appropriate activity category for an activity in an area, a regional planning committee must have regard to any statutory acknowledgement, if the proposed activity—

(a) is to be carried out on a statutory area or an area adjacent to it; or

(b) may otherwise affect the statutory area.

(2) If a framework rule provides that an activity described in **subsection (1)(a) or (b)** is a permitted activity, a regional planning committee—

(a) must assess whether the activity category is appropriate in light of statutory acknowledgements in the region; and

(b) may, despite **sections 71(1) and 89(1)(a)**, in a plan rule—

(i) provide that the activity has a more stringent activity category (than that in the framework rule); or

(ii) impose more stringent requirements, standards, or criteria (than those in the framework rule) in relation to the activity.

75AAD Activities may be permitted with or without requirements

(1) The national planning framework or a plan may—

(a) provide that an activity is a permitted activity subject to compliance with requirements, standards, or criteria in the national planning framework or a plan; and

(b) require a person who intends to carry out a permitted activity to first obtain a permitted activity notice under **section 302**; and

(c) provide that if a permitted activity notice requires the written approval of a person or group, that the person or group are persons who may be adversely affected by a breach of a rule relating to the activity.

(2) If the national planning framework or a plan provides that an aquaculture activity in an area requires a permitted activity notice, the framework or plan must require written approval to be obtained from any—

(a) protected customary group in the area; and

(b) customary marine title group whose customary marine title order or customary marine agreement includes a wāhi tapu condition in the area; and

(c) applicant group (within the meaning of section 9(1) of the Marine and Coastal Takutai Moana Act 2011) for customary marine title in the area.

75 Direction to review ~~consents and permits~~ resource consents

(1) The national planning framework may direct consent authorities to review any or all of the following or a specified class of one of the following as soon as practicable or within a specified time period:

(a) land use consent:

(b) coastal permit:

(c) water permit:

(d) discharge permit.

(2) The national planning framework may direct consent authorities to review the conditions of a resource consent relating to duration in the circumstances described in any of **section 277(7)(a) to (c)**.

Compare: 1991 No 69 s 43A(1)(f)

76 Direction relating to conditions of resource consents

The national planning framework may include directions on conditions that may or must be imposed on resource consents or specified categories of consents, including conditions—

(a) relating to the duration of consents; and

(b) requiring specified categories of consents to have the same expiry date in specified circumstances.

Compare: 1991 No 69 s 43A(2)(i)

~~77 Notification requirements for resource consent applications~~

~~**Section 200** sets out how the national planning framework provides for the notification required for an application for a resource consent.~~

77A National planning framework may set or provide for consent authority to determine notification requirements

(1) The national planning framework must, in relation to each activity that requires a resource consent—

(a) state whether the activity requires notification and if so, the notification status of the activity; or

(b) provide for the plan to determine whether an activity or class of activity requires notification, and the notification status of the activity or class of activity; or

(c) provide for the consent authority to determine, in accordance with the national planning framework or the plan, whether the activity requires notification and the notification status of the activity.

(2) If the national planning framework requires limited notification in relation to an activity, it may do any 1 or more of the following:

(a) specify who are affected persons or groups or classes of affected persons for the purposes of limited notification:

(b) provide for the plan to determine additional affected persons or groups or classes of affected persons:

(c) provide for the plan to determine policies that apply to notification:

(d) provide for the consent authority to determine who are affected persons in accordance with any requirements or criteria in the national planning framework or plan.

(3) If the national planning framework provides for a plan or the consent authority to determine notification in relation to an activity, it must include requirements or methods by which regional planning committees or consent authorities are to determine—

(a) whether notification is required and the notification status; and

(b) what is an acceptable level of adverse effects anticipated in the framework or plan.

77B How decisions about notification of activities must be made in national planning framework

(1) When deciding whether the national planning framework should require notification in relation to an activity or class of activity that requires a resource consent, the responsible Minister must—

(a) consider the preferred state of the future environment; and

(b) consider the purpose of notification (*see* **section 198**); and

(c) decide, in accordance with **subsection (2)**, whether it is appropriate to depart from a notification presumption that would otherwise apply to the activity.

(2) For the purpose of **subsection (1)(c)**, the responsible Minister—

Non-notification

(a) must decide whether it is appropriate to require the activity not to be notified, by considering—

(i) whether the activity is consistent with relevant outcomes; and

(ii) whether the activity complies or is likely to comply with relevant limits; and

(iii) whether the effects of the activity can be identified and are well understood; and

(iv) whether there are no affected persons (*see* **section 201**); or

Limited notification

(b) must decide whether the activity requires limited notification, by considering—

(i) whether the activity achieves or is likely to achieve relevant outcomes; and

(ii) whether the activity complies or is likely to comply with relevant limits; and

(iii) whether there are affected persons; or

Public notification

(c) must decide whether the activity requires public notification, by considering either or both of the following:

(i) whether inadequate information is available to understand the extent to which the activity contributes to achieving relevant outcomes or complies with relevant limits:

(ii) whether the effects of the activity are not well understood.

(3) In this section, **notification presumption** means any of the following presumptions:

(a) the presumption that an anticipated activity should be processed without public notification (*see* **section 203**):

(b) the presumption that a discretionary activity should be processed with public notification (*see* **section 204**).

78 Consequences if framework rule states an activity is permitted

If a framework rule states that an activity is a permitted activity, the following provisions apply to plans:

(a) a plan may state that the activity is a permitted activity on the terms or conditions specified in the national planning framework; and

(b) the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the national planning framework; and

(c) if a plan's terms or conditions deal with effects of the activity that are the same as those dealt with in the terms or conditions specified in the national planning framework, the terms or conditions in the framework prevail.

Compare: 1991 No 69 s 45A(5)

79 Activity with significant adverse effects on environment must not be permitted activity

(1) If an activity has significant adverse effects on the environment, the national planning framework must not state that the activity is a permitted activity.

(2) To avoid doubt, **subsection (1)** does not apply to an activity to which an exemption prescribed under **section 81~~(b)~~(c)** applies.

Subpart 8—Other matters that national planning framework may provide for

80 Standards, methods, and requirements

(1) The national planning framework may provide for standards, methods, or requirements in relation to—

(a) the matters referred to in **sections 17 to 22**:

(b) noise.

(2) The ~~regulations~~ standards, methods, or requirements may, without limitation, include—

(a) qualitative or quantitative standards:

(b) methods, processes, or technology to implement standards:

(c) exemptions from standards.

81 Specific matters that national planning framework may prescribe

The national planning framework may—

(a) include framework outcomes and policies relating to how decision makers must recognise and provide for—

(i) the protection of protected customary rights; and

(ii) the exercise of those rights~~.~~:

(b) prescribe the form and content of resource consents, including categories of resource consents:

(c) prescribe exemptions for the purpose of biosecurity control or pest control, from any provision of **section 22**, either absolutely or subject to any prescribed conditions, and either generally or specifically or in relation to particular descriptions of contaminants or to the discharge of contaminants in particular circumstances or from particular sources, or in relation to any area of land, air, or water specified in the national planning framework:

(d) require records to be kept by holders of resource consent~~consents to keep records~~ for any purpose under this Act~~, and~~:

~~(i) prescribe the nature of the records, and the form, manner, and times in or at which they must be kept or supplied; and~~

~~(ii) require the records to be supplied to a person exercising or performing powers or functions under this Act or to the Director of Maritime New Zealand in the case of a coastal permit:~~

(da) require records to be kept by persons who take, use, dam, divert water—

(i) in accordance with a framework rule, a plan rule, or a permitted activity notice (*see* **section 21(4)(a)(i) to (iii)**); or

(ii) for the reasonable needs of their animal for drinking water (*see* **section 21(4)(b)(ii)**):

(db) if requiring records to be kept by a person described in **paragraph (d) or (da)**—

(i) require the records to be supplied to a person exercising or performing powers or functions under this Act or to the Director of Maritime New Zealand in the case of a coastal permit:

(ii) prescribe the nature of the records, and the form, manner, and times in which the records must be kept or supplied:

(e) prescribe any substance to be a harmful substance for the purposes of **section 24(7)**:

(f) prescribe any waste or other matter to be toxic or hazardous waste for the purposes of **section 25(2)**:

(g) prescribe, for the purpose of the definition of **dumping** in **section 7**, any operations of a ship, an aircraft, or offshore installation that are normal operations:

(h) provide measures for the purpose of excluding stock from water bodies, estuaries, coastal lakes and lagoons, and the margins of those water bodies, estuaries, and coastal lakes and lagoons, including measures 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, coastal lakes and lagoons, and their margins or to specified kinds of water bodies, estuaries, coastal lakes and lagoons, and their margins:

(iii) apply different measures to different kinds of stock or to different kinds of water bodies, estuaries, coastal lakes and lagoons, and their margins:

(iv) prescribe technical requirements (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):

(i) prescribe procedural and technical requirements for land that is used for an activity or industry listed in the HAIL.

82 National planning framework may provide for transitional provisions

The national planning framework may include transitional provisions for any matter, including its effect on existing matters or proceedings.

Compare: 1991 No 69 s 45A

83 Monitoring and reporting by regional planning committees and local authorities

The national planning framework may give directions to regional planning committees or local authorities on monitoring and reporting on matters relevant to the framework.

Compare: 1991 No 69 s 45A

~~84 National planning framework may include provision about other matters~~

~~The national planning framework may include provisions about any other matter that accords with the purpose of the national planning framework.~~

~~Compare: 1991 No 69 s 45A~~

85 Incorporation by reference

(1) The national planning framework may incorporate material by reference in accordance with the Legislation Act 2019, subject to the following modifications:

(a) the written material to which section 64(1)(c) of that Act applies, may include material relating to non-technical matters (for example, maps):

(b) clause 1 of Schedule 2 of that Act may be satisfied if—

(i) the Minister makes the proposed material publicly available at the same time the NPF proposal undergoes public notification under **clause 8 of Schedule 6**; and

(ii) after considering any comments made and having regard to the purpose of the Legislation Act 2019, the responsible Minister is satisfied of the matters described in clause (1)(d)(i) to (iii) of Schedule 2 of that Act.

(2) To avoid doubt,—

(a) section 66 of the Legislation Act 2019 applies with all necessary modifications; and

(b) clause 1 of Schedule 2 of the Legislation Act 2019 may be followed without reliance on **subsection (1)(b)**.

Subpart 9—Directions on approaches and methods

Adaptive management approach

86 Adaptive management approach

(1) The national planning framework may direct a plan to ~~direct the use of~~ require an adaptive management approach ~~under **section 233**~~ be adopted or the use of an adaptive management approach in an activity if the responsible Minister is satisfied that—

(a) there is likely to be a significant adverse change in the environment; but

(b) the timing and the magnitude of that change are uncertain.

(2) A direction ~~to use an adaptive management approach~~ under **subsection (1)** may set out—

(a) criteria; and

(b) particular kinds of approach; and

(c) methodology.

(3) A direction under **subsection (1)** that requires the use of an adaptive management approach in an activity—

(a) must meet the requirements of **section 232(2)(a), (c), and (d)**; and

(b) may include a requirement described in **section 232(2)(b)**; and

(c) may include any provisions described in **section 232(2)(e) and (f)**.

Allocation method

86A Resource allocation principles

(1) The resource allocation principles are as follows:

(a) environmental sustainability:

(b) efficiency:

(c) equity.

(2) The resource allocation principles apply only to the development of directions in the national planning framework in accordance **section 87 or 88** or plans in accordance with **section 126 or 128**.

87 Directions on allocation method

(1) The national planning framework may give directions that—

(a) provide further detail on the meaning of the resource allocation principles:

(b) require or prohibit the use of a specified allocation method or specified range of allocation methods for a specified resource or in specified circumstances:

(c) define a particular allocation method:

(d) direct how a regional planning committee must have regard to the allocation principles when developing an allocation method in a plan:

(e) require a regional planning committee to specify an allocation method or methods for a resource described in **section 126(3)**:

(f) specify other resources for which an allocation method is required or permitted by a plan:

(g) specify any matter that a regional planning committee must consider or adopt when providing for any allocation method in a plan (for example, a direction on any plan outcome, policy, process, or method):

(h) provide for the frequency and duration of the required time period in ~~**section 306**~~ **clause 3 of Schedule 10A**:

(i) set out criteria that decision makers must have regard to when determining the merits of affected applications under ~~**section 344**~~ **clause 11 of Schedule 10A**.

(2) The Minister must have particular regard to the resource allocation principles when developing a direction that relates primarily to the allocation of resources (for example, a direction under any of **subsection (1)(b) to (i)**), ~~have regard to the resource allocation principles~~.

88 Use of market-based allocation method to determine right to apply for resource consent for certain activities

(1) The national planning framework may, subject to **subsection (4)**, require or permit the use of a market-based allocation method to determine the allocation of a right to apply for a resource consent for an activity relating to—

(a) the taking, diverting, or use of geothermal water or coastal water (other than open coastal water):

(b) the capacity of freshwater to assimilate a discharge of a contaminant:

(c) the capacity of geothermal water to assimilate a discharge of a contaminant:

(d) the taking or use of heat or energy from water ~~other than open coastal water~~:

(e) the taking or use of heat or energy from the material surrounding geothermal water:

(f) the capacity of coastal water (including estuaries) to assimilate a discharge of a contaminant:

~~(g) the taking or use of heat or energy from open coastal water:~~

(h) the capacity of air to assimilate a discharge of a contaminant:

(i) a resource specified in the national planning framework as a resource for which an allocation method must or may be used.

(2) The national planning framework may impose requirements relating to the use of the market-based allocation method and processes to be followed.

(3) Before making a direction under **subsection (1) or (2)**, the Minister must have regard to the resource allocation principles.

(4) A market-based allocation method must not be used to determine the allocation of a right to apply for a resource consent for an activity relating to—

(a) a resource that is not described in **subsection (1)**; or

(b) the taking, diverting, or use of freshwater.

(5) The prohibition in **subsection (4)(b)** applies also to any allocation method that uses or is modified by a market-based allocation method.

(6) To avoid doubt, **subsection (4)** does not affect the transfer of any resource consent under **Part 5**.

Subpart 10—How framework rule relates to other instruments

89 Framework rule prevails unless exceptions apply

Framework rule prevails over plan rule subject to exceptions

(1) A framework rule prevails over a plan rule unless—

(a) the plan rule is more stringent than the framework rule and the framework rule expressly says that a plan rule may be more stringent than it; or

(b) the plan rule is more lenient than the framework rule and the framework rule expressly says that a plan rule may be more lenient than it.

When plan rule more stringent

(2) For the purpose of **subsection (1)(a)**,—

(a) a plan rule is **more stringent** than a framework rule if the plan rule classifies an activity with a more restrictive activity ~~status~~ category than the framework rule; and

(b) if a plan rule and a framework rule classify the same activity as permitted, the plan rule is **more stringent** if it imposes more restrictive conditions or requirements.

When plan rule more lenient

(3) For the purpose of **subsection (1)(b)**,—

(a) a plan rule is **more lenient** than a framework rule if the plan rule classifies an activity with a less restrictive activity ~~status~~ category than the framework rule; and

(b) if a plan rule and a framework rule classify the same activity as permitted, the plan rule is **more lenient** if it imposes less restrictive conditions or requirements.~~; and~~

~~(c) if a plan rule and a framework rule classify the same activity as controlled, the plan rule is **more lenient** if it gives the consent authority less discretion to decline.~~

Certain consents and permits prevail over framework rule

(4) A land use consent administered by a territorial authority or a subdivision consent prevails over a framework rule if it is issued before the date on which the framework rule commences.

(5) A land use consent administered by a regional council, a coastal permit, a water permit, or a discharge permit—

(a) prevails over a framework rule if it is issued before the date on which the framework rule commences; and

(b) prevails over the framework rule until and to the extent that a review of the conditions of the permit or consent under **section 277(1)(b)** results in some or all of the framework rule prevailing over the permit or consent.

If framework rule requires resource consent for activity

(6) If a framework rule requires a resource consent to be obtained for an activity, **sections 26 to 30** apply to the activity as if the framework rule were a plan rule that had become operative.

(7) *See* also **section 75AAC**.

Compare: 1991 No 69 s 43B

90 Relationship between framework rule and water conservation orders

(1) A water conservation order that is more stringent than a framework rule applying to water prevails over the framework rule.

(2) A framework rule applying to water that is more stringent than a water conservation order prevails over the order.

Compare: 1991 No 69 s 43C

91 Relationship between framework rules and bylaws

(1) A bylaw that is more stringent than a framework rule prevails over the framework rule, if the framework rule expressly says that a bylaw may be more stringent than it.

(2) For the purposes of **subsection (1)**, a bylaw is **more stringent** than a framework rule if it prohibits or restricts an activity that the framework rule permits or authorises.

(3) A bylaw may be **more lenient** than a framework rule if the framework rule expressly specifies that the bylaw may be more lenient.

(4) For the purposes of **subsection (3)**, a bylaw is **more lenient** than a framework rule if it permits or authorises an activity that the framework rule prohibits or restricts.

(5) In this section, **bylaw** means a bylaw made under any enactment.

Compare: 1991 No 69 s 43E

92 Relationship between framework rules and designations

(1) ~~Work carried out under a designation that exists when~~ If a designation is made before a framework rule is made, work carried out under the designation is not required to comply with the framework rule until the earlier of the following occurs:

(a) the designation lapses:

(b) the designation is altered under **section 521** by the alteration of conditions in it to which the framework rule is relevant.

(2) If the conditions of ~~a~~ the designation are altered as described in **subsection (1)(b)**, the framework rule—

(a) applies to the altered conditions; and

(b) does not apply to the unaltered conditions.

~~(3) A framework rule prevails over a designation if, when the framework rule is made,—~~

~~(a) the designation exists; and~~

~~(b) no primary CIP has been submitted.~~

(4) A framework rule that ~~exists when~~ is made before a designation is made prevails over the designation unless the national planning framework provides otherwise.

(5) A use is not required to comply with a framework rule if—

(a) the use was lawfully established by way of a designation that has lapsed; and

(b) the effects of the use, in character, intensity, and scale, are the same as or similar to those that existed before the designation lapsed; and

(c) the framework rule is made—

(i) after the designation was made; and

(ii) before or after it lapses.

(6) Work carried out under a designation is not required to comply with a framework rule if the work has come under the designation through the following sequence of events:

(a) the work is made; and

(b) the framework rule is made; and

(c) the designation is made and applied to the work.

(6A) For the purposes of this section, a **designation is made**—

(a) when both of the following have occurred:

(i) a primary CIP has been lodged under **section 504(1)**; and

(ii) a secondary CIP has been lodged under **section 504(3)** or the requirement for it has been waived under **section 504(4)**; or

(b) in the case of a designation that is transitioned under **subpart 7 of Schedule 1**, when an outline plan of works has been lodged under the Resource Management Act 1991 or is otherwise not required in accordance with that Act.

(7) In this section, **conditions** includes a condition about the physical boundaries of a designation.

Compare: 1991 No 69 s 43D

Subpart 11—Preparation, change, and review of national planning framework

93 Preparation, change, review, and publication of national planning framework

(1) The national planning framework, and any changes to it, must be prepared in accordance with the applicable process set out in **Schedule 6**.

(2) The national planning framework must be reviewed in accordance with **Part 3 of Schedule 6**.

(3) The national planning framework must be published in accordance with **clause 30 of Schedule 6**.

(4) **Clause 31 of Schedule 6** applies to the preparation of the first national planning framework.

94 Responsible Minister

(1) This section applies for the purpose of the preparation, change, or review of the national planning framework.

(2) The Minister for the Environment—

(a) is the responsible Minister in relation to any provision that applies to both—

(i) the coastal marine area; and

(ii) an area outside the coastal marine area; and

(b) must consult ~~with~~ the Minister of Conservation before exercising or performing a power or function conferred by this Part or **Schedule 6** that relates to the preparation, change, or review of that provision.

(3) The Minister for the Environment is the responsible Minister in relation to any provision that applies only to an area outside the coastal marine area.

(4) The Minister of Conservation—

(a) is the responsible Minister in relation to any provision that applies only to a coastal marine area; and

(b) must consult the Minister for the Environment before exercising or performing a power or function conferred by this Part or **Schedule 6** that relates to the preparation, change, or review of that provision.

Part 4
Natural and built environment plans

Subpart 1—Preliminary matters

Purpose and scope of plans

95 Natural and built environment plans

(1) There must at all times be a natural and built environment plan (a **plan**) for each region.

~~(2) However, in the case of the Nelson and Tasman unitary authorities, there must be 1 plan that applies jointly to the 2 authorities.~~

(2) In the case of the Nelson and Tasman unitary authorities, there must be 1 plan that applies to both the region over which the Nelson City Council has control and the region over which the Tasman District Council has control (together the **Nelson and Tasman unitary authorities**).

(3) This Act applies to those regions as if they were a combined region.

96 Purpose and scope of plans

(1) The purpose of a plan is to ~~further~~ achieve the purpose of this Act by providing for the integrated management of the natural and built environment in the region that the plan relates to.

(2) A plan must—

(a) give effect in the region to the national planning framework, as directed by that framework; and

(b) provide for the needs of the communities of the region; and

(c) be consistent with the relevant regional spatial strategy.

(3) **Subsection (2)(c)** applies unless, and to the extent that, any of the following apply:

(a) new information becomes available that supersedes the information used to determine the content of the regional spatial strategy:

(b) there is a significant change in circumstances or in the physical environment since the regional spatial strategy was adopted (for example, a major environmental or economic event):

(c) the plan would conflict with the achievement of the limits and mandatory targets set by or under the national planning framework:

(d) the Environment Court has made a direction in accordance with **section 141(1)(a)** that the provisions of the plan be modified, deleted, or replaced:

(e) a place of national importance has been identified.

Compare: 1991 No 69 s 63

~~**97 Scope of plans**~~

~~In furthering the purpose of this Act, a plan must —~~

~~(a) give effect in the region to the national planning framework, as directed by that framework; and~~

~~(b) be consistent with the relevant regional spatial strategy.~~

97 Regional planning committee rules

(1) A regional planning committee may make rules in plans in accordance with this Part.

(2) Rules made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019) for publication requirements).

98 How plans are prepared, notified, and made

(1) The plan for a region, and any changes to it, must be made—

(a) by that region's planning committee; and

(b) using the process set out in **Schedule 7**.

(2) In the case of the joint plan for the Nelson and Tasman unitary authorities, the single regional planning committee appointed for the combined regions has responsibility for making a plan for the 2 unitary authorities.

~~99 General considerations relevant to regional planning committee decisions~~

~~(1) A regional planning committee must comply with this Part when making decisions on a plan.~~

~~(2) In addition to the matters set out in this Part and those listed in **section 6** (decision-making principles), a committee must have regard to the extent to which it is appropriate for conflicts between system outcomes to be resolved by the plan or by resource consents or designations, subject to direction by the national planning framework.~~

100 Regional planning committees to be appointed

(1) A regional planning committee must be appointed for each region as a statutory body that is a committee of all the local authorities in the region, in accordance with **Schedule 8**.

(2) However, in the case of the Nelson and Tasman unitary authorities, 1 regional planning committee must be appointed to carry out the obligations of a planning committee under this Act and under the **Spatial Planning Act 2022** for the 2 authorities.

(3) A regional planning committee must, in performing or exercising its functions, duties, and powers under this Act and under the **Spatial Planning Act 2022**, act independently of the host local authority and other local authorities in its region~~, in accordance with the local authority within which planning the committee operates (**host local authority**)~~.

(4) A regional planning committee has separate legal standing from its constituent authorities and organisations for the purpose of commencing, or being a party to, or being heard in legal proceedings.

(5) Once established, a regional planning committee must not be disestablished, except by an Act.

(6) Provisions on the membership, support, and operations of a regional planning committee are set out in **section 30N and Schedule 8**.

101 Schedules 7 and 8 apply

(1) **Schedule 7** applies to the process for making and changing plans.

(2) **Schedule 8** applies to the appointment of regional planning committees and to their procedures and other relevant matters.

(3) In the case of the Nelson and Tasman unitary authorities, **Schedules 7 and 8** apply as if the regions of those 2 authorities were a combined region, and each authority were a territorial authority in that region.

Subpart 2—Contents of plans

~~102 What plans must include~~

~~(1) A plan must have strategic content that reflects the major policy issues of a region and its constituent districts.~~

~~(2) A plan must—~~

~~(a) manage the resources of the natural and built environment; and~~

~~(b) manage the effects of using and developing the environment, including cumulative effects; and~~

~~(c) achieve environmental limits (including interim limits) and targets; and~~

~~(d) provide for system outcomes, subject to any direction given in the national planning framework; and~~

~~(e) resolve conflicts relating to any aspect of the natural and built environment in the region, including conflicts between or among the environmental outcomes stated for the region and its constituent districts; and~~

~~(f) provide processes to deal with cross-boundary issues with adjacent local authorities, including the extent to which the plan must have regard to regional spatial strategies and plans of adjacent local authorities; and~~

~~(g) identify land, the coastal marine area, or any natural resource in the region for which protection, or a particular use or development, is a priority; and~~

~~(h) include provisions that give effect to any water conservation order applying to a river within the region of which the plan applies; and~~

~~(i) ensure the integration of infrastructure with land use; and~~

~~(j) ensure that there is sufficient development capacity of land for housing and business to meet the expected demands of the region and its district.~~

~~Compare: 1993 No 69 ss 62, 67, 75~~

102 What plans must include

(1) Every plan must have, as its strategic content, strategic outcomes and policies which—

(a) identify the issues of importance to a region or to 1 of its constituent districts:

(b) deal with the matters necessary to ensure consistency with the relevant regional spatial strategy:

(c) give effect to the national planning framework and indicates how limits and targets are to be achieved.

(2) The strategic content of a plan, however, must not include rules or methods.

(3) A plan must—

(a) enable the resources of the natural and built environment to be managed; and

(b) enable the effects of using and developing the natural and built environment to be managed; and

(c) specify how environmental limits and targets are to be achieved; and

(d) provide for system outcomes, subject to any direction given in the national planning framework; and

(e) assist in resolving conflicts in accordance with any direction provided in the national planning framework; and

(f) include processes to deal with cross-boundary issues between or among adjacent regions or parts of regions, including the extent to which the plan must have regard to regional spatial strategies and plans of adjacent regions or parts of regions; and

(g) provide for how to protect, use, or develop, as a priority, land, the coastal marine area, or any other natural resources in the region; and

(h) give effect to any water conservation order applying to a waterbody within the region to which the plan applies; and

(i) provide for the integration of infrastructure with land use; and

(j) describe the preferred state of the future environment in the region.

(4) The contents of a plan as described in **subsection (3)** may be made as outcomes, policies, rules, or other methods.

Compare: 1993 No 69 ss 62, 67, 75

~~103~~ ~~General: matters within the responsibility of regional councils and territorial authorities~~

~~(1) The matters that must be included in a natural and built environment plan are—~~

~~(b) those set out in **section 644(b) and (c)** for which the regional council is responsible:~~

~~(a) those for which the territorial authority is responsible, as set out in **section 646**.~~

~~(2) The matters that may be included in a plan are those for which a regional council is responsible, as set out in **section 644(a), (d), (e), (f), and (g)**.~~

~~Compare: 1991 No 69 s 30(1)(a)–(gb)~~

103 General: matters within the responsibility of regional councils or territorial authorities

(1) A plan must provide plan outcomes, policies, rules, and other methods that enable a local authority to fulfil the functions for which it is responsible under **sections 30P and 30R**.

(2) The matters required in a plan must be included in a way that enables each relevant local authority to fulfil its functions in respect of the matters relevant to those local authorities (*see* **sections 30P and 30R**).

Compare: 1991 No 69 s 30(1)(a)–(gb)

~~**104 Plans must be consistent with regional spatial strategies**~~

~~Every plan must be consistent with the relevant regional spatial strategy, unless and to that extent that,—~~

~~(a) new information becomes available that supersedes the information used to determine the content of the regional spatial strategy; and~~

~~(b) there is a significant change in circumstances or in the physical environment since the regional spatial strategy was developed (for example, a major environmental or economic event).~~

~~**105 What plans may include**~~

~~(1) A plan may—~~

~~(a) include plan outcomes and policies, rules, and other methods:~~

~~(b) specify a non-regulatory method for achieving plan outcomes and policies, as long as the relevant local authority has agreed to the funding necessary to implement a method—~~

~~(i) in its annual or long-term plan made under the Local Government Act 2002; or~~

~~(ii) by any other funding mechanism within the competency of the local authority:~~

~~(c) make provision for environmental contributions to be included in plan outcomes, policies, and rules, including rules to authorise the imposition of conditions requiring the payment of environmental contributions:~~

~~(d) include provisions that enable a local authority to respond to, or contribute to, the immediate or long-term recovery from an emergency event:~~

~~(e) specify that any part of the plan is, for administrative purposes, relevant to 1 or more particular local authorities in the region:~~

~~(f) include provisions that manage the effects of fishing in the coastal marine area (but *see* **section 124(9)**):~~

~~(g) include any other matters desirable for the plan to achieve its purpose.~~

~~(2) If a plan includes a rule relating to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water, the plan may state—~~

~~(a) whether the rule under **section 279** will affect the exercise of existing resource consents for activities which contravene the rule; and~~

~~(b) that the holders of resource consents may comply with the terms of the rule, or rules, in stages or over specified periods.~~

105 What plans may include

(1) A plan may include plan outcomes and policies, rules, and methods that provide for the following:

(a) provisions that enable a local authority to respond to, or contribute to, the immediate or long-term recovery from an emergency event:

(b) apply an adaptive management approach in accordance with **section 110**:

(c) aquaculture areas in accordance with **section 115**:

(d) environmental contributions to be taken in accordance with **section 112**:

(e) provisions that control the effects of fishing in the coastal marine area (but *see* **section 124(9) and (10)**):

(f) any other matters desirable for the plan to achieve its purpose.

(2) A plan may also—

(a) specify a non-regulatory method for achieving plan outcomes and policies, provided the regional planning committee is satisfied that the local authority will fund and implement the method; and

(b) specify that any part of the plan is, for administrative purposes, relevant to 1 or more particular local authorities in the region.

(3) A regional planning committee may incorporate documents by reference in its plan, as provided for by **Schedule 12**.

~~**106 Te Oranga o te Taiao statement**~~

~~(1) An iwi or hapū may, at any time, provide a statement on te Oranga o te Taiao to the relevant regional planning committee.~~

~~(2) A statement by an iwi or hapu on te Oranga o te Taiao may relate to allocation matters.~~

~~**107 Considerations relevant to preparing and changing plans**~~

~~*Matters to which regional planning committee must have particular regard*~~

~~(1) In addition to the matters to be included in plans under **sections 102, 103, and 105**, a regional planning committee must have particular regard to—~~

~~(a) a statement of community outcomes prepared by a territorial authority or unitary authority; and~~

~~(b) a statement of regional environmental outcomes prepared by a regional council; and~~

~~(c) any relevant planning document recognised by an iwi authority or 1 or more groups that represent hapū.~~

~~(2) **Subsection (1)** applies only as far as the matters set out in **subsection (1)(a) to (c)** are relevant to the matters dealt with in the plan.~~

~~*Matters to which committee must have regard*~~

~~(2) A regional planning committee must have regard to—~~

~~(a) relevant entries on the New Zealand Heritage List/ Rārangi Kōrero made under the Heritage New Zealand Pouhere Taonga Act 2014; and~~

~~(b) the extent to which a plan under this Act must be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.~~

~~(3) A regional planning committee may incorporate documents by reference in its plan, as provided for by **Schedule 12**.~~

107 Requirements when preparing and changing plans

Matters to which regional planning committee must have particular regard

(1) In addition to the requirements for plans under **sections 102, 103, and 105**, when a regional planning committee is preparing or changing a plan, it must have particular regard to—

(a) a statement of community outcomes prepared by a territorial authority or unitary authority (*see* **section 30Q**); and

(b) a statement of regional environmental outcomes prepared by a regional council or unitary authority (*see* **section 30O**); and

(c) any planning document recognised by an iwi authority or groups that represent hapū; and

(d) any statement prepared by iwi or hapū of a region to express their view on how Te Oranga o te Taiao can be upheld at the regional and local levels.

Matters to which committee must have regard

(2) When a regional planning committee is preparing or changing a plan, it must have regard to—

(a) relevant entries on the New Zealand Heritage List/ Rārangi Kōrero made under the Heritage New Zealand Pouhere Taonga Act 2014; and

(b) the extent to which a plan under this Act must be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and

(c) the national adaptation plan and emissions reduction plans made under the Climate Change Response Act 2002; and

(e) any management plans or strategies prepared under other Acts; and

(g) the Crown's interests in the coastal marine area; and

(h) if section 98 the Urban Development Act 2020 applies, any relevant project area and project objectives (as defined in section 9 of that Act); and

(i) any legislation made to ensure sustainability or the conservation or management of fisheries resources (including secondary legislation relating to taiāpure, mahinga mātaitai, or other non-commercial Māori customary fishing).

(3) **Subsections (1) and (2)** apply only as far as the matters set out in those provisions have a bearing on the natural and built environment issues in the region.

108 Matters that must be disregarded when preparing or changing plans

In preparing or changing a plan, a regional planning committee must disregard the following:

(a) trade competition ~~or~~ and the effects of trade competition (*see* **sections 147 to 151**); ~~or~~ and

(b) any effect of an activity on scenic views from private properties ~~or land transport assets that are not stopping places; or~~; and

~~(c) any effect on the visibility of commercial signage or advertising; or~~

(c) the visibility of commercial signage or advertising being obscured as an effect of an activity; and

(d) any adverse effect, real or perceived, arising from the use of the land ~~by~~ for housing, if that effect is attributed to—

(i) the social or economic characteristics of residents; or

(ii) types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries; or

(iii) residents requiring support or supervision in their housing because of their legal status or disabilities.

~~(i) people on low incomes; or~~

~~(ii) people with special housing needs; or~~

~~(iii) people whose disabilities mean that they need support or supervision in their housing.~~

108A How plans must provide for activity categories

Sections 75AAA to 75AAD apply to a regional planning committee when deciding which activity category applies to an activity in the plan.

108E How decisions about notification of activities must be made for plans

(1) A regional planning committee—

(a) must give effect in the plan any direction in the national planning framework on notification in relation to an activity or a class of activity that requires a resource consent; and

(b) if and to the extent that the national planning framework provides for a plan to determine notification in relation to an activity or a class of activity, must—

(i) consider the preferred state of the future environment in light of information it considers relevant in the plan, the regional spatial strategy, the national planning framework or any combination of those documents; and

(ii) consider the purpose of notification (*see* **section 198**); and

(iii) decide, in accordance **subsection (2)**, whether it is appropriate to depart from a notification presumption that would otherwise apply to the activity.

(2) For the purpose of **subsection (1)(c)(iii)**, the regional planning committee—

Non-notification

(a) must decide whether it is appropriate for the activity not to be notified, by considering—

(i) whether the activity is consistent with relevant outcomes; and

(ii) whether the activity complies or is likely to comply with relevant limits; and

(iii) whether the effects of the activity can be identified and are well understood; and

(iv) whether there are no affected persons (*see* **section 201**); or

Limited notification

(b) must decide whether the activity requires limited notification, by considering—

(i) whether the activity achieves is likely to achieve relevant outcomes; and

(ii) whether the activity complies or is likely to comply with relevant limits; and

(iii) whether there are affected persons; or

Public notification

(c) must decide whether the activity requires public notification, by considering either or both of the following:

(i) whether inadequate information is available to understand the extent to which the activity contributes to achieving relevant outcomes or complies with relevant limits:

(ii) whether the effects of the activity are not well understood.

(3) In this section, **notification presumption** means any of the following presumptions:

(a) the presumption that an anticipated activity should be processed without public notification (*see* **section 203**):

(b) the presumption that a discretionary activity should be processed with public notification (*see* **section 204**).

~~*Consistency with regional spatial strategies*~~

~~**109 Plans must be consistent with regional spatial strategies**~~

~~Every plan must be consistent with the relevant regional spatial strategy, unless and to that extent that —~~

~~(a) new information becomes available that supersedes the information used to determine the content of the regional spatial strategy; and~~

~~(b) there is a significant change in circumstances or in the physical environment since the regional spatial strategy was developed (for example, a major environmental or economic event).~~

110 Adaptive management approach in plan

(1) A plan may direct an adaptive management approach to be adopted or the use of ~~an~~ adaptive management ~~approach under **section 233** if~~ for an activity if the Minister is satisfied that—

(a) there is likely to be a significant change in the environment; ~~but~~ and

(b) the timing and the magnitude of that change are uncertain.

(2) A direction in a plan to use an adaptive management approach ~~may provide for —~~

~~(a) criteria for use of that approach; and~~

~~(b) a methodology for using that approach.~~

(a) must meet the requirements of **section 233(2)(a), (c), and (d)** (adaptive management approach); and

(b) may include provisions described in **section 233(b), (e), and (f)**.

Statutory acknowledgements

111 Statutory acknowledgements to be attached to plans

(1) Every statutory acknowledgement that applies in a region must be attached to, and treated as part of, the plan for that region.

(2) The provisions of the legislation that provides for a statutory acknowledgement apply.

(3) However, a statutory acknowledgement is not subject to the processes applying under this Act for the preparation of a plan that provide for a plan to be reviewed or changed.

Environmental contributions

112 Specific requirements relating to environmental contributions

(1) A regional planning committee may make rules requiring an environmental contribution for any class of activity other than a prohibited activity.

(2) A rule requiring an environmental contribution must specify—

(a) the purpose for which a contribution is required, which may include—

(i) ensuring that positive outcomes as well as positive effects on the environment are achieved:

(ii) making available a mechanism to minimise or offset adverse effects ~~available~~:

(iii) providing an incentive for good environmental design and practice to be adopted~~; and~~:

(iv) requiring environmental contributions on account of the increased cost of providing infrastructure to support development in green-field land; and

(b) the outcomes in the plan that the contribution supports or contributes to; and

(c) how the amount of the contribution is to be determined; and

(d) when the contribution will be required; and

(e) the local authority with responsibility for administering the rule and to which the contribution is to be applied.

(3) Rules relating to contributions—

(a) may be applied differently in different districts of a region; and

~~(b) may specify the circumstances when a contribution may be rebated by a local authority; and~~

(b) may specify when a local authority may rebate a contribution; and

(c) if a rebate of an environmental contribution is available, ~~the rule~~ must specify—

(i) the measures that must be undertaken to achieve good environmental practice in the context of a particular activity; and

(ii) how a rebate is to be calculated, including what percentage of the total contribution may be reimbursed.

(4) In making a rule for a region that will require contributions, a regional planning committee must—

(a) have particular regard to any relevant environmental contribution policy summarised in accordance with section 106(2)(f) of the Local Government Act 2002 by 1 or more local authorities within that region; and

(b) consult all the local authorities within the region about any rules it proposes relating to the imposition of contributions.

Compare: 1991 No 69 s 77E; 2002 No 84 s 106(2)(f)

Charges for coastal occupation

112A Coastal occupation charges

(1) A regional planning committee must consider whether a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included in a plan (if it is not already included).

(2) For the purpose of **subsection (1)**, a regional planning committee must have regard to—

(a) the extent to which public benefits from the coastal marine area are lost or gained; and

(b) the extent to which private benefit is obtained from the occupation of the coastal marine area.

(3) If the regional planning committee considers that a coastal occupation charging regime should not be included, a statement to that effect must be included in the plan.

(4) If the regional planning committee considers that a coastal occupation charging regime should be included, the planning committee must specify in the plan—

(a) the circumstances when a coastal occupation charge will be imposed; and

(b) the circumstances when the regional planning committee will consider waiving (in whole or in part) a coastal occupation charge; and

(c) the level of charges to be paid or the manner in which the charge will be determined; and

(d) in accordance with **subsection (6)**, the way the money received will be used.

(5) No coastal occupation charge may be imposed on any person occupying the coastal marine area unless the charge is provided for in the plan.

(6) A coastal occupation change must not be imposed on—

(a) a protected customary rights group exercising a protected customary right; or

(b) a customary marine title group in relation to a customary marine title area.

(7) Any money collected by the regional council from a coastal occupation charge must be used only for the purposes of this Act as it applies to the coastal marine area.

Compare: 1991 No 69 s 64A

Aquaculture activities

113 Permitted aquaculture activities to be registered with consent authority

(1) To ensure that an NBEA permission right will apply under this Act, a plan must require all aquaculture activities that are permitted activities to be registered with the relevant consent authority through a permitted activity notice.

(2) In this section, **NBEA permission right** is a right under this Act, of the kind described as a **NBEA permission right** in section 66 of the Marine and Coastal Area (Takutai Moana) Act 2011.

~~**113 Plan must require all permitted aquaculture activities to be registered with consent authority**~~

~~A plan must require all aquaculture activities that are permitted activities to be registered with the relevant consent authority through a permitted activity notice.~~

~~**114 What is required if aquaculture activity described as permitted**~~

~~(1) This section applies if a person is intending to undertake, in a customary marine title area, an aquaculture activity that is a permitted activity.~~

~~(2) Before the person may commence the activity in a specified customary marine title area, they must—~~

~~(a) request the permission of the customary marine title holder to undertake the activity; and~~

~~(b) include in the request, the details necessary to enable the customary marine title holder to make a decision.~~

~~(3) The customary marine title holder may grant or decline permission on any grounds, but must do so in writing not later than 40 working days after receiving the request.~~

~~(4) The person making the request has no right of objection or appeal against the decision of the customary marine title holder, but if that person does not receive notice of the decision of the holder within the time frame referred to in~~

~~**subsection (3)**, the holder is to be treated as having given permission for the activity to be carried out.~~

~~(5) A rule that describes an aquaculture activity as a permitted activity must include the requirements set out in this section.~~

~~(6) This section does not apply to an accommodated activity.~~

115 Aquaculture ~~zones~~ areas

(1) A plan may prescribe aquaculture ~~zones.~~ areas, including for the purposes of—

(a) providing for, and managing, aquaculture activities in an aquaculture settlement area gazetted under the Māori Commercial Aquaculture Claims Settlement Act 2004; and

(b) enabling requests to be made for aquaculture area decisions under **section 477(2)**.

~~(2) A plan may include aquaculture rules (aquaculture zone rules) for the management of aquaculture activities or a specified class of those activities or aquaculture-related resources in an aquaculture zone.~~

(2) A plan that includes an aquaculture area may include rules under **section 121** relating to that area.

(3) A plan that contains aquaculture ~~zones~~ areas must—

(a) specify the geographic boundaries of each aquaculture ~~zone:~~ area, using geographic coordinates; and

(b) ensure that no application (other than under an authorisation) can be made for a coastal permit to occupy space in an aquaculture ~~zone~~ area before a date to be specified in a public notice~~:~~; and

(ba) ensure that an aquaculture area is used principally for aquaculture activities; and

(c) prohibit any applications for coastal permits for aquaculture activities in parts of an aquaculture ~~zone~~ area where the chief executive ~~under~~ of the ministry responsible for the administration of the Fisheries Act 1996 has made an aquaculture ~~zone~~ area decision that is a reservation related to customary fishing or recreational fishing or commercial fishing for stocks not subject to the quota management system.

Protection of customary marine title areas

116 Amendments to plan that affect customary marine title area

(1) This section applies to a regional planning committee each time there is a proposed plan or change, variation, or review, of the plan that applies to a customary marine title area.—

~~(a) there is a proposed change (including any private plan change), variation, or review of the plan; and~~

~~(b) the proposed change, variation, or review applies to a customary marine title area.~~

(2) The regional planning committee must initiate the process required by section ~~93(6)~~ 93(7) of Marine and Coastal Area (Takutai Moana) Act 2011~~;~~ and, for that purpose,—

(a) recognise and provide for any matters in any planning document to the extent that they relate to a customary marine title area; and

(b) ~~actively consider~~ have particular regard to any matters in any planning document to the extent that they relate to the common marine and coastal area outside the customary marine title area.

(3) In this section, **planning document** means a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Subpart 3—Rules in plans

117 Purpose and effect of rules

(1) The purpose of including rules in a plan is to enable a local authority—

(a) to carry out its functions under this Act; and

(b) to provide for the implementation of directions given by or under the national planning framework; and

(c) to ~~achieve~~ enable the outcomes and policies specified in the plan to be achieved.

Regulatory function of rules

(2) Rules have the force and effect of regulations, but if a rule is inconsistent with a regulation, the regulation prevails.

Application of rules

(3) A rule may—

(a) apply through the whole of a region or district or a part only:

(b) make different provision for different parts of the region or for different classes of effects arising from an activity:

(c) apply all of the time or for stated periods or seasons:

(d) be specific or general in its application~~:~~.

~~(e) exempt from its coverage an area or a class of contaminated land if the rule sets out—~~

~~(i) how any significant adverse effects of a hazardous substance on the natural and built environment are to be remedied or mitigated; or~~

~~(ii) how any significant adverse effects on the natural and built environment likely to arise from the hazardous substance are to be avoided; or~~

~~(iii) that the land may be treated as not being contaminated for the purposes that the rule states.~~

Administration of rules

(4) A plan must, in relation to a rule, assign responsibility for administering that rule to the regional council or to 1 or more territorial authorities, as appropriate.

(5) **Subsection (4)** does not apply in a region whose plan is administered by a unitary authority.

Rules for different categories of activity

(6) ~~Rules may be included~~ As provided for in **subpart 7 of Part 3** (*see* **section 75AAB**), rules in a plan may—

(a) ~~to~~ identify activities as—

(i) permitted; or

~~(ii) controlled; or~~

(ii) anticipated

(iii) discretionary; or

(iv) prohibited:

(b) ~~that~~ apply to 1 or more than 1 category of activity.

(6A) Rules made to restrict or control fishing for the purposes of this Act must not prevent customary non-commercial fishing provided for in regulations made under any of sections 186, 297, or 298 of the Fisheries Act 1996 made for the purpose of giving effect to section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

Rules for protection of property

(7) Rules may be made to protect other property from the effects of surface water, and may require persons undertaking the work to achieve performance criteria additional to, or more restrictive than, those specified in the building code.

(8) In **subsection (7)**, **building code** and **other property** have the meanings given in section 7(1) of the Building Act 2004.

When control must be reserved

(9) In relation to activities classified as ~~controlled~~ anticipated activities, the rules must specify the matters over which the local authorities reserve control in relation to an activity.

Compare: 1991 No 69 ss 68(1), (2), (2A), (5)(a)–(d), 77A, 77B(2)

118 Rules about discharges

(1) A regional planning committee must be satisfied that the requirement described in **subsection (2)** can be met before it includes in a plan a rule that allows as a permitted activity—

(a) a discharge of a contaminant or water into water; or

~~(b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water.~~

(b) a discharge of a contaminant onto or into land in circumstances that may result in—

(i) that contaminant entering water; or

(ii) any other contaminant, released as a result of natural processes from that contaminant, entering water.

(2) The requirement is that none of the following effects is likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

(a) conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(b) ~~any~~ a conspicuous change in the colour or visual clarity:

(c) ~~any~~ an emission of objectionable odour:

(d) fresh water made unsuitable for farm animals to drink:

(e) ~~any~~ significant adverse effects on aquatic life.

(3) Before a regional planning committee includes in a plan a rule requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant, the planning committee—

(a) must be satisfied that including that rule is the most efficient and effective means of preventing or minimising that adverse effect on the environment; and

(b) must have had regard to—

(i) the nature of the discharge and the receiving environment; and

(ii) other alternatives, including a rule requiring the observance of minimum standards of quality of the environment.

Compare: 1991 No 69 s 70

119 Activities affecting relationship of customary marine title group with their customary marine title area

(1) A regional planning committee must undertake an assessment of activities to identify activities that will have, or are likely to have, more than a minor adverse effect on the relationship of a customary marine title group to their customary marine title area.

~~(2) A rule in the plan must provide that an activity identified under **subsection (1)**, if carried out within a customary marine title area is,—~~

~~(a) an activity that requires a resource consent; or~~

~~(b) a permitted activity that requires, unless it is an accommodated activity, the written approval of the relevant customary marine title group (*see* also section 67(2)(a) of the Marine and Coastal Area (Takutai Moana) Act 2011).~~

(2) A rule in the plan must provide that an activity identified under **subsection (1)**, if carried out within a customary marine title area,—

(a) is an activity that requires a resource consent; or

(b) is a permitted activity that requires a permitted activity notice (unless it is an accommodated activity), so that the permission right applies (*see* sections 66 to 70 of the Marine and Coastal Area (Takutai Moana) Act 2011).

(3) **Subsection (2)** does not limit any other conditions or requirements specified in the national planning framework or plan that apply to a permitted activity.

(4) When developing rules under this section, a regional planning committee must engage with customary marine title groups within the region and have regard to their views.

(5) Each time a plan is proposed to be changed in relation to an area that includes the common marine and coastal area, the regional planning committee must follow the process in **subsection (1)**.

~~120 Imposition of coastal occupation charges~~

~~(1) A regional planning committee must consider whether a coastal occupation charging regime applying to persons who occupy any part of the common marine and coastal area should be included in a plan (if it is not already included).~~

~~(2) For the purpose of **subsection (1)**, a regional planning committee must have regard to—~~

~~(a) the extent to which public benefits from the coastal marine area are lost or gained; and~~

~~(b) the extent to which private benefit is obtained from the occupation of the coastal marine area.~~

~~(3) If the regional planning committee considers that a coastal occupation charging regime should not be included, a statement to that effect must be included in the plan.~~

~~(4) If the regional planning committee considers that a coastal occupation charging regime should be included, the planning committee must specify in the plan—~~

~~(a) the circumstances when a coastal occupation charge will be imposed; and~~

~~(b) the circumstances when the regional planning committee will consider waiving (in whole or in part) a coastal occupation charge; and~~

~~(c) the level of charges to be paid or the manner in which the charge will be determined; and~~

~~(d) in accordance with **subsection (6)**, the way the money received will be used.~~

~~(5) No coastal occupation charge may be imposed on any person occupying the coastal marine area unless the charge is provided for in the plan.~~

~~(6) A coastal occupation charge must not be imposed on a protected customary rights group or customary marine title group exercising a right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011.~~

~~(7) Any money received by the regional council from a coastal occupation charge must be used only for the purpose of promoting the sustainable management of the coastal marine area.~~

~~Compare: 1991 No 69 s 64A~~

121 Rules relating to aquaculture ~~zones~~ areas

(1) A plan may include rules that apply to an aquaculture ~~zone~~ area (**aquaculture ~~zone~~ area rules**).

(2) Aquaculture ~~zone~~ area rules in a plan may provide for the management of aquaculture activities or a specified class of those activities, or aquaculture related resources in an aquaculture ~~zone~~ area.

(3) An aquaculture area rule may be subject to an aquaculture area decision by the chief executive of the Ministry responsible for the administration of the Fisheries Act 1996. (*See* section 186JF(3) of that Act, which provides that a determination may state that a specified aquaculture area rule may not be changed or cancelled until the chief executive makes a further aquaculture area decision in relation to the affected area).

122 Rules relating to contaminated land

(1) Rules may be included in a plan to exempt an area or a class of contaminated land from the rule.

(2) However, the rule must—

(a) state how the significant adverse effects on the environment of the ~~hazardous substance~~ contaminant that contaminated the land are to be remedied or mitigated; or

(b) state how the reasonably likely significant adverse effects on the environment of the ~~hazardous substance~~ contaminant are to be avoided; or

(c) treat the land as not contaminated for purposes stated in the rule.

Compare: 1991 No 69 s 76(5)

123 Rules relating to esplanade reserves

(1) For allotments of less than 4 hectares created by the subdivision of land, a rule may provide~~,~~ that—

(a) the required esplanade reserve must be of a width greater or less than 20 metres:

(b) an esplanade strip of the width specified in the rule may be created under **clauses 4 and 5 of Schedule 11** instead of an esplanade reserve:

(c) **section 606** does not apply.

(2) For allotments of 4 hectares or more created by the subdivision of land, a rule may provide that an esplanade reserve or esplanade strip of a specified width must be created or set aside under **section 606(3)**.

(3) A rule may provide—

(a) that esplanade reserves required under section 345(3) of the Local Government Act 1974 must be more or less than 20 metres wide:

(b) that section 345(3) of that Act does not apply.

(4) Rules made under this section—

(a) must provide for matters appropriate to the circumstances of the region or district where the rule is to apply; and

(b) may apply generally, in a particular locality, or in particular circumstances.

Compare: 1991 No 69 s 77

Limitations applying to certain rules

124 Limitations applying to ~~making of~~ rules relating to ~~water and~~ coastal marine area and coastal water

Rules relating to coastal marine area and coastal waters

(1) A plan rule that applies to the coastal marine area must not identify any of the following as permitted activities to which **section 23** applies:

(a) the dumping of waste or other matter from a ship, an aircraft, or an offshore installation in the coastal marine area:

(b) the dumping of a ship, aircraft, or installation in the coastal marine area:

(c) the incineration of waste or other matter in a marine incineration facility in the coastal marine area

(2) Subject to **subsection (1)**, **subsection (7)** and **section 118(3)** apply to rules included in a plan about the dumping of waste or other matter as if a reference to a discharge of a contaminant ~~includes~~ included a reference to the dumping of waste or other matter.

~~(3) A plan rule must not identify as a permitted activity in a coastal marine area,~~

~~(a) any commercial aquaculture that will occupy a space that is not currently the subject of a coastal permit authorising aquaculture activities:~~

~~(b) any aquaculture activity that will occupy a space that is not the currently the subject of a coastal permit authorising an aquaculture activity unless the space is subject to an aquaculture zone decision.~~

(3) Plan rules must not provide for aquaculture activities as permitted activities in the coastal marine area if the activity would occupy space that is not the subject of a coastal permit authorising aquaculture activities at the time when the plan is being developed.

Rules relating to water quality

(4) **Schedule 9** applies for the purpose of managing the quality of coastal waters.

(4A) **Subsections (4B) to (4D)** apply if a regional planning committee—

(a) provides in a plan that certain waters must be managed for any purpose described in respect of any of the classes of water specified in **Schedule 9**; and

(b) includes rules in the plan about the quality of water in those waters.

(4B) The rules must provide that the standards specified in **Schedule 9** are mandatory for the appropriate class of waters in the coastal marine area.

(4C) However, if a regional planning committee considers that the standards are not adequate or appropriate to those waters, the rules may state standards that are more stringent or specific.

(4D) If a regional planning committee provides in a plan that certain waters in the coastal marine area are to be managed for a purpose for which the classes specified in **Schedule 9** are not adequate or appropriate, the committee may state new classes and standards for the quality of those waters in the plan.

~~*Rules relating to water quality*~~

~~(5) **Subsection (6)** applies if a plan includes a rule relating to any of the following:~~

~~(a) maximum or minimum levels, flows, or rates of use of water:~~

~~(b) minimum standards of water quality or air quality:~~

~~(c) ranges of temperature or pressure of geothermal water.~~

~~(6) If a plan includes a rule described in **subsection (5)**, the plan may also state—~~

~~(a) whether the rule affects existing resource consents for activities that contravene the rule:~~

~~(b) that the holder of a resource consent may comply with the terms of the rule in stages or over specified periods of time.~~

(7) Standards must not be set that would, or may, result in a reduction in the quality of ~~the~~ coastal water at the time when a proposed plan is notified, unless it is ~~consistent~~ in accordance with the purpose of this Act to do so.

(8) **Subsection (7)** is subject to the need to allow for reasonable mixing of a discharged contaminant or water in the coastal marine area (*see* **section ~~279(4)~~ 229(4)**).

Rules relating to fisheries resources in coastal marine area

~~(9) Despite **section 105(1)(f)**, in relation to the functions exercised by a regional council or unitary authority under **section 644(b)(i), (ii), and (viii)**, a plan must not include rules that place controls on taking, allocating, or enhancing fisheries resources in the coastal marine area for the purposes of managing fishing or fisheries resources controlled under the Fisheries Act 1996.~~

(9) Despite **section 105(1)(e)** but subject to **subsection (10)**, a plan must not includes rules that control taking, allocating, or enhancing fisheries resources in the coastal marine area for the purpose of managing fishing or fisheries resources controlled by or under the Fisheries Act 1996.

(10) Despite **section 105(1)(e)**, a plan must not include discretionary, anticipated, or permitted activity rules for fishing controlled by or under the Fisheries Act 1996.

Compare: 1991 No 69 ss 68(4), (7)~~, (8), (9),~~ (10), 68A(1),~~ 69(3)~~ 69(1), (2)

124A Rules relating to water and air

(1) **Subsection (2)** applies if a plan includes a rule relating to any of the following:

(a) maximum or minimum levels, flows, or rates of use of water:

(b) minimum standards of water quality or air quality:

(c) ranges of temperature or pressure of geothermal water.

(2) If a plan includes a rule described in **subsection (1)**, the plan may also state—

(a) whether the rule affects existing resource consents for activities that contravene the rule or requires new conditions (*see* **section 279**):

(b) that the holder of a resource consent may comply with the terms of the rule in stages or over specified periods of time.

~~125~~ ~~Limitations applying to making rules relating to tree protection~~

~~(1) Subject to direction by the national planning framework, a plan may identify and protect any individual tree or group of trees in a specified location set out in a schedule to the plan if the location or value of the tree justifies its protection, so long as,~~

~~(a) in the case of an individual tree, the tree is described and the allotment identified by address or legal description or both; or~~

~~(b) in the case of a group of trees, the group is described and the allotment identified by street address or legal description or both.~~

~~(2) Unless directed to do so by the national planning framework, a plan must not impose tree protection provisions where trees are identified only by species, height, or girth but in undefined areas, regardless of their location or value.~~

~~(3) In this section, **group of trees** means 2 or more trees in a cluster, grove, or line on a single allotment or adjoining allotments.~~

Allocation methods

126 Rules relating to allocation methods for certain resources

(1) A plan must include rules that require 1 or more allocation methods to be used for the following ~~resources~~ (to the extent they are available in the region):

(a) the taking, diverting, or use of freshwater:

(b) the capacity of freshwater to assimilate a discharge of ~~a contaminant~~ nitrogen:

(c) a resource specified in the national planning framework as a resource for which an allocation method must be used.

~~(2) A regional planning committee must, when developing rules under **subsection (1)**,~~

~~(a) ensure that the rules are consistent with any direction or definition in the national planning framework; and~~

~~(b) have regard to the resource allocation principles and any directions on their application set out in the national planning framework.~~

(2) A regional planning committee must, when developing rules under **subsection (1)** must have regard to the resource allocation principles and any directions on their application set out in the national planning framework.

(3) A plan may include rules that require 1 or more allocation methods to be used for any of the following ~~resources~~:

(a) the taking, diverting, or use of ~~geothermal water:~~

(i) geothermal water; or

(ii) coastal water (other than open coastal water):

(b) the taking or use of heat or energy from water ~~(other than open coastal water)~~:

~~(c) the taking or use of heat or energy from open coastal water:~~

(d) the capacity of air to assimilate a discharge of a contaminant (other than greenhouse gases):

(e) the capacity of coastal and geothermal water (including estuaries) to assimilate a discharge of a contaminant:

(f) the taking or use of heat or energy from the material surrounding geothermal water:

(fa) the capacity of freshwater to assimilate discharge of any contaminant other than nitrogen:

(g) a resource specified in the national planning framework as a resource for which an allocation method may be used.

(4) ~~A~~ The following applies to the regional planning committee must, when developing rules under **subsection (3)**, subject to any direction of the national planning framework:~~—~~

~~(a) ensure that the rules are consistent with any direction or definition in the national planning framework; and~~

~~(b) unless directed by the national planning framework, specify the standard consenting process as the allocation method for a resource or if the requirements of **subsection (5)** are met, specify an alternative allocation method for the resource.~~

(a) if the regional planning committee does not specify an allocation method for a resource, the standard consenting process is the allocation method for the resource:

(b) when considering the comparative consenting process or a market-based allocation method as an allocation method for a resource, the regional planning committee must have particular regard to the resource allocation principles.

~~(5) If a regional planning committee develops rules under **subsection (3)** that provide an alternative allocation method for a resource, the committee must —~~

~~(a) ensure that the rules are consistent with any direction or definition in the national planning framework; and~~

~~(b) have regard to the resource allocation principles and any directions on their application set out in the national planning framework.~~

(5) A rule made under **subsection (1) or (3)** that provides for the allocation of resources is subject to the following:

(a) the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and

(b) nothing in **paragraph (a)** affects **section 124(5) and (6)**; and

(c) the rule may allocate the resource in anticipation of the expiry of existing consents; and

(d) in allocating the resource in anticipation of the expiry of existing consents, the rule may—

(i) allocate all of the resource used for an activity to the same type of activity; or

(ii) allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and

(e) the rule may allocate the resource among competing types of activities; and

(f) the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by **section 21(4)(a) to (3)**.

127 Rules may specify applications to be dealt with under process for ~~affected application~~ comparative consenting process

~~(1) This section provides for rules that permit a process (**affected application consenting process**) for determining an affected application.~~

(1) This section applies only to resources that a plan permits or requires, in accordance with **section 126**, to be allocated through an allocation method specified in the plan.

(2) A plan may include rules that—

(a) specify the kind of resource consent application that must be processed, heard, and determined by a consent authority in accordance with the ~~affected application~~ comparative consenting process~~; and~~:

(b) specify the kind of resource consent application that must not be processed, heard, and determined by a consent authority in accordance with that process~~; and~~.

~~(c) require resource consent applications to be lodged within a specified time period:~~

~~(d) prohibit the lodging of resource consent applications outside the required time period.~~

128 How plan may require or permit use of market-based allocation method

(1) If the national planning framework is silent on the use of a market-based allocation method to determine the right to apply for a resource consent relating to the activities described in **section 88(1)**, a plan may, subject to **subsection (3)**,—

(a) permit or require the use of a market-based allocation method to determine the allocation of the right to apply for that resource consent~~; and~~:

(b) impose requirements relating to the use of the market-based allocation method and processes to be followed~~; and~~:

(c) require a person to hold a right to apply before lodging an application under a rule~~; and~~:

(d) contain rules that prohibit the lodging of applications for a resource consent by persons who do not hold a right to apply.

(2) A regional planning committee must have regard to the allocation principles before developing any provision for the purpose of **subsection (1)**.

(3) A market based allocation method must not be used to determine the allocation of a right to apply for a resource consent—

(a) for an activity ~~relating to a resource~~ that is not described in **section 88(1)**~~:~~; or

(b) for taking, diverting, or using freshwater.

(4) The prohibition in **subsection (3)(b)** applies also to any allocation method that uses or is modified by a market-based allocation method.

(5) To avoid doubt, **subsection (4)** does not affect the transfer of any resource consent under **Part 5**.

129 Rule may allow receipt of certain applications outside required time frame in certain circumstances

(1) A plan may include rules that enable a consent authority to—

(a) receive resource consent applications under the ~~affected~~ comparative application consenting process (under **subpart 7 of Part 5**) outside the required time period determined under ~~**section 306**~~ **clause 3 of Schedule 10A**:

~~(b) receive applications for a right to apply outside the time allowed under the national planning framework or a plan.~~

(b) receive resource consent applications before a local authority conducts a market based allocation method pursuant to a plan rule.

(2) A consent authority that receives an application under a rule described in **subsection (1)(a)** must hold the application without processing it until the next required time period determined under **clause 3 of Schedule 10A** ~~**section 306** or the next market-based allocation method to determine the allocation of the right to apply~~.

(2A) A consent authority that receives an application under a rule described in **subsection (1)(b)** must hold the application without processing it until the next market-based allocation method to determine the allocation of a right to apply for a resource consent.

(3) In this section, **required time period** means the time frame in which the application may be made as set out in the national planning framework or plan.

Legal effect of rules

130 When rules have legal effect

General rule that applies

(1) A rule in a proposed plan has legal effect only when a decision is made on submissions relating to the rule and publicly notified under **clause 62 or 127 of Schedule 7**.

(2) However, **subsection (1)** does not apply if—

(a) the rule is given immediate legal effect under any of the circumstances described in **subsection (4)**; or

(b) the Environment Court makes an order under **section 133** setting a different date for the rule to have legal effect; or

(c) the regional planning committee resolves that the rule has legal effect when the proposed plan becomes operative in accordance with **clause 41 of Schedule 7**.

(3) **Subsection (2)(c)** applies only if—

(a) the regional planning committee makes the decision before notifying the proposed plan under **clause 31 or 46 of Schedule 7**; and

(b) ~~that~~ the decision is included with the notification given of the plan; and

(c) the decision is not subsequently rescinded (in which case the rule has legal effect from a date determined in accordance with **section 132**).

Rules with immediate legal effect

(4) A rule in a proposed plan has immediate legal effect if the rule—

(a) protects, or relates to, water, air, or soil (for soil conservation):

(b) protects areas of significant indigenous vegetation:

(c) protects areas of significant habitats of indigenous animals:

(d) protects cultural heritage:

(da) protects significant individual, or groups of, trees that are expressly identified in the plan:

(e) provides for, or relates to, aquaculture activities~~.~~:

(f) identifies—

(i) a place of national importance:

(ii) a highly vulnerable biodiversity area.

(5) In this section,—

immediate legal effect means having legal effect on and from the date on which public notice of the proposed plan and rule is given under **clause ~~14 or~~ 31 or 46 of Schedule 7**

rescinded means, in respect of a decision, that public notice is given of a decision being rescinded, including a description of the decision and the date on which it was rescinded.

Compare: 1991 No 69 s 86B

131 Rules that have early or delayed legal effect

(1) A regional planning committee must identify any rules in a proposed plan that have legal effect from a date other than the date that would apply under **section 130(1)**.

(2) That information must be clearly identified—

(a) at the time the proposed plan is notified under **clause 31 or 46 of Schedule 7**; or

(b) as soon as practicable after the date is determined, if the rule is the subject of an application under **section 133** and the application is not determined before the proposed plan is notified.

(3) A rule that **subsection (1)** applies to—

(a) does not form part of the proposed plan; and

(b) may be removed from the proposed plan by the relevant regional planning committee without further authorisation than this subsection once the plan becomes operative in accordance with **clause 41 of Schedule 7**.

Compare: 1991 No 69 s 86E

132 When rule has legal effect if resolution to delay rescinded

(1) This section applies to a rule in respect of which ~~the~~ a relevant regional planning committee has made a resolution as described in **section 130(2)(c)**.

(2) The rule has legal effect from the later of—

(a) the day after the date on which the regional planning committee gives public notice that the resolution in relation to the rule is rescinded; and

(b) the day on which a decision on submissions relating to the rule is made and publicly notified under **clause 62 or 127 of Schedule 7**.

Compare: 1991 No 69 s 86C

133 Environment Court may provide for legal effect of rule

(1) A regional planning committee may apply to the Environment Court for an order that provides for a rule in a proposed plan to have legal effect from a date other than the date identified in the committee's decision publicly notified on the recommendations under **clause ~~14 or~~ 31 or 46 of Schedule 7**.

(2) An order, if granted, must specify the date from which the rule is to have legal effect, which must be not earlier than the~~ later of —~~ date of the court order.

~~(a) the date that the proposed plan is publicly notified; and~~

~~(b) the date of the court order.~~

(3) This section does not apply to a rule that **section 130(4)** (immediate legal effect) applies to.

Compare: 1991 No 69 s 86D

~~134 Rules with early or delayed legal effect must be identified~~

~~(1) A regional planning committee must identify any rules in a proposed plan that have legal effect from a date other than the date on which the decisions on recommendations relating to the rule is made and publicly notified (*see* **section 130(1)**).~~

~~(2) The identification of a rule under **subsection (1)** —~~

~~(a) does not form part of the proposed plan; and~~

~~(b) may be removed by the regional planning committee without further authority that this subsection once the plan becomes operative in accordance with **clause 41 of Schedule 7**.~~

~~Compare: 1991 No 69 s 86E~~

Operative effect of rules

135 When rules to be treated as operative

(1) A rule in a proposed plan must be treated as operative if the time for making submissions or lodging appeals on the rule has expired~~,~~ and~~ if~~ —

(a) no submissions opposing the rule have been made or appeals have been lodged; or

(b) all opposing submissions have been ~~determined or~~ withdrawn; or

(c) ~~all~~ any appeals have been determined, ~~or~~ withdrawn, or dismissed.

(2) A previous rule that is replaced is to be treated as no longer operative on and after the day on which the replacement rule takes legal effect.

Compare: 1991 No 69 s 86F

136 Rule does not include rule not operative or ~~having~~ without legal effect

Unless otherwise expressly provided by this Act, a reference to a rule in this Act or in regulations made under it does not include a reference to a rule that has not—

(a) ~~that has not~~ taken legal effect in accordance with **section 130**; or

(b) ~~has not~~ become operative under **section 135**.

Compare: 1991 No 69 s 86G

Subpart 4—Miscellaneous matters relevant to the making and implementation of plans

Protected customary rights

137 Rules adversely affecting protected customary rights ~~holders~~ groups

(1) A plan must not contain a rule that describes an activity as permitted if the activity ~~would, or would be~~ will or is likely to, have a more than minor adverse effect on the exercise of a protected customary right ~~granted under the Marine and Coastal Area (Takutai Moana) Act 2011~~.

(2) If a protected customary rights group considers that a plan rule does not comply with **subsection (1)**, the ~~holder~~ group may—

(a) make a submission to the relevant ~~local authority~~ regional planning committee under **clause 34 of Schedule 7**; or

(b) request a change under **~~clause 4~~ 69 of Schedule 7**; or

(c) apply to the Environment Court under **clause 49 of Schedule 13** for a change to the rule.

(3) In determining whether the rule in question complies with **subsection (1)**, the ~~local authority~~ regional planning committee or the court, as the case may be, must consider the following matters:

(a) the effects of the proposed activity on the exercise of the protected customary right; and

(b) the area that the proposed activity would have in common with the area to which the protected customary right applies; and

(c) the degree to which the proposed activity must be carried out to the exclusion of other activities; and

(d) the degree to which the exercise of the protected customary right must be carried out to the exclusion of other activities; and

(e) whether the protected customary right can be exercised only in a particular area.

Compare: 1991 No 69 ss 85A, 85B

138 Rules relating to wāhi tapu conditions

(1) A rule must not describe an activity as permitted if the activity would, or would be likely to, be contrary to any wāhi tapu conditions in a customary marine title order or customary marine title agreement.

(2) A rule that describes an activity in the common coastal marine area as permitted must—

(a) require compliance with any wāhi tapu conditions in a customary marine title order or agreement that comes into effect after the rule is made operative; and

(b) contain standards for measuring compliance with those conditions.

Controls over land

139 Land subject to controls

(1) An interest in land must be treated as not being taken or injuriously affected because of a provision in a plan, unless the contrary is expressly provided for in this Act.

(2) If a person with an interest in land considers that a provision in a plan or proposed plan applying to that person's interest makes, or would make, the interest in the land incapable of reasonable use, that person may challenge the provision or proposed provision.

(3) The person may do so by—

(a) making a submission under **Schedule 7** in respect of the provision or proposed provision; or

(b) applying directly to the Environment Court to change the plan under **clause 69 of Schedule 7**, instead of applying to the local authority.

(4) A reference in this section and **section 140** to a provision in a plan or proposed plan does not include a designation, a heritage protection order, or a requirement for a designation or heritage protection order.

(5) In this section and **section 140**, **reasonable use**, in relation to land, includes the use or potential use of the land for any activity if the actual or potential effects of the activity ~~would not be significant~~ on the natural and built environment or on any person other than the applicant would not be significant.

Compare: 1991 No 69 s 85(1), (2), (6)

140 Jurisdiction of Environment Court over land subject to controls

(1) This section applies if—

(a) an application is made to the Environment Court to change a plan under **clause 69 of Schedule 7**:

(b) an appeal is made to that court concerning a provision in a proposed plan or a change to a plan.

(2) The grounds that ~~must be satisfied by~~ the applicant or appellant must satisfy are that the provision or proposed provision of a plan—

(a) makes the relevant land incapable of reasonable use; and

(b) places an unfair and unreasonable burden on any person with an interest in that land.

~~(3) In determining whether the grounds set out in **subsection (2)** are met, the court may assess and take into account the risks or future risks (if any) identified as relevant to the land in question.~~

(3) In determining whether the grounds set out in **subsection (2)** are satisfied, the court may assess and take into account the risk (if any) identified as relevant to the land in question, including the likelihood of the risk increasing over time.

(4) **Section 141** applies if the court is satisfied that the grounds in **subsection (2)**, as assessed under **subsection (3)** (if relevant), are met.

Compare: 1991 No 69 ss 85(3), (3B),

141 Court's determination

~~(1) In determining an application provided for in **section 140(1)**, the Environment Court may direct the relevant regional planning committee to do whichever of the following the committee considers appropriate:~~

~~(a) modify, delete, or replace the provision in the plan or proposed plan in the manner that the court directs; or~~

~~(b) notify the relevant local authority that it is required to offer to acquire all or part of the estate or interest in the land under the Public Works Act 1981, as long as —~~

~~(i) the person with the estate or interest agrees to that course of action; and~~

~~(ii) the requirements of **subsection (3)** are met.~~

(1) In determining an application or an appeal referred to in **section 140(1)**, the Environment Court may direct the relevant regional planning committee—

(a) to modify, delete, or replace the provision in the plan or proposed plan in the manner that the court directs; or

(b) to notify the relevant local authority that it is required to offer to acquire all or part of the estate or interest in the land under the Public Works Act 1981, as long as doing so would not breach **subsection (3)**.

(1A) The regional planning committee must notify the relevant local authority when it receives direction from the court under **subsection (1)**.

(2) Before the court gives a direction ~~or report~~ under **subsection (1)**, it must have regard to **Part 2**, including the effect of **section 17(2)** (~~use of~~ restrictions relating to land) and **section 139(1)** (land subject to controls).

(3) The court must not give a direction under **subsection (1)(b)** unless ~~the person with the estate or interest in the land concerned or part of it (or that person's spouse, civil union partner, or de facto partner)~~ —

(a) the person with the estate or interest in the land concerned or part of it (or that person's spouse, civil union partner, or de facto partner) 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 included in the relevant plan or proposed plan; and

(b) the provision or proposed provision remained in substantially the same form.

(4) If an offer to acquire the relevant estate or interest in the land or part of it ~~is made under **subsection (1)(b)**~~

(a) is accepted, the local authority is responsible for implementing the acquisition under the Public Works Act 1981, including meeting the costs of the acquisition:

(b) is not accepted, the ~~provisions~~ provision in the plan remains in force unaffected or, if not already in force, comes into force without modification.

(5) A direction given under **subsection (1)** has effect as if it were given under **clause 136 of Schedule 7**.

(6) This section does not limit the powers of the Environment Court.

Compare: 1991 No 69 s 85(3A), (3D), (4), (5)

142 Power to acquire land

(1) A local authority may, by agreement made under the Public Works Act 1981, acquire land or an interest in land in its region or district if, under the operative plan, the local authority considers that the acquisition is necessary or ~~necessary~~ expedient for 1 or both of the following purposes:

(a) to terminate or prevent a prohibited activity in relation to the land:

(b) to facilitate activity in relation to the land that is in accordance with the outcomes and policies specified in the plan.

(2) A plan must not oblige a local authority to acquire land, except as provided in **section 141(1)(b) or 524**.

(3) A person whose estate or interest in land is taken for a purpose authorised by **subsection (1)** is entitled to the compensation that the person would have been entitled to if the land had been acquired for a public work under the Public Works Act 1981.

Compare: 1991 No 69 ~~ss 85A, 85B~~ s 86

143 Boundary adjustments

(1) If the boundaries of a region or of a district are changed so that any part of the region or district ~~comes within the jurisdiction of~~ is administered by a different local authority,—

(a) the plan or proposed plan that applied in the area before the change to the boundaries continues to apply to the area and is to be treated as part of the plan or proposed plan of the different local authority; and

(b) any activity that was, before the change, undertaken under **section 135**, may be continued as if the change to the boundaries had not taken place.

(2) If the boundaries of a district are changed to include, within the district, an area that was not previously within the boundaries of another district, the land must not be used—

(a) unless the use is expressly allowed by a resource consent; or

(b) until the plan provides that the land may be used as proposed.

(3) If the boundaries of a district are changed, the relevant territorial authority must, as soon as practicable (but not later than 2 years after the change comes into effect), request the relevant planning committee to change the plan as the committee considers necessary, and to apply the plan to the area that ~~has come within the jurisdiction of~~ is administered by that territorial authority.

Compare: 1991 No 69 ~~ss 85A, 85B~~ s 81

Obligations on local authorities

144 Plan ~~or proposed plan~~ must be updated to reflect changes to aquaculture settlement area

If a notice issued under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 declares space in the coastal marine area to be an aquaculture settlement area or adds or removes space from an aquaculture settlement area, a regional planning committee must—

(a) amend any aquaculture settlement area shown on the plan ~~or proposed plan map~~ to reflect any new aquaculture settlement areas, or changes to existing areas, made by the notice; and

(b) make the amendment as soon as practicable after the notice is issued; and

(c) make the amendment without using the process set out in **Schedule 7**.

145 Presumption of validity

If a ~~local authority~~ regional planning committee claims that a plan is operative, the plan—

(a) must be treated as having been prepared and approved in accordance with **Schedule 7**; and

(b) must not be challenged except by an application for an enforcement order under **section ~~207(3)~~ 702(2)**.

Compare: 1991 No 69 ~~ss 85A, 85B~~ s 83

146 Duty of local ~~authorities~~ authority to observe ~~own~~ plans

(1) While a plan is operative in a region or district, the ~~responsible~~ local authority responsible for its implementation must comply with and, to the extent of its authority, enforce compliance with~~:~~ the plan.

(2) A resource consent purporting to be granted under a plan, or a purported waiver from a plan, has no effect if it does not comply with **subsection (1)**, unless that non-compliance is authorised by or under this Act.

Compare: 1991 No 69 s 84

Subpart 5—Trade competition

Trade competition not relevant consideration under this Act

147 Interpretation

In **sections 148 to 151**,—

person A means a person who is a trade competitor of person B

person B means a person in respect of whom person A is a trade competitor

person C means a person who has knowingly received, is knowingly receiving, or may knowingly receive~~,~~ direct or indirect help from person A—

(a) to bring an appeal or be a party to an appeal against a decision under this Act in favour of person B:

(b) to be a party to a proceeding before the Environment Court that was lodged by person B under any of the provisions listed in **section 150(2)**.

Compare: 1991 No 69 s 308A

148 Restrictions on making submissions

~~(1) Person A may make a submission under **section 209** about an application by person B, but only if person A is directly affected by an effect of the proposed activity that—~~

~~(a) adversely affects the environment; and~~

~~(b) does not relate to trade competition or the effects of trade competition.~~

(1) Person A may make a submission about an application by person B if an effect of the proposed activity—

(a) directly affects person A; and

(b) adversely affects the environment; and

(c) does not relate to trade competition or the effects of trade competition.

(2) This subpart is contravened if the limits set for submissions in~~ **section 344** **clause 57 of Schedule 10A** (~~that~~ which relates to proposals of national significance) or in **Schedule 7** are breached.

Compare: 1991 No 69 s 308B~~(1), (2), (3)~~

149 Restrictions on representation at appeals

(1) **Subsection (2)** applies if person A wants to be a party under **clauses 53 and 54 of Schedule 13** to an appeal to the Environment Court against a decision under this Act in favour of person B.

(2) The ground for person A's appeal is that person A has an interest in the proceedings greater than the interest that the general public has.

(3) Person A may be a party to the appeal, but only if directly affected by an effect of the proposed activity that—

(a) also adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

Compare: 1991 No 69 s 308C

150 Restrictions on representation as party

(1) This section applies if person A wants to be a party—

(a) ~~if person A wants to be a party~~ under **clauses 53 and 54 of Schedule 13** to a proceeding under a provision listed in **subsection (2)**; and

(b) on the ground that person A has an interest in the proceedings greater than that of the general public.

(2) The proceedings referred to in **subsection (1)** may be under any of the following provisions:

(a) **section 170**, which relates to the stream-lining process for determining applications (Environment Court determines applications):

~~(b) **section 358**, which relates to the BOI process):~~

(b) **clause 71 of Schedule 10A** (Matter referred to Environment Court):

(c) **section 469(10)(a)(ii)**, which relates to combined ~~hearing~~ hearings on applications for coastal permits:

(d) **sections 532 and 538**, which relate to the ~~stream-lining~~ Environment Court process for determining designations ~~and heritage protection orders~~.

(3) Person A may be a party to the proceeding~~, but only if directly affected by~~ if an effect of the proposed activity that—

(aaa) directly affects person A; and

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

Compare: 1991 No 69 s 308CA

151 Further prohibitions

When appealing, etc, prohibited

(1) Person A must not bring an appeal, be a party to an appeal, or become a party to a proceeding referred to in **section 150(2)** for the purpose of—

(a) protecting person A from trade competition:

(b) preventing or deterring person B from engaging in trade competition.

Using surrogate prohibited

(2) Person A must not, for the purposes of **subsection (1)**, directly or indirectly help person C (a surrogate)—

(a) bring an appeal, or be a party to an appeal, against a decision under this Act in favour of person B; or

(b) be a party to a proceeding in the Environment Court that was lodged by person B under any of the provisions referred to in **section 835(2)**.

Surrogate must disclose status

(3) Person C (a surrogate) must tell the court if—

(a) person C appears before the court—

(i) as the appellant, or as a party to an appeal against a decision under this Act in favour of person B; or

(ii) as a party to a proceeding before the Environment Court lodged by person B under any of the provisions referred to in **section 835(2)**; and

(b) person C has knowingly received, is knowingly receiving, or may knowingly receive direct or indirect help from person A, for any of the purposes listed in **subsection (1)**,—

(i) to bring the appeal; or

(ii) to be a party to the appeal; or

(iii) to be a party to the proceeding.

Compare: 1991 No 69 ss 308D, 308E, 308F

Part 5
Resource consenting and proposals of national significance

Subpart 1—Preliminary provisions

152AAA Consenting processes and proposals of national significance

(1) In addition to the standard consenting process set out in this Part, the other consenting processes that this Act provides for are:

(a) the comparative consenting process set out in **Part 1 of Schedule 10A**; and

(b) the fast track consenting process set out in **Part 2 of Schedule 10A**.

(2) Provisions relating to proposals of national significance are set out in **Parts 3 to 5 of Schedule 10A** and apply to any of the following matters:

(a) an application for a resource consent or an application to change or cancel its conditions:

(b) a notice of requirement for a designation or to alter a designation:

(c) a proposed change to a plan or a variation to a proposed plan.

(3) By way of explanation, **Parts 3 to 5 of Schedule 10A** set out processes and criteria by which the Minister (on their own initiative or on request by an applicant) may—

(a) call in a matter that is or is part of a proposal of national significance; and

(b) refer that matter to a board of inquiry or the Environment Court for decision.

152 Types of resource consents

In this Act, **resource consent** means any of the following consents or permits:

(a) a **land use consent**, which is a consent to do something that otherwise would contravene **section 17 or 20**:

(b) a **subdivision consent**, which is a consent to do something that otherwise would contravene **section 18**:

(c) a **coastal permit**, which is a consent to do something in a coastal marine area that otherwise would contravene any of **sections 19, ~~20,~~ 21, 22, 23, and 24**:

(d) a **water permit**, which is a consent to do something (other than in a coastal marine area) that otherwise would contravene **section 21**:

(e) a **discharge permit**, which is a consent to do something (other than in a coastal marine area) that otherwise would contravene **section 22**.

Compare: 1991 No 69 s 87

152A Activity category of resource consent

(1) The national planning framework or a plan may specify activity categories for resource consent activities.

(2) A description of those activity categories (permitted, anticipated, discretionary, and prohibited) is set out in **section 75AAA**.

(3) **Sections 75AAA to 75AAD** provide for how decisions about activity categories must be made in the national planning framework or a plan.

(4) This section is by way of explanation only.

~~153 How activities are categorised~~

~~(1) In this Act, activities are categorised as follows:~~

	~~Category~~	~~Description of activities~~
~~1~~	~~Permitted~~	~~Activities that do not require a resource consent but may be subject to other requirements.~~
~~2~~	~~Controlled~~	~~Activities that require a resource consent, which the consent authority may grant (with or without conditions) or decline only in accordance with the relevant provisions of the national planning framework or plan (whichever applies) and the limited discretion conferred by those provisions.~~

	Category	Description of activities
3	Discretionary	Activities that require a resource consent, which the consent authority may grant (with or without conditions) or decline in accordance with the relevant provisions of the national planning framework or plan (whichever applies).
4	Prohibited	No person is entitled to apply for a resource consent for the activity and no consent authority has power to grant a consent for the activity.

(2) The description of activities in column (2) of **subsection (1)** is only a guide to the general effect of **sections 154, 157, and 158**.

Compare: 1991 No 69 s 87A

154 How to decide which activity category applies

(1) A regional planning committee (in the case of a plan) or the Minister (in the case of the national planning framework) must decide which category listed in **section 153** applies to an activity in accordance with this section.

(2) An activity is a **permitted activity** if—

(a) the activity meets the relevant outcomes; and

(b) the positive and adverse effects of the activity are known; and

(c) those effects can be managed through requirements, standards, and other criteria specified in the national planning framework or a plan rule.

(3) An activity is a **permitted** activity if **section 156 or 157** applies.

(4) An activity is a **prohibited** activity if—

(a) it would breach a limit specified in the national planning framework or a plan (either taken in isolation or, if allowed to be carried out in addition to consented activities that have existing use rights or are permitted); or

(b) it would not contribute to the relevant outcomes.

(5) An activity is a **controlled** activity if—

(a) the activity meets the relevant outcomes; and

(b) the positive and adverse effects of the activity, are generally known, but the extent of those effects may vary on a case-by-case basis.

(6) An activity is a **discretionary** activity if—

(a) it is unclear or unknown whether the activity will breach a limit, not achieve targets or not contribute to the relevant outcomes; or

(b) it is likely to breach a limit, not achieve targets, or not contribute to the relevant outcomes.

155 Consideration to be given to statutory acknowledgements

When a regional planning committee (in the case of a plan) or the Minister (in the case of the national planning framework) is considering the appropriate activity category for an activity, they must have regard to any statutory acknowledgement—

~~(a) applying to, or adjacent to, the area or part of the area where the proposed activity is to be carried out: or~~

~~(b) that may otherwise affect the statutory area.~~

~~**156 Activities may be permitted with or without requirements**~~

~~(1) The national planning framework or a plan may provide that an activity is a permitted activity subject to compliance with conditions or requirements specified in the national planning framework or plan.~~

~~(2) The national planning framework or a plan may direct an applicant to apply for a permitted activity notice under **section 302**.~~

~~(3) Conditions or requirements may include (without limitation) —~~

~~(a) monitoring the activity for compliance with standards prescribed in the national planning framework or plan:~~

~~(b) certification by a qualified or certified person:~~

~~(c) requiring that the activity be undertaken in accordance with a report or management plan prepared by a qualified person:~~

~~(d) requiring work to be done by a qualified or certified person:~~

~~(e) requiring a report or assessment prepared by an iwi within an area identified as having significant value to Māori:~~

~~(f) requiring persons or groups to give written approval:~~

~~(g) requiring an environmental contribution to be made.~~

157 Consent authority may permit activity by waiving compliance with certain requirements, conditions, or permissions

(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, the national planning framework, or a 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 written approval from persons from whom the plan or the national planning framework requires approval to be obtained, has been obtained; and

(d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity that the consent authority has waived the non-compliance and decided 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.

(2A) A consent authority may, for the purpose of **subsection (1)(d)**, consider a compliance and enforcement strategy published under **section 30U**.

(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.

Compare: 1991 No 69 s 87BB

158 Activities that must be treated as discretionary activities ~~or prohibited activities~~

(1) An application for a resource consent for an activity must be treated as an application for a discretionary activity if—

(a) **Part 2** requires a resource consent to be obtained for the activity and there is no plan, or no relevant rule in a plan; or

(b) a plan requires a resource consent to be obtained for the activity~~;~~ but does not describe the activity as a permitted,~~ controlled,~~ anticipated or discretionary activity~~, or prohibited activity~~; or

(c) a rule in a proposed plan describes the activity as a prohibited activity and the rule has not become operative.

~~(2) An application for a resource consent for any of The following activities must be treated as an application for a prohibited activity:~~

~~(a) prospecting, exploring, or mining for Crown owned minerals in the internal waters of the Coromandel Peninsula:~~

~~(b) mining of which the main purpose is to mine mercury.~~

~~(3) **Subsection (2)(a)** does not apply to prospecting, exploring, or mining activities set out in section 61(1A) of the Crown Minerals Act 1991.~~

Compare: 1991 No 69 s 87B

158A Specified prohibited activities

(1) The following activities are prohibited activities:

(a) prospecting, exploring, or mining for Crown owned minerals in the internal waters of the Coromandel Peninsula:

(b) mining of which the main purpose is to mine mercury.

(2) **Subsection (1)(a)** does not apply to prospecting, exploring, or mining activities set out in section 61(1A) of the Crown Minerals Act 1991.

Compare: 1991 No 69 s 87B

159 Description of type of activity to remain the same

(1) **Subsection (2)** applies if—

(a) an application for a resource consent has been made under **section 173 or ~~334~~ clause 47 of Schedule 10A**; and

(b) the category of activity (being ~~controlled~~ anticipated or discretionary) for which the application was made, or that the application was treated as being made under **section 158**, is altered after the application was first lodged.

(2) The application continues to be processed, considered, and decided as an application for the category of activity that it was for, or was treated as being for, at the time the application was first lodged.

(3) Despite **subsection (1)**, any plan or proposed plan ~~which~~ that exists when the application is considered must be had regard to in accordance with **section 223(2)(c)**.

Subpart 2—Right to apply for resource consent relating to certain resources

160 When this subpart applies

(1) This subpart applies if a right to apply for a resource consent to undertake an activity relating to a resource described in **section 88(1)** is issued to a person ~~by a consent authority through a market-based allocation method as required or permitted by the national planning framework or a plan.~~

(a) by a consent authority through a market-based allocation method as required or permitted by the national planning framework or a plan; or

(b) by the Minister responsible for aquaculture, in accordance with this Act (other than **Part 7**).

(2) In this subpart,—

a **right to apply** means an exclusive right to apply for a resource consent to undertake an activity relating to a resource described in **section 88(1)**

relevant resource consent means the resource consent to which the right to apply relates.

161 Right to apply may be transferred

(1) A right to apply may be transferred by its holder to any other person.

(2) A transfer of a right to apply does not take effect until written notice of it has been given to and received by the appropriate regional council or unitary authority.

162 Right to apply lapses in certain circumstances

(1) A right to apply lapses on the close of 2 years after it is issued (the **2-year date**) unless—

(a) the holder of the right has within that period obtained a relevant resource consent, in which case the right to apply lapses when the consent is issued; or

(b) the situation described in **subsection (2)** has occurred, in which case, the right to apply lapses when the time for lodging an appeal has expired or the decision of the court in respect of any appeal has been given (as the case may be).

(2) The situation referred to in **subsection (1)(b)** is as follows:

(a) the holder of the right has lodged an application for a relevant resource consent with the consent authority before the 2-year date; and

(b) on the 2-year date,—

(i) no decision has been made by the consent authority; or

(ii) the consent authority has made a decision but the time for lodging appeals to the Environment Court has not expired; or

(iii) an appeal has been lodged but no decision has been made by the court on that appeal.

Compare: 1991 No 69 s 164

Subpart 3—Application for resource consent

~~**163 Prior consultation not needed**~~

~~(1) Neither the applicant nor the consent authority need consult any person about an application for a resource consent unless the national planning framework, the relevant plan, or another Act otherwise requires.~~

~~(2) To avoid doubt, **section 6(3)** is subject to **subsection (1)**.~~

163 Prior consultation not needed

The following applies to an applicant for a resource consent and the consent authority unless the national planning framework, the relevant plan, or another Act otherwise requires:

(a) neither has a duty under this Act to consult any person about the application; and

(b) each must comply with a duty under any other enactment to consult any person about the application; and

(c) each may consult any person about the application.

~~**164 Recovery of costs incurred in consultation and engagement**~~

~~(1) A person who applies for or holds a resource consent is liable to pay the consent engagement costs as determined in accordance with—~~

~~(a) regulations made under **clause 41 of Schedule 8** (if any); or~~

~~(b) a schedule of costs agreed between the consent authority, iwi, and hapū (if regulations do not prescribe how the costs are to be determined).~~

~~(2) The consent authority may recover those consent engagement costs on behalf of, and pay them to, the relevant Māori parties that have incurred the costs (plus any reasonable administration costs of the consent authority).~~

164 Consent engagement costs

(1) A person who applies for or holds a resource consent is liable to pay consent engagement costs.

(2) The person must pay consent engagement costs in accordance with—

(a) any requirements made under **sections 821 to 824** and regulations made under **section 855**; and

(b) any collection agreement made under **subsection (3)**.

(3) A consent authority and an iwi authority or group representing hapū may agree on how consent engagement costs are to be collected—

(a) after consulting with the applicant for or holder of the resource consent; and

(b) in accordance with any requirements in regulations made under **section 855**.

(4) In this section, **consent engagement costs**—

(a) means any costs fixed under **sections 821 to 824**—

(i) in accordance with any regulations made under **section 855**; and

(ii) that relate to engagement under this Act by or on behalf of an iwi authority or group representing hapū; and

(b) includes any costs fixed or payable under regulations made under **section 855** that relate to a matter described in **paragraph (a)**; and

(c) includes any reasonable administration costs incurred by an iwi authority or group representing hapū and a consent authority.

Direct referral to Environment Court

165 Sections 166 to 172 apply to resource consent applications

(1) **Sections 166 to 172** apply when an applicant wants~~~~ one of the following applications to be determined by the Environment Court instead of by a consent authority:

(a) an application for a resource consent that has been notified:

(b) an application to change or cancel a condition of a resource consent that has been notified.

(2) If the application is called in under~~section 329~~ **clause 42 of Schedule 10A**, **sections 166 to 172** cease to apply to it.

Compare: 1991 No 69 s 87C

166 Request for application to go directly to Environment Court

(1) The applicant must request the relevant consent authority to allow the application to be determined by the Environment Court instead of by the consent authority.

(2) The applicant must make the request in the period—

(a) starting on the day on which the application is made; and

(b) ending 5 working days after the date on which the period for submissions on the application closes.

(3) The applicant must make the request electronically or in writing on the prescribed form.

Compare: 1991 No 69 s 87D

167 Consent authority to return request in certain circumstances

(1) If the consent authority determines under **section 174** that the application is incomplete, it must return the request with the application without making a decision on the request.

(2) **Section 174** applies to the application returned under **subsection (1)**.

(3) If the consent authority receives the request after it has determined that the application will not be notified, it must return the request.

(4) If the consent authority decides not to notify the application, it must return the request.

(5) If the consent authority returns the request, it must give the applicant its reasons, in writing or electronically, at the same time as it gives the applicant its decision.

Compare: 1991 No 69 s 87E(1), (2), (4), (8)

168 Consent authority's decision on request

(1) If the consent authority receives the request before it has determined whether the application will be notified, it must defer its decision on the request until after it has decided whether to notify the application and then apply either **section 167(4)** or **subsection (2)**.

(2) If the consent authority decides to notify the application, it must give the applicant its decision on the request within 15 working days after the date of the decision on notification.

(3) In any other case, the consent authority must give the applicant its decision on the request within 15 working days after receiving the request.

(4) If regulations have been made under **section 858(1)(g)**,—

(a) the consent authority must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

(b) that obligation to grant the request does not apply if the consent authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.

(5) The consent authority must assess the request against the following criteria:

(a) the scale, significance, and complexity of the proposed activity:

(b) whether there is any particular need for urgency:

(c) whether participation by the public would be materially inhibited if the request were granted:

(d) any other relevant matter.

(6) No submitter has a right to be heard by the consent authority on a request.

(7) If the consent authority declines the request, it must give the applicant its reasons, in writing or electronically, at the same time as it gives the applicant its decision.

(8) If the consent authority declines the request, the applicant may object to the consent authority under **section 829(1)(c)**.

Compare: 1991 No 69 s 87E(3), (5)–(9)

169 Consent authority's subsequent processing

(1) If the consent authority does not grant the applicant's request under **section 166**, the consent authority must continue to process the application.

(2) If the consent authority grants the applicant's request under **section 166**, the consent authority must continue to process the application and must comply with **subsections (3) to (7)**.

(3) The consent authority must prepare a report on the application within the longer of the following periods:

(a) the period that ends 20 working days after the date on which the period for submissions on the application closes:

(b) the period that ends 20 working days after the date on which the authority decides to grant the request.

(4) In the report, the consent authority must—

(a) address issues that are set out in **sections 223 to 240** to the extent that they are relevant to the application; and

(b) suggest conditions that it considers should be imposed if the Environment Court grants the application; and

(c) provide a summary of submissions received.

(5) As soon as is reasonably practicable after the report is prepared, the consent authority must provide a copy to—

(a) the applicant; and

(b) every person who made a submission on the application.

(6) The consent authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority's report.

(7) In providing that assistance, the consent authority—

(a) is a party to the proceedings; and

(b) must be available to attend hearings to—

(i) discuss or clarify any matter in its report:

(ii) give evidence about its report:

(iii) discuss submissions received and address issues raised by the submissions:

(iv) provide any other relevant information requested by the court.

Compare: 1991 No 69 s 87F

170 Environment Court determines application

(1) **Subsection (2)** applies to an applicant who—

(a) receives a report provided under **section 169(5)**; and

(b) continues to want the application to be determined by the Environment Court instead of by a consent authority.

(2) The application is referred to the Environment Court by the applicant,—

(a) within 15 working days after receiving the report, lodging with the Environment Court a notice of motion in the prescribed form applying for the grant of the resource consent (or the change or cancellation of the condition) and specifying the grounds upon which the application for the grant of the resource consent (or the change or cancellation of the condition) is made, and a supporting affidavit as to the matters giving rise to that application; and

(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on—

(i) the consent authority that granted the applicant's request under **section 166**; and

(ii) every person who made a submission to the authority on the application; and

(c) telling the Registrar of the Environment Court by written notice when the copies have been served.

(3) A consent authority served under **subsection (2)(b)(i)** must, without delay, provide the Environment Court with—

(a) the application to which the notice of motion relates; and

(b) the authority's report on the application; and

(c) all the submissions on the application that the authority received; and

(d) all the information and reports on the application that the authority was supplied with.

(4) **Clauses 53 and 54 of Schedule 13** ~~applies~~ apply to the notice of motion, and any person who has made a submission to the consent authority on the application and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section.

(5) **Part 4 and Schedule 13** apply to proceedings under this section.

(6) If considering ~~a matter that is~~ an application for a resource consent, the court must apply **sections 223 to 240 and 293** as if it were a consent authority.

(7) If considering ~~a matter that is~~ an application for a change to or cancellation of conditions of a resource consent, the court must apply **sections 233 to 240** as if—

(a) it were a consent authority and the application were an application for a resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were, respectively, a reference to the change or cancellation of a condition and the effects of the change or cancellation.

(8) However, in the case of an application for a coastal permit for aquaculture activities, for the purposes of **section 230(3)(b) or (c)**, the consent authority must obtain from the Environment Court any additional information, reports, or submissions not previously forwarded or sent under that section and forward or send the information, ~~report,~~ reports, and submissions to the chief executive of the Ministry responsible for ~~aquaculture~~ the administration of the Fisheries Act 1996.

Compare: 1991 No 69 s 87G

171 Residual powers of consent authority

The consent authority that would have determined the application had the Environment Court not done so under **section 170** has all the functions, duties, and powers in relation to a resource consent granted by the court as if it had granted the consent itself.

Compare: 1991 No 69 s 87H

172 When consent authority must determine application

(1) This section applies when—

(a) an applicant receives a report under **section 169(5)**; and

(b) either—

(i) the applicant advises the consent authority that the applicant does not intend to lodge a notice of motion with the Environment Court under **section 170(2)**; or

(ii) the applicant does not lodge a notice of motion with the Environment Court under **section 170(2)**.

(2) The application must be determined by the consent authority.

Compare: 1991 No 69 s 87I

Applying for resource consent

173 How to apply for resource consent

(1) A person may apply to the relevant consent authority for a resource consent.

(2) 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.

(3) If a joint application is made under **subsection (2)**, the application to exchange recreation reserve land must be—

(a) processed, with the resource consent application, in accordance with **sections 174 to 192, 199, and 209 to 221**; then

(b) decided under section 15AA of the Reserves Act 1977.

(4) An application must—

(a) be made in the prescribed form and manner; and

(b) include the information relating to the activity, including an assessment of the activity's effects on the environment, that is required under **Schedule 10** or prescribed by regulations.

(5) If a person applies for a resource consent relating to an area where an applicant ~~groupseek~~ group seeks customary marine title or protected customary rights,—

(a) the person must comply with **section 62A** of the Marine and Coastal Area (Takutai Moana) Act 2011 (which requires the person to notify ~~the~~ applicant groups, provide a list of the groups notified, and record their views); and

(b) the application must be treated as incomplete if this is not done.

(6) An application for a coastal permit to undertake an aquaculture activity must include a copy for the Ministry responsible for the administration of the Fisheries Act 1996 ~~aquaculture~~.

(7) **Sections 828 and 835** apply to a determination that an application is incomplete.

(8) In this section, **applicant group** has the meaning given to it by section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011.

Compare: 1991 No 69 s 88(1)–(2A), (5), (6)

174 Incomplete applications

(1) A consent authority may, within 10 working days after an application ~~was~~ is first lodged, determine that the application is incomplete if—

(a) the application does not include the prescribed information or the information required by **section 173(4)(b)**; or

(b) the prescribed fee has not been paid.

(2) The consent authority must immediately return an incomplete application to the applicant, with written reasons for the determination.

(3) If, after an application has been returned as incomplete, the application is lodged again with the consent authority, the application is to be treated as a new application.

Compare: 1991 No 69 s 88(3)–(4)

Deferral of application

175 Deferral pending application for additional consents

(1) A consent authority may determine to defer the processing ~~not to proceed with the notification or hearing~~ of an application for a resource consent if it considers on reasonable grounds that—

(a) other resource consents under this Act will also be required in respect of the proposal to which the application relates; and

(b) it is appropriate, for the purpose of better understanding the nature of the proposal, that applications for any 1 or more of those other resource consents be made before proceeding further.

(2) If a consent authority makes a determination under **subsection (1)**, it must immediately notify the applicant of the determination.

(3) The applicant may apply to the Environment Court for an order directing that any determination under this section be revoked.

Compare: 1991 No 69 s 91

Processing of application may be suspended

176 Applicant may have processing of notified application suspended

(1) A consent authority must suspend the processing of a notified application when a request is received in accordance with this section.

(2) The applicant may request the consent authority to suspend the processing of an application at any time in the period—

(a) starting when the application is notified; and

(b) ending when—

(i) the hearing is completed, if a hearing is held for the application; or

(ii) the consent authority gives notice to the applicant of its decision on the application, if a hearing is not held for the application.

(3) However, a request must not be made if—

(a) the applicant has lodged a notice of motion with the Environment Court under **section 170(2)(a)**; or

(b) the Minister has made a direction under ~~**section 329**~~ **clause 42 of Schedule 10A** in relation to the application.

(4) The request must be made by written or electronic notice.

(5) If processing is suspended under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension started.

Compare: 1991 No 69 s 91A

177 When suspension of processing of notified application ceases

(1) A consent authority must cease to suspend the processing of a notified application when—

(a) a request is received in accordance with this section; or

(b) the applicant lodges a notice of motion with the Environment Court under **section 170(2)(a)**; or

(c) the Minister makes a direction under ~~**section 329(3)**~~ **clause 42(2) of Schedule 10A** in relation to the application; or

(d) the consent authority decides under **section 178** to continue to process the application.

(2) The applicant may, by written or electronic notice, request the consent authority to cease to suspend processing ~~the processing of a notified application if it is currently suspended~~.

~~(3) The request must be made by written or electronic notice.~~

(4) If a suspension is ceased under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension ceased.

Compare: 1991 No 69 s 91B

178 ~~Notified application~~ Application may be returned if suspended after certain period

(1) **Subsection (2)** applies if—

(a) a total of 130 or more working days have been excluded from time limits under **section 188** in relation to a notified application (which, under **section 191(8)**, includes time during which the application has been suspended); and

(b) the application is suspended at the time.

(2) The consent authority must decide to—

(a) return the application to the applicant; or

(b) continue to process the application.

(3) If the consent authority decides to return the application,—

(a) it must be returned together with a written explanation as to why it is being returned; but

(b) the applicant may object to the consent authority under **section 828**.

(4) If, after an application has been returned, the application is lodged again with the consent authority, the application is to be treated as a new application.

~~(5) The consent authority may return a notified application for resource consent after it has been accepted for processing if—~~

~~(a) the authority receives no response from the applicant to a request for further information within the time specified in this Act or prescribed in regulations under this Act, or agreed with the authority; or~~

~~(b) the applicant does not pay the additional administration charges required for processing the application within the time prescribed in regulations under this Act, or agreed with the authority.~~

Compare: 1991 No 69 s 91C

179 Applicant may have processing of non-notified application suspended

(1) A consent authority must suspend the processing of a non-notified application when a request is received in accordance with this section.

(2) The applicant may request the consent authority to suspend ~~the~~ processing ~~of a non-notified application~~ at any time in the period—

(a) starting on the date on which the application is first lodged with the authority; and

(b) ending when—

(i) the hearing is completed, if a hearing is held for the application; or

(ii) the consent authority gives notice to the applicant of its decision on the application, if a hearing is not held for the application; or

(iii) the application is notified.

(3) However, a request must not be made if—

(a) the applicant has lodged a notice of motion with the Environment Court under **section 170(2)(a)**; or

(b) the Minister has made a direction under ~~**section 329**~~ **clause 42 of Schedule 10A** in relation to the application.

(4) The request must be made by written or electronic notice.

(5) If processing is suspended under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension started.

Compare: 1991 No 69 s 91D

180 When suspension of processing of non-notified application ceases

(1) A consent authority must cease to suspend the processing of a non-notified application when—

(a) a request is received in accordance with this section; or

(b) the applicant lodges a notice of motion with the Environment Court under **section 170(2)(a)**; or

(c) the Minister makes a direction under ~~**section 329**~~ **clause 42 of Schedule 10A** in relation to the application; or

(d) the consent authority decides under **section 181** to continue to process the application.

(2) The applicant may, by written or electronic notice, request the consent authority to cease to suspend the processing of a non-notified application ~~if it is currently suspended~~.

~~(3) The request must be made by written or electronic notice.~~

(4) If a suspension is ceased under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension ceased.

Compare: 1991 No 69 s 91E

181 Non-notified application may be returned after certain period

~~(1)~~ ~~**Subsection (2)**~~ **Section 178(2) to (3)** applies if the processing of ~~the~~ a non-notified application has been suspended for a total of ~~20~~ 130 working days in response to 1 or more requests under **section 179**.

~~(2) The consent authority must decide to—~~

~~(a) return the application to the applicant; or~~

~~(b) continue to process the application.~~

~~(3) If the consent authority decides to return the application,—~~

~~(a) it must be returned together with a written explanation as to why it is being returned; but~~

~~(b) the applicant may object to the consent authority under **section 828**.~~

~~(4) If, after an application has been returned, the application is lodged again with the consent authority, the application is to be treated as a new application.~~

~~(5) The consent authority may return a non-notified application for resource consent after it has been accepted for processing if—~~

~~(a) the authority receives no response from the applicant to a request for further information within the time specified in this Act or prescribed in regulations under this Act, or agreed with the authority; or~~

~~(b) the applicant does not pay the additional administration charges required for processing the application within the time prescribed in regulations under this Act, or agreed with the authority.~~

Compare: 1991 No 69 s 91F

182 Withdrawal of application for resource consent

(1) An applicant who has lodged an application for a resource consent may withdraw all or part of their application.

(2) The applicant must give written or electronic notice to the consent authority of the withdrawal, and if only part is to be withdrawn, must identify that part.

~~(2) The applicant who wishes to withdraw part of their application must identify which part of the application is to be withdrawn.~~

Consent authority may require further information

183 Further information, or ~~agreement~~ report, may be requested

~~(1) A consent authority may, at any reasonable time before the hearing of an application for a resource consent or before the decision to grant or refuse the application (if there is no hearing), by written notice, request the applicant for the consent to provide further information relating to the application.~~

(1) A consent authority may, at any reasonable time before the hearing of an application for a resource consent or, if no hearing is held, before the decision to grant or refuse the application,—

(a) request the applicant to provide further information relating to the application if the authority is satisfied that—

(i) it requires the information to determine whether the proposed activity is consistent with relevant provisions in the plan the national planning framework; or

(ii) it requires the information to adequately assess the effects of the proposed activity; or

(b) commission a person to prepare a report on a matter relating to the application, including a matter relating to information provided by the applicant in the application or under this section, if all of the following apply:

(i) the proposed activity may, in the authority's opinion, have a significant adverse environmental effect; and

(ii) the applicant is notified before the authority commissions the report; and

(iii) the applicant does not refuse, under **section 186(1)**, to agree to the commissioning of the report.

~~(2) At any reasonable time before a hearing or, if no hearing is to be held, before the decision is made, a consent authority may commission any person to prepare a report on any matter relating to an application, including information provided by the applicant in the application or under this section, if all the following apply:~~

~~(a) the activity for which the resource consent is sought may, in the authority's opinion, have a significant adverse environmental effect; and~~

~~(b) the applicant is notified before the authority commissions the report; and~~

~~(c) the applicant does not refuse, under **section 186(1)**, to agree to the commissioning of the report.~~

(3) The consent authority must notify the applicant, in writing, of its reasons for—

(a) requesting further information under **subsection (1)(a)**; or

(b) wanting to commission a report under **subsection ~~(2)~~ (1)(b)**.

(4) The information or report must be available at the office of the consent authority no later than 10 working days before the hearing of an application. This subsection does not apply if—

(a) the applicant refuses, under **section 185**, to provide the further information; or

(b) the applicant refuses, under **section 186**, to agree to the commissioning of the report.

(5) The consent authority must, as soon as is reasonably practicable after receiving the information or report, give written or electronic notice to every person who

made a submission on the application that the information or report is available at the authority's office.

Compare: 1991 No 69 s 92

~~**184 Consideration of certain matters required before information requested**~~

~~Before requesting information under **section 183**, a consent authority must consider whether—~~

~~(a) additional information is required to determine whether the application meets relevant outcomes; and~~

~~(b) the effects can be adequately assessed from the information currently available or whether further information is needed; and~~

~~(c) the information being requested—~~

~~(i) relates to any effects or outcomes associated with the proposed activity; or~~

~~(ii) is beyond the scope of the proposed activity; and~~

~~(iii) is proportionate to the scale and significance of the proposed activity.~~

185 Responses to request for further information

(1) An applicant who receives a request for further information under **section 183(1)(a)** must, within 15 working days of the date of the request, take one of the following options:

(a) provide the information; or

(b) tell the consent authority in a written notice that the applicant agrees to provide the information; or

(c) tell the consent authority in a written notice that the applicant refuses to provide the information.

(2) A consent authority that receives a written notice under **subsection (1)(b)** must—

(a) set a reasonable time within which the applicant must provide the information; and

(b) tell the applicant in a written notice the date by which the applicant must provide the information.

(3) The consent authority ~~must~~ may consider the application under **section 223** 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)**.

(4) *See* **section 186A**.

Compare: 1991 No 69 s 92A

186 Responses to notification

(1) An applicant who receives a notification under **section 183(2)(b)** must, within 15 working days of the date of the notification, tell the consent authority in a written notice whether the applicant agrees to the commissioning of the report.

(2) The consent authority must consider the application under **section 223** even if the applicant—

(a) does not respond in accordance with **subsection (1)**; or

(b) refuses to agree to the commissioning of the report.

Compare: 1991 No 69 s 92B

186A Consent authority may return application if further information not provided or administrative changes not paid

The consent authority may return an application for a resource consent after it has been accepted for processing if—

(a) the authority receives no response from the applicant to a request for further information within the time specified in this Act or prescribed in regulations, or agreed with the authority; or

(b) the applicant does not pay any additional administration charges required for processing the application within the time prescribed in regulations or agreed with the authority.

Exclusion of various time periods

187 Processing time frames

(1) The maximum processing time frames for applications for resource consents—

(a) are set out in the table in **subsection (2)**; and

(b) are subject to other provisions of this Act.

(2) **Processing time frames for resource consents**

Type of notification	Overall time frame	Mandatory time frames within overall time frame
Non-notified consent without hearing	20 working days	**s 242(3)**—If the application was not notified and a hearing is not held, notice of the decision must be given within 20 working days after the date the application was first lodged with the authority
Non-notified consent with hearing	50 working days	**s 199(1)(b)**—If a consent authority needs to make a decision on notification, it has 20 working days to do so

Type of notification	Overall time frame	Mandatory time frames within overall time frame
		s 242(2)—If a hearing is held, notice of the decision must be given within 15 working days after the end of the hearing
Limited notified consent without hearing	60 working days	**s 199(1)(b)**—If a consent authority needs to make a decision on notification, it has 20 working days to do so **s 211(3)**—20 working days for submissions **s 242(4)**—notice of decision given within 20 working days after closing date for submissions
Limited notified consent with hearing	100 working days	**s 199(1)(b)**—If a consent authority needs to make a decision on notification, it has 20 working days to do so **s 211(3)**—20 working days for submissions **s 242(2)**—If a hearing is held, notice of the decision must be given within 15 working days after the end of the hearing
Publicly notified consents without hearing	60 working days	**s 199(1)(b)**—If a consent authority needs to make a decision on notification, it has 20 working days to do so **s 211(2)**—20 working days for submissions **s 242(4)**—notice of decision given within 20 working days after closing date for submissions
Publicly notified consent with hearing	130 working days	**s 199(1)(b)**—If a consent authority needs to make a decision on notification, it has 20 working days to do so **s 211(2)**—20 working days for submissions **s 242(2)**—If a hearing is held, notice of the decision must be given within 15 working days after the end of the hearing

188 What ~~can~~ must be excluded from consideration of time periods

The following matters ~~may~~ must be excluded in the calculation of the overall processing time frames:

(a) a request for further information (**section 189**):

(b) an excluded time ~~periods~~ period relating to direct referral to Environment Court (**section 190**):

(c) deferral of an application pending ~~application~~ applications for additional ~~costs~~ consents (**section 191(1) and (2)**):

(d) approval sought from affected persons or groups (**section 191(3) and (4)**):

(e) referral to mediation (**section 191(5) and (6)**):

(f) suspension of notified applications (**sections 191(7) and (8) and 193**):

(g) pre-request aquaculture agreements (**section 192**):

(h) non-payment of administrative charges required for consent processing (**section 194**):

(i) an excluded time period under the Urban Development Act 2020 (**section 195**):

(j) preliminary meetings (**section 213**):

(k) an applicant's request to review draft conditions of consent (time period agreed between councils and applicant) (**section 222**):

~~(l) time taken to confirm regional ADR (**sections 249 and 250**).~~

(l) time taken to confirm, conduct, and complete alternative dispute resolution (**sections 244 to 252**).

189 Excluded time periods relating to provision of further information

Request for further information

(1) **Subsection (2)** applies when—

(a) ~~an~~ a consent authority has requested an applicant, under **section 183(1)**, to provide further information on the applicant's application; and

(b) the request is the first request made by the authority to the applicant under that provision; and

(c) the request is made before the authority decides whether to notify the application.

(2) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date of the request under **section 183(1)**; and

(b) ending as follows:

(i) if the applicant provides the information within 15 working days, on the date on which the applicant provides the information:

(ii) if the applicant agrees within 15 working days to provide the information and provides the information, on the date on which the applicant provides the information:

(iii) if the applicant agrees within 15 working days to provide the information and does not provide the information, on the date set under **section 185(2)(a)**:

(iv) if the applicant does not respond to the request within 15 working days, on the date on which the period of 15 working days ends:

(v) if the applicant refuses within 15 working days to provide the information, on the date on which the applicant refuses to provide the information.

Commissioning of report—applicant agrees

(3) **Subsection (4)** applies when—

(a) ~~an~~ a consent authority has notified an applicant, under **section 183(2)(b)**, of its wish to commission a report; and

(b) the applicant agrees, under **section 186(1)**, to the commissioning of the report.

(4) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date of the notification under **section 183(2)(b)**; and

(b) ending with the date on which the authority receives the report.

Commissioning of report—applicant disagrees

(5) **Subsection (6)** applies when—

(a) ~~an~~ a consent authority has notified an applicant, under **section 183(2)(b)**, of its wish to commission a report; and

(b) the applicant does not agree, under **section 186(1)**, to the commissioning of the report.

(6) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date of the notification under **section 183(2)(b)**; and

(b) ending with the earlier of the following:

(i) the date on which the period of 15 working days ends; and

(ii) the date on which the authority receives the applicant's refusal, under **section 186(1)**, to agree to the commissioning of the report.

Compare: 1991 No 69 s 88C

190 Excluded time periods relating to direct referral

Request for direct referral declined and no objection

(1) **Subsection (2)** applies when—

(a) an applicant makes a request under **section 166(1)**; and

(b) the consent authority declines the request under **section 167(5) to (7)**; and

(c) the applicant does not object under **section 829(1)(c)**.

(2) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date on which the consent authority receives the request; and

(b) ending with the date on which the period of 15 working days referred to in **section 832(1)** ~~end~~ ends.

Request for direct referral declined and objection dismissed

(3) **Subsection (4)** applies when—

(a) an applicant makes a request under **section 166(1)**; and

(b) the consent authority declines the request under **section 167(5) to (7)**; and

(c) the consent authority dismisses the applicant's objection under **section 834**.

(4) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date on which the consent authority receives the request; and

(b) ending with the date on which the consent authority notifies the applicant of its decision to dismiss the objection.

Request for direct referral granted or objection upheld

(5) **Subsection (6)** applies when—

(a) an applicant makes a request under **section 166(1)**; and

(b) either—

(i) the consent authority grants the request under **section 167(5) to (7)**; or

(ii) the consent authority declines the request under **section 167(5) to (7)**, but upholds the applicant's objection under **section 834**.

(6) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date on which the consent authority receives the request; and

(b) ending with the earlier of the following:

(i) the date on which the period of 15 working days referred to in **section 170(2)(a)** ~~end~~ ends; and

(ii) the date on which the applicant advises the consent authority that the applicant does not intend to lodge a notice of motion with the Environment Court under **section 170(2)**.

Compare: 1991 No 69 s 88D

191 Excluded time periods relating to other matters

Deferral pending application for additional consents

(1) **Subsection (2)** applies when a consent authority determines, under **section 175(1)**, not to proceed with the notification or hearing of an application for a resource consent.

(2) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date of the notification of the determination to the applicant under **section 175(2)**; and

(b) ending with—

(i) the date of the receipt of applications for the resource consents that the authority considers, under **section 175(1)(b)**, should be applied for; or

(ii) the date of an Environment Court order revoking the authority's determination.

Approval sought from affected persons or groups

(3) **Subsection (4)** applies when an applicant tries, for the purposes of any of **sections 201(3) to 202**, to obtain approval for an activity from any person or group that may otherwise be considered an affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.

(4) The period that must be excluded from the total processing time under **section 187** is the time taken by the applicant in trying to obtain the approvals, whether or not they are obtained.

Referral to mediation

(5) **Subsection (6)** applies when a consent authority refers persons to mediation under **section 214**.

(6) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date of the ~~reference~~ referral; and

(b) ending with the earlier of the following:

(i) the date on which one of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person's consent to the mediation; and

(ii) the date on which the mediator reports the outcome of the mediation to the authority.

Suspension of processing of notified application

(7) **Subsection (8)** applies when the processing of an application is suspended under **section 176**.

(8) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date on which the suspension started~~:~~; and

(b) ending with the date on which the suspension ceased.

Compare: 1991 No 69 s 88E

192 Excluded time periods relating to pre-request aquaculture agreements

(1) **Subsection (2)** applies when—

(a) an application has been made for a coastal permit to undertake aquaculture activities in the coastal marine area; and

(b) the applicant requests the consent authority to defer determining the application so that the applicant can negotiate a pre-request aquaculture agreement under section 186ZM of the Fisheries Act 1996; and

(c) it is the first request made by the applicant for that purpose.

(2) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting with the date on which the request is made; and

(b) ending with the earlier of the following:

(i) the 80th working day after the date on which the request is made:

(ii) the date on which the applicant notifies the consent authority that the applicant wishes the consent authority to continue determining the application that the request related to.

Compare: 1991 No 69 s 88F

193 Exclusion of period when processing of non-notified application suspended

(1) **Subsection (2)** applies when a non-notified application is suspended under **section 179**.

(2) The period that must be excluded from the total processing time under **section 187** is the period—

(a) starting from the date on which the suspension started; and

(b) ending on the date on which the suspension ceased.

Compare: 1991 No 69 s 88G

194 Excluded time periods relating to non-payment of administrative charges

(1) **Subsection (2)** applies if—

(a) an application for a resource consent is lodged with a consent authority; and

(b) a charge fixed under **section 821** is payable when the application is lodged or when the application is notified by the consent authority in accordance with **section 199**; and

(c) the applicant does not pay the charge when it is payable.

(2) The consent authority ~~may~~ must exclude from the total processing time under **section 187**, the period—

(a) starting from the date on which payment is due; and

(b) ending on the date on which payment is made.

Compare: 1991 No 69 s 88H

195 Excluded time periods under Urban Development Act 2020

The period described in section 103(4) of the Urban Development Act 2020 is excluded from any time limits under this Act relating to a resource consent application received by a local authority.

Compare: 1991 No 69 s 88I

196 Applications to territorial authorities for resource consents where land is in coastal marine area

(1) If an application for a subdivision consent is made to a territorial authority and any part, or all, of the land proposed to be subdivided is in the coastal marine area, the territorial authority must decide the application as if the whole of that land were part of the district, and the provisions of this Act apply accordingly.

(2) **Subsection (3)** applies if—

(a) an application is made to a territorial authority for a resource consent for an activity that an applicant intends to undertake within the district of that authority once the proposed location of the activity has been reclaimed; and

(b) on the date the application is made, the proposed location of the activity is still within the coastal marine area.

(3) If this subsection applies, the territorial authority may hear and decide the application as if the application related to an activity within its district, and the provisions of this Act apply accordingly.

(4) **Section 261** applies to every resource consent granted in accordance with **subsection (3)**.

Compare: 1991 No 69 s 89

197 Applications affecting navigation to be referred to Maritime New Zealand

(1) This section applies to the following applications:

(a) an application for a coastal permit to do any of the following in the coastal marine area:

(i) reclaim land:

(ii) build a structure:

(iii) do or maintain works for the improvement, management, protection, or utilisation of a harbour:

(b) an application for a coastal permit to remove boulders, mud, sand, shell, shingle, silt, stone, or other similar material from the coastal marine area:

(c) an application for a land use consent to enter onto or pass across the surface of water in a navigable lake or river:

(d) an application for a land use consent to use the bed of a navigable lake or river.

(2) The local authority must send a copy of the application to Maritime New Zealand.

(3) Maritime New Zealand must report to the local authority on any navigation-related matters that Maritime New Zealand considers relevant to the application, including any conditions that it considers should be included in the consent for navigation-related purposes.

(4) If Maritime New Zealand wants to report, it must do so within 15 working days after receiving a copy of the application. If it fails to report within that time limit, the local authority may take the failure as an indication that Maritime New Zealand has nothing to report.

(5) The local authority must—

(a) ensure that a copy of Maritime New Zealand's report is provided to—

(i) the applicant; and

(ii) every person who has made a submission on the application~~:~~; and

(b) take the report into account in its consideration of the application.

Compare: 1991 No 69 s 89A

Subpart 4—Notification of applications for resource consent

Purpose of notification

~~198 Purpose of notification~~

~~A purpose of notification (whether public or limited notification) of an application for a resource consent is—~~

~~(a) to obtain further information about the application from individuals or members of the public; and~~

~~(b) through that information, to better understand the proposed activity and its effects including how the proposed activity meets or contributes to the outcomes.~~

198 Meaning and purpose of notification

(1) In this subpart, unless the context otherwise requires, **notification** means notification by a consent authority to the public or affected persons of an application for a resource consent for an activity.

(2) The purpose of notification is to obtain more information (whether from affected persons or the public) to enable consent authorities to be better informed in understanding whether, and the extent to which,—

(a) the proposed activity is consistent with relevant outcomes; and

(b) the proposed activity complies with or contributes to complying with any relevant limits; and

(c) any adverse effects of the proposed activity on the environment or on affected persons can be avoided, minimised, or remedied.

198A Notification status of activity for which resource consent required

(1) The notification status of an activity for which a resource consent is required—

(a) may be stated in the national planning framework (in accordance with **section 77A**):

(b) may be stated in the relevant plan (in accordance with any direction of the national planning framework (*see* **section 108E**)):

(c) may be determined by the consent authority in accordance with this subpart and any direction or requirement in the national planning framework or plan.

(2) This section is by way of explanation only.

Notification requirements

199 Consent authority must comply with notification requirements or determine notification status

~~(1) A consent authority must, subject to this section,~~

~~(a) comply with the requirements in the national planning framework or the plan that apply to the notification status of an application for a resource consent; or~~

~~(b) if **section 200(1)(b)** applies, determine the notification status of the application no later than 20 working days after the day on which the application is first lodged.~~

(1) If a consent authority receives an application for a resource consent for an activity for which there are provisions in the national planning framework or a

plan that specify the activity's notification status and (if applicable) identify any affected persons, the authority must make the notification decision—

(a) in accordance with those provisions; and

(b) no later than 15 working days after the application is lodged unless and to the extent that this Act provides otherwise.

(1A) If a consent authority receives an application for a resource consent for an activity for which the national planning framework or a plan has not provided for the activity's notification status, the authority—

(a) has, subject to this subpart, discretion to decide whether notification is required; and

(b) must make the notification decision no later than 20 working days after the day on which the application is lodged.

(1B) If a consent authority receives an application for a resource consent for an activity in relation to which there is an affected customary marine title group or an affected customary rights group, the authority must notify the application to that group regardless of any notification status of the activity in the national planning framework or the plan.

(2) The consent authority must publicly notify an application that is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.

(3) The consent authority must not notify an application that—

(a) is for an activity identified in the national planning framework or a plan as requiring limited notification ~~in relation~~ to affected persons; and

(b) is lodged with written approvals from all affected persons.

Compare: 1991 No 69 ss 95, 95A(3)(c)

~~200 National planning framework or plans may set or provide for consent authority to determine notification requirements~~

~~(1) The national planning framework or a plan must, in relation to each activity that requires a resource consent,~~

~~(a) state the notification status of the activity; or~~

~~(b) provide for the consent authority to determine, in accordance with national planning framework or plan, the notification status of the activity.~~

~~(2) The national planning framework or plan must, in relation to an activity,~~

~~(a) identify who are affected persons for the purposes of notification or persons from whom approval must be obtained (in relation to a permitted activity); or~~

~~(b) provide for the consent authority to determine who are affected persons.~~

~~(3) For the purpose of **subsection (1)(a) or (b)**, the Minister or regional planning committee (as the case may be) must consider—~~

~~(a) the likely state of the future environment in light of information they consider relevant in the plan, the regional spatial strategy, or the national planning framework or any combination of those documents; and~~

~~(b) whether any information obtained from the notification process is likely to make a material difference to the consent decision.~~

201 Determination of whether person is affected person ~~or person from whom approval required~~

~~(1) This section applies to a decision maker when determining whether a person is—~~

~~(a) an affected person for the purposes of notification of an application for a resource consent; or~~

~~(b) a person from whom approval must be obtained in relation to a permitted activity.~~

(2) ~~The~~ When determining whether a person is an affected person for the purpose of limited notification of an application for a resource consent, a decision maker must—

~~(a) weigh the positive effects of the proposed activity against the adverse effects that the activity has on the person:~~

~~(b) consider whether information from the person is necessary to understand the extent and nature of effects or contributions towards outcomes:~~

~~(c) consider whether the person has an interest in the application greater than that of the general public:~~

(c) consider whether the person—

(i) has an interest in the proposed activity that is greater than that of the general public; and

(ii) is likely to experience adverse effects that are more than minor when compared to the level of adverse effects anticipated in the national planning framework or the relevant plan; and

~~(d) consider whether the person's involvement will result in information that has a material effect on the consent decision or permitted activity decision (whether granted or not) and any conditions imposed:~~

~~(e) determine 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 14**:~~

(e) if the proposed activity is on, adjacent to, or may affect a statutory area, determine in accordance with **subsection (2)** whether a person who is

associated with the relevant statutory acknowledgement is an affected person; and

(f) determine whether there are any—

(i) affected protected customary rights groups; or

(ii) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity)~~.~~; and

(g) if the decision maker is the consent authority, determine that any affected protected customary rights groups or affected protected customary rights group that it has identified under **paragraph (f)** is an affected person.

(2A) When making a determination under **subsection (2)(e)**, the decision maker—

(a) must consider whether the adverse effects of the proposed activity on the person who is associated with the statutory area are minor or more than minor; and

(b) for that purpose, must have regard to the statutory area and any statutory acknowledgment with whom the person is associated; and

(c) must determine that the person who is associated with the statutory acknowledgement is an affected person if satisfied that the effects of the proposed activity on the statutory area are minor or more than minor.

(2B) For the purpose of **subsection (2)(f)**,—

(a) a protected customary rights group is an **affected protected customary rights group**, in relation to an activity in the protected customary rights area relevant to that group, if—

(i) the activity may have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(ii) the protected customary rights group has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the decision maker before it has made a decision under this section:

(b) a customary marine title group is an **affected customary marine title group**, in relation to an accommodated activity in the customary marine title area relevant to that group, if—

(i) the activity may have adverse effects on the exercise of the rights applying to a customary marine title group under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(ii) the customary marine title group has not given written approval for the activity in a written notice received by the decision maker before it has made a decision under this section.

(3) A person is not an affected person~~ or a person from whom approval must be obtained~~ if—

(a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the decision maker before they make a determination under this section; or

(b) the decision maker is satisfied it is unreasonable in the circumstances for the applicant to seek the person's written approval.

~~(4) For the purpose of **subsection (2)(c)**, the decision maker must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in **Schedule 14**.~~

(5) In this section~~ and **section 202**~~, **decision maker** means a regional planning committee, the Minister, or a consent authority, as the case may be.

Compare: 1991 No 69 ss 95B(3), 95E(2)(c), (3), 95F, 95G~~, 95E~~

~~**202 Determination of affected protected customary rights group and affected customary marine title group**~~

~~For the purpose of **section 201(2)(f)**,—~~

~~(a) a protected customary rights group is an **affected protected customary rights group**, in relation to an activity in the protected customary rights area relevant to that group, if—~~

~~(i) the activity may have adverse effects on a protected customary right carried out in accordance with the requirements of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and~~

~~(ii) the protected customary rights group has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the decision maker before it has made a decision under **section 201**:~~

~~(b) a customary marine title group is an **affected customary marine title group**, in relation to an accommodated activity in the customary marine title area relevant to that group, if—~~

~~(i) the activity may have adverse effects on the exercise of the rights applying to a customary marine title group under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and~~

~~(ii) the customary marine title group has not given written approval for the activity in a written notice received by the decision maker before it has made a decision under **section 201**.~~

~~Compare: 1991 No 69 s 95F, 95G~~

203 Public notification not required for ~~controlled~~ anticipated activity

(1) ~~A controlled~~ It is a presumption that an anticipated activity must be processed without public notification~~ unless a plan or the national planning framework states otherwise~~.

(2) The presumption does not apply to an activity if a plan or the national planning framework states otherwise.

204 Public notification for discretionary activity

(1) ~~A~~ It is a presumption that a discretionary activity must be processed with public notification~~ unless a plan or the national planning framework states that no notification or limited notification is required~~.

(2) The presumption does not apply to an activity if a plan or the national planning framework states otherwise.

~~205 When to require public notification~~

~~(1) In this section and **sections 206 and 207**, **decision maker** means —~~

~~(a) a regional planning committee in a plan; or~~

~~(b) the Minister in the national planning framework.~~

~~(2) A decision maker must require public notification of an application for a resource consent if satisfied that 1 or more of the following apply:~~

~~(a) there is sufficient uncertainty as to whether an activity could meet or contribute to outcomes, or the activity would breach a limit:~~

~~(b) there are clear risks or impacts that cannot be mitigated by the proposal:~~

~~(c) there are relevant concerns from the community:~~

~~(d) the scale or significance (or both) of the proposed activity warrants it.~~

~~206 When to require limited notification~~

~~A decision maker must require limited notification of an application if satisfied that 1 or more of the following apply:~~

~~(a) it is appropriate to notify any person who may represent public interest:~~

~~(b) there is an affected person in relation to the activity:~~

~~(c) the scale or significance (or both) of the proposed activity warrants it.~~

~~207 Prohibiting public or limited notification~~

~~A decision maker must prohibit public and limited notification of an application for a resource consent if satisfied that 1 or both of the following apply:~~

~~(a) the activity is clearly aligned with the outcomes or targets set by legislation or plans; and~~

~~(b) there is no affected person.~~

207 Notification of resource consent application by consent authority

(1) A consent authority must not require notification of an application for a resource consent for an activity if—

(a) either—

(i) the notification presumption for anticipated activities (*see* **section 203**) applies to the activity; or

(ii) the plan or the national planning framework requires no notification in relation to the activity; and

(b) there are no affected persons identified under **section 201**.

(2) A consent authority must require limited notification of an application for a resource consent for an activity if—

(a) either—

(i) the notification presumption for anticipated activities (*see* **section 203**) applies to the activity; or

(ii) the plan or the national planning framework requires limited notification in relation to the activity; and

(b) there are affected persons identified under **section 201**.

(3) A consent authority must require public notification of an application for a resource consent for an activity if—

(a) the notification presumption for discretionary activities (*see* **section 203**) applies to the activity; or

(b) the plan or the national planning framework requires public notification in relation to the activity; or

(c) it relates to a joint application to exchange land under the Reserves Act 1977; or

(d) the applicant requests it.

(4) In making a decision under this section, a consent authority must—

(a) consider the purpose of notification (*see* **section 198**); and

(b) comply with any requirements in the national planning framework or the plan that relate to the notification of the activity.

(5) However, this section is subject to **section 199B(1B)**.

208 Provision of relevant information to post-settlement governance entity

(1) This section applies if—

(a) a consent authority is or was required by legislation to provide to a post-settlement governance entity relevant information relating to an application for a resource consent for an activity within, adjacent to, or directly affecting a statutory area of ~~the~~ a post-settlement governance entity; and

(b) the requirement to provide the relevant information no longer applies (for example, through the expiry of any period specified in the legislation).

(2) The consent authority must provide the post-settlement governance entity with relevant information relating to an application for a resource consent. The information must be provided regardless of whether the application is made under this Act or the Resource Management Act 1991.

(3) In this section, **relevant information** means the following information relating to an application for a resource consent for an activity within, adjacent to, or directly affecting a statutory area of the post-settlement governance entity:

(a) if the application is received by the consent authority, a summary of the application; or

(b) if a notice of the application is served on the consent authority (under ~~**section 173**~~ **clause 47 of Schedule 10A** of this Act or section 145(10) of the Resource Management Act 1991), a copy of the notice.

(4) The summary must be the same as would be given to an affected person by limited notification (under **section 206** of this Act or section 95B of the Resource Management Act 1991) or as may be agreed between the post-settlement governance entity and the consent authority.

(5) A consent authority must provide the post-settlement governance entity—

(a) with the summary—

(i) as soon as is reasonably practicable after the consent authority receives the application for the resource consent; but

(ii) ~~before the consent authority decides whether to notify the application~~ not later than the date of notification of the activity (~~under section 206~~ in accordance with **section 207** of this Act or section 95 of the Resource Management Act 1991) or the date by which it must be notified had notification been required; and

(b) with the copy of the notice not later than 10 working days after the day on which the consent authority receives the notice.

(6) The post-settlement governance entity may, by written notice to a consent authority,—

(a) waive the right to be provided with the summary or copy of the notice and

(b) state the scope of that waiver and the period it applies for.

(7) This section does not affect the obligation of a consent authority to decide,—

(a) under **section ~~206~~ 199(1)(b)** of this Act or section 95 of the Resource Management Act 1991, whether to notify an application:

(b) under **section ~~206~~ 201(1)(a)** of this Act or section 95E of the Resource Management Act 1991, whether the post-settlement governance entity are affected persons in relation to an activity.

(8) In this section, **legislation** has the meaning given in section 5 of the Legislation Act 2019 and includes any enactment.

Submissions on applications

~~**209 Who may make submissions**~~

~~(1) If an application for a resource consent is publicly notified, a person described in **subsection (2)** may make a submission about it to the consent authority.~~

~~(2) Any person may make a submission, but the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**.~~

~~(3) If an application for a resource consent is the subject of limited notification, a person described in **subsection (4)** may make a submission about it to the consent authority.~~

~~(4) A person served with notice of the application may make a submission, but the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**.~~

~~Compare: 1991 No 69 s 96(1)–(4)~~

209 Who may make submissions

(1) If an application for a resource consent undergoes public notification,—

(a) any person may make a submission about it to the consent authority; but

(b) the person's right to make the submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**.

(2) If an application for a resource consent undergoes limited notification,—

(a) any person served with notice of the application may make a submission about it to the consent authority; but

(b) the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**.

Compare: 1991 No 69 s 96(1)–(4)

210 Form and service of submissions

(1) A submission must be in the prescribed form.

(2) A submission may state whether—

(a) it supports the application; or

(b) it opposes the application; or

(c) it is neutral.

(3) A submission must be served—

(a) on the consent authority within the time allowed by **section 211**; and

(b) on the applicant as soon as is reasonably practicable after service on the consent authority.

Compare: 1991 No 69 s 96(5)–(7)

211 Time limit for submissions

(1) This section specifies the closing date for serving submissions on a consent authority that has notified an application.

(2) If public notification was given, the closing date is the 20th working day after the date of public notification.

(3) If limited notification was given, the closing date is the 20th working day after the date of limited notification.

(4) However, if limited notification was given, the consent authority may adopt as an earlier closing date the day on which the consent authority has received from all affected persons a submission, written approval for the application, or written notice that the person will not make a submission.

Compare: 1991 No 69 s 97

212 Applicant to be advised of submissions

As soon as reasonably practicable after the closing date for submissions, the consent authority must provide the applicant with a list of all submissions received by it.

Compare: 1991 No 69 s 98

213 Preliminary meetings

(1) This section applies to an application for resource consent for which there has been public or limited notification, regardless of whether a hearing is held on the application.

(2) A consent authority may invite or require an applicant for a resource consent and some or all submitters ~~of the persons who have made submissions on the application~~ to attend a meeting with the following:

(a) each other or one another; and

(b) the authority; and

(c) anyone else whose presence at the meeting the authority considers appropriate.

(3) The consent authority may invite or require persons to attend a meeting—

(a) either—

(i) at the request of 1 or more of the persons; or

(ii) on its own initiative; and

(b) only for the purpose of—

(i) clarifying a matter or issue; or

(ii) facilitating resolution of a matter or issue.

(4) The consent authority may require persons to attend a meeting only with the consent of the applicant.

(5) A person who is a member, delegate, or officer of the consent authority, and who has the power to make the decision on the application that is the subject of the meeting, may attend and participate if—

(a) the authority is satisfied that its member, delegate, or officer should be able to attend and participate; and

(b) all the persons at the meeting agree.

(6) The chairperson of the meeting must~~, before the hearing,~~ prepare a report that—

(a) does not include anything communicated or made available at the meeting on a without prejudice basis; and

(b) for the parties who attended the meeting,—

(i) sets out the issues that were agreed; and

(ii) sets out the issues that are outstanding; and

(c) for all the parties,—

(i) may set out the nature of the evidence that the parties are to call at the hearing; and

(ii) may set out the order in which the parties are to call the evidence at the hearing; and

(iii) may set out a proposed timetable for the hearing.

(7) The consent authority must have regard to the report in making its decision on the application.

(8) If a person required to attend a meeting fails to do so, and does not give a reasonable excuse, the consent authority may decline—

(a) to process the person's application; or

(b) to consider the person's submission.

(9) If the consent authority declines, under **subsection (8)(a)**, to process the person's application,—

(a) the person may not appeal under **section 253** against the decision; and

(b) the person may object under **section 829** against the decision.

(10) If the consent authority declines, under **subsection (8)(b)**, to consider the person's submission, the person—

(a) may not appeal under **section 253** against—

(i) the decision to decline to consider the submission; or

(ii) the decision on the application; and

(b) may not become under **section 829** a party to proceedings under **clauses 54 and 55 of Schedule 13**; and

(c) may object under **section 829** against the decision to decline to consider the submission.

Compare: 1991 No 69 s 99

Subpart 5—Hearings and decisions

Hearings

214 Mediation

(1) This section applies to an application for a resource consent for which there has been public or limited notification regardless of whether a hearing is held on the application.

(2) A consent authority may refer to mediation a person who has made the application and some or all submitters ~~of the persons who have made submissions on the application~~.

(3) The consent authority may exercise the power in **subsection (2)**—

(a) either—

(i) at the request of one of the persons; or

(ii) on its own initiative; and

(b) only with the consent of all the persons being referred; and

(c) only for the purpose of mediating between the persons on a matter or issue.

(4) Mediation under this section must be conducted by—

(a) a person to whom the consent authority delegates, under **section ~~655~~ 30ZB**, the power to mediate; or

(b) a person whom the consent authority appoints to mediate, if the authority is the person who has made an application for a resource consent.

(5) The person who conducts the mediation must report the outcome of the mediation to the consent authority, the applicant, and all submitters.

Compare: 1991 No 69 s 99A

215 Hearing of applications

(1) A consent authority may decide not to hold a hearing on an application for a resource consent—

(a) if it considers that it has sufficient information to make a decision on the application without a hearing; and

(b) regardless of whether the applicant or a submitter wishes to be heard.

(2) If a consent authority holds a hearing, it—

(a) may invite the applicant, any person commissioned to write a report, any submitters, or any relevant persons (including technical experts) to be heard; and

(b) must invite the applicant to be heard if the authority is hearing from submitters or any other persons wishing to be heard.

(3) A consent authority—

~~(a) must hold a hearing if required by an agreement with iwi, hapū, or Māori (such as a Mana Whakahono ā Rohe) or Treaty of Waitangi claim settlement legislation; or~~

~~(b) may hold a hearing if it considers that it may be more effective and efficient for the issues and information to be tested at a hearing, to assess whether they meet planning outcomes.~~

(a) may hold a hearing if it considers that it may be more effective and efficient for the issues and information to be tested at a hearing, to assess whether they are consistent with the relevant outcomes, to which the proposed activity relates; but

(b) must hold a hearing if required by an agreement with iwi, hapū, or Māori (such as a Mana Whakahono ā Rohe) or Treaty of Waitangi claim settlement legislation.

(3A) A consent authority must notify the applicant and every submitter in writing of its decision to hold or not to hold a hearing, and include reasons.

(4) *See* **section 221**, which requires the consent authority to provide certain information regardless of whether a hearing is held on an application that is notified.

Compare: 1991 No 69 s 100

216 Hearing date and notice

(1) If a hearing of an application for a resource consent is to be held, the consent authority must fix a commencement date and time, and the place, of the hearing.

(2) A consent authority must, within the time limit prescribed in regulations (if any) or otherwise as soon as is reasonably practicable, inform an applicant ~~or~~

and any other relevant persons (including submitters) whether the authority intends to hold a hearing.

(3) The consent authority must give at least 10 working days' notice of the commencement date and time, and the place, of a hearing of an application for a resource consent to—

(a) the applicant; and

(b) every ~~person who made a submission on the application stating~~ submitter who stated their wish to be heard and who has not subsequently advised they do not wish to be heard.

(4) If a joint hearing is to be held, the consent authorities concerned must ensure that every applicant and every submitter ~~person who made a submission~~ is aware of the joint hearing.

Compare: 1991 No 69 s 101

217 ~~Hearing by commissioner if requested by applicant or submitter~~ Decision by commissioner may be requested

(1) This section applies to an application for a resource consent ~~if the application~~ that is notified, regardless of whether a decision whether to hold a hearing ~~is held~~ on the application is made under **section 215**.

(2) The applicant or a submitter~~, or a person who makes a submission on the application,~~ may request ~~in writing~~ that a local authority delegate its functions, powers, and duties required to hear and decide or to decide the application to a commissioner ~~in accordance with **subsection (3)**~~.

(2A) The request must be made in writing no later than 5 working days after the closing date for submissions on the application.

(3) ~~If the local authority receives a request under **subsection (2)**, it~~ The local authority to whom the request is made must delegate, under **section ~~655~~ 30ZA**, its functions, powers, and duties required to hear and decide or to decide the application to 1 or more ~~hearings~~ commissioners who are not members of the local authority.

Compare: 1991 No 69 s 100A

218 Joint hearings by 2 or more consent authorities of applications that relate to same proposal

(1) If applications for resource consents in relation to the same proposal have been made to 2 or more consent authorities, and those consent authorities have decided to hear the applications, the consent authorities must jointly hear and consider those applications unless—

(a) all the consent authorities agree that the applications are sufficiently unrelated that a joint hearing is unnecessary; and

(b) the applicant agrees that a joint hearing need not be held.

(2) When a joint hearing is to be held, the regional council for the area concerned is responsible for notifying the hearing, setting the procedure, and providing administrative services, unless the consent authorities involved in the hearing agree that another authority should be so responsible.

(3) If 2 or more consent authorities jointly hear applications for resource consents, they must jointly decide those applications unless any of the consent authorities consider on reasonable grounds that it is not appropriate to do so.

(4) If 2 or more consent authorities jointly decide applications for a resource consent in accordance with **subsection (3)**,—

(a) they must identify in their decision on those applications—

(i) their respective responsibilities for the administration of any consents granted, including monitoring and enforcement; and

(ii) the manner in which administrative charges will be allocated between the consent authorities; and

(b) any consent must be issued by the relevant consent authority accordingly.

~~(5) If 2 or more consent authorities separately decide applications, and all the consent authorities have agreed to grant a resource consent, they must ensure any conditions to be imposed are not inconsistent with each other.~~

(6) In any appeal under **section 253** against a joint decision under **subsection ~~(5)~~ (4)**, the respondent is the consent authority whose consent is the subject of the appeal.

(7) This section also applies to any other matter the consent authorities are empowered to decide or recommend on under this Act in relation to the same proposal.

(8) If a consent authority delegates its functions, powers, and duties in relation to a matter to 1 or more hearings commissioners in accordance with **section 217**, and a joint hearing under this section includes the matter, then those commissioners must represent the consent authority in the joint hearing in relation to the matter.

Compare: 1991 No 69 s 102

219 Combined hearings of applications that relate to same proposal

(1) If 2 or more applications for resource consents in relation to the same proposal have been made to a consent authority, and that consent authority has decided to hear the applications, the consent authority must hear and decide those applications together unless—

(a) the consent authority is of the opinion that the applications are sufficiently unrelated that it is unnecessary to hold a combined hearing; and

(b) the applicant agrees that a combined hearing need not be held.

(2) This section also applies to any other matter the consent authority is empowered to decide or recommend on under this Act in relation to the same proposal.

(3) If a consent authority delegates its functions, powers, and duties in relation to a matter to 1 or more hearings commissioners in accordance with **section 217**, and the matter is to be heard and decided together with other matters under this section, then all of the matters must be heard and decided by those commissioners.

Compare: 1991 No 69 s 103

220 Time limit for completion of hearing of notified application

~~(1) This section applies to a~~ The hearing of an application for a resource consent that was notified must be completed within the time prescribed by regulations (if any).

~~(2) The hearing must be completed within the time prescribed by regulations under this Act (if any).~~

Compare: 1991 No 69 s 103A

221 Requirement to provide report and other evidence

(1) This section applies to an application for a resource consent if the application is notified, regardless of whether a hearing is held on the application.

(2) The consent authority must provide the following ~~(the **authority's evidence**)~~ documentation to the applicant, and to every submitter ~~person who made a submission~~, within the specified time limit ~~prescribed by regulations under this Act~~ (if any) or ~~otherwise~~ as soon as practicable after the closing date ~~for submissions on the application~~:

(a) a copy of any written report prepared under **clause 91 of Schedule 7**; and

(b) briefs of any other evidence to be called by the authority.

(3) The applicant must provide briefs of evidence (the **applicant's evidence**) to the consent authority within the specified time limit ~~prescribed by regulations under this Act~~ (if any) or ~~otherwise~~ as soon as practicable after the closing date ~~for submissions on the application~~.

(4) A ~~person who has made a submission and~~ submitter who is intending to call expert evidence must provide briefs of the evidence (the **submitter's evidence**) to the consent authority and the applicant within the specified time limit ~~prescribed by regulations under this Act~~ (if any) or ~~otherwise~~ as soon as practicable after the closing date ~~for submissions on the application~~.

(5) The consent authority must make the following available at its office to the persons specified:

(a) the authority's ~~evidence~~ documentation, to any person who made a submission and did not state a wish to be heard:

(b) the applicant's evidence, to any person who made a submission:

(c) any submitter's evidence, to any other person who made a submission.

(6) The consent authority must give written or electronic notice that evidence is available at its office to each person to whom the evidence is required to be made available.

(6A) In this section,—

closing date means the closing date for submissions on the application

specified time limit means the time limit specified in regulations or if regulations do not specify a time limit, means the applicable time limit specified in **clauses 87 and 91(4) and (5) of Schedule 7**.

~~(7) This section overrides **clauses 87 and 91(4) and (5) of Schedule 7**.~~

Compare: 1991 No 69 s 103B

222 Technical review of draft conditions of consent

(1) An applicant for a resource consent may request ~~a technical review of~~ the consent authority to provide them with any draft conditions of the consent (the **draft conditions**) so that they can carry out, or arrange for another person to carry out, at the applicant's expense, a technical review of the draft conditions.

(2) A request ~~for a technical review~~ —

(a) must be made before the consent authority issues its decision on the application for consent; and

(b) may be made only once by an applicant.

(3) If the applicant requests ~~a technical review of~~ the draft conditions under this section and the consent application ~~for consent~~ has been notified, the consent authority ~~must also~~ may provide the draft conditions ~~of consent~~ to submitters if the applicant agrees.

(3A) The applicant and the consent authority must agree to the time period within which feedback on the draft conditions from the applicant and any submitters must be made to the consent authority.

~~(4) Submitters may provide feedback on the minor or technical matters in the draft conditions of consent within the time specified by the consent authority.~~

(4A) A consent authority—

(a) is not obliged to adopt any feedback it has received under this section from the applicant or submitters; and

(b) may adopt any feedback in accordance with **sections 223 to 240 and 575**.

(5) The consent authority may, for the purposes of this section, suspend the processing of the consent for a period prescribed by regulations ~~under this Act~~ (if any) or otherwise agreed with the applicant.

(6) In this section, a **technical review** means a review that is ~~focussed~~ focused on technical matters or minor matters.

Decisions

223 Consideration of resource consent application

(1) This section applies to a consent authority when considering an application for a resource consent.

Matters that consent authority must have regard to

(2) The consent authority must, subject to **subsection (10)**, have regard to—

(a) any actual and potential effects on the environment of allowing the activity (*see* **subsection (2A)**); and

(b) any measure proposed or agreed to by the applicant—

(i) to avoid, remedy, ~~mitigate~~ minimise, offset, or ~~take steps to provide redress~~ compensate for, any adverse effects on the environment ~~(~~resulting or likely to result from the activity~~)~~; or

(ii) to provide for positive effects; and

(c) whether, and the extent to which, the activity contributes to the achievement of any relevant outcomes, ~~limits,~~ targets, and policies in~~:~~—

(i) a plan:

(ii) a regional spatial strategy:

(iii) the national planning framework; and

(d) the nature and extent of any inconsistency with—

(i) any policies and rules in a plan; or

(ii) the national planning framework; and

(e) the ~~likely~~ preferred state of the future environment as specified in a plan, a regional spatial strategy, or the national planning framework; and

~~(f) any prior non-compliance by the applicant and for which enforcement action has been taken under this Act; and~~

(g) any other matter~~, subject to **subsection (9)**~~, that the consent authority considers relevant and reasonably necessary to determine the application.

(2A) For the purposes of **subsection (2)(a)**, if the activity and any adverse effect of the activity is permitted by the national planning framework or a plan, the consent authority must have regard to that adverse effect unless the activity is consistent with relevant outcomes.

(3) The consent authority must, if the application is notified, have regard to any submissions other than those that have been withdrawn.

Specific considerations

(3B) The consent authority may consider any prior non-compliance by any of the following persons if the non-compliance has led to enforcement action being taken under this Act or the Resource Management Act 1991:

(a) the applicant:

(b) a person who will be responsible for complying with any conditions of the consent.

(4) If the application is affected by **section 268 or 474**, the consent authority must have regard to the value of the existing consent holder's investment excluding the land value.

(5) **Subsection (4)** does not apply to an application that is affected by **section 268** and—

(a) that is subject to the ~~affected application~~ comparative consenting process; or

(b) for which a market-based allocation method is used to determine the allocation of the right to apply.

(6) If the proposed activity is in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, the consent authority—

(a) must have regard to any matters relevant to this Act that are set out in the planning document; and

(b) must, if it is a regional council, continue to have regard to those matters until it receives notification from the regional planning committee that ~~the council~~ it has completed its obligations in relation to its regional planning documents under section 93~~(5)~~ of the Marine and Coastal Area (Takutai Moana) Act 2011.

(7) *See also* section 103(3) of the Urban Development Act 2020 (which relates to resource consents in project areas in transitional periods for specified development projects (as those terms are defined in section 9 of that Act)).

Matters that must be disregarded

(8) The consent authority must not have regard to—

(a) trade competition or the effects of trade competition; or

(b) any effect on a person who has given written approval to the application; or

~~(c) any effect on scenic views from private properties or land transport assets that are not stopping places; or~~

~~(d) any effect on the visibility of commercial signage or advertising; or~~

~~(e) any adverse effect arising from the use of the land by—~~

~~(i) people on low incomes; or~~

~~(ii) people with special housing needs; or~~

~~(iii) people whose disabilities mean they need support or supervision in their housing.~~

(c) any effect of an activity on scenic views from private properties; and

(d) the visibility of commercial signage or advertising being obscured as an effect of an activity; and

(e) any adverse effect, real or perceived, arising from the use of the land for housing, if that effect is attributed to—

(i) the social or economic characteristics of residents; or

(ii) types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries; or

(iii) residents requiring support or supervision in their housing because of their legal status or disabilities.

(9) **Subsection (8)(b)** does not apply if the person withdraws their approval by written notice received by the consent authority before the hearing, or if there is no hearing, before the application is determined.

Recourse to national planning framework and purpose of Act

~~(10) When considering any matter in the application, the consent authority—~~

~~(a) may have regard to the national planning framework in relation to the matter only if, and to the extent that, the consent authority is satisfied that the plan does not adequately deal with the matter; and~~

~~(b) may have regard to the purpose of this Act in relation to the matter only if, and to the extent that, the consent authority is satisfied that the national planning framework does not adequately deal with the matter.~~

(10) For the purpose of considering any matter in the application, the consent authority—

(a) may, unless a framework rule directly affects the matter, have regard to the national planning framework only if, and to the extent that, it is necessary—

(i) to resolve any conflict between plan outcomes; or

(ii) to resolve any ambiguity in the plan; or

(iii) to address a matter that is not addressed in the plan; and

(b) may have regard to the purpose of the Act only if, and to the extent that, it is necessary—

(i) to resolve ambiguity in the national planning framework; or

(ii) to resolve conflict between framework outcomes; or

(iii) to address a matter that is not addressed in the national planning framework.

Matters for which consent must not be granted

(11) The consent authority must not grant a resource consent if—

(a) it is contrary to—

(i) an environmental limit or target:

(ii) a wāhi tapu condition included in a customary marine title order or agreement:

(iii) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011:

(iv) a water conservation order:

(v) a heritage ~~restriction~~ protection order:

(vi) a restriction on the discharge permit:

(vii) a restriction on a coastal permit~~; or~~;

(viii) a wastewater environmental standard made under section 138 of the Water Services Act 2021; or

(b) it should have been notified and was not~~.~~; or

(c) the activity would have more than a trivial effect on a place of national importance unless **section 427F(1)(a), (b), or (c)** applies.

Determination

(12) The consent authority may grant a resource consent on the basis that the activity is a controlled activity or a discretionary activity regardless of what type of activity the application was expressed to be for.

(13) The consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.

(14) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.

Compare: 1991 No 69 s 104

224 Determination of applications for discretionary activity

After considering an application for a resource consent for a discretionary activity, a consent authority—

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under **section 231**.

Compare: 1991 No 69 s 104B

225 Determination of applications for controlled activities

(1) When considering an application for a resource consent for a controlled activity, a consent authority must consider only those matters over which a plan or the national planning framework has reserved control.

(2) The consent authority may grant or refuse the application.

(3) The consent authority may impose conditions on the resource consent but only for those matters over which a plan or the national planning framework has retained control.

Compare: 1991 No 69 s 104C

226 Consideration of activities affecting drinking water supply source water

When considering an application for a resource consent, the consent authority must have regard to—

(a) the actual or potential effect of the proposed activity on the source of a drinking water supply that is registered under section 55 of the Water Services Act 2021; and

(b) any risks that the proposed activity may pose to the source of a drinking water supply that are identified in a source water risk management plan prepared in accordance with the requirements of the Water Services Act 2021.

Compare: 1991 No 69 s 104G

227 Matters relevant to certain applications

(1) If an application is for a discharge permit or coastal permit to do something that would contravene **section 22 or 23**, the consent authority must, in addition to the matters in **section 223(2)**, have regard to—

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(b) the applicant's reasons for the proposed choice (*see* **Schedule 10**); and

(c) any possible alternative methods of discharge, including discharge into any other receiving environment; and

(d) the best practicable option for the discharge~~ over the duration of consent~~; and

(e) the comparative assessment undertaken to determine the best practicable option for the discharge.

(2) If an application is for a resource consent for a reclamation, the consent authority must, in addition to the matters in **section 223(2)**, consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under **section ~~234(1)(g)~~ 232(1)(g)** on the resource consent.

Compare: 1991 No 69 s 105

228 Consent authority may refuse subdivision consent in certain circumstances

(1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers—

(a) it is necessary to avoid, reduce, or mitigate risks arising from natural hazards:

~~(b) the risk from natural hazards include current and future risks:~~

(c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

(2) 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)**.~~

(a) the risks from natural hazards include current and future risks and the effects of climate change:

(b) an assessment of the risks from natural hazards requires a combined assessment of—

(i) the likelihood of natural hazards occurring (whether individually or in combination); and

(ii) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and

(iii) 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 **subparagraph (ii)**.

(3) Conditions under **subsection (1)** must be—

(a) for the purposes of avoiding, ~~remedying~~ reducing, or mitigating the effects referred to in **subsection (1)**; and

(b) of a type that could be imposed under **section 231**.

Compare: 1991 No 69 s 106

229 Granting of certain discharge or coastal permits restricted

(1) This section applies to an application for a discharge permit or coastal permit for an activity that would contravene **section 22 or 23** by allowing—

(a) a contaminant or water to be discharged into water; or

(b) a contaminant to be discharged onto or into land in circumstances which may result in that contaminant (or any other contaminant ~~emanating~~ released as a result of natural processes from that contaminant) entering water; or

(c) a contaminant to be discharged into or onto the coastal marine area from a ship, aircraft, or offshore installation.

(2) A consent authority must not grant the permit if,—

(a) before reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water)~~,~~ is likely to give rise to all or any of the following effects in the receiving waters:

(i) any significant adverse effects on aquatic life:

(ii) significant irreversible adverse effects on the waterbody; or

(b) after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water)~~,~~ is likely to give rise to all or any of the following effects in the receiving waters:

(i) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(ii) any conspicuous change in the colour or visual clarity:

(iii) any emission of objectionable odour:

(iv) the rendering of fresh water unsuitable for consumption by farm animals:

(v) any significant adverse effects on aquatic life~~:~~.

~~(3) A consent authority may grant the permit despite **subsection (2)**, but only if is satisfied that —~~

~~(a) one of the following apply:~~

~~(i) exceptional circumstances justify the granting of the permit; or~~

~~(ii) the discharge is of a temporary nature; or~~

~~(iii) the discharge is associated with necessary maintenance; and~~

~~(b) granting the permit is consistent with the purpose of this Act.~~

(3) A consent authority may grant the permit despite **subsection (2)**, but only if is satisfied that one of the following applies:

(a) exceptional circumstances justify the granting of the permit:

(b) the discharge is of a temporary nature:

(c) the discharge is associated with necessary maintenance.

(4) In addition to any other conditions imposed by or under this Act, a condition of the permit may require the permit holder to undertake work in stages through-

out the term of the permit to ensure that any plan rules or framework rules ~~in the plan or the national planning framework~~ are met.

Compare: 1991 No 69 s 107

230 Applications to undertake aquaculture activities

(1) This section applies to an application for a coastal permit authorising aquaculture activities to be undertaken in the coastal marine area.

(2) However, this section does not apply to ~~an application that relates to~~ —

(a) an application for a coastal permit by a person who already holds a coastal permit to occupy the same space in a common marine and coastal area for aquaculture activities, unless a previous aquaculture decision in relation to that area included a condition under section 186H(3) of the Fisheries Act 1996:

(b) an application for a ~~consent~~ coastal permit in a part of an aquaculture ~~zone~~ area ~~where an aquaculture zone decision has already been made~~ in respect of which a determination has been made under **section 186JB** of the Fisheries Act 1996 by the chief executive of the Ministry responsible to the administration of that Act (the **chief executive**).

(3) The consent authority must,—

(a) unless the application is returned under **section 174(2)**, forward a copy of the application to the chief executive as soon as is reasonably practicable; and

(b) forward any information or report obtained in relation to the application under **section 183, ~~section 339, or~~ clause 88 or 91 of Schedule 7, or clause 52 of Schedule 10A** to the chief executive as soon as is reasonably practicable; and

(c) if the application is notified, provide the chief executive with a copy of the submissions as soon as is reasonably practicable after the closing date for submissions.

~~(4) In this section, **chief executive** means chief executive within the meaning given by section 2(1) of the Fisheries Act 1996.~~

Compare: 1991 No 69 s 107F

Conditions of resource consents

231 General requirements before conditions may be included

(1) When granting a resource consent, the consent authority may include any condition it considers appropriate after being satisfied that—

(a) **subsection (2)** is complied with; and

(b) any requirements in **section 232** for particular consents or conditions are complied with.

(2) A consent authority must not include a condition unless—

(a) the applicant has agreed to the condition and the condition contains measures in order to—

(i) give rise to positive effects; ~~and~~ or

(ii) avoid, remedy, mitigate, offset, or take steps to provide redress for any adverse effects; or

(b) the condition is directly connected to—

(i) any positive or adverse effects of the activity; or

(ii) an applicable provision in a plan or the national planning framework; or

(c) the condition relates to administrative matters that are essential for the efficient implementation of the resource consent.

(3) This section does not limit **section 117** (purpose and effect of rules), **section 228** (consent authority may refuse subdivision consent in certain circumstances), or **subpart 4 of Part ~~11~~ 9** (subdivision consent conditions and related provisions).

(4) For the purpose of **subsection (2)(b)**, a provision is **applicable** if the application of the provision to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.

Compare: 1991 No 69 ~~s 108 s~~ ss 108, 108AA

232 Particular conditions that may be included in resource consent

(1) Without limiting the generality of **section 231**, a resource consent may include 1 or more of the following conditions~~:~~:

(aaa) a condition specifying the duration of the consent:

(a) a condition requiring an environmental contribution to be made:

(b) a condition requiring a bond to be ~~provided~~ given (and describing the terms of that bond) in accordance with **section 234**:

(c) a condition requiring services or works to be provided, including (but without limitation) the protection, planting, or replanting of any tree or other vegetation or the protection, restoration, or enhancement of any natural or physical resource:

(d) in the case of a resource consent that is not a subdivision consent, a condition requiring a covenant be entered into, in favour of the consent authority, in respect of the performance of any condition of the resource consent (being a condition which relates to the use of land to which the consent relates):

(e) in the case of a discharge permit or a coastal permit to do something that would otherwise contravene **section 22** (relating to the discharge of contaminants) or **section 24**, a condition requiring the holder to adopt

the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of the discharge and other discharges (if any) made by the person from the same site or source:

(f) in the case of a subdivision consent, a condition described in **subpart 4 of Part 9**:

(g) in the case of a resource consent for reclamation, an esplanade reserve or esplanade strip of any specified width to be set aside or created under **Part 9**:

(h) in the case of a coastal permit to occupy any part of the common marine and coastal area, a condition—

(i) detailing the extent of the exclusion of other persons:

(ii) specifying any coastal occupation charge:

(i) a condition requiring the holder of a resource consent to supply to the consent authority information relating to the exercise of the resource consent:

(j) a condition directly connected to a wastewater environmental performance standard made under section 138 of the Water Services Act 2021.

(2) Without limiting **subsection (1)(i)**, a condition made under that subsection may require the holder of the resource consent to do 1 or more of the following:

(a) to make and record measurements:

(b) to take and supply samples:

(c) to carry out analyses, surveys, investigations, inspections, or other specified tests:

(d) to carry out measurements, samples, analyses, surveys, investigations, inspections, or other specified tests in a specified manner:

(e) to provide information to the consent authority at a specified time or times:

(f) to provide information to the consent authority in a specified manner, and if applicable, in a manner consistent with any regulations or direction in the national planning framework:

(g) to comply with the condition at the holder of the resource consent's expense.

(3) A consent authority must not include a condition requiring an environmental contribution unless—

(a) the condition is imposed in accordance with the purposes specified in the plan or (including the purpose of ensuring positive effects on the environment to offset any adverse effect); and

(b) the level of contribution is determined in the manner described in the plan.

(4) A condition under **subsection (1)(d)** may, among other things, provide that the covenant may be varied or cancelled or renewed at any time by agreement between the consent holder and the consent authority.

~~(5) Before including a condition under **subsection (1)(e)**, the consent authority must be satisfied that, in the particular circumstances and having regard to—~~

~~(a) the nature of the discharge and the receiving environment; and~~

~~(b) other alternatives, including any condition requiring the observance of minimum standards of quality of the receiving environment—~~

~~the inclusion of that condition is the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.~~

(5) Before including a condition under **subsection (1)(e)**, the consent authority—

(a) must have had regard to—

(i) the nature of the discharge and the receiving environment; and

(ii) other alternatives, including a condition requiring compliance with a prescribed limit; and

(b) must be satisfied in the particular circumstances, that including the condition is the most efficient and effective means of—

(i) preventing or minimising any actual or likely adverse effect on the environment; and

(ii) achieving environmental limits or targets.

Compare: 1991 No 69

233 Adaptive management approach

(1) A consent authority may grant a resource consent that includes a condition that requires, or conditions that form, an adaptive management approach.

~~(2) An adaptive management approach must—~~

~~(a) allow an activity to commence on a small scale, or for a short period, or in stages to allow its effects to be monitored; and~~

~~(b) require certification and review of environmental management plans; and~~

~~(c) require baseline monitoring and reporting to set triggers as well as enforcement limits (where appropriate); and~~

~~(d) require ongoing monitoring and reporting; and~~

~~(e) include provisions to allow for the activity to step back to a previous stage or cease temporarily where triggers are met, to allow for manage-~~

~~ment practices or monitoring requirements to be adapted accordingly; and~~

~~(f) include provisions to allow for an the activity to be discontinued permanently (in circumstances where the effects are found to be unacceptable).~~

(2) An adaptive management approach—

(a) must allow an activity to commence on a small scale, or for a short period, or in stages to allow its effects to be monitored; and

(b) must require baseline information for—

(i) monitoring and reporting; and

(ii) setting triggers and limits (other than an environmental limit) for the purpose of monitoring and reporting; and

(c) must require ongoing monitoring and reporting; and

(d) may require certification and review of environmental management plans; and

(e) may include provisions to allow for activity to step back to a previous stage or cease temporarily where triggers are met, to allow for management practices or monitoring requirements to be adapted accordingly; and

(f) may include provisions to allow for an activity to be discontinued permanently (in circumstances where the effects are found to be unanticipated at the time consent was granted).

(3) In determining the use of an adaptive management approach, the consent authority must consider—

(a) whether there is adequate evidence that using an adaptive management approach will—

(i) sufficiently reduce uncertainty about the effects of the activity; and

(ii) adequately manage any remaining risk; and

(b) the extent of any environmental risk (including the consequences if the risk is realised); and

(c) the importance of the activity for which the consent relates; and

(d) the degree of uncertainty about the effects of the activity; and

(e) whether and the extent to which the adaptive management approach will sufficiently diminish the risk and the uncertainty.

(4) A consent authority may decide that an adaptive ~~manage~~ management approach sufficiently diminishes the risk and uncertainty if it is satisfied that—

(a) there is sufficient monitoring of the receiving environment to set appropriate indicators and compliance limits; and

(b) the conditions provide for effective monitoring of adverse effects using appropriate indicators; and

(c) indicators are set to prompt remedial action before adverse effects occur or reach unacceptable levels; and

(d) any effects that might arise can be remedied before they become irreversible.

~~234~~ ~~Bonds~~

~~(1) A bond required under **section 232(1)(b)** may be given for the performance of any 1 or more conditions the consent authority considers appropriate and may continue after the expiry of the resource consent to secure the ongoing performance of conditions relating to long-term effects, including—~~

~~(a) a condition relating to the alteration or removal of structures:~~

~~(b) a condition relating to remedial, restoration, or maintenance work:~~

~~(c) a condition providing for ongoing monitoring of long-term effects.~~

~~(2) A condition describing the terms of the bond to be entered into under **section 232(1)(b)** may—~~

~~(a) require that the bond be given before the resource consent is exercised or at any other time:~~

~~(b) require that **section 235(1)** apply to the bond:~~

~~(c) provide that the liability of the holder of the resource consent be not limited to the amount of the bond:~~

~~(d) require the bond to be given to secure performance of conditions of the consent including conditions relating to any adverse effects on the environment that become apparent during or after the expiry of the consent:~~

~~(e) require the holder of the resource consent to provide such security as the consent authority thinks fit for the performance of any condition of the bond:~~

~~(f) require the holder of the resource consent to provide a guarantor (acceptable to the consent authority) to bind itself to pay for the carrying out of a condition in the event of a default by the holder or the occurrence of an adverse environmental effect requiring remedy:~~

~~(g) provide that the bond may be varied or cancelled or renewed at any time by agreement between the holder and the consent authority.~~

~~(3) If a consent authority considers that an adverse effect may continue or arise at any time after the expiration of a resource consent granted by it, the consent authority may require that a bond continue for a specified period that the consent authority thinks fit.~~

~~Compare: 1991 No 69 s 108A~~

235 Special provisions in respect of bonds or covenants

(1) Every bond given under **section 234** in respect of a land use consent or subdivision consent, and any other bond to which this subsection is applied as a condition of the consent, and every covenant given under **section 232(1)(d)**,—

(a) is deemed to be an instrument creating an interest in the land within the meaning of section 51 of the Land Transfer Act 2017, and may be registered accordingly; and

(b) when registered under the Land Transfer Act 2017, is a covenant running with the land and, despite anything to the contrary in section 103 of the Land Transfer Act 2017, binds subsequent owners of the land.

(2) Where any such bond or covenant has been registered under the Land Transfer Act 2017 and that bond or covenant is varied, cancelled, or expires, the Registrar-General of Land must make an appropriate entry in the register and on any relevant instrument of title noting that the bond or covenant has been varied or cancelled or has expired, and the bond or covenant takes effect as so varied or cease to have any effect, as the case may be.

(3) Where any bond has been given in respect of the completion of any work, or for the purposes of ascertaining whether the work has been completed to the satisfaction of the consent authority, the consent authority may from time to time, under section 171 of the Local Government Act 2002, enter on the land where the work is required to be, or is being, or has been, carried out.

(4) Where the holder fails, within the period prescribed by the resource consent (or within such further period as the consent authority may allow), to complete, to the satisfaction of the consent authority, any work in respect of which any bond is given (including completion of any interim monitoring required)—

(a) the consent authority may enter on the land and complete the work and recover the cost thereof from the holder out of any money or securities deposited with the consent authority or money paid by a guarantor, so far as the money or securities will extend; and

(b) on completion of the work to the satisfaction of the consent authority, any money or securities remaining in the hands of the consent authority after payment of the cost of the works must be returned to the holder or the guarantor, as the case may be.

(5) Where the cost of any work done by the consent authority under **subsection (4)** exceeds the amount recovered by the consent authority under that subsection, the amount of that excess is a debt due to the consent authority by the holder, and is a charge on the land.

(6) The provisions of **Part 11** continue to apply despite the entry into or subsequent variation or cancellation of any such bond or covenant.

Compare: 1991 No 69 s 109

~~**236 Refund of money and return of land where activity does not proceed**~~

~~(1) Subject to **subsection (2)**, where—~~

~~(a) a resource consent includes a condition under **section 231(1)(a)**; and~~

~~(b) that resource consent lapses under **section 272** or is cancelled under **section 273** or is surrendered under **section 291**; and~~

~~(c) the activity in respect of which the resource consent was granted does not proceed,—~~

~~the consent authority must refund or return to the consent holder, or their personal representative, any environmental contribution paid or land set aside under **section 231(1)(a)**.~~

~~(2) A consent authority may retain any portion of an environmental contribution or land referred to in **subsection (1)** of a value equivalent to the costs incurred by the consent authority in relation to the activity and its discontinuance.~~

~~Compare: 1991 No 69 s 110~~

237 Use of environmental contributions

~~Where a~~ A consent authority that has received a cash contribution under **section ~~231(2)(a)~~ 231(1)(a)**, ~~the authority~~ must deal with that money ~~in~~ reasonable accordance with the purposes for which the money was received.

Compare: 1991 No 69 s 111

238 Refund of environmental contributions

(1) **Subsection (2)** applies if a consent is granted with a condition requiring ~~a~~ an environmental contribution in money or land or both, and the consent lapses under **section 272**, is cancelled under **section 273**, or the activity does not proceed.

(2) The consent authority must refund the money, or return the land, to the consent holder.

(3) However, ~~that committee~~ the consent authority may retain a portion of the money or land to the value equivalent to the costs incurred in relation to the consenting of the activity.

Compare: 1991 No 69 s 110

239 Limits to setting environmental contributions

A consent authority must not impose a condition requiring payment of ~~a~~ an environmental contribution under this Part in respect of an activity if, and to the extent that, a development contribution (within the meaning of the Local Government Act 2002) has been fixed and paid or is payable under the Local Government Act 2002 in relation to the same activity and for the same purpose.

Compare: 2002 No 84 s 200(1)(a)

240 Condition of certain consents to pay rent, royalties, etc~~:~~

(1) It is a condition of every coastal permit authorising the holder to remove any sand, shingle, shell, or other natural material from any land~~,~~ that the holder must, at all times throughout the period of the permit, pay to the relevant regional council, on behalf of the Crown,—

(a) if the permit was permitted to be granted by virtue of an authorisation granted under **section 492**, the rent and royalties (if any) specified in the authorisation held by the permit holder; and

(b) any sum of money required to be paid by any regulation made under **section 848(1)(b)**.

(2) It is a condition of every water permit granted to do something that would otherwise contravene ~~section 14(2)(c)~~ **section 21(3)(c)** (relating to the taking or use of geothermal ~~energy~~ water) that the holder must at all times throughout the period of the permit pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by any regulation made under **section 848(1)(b)**~~:~~.

(3) If an activity specified in **subsection (1) or (2)** is a permitted activity in a plan, it is a condition of the plan that the person undertaking the activity must at all times throughout the period during which the activity is undertaken pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by any regulations made under **section 848(1)(b)**.

Compare: 1991 No 69 s 112

Formal requirements about decisions

241 Decisions on applications to be in writing, etc

(1) Every decision on an application for a resource consent that is notified must be in writing and state—

(a) the reasons for the decision; and

(b) the relevant statutory provisions that were considered by the consent authority; and

(c) any relevant provisions of the following that were considered by the consent authority:

(i) the national planning framework:

(ii) a plan:

(iii) a proposed plan; and

(d) the principal issues that were in contention; and

(e) a summary of the evidence heard; and

(f) the main findings on the principal issues that were in contention; and

(g) if a resource consent is granted for a shorter duration than specified in the application, the reasons for deciding on the shorter duration.

(2) Without limiting **subsection (1)**, if a resource consent is granted which, when exercised, is likely to allow any of the effects described in **section 229(2)**, the consent authority must include in its decision the reasons for granting the consent.

(3) A decision prepared under **subsection (1)** may,—

(a) instead of repeating material, cross-refer to all or a part of—

(i) the assessment of environmental effects provided by the applicant concerned:

(ii) any report prepared under **section 183, or clause 88 or 91 of Schedule 7**; or

(b) adopt all or a part of the assessment or report, and cross-refer to the material accordingly.

(4) Every decision on an application for a resource consent that is not notified—

(a) must be in writing and state the reasons for the decision:

(b) may do anything mentioned in **subsection (3)**.

Compare: 1991 No 69 s 113

242 Time limits for notification of decision

(1) Notice of a decision on an application for a resource consent must be given under **section 243** within the time limits in this section.

(2) If a hearing is held, notice of the decision must be given within 15 working days after the end of the hearing.

(3) If the application was not notified and a hearing is not held, notice of the decision must be given within 20 working days after the date the application was first lodged with the consent authority.

(4) If the application was notified and a hearing is not held, notice of the decision must be given within 20 working days after the closing date for submissions on the application.

(5) If a hearing is cancelled, notice of the decision must be given within 20 working days after the date the hearing is cancelled.

Compare: 1991 No 69 s 115

243 Notification of decision

(1) A consent authority must ensure that a copy of a decision on an application for a resource consent and a statement of the time within which an appeal against the decision may be lodged is served on the applicant.

(2) A consent authority must ensure that a notice of decision on an application for a resource consent and a statement of the time within which an appeal against the decision may be lodged is served on—

~~(a) persons who made a submission; and~~

(a) submitters; and

(b) other persons and authorities that it considers appropriate.

(3) If the consent authority serves a notice summarising a decision, it must—

(a) make a copy of the decision available (whether physically or by electronic means) at all its offices and all public libraries in the district (if the consent authority is a territorial authority) 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.

(4) If the decision is to grant an application that **section 230** applies to, the consent authority must—

(a) send a copy of the decision, and any notice served under **subsection (2)**, to the chief executive of the Ministry responsible for ~~aquaculture:~~ the administration of the Fisheries Act 1996 (the **chief executive**); and

(b) advise the applicant that—

(i) the decision is still subject to an aquaculture decision by the chief executive ~~of the Ministry responsible for aquaculture under the Fisheries Act 1996~~ (which will be made following the determination of all appeals against the decision, if any); and

(ii) the consent may commence only in accordance with **section 264**~~:~~; and

(c) if there is no appeal relating to the decision, or following completion of any such appeal,—

(i) send a copy of the final decision to the chief executive ~~of the Ministry responsible for aquaculture~~; and

(ii) request an aquaculture decision from the chief executive under the Fisheries Act 1996.

(5) If a consent authority forwards, at the same time, 2 or more decisions to the chief executive ~~of the Ministry responsible for aquaculture~~ under **subsection (4)(c)**, the consent authority must indicate to the chief executive the order in which the applications to which the decisions relate were received.

(6) **Subsection (4)** does not apply if the decision relates to an application for a change or cancellation of the conditions of a consent under **section 274**, a

review of the conditions of a consent initiated under **section 281**, or an application referred to in **section 474**~~,~~ if—

(a) that consent had conditions specified under section 186H(3) of the Fisheries Act 1996; and

(b) the conditions are contained in the consent the decision relates to~~,~~ and continue to be specified as not being able to be changed or cancelled until the chief executive~~ of the Ministry responsible for aquaculture~~ makes a further aquaculture decision.

Compare: 1991 No 69 s 114

Resolution of certain disputes before application for resource consent determined

244 Purpose and overview of regional ADR

(1) The purpose of the regional ADR process is to enable parties to resolve disputes—

(a) relating to an activity for which an application for certain resource consents has been made but not determined:

(b) efficiently and in a manner that is proportionate to the nature of the dispute.

(2) **Sections 245 to 252**—

(a) provide for the use of regional ADR to resolve disputes when required by a plan (**plan-directed ADR**):

(b) enable the use of regional ADR if all parties agree~~ at a party's initiative~~ (**voluntary regional ADR**):

(c) provide that the adjudicator's decision in a regional ADR—

(i) determines the matter in dispute and the consent application; and

(ii) may not be appealed if it is voluntary regional ADR.

245 Use of regional ADR

(1) A regional ADR process may be used to resolve disputes that—

(a) relate to an activity that is controlled, non-notified, or limited-notified; and

(b) relate to matters that are discrete or confined to a particular location only.

(2) Regional ADR may be used only if the consent authority has not determined the application for the resource consent to which the dispute relates.

(3) **Sections 213 to 222** do not apply if regional ADR is used to resolve a dispute.

246 Matter that must be considered ~~by planning committee~~ before providing for regional ADR in plan

Before providing for the use of regional ADR in a plan, a regional planning committee must—

(a) consider the criteria in **section 245**; and

(aa) consider the requirements of **Part 4**; and

(b) consider any relevant Treaty settlement legislation and implications affecting iwi, hapū, or Māori, and not require the use of regional ADR where that would be inconsistent with that legislation or have implications affecting iwi, hapū, or Māori.

247 Where plan requires party to use regional ADR to resolve dispute

(1) Parties must use plan-directed regional ADR to resolve a dispute if the plan requires it to be used in a dispute.

(2) **Subsection (1)** does not apply if all the parties agree to use voluntary regional ADR to resolve the dispute.

248 Party who wishes to use regional ADR must give notice

A party who wishes to use a voluntary or plan-directed regional ADR process must—

(a) give notice of the dispute (**ADR notice**)—

(i) to every other party, each person who made a submission, and each limited notified affected person; and

(ii) no later than 5 working day after the closing date for submissions; but

(b) if the matter relates to a non-notified application, give notice of the dispute to every other party at any time before the application is determined.

249 How voluntary regional ADR process is confirmed

(1) A voluntary regional ADR process may be used if—

(a) each party gives a confirmation notice to the consent authority no later than 5 working days after they receive the ADR notice; and

(b) the consent authority is satisfied that the process is appropriate after considering any relevant Treaty settlement legislation and implications affecting iwi, hapū, or Māori.

(2) The consent authority must, no later than 5 working days after it has received a confirmation notice from each party,—

(a) advise each party whether the voluntary regional ADR process may be used (in accordance with the criteria in **section 245**); and

(b) give each party a list of accredited adjudicators.

(3) If a party does not participate or respond within 5 working days after receipt of the ADR notice, the consent application must be processed in accordance with **sections 213 to 221**.

(4) In this section, **confirmation notice** means a notice by a party confirming that they wish to use voluntary regional ADR to resolve the dispute that is the subject of the ADR notice.

250 How plan directed regional ADR process is confirmed

(1) A consent authority must, no later than 5 working days after an ADR notice is received by all the parties,—

(a) advise the parties whether plan-directed regional ADR may be used (in accordance with the criteria in **section 245**); and

(b) if the plan-directed regional ADR is available, give each party a list of accredited adjudicators.

(2) However, if the consent authority receives updated application information, the consent authority must confirm the availability of plan-directed regional ADR within 5 working days after the date on which the information is received.

251 Adjudication of dispute and effect of adjudicator's decision

(1) An adjudicator must be appointed from the consent authority's list of accredited adjudicators,—

(a) at the agreement of the parties, no later than 5 working days after receiving the list; or

(b) by the consent authority, if the parties do not agree.

(2) The ADR process must be held as soon as reasonably practicable and for that purpose, the adjudicator must—

(a) specify a time not exceeding 1 day for the ADR process to be completed; and

(b) notify the parties.

(3) During the ADR process, the adjudicator must try to help the parties to agree to an outcome.

(3A) This Part applies with all necessary modifications to the ADR process (as if the adjudicator were the consent authority) except to the extent this subpart provides otherwise.

(4) An outcome agreed between the parties determines the matter in dispute and the consent application.

(5) If the parties do not agree to an outcome, the adjudicator must—

(a) decide the dispute no later than 5 working days after the ADR process is completed; and

(b) give the decision in writing to the parties and the consent authority.

(6) The adjudicator's decision—

(a) determines the matter in dispute and the consent application; and

(b) is binding on the parties and the consent authority.

(7) The adjudicator's decision in a voluntary regional ADR may not be appealed.

(8) The consent authority may correct minor mistakes or defects in the adjudicator's decision no later than 20 working days after it is given.

252 Appeal against decision in plan-directed ADR

(1) A party to an adjudicator's decision in a plan-directed regional ADR may apply for leave to appeal against the decision to the Environment Court.

(2) An application for leave must be made to the Environment Court no later than 10 working days after the date on which the party received the adjudicator's decision.

(3) The parties to an application for leave, and to an appeal, are the parties to the adjudication (including the consent authority ~~and the adjudicator~~).

(4) The court must not give leave unless it is satisfied that the appeal raises a material question of law or fact, including (for example) an issue arising under te Tiriti o Waitangi.

(5) If the court hears an appeal, the court must have regard to the adjudicator's decision and the submissions of the parties before determining the matter under appeal.

(6) The consent authority must take any action necessary to give effect to the court's determination of the matter under appeal.

Appeals

253 Right to appeal

(1) Any 1 or more of the following persons may appeal to the Environment Court in accordance with **section 254** against the whole or any part of a decision of a consent authority on an application for a resource consent, or an application for a change of consent conditions, or on a review of consent conditions:

(a) the applicant or consent holder:

(b) any person who made a submission on the application or review of consent conditions.

(2) A person exercising a right of appeal under **subsection (1)(b)** may appeal—

(a) any matter that was raised in the person's submission except any part of the submission that is struck out under **clause 89 of Schedule 7**; and

(b) any matter that was not raised in the person's submission.

(3) This section is in addition to the rights provided for in **sections 829, 830, 832, and 834** (which provide for objections to the consent authority).

Compare: 1991 No 69 s 120

254 Procedure for appeal

(1) Notice of an appeal under **section 253** must be in the prescribed form and—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations; and

(c) be lodged with the Environment Court and served on the consent authority whose decision is appealed within ~~15~~ 5 working days of notice of the decision being received in accordance with this Act.

(2) The appellant must ensure that a copy of the notice of appeal is served on every person referred to in **section 253** (other than the appellant) within 15 working days of the notice being lodged with the Environment Court.

Compare: 1991 No 69 s 121

Subpart 6—Nature of consents, review, and transfer

Nature of resource consent

255 Consents not real or personal property

(1) A resource consent is neither real nor personal property.

(2) Unless the conditions of a consent expressly state otherwise,—

(a) on the death of the holder of a consent, the consent vests in the personal representative of the holder as if the consent were personal property, and the personal representative may deal with the consent to the same extent as the holder would have been able to do; and

(b) on the bankruptcy of an individual who is the holder of a consent, the consent vests in the Official Assignee as if it were personal property, and the Official Assignee may deal with the consent to the same extent as the holder would have been able to do; and

(c) a consent must be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988.

(3) The holder of a resource consent may grant a charge over that consent as if it were personal property, but the consent may only be transferred to the chargee, or by or on behalf of the chargee, to the same extent as it could be so transferred by the holder.

(4) The Personal Property Securities Act 1999 applies in relation to a resource consent as if—

(a) the resource consent were goods within the meaning of that Act; and

(b) the resource consent were situated in the provincial district in which the activity permitted by the consent may be carried out (or, where it may be carried out in more than 1 provincial district, in those provincial districts).

(5) **Subsection (4)** is subject to the provisions of this Act, and in particular to **subsection (3)**.

Compare: 1991 No 69 s 122(1)–(4)

256 Resource consents for water related activities does not convey property right in water

A resource consent for an activity relating to water does not convey any property rights in the water.

257 Coastal permits

(1) No coastal permit may be regarded as—

(a) an authority for the holder to occupy a coastal marine area to the exclusion of all or any class of persons; or

(b) conferring on the holder the same rights in relation to the use and occupation of the area against those persons as if they were a tenant or licensee of the land.

(2) No coastal permit may be regarded as an authority for the holder to remove sand, shingle, shell, or other natural material as if it were a licence or profit à prendre.

(3) However, **subsections (1) and (2)** do not apply to the extent that—

(a) the coastal permit expressly provides otherwise; and

(b) is reasonably necessary to achieve the purpose of the coastal permit.

Compare: 1991 No 69 s 122(5), (6)

Commencement of resource consents

258 When a resource consent commences: generally

(1) A resource consent that has been granted commences—

(a) when the time for lodging appeals against the grant of the consent expires and no appeals have been lodged; or

(b) when the Environment Court determines the appeals or all appellants withdraw their appeals; or

(c) on a later date stated in the consent or any other date determined by the Environment Court.

(2) However, this section is subject to **sections 259 to 265**.

Compare: 1991 No 69 s 116(1)

259 When a resource consent commences: non-notified application

(1) This section applies to a resource consent that has been granted—

(a) for a non-notified application; or

(b) for a notified application where the time for lodging submissions has expired and either—

(i) no submissions are received; or

(ii) all submissions received are withdrawn before a decision is made.

(2) The resource consent commences on the date on which the decision on the application is notified under **section 243** or on any later date stated in the consent, unless an appeal has been lodged or an objection has been made under **section 829**.

(3) If an appeal has been lodged, **section 258(1)** applies.

(4) If an objection has been made, **section 260** applies.

Compare: 1991 No 69 s 116(1A)

260 When resource consent commences: if objection made

If an objection has been made under **section 829**, the resource consent commences when the objection, and any appeal under **section 835**, has been decided or withdrawn.

Compare: 1991 No 69 s 116(1AB)

261 When resource consent commences: section ~~261(2)~~ 196(3) cases

A resource consent to which **section ~~261(2)~~ 196(3)** applies does not commence,—

(a) in the case of a subdivision consent, until the date the land to which the consent relates is vested in the consent holder under **section 811(2)**; ~~and~~ or

(b) in every other case, until the proposed location of the activity has been reclaimed and a certificate has been issued under **section 600** in respect of the reclamation.

Compare: 1991 No 69 s 116(2)

262 When resource consent commences: consent granted by Environment Court or board of inquiry

(1) Where the Environment Court grants a resource consent under **section 170 or ~~359~~ clause 72 of Schedule 10A**, the consent commences on the date of the decision or such later date as the court states in its decision.

(2) Where a board of inquiry grants a resource consent under ~~**section 355**~~ **clause 68 of Schedule 10A**, the consent commences on the date of the decision or such later date as the board states in its decision.

Compare: 1991 No 69 s 116(4), (5)

263 When resource consent commences: common marine and coastal area

If a resource consent is granted for an activity in a part of the common marine and coastal area where a customary marine title order or agreement is in effect, section 68(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies.

Compare: 1991 No 69 s 116(6)

264 When coastal permit for certain aquaculture activities may commence

(1) A coastal permit to undertake aquaculture activities in the coastal marine area cannot commence other than in accordance with this section unless it is a coastal permit that does not require an aquaculture decision ~~or aquaculture zone decision~~ under the Fisheries Act 1996 (in which case **section 258~~(1)~~** applies).

(2) If the chief executive of the Ministry responsible for ~~aquaculture~~ the administration of the Fisheries Act 1996 (the **chief executive**) makes a determination in relation to the permit, and has notified the consent authority of that decision in accordance with section 186H of the Fisheries Act 1996, the consent authority must, as soon as is reasonably practicable,—

(a) amend the permit, if necessary, to note any conditions specified under section 186H(3) of the Fisheries Act 1996 that may not be changed or cancelled until the chief executive ~~of the Ministry responsible for aquaculture~~ makes a further aquaculture decision~~:~~; and

(b) notify the applicant that the permit commences in respect of the area that is the subject of the determination, on the date of notification under this paragraph, or, if the permit specifies a later commencement date, on that date.

(3) If the chief executive makes a reservation in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system and has notified the consent authority of that decision~~,~~ in accordance with section 186H of the Fisheries Act 1996, the consent authority must, as soon as reasonably practicable,—

(a) amend the permit to remove the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) cancel the permit to the extent that it applies to the removed areas by written notice served on the applicant.

(4) If the chief executive makes a reservation in relation to commercial fishing in relation to stocks or species subject to the quota management system and has notified the consent authority of that decision~~,~~ in accordance with section 186H of the Fisheries Act 1996, the consent authority must, as soon as is reasonably practicable,—

(a) amend the permit to show the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) notify the applicant that the permit will not commence in the area affected by the reservation, unless—

(i) an aquaculture agreement is registered in accordance with section 186ZH of the Fisheries Act 1996; or

(ii) a compensation declaration has been registered under section 186ZHA of the Fisheries Act 1996.

(5) If **subsection (4)** applies and the chief executive has notified the consent authority that an aquaculture agreement or compensation declaration has been registered for those stocks under section 186ZH or 186ZHA of the Fisheries Act 1996 (as the case may require), the consent authority must, as soon as reasonably practicable,—

(a) amend the permit so that it no longer shows the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) notify the applicant that the permit (as amended) commences in respect of the area previously shown subject to the reservation on the date of notification under this paragraph, unless the permit states a later date.

(6) If **subsection (5)** applies, then for the purposes of **section 272**, the entire permit, as amended, is to be treated as having commenced on the commencement date notified under **subsection (5)(c)**, unless the permit states a later date.

(7) If **subsection (4)** applies and the chief executive has notified the consent authority under section 186ZK of the Fisheries Act 1996 that no aquaculture agreement or compensation declaration has been registered, the consent authority must, as soon is as reasonably practicable,—

(a) amend the permit to remove the areas affected by the reservation:

(b) provide the applicant with a copy of the amended permit:

(c) cancel the permit to the extent that it applies to the removed areas by written notice served on the applicant.

(8) If the chief executive makes a reservation to which **subsection (3)** applies, for the entire permit area, the consent authority must cancel the permit by written notice served on the applicant.

(9) **Subsections (3) and (7)** apply even if the permit was granted under **section 223**.

Compare: 1991 No 69 s 116A

265 When resource consent commences if subject to grant of application to exchange recreation reserve land

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,—

(a) the consent authority must notify the applicant when the procedures in 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.

Compare: 1991 No 69 s 116B

Duration

266 Duration of consent

~~(1) This section—~~

~~(a) prescribes the maximum period of a resource consent other than a coastal permit to which **section 267** applies; and~~

~~(b) is subject to **section 272** (which provides when the consent lapses).~~

(1) The duration of a resource consent must be determined in accordance with this section unless **section 275 or 276** apply or the consent is a coastal permit to which **section 267** applies.

(2) The maximum period for which any of following resource consents may be granted is unlimited:

(a) coastal permit for a reclamation:

(b) land use consent in respect of a reclamation that would otherwise contravene **section 20**:

(c) other land use consent:

(d) subdivision consent.

(3) The maximum period for which any other resource consent may be granted is—

(a) a period specified in the consent not exceeding 35 years from the date of the commencement of the consent ~~as specified in the consent~~; or

(b) 5 years from the date of the commencement of the consent if no period is specified.

(4) The national planning framework or a plan may permit or require a specified type of resource consent to be granted for a specified period that does not exceed the maximum period for the consent.

(5) If, in relation to an application for a resource consent that is before a consent authority, the national planning framework or the plan does not specify a period for the duration of the consent,—

(a) the consenting authority may specify the period for which the consent is granted; but

(b) the period must not exceed the maximum period for the consent.

(6) A consent authority may grant a resource consent for a period that is shorter than the maximum period for the purpose of meeting a system outcome.

(7) If a resource consent does not specify the period for which the consent is granted, the consent is granted for the maximum period for that consent.

(8) This section is subject to **section 272** (which provides for when the consent lapses).

Compare: 1991 No 69 s 123

267 Duration of consent for aquaculture activities

(1) A coastal permit authorising aquaculture activities to be undertaken in the coastal marine area must specify the period for which it is granted.

(2) The specified period must be not less than 20 years from the date of commencement of the consent under **section 264** unless—

(a) the applicant has requested a shorter period; or

(b) a shorter period is required to ensure that adverse effects on the environment are adequately managed; or

(c) a framework rule expressly allows a shorter period.

(3) The specified period must be not more than 35 years from the date of commencement of the consent under **section 264**.

(4) This section applies subject to **section 272**.

Compare: 1991 No 69 s 123A

268 Exercise of resource consent while applying for new consent

(1) **Subsection (3)** applies when—

(a) a resource consent is due to expire; and

(b) the consent holder applies for a new consent for the same activity; and

(c) the application is made to the appropriate consent authority; and

(d) the application is made at least 6 months before the expiry of the existing consent.

(2) **Subsection (3)** also applies when—

(a) a resource consent is due to expire; and

(b) the consent holder applies for a new consent for the same activity; and

(c) the application is made to the appropriate consent authority; and

(d) the application is made in the period that—

(i) begins 6 months before the expiry of the existing consent; and

(ii) ends 3 months before the expiry of the existing consent; and

(e) the consent authority, in its discretion, allows the holder to continue to operate.

(3) The holder may continue to operate under the existing consent until—

(a) a new consent is granted and all appeals are determined; or

(b) a new consent is declined and all appeals are determined.

(4) This section does not apply to an application to which **section 474** applies.

Compare: 1991 No 69 s 124

269 When sections 270 and 271 apply and when they do not apply

(1) **Sections 270 and 271** apply to an application affected by **section 268** if, when the application is made, the relevant plan has not allocated any of the natural resources used for the activity.

(2) **Sections 270 and 271** also apply to an application affected by **section 268** as follows:

(a) they apply if, when the application is made,—

(i) the relevant plan has allocated some or all of the natural resources used for the activity to the same type of activity; and

(ii) the relevant plan does not expressly say that **sections 269 to 271** do not apply; and

(b) they apply to the extent to which the amount of the resource sought by a person described in **section 270(1)(a) and (b)** is equal to or smaller than the amount of the resource that—

(i) is allocated to the same type of activity; and

(ii) is left after the deduction of every amount allocated to every other existing resource consent.

(3) **Sections 270 and 271** do not apply to an application affected by **section 268** if, when the application is made, the relevant plan expressly says that **sections 269 to 271** do not apply.

(4) **Sections 270 and 271** does not apply to an application that is affected by **section 268** if,—

(a) it is subject to the ~~affected~~ comparative application consenting process set out in **subpart 7**; or

(b) a market-based allocation method is used to determine the allocation of a right to apply for a new resource consent for the same activity.

Compare: 1991 No 69 s 124A

270 Applications by existing holders of resource consents

(1) This section applies when—

(a) a person (**Person A**) holds an existing resource consent to undertake an activity under any of **sections 19 to 22** using a natural resource; and

(b) person A makes an application that is affected by **section 268** and is not disqualified by **subsection (5)**; and

(c) the consent authority receives 1 or more other applications for a resource consent that—

(i) are to undertake an activity using some or all of the natural resource to which the existing consent relates; and

(ii) could not be fully exercised until the expiry of the existing consent.

(2) Person A's application is entitled to priority over every other application.

(3) The consent authority must determine Person A's application before it determines any other application.

(4) The consent authority must determine Person A's application by applying all the relevant provisions of this Act and considering—

(a) the efficiency of the person's use of the resource; and

(b) the use of industry good practice by the person; and

(c) the person's compliance history.

~~(c) the applicant's full compliance history, including, if the person has been served with an enforcement order not later cancelled under **section 707**, or has been convicted of an offence under **section 760**,~~

~~(i) how many enforcement orders were served or convictions entered; and~~

~~(ii) how serious the enforcement orders or convictions were; and~~

~~(iii) how recently the enforcement orders were served or the convictions entered.~~

(5) For the purpose of **subsection (1)(b)**, Person A's application—

(a) must not be subject to ~~an affected~~ the comparative application consenting process (*see* **subpart 7**); and

(b) must not relate to a natural resource for which an market-based allocation method is used to determine a right to apply for a new resource consent for the same activity.

(6) In this section,—

compliance history means any conviction entered or enforcement order imposed by the court under this Act or the Resource Management 1991

Person A's application means the application described in **subsection (1)(b)**

other application means an application described in **subsection (1)(c)**.

Compare: 1991 No 69 s 124B

271 Applications by persons who are not existing holders of resource consents

(1) This section applies when—

(a) a person makes an application for a resource consent to undertake an activity under any of **sections 19 to 22** using a natural resource; and

(b) the person does not hold an existing consent for the same activity using some or all of the same natural resource; and

(c) a consent granted as a result of the application could not be fully exercised until the expiry of the consent described in **section 270(1)(a)**; and

(d) the person makes the application more than 3 months before the expiry of the consent described in **section 270(1)(a)**.

(2) The consent authority must—

(a) hold the application without processing it; and

(b) notify the holder of the existing consent—

(i) that the application has been received; and

(ii) that the holder may make an application affected by **section 268**.

(3) If the holder of the existing consent notifies the consent authority in writing that the holder does not propose to make an application affected by **section 268**, the consent authority must process and determine the application described in **subsection (1)(a)**.

(4) If the holder of the existing consent does not make an application affected by **section 268** more than 3 months before the expiry of the consent, the consent authority must process and determine the application described in **subsection (1)(a)**.

(5) If the holder of the existing consent makes an application affected by **section 268** more than 3 months before the expiry of the consent, the consent authority must hold the application described in **subsection (1)(a)** until the determination of the holder's application and any appeal.

(6) If the result of the determination of the holder's application and any appeal is that the holder's application affected by **section 268** is granted, the application described in **subsection (1)(a)** lapses to the extent to which the use of the resource has been granted to the holder.

Compare: 1991 No 69 s 124C

272 Lapsing of consents

(1) A resource consent lapses on the date specified in the consent or, if no date is specified, 5 years after the date of commencement of the consent.

(2) However, a consent does not lapse under **subsection (1)** if, before the consent lapses,—

(a) the consent is given effect to; or

(b) an application is made to the consent authority to extend the period after which the consent lapses~~duration of the consent~~, and the consent authority decides to grant an extension after taking into account—

(i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and

(ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and

(iii) the effect of the extension on the outcomes and policies in a plan.

(3) For the purposes of this section, a subdivision consent is given effect to when a survey plan in respect of the subdivision has been submitted to the territorial authority under **section 572**, but lapses if the survey plan is not deposited in accordance with **section 579**.

Compare: 1991 No 69 s 125(1), (1A), (2), (3)

273 Cancellation of consent

(1) A consent authority may cancel a resource consent by written notice served on the consent holder if the resource consent has been exercised in the past but has not been exercised during the preceding 5 years.

(2) **Subsection (1)** does not apply if—

(a) the resource consent expressly provides otherwise; or

(b) within 3 months after service of the notice, the consent holder applies to the consent authority to revoke the notice and the consent authority decides to revoke the notice and state a period after which a new notice may be served under **subsection (1)**, after taking into account—

(i) whether the applicant has obtained approval from persons who may be adversely affected by the revocation of the notice; and

(ii) the effect of the revocation of the notice on the outcomes and policies in a plan.

Compare: 1991 No 69 s 126(1), (2)

274 Change or cancellation of consent condition on application by consent holder

(1) A consent holder may apply to a consent authority for a change or cancellation of a condition of the consent if—

(a) the proposed change or cancellation—

(i) will not result in a materially different activity (than the activity for which consent was granted); and

(ii) does not relate to the duration of the consent; and

(b) the application is made before the deposit of the survey plan.

(2) **Sections 173 to 254** apply, with all necessary modifications, as if—

(a) the application were an application for a resource consent for a controlled activity; and

(b) the references to a resource consent and to the activity were references only to—

(i) the change or cancellation of a condition; and

(ii) the effects of that change or cancellation.

(3) If the resource consent is a coastal permit authorising aquaculture activities in the coastal marine area, an aquaculture decision is not required if the application—

(a) proposes to change or cancel ~~of~~ a condition of the consent; ~~and~~ but

(b) does not propose ~~any~~ to change ~~to~~ or cancel a condition specified under section 186H(3) of the Fisheries Act 1996.

(4) For the purposes of determining who is adversely affected by the change or cancellation, the consent authority must consider, in particular, every person who—

(a) made a submission on the original application; and

(b) may be affected by the change or cancellation.

Compare: 1991 No 69 s 127(1), (3), (4)

275 Duration of certain resource consent activities

10 year resource consent duration for certain activities

(1) The maximum duration of a resource consent that may be issued by a consent authority for any of the following activities is 10 years:

(a) the taking, using, damming, or diverting of ~~water~~ freshwater excluding open coastal water and geothermal water:

(b) the discharge of any contaminant or water into ~~water~~ freshwater:

(c) the discharge of any contaminant onto or into land in circumstances that may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering ~~water~~ freshwater:

(d) a land use activity that would otherwise contravene **section 22(1)(a) and (b)** (discharge relating to water).

*Effect of updates to plan under **section 693 30ZZM** on consent duration*

(2) However, if, as a result of a plan being updated under **section 693 30ZZM**, the plan specifies a resource or a resource within a specified area, as a resource to which **subsection (1)** does not apply,—

(a) **subsection (1)** ceases, on and from the date that updated provisions of the plan take effect, to apply to the duration of a resource consent for an activity relating to that resource; and

(b) the consent authority must, instead, determine the duration of the resource consent in accordance with **sections 223 and 266**.

(3) **Subsections (1) and (2)** are subject to **section 276**.

276 When section 275 does not affect duration of resource consent

(1) **Section 275** does not affect the duration of a resource consent if—

(a) an applicant for a resource consent—

(i) seeks, as part of their resource consent application, a determination from the consent authority that **section 275** does not ~~apply~~ affect the duration of the consent; and

(ii) demonstrates that the application is primarily for an activity described in **subsection (3)**; and

(b) the consent authority determines that **section 275** does not ~~apply~~ affect the duration of the consent after being satisfied that application is primarily for an activity described in **subsection (3)**.

(2) If **subsection (1)(b)** applies, the consent authority must determine the duration of the resource consent in accordance with **sections 233 and 266**.

(3) The activities referred to in **subsection (1)(a)(ii) and (b)** are:

(a) the construction, operation, upgrading, or maintenance of local authority or community reticulated water supply networks:

(aa) the construction, operation, upgrading, and maintenance of infrastructure that forms part of a public wastewater, stormwater, or sewerage network:

(b) the ~~construction,~~ operation, upgrading, or maintenance of ~~the following hydro-electric schemes:~~

(i) Waikato Hydro-Electric Scheme:

(ii) Tongariro Hydro-Electric Scheme:

(iii) Waitaki Hydro-Electric Scheme:

(iv) Manapouri Hydro-Electric Scheme:

(v) Clutha Hydro-Electric Scheme:

(vi) hydrogeneration facilities with an operational capacity of 5 megawatts or greater:

(c) the construction, upgrading, or maintenance of any of the following infrastructure activities:

(i) state highways:

(ii) the high-pressure gas transmission pipeline network operating in the North Island:

(iii) national grid electricity transmission network or local distribution network:

(iv) the New Zealand rail network (including light rail):

(v) renewable electricity generation facilities that connect directly to the national grid electricity transmission network or that connect to a local distribution network:

(vi) any airport used for regular air transport services by aeroplanes capable of carrying more than 30 passengers:

(vii) port facilities of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002:

~~(viii) infrastructure that forms part of a public wastewater, storm water or sewerage network.~~

(ix) infrastructure that forms part of a public telecommunications network.:

(d) replacement, repair, or removal activities for the purpose of an activity described in **paragraphs (a) to (c)**:

(e) an activity specified in an Order in Council made under **subsection (5)**.

(4) The activities described in **subsection (3)(c)(vi) and (vii)** do not include any ancillary commercial activity or facilities for that activity.

(5) The Governor-General may by, Order in Council, on the recommendation of the Minister specify further activities for the purpose of this section.

(6) Before making make a recommendation under **subsection (5)**, the Minister must be satisfied that the activity is—

(a) an infrastructure activity that has regional or national significance; or

(b) an activity that is associated with an activity described in **paragraph (a)**; or

(c) the construction, operation, upgrading, and maintenance of water storage facilities for the purpose of improving outcomes related to resilience to environmental change or climate change.

(7) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Review of consent conditions by consent authority

277 Circumstances when consent conditions can be reviewed

(1) A consent authority must, in accordance with **section 278**, serve notice on a consent holder of its intention to review the conditions of a resource consent if—

(a) required by an order made by the Environment Court under **section 765(6)(b)**; or

(b) the national planning framework or a plan requires a review of conditions of a consent (other than for a subdivision) in the circumstances described in ~~**subsections (3) and (4)**~~ **subsection (3) or (4)**; or

(c) the national planning framework or a plan requires a review of the conditions of the consent for the purpose of considering consent duration (regardless of whether a condition relating to consent duration was included when the consent was granted).

(2) A consent authority may, in accordance with **section 278**, serve notice on a consent holder of its intention to review the conditions of a resource consent—

(a) at any time or times specified in the consent for any of the following purposes:

(i) to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or

(ii) to require a holder of a discharge permit or a coastal permit to do something that would otherwise contravene **section 22 or 24** to adopt the best practicable option to remove or reduce any adverse effect on the environment; or

(iii) for any other purpose specified in the consent; or

(b) if the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions; or

(c) if the NBE regulator determines that the consent-holder has breached 1 or more conditions of ~~that~~ the consent.

(3) A consent issued by a ~~territorial~~ consent authority that is a territorial authority may also be reviewed if there are exceptional circumstances where—

(a) it is necessary to adapt to the effects of climate change or to avoid, mitigate, or reduce risks from natural hazards; or

(b) there is risk of significant harm or damage to human health, property, or the natural environment.

(4) A consent issued by a ~~regional~~ consent authority that is a regional council may be reviewed in any of the following circumstances regardless of whether the review is a requirement of the national planning framework or a plan: ~~if—~~

(a) it is necessary to ensure compliance with environmental limits and achieve targets; ~~; or~~

(b) it is necessary to adapt to the effects of climate change or to avoid, mitigate, or reduce risks from natural hazards; ~~or~~

(c) there is new information that identifies significant harm or damage to human health, property, or the natural environment.

(4A) A consent authority must not review the conditions of a consent for the purpose of considering consent duration unless required by the national planning framework or a plan (*see also* **section 281(2)**).

(5) A regional council must notify the chief executive ~~the department~~ of the ministry responsible for the administration of the Fisheries Act 1996 as soon as is reasonably practicable if—

(a) it intends to review a condition of a coastal permit authorising an aquaculture activity in the coastal marine area; and

(b) the condition is specified under section 186H(3) of that Act as a condition that may not be changed or cancelled until the chief executive makes a further aquaculture decision.

(6) To avoid doubt, consent authorities may review different types of consents as a group at the same time.

~~(7) A plan may require a review of a condition of a consent that relates to the duration of the consent if —~~

~~(a) there are exceptional circumstances where —~~

~~(i) it is necessary to adapt to the effects of climate change or to reduce risks from natural hazards; or~~

~~(ii) there is a risk of significant harm or damage to human health, property, or the natural environment; or~~

~~(b) it necessary to ensure compliance with limits and achieve targets; or~~

~~(c) there is new information that identifies significant harm or damage to human health, property, or the natural environment.~~

(7) The national planning framework and a plan may require a review of the conditions of the consent for the purpose of considering consent duration (regardless of whether a condition relating to consent duration was included when the consent was granted),—

(a) for a consent issued by a territorial authority, only if there are exceptional circumstances described in **subsection (3)**; and

(b) for a consent issued by a regional council, only in the circumstances permitted by **subsection (4)** apply.

Compare: 1991 No 69 s 128

278 Notice of review

(1) A notice of intent to review the conditions of a consent under **section 277**—

(a) must advise the consent holder of the conditions of the consent which are the subject of the review; and

(b) must state the reasons for the review; and

(c) must specify the information which the consent authority took into account in making its decision to review the consent, unless the notice is given under **section 277(1)(a) or (2)(a)**; and

(d) must advise a consent holder by whom a charge is payable under **section 821**—

(i) of the fact that the charge is payable; and

(ii) of the estimated amount of the charge; and

(e) may propose, and invite the consent holder to propose within 20 working days of service of the notice, new consent conditions; and

(f) must, if applicable, advise if the consent authority intends to review the conditions of the resource consent together with its review of the conditions of other resource consents.

(2) If notification of the review is required under **section 279**, the notification must include a summary of the notice served under this section, and the notification must be served within—

(a) 30 working days after the service of the notice (if the consent holder is invited to propose new conditions); or

(b) 10 working days after the service of the notice (if the consent holder is not invited to propose new conditions).

Compare: 1991 No 69 s 129

279 Public notification, submissions, and hearing, etc

(1) **Sections 209 to 218**, with all necessary modifications, apply in respect of a review of any resource consent as if—

(a) the notice of review under **section 278** were an application for a resource consent; and

(b) the consent holder were the applicant for the resource consent.

(2) **Sections 198 to 208** apply, with all necessary modifications, as if—

(a) the review of consent conditions were an application for a resource consent for a discretionary activity unless the national planning framework or a plan prescribes a more lenient activity ~~status~~ category; and

(b) the references to a resource consent and to the activity were references only to the review of the conditions and to the effects of the change of conditions respectively.

(3) If a plan states that a rule will affect the exercise of existing resource consents under **section 105(2)**, a consent authority—

(a) is not required to comply with **sections 198 to 208**; but

(b) must hear submissions only from the consent holder if the consent holder requests (within 20 working days of service of the notice under **section 278**) to be heard.

(4) Despite **subsection (3)**, if a consent authority considers special circumstances exist, it may require that a review be notified and a hearing be held even if a plan expressly states that a rule affects the exercise of existing consents under **section 105(2)**.

(5) If the ~~consenting~~ consent authority is reviewing the conditions of a coastal, water, or discharge permit, or a land use consent granted by a regional council, and ~~the national planning framework contains relevant national standards~~ since the consent was granted, a relevant framework rule has been made, the consent authority must serve on the Minister notice of the review, and the Minister may—

(a) make a submission to the consent authority; and

(b) request to be heard.

Compare: 1991 No 69 s 130

280 Matters to be considered in review

(1) When reviewing the conditions of a resource consent, the consent authority—

(a) must have regard to the matters in **section 223**; and

(b) must have regard to the extent and scale to which the activity can still be carried out after the change; and

(c) in the case of a review under **section 277(2)(a)**, must have regard to any reasons that the court provided for making the order requiring the review; and

(d) must consider what arrangements or measures are necessary to facilitate compliance of new varied or new conditions by the consent holder; and

(e) may have regard to the manner in which the consent has been used.

(2) Before changing the conditions of a discharge permit or a coastal permit to do something that would otherwise contravene **section 22 or 24** to include a condition requiring the holder to adopt the best practicable option to remove or reduce any adverse effect on the environment, the consent authority must be satisfied that including that condition is the most efficient and effective means of removing or reducing that adverse effect, in the particular circumstances and having regard to—

(a) the nature of the discharge and the receiving environment; and

(b) the financial implications for the applicant of including that condition; and

(c) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment.

Compare: 1991 No 69 s 131

281 Decisions on review of consent conditions

(1) A consent authority may change the conditions of a resource consent on a review under **section 277** if 1 or more of the circumstances specified in that section applies.

~~(2) However, a consent authority may review the conditions relating to the duration of a consent only if and when authorised or directed by the national planning framework or a plan.~~

(2) However, if directed by the national planning framework or a plan in accordance with **section 277(7)**, a consent authority—

(a) must review the conditions of the consent for the purpose of considering consent duration only to the extent authorised by the framework or plan; and

(b) may, when making a decision on the review, change or impose a condition relating to the duration of the consent regardless of whether a condition relating to duration was included when the consent was granted.

(3) **Sections 243(4) and 264** apply with all necessary modifications if a regional consent authority decides to do a review and as a result of the review intends to change a condition of a coastal permit and it is required by **section 277(5)** to give notice of the intended review to the responsible chief executive under that provision.

(4) **Sections 228 to 243 and 258 to 263** (which relate to conditions, decisions, and notification) and **sections 253 and 254** (which relate to appeals) apply, with all necessary modifications, to a review under **section 277** as if—

(a) the review were an application for a resource consent; and

(b) the consent holder were an applicant for a resource consent.

(5) A consent authority may cancel a resource consent if—

(a) it reviews the consent under **section 277(2)(b)**; and

(b) the application for the consent contained inaccuracies that the ~~consent~~ authority considers materially influenced the decision made on the application; and

(c) there are significant adverse effects on the environment resulting from the exercise of the consent.

(6) A consent authority may also cancel a resource consent if—

(a) it reviews the consent under **section 277(1)(a)**; and

(b) there are significant adverse effects on the environment resulting from the exercise of the consent.

(7) A territorial consent authority may cancel a land use consent issued by it following a review only if the land use consent cannot comply with plan rules that—

(a) give effect to any parts of the national planning framework relating to the natural environment; or

(b) give effect to any parts of the national planning framework relating to—

~~(i) natural hazard or climate change risk reduction; or~~

~~(ii) adaptation to, or mitigation of, climate change; or~~

~~(iii) contaminated land; or~~

(i) the avoidance, reduction, or mitigation of risks associated with natural hazards; or

(ii) contaminated land; or

(iii) adaptation to climate change or

(iv) mitigation of climate change; or

(c) avoid, reduce, or mitigate risks associated with natural hazards or climate change~~ risk~~, or provide for adaptation to or mitigation of climate change (even if there is no national planning framework provision on those matters); or

(d) deal with contaminated land (even if there is no national planning framework provision on the matter).

(8) A regional consent authority may cancel a ~~regional~~ consent issued by it following a review if—

(a) a relevant environmental limit is breached or is likely to be breached resulting in significant adverse effects on the environment; and

(b) there are significant adverse effects on the environment that cannot be rectified through any consent condition.

Compare: 1991 No 69 s 132

~~282 Consent authority to report on review of consent conditions~~

~~A consent authority must provide the regional planning committee with a written report on each review of consent conditions carried out by the consent authority.~~

283 Powers under Part 11 not affected

Nothing in **sections 274 to 281** limits the power of the Environment Court to change or cancel a resource consent by an enforcement order under **Part 11**.

Compare: 1991 No 69 s 133

284 Minor corrections of resource consents

A consent authority that grants a resource consent may, within 20 working days of the grant, issue an amended consent that corrects minor mistakes or defects in the consent.

Compare: 1991 No 69 s 133A

Transfer of consents

285 Land use and subdivision consents attach to land

(1) A land use consent and a subdivision consent attaches to the land to which the consent relates and accordingly may be enjoyed by the owners and occupiers of the land for the time being, unless the consent expressly provides otherwise.

(2) **Subsection (1)** does not apply to a land use consent to do something that would otherwise contravene **section 20**.

(3) The holder of a land use consent described in **subsection (2)** may transfer the whole or any part of the holder's interest in the consent to any other person unless the consent expressly provides otherwise.

(4) The transfer of the holder's interest in a consent described in **subsection (2)** has no effect until written notice of the transfer is given to the consent authority that granted the consent.

Compare: 1991 No 69 s 134(1)–(4)

286 Transferability of coastal permits

(1) A holder of a coastal permit—

(a) may transfer the whole or any part of the holder's interest in the permit to any other person:

(b) may not transfer the whole or any part of the holder's interest in the permit to another site—

unless the consent or a plan rule expressly provides otherwise.

(2) The transfer of the holder's interest in a coastal permit has no effect until written notice of the transfer is given to the consent authority that granted the permit.

Compare: 1991 No 69 s 135

287 Transferability of water permits

(1) A holder of a water permit granted for damming or diverting water may transfer the whole of the holder's interest in the permit to any owner or occupier of the site in respect of which the permit is granted, but may not transfer the permit to any other person or from site to site.

(2) A holder of a water permit granted other than for damming or diverting water may transfer the whole or any part of the holder's interest in the permit—

(a) to any owner or occupier of the site in respect of which the permit is granted; or

(b) to another person on another site, or to another site, if both sites are in the same catchment (either upstream or downstream), aquifer, or geothermal field, and the transfer—

(i) is expressly allowed by a plan; or

(ii) has been approved by the consent authority that granted the permit on an application for transfer under **subsection (5)**.

(3) A transfer under **subsection (1) or (2)** may be for a limited period.

(4) A transfer under any of **subsections (1), (2)(a), and (2)(b)(i)** has no effect until written notice of the transfer is received by the consent authority that granted the permit.

(5) An application for transfer under **subsection (2)(b)(ii)**—

(a) must be in the prescribed form and be lodged jointly by the holder of the water permit and the person to whom the interest in the water permit will transfer; and

(b) must be considered in accordance with **sections 173 to 192, 242, 253, and 254 and clauses 80 to 90 of Schedule 7** as if—

(i) the application for a transfer were an application for a resource consent; and

(ii) the consent holder were an applicant for a resource consent.

(6) When considering an application for transfer under **subsection (2)(b)(ii)**, the consent authority must, in addition to the matters set out in **section 223**, have regard to the effects of the proposed transfer, including the effect of ceasing or changing the exercise of the permit under its current conditions, and the effects of allowing the transfer.

(7) If the transfer of the whole or part of the holder's interest in a water permit is notified under **subsection (4)**, or approved by the consent authority under **subsection (2)(b)(ii)**, and is not for a limited period, the original permit, or that part of the permit transferred, is deemed to be cancelled and the interest or part transferred is deemed to be a new permit—

(a) on the same conditions as the original permit (if **subsection (4)** applies); or

(b) on such conditions as the consent authority determines under **subsection (5)** (if that subsection applies).

Compare: 1991 No 69 s 136

288 Transferability of discharge permits

(1) The holder of a discharge permit may—

(a) transfer part or all of the holder's interest in the permit; and

(b) make the transfer for part or all of the remaining period of the permit.

(2) The ~~permit~~ holder may make the transfer if it—

(a) is for the site for which the permit is granted; and

(b) is to—

(i) another owner or occupier of the site for which the permit is granted; or

(ii) a local authority.

(3) The ~~permit~~ holder may make the transfer if it is for another site and is to any person, if a regional plan—

(a) allows the transfer; or

(b) allows the ~~permit~~ holder to apply to the consent authority that granted the permit to be allowed to make the transfer.

(4) A ~~regional~~ plan may allow a transfer or a consent authority may allow a transfer if—

(a) the transfer does not worsen the actual or potential effect of any discharges on the environment; and

(b) the transfer does not result in any discharges that contravene a ~~national environmental standard~~ framework rule; and

(c) ~~if~~ the discharge is to water, both sites are in the same catchment; and

(d) ~~if~~ the discharge is to air and a framework rule applies to a discharge to air, both sites are in the same air-shed as defined in the ~~standard~~ framework rule; and

(e) ~~if~~ the discharge is to air and **paragraph (d)** does not apply, both sites are in the same region.

(5) An application under **subsection (3)(b)**—

(a) must be in the prescribed form (if any); and

(b) must be lodged jointly by the ~~permit~~ holder and the person to whom it is proposed to transfer the interest in the permit; and

(c) must be considered under **sections 174, 242, 253, and 254 and clauses 80 to 90 of Schedule 7** as if—

(i) the application for a transfer were an application for a resource consent; and

(ii) the holder were an applicant for a resource consent.

(6) The transfer has no effect until the consent authority that granted the permit receives written notice of it.

(7) When a consent authority receives written notice of a transfer that is made for all of the remaining period of the permit,—

(a) the original permit, or the part of it that relates to the part of the interest transferred, is cancelled; and

(b) the interest, or the part of it transferred, is a new permit on the same conditions as the original permit.

Compare: 1991 No 69 s 137

289 Consent authority may cancel or prevent transfer under sections 286 to 288

(1) A consent authority may cancel or prevent ~~the~~ a transfer under any of **sections 286 to 288** if it ~~has reason to believe~~ believes on reasonable grounds that the transferee ~~may not be able~~ is unlikely to comply with consent conditions based on the transferee's prior non-compliance—

(a) with any requirements of this Act; and

(b) for which enforcement action has been taken under this Act that has resulted in a conviction or a court order.

(2) If a consent authority decides to cancel or prevent the transfer, it must give written notice of its decision to the transferee.

(3) *See* **section 829(1)(f)** for a person's right to object to the consent authority's decision under this section.

290 Consent authority may order review of consent conditions

A consent authority may order a review of consent conditions under **sections 277 to 283** if it ~~has reason to believe~~ believes on reasonable grounds that the transferee ~~may not be able~~ is unlikely to comply with consent conditions based on the transferee's previous non-compliance—

(a) with any requirements of this Act; and

(b) for which enforcement action has been taken under this Act that has resulted in a conviction or a court order.

291 Surrender of consent

(1) The holder of a resource consent may surrender the consent, either in whole or part, by giving written notice to the consent authority.

(2) A consent authority may refuse to accept the surrender of part of a resource consent where it considers that surrender of that part would—

(a) affect the integrity of the consent; or

(b) affect the ability of the consent holder to meet other conditions of the consent; or

(c) lead to an adverse effect on the environment.

(3) A person who surrenders a resource consent remains liable under this Act—

(a) for any breach of conditions of the consent which occurred before the surrender of the consent; and

(b) to complete any work to give effect to the consent unless the consent authority directs otherwise in its notice of acceptance of the surrender under **subsection (4)**.

(4) A surrender of a resource consent takes effect on receipt by the holder of a notice of acceptance of the surrender from the consent authority.

Compare: 1991 No 69 s 138

292 ~~Activities allowed under consents~~ Person acting under resource consent with permission

(1) A reference in this Act to activities being allowed by a consent includes a reference to a person acting under a consent with the permission (including implied permission) of the ~~consent~~ holder of the consent as if the consent had been granted to the person acting under it as well as to the holder ~~of the consent~~.

(2) **Subsection (1)** is subject to—

(a) any specific conditions included in the consent; and

(b) **section 285** (which provides that consents for land use and subdivision attach to the land).

Compare: 1991 No 69 s 3A

293 Special provisions relating to coastal permits for dumping and incineration

*Consideration of coastal permit for activities that would otherwise contravene **section 23***

(1) When considering an application for a coastal permit to do something that would otherwise contravene **section 23**, a consent authority, in having regard to the actual and potential effects on the environment of allowing the activity, must have regard to—

(a) the nature of any discharge of any contaminant which the dumping or incineration may involve, the sensitivity of the receiving environment to adverse effects, and the applicant's reasons for making the proposed choice; and

(b) any possible alternative methods of disposal or combustion including any involving discharge into any other receiving environment.

(2) The consent authority may require the applicant to give further information to explain any matter referred to in **subsection (1)(a) and (b)**. The requirement must be in writing and may be made at a reasonable time before the hearing (or, if there is no hearing, the determination) of the application.

Best practicable option condition

(3) The consent authority may include a condition requiring the permit holder to adopt the best practicable option to prevent or minimise any actual or likely

adverse effect on the environment of any discharge of any contaminant which may occur in the exercise of the permit.

(4) A consent authority may, at any time, in accordance with **section 278**, serve notice on the permit holder of its intention to review the conditions of the permit for the purpose of including the best practicable option condition.

(5) Before deciding to include the best practicable option condition (when granting the permit or a result of a review under **subsection (4)**), the consent authority must—

(a) have regard to—

(i) the nature of any discharge of a contaminant and the receiving environment; and

(ii) the financial implications for the permit holder of including that condition; and

(iii) other alternatives, including a condition requiring the observance of minimum standards of quality of the receiving environment; and

(b) be satisfied, in the particular circumstances, that including the condition is the most efficient and effective means of removing or reducing any adverse effect.

Condition to comply with requirements relating to specified information

(6) It is a condition of the permit that the permit holder must—

(a) comply with any requirements in regulations to keep records of specified information; and

(b) provide the relevant local authority each year with information specified in the regulations.

Other matters

(7) **Sections 278 to 283** apply, subject to **subsection (5)**, to a review of a permit under **subsection (4)**. The powers of a consent authority under **subsection (4)** are in addition to its powers under **section 277**.

(8) This section does not limit—

(a) **sections 183 and 223**:

(b) **section 231** except as provided in **subsection (5)**.

(9) In this section,—

best practicable option condition means the condition described in **subsection (3)**

permit holder means a holder of coastal permit to do something that would otherwise contravene **section 23**.

Compare: 1991 No 69 s 138A

Certificates of compliance

294 ~~Application~~ Request for certificate of compliance

(1) A person may request ~~the~~ a consent authority to issue a certificate of compliance ~~(a COC)~~ under **section 295** or request the EPA to issue a ~~COC~~ certificate of compliance under **section 298**.

(2) The consent authority may require the person to provide further information if the authority considers that the information is necessary for the purpose of applying **section 295**.

(3) The person must provide the information required by the consent authority within 15 days after receiving the requirement.

(4) The consent authority may return a request for a ~~COC~~ certificate of compliance to the person as incomplete,—

(a) within 10 working days of receipt of the request, if the relevant application fee has not been paid; or

(b) within 10 working days after the expiry of the time period referred to in **subsection (3)**, if insufficient information has been provided.

(5) The consent authority must revoke ~~the~~ a certificate of compliance if it becomes aware that information that a person provided in order to obtain the certificate contained inaccuracies that were material in satisfying the authority that it must issue the ~~COC~~ certificate.

Compare: 1991 No 69 ss 139(2), (4), 139A(8)

295 Consent authorities to issue ~~COC~~ certificate of compliance

(1) This section and **section 296** applies if a request for a certificate of compliance is made in accordance with **section 294** ~~an activity could be done lawfully in a particular location without a resource consent~~.

(2) The consent authority must issue a ~~COC~~ certificate of compliance if—

(a) the activity can be done lawfully in the particular location without a resource consent; and

(b) the request complies with the requirements prescribed by regulations (if any); and

(c) the person pays the appropriate administrative charge.

(3) The consent authority must issue a ~~COC~~ certificate of compliance within 20 working days of the date on which it received the request. However, if the authority requires further information under **subsection (2)**, the counting of the 20 working days is paused on the date of the requirement and resumes when the information is received.

(4) A ~~COC~~ certificate of compliance issued to the person must—

(a) describe the activity and the location; and

(b) state that the activity can be done lawfully in the particular location without a resource consent as at the date on which the consent authority received the request.

(5) **Sections 829, 830, 832, and 835** apply to a request for a ~~COC~~ certificate of compliance.

(6) In this section, **activity** includes a particular proposal.

Compare: 1991 No 69 s 139(1)–(12), (14)

296 When consent authority must not issue ~~COC~~ certificate of compliance

(1) ~~The~~ A consent authority must not issue a ~~COC~~ certificate of compliance if—

(a) the request for a certificate is made after a proposed plan is notified; and

(b) the activity could not be done lawfully in the particular location without a resource consent under the proposed plan.

(2) The consent authority must not issue a ~~COC~~ certificate of compliance if a notice for the activity is in force under **section 157(1)(d)**.

(3) The consent authority must not issue a certificate of compliance for—

(a) an activity for which a permitted activity notice is required by the national planning framework or a plan (*see* **section 302**); or

(b) an activity for which a notice under **section 157** has been given.

Compare: 1991 No 69 s 139(8), (8A)

297 Status of ~~COC~~ certificate of compliance

(1) A ~~COC~~ certificate of compliance states that the activity can be done lawfully in a particular location without a resource consent.

(2) A ~~COC~~ certificate of compliance is treated as if it were an appropriate resource consent that—

(a) contains the conditions specified in an applicable framework rule; and

(b) contains the conditions specified in an applicable plan.

(3) A ~~COC~~ certificate of compliance treated as a resource consent is subject to **sections 26, 28, and 30**.

(4) A ~~COC~~ certificate of compliance treated as a resource consent is subject to this Act as if it were a resource consent, except that the only sections in this Part that apply to it are **sections 253(1) or (2), 272, and 285 to 288**.

(5) Despite **subsection (4)**, and **section 272**, a ~~COC~~ certificate of compliance lapses 3 years after the date of issue.

Compare: 1991 No 69 s 139(10)–(12)

298 EPA to issue ~~COC~~ certificate of compliance for certain activities

(1) This section applies if the activity for which a ~~COC~~ certificate of compliance is sought relates to a matter that is or is part of a proposal of national significance

for which a direction has been made under ~~**section 329 or 337**~~ **clause 42 or 50 of Schedule 10A**.

(2) If this section applies, a person may request a ~~COC~~ certificate of compliance from the EPA instead of from the consent authority.

(3) **Section 229** apply with the following modifications:

(a) the EPA is treated as a consent authority; and

(b) **section 227(2)(b)** does not apply; and

(c) the EPA may recover its actual and reasonable costs of dealing with the request from the person making the request; and

(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.

Compare: 1991 No 69 s 139(13)

Certificates of existing use

299 Application for certificate of existing use

(1) A person may request ~~the~~ a consent authority to issue a certificate of existing use ~~(an EUC)~~ that—

(a) describes a use of land in a particular location; and

(b) states that the use of the land was a use of land allowed by **section 26** on the date on which the authority issues the certificate; and

(c) specifies—

(i) the character, intensity, and scale of the use on the date on which the authority issues the certificate; and

(ii) if applicable, the reduced adverse effects on the environment or the contribution towards relevant ~~environmental~~ plan outcomes in the relevant plan resulting from the effects of the use of the land.

(2) A person may request ~~the~~ a consent authority to issue ~~an EUC~~ a certificate of existing use that—

(a) describes an activity that is an existing land use allowed by **section 28** or an activity that is allowed to continue under **section 30(1)** ~~to which **section 28 or 30** applies~~; and

(b) states that the activity was an activity allowed by **section 28 or 30** on the date on which the authority issues the ~~EUC~~ certificate; and

~~(c) specifies the character, intensity, and scale of the activity on the date on which the authority issues the EUC; and~~

(c) specifies—

(i) the adverse effects of the activity in terms of its character, intensity, and scale on the date on which the authority issues the certificate; and

(ii) if applicable, the reduced adverse effects of the activity; and

(d) describes the period for which the activity is allowed under **section 28 or 30**.

(3) The consent authority may require the person to provide any further information that the authority considers it needs to determine whether it must issue the ~~EUC~~ certificate of existing use.

(4) The person must provide the information required by the consent authority within 15 days after receiving the requirement.

(5) The consent authority may return a request for ~~an EUC~~ a certificate of existing use to the person as incomplete,—

(a) within 10 working days of receipt of the request, if the relevant application fee has not been paid; or

(b) within 10 working days after the expiry of the time period referred to in **subsection ~~(3)~~ (4)**, if insufficient information has been provided.

Compare: 1991 No 69 s 139A(1)–(3)

300 Consent authorities to issue ~~EUC~~ certificate of existing use

(1) The consent authority must issue ~~an EUC~~ a certificate of existing use if ~~it~~—

(a) it is satisfied that the use of the land is a use of land allowed by **section 26** on the date on which the authority issues the ~~EUC~~ certificate; and

(b) the application complies with the requirements prescribed by regulations (if any); and

(c) it receives payment of the appropriate administrative charge.

(2) The consent authority must issue ~~an EUC~~ a certificate of existing use if it—

(a) is satisfied that the activity is an activity allowed by **section 28 or 30** on the date on which the authority issues the ~~EUC~~ certificate; and

(b) receives payment of the appropriate administrative charge.

(3) A consent authority that must issue ~~an EUC~~ a certificate of existing use must do so within 20 working days after the latest of the following dates:

(a) the date on which the authority receives the request; and

(b) the date on which the authority receives the payment of the appropriate administrative charge.

(4) However, if the consent authority requires further information under **section 299(3)**, the counting of the 20 working days is paused on the date of the requirement and resumes when the information is received.

(5) The consent authority must revoke a certificate of existing use if it becomes aware that information provided in order to obtain the certificate contained inaccuracies were material in satisfying the authority that it must issue the certificate.

~~(5) **Subsection (5)** applies if a consent authority that issued an EUC becomes aware that the information that a person provided in order to obtain the EUC contained inaccuracies.~~

~~(6) The authority must revoke the EUC if it is satisfied that the inaccuracies were material in satisfying the authority that it must issue the EUC.~~

(7) **Sections 829, 830, and 832 to 835** apply in relation to the issue or revocation of ~~an EUC~~ a certificate of existing use.

Compare: 1991 No 69 s 139A(4)–(8), (10)

301 Status of certificate of ~~EUC~~ certificate of existing use

(1) ~~An EUC~~ A certificate of existing use is treated as an appropriate resource consent.

(2) The provisions of this Act apply to ~~the EUC~~ a certificate of existing use, except for **sections 152, 253(2), and 266 to 377**.

Compare: 1991 No 69 s 139A(9)

Permitted activity notices

301A National planning framework or plan may require permitted activity notice

(1) A permitted activity notice is required in relation to an activity only if the national planning framework or a plan states that it is required.

(2) The national planning framework or a plan may require a permitted activity notice for the purposes of—

(a) compliance, monitoring, and enforcement, including cost-recovery and plan effectiveness monitoring of permitted activities; and

(b) ensuring any third party approval or certification is obtained as appropriate; and

(c) requiring an environmental contribution to be made.

(3) The national planning framework or a plan may require a permitted activity to be issued for any of the following matters:

(a) monitoring the activity for compliance with requirements, standards, or criteria in the national planning framework or plan:

(b) certification by a qualified or certified person:

(c) requiring that the activity be undertaken in accordance with a report or management plan prepared by a qualified person:

(d) requiring work to be done by a qualified or certified person:

(e) requiring a report or assessment prepared by an iwi within an area identified as having significant value to Māori:

(f) requiring written approval from persons or groups who may be adversely affected by an activity.

(4) The national planning framework or a plan may require a permitted activity notice to be issued for any other matter for the purposes of **subsection (2)**.

302 Permitted activity notices

(1) A consent authority must require a permitted activity notice for any matter or activity directed by a framework rule or a plan.

(2) If an activity is required to be carried out under a permitted activity notice, a person must not commence the activity until—

(a) they have provided the information required by the national planning framework or the plan for the consent authority to issue the notice; and

(b) the authority issues the notice; and

(c) if applicable, the requirements described in **section 303(1)** have been met.

(3) If a person provides a consent authority with information in order to obtain a permitted activity notice, the consent authority must—

(a) assess the information against any requirements, standards, or criteria in the national planning framework and the plan; and

(b) either—

(i) issue the notice within 10 working days after the date on which the authority receives the information; or

(ii) not issue the notice and return any information that is incomplete or inconsistent with the requirements within 5 working days after the date on which the authority receives the information and give reasons (in writing) for its return; but

(c) must not seek further information.

(4) If a permitted activity notice is issued, the activity permitted by the notice must be carried out in accordance with the information provided in the request for the notice.

(5) If a permitted activity notice is revoked, the activity permitted by the notice must cease unless it is permitted by a new permitted activity notice or a resource consent.

(6) The consent authority must revoke a permitted activity notice if it becomes aware that information provided in order to obtain the notice contained inaccuracies or did not comply with the prescribed requirements, and that the inaccuracies or non-compliance were material in satisfying the authority that it must issue the notice.

~~302~~ ~~Permitted activity notices~~

~~(1) A person must—~~

~~(a) apply to a consent authority for a permitted activity notice (a **PAN**) if required to do so by the national planning framework or a plan; and~~

~~(b) not commence the activity (that is this subject of the PAN) until the PAN is issued.~~

~~(2) PANs are provided for the purposes of—~~

~~(a) compliance, monitoring and enforcement, including cost recovery and plan effectiveness monitoring; and~~

~~(b) ensuring any third party approval or certification is obtained as appropriate.~~

~~(3) The application must be completed in accordance with, and include the information prescribed by, the national planning framework, the plan, and regulations.~~

~~(4) A consent authority must—~~

~~(a) decide whether to issue or decline to issue a PAN within 10 working days after the date on which the authority receives the application; and~~

~~(b) return an incomplete application within 5 working days after the date on which the authority receives the application; and~~

~~(c) not seek further information.~~

~~(5) **Subsection (6)** applies if a consent authority that issued a PAN becomes aware that the information that a person provided in order to obtain the PAN contained inaccuracies or did not comply with the requirements specified in the national planning framework, plan, or regulations.~~

~~(6) The authority must revoke the PAN if it is satisfied that the inaccuracies or non-compliance were material in satisfying the authority that it must issue the PAN.~~

~~(7) A PAN lapses 3 years after the date on which it is issued, unless the activity to which it relates commences.~~

303 ~~Duration of PANs~~ Commencement and lapsing of permitted activity notice

(1) If a ~~PAN~~ permitted activity notice is revoked, a resource consent is required to continue to undertake the activity concerned if the national planning framework or plan requires it.

(2) A ~~PAN~~ permitted activity notice lapses 3 years after the date on which it is issued, unless the activity to which it relates commences.

(3) If a permitted activity notice is for an activity in a part of the common marine and coastal area where a customary marine title order or agreement is in effect, the requirements of section 68(1) of the Marine and Coastal Area (Takutai Moana) Act 2011 applies with any necessary modifications.

Subpart 7—Affected application consenting process

304 Defined terms

In this subpart,—

affected application means an application that satisfies the requirements of **section 305(a) and (b)**

required time period means the time period determined under **section 306**.

305 Consent authority must deal with affected consent applications under this subpart if required by rule

A consent authority must hear, process, and determine an application for a resource consent in accordance with this subpart only if—

(a) the application is of a kind that is required to be dealt with under this subpart by a framework rule or a plan rule; and

(b) the application is made within the required time period.

306 Consent authority must determine and publicly notify required time period

(1) A consent authority must—

(a) determine the time period (**required time period**) within which it will receive affected applications; and

(b) no later than 40 working days before the required time period commences,—

(i) give public notice of the required time period; and

(ii) make publicly available a report setting out its reasons and its assessment required by **subsection (2)**.

(2) The consent authority must conduct an assessment of the required time period against—

(a) the resource allocation principles; and

(b) any direction in the national planning framework or a natural built environment plan.

307 Part 5 applies to affected application subject to this subpart

Part 5 applies to an affected application except and to the extent that this subpart provides otherwise.

308 2 or more affected applications must be dealt with at same time

All affected applications submitted to a consent authority within the required time period,—

(a) must, subject to this subpart, undergo the procedures and requirements of the standard consenting process; and

(b) must undergo those procedures and requirements in accordance with the same timetable.

309 Consent authority must provide certain information to affected applicants

A consent authority must as soon as practicable after the close of the required time period, give each affected applicant —

(a) the names and contact details of every other affected applicant; and

(b) a copy of every other affected application.

310 When processing time frame for affected applications commence

The processing time frame of an affected application under **Part 5** commences after the close of the required time period.

311 Suspension of processing

A consent authority may suspend the processing of an affected application under **sections 176 or 179** only if —

(a) a request is made by all affected applicants; and

(b) the consent authority considers it is appropriate to suspend processing.

312 Consent authority may request Environment Court to determine affected applications

(1) A consent authority may request that the Environment Court determine the affected applications.

(2) The request —

(a) must be made within 20 working days after the expiry of the required time period; and

(b) must be made in accordance with the process set out in regulations; and

(c) to avoid doubt, does not require any agreement from any affected applicant.

313 Affected applicant must not make certain requests unless all other affected applicants agree

An affected applicant must not, unless all other affected applicants agree, —

(a) apply under **Part 5** to the Environment Court to determine the affected applications:

(b) request the Minister to call in the affected applications as a matter of national significance.

314 Decision-maker must consider merits of affected applications and apply criteria

(1) When determining affected applications under **Part 5**, a decision-maker must—

(a) consider the merits of each affected application against the merits of all other affected applications; and

(b) have regard to any applicable criteria set out—

(i) the national planning framework; and

(ii) a natural and built environment plan.

(2) **Subsection (1)** is in addition to any other requirements, criteria, or other matters that a decision-maker must consider or take into account under **Part 5** when determining an affected application.

(3) In this section, **decision-maker** means the consenting authority, the Environment Court, or the Board of Inquiry, as the case may be.

Subpart 8—Specified housing and infrastructure fast-track consenting process

315 Alternative consenting process for specified housing and infrastructure

(1) The purpose this subpart is to provide an alternative consenting process (the **specified housing and infrastructure fast-track consenting process**) for—

(a) applications for resource consents for an eligible activity; or

(b) notices of requirements for a designation for an eligible activity.

(2) In this subpart, unless the context otherwise requires—

application means an application to use the housing and infrastructure fast-track consenting process to determine—

(a) an application for a resource consent for an eligible activity; or

(b) a notice of requirement for a designation for an eligible activity

eligible activity has the meaning given by **section 316**

panel means the expert consenting panel established in accordance with regulations for the purpose of this subpart

usual consenting pathway means—

(a) in relation to an application for a resource consent, the standard consenting process; and

(b) in relation to a notice of requirement for a designation, the process set out in **subpart 1 of Part 8**.

316 Activities eligible for specified housing and infrastructure fast-track consenting process

In this subpart, an **eligible activity**, means any activity that is, or is ancillary to,—

Communications

(a) a broadcasting facility:

(b) a telecommunications network:

Energy

(c) an electricity or gas distribution or an electricity transmission network:

(d) a renewal of a consent for renewable energy generation (including hydro-electricity):

(e) wind or solar energy generation:

Housing

(f) a housing development that—

(i) supports well-functioning urban environment outcomes; and

(ii) is located in an urban area defined in a regional spatial strategy, a plan, or district plan under the Resource Management Act 1991 or located on whenua Māori; and

(iii) contributes significantly to addressing the demand or need for housing in a region, including by scale or type of housing (for example, affordable housing):

Transport

(g) an airport operated by an airport authority as defined in section 2 of the Airport Authorities Act 1996, including any airport related navigation infrastructure:

(h) a port operated by a port company (as defined in section 2(1) of the Port Companies Act 1988):

(i) the state and local rail network (including the interisland ferry facilities):

(j) the state highway network, local roads, or rapid transit services:

Water

(k) flood control and protection, including drainage:

(l) the distribution or treatment of water, wastewater, or stormwater:

Other central or local government assets

(m) correction facilities (including the provision of rehabilitation and reintegration services):

(n) defence facilities operated by the New Zealand Defence Force:

(o) educational facilities:

(p) fire and emergency service facilities:

(q) health facilities.

317 Ineligible activities

The specified housing and infrastructure fast-track consenting process must not be used for an activity that—

(a) would occur in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011; and

(b) has not been agreed to in writing by the holder of the relevant customary marine title order issued under that Act.

318 Application to use specified housing and infrastructure fast-track consenting process

(1) A person who wishes to use the specified housing and infrastructure fast-track consenting process for an eligible activity must apply to the EPA.

(2) The Minister must decide whether to accept the application but if the application relates to an activity within a coastal marine area, the decision whether to accept the application must be made jointly with the Minister for Conservation.

(3) The application must—

(a) be made in the manner provided for in regulations; and

(b) describe the activity and explain why it is an eligible activity; and

(c) provide reasons why the specified housing and infrastructure fast-track consenting process is more appropriate than the usual consenting process for the activity unless **subsection (4)** applies; and

(d) if it is a notice of requirement for designation, explain why the activity is needed and why the benefits of the project must be realised faster then they would be realised through the usual consenting process.

(e) include a statement of whether the activity is planned to proceed in stages and, if so, an outline of the nature and timing of the staging; and

(f) include the information required by **section 173** unless and to the extent that other requirements are specified in regulations.

(4) The information required by **subsection (3)(a) and (b)** need only be at a general level of detail, sufficient to inform the Minister's decision on the application.

(5) If the application relates to a notice of requirement for a designation, the application must explain—

(a) why the activity is urgently needed; and

(b) why the benefits of the activity need to realised faster than they would be realised through the usual consenting process.

(6) The Minister may decline to accept an application on the grounds that—

(a) the activity is not an eligible activity; or

(b) the Minister considers another consenting process is more appropriate for the activity.

(7) If the Minister accepts the application, the EPA must check that the application is complete and for that purpose, may request further information.

(8) If the EPA determines that the application is incomplete, it must return the application or notice immediately to the person who lodged it, with written reasons for the EPA's determination.

319 If accepted, application must be notified or consulted on

(1) No later than 20 working days after the EPA's determination that the application is complete,—

(a) the application must be referred to the expert consenting panel; and

(b) either—

(i) the application must be notified in accordance with requirements of the national planning framework or the national planning framework and relevant plan; or

(ii) if regulations require, invite comment on the application from persons or organisations specified in the regulations.

(2) The Minister may, at any time after the application has been referred to the panel, give a written direction with reasons to the EPA that the panel must suspend processing or further processing of the application.

(3) The Minister may withdraw a direction under **subsection (2)** in the same manner as it was made.

320 Submissions on application to use specified housing and infrastructure fast-track consenting process

Sections 209 to 213 apply to the making and hearing of submissions on an application.

321 Expert consenting panel must decide whether hearing is appropriate

(1) The panel—

(a) must consider whether it is appropriate to hold a hearing on the application; and

(b) may require evidence to be provided from submitters before the hearing (if any).

(2) There is no requirement for a panel to hold a hearing in respect of the application and no person has a right to be heard by a panel.

322 Procedure if hearing held

(1) The hearing of the application must be in accordance with **sections 83 to 92 of Schedule 7** but is subject to **subsection (2)**.

(2) If a hearing is held, a panel must—

(a) avoid unnecessary formality; and

(b) recognise tikanga Māori where appropriate; and

(c) receive evidence, written or spoken, in Māori (and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies accordingly); and

(d) not permit any person other than the chairperson or members of a panel to question a party or witness; but

(e) if the chairperson of a panel gives leave, permit cross-examination.

323 Limited suspension

(1) A consent applicant or a requiring authority may make a written request to the EPA that the panel suspend processing the application.

(2) The request must be dealt with and determined in accordance with the regulations.

324 Consideration of application by panel

(1) The panel must consider an application for a resource consent for an eligible activity in accordance with **sections 223 to 239, 242, and 293**. Those sections apply as if the panel were a consent authority.

(2) If the application relates to a notice of requirement for a designation for an eligible activity, the panel must have regard to the matters in **section 501(1)** and comply with **section 501(2)** as if it were a consent authority.

325 Decisions may be issued in stages

(1) A panel considering an application that includes multiple activities may issue a series of decisions in stages to enable activities to be started while the panel considers and determines later stages of the project that is the subject of the same application.

(2) **Subsection (1)** does not provide an exception to the time frames that apply under **section 326**.

326 Final decision on application

(1) As soon as practicable after a panel has completed its consideration of an application, the panel must—

(a) make its final decision; and

(b) produce a written report of that decision (the **decision**).

(2) The panel must issue its final decision,—

(a) if no hearing is held, no later than 60 days after the closing date for submissions or comments; or

(b) if a hearing is held, no later than 90 days after the closing date for submissions or comments.

(3) However, the panel may, if regulations allow for an extension, extend the period for issuing its final decision in accordance with any prescribed requirements.

Contents of written report of decision

(4) The written report of the decision must—

(a) state the decision made by the panel; and

(b) state the panel's reasons for its decision; and

(c) include a statement of the principal issues that were in contention; and

(d) include the main findings of the panel on those issues.

(5) The decision must also specify the date on which a resource consent or designation lapses unless it is given effect to by the specified date.

(6) The date specified under **subsection (5)** must not be later than 2 years—

(a) from the date of commencement, in the case of a resource consent; or

(b) from the date on which a designation is included in a district plan.

(7) A resource consent granted under this subpart commences on the day after the date on which—

(a) all appeal rights under this Act have been exhausted or have expired; or

(b) all appeals under this Act are determined.

327 Appeal rights

(1) Any of the following persons may appeal to the High Court against the whole or part of a panel's final decision made under **section 205** on a consent application or notice of requirement, but only on a question of law:

(a) the consent applicant or requiring authority, as the case requires:

(b) any relevant local authority:

(c) the Attorney-General:

(d) any person or group that provided comments in response to an invitation given under **section 319(1)(b)**:

(e) any person who has an interest in the decision appealed against that is greater than that of the general public.

(2) An appeal against a decision of the High Court may be made to the Court of Appeal, but that appeal is a final appeal.

Subpart 9—Proposal of national significance

328 Interpretation

In this Part, unless the context otherwise requires,—

applicant means—

(a) the person who lodged the application, for a matter that is an application for—

(i) a resource consent; or

(ii) a change to or cancellation of the conditions of a resource consent:

(b) the requiring authority that lodged the notice of requirement, for a matter that is a notice of requirement for a designation or to alter a designation:

(c) the regional planning committee, for a matter that is—

(i) a proposed change to its plan; or

(ii) a variation to a proposed plan

local authority means the consent authority that would process an application lodged under **section 173 or 274** or, if an application is lodged with the EPA, the consent authority that would have been responsible for processing the application if it had been lodged under **section 173 or 274**, for a matter that is an application for a resource consent or for a change to or cancellation of the conditions of a resource consent

matter means—

(a) an application for a resource consent; or

(b) an application for a change to or cancellation of the conditions of a resource consent; or

(c) a proposed plan change, or part of a proposed plan change; or

(d) a variation to a proposed plan or part of a variation to a proposed plan; or

(e) a notice of requirement for a designation; or

(f) a notice of requirement to alter a designation; or

(g) a combination of any 2 or more matters described in **paragraphs (c) to (f)**

regional planning committee means—

(a) the regional planning committee responsible for the plan or proposed plan, for a matter that is a proposed plan change or a variation to a proposed plan change:

(b) the regional planning committee responsible for dealing with a notice of requirement given under **subpart 1 of Part 8** or, if a notice of require-

ment is lodged with the EPA, the regional planning committee that would have been responsible for dealing with the notice if it had been given under that subpart, for a matter that is a notice of requirement.

Compare: 1991 No 69 s 141

Matter lodged with local authority

329 Minister may call in matter that is or is part of proposal of national significance

(1) This section applies if a matter has been lodged with a local authority or a regional planning committee, or in the case of a proposed plan change or variation, progressed by a regional planning committee, and —

(a) the Minister, at their own initiative, decides to apply this section; or

(b) the Minister receives a request from an applicant or a local authority or regional planning committee to make a direction for the matter under **subsection (2)**.

(2) If the Minister considers that a matter is or is part of a proposal of national significance, the Minister may call in the matter by making a direction to —

(a) refer the matter to a board of inquiry for decision; or

(b) refer the matter to the Environment Court for decision.

(3) In deciding whether a matter is, or is part of, a proposal of national significance and whether to invoke this Part, the Minister must have regard to —

(a) whether the matter gives effect to the national planning framework:

(b) the nature, scale and significance of the proposal:

(c) its potential to contribute to achieving nationally significant outcomes for the environment and the social, economic, environmental and cultural well-being of people and communities:

(d) whether there is evidence of widespread public concern or interest regarding its actual or potential effects on the environment:

(e) whether it has the potential for significant or irreversible effects on the environment:

(f) whether it affects the natural and built environments in more than 1 region:

(g) whether it relates to a network utility operation affecting more than one district or region:

(h) whether it affects or is likely to affect a structure, feature, place, or area of national significance, including in the coastal marine area:

(i) whether it involves technology, processes, or methods that are new to New Zealand and may affect the environment:

(j) whether it would assist in fulfilling New Zealand's international obligations in relation to the global environment:

(k) whether by reason of complexity or otherwise it is more appropriately dealt with under this Part rather than by the normal processes under this Act:

(l) any other relevant matter.

(4) In deciding whether to make a direction under **subsection (2)**, the Minister must have regard to—

(a) the views of the applicant and the local authority or regional planning committee; and

(b) the capacity of the local authority or the regional planning committee to process the matter; and

(c) the recommendations of the EPA.

(5) To avoid doubt, the Minister may make a direction under **subsection (2)** that differs from the direction recommended by the EPA under **section 333**.

(6) The Minister must not make a direction under **subsection (2)(b)** if **section 342(2)(a) or (b)** applies (which relates to public notification).

(7) The allocation method in the national planing framework or a plan does not apply to matters called in under this section.

Compare: 1991 No 69 s 142(1)–(4), (7), (8)

330 Requirements about direction under section 329

(1) A direction made under **section 329(2)** must—

(a) be in writing and be signed by the Minister; and

(b) state the Minister's reasons for making the direction.

(2) If a local authority, a regional planning committee, or an applicant requests the Minister to call in a matter (by making a direction under **section 329(2)**) and the Minister decides not to do so, the EPA must give notice of the Minister's decision to the local authority, regional planning committee, and applicant.

(3) When requesting the Minister to call in a matter (by making a direction under **section 329(2)**), a local authority, a regional planning committee, or an applicant must at the same time serve the other party (the local authority, regional planning committee, or the applicant, as the case may be) with notice of the request.

Compare: 1991 No 69 s 142(5)–(7A)

331 Restriction on when regional planning committees may request call in

(1) A regional planning committee may not make a request to the Minister in respect of a matter specified in **subsection (2)(a) or (b)** unless it has complied with all of the requirements of **Schedule 7** as applicable to the relevant

plan change process, up to **clause 39** (which requires the regional planning committee to provide information to IHP or commissioners).

(2) This clause applies to —

(a) a proposed plan change; and

(b) a variation to a proposed plan change.

Compare: 1991 No 69 s 143

332 Restriction on when Minister may call in matter

(1) The Minister must not call in a matter (by making a direction under **section 329(2)**) —

(a) later than 5 working days before the date fixed for the commencement of the hearing, if the local authority or regional planning committee has notified the matter; or

(b) after the local authority or regional planning committee gives notice of its decision or recommendation on the matter, if the local authority or committee has decided not to notify the matter.

(2) If the matter is a proposed plan change or a variation to a proposed plan change under **Schedule 7**, the Minister must not call in the matter until the proposed plan change or variation has been notified in accordance with that schedule.

Compare: 1991 No 69 s 144

333 EPA to advise and make recommendations to Minister in relation to call in

(1) The Minister may request the EPA to advise the Minister on whether a matter is, or is part of, a proposal of national significance.

(2) **Section 329(3)** applies to the EPA as if the reference to the Minister were a reference to the EPA.

(3) The EPA must provide advice under **subsection (1)** no later than 20 working days after receiving the Minister's request.

(4) The EPA's advice must include its recommendation that the Minister —

(a) call the matter in and make a direction to refer it to a board of inquiry for a decision; or

(b) call the matter in and make a direction to refer it to the Environment Court for a decision; or

(c) not call the matter in.

(5) The EPA must serve a copy of its recommendation on the applicant, local authority, and regional planning committee.

(6) The 20-working-day time frame specified in **subsection (3)** applies subject to **section 339(5) and (6)**.

Compare: 1991 No 69 s 144A

Matter lodged with EPA

334 Matter lodged with EPA

(1) A person may lodge an application for a resource consent with the EPA.

(2) A requiring authority may lodge a notice of requirement for a designation or to alter a designation with the EPA.

(3) A matter may not be lodged with the EPA under this section if—

(a) the same matter has been lodged with a local authority or the regional planning committee; and

(b) the applicant or the local authority has requested that the Minister call in the matter.

Compare: 1991 No 69 s 145(1)–(4), (10), (11)

335 Application of other provisions

(1) This section applies to matters lodged with the EPA under **section 334**.

(2) If the matter is an application for a resource consent, **section 173** applies, except that—

(a) every reference in that section to a consent authority must be read as a reference to the EPA; and

(b) the applicant has no right of objection under **section 173(7)** if the EPA determines that the application is incomplete under **section 174**.

(3) If the matter is an application for a change to or cancellation of the conditions of a resource consent,—

(a) **section 274** applies, except that every reference in that section to a consent authority must be read as a reference to the EPA; and

(b) **section 173** applies, except that—

(i) the application must be treated as if it were an application for a resource consent for a discretionary activity; and

(ii) every reference in that section to a consent authority, a resource consent, and the effects of the activity must be read as a reference to the EPA, the change or cancellation of the conditions, and the effects of the change or cancellation, respectively; and

(iii) the applicant has no right of objection under **section 173(7)** if the EPA determines that the application is incomplete under **section 174**.

(4) If the matter is a notice of requirement for a designation or to alter a designation, **section 506** applies, except that every reference in that section to a regional planning committee must be read as a reference to the EPA.

Compare: 1991 No 69 s 145(5)–(9A)

336 EPA to recommend course of action to Minister

(1) No later than 20 working days after receiving a matter lodged under **section 334**, the EPA must recommend to the Minister that the Minister make a direction under **section 337(1)(a), (b), (c), or (d)**.

(2) The EPA may also recommend to the Minister that the Minister exercise 1 or more of the following powers:

(a) if the EPA recommends that the Minister make a direction under **section 337(1)(a), (b), (c), or (d)**,—

(i) to make a submission on the matter for the Crown:

(ii) to extend the 9-month period by which any board of inquiry appointed to determine the matter must report under **section 355(1)** because special circumstances exist:

(b) if the EPA recommends that the Minister make a direction under **section 337(1)(a), (b), (c), or (d)**,—

(i) to make a submission on the matter for the Crown:

(ii) to appoint a project co-ordinator for the matter to advise the local authority or regional planning committee:

(iii) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities and the regional planning committee to hold a joint hearing on the matters:

(iv) if the local authority or regional planning committee appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

(3) The EPA must serve a copy of its recommendation on the applicant and the local authority.

(4) The 20-working-day time frame specified in **subsection (1)** applies subject to **section 339(5) and (6)**.

Compare: 1991 No 69 s 146

337 Minister makes direction after EPA recommendation

(1) After the Minister receives a recommendation from the EPA under **section 336**, the Minister may make a direction to—

(a) refer the matter to a board of inquiry for decision; or

(b) refer the matter to the Environment Court for decision; or

(c) refer the matter to the local authority; or

(d) refer the matter back to the regional planning committee.

(2) The Minister may make a direction under **subsection (1)(a) or (b)** only if they consider that the matter is or is part of a proposal of national significance.

(3) The Minister must apply **section 329(3)** in deciding whether the matter is or is part of a proposal of national significance.

(4) In deciding on making a direction under **subsection (1)**, the Minister must have regard to—

(a) the views of the applicant, local authority, and regional planning committee (as relevant); and

(b) the capacity of the local authority or regional planning committee (as relevant) to process the matter; and

(c) the recommendations of the EPA.

(5) A direction made under **subsection (1)** must—

(a) be in writing and be signed by the Minister; and

(b) state the Minister's reasons for making the direction.

(6) To avoid doubt, the Minister may make a direction under **subsection (1)** that differs from the direction recommended by the EPA under **section 336(1)**.

Compare: 1991 No 69 s 147

General provisions for matter lodged with local authority or EPA

338 Proposals relating to coastal marine area

(1) If a proposal of national significance relates wholly to the coastal marine area, this Part applies with the following modifications:

(a) references to the Minister must be read as references to the Minister of Conservation; and

(b) **section 355(5)(e) and (f)** must be read as 1 paragraph saying "the Minister of Conservation".

(2) If a proposal of national significance relates partly to the coastal marine area, this Part applies with the following modifications:

(a) references to the Minister must be read as references to the Minister and the Minister of Conservation; and

(b) **section 355(4)(e) and (f)** must be read as 1 paragraph saying "the Minister and the Minister of Conservation".

Compare: 1991 No 69 s 148

339 EPA may request further information or commission report

(1) **Subsection (2)** applies to a matter if—

(a) the matter has been lodged with the EPA under **section 334**; or

(b) a request relating to the matter has been made by a local authority, a regional planning committee, or an applicant for a direction under **section 329(1)(b)**; or

(c) the Minister decides, at their own initiative, to apply **section 329**.

(2) The EPA may,—

(a) by written notice, request an applicant to provide further information relating to the matter:

(b) require an EPA employee, or commission any person, to prepare a report on any issue relating to a matter (including in relation to information contained in the matter or provided under **paragraph (a)**).

(3) An applicant who receives a request under **subsection (2)(a)** must, within 15 working days after the date of the request, do one of the following things:

(a) provide the information; or

(b) tell the EPA by written notice that the applicant agrees to provide the information; or

(c) tell the EPA by written notice that the applicant refuses to provide the information.

(4) If the EPA receives a notice under **subsection (3)(b)**, the EPA must—

(a) set a reasonable time within which the applicant must provide the information; and

(b) tell the applicant by written notice the date by which the applicant must provide the information.

(5) If the EPA requests further information under **subsection (2)(a)** before making its recommendation to the Minister on a matter under **section 333 or 336**, the time frame referred to in **section 333(3) or 336(1)** (being the time within which the EPA must make its recommendation) begins on,—

(a) if the information is provided in accordance with this section, the day after the day on which the EPA receives the information; or

(b) if the EPA receives a notice of refusal under **subsection (3)(c)**, the day after the day on which the EPA receives the notice; or

(c) in any other case, the day after the day on which the deadline for providing the information expires.

(6) If the EPA requires a report under **subsection (2)(b)** before making its recommendation to the Minister on a matter under **section 333 or 336**, the time frame referred to in **section 333(3) or 336(1)** (being the time within which the EPA must make its recommendation) begins on the day after the day on which the EPA receives the report.

(7) The EPA must make its recommendation even if the applicant—

(a) does not provide the information before the deadline; or

(b) refuses to provide the information.

Compare: 1991 No 69 s 149

How matter processed if direction made to refer matter to board of inquiry or court

340 EPA must serve Minister's direction on local authority or regional planning committee, and applicant

As soon as practicable after the Minister makes a direction under **section 329(2) or 337(1)(a) or (b)**, the EPA must serve the direction on—

(a) the local authority or regional planning committee; and

(b) the applicant, if relevant.

Compare: 1991 No 69 s 149A

341 Local authority's or regional planning committee's obligations if matter called in

(1) **Subsection (2)** applies to a local authority or regional planning committee if—

(a) the Minister calls in a matter by making a direction under **section 329(2)**; and

(b) the local authority or regional planning committee has been served with the direction under **section 340**.

(2) The local authority or regional planning committee must, without delay, provide the EPA with—

(a) the matter; and

(b) all information received by the local authority that relates to the matter; and

(c) if applicable, the submissions received by the local authority or regional planning committee on the matter.

Compare: 1991 No 69 s 149B

342 EPA must give public notice of Minister's direction

(1) The EPA must give public notice of a direction the Minister makes under **section 329(2) or 337(1)(a) or (b)**.

(2) **Subsection (1)** does not apply if—

(a) the Minister instructs that the giving of public notice be delayed under **section 343**; or

(b) the Minister decides under **section 367** that the application or notice to which the direction relates is not to be publicly notified.

(3) A public notice must—

(a) state the Minister's reasons for making the direction; and

(b) describe the matter to which the direction applies; and

(c) state where the matter, its accompanying information, and any further information may be viewed; and

(d) state that any person may make submissions on the matter to the EPA; and

(e) state the closing date for the receipt of submissions; and

(f) specify an electronic address for sending submissions; and

(g) state the address for service of the EPA and the applicant (or each applicant if more than 1).

(4) When the EPA gives public notice, it must also serve a copy of the notice on—

(a) each owner and occupier (other than an applicant) of any land to which the matter relates; and

(b) each owner and occupier of any land adjoining any land to which the matter relates; and

(c) if applicable, every person who has made a submission on the matter to the local authority or the regional planning committee.

Compare: 1991 No 69 s 149C

343 Minister may instruct EPA to delay giving public notice pending application for additional consents

(1) The Minister may instruct the EPA to delay giving public notice of a direction under **section 342** in relation to a matter.

(2) **Subsection (1)** applies if the Minister considers, on reasonable grounds, that—

(a) resource consents, or other resource consents, will also be required in respect of the proposal to which the matter relates; and

(b) the nature of the proposal will be better understood if applications for the resource consents, or other resource consents, are lodged before proceeding further with the matter.

(3) The EPA must, without delay, give notice to the local authority or the regional planning committee, and the applicant, of the instruction under **subsection (1)**.

(4) The Minister may, at any time, rescind an instruction given under **subsection (1)** and instruct the EPA to give public notice of the direction concerned under **section 342**.

Compare: 1991 No 69 s 149D

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

(1) Any person (including the Minister, for the Crown) may make a submission to the EPA about a matter for which—

(a) the Minister has made a direction under **section 329(2) or 337(1)(a) or (b)**; and

(b) public notice has been given under **section 342**.

(2) **Subsection (1)** applies —

(a) whether or not the person has already made a submission to the local authority or the regional planning committee on the matter; but

(b) subject to **subsections (7) to (10)**.

(3) A submission must be —

(a) in the prescribed form; and

(b) served —

(i) on the EPA, within the time allowed under **subsection (11)**; and

(ii) on the applicant, as soon as practicable after service on the EPA.

(4) 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 806(1)** (as applied by **subsection (5)**), any further correspondence relating to the matter must be served by sending it to that electronic address.

(5) If **subsection (4)** does not apply, the further correspondence may be served by any of the methods specified in **section 806(1)**.

(6) A submission must state whether it supports the matter, it opposes the matter, or it is neutral.

(7) If the person is a trade competitor of the applicant, the person may make a submission only if directly affected by an effect of the activity to which the matter relates, and the effect —

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(8) However, if the matter is a change to a plan or a variation to a proposed plan, **subsection (7)** does not apply and the person —

(a) must not make a submission if the person could gain an advantage in trade competition through the submission; and

(b) may make a submission only if directly affected by an effect of the change or variation that —

(i) adversely affects the environment; and

(ii) does not relate to trade competition or the effects of trade competition.

(9) The closing date for making a submission is 30 working days after the day on which public notice of the direction is given.

(10) Any submissions on the matter received by the local authority or the regional planning committee before the matter is called in (by a direction being made under **section 329(2)**) must be treated as having been made to the EPA under this section.

Compare: 1991 No 69 s 149E

345 EPA to receive further submissions if matter is proposed plan change or variation

(1) **Subsection (2)** applies if the matter for which the Minister makes a direction under **section 329(2) or 337(1)(a) or (b)** is a proposed plan change or a variation to a proposed plan.

(2) The EPA must produce a summary of all the submissions on the matter received under **section 344** and give public notice of—

(a) the availability of a summary of submissions on the matter; and

(b) where the summary and the submissions can be inspected; and

(c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in **subsection (3)** may make a secondary submission on the matter; and

(d) the date of the last day for making secondary submissions (as calculated under **paragraph (c)**); and

(e) an electronic address for sending secondary submissions; and

(f) the address for service of the EPA.

(3) The following persons may make a secondary submission on the matter:

(a) any person representing a relevant aspect of the public interest; and

(b) any person that has an interest in the matter greater than the interest that the general public has; and

(c) the regional planning committee.

(4) However, a secondary submission may only be in support of or in opposition to a submission made on a matter under **section 344**.

(5) A secondary submission must be in the prescribed form.

(6) If a person who makes a secondary electronic submission on a matter to which the secondary submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in **section 806(1)** (as applied by **subsection (7)**), any secondary correspondence relating to the matter must be served by sending it to that electronic address.

(7) If **subsection (6)** does not apply, the secondary correspondence may be served by any of the methods specified in **section 806(1)**.

(8) A person who makes a secondary submission must serve a copy of it on—

(a) the applicant; and

(b) the person who made the submission under **section 344** to which the secondary submission relates.

(9) The secondary submission must be served no later than 5 working days after the day on which the person provides the EPA with the secondary submission.

Compare: 1991 No 69 s 149F

346 EPA must provide board or court with necessary information

(1) This section applies if a matter is referred to a board of inquiry or the Environment Court under this Part.

(2) The EPA must provide the board of inquiry or Environment Court, as the case may be, with each of the following things as soon as is reasonably practicable after receiving it:

(a) the matter:

(b) all the information received by the EPA that relates to the matter:

(c) the submissions received by the EPA on the matter.

(3) The EPA must also commission the regional planning committee to prepare a report on the key issues in relation to the matter that includes —

(a) any relevant provisions of the national planning framework, a plan, or proposed plan; and

(b) a statement on whether all required resource consents in relation to the proposal to which the matter relates have been applied for; and

(c) if applicable, the activity status of all proposed activities in relation to the matter.

(4) The EPA must provide a copy of the report to —

(a) the board of inquiry or the Environment Court, as the case may be; and

(b) the applicant; and

(c) every person who made a submission on the matter.

Compare: 1991 No 69 s 149G

347 Regional planning committee may not notify further change or variation in certain circumstances

If the Minister makes a direction under **section 329(2) or 337(1)(a) or (b)** to refer any of the following matters to a board of inquiry or the Environment Court, the regional planning committee must not notify a further change or variation relating to the same issue until after the board or the court, as the case may be, has made a decision on the matter:

(a) a matter that is a proposed plan change; or

(b) a matter that is a variation to a proposed plan.

Compare: 1991 No 69 s 149H

348 Limitation on withdrawal of change or variation

A regional planning committee may withdraw a plan change or a variation to a proposed plan, for which the Minister has made a direction under **section 329(2)**, no later than 5 working days after the close of the last day on which secondary submissions may be made under **section 345**.

Compare: 1991 No 69 s 149I

Subpart 10—How matter decided if direction made to refer matter to board of inquiry or court

Matter decided by board of inquiry

349 Minister to appoint board of inquiry

(1) This section applies if the Minister makes a direction under **section 329(2)(a) or 337(1)(a)** to refer a matter to a board of inquiry for decision.

(2) As soon as practicable after making the direction, the Minister must appoint a board of inquiry to decide the matter and to complete the performance or exercise of its functions, duties, and powers in relation to the matter (including any appeals in relation to the matter that are filed in any court).

(3) The Minister must appoint—

(a) no fewer than 3, but no more than 5, members; and

(b) 1 member as the chairperson, who may (but need not) be a current, former, or retired Environment Judge or a retired High Court Judge.

(4) The Minister may, if they consider 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) The Minister may, as they see fit, set terms of reference about administrative matters relating to the inquiry.

(6) 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

350 How members appointed

(1) The Minister must comply with this section when appointing a board of inquiry under **section 349**.

(2) The Minister must seek suggestions for members of the board from the local authority.

(3) However, the Minister may appoint a person as a member of the board whether or not the Minister receives a suggestion for the person under **subsection (2)**.

(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

(iii) tikanga Māori; and

(iv) the local community; and

(v) 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.

Compare: 1991 No 69 s 149K

351 EPA may make administrative decisions

(1) The EPA—

(a) must provide secretarial and support services to a board of inquiry appointed under **section 349**:

(b) may make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this Part:

(c) may allow the board of inquiry to make decisions referred to in **paragraph (b)**.

(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)**.

Compare: 1991 No 69 s 149KA

352 Conduct of inquiry

(1) A board of inquiry appointed to determine a matter under **section 349** may, in conducting its inquiry, exercise any of the powers, rights, and discretions of a consent authority under **sections 183 to 186 and 213 to 215** as if—

(a) the matter were an application for a resource consent; and

(b) every reference in those sections to an application or an application for a resource consent were a reference to the matter.

(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 they wish to be heard and who has not subsequently advised the board that they no longer wish 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 349(5)**:

(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 213 and 214 and clauses 80 and 85 to 89 of Schedule 7**,—

(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 regional planning committee; 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 national planning framework, relevant plans, and other similar documents:

(b) the issues raised by the matter being considered by the board.

Compare: 1991 No 69 s 149L

353 Process if matter is before board of inquiry is plan change or variation

(1) If the matter before a board of inquiry is a plan change or a variation to a proposed plan, the board of inquiry must conduct an inquiry on the plan change or variation to proposed plan in accordance with **section 354**.

(2) The board of inquiry must produce a final report on the plan change or variation under **section 355**.

Compare: 1991 No 69 s 149M

354 Consideration of matter by board

(1) A board of inquiry considering a matter must—

(a) have regard to the Minister's reasons for making a direction in relation to the matter; and

(b) consider any information provided to it by the EPA under **section 346**; and

(c) act in accordance with **subsection (2), (3), (4), (6), (7), (8), (9), or (10)** as the case may be.

(2) A board of inquiry considering a matter that is an application for a resource consent must apply **sections 223 to 225, 227 to 238, 240, and 293** as if it were a consent authority.

(3) A board of inquiry considering a matter that is an application for a change to or cancellation of the conditions of a resource consent must apply **sections 223 to 225, 227 to 238, and 240** as if—

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

(4) A board of inquiry considering a matter that is a notice of requirement for a designation or to alter a designation—

(a) must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and

(c) may, under **section 504(4)**, waive the requirement for a secondary CIP to be submitted.

(5) However, if the requiring authority is the Minister of Education or the Minister of Defence, the board of inquiry may not impose a condition under **subsection (4)(b)(iii)** requiring an environmental contribution.

(6) A board of inquiry considering a matter that is a proposed plan change or a variation to a proposed plan —

(a) must make decisions on the provisions and matters raised in submissions and include the reasons for accepting or rejecting the submissions (but, to avoid doubt, it is not necessary to address each submission individually); and

(b) may exercise the powers under **clause 48 of Schedule 13** as if it were the Environment Court; and

(c) must apply **Part 4** as if it were a regional planning committee.

Compare: 1991 No 69 s 149P

355 Board to produce report

(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) The board must perform the duties in **subsection (1)** no later than 9 months after —

(a) the day on which the EPA gave public notice under **section 342** of the Minister's direction under **section 329(2) or 337(1)(a)** in relation to the matter, unless **paragraph (b) or (c)**) applies; or

(b) the day on which the EPA gave limited notification under **section 367(4)**, if the EPA gave that notice for the matter before the board.

(3) 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 377(3)** (as calculated from the date of notification of suspension under **section 377(5)** to the date of notification of resumption under **section 377(5)**).

(4) The report —

(a) must state the board's decision; and

(b) must give reasons for the decision; and

(c) must include a statement of the principal issues that were in contention; and

(d) must include the main findings on the principal issues that were in contention; and

(c) may recommend that changes be made to the national planning framework or a plan (being changes in addition to any changes that may result from the implementation of the decision); and

(f) may recommend changes to the national planning framework.

(5) The EPA must provide a copy of the report to —

(a) the applicant; and

(b) the local authority; and

(c) any relevant local authorities; and

(d) the regional planning committee; and

(e) the persons who made submissions on the matter; and

(f) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and

(g) the Minister; and

(h) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the decision.

(6) The EPA must publish the board's report and give public notice of where and how copies of it can be obtained.

(7) Nothing in **section 845(1)** applies to the time periods or the requirements in this section that apply to a board.

(8) For the purposes of **subsection (5)(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)**.

Compare: 1991 No 69 s 149R

356 Minor corrections of board decisions, etc

(1) At any time during its term of appointment, a board of inquiry may issue an amendment to a decision, or an amended decision, that corrects minor omissions, errors, or other defects in any decision of the board, and this power includes the powers set out in **subsections (2) to (4)**.

(2) The board may correct a resource consent as if the board were a consent authority acting under **section 284** (which applies within 20 working days of the grant of the resource consent).

(3) The board may amend a proposed plan change, as if it were a regional planning committee, to alter any information if the alteration is of minor effect or to correct minor errors before the earlier of the following:

(a) the day on which the regional planning committee approves the proposed plan under **clause 41 of Schedule 7**:

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

(4) The board may correct a requirement before the earlier of the following:

(a) the day on which the regional planning committee includes the relevant designation in its plan and any proposed plan under **section 515**:

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

Compare: 1991 No 69 s 149RA

357 Minister may extend time by which board must report

(1) Despite **section 355(2)**, the Minister may, at any time (including before the board is appointed), grant an extension or extensions of time in which a board of inquiry must produce its final report.

(2) The Minister may grant an extension only if —

(a) they consider that special circumstances apply; and

(b) the time period as extended does not exceed 18 months from —

(i) the day on which the EPA gives public notice under **section 342** of the Minister's direction under **section 329(2) or 337(1)(a)** in relation to the matter, unless **subparagraph (ii) or (iii)** applies; or

(ii) the day on which the EPA gives limited notification under **section 367(4)**, if the EPA gives that notice for the matter before the board.

(3) However, the Minister may grant an extension that results in a time period greater than that described in **subsection (2)(b)** if the applicant agrees.

(4) For the purposes of **subsection (2)(b)**, the period of 18 months excludes any time while an inquiry is suspended under **section 377(3)** (as calculated from the date of notification of suspension under **section 377(5)** to the date of notification of resumption under **section 377(5)**).

(5) The EPA must give written notice to the following persons if the Minister grants an extension under **subsection (1)**, or each time the Minister grants an extension under **subsection (1)**, as the case may be:

(a) the applicant; and

(b) the local authority; and

(c) the regional planning committee; and

(d) any person who made a submission on the matter.

(6) The EPA must, on request by a board of inquiry, request the Minister to grant an extension under **subsection (1)** in relation to any matter before the board.

(7) **Subsection (6)** does not limit **subsection (1)**.

Compare: 1991 No 69 s 149S

Matter decided by Environment Court

358 Matter referred to Environment Court

(1) This section applies if the Minister makes a direction under **section 329(2)(b) or 337(1)(b)** to refer a matter to the Environment Court for decision.

(2) The matter is referred to the Environment Court by the applicant lodging with the court —

(a) a notice of motion specifying the orders sought and the grounds on which the application is made; and

(b) a supporting affidavit on the circumstances giving rise to the application.

(3) The applicant must —

(a) serve a copy of the notice of motion and the affidavit on the local authority and, if applicable, every person who made a submission on the matter; and

(b) serve the documents as soon as is reasonably practicable after lodging them; and

(c) tell the Registrar when the documents have been served.

(4) If the matter is a proposed plan change or a variation to a proposed plan change, the regional planning committee must also serve a copy of the notice of motion and affidavit on any requiring authority that made a requirement under **clause 28 of Schedule 7** in respect of the change or variation.

(5) The court may at any time direct the applicant to serve a copy of the notice of motion and affidavit on any other person.

Compare: 1991 No 69 s 149T

359 Consideration of matter by Environment Court

(1) The Environment Court, when considering a matter referred to it under **section 358**, must —

(a) have regard to the Minister's reasons for making a direction in relation to the matter; and

(b) consider any information provided to it by the EPA under **section 346**; and

(c) act in accordance with **subsection (2), (3), (4), (6), or (7)**, as the case may be.

(2) If considering a matter that is an application for a resource consent, the court must apply **sections 223 to 225, 227 to 238, 240, and 293** as if it were a consent authority.

(3) If considering a matter that is an application for a change to or cancellation of the conditions of a resource consent, the court must apply **sections 223 to 225, 227 to 238, and 240** as if —

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

(4) If considering a matter that is a notice for a designation or to alter a designation, the court —

(a) must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a regional planning committee; and

(b) may —

(i) cancel the notice; or

(ii) confirm the notice; or

(iii) confirm the notice, but modify it or impose conditions on it as the court thinks fit; and

(c) may, under **section 504(4)**, waive the requirement for a secondary CIP to be submitted.

(5) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under **subsection (4)(b)(iii)** requiring an environmental contribution.

(6) If considering a matter that is a proposed plan change or a variation to a proposed plan, the court —

(a) must make decisions on the provisions and matters raised in submissions and include the reasons for accepting or rejecting the submissions (but, to avoid doubt, it is not necessary to address each submission individually); and

(b) may exercise the powers under **clause 48 of Schedule 13**; and

(c) must apply **Part 4** as if it were a regional planning committee.

(7) **Schedule 13** applies to proceedings under this section, except if inconsistent with any provision of this section.

Compare: 1991 No 69 s 149U

Appeals

360 Appeal from decisions only on question of law

(1) A person described in **section 355(5)(a) to (f)** may appeal to the High Court against a decision under **section 355(1) or 359**, but only on a question of law.

(2) An applicant for a matter to which **section 353** applies may appeal to the High Court against a decision under **subsection (2)(b)** of that section, but only on a question of law.

(3) If the appeal is from a decision of a board of inquiry, **clauses 80 to 87 of Schedule 13** apply to the appeal subject to the following:

(a) every reference to the Environment Court in those sections must be read as a reference to the board of inquiry; and

(b) those sections must be read with any other necessary modifications; and

(c) the High Court Rules 2016 apply if a procedural matter is not dealt with in the sections.

(4) If the appeal is from a decision of the Environment Court, **clause 79 of Schedule 13** applies to the appeal.

(5) No appeal may be made to the Court of Appeal from a determination of the High Court under this section.

(6) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 73 to 76 of the Senior Courts Act 2016 apply with any necessary modifications.

(7) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 75 of the Senior Courts Act 2016), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal.

(8) No appeal may be made from any appeal determined by the Court of Appeal in accordance with **subsection (7)**.

(9) Despite any enactment to the contrary,—

(a) an application for leave for the purposes of **subsection (6)** must be filed no later than 10 working days after the determination of the High Court; and

(b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this section applies as a matter of priority and urgency.

Compare: 1991 No 69 s 149V

Subpart 11—Miscellaneous provisions

Process after decision of board of inquiry or court on certain matters

361 Regional planning committee to implement decision of board or court about proposed plan change or variation

(1) **Subsections (2) and (3)** apply to a regional planning committee if a board of inquiry or the Environment Court—

(a) considers a matter that is a proposed plan change or a variation to a proposed plan; and

(b) decides that changes must be made to that matter.

(2) As soon as practicable after receiving notice of the decision of the board or the court under **section 355(5) or 359**, as the case may be, the regional planning committee must—

(a) amend the proposed plan or a change or variation to a plan under **clause 40 of Schedule 7**, and that clause applies accordingly as if the decision were a direction of the Environment Court under **clause 48 of Schedule 13**; and

(b) approve the proposed plan change, or variation under **clause 41 of Schedule 7** and make the plan, change, or variation operative by giving public notice in accordance with that clause.

(3) A regional planning committee must comply with **section 545** if a board of inquiry or the Environment Court confirms a requirement under this Part.

Compare: 1991 No 69 s 149W

362 Residual powers of local authority

(1) **Subsection (2)** applies to a resource consent that has been granted by a board of inquiry or the Environment Court under **section 355 or 359**, as the case may be.

(2) The consent authority concerned has all the functions, duties, and powers in relation to the resource consent as if it had granted the consent itself.

(3) **Subsection (4)** applies to a requirement confirmed (with or without modifications) by a board of inquiry or the Environment Court under **section 355 or 359**.

(4) The territorial authority concerned has all the functions, duties, and powers in relation to the requirement as if it had dealt with the matter itself.

Compare: 1991 No 69 s 149X

Minister makes direction to refer matter to local authority

363 EPA must refer matter to local authority and regional planning committee if direction made by Minister

(1) This section applies if the Minister makes a direction under **section 337(1)(c) or (d)**—

(a) to refer a matter lodged with the EPA back to the local authority, if the matter is a resource consent or a change to or cancellation of the conditions of a resource consent:

(b) to refer a matter lodged with the EPA back to the regional planning committee, if the matter is a proposed plan or a variation to a proposed plan, or a notice of requirement for a designation or to alter a designation.

(2) The EPA must give notice of the Minister's direction to the local authority or regional planning committee, and the applicant.

(3) The EPA must also—

(a) provide the local authority or regional planning committee with—

(i) the matter; and

(ii) all the material received by the EPA that relates to the matter; and

(b) inform the local authority or regional planning committee that it must process the matter in accordance with **section 364**.

Compare: 1991 No 69 s 149Y

364 Local authority or regional planning committee must process referred matter

(1) A local authority or regional planning committee must process a matter referred to it under **section 363(3)** in accordance with this section, subject to any action the Minister may take under **section 365**.

(2) If the matter is an application for a resource consent, the local authority must treat the application as if—

(a) it had been made to the local authority under **section 173(1)**; and

(b) it had been lodged on the date that the local authority received notification from the EPA under **section 363(3)**; and

(c) **section 174** did not apply to the application.

(3) If the matter is a notice for a designation or to alter a designation, the regional planning committee must treat the notice as if it had been—

(a) given to the regional planning committee under **section 503**; and

(b) lodged on the date that the regional planning committee received notification from the EPA under **section 363(3)**.

(4) However, if the matter is a notice of requirement for a designation, or to alter a designation, to which **section 503** applies, the regional planning committee

must instead comply with **section 521**, with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under **section 363(3)**.

(5) If the matter is a request relating to a proposed plan change or a variation to a proposed plan, the regional planning committee must continue to process the matter under **Schedule 7**.

(6) If the matter is an application for a change to or cancellation of the conditions of a resource consent, the local authority must treat the application as if it had been —

(a) made to the local authority under **section 173**; and

(b) lodged on the date that the local authority received notification from the EPA under **section 363(3)**.

Compare: 1991 No 69 s 149Z

Minister's powers to intervene in matter

365 Minister's powers to intervene in matter

(1) The Minister may intervene in a matter at any time by exercising 1 or more of the following powers in relation to the matter:

(a) to make a submission on the matter for the Crown:

(b) to appoint a project co-ordinator for the matter to advise the local authority or regional planning committee:

(c) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters:

(d) if the local authority or regional planning committee appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

(2) In deciding whether to act under **subsection (1)**, the Minister must consider the extent to which the matter is or is part of a proposal of national significance.

(3) If the Minister makes a direction under **subsection (1)(c)**, —

(a) the local authorities must hold the joint hearing; and

(b) **section 218** applies, with the necessary modifications, to the hearing.

(4) If the Minister appoints a hearings commissioner under **subsection (1)(d)**, the commissioner has the same powers, functions, and duties as the commissioner or commissioners appointed by the local authority or regional planning committee.

(5) To avoid doubt, if the matter has come before the Minister by way of an application lodged with the EPA, the Minister may exercise the powers under **sub-**

section (1) in relation to the matter whether or not the EPA made any recommendations about the matter to the Minister under **section 336(2)**.

Compare: 1991 No 69 s 149ZA

Process if related matter already subject to direction to refer to board of inquiry or court

366 How EPA must deal with certain applications and notices of requirement

(1) This section applies to a matter that is an application or notice of requirement described in **subsection (2)** if —

(a) the activity that the application or notice relates to is part of a proposal of national significance in relation to which 1 or more matters have already been subject to a direction under **section 329(2) or 337(1)(a) or (b)**; and

(b) the application or notice was lodged with the EPA either —

(i) before the board of inquiry or Environment Court, as the case may be, has determined the matter or matters already subject to a direction under **section 329(2) or 337(1)(a) or (b)**; or

(ii) after the matter or matters have been determined by the board or the court and the matter or matters have been granted or confirmed.

(2) The applications and notices are —

(a) an application for a resource consent:

(b) an application for a change to or cancellation of the conditions of a resource consent:

(c) a notice of requirement to alter a designation.

(3) In addition to making a recommendation to the Minister under **section 336** on whether to make a direction under **section 337(1)(a), (b), or (c)** in relation to the application or notice, the EPA must also recommend whether the application or notice should be notified under **sections 369 to 373**.

Compare: 1991 No 69 s 149ZB

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

(1) If the Minister decides to make a direction under **section 337(1)(a) or (b)** for an application or notice of requirement to which **section 366** applies, the Minister must also decide whether to notify the application or notice.

(2) The Minister must apply **sections 369 to 373** in making their decision under **subsection (1)**.

(3) If the Minister decides that the application or notice is to be publicly notified, **sections 342 to 344** apply.

(4) If the Minister decides that the application or notice is not to be publicly notified, but is to be subject to limited notification, the EPA must give limited notification of the application or notice.

(5) Any person who receives a notice under **subsection (4)** may make a submission to the EPA and, for that purpose, **section 344(3) to (8)** apply.

(6) However, the closing date for making a submission under **subsection (5)** is 20 working days after the day on which the EPA gives the notice under **subsection (4)**.

Compare: 1991 No 69 s 149ZC

368 Application of sections 369 to 373

Sections 369 to 373 apply to the EPA's recommendation under **section 366** and the Minister's decision under **section 367** on whether to notify an application or a notice to which **section 366** relates.

Compare: 1991 No 69 s 149ZCA

369 Public notification of application or notice at Minister's discretion

(1) The Minister may, in their 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 372**) 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) the national planning framework or a plan 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) the national planning framework or a plan 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, **sections 342 to 344** apply.

Compare: 1991 No 69 s 149ZCB

370 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, in relation to the activity,—

(a) decide if there is any affected person (under **section 373**); and

(b) identify any affected protected customary rights group or affected customary marine title group.

(2) The EPA must give limited notification of the application or notice to any affected person unless the national planning framework or a plan 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 the national planning framework or a plan 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 367(4)** applies.

Compare: 1991 No 69 s 149ZCC

371 Public notification of application or notice after request for further information

(1) Despite **section 369(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 339(2)(a)**, 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 plan rule or framework rule that precludes public or limited notification of the application or notice.

Compare: 1991 No 69 s 149ZCD

372 Minister to decide if adverse effects likely to be more than minor

For the purpose of deciding under **section 369(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 plan rule or a framework rule permits an activity with that effect; and~~

~~(c) in the case of a controlled activity, must disregard an adverse effect of the activity that does not relate to a matter for which a plan rule or a framework rule reserves control; 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.~~

~~Compare: 1991 No 69 s 149ZCE~~

~~373 Minister to decide if person is affected person~~

~~The Minister must decide in accordance with **sections 201 and 202** whether a person is an affected person in relation to an activity.~~

~~Compare: 1991 No 69 s 149ZCF~~

~~Costs of processes under this Part~~

~~374 Costs of processes under this Part recoverable from applicant~~

~~(1) A local authority or regional planning committee may recover from an applicant the actual and reasonable costs incurred by the local authority or committee in complying with this Part.~~

~~(2) The EPA may recover from a person the actual and reasonable costs incurred by the EPA in providing assistance to the person prior to a matter being lodged with the EPA (whether or not the matter is subsequently lodged).~~

~~(3) The EPA may recover from an applicant the actual and reasonable costs incurred by the EPA in exercising its functions and powers under this Part (including the costs in respect of secretarial and support services provided to a board of inquiry by the EPA).~~

~~(4) The Minister may recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under this Part.~~

~~(5) The local authority, regional planning committee, EPA, or Minister must, upon request by an applicant, provide an estimate of the costs likely to be recovered under this section.~~

~~(6) When recovering costs under this section, the local authority, regional planning committee, EPA, or Minister must have regard to the following criteria:~~

~~(a) the sole purpose is to recover the reasonable costs incurred in respect of the matter to which the costs relate:~~

(b) the applicant should be required to pay for costs only to the extent that the benefit of the actions of the local authority, regional planning committee, EPA, or Minister (as the case may be) to which the costs relate is obtained by the applicant as distinct from the community as a whole:

(c) the extent to which any activity by the applicant reduces the cost to the local authority, regional planning committee, EPA, or Minister (as the case may be) of carrying out any of its functions, powers, and duties.

(7) A person may object under **section 830** to a requirement to pay costs under any of **subsections (1) to (4)**.

Compare: 1991 No 69 s 149ZD

375 Remuneration, allowances, and expenses of boards of inquiry

The Fees and Travelling Allowances Act 1951 applies to a board of inquiry appointed under **section 349** as follows:

(a) the board is a statutory board within the meaning of the Act; and

(b) a member of the board may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:

(i) remuneration by way of fees, salary, or allowances under the Act; and

(ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the board; and

(c) the Act applies to payments under **paragraph (b)**.

Compare: 1991 No 69 s 149ZE

376 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 374(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 830** or appealed under **section 835** 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.

Compare: 1991 No 69 s 149ZF

377 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 374(2), (3), or (4)**; and

(b) the EPA has given the person written notice that, unless the costs specified in the notice are paid,—

(i) the EPA may cease to carry out its functions in relation to the matter; and

(ii) if it does so, 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) any relevant local authorities; and

(e) the regional planning committee; and

(f) 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 830** or appeal under **section 835**, 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.

Compare: 1991 No 69 s 149ZG

Part 6

~~Water and contaminated land management~~ Management of particular resources and areas

Subpart 1—Water conservation orders

Purpose and meaning

378 Purpose of water conservation orders

(1) Despite anything to the contrary in the purpose of this Act, the purpose of a water conservation order is to recognise and sustain—

(a) the outstanding amenity or intrinsic values of waters in their natural state; and

(b) where waters are no longer in their natural state, the amenity or intrinsic values of those waters that warrant protection because they are considered to be outstanding.

(2) A water conservation order may provide for any of the following:

(a) the preservation, as far as possible in its natural state, of a water body that is considered to be outstanding:

(b) the protection of the characteristics that a water body has, or contributes to, and which are considered to be outstanding—

(i) as a habitat for terrestrial or aquatic organisms:

(ii) as a fishery:

(iii) for its wild, scenic, or other natural characteristics:

(iv) for its scientific and ecological values:

(v) for recreational, historical, ~~or~~ cultural, or spiritual purposes:

(c) the protection of characteristics that a water body has, or contributes to, and that are considered to be of outstanding significance in accordance with tikanga Māori.

Compare: 1991 No 69 s 199

379 Meaning of water conservation order

~~(1) A water conservation order is an order made under **section 393** for any of the purposes of **section 378** that imposes restrictions or prohibitions on the powers and functions of planning committees under **section 644(c) and (d)** in relation to water.~~

(1) A water conservation order is an order that—

(a) is made under **section 393** for any of the purposes of **section 378**; and

(b) imposes restrictions or prohibitions on the powers and functions of regional planning committees under **section 30P(c) and (d)** in relation to water.

(2) The restrictions or prohibitions ~~referred to in **subsection (1)** include restrictions or prohibitions~~ include those that relate, in particular, to—

(a) the quality, quantity, rate of flow, or level of a water body:

(b) the maximum and minimum levels, flow, or range of levels or flows for a water body:

(c) the rate of change of levels or flows to be applied for or permitted for a water body:

(d) the maximum allocation for abstraction consistent with the purposes of the order:

(e) the maximum contaminant concentrations and loading consistent with the purposes of the order:

(f) the ranges of temperature and pressure in a water body.

Compare: 1991 No 69 s 200

380 How to apply for water conservation order

(1) Any person may apply to the Minister to make a water conservation order for a ~~body of~~ water body.

(2) The application must—

(a) identify the ~~body of~~ water body for which an order is sought; and

(b) state the reasons for the application, referring to the matters included in **sections 378, 379, and 386**, as far as they are relevant.

(3) The Minister may, by notice in writing, require the applicant to supply any further information relating to the application that the Minister considers necessary.

(4) An application made under this section must include payment of the prescribed fee.

Compare: 1991 No 69 s 201

Appointment of, and process to be followed by, special tribunal

381 Appointment of special tribunal

(1) When the Minister receives an application ~~under **section 380**~~ for a water conservation order, the Minister must, as soon as practicable,—

(a) appoint a special tribunal to hear and report on the application; or

(b) reject the application and notify the applicant of the decision, giving reasons for rejecting the application.

(2) The Minister may delay making a decision ~~under **subsection (1)**~~ if the Minister—

(a) requires further information from the applicant:

(b) considers it necessary to inquire into the application.

(3) Before appointing a special tribunal, the Minister must, if appropriate, consult the Minister for Māori Development and the Minister of Conservation on the membership of the tribunal.

Compare: 1991 No 69 s 202

382 Administrative matters relating to special tribunal

(1) A special tribunal appointed under **section 381** must have—

(a) no fewer than 3, and no more than 5, members; and

(b) a chairperson appointed by the Minister or by the members, if the Minister declines to do so.

(2) If the Minister directs, members must be paid~~,~~ out of money appropriated by Parliament for the purpose, in accordance with the Fees and Travelling Allowances Act 1951,—

(a) remuneration by way of fees, salary, or allowances ~~in accordance with that Act~~; and

(b) travelling allowances and expenses in accordance with ~~the Fees and Travelling Expenses Act 1951~~ that Act for time spent travelling in the service of the tribunal.

(2A) A special tribunal is a statutory board for the purpose of the Fees and Travelling Allowances Act 1951.

(3) A member of a special tribunal 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 tribunal.

Compare: 1991 No 69 s 203

383 Public notification of application

(1) A special tribunal must, as soon as practicable after it is appointed under **section 381**, ensure that—

(a) public notice is given of the application; and

(b) ~~a copy of~~ a short summary of the application is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin with details of the Internet site where the notice may be accessed; and

(c) other public notice is given of the application that the tribunal considers appropriate; and

(d) notice of the application is served on—

(i) the applicant; and

(ii) all relevant local authorities; and

(iii) the relevant iwi authorities and groups that represent hapū; and

(iiia) persons who hold relevant resource consents; and

(iv) any other persons that the tribunal considers appropriate.

(2) The notices required under this section must be in a form approved by the Minister, and must ~~state~~—

(a) ~~a description of~~ describe the application and where it and all relevant information the special tribunal holds may be viewed; and

(b) state that any person may make a submission on the application in writing, ~~stating~~ advising as to the effect of **section 384(4)**; and

(c) enable the tribunal ~~may~~ to consider wider matters than those raised in the application; and

(d) state the closing date for submissions to be received by the tribunal, which must be the 20th working day after the application is notified or a later date if an extension of time is agreed and notified under **section 845**; and

(e) state the address for service of the tribunal and each applicant.

(3) The special tribunal may request further information from the applicant at any reasonable time before the hearing, applying the requirements of **section 183** as if references to the consent authority were references to the special tribunal, and references to a consent were references to an order.

Compare: 1991 No 69 ss 204, 205(7)

384 Submissions to special tribunal

(1) Any person may make a submission to the special tribunal on an application notified under **section 383**.

(2) Submissions must be made in a form approved by the Minister for the purpose and must be served not later than the date advised under **section 383(2)(d)**, on—

(a) the relevant regional planning committee and local authorities in the region; and

(b) all applicants.

(3) The requirements of **sections 212 and 845** apply.

(4) A submitter may support the making of a water conservation order, but may prefer—

(a) that an order be made over a different (but related) water body within the same catchment; or

(b) that an order be made to protect different features and qualities of the water body from those identified in the application.

(5) If **subsection (4)** applies, the submitter must endeavour, in the submission,—

(a) to make that preference known to the special tribunal; and

(b) to specify the reasons for that preference, having regard to the purpose of a water conservation order and the matters for consideration set out in **section 386**.

(6) A submitter who opposes the making of an order must specify why the submitter considers the proposed order is not justified, having regard to the purpose of water conservation orders (*see* **section 378**) and the matters that must be considered (*see* **section 386**).

(7) If a submission does not include all the matters listed in **subsections (5)** or, if applicable, the information required by **subsection (6)**, the tribunal may still consider the submission.

(8) A tribunal may, by notice in writing, require a submitter to supply further information relating to the submission that the tribunal considers necessary.

Compare: 1991 No 69 s 205

385 Hearing by special tribunal

(1) The Minister must, without delay, provide an application and any other relevant information to the special tribunal appointed under **section 381**.

(2) The provisions that apply under ~~**Parts 3 and 8**~~ **clauses 79 to 92 of Schedule 7** to a regional planning committee apply as if references in ~~that Part~~ those provisions—

(a) to a regional planning committee were references to a special tribunal; and

(b) to a resource consent were references to a water conservation order.

(3) If a special tribunal directs an applicant or submitter to provide briefs of evidence by a certain date (which must be at least 10 working days before a hearing), the hearing date must be not more than 40 working days after the closing date for submissions.

(4) If a special tribunal does not give such direction, the hearing date must be within 25 working days after the closing date for submissions.

(5) A hearing must be held at a place determined by the special tribunal that is near the water body to which the application relates.

Compare: 1969 No 69 s 206

386 Matters that must be considered by special tribunal

(1) In considering an application under this subpart, a special tribunal must have particular regard to—

(a) the purpose of a water conservation order; and

(b) the matters set out in **section 378(2)**.

(2) The special tribunal must also have regard to—

(a) the application and all submissions; and

(b) the needs of primary and secondary industry and of the community; and

(c) the relevant provisions of the national planning framework, and the plans ~~and proposed plans~~.

Compare: 1991 No 69 s 207

387 Special tribunal to report on application

(1) As soon as is reasonably practicable after the close of a hearing, a special tribunal must prepare a report on the application and give notice that must include—

(a) either a draft water conservation order or a statement that the tribunal recommends that the application be declined; and

(b) the reasons for the tribunal's conclusion.

(2) The special tribunal must also provide to the relevant regional planning committee, for inclusion in the plan for the region, draft provisions that give effect to the water conservation order.

(3) The notice required by **subsection (1)** must be sent to the following:

(a) the applicant; and

(b) the Minister; and

(c) the relevant local authorities; and

(d) the 1 or more relevant regional planning committees; and

(da) iwi authorities and groups that represent hapū; and

(e) every person who made a submission on the application.

Compare: 1991 No 69 s 208

Environment Court

388 Right to make submissions to Environment Court

(1) The following persons may make submissions to the Environment Court in respect of the whole or any part of a report made under **section 387** by a special tribunal:

(a) the applicant for the proposed water conservation order to which the report relates:

(b) any submitter to the special tribunal under **section 384**:

(c) any other person granted leave by the Environment Court to submit on the grounds that the person could not reasonably be expected to know that the report of the special tribunal would affect that person or an aspect of the public interest which that person represents.

(2) Submissions must be lodged with the Environment Court within 15 working days of notice of the decision being received under **section 387(2)**.

(3) A submitter must serve a copy of ~~the submitter's~~ their submission on the following within 5 working days of lodging a submission with the Environment Court:

(a) the applicant for the proposed water conservation order; and

(b) the Minister; and

(c) the relevant local authorities; and

(d) the relevant iwi authorities and groups that represent hapū; and

(e) every person who made a submission on the application; and

(f) any other person that the submitter knows has made a submission to the Environment Court under this section.

Compare: 1993 No 69 s 209

389 Requirement to hold inquiry

If any submissions are lodged in accordance with **section 388**, the Environment Court must conduct a public inquiry into the report to which the submissions relate.

Compare: 1991 No 69 s 210

390 Who may be heard at inquiry

The following persons may be heard in person or be represented by another person at an inquiry conducted under **section 389**:

(a) the applicant for the proposed water conservation order:

(b) the Minister:

(c) the local authorities whose region or district may be affected:

(ca) iwi authorities and groups that represent hapū:

(d) every person who made a submission to the special tribunal under **section 384**:

(e) any person who is granted leave to make a submission under **section 388(1)(c)**.

Compare: 1991 No 69 s 211

391 Matters that must be considered by Environment Court

(1) In conducting an inquiry, the Environment Court must have particular regard to the following:

(a) the purpose of a water conservation order (*see* **section 378(1)**); and

(b) the matters set out in **section 378(2)**.

(2) The Environment Court must also have regard to—

(a) the needs of primary and secondary industry and of the community; and

(b) the relevant provisions of the national planning framework and the relevant plan and any proposed plan for the region; and

(c) the report of the special tribunal and any draft water conservation order; and

(d) the application and all submissions lodged with the Environment Court; and

(e) any other matters that the Environment Court thinks fit.

Compare: 1991 No 69 s 212

392 Report of Environment Court

(1) When the Environment Court has completed its inquiry, it ~~must~~ must report in writing to the Minister, recommending that the special tribunal's report—

(a) be rejected; or

(b) be accepted, with or without modifications.

(2) The Environment Court must, as appropriate,—

(a) include a draft water conservation order; or

(b) recommend that the application be declined.

(3) The Environment Court must also provide to the relevant regional planning committee, for inclusion in the plan for the region, draft provisions that give effect to the water conservation order.

(4) The Environment Court must ensure that its report is publicly notified in whatever way the Court thinks fit.

Compare: 1991 No 69 s 213

Making, and revoking or amending, water conservation order

393 Making of water conservation order

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make a water conservation order for any water body.

(2) The Minister may make a recommendation to the Governor-General ~~for the purpose of **subsection (1)**~~, but only in accordance with—

(a) the report of the special tribunal prepared under **section 387**, if the Environment Court has not conducted an inquiry; or

(b) the report prepared the Environment Court under **section 392**, if the Environment Court has conducted an inquiry.

(3) A water conservation order is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

394 Reasons for not accepting recommendation

(1) This section applies if the Minister decides not to recommend that the Governor-General make the order, even if—

(a) a special tribunal recommends under **section 387** that an order be made; or

(b) the Environment Court recommends under **section 392** that an order be made.

(2) The Minister must~~, within 20 sitting days after making a decision~~,—

(a) within 20 sitting days after making the decision, present a written statement ~~before~~ to the House of Representatives, setting out the reasons for that decision; and

(b) within 20 working days after making the decision, serve a copy of that statement on—

(i) the applicant; and

(ii) every person who made a submission to the special tribunal or the Environment Court.

Compare: 1993 No 69 s 215

395 Revocation or amendment of water conservation order

(1) The following apply until the ~~expiration~~ expiry of 2 years after the date on which a water conservation order is made~~ under **section 393**~~:

(a) an application must not be made to the Minister to revoke the order; and

(b) the Minister must reject an application made under **subsection (2)** to amend an order, unless the Minister is satisfied that the amendment—

(i) will have no more than minor effect; or

(ii) is of a technical nature and would enable the order to better achieve the purpose for which it was made; and

(c) ~~no recommendation may be made~~ the Minister must not recommend to the Governor-General that an order be made—

(i) to revoke the order; or

(ii) to amend the order, unless the Minister is satisfied that the amendment is minor or technical in nature and would enable the order to better achieve the purpose for which it was made.

(2) ~~However, subject to **subsection (1)**, any~~ Any person may apply to the Minister to revoke or amend a water conservation order, stating the reasons for the application.

(3) Except as provided in ~~**subsection**~~ **subsections (1) and (4)**, an application ~~under **subsection (2)**~~ to revoke or amend an order must be dealt with in the same manner as an application for an order made under **section 380**.

(4) If the Minister receives an application under **subsection (2)**, the Minister may recommend that the order be amended, if—

(a) the Minister is of the opinion that the application should not be rejected but, because the amendment would have only minor effect, there is no need to hold an inquiry; and

(b) the original applicant for the order (if that person can be located) and the regional council agree to the amendment.

(5) The Governor-General may by Order in Council made on the recommendation of the Minister under **subsection (4)**, amend the order.

(6) An order made under **subsection (5)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 216

396 Legal effect of water conservation order

(1) A water conservation order does not affect or restrict a resource consent granted, or lawful use established, in respect of the water body before the order ~~is~~ was made.

(2) If a water conservation order is operative, the relevant consent authority—

(a) must not grant a water permit, coastal permit, or discharge permit that would be inconsistent with a restriction or prohibition or other provision of the order:

(b) must not grant a water permit, coastal permit, or discharge permit unless the grant of such a permit or the combined effect of the grant of such a permit and existing permits relating to the water body affected by the order are such that the water conservation order can remain without change or variation:

(c) must, in granting any water permit, coastal permit, or discharge permit, impose any conditions necessary to ensure that the provisions of the water conservation order are not compromised.

Compare: 1991 No 69 s 217

397 Relationship between plans and water conservation order

(1) Plans must give effect to a water conservation order.

(2) When considering an application for a resource consent, a consent authority must take into account any relevant water conservation order.

(3) **Subsection (2)** applies only if **section 396** does not apply.

Compare: 1993 No 69 s ~~43C~~ 69

Amendments to plan if water conservation order granted

398 Plan to be amended if water conservation order granted

(1) If a water conservation order is made under **section 393**, the Minister must give written notice to the relevant ~~local authorities~~ regional planning committees of any changes to plans recommended by the special tribunal or the Environment Court under this subpart.

(2) When a water conservation order is made, ~~local authorities with jurisdiction in~~ the relevant regional planning committees for a region or district affected by the water conservation order must, as soon as practicable, and without using the process under **Schedule 7**, amend their plans to incorporate the changes notified by the Minister in relation to the water conservation order.

Subpart 2—Freshwater farm plans

399 Purpose

The purpose of this subpart is to better control the adverse effects of farming on freshwater and freshwater ecosystems within specified districts, regions, or parts of New Zealand through the use of certified freshwater farm plans.

Compare: 1991 No 69 s 217A

400 Interpretation

In this subpart, unless the context otherwise requires,—

auditor means a person who—

(a) is appointed under **section 409** or by an approved industry organisation; and

(b) meets the criteria prescribed in regulations made under **section 411(1)(h)**

certification and audit services means the services prescribed for the purposes of **section 409A** in regulations (if any) prescribed under **section 411**

certified freshwater farm plan means a freshwater farm plan certified under **section 405**, as amended from time to time in accordance with **section 403(2) or (3)**

certifier means a person who—

(a) is appointed under **section 409** or by an approved industry organisation; and

(b) meets the criteria prescribed in regulations made under **section 411(1)(h)**

farm means a farm where all or part of the farm is under—

(a) arable land use; or

(b) horticultural land use; or

(c) pastoral land use; or

(d) other agricultural land use prescribed in regulations; or

(e) any combination of the uses listed in this definition

farm operator means the person with ultimate responsibility for the operation of a farm

horticultural land use means the use of land to grow food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply

pastoral land use means the use of land for the grazing of livestock

regulations means regulations made under this subpart

relevant regional council means the regional council (as defined in **section ~~400~~ 7**) in whose jurisdiction the farm is located

specified instrument means any designation, provision in the national planning framework, regulations ~~made under this Act~~, resource consent, rule in a plan, or water conservation order.

Compare: 1991 No 69 s 217B

401 Application of this subpart

(1) This subpart applies only—

(a) to a region, district, or part of New Zealand specified in an Order in Council under this section; and

(b) on and from the date specified in the Order in Council.

(2) The Governor-General may, by Order in Council, on the recommendation of the Minister, determine—

(a) that this ~~Part~~ subpart applies to a specified district, region, or part of New Zealand; and

(b) the date on which this ~~Part~~ subpart applies to that district, region, or part of New Zealand.

(3) Before making a recommendation under **subsection (2)**, the Minister must—

(a) be satisfied that regulations are necessary to achieve the purpose of this ~~Part~~ subpart in the specified district, region, or part of New Zealand; and

(b) consult the Minister of Agriculture.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 217C

402 Farm must have certified freshwater farm plan if it meets land use threshold

(1) A farm must have a certified freshwater farm plan if—

(a) 20 or more hectares of the farm is arable land use; or

(b) 5 or more hectares of the farm is horticultural land use; or

(c) 20 or more hectares of the farm is pastoral land use; or

(d) a prescribed area of the farm is other agricultural land use prescribed in regulations made under **section 411**; or

(e) 20 or more hectares of the farm is a combination of any 2 or more of the land uses described above.

(2) A certified freshwater farm plan applies to the entire farm.

Compare: 1991 No 69 s 217D

403 Main duties of farm operators

(1) A farm operator of a farm that is required to have a certified freshwater farm plan must—

(a) prepare a freshwater farm plan in accordance with this subpart and the regulations; and

(b) submit the plan to a certifier for certification; and

(c) ensure that the farm operates in compliance with the certified freshwater farm plan; and

(d) arrange for the farm to be audited in accordance with this subpart and regulations for compliance with the certified freshwater farm plan.

(2) A farm operator must keep the certified freshwater farm plan fit for purpose by—

(a) amending the plan as necessary to reflect any changes in the farm; and

(b) amending the plan as necessary to comply with this subpart and regulations.

(3) A farm operator must amend and recertify a certified freshwater farm plan if any circumstances prescribed by regulations apply.

Compare: 1991 No 69 s 217E

404 Contents of freshwater farm plan

(1) A freshwater farm plan must—

(a) identify any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems; and

(b) specify requirements that—

(i) are appropriate for the purpose of avoiding, remedying, or mitigating the adverse effects of those activities on freshwater and freshwater ecosystems; and

(ii) are clear and measurable; and

(c) demonstrate how any freshwater farm plan outcomes prescribed in the regulations are to be achieved; and

(d) comply with any other requirements in the regulations.

(2) *See* **section 410** (which states when a specified instrument prevails over a freshwater farm plan).

Compare: 1991 No 69 s 217F

405 Certification of freshwater farm plan

(1) The farm operator must, within the prescribed time frame, submit a freshwater farm plan to a certifier.

(2) The certifier must certify a freshwater farm plan if the certifier is satisfied that the plan complies with the requirements in **section 404**.

(3) The certifier must, as soon as practicable, notify the relevant regional council—

(a) that the freshwater farm plan has been certified; and

(b) the date on which it was certified.

(4) This section applies, with any necessary modifications, to a certified freshwater farm plan that is required by regulations to be amended and recertified.

Compare: 1991 No 69 s 217G

406 Audit of farm for compliance with certified freshwater farm plan

(1) A farm operator must—

(a) arrange, within the prescribed time frame, for an auditor to audit the farm for compliance with the certified freshwater farm plan; and

(b) arrange for further audits to be carried out at the frequency required by the regulations.

(2) The audit must be completed in the manner prescribed in regulations.

(3) The farm operator must provide the auditor with—

(a) an up-to-date copy of the certified freshwater farm plan and any relevant information; and

(b) any further information that the auditor reasonably requests for the purpose of the audit; and

(c) reasonable access to the farm (or any part of it) for the purpose of any audit inspection.

(4) After completing the audit, the auditor must—

(a) provide the farm operator with a report of the auditor's findings on whether the farm achieves compliance with the certified freshwater farm plan; and

(b) if the auditor finds that the farm achieves compliance, provide that report to the relevant regional council.

(5) If the auditor finds that the farm fails to achieve compliance with the certified freshwater farm plan,—

(a) the auditor's report—

(i) must include reasons why the farm failed to achieve compliance; and

(ii) must specify reasonable time frames by which compliance must be achieved; and

(iii) may include recommendations on how compliance may be achieved; and

(b) the auditor must give the farm operator a reasonable opportunity to respond to the report; and

(c) the auditor must, after the prescribed period has expired, provide the farm operator and the relevant regional council with a final report—

(i) setting out the auditor's findings (including the findings of the first report); and

(ii) stating whether compliance was achieved; and

(iii) including any recommendations from the auditor.

Compare: 1991 No 69 s 217H

407 Functions of regional councils

(1) For the purposes of this subpart, a regional council has the following functions:

(a) to enforce the observance of the requirements of this subpart and the regulations to the extent that their powers under this Act enable them to do so; and

(b) to monitor compliance by farm operators with their duties under this subpart and with any requirements in the regulations; and

(c) to receive notifications of freshwater farm plans that have been certified; and

(d) to receive audit reports and related notifications from auditors~~.~~; and

(e) to approve industry organisations to provide certification and audit services; and

(f) to appoint certifiers under **section 409**; and

(g) to monitor and audit approved industry organisations for compliance with the standards issued under **section 409A(2)**.

(2) A regional council may require a farm operator to produce a certified freshwater farm plan for inspection.

Compare: 1991 No 69 s 217I

408 Records that must be kept by regional council

A regional council must keep and maintain, in relation to each farm in its jurisdiction, a record of—

(a) whether the farm has a certified freshwater farm plan; and

(b) the date that the plan was last certified; and

(c) the date that the farm was last audited for compliance with the plan; and

(d) any other information required by the regulations.

Compare: 1991 No 69 s 217J

409 Regional council must appoint certifiers and auditors

(1) A regional council must—

(a) appoint 1 or more certifiers; and

(b) appoint 1 or more auditors.

~~(2) A regional council may make an appointment under this section only if satisfied that criteria prescribed in regulations have been met.~~

(2) A regional council may make an appointment under this section only if satisfied that the criteria prescribed in regulations have been met.

Compare: 1991 No 69 s 217K

409A Regional council may approve industry organisation to provide certification or audit services

(1) A regional council may give approval to an industry organisation that applies to the council to provide certification and audit services under this subpart if the council is satisfied that the organisation meets the standards issued under **subsection (2)**.

(2) The Minister may, by notice in the *Gazette*, issue standards by which industry organisations must be assessed for the purpose of determining their suitability to be an approved industry organisation.

(3) Standards may also—

(a) set out the kind of organisation eligible to be approved for the purposes of this subpart; and

(b) include content and processes to provide for compliance with the standards, as by requiring the industry to run training programmes and ensuring that conflicts are appropriately managed.

(4) A regional council may request information from an approved industry organisation that the council considers reasonably necessary for carrying out their function under **section 407(1)(e) and (g)**.

410 Relationship between certified freshwater farm plan and specified instruments

(1) A certified freshwater farm plan may contain a requirement that—

(a) relates to an activity carried out on the farm (an **activity**) even if there is no similar requirement relating to that activity in a provision of a specified instrument:

(b) restricts an activity more than a provision of a specified instrument.

(2) However, if a provision of a specified instrument restricts an activity more than a requirement of a freshwater farm plan, the provision of the specified instrument prevails.

(3) To avoid doubt, compliance with a requirement of a certified freshwater farm plan—

(a) does not of itself authorise a person to undertake an activity:

(b) may be specified or included as a requirement or condition in any specified instrument relating to an activity.

Compare: 1991 No 69 s 217L

411 Regulations relating to freshwater farm plans

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister after consulting the Minister of Agriculture, make regulations that—

(a) prescribe crops for the purpose of the definition of arable land use in **section ~~400~~ 7**:

(b) prescribe agricultural land uses for the purpose of the definition of farm in **section 400**:

(c) prescribe the area of land described in **section 402(1)(d)** (in relation to agricultural land use prescribed under **paragraph (b)**):

(d) provide for the content of a freshwater farm plan, including (without limitation) specifying—

(i) any requirements, including any actions, criteria, methods, or thresholds for the purpose of identifying, measuring, avoiding, remedying, or mitigating any adverse effects of activities carried out on the farm on freshwater and freshwater ecosystems; and

(ii) freshwater farm plan outcomes that must be achieved for the purpose of avoiding, remedying, or mitigating those adverse effects on freshwater and freshwater ecosystems; and

(iii) any other information that must be included in the plan for the purpose of this ~~Part~~ subpart:

(e) provide for the form and manner in which a freshwater farm plan must be certified, including (without limitation) prescribing—

(i) time frames that must be complied with by the farm operator and certifier; and

(ii) any fees payable by the farm operator or the manner of calculating those fees:

(f) prescribe the circumstances in which a certified freshwater farm plan must be amended and recertified:

(fa) prescribe requirements for approval of industry organisations under **section 409A**, including any further obligations for approved industry organisations:

(g) for the purpose of audits of farms for compliance with certified freshwater farm plans, prescribe—

(i) the time frame by which a farm must be audited; and

(ii) the frequency at which those audits must be carried out; and

(iii) the manner in which an audit must be completed; and

(iv) the period after which the auditor must provide their final report under **section 406(5)(c)**; and

(v) any matters that an auditor must take into account when considering whether the farm achieves compliance with the certified freshwater farm plan; and

(vi) any fees payable by the farm operator or the manner of calculating those fees:

(h) prescribe criteria that apply to the appointment of a person as an auditor or certifier and their continuation in that role:

(i) require auditors, certifiers, and farm operators to supply prescribed information to regional councils for the purpose of **section 407**:

(j) prescribe information that a regional council must keep in relation to farms in its jurisdiction:

(k) prescribe infringement offences for the contravention of, or non-compliance with, a provision of this ~~Part~~ subpart or of any regulations made under this section:

(l) provide for any other matters that are contemplated by, or necessary for giving full effect to, this subpart and for its due administration.

(2) Regulations under this section may apply generally or to specified districts, regions, or parts of New Zealand.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 217M

Subpart 3—Effect of certain nutrients on quality and ecosystems ~~on~~ of freshwater

412 Purpose

(1) The purpose of this subpart is to enable better monitoring of actions taken to improve freshwater quality and freshwater ecosystems.

(2) To inform the planning and management for freshwater under this Act, information must be collected on the sale of nitrogenous fertilisers.

Compare: 1991 No 69 s 217N

413 Meaning of nitrogenous fertiliser

In this subpart, **nitrogenous fertiliser** means a fertiliser containing any nitrogenous substance, whether solid or liquid in form, that—

(a) is applied to ~~plans~~ plants or soil as a source of nitrogen nutrition for plants; and

(b) comprises more than 5% of nitrogen weight for weight.

Compare: 1991 No 69 s 217O

414 Obligation to comply with regulations

(1) This section applies if regulations made under **section 415** are in force.

(2) Persons of a class specified in the regulations must comply with requirements in the regulations that relate to—

(a) the collection of information relating to or arising from the sale and purchase of nitrogenous fertiliser; and

(b) the provision of the information to the EPA, a regional council, a specified agency, or a specified person or class of persons.

Compare: 1991 No 69 s 217P

415 Regulations

The Governor-General may, by Order in Council, make regulations that—

(a) require persons of a specified class to collect the following information relating to or arising from the sale and purchase of nitrogenous fertiliser:

(i) the date and place of purchase; and

(ii) the names of the seller or both the seller and purchaser; and

(iii) the type of fertiliser purchased; and

(iv) the volume of fertiliser purchased; and

(v) where the fertiliser is intended to be applied; and

(b) prescribe how the information is to be collected; and

(c) require the persons specified under **paragraph (a)** to provide the information to 1 or more of the following:

(i) the EPA:

(ii) a regional council:

(iii) a specified person or class of persons:

(iv) a specified agency; and

(d) specify how, and the frequency at which, the information must be provided; and

(e) allow the personal information of a purchaser to be collected only if their purchase exceeds a specified volume of nitrogenous fertiliser.

Compare: 1991 No 69 s 217

Subpart 4—Contaminated land

416 Purpose

The purpose of this subpart is to provide a framework, based on the polluter pays principle, for the management of contaminated land so that—

(a) those who cause or allow contamination to occur bear the costs of managing the contamination in order to prevent or remedy harm to human health and the environment; and

(b) the owner of the land is responsible for managing the contamination in accordance with this subpart; and

(c) the land is managed—

(i) to prevent harm to human health and the environment; and

(ii) to minimise any further harm to human health and the environment.

417 Polluter pays principle

In this subpart, the **polluter pays principle** means the principle that those who produce pollution should bear the costs of managing it to prevent damage to human health and the environment.

Landowner's obligations

418 Landowner's obligations when land used for activity or industry listed in HAIL

(1) If land is used for an activity or industry listed in the HAIL, the landowner must—

(a) notify the regional council of the nature and duration of the activity or industry; and

(b) notify the regional council of any environmental investigations undertaken on that land; and

(c) provide the regional council with any reports of those environmental investigations; and

(d) comply with any requirements in regulations.

(2) The landowner must comply with their obligations in **subsection (1)** within the prescribed time frames.

419 Landowner obligations when land is contaminated

(1) If land is contaminated to the extent that it poses an unacceptable risk to human health or the environment, the landowner must—

(a) notify the regional council of the contamination; and

(b) manage, investigate, and monitor the contamination to ensure that ~~is~~ its concentrations—

(i) do not exceed an environmental limit; and

(ii) do not pose an unacceptable risk to human health or the environment; and

(c) provide the regional council with any reports of any activities described in **paragraph (b)**; and

(d) comply with any requirements in regulations.

(2) The landowner must comply with their obligations in **subsection (1)** within the prescribed time frames.

Regional council obligations

420 Obligations of regional council

(1) A regional council must,—

(a) identify all HAIL land within its boundaries; and

(b) use available information to determine which land within its boundaries is contaminated land; and

(c) inform landowners of their obligations under **section 419**; and

(d) help landowners to understand their obligations under this subpart; and

(e) keep and maintain, on a publicly available register, an up-to-date record of the following information:

(i) all HAIL land within its boundaries; and

(ii) all contaminated land within its boundaries; and

(iii) the nature, extent, and severity of contamination found in contaminated land within its boundaries; and

(iv) the management and remediation of contaminated land within its boundaries.

(2) In this section, **HAIL land** means land that is, or has been, used for an activity or industry listed in the HAIL.

Territorial authority duties

421 Duties of territorial authority when considering consent application to develop, subdivide or use ~~Territorial authority must consider effects of proposed development, etc, on~~ contaminated land

When ~~dealing with a proposal~~ considering a consent application for an activity under **section 223** to develop, subdivide, or use contaminated land ~~(a proposal),~~ a territorial authority must—

(a) consider—

(i) the environmental effects of the ~~proposal~~ activity; and

(ii) whether and how the ~~proposal~~ activity will benefit the environment; and

(b) control the use and development of the contaminated land in order to—

(i) prevent any adverse effects or likely adverse effects ~~to~~ on human health or the environment that result from the ~~proposed development, subdivision, or land use~~ activity; and

(ii) mitigate those adverse effects.

~~Significantly~~ Significant contaminated land sites

422 Classification of ~~significantly~~ significant contaminated land sites

(1) The Minister may classify or declassify a site as a ~~significantly~~ significant contaminated land site—

(a) on the application of the EPA or the local authority that is the regulator in relation to the site; or

(b) at the Minister's own initiative.

(2) The EPA and the Minister must consult the relevant local authority before making a decision under **subsection (1)**.

(3) The Minister's decision must—

(a) be notified in writing to the local authority, the landowner of the site, and the EPA; and

(b) include reasons; and

(c) state the date on which the decision takes effect.

(4) Land may be classified as a significant contaminated land site if the land is not contaminated to a significantly high level, but the contamination is significant because of factors such as the location of the land, its proximity to water or a water body, or to land that is culturally or environmentally sensitive.

EPA

423 EPA's role in relation to significant contaminated land sites of national significance

(1) If the Minister ~~decides to classify~~ classifies a site as a significant contaminated land site ~~of national significance~~ under **section 422**,—

(a) the EPA is the lead regulator in relation that site, and

(b) for that purpose, the EPA has all the functions and powers of the local authority and the regional council under this subpart.

(2) The EPA's role as lead regulator in relation to the site—

(a) commences on the date on which the Minister's decision to classify the site under **section 422** takes effect; and

(b) ends on the date on which the Minister's decision to declassify the site under **section 422** takes effect.

(3) The EPA must ensure that, in exercising its role as lead regulator, ~~that~~ it does not conflict with the local authority's role as regulator in relation to the site.

(4) The powers and functions of the EPA conferred under **subsection (1)(b)** are in addition to its other functions and powers under this Act.

Costs of pollution

424 Identifying the polluter

A **polluter**, in relation to contaminated land, means a person who has directly or indirectly, or through neglect or wilful inactivity, caused or allowed a discharge of a contaminant into the environment.

425 EPA must consult local authority before taking action

The EPA must consult with the local authority before the EPA takes action under this subpart in relation to contaminated land to—

(a) prevent or remedy any adverse effects ~~to~~ on the environment as a result of the polluter's actions (in allowing or causing the discharge of a contaminated into the environment); and

(b) carry out remediation to prevent or remedy harm to human health and the environment from the contaminated land.

426 Actual and reasonable costs may be recovered from polluter

If the identity of a polluter of contaminated land has been confirmed through the local authority's execution of an enforcement order, a local authority or the EPA may, in accordance with **Part 11**, recover from the polluter the actual and reasonable costs that the authority or EPA has incurred in taking action under this subpart.

427 EPA may recover costs from local authority

(1) If the EPA is unable to recover costs from a polluter of contaminated land,—

(a) the EPA may recover from the local authority the actual and reasonable costs it has incurred in taking actions under this subpart for the purpose of **section 425(a) and (b)**; and

(b) in deciding the EPA's proportion of costs to be recovered, the EPA must take into account any events that were outside the local authority's control.

(2) If the local authority disagrees with the costs claimed by the EPA, the local authority may apply to the Environment Court for a determination of the proportion of costs it should bear.

427A Interpretation

In this subpart,—

area of highly vulnerable biodiversity and **HVBA** mean an area that is highly vulnerable because it meets 1 or more of the criteria set out in **section 427P**

closed register means a register of the kind described in **section 427G**

conservation planning document means any of the following documents that is operative and relevant and made under the Conservation Act 1987 or an Act specified in Schedule 1 of that Act:

(a) a conservation management strategy:

(b) a conservation management plan:

(c) a national park management plan

critical habitat means an area that is essential for the long-term viability of a nationally critical species, and includes areas that highly mobile animals rely on for an essential part of their life cycle

nationally critical species means a species described in the New Zealand Threat Classification System as a nationally critical species

place of national importance means any of the following:

(a) an area of the coastal environment, or a wetland, lake, or river or its margins that has exceptional natural character on a national scale:

(b) a natural landscape or natural feature (including geoheritage) that is identified in the national planning framework as being exceptional on a national scale:

(c) specified cultural heritage:

(d) a significant biodiversity area

responsible Minister has the meaning given in **section 94**

trivial means minimal.

Places of national importance

427B Purpose of sections 427C to 427L

(1) The purpose of **sections 427C to 427L** is to ensure that the attributes of places of national importance are recognised, protected, and sustained for their intrinsic value and for the benefit of both present and future generations.

(2) **Subsection (1)** applies despite anything in this Act that is contrary to, or inconsistent with, the purpose stated in that subsection.

427C Identification of places of national importance

(1) The national planning framework—

(a) must identify every place that is a natural landscape or natural feature (including geoheritage) that is exceptional on a national scale; and

(b) may identify other places of national importance.

(2) Every plan must identify each place in the region that is a place of national importance in accordance with any relevant provisions in the national planning framework.

(3) However, **subsection (2)** does not apply in the case of significant biodiversity areas that are—

(a) in the coastal marine area or in a freshwater body; and

(b) exempt from the requirement described in **subsection (2)** by the national planning framework.

(4) In determining whether any part of the coastal marine area should be exempt from the requirement of **subsection (2)**, the Minister must consider—

(a) the cost of identifying and assessing the biodiversity in the area; and

(b) the likelihood of any person seeking to carry out an activity in the area that could have a more than trivial adverse effect on its biodiversity values; and

(c) whether identifying the biodiversity values in the area will improve investment certainty.

(5) A significant biodiversity area described in **subsection (3)** may be identified in a plan.

(6) The national planning framework must not exempt any area that—

(a) is an intertidal area or land not covered by water; or

(b) meets the criteria from the requirement described in **subsection (2)** (*see* **section 427D**), if a consenting authority or regional planning committee has previously determined that the area is a significant biodiversity area.

(7) A place may be identified by using maps or words (or both), as long as all affected properties are clearly identified.

(8) The provisions that identify a place must set out the attributes or values that make it a place of national importance.

(9) A decision that a place is specified cultural heritage does not affect the New Zealand Heritage List/Rārangi Kōrero.

(10) A person determining whether an area is a significant biodiversity area must have regard to mātauranga Māori.

(11) Every regional planning committee must treat its approach to identifying places of national importance as a major regional policy issue (*see* **clause 14 of Schedule 7**).

427D Criteria to be prescribed for identifying significant biodiversity areas

(1) The responsible Minister must set criteria for identifying significant biodiversity areas in the national planning framework.

(2) Before specifying criteria, the responsible Minister must seek written advice from the environmental limits and targets review panel (*see* **clause 3 of Schedule 6**), including advice on—

(a) whether, in the opinion of the panel, the criteria proposed by the responsible Minister are scientifically robust; and

(b) any other matter the responsible Minister considers relevant.

427E Considerations relevant to setting criteria

(1) The criteria specified under **section 427D** must be based on the following considerations:

(a) representativeness, meaning the extent to which an indigenous ecosystem, consisting of the habitat of indigenous biota in an area, is characteristic of the indigenous biodiversity within the context and scale of the area concerned:

(b) diversity and pattern, meaning the extent to which the expected range of diversity and pattern of biological and physical components is present in an area within the appropriate assessment scale:

(c) rarity and distinctiveness, meaning the presence of rare or distinctive indigenous species, vegetation, ecosystems, animal communities, or habitats of indigenous biota:

(d) ecological context, meaning the extent to which the size, shape, connectivity, and configuration of an indigenous ecosystem or habitat of indigenous biota contributes to the maintenance of indigenous biodiversity within the surrounding land-based and aquatic environments.

(2) Despite **subsection (1)**, the criteria for significant biodiversity areas in the coastal marine area may exclude representativeness in part or all of the coastal marine area.

427F Protection of places of national importance

(1) Despite anything to the contrary in **sections 17 to 25**, a person must not carry out an activity that would have more than a trivial adverse effect on the attributes that make an area a place of national importance, unless—

(a) the activity is expressly allowed by or under a framework rule made in accordance with the requirements set out in **sections 427H to 427K**; or

(b) the activity is part of a protected customary right; or

(c) the activity is carried out under a customary marine title order or customary marine title agreement.

(2) **Subsection (1)** applies to a place of national importance, but only if that place is—

(a) identified in—

(i) the national planning framework or a proposed part of the framework; or

(ii) a plan or proposed plan; or

(iii) in the case of a cultural heritage place, a closed register; or

(b) a significant biodiversity area that is not identified, but only if—

(i) substantive new information has become available to establish that the place meets the criteria (*see* **section 427D**); or

(ii) the place had not been assessed when the relevant provisions to identify significant biodiversity areas were made, and the place meets the criteria.

(3) **Subsection (1)** does not apply to a significant biodiversity area that is identified if substantive new information becomes available to establish that the place does not meet the criteria (*see* **section 427D**).

(4) If there is good reason to consider that a plan is incomplete or inaccurate, a consenting authority or requiring authority, as the case may be, must make reasonable efforts to establish whether an area affected by an activity is a significant biodiversity area before the authority—

(a) issues a permitted activity notice; or

(b) grants a resource consent; or

(c) makes a designation.

(5) **Subsection (3)** does not apply if the activity is fishing authorised under the Fisheries Act 1996.

Closed registers

427G Provision may be made for cultural heritage to be identified on closed register

(1) A plan may provide for cultural heritage to be identified in a closed register if—

(a) a person makes a request to the relevant regional planning committee; and

(b) the requester provides good reason why the precise location of the cultural heritage should not be shown in a plan.

(2) If the request is accepted, the requester must determine that either the requester or the local authority is to hold the information provided under **subsection (1)(b)**.

(3) If cultural heritage is identified only in a closed register, the maps included in the plan must include—

(a) a notation to indicate the general location of the cultural heritage, a name or unique identifier, and a description of the cultural heritage; and

(b) information on how a person wishing to apply for a consent or a requiring authority can obtain—

(i) confirmation as to whether the cultural heritage is within the area of the consent application; and

(ii) information as to whether an activity may have a more than trivial effect on the attributes of any specified cultural heritage.

(4) The person holding the information must respond within 10 working days to any request made under **subsection (3)(b)**.

427H Activities with more than trivial adverse effects on places of national importance

(1) The responsible Minister may include framework rules in the national planning framework to allow an activity with more than trivial adverse effects on the attributes that make an area a place of national importance, either as—

(a) a permitted activity; or

(b) an activity authorised by a resource consent.

(2) However, a rule must not be made other than for a type of activity that is eligible under **section 427K**.

(3) A rule must be designed so as to diminish the adverse effects on an attribute to the greatest extent that is compatible with enabling the activity to proceed.

(4) However, **subsection (3)** does not apply to rules relating to—

(a) activities with adverse effects on specified cultural heritage or significant biodiversity areas; or

(b) activities described in **subsection (1)(a) or section 427K**.

(5) A rule may also impose other requirements, including for monitoring and reporting purposes.

427I Application of rules to class of activities or particular activities

(1) A rule made under **section 427H** may apply to a class of activities or a particular activity.

(2) A rule that applies to a class of activity may provide that the activity is allowed only if 1 or more of the following circumstances applies:

(a) the activity must be located, for functional or operational reasons, in a particular place, despite the fact that it will generate adverse effects:

(b) there is no reasonably practicable alternative location:

(c) the activity would, were it to be carried out in an alternative location, result in a more than trivial adverse effect on the attributes that make a place one of national importance (*see* **section 427F**).

(3) The national planning framework may specify what is required for an assessment of alternative locations under **subsection (2)**, including limiting the scope of the assessment to—

(a) sites within a specified region or district; or

(b) sites within a specified distance of a particular place of national importance; or

(c) sites with other specified attributes.

(4) The financial cost of alternative locations or methods is a relevant consideration in determining whether there is an operational need or a reasonably practicable alternative location under **subsection (2)**.

427J Considerations relevant to making rules

(1) The responsible Minister must,—

(a) when determining whether an activity will have nationally significant benefits under **section 427K(1)(o)**, have regard to any relevant matters in **clause 42(3) of Schedule 10A**; and

(b) before determining whether to make a rule for a fishing activity within the scope of **section 427K(1)(l)**, consult the Minister responsible for administering the Fisheries Act 1996; and

(c) before making a rule, consider—

(i) the purpose of **sections 427C to 427L**; and

(ii) the principles set out in **section 6** (other than those set out in **section 6(1)(b), (c), and (d)**); and

(iii) the relative costs (including the social, economic, cultural and environmental costs) of making a rule; and

(iv) any alternatives to making a rule that would achieve the objective of the proposed exemption; and

(v) any other matters that the Minister considers appropriate.

(2) This section applies instead of the considerations set out in **clauses 19(3) and 21(3) of Schedule 6**.

(3) Except as provided in **subsection (2)**, **Schedule 6** applies to a framework rule made under **section 427H**.

427K Types of eligible activity

(1) Rules applying under **section 427H** may be made only for the following types of activities:

(a) activities required to deal with a very high risk to public health or safety:

(b) activities to maintain or restore a significant biodiversity area:

(c) the customary use of indigenous biodiversity carried out in accordance with tikanga:

(d) activities on Māori land or on other land required to facilitate the activities on Māori land:

(e) activities undertaken for the purpose of managing Te Urewera under the Te Urewera Act 2014:

(f) geothermal development where the effects of the extraction and injection of geothermal water and heat may result in adverse effects on significant biodiversity areas within areas of geothermal activity:

(g) activities in a place identified as a significant biodiversity area solely because of the presence of a plant species listed as threatened or declining in the New Zealand Threat Classification System, unless the species is rare within the region or ecological area:

(h) activities lawfully established immediately before the commencement of **section 427W(1)**:

(i) subdivision that is necessary for another activity described in this subsection:

(j) activities that will contribute to a system outcome described in **section 5**, including activities that will contribute to the use renewable energy or the electrification of New Zealand's economy:

(k) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990:

(l) activities managed under other legislation, as long as the responsible Minister is satisfied that the other legislation provides a similar level of protection to a rule made under **section 427H(3) or 427X** (whichever is relevant):

(m) the lines, facilities and associated equipment used or owned by Transpower to convey electricity and for associated activities, including access tracks, tree clearance and maintenance activities:

(n) infrastructure operated by a lifeline utility operator as defined in the Civil Defences and Emergency Management Act 2002 and any directly associated activity:

(o) activities that will provide nationally significant benefits, or are part of a network that will provide nationally significant benefits, and that outweigh any adverse effects of the activity:

(p) in the case of a specified cultural heritage place, activities required to ensure that the place and its cultural heritage values endure:

(q) activities of the Crown on conservation land and waters that are not inconsistent with any applicable conservation planning document:

(s) activities carried out by a customary marine title holder in a relevant customary marine title area.

(2) In **subsection (1)(g)**, the **New Zealand Threat Classification System** means the system maintained by the Department of Conservation for—

(a) assessing the risk of extinction of New Zealand species; and

(b) classifying the species according to that risk.

427L Rules that may affect other requirements

(1) A requirement to meet a limit or associated target is not removed if a person complies with a rule made under **section 427H**.

(2) An adverse effect managed under a rule made under **section 427H** must not be taken into account by any person—

(a) in applying any other rule; or

(b) in making decisions on a notice of requirement.

Areas of highly vulnerable biodiversity

427M Purpose of sections 427O to 427U

(1) The purpose of **sections 427O to 427U** is to ensure that the attributes of highly vulnerable biodiversity areas as recognised, protected, and sustained for their intrinsic value and for the benefit of both present and future generations.

(2) **Subsection (1)** applies despite anything in this Act that is contrary to, or inconsistent with, the purpose stated in that subsection.

427N Identification of HVBAs

(1) The national planning framework may identify an area as an HVBA.

(2) Unless the area is no longer an HVBA, a regional planning committee must identify in its plan, in accordance with any relevant provisions of the national planning framework, each area in the region that—

(a) has previously been determined to meet a criterion in **section 427P** by a consent authority or the regional planning committee; or

(b) has been declared to be a critical habitat under **section 427U**.

(3) However, **subsection (2)** does not apply if the regional planning committee considers that making public the location of an area would create an undue risk of damage to, or loss of, the attributes that make the area an HVBA.

(4) A plan may also identify as HVBAs areas other than those identified under **subsection (1) or (2)**.

(5) The provisions of the national planning framework or a plan that identifies an area as an HVBA must set out the attributes or values of the area that make it an HVBA.

(6) An HVBA may be identified on a map or by words (or both), as long as the identity of all affected properties is made clear.

(7) Each regional planning committee must treat its approach to identifying an HVBA as part of its draft strategic content (*see* **clause 14 of Schedule 7**).

427O Identification of areas recorded in closed register

(1) If a regional planning committee does not identify an HVBA in the plan for the reason given in **section 427N(3)**, it must identify the area in the closed register held by the relevant consent authorities.

(2) If an HVBA is identified only in a closed register, the maps provided in the plan must include notation that—

(a) indicates the general location of the area; and

(b) provides a name or unique identifier for the area; and

(c) a description of the area; and

(d) sets out how a person applying for a consent or a requiring authority may obtain information as to whether a particular activity for which a resource consent or designation is sought may have a more than trivial adverse effect on the attributes that make the relevant area an HVBA.

(3) The consent authority holding the information must respond within 10 working days to a request made under **subsection (2)(d)**.

427P Criteria for identifying HVBAs

(1) An area is an HVBA if it meets 1 or more of the following criteria:

(a) the area is a critical habitat of 1 or more nationally critical species:

(b) the area is part of a critically endangered ecosystem:

(c) the area includes residual indigenous ecosystems in a critically threatened area of land (including both terrestrial and wetland areas):

(d) the area includes an ecosystem that is 1 of the few and best remaining examples nationally of that type of ecosystem:

(e) the area includes any naturally rare or threatened indigenous marine ecosystems, communities, or habitats.

(2) Any person making a determination as to whether an area in an HVBA must have regard to mātauranga Māori.

427Q Protection of HVBAs

(1) Despite anything to the contrary in **sections 17 to 25**, a person must not carry out an activity that would have a more than trivial adverse effect on the attributes that make an area an HVBA, unless—

(a) the activity is expressly allowed by or under a framework rule made under **section 427R**; or

(b) the activity is part of a protected customary right.

(2) If there is good reason to consider that a plan is incomplete or inaccurate, a consenting authority or requiring authority, as the case may be, must make reasonable efforts to establish whether an area affected by an activity is a highly vulnerable biodiversity area before the authority—

(a) issues a permitted activity notice; or

(b) grants a resource consent; or

(c) makes a designation.

(3) An HVBA is protected whether or not it has been identified under **section 427I**.

427R Rules to allow activities with more than trivial adverse effects on HVBAs

(1) The responsible Minister may include rules in the national planning framework for an activity with more than trivial adverse effects on the attributes that make an area an HVBA.

(2) A rule made under **subsection (1)** may—

(a) allow the activity as a permitted activity; or

(b) provide for the activity to be authorised by a resource consent.

(3) However, a rule made under this section must be designed to diminish the adverse effects on an attribute to the greatest extend compatible with enabling the activity to proceed.

(4) Rules may be made under this section only for an activity that is an eligible activity under **section 427S**, but may impose other requirements such as for monitoring and reporting purposes.

427S Types of eligible activity

Rules applying under **section 427R** may be made only for the following types of activities:

(a) activities on Māori land:

(b) activities in a plantation forest, but only if the forest is managed so as to maintain, for the long term, a population of a species in the HVBA that is—

(i) a threatened species:

(ii) an at-risk species:

(c) activities to maintain or restore indigenous biodiversity, including by pest control, but only if—

(i) the activity does not involve the permanent destruction of significant habitat of indigenous biodiversity; or

(ii) it will result in a demonstrable gain for indigenous biodiversity over the long term:

(d) activities undertaken by or on behalf of the Crown on conservation land or waters that—

(i) are not inconsistent with any relevant conservation planning document; and

(ii) do not have a significant adverse effect beyond the boundaries of the conservation land or water:

(e) activities undertaken for the purpose of managing Te Urewera under the Te Urewera Act 2014:

(f) research activities that have no more than minor adverse effects, but only if the scientific value of the research outweighs those effects:

(g) activities that cannot practicably be located outside the HVBA and are reasonably necessary for constructing, operating, or maintaining a scheme that will make a nationally significant contribution to managing, in respect of the electricity industry, the risks of—

(i) a dry year; or

(ii) intermittent supply caused by reliance on renewable sources of energy such as wind and solar energy.

427T Considerations relevant to making rules

(1) The responsible Minister, before making a rule, must consider—

(b) the relative cost of making a rule, including the social, economic, cultural, and environmental costs; and

(c) any alternatives to making a rule that would achieve the objective of the proposed exemption; and

(d) any condition that should be imposed; and

(e) any other matter that the responsible Minister considers relevant.

(2) In determining rules under this section, a Board of Inquiry or the Minister must not, despite **subsection (1)(d)**, consider the requirements for making rules described in **clauses 19(2) and 21(3) of Schedule 6**; otherwise the requirements for framework rules set out in **Schedule 6** apply to rules made under **section 427R**.

427U Power to declare critical habitat

(1) The Minister of Conservation may, by notice in the *Gazette*, declare an area to be a critical habitat.

(2) A declaration must not be made unless the area is essential for the long-term viability of a nationally critical species.

(3) An area that is a critical habitat is an HVBA whether or not it has been declared a critical habitat under this section.

(4) A declaration under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Effects management

427V Effects management framework

(1) The **effects management framework** is a means of managing adverse effects as follows:

(a) adverse effects must be avoided wherever practicable:

(b) any adverse effects that cannot be avoided must be minimised wherever practicable:

(c) any adverse effects that cannot be avoided or minimised must be remedied wherever practicable:

(d) any remaining adverse effects that cannot be avoided, minimised, or remedied must be offset, wherever practicable, in accordance with **Schedule 3 or 5**, whichever applies:

(e) if adverse effects remain after applying the requirements of **paragraphs (a) to (d)**, in that order, the activity must provide for compensation in accordance with **Schedule 3 or 5**, whichever applies.

(2) If an activity cannot comply with the effects management framework, it must not proceed unless it is allowed by a rule in the national planning framework made under **section 427X**.

427W When effects management framework applies

The effects management framework applies to adverse effects on significant biodiversity areas and specified cultural heritage if the adverse effects—

(a) are allowed by a rule made under **section 427H**; and

(b) are not managed under a rule described in **section 427X**.

427X Minister may make rules to replace effects management framework

(1) In determining rules under this section, a Board of Inquiry or the Minister must apply the considerations described in **section 427J(1)(c)** instead of those for making framework rules described in **clauses 19(2) and 21(3) of Schedule 6**.

(2) The responsible Minister may include rules in the national planning framework that require any more than trivial adverse effects of an activity (*see* **section 427W**) to be managed without using the effects management framework.

(3) In respect of the effects management framework, a rule may require—

(a) more stringent management of any specified adverse effect; or

(b) less stringent management of any specified adverse effect.

(4) However, a rule may only require less stringent management of adverse effects if—

(a) more serious or extensive adverse effects would result from applying the effects management framework; or

(b) less serious or less extensive adverse effects would not result from applying the effects management framework; or

(c) less stringent management is necessary to enable the attributes of the relevant place of national importance to be relocated so as to avoid a natural hazard or other risk; or

(d) the activity is one of maintaining, repairing, or replacing existing infrastructure.

(5) A rule may apply to a specified activity or a class of activities.

(6) A rule that applies to a class of activities may provide that an activity is authorised only if 1 or more of the following circumstances applies:

(a) the activity must be located, for functional or operational reasons, in the particular place, despite the fact that it will generate adverse effects:

(b) there is no reasonably practicable alternative location:

(c) the activity would, if carried out in an alternative location, result in a more than trivial adverse effect on the attributes that make the alternative location a place of national importance (*see* **section 427F**).

(7) The financial cost of alternative locations or methods is a relevant consideration in determining whether there is an operational need or a reasonably practicable alternative location under **subsection (2)**.

(8) **Section 427L** (rules that authorise activities with more than trivial adverse effects) applies to rules made under this section.

427Y Assessment of alternatives

The national planning framework may specify what is required for an assessment under **section 427X** of alternative locations, including limiting the scope of assessment to—

(a) sites within a specified region or district; or

(b) sites within a specified distance of a particular place of national importance; or

(c) sites with other specified attributes.

Part 7
Coastal matters

428 Allocation framework does not apply to matters under this Part

The allocation framework (as defined in **section 7**) does not apply to any application, activity, or authorisation under this Part.

Subpart 1—Occupation of common marine and coastal area

Preliminary provisions

429 Interpretation and relationship of subpart with rest of Act

(1) In this subpart, unless the context otherwise requires,—

authorisation means the right to apply for a coastal permit to occupy space in a common marine and coastal area

~~**Minister** means the Minister of Conservation~~

~~**Order in Council** means an Order in Council made under **section 483**~~

tender means any form of tender (whether public or otherwise)

trustee has the same meaning as in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

(2) The provisions of this Act that relate to applications for, and the granting of, resource consents apply to applications for, and the granting of, coastal permits to occupy space in the common marine and coastal area subject to the provisions of this subpart.

Compare: 1991 No 69 ss 165B ~~and~~, 165C

Managing occupation in common marine and coastal area

430 Power of consent authorities to refuse to receive applications for coastal permits

For the purposes of this subpart, a consent authority may refuse to receive an application for a coastal permit to occupy space in the common marine and

coastal area for the purpose of an activity if, within 1 year before the application is made, the consent authority has refused to grant an application for a permit for an activity of the same or a similar type for the same space or for space in close proximity to the space concerned.

Compare: 1991 No 69 s 165D

431 Applications in relation to aquaculture settlement areas

(1) No person may apply for a coastal permit or permitted activity notice authorising occupation of space in an aquaculture settlement area for the purpose of aquaculture activities, unless the person is a holder of an authorisation that—

(a) relates to that space and activity; and

(b) was provided to the trustee under section 13 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

(2) A consent authority may grant a coastal permit or issue a permitted activity notice authorising any other activity in an aquaculture settlement area, but only—

(a) to the extent that that activity is compatible with aquaculture activities; and

(b) after consultation with the trustee and iwi in the region.

(3) **Subsection (1)** does not affect any application received by a consent authority before the space became an aquaculture settlement area.

(4) In **subsection (2)(b)**, **iwi** has the same meaning as in the Maori Fisheries Act 2004.

Compare: 1991 No 69 s 165E

Provisions in plan relating to occupation of common marine and coastal area

432 Provisions about occupation of common marine and coastal area

(1) A plan may include provisions to address the effects of occupation of a common marine and coastal area and to manage competition for the occupation of space, including rules specifying—

(a) that no application can be made for a coastal permit to occupy space before a date to be specified in a public notice given by the regional council:

(b) that the consent authority may process and hear together applications for coastal permits for the occupation of—

(i) the same space in a common marine and coastal area; or

(ii) different spaces in a common marine and coastal area that are in close proximity to each other:

(c) that the consent authority may process and hear together with the applications referred to in **paragraph (b)** any applications for coastal permits related to the coastal permits referred to in **paragraph (b)**:

(d) limits on—

(i) the character, intensity, or scale of activities associated with the occupation of space:

(ii) the size of space that may be the subject of a coastal permit and the proportion of any space that may be occupied for the purpose of specified activities.

(2) However, a rule made for the purposes of **subsection (1)(a)** does not apply to an application made for a coastal permit under an authorisation.

(3) For the purposes of **subsection (1)**, a provision in a plan may relate to an activity, 1 or more classes of activities, or all activities.

Compare: 1991 No 69 s 165F

433 Plan may specify allocation methods

A plan may provide for a rule in relation to a method of allocating space in the common marine and coastal area for the purposes of an activity, including a rule in relation to the public tender of authorisations or any other method of allocating authorisations.

Compare: 1991 No 69 s 165G

434 Matters to be considered before including allocation rule in plan ~~or proposed plan~~

(1) Before including a rule in a plan ~~or proposed plan~~ in relation to the allocation of space in a common marine and coastal area for the purposes of an activity, a regional planning committee must—

(a) have regard to—

(i) the reasons for and against including the proposed rule; and

(ii) if the proposed rule provides for a method of allocation of space other than by a method of allocating authorisations,—

(A) the reasons why allocation other than by a method of allocating authorisations is justified; and

(B) how this may affect the preferential rights provided for in **section 450**; and

(iii) if the proposed rule provides for a method of allocating authorisations other than by public tender,—

(A) the reasons why allocation other than by public tender is justified; and

(B) how this may affect the preferential rights provided for in **section 450**; and

(b) be satisfied that—

(i) a rule in relation to the allocation of space is necessary or desirable in the circumstances of the region; and

(ii) if the proposed method of allocating space is not allocation of authorisations, or the proposed allocation of authorisations is not by public tender, the proposed method is the most appropriate for allocation of space in the circumstances of the region, having regard to its efficiency and effectiveness compared to other methods of allocating space.

(2) The regional planning committee must—

(a) prepare a report summarising the matters required by **subsection (1)**; and

(b) make the report available for public inspection at the same time, or as soon as practicable after, the rule is included in the plan or proposed plan.

(3) **Clauses 24 and 25 of Schedule 7** do not apply to the inclusion of a rule in accordance with **subsection (1)**.

(4) **Subsection (1)** applies subject to an Order in Council made under **section 438**.

(5) A challenge to a rule on the ground that this section has not been complied with may be made only in a submission under **Schedule 7**.

(6) **Subsection (5)** does not preclude a person who is hearing a submission or an appeal on a proposed plan from taking into account the matters stated in **subsection (1)**.

Compare: 1991 No 69 s 165H

435 Offer of authorisations for activities in common marine and coastal area in accordance with plan

(1) If a ~~plan includes a rule that~~ rule in an operative plan provides for public tendering or another method of allocating authorisations, the regional council must, by public notice and in accordance with the rule, offer authorisations for coastal permits for the occupation of space in the common marine and coastal area.

(2) **Subsection (1)** applies subject to—

(a) **subsection (3)**; and

(b) any Order in Council made under **section 438**.

(3) A regional council must give the Minister of Conservation not less than 4 months' notice before making an offer of authorisations under **subsection (1)**.

(4) **Subsection (1)** does not apply if the Minister responsible for aquaculture must offer the authorisations under **section 436**.

Compare: 1991 No 69 s 165I

436 Offer of authorisations by Minister responsible for aquaculture

~~If a plan contains a process for the allocation of authorisations in relation to which the Minister responsible for aquaculture is the decision maker, the Minister must by public notice in accordance with the process or rule in the plan, offer authorisations.~~

If a rule in an operative plan provides for public tendering or another method of allocating authorisations in relation to which the Minister responsible for aquaculture is the decision maker, the Minister must, by public notice and in accordance with the rule, offer authorisations.

437 When applications not to be made unless applicant holds authorisation in accordance with plan

(1) **Subsection (2)** applies to space in the common marine and coastal area if a plan rule ~~or a rule in a proposed plan~~ that has legal effect provides for public tendering or another method of allocating authorisations in relation to an activity in the space.

(2) A person must not apply for a coastal permit authorising occupation of the space for the activity unless the person is the holder of—

(a) an authorisation that relates to the space and activity; or

(b) a coastal permit granted under an authorisation that related to the occupation of that space and the application is for an activity that was within the scope of the authorisation.

(3) **Subsection (2)** does not affect any application received by the regional council before the plan became operative or the rule in a proposed plan had legal effect.

(4) **Subsection (2)** does not affect any application referred to in **section 474** that is received by the regional council—

(a) after a rule in a proposed plan has legal effect; but

(b) before the rule becomes operative.

Compare: 1991 No 69 s 165J

438 Power to give directions relating to allocation of authorisations for space provided for in plan

(1AAA) This section applies if a plan rule—

(a) provides for a method for allocating authorisations; and

(b) provides that the regional council is responsible for the allocation of authorisation.

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, direct ~~a~~ the regional council ~~whose plan or proposed plan provides for a rule in relation to a method of allocating authorisations for space in a common marine and coastal area~~ —

(a) not to proceed with a proposed allocation of authorisations for space in a common marine and coastal area; or

(b) in proceeding with a proposed allocation of authorisations for space in a common marine and coastal area, to give effect to the matters specified in the Order in Council.

(2) The Minister of Conservation may make a recommendation under **subsection (1)** only for 1 or more of the following purposes:

(a) to give effect to Government policy in the common marine and coastal area:

(b) to preserve the ability of the Crown to give effect to any of its obligations under any agreement in principle or deed of settlement between the Crown and any group of Māori claimants or representative of any group of Māori claimants in relation to a claim arising from, or relating to, any act or omission by or on behalf of the Crown or by or under any enactment before 21 September 1992:

(c) to facilitate compliance with **section 450**:

(d) to assist the Crown to comply with its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

(3) The matters referred to in **subsection (1)(b)** include—

(a) the allocation method to be used:

(b) subject to **sections 266 and 267**, the maximum term of a coastal permit to which the authorisations available for allocation relate:

(c) the allocation, at no cost, of authorisations relating to specific spaces within a common marine and coastal area to the Crown:

(d) the allocation, at no cost, of authorisations relating to specific spaces in a common marine and coastal area, or a certain proportion of the authorisations proposed to be allocated, to the trustee that is representative of the entire space for which authorisations are to be offered under the proposed allocation.

(4) If an Order in Council contains a direction under **subsection (3)(a)**, the order must be made before the relevant proposed plan is notified under **clause 31 of Schedule 7**.

(5) If an Order in Council contains a direction under **subsection (3)(b), (c), or (d)**, the order must be made before the regional council publicly notifies the offer under **section 435**.

(6) Subject to **subsection (4)**, the Minister of Conservation may make a recommendation under **subsection (1)** only if the Minister makes the recommendation within 3 months after receiving a notice under **section 435(3)**.

(7) An Order in Council does not affect the following if made before the Order in Council comes into force:

(a) a publicly notified offer of authorisations:

(b) an application for a coastal permit.

(8) An authorisation allocated in accordance with **subsection (3)(d)** is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Compare: 1991 No 69 s 165K

Ministerial approval of use of method of allocating authorisations

439 Regional council or regional planning committee may request use of allocation method

(1) This section applies if—

(a) in the opinion of the regional council (**council**) or regional planning committee (**committee**) it is desirable due to actual or anticipated high demand or competing demands for coastal permits for occupation of space in the common marine and coastal area for the purpose of 1 or more activities, that a method be used to allocate authorisations for the space; and

(b) an operative plan either—

(i) ~~a plan~~ does not provide for a rule in relation to a method of allocating authorisations for the space for the purpose of the activities; or

(ii) ~~a plan~~ does provide for a rule referred to in **subparagraph (i)**, but the council or committee considers that it will not enable it to manage effectively the high demand or the competing demands for coastal permits for the occupation of space for the purpose of the activities.

(2) The council or committee may request the Minister of Conservation to approve allocation by public tender of authorisations or another method of allocating authorisations for the space in the common marine and coastal area.

(3) A request under **subsection (2)** must—

(a) specify,—

(i) if it does not relate to a public tender, the proposed method for allocation of authorisations; and

(ii) the activities it is proposed the public tender or other allocation method will apply to; and

(iii) the space in the common marine and coastal area it is proposed the public tender or other allocation method will apply to; and

(iv) how and when the public tender or other method for allocating authorisations is proposed to be implemented in the space, including any staging of the allocation; and

(v) the reasons for the council's or committee's opinion that it is desirable that an allocation method be used in relation to the space; and

(b) if the proposed allocation method is not public tender, give reasons why the council proposes to use the alternative allocation method; and

(c) be accompanied by information about the actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purposes of the activity or activities covered by the request.

(4) A request under **subsection (2)** may relate to a single use of the proposed allocation method or its use on more than 1 occasion.

(5) On the day a request is made under **subsection (2)**, or as soon as practicable afterwards, a council or committee must—

(a) give public notice of the request; and

(b) give notice of the request to the EPA.

(6) A public notice under **subsection (5)** must include—

(a) the matters in **subsection (3)(a)(i) to (iii)**; and

(b) a statement to the effect of **section 440(2) and (3)**.

Compare: 1991 No 69 s 165L

440 Stay on applications following request under section 439

(1) **Subsection (2)** applies if a regional council or regional planning committee has made a request under **section 439(2)**.

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purpose of an activity in the request during the period commencing on the day on which public notice of the request is given under **section 439(5)(a)**, and ending on the earlier of—

(a) the day on which the council or committee publicly notifies under **section 441(8)** that the request has been declined; or

(b) the day on which the approval of an allocation method is notified in the *Gazette* under **section 441(1)(c)(i)**.

(3) If the request is approved, **section 444** applies to applications from the date the approval applies.

(4) Neither this section nor **section 444** affects any application received by the council or committee before the request was made under **section 439(2)** or any application referred to in **section ~~466~~ 474**.

Compare: 1991 No 69 s 165M

441 Minister of Conservation may approve use of allocation method

~~Ministers~~ Minister of Conservation's duties when request received under section 439(2)

(1) If the Minister of Conservation ~~the~~ receives a request under **section 439(2)** (the **request**), the Minister—

(a) must consult with relevant Ministers, including the Minister responsible for aquaculture if the request relates to aquaculture activities; and

(b) may—

(i) consult any other person whom the Minister of Conservation considers it appropriate to consult; and

(ii) request any further information from the regional council or regional planning committee that made the request; and

(c) must, within 25 working days after the date of receipt of the request,—

(i) by notice in the *Gazette*, approve the request—

(A) on the terms specified by the council or committee in the request; or

(B) on terms that ~~in the Minister's opinion~~, in the opinion of the Minister of Conservation, will better manage the actual or anticipated high demand or competing demands in the space; or

(ii) decline the request.

(2) A failure to comply with the time limit in **subsection (1)(c)** does not prevent the Minister of Conservation from making a decision on the request.

(3) Any period of consultation under **subsection (1)(b)(i)** is excluded from the period specified in **subsection (1)(c)**.

How request must be decided

(4) The Minister of Conservation must not approve the request unless the Minister considers that—

(a) there is actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purpose of the activity or activities that the request applies to; and

(b) the method and terms of allocation specified in the request, or any modified terms determined by the Minister, will—

(i) effectively manage the actual or anticipated high demand or competing demands identified under **paragraph (a)**; and

(ii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) In considering whether to approve the request, the Minister of Conservation must have regard to—

(a) Government policy in relation to the common marine and coastal area:

(b) the ability of the Crown to give effect to any of its obligations under any agreement in principle or deed of settlement between the Crown and any group of Māori claimants or representative of any group of Māori claimants in relation to a claim arising from, or relating to, any act or omission by or on behalf of the Crown or by or under any enactment before 21 September 1992:

(c) the need to facilitate compliance with **section 450**:

(d) the ability of the Crown to give effect to its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

(6) As soon as practicable after deciding whether to approve the request, the Minister of Conservation must notify the EPA of their decision.

(7) If the Minister of Conservation declines the request,—

(a) the Minister must notify the council or committee of that decision; and

(b) the council or committee must as soon as practicable after receiving notice of the decision publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for any activity that was the subject of the request.

Contents of Gazette notice

(8) A *Gazette* notice approving the request under **subsection (1)(c)(i)**—

(a) must specify,—

(i) if the approval does not relate to a public tender, the other allocation method that is approved; and

(ii) the space and activities that the public tender or other allocation method will apply to; and

(iii) how and within what period the public tender or other allocation method must be implemented, including any staging of the allocation; and

(b) may also specify 1 or more of the following:

(i) whether the approval is for a single public tender, or a single use of the allocation method or is to be used on more than 1 occasion; and

(ii) an expiry date for the approval; and

(iii) a date by which authorisations allocated in accordance with the public tender or other allocation method will lapse, being a date that is not more than 2 years after the date on which an authorisation is granted; and

(iv) any restrictions on transferring authorisations allocated under the public tender or other allocation method; and

(v) that applications received in respect of authorisations allocated under the public tender or other allocation method (together with any other applications for coastal permits related to the activities to which the authorisation relates) must be processed and heard together; and

(vi) subject to **sections 266 and 267**, the maximum term of a coastal permit to which the authorisations available for allocation relate; and

(vii) that authorisations relating to specific spaces within a common marine and coastal area must be allocated to the Crown at no cost; and

(viii) that authorisations relating to specific spaces, or a certain proportion of the authorisations that are representative of the entire space for which authorisations are to be offered in accordance with the public tender or other allocation method, must be allocated to the trustee at no cost.

Other matters

(9) A provision in ~~a plan~~ an operative plan that relates to the allocation of space to which a *Gazette* notice under this section relates does not apply during the period of the approval to the extent that it is inconsistent with the terms of the *Gazette* notice.

(10) An authorisation allocated in accordance with **subsection (7)(b)(viii)** is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004.

Compare: 1991 No 69 s 165N

442 Period of approval to use public tender or other method to allocate authorisations

(1) An approval to use a public tender or other method to allocate authorisations applies on and from the date on which the relevant *Gazette* notice is published until the earliest of the following dates:

(a) the date on which it is expressed in the relevant *Gazette* notice to expire or any date substituted under **subsection (3)**; or

(b) the date it lapses under **section 443(2)**; or

(c) the date it is revoked by a further notice in the *Gazette* under **subsection (2)**; or

(d) the date on which a proposed plan is notified with an alternative allocation method for the space to which the *Gazette* notice applies.

(2) The Minister of Conservation may, by notice in the *Gazette*, revoke an approval to use a public tender or other allocation method to allocate authorisations if the Minister—

(a) is requested to do so by the regional planning committee; and

(b) considers that—

(i) there are no longer actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; or

(ii) the regional planning committee has in place other methods that will satisfactorily manage actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities.

(3) The Minister of Conservation may, by notice in the *Gazette*, substitute another date in the relevant *Gazette* notice for the date on which the relevant *Gazette* notice is to expire if—

(a) the Minister receives a request from the regional planning committee to do so; and

(b) the Minister considers that—

(i) there remains actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; and

(ii) the regional council does not have in place other methods that will satisfactorily manage the high demand or competing demands.

Compare: 1991 No 69 s 165O

443 Regional council must offer authorisations if Minister of Conservation approves

(1) If the Minister of Conservation approves the use of a public tender or other method for allocating authorisations under **section 441(1)(c)**, the regional council must by public notice offer authorisations for coastal permits for the occupation of space in the common marine and coastal area in accordance with the terms of that approval.

(2) A *Gazette* notice under **section 441(1)(c)** lapses if the regional council does not carry out the public tender or implement the other approved allocation method within the period specified in the notice (or any extension of time specified by the Minister of Conservation in a further notice under **subsection (3)**).

(3) The Minister of Conservation may by notice in the *Gazette* approve an extension of time for carrying out a public tender or implementing the other approved allocation method, but only if the Minister is satisfied that—

(a) the regional council has taken all reasonable steps to carry out the public tender or implement the other approved allocation method; and

(b) the regional council requires further time to carry out the public tender or implement the other approved allocation method.

Compare: 1991 No 69 s 165P

444 During period of approval, no person may apply unless they hold authorisation

(1) **Subsection (2)** applies to space in the common marine and coastal area if the Minister of Conservation has approved public tendering or another method for allocating authorisations in relation to any activity in that space by a *Gazette* notice under **section 441(1)(c)(i).**

(2) During the period of the approval, no person may apply for a coastal permit authorising occupation of the space for an activity covered by the approval unless the person is the holder of an authorisation that relates to that space and activity.

Compare: 1991 No 69 s 165Q

Authorisations

445 Authorisation does not confer right to coastal permit

(1) The granting of an authorisation does not confer any right to the grant of a coastal permit for the space that the authorisation relates to.

(2) However, if a coastal permit is granted to the holder of an authorisation, the permit must be within the terms of the authorisation, including not being granted for a period greater than the period specified in the authorisation.

Compare: 1991 No 69 s 165R

446 Authorisation may be transferred

(1) An authorisation or any part of it may be transferred by its holder to any other person, but the transfer does not take effect until written notice of it has been received by the regional council concerned.

(2) This section applies subject to any restrictions on the transfer of authorisations specified in—

(a) the *Gazette* notice under **section 441** under which the authorisations were allocated; and

(b) the relevant ~~plan~~ operative plan under which the authorisations were allocated.

Compare: 1991 No 69 s 165S

447 Authorisation lapses in certain circumstances

(1) An authorisation lapses at the close of 2 years after the day on which it is granted (or any earlier day that may be specified in the authorisation) unless **subsection (3)** applies.

(2) **Subsection (3)** applies,—

(a) for an authorisation for which no earlier date is specified, if,—

(i) before the second anniversary of the date on which an authorisation is granted, its holder has applied for a coastal permit to occupy space for the activity that the authorisation relates to; and

(ii) on the second anniversary date,—

(A) no decision has been made by the consent authority whether to grant or decline the application; or

(B) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but no decision has been made by the court on the appeal; or

(b) for an authorisation specified to lapse on a date earlier than 2 years after the day on which it is granted, if,—

(i) before the date specified in the authorisation, its holder has applied for a coastal permit to occupy space for the activity that the authorisation relates to; and

(ii) on the date specified in the authorisation,—

(A) no decision has been made by the consent authority whether to grant or decline the application; or

(B) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but no decision has been made by the court on the appeal.

(3) The authorisation does not lapse until—

(a) the time for lodging an appeal in respect of the decision has expired and no appeal has been lodged; or

(b) an appeal has been lodged and the court has given its decision on the appeal.

Compare: 1991 No 69 s 165T

448 Public notice of offer of authorisations

(1) This section applies to—

(a) a notice given by a regional council under **section 435 or 443(1)** ~~subject to an Order in Council made under **section 438**~~; and

(b) a notice given by the Minister responsible for aquaculture when conducting an allocation process under **section 436**.

(2) ~~A~~ The notice must—

(a) specify the activities that the authorisation will apply to after it is issued; and

(b) describe the space in the common marine and coastal area that offers for authorisations are invited for, including the size and location of the space; and

(c) subject to **sections 266 and 267**, specify the maximum term of the coastal permit; and

(d) specify the closing date for offers; and

(e) specify the criteria for selecting successful offers for authorisations,—

(i) that the regional council will apply; or

(ii) that the Minister responsible for aquaculture will apply (as set out in the ~~plan~~ operative plan); and

(f) specify the manner in which offers for authorisations must be submitted; and

(g) specify any charge payable under **section 821(1)(g)**; and

(h) specify any other matter that the regional council or Minister considers appropriate in the circumstances.

(3) If the notice is given under **section 435 or 443(1)**, the notice must also include details of any direction given under **section 438** in relation to the offer of authorisations by the regional council.

(4) ~~A~~ The notice may specify conditions on which the authorisation will be granted, including conditions—

(a) requiring the authorisation to lapse on a date earlier than 2 years from the date it is granted ~~of its granting on which the authorisation will lapse~~; and

(b) ~~restrictions on~~ restricting the transfer of the authorisations.

(5) If an offer of authorisations is to be by tender, the notice must also—

(a) specify the form of remuneration required, whether all by advance payment, or by deposit and annual rental payments; and

(b) specify whether or not there is a reserve price.

(6) This section applies subject to an Order in Council made under **section 438**.

Compare: 1991 No 69 s 165U

449 Requirements for offers for authorisations

(1) An offer for an authorisation must specify—

(a) the activity or range of activities for which the authorisation is sought; and

(b) the site it applies to.

(2) In the case of a tender for authorisations, the tender must also specify—

(a) the total remuneration offered (including any annual rental component); and

(b) the form of payment of the remuneration.

(3) A tender must be accompanied by—

(a) a cash deposit (being payment in advance of part of the remuneration) or equivalent security to the satisfaction of the regional council; and

(b) any additional information specified in the notice calling for tenders.

(4) An offer or a tender must be accompanied by any charge payable under **section 821(1)(g)**.

(5) If a tender is accepted under **section 451**, the amount of any annual rental component of the remuneration payable under **subsection (2)** must be reduced by the amount of any coastal occupation charges payable under **section 120** for the occupation of the area concerned.

Compare: 1991 No 69 s 165V

450 Preferential rights of iwi

(1) A regional council or the Minister responsible for aquaculture must, when conducting a tender of authorisations under this subpart, give effect to any preferential right held by iwi to purchase a proportion of authorisations.

(2) **Subsection (1)** applies to **preferential rights** that are conferred by—

(a) section 316 of the Ngāi Tahu Claims Settlement Act 1998:

(b) section 119 of the Ngati Ruanui Claims Settlement Act 2003:

(c) section 79 of the Ngati Tama Claims Settlement Act 2003:

(d) section 106 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005:

(e) section 118 of the Ngāti Awa Claims Settlement Act 2005:

(f) section 92 of the Ngāti Mutunga Claims Settlement Act 2006.

(3) For the purposes of **subsection (1)**, the sections of the Acts referred to in **subsection (2)** apply as if—

(a) the references in those sections to the Minister of Conservation were references to the regional council or the Minister responsible for aquaculture (as applicable); and

(b) any references in those sections to subpart 4 were references were to the relevant provisions of this subpart.

Compare: 1991 No 69 s 165W

451 Acceptance of offer for authorisations

(1) After considering the offers for authorisations in accordance with the relevant criteria referred to in **section 448(2)(e)**, the regional council or the ~~Minster~~ Minister responsible for aquaculture may—

(a) accept any offer; or

(b) reject all offers; or

(c) reject all offers and call for new offers; or

(d) negotiate with any person who made an offer with a view to reaching an agreement.

(2) If the offer of authorisations is a tender, the regional council or the Minister responsible for aquaculture may accept any tender or negotiate with any tenderer, whether or not the tender was the highest received.

(3) As soon as practicable after deciding to accept an offer for an authorisation or to reject all offers or after reaching an agreement, the regional council or the Minister responsible for aquaculture must give written notice of the decision and the reasons for it to every person who made an offer.

(4) If an offer is accepted or an agreement is reached, the notice under **subsection (3)** must include details of the name of the person who made the offer and the nature of the activity that the offer or agreement relates to.

Compare: 1991 No 69 s 165X

452 Grant of authorisation

(1) If the regional council accepts an offer or reaches an agreement under **section 451** with a person who made an offer, the regional council must grant an authorisation to the person concerned.

(2) If the Minister responsible for aquaculture accepts an offer, the Minister must direct the regional council to grant an authorisation to the person concerned.

Compare: 1991 No 69 s 165Y

453 Tender money

(1) If the holder of an authorisation obtains a coastal permit authorising the holder to undertake an activity for which the authorisation was granted, the regional council must forward to the Minister of Conservation 50% of the remuneration received under the tender.

(2) The Minister of Conservation must cause the money to be paid into a Crown Bank Account in accordance with the Public Finance Act 1989.

(3) If an authorisation granted to a successful tenderer has lapsed under **section 447**, the regional council must, as soon as possible, refund the remuneration to the tenderer.

(4) If a tenderer who has failed to obtain an authorisation forwarded a payment to the regional council under **section 449(3)**, the regional council must, as soon as possible, refund the payment to the tenderer.

Compare: 1991 No 69 s 165Z

454 Use of tender money

The regional council must apply its share of the remuneration to achieving the purpose of this Act in the coastal marine area in its region.

Ministerial powers in relation to applications for coastal permits to undertake aquaculture activities in common marine and coastal area

455 Regional council or planning committee may request suspension of applications to occupy common marine and coastal area for purposes of aquaculture activities

(1) A regional council or regional planning committee may request the Minister responsible for aquaculture to suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purpose of aquaculture activities if—

(a) the council or planning committee identifies actual or anticipated high demand, or competing demands for those permits and considers that—

(i) the provisions of the ~~plan~~ operative plan will not enable ~~it to manage~~ the demand to be managed effectively; or

(ii) the suspension is desirable to enable ~~it to amend~~ the plan to be amended or ~~to use~~ other measures available under this Act to ~~deal with~~ be used to manage the demand; or

(b) the council or planning committee identifies an actual or emerging biosecurity concern relating to aquaculture activities and considers that—

(i) the provisions of ~~a plan~~ the operative plan will not enable ~~it to manage effectively~~ the biosecurity concern to be managed effectively; and

(ii) the suspension is desirable to enable ~~it to amend~~ the plan to be amended or ~~to use~~ other measures available under this Act or other legislation to be used to manage the biosecurity concern.

(2) A request for a suspension must—

(a) specify—

(i) the space in the common marine and coastal area it is proposed the suspension will apply to; and

(ii) the aquaculture activities that it is proposed the suspension will apply to; and

(iii) the planning or other measure that the council or planning committee proposes to implement to ~~deal with~~ manage the identified demand or biosecurity concern; and

(iv) the proposed duration of the suspension, which must be not more than 12 months; and

(b) be accompanied by information about—

(i) the actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purposes of the aquaculture activities covered by the request; or

(ii) the actual or emerging biosecurity concern.

(3) A regional council or regional planning committee must—

(a) give public notice of a request ~~under **subsection (2)**~~ for suspension on the day the request is made or as soon as practicable after the request is made; and

(b) give notice of the request to the EPA.

(4) A public notice under **subsection (3)** must include—

(a) the matters specified in **subsection (2)(a)**; and

(b) a statement to the effect of **section 457(2) and (3)**.

(5) To avoid doubt, this section may apply in relation to an aquaculture activity, 1 or more classes of aquaculture activities, or all aquaculture activities.

Compare: 1991 No 69 s 165ZB

456 Minister responsible for aquaculture may suspend receipt of ~~application~~ applications

(1) The Minister responsible for aquaculture may, ~~of~~ at their own initiative, suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purpose of aquaculture activities if the Minister—

(a) identifies actual or anticipated high demand or competing demands for those permits and considers that—

(i) the provisions of the ~~plan~~ operative plan will not enable ~~it to manage~~ the demand to be managed effectively; and

(ii) the suspension is desirable—

(A) to enable the ~~plan~~ operative plan to be amended or for ~~the Minister to use~~ other measures available under this Act to ~~deal with~~ be used to manage the demand; or

(B) for the Minister to use other measures available under the Maori Commercial Aquaculture Claims Settlement Act 2004 ~~or~~ for the purpose of upholding the Crown's settlement obligations under that Act in the region; ~~and~~ or

(b) identifies an actual or emerging biosecurity concern relating to aquaculture activities and considers that—

(i) the provisions of ~~a plan~~ the operative plan will not enable ~~it to manage effectively~~ the biosecurity concern to be managed effectively; and

(ii) the suspension is desirable to enable the ~~plan~~ operative plan to be amended or other measures available under this Act or other legislation ~~related to biosecurity~~ to be used to manage the biosecurity concern.

(2) Before issuing a suspension, the Minister responsible for aquaculture—

(a) must consult the regional planning committee and the regional council; and

(b) must consult the Minister of Conservation; and

(c) may consult any other person the Minister responsible for aquaculture considers appropriate.

(3) The Minister responsible for aquaculture must issue the suspension by notice in the *Gazette*, which must specify—

(a) the space and aquaculture activities that the suspension on applications will apply to; and

(b) the date the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.

(4) To avoid doubt, this section may apply in relation to an aquaculture activity, 1 or more classes of aquaculture activities, or all aquaculture activities.

457 Effect on applications of request under section 455

(1) **Subsection (2)** applies if a regional council or regional planning committee has made a request under **section 455(1)**.

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purpose of an aquaculture activity in the request during the period commencing on the day on which public notice of the request is given under **section 455(3)(a)**, and ending on,—

(a) if the request is declined, the day on which the regional council or regional planning committee publicly notifies under **section 459(6)** that the request has been declined; or

(b) if the request is granted, the date on which the *Gazette* notice issued by the Minister responsible for aquaculture under **section 459(1)(c)** in response to the request expires.

(3) Neither this section nor **section 459(6)** affects—

(a) any application received by the regional council before the request was made under **section 455(1)**:

(b) any application to which **section 474** applies:

(c) any application made in accordance with an authorisation.

Compare: 1991 No 69 s 165ZC

458 ~~Suspensions~~ Effect on applications of suspension at initiative of Minister responsible for aquaculture

(1) A person must not apply for a coastal permit to occupy any space that is the subject of a *Gazette* notice issued by the Minister responsible for aquaculture under **section 456** for the purpose of an aquaculture activity during the period commencing on the day on which the *Gazette* notice was issued and ending on the date on which the *Gazette* notice expires.

(2) Neither this section nor **section 459** affects—

(a) any application received by the regional council before the *Gazette* notice issued by the Minister responsible for aquaculture under **section 456**:

(b) any application to which **section 474** applies:

(c) any application made in accordance with an authorisation.

459 Minister responsible for aquaculture may suspend applications on request under section 455 ~~to occupy the common marine and coastal area for purposes of aquaculture activities~~

(1) If the Minister responsible for aquaculture receives a request under **section 455(1)**, the Minister—

(a) must consult the Minister of Conservation; and

(b) may—

(i) consult any other person whom the Minister for aquaculture considers it appropriate to consult; and

(ii) request any further information from the regional council or regional planning committee that made the request; and

(c) must, within 25 working days after receiving the request,—

(i) approve the request by notice in the *Gazette*—

(A) on the terms specified by the regional council or planning committee in the request; or

(B) on terms that in the ~~Minister's~~ opinion of the Minister responsible for aquaculture will better manage the actual or anticipated high demand or competing demands in the space or the biosecurity concerns; or

(ii) decline the request.

(2) A failure to comply with the time limit in **subsection (1)(c)** does not prevent the Minister responsible for aquaculture from making a decision on the request.

(3) Any period of consultation under **subsection (1)(b)(i)** is excluded from the period specified in **subsection (1)(c)**.

(4) The Minister responsible for aquaculture must not approve the request unless they consider that—

(a) there is—

(i) actual or likely high demand or competing demands for coastal permits for occupation of the space for the purpose of the aquaculture activities that the request applies to; or

(ii) actual or emerging biosecurity concerns relating to the aquaculture activities; and

(b) the planning or other measure that ~~the council proposes to implement~~ is proposed, or any modified terms determined by the Minister responsible for aquaculture, will—

(i) effectively manage the high demand or competing demands or biosecurity concerns; and

(ii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) A *Gazette* notice under **subsection (1)(c)(i)** must specify—

(a) the space and aquaculture activities that the suspension on applications will apply to; and

(b) the date the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.

(6) If the Minister responsible for aquaculture declines a request made under **section 455(1)**,—

(a) the Minister must notify the regional council or regional planning committee of the decision to decline the request; and

(b) the regional council or planning committee must, as soon as practicable after receiving notice under paragraph (a), publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for any aquaculture activity that was the subject of the request.

(7) The Minister responsible for aquaculture must notify the Minister of Conservation and the EPA of a decision to issue a *Gazette* notice, or to decline a request for a suspension on receipt of applications.

Compare: 1991 No 69 s 165ZD

460 Subsequent requests for direction in relation to suspension of receipt of applications

(1) The Minister responsible for aquaculture may, at their own initiative or at the request of the regional council or regional planning committee under **section**

455, issue a further *Gazette* notice under **section 459** before the expiry of a notice issued under that section if the Minister considers—

(a) there remains—

(i) actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant aquaculture activity or activities; or

(ii) a biosecurity concern relating to aquaculture activities; and

(b) ~~the regional council does not have in place~~ there are not planning or other measures in place that will satisfactorily manage the demand or biosecurity concern; and

(c) the Minister is satisfied that more time is needed to put in place ~~plan provisions~~ measures to ~~deal with~~ manage the demand or biosecurity ~~concerns~~ concern.

(2) **Sections 455 to 459** apply with any necessary modifications to a request for a further suspension of receipt of applications.

Compare: 1991 No 69 s 165ZE

Processing and hearing together of applications for coastal permits for aquaculture activities ~~in common marine and coastal area~~

461 Regional council may request direction to process and hear together applications for permits ~~to occupy common marine and coastal area~~ for purpose of aquaculture activities

(1) A regional council may request the Minister responsible for aquaculture to direct it to process and hear together applications for coastal permits to occupy ~~the~~ space in a common marine and coastal area for the purpose of aquaculture activities if the council considers—

(a) that processing and hearing together of those applications would be more efficient and would enable better assessment and management of cumulative effects of those permits; and

(b) the plan ~~or proposed plan~~ does not provide adequately for efficient processing, assessment, and management of the cumulative effects of those permits.

(2) The regional council's request must—

(a) specify—

(i) the space in the common marine and coastal area it is proposed the direction will apply to; and

(ii) the aquaculture activities that it is proposed the direction will apply to; and

(iii) the applications or classes of applications for coastal permits it is proposed that the direction will apply to; and

(b) be accompanied by information about why it would be more efficient and would enable better assessment and management of the cumulative effects of those permits if the direction were made.

Compare: 1991 No 69 s 165ZF

462 Minister responsible for aquaculture may decide at own initiative to give direction

(1) The Minister responsible for aquaculture may, ~~of~~ at their own initiative, decide to give a direction to the regional council to process and hear together applications for coastal permits to occupy ~~the~~ space in a common marine and coastal area for the purpose of aquaculture activities if the Minister is of the opinion that the matters referred to in **section 461(1)(a) and (b)** apply.

(2) The ~~Minister's~~ decision must contain the information described in **section 461(2)~~(a)~~**.

463 Direction to process and hear applications together

(1) If the Minister responsible for aquaculture receives a request for a direction under **section 461**, the Minister—

(a) must consult the Minister of Conservation; and

(b) may consult any other person whom the Minister responsible for aquaculture considers it appropriate to consult; and

(c) may request any information or further information from the regional council; and

(d) must decide, within the ~~25 day~~ 25-day period, to give a direction or decline the request; and

(e) must notify the decision to the regional council, the Minister of Conservation, and the EPA.

(2) If the Minister responsible for aquaculture decides under **section 462** to give a direction at their own initiative,—

(a) this section applies other than **subsection (1)(d)** and **subsections (5) to (7)**; and

(b) the Minister must consult with the affected regional council.

(3) The Minister responsible for aquaculture must not give a direction unless—

(a) the Minister considers it will facilitate efficient processing and better assessment and management of the cumulative effects of the applications that are the subject of the direction; and

(b) the direction complies with **section 464** (which relates to the content of the direction).

(4) The Minister responsible for aquaculture must give the direction by *Gazette* notice.

(5) A failure to comply with **subsection (1)(d)** within the ~~25-day~~ 25-day period does not prevent the Minister responsible for aquaculture from giving a direction or declining a request.

(6) Any period of consultation carried out under **subsection (1)(b)** is excluded from the ~~25-day~~ 25-day period.

(7) In this section, ~~**25-day**~~ **25-day period** means 25 working days after the Minister responsible for aquaculture receives the request from the regional council or makes a decision under **section 462**.

464 Content of direction

(1) A direction given under **section 463** must require the regional council to process and hear together applications for coastal permits to occupy the common marine and coastal area for the purposes of aquaculture activities (together with any other applications for coastal permits related to the aquaculture activities)—

(a) on the terms specified by the regional council under **section 461(2)(a)** (in the request); or

(b) on terms that in the ~~Minister's~~ opinion of the Minister responsible for aquaculture will facilitate efficient processing, assessment, and management of the cumulative effects of those permits.

(2) The direction must specify—

(a) the space in the common marine and coastal area that the direction applies to; and

(b) the aquaculture activities that the direction applies to; and

(c) the applications or classes of applications to which the direction applies.

(3) The direction may apply to applications or classes of applications that (without limitation) include—

(a) applications made on or after the commencement date; or

(b) applications made but not determined before the commencement date; or

(c) applications defined by reference to their contents (for example, by the size of the space they relate to).

(4) The direction may not apply to applications or classes of applications—

(a) in respect of which the regional council or the Minister responsible for aquaculture has determined, before the commencement date, to hold a hearing and the hearing has commenced or been completed; or

(b) in respect of which the regional council or the Minister responsible for aquaculture has determined, before the commencement date, that no hearing is required; or

(c) to which **section 474** applies; or

(d) made more than 12 months after the commencement date; or

(e) in respect of which a notice of motion has been lodged with the Environment Court under **section 170** before the commencement date; or

(f) called in by the Minister of Conservation under ~~**section 329**~~ **clause 42 of Schedule 10A** before the commencement date; or

(g) for which a call-in request has been made by the regional council or the applicant under ~~**section 329(1)(b)**~~ **clause 42(1)(b) of Schedule 10A** before the commencement date, unless the request is declined; or

(h) lodged with the EPA before the commencement date, unless the application is referred to the local authority under ~~**section 337(1)(c)**~~ **clause 50(1)(c) of Schedule 10A**.

(5) The direction may specify that an application for a coastal permit—

(a) that is made after the commencement date; and

(b) to which the direction does not apply—

must not be processed and heard until decisions have been made and notified on all of the applications to which the direction applies.

(6) In this section, **commencement date** means the date on which the direction comes into force (as specified in the *Gazette* notice).

Compare: 1991 No 69 s 165ZFA

465 Regional council must comply with direction

(1) A regional council given a direction under **section ~~462~~ 463** must comply with the direction.

(2) The regional council must process and hear together applications to which the direction applies—

(a) on and from the commencement date of the direction (as specified in the *Gazette* notice); and

(b) in accordance with the terms of the direction (as specified in the *Gazette*).

Processing and hearing together of applications for coastal permits

466 Application of sections 467 to 472

Sections 467 to 472 apply if a regional council is required to process and hear together any applications or class of applications for coastal permits to occupy space in the common marine and coastal area under—

(a) a rule in a plan ~~or a proposed plan~~ (*see* **section 432**); or

(b) a *Gazette* notice under **section 441** (approving a request to use an allocation method); or

(c) a *Gazette* notice under **section 463** (given at the request of the regional council or at the ~~Minister's~~ own initiative of the Minister responsible for aquaculture).

Compare: 1991 No 69 s 165ZFB

467 Interpretation

In this section and **sections 468 to 472**,—

affected application, in relation to a PHT requirement,—

(a) means an application for a coastal permit to occupy space in the common marine and coastal area for the purpose of 1 or more activities that is required to be processed and heard together with another application or applications under the PHT requirement; and

(b) includes any other applications for coastal permits that are related to the application referred to in **paragraph (a)** and that are subject to the PHT requirement

comes into force means, in relation to a rule in a proposed plan, that the rule has legal effect

PHT requirement means a requirement that an application be processed and heard together with another application or applications as provided in a rule or *Gazette* notice referred to in **section 466**.

Compare: 1991 No 69 s 165ZFC

468 Effect of requirement that applications be processed and heard together on direct referral to Environment Court under sections 166 to 172

(1) On and from the date on which a PHT requirement comes into force, no person may request that an affected application be determined by the Environment Court under **section 166**.

(2) Despite **sections 168 to 170**, if at the date the PHT requirement comes into force,—

(a) the regional council is considering a request by an applicant under **section 166** for an affected application, the council must not make a decision on the request, but must return the request to the applicant with a notice stating that the application is one to which a PHT requirement relates and **section 469** applies:

(b) the regional council has granted a request by an applicant under **section 166** for an affected application, but the applicant had not yet lodged a notice of motion under **section 170(2)(a)** for the application,—

(i) the regional council must continue to process the application in accordance with **sections 469 and 470** and is not required to comply with **section 169(3) to (5)**; and

(ii) the applicant may not lodge a notice of motion under **section 170(2)(a)**.

Compare: 1991 No 69 s 165ZFD

469 Processing of affected applications

(1) **Sections 173 to 212** apply in respect of each affected application that is subject to a PHT requirement.

(2) The regional council must, as soon as practicable after the latest date on which the period for submissions closes on an affected application to which the PHT requirement relates, advise each of the applicants—

(a) of the names and contact details of the other affected applicants; and

(b) that if the applicant wants the affected applications to be determined by the Environment Court, the applicant has 10 working days from the date of the notice to make such a request.

(3) The applicant must make the request under **subsection (2)** electronically or in writing on the form prescribed for a request under **section 166**.

(4) If the regional council receives requests under **subsection (2)** from all the applicants for affected applications within the required period, the regional council must decide whether to grant or decline the applicants' requests that all the affected applications be determined by the Environment Court.

(5) Despite the discretion to grant a request under **subsection (4)**, if regulations have been made under **section 858(1)(g)**,—

(a) the regional council must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

(b) that obligation to grant the request does not apply if the consent authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.

(6) If **subsection (4)** applies and the regional council declines the requests, or if the regional council does not receive requests under **subsection (2)** from all applicants for affected applications within the required period, the regional council must continue to process and hear together the affected applications in accordance with this section and **section 470**.

(7) If **subsection (4)** applies and the regional council grants the requests, the regional council must prepare a report on each of the affected applications within the period that ends 20 working days after the date on which the regional council decided to grant the requests.

(8) **Section 169(4) to (6)** apply to a report prepared under **subsection (7)** on an affected application.

(9) Each applicant for an affected application must advise the regional council within 5 working days after receipt of a report prepared under **subsection (7)**,

whether the applicant continues to want the affected application to be determined by the Environment Court instead of by the regional council.

(10) If the regional council—

(a) receives advice from all the applicants for affected applications that the applicants continue to want the affected applications to be determined by the Environment Court, the regional council must give notice to each applicant that—

(i) the applicant's affected application is to be determined by the Environment Court; and

(ii) the applicant must lodge a notice of motion with the Environment Court that complies with **section 170(2)(a)** within 15 working days after the date of the regional council's notice or the applicant's affected application may be cancelled in accordance with **subsection (12)**; or

(b) does not receive advice from all the applicants for affected applications that the applicants continue to want the affected applications to be determined by the Environment Court, the regional council must—

(i) give notice to each applicant that the applicant's affected application is to be determined by the regional council; and

(ii) continue to process and hear together the affected applications in accordance with this section and **section 470**.

(11) **Section 170(2)(b) and (c), (3), and (4)** apply in relation to the notice of motion referred to in **subsection (10)(a)(ii)** with any necessary modifications.

(12) If an applicant does not lodge a notice of motion with the Environment Court within 15 working days after the date of the notice under **subsection (10)(a)**, the regional council must—

(a) give notice to the relevant applicant that unless the applicant lodges the notice of motion within 5 working days of the date of the notice, the applicant's affected application will be cancelled; and

(b) if, within the period notified, or such greater period as the regional council may think reasonable in the circumstances, the applicant does not lodge the notice of motion, the regional council must cancel the applicant's affected application.

(13) **Sections 170(5) to (7) and 171** apply in respect of the affected applications.

(14) **Sections 213 and 215** apply in respect of any affected application that the regional council is required to process and hear together with other affected applications.

Compare: 1991 No 69 s 165ZFE

470 Hearing of affected applications

The provisions of this Act that relate to the hearing and making of decisions on a coastal permit apply to the affected applications with the following modifications:

(a) if a hearing is to be held in respect of any affected application,—

(i) a hearing must be held for all affected applications; and

(ii) all affected applications must be heard together; and

(b) if an applicant or person who made a submission on an affected application makes a request under **section 217(2)**, the regional council is not required to comply with **section 217(3)** but must instead consider whether to delegate under **section ~~655(1)~~ 30ZA(1)** its functions, powers, and duties required to hear and decide all the affected applications, to 1 or more hearings commissioners who are not members of the local authority; and

(c) for the purposes of **section 216(1)**, the date for the commencement of the hearing must be—

(i) within 25 working days after the latest closing date for submissions on an affected application to which the PHT requirement relates, if no request is received under section 469(2); or

(ii) within 25 working days after the date on which the council becomes subject to a requirement to continue to process and hear together affected applications under section 469(6) or (10); and

(d) despite **section 242**,—

(i) decisions on the affected applications are, subject to **section ~~474(4)~~ 174(3)**, to be made in the order in which the applications were lodged; and

(ii) notice of the decision on each affected application must be given within 30 working days after the end of the hearing or, if no hearing is held, within the period within which a hearing would have been required to be held under **paragraph (c)(i) or (ii)**; and

(e) **paragraph (d)(i)** is subject to **sections 474 and 475**.

Compare: 1991 No 69 s 165ZFF

471 Effect of requirement that applications be processed and heard together on power of Minister to call in applications under ~~section 329~~ clause 42 of Schedule 10A

(1) Despite ~~sections 329 and 332~~ **clause 42 or 45 of Schedule 10A**,—

(a) the Minister must not make a decision as to whether to call in an affected application until all affected applications to which the relevant PHT requirement relates have been identified; and

(b) if the Minister decides to call in an affected application by making a direction under ~~section 329(2)~~ clause 42(2) of Schedule 10A, the Minister must, whether or not the Minister considers any other affected application is a proposal or part of a proposal of national significance, call in all the other affected applications under the same direction; and

(c) in deciding whether to make the direction referred to in **paragraph (b)**, the Minister—

(i) may, in addition to the matters specified in ~~section 329(3)~~ clause 42(3) of Schedule 10A, consider the impact that the call-in direction would have on the other affected applications, including the impact on the costs the applicants might face; and

(ii) must have regard to the capacity of the local authority to process the affected applications and the views of—

(A) the applicants for all the affected applications; and

(B) the regional council; and

(C) if the PHT requirement was made by *Gazette* notice under section 463, the Minister responsible for aquaculture.

(2) **Section 470(a), (d), and (e)** apply if the affected applications are heard by the Environment Court or a board of inquiry and, for that purpose, the provisions of **Part 5** apply in respect of the hearing and determination of the affected applications with any necessary modifications.

Compare: 1991 No 69 s 165ZFG

472 Effect of requirement that applications be processed and heard together on lodgement of applications with EPA

On and from the date on which the relevant PHT requirement comes into force, no affected application may be lodged with the EPA under ~~section 334~~ clause 47 of Schedule 10A.

Compare: 1991 No 69 s 165ZFH

Subpart 2—Order in which applications by existing consent holders are to be processed

473 Application

(1) This subpart applies only to applications for coastal permits to occupy space in the common marine and coastal area for aquaculture activities.

(2) However, this subpart does not apply to an application if, at the time the application is made, ~~a plan~~ an operative plan provides for a method of allocating authorisations for the space and activity.

Compare: 1991 No 69 s 165ZG

474 Processing applications for existing permit holders

(1) This section applies if—

(a) a person holds a coastal permit to occupy space in the common marine and coastal area for aquaculture activities; and

(b) the permit referred to in **paragraph (a)** (**existing coastal permit**)—

(i) is in force at the time of any application under **paragraph (c)**; and

(ii) applies in relation to space in the common marine and coastal area in which aquaculture is not a prohibited activity; and

(c) the holder of the existing coastal permit (**existing permit holder**) makes an application for a new coastal permit that is—

(i) for occupation of some or all of the same space; and

(ii) for the same or another aquaculture activity; and

(iii) accompanied by any other applications for coastal permits related to the carrying out of the aquaculture activity; and

(d) the application and any related applications are—

(i) made to the appropriate consent authority; and

(ii) made—

(A) at least 6 months before the expiry of the existing coastal permit; or

(B) in the period that begins 6 months before the expiry of the existing coastal permit and ends 3 months before the expiry of the existing coastal permit, and the authority, in its discretion, allows the holder to continue to operate.

(2) If this section applies, then—

(a) the applications must be processed and determined before any other application for a coastal permit to occupy the space that the permit applies to; and

(b) no other application to occupy the space that the application relates to may be accepted before the determination of the application; and

(c) the holder may continue to operate under the existing coastal permit until—

(i) a new coastal permit is granted and all appeals are determined; or

(ii) a new coastal permit is declined and all appeals are determined.

Compare: 1991 No 69 s 165ZH

475 Applications for space already used for aquaculture activities

(1) This section applies to an application for a coastal permit to occupy space in the common marine and coastal area for aquaculture activities if—

(a) the application relates to space that is subject to a permit referred to in **section 474**; and

(b) the application is made by a person who is not the existing permit holder.

(2) The application must be held by the consent authority without processing until 3 months before the expiry of the permit.

(3) While the application is being held under **subsection (2)**, the consent authority must not accept any other applications by persons other than the existing permit holder to occupy that space until after the application being held under **subsection (2)** is determined or has lapsed.

(4) After receiving an application referred to in **subsection (1)**, the consent authority must notify the existing permit holder—

(a) of the application; and

(b) that the holder can make an application in accordance with **section 474(1)(c)**.

(5) If an application to which **section 474(1)(c)** applies is made, then the application referred to in **subsection (1)** remains on hold until that application is determined.

(6) If the application to which **section 474(2)** applies is granted, then the application referred to in **subsection (1)** lapses.

(7) If no application to which **section 474(2)** applies is made prior to the date that is 3 months before expiry of the relevant permit, then the application being held under **subsection (2)** must be processed and determined in accordance with this Act.

(8) However, the application may be processed and determined before the expiry of the 3-month period referred to in **subsection (7)** if the existing permit holder notifies the consent authority in writing that the holder does not propose to make an application under **section 474(1)(c)**.

Compare: 1991 No 69 s 165ZI

476 Additional criteria for considering applications for permits for space already used for aquaculture activities

(1) When considering an application under **section 474** that relates to the same aquaculture activity, a consent authority must consider all relevant information available in relation to the existing coastal permit, including any available monitoring data.

(2) When considering an application to which **section 474 or section 475(7) or (8)** applies, a consent authority must not only consider the relevant matters under this Act, but also consider the applicant's conduct in relation to—

(a) compliance with the relevant operative plan; and

(b) compliance with resource consent conditions for current or previous aquaculture activities undertaken by the applicant.

(3) In making an assessment under **subsection ~~(1)(a)~~ (2)(a) and (b)**, the consent authority must, in relation to any successful enforcement action under **Part 11**, consider—

(a) the number of any breaches that have occurred; and

(b) the seriousness of the breach; and

(c) how recently the breach occurred; and

(d) the subsequent behaviour of the applicant after enforcement action.

Compare: 1991 No 69 s 165ZJ

Subpart 3—Aquaculture ~~zones~~ areas

476A Interpretation

In this subpart, unless the context otherwise requires,—

application means an application for a coastal permit to occupy space in the common coastal and marine area for aquaculture activities

aquaculture area rules means rules in a plan that provide for or relate to aquaculture activities in an aquaculture area

chief executive means the chief executive of the Ministry responsible for the administration of the Fisheries Act 1996

reservation means a decision by the chief executive under section 186JB of the Fisheries Act 1996 that they are not satisfied that the aquaculture activities provided for in the aquaculture area will not have an undue adverse effect on fishing

stock has the meaning given in section 2 of the Fisheries Act 1996.

477 Request for aquaculture ~~zone~~ area decision

~~(1) This section applies in relation to a plan that—~~

~~(a) contains rules (**aquaculture rules**) that provide for or relate to aquaculture activities in an aquaculture zone; and~~

~~(b) prescribes aquaculture zones in which those aquaculture activities or a specified class of those activities may be carried out.~~

(2) ~~Any~~ If a plan prescribes aquaculture areas and provides aquaculture area rules, a person may request the chief executive to make an aquaculture ~~zone~~ area decision in respect of—

(a) an aquaculture ~~zone~~ area; and

(b) any aquaculture activities that may be carried out in ~~that zone~~ the aquaculture area.

(3) ~~A person requesting an aquaculture zone decision under the Fisheries Act 1996 must provide the chief executive with—~~ The request must contain the following information:

(a) the geographic ~~boundaries~~ coordinates of the aquaculture ~~zone~~ area; and

(b) the applicable aquaculture area rules that apply in the ~~zone~~ area; and

(c) any other plan rules relevant to aquaculture generally (eg, limits on how close to ~~a zone~~ an aquaculture area other aquaculture applications may be made); and

(d) any technical information related to the effects of aquaculture in the aquaculture ~~zone~~ area, including—

(i) for ~~zones~~ aquaculture areas established by the regional planning committee under **Schedule 7**, material related to the aquaculture ~~zone~~ area in the evaluation report and any further commissioned reports by the regional planning committee or the IHP:

(ii) for ~~zones~~ aquaculture areas established by regulations (*see* **section 851**), material related to the aquaculture ~~zone~~ area commissioned by the Minister responsible for aquaculture (the **Minister**); and

(e) any submissions made to the regional planning committee or the Minister, as the case may be, in relation to the aquaculture ~~zone~~ area and aquaculture area rules; and

(f) any comments or advice that the regional planning committee, the IHP, or the Minister, as the case may be, has received from ~~groups holding a customary marine title or a~~ customary marine title or protected customary title groups (*see* section 9(1) of under the Marine and Coastal (Takutai Moana) Act 2011) ~~right that is relevant to the aquaculture zone~~.

(4) ~~After a plan is notified, a person may make a request for an aquaculture zone decision.~~The request must be made,—

(a) if the plan is notified by a regional planning committee under **clause 41 of Schedule 7**, no later than 30 working days after—

(i) the expiry of the appeal period in **clauses 132 and 133 of Schedule 7** provided no appeals have been lodged in relation to a proposed aquaculture area rule or proposed aquaculture ~~zone~~ area; or

(ii) the resolution of any appeal relating to the aquaculture ~~zone~~ area or aquaculture area rules; or

(b) if the plan is amended by regulations recommended by the Minister ~~responsible for aquaculture~~, no later than 30 working days after the regulations come into force.

~~478 Aquaculture zones subject to quota management system~~

~~(1) This section applies if the chief executive makes an aquaculture zone decision under the Fisheries Act 1996 that results in a reservation relating to stock that is subject to the quota management system.~~

(2) During the waiting period, any QMS part of an aquaculture zone is closed to any application for a resource consent.

(3) If an aquaculture agreement or compensation declaration is registered under the Fisheries Act 1996, the negotiator appointed under section 186EA of that Act must make the terms of the agreement or compensation declaration available to any person who applies for a resource consent or authorisation for an aquaculture activity in the aquaculture zone.

(4) If no aquaculture agreement or compensation declaration is registered,—

(a) the reservation decision is rescinded when the waiting period expires; and

(b) any application for a resource consent for an activity in the QMS part of the aquaculture zone requires an aquaculture decision in accordance with **section 477** and the Fisheries Act 1996.

(5) **Subsection (6)** applies to an applicant for a resource consent—

(a) for an activity within a QMS part of the aquaculture zone if an aquaculture agreement or a compensation declaration is registered in respect of that part; and

(b) that is allocated in accordance with—

(i) the chronological order in which the application is received (first come first served); or

(ii) an alternative allocation method authorised under the allocation framework.

(6) An applicant to which this subsection applies—

(a) must demonstrate that they have approval from the registered holder; and

(b) if a resource consent is granted, may commence the activity immediately.

(7) In this section,—

aquaculture agreement means an aquaculture agreement registered in accordance with section 186ZH of the Fisheries Act 1996

compensation declaration, means a compensation declaration registered under section 186ZHA of the Fisheries Act 1996

QMS part of aquaculture zone means the part of the aquaculture zone that is subject to a reservation related to fishing for any stock in the quota management system

waiting period means the period commencing on the date that the aquaculture zone is made operative and ending on the date that is—

(a) 6 months later; or

~~(b) if an extension under section 186ZI of the Fisheries Act 1996 is granted, 9 months later.~~

478 Aquaculture area subject to quota management system reservation

(1) If the chief executive makes a reservation relating to stock that is subject to the quota management system,—

(a) the part of the aquaculture area to which the reservation relates is closed for applications during the period (the **waiting period**)—

(i) commencing on the date of the aquaculture area decision; and

(ii) ending on the date that is 6 months later or if an extension under section 186ZI of the Fisheries Act 1996 is granted, 9 months later; and

(b) if an aquaculture agreement or compensation declaration relating to the reservation is registered under the Fisheries Act 1996 and the waiting period is completed,—

(i) the terms of the agreement or declaration must be made available by the negotiator in accordance with section 186ZEA(2) of the Fisheries Act 1996; and

(ii) each applicant must demonstrate in their application that the negotiator agrees that they have met the terms of the agreement or declaration; and

(iii) if the application is granted, it commences in accordance with **section 258**; and

(c) if no aquaculture agreement or compensation declaration relating to the reservation is so registered, the application (other than an application for an authorisation) must proceed in accordance with **section 230**.

(2) In this section,—

aquaculture agreement means an aquaculture agreement registered in accordance with section 186ZH of the Fisheries Act 1996

compensation declaration means a compensation declaration registered under section 186ZHA of the Fisheries Act 1996.

~~**479 Coastal permits for aquaculture activities in aquaculture zone**~~

~~(1) A public notice (a **public notice**) issued by a regional planning committee specifying the date on and from which an application for a coastal permit for an aquaculture activity in an aquaculture zone an (**application**) may be made, must be issued in accordance with this section.~~

~~(2) A regional planning committee must not accept any applications before that date.~~

~~(3) A public notice must not be issued,—~~

~~(a) before the expiry of the deadline for requests for an aquaculture zone decision; or~~

~~(b) if an aquaculture zone decision is requested, before the completion of the decision and any actions required under this section to give effect to a determination or reservation.~~

~~(4) If the chief executive makes a determination under the Fisheries Act 1996 in relation to an aquaculture zone decision, and notifies the relevant planning committee of that decision in accordance with **section 186JF** of that Act, the consent authority must, as soon as is reasonably practicable, take note of any aquaculture rule specified under **section 186JF(3)** of that Act that may not be changed or cancelled until the chief executive makes a further aquaculture zone decision.~~

~~(5) If the chief executive makes a reservation in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system and has notified the planning committee in accordance with **section 186JF** of the Fisheries Act 1996, the regional planning committee must, as soon as reasonably practicable, confirm the areas of the aquaculture zone must not be included in a public notice.~~

~~(6) If the chief executive makes a reservation in relation to commercial fishing in relation to stocks or species subject to the quota management system and has notified the regional planning committee of that decision, the regional planning committee must, not issue a public notice, unless —~~

~~(a) an aquaculture agreement is registered in accordance with section 186ZH of the Fisheries Act 1996; or~~

~~(b) a compensation declaration has been registered under section 186ZHA of the Fisheries Act 1996.~~

~~(7) If an aquaculture agreement or compensation declaration has been registered for the stocks or species referred to in **subsection (5)**, the chief executive must as soon as reasonably practicable notify the regional planning committee, that —~~

~~(a) the reservation in relation to commercial fishing for stocks or species subject to the quota management system no longer applies, and~~

~~(b) the area may be opened for applications for coastal permits provided the applicant demonstrates they have approval from the registered holder of the aquaculture agreement or compensation declaration.~~

~~(8) If the chief executive has notified the regional planning committee under section 186ZK of the Fisheries Act 1996 that no aquaculture agreement or compensation declaration has been registered, the regional planning committee must, as soon is as reasonably practicable, amend the plan to require any coastal permit holder to obtain an aquaculture decision before commencing.~~

~~(9) In this section, **chief executive** means chief executive within the meaning given by section 2(1) of the Fisheries Act 1996.~~

479 Aquaculture area subject to reservation not subject to quota management system

An application that is granted to occupy space in an aquaculture area that is subject to a reservation must commence in accordance with **section 264** if the reservation relates to—

(a) recreational fishing, customary fishing, or commercial fishing; and

(b) stocks and species not subject to the quota management system.

480 Extension of duration of aquaculture ~~zone~~ area decision

(1) If an aquaculture ~~zone~~ area decision exists, and a regional planning committee is satisfied that a ~~new or revised~~ plan contains no, or minor, changes to the relevant aquaculture ~~zone~~ area and ~~zone~~ the aquaculture area rules, the regional planning committee may request the chief executive to extend the duration of the aquaculture ~~zone~~ area decision.

(2) *See* section 186JI of the Fisheries Act 1996.

Subpart 4—Coastal tendering relating to certain activities

481 Application

(1) This subpart applies to the following activities in the coastal marine area:

(a) to remove any sand, shingle, shell, or other natural material:

(b) to reclaim or drain any foreshore or seabed.

~~(2) The allocation framework does not apply to an activity to which this subpart applies.~~

(3) This subpart does not apply to applications for coastal permits to authorise the occupation of a coastal marine area.

Compare: 1991 No 69 s 151AA

482 Interpretation

In this subpart, unless the context otherwise requires,—

authorisation means an authorisation granted by the Minister of Conservation under **section 492**

Minister means the Minister of Conservation

Order in Council means an Order in Council made under **section 483**.

Compare: 1991 No 69 s 151

483 Order in Council may require holding of authorisation

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, direct that a consent authority must not grant a coastal permit for a specified part of the marine and coastal area (other than for any specified freehold land) that would, if granted, authorise the permit holder to undertake an activity to which this subpart applies, unless the applicant holds an authorisation for that activity.

(2) The Minister must not make a recommendation—

(a) unless they consider that there is, or is likely to be, for an area to which it is proposed that the Order in Council relate, competing demands for the use of that area for all or any of the activities to which this subpart applies:

(b) that relates to the reclamation or drainage of any foreshore or seabed in the coastal marine area of any region until a proposed plan has been ~~both~~ prepared and notified under this Act for that region.

(3) An Order in Council expires on the second anniversary of the date on which it came into force.

Compare: 1991 No 69 s 152

484 Application of Order in Council

An Order in Council does not apply to or affect—

(a) any application for a coastal permit made before the date on which the Order in Council came into force:

(b) any application, whether made before or after the date on which the Order in Council came into force, for a coastal permit to do something—

(i) that otherwise would contravene **section 21, 22, 23, or 24**; or

(ii) that otherwise would contravene **section 19** (other than something described in **section 481(1)** that is the subject of the Order in Council):

(c) any application for a coastal permit to which **section 268** applies and any coastal permit granted as a result of any such application:

(d) any of the following in force or being carried out on the date on which the Order in Council came into force:

(i) any coastal permit:

(ii) any permitted activity in the coastal marine area:

(iii) any other lawful activity.

Compare: 1991 No 69 s 153

485 Publication, etc, of Order in Council

The Minister must, as soon as practicable,—

(a) cause a copy of every Order in Council to be served on the appropriate regional ~~council~~ planning committee; and

(b) cause a notice of the making of the Order in Council and its effect to be served on—

(i) the Minister for the Environment:

(ii) every territorial authority whose district or any part of whose district is situated within the region to which the Order in Council relates:

(iii) the tangata whenua of that region, through iwi authorities and groups that represent hapū.

Compare: 1991 No 69 s 154

486 Particulars of Order in Council to be endorsed on plan

On receipt of a copy of an Order in Council, the regional ~~council~~ planning committee must endorse particulars of it on the ~~plan or proposed~~ plan, but the endorsement does not form part of the plan.

Compare: 1991 No 69 s 155

487 Effect of Order in Council

Except as otherwise provided in **section 484**, if an Order in Council is in force for any part of the coastal marine area, a consent authority must not grant a coastal permit authorising any activity to which this subpart applies unless—

(a) the applicant for that permit holds an authorisation that authorises the activity; or

(b) the Order in Council does not require such an authorisation to be held.

Compare: 1991 No 69 s 156

488 Calling of public tenders for authorisations

(1) If an Order in Council is in force for any part of the coastal marine area, the Minister may, at any time by a publicly notified tender, offer authorisations for the whole or any portion of that part for all or any of the activities to which the Order in Council applies.

(2) The public notice of every offer must—

(a) specify the range of activities to which the authorisation, once issued, will apply; and

(b) describe the area of land to which the authorisation, once issued, will apply, including the size, shape, and location of that area; and

(c) specify the closing date for tenders, which may be any date the Minister considers appropriate; and

(d) specify the manner in which tenders must be submitted.

(3) The public notice may also specify—

(a) in the case of extraction, the maximum tonnage and period (not exceeding 35 years) of extraction:

(b) whether or not it is intended that the area will be retendered when the coastal permit to which it relates expires.

(4) The Minister may amend, revoke, or replace any notice before the time by which tenders must be received expires.

(5) In conducting a tender under this section, the Minister must give effect to any preferential right to which **section 450(1)** applies, as if they were conducting a tender under **section 450**.

~~(6) **Subsection (5)** applies to preferential rights conferred by—~~

~~(a) section 316 of the Ngāi Tahu Claims Settlement Act 1998:~~

~~(b) section 119 of the Ngati Ruanui Claims Settlement Act 2003:~~

~~(c) section 79 of the Ngati Tama Claims Settlement Act 2003:~~

~~(d) section 106 of the Ngaa Rauru Kiitahi Claims Settlement Act 2005:~~

~~(e) section 118 of the Ngāti Awa Claims Settlement Act 2005:~~

~~(f) section 92 of the Ngāti Mutunga Claims Settlement Act 2006.~~

Compare: 1991 No 69 s 157

489 Requirements of tender

(1) Every tender for an authorisation must specify—

(a) the activity or range of activities for which the authorisation is sought; and

(b) for an authorisation to remove any sand, shingle, shell, or other natural material, the maximum period of any proposed coastal permit, and the maximum amount of material proposed to be extracted under the permit; and

(c) the total remuneration offered, including—

(i) any initial payment for the authorisation:

(ii) any royalty for the extraction of material, and any proposed formula for adjustment of royalty.

(2) The tender must be accompanied by—

(a) the prescribed fee (if any) and, if an initial payment for the authorisation is offered, a cash deposit of that payment or equivalent security to the satisfaction of the Minister; and

(b) any additional information specified in the public notice calling for tenders.

Compare: 1991 No 69 s 158

490 Acceptance of tender, etc

(1) ~~After~~ The Minister may, after having regard to the matters specified in **subsection (2)**, ~~the Minister may,~~ in their discretion,—

(a) accept any tender, whether or not it is the highest tender; or

(b) enter into private negotiations with any tenderer, whether or not that tenderer offered the highest tender, with a view to reaching an agreement; or

(c) reject all tenders and call for new tenders under **section 488**.

(2) The matters concerned are—

(a) the interests (including the financial interests) of the Crown in the coastal marine area; and

(b) the financial and other circumstances of the tenderers; and

(c) any other matters the Minister considers relevant.

~~(3) On making a decision to accept a tender or to reject all tenders, the Minister must without delay give written notification of the decision and the reasons for it to the appropriate regional council and every tenderer.~~

(3) If the Minister decides to accept a tender or reject all tenders, the Minister—

(a) must without delay give written notification of the decision to the appropriate regional council and every tenderer; and

(b) must include reasons for the decision and the details of the name of the successful tenderer and the nature of the activity to which the tender relates.

~~(4) When giving notification under **subsection (3)** of the decision to accept a tender, the Minister must include in the notification details of the name of the successful tenderer and the nature of the activity to which the tender relates.~~

(5) If the Minister reaches an agreement with a tenderer under **subsection (1)(b)**, the Minister must without delay give written notification to the appropriate regional council and every other tenderer of the name of the person with whom agreement was reached and the nature of the activity to which the agreement relates.

Compare: 1991 No 69 s 159

491 Notice of acceptance of tender

(1) Every tender accepted in accordance with **section 490** must be by written notice of acceptance given by the Minister to the successful tenderer.

(2) At the same time as giving any written notice of acceptance, the Minister must also give written notice to every other tenderer of the failure of their tender and, on request, return all documents submitted with each unsuccessful tender.

Compare: 1991 No 69 s 160

492 Grant of authorisation

(1) If the Minister gives notice of acceptance of a tender or enters into an agreement satisfactory to the Minister under **section 490(1)(b)**, the Minister must grant a written authorisation, in any form they think appropriate, to the successful tenderer or the person with whom the agreement was entered into.

(2) The Minister must cause a copy of every authorisation to be given to the appropriate regional council and regional planning committee.

Compare: 1991 No 69 s 161

493 Authorisation does not confer right to coastal permit, etc

(1) The granting of an authorisation under **section 492** does not confer any right to the grant of a coastal permit for the area to which the authorisation relates.

(2) If a coastal permit is granted to the holder of an authorisation for an area to which the authorisation relates, that permit,—

(a) in the case of an activity to remove any sand, shingle, shell, or other natural material,—

(i) must not be granted for a period greater than the period specified in the authorisation; and

(ii) must not authorise the removal of any material at a rate, or of a total quantity, greater than that specified in the authorisation; and

(b) is subject to **section 240**.

Compare: 1991 No 69 s 162

494 Authorisation may be transferred

Every authorisation may be transferred by its holder to any other person, but the transfer does not take effect until written notice of it has been given to and received by the Minister and the appropriate regional council and regional planning committee.

Compare: 1991 No 69 s 163

495 Authorisation to lapse in certain circumstances

(1) An authorisation lapses unless, within 2 years after it was granted, its holder has obtained a coastal permit that includes conditions authorising the holder to undertake the activity and (if relevant) occupy the area for which the authorisation was granted.

(2) However, the authorisation does not lapse until the time for lodging an appeal in respect of the decision has expired, or the decision of the court in respect of any appeal has been given if—

(a) before the second anniversary of the date an authorisation is granted, its holder has applied for a coastal permit for the activity to which the authorisation relates; and

(b) on that second anniversary date,—

(i) no decision has been made by the consent authority on that application; or

(ii) the consent authority has made a decision, but the time for lodging appeals to the Environment Court has not expired, or an appeal has been lodged but no decision has been made by the court on that appeal.

Compare: 1991 No 69 s 164

496 Tender money

(1) If a person to whom an authorisation has been granted forwarded an initial payment to the Minister under **section 489(2)**, the money becomes the property of the Crown and, on granting the authorisation, the Minister must cause that money to be paid into a Crown Bank Account in accordance with the Public Finance Act 1989.

(2) If an authorisation granted to a person to whom **subsection (1)** applies has lapsed under **section 495**, the Minister must cause 80% of the initial payment to be refunded to that person from a Crown Bank Account.

(3) If any tenderer who has failed to obtain an authorisation forwarded an initial payment to the Minister under **section 489(2)**, the Minister must as soon as practicable, cause that money to be refunded to that tenderer.

Compare: 1991 No 69 s 165

Part 8
Matters relevant to natural and built environment plans

Subpart 1—Designations

Preliminary provisions

497 Interpretation

(1) In this Act, unless the context otherwise requires,—

CIP means a primary construction and implementation plan or secondary construction and implementation plan

~~**eligible infrastructure** has the same meaning as in section 8 of the Infrastructure Funding and Financing Act 2020~~

identified Māori land means any of the following:

(a) Māori customary land:

(b) land vested in the Māori Trustee that—

(i) is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955; and

(ii) remains subject to that Act:

(c) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993:

(d) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):

(e) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

(f) Māori freehold land:

(g) other land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over that land, but this paragraph does not apply to land transferred from or vested by the Crown, a Crown body, or a local authority under Treaty settlement legislation

natural and green infrastructure, when used in this subpart, means infrastructure that uses natural systems such as plants or soil, or mimics natural processes, to avoid, remedy, or mitigate the environmental impacts of activities

primary CIP means a primary construction and implementation plan under **section 504**

~~**protected Māori land** means —~~

~~(a) Māori customary land:~~

~~(b) land vested in the Māori Trustee that —~~

~~(i) is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955; and~~

~~(ii) remains subject to that Act:~~

~~(c) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993:~~

~~(d) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):~~

~~(e) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:~~

~~(f) Māori freehold land:~~

~~(g) land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over that land~~

public work includes work that relates to the construction of eligible infrastructure or natural and green infrastructure

responsible infrastructure authority has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

responsible ~~SPV~~ special purpose vehicle has the same meaning as in section 7 of the Infrastructure Funding and Financing Act 2020

secondary CIP means a secondary construction and implementation plan under **section 504**

~~SPV~~ special purpose vehicle means a responsible ~~SPV~~ special purpose vehicle that is identified by a levy order made under the Infrastructure Funding and Financing Act 2020 as having responsibility for the construction of eligible infrastructure.

(2) In this Part, work **relates to the construction of eligible infrastructure** if the work—

(a) involves such construction for which ~~an SPV~~ a special purpose vehicle has financial responsibility; or

(b) is work—

(i) that is required to facilitate the future construction of eligible infrastructure; and

(ii) for which the local authority or the territorial authority giving notice of its requirement for a designation (under **section 503(3)**) has financial responsibility.

Compare: 1991 No 69 s 166

498 Recognition of ~~protected~~ identified Māori land as taonga tuku iho

(1) The functions, duties, and powers conferred by this subpart must be exercised in a manner that recognises that ~~protected~~ identified Māori land is a taonga tuku iho for the owners of the land and the hapū associated with the land.

(2) A person exercising a power or performing a function or duty under this subpart must consider the rights and interests of owners of ~~protected~~ identified Māori land to retain, control, utilise, and occupy the land for the benefit of present and future generations of owners, their whānau, and their hapū.

(3) This section applies if the function, duty, or power is performed or exercised—

(a) in relation to a notice of requirement for a designation, a new designation, or an existing designation:

(b) where **clause 28 of Schedule 7** applies:

(c) under this subpart or any provision elsewhere in this Act that relates to designations.

Who ~~can~~ may exercise ~~designations~~ designation powers

499 Application to become requiring authority

(1) A network utility operator ~~(including an additional utility operator)~~ or an applicant other than a network utility operator (**other applicant**) may apply to the Minister in the prescribed form for approval as a requiring authority.

(2) The Minister may make any inquiry into the application and request any information that the Minister considers necessary.

(3) The Minister may, subject to **section 498**, approve an applicant as a requiring authority for the purposes of—

(a) a particular project or work; or

(b) a particular network utility operation.

(4) The Minister may approve an application on any terms and conditions (including provision of a bond) that the Minister considers necessary.

Compare: 1991 No 69 s 167(1)–(4A)

500 Criteria for approval as requiring authority

Network ~~utility operator other than additional~~ utility operators

(1) **Subsections (2) and (3)** apply to a network utility operator described in **paragraphs (a) to (m)** of the definition of that term in **section 7**.

(2) The Minister must not give approval under **section 499~~(3)~~** unless the Minister is satisfied that—

(a) the approval of the applicant as a requiring authority is appropriate for the purposes of carrying ~~on~~out the project, work, or network utility operation; and

(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority under this Act and will give proper regard to the interests of those affected and to the interests of the environment.

(3) If the applicant is a network utility operator described in **paragraph (i)** of the definition of that term in **section 7**, the applicant need not have financial responsibility for the construction work for the purpose of the Minister being satisfied of the matters in **subsection ~~(5)(b)~~ (2)(b)**.

~~*Additional utility operators*~~

~~(4) **Subsections (5) and (6)** apply to a utility operator who wishes to be approved as an additional utility operator.~~

~~(5) The Minister must not give approval under **section 499(3)** unless the Minister is satisfied that the activity, project, or work—~~

~~(a) is in the nature of a public good; and~~

~~(b) will deliver an identifiable public benefit outcome; and~~

~~(c) is not a commercial retail activity (such as a supermarket or petrol station) or a facility to support a commercial retail activity (such as a warehousing or distribution facility).~~

~~(6) For the purposes of **subsection (5)(b)**,~~

~~(a) an identifiable public benefit must include a social, cultural, or environmental benefit:~~

~~(b) an activity, project, or work that has an identifiable public benefit outcome is not precluded just because the operator charges a fee for access or obtains a commercial benefit from it:~~

~~(c) the public benefit must be for the general public or a sufficient section of the public.~~

Other applicants

(4) **Subsections (5) to (8)** apply to any other applicant who wishes to be approved under **section 499** as a requiring authority.

(5) The Minister must not give approval under **section 499** to any other applicant unless the Minister is satisfied that—

(a) approval of the applicant as a requiring authority is appropriate for the purposes of carrying out the project or work; and

(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority under this Act and have proper regard to the interests of those affected and to the interests of the environment.

(6) The Minister must not give approval under **section 499** unless satisfied that—

(a) the project or work provides a significant and identifiable public benefit necessary for the functioning of the economy, the health and safety of people, or the protection of the environment; and

(b) the public benefit is for the general public or a sufficient section of the public; and

(c) there are limited options for locating the project or work due to operational requirements or the project or work responds to a defined need in a specific location; and

(d) the size and scale of the project or work is such that approval as a requiring authority is appropriate; and

(e) the project or work is not a commercial retail activity (such as a supermarket or petrol station) or a facility to support a commercial retail activity (such as a warehousing or distribution facility).

(7) For the purposes of **subsection (6)(a)**, a project or work that has a significant and identifiable public benefit is not precluded just because the operator charges a fee for access or obtains a commercial benefit from it.

(8) The Minister may have regard to—

(a) whether the project would be more appropriately progressed using the other processes provided by this Act (such as a plan change or a resource consent); and

(b) any other matter that the Minister considers relevant and reasonably necessary to determine the application.

501 Public notice of approval as requiring authority

(1) The Minister's approval under **section 499** must be in writing and be notified or published in the *Gazette* within a reasonable time after the approval is given.

(2) If the Minister approves ~~an additional utility operator~~ any requiring authority, the Minister must also recommend that the national planning framework be amended to include the ~~operator in a schedule of approved additional utility operators~~ operator or other applicant in a schedule of approved requiring authorities.

(3) Amendments to the national planning framework for the purpose of **subsection (2)** ~~may~~ must be made without following any other process.

502 Revocation of approval as requiring authority

(1) The Minister may revoke any approval given under **section 499~~(3)~~** if satisfied that—

(a) a requiring authority is unlikely to undertake or complete ~~an activity, a project,~~ a project or work for which approval as a requiring authority was given; or

(b) a requiring authority is unlikely to satisfactorily carry out any responsibility as a requiring authority under this Act; or

(c) a requiring authority (other than any other applicant approved as a requiring authority) is no longer a network utility operator.

(2) The Minister's revocation must be in writing and be notified or published in the *Gazette* within a reasonable time after the decision is made.

(3) On revocation of an approval under **subsection (1)**, all functions, powers, and duties of the former requiring authority under this Act in relation to any designation, or any requirement for a designation, must be treated as having been transferred to the Minister under **section 526**.

(4) If the Minister revokes an approval of a requiring authority, the Minister must recommend that the schedule of approved requiring authorities in the national planning framework be amended to remove the requiring authority from the schedule, and **section 501(3)** applies with any necessary modifications.

Compare: 1991 No 69 s 167(5), (6)

Designation instruments

503 Notice of requirement for designation

(1) A Minister of the Crown who, or a local authority which, has financial responsibility for a public work, may give notice to a ~~regional planning committee~~ territorial authority of its requirement for a designation—

(a) for a public work; or

(b) in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.

(2) A requiring authority for a purpose approved under **section 499** may give notice to a ~~regional planning committee~~ territorial authority of its requirement for a designation—

(a) for ~~an activity, a project,~~ a project or ~~a~~ work; or

(b) in respect of any land, water, subsoil, or airspace where a restriction is reasonably necessary for the safe or efficient functioning or operation of the ~~activity, project,~~ project or work.

(3) A local authority may give notice to a ~~regional planning committee~~ territorial authority of its requirement for a designation for a project or work within its district or region that relates to the construction of eligible infrastructure for which the local authority is a responsible infrastructure authority.

(4) However, a requirement for a designation must not be made in respect of the coastal marine area.

Compare: 1991 No 69 s 168

504 Primary and secondary CIPs

(1) A primary CIP must be lodged with the ~~regional planning committee~~ territorial authority for every notice of requirement, either at the same time or after the notice is lodged.

(2) A primary CIP must—

(a) identify the ~~anticipated~~ construction and operation activities, the associated effects, and how the requiring authority intends to manage those effects; and

(b) list any matters that the requiring authority has decided to include in a secondary CIP~~.~~; and

(c) provide the information that is needed to enable the territorial authority and the regional planning committee (if **section 511** applies) to make a recommendation under **section 512**.

(3) Subject to **subsection (4)**, the requiring authority must ~~submit~~ lodge a secondary CIP ~~to the regional planning committee~~ with the territorial authority to

allow the territorial authority to request changes before construction is commenced.

(4) A secondary CIP need not be ~~submitted to~~ lodged with the ~~regional planning committee~~ territorial authority if—

(a) the proposed public work, project, or work has been otherwise approved under this Act; or

(b) the details of the proposed public work, project, or work, as referred to in **subsection ~~(2)~~ (5)**, are incorporated into the designation or primary CIP; or

(c) the ~~planning committee~~ territorial authority waives the requirement for a secondary CIP.

(5) A secondary CIP must show—

(a) the height, shape, and bulk of the public work, project, or work; and

(b) the location on the site of the public work, project, or work; and

(c) the likely finished contour of the site; and

(d) the vehicular access, circulation, and provision for parking; and

(e) the landscaping proposed; and

(f) any other matters to avoid, remedy, or mitigate any adverse effects on the environment; and

(g) any other matter that was specified in the relevant primary CIP as being addressed in the secondary CIP.

(6) This section applies, with all necessary modifications, to public works, projects, or works to be constructed on designated land by a territorial authority.

Compare: 1991 No 69 s 176A(1)–(3)

505 Process for confirming designation

(1) A requiring authority may use one of the following processes to confirm a designation:

(a) a combined process, where—

(i) a notice of requirement and primary CIP are ~~submitted together to~~ lodged together with the ~~regional planning committee~~ territorial authority; and

(ii) a secondary CIP must be ~~submitted to the committee~~ lodged with the territorial authority before construction commences:

(b) a design and build process, where—

(i) a notice of requirement and primary CIP are ~~submitted together to the committee~~ lodged together with the territorial authority; and

(ii) a secondary CIP is not required:

(c) a ~~route protection~~ spatial footprint process, where—

(i) a requiring authority ~~submits~~ gives a notice of requirement to the ~~committee~~ territorial authority and makes a decision on ~~a~~ the notice of requirement under **section 513** before a primary CIP is ~~submitted to~~ lodged with the ~~committee~~ territorial authority; and

(ia) the notice of requirement includes an assessment of the effect of the restrictions on landowners and occupiers of land within or adjacent to the boundaries of the notice of requirement that will result from the designation being in place, but need not duplicate anything in the assessment of construction and operation activities required under a primary CIP; and

(ii) before construction commences,—

(A) a requiring authority lodges, and makes a decision on ~~the~~, a primary CIP; and

(B) if required, a secondary CIP must be ~~submitted to the committee~~ lodged with the territorial authority.

(2) If the notice of requirement and primary CIP are lodged together under **subsection (1)(a) or (b)**, those documents must include the information required by **section 504(2) and subsection (1)(c)(ia)**.

Process for designations

506 How to give notice of requirement

(1) A Minister of the Crown, a requiring authority, or a local authority authorised by **section 503** to give a ~~regional planning committee~~ territorial authority notice of a requirement for a designation may give the notice at any time in the prescribed form.

(2) A requiring authority may at any time withdraw a requirement by giving notice in writing to the ~~planning committee~~ territorial authority.

(3) On receipt of notification under **subsection (2)**, the ~~planning committee~~ territorial authority must—

(a) publicly notify the withdrawal; and

(b) notify all persons upon whom the requirement has been served.

Compare: 1991 No 69 s 168

~~**507 Notification of notices of requirement and CIPs**~~

~~(1) If the activity concerned has a notification status under the national planning framework or the plan for the region, that notification status applies to the notice of requirement and any associated primary CIP.~~

~~(2) In any other case, the provisions in this Act for determining whether a resource consent is to be publicly notified, limited notified, or non-notified apply to the notice of requirement and any associated primary CIP.~~

~~(3) The regional planning committee must consider the notice of requirement and primary CIP together for the purpose of notification.~~

~~(4) However, if the notice of requirement is only for route protection, the planning committee need only consider the effects of construction and implementation when assessing the primary CIP for the purpose of notification.~~

~~(5) Public notification is required if the notice of requirement or primary CIP is inconsistent with the applicable regional spatial strategy.~~

~~(6) In applying **section 206(c)** (limited notification), the planning committee must consider the impact of the activity on landowners and occupiers within or adjacent to the boundaries of the designation.~~

~~(7) Limited notification is required for affected iwi, hapū, or Māori parties specified in the plan for the region if the planning committee determines that there has been inadequate engagement with those parties.~~

~~(8) The planning committee must determine the adequacy of engagement under **subsection (7)** according to whether —~~

~~(a) the requiring authority has engaged with all the affected iwi, hapū, or Māori parties identified in the plan:~~

~~(b) any of those affected parties have provided written agreement to the notice of requirement or CIP:~~

~~(c) the requiring authority has explicitly addressed the issues raised in engagement with affected iwi, hapū, or Māori parties identified in the plan or notice of requirement.~~

~~(9) If any of the affected iwi, hapū, or Māori parties identified in the plan have provided written agreement under **subsection (8)(b)**, notification is not required.~~

507 Notification of notices of requirement and CIPs

(1) The territorial authority must consider the notice of requirement and primary CIP together for the purpose of notification.

(2) However, if the notice of requirement is only for a spatial footprint, the territorial authority need only consider the effects of construction and operation activities when assessing the primary CIP for the purpose of notification.

(3) The territorial authority must publicly notify a notice of requirement or primary CIP unless **subsection (4)** applies.

(4) Limited notification may be required if affected persons are identified.

(5) When determining whether a person is an affected person for the purpose of limited notification of a notice of requirement or a primary CIP, the territorial authority must consider whether the person—

(a) has an interest in the project or work that is greater than that of the general public; or

(b) is likely to experience adverse effects that are more than minor when compared to the level of adverse effects anticipated in the national planning framework or the relevant plan.

(6) Despite **subsection (4)**, if the notice of requirement or primary CIP project or work has a notification status requiring public notification under the national planning framework or the plan for the region, that notification status applies to the notice of requirement or primary CIP.

(7) In all instances, whether public or limited notification is required, the following parties must be notified:

(a) landowners and occupiers of land within the boundaries of the notice of requirement:

(b) landowners and occupiers of land adjacent to the boundaries of the notice of requirement:

(c) any relevant iwi authority and groups that represent hapū.

(8) The territorial authority must make a determination regarding notification within 10 working days after receiving the notice of requirement or primary CIP.

507A Notice of requirement by territorial authority

(1) This section applies if a territorial authority decides to issue a notice of requirement for a designation—

(a) for a public work within its district and for which it has financial responsibility; or

(b) for work within its district that relates to the construction of eligible infrastructure for which the territorial authority is a responsible infrastructure authority; or

(c) in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.

(2) The notification requirements in **section 507** apply.

(3) **Section 503** applies to the notice of requirement with all necessary modifications.

(4) **Sections 183 to 186, 209, 210, 211, 213, 214, 216, 217, 218, 219, and 509 and subpart 3 of Part 2 of Schedule 7** 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 application for a resource consent were a reference to the notice of requirement; and

(c) a reference to an activity were a reference to the designation; and

(d) a reference to an applicant or a consent authority were a reference to the territorial authority.

(5) The date for the commencement of a hearing is as follows:

(a) if the territorial authority gives a direction under **clause 87 of Schedule 7**, the date must be within 40 working days after the closing date for submissions on the notice of requirement:

(b) **section 216** applies if no direction is given under **clause 87 of Schedule 7**.

(6) When considering a requirement and any submissions received, a territorial authority must not have regard to—

(a) any effect of an activity on scenic views from private properties; or

(b) the visibility of commercial signage or advertising being obscured as an effect of an activity; or

(c) any adverse effect, real or perceived, arising from the use of the land for housing, if that effect is attributed to—

(i) the social or economic characteristics of residents; or

(ii) types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries; or

(iii) residents requiring support or supervision in their housing because of their legal status or disabilities; or

(d) trade competition or the effects of trade competition.

(7) When considering a requirement and any submissions received, a territorial authority may have regard to the purpose of the Act only if, and to the extent that, it is necessary—

(a) to resolve ambiguity in the national planning framework:

(b) to resolve conflict between framework outcomes:

(c) to deal with a matter that is not dealt with in the national planning framework.

(8) When considering a requirement and any submissions received, a territorial authority must consider the effects on the environment of allowing the requirement, having particular regard to—

(a) any relevant provisions of—

(i) the national planning framework:

(ii) a plan or proposed plan; and

(b) consistency with the regional spatial strategy; and

(c) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the project or work if—

(i) the requiring authority does not have an interest in the land sufficient for undertaking the project or work; or

(ii) it is likely that the project or work will have a significant adverse effect on the environment; and

(d) if the project or work concerned has not been described in a regional spatial strategy, whether the project or work, and designation, are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

(e) any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.

(9) However, there is no need to consider alternatives under **subsection (8)(c)** if the project or work concerned has been spatially identified in a regional spatial strategy and alternative sites, routes, or methods of undertaking the project or work were adequately considered by the regional planning committee in preparing the regional spatial strategy.

(10) If the project or work concerned has been described in a regional spatial strategy, the territorial authority must not consider whether the project or work, and designation, are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.

(11) The effects to be considered under **subsection (8)** may include any positive effects on the environment to offset or take steps to provide compensation for any adverse effects on the environment that will or may result from the project or work enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.

(12) The territorial authority may decide to—

(a) confirm the requirement:

(b) modify the requirement:

(c) impose conditions:

(d) withdraw the requirement.

(13) For the purposes of this section,—

(a) a reference to a requirement includes the different processes described in **section 511(1)**:

(b) if the territorial authority considers a notice of requirement or primary CIP separately, the requirements in this section apply to the extent that they are within the scope of, and are relevant to, the notice of requirement or primary CIP, as the case may be.

(14) **Sections 514, 515, and 519** apply, with all necessary modifications, in respect of a decision made under **subsection (12)**.

Compare: 1991 No 69 s 168A

508 Secondary CIP notification, changes, and information requests

(1) Within 20 working days after receiving a secondary CIP, the ~~regional planning committee~~ territorial authority must—

(a) confirm that the secondary CIP addresses matters contained in the primary CIP; or

(b) if the secondary CIP addresses matters not contained in the primary CIP,—

(i) notify the secondary CIP in accordance with the criteria set out in **section 507(2)** as if the secondary CIP were a primary CIP; or

(ii) request the requiring authority to make changes to the secondary CIP within 20 working days after the territorial authority's request is made.

(2) Before deciding whether to notify or request changes to the secondary CIP under **subsection (1)(b)**, the ~~regional planning committee~~ territorial authority may request further information from the requiring authority to be provided within 20 working days after the territorial authority's request is made.

(2A) The territorial authority may extend the period specified for **subsection (1)(b)** if it requests the requiring authority to provide further information.

(2B) If the requiring authority does not provide the requested further information within the required time frame, the territorial authority may treat the secondary CIP as a primary CIP and, in that case, it is subject to **section 507**.

(3) If the requiring authority decides not to make the changes requested under **subsection (1)(b)(ii)**, the ~~planning committee~~ territorial authority may, within 15 working days after being notified of the requiring authority's decision, appeal against the decision to the Environment Court.

(4) In determining the appeal, the Environment Court must consider whether the changes requested by the ~~regional planning committee will give effect to~~ territorial authority are in accordance with the purpose of this Act.

(5) This section applies, with all necessary modifications, to public works, projects, or works to be constructed on designated land by a territorial authority.

Compare: 1991 No 69 s 176A(4)–(6)

509 Further information, submissions, and hearing for notice of requirement

~~(1) A regional planning committee need not hold a hearing in relation to a notice of requirement or CIP if it considers that it has sufficient information to make a decision without a hearing.~~

~~(2) The committee may decide not to hold a hearing regardless of whether the applicant or a submitter wishes to be heard.~~

(1) A territorial authority need not hold a hearing in relation to a notice of requirement or primary CIP unless—

(a) it considers that a hearing is necessary; or

(b) either the applicant or a person who made a submission in respect of the notice of requirement or primary CIP has requested to be heard and has not subsequently advised that they do not wish to be heard.

(3) However, the ~~committee~~ territorial authority must not waive the requirement for a hearing if—

(a) a hearing is required by an agreement between the consent authority and iwi, hapū, or Māori (such as Whakahono ā Rohe) or Treaty settlement legislation; or

(b) it is more effective and efficient for issues and information to be tested at a hearing ~~to assess whether they meet planning outcomes~~.

(4) The ~~committee~~ territorial authority may request the ~~applicant~~ requiring authority and submitters to provide further information for the purpose of determining whether a hearing is ~~required~~ necessary, including—

(a) clarification of submissions; and

(b) expert evidence.

(5) The ~~planning committee~~ territorial authority must inform the applicant and the submitters, within 10 working days or the time prescribed by regulations, whether a hearing will be held.

(6) If the ~~committee~~ territorial authority holds a hearing, it—

(a) may invite the applicant, any person commissioned to write a report, any submitters, or any relevant persons (including technical experts) to be heard:

(b) must invite the applicant to be heard if the territorial authority is hearing from submitters or any other persons wishing to be heard.

Compare: 1991 No 69 s 169(1)–(1B)

510 Application of resource consent hearing provisions

(1) **Sections 183 to 186 ~~and 209 to 214~~, 209 to 214, 216, 217 to 219, and 509, and subpart 3 of Part 2 of Schedule 7** apply in relation to the hearing of a notice of requirement or primary CIP—

(a) as if the ~~regional planning committee~~ territorial authority were a consent authority and the notice or primary CIP were an application for a resource consent; and

(b) with any other necessary modifications.

(2) A person making a submission on a notice of requirement or primary CIP must provide the ~~committee~~ territorial authority with the following information when filing the submission:

(a) details of what the submitter is seeking:

(b) supporting material and associated information explaining their request, including copies of any expert reports relied upon in the person's submission.

Compare: 1991 No 69 s 169(2), (3)

510A Waiver and extension of time limits under this subpart

The requirements of **sections 845 and 846** apply in relation to any time limits specified in this subpart or in relevant regulations.

Further provisions relating to designations

~~**511 Discretion to include requirement in proposed plan**~~

~~If a regional planning committee is given notice of a requirement and a primary CIP under **section 503**, and proposes to notify a proposed plan under **clause 31 of Schedule 7** within 40 working days of receipt of that requirement, the committee may, with the consent of the requiring authority, include the requirement in its proposed plan instead of complying with **sections 507 and 509**.~~

~~Compare: 1991 No 69 s 170~~

511 Discretion to include requirement in proposed plan

(1) **Subsection (2)** applies if a regional planning committee proposes to notify a proposed plan under **clause 31 of Schedule 7** within 40 working days after the territorial authority receives—

(a) a notice of requirement to be included in the plan (but without an accompanying primary CIP); or

(b) a notice of requirement together with a primary CIP to be included in the plan; or

(c) a primary CIP lodged after the notice of requirement is included in the plan.

(2) The regional planning committee may, with the consent of the requiring authority and the territorial authority, include the requirement and primary CIP in its proposed plan without compliance with **sections 507 and 509**.

Compare: 1991 No 69 s 170

512 Recommendation by territorial authority and regional planning committee

~~(1) When considering a requirement and any submissions received, a regional planning committee must not have regard to—~~

~~(a) any effect on scenic views from private properties or land transport assets that are not stopping places; or~~

~~(b) any effect on the visibility of commercial signage and advertising; or~~

~~(c) any adverse effect arising from the use of the land by—~~

~~(i) people on low incomes; or~~

~~(ii) people with special housing needs; or~~

~~(iii) people whose disabilities mean that they need support or supervision in their housing; or~~

~~(d) trade competition or the effects of trade competition.~~

(1) When considering a requirement and any submissions received, a territorial authority and a regional planning committee must not have regard to—

(a) any effect of an activity on scenic views from private properties; or

(b) the visibility of commercial signage or advertising being obscured as an effect of an activity; or

(c) any adverse effect, real or perceived, arising from the use of the land for housing, if that effect is attributed to—

(i) the social or economic characteristics of residents; or

(ii) types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries; or

(iii) residents requiring support or supervision in their housing because of their legal status or disabilities; or

(d) trade competition or the effects of trade competition.

(1A) When considering a requirement and any submissions received, a territorial authority and a regional planning committee may have regard to the purpose of the Act only if, and to the extent that, it is necessary—

(a) to resolve ambiguity in the national planning framework:

(b) to resolve conflict between framework outcomes:

(c) to deal with a matter that is not dealt with in the national planning framework.

(2) When considering a requirement and any submissions received, a territorial authority and a regional planning committee must consider the effects on the environment of allowing the requirement, having particular regard to—

(a) any relevant provisions of—

(i) the national planning framework:

(ii) a plan or proposed plan; and

(b) consistency with the regional spatial strategy; and

(c) ~~if the infrastructure concerned has not been spatially identified in a regional spatial strategy,~~ whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the project or work if—

(i) the requiring authority does not have an interest in the land sufficient for undertaking the project or work; or

(ii) it is likely that the project or work will have a significant adverse effect on the environment; and

(d) if the ~~infrastructure~~ project or work concerned has not been ~~identified~~ described in a regional spatial strategy, whether the ~~work and designation are reasonably necessary for achieving national planning framework outcomes and the regional spatial strategy's vision and objectives for the region's development and change and strategic outcomes in plans~~ project or work, and designation, are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and

~~(e) whether adequate consideration has been given to opportunities for co-location of infrastructure, except where co-location of infrastructure is demonstrably inappropriate; and~~

(f) any other matter the territorial authority or regional planning committee considers reasonably necessary in order to make a recommendation on the requirement.

~~(3) If the infrastructure concerned has been spatially identified in a regional spatial strategy, the planning committee must not consider whether adequate consideration has been given to alternatives.~~

(3) However, there is no need to consider alternatives under **subsection (2)(c)** if the project or work concerned has been spatially identified in a regional spatial strategy and alternative sites, routes, or methods of undertaking the project or work were adequately considered by the regional planning committee in preparing the regional spatial strategy.

(4) If the ~~infrastructure~~ project or work concerned has been ~~identified~~ described in a regional spatial strategy, the territorial authority and the regional planning committee must not consider whether the ~~work and designation are reasonably necessary for achieving national planning framework outcomes or the regional spatial strategy's vision and objectives for the region's development or any change or strategic outcomes in plans~~ project or work, and designation, are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought.

(5) The effects to be considered under **subsection (2)** may include any positive effects on the environment to offset or take steps to provide ~~redress~~ compensation for any adverse effects on the environment that will or may result from the ~~activity~~ project or work enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority.

(6) The territorial authority and the regional planning committee may recommend to the requiring authority that it—

(a) confirm the requirement:

(b) modify the requirement:

(c) impose conditions:

(d) withdraw the requirement.

(7) However, if the requiring authority is the Minister of Education or the Minister of Defence, the territorial authority and the regional planning committee may not recommend imposing a condition requiring an environmental contribution.

(8) The territorial authority and the regional planning committee must give reasons for its recommendation under ~~**subsection (5)**~~ **subsection (6)** and make any recommendation within the time prescribed by regulations (if any) after finalising its recommendation (regardless of whether a hearing was held).

(9) For the purposes of this section,—

(a) a reference to a requirement includes the different processes described in **section 511(1)**:

(b) a reference to a regional planning committee relates to the circumstances where **section 511** applies:

(c) if the territorial authority or regional planning committee considers a notice of requirement or primary CIP separately, the requirements in this section apply to the extent that they are within the scope of, and are relevant to, the notice of requirement or primary CIP, as the case may be.

Compare: 1991 No 69 s 171

513 Decision of requiring authority

(1) Within 30 working days after the day on which it receives a ~~regional planning committee's~~ territorial authority's recommendation under **section 512**, a requiring authority must advise the ~~committee~~ territorial authority whether the requiring authority accepts or rejects the recommendation in whole or in part.

(2) A requiring authority may modify a ~~designation~~ requirement if, and only if, that modification is recommended by the ~~regional planning committee~~ territorial authority or is not inconsistent with the ~~designation~~ requirement as notified.

(3) If a requiring authority rejects the recommendation in whole or in part, or modifies the ~~designation~~ requirement, the authority must give reasons for its decision.

(4) For the purposes of this section, a reference to a requirement includes the different processes described in **section 511(1)**.

Compare: 1991 No 69 s 172

514 Notification of decision on designation

(1) The ~~regional planning committee~~ territorial authority must ensure that, within 15 working days after it receives a decision made under **section 513**, a notice of decision and a statement of the time within which an appeal against the decision may be lodged is served on—

(a) persons who made a submission on the requirement; and

(b) owners and occupiers of land to which the designation applies.

(2) If the ~~regional planning committee~~ territorial authority gives a notice summarising a decision, it must—

(a) make a copy of the decision available (whether physically or by electronic means) at all its offices and all public libraries in the region; 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.

Compare: 1991 No 69 s 173; 2010 No 37 s 151(5)

515 Designation to be provided for in plan

(1) **Subsection (2)** applies to a ~~regional planning committee~~ territorial authority if—

(a) a requiring authority makes a decision under **section 513** and one of the following applies:

(i) no appeal is lodged against the requiring authority's decision within the time permitted by **section 519(3)(c)**; or

(ii) an appeal is lodged against the requiring authority's decision under **section 519** but is withdrawn or dismissed; or

(iii) an appeal is lodged against the requiring authority's decision and the Environment Court confirms or modifies the requirement; or

(b) a board of inquiry decides to confirm a requirement with or without modifications under ~~**section 354(4)**~~ **clause 67(4) of Schedule 10A**; or

(c) the Environment Court decides to confirm a requirement with or without modifications under **section ~~359(4), 532,~~ or 538 or clause 72(4) of Schedule 10A**.

(2) The territorial authority must request the regional planning committee ~~must~~ to, as soon as practicable and without using **Schedule 7**,—

(a) include the designation in its plan and any proposed plan (as if it were a rule) in accordance with the requirement as issued or modified in accordance with this Act; and

(b) state in its plan and in any proposed plan the name of the requiring authority that has the benefit of the designation.

Compare: 1991 No 69 s 175

516 Effect of designation

(1) If a designation is included in a plan, then—

(a) **section 17(1)**, to the extent that it applies to a plan rule administered by a territorial authority, does not apply to a public work or project or work undertaken by a requiring authority under the designation; and

(b) no person may, without the prior written consent of that requiring authority, do anything in relation to the land that is subject to the designation that would prevent or hinder a public work or project or work to which the designation relates, including—

(i) undertaking any use of the land; and

(ii) subdividing the land; and

(iii) changing the character, intensity, or scale of the use of the land.

(1A) A designation in a plan must comply with environmental limits set under **section 39**, unless an exemption to that limit has been directed under **section 44**.

(2) The provisions of a plan or proposed plan apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose.

(3) This section is subject to **section 517**.

Compare: 1991 No 69 s 176

517 Land subject to existing designation

(1) If a designation is included in a plan, and the land that is the subject of the designation is already the subject of an earlier designation,—

(a) the requiring authority responsible for the later designation may do anything that is in accordance with that designation only if that authority has first obtained the written consent of the authority responsible for the earlier designation; and

(b) the authority responsible for the earlier designation may, despite **section 516(1)(b)** and without obtaining the prior written consent of the later requiring authority, do anything that is in accordance with the earlier designation.

(2) The authority responsible for the earlier designation may withhold its consent under **subsection (1)** only if that authority is satisfied that the thing to be done would prevent or hinder the public work or project or work to which the designation relates.

(3) This section is subject to ~~**sections 17(1) and 18 to 22**~~ **section 17(1)** (except to the extent that it applies to a plan rule administered by a territorial authority) and **sections 18 to 22**.

Compare: 1991 No 69 s 177

518 Interim effect of requirements for designations

(1) This section applies when—

(a) a requiring authority gives notice of a requirement for a designation to the EPA under ~~**section 334(2)**~~ **clause 47(2) of Schedule 10A**:

(b) a requiring authority gives notice of a requirement for a designation to a ~~regional planning committee~~ territorial authority under **section 503**:

(c) a requiring authority gives notice of a requirement for a modified designation under **clause 28 of Schedule 7**:

(d) a ~~territorial authority~~ regional planning committee decides to include a requirement for a designation in its proposed plan under **clause 28 of Schedule 7**~~.~~:

(e) a territorial authority decides to issue a notice of requirement for a designation within its own district under **section 507A**.

(2) In the period that starts as described in **subsection (3)** and ends as described in **subsection (4)**, no person may do anything that would prevent or hinder the public work, project, or work to which the designation relates unless the person has the prior written consent of the requiring authority.

(3) The period starts,—

(a) for the purposes of **subsection (1)(a)**, on the day on which the requiring authority gives notice under ~~**section 334(2)**~~ **clause 47(2) of Schedule 10A**:

(b) for the purposes of **subsection (1)(b)**, on the day on which the requiring authority gives notice of the requirement under **section 503**:

(c) for the purposes of **subsection (1)(c)**, on the day on which the requiring authority gives notice of the requirement for the modified designation under **clause 28 of Schedule 7**:

(d) for the purposes of **subsection (1)(d)**, on the day on which the ~~territorial authority~~ regional planning committee decides to include a requirement for a designation in its proposed plan under **clause 28 of Schedule 7**~~.~~:

(e) for the purposes of **subsection (1)(e)**, on the day on which the territorial authority decides whether to notify the notice of requirement under **section 507A**.

(4) The period ends on the earliest of the following days:

(a) the day on which the requirement is withdrawn:

(b) the day on which the requirement is cancelled:

(c) the day on which the designation is included in ~~the district plan.~~ a plan:

(d) if the territorial authority makes a recommendation in relation to the designation, but the requiring authority does not make its decision on the designation within the 30 working days specified in **section 513(1)**, 6 months after the expiry of those 30 working days.

(5) A person who contravenes **subsection (2)** does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the requirement.

(6) This section does not prevent an authority responsible for an earlier designation from doing anything that is in accordance with the earlier designation.

Compare: 1991 No 69 s 178

519 Appeal to Environment Court

(1) This clause applies if the process in **sections 503 to 508** (but not the process under **section 511**) for designations is followed (*see* **clause 134 of Schedule 7** for appeals where the plan process is followed).

(2) Any 1 or more of the following persons may appeal to the Environment Court in accordance with this section against the whole or any part of a decision of a requiring authority under **section 513**:

(a) the ~~regional planning committee~~ territorial authority concerned:

(b) any person who made a submission on the requirement.

(3) Notice of an appeal under this section must—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required to be stated by regulations; and

(c) be lodged with the Environment Court and be served on the requiring authority whose decision is appealed against, within 15 working days after the date on which notice of the decision is given in accordance with **section 514**.

(4) The appellant must ensure that a copy of the notice of appeal is served on every person referred to in **subsection (2)** (other than the appellant), within 5 working days after the notice is lodged with the court.

(5) In determining an appeal, the Environment Court must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a ~~planning committee~~ territorial authority, and may—

(a) cancel a requirement; or

(b) confirm a requirement; or

(c) confirm a requirement, but modify it or impose conditions on it as the court thinks fit.

(6) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under **subsection (5)(c)** requiring an environmental contribution.

Compare: 1991 No 69 s 174

520 Appeals relating to sections 516(1)(b), 517(2), and 518(2)

(1) Any person who has been refused consent by a requiring authority under **section 516(1)(b), 517(2), or 518(2)**, or who has been granted consent under any of those provisions subject to conditions, may appeal to the Environment Court against the refusal or the conditions.

(2) Notice of an appeal under this section must—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required to be stated by regulations; and

(c) be lodged with the Environment Court and served on the requiring authority whose decision is appealed against within 15 working days of receiving the requiring authority's decision under **section 516(1)(b), 517(2), or 518(2)**.

(3) In considering an appeal under this section, the court must have regard to—

(a) whether the decision appealed against has caused or is likely to cause serious hardship to the appellant; and

(b) whether the decision appealed against would render the land that is subject to the designation or requirement incapable of reasonable use; and

(c) the extent to which the decision may be modified without wholly or partly nullifying the effect of the requirement or designation.

(4) The Environment Court may confirm or reverse the decision appealed against or modify the decision in any manner that the court thinks fit.

Compare: 1991 No 69 s 179

521 Alteration of designation

(1) A requiring authority that is responsible for a designation may at any time give notice to the ~~regional planning committee~~ territorial authority of its requirement to alter the designation.

(2) Subject to **subsection (3)**, **sections 187 to 191 and 503 to 515**, with all necessary modifications, apply to a requirement referred to in **subsection (1)** as if it were a requirement for a new designation.

(3) A territorial authority may request the regional planning committee ~~may~~ at any time to alter a designation in its plan or proposed plan if—

(a) the alteration—

(i) involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or

(ii) involves only minor changes or adjustments to the boundaries of the designation or requirement; and

(b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and

(c) the requiring authority agrees with the alteration.

(4) **Sections 187 to 191 and 503 to 515** do not apply to an alteration under **subsection (3)**.

(5) If a plan provision becomes more permissive,—

(a) the requiring authority may give notice in writing to the regional planning committee to alter the notice of requirement or CIP (or both) to align the document or documents with the more permissive provision; and

(b) the regional planning committee must alter the relevant documents in the manner provided in **section 515(2)**.

Compare: 1991 No 69 s 181

522 Removal of designation

(1) If a requiring authority no longer wants a designation or part of a designation, it must give notice in the prescribed form to—

(a) the regional planning committee concerned; and

(b) every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and

(c) every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.

(2) As soon as is reasonably practicable after receiving a notice under **subsection (1)**, the regional planning committee must, without using the process in **Schedule 7**, amend its plan accordingly.

(3) The provisions of **Schedule 7** do not apply to any removal of a designation or part of a designation under this section.

(4) However, if a regional planning committee considers the effect of the removal of part of a designation on the remaining designation is more than minor, it may, within 20 working days of receipt of the notice under **subsection (1)**, decline to remove that part of the designation.

(5) A requiring authority may object, under **section 828**, to any decision to decline removal of part of a designation under **subsection (4)**.

Compare: 1991 No 69 s 182

523 Lapsing of designations that have not been given effect to

(1) A designation lapses on the expiry of 10 years after the date on which it is included in a plan unless—

(a) it is given effect to before the end of that period; or

(b) the ~~regional planning committee~~ territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation, and is continuing to be made, and fixes a longer period for the purposes of this subsection; or

(c) the designation specified a different period when incorporated in the plan.

(2) If **subsection (1)(b) or (c)** applies in respect of a designation, the designation lapses on the expiry of the period referred to in that paragraph unless—

(a) it is given effect to before the end of that period; or

(b) the ~~planning committee~~ territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation, and is continuing to be made, and fixes a longer period for the purposes of this subsection.

(3) A requiring authority may object, under **section 828**, to a decision not to fix a longer period for the purposes of **subsection (1)**.

Compare: 1991 No 69 s 184

524 Environment Court may order taking of land

(1) An owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a designation or requirement under this Part may apply at any time to the Environment Court for an order obliging the requiring authority responsible for the designation or requirement to acquire or lease all or part of the owner's estate or interest in the land under the Public Works Act 1981.

(2) An application under **subsection (1)** must be in the prescribed form and the applicant must serve a copy of the application on the requiring authority and the regional planning committee.

(3) The Environment Court may make an order applied for under **subsection (1)** if it is satisfied that—

(a) the owner has tried, but been unable, to enter into an agreement for the sale of the estate or interest in the land subject to the designation or requirement at a price not less than the market value that the land would have had if it had not been subject to the designation or requirement; and

(b) either—

(i) the designation or requirement prevents reasonable use of the owner's estate or interest in the land; or

(ii) the applicant was the owner, or the spouse, civil union partner, or de facto partner of the owner, of the estate or interest in the land when the designation or requirement was created.

(4) Before making an order under **subsection (1)**, the court may direct the owner to take further action to try to sell the estate or interest in the land.

(5) If the Environment Court makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of that estate or interest must be treated as having entered into an agreement with the requiring authority responsible for the designation or requirement for the purposes of section 17 of the Public Works Act 1981.

(6) If **subsection (5)** applies in respect of a requiring authority that is a network utility operator approved under **section 499**,—

(a) any agreement must be treated as having been entered into with the Minister of ~~Lands~~ Land Information on behalf of the network utility operator as if the land were required for a government work; and

(b) all costs and expenses incurred by the Minister of ~~Lands~~ Land Information in respect of the acquisition of the land are recoverable from the network utility operator as a debt due to the Crown.

(7) The amount of compensation payable for an estate or interest in land ordered to be taken under this section must be assessed as if the designation or requirement had not been created.

Compare: 1991 No 69 s 185

525 Compulsory acquisition powers

(1) A network utility operator ~~(including an additional utility operator)~~ or other applicant that is a requiring authority may apply to the Minister of ~~Lands~~ Land Information to have land required for a project or work acquired or taken under Part 2 of the Public Works Act 1981 as if the project or work were a government work within the meaning of that Act and, if the Minister of ~~Lands~~ Land Information agrees, that land may be taken or acquired.

(2) A Proclamation taking land for the purposes of **subsection (1)** vests the land in the network utility operator or other applicant that is a requiring authority instead of the Crown.

(3) Any land held under any enactment or in any other manner by the Crown or a local authority may, with the consent of the Crown or that authority and on any terms and conditions (including price) that may be agreed, be set apart for a project or work of a network utility operator or other applicant that is a requiring authority in the manner provided in sections 50 and 52 of the Public Works Act 1981 (with the necessary modifications), but the setting apart is not be subject to sections 40 and 41 of that Act and any land so set apart vests in the network utility operator or other applicant that is a requiring authority.

(4) Any claim for compensation under the Public Works Act 1981 in respect of land acquired or taken in accordance with this section must be made against the Minister of ~~Lands~~ Land Information.

(5) All costs and expenses incurred by the Minister of ~~Lands~~ Land Information in respect of the acquisition or taking of land in accordance with this section (including any compensation payable by the Minister) are recoverable from the network utility operator or other applicant that is a requiring authority as a debt due to the Crown.

(6) Sections 40 and 41 of the Public Works Act 1981 apply to land acquired or taken in accordance with this section as if the network utility operator or other applicant that is a requiring authority concerned were the Crown.

(7) This section does not apply if—

(a) the network utility operator or other applicant that is a requiring authority is a responsible ~~SPV~~ special purpose vehicle; and

(b) the land is protected Māori land as defined in section 11 of the Infrastructure Funding and Financing Act 2020.

(8) For the purposes of this section, an interest in land, including a leasehold interest, may be acquired or taken as if references to land were references to an interest in land.

Compare: 1991 No 69 s 186

526 Transfer of rights and responsibilities for designations

(1) If the financial responsibility for a project or work or network utility operation is transferred from 1 requiring authority to another, responsibility for any relevant designation must also be transferred and the requiring authority transferring responsibility must advise the regional planning committee of the transfer.

~~(2) A requiring authority responsible for a designation (A) may temporarily transfer responsibility for its designation to another requiring authority (B) for the purpose of enabling B to relocate infrastructure that is within A's designation.~~

(2) A requiring authority responsible for a designation (the **former requiring authority**) may temporarily transfer responsibility for its designation to another requiring authority (the **new requiring authority**) to enable the new requiring authority to relocate infrastructure for that designation and, in that case,—

(a) the new requiring authority must give the regional planning committee written notice of the transfer that—

(i) includes the former requiring authority's consent to the transfer; and

(ii) indicates the intention to relocate the infrastructure within the footprint of the designation; and

(b) the regional planning committee may—

(i) require the new requiring authority to lodge a secondary CIP to make any changes to the former requiring authority's CIP that the regional planning committee thinks necessary; or

(ii) waive the requirement for a secondary CIP, so that the relocation can proceed within the terms of the designation.

~~(3) B must give the regional planning committee written notice of the transfer that—~~

~~(a) includes A's written consent to the transfer; and~~

~~(b) indicates the intention to relocate A's infrastructure within the footprint of A's designation.~~

~~(4) The planning committee may—~~

~~(a) require B to lodge a secondary CIP to make any changes to A's CIP that the committee thinks necessary; or~~

~~(b) waive the requirement for a secondary CIP, so that the relocation can proceed within the terms of A's designation.~~

(5) The regional planning committee must advise the Minister and the relevant territorial authority of the transfer of financial responsibility, the transfer of responsibility for the designation, and any temporary transfer of responsibility for the designation to enable the relocation of infrastructure.

(6) For the purposes of **section 515(2)(b)**, the ~~transfer~~ transfers must, without using the process in **Schedule 7**, be noted in the plan and ~~has~~ have effect on ~~its~~ their terms.

Compare: 1991 No 69 s 180

527 When financial responsibility is transferred to responsible ~~SPV~~ special purpose vehicle

(1) This section applies if—

(a) a local authority or territorial authority holds a designation for work that relates to the construction of eligible infrastructure within the meaning of **paragraph (b)** of the definition of relates to the construction of eligible infrastructure in **section 497(2)**; and

(b) a responsible ~~SPV~~ special purpose vehicle has taken over, or proposes to take over, the construction; and

(c) a designation continues to be required for the construction; and

(d) the responsible ~~SPV~~ special purpose vehicle is not a requiring authority; and

(e) the authority is the responsible infrastructure authority in relation to the construction.

(2) The designation continues to apply to the construction work.

(3) The responsible infrastructure authority may, by written notice, delegate to the responsible ~~SPV~~ special purpose vehicle those functions, duties, and powers in relation to the designation that relate to the construction of eligible infrastructure.

(4) The responsible ~~SPV~~ special purpose vehicle must perform those delegated functions and duties and exercise those delegated powers in accordance with any conditions attached to the designation.

(5) A delegation does not affect the performance or exercise of any function, duty, or power by the responsible infrastructure authority.

Compare: 1991 No 69 s 180A

Time limits from which time periods are excluded in relation to designations

527A Time limits from which time periods are excluded in relation to designations

(1) This section provides for the deferral of certain time limits relating to designations.

(2) The first column of the table lists the provisions specifying time limits from which certain time periods must be excluded.

(3) The second column lists the provisions describing time periods that must be excluded from the corresponding time limits.

Provisions specifying time limits	Provisions describing time periods to be excluded
Section 507(8) (which relates to the time limit for a territorial authority to make a determination regarding notification after receiving the notice of requirement or primary CIP)	**Section 527B(2), (4), or (6)** **Section 527D(2)**
Section 507A (5) (which relates to the time limit for commencement of a hearing of a notified notice of requirement given by a territorial authority)	**Section 527C(8)** **Section 527D(4)**
Section 510(1) (which relates to the time limit for commencement of a hearing of a notified notice of requirement given to a territorial authority)	**Section 527B(2), (4), or (6)** **Section 527D(2)**
Section 531(3) (which relates to the time limit for a territorial authority report on a notice of requirement, given to a territorial authority, to be directly referred to the Environment Court)	**Section 527D(2)** **Section 527D(4)**
Section 537(2) (which relates to the time limit for a territorial authority report on a notice of requirement, given by a territorial authority, to be directly referred to the Environment Court)	**Section 527D(4)** **Section 527B(2), (4), or (6)**

Compare: 1991 No 69 s 198AA

527B Excluded time periods relating to provision of further information

Request for further information

(1) **Subsection (2)** applies when—

(a) a territorial authority has requested a requiring authority, under **section 183(1)**, to provide further information on a notice of requirement; and

(b) the request is the first request made by the territorial authority to the requiring authority under that provision—

(i) at all; or

(ii) after the closing date for submissions.

(2) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date of the request under **section 183(1)**; and

(b) ending as follows:

(i) if the requiring authority provides the information within 15 working days, the date on which it provides the information:

(ii) if the requiring authority agrees within 15 working days to provide the information and provides the information, the date on which it provides the information:

(iii) if the requiring authority agrees within 15 working days to provide the information and does not provide the information, the date set under **section 185(2)(a)**:

(iv) if the requiring authority does not respond to the request within 15 working days, the date on which the period of 15 working days ends:

(v) if the requiring authority refuses within 15 working days to provide the information, the date on which it refuses to provide the information.

Commissioning of report—other authority agrees

(3) **Subsection (4)** applies when—

(a) a territorial authority has notified a requiring authority, under **section 183(2)(b)**, of its wish to commission a report; and

(b) the requiring authority agrees, under **section 186(1)**, to the commissioning of the report.

(4) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date of the notification under **section 183(2)(b)**; and

(b) ending with the date on which the territorial authority receives the report.

Commissioning of report—other authority disagrees

(5) **Subsection (6)** applies when—

(a) a territorial authority has notified a requiring authority, under **section 183(2)(b)**, of its wish to commission a report; and

(b) the requiring authority does not agree, under **section 186(1)**, to the commissioning of the report.

(6) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date of the notification under **section 183(2)(b)**; and

(b) ending with the earlier of the following:

(i) the date on which the period of 15 working days ends; and

(ii) the date on which the territorial authority receives the requiring authority's refusal, under **section 186(1)**, to agree to the commissioning of the report.

Compare: 1991 No 69 s 198AB

527C Excluded time periods relating to direct referral

Request for direct referral declined and no objection

(1) **Subsection (2)** applies when—

(a) a requiring authority makes a request under **section 529(1)**; and

(b) the territorial authority declines the request under **section 530(4) to (6)**; and

(c) the requiring authority does not object under **section 828**.

(2) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date on which the territorial authority receives the request; and

(b) ending with the date on which the 15 working days referred to in **section 832(1)** end.

Request for direct referral declined and objection dismissed

(3) **Subsection (4)** applies when—

(a) a requiring authority makes a request under **section 529(1)**; and

(b) the territorial authority declines the request under **section 530(4) to (6)**; and

(c) the territorial authority dismisses the requiring authority's objection under **section 834**.

(4) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date on which the territorial authority receives the request; and

(b) ending with the date on which the territorial authority notifies the requiring authority of its decision to dismiss the objection.

Request for direct referral granted or objection upheld

(5) **Subsection (6)** applies when—

(a) a requiring authority makes a request under **section 529(1)**; and

(b) either—

(i) the territorial authority grants the request under **section 530(4) to (6)**; or

(ii) the territorial authority declines the request under **section 530(4) to (6)**, but upholds the requiring authority's objection under **section 834**.

(6) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date on which the territorial authority receives the request; and

(b) ending with the earlier of the following:

(i) the date on which the 15 working days referred to in **section 532(2)(a)** end; and

(ii) the date on which the requiring authority advises the territorial authority that it does not intend to lodge a notice of motion with the Environment Court under **section 532(2)**.

Decision to make direct referral to Environment Court

(7) **Subsection (8)** applies when a territorial authority makes a decision under **section 535(1)**.

(8) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date on which the territorial authority makes the decision; and

(b) ending with the earlier of the following:

(i) the date on which the 15 working days referred to in **section 538(1)(a)** end; and

(ii) the date on which the territorial authority decides not to lodge a notice of motion with the Environment Court under **section 538(1)**.

Compare: 1991 No 69 s 198AC

527D Excluded time periods relating to other matters

Approval sought from affected persons or groups

(1) **Subsection (2)** applies when a requiring authority tries, for the purposes of **section 201**, to obtain approval for an activity from any person or group that may otherwise be considered an affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.

(2) The period that must be excluded from every applicable time limit under **section 527A** is the time taken by the requiring authority in trying to obtain the approvals, whether or not they are obtained.

Referral to mediation

(3) **Subsection (4)** applies when a territorial authority refers persons to mediation under **section 214**.

(4) The period that must be excluded from every applicable time limit under **section 527A** is the period—

(a) starting with the date of the reference; and

(b) ending with the earlier of the following:

(i) the date on which one of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person's consent to the mediation; and

(ii) the date on which the mediator reports the outcome of the mediation to the territorial authority.

Compare: 1991 No 69 s 198AD

Streamlining decision making on designations

528 Sections 529 to 534 apply to requirements under section 503 or 521

(1) **Sections 529 to 534** apply when a requiring authority wants one of the following requirements to be the subject of a decision by the Environment Court instead of a recommendation by a ~~regional planning committee~~ territorial authority and a decision by the requiring authority:

(a) a requirement for a designation under **section 503** that has been notified:

(b) a requirement under **section 521** (other than a notice to which **section 521(3)** applies) for an alteration to a designation to which **section 503** applied that has been notified:

(2) If the notice of requirement is called in under ~~**section 329(2)**~~ **clause 42(2) of Schedule 10A**, **sections 529 to 540** cease to apply to it.

Compare: 1991 No 69 s 198A

529 Requiring authority's request

(1) The requiring authority must request the ~~regional planning committee~~ territorial authority to allow the requirement to be the subject of a decision by the Environment Court instead of a recommendation by the ~~committee~~ territorial authority and a decision by the requiring authority.

(2) The requiring authority must make the request in the period—

(a) starting on the date on which the requiring authority gives notice under **section 503**; and

(b) ending 5 working days after the date on which the period for submissions on the requirement closes.

(3) The requiring authority must make the request electronically or in writing on the prescribed form.

Compare: 1991 No 69 s 198B

530 ~~Regional planning committees~~ Territorial authority's decision on request

~~(1) If the regional planning committee receives the request after it has determined that the requirement will not be notified, it must return the request.~~

~~(2) If the regional planning committee receives the request before it has determined whether the requirement will be notified, it must defer its decision on the request until after it has decided whether to notify the requirement and then apply either **subsection (3) or (4)**.~~

~~(3) If the regional planning committee decides not to notify the requirement, it must return the request.~~

~~(4) If the regional planning committee decides to notify the requirement, it must give the requiring authority its decision on the request within 15 working days after the date of the decision on notification.~~

(5) ~~In any other case, the regional planning committee~~ The territorial authority must give the requiring authority its decision on the request within 15 working days after receiving the request.

(6) ~~Despite the discretion to grant a request under **subsection (4) or (5)**, if~~ If regulations have been made under **section 858(1)(g)**,—

(a) the ~~regional planning committee~~ territorial authority must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

(b) that obligation to grant the request does not apply if the ~~regional planning committee~~ territorial authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.

(7) No submitter has a right to be heard by the ~~regional planning committee~~ territorial authority on a request.

(8) If the ~~regional planning committee~~ territorial authority returns or declines the request, it must give the requiring authority its reasons, in writing or electronically, at the same time as it gives the authority its decision.

(9) If the ~~regional planning committee~~ territorial authority declines the request ~~under **subsections (4) to (6)**~~, the requiring authority may object to the ~~regional planning committee~~ territorial authority under **section 828**.

Compare: 1991 No 69 s 198C

531 ~~Regional planning committee's~~ Territorial authority's subsequent processing

(1) If the ~~regional planning committee~~ territorial authority does not grant the request under **section 529**, it must continue to process the requirement.

(2) If the ~~regional planning committee~~ territorial authority decides to grant the request under **section 529**, it must continue to process the requirement and must comply with **subsections (3) to (7)**.

(3) The ~~regional planning committee~~ territorial authority must prepare a report on the requirement within the longer of the following periods:

(a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes:

(b) the period that ends 20 working days after the date on which the ~~committee~~ territorial authority decides to grant the request.

(4) In the report, the ~~regional planning committee~~ territorial authority must—

(a) address issues that are set out in **section 512** to the extent that they are relevant to the requirement; and

(b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications); and

(c) provide a summary of submissions received.

(5) As soon as is reasonably practicable after the report is prepared, the ~~regional planning committee~~ territorial authority must provide a copy to—

(a) the requiring authority; and

(b) every person who made a submission on the requirement.

(6) The ~~regional planning committee~~ territorial authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the ~~committee's~~ territorial authority's report.

(7) In providing that assistance, the ~~regional planning committee~~ territorial authority—

(a) is a party to the proceedings; and

(b) must be available to attend hearings to—

(i) discuss or clarify any matter in its report:

(ii) give evidence about its report:

(iii) discuss submissions received and address issues raised by the submissions:

(iv) provide any other relevant information requested by the court.

Compare: 1991 No 69 s 198D

532 Environment Court decides

(1) **Subsection (2)** applies to a requiring authority who—

(a) receives a report under **section 531(5)**; and

(b) continues to want the requirement to be the subject of a decision by the Environment Court instead of a recommendation by the ~~regional planning committee~~ territorial authority and a decision by the requiring authority.

(2) The requirement is referred to the Environment Court by the requiring authority,—

(a) within 15 working days after receiving the report, lodging with the Environment Court a notice of motion in the prescribed form applying for confirmation of the requirement and specifying the grounds upon which the application for confirmation is made, and a supporting affidavit as to the matters giving rise to that application; and

(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on—

(i) the ~~regional planning committee~~ territorial authority that granted the requiring authority's request under **section 529**; and

(ii) every person who made a submission to the territorial authority on the requirement; and

(c) telling the Registrar of the Environment Court by written notice when the copies have been served.

(3) A ~~regional planning committee~~ territorial authority served under **subsection (2)(b)(i)** must, without delay, provide the Environment Court with—

(a) the requirement to which the notice of motion relates; and

(b) the ~~committee's~~ territorial authority's report on the requirement; and

(c) all the submissions on the requirement that the ~~committee~~ territorial authority received; and

(d) all the information and reports on the requirement that the ~~committee~~ territorial authority was supplied with.

(4) **Clause 53 of Schedule 13** applies to the notice of motion, and any person who has made a submission to the ~~regional planning committee~~ territorial authority on the requirement and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section.

(5) **Sections 147 to 151 and Schedule 13** apply to proceedings under this section.

(6) If considering a matter that is a notice of requirement for a designation or to alter a designation, the court—

(a) must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a ~~regional planning committee~~ territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit; and

(c) may waive the requirement for a secondary CIP to be submitted under **section 504(3)**.

(7) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under **subsection (6)(b)(iii)** requiring an environmental contribution.

Compare: 1991 No 69 s 198E

533 Residual powers of ~~regional planning committee~~ territorial authority

The ~~regional planning committee~~ territorial authority that would have dealt with the requirement had the Environment Court not done so under **section 532** has all the functions, duties, and powers in relation to the designation resulting from the requirement as if it had dealt with the requirement itself.

Compare: 1991 No 69 s 198F

534 When ~~regional planning committee~~ territorial authority must deal with requirement

(1) This section applies when—

(a) a requiring authority receives a report under **section 531(5)**; and

(b) either—

(i) the requiring authority advises the ~~regional planning committee~~ territorial authority that it does not intend to lodge a notice of motion with the Environment Court under **section 532(2)**; or

(ii) the requiring authority does not lodge a notice of motion with the Environment Court under **section 532(2)**.

(2) The ~~regional planning committee~~ territorial authority must deal with the requirement.

Compare: 1991 No 69 s 198G

535 Sections 536 to 540 apply to certain requirements

(1) **Sections 536 to 540** apply when a ~~regional planning committee~~ territorial authority makes a decision that one of the following requirements is to be the subject of a decision by the Environment Court instead of a decision by the ~~committee~~ territorial authority:

(a) a requirement for a designation by a territorial authority under **section 503** that has been notified:

(b) a requirement under **section 521** (other than a notice to which **section 521(3)** applies) for an alteration to a designation to which **section 503** applied that has been notified.

(2) If the notice of requirement is called in under ~~**section 329(2)**~~ **clause 42(2) of Schedule 10A**, **sections 536 to 540** cease to apply to it.

Compare: 1991 No 69 s 198H

536 ~~Regional planning committee's~~ Territorial authority's decision

(1) The ~~regional planning committee~~ territorial authority must make its decision in the period—

(a) starting on the date on which the ~~committee~~ territorial authority decides to notify the requirement under **section 514**; and

(b) ending 5 working days after the date on which the period for submissions on the requirement closes.

(2) No submitter has a right to be heard by the ~~regional planning committee~~ territorial authority on a decision under **section 535**.

Compare: 1991 No 69 s 198I

537 ~~Regional planning committee's~~ Territorial authority's subsequent processing

(1) The ~~regional planning committee~~ territorial authority must continue to process the requirement and must comply with **subsections (2) to (6)**.

(2) The ~~regional planning committee~~ territorial authority must prepare a report on the requirement within the longer of the following periods:

(a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes:

(b) the period that ends 20 working days after the date on which the ~~committee~~ territorial authority makes its decision under **section 535(1)**.

(3) In the report, the ~~regional planning committee~~ territorial authority must—

(a) address issues that are set out in **section ~~542(2)~~ 507A(8)** to the extent that they are relevant to the requirement; and

(b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications); and

(c) provide a summary of submissions received.

(4) As soon as is reasonably practicable after the report is prepared, the ~~regional planning committee~~ territorial authority must provide a copy to every person who made a submission on the requirement.

(5) The ~~regional planning committee~~ territorial authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the ~~committee's~~ territorial authority's report.

(6) In providing that assistance, the ~~regional planning committee~~ territorial authority—

(a) is a party to the proceedings; and

(b) must be available to attend hearings to—

(i) discuss or clarify any matter in its report:

(ii) give evidence about its report:

(iii) discuss submissions received and address issues raised by the submissions:

(iv) provide any other relevant information requested by the court.

Compare: 1991 No 69 s 198J

538 Environment Court decides

(1) If the ~~regional planning committee~~ territorial authority continues to want the requirement to be determined by the Environment Court, the requirement is referred to the court by the ~~committee~~ territorial authority,—

(a) within 15 working days after preparing the report, lodging with the Environment Court a notice of motion in the prescribed form applying for confirmation of the requirement and specifying the grounds upon which the application for confirmation is made, and a supporting affidavit as to the matters giving rise to that application; and

(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on every person who made a submission to the ~~committee~~ territorial authority on the requirement; and

(c) telling the Registrar of the Environment Court by written notice when the copies have been served.

(2) The ~~regional planning committee~~ territorial authority must, without delay, provide the Environment Court with—

(a) the requirement to which the notice of motion relates; and

(b) the ~~committee's~~ territorial authority's report on the requirement; and

(c) all the submissions on the requirement that the ~~committee~~ territorial authority received; and

(d) all the information and reports on the requirement that the ~~committee~~ territorial authority was supplied with.

(3) **Clause 53 of Schedule 13** applies to the notice of motion, and any person who has made a submission to the ~~regional planning committee~~ territorial

authority on the requirement and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section.

(4) **Sections 147 to 151 and Schedule 13** apply to proceedings under this section.

(5) If considering a matter that is a notice of requirement for a designation or to alter a designation, the court—

(a) must have regard to the matters set out in **section 512(2)** and comply with ~~that section~~ **section 512(1)** as if it were a ~~regional planning committee~~ territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the court thinks fit; and

(c) may waive the requirement for a secondary CIP to be submitted.

(6) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under **subsection (5)(b)(iii)** requiring an environmental contribution.

Compare: 1991 No 69 s 198K

539 Residual powers of ~~regional planning committee~~ territorial authority

The ~~regional planning committee~~ territorial authority that would have dealt with the requirement had the Environment Court not done so under **section 538** has all the functions, duties, and powers in relation to the designation resulting from the requirement as if it had dealt with the requirement itself.

Compare: 1991 No 69 s 198L

540 When territorial authority must deal with requirement

(1) This section applies when—

(a) a ~~regional planning committee~~ territorial authority prepares a report under **section 537**; and

(b) the ~~committee~~ territorial authority does not lodge a notice of motion with the Environment Court under **section 538(1)**.

(2) The ~~regional planning committee~~ territorial authority must deal with the requirement.

Compare: 1991 No 69 s 198M

Subpart 2—Heritage protection orders

541 Application to become heritage protection authority

(1) Any Māori ~~entity with mana whenua~~ group with interests in relation to a place, and any body corporate having an interest in the protection of any place, may apply to the Minister in the prescribed form for approval as a heritage protection authority for the purpose of protecting that place.

(2) The applicant must also provide in or with their application any additional information required by regulations made under **section 858**.

(3) The Minister may make any inquiry into the application and request any information that they consider necessary and the Minister may have regard to whether the place is managed appropriately by other legislation and any other matter that the Minister considers relevant and reasonably necessary to determine the application.

(4) The Minister may, by notice in the *Gazette*, approve an applicant under **subsection (1)** as a heritage protection authority for the purpose of protecting the place and on any terms and conditions (including provision of a bond) that are specified in the notice.

(5) The Minister must not give notice under **subsection (4)** unless they are satisfied that—

(a) the approval of the applicant as a heritage protection authority is appropriate for the protection of the place that is the subject of the application; and

(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a heritage protection authority under this Act.

(6) The Minister must, by notice in the *Gazette*, revoke an approval given under **subsection (4)** if they consider that—

(a) a heritage protection authority is unlikely to continue to satisfactorily protect the place for which approval as a heritage protection authority was given; or

(b) a heritage protection authority is unlikely to satisfactorily carry out any responsibility as a heritage protection authority under this Act.

(7) All functions, powers, and duties that ~~a Māori entity or body corporate~~ any heritage protection authority approved under **subsection (4)** has under this Act in relation to any heritage protection order, or notice for a heritage protection order, must be treated as having been transferred to the Minister on—

(a) the revocation of the approval of the ~~Māori entity or body corporate~~ heritage protection authority under **subsection (6)**; or

(b) the dissolution of the ~~Māori entity or body corporate~~ heritage protection authority approved as a heritage protection authority under **subsection (4)**.

Compare: 1991 No 69 s 188

542 Consent of owners of Māori land

A heritage protection authority must obtain the written consent of the owners of Māori land (as defined in section 4 of Te Ture Whenua Maori Act 1993) before it ~~applies for~~ gives notice to a territorial authority of a heritage protection order affecting that land, except when the authority is the landowner.

543 Notice to territorial authority

(1) A heritage protection authority may give notice in the prescribed form to a territorial authority of a heritage protection order for the purpose of protecting any place, land on which the place is situated, and area of land (if any) surrounding that place that is reasonably necessary for the purpose of ensuring the protection and reasonable enjoyment of that place.

(1A) Any notice given under **subsection (1)** only affects uses of land within an area administered by a territorial authority.

(1B) Any heritage protection authority approved under **section 541** may not give notice of a heritage protection order in respect of any place or area of land that is private land, unless they own the land or the landowner agrees to the heritage protection order being placed over the place or land.

(2) A notice given under **subsection (1)** must support at least 1 of the following outcomes:

(a) the ~~conservation~~ protection of cultural heritage:

(b) recognising and providing for the relationship of iwi and hapū with the exercise of the local kawa, tikanga, and mātauranga of the iwi and hapū of the region in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga, and indigenous biodiversity~~.~~:

(c) the protection of any outstanding geoheritage natural feature.

(3) A notice given under **subsection (1)** must contain the following information:

(a) the location of the place and the area proposed to be subject to the order:

(b) an assessment of how the order meets the requirements of **subsection (1)** and 1 or more of the outcomes specified in **subsection (2)**~~.~~, including—

(i) an assessment of the significance of the place undertaken by a suitably qualified person which demonstrates whether protection by a heritage protection order is warranted; and

(ii) the outcomes from consultation with mana whenua and Heritage New Zealand Pouhere Taonga, and the outcomes of any assessments or advice obtained from a suitably qualified person:

(c) an explanation of any imminent risks to the place:

(d) a description of the relevant new or existing protection provisions that the heritage protection authority proposes be applied to the place in the relevant plan:

(e) any additional information required by regulations made under **section 858**.

(4) A heritage protection authority may withdraw a notice under this section for a heritage protection order by notice in writing to the territorial authority affected.

(5) On receiving notification under **subsection (4)**, the territorial authority must—

(a) publicly notify the withdrawal; and

(b) notify all persons upon whom the notice for a heritage protection order has been served.

(6) A heritage protection authority must not give notice, and a territorial authority must not act on a notice, under **subsection (1)**—

(a) for a heritage protection order to be placed on the same place within 5 years of a decision being made on a heritage protection authority's proposal in relation to that place (including a plan, plan change, or review); or

(b) if the substance of the matter for which heritage protection is being sought has been considered and determined within the previous 5 years.

(7) A heritage protection order must not be made over any place or land that is already subject to a heritage order in force under the Resource Management Act 1991 or a heritage protection order in force under this Act.

(8) In this section,—

Crown has the same meaning as in **section 552(7)**

private land includes—

(a) means any land held in fee simple by any person other than the Crown; and

(b) includes land held by a person under a lease or licence granted to the person by the Crown.

Compare: 1991 No 69 s 189

544 When heritage protection order takes effect

(1) A heritage protection order has legal effect once it has been accepted as complete and the affected landowners and relevant regional planning committee have been notified in accordance with **section 546(b)**.

(2) A heritage protection order ceases to have effect on the day the regional planning committee notifies its decision on the plan change in accordance with **Schedule 7**.

545 Effect of heritage protection order

(1) While a heritage protection order is in force, regardless of the provisions of any plan or resource consent, no person may, except in accordance with the prior written consent of the relevant heritage protection authority, do anything that would wholly or partly nullify the effect of the heritage protection order, including—

(a) undertaking any use of land; and

(b) subdividing any land; and

(c) changing the character, intensity, or scale of the use of any land.

(2) Information provided in accordance with **section 543(3)** may be used to determine whether anything will wholly or partly nullify the effect of the heritage protection order.

(3) The heritage protection authority may give consent with or without conditions.

(4) A heritage protection order—

(a) takes effect as provided in **section 544**:

(b) ~~ends~~ ceases to have effect on the earliest of the following days:

(i) the day on which the notice for a heritage protection order is withdrawn:

(ii) the day on which the notice is cancelled:

~~(iii) the day on which the heritage protection order is included in the district plan.~~

(iii) the close of the day stated in **section 544(2)**.

(5) A person who contravenes **subsection (1)** does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the order.

Compare: 1991 No 69 s 193

546 Territorial authority to act on notice

(1) A territorial authority must, as soon as practicable after receiving notice under **section 543**,—

(a) accept the notice and the information provided with it as complete; and

(b) notify the affected landowners, affected occupiers, and relevant regional planning committee that the heritage protection order has effect; and

(ba) if the notice relates to an area that is subject to a designation or notice of requirement, also notify the affected requiring authorities that the heritage protection order has effect; and

(c) make the notice (and the information provided with the notice) publicly available; and

(d) ~~make~~ request the regional planning committee to commence the necessary plan change.

(2) If a heritage protection authority notifies a territorial authority of any amendment to the information provided under **section 543**, the territorial authority must take the steps set out in **subsection (1)(a) to (d)** in relation to the amendment.

(3) If a heritage protection authority notifies a territorial authority of the removal of a heritage protection order, the territorial authority must take the steps set out in **subsection (1)(a) to (d)** in relation to the removal of the order.

(4) If the Minister transfers responsibility for a heritage protection order to another heritage protection authority, the territorial authority notified under **section 552(4)(d)** must notify the affected landowners, affected occupiers, and relevant regional planning committee about the transfer.

547 Territorial authority or regional planning committee may request further information from heritage protection authority

(1) The territorial authority or regional planning committee may, by written notice, request the heritage protection authority to provide further information relating to its notice under **section 543**.

(2) The heritage protection authority may amend the information provided with its notice or provide further information at any time before the plan change is notified.

(3) If the heritage protection authority does not provide the information before the deadline concerned or refuses to provide the information, the ~~territorial authority~~ regional planning committee must still notify the plan change.

~~548 Plan change process following notification of heritage protection order~~

~~(1) After the landowner and regional planning committee have been notified under **section 546(b)**, the territorial authority and the committee must, within 10 working days, identify a lead body (either the committee or a constituent local authority) who will be responsible for processing a plan change to protect the significant place.~~

~~(2) The lead body must initiate a proportionate plan change process as soon as practicable.~~

548 Plan change process following notification of heritage protection order

The regional planning committee is responsible for processing a plan change in relation to the place or area affected by a heritage protection order.

549 Land subject to existing heritage protection order or designation

(1) If land subject to a heritage protection order is already subject to a heritage protection order, notice of requirement, or designation under the Resource Management Act 1991,—

(a) the heritage protection authority responsible for the heritage protection order may do anything that is in accordance with that heritage protection order only if that authority has first obtained the written consent of the authority responsible for the earlier order, notice of requirement, or designation; and

(b) the authority responsible for the earlier order, notice of requirement, or designation may, despite **section 545** and without obtaining the prior written consent of the later heritage protection authority, do anything that is in accordance with the earlier order, notice of requirement, or designation.

(2) The authority responsible for the earlier order, notice of requirement, or designation may withhold its consent under **subsection (1)** only if that authority is satisfied—

(a) that, in the case of an earlier designation, the thing to be done would prevent or hinder the public work or project or work to which the designation relates; or

(b) that, in the case of an earlier heritage protection order or notice of requirement, the thing to be done would wholly or partly nullify the effect of the order or notice of requirement.

(3) This section is subject to **sections 17(1) and (2) and 18 to 22**.

Compare: 1991 No 69 s 193A

550 Appeals relating to section 545

(1) This section applies if a person—

(a) proposes to do anything in relation to land that is subject to a heritage protection order for a purpose that, but for the heritage protection order, would be lawful; and

(b) has been refused consent to undertake that use by a heritage protection authority under **section 545**, or has been granted consent subject to conditions.

(2) The person may appeal to the Environment Court against the heritage protection authority's refusal to consent or the conditions.

(3) Notice of an appeal under this section must—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required to be stated by regulations; and

(c) be lodged with the Environment Court and served on the heritage protection authority whose decision is appealed against, within 15 working days of receiving the heritage protection authority's decision under **section 545**.

(4) In considering an appeal under this section, the court must have regard to—

(a) whether the decision appealed against has caused or is likely to cause serious hardship to the appellant; and

(b) whether the decision appealed against would render the land concerned incapable of reasonable use; and

(c) the extent to which the decision may be modified without wholly or partly nullifying the effect of the heritage protection order.

(5) The court may—

(a) confirm the decision under appeal; or

(b) reverse the decision and approve the activity with conditions; or

(c) modify the heritage protection order; or

(d) cancel the heritage protection order.

Compare: 1991 No 69 s 195

551 Alteration of heritage protection order

(1) A heritage protection authority that is responsible for a heritage protection order may at any time give notice to the relevant territorial authority of its intention to alter the heritage protection order.

(2) For the purposes of this subpart, a notice to alter a heritage protection order must be treated as if it were a notice for a new heritage protection order.

~~(3) However, a territorial authority may at any time alter a heritage protection order in its plan if—~~

~~(a) the alteration—~~

~~(i) involves no more than a minor change to the effects on the environment associated with the heritage protection order concerned; or~~

~~(ii) involves only minor changes or adjustments to the boundaries of the heritage protection order; and~~

~~(b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and~~

~~(c) the territorial authority and the heritage protection authority agree with the alteration.~~

~~(4) **Subsection (2)** does not apply to an alteration under **subsection (3)**.~~

Compare: 1991 No 69 s 195A

552 Transfer of heritage protection order

(1) The Minister may, on the Minister's own initiative, transfer responsibility for an existing heritage protection order to another heritage protection authority.

(2) However, the Minister must not exercise the power under **subsection (1)** if—

(a) the heritage protection order relates to private land~~; and~~:

~~(b) the transfer of the order is to a Māori entity or body corporate approved under **section 541**.~~

(b) the transfer of the order is to a heritage protection authority approved under **section 541(4)** and the heritage protection order is in respect of a place or an area that is private land (unless the heritage protection authority owns the land or the landowner agrees to the transfer):

(c) the heritage protection order is in respect of a place or an area that is Maori land (as defined in section 4 of Te Ture Whenua Maori Act 1993).

(3) In determining whether to transfer responsibility for an order under **subsection (1)**, the Minister must take into account—

(a) the reasons why it is no longer appropriate for the current heritage protection authority to have responsibility for the order being proposed for transfer; and

(b) whether the heritage protection authority to which the Minister proposes to transfer the heritage protection order to protect the place or area is—

(i) appropriate for the protection of the place that is subject to an HPA; and

(ii) likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a heritage protection authority under this Act.

(4) Before the Minister transfers responsibility for a heritage protection 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 protection order; and

(b) the heritage protection authority to which the Minister proposes to transfer that responsibility; and

(c) the owner and occupier (if any) of the place or area subject to the heritage protection 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.

(5) The persons or organisations served with a notice under **subsection (4)** may, within 20 working days after being served, make a written objection or submission to the Minister on the Minister's proposal.

(6) The Minister must take into account all objections and submissions received within the specified time before making a final determination.

(7) 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.

Compare: 1991 No 69 s 195B

553 Notice of determination

~~(1)~~ The Minister must publish a notice in the *Gazette* of the Minister's determination under **section 552**.

~~(2) The relevant territorial authorities must note the transfer of responsibility for the heritage protection order by amending their plans accordingly as soon as is reasonably practicable without using a process set out in **Schedule 7**.~~

Compare: 1991 No 69 s 195C

~~554 Removal of heritage protection order~~

~~(1) **Section 522** applies, with all necessary modifications, in respect of the removal of heritage protection orders.~~

~~(2) The removal of a heritage protection order from a plan takes effect 10 working days after notice of removal is received by the territorial authority.~~

~~Compare: 1991 No 69 s 196~~

~~Subpart 3—Places of national importance, including places of significant biodiversity and areas of highly vulnerable biodiversity~~

~~555 Interpretation~~

~~In this subpart,—~~

~~**area of highly vulnerable biodiversity and HVBA** means an area that is highly vulnerable because it meets 1 or more of the criteria set out in **section 562**~~

~~**closed register** means a register of the kind described in **section 560**~~

conservation planning document means any of the following documents that is operative and relevant and made under the Conservation Act 1987 or an Act specified in Schedule 1 of that Act:

(a) a conservation management strategy:

(b) a conservation management plan:

(c) a national park management plan

critical habitat means an area that is essential for the long-term viability of a nationally critical species, and includes —

(a) areas that highly mobile animals rely on for an essential part of their life cycle, and unimpeded access to them along those areas; or

(b) areas declared to be critical habitat by the Minister of Conservation under **section 567**

place of national importance means any of the following:

(a) an area of the coastal environment, or a wetland, or lake, or river or its margins that has outstanding natural character:

(b) an outstanding natural feature or outstanding natural landscape:

(c) specified cultural heritage:

(d) a significant biodiversity area:

(e) an area that provides public access to the coastal environment, or to a wetland, lake, or river or its margins.

556 Identification of places of national importance

(1) Every plan must identify each place in the region that that is a place of national importance, other than —

(a) areas that provide public access to the coastal environment, or to a wetland, lake, or river or its margins; and

(b) significant biodiversity areas that —

(i) are in the coastal marine area or in a freshwater body; and

(ii) are exempt from the identification requirements by the national planning framework.

(2) A significant biodiversity area described in **subsection (1)(b)** may be identified in a plan.

557 Criteria to be prescribed for identifying significant biodiversity areas

(1) The Minister must set criteria for identifying significant biodiversity areas in the national planning framework.

(2) Before specifying criteria, the Minister must seek written advice from the limits and targets review panel (*see* **clause 3 of Schedule 6**), including advice on —

(a) whether, in the opinion of the panel, the criteria proposed by the Minister are scientifically robust; and

(b) any other matter the Minister considers relevant.

558 Considerations relevant to setting criteria

(1) The criteria specified under **section 557** must be based on the following considerations:

(a) representativeness, meaning the extent to which an indigenous ecosystem, consisting of the habitat of indigenous biota in an area, is characteristic of the indigenous biodiversity within the context and scale of the area concerned:

(b) diversity and pattern, meaning the extent to which the expected range of diversity and pattern of biological and physical components is present in an area within the appropriate assessment scale:

(c) rarity and distinctiveness, meaning the presence of rare or distinctive indigenous species, vegetation, ecosystems, animal communities, or habitats of indigenous biota:

(d) ecological context, meaning the extent to which the size, shape, connectivity, and configuration of an indigenous ecosystem or habitat of indigenous biota contributes to the maintenance of indigenous biodiversity within the surrounding land-based and aquatic environments.

(2) The criteria for significant biodiversity areas in the coastal marine area must not include representativeness.

559 Protection of places of national importance

(1) An activity that would have a more than trivial adverse effect on the attributes that make an area a place of national importance must not be allowed by a rule, resource consent, or designation, unless —

(a) an exemption is made in accordance with the requirements set out in **sections 64 to 67**; or

(b) the activity is part of a protected customary right; or

(c) the activity is carried out under a customary marine title order or customary marine title agreement

(2) **Subsection (1)** applies to places of national importance, but only if that place is identified in —

(a) the national planning framework or a proposed part of the framework; or

(b) a plan or proposed plan; or

(c) in the case of a cultural heritage place, a closed register.

(3) Before an activity is able to commence, the consenting authority or requiring authority, as the case may be, must establish whether the area subject to a

resource consent application or notice of requirement includes an area of significant biodiversity.

(4) **Subsection (3)** does not apply if—

(a) the activity is fishing authorised under the Fisheries Act 1996 (other than aquaculture); or

(b) the Minister has made an exception for the activity.

Cultural heritage

560 Provision may be made for cultural heritage to be identified on closed register

(1) A plan may provide for cultural heritage to be identified in a closed register if—

(a) a person makes a request to the relevant regional planning committee; and

(b) the requester provides good reason why the precise location of the cultural heritage should not be shown in a plan.

(2) If the request is accepted, the requester must determine that either the requester or the local authority is to hold the information provided under **subsection (1)(b)**.

(3) Where cultural heritage is identified only in a closed register, the maps included in the plan must include a notation to indicate the general location of the cultural heritage and a description of it, as well as information on how a person wishing to apply for a consent can obtain confirmation as to whether the cultural is within the area of the consent application.

(4) The person holding the information must respond within 10 working days to any request made under **subsection (3)**.

Significant biodiversity

561 Protection of significant biodiversity areas

(1) **Section 559(1)** applies to a significant biodiversity area if—

(a) the place is identified in accordance with **section 559(2)**; or

(b) significant new information has become available since the plan was made to establish that the place meets the criteria; or

(c) the place meets the criteria, even though the place was not assessed when the plan was made.

(2) **Subsection (1)(a)** applies unless significant new information has become available since the plan was made that establishes that the place does not meet the criteria.

Areas of highly vulnerable biodiversity

562 Criteria for identifying HVBAs

(1) An area is an HVBA if it meets 1 or more of the following criteria:

(a) the area is the area of 1 or more nationally critical species:

(b) the area is part of a critically endangered ecosystem:

(c) the area includes residual indigenous ecosystems in a critically threatened area of land (including both terrestrial and wetland areas):

(d) the area includes an ecosystem that is 1 of the few and best remaining examples nationally of that type of ecosystem:

(e) the area includes any naturally rare or threatened indigenous marine ecosystems, communities, or habitats.

(2) Any person making a determination as to whether an area in an HVBA must have regard to mātauranga Māori.

563 Limits to activities within HVBAs

An activity that would have a more than trivial adverse effect on the attributes that make an area a HVBA must not be allowed by a rule, a resource consent, or a designation, unless—

(a) an exemption applies under **section 564**; or

(b) the activity is part of a protected customary right.

564 Exemptions from protection of HVBA

The national planning framework may specify exemptions from the prohibition in **section 563**

565 Limits to exemptions

Exemptions under **section 564** may be made only—

(a) by rules in the national planning framework; and

(b) for the following kinds of activity:

(i) activities on Māori land:

(ii) activities in a plantation forest, but only if the forest is managed to maintain, for the long term, a population of a species in the HVBA that is—

(A) a threatened species:

(B) an at-risk species:

(iii) activities for the purpose of maintaining or restoring indigenous biodiversity, including by pest control, but only if—

(A) the activity does not involve the permanent destruction of significant habitat of indigenous biodiversity; or

(B) it will result in a demonstrable gain for indigenous biodiversity over the long term:

(iv) activities undertaken by or on behalf of the Crown on conservation land or waters that —

(A) are not inconsistent with any relevant conservation planning document; and

(B) do not have a significant adverse effect beyond the boundaries of the conservation land or water:

(v) activities undertaken for the purpose of managing Te Urewera under the Te Urewera Act 2014:

(vi) research activities that have no more than minor adverse effects, but only if the scientific value of the research outweighs those effects:

(vii) fishing (other than aquaculture) in areas that have not been identified as HVBAs.

566 Considerations that apply to the grant of exemptions

(1) The Minister, before including an exemption in the national planning framework, must consider —

(a) the relative cost of granting or declining to grant an exemption for the activity; and

(b) any alternatives to granting an exemption that would achieve the objective of the proposed exemption; and

(c) any condition that should be imposed; and

(d) any other matter that the Minister considers relevant.

(2) An exemption must be designed to diminish the harm that will be caused to the HVBA to the greatest extent compatible with enabling the activity to proceed.

567 Power to declare critical habitat

(1) The Minister of Conservation may, by notice in the *Gazette*, declare an area to be a critical habitat.

(2) The Minister must not make a declaration under **subsection (1)**, unless the area is the habitat of a nationally critical species, as determined in accordance with the New Zealand Threat Classification System.

(3) A declaration under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 9
Subdivision and reclamation

568 Interpretation

In this Part,—

certificate of approval,—

(a) in relation to a survey plan ~~for a subdivision of land~~, means a certificate of approval issued by a territorial authority under **section 574**; and

(b) in relation to a ~~survey plan for a reclamation~~ reclamation plan, means a certificate of approval issued by a regional council under **section 600**

~~**certificate of code compliance**, in relation to a survey plan for a subdivision of land, means a certificate described in **section 584**~~

certificate of completion, in relation to a subdivision consent, means a certificate issued under **section 627**

~~**certificate of compliance with consent conditions**, in relation to a subdivision consent, means a certificate described in **section 582**~~

certificate that consent conditions are complied with, in relation to a subdivision consent, means a certificate described in **section 582**

conservation area means a conservation area within the meaning of the Conservation Act 1987

~~**deposit**, in relation to a survey plan,—~~

~~(a) means deposit by the Registrar-General of Land under the Land Transfer Act 2017; and~~

~~(b) includes approval by the chief executive of Land Information New Zealand under **section 579(3)** (which **section 579(4)(a)** deems to be deposed by the Registrar-General of Land)~~

deposit requirements,—

(a) in relation to ~~the survey plan for a subdivision~~ a survey plan, means the requirements set out in **sections 580 to 584**; and

(b) in relation to ~~the survey plan for a reclamation~~ a reclamation plan, means the requirements set out in **section 602**

notice of ongoing requirements means a notice issued under **section 628**

~~**plan of survey** means the plan required in respect of a reclamation~~

reclamation plan has the meaning set out in **section 597(2)(a)**

subdivision of land has the meaning set out in **section 569**

unit—

(a) has the same meaning as in section 5(1) of the Unit Titles Act 2010; and

(b) includes a future development unit (as defined in section 5(1) of the Unit Titles Act 2010)

unit plan has the same meaning as in section 5(1) of the Unit Titles Act 2010

wildlife sanctuary or wildlife refuge means a wildlife sanctuary or wildlife refuge under the Wildlife Act 1953.

Subpart 1—Subdivision of land

Interpretation

569 Meaning of subdivision of land

For the purpose of this Act, **subdivision of land** means—

(a) the division of an allotment by any of the following:

(i) an application to the Registrar-General of Land for the issue of a separate record of title for any part of the allotment:

(ii) the disposition, by way of sale or offer for sale, of the fee simple to part of the allotment:

(iii) a lease of part of the allotment that, including renewals, is or could be for a term of more than 35 years:

(iv) the grant of a company lease or cross lease in respect of any part of the allotment:

(v) the deposit of a unit plan:

(vi) an application to the Registrar-General of Land for the issue of a separate record of title for any part of a unit on a unit plan; or

(b) an application to the Registrar-General of Land for the issue of a separate record of title in any case where the issue of that record of title is restricted by **section 586(2)**.

Compare: 1991 No 69 s 218(1)

570 Meaning of allotment

(1) In this Act, **allotment** means any of the following:

(a) a parcel of land under the Land Transfer Act 2017 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—

(i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or

(ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act:

(b) a parcel of land, or a building or part of a building, that is shown or identified separately—

(i) on a survey plan; or

(ii) on a licence within the meaning of subpart 6 of Part 3 of the Land Transfer Act 2017:

(c) a unit on a unit plan:

(d) any parcel of land that is not subject to the Land Transfer Act 2017.

(2) For the purpose of this section,—

(a) if an allotment is being or has been subdivided from any land, the balance of that land is deemed to be an allotment; and

(b) if part of a single allotment is physically separated from any other part of the allotment by a road or in any other manner, the allotment must be treated as a continuous area of land unless the division of the allotment into those parts has been allowed—

(i) by a subdivision consent granted under this Act; or

(ii) by a subdivision approval under any former enactment that relates to the subdivision of land.

(3) In **subsection (2)(b)**, **single allotment** means—

(a) an allotment that is subject to the Land Transfer Act 2017 and comprised in 1 record of title or for which 1 record of title could be issued under that Act; or

(b) an allotment that is not subject to that Act and was acquired by its owner under 1 instrument of conveyance.

Compare: 1991 No 69 s 218(2)–(4)

571 Meaning of survey plan

(1) In this Act, **survey plan**—

(a) means a survey dataset—

(i) of a subdivision of land, or a building or part of a building, prepared in a form suitable for deposit under the Land Transfer Act 2017; or

(ii) of a subdivision by or on behalf of a Minister of the Crown of land not subject to the Land Transfer Act 2017:

(b) includes—

(i) a unit plan; and

(ii) a cadastral survey dataset to give effect to the grant of a cross lease or company lease.

(2) In this section, **cadastral survey dataset** has the same meaning as in section 4 of the Cadastral Survey Act 2002.

Compare: 1991 No 69 s 2(1)

How survey plans for subdivisions are approved

572 Requirements for approval of survey plans

(1) Any person may submit a survey plan for a subdivision of land to a territorial authority for its approval.

(2) There must be a subdivision consent or certificate of compliance for any subdivision of land that a survey plan relates to.

(3) The territorial authority must be satisfied that, as the case may be,—

(a) the consent or certificate has not lapsed; ~~and~~ or

(b) the survey plan conforms with the consent or certificate (*see* **section 573**).

(4) Within 10 working days after receiving the survey plan, the territorial authority must,—

(a) if ~~the are~~ satisfied, approve the survey plan and issue a certificate of approval; or

(b) if ~~any of the is~~ not satisfied, decline the survey plan and notify the owner of that decision and the reasons for it.

Compare: 1991 No 69 s 223(1)–(1A)

573 Approval of survey plan

(1) A territorial authority must approve a survey plan submitted in accordance with **section 572** if it is satisfied that—

(a) the survey plan conforms with the subdivision consent; and

(b) if a certificate of compliance has been obtained, ~~that~~ the survey plan conforms with the certificate of compliance.

(2) This section is subject to **sections 575, 576, 578, 622, and 623**.

Compare: 1991 No 69 ~~s 223 (2)~~ s 223(2)

574 Certificate of approval by territorial authority

(1) If a territorial authority approves a survey plan under **section 573**, the chief executive or an authorised officer of the territorial authority (the **responsible person**) must issue a certificate of approval.

(2) The certificate is conclusive evidence that all roads, private roads, reserves, land vested in the territorial authority in lieu of reserves, and private ways shown on the survey plan have been authorised and accepted by the territorial authority under this Act and under the Local Government Act 1974.

(3) The certificate must include the following information:

(a) a statement that the territorial authority has approved the survey plan; and

(b) the date of approval; and

(c) the name of the responsible person; and

(d) the link between the certificate of approval and the survey plan; and

(e) if applicable,—

(i) conditions requiring easements to be granted or reserved (*see* **section 617**):

(ii) conditions requiring amalgamated land to be held in 1 record of title:

(iii) a requirement to show esplanade reserves and esplanade strips on a survey plan.

(4) The certificate must be lodged with the Registrar-General of Land before the survey plan is deposited.

(5) The certificate does not affect any obligation of the subdividing owner under any condition of a subdivision consent or bond entered into relating to the subdivision.

Compare: 1991 No 69 ss 223(3)–(6), 224(c)

575 Requirements relating to conditions of subdivision consent

(1) This section applies to a survey plan for a subdivision of land, but only if a subdivision consent is obtained for that subdivision.

(2) If the consent includes a condition described in **section 617** (~~conditions~~ condition requiring ~~easements~~ easement to be granted or reserved), a memorandum must be included in the survey plan that shows, in respect of the easements required by the condition,—

(a) which is the benefited land and which is the burdened land; or

(b) in the case of an easement in gross, the name of the proposed grantee and which is the burdened land.

(3) If the consent includes a condition described in **section 622** (condition requiring amalgamated land to be held in 1 record of title), the condition must be specified in the survey plan.

(4) If the consent includes a condition described in **section 623** (condition requiring covenant against transfer of allotments for amalgamated land),—

(a) the owner of the land must enter into the covenant required by that condition; and

(b) a certificate to that effect must be included in the survey plan by the territorial authority.

(5) If, before the survey plan is approved, the territorial authority cancels any part of a condition or covenant referred to in this section,—

(a) ~~the~~ a licensed surveyor must amend or delete the condition or covenant specified on the survey plan; and

(b) if the survey plan has already been approved under **section 573**, the territorial authority must issue a new approval.

(6) **Subsections (2) to (5)** are for the purpose of **section 572**.

Compare: 1991 No 69 ss 221(1), 240(1), (5)(a), 241(1), (4)(a), 243(b), (f)(i)

576 Approval if esplanade reserves or esplanade strips required

(1) A territorial authority must not approve a survey plan unless any esplanade reserve or esplanade strip required under this ~~Part~~ subpart is shown on the survey plan.

(2) However, **subsection (1)** is subject to **subsection (3)**.

(3) A territorial authority must not approve a primary survey plan until a separate survey plan (a **secondary survey plan**) showing the esplanade reserve or esplanade strip has been prepared and submitted to the territorial authority for approval under this section.

(4) **Subsection (3)** applies if—

(a) ~~and~~ an esplanade reserve or esplanade strip is required under this ~~Part~~ subpart for a subdivision to be effected by—

(i) the grant of a cross lease or company lease; or

(ii) the deposit of a unit plan; and

(b) it is not practical to show the esplanade reserve or esplanade strip on the survey plan submitted for approval under **section 572** (the **primary survey plan**).

(5) Despite anything in the Land Transfer Act 2017,—

(a) an esplanade strip must not be required to be surveyed; but

(b) if an esplanade strip is shown on a survey plan, it must be clearly identified in any way the chief executive of Land Information New Zealand considers appropriate.

Compare: 1991 No 69 s 237(1)–(3)

577 If separate survey plan approved

(1) If a territorial authority approves a secondary survey plan under **section 576**, a memorandum to that effect must be endorsed on both the primary survey plan and the secondary survey plan.

(2) Unless the secondary survey plan showing the esplanade reserve or esplanade strip is deposited before or at the same time as the primary survey plan, the Registrar-General of Land must not—

(a) deposit the primary survey plan; or

(b) in respect of a subdivision by the Crown, issue a record of title for any separate allotment on the primary survey plan approved by the ~~chief executive of~~ chief executive of Land Information New Zealand.

(3) Subject to this section, nothing in **section 18** or this ~~Part~~ subpart applies to a secondary survey plan approved by a territorial authority under this section.

Compare: 1991 No 69 s 237(4), (5)

578 Requirements if subdivided land includes river bed or lake bed or is in coastal marine area

(1) This section applies to a survey plan for a subdivision of land if any part of an allotment created by the subdivision—

(a) is within the coastal marine area; or

(b) is within the bed of a river or lake.

(2) The survey plan must show the land described in **subsection (1)(a)** as part of the common marine and coastal area.

(3) The survey plan must show as vesting in the territorial authority any part of the land described in **subsection (1)(b)** that—

(a) adjoins an esplanade reserve that the survey plan shows as vesting in the territorial authority; or

(b) is required to be vested in the territorial authority as a condition of a subdivision consent.

(4) **Subsections (2) and (3)** are for the purpose of **section 573**.

Compare: 1991 No 69 s 237A

How survey plans for subdivisions are deposited

579 Depositing survey plans for subdivisions

(1) After a territorial authority approves the survey plan for a subdivision of land under this Act, the person subdividing the land may provide the approved survey plan—

(a) to the Registrar-General of Land for deposit, if the land is subject to the Land Transfer Act 2017; or

(b) to the ~~chief executive of~~ chief executive of Land Information New Zealand for approval, if the land is not subject to the Land Transfer Act 2017 and is being subdivided by or on behalf of a Minister of the Crown.

(2) The Registrar-General of Land must, after receiving a survey plan provided to them under this section,—

(a) deposit the survey plan, but only if the deposit requirements are satisfied; or

(b) if any of the deposit requirements ~~is~~ are not satisfied, decline to deposit the survey plan and notify the owner of that decision and the reasons for it.

(3) The ~~chief executive of~~ chief executive of Land Information New Zealand must, after receiving a survey plan provided under this section,—

(a) approve the survey plan, but only if the deposit requirements are satisfied; or

(b) if any of the deposit requirements ~~is~~ are not satisfied, decline to approve the survey plan and notify the owner of that decision and the reasons for it.

(4) If the chief executive of Land Information New Zealand approves a survey plan for a subdivision of land under this section,—

(a) the approval is to be treated as, and has the same legal effect as, the deposit of a survey plan by the Registrar-General of Land; and

(b) the land becomes subject to the Land Transfer Act 2017.

Compare: 1991 No 69 ss 224, 228(1)(a), (2)

Deposit requirements

580 Requirements for depositing survey plans

(1) A survey plan for a subdivision may be deposited no later than 3 years after it is approved by the territorial authority under **section 572**.

(2) The survey plan, if it is a unit plan, must comply with the requirements of the Unit Titles Act 2010 that relate to the deposit of a unit plan.

(3) If the survey plan (the **primary survey plan**) ~~has included~~ includes an approval, by the territorial authority, of a ~~separate~~ secondary survey plan under **section 576** (approval if esplanade reserves or esplanade strips required), the ~~separate~~ secondary survey plan must be deposited before, or at the same time as, the primary survey plan.

(4) **Subsections (1) to (3)** are deposit requirements for the purpose of **section 579**.

Compare: 1991 No 69 ss 224(e), (h), 237(4)

581 Requirements to lodge documents with Registrar-General of Land

(1) Any requirement under the following sections to lodge a document with the Registrar-General of Land before a survey plan is deposited is a deposit requirement for the purpose of **section 579**:

(a) **section 574** (certificate of approval by territorial authority):

(b) **section 612** (how strips are created):

(c) **section 628** ~~(subdivision consent notice if consent includes ongoing conditions)~~ (consent notice for subdivision consent with ongoing requirements).

(2) *See* the following sections, which also set deposit requirements for documents to be lodged with the Registrar-General of Land:

(a) **section 582** (requirement for certificate ~~of consent conditions~~ that consent conditions are complied with):

(b) **section 583** (requirement for consent if land will vest in territorial authority or the Crown):

(c) **section 584** (requirement for certificate ~~of compliance with building code requirements~~ that building code requirements are complied with).

Compare: ~~1996~~ 1991 No 69, s 224(c)

582 Requirement for ~~certificate of compliance with consent conditions~~ certificate that consent conditions are complied with

(1) This section applies to a survey plan for a subdivision of land, but only if there is a subdivision consent for that subdivision.

(2) A ~~certificate of compliance with consent conditions~~ certificate that consent conditions are complied with must be lodged with the Registrar-General of Land.

(3) **Subsection (2)** is a deposit requirement for the purpose of **section 579**.

(4) A territorial authority may issue a ~~certificate of compliance with consent conditions~~ certificate that consent conditions are complied with only if it is satisfied that,—

(a) for any condition of the subdivision consent that has not been complied with,—

(i) a certificate of completion has been issued; or

(ii) a notice of ongoing ~~conditions~~ requirements has been issued; or

(iii) a bond has been entered into by the person subdividing the land in compliance with a condition of a subdivision consent imposed under **section 232(1)(b)**; and

(b) all other conditions of the subdivision consent have been complied with.

(5) The certificate must be signed by a person authorised by the territorial authority to sign certificates issued under this section.

Compare: ~~1996~~ 1991 No 69 s 224(c)

583 Requirement for consent if land will vest in territorial authority or the Crown

(1) ~~This section prohibits a survey plan being~~ A survey plan must not be deposited for the purposes of **section 18**, unless the requirements of this section are met.

(2) This section applies to a survey plan for a subdivision only if land shown on the survey plan will vest in the Crown or a territorial authority.

(3) Written consent to the subdivision must be given by the ~~persons described in subsection (4)~~: following persons:

(a) in the case of land subject to the Land Transfer Act 2017, every registered owner of an interest in the land, including any encumbrance; or

(b) in the case of land not subject to that Act, every person who has an interest in the land, including any encumbrance, as evidenced by an instrument registered under the Deeds Registration Act 1908.

~~(4) The persons who must give written consent are,~~

~~(a) in the case of land subject to the Land Transfer Act 2017, every registered owner of an interest in the land, including any encumbrance; or~~

~~(b) in the case of land not subject to that Act, every registered owner with an interest in the land, including any encumbrance, as evidenced by an instrument registered under the Deeds Registration Act 1908.~~

(5) **Subsection (3)** is a deposit requirement for the purpose of **section 579**.

Compare: 1991 No 69 s 224(b)

584 Requirement for certificate ~~of compliance with building code requirements~~ that building code requirements are complied with

(1) This section applies to a survey plan, but only if it is for a subdivision of land that is to be effected by—

(a) the grant of a cross lease or company lease; or

(b) the deposit of a unit plan.

~~(2) A certificate of code compliance must be lodged with the Registrar-General of Land.~~

(2) A certificate must be lodged with the Registrar-General of Land certifying, for every building or part of a building (even if under construction) to which the cross lease, company lease, or unit plan relates, that they comply, or will comply, with the provisions of the building code described in section 116A of the Building Act 2004.

(3) **Subsection (2)** is a deposit requirement for the purpose of **section 579**.

(4) The certificate must be signed by a person authorised by the territorial authority to sign certificates issued under this section.

Compare: 1991 No 69 s 224(f)

Conditions

585 Requirements relating to conditions of subdivision consent

(1) This section applies to a survey plan for a subdivision of land, but only if the subdivision is authorised by a subdivision consent.

(2) If the consent includes a condition described in **section 622** (condition requiring amalgamated land to be held in 1 record of title), the Registrar-General of Land must be satisfied that the land will be held in ~~as few records of title as possible~~ 1 record of title.

(3) **Subsection (4)** applies if—

(a) the consent includes a condition described in **section 623** (condition requiring covenant against transfer of allotments for amalgamated land); and

(b) a certificate to the effect that the covenant has been entered into is ~~endorsed on~~ included in the survey plan (as required by **section 575(4)**).

(4) The covenant entered into must be lodged with the Registrar-General of Land for registration.

(5) **Subsections (2) and (4)** are deposit requirements for the purpose of **section 579**.

Compare: 1991 No 69 ss 240(2), 241(1)(b), (c)

Effect of deposit of survey plans for subdivisions

586 When records of title may be issued

(1) The Registrar-General of Land may, under the Land Transfer Act 2017, issue a record of title for any land that is shown as a separate allotment on a survey plan (being a record of title issued to give effect to the subdivision of land shown on that survey plan).

(2) However, the Registrar-General of Land must not issue the record of title unless they are satisfied that—

(a) the survey plan ~~is~~ has been deposited under **section 579(2)**; or

(b) the survey plan ~~is~~ has been approved by the chief executive of Land Information New Zealand under **section 579(3)**; or

(c) the territorial authority has given a certificate, signed by the principal administrative officer or other authorised officer, to the effect that—

(i) there is no plan for the area to which the survey plan relates, and that the allotment is in accordance with the requirements and provisions of the proposed plan; or

(ii) the allotment is in accordance with the requirements and provisions of ~~the plan and the proposed plan (if any)~~ the natural and built environment plan (meaning a plan as defined in **section 7**) for the area to which the survey plan relates; or

(d) one of the transitional criteria in **subsection (3)** applies.

(3) The transitional criteria are as follows:

(a) the record of title is issued to enable effect to be given to any agreement for sale and purchase, agreement to lease, or other contract to create an interest in land or a building or part of a building made before the commencement of the Resource Management Act 1991:

(b) the plan—

(i) has been deposited in accordance with section 306 of the Local Government Act 1974; or

(ii) was a Crown plan to which section 306(7) of the Local Government Act 1974 applied:

(c) the plan has been approved under Part 25 of the Municipal Corporations Act 1954:

(d) the plan—

(i) has been approved under Part 2 of the Counties Amendment Act 1961; or

(ii) did not require the approval of the Council under that Part and was deposited under the Land Transfer Act 2017 after that Part came into force:

(e) the territorial authority has given a certificate, signed by the principal administrative officer or other authorised officer, to the effect that the allotment is in accordance with a permission or permissions granted under Part 2 or Part 4 of the Town and Country Planning Act 1977.

(4) **Subsection (5)** applies if—

(a) land that is not subject to the Land Transfer Act 2017 is subdivided by or on behalf of a Minister of the Crown; and

(b) the survey plan to which the subdivision relates is deposited by way of the chief executive of Land Information New Zealand approving the survey plan (*see* **section 579(4)(a)**).

(5) Either of the following may ask the Registrar-General of Land to issue a record of title for the land in the name of ~~Her Majesty the Queen~~ His Majesty the King:

(a) the Director-General of Conservation, if the land is a conservation area, reserve, national park, wildlife sanctuary, or wildlife refuge; or

(b) the Surveyor-General, or another officer authorised in writing by the Surveyor-General, in every other case.

(6) In the case of land to which **subsection (4)** applies, the Registrar-General of Land must not issue a record of title for land shown on separate allotments on an approved survey plan~~,~~ unless the requirements of **section 579** are complied with.

Compare: 1991 No 69 ss 226(1), 228(1)(b), (2)

587 Vesting of roads

(1) This section applies if—

(a) a survey plan for a subdivision is deposited in accordance with this subpart; and

(b) any land on the survey plan is shown as road to be vested in a local authority or the Crown.

(2) When the plan is deposited, the land shown as road vests as follows:

(a) a regional road vests in the territorial authority or regional council, as required by the relevant subdivision consent:

(b) a road declared as a ~~Government~~ government road under any Act vests in the Crown:

(c) a State highway vests in the Crown or the territorial authority, as the case may be:

(d) any other road vests in the territorial authority.

(3) Land vests under this section free from all interests in land including any encumbrances (without the necessity of any instrument of release or discharge or otherwise).

Compare: 1991 No 69 s 238

588 Vesting of reserves or other land

(1) This section applies if—

(a) a survey plan for a subdivision is deposited in accordance with this subpart; and

(b) the plan—

(i) shows any land to be vested in the territorial authority or the Crown as a reserve or in lieu of reserves; or

(ii) shows any land, or any part of the bed of a river (not being part of the coastal marine area) or bed of a lake, as land to be vested in the territorial authority or the Crown.

(2) When the plan is deposited,—

(a) any land that is shown as a reserve to be vested in the territorial authority or the Crown vests in the territorial authority or the Crown for the purposes shown on the survey plan and subject to the Reserves Act 1977; and

(b) any land that is shown as land to be vested in the territorial authority or in the Crown in lieu of reserves vests in the territorial authority or in the Crown; and

(c) any land, or any part of the bed of a river (not being part of the coastal marine area) or bed of a lake, that is shown as land to be vested in the territorial authority or the Crown vests in the territorial authority or the Crown.

(3) Land vests under **subsection (2)**—

(a) subject to any specified interest in the land that the territorial authority has certified, on the survey plan, must remain with the land; and

(b) otherwise free from all interests in land, including any encumbrances (without the necessity of any instrument of release or discharge or otherwise).

(4) Any land vested in the Crown vests under the Land Act 1948 unless this Act provides otherwise.

Compare: 1991 No 69 s 239

589 Land shown on survey plan as coastal marine area becomes part of common marine and coastal area

(1) This section applies if—

(a) a survey plan for a subdivision is deposited in accordance with this subpart; and

(b) any land is shown on the survey plan as land in the coastal marine area.

(2) When the plan is deposited, the land becomes part of the common marine and coastal area.

Compensation

590 Compensation when esplanade reserve taken from allotment of less than 4 hectares

(1) This section applies if, when land is subdivided under this Act,—

(a) an allotment of less than 4 hectares is created; and

(b) **section 606 or 607** requires an esplanade reserve to be set aside from that allotment.

(2) The registered owner of the allotment—

(a) is not entitled to compensation for any of the reserve that is within 20 metres of the mark of mean ~~high water~~ high-water springs of the sea, the bank of a river, or the margin of a lake; but

(b) if the reserve is wider than 20 metres, is entitled to compensation for the area of land taken for the reserve.

(3) The territorial authority must pay the compensation to the registered owner of the allotment, unless the owner agrees otherwise.

Compare: 1991 No 69 s 237E

591 Compensation when esplanade reserve or strip taken from allotment of 4 hectares or more

(1) This section applies if, when land is subdivided under this Act,—

(a) an allotment of 4 hectares or more is created; and

(b) **section 606 or 607** requires, for that allotment, an esplanade reserve to be set aside or an esplanade strip to be created.

(2) The registered owner of the allotment is entitled to compensation for—

(a) the area of the esplanade reserve taken; or

(b) the interest in land taken for the esplanade strip.

(3) The territorial authority must pay the compensation to the registered owner of the allotment, unless the owner agrees otherwise.

Compare: 1991 No 69 s 237F

592 Compensation when bed of river or bed of lake vests in Crown

(1) This section applies if, when land is subdivided under this Act,—

(a) any part of an allotment that is within the bed of a river or lake vests in the territorial authority (*see* **section 588**); and

(b) that part adjoins, or would adjoin if it were not for an esplanade reserve, any allotment of 4 hectares or more that is created by the subdivision.

(2) The Crown or territorial authority, as the case may be, must pay compensation to the registered owner of that land, unless the registered owner agrees otherwise.

Compare: 1991 No 69 s 237G(1)(a)~~ and~~, (2)

593 Compensation when land becomes part of common marine and coastal area

(1) This section applies if, when land is subdivided under this Act,—

(a) any part of an allotment is in the coastal marine area; and

(b) **section 589** requires that part to become part of the common marine and coastal area; and

(c) that part adjoins, or would adjoin if it were not for an esplanade reserve, any allotment of 4 hectares or more that is created by the subdivision.

(2) The Crown must pay compensation to the registered owner of the allotment, unless the registered owner agrees otherwise.

Compare: 1991 No 69 s 237G(1)(b), (3)

594 Amount of compensation

(1) For the purposes of **sections 590 to 593**, the amount of compensation must be equal to—

(a) the value of the land set aside (in the case of an esplanade reserve) or the interest in land created (in the case of an esplanade strip); and

(b) any additional survey costs incurred by reason of the esplanade reserve or esplanade strip, as the case may be, as at the date of the deposit of the survey plan.

(2) If the territorial authority or the Crown cannot agree with the registered owner on the amount of the compensation that is payable, that amount must be determined by a registered valuer who is—

(a) agreed on by the parties; or

(b) if the parties cannot agree, nominated by the president of the New Zealand Institute of Valuers (as constituted under the Valuers Act 1948).

(3) The valuer must provide a copy of their valuation to all parties.

(4) If a party is dissatisfied with the determination, they may object to the determination under **section 595**.

Compare: 1991 No 69 s 237H(1), (4)

595 How to object to determinations of amount of compensation

(1) Any objection to a valuer's determination under **section 594(2)**—

(a) must be made to the registered valuer within 20 working days after ~~service of~~ the determination is provided; and

(b) must state the grounds of objection; and

(c) must be in writing.

(2) Sections ~~34, 35, 36,~~ 34 to 36 and 38 of the Rating Valuations Act 1998 (and any regulations made under that Act relating to reviews and objections), as far as they are applicable and with all necessary modifications, ~~are to~~ apply to the objection as if—

(a) the registered valuer ~~had been~~ were appointed by a territorial authority to review the objection; and

(b) the review ~~had been~~ were made under section 34 of that Act; and

(c) the references to a territorial authority in sections 34(4), 35, and 36 of that Act were references to the registered valuer.

Compare: 1991 No 69 s 237H(2), (3)

Miscellaneous

596 Agreement to sell land or building before deposit of survey plan

(1) This section applies if—

(a) there is an agreement to sell any land, building, or part of a building that constitutes a subdivision of land; and

(b) the agreement is made before the survey plan for the subdivision is approved under **section 573**.

(2) The agreement is not illegal or void by reason only that it was entered into before the survey plan is deposited.

(3) The agreement must be treated as if it were made subject to the following conditions:

(a) the purchaser may, by notice in writing to the vendor, cancel the agreement at any time before the expiry of 14 days after the date the agreement is made:

(b) the purchaser may, at any time after the applicable date, by notice in writing to the vendor, rescind the contract if the vendor—

(i) has not made reasonable progress towards submitting a survey plan to the territorial authority for its approval; or

(ii) has not complied with the deposit requirements within a reasonable time after the date on which the survey plan is approved by the territorial authority.

(4) An agreement may be rescinded under **subsection (3)(b)** even if the parties cannot be restored to the position that they were in immediately before the agreement was made.

(5) However, if an agreement is rescinded and the parties cannot be restored to their pre-agreement position, the rights and obligations of each party must, in the absence of agreement between the parties, be the rights and obligations determined by a court of competent jurisdiction.

(6) In **subsection (3)(b)**, **applicable date** means the later of—

(a) the date that is ~~2~~ 5 years after the date on which the subdivision consent was granted; and

(b) the date that is 1 year after the date of the agreement.

Compare: 1991 No 69 s 225

Subpart 2—Reclamations

597 Requirement for approval and deposit of ~~plans of survey~~ reclamation plans after reclamation

(1) This section applies to any person who is granted a resource consent for a reclamation.

(2) As soon as is reasonably practicable after completing the reclamation, the person must—

(a) prepare a plan of survey in respect of the land that has been reclaimed (the **reclamation plan**); and

(b) submit the plan to the relevant regional council (as consent authority) for its approval.

Compare: 1991 No 69 s 245(1)

Approval of ~~plans of survey~~ reclamation plans

598 Regional council may approve ~~survey plans for reclamations~~ reclamation plans

After receiving a ~~plan of survey~~ reclamation plan under **section 597**, a regional council must,—

(a) if it is satisfied, approve the plan and issue a certificate of approval; or

~~(b) if any of the requirements are not met, decline the plan of survey and notify that decision to the person who submitted the plan and the reasons for it.~~

(b) if any of the requirements in **section 599** are not met, decline the reclamation plan and notify that decision and the reasons for it to the person who submitted the plan.

Compare: 1991 No 69 s 245

599 Requirements for ~~plans of survey for reclamations~~ reclamation plans

(1) ~~For the purpose of **section 598**, the~~ The requirements ~~for a plan of survey~~ for a reclamation plan are as follows:

(a) the reclamation must conform with the natural and built environment plan (meaning a plan as defined in **section 7**); and

(b) the reclamation and the ~~plan of survey~~ reclamation plan must conform with the resource consent; and

(c) in respect of any condition of the resource consent that has not been complied with,—

(i) a bond must have been given under **section 232(1)(b)**; or

(ii) a covenant must have been entered into under **section 232(1)(d)**; and

(d) the ~~plan of survey~~ reclamation plan must comply with **subsection (2)**.

(2) The ~~plan of survey~~ reclamation plan—

(a) must be prepared in accordance with regulations made under the Cadastral Survey Act 2002; and

(b) must show and define—

(i) the area reclaimed, including its location and the position of all new boundaries; and

(ii) the location and size of ~~the portion of~~ any area that **section 608** requires to be to be set aside as an esplanade reserve or created as an esplanade strip.

Compare: 1991 No 69 s 245(2), (4)

600 Certificate of approval by regional council

(1) This section applies if a regional council approves a ~~plan of survey~~ reclamation plan under **section 598**.

(2) The chief executive of the regional council must issue a certificate of approval.

(3) The certificate is issued—

(a) by the chief executive signing the ~~plan of survey~~ reclamation plan or a copy of the reclamation plan; or

(b) by any other means that—

(i) identifies the chief executive and links the certificate to the reclamation plan; and

(ii) is as reliable as is appropriate to the purposes of this section.

(4) The certificate must include the following information:

(a) a statement that the regional council has approved the ~~plan of survey~~ reclamation plan; and

(b) the date of approval; and

(c) a statement that the reclamation conforms with—

(i) the natural and built environment plan (meaning a plan as defined in **section 7**); and

(ii) the resource consent for the reclamation; and

(d) a statement that, for any condition of the resource consent that has not been complied with,—

(i) a bond has been given under **section 232(1)(b)**; or

(ii) a covenant has been entered into under **section 232(1)(d)**.

(5) The regional council must provide the ~~plan of survey~~ reclamation plan and certificate to the relevant territorial authority.

(6) The certificate must be lodged with the Registrar-General of Land before the ~~plan of survey~~ reclamation plan is deposited.

Compare: 1991 No 69 s 245(5), (6)

How ~~plans of survey for reclamations~~ reclamation plans are deposited

601 How ~~plans of survey for reclamations~~ reclamation plans are deposited by Registrar-General of Land

(1) As soon as is reasonably practicable after a regional council approves the ~~plan of survey~~ reclamation plan for a reclamation of land under **section 598**, the holder of the resource consent for the reclamation must provide the approved ~~plan of survey~~ reclamation plan to the Registrar-General of Land for deposit.

(2) The Registrar-General of Land must, after receiving a ~~plan of survey~~ reclamation plan provided under this section,—

(a) if the deposit requirements are satisfied, deposit the plan; or

(b) if any of the deposit requirements ~~is~~ are not satisfied, decline to deposit the plan and notify the ~~owner~~ resource consent holder of that decision and the reasons for it.

(3) However, a ~~plan of survey for a reclamation of land~~ reclamation plan must not be deposited under the Land Transfer Act 2017 unless—

(a) the relevant consent authority has approved the plan ~~for the reclamation of land~~ within the previous 3 years; and

(b) a copy of the certificate issued under **section 600(2)** is lodged with the Registrar-General of Land.

Compare: 1991 No 69 s 246(1), (2)

602 Deposit requirements for ~~plans of survey for reclamations~~ reclamation plans

(1) The Registrar-General of Land may deposit a ~~plan of survey for a reclamation~~ reclamation plan after the plan is approved under **section 598**.

(2) **Subsection (1)** is a deposit requirement for the purpose of **section 601**.

(3) Any requirement under the following sections to lodge a document with the Registrar-General of Land before a ~~plan of survey~~ reclamation plan is deposited is also a deposit requirement for the purpose of **section 601**:

(a) **section 612** (how strips are created):

(b) **section 600** (certificate of approval by regional council).

Compare: 1991 No 69 s 246(1), (2)

603 Effect of deposit of ~~plans of survey for reclamations~~ reclamation plans

(1) When a ~~plan of survey for a reclamation~~ reclamation plan is deposited, any land shown on the plan as an esplanade reserve—

(a) vests in the Crown; and

(b) is classified, for the purposes described in **section 604**, as a local purpose reserve that is subject to section 23 of the Reserves Act 1977.

(2) This section prevails over section 167 of the Land Act 1948.

Compare: 1991 No 69 s 246(3), (4)

Subpart 3—Esplanade reserves, esplanade strips, and access strips

Purposes

604 Purposes of esplanade reserves and esplanade strips

~~The purpose of an esplanade reserve or esplanade strip is~~ An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

(a) to contribute to the protection of conservation values by, in particular,—

(i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake:

(ii) maintaining or enhancing water quality:

(iii) maintaining or enhancing aquatic or riparian habitats:

(iv) protecting the natural values associated with the esplanade reserve or esplanade strip:

~~(v) mitigating natural hazards:~~

(aa) mitigating or reducing natural hazards or any risks of natural hazards:

(b) to enable public access to or along the sea, a river, or a lake:

(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

Compare: 1991 No 69 s 229

605 Purpose of access strip

(1) The purpose of an access strip is to allow public access—

(a) to or along a river or lake or the coast~~:~~; or

(b) to an esplanade reserve, esplanade strip, or other reserve~~:~~; or

(c) to land that is owned by the local authority or by the Crown.

(2) However, **subsection (1)(c)** does not include any land that is held for a public work, unless it is held, administered, or managed under the Conservation Act 1987 and the Acts named in Schedule 1 of that Act.

Compare: 1991 No 69 s 2(1)

Requirements to create reserves and strips when land is subdivided

606 New reserves and strips required when land is subdivided

(1) This section applies if, when land is subdivided under this Act, any allotment is created that—

(a) is adjacent to the sea or a lake; or

(b) is adjacent to a river or has a river flowing through it.

Reserves and strips required

(2) If the allotment is less than 4 hectares in area, an esplanade reserve must be set aside from it under **section 611** unless—

(a) a plan provides otherwise; or

(b) a resource consent waives the requirement for the reserve.

(3) If the allotment is 4 hectares or more in area,—

(a) an esplanade reserve must be set aside from it under **section 611**, but only if—

(i) the plan requires the reserve to be set aside; and

(ii) the requirement is not waived by a resource consent; and

(b) an esplanade strip must be created under **section ~~611~~ 612**, but only if—

(i) the plan requires the strip to be created; and

(ii) the requirement is not waived by a resource consent.

(4) For the purpose of **subsections (2) and (3)**, the size of an allotment (that is, whether it is less than, equal to, or more than 4 hectares in area) must be determined before any esplanade reserve is set side from it under this section.

(5) The registered owner of the allotment may be entitled to compensation (*see* **sections 590 and 591**).

Location and width

(6) A reserve or strip required by this section must be set aside from the allotment (in the case of a reserve) or created (in the case of a strip) along the bank of the river, margin of the lake, or mark of mean high-water springs of the sea.

(7) A reserve or strip required by this section must be,—

(a) if required for an allotment of less than 4 hectares, either—

(i) the width that is required by a plan; or

(ii) if there is no such requirement, 20 metres in width; or

(b) if required for an allotment of 4 hectares or more, the width that is required by the plan; or

(c) in either case, any lesser width that is specified as a condition of the subdivision consent.

Interpretation

(8) In this section,—

lake means a lake whose bed has an area of 8 hectares or more

river means a river whose bed has an average width of 3 metres or more where the river flows through or adjoins an allotment.

Compare: 1991 No 69 s 230

607 Reserves required to supplement land previously set aside or reserved

(1) This section applies if, when land is subdivided under this Act,—

(a) any of the land is adjacent to esplanade land that ~~has already been set aside or reserved~~ was previously set aside or reserved; and

(b) in relation to any allotment created by the subdivision, the width of the land previously set aside or reserved is less than the required width.

Reserves required

(2) An esplanade reserve must be set aside from the allotment under **section 611**, but only if—

(a) a condition of the subdivision consent requires it; or

(b) a plan rule ~~in a natural and built environment plan~~ requires it.

(3) The registered owner of the allotment may be entitled to compensation (*see* **sections 590 and 591**).

Location and width

(4) A reserve required by this section—

(a) must be set aside from the allotment where it adjoins the esplanade land previously set aside or reserved; and

(b) must be the width that is the difference between the width of the land previously set aside and the required width.

Interpretation

(5) In this section,—

esplanade land means any land that is alongside the bank of a river, margin of a lake, or mark of mean high-water springs of the sea

previously set aside or reserved, in relation to esplanade land, means land that—

(a) has been set aside as an esplanade reserve under the Resource Management Act 1991 or any earlier legislation replaced by that Act; or

(b) has been reserved—

(i) for the purpose specified in section 289 of the Local Government Act 1974; or

(ii) for public purposes under section 29(1) of the Counties Amendment Act 1961 or section 11 of the Land Subdivision in Counties Act 1946; or

(c) has been set aside or reserved for public recreation purposes under any other enactment (whether passed before or after the commencement of this Act and whether or not in force at the commencement of this Act); or

(d) has been reserved from sale or other disposition under—

(i) section 24 of the Conservation Act 1987; or

(ii) section 58 of the Land Act 1948; or

(iii) the corresponding provisions of any former Act

required width, in relation to the esplanade reserve required for an allotment, means the width of the esplanade reserve or strip that would be required to be set aside from the allotment under **section 606**, if no esplanade land had been previously set aside from it ~~under **section 606**~~.

(6) For the purpose of the definition of required width in **subsection (5)**, **section 606** must be read as if it required the size of the allotment to be determined—

(a) without including any esplanade land previously set aside or reserved from the allotment; but

(b) before any additional esplanade reserve is set aside from it under this section.

Compare: 1991 No 69 s 236

Requirements to create reserves and strips when land is reclaimed

608 New reserves and strips required when land is reclaimed

(1) This section applies if, when land is reclaimed under this Act, any allotment is created that—

(a) is adjacent to the sea or a lake; or

(b) is adjacent to a river or has a river flowing through it.

(2) An esplanade reserve must be set aside from the allotment under **section 611**, or an esplanade strip created under **section 612**, but only if it is required as a condition of the resource consent for the reclamation.

Agreements to create strips

609 Esplanade strips created by agreement

A local authority may agree with the registered owner of land to create an esplanade strip under **section 612** for any of the purposes specified in **section 604**.

Compare: 1991 No 69 ss 235, 237B(1)

610 Access strips created by agreement

A local authority may agree with the registered owner of land—

(a) to acquire an easement over the land to create an access strip under **clause 6 of Schedule 11** for a purpose specified in **section 605**; and

(b) ~~to~~ on the conditions on which the easement may be enjoyed.

Compare: 1991 No 69 s 237B(1)

How reserves are set aside and strips created

611 How reserves are set aside

(1) This section applies if,—

(a) **section 606 or 607** requires an esplanade reserve to be set aside from an allotment when land is subdivided under this Act; or

(b) **section 608** requires an esplanade reserve to be set aside from an allotment when land is reclaimed under this Act.

(2) After a ~~survey plan or plan of survey for the subdivision or reclamation~~ survey plan for the subdivision, or reclamation plan for the reclamation, is deposited, the land that the plan identifies as an esplanade reserve—

(a) is set aside and held under the Reserves Act 1977 as a local purpose reserve for esplanade purposes; and

(b) vests in the territorial authority under **section 588**.

(3) For the purpose of the Reserves Act 1977, the territorial authority is the reserve's administering body.

(4) Nothing in this subpart prevents the change of classification or purpose of an esplanade reserve in accordance with the Reserves Act 1977 or the exercise of any other power under that Act.

Compare: 1991 No 69 s 231

612 How strips are created

(1) An esplanade strip is created by the registration under the Land Transfer Act 2017 of an instrument that complies with the requirements of **Schedule ~~12~~ 11**.

(2) If an esplanade strip is required by this ~~Part~~ subpart, the instrument must be lodged with the Registrar-General of Land before the survey plan for the subdivision is deposited.

(3) **Schedule ~~12~~ 11** also sets out—

(a) how a strip may be varied or cancelled; and

(b) other provisions about strips.

Compare: 1991 No 69 s 232(1)

Closure of strips to public

613 Closure of strips to public

(1) An esplanade strip or access strip may be closed to the public—

(a) for the times and periods specified in the instrument or easement under **Schedule ~~12~~ 11**; or

(b) by the local authority during periods of emergency or public risk that are likely to cause loss of life, injury, or serious damage to property.

(2) The local authority must ensure, where practicable, that the closure is adequately notified (including notification to the public that it is an offence to enter the strip during the period of closure) by signs erected at all entry points to the strip.

(3) However, **subsection (2)** does not apply if the instrument or easement provides that another person is responsible for that notification.

Compare: 1991 No 69 s 237C

Miscellaneous

614 Vesting in the Crown or regional council

(1) The Minister of Conservation or a regional council may declare that all or any part of an esplanade reserve, or the bed of any river or lake,—

(a) will cease to be vested in and administered by the territorial authority; and

(b) will vest instead in the Crown or the regional council.

(2) The declaration—

(a) is made by notice in the *Gazette*; and

(b) may be made only with the agreement of the territorial authority; and

(c) must be registered in the office of the Registrar-General of Land.

(3) Any esplanade reserve vested under this section may be included in an existing reserve.

(4) If **subsection (3)** does not apply, the reserve has the classification specified in the declaration and must be administered under the Reserves Act 1977 in accordance with that classification.

(5) **Subsection (1)** applies despite anything to the contrary in the Reserves Act 1977.

Compare: 1991 No 69 s 237D

Subpart 4—Subdivision consent conditions and related provisions

615 Purpose of this subpart

This subpart—

(a) sets out the consent conditions and related provisions that are specific to subdivision consents; but

(b) does not prevent a consent authority from including any other condition in a subdivision consent that is authorised by or under this Act.

Esplanade reserves and esplanade strips

616 Conditions about esplanade reserves and esplanade strips

A subdivision consent may include 1 or more of the following conditions:

(a) for the purpose of **section 606** (new reserves and strips required when land is subdivided),—

(i) a condition that waives the requirement for a esplanade reserve or esplanade strip under that section:

(ii) a condition that reduces the width of the reserve or strip that is required under that section:

(b) for the purpose of **section 607** (reserves required to supplement land previously set aside or reserved),—

(i) a condition that requires an additional esplanade reserve to be set aside in accordance with that section:

(ii) a condition that reduces the width of the additional reserve that is required under that section:

(c) if an esplanade strip is required, a condition that specifies what must be included in the instrument that creates the strip (*see* **clause 5 of Schedule ~~12~~ 11**).

Compare: 1991 No 69 s 220(1)(a), (aa), (ac)

Easements

617 Conditions requiring easements to be granted or reserved

(1) A subdivision consent may include a condition that requires a specified easement to be granted or reserved.

(2) After the easement is granted or reserved, it must not, except with the written consent of the territorial authority,—

(a) be surrendered by the owner of the benefited land or, if it is an easement in gross, by the grantee of the easement; or

(b) be merged by transfer to the owner of the benefited land or the burdened land; or

(c) be varied.

(3) **Subsection (4)** applies—

(a) to any allotment that is benefited land or burdened land under the easement; and

(b) to any instrument of transfer, conveyance, lease, or other disposition of that allotment.

(4) The Registrar-General of Land must refuse to register the instrument unless they are satisfied that the easement has been granted or reserved or will be granted or reserved by the time that the instrument is registered.

(5) The Registrar-General of Land must note on any relevant records of title a memorial that the easement is subject to the provisions of this section.

Compare: 1991 No 69 ss 220(1)(f), 243(a), (c), (d)

618 Condition requiring easement to be extinguished

A subdivision consent may include a condition that—

(a) applies to an existing easement for which the land is the dominant tenement, but which the territorial authority considers to be redundant; and

(b) requires that the easement be extinguished entirely or in relation to 1 or more specified allotments.

Compare: 1991 No 69 s 220(1)(g)

619 Revocation of conditions about easements

(1) This section applies if a subdivision consent includes a condition described in—

(a) **section 617** (~~conditions~~ condition requiring ~~easements~~ easement to be granted or reserved); or

(b) **section 618** (condition requiring easement to be extinguished).

(2) The territorial authority may at any time, whether before or after the survey plan is deposited, revoke the condition in whole or part.

(3) If the territorial authority revokes the condition, it must,—

(a) if it has not yet approved the survey plan under **section 573**, endorse the revocation on the survey plan; and

(b) in any other case, forward to the Registrar-General of Land a certificate to the effect that the condition has been revoked in whole or in part.

(4) The certificate referred to in **subsection (3)(b)** must be signed by the chief executive or other authorised officer of the territorial authority.

(5) The Registrar-General of Land must note the records accordingly.

Compare: 1991 No 69 s 243(e), (f)

Amalgamation of land

620 Requirement to consult Registrar-General of Land before imposing condition about amalgamation

(1) Before granting a subdivision consent that includes a condition described in any of **sections 621 to 623**, the consent authority must consult the Registrar-General of Land about the practicality of the condition.

(2) If the Registrar-General of Land advises that it is not practical to impose a particular condition, the consent authority—

(a) must not grant a subdivision consent subject to that condition; but

(b) may, if it thinks fit, grant a subdivision consent that is subject to any other condition described in those sections that the Registrar-General of Land advises is practical in the circumstances.

Compare: 1991 No 69 s 220(3)

621 ~~Requirements~~ Conditions with requirements for amalgamation

(1) A ~~requirement~~ condition described in this section may be ~~made~~ imposed in respect of—

(a) any part or parts of land being subdivided:

(b) any other adjoining land of the subdividing owner.

(2) A subdivision consent may include a ~~requirement~~ condition requiring that specified land be—

(a) transferred to the owner of any other adjoining land and amalgamated with that land or part of that land; or

(b) amalgamated, where the specified parts are adjoining; or

(c) amalgamated, whether the specified parts are adjoining or not, for any purpose that is—

(i) specified in a plan; or

(ii) necessary to comply with the plan; or

(d) held in the same ownership, or by tenancy-in-common in the same ownership, for the purpose of providing legal access or part of the legal access to any proposed allotments in the subdivision.

(3) A ~~requirement~~ condition requiring that land be amalgamated must also include—

(a) a ~~requirement~~ condition described in **section 622** that the land be held in 1 record of title; or

(b) a ~~requirement~~ condition described in **section 623** that the land be subject to a covenant restricting ~~transfer, leasing, or other means of disposal~~ a disposal of allotments by any means.

(4) For the purpose of this section, **adjoining land** includes land that is separated from other land only by a road, railway, drain, water race, river, or stream.

Compare: 1991 No 69 s 220(1)(b), (2)

622 ~~Requirement~~ Condition requiring that amalgamated land be held in 1 record of title

(1) A subdivision consent may, to comply with **section 621(3)**, include a ~~requirement that land be amalgamated to~~ condition requiring that the amalgamated land be held in 1 record of title.

(2) When the ~~requirement~~ condition, or a similar one under a corresponding provision of any former enactment, has been complied with,—

(a) the separate parcels of land included in the record of title in accordance with the ~~requirement~~ condition must not be capable of being disposed of individually, or of again being held under separate records of title, except with the approval of the territorial authority; and

(b) on the issue of the record of title, the Registrar-General of Land must enter on the record of title a memorandum that the land is subject to this section.

(3) The territorial authority may cancel the ~~requirement~~ condition, in whole or in part,—

(a) whether it was ~~required~~ included under **section 621(3)** or a corresponding provision of any former enactment; and

(b) at any time before or after the survey plan has been deposited.

(4) If the territorial authority cancels the ~~requirement~~ condition after it approves the survey plan under **section 573**, it must forward to the Registrar-General of Land a certificate to the effect that the ~~requirement~~ condition has been cancelled in whole or in part.

(5) If the territorial authority cancels the condition, it must,—

(a) if it has not yet approved the survey plan under **section 573**, note the cancellation on the survey plan; and

(b) in any other case, forward to the Registrar-General of Land a certificate to the effect that the ~~requirement~~ condition has been cancelled in whole or in part.

(6) The certificate referred to in **subsection (5)(b)** must be signed by the chief executive or other authorised officer of the territorial authority.

(7) The Registrar-General of Land must note the records accordingly.

(8) *See* **section 575(5)**, which sets out what is required if the territorial authority cancels the ~~requirement~~ condition before it approves the survey plan.

Compare: 1991 No 69 s 241(2)–(4)

623 ~~Requirement for~~ Condition requiring covenant against transfer of allotments

(1) A subdivision consent may, to comply with **section 621(3)**, include a ~~requirement that land be amalgamated to~~ condition requiring that the amalgamated land be made subject to a covenant against the disposal of allotments by any means.

(2) A **covenant against the disposal of allotments** is a covenant that any specified part or parts of the land must not, without the consent of the territorial authority, be disposed of except in conjunction with other land.

(3) The covenant—

(a) must be in writing; and

(b) must be signed by the owner of the land and the chief executive or other authorised officer of the territorial authority; and

(c) must be treated—

(i) as an instrument capable of registration under the Land Transfer Act 2017 that, when registered, creates in favour of the territorial authority an interest in the land in respect of which it is registered, within the meaning of section 51 of that Act; and

(ii) as if it runs with the land and binds subsequent owners.

(4) The territorial authority may cancel the covenant, in whole or in part,—

(a) whether it was required by a condition included under **section 621(3)** or a corresponding provision of any former enactment; and

(b) at any time, whether before or after the survey plan is deposited.

(5) If the territorial authority cancels the covenant after it approves the survey plan under **section 573**, it must forward to the Registrar-General of Land a certificate to the effect that the covenant has been cancelled in whole or in part.

(6) The certificate must be signed by the chief executive or other authorised officer of the territorial authority.

(7) The Registrar-General of Land must note the records accordingly.

(8) *See* **section 575(5)**, which sets out what is required if the territorial authority cancels the covenant before it approves the survey plan.

Compare: 1991 No 69 ~~s 240(3), (4), (5)~~ s 240(3)–(5)

624 Prior registered instruments protected

(1) This section applies if—

(a) either—

(i) specified land is amalgamated in 1 record of title with other land in accordance with a ~~requirement~~ condition imposed under **section 622**; or

(ii) a covenant against transfer of allotments is registered over land in accordance with a ~~requirement~~ condition imposed under **section 623**~~,~~ to the effect that specified land must not be disposed of except in conjunction with other land; and

(b) that other land is already subject to a registered instrument under which a power to sell, a right of renewal, or a right or obligation to purchase is lawfully conferred or imposed; and

(c) that power, right, or obligation becomes exercisable but is not able to be exercised or fully exercised because of **section 621 or 623**.

(2) The specified land must be treated as if it were, and had always been, part of the other land that is subject to that instrument.

(3) All rights and obligations in respect of, ~~and~~ or encumbrances on, that other land are deemed also to be rights and obligations in respect of, or encumbrances on, the specified land.

~~(4) If the instrument referred to in **subsection (1)(b)** is a mortgage, charge, or lien, it is deemed to have priority over any mortgage, charge, or lien against the specified land that is registered after the issue of the record of title in accordance with **section 622** or the registration of the covenant in accordance with **section 623**, as the case may be.~~

(4) If the instrument referred to in **subsection (1)(b)** is a mortgage, charge, or lien, it is deemed to have priority over any mortgage, charge, or lien against the specified land that is registered after, as the case may be,—

(a) the issue of the record of title in accordance with **section 622**; or

(b) the registration of the covenant in accordance with **section 623**.

(5) If **subsection (2), (3), or (4)** apply, the Registrar-General of Land must enter, on all the records of title for the land, a memorial to the effect that the land in that title is subject to **subsection (4)**.

(6) If a memorial has been entered on a record of title under this section, and the Registrar-General of Land is notified about a cancellation of all or part of a ~~requirement~~ condition or covenant to which this section applies, the Registrar-General of Land must alter the memorial accordingly.

Compare: 1991 No 69 s 242

Protection against natural hazards

625 ~~Requirement for~~ Condition requiring protection against natural hazards

A subdivision consent may include a ~~requirement~~ condition requiring that provision be made, to the satisfaction of the consent authority, for either or both of the following purposes:

(a) to protect land that forms part of the subdivision against natural hazards, or any risks of natural hazards, from any source:

(b) to protect any other land against natural hazards, or any risks of natural hazards, that arise, or are likely to arise, as a result of the subdivision.

Compare: 1991 No 69 s 220(1)(d)

626 Other ~~requirements~~ conditions relevant to subdivision consents

A subdivision consent may include 1 or more ~~of~~ conditions imposing the following requirements:

Land to vest in territorial authority

(a) a requirement that land in the coastal marine area, or in the bed of a lake or river, be vested in a territorial authority in accordance with **section 578**:

Structures on allotments

(b) a requirement that sets the bulk, height, location, foundations, or height of floor levels of any structure on an allotment:

Necessary works

(c) a requirement that ~~requires~~ filling and compaction of the land and earthworks ~~to~~ be carried out to the satisfaction of the territorial authority.

Compare: 1991 No 69 s 220(1)(ab), (c)–(e)

Certificates of completion

627 Issue of certificates of completion

(1) This section applies if compliance with a ~~requirement~~ condition of a subdivision consent ~~is dependent~~ depends on—

(a) the completion by the owner of any work required by the territorial authority; or

(b) the making of an environmental contribution.

(2) The territorial authority may, for the purpose of **section 582(4)**, issue a certificate (a **certificate of completion**) to the effect that the owner has entered into a bond binding the owner to carry out and complete the work or make the environmental contribution (as the case may be)—

(a) to the satisfaction of the territorial authority; and

(b) within the period specified by the territorial authority (the **specified completion period**).

(3) The territorial authority may from time to time extend the specified completion period, but the extension does not affect any security given for the performance of the bond.

(4) The territorial authority may exercise all of the powers conferred upon a consent authority by **section 234** as if the bond entered into under this section ~~had been required as a requirement~~ were a condition of a subdivision consent.

(5) The provisions of **section 235** apply as if the bond entered into under this section ~~had been required as a requirement~~ were a condition of a subdivision consent.

(6) In this section, **work**—

(a) includes anything, whether in the nature of works or otherwise, required by the territorial authority to be done by the owner as a ~~requirement~~ condition of a subdivision consent; but

(b) does not include contributions of money or land (including esplanade reserves and esplanade strips) as a ~~requirement~~ condition of a subdivision consent.

Compare: 1991 No 69 s 222

Notices of ongoing requirements

628 Consent notice for subdivision consent ~~that has~~ with ongoing requirements

(1) This section applies if a subdivision consent includes an ongoing requirement.

(2) The consent authority must issue a consent notice that—

(a) ~~must specify~~ specifies the ongoing requirements; and

(b) ~~must be~~ is signed by a person authorised by the territorial authority to sign notices of ongoing requirements; and

(c) ~~must~~ is to be lodged with the Registrar-General of Land before the survey plan for the subdivision is deposited; and

(d) is to be treated as an instrument creating an interest in the land within the meaning of section 51 of the Land Transfer Act 2017, and may be registered under that Act accordingly; and

(e) is to be treated as a covenant running with the land when registered under the Land Transfer Act 2017 and must, despite anything to the contrary in section 103 of that Act, bind all subsequent owners of the land.

(3) **Subsection (4)** applies if, after a survey plan has been deposited under **section 579**, it is found that the notice of ongoing requirements was defective in respect of the requirements to apply to the subdivision.

(4) The Registrar-General of Land may accept and register a revised notice of ongoing requirements, if that is necessary to ~~reflect~~ correctly reflect the requirement of the subdivision consent.

(5) For the purpose of this section, **ongoing requirement**—

(a) means any condition imposing a requirement that the subdividing owner and subsequent owners must comply with on a continuing basis after the deposit of a survey plan; but

(b) does not include a condition imposing a requirement in respect of which—

(i) a bond is required to be entered into by the subdividing owner; or

(ii) a completion certificate is capable of being, or has been, issued.

Compare: 1991 No 69 s 221

629 How notices of ongoing ~~conditions~~ requirements are varied or cancelled

(1) This section applies if a consent notice is issued under **section 628** with ongoing ~~conditions (subdivision consent notice includes ongoing conditions)~~ requirements.

(2) At any time after the related survey plan is deposited by the Registrar-General of Land,—

(a) the current owner of the subdivided land may apply to a territorial authority to vary or cancel any requirement specified in the notice; and

(b) the territorial authority may, whether or not an application is made under **paragraph (a)**, review any requirement specified in a notice of ongoing ~~conditions~~ requirements and vary or cancel the ~~condition~~ requirement.

(3) **Sections 173 to 254 and 277 to 281** apply, with the necessary modifications, to an application made, or review conducted, under **subsection (2)**.

(4) **Subsection (5)** applies if—

(a) the notice of ongoing ~~conditions~~ requirements is registered under the Land Transfer Act 2017; and

~~(b) the Registrar-General of Land is satisfied that a requirement specified in the notice has been varied or cancelled after an application or review under this section, or has expired.~~

(b) the Registrar-General of Land is satisfied that a requirement specified in the notice—

(i) has been varied or cancelled after an application is made or review is conducted under this section; or

(ii) has expired.

(5) The Registrar-General of Land must make an entry in the register, and on any relevant instrument of title, noting that the notice of ongoing ~~conditions~~ requirements has been varied or cancelled or has expired (as applicable).

(6) The requirement in the notice of ongoing ~~conditions~~ requirements then takes effect as varied, or ceases to have effect, as the case may be.

Compare: 1991 No 69 s 221(3), (5)

~~Part 10~~

~~Exercise of functions, powers, and duties under this Act~~

~~Subpart 1—Functions, powers, and duties of Ministers~~

~~630 Functions and powers of Minister for Environment~~

~~The Minister for the Environment has the following functions under this Act:~~

~~(a) to ensure that the national planning framework is prepared, approved, and maintained:~~

~~(b) to decide whether to intervene in, or give a direction on, a matter that is, or is part of, a proposal of national importance:~~

~~(c) to monitor the implementation of this Act (and of any secondary legislation made under it) and its effectiveness in achieving the purpose of the Act:~~

~~(d) to monitor the relationship between the functions, powers, and duties of central government and local government under this Act:~~

~~(e) to monitor and investigate, as the Minister considers appropriate, any matter of significance to the environment:~~

~~(f) to consider and investigate the use of economic instruments such as charges, levies, off setting, and incentives as a means of achieving the purpose of this Act:~~

~~(g) any other functions specified in this Act.~~

~~Compare: 1991 No 69 s 24~~

631 Minister for Environment may investigate and make recommendations in respect of local authorities and regional planning committees

(1) The Minister for the Environment may—

(a) investigate the exercise or performance by a local authority or regional planning committee of any of its functions, powers, or duties under this Act; and

(b) make recommendations to the local authority or regional planning committee on its exercise or performance of those functions, powers, or duties; and

(c) investigate the failure or omission by a local authority or regional planning committee to exercise or perform any of its functions, powers, or duties under this Act; and

(d) make recommendations to the local authority or regional planning committee on its failure or omission to exercise or perform those functions, powers, or duties.

(2) The Minister for the Environment may require a local authority or regional planning committee to—

(a) set out how the local authority or committee is responding to the Minister's recommendations; and

(b) make that information publicly available.

Compare: 1991 No 69 s 24A

632 Minister for Environment may appoint substitute for local authority

(1) **Subsection (2)** applies if a local authority is not exercising or performing 1 or more of its functions, duties, or powers under this Act.

(2) If the Minister for the Environment considers it necessary for achieving the purpose of this Act, the Minister may appoint 1 or more persons, including a person from the public service, to exercise or perform 1 or more of the functions, duties, powers, or responsibilities concerned.

(3) An appointment under **subsection (2)**—

(a) may be made on the terms and conditions that the Minister thinks fit; and

(b) must include the appointee's terms of reference, including the functions, duties, powers, or responsibilities the appointee is expected to perform and the duration of the appointment, and be made publicly available.

(4) The Minister must not make an appointment under **subsection (2)**—

(a) until the local authority has been given written notice stating—

(i) why the Minister proposes to make the appointment; and

(ii) the date by which the default must be remedied (which must be not earlier than 20 working days after the date of the notice); and

(b) until the local authority has, within that 20-working-day period, responded to the Minister stating how they will carry out the direction, including any actions, milestones, time frames, or monitoring requirements to demonstrate that they have carried out the direction; and

(c) unless other measures have been used first to support the local authority to perform or exercise the functions, powers, or duties expected of them.

(5) The Minister may make an appointment if not satisfied that the default has been remedied or with the response.

(6) A person appointed under **subsection (2)** has the power to exercise or perform the functions, duties, powers, or responsibilities concerned as if the person were the local authority, and must act in accordance with this Act.

(7) **Subsection (8)** applies to the costs, charges, and expenses incurred by —

(a) the Minister for the purposes of this section; and

(b) the person appointed under **subsection (2)**.

(8) The costs, charges, and expenses referred to in **subsection (7)** —

(a) are recoverable as a debt due to the Crown; or

(b) may be deducted from money payable to the local authority by the Crown.

Compare: 1991 No 69 s 25

633 Minister may direct preparation of plan change or variation

(1) The Minister for the Environment —

(a) may direct a regional planning committee —

(i) to prepare a change to a plan that addresses a resource management issue relating to a function of a local authority and any matters which local authorities are responsible for under this Act; or

(ii) to prepare a variation to a proposed plan that addresses a resource management issue relating to a function of a local authority and any which local authorities are responsible for under this Act; and

(b) may direct the committee, in preparing the plan change or variation, to deal with the whole or a specified part of the local authority's region or district; and

(c) must, in giving a direction, specify a reasonable period within which the plan change or variation must be notified.

(2) The responsible Minister must —

(a) provide reasons why they are directing the preparation of the plan change (including the process to be used for the plan change, if applicable) or variation and make their reasons publicly available; and

(b) prepare a statement of expectations that sets out the objectives expected to be achieved, which the regional planning committee must have regard to; and

(c) consult any relevant ministers or any other person the responsible minister considers appropriate to consult on the content in the statement of expectations.

(3) The regional planning committee must —

(a) report to the Minister on how the plan change or variation meets the statement of expectations; and

(b) make the report publicly available.

(4) In this section, **resource management issue** includes any requirement in the national planning framework that relates to a function of a local authority under this Act.

Compare: 1991 No 69 s 25A

634 Ministers may direct review of plan to be commenced

(1) The Minister for the Environment may direct a regional planning committee to begin to review of the whole or any part of a plan (except in relation to the coastal marine area) and, if the Minister does so, must specify a reasonable period within which the review must begin.

(2) The Minister of Conservation may direct a regional planning committee to commence a review of the whole or any part of a plan so far as it relates to the coastal marine area, and if the Minister does so, must specify a reasonable period within which the review must commence.

(3) The responsible Minister must —

(a) provide reasons why they are directing the review and make their reasons publicly available; and

(b) prepare a statement of expectations that sets out the objectives expected to be achieved, which the regional planning committee must have regard to; and

(c) consult any relevant ministers or any other person the responsible minister considers appropriate to consult on the content in the statement of expectations.

(4) The regional planning committee must —

(a) report to the Minister on how the review meets the statement of expectations; and

(b) make the report publicly available.

(5) **Clause 54 of Schedule 7** applies to the review with any necessary modifications.

Compare: 1991 No 69 s 25B

635 Minister may direct that other action be taken

(1) The Minister for the Environment may direct a local authority or regional planning committee to exercise or perform a power, function, or duty under this Act if the power, function, or duty is something other than—

(a) the preparation of a plan, change, or variation; or

(b) the commencement of a review of the whole or a part of a plan.

(2) The Minister may direct a regional planning committee or local authority to exercise or perform a power, function, or duty if the Minister is satisfied that—

(a) the committee or local authority is not exercising or performing the power, function, or duty to the extent that the Minister considers necessary to achieve the purpose of thi Act; and

(b) reasonable steps have been taken to assist the committee or local authority to exercise or perform the power, function, or duty to that extent.

(3) The Minister must—

(a) provide reasons for giving the direction and make their reasons publicly available; and

(b) identify the power, function, or duty that must be exercise or performed.

(4) The local authority or regional planning committee must, within 20 working days of receiving the direction,—

(a) set out for the Minister how the committee will carry out the direction, including any associated milestones, time frames, or monitoring; and

(b) make that information publicly available.

636 Functions of Minister of Conservation

The Minister of Conservation has the following functions under this Act:

(a) to ensure that the national planning framework is prepared, approved, and maintained, to the extent that the Minister is responsible under **section 94**:

(b) to direct the preparation of plans, changes, or variations that relate to the coastal marine area:

(c) to monitor the effect and implementation of the national planning framework and plans in relation to the coastal marine area:

(d) to monitor the effect and implementation of coastal permits:

(e) any other functions specified in this Act.

Compare: 1991 No 69 s 28

637 Functions of Minister responsible for aquaculture

The Minister responsible for aquaculture has the following functions under this Act:

(a) suspending the receipt of applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area:

(b) making a direction to process and hear together applications for coastal permits authorising aquaculture activities to be undertaken in the coastal marine area:

(c) recommending the making of regulations that amend plans in relation to aquaculture activities in the coastal marine area:

(d) making decisions on allocating authorisations under **section 441** in relation to matters for which the Minister has been identified as the decision-maker by regulations.

Compare: 1991 No 69 s 28B

Delegations and directions

638 Delegation of functions by Ministers

(1) A Minister of the Crown may, generally or particularly, delegate to the chief executive of that Minister's department any of the Minister's functions, powers, or duties under this Act.

(2) A delegation made under this section must comply with clause 5 of Schedule 6 of the Public Service Act 2021.

(3) However, the following functions, powers, or duties must not be delegated:

(a) certifying any work or activity under **section 13(2)**:

(b) appointing persons to exercise powers or perform functions or duties in place of a local authority or regional planning committee under **section 632**:

(c) approving, changing, replacing, or revoking the national planning framework or any part of it:

(d) the following functions, powers, and duties under **subpart 9 of Part 5**:

(i) deciding whether to make a direction under **section 329(2) or 337(1)** in relation to a matter that is or is part of a proposal of national significance:

(ii) appointing a board of inquiry under **section 349** to consider a matter for which a direction has been made under **section 329(2) or 337(1)**:

(iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under **section 329(2) or 337(1)**:

(iv) deciding whether to intervene in a matter under **section 365**:

(v) deciding under **section 367** whether to notify an application or notice of requirement to which **section 376** applies:

(e) approving an applicant as a requiring authority under **section 499**:

(f) approving an applicant as a heritage protection authority under **section 542**:

(g) recommending the issue or amendment of a water conservation order under **section 393 or 395**:

(h) recommending the appointment of an Environment Judge or alternate Environment Judge under **clause 8 of Schedule 13** or as the Chief Environment Court Judge under **clause 20 of Schedule 13**:

(i) recommending the making of regulations under **Part 12**:

(j) this power of delegation.

(4) A chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, power, or duty delegated to them by a Minister under clause 5 of that schedule.

(5) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020, as the case may be.

Compare: 1991 No 69 s25, 29(1)–(3)

Subpart 2—Environmental Protection Authority

639 Functions of EPA

The functions of the EPA are—

(a) to perform functions under **subparts 9 to 11 of Part 5**:

(b) to make decisions under **section 295** on applications for certificates of compliance for proposals or activities that are related to proposals of national significance:

(c) to provide secretarial and support services to—

(i) a board of inquiry appointed under **section 349**:

(ii) a special tribunal appointed under **section 381**:

(d) 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:

(e) to provide technical advice to the responsible Minister on the development of the national planning framework:

(f) to exercise any powers or perform any functions or duties delegated to it by the Minister under **section 640**:

(g) to perform the enforcement functions conferred by **section 796**:

(h) to perform functions under **subpart 3 of Part 6**:

(i) to perform any other functions specified in this Act.

Compare: 1991 No 69 s 42G

640 Delegations to EPA by Ministers

(1) The Minister for the Environment may, in writing, delegate to the EPA the Minister's functions, powers, and duties under **section 630(c)**, **subpart 9 of Part 5**, and **sections 831 and 832** except the following:

(a) deciding whether to make a direction under **section 329(2) or 337(1)** in relation to a matter that is or is part of a proposal of national significance:

(b) appointing a board of inquiry under **section 349** to consider a matter for which a direction has been made under **section 329(2) or 337(2)(a)**:

(c) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under **section 329(2) or 337(2)(a)**:

(d) deciding whether to intervene in a matter under **section 365**:

(e) deciding under **section 367** whether to notify an application or notice of requirement to which **section 366** applies.

(2) The Minister of Conservation may, in writing, delegate to the EPA the Minister's functions, powers, and duties —

(a) under **section 374**; and

(b) under **sections 831(b), 832, and 834**, in relation to a delegation to which **paragraph (a)** applies.

(3) The EPA 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 331**; and

(b) under **sections 831(b), 832, and 834**, in relation to a delegation to which **paragraph (a)** applies.

(4) A delegation under **subsection (1) or (2)** —

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

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

(5) A delegation under **subsection (3)** —

(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 EPA from performing the functions or duties, or exercising the powers, concerned.

Compare: 1991 No 69 s 29(4)–(6)

641 Certain directions prohibited

The Minister for the Environment must not give a direction under section 103 of the Crown Entities Act 2004 that relates to the exercise of the EPA's functions under **section 639(b)** (that relates to applications for certificates of compliance in respect of proposals of national significance).

Compare: 1991 No 69 s 29A

Subpart 3—Functions of regional planning committees

642 Functions of regional planning committees

(1) A regional planning committee's functions are—

(a) to make and maintain the plan for its region using the process set out in **Schedule 7**; and

(b) to make and maintain a regional spatial strategy for its region using the process set out in the Spatial Planning Act **2022** (except in the case of the regional planning committee for the Chatham Islands); and

(c) to approve or reject recommendations made by an independent hearings panel after it considers submissions on the plan; and

(d) to set any environmental limits and interim limits for the region that the national planning framework requires the plan to prescribe (*see* **section 39**); and

(e) monitor how effectively its plan and its regional spatial strategy are being implemented by each local authority in the region.

(2) Each regional planning committee also has a duty, in relation to its role in preparing the plan for the region and the regional spatial strategy,—

(a) to initiate and comply with any engagement agreement (*see* **subpart 4 of Part 4**); and

(b) to undertake consultation in accordance with **Schedule 7**.

(3) In the case of the Nelson and Tasman unitary authorities, this section applies to the combined regions.

Subpart 4—Matters for which local authorities are responsible

Local authorities

643 Functions of regional councils and unitary authorities

(1) A regional council or unitary authority has the following functions under this Act:

(a) to participate with the regional planning committee appointed for the region in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the council or authority and any matters which they are responsible for under this Act.

(b) at its discretion, to prepare statements of regional environmental outcomes that record a summary of the significant resource management issues of the region, or of a district or local community within the region; and

(c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to their functions; and

(d) any other functions specified in this Act.

(2) The purpose of the statements of regional environmental outcomes is to record a summary of the significant resource management issues of the region, or of a district, or local community within the region.

(3) If a function is delegated or transferred to a regional council or unitary authority by a Minister, a regional planning committee, or a territorial authority, the council or authority must carry out that function under the terms of the delegation.

Compare: 1991 No 69 s 30

644 Matters for which regional councils and unitary authorities responsible

As far as they are relevant to a region, the regional council or unitary authority has responsibility for the following matters:

Use of land

(a) the use of land for the purpose of —

(i) soil conservation:

(ii) maintaining and enhancing the quality of freshwater in water bodies and coastal water:

(iii) maintaining the quantity of freshwater in water bodies and coastal water:

(iv) maintaining and enhancing ecosystems in water bodies and coastal water:

(v) mitigating or reducing the risks arising from natural hazards:

Coastal marine area

(b) in relation to the coastal marine area in the region, management of (in conjunction with the Minister of Conservation) —

(i) the use of land and its associated natural and built resources:

(ii) to the extent that it is within the common marine and coastal area, the occupation of space, and the extraction of sand, shingle, shell, or other natural materials from the coastal marine area:

(iii) the taking, use, damming, and diversion of water:

(iv) discharges of contaminants into or onto land, air, or water and discharges of water into water:

(v) the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:

(vi) any actual or potential effects of the use, development, or protection of land, including mitigating or reducing the risks arising from natural hazards:

(vii) the emission of noise and mitigation of the effects of noise:

(viii) activities in relation to the surface of water:

Water

(c) taking, using, damming, and diverting of water, and the control of the quantity, level, and flow of water in a water body, including —

(i) setting any maximum or minimum levels or flows of water:

(ii) controlling the range or rate of change of levels or flows of water:

(iii) controlling the taking or use of geothermal energy:

Discharges of contaminants

(d) the discharge of contaminants into or onto land, air, or water and discharges of water into water:

Bed of water body

(e) in relation to the bed of a water body, —

(i) the introduction or planting of any plant in, on, or under that land for the purpose of —

(A) soil conservation:

(B) maintaining and enhancing the quality of water in the water body:

(C) mitigating or reducing the risks arising from natural hazards:

(ii) managing historic heritage on the beds of lakes and rivers:

Indigenous biodiversity

(f) the maintenance and enhancement of indigenous biodiversity:

Infrastructure

(g) the strategic integration of infrastructure with land use.

645 Functions of territorial authorities and unitary authorities

(1) A territorial authority or unitary authority has the following functions under this Act:

(a) to participate with the regional planning committee appointed for the district in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the authority and any matters which the authority is responsible for under this Act; and

(b) at the authority's discretion, to prepare statements of community outcomes; and

(c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to the authority's functions; and

(d) any other functions specified in this Act.

(2) The purpose of the statements of community outcomes is to record a summary of the views of a district or local community within the region.

(3) In preparing a statement of community outcomes, the territorial authority or unitary authority is subject to the general obligations on decision makers set out in **subpart 1 of Part 1**, but need not ensure that the statement complies with any national direction, regulation, or other planning document under this Act or the Spatial Planning Act **2022**.

(4) The territorial authority or unitary authority must provide the statements to the regional planning committee as soon as is reasonably possible after a director is appointed to the planning committee secretariat under **Schedule 8**.

(5) Each local authority in the region must, in relation to matters for which it has responsibility, implement and administer the committee's plan and its regional spatial strategy

Compare: 1991 No 69 s 31

646 Matters for which territorial authority or unitary authority responsible

As far as they are relevant to 1 or more territorial authorities or a unitary authority within a region, a territorial authority or unitary authority is responsible for the following matters:

(a) control of the effects of the use, development, or protection of land within a district, including —

(i) mitigating or reducing the risks arising from natural hazards:

(ii) preventing or mitigating any adverse effects of developing, subdividing, or using contaminated land:

(iii) maintaining indigenous biodiversity; and

(b) control of the emission of noise and mitigating its effects; and

(e) control of the effects of activities relating to the surface of water in rivers and lakes; and

(d) control of the subdivision of land as required for the purposes of—

(i) achieving the integrated management of the effects of the use, development, or protection of the resources of the natural and built environment:

(ii) ensuring that there is sufficient development capacity of land for housing and business land to meet the expected demands of the district; and

(e) the protection of trees if the location and value of the trees justifies their protection.

647 Role of local authorities to implement and administer plans and strategies

Each local authority in the region must, in relation to matters for which it has responsibility, implement and administer the committee's plan and its regional spatial strategy.

Minister of Conservation

648 Minister of Conservation has certain powers of local authority

(1) The Minister of Conservation—

(a) has, in respect of 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, the responsibilities, duties, and powers that a regional council would have under this Act if those coastal marine areas were within the region of that regional council; and

(b) may exercise, in respect of the islands specified in **paragraph (a)**,—

(i) the responsibilities, duties, and powers that a regional council would have under this Act if those islands were within the region of that regional council; and

(ii) the responsibilities, duties, and powers that a territorial authority would have under this Act if those islands were within the district of that territorial authority; and

(iii) the power conferred by **section 788(3)**.

(2) The responsibilities, duties, and powers conferred on the Minister of Conservation by **subsection (1)(b)** are in addition to the powers conferred on that Minister by **subsection (1)(a)**.

(3) The responsibilities, duties, and powers conferred on the Minister of Conservation by this section are in addition to the responsibilities, duties, and powers conferred on that Minister by this Act.

Compare: 1991 No 69 s 31A

Local authorities to have compliance and enforcement strategy

649 Local authorities to prepare compliance and enforcement strategy

(1) A local authority must prepare and publish a compliance and enforcement strategy, which takes into account relevant Treaty settlements, and voluntary or statutory agreements with local iwi or Māori (including Mana Whakahono ā Rohe agreements).

(2) A compliance and enforcement strategy must set out the following:

(a) how compliance monitoring will be carried out, including any requirement for integration with mātauranga Māori and other specialist input:

(b) how the local authority will avoid inappropriate influence or bias in enforcement decision making:

(c) how the local authority will respond to incidents:

(d) how the local authority will address incidents of non-compliance:

(e) how compliance monitoring and enforcement will be resourced:

(f) how any reporting requirements will be met:

(g) how frequently the strategy will be reviewed and updated (which may, for example, be in accordance with the significance and engagement policy under section 76AA of the Local Government Act 2002).

Transfer of powers

650 Transfer of powers

(1) A local authority or a regional planning committee may transfer 1 or more of its functions, powers, or duties to another public authority in accordance with this section.

(2) The power conferred by **subsection (1)** does not apply to the power of transfer itself.

(3) A local authority must not transfer any function, power, or duty unless —

(a) it has first served notice on the Minister of its proposal to transfer a power, function, or duty; and

(b) it has used the special consultative procedure described in section 83 of the Local Government Act 2002; and

(c) both the local authority and the public authority agree that the transfer is desirable for all of the following reasons:

(i) the authority to which the transfer is to be made represents the appropriate community of interest relating to the performance or exercise of the function, power, or duty:

(ii) the transfer will result in greater efficiency in the performance or exercise of the function, power, or duty:

(iii) technical or special capability or expertise.

(4) **Subsection (3)(c)** does not apply in the case of a transfer of power to an iwi authority or a group representing hapū.

(5) In this section, **public authority** includes —

(a) a local authority; and

(b) a regional planning committee; and

(c) an iwi authority; and

(d) a group representing 1 or more hapū; and

(e) a statutory authority; and

(f) a government department; and

(g) a joint committee; and

(h) a local board.

Compare: 1991 No 69 s 33(1)–(4)

651 Limits to transfer of powers

Section 650 does not permit a planning committee —

(a) to transfer the power under **clause 41 of Schedule 7** (power to give final approval to plan); or

(b) to enter into a joint management agreement that provides for final approval of a plan to be given jointly.

652 Procedural and other matters relevant to transfer of powers

(1) A transfer of functions, powers, or duties under **section 650** must be by agreement of the authorities concerned and on the agreed terms and conditions.

(2) A public authority may accept a transfer of a function, power, or duty under that section, unless the authority is expressly forbidden to do so by the terms of an Act under which it is constituted.

(3) A transfer under **section 650** must be treated as necessary to enable the authority to undertake, exercise, or perform the function, power, or duty.

(4) If a request is received to transfer a power under **section 650**, the relevant local authorities and regional planning committee must —

(a) give careful consideration to the request; and

(b) every 3 years, report to the National Māori Entity on how they have —

(i) considered and dealt with any requests received from iwi authorities or groups representing hapū; and

(ii) considered on their own initiative any opportunities to transfer powers or undertake other initiatives to enable the participation of iwi and hapū in resource management processes.

(5) Local authorities and planning committees must notify the Minister when —

(a) a transfer of power is requested; and

(b) that transfer is achieved, altered, or terminated.

(6) An agreement to transfer a power under **section 650** must include provisions describing —

(a) how the agreement is to be altered or terminated; and

(b) how risks and liabilities will be allocated between or among the parties to the agreement.

Compare: 1991 No 69 s 33(6)–(9)

Delegation of functions, powers, or duties

653 Delegation by local authorities

Delegation to committee

(1) A local authority may delegate any of its functions, powers, or duties under this Act to a committee of the local authority established in accordance with the Local Government Act 2002.

Delegation to community board

(2) A territorial authority may delegate any of its functions, powers, or duties under this Act to a community board established in accordance with the Local Government Act 2002 in respect of any matter of significance to that community.

Delegation to local board

(3) A may delegate to a local board any of its functions, powers, or duties under this Act in relation to a matter of local significance to that board.

Compare: 1991 No 69 s 34(1)–(3B)

654 Further provisions on delegation

(1) A delegation under **section 653** may —

(a) be made on the terms and conditions that the local authority thinks appropriate; and

(b) be revoked at any time by written notice to the delegate.

(2) Unless the instrument of delegation provides differently, a person to whom a function, power, or duty is delegated under **section 653** may exercise or per-

form the function, power, or duty as the local authority could itself have done and with the same effect, without confirmation of the local authority.

(3) A person authorised to act under a delegation under that section is presumed to be acting in accordance with the terms of the delegation, unless there is proof to the contrary.

(4) A delegation under that section does not affect the performance or exercise of any function, power, or duty by the local authority.

Compare: 1991 No 69 s 34(7)–(10)

655 Delegation of powers and functions to employees and other persons

(1) A local authority may delegate to an employee, or a hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers, or duties under this Act except this power of delegation.

(2) If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under **Schedule 7**,—

(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 and 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.

(3) A local authority may delegate to any other person any functions, powers, or duties under this Act except the following:

(a) the powers in **subsection (1)**:

(b) the decision on an application for a resource consent:

(c) the making of a recommendation on a requirement for a designation.

(4) **Section 654** applies to a delegation under this section.

(5) **Subsection (1) or (2)** does not prevent a local authority delegating to any person the power to do anything before a final decision on a matter referred to in those subsections.

Compare: 1991 No 69 s 34A

Joint management agreements

656 Power to make joint management agreements

(1) If a local authority, regional planning committee, or other possible party requests a joint management agreement with another possible party, it must, after carefully considering the request,—

(a) notify the Minister of the request; and

(b) satisfy itself that each public authority, iwi authority, or group representing hapū that is a party to the proposed joint agreement —

(i) represents the relevant community of interest; and

(ii) has the technical or special capability or expertise to perform or exercise the functions, power, or duty jointly with the local authority.

(2) However, the requirements of **subsection (1)(b)** do not apply in the case of a joint management agreement entered into with an iwi authority or group representing hapū.

(3) A regional planning committee must not enter into a joint management agreement that provides for final approval of a plan to be given jointly.

(4) A local authority or regional planning committee must also include in the joint management agreement details describing —

(a) the resources that will be required for the administration of the agreement; and

(b) how the administrative costs of the joint management agreement will be met; and

(c) how the agreement will be altered or terminated; and

(d) how risks and liabilities will be allocated between or among the parties to the joint management agreement.

(5) In addition, the requirements of **section 651(4) and (5)** apply to a request to enter into a joint management agreement.

(6) A local authority or regional planning committee, as relevant, that meets the requirements of **subsections (1) and (2)** may enter into a joint management agreement.

(7) In this section and **section 657**, **party** means a public authority, iwi authority, or group representing hapū for the purposes of this Act.

Compare: 1991 No 69 ss 36B, 36E

657 When local authority or regional planning committee may act alone

(1) This section applies if a joint management agreement requires the parties to perform or exercise a specified function, power, or duty together, but the agreement does not specify how such a decision is to be made.

(2) The local authority or regional planning committee may perform or exercise the function, power, or duty by itself if a decision is required before the parties are able to do so together.

Compare: 1991 No 69 s 36C

658 Effect of joint management agreement

A decision made under a joint management agreement has legal effect as a decision of the local authority.

Compare: 1991 No 69 s 36D

Subpart 5—National Māori Entity

659 National Māori Entity established

(1) The National Māori Entity is established as an independent statutory entity.

(2) The National Māori Entity is a body corporate with perpetual succession.

(3) For the purpose of performing its functions and exercising its powers under this Act and the Spatial Planning Act **2022**, it—

(a) has full capacity to undertake any business or activity, do any act, or enter into any transaction; and

(b) for the purposes of **paragraph (a)**, has full rights, powers, and privileges.

(4) **Subsection (3)** applies subject to the provisions of this Act, any other enactment, and the general law.

660 Purpose of National Māori Entity

The purpose for establishing the National Māori Entity is to provide independent monitoring of decisions taken under this Act or the Spatial Planning Act **2022**, in order to inform and support positive progress at the national, regional or local level, as relevant, in managing the environment in light of the obligation set out in **section 4**.

661 Independence of National Māori Entity

(1) In performing its functions and duties and exercising its powers under this Act, the National Māori Entity must act independently of—

(a) any Minister of the Crown or Crown agency:

(b) any persons, entities, or groups of persons with functions, powers, or duties under this Act and the Spatial Planning Act **2022**:

(c) iwi, hapū, and Māori.

(2) However, the National Māori Entity may, at its discretion, operate collaboratively, and informed by information provided by any person, entity, or group referred to in **subsection (1)**.

Monitoring and reporting functions

662 Functions, powers, and duties of National Māori Entity

(1) The primary function of the National Māori Entity is to monitor and assess the cumulative effect of the exercise of functions, powers, and duties under this

Act and the Spatial Planning Act **2022** by (**monitored entities**) in giving effect to the principles of te Tiriti o Waitangi (*see* **section 4**).

(2) In carrying out its primary function, the National Māori Entity must—

(a) develop, and make publicly available, a framework for its monitoring function; and

(b) regularly monitor the operations of those performing functions and duties and exercising powers under this Act and the Spatial Planning Act **2022**; and

(c) assess whether any issues identified through monitoring are relevant to the duty of the monitored entities to give effect to the principles of te Tiriti o Waitangi; and

(d) make recommendations to the monitored entities, including whether Ministerial intervention is required—

(i) in relation to the performance of a monitored entity:

(ii) if issues at a national, regional, or local level are identified.

(3) The National Māori Entity, on its own initiative or upon request from a monitored entity, may—

(a) carry out monitoring outside the regular cycle, if it considers it necessary to achieve its purpose; and

(b) provide expert advice to those performing functions or duties or exercising powers under either of the Acts referred to in **subsection (1)**, including in relation to the national planning framework.

(4) In this subpart, **monitored entities** means any of the following:

(a) Ministers:

(b) Crown agencies:

(c) local authorities and unitary authorities:

(d) any other persons or groups acting under either of the Acts referred to in **subsection (1)**.

663 Obligation to report on monitoring activities

(1) The National Māori Entity, informed by its monitoring activities as required by **section 662**,—

(a) must report to each monitored entity as soon as practicable after concluding its monitoring of that entity; and

(b) must advise the monitored entity of its duty to respond within the time specified; and

(c) may require any information.

(2) The National Māori Entity may prepare and provide reports under **subsection (1)(a)** by whatever means it considers appropriate.

(3) The National Māori Entity must also report to the Minister, at least once every 6 years, to show on a national basis whether the environment is being effectively managed to give effect to the principles of te Tiriti o Waitangi.

(4) Reports provided by the National Māori Entity to the Minister may include recommendations, including recommendations as to intervention by the Minister, if the National Māori Entity considers that significant issues have been identified in the performance by the monitored entity.

(5) All monitoring reports prepared by the National Māori Entity, and the associated responses of the monitored entities, must be made publicly available by the National Māori Entity.

664 Responses to reports

(1) The Minister, and each monitored entity that receives a report from the National Māori Entity under **section 663**, must respond to the report and its recommendations (if any),—

(a) in the case of the Minister, within 6 months of receiving the report; and

(b) in the case of a monitored entity, within the time frame specified in the report.

(2) Responses must demonstrate that the monitored entity has considered—

(a) the findings and any recommendations included in the report; and

(b) what measures it intends to take in relation to those matters.

(3) The Minister must, as soon as practicable, present to the House of Representatives a copy of the report received by the Minister and a copy of the Minister's response.

665 Information held by National Māori Entity

(1) The National Māori Entity may share information to any agency if the National Māori Entity is satisfied that providing the information—

(a) is necessary to further the purpose of the Entity; and

(b) may assist the monitored entity or the National Māori Entity to carry out their functions under this Act or other legislation.

(2) However, **subsection (1)** is subject to the National Māori Entity being satisfied that—

(a) sharing information under that provision will not have a substantial effect on the Entity's performance of its functions; and

(b) there are, or will be, appropriate protections in place to ensure that the confidentiality of information to be shared is maintained (in particular, information that is personal information within the meaning of the Privacy Act 2020).

Provisions relating to membership of National Māori Entity

666 Membership

(1) The National Māori Entity consists of 7 members.

(2) In making appointments, the Minister—

(a) must not appoint a person unless that person is nominated by iwi, hapū, or Māori in accordance with the process set out in regulations (if any) made under **section 672**; and

(b) must consult with the Minister of Māori Development and the Minister for Māori Crown Relations: Te Arawhiti.

(3) When appointing members, the Minister must be satisfied that the members, collectively, have knowledge of, and experience and capability in relation to,—

(a) the principles of te Tiriti o Waitangi; and

(b) tikanga Māori, te reo Māori, and mātauranga Māori; and

(c) monitoring and reporting performance; and

(d) knowledge of this Act and the Spatial Planning Act **2022**; and

(e) expertise in communication, particularly with Māori and local government; and

(f) governance.

(4) No person may be appointed who is disqualified within the meaning of section 30(2) of the Crown Entities Act 2004.

(5) The Minister must give public notice of all appointments.

667 Term of office of members

(1) Members of the National Māori Entity may hold office for up to 6 years.

(2) However, the term of office must not expire in a calendar year for more than 3 members.

668 Chairperson and deputy chairperson

The members of the National Māori Entity must appoint the chairperson and deputy chairperson of the Entity.

669 Removal and resignation of chairperson, deputy chairperson, and members

(1) The Minister may, at any time for just cause, remove a member from the National Māori Entity, after consulting the Minister for Māori Crown Relations: Te Arawhiti and the chairperson.

(2) The chairperson or deputy chairperson may be removed from that office by the members of the National Māori Entity, but only by a two-thirds majoirty vote.

(3) The Minister must—

(a) give written notice of the removal to the member (with a copy to the National Māori Entity); and

(b) notify the removal in the *Gazette* as soon as practicable after that notice is given.

(4) By written notice to the members, the chairperson or deputy chairperson may resign from that office, without resigning as a member.

(5) In this section, **just cause** has the meaning given in section 40 of the Crown Entities Act 2004.

670 Recovery of certain costs

If the National Māori Entity provides expert advice in response to a request under **section 662(3)(b)**, the Entity is entitled to recover its reasonable costs from the monitored entity that made the request.

Power to adopt new name

671 National Māori Entity may change name

(1) The National Māori Entity may, at any time after its establishment, adopt a new name to replace the name National Māori Entity.

(2) If the Entity changes its name, it must advise the Minister and give public notice of the change of name.

(3) The Minister must give notice of the change of name in the *Gazette* as soon as practicable after the Minister receives that advice.

Compare: 2009 No 32 s 83.

Regulations

672 Regulation-making power

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations that provide for —

(a) the process by which nominations to the membership of the National Māori Authority must be made; and

(b) the process for determining any dispute that arises in the course of the nomination process; and

(c) providing for anything incidental to those matters or necessary for carrying out, or giving full effect to, the requirements for establishing the National Māori Entity.

(2) The Minister must not make a recommendation under **subsection (1)** unless the Minister —

(a) has consulted the Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti; and

(b) the Minister is satisfied that the proposals for regulations were developed collaboratively with iwi, hapū, and Māori.

(3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Application of Crown Entities Act 2004

673 Application of Crown Entities Act 2004 to National Māori Entity

The following provisions of the Crown Entities Act 2004 apply to the National Māori Entity, subject to this Act and all necessary modifications:

(a) sections 14 to 24 (general provisions on an entity); and

(b) 25 to 27A (role of Minister and entity); and

(c) 30, 31, 32(2) and (3), 34, 35, 43, 44, 45(a) and (d), 47 to 78 (role and responsibilities of members); and

(d) 105, 106, 112 to 115A (independence); and

(e) 117 to 130, 132 to 135 (administrative matters); and

(f) Part 4 (reporting and financial obligations); and

(g) Schedule 5 (other than clauses 1, 3, and 4) (administrative procedures).

Application of other Acts

674 Application of certain other Acts

(1) The National Māori Entity is an organisation for the purposes of the Ombudsmen Act 1975 and the Official Information Act 1982.

(2) The National Māori Entity is a public entity as defined in section 5 of the Public Audit Act 2001, and the Auditor-General is its auditor.

(3) The National Māori Entity is a public office for the purposes of the Public Records Act 2005

Compare: 2016 No 17 ss 46, 47.

Subpart 6—Mana Whakahono ā Rohe

675 Definitions

In this subpart,—

initiating parties has the meaning given in **section 679**

participating authorities means the parties referred to in **section 679(5)**

participating iwi authority and group that represent hapū means an iwi authority and a group that represents hapū that—

(a) have agreed to participate in a Mana Whakahono ā Rohe; and

(b) have agreed the order in which negotiations are to be conducted

relevant party means an iwi authority, a group that represents hapū, a local authority, or a regional planning committee whose area of interest overlaps with, or is adjacent to, the area of interest of an initiating party.

676 Purpose of Mana Whakahono ā Rohe

The purpose of adopting a Mana Whakahono ā Rohe is —

(a) to provide a mechanism for iwi authorities, groups that represent hapū, local authorities, and planning committees to discuss, agree on, and record ways in which the 2 parties to the Mana Whakahono ā Rohe participate in resource management and decision-making processes under this Act; and

(b) to assist local authorities and planning committees to comply with their statutory duties under this Act, the Spatial Planning Act **2022**, and iwi and hapū participation legislation.

Compare: 1993 No 69 s 58M

677 Guiding principles

In initiating, developing, and implementing a Mana Whakahono ā Rohe, the participating authorities must use their best endeavours —

(a) to achieve the purpose of a Mana Whakahono ā Rohe in an enduring manner:

(b) to achieve 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 ā Rohe:

(c) in determining whether to proceed to negotiate a joint or multi-party Mana Whakahono ā 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 ā Rohe under this subpart does not limit the requirements of any relevant iwi and hapū participation legislation or the agreements associated with that legislation.

Compare: 1991 No 69 s 58N

678 Limitations on implementing Mana Whakahono ā Rohe arrangement

(1) A Mana Whakahono ā Rohe arrangement cannot limit or otherwise constrain the engagement with iwi and hapū that is required by or under this Act or the Spatial Planning Act **2022**.

(2) A Mana Whakahono ā Rohe does not limit any relevant provision of any iwi or hapū participation legislation or any agreement under that legislation.

(3) Unless the participating authorities agree,—

(a) the contents of a Mana Whakahono ā Rohe must not be altered; and

(b) a Mana Whakahono ā Rohe must not be terminated.

(4) If 2 or more iwi authorities or groups that represent hapū have, collectively, entered into a Mana Whakahono ā Rohe with a local authority or regional planning committee, any 1 of the parties to the Mana Whakahono ā Rohe, if seeking to amend the contents of the Mana Whakahono ā Rohe, must negotiate with the other parties to the Mana Whakahono ā Rohe for that purpose rather than seeking to enter into a new Mana Whakahono ā Rohe.

(5) Local authorities and regional planning committees must not discuss or agree matters unless the matters are within the scope of their roles and functions under this Act or the Spatial Planning Act **2022**.

Compare: 1991 No 69 ss 58R(5)(6), 58U

679 Initiation of Mana Whakahono ā Rohe

(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, groups representing hapū, local authorities, or regional planning committees (the **initiating parties**) may invite 1 or more relevant iwi authorities, groups representing hapū, local authorities, or regional planning committees in writing to enter into a Mana Whakahono ā Rohe with the 1 or more initiating parties.

(2) As soon as is reasonably practicable after receiving an invitation under **subsection (1)**, the local authorities and regional planning committees—

(a) must advise any relevant iwi authorities, groups representing hapū, local authorities, and regional planning committees that the invitation has been received; and

(b) must convene a hui or meeting of the initiating parties and any party identified under **paragraph (a)** that wishes to participate to discuss how they will work together to develop a Mana Whakahono ā 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 parties concerned to discuss and agree on —~~

~~(a) the process for negotiation of 1 or more Mana Whakahono ā 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 parties that are able to agree at the hui or meeting how they will develop a Mana Whakahono ā Rohe (the **participating authorities**) must proceed to negotiate the terms of the Mana Whakahono ā Rohe in accordance with that agreement and this subpart.~~

~~(6) If 1 or more participating authorities in an area are negotiating a Mana Whakahono ā Rohe and a further invitation is received under **subsection (1)**, the participating authorities and initiating parties may agree on the order in which they negotiate the Mana Whakahono ā Rohe.~~

~~(7) If an iwi authority, group representing hapū, a local authority, or a regional planning committee have at any time entered into a relationship agreement or engagement agreement as part of the Mana Whakahono ā Rohe, 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 ā Rohe entered into under this subpart.~~

~~(8) If a Mana Whakahono ā Rohe includes the purpose and functions of an engagement agreement, the participating authorities may agree in writing that the Mana Whakahono ā Rohe properly meets the requirements and a separate engagement agreement is not required.~~

~~(9) The participating authorities must take account of the extent to which resource management matters are included in any iwi or hapū participation legislation and seek to minimise duplication between the functions of the participating authorities under that legislation and those arising under the Mana Whakahono ā Rohe.~~

~~(10) Nothing in this subpart prevents a local authority or regional planning committee from commencing, continuing, or completing any process under the Act while waiting for a response from, or negotiating a Mana Whakahono ā Rohe with, 1 or more iwi authorities, groups that represent hapū, local authorities, or regional planning committees.~~

~~Compare: 1993 No 69 s 58O~~

680 Other opportunities to initiate Mana Whakahono ā Rohe

(1) An iwi authority, group that represents hapū, local authority, or regional planning committee that, at the time of receiving an invitation to a meeting or hui under **section 679(2)(b)**, does not wish to participate in negotiating a Mana Whakahono ā Rohe, or withdraws from negotiations before a Mana Whakahono ā Rohe is agreed, may participate in, or initiate, a Mana Whakahono ā 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 ā Rohe exists and another iwi authority, group that represents hapū, local authority, or regional planning committee in the same area as the for the existing Mana Whakahono ā Rohe wishes to initiate a separate Mana Whakahono ā Rohe under **section 679(1)**, that other party must first consider joining the existing Mana Whakahono ā Rohe.

(3) If any party that is eligible to join an existing Mana Whakahono ā Rohe declines to do so, that party must explain to the parties to the existing arrangement why joining that arrangement would not adequately provide for the intended relationship.

(4) Local authorities and regional planning committees must —

(a) regularly consider any opportunities to initiate a Mana Whakahono ā Rohe; and

(b) report annually to the National Māori Entity on how they have considered opportunities to initiate a Mana Whakahono ā Rohe.

(5) The provisions of this subpart apply to any initiation under **subsection (1)**.

Compare: 1993 No 69 s 58P(1)–(3)

681 Time frame for settling Mana Whakahono ā Rohe

If an invitation is initiated under **section 680(1)**, the participating authorities must conclude a Mana Whakahono ā Rohe —

(a) not later than 12 months after the date on which the invitation is received; or

(b) within any other period agreed by all the participating authorities.

Compare: 1993 No 69 s 58Q

682 Contents of Mana Whakahono ā Rohe

(1) A Mana Whakahono ā 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 to implement the requirements of iwi and hapū participation legislation in the area of interest under the Mana Whakahono ā Rohe; and

~~(ii) how the participating authorities may undertake engagement and provide for technical input and funding to participate in planning processes under this Act and in the strategy processes under the Spatial Planning Act **2022**; and~~

~~(iii) how the participating authorities may work together to develop and agree on methods for monitoring under this Act and under the Spatial Planning Act **2022**; and~~

~~(iv) how the participating authorities may work together on matters relating to climate change adaptation and natural hazards relevant to the areas of interest of the participating authorities; and~~

~~(v) how opportunities will be created for the transfer of powers under **section 650** and the establishment of joint management agreements under **section 656**; and~~

~~(vi) how the participating authorities will provide support for particular regard to be taken of iwi and hapū management plans; and~~

~~(vii) how members of iwi authorities and groups that represent hapū can access opportunities for training as commissioners; and~~

~~(viii) how participating authorities may enable relationships to be created with council controlled organisations that operate within the areas of interest of the participating authorities; and~~

~~(ix) how the participating authorities may provide for mutual capability and capacity building for local authorities and regional planning committees in relation to cultural connections and mātauranga that are specific to the areas of interest of the participating authorities; and~~

~~(x) how opportunities may be provided for iwi authorities and groups that represent hapū jointly to manage a local authority's powers as a heritage protection authority; and~~

~~(xi) how the participating authorities may support the application and implementation of the national planning framework; and~~

~~(xii) the protocols and processes that apply to support the sharing of information among the participating authorities; and~~

~~(xiii) a process for identifying and managing conflicts of interest; and~~

~~(xiv) the process that the parties will use for resolving disputes about the implementation of the Mana Whakahono ā Rohe, including the matters described in **section 683**; and~~

~~(xv) the time frames for implementing matters that are agreed in any Mana Whakahono ā Rohe arrangement; and~~

(xvi) the time-frame and method applying to a regular review of the effectiveness of a Mana Whakahono ā Rohe, as required by **section 688**.

(2) If the participating authorities agree, they may discuss and agree on any other matters relevant to their functions, duties, and powers under this Act or any other Act.

(3) The agreement recorded under **subsection (1)** may record an agreement to take no action on a matter.

Compare: 1993 No 69 s 58R(1)

683 Dispute resolution process

(1) The dispute resolution process recorded under **section 682** must —

(a) set out the extent to which the outcome of the process may amount to an agreement —

(i) to alter or terminate a Mana Whakahono ā Rohe:

(ii) to complete the review of the policies and processes of a local authority or regional planning committee to ensure that they are consistent with a Mana Whakahono ā Rohe at a later date:

(iii) to conduct a joint review of the effectiveness of a Mana Whakahono ā Rohe at a later date:

(iv) to undertake any additional reporting; and

(b) require each participating authority to bear its own costs for any dispute resolution process undertaken.

(2) A dispute resolution process must not require a local authority or regional planning committee to suspend commencing, continuing, or completing any process under the Act or the Spatial Planning Act **2022** while the dispute resolution process is in contemplation or is in progress.

Compare: 1993 No 69 s 58R(2), (3)

684 Resolution of disputes in course of negotiations

(1) This section applies if a dispute arises among participating authorities in the course of negotiating a Mana Whakahono ā Rohe.

(2) The participating authorities —

(a) may undertake a binding process to resolve the dispute; but

(b) if they do not agree on a binding process, must undertake a non-binding process of dispute resolution; and

(c) if the dispute remains unresolved, participate in a formal mediation process with an independent panel appointed by the Chief Judge of the Māori Land Court or the Judge's delegate.

(3) Whether the participating authorities choose a binding or non-binding process, each authority must—

(a) jointly appoint an arbitrator or a mediator; and

(b) meet its own costs.

(4) If the dispute is not resolved after a non-binding process has been undertaken, the participating authorities may individually or jointly seek the assistance of the Minister.

(5) The Minister, for the purpose of assisting the participating authorities to resolve the dispute and conclude a Mana Whakahono ā Rohe, may—

(a) appoint, and meet the costs of, a Crown facilitator:

(b) direct the participating authorities to use a specified dispute resolution process for that purpose.

Compare: 1993 No 69 s 58S

685 Further dispute resolution methods

(1) This section applies if there is a dispute among iwi authorities and groups representing hapū, where—

(a) the disputing parties—

(i) have an overlapping area of interest; and

(ii) do not wish to work collectively on developing a Mana Whakahono ā Rohe arrangement; and

(b) the dispute would impact on the exercise of functions under this Act or any other Act.

(2) The parties to the dispute must—

(a) attend a hui facilitated by an independent person appointed by the Māori Land Court; and

(b) if the dispute remains unresolved, participate in a formal mediation process with an independent panel appointed by the Chief Judge of the Māori Land Court or the Judge's delegate.

(3) If the dispute is not resolved under **subsection (2)**, the Chief Judge of the Māori Land Court must make a final determination of the matter using the provisions of Te Ture Whenua Maori Act 1993 provided by **section 686**.

686 Jurisdiction of Māori Land Court under this Act

(1) For the purpose of assisting to resolve a dispute of the kind described in **section 685(1)**, the Māori Land Court has jurisdiction to hear such a dispute if resolution has not been reached under **section 684 or 685**.

(2) Proceedings may be filed by or on behalf of—

(a) any party to the dispute; or

(b) any person bound, or materially affected, by the dispute.

(3) Proceedings must be commenced by notice given in the form and manner prescribed not later than—

(a) 2 months after the date of the hui referred to in **section 685(2)(a)** or the mediation process referred to in **section 685(2)(b)**; or

(b) any further period that the Māori Land Court may allow.

687 Matters relevant to determination

(1) When a dispute is referred to the Māori Land Court under this subpart, the Judge or an officer of the court on behalf of the Judge, must—

(a) consider whether the parties have attempted to resolve the dispute by attending a hui or undertaking formal mediation (*see* **clause 685(2)**; and

(b) if not satisfied that every effort was made to resolve the matter using one of those processes, direct that one of those dispute resolution measure be used before the court hears the matter.

(2) However, the Judge may proceed to hear the matter if the Judge is satisfied that using either of those means—

(a) would not contribute constructively to resolving the dispute; or

(b) would undermine the urgent or interim nature of the proceedings; or

(c) would not, in all the circumstances, be in the public interest.

688 Notifying, reviewing, and monitoring

(1) A local authority or regional planning committee must—

(a) notify the Minister when—

(i) a Mana Whakahono ā Rohe is initiated under **section 679**; and

(ii) the arrangement is achieved, altered, or terminated; and

(b) after entering into a Mana Whakahono ā Rohe, must review its policies and processes in accordance with this section to ensure that they are consistent with the Mana Whakahono ā Rohe.

(2) The review must be completed not later than 6 months after the date of the Mana Whakahono ā Rohe, unless a later date in agreed by the parties to the Mam Whakahono ā Rohe.

(3) Every sixth anniversary after the date of a Mana Whakahono ā Rohe, or at any other time by agreement, the parties to the Mana Whakahono ā Rohe must jointly review its effectiveness, having regard to—

(a) the purpose of a Mana Whakahono ā Rohe; and

(b) the guiding principles set out in **section 677**.

(4) The obligations under this section are in addition to the obligations of a local authority under —

(a) **section 846** (the provision of information to the Minister):

(b) **section 783** (monitoring and record keeping).

Compare: 1991 No 69 s 58T

Subpart 7—Freshwater Working Group

Establishment and role of Working Group

689 Establishment of Working Group

The Minister must establish a working group to be called the Freshwater Working Group (the **Working Group**).

690 Purpose of Working Group

The purpose of the Working Group is to produce a report that considers and makes recommendations —

(a) on matters relating to freshwater allocation; and

(b) on a process for engagement between the Crown and iwi and hapū, at the regional or local level, on freshwater allocation

691 Terms of reference for Working Group

The terms of reference for the Working Group must include the following:

(a) the skills and expertise required by members of the Working Group; and

(b) the process for the appointment, by the Crown and iwi and hapū, of the members of the Working Group; and

(c) any particular matters to be considered and dealt with by the Working Group; and

(d) any engagement that the Working Group should undertake with iwi and hapū or any other persons or groups in the course of deliberation.

692 Requirement for report and response

(1) The Working Group must provide the report required by **section 690** to the Minister not later than 31 October 2024.

(1) The Minister must make the report publicly available by whatever means the Minister considers appropriate.

(2) Not later than 6 months after receiving the report, the Minister, on behalf of the Crown, must present a response on the report to the House of Representatives.

693 Freshwater allocation matters

(1) After the Minister's response has been presented to the House of Representatives, the Minister, on behalf of the Crown, must engage with iwi and hapū at

~~the regional or local level on matters of freshwater allocation that are relevant to the plan for the region..~~

~~(2) The outcome of the engagement undertaken under **subsection (1)** may be reflected in an allocation statement on the issues relevant to the allocation of freshwater, if agreed between the Minister and iwi and hapū.~~

~~(3) An allocation statement may be developed and agreed —~~

~~(a) at a regional, catchment, or sub-catchment level; or~~

~~(b) over another geographic area.~~

~~(4) The engagement required under **subsection (1)** must be commenced not later than 12 months after the date on which the Minister receives written notice from an iwi or hapū, or a group of iwi and hapū, in relation to an area for which an allocation statement is agreed under **subsection (3)**.~~

~~(5) The Minister must support the submission of the allocation statement to the relevant regional planning committee.~~

~~(6) When the regional planning committee receives an allocation statement submitted under **subsection (5)**, the regional planning committee must —~~

~~(a) determine how the plan is to be updated; and~~

~~(b) update the plan in a manner that is consistent with this Act.~~

~~(7) The updating required by **subsection (6)** must be completed by whichever date is the earlier of the following:~~

~~(a) the date of the next review of the plan; or~~

~~(b) the date that is 5 years after the relevant regional planning committee receives the allocation statement.~~

Part 11
Compliance, monitoring, and enforcement

694 Interpretation

In this Part, **NBE regulator**—

(a) means a local authority~~, a regional planning committee,~~ and the EPA, when acting under this Act; and

(b) includes any ~~person~~ public service agency empowered under any Act to exercise or perform any functions, powers, or duties of an NBE regulator under this Act.

Subpart 1—Enforcement and compliance measures ordered by Environment Court

How certain proceedings to be heard

695 Proceedings to be heard by Environment Judge

(1) All proceedings under this subpart must be heard by an Environment Judge sitting alone or by the Environment Court, except as provided in **subsections (2) and (3)**.

(2) Proceedings under **section 706** (which relates to interim enforcement orders) must be heard either by an Environment Judge sitting alone or—

(a) in the District Court; and

(b) except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is an Environment Judge.

(3) Proceedings under **section 711 or 712** (which relate to appeals against abatement orders and power to stay an order) that may be heard by an Environment Judge may also be heard by an Environment Commissioner.

(4) All proceedings under **section 760** (which relates to offences) must be heard—

(a) in the District Court; and

(b) except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is also an Environment Judge.

(4A) An Environment Judge may transfer to the District Court any proceedings under this Part for enforcement action if the action is associated with proceedings under **section 760** for an offence and the Judge considers that the proceedings for enforcement action should be heard together with the proceedings in the District Court for the offence.

(5) This Part does not apply to a protected customary right.

(6) However, **sections 696 to 699 and 751 to 756** apply to the exercise of a protected customary right.

Compare: 1991 No 69 s 309

Declarations

696 Scope and effect of declaration

(1) A declaration may declare—

(a) the existence or extent of any function, power, right, or duty under this Act, including (but, except as expressly provided, without limitation)—

(i) any duty under this Act to prepare and have particular regard to an evaluation report~~ or to undertake and have particular regard to a further evaluation~~ imposed by **clause 5 of Schedule 6 or**

clause 70 of Schedule 7 (other than any duty in relation to a plan or proposed plan or any provision of a plan or proposed plan); and

(ii) any duty imposed by **section 68 or 69**; or

(b) whether a provision or proposed provision of a plan,—

(i) contrary to **section 97**, does not, or is not likely to, give effect to a provision or proposed provision in the national planning framework; or

(ii) contrary to **section 398**, is, or is likely to be, inconsistent with a water conservation order or a plan for any matter specified in **section 407**; or

(c) whether or not an act or omission, or a proposed act or omission, contravenes or is likely to contravene this Act, regulations ~~made under this Act~~, or a plan rule or proposed plan, a requirement for a designation or for a heritage protection order, or a resource consent; or

(d) whether or not an act or omission, or a proposed act or omission, is a permitted activity, controlled activity, discretionary activity, or prohibited activity, or breaches **section 26 or 30**; or

(e) the point at which the landward boundary of the coastal marine area crosses any river; or

(f) whether or not a territorial authority has made and is continuing to make substantial progress or effort towards giving effect to a designation as required by **section 523**; or

(g) any issue or matter relating to notification status of an activity determined under **section 200(1)(b)**:

(ga) on the existence or extent of any function, duty, right, or power under the **Spatial Planning Act 2022**:

(gb) any other issue or matter relating to the interpretation or administration under the **Spatial Planning Act 2022**:

(h) any other issue or matter relating to the interpretation, administration, or enforcement under this Act.

(2) In the course of any proceedings, the Environment Court may make a declaration referred to in **subsection (1)** on its own initiative without an application from any party to the proceedings.

Compare: 1991 No 69 s 310

697 Application for declaration

(1) Any person may at any time apply to the Environment Court in the prescribed form for a declaration, except as provided in **subsections (2) and (3)**.

(2) No person (other than the consent authority, the EPA, or the Minister) may apply to the Environment Court for a declaration that a consent holder or any other person is contravening any condition of a resource consent or a plan rule or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the consent or rule relates.

(3) No person (other than a local authority, a consent authority, or the Minister of Conservation) may apply to the Environment Court for a declaration under **section 696(e)**.

Compare: 1991 No 69 s 311

698 Notification of application

(1) The applicant for a declaration must serve notice of the application in the prescribed form on every person directly affected by the application.

(2) Every notice required to be served under this section must be served within 5 working days after the application is made to the Environment Court.

Compare: 1991 No 69 s 312

699 Decision on application

(1) After hearing the applicant, any person served with notice of the application, and any other person who has the right to be represented at proceedings under **section 53 of Schedule 13**, who wishes to be heard, the Environment Court may—

(a) make the declaration sought by an application, with or without modification; or

(b) make any other declaration that it considers necessary or desirable; or

(c) decline to make a declaration.

(2) If the Environment Court makes a declaration on any issue or matter regarding the notification status of an activity determined under **section 200(1)(b)**, the court may—

(a) make any interim order it considers necessary for the purpose of preserving the position of any party to the application for a declaration; and

(b) make an order setting aside a part or the whole of the decision of the consent authority and—

(i) referring a part or the whole of the decision back to the consent authority to reconsider:

(ii) giving the consent authority any directions it thinks just as to the reconsideration of a part or the whole of its decision:

(c) despite **section 705(2)**, make an order to prevent the exercise of a resource consent until a decision has been made by the consent authority in accordance with an order of the court made under **paragraph (a)**.

(3) If the Environment Court gives directions under **subsection (2)(b)(ii)**,—

(a) the court must give reasons for those directions; and

(b) the consent authority must, in reconsidering its decision in accordance with the directions of the court, have regard to the reasons of the court.

Compare: 1991 No 69 s 313; 2005 No 87 s 117

Enforcement orders

700 Scope of enforcement order

(1) An enforcement order is an order made under **section 705** by the Environment Court that may do any 1 or more of the following:

(a) require a person to cease, or prohibit a person from commencing, anything done or to be done by or on behalf of that person, that, in the opinion of the court,—

(i) contravenes or is likely to contravene this Act, any regulations, a rule in a plan, a rule in a proposed plan, a requirement for a designation or for a heritage protection order, or a resource consent, or **section 26 or 30**; or

(ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment:

(b) require a person to do something that, in the opinion of the court, is necessary in order to—

(i) ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan, a rule in a proposed plan, or a requirement for a designation or heritage protection order, or a resource consent; or

(ii) avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by or on behalf of that person:

(c) require a person to remedy or mitigate any adverse effect on the environment caused by or on behalf of that person:

(d) require a person to pay money to or reimburse any other person for any actual and reasonable costs and expenses that that other person has incurred or is likely to incur in avoiding, remedying, or mitigating any adverse effect on the environment, where the person against whom the order is sought fails to comply with—

(i) an order under any other paragraph of this subsection; or

(ii) an abatement notice; or

(iii) a plan rule, a proposed plan, or a resource consent; or

(iv) any of that person's other obligations under this Act:

(e) require a polluter of contaminated land (within the meaning of **Part 6**), to pay money to or reimburse the local authority or EPA for any actual and reasonable costs it has incurred for actions taken under **Part 6** to prevent or remedy any adverse effects to the environment or to carry out remediation:

(f) require a person to do something that, in the opinion of the court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment relating to any land of which the person is the owner or occupier:

(g) change or cancel a resource consent if, in the opinion of the court, the information made available to the consent authority by the applicant contained inaccuracies relevant to the enforcement order sought which materially influenced the decision to grant the consent:

(h) where the court determines that any 1 or more of the requirements of ~~**Schedules 6 and**~~ **Schedule 7** have not been observed in respect of ~~the national planning framework or~~ a plan, do any 1 or more of the following:

(i) grant a dispensation from the need to comply with those requirements:

(ii) direct compliance with any of those requirements:

(iii) suspend the whole or any part of ~~the national planning framework or~~ a plan from a particular date (which may be on or after the date of the order, but does not affect any court order made before the date of the suspension order):

(i) require a person to take or refrain from taking any specified action so as to comply with any consent notice or covenant issued or entered into under a condition of a resource consent~~.~~:

(j) make a order under—

(i) **section 718** (a monetary benefit order); or

(ii) **section 731** (an adverse publicity order); or

(iii) **section 776** (a pecuniary penalty order).

(2) For the purposes of **subsection (1)(d)**, **actual and reasonable costs** include the costs of investigation, supervision, and monitoring of the adverse effect on the environment, and the costs of any actions required to avoid, remedy, or mitigate the adverse effect.

(3) An enforcement order may be made on any terms and conditions that the Environment Court thinks fit (including the payment of any administrative charge under **section 821**, the provision of security, or the entry into a bond for performance), except as provided in **section 705(2)**.

(4) Without limiting **subsections (1) to (3)**, an enforcement order may require the restoration of any natural and physical resource to the state it was in before the adverse effect occurred (including the planting or replanting of any tree or other vegetation).

(5) An enforcement order, if the court so states, applies to the personal representatives, successors, and assigns of a person to the same extent as it applies to that person.

(6) The power to make an enforcement order under this section is not limited by **section 14(2)**.

Compare: 1991 No 69 s 314

701 Compliance with enforcement order

(1) If an enforcement order is made against a person, and that enforcement order is served on that person, that person must—

(a) comply with the order; and

(b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.

(2) If a person against whom an enforcement order is made fails to comply with the order, any person may, with the consent of the Environment Court,—

(a) comply with the order on behalf of the person who fails to comply with the order, and for this purpose, enter upon any land or enter any structure (with a constable if the structure is a ~~dwellinghouse~~ dwelling house); and

(b) sell or otherwise dispose of any structure or materials salvaged in complying with the order; and

(c) after allowing for any moneys received under **paragraph (b)**, if any, recover the costs and expenses of doing so as a debt due from that person.

(3) Any costs or expenses which remain unpaid under **subsection (2)(c)** may be registered under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on any land in respect of which an enforcement order is made.

(4) Failure to comply with an enforcement order is an offence under **section 760**.

Compare: 1991 No 69 s 315

702 Application for enforcement order

(1) Any person may at any time apply to the Environment Court in the prescribed form for an enforcement order of a kind specified in **section 700(1)(a) to (d) or (2)**.

(2) An application may at any time be made in the prescribed form to the Environment Court by—

(a) ~~a local authority, a consent authority, or the EPA~~ an NBE regulator for an enforcement order of the kind specified in **section 700(1)(e) or (h)**; and

(b) a local authority or consent authority for an enforcement order of the kind specified in **section 700(1)(f)**.

(3) An application for an enforcement order under **section 700(1)(g) or (i)** may be lodged—

(a) by a local authority (or the Minister of Conservation if the application concerns the coastal marine area) at any time; or

(b) by any other person, no later than 3 months after the date on which the policy statement or plan becomes operative.

(4) Any person who applies for an enforcement order under any provision of this section may request that the enforcement order be made on any terms and conditions permitted by **section 700(3) or (4)**.

(5) No person (other than the consent authority, the EPA, or the Minister) may apply to the Environment Court for an enforcement order to enforce any condition of a resource consent or a plan rule or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the consent or rule relates.

Compare: 1991 No 69 s 316

703 Notification of application

(1) If an application for an enforcement order is made, the applicant must serve notice of the application in the prescribed form on every person directly affected by the application.

(2) Every notice required to be served under this section must be served within 5 working days after the application is made to the Environment Court.

(3) However, this section is subject to **section 706** (which relates to interim enforcement orders).

Compare: 1991 No 69 s 317

704 Right to be heard

(1) Before deciding an application for an enforcement order, the Environment Court must—

(a) hear the applicant; and

(b) hear any person against whom the order is sought who wishes to be heard, but only if that person notifies the Registrar that the person wishes to be heard within 15 working days after the date on which they were notified of the application.

(2) However, this section is subject to **section 706** (which relates to interim enforcement orders).

Compare: 1991 No 69 s 318

705 Decision on application

(1) After considering an application for an enforcement order, the Environment Court may—

(a) make any appropriate order under **section 700**; or

(b) refuse the application.

(2) The Environment Court must not make an enforcement order under **section 700(1)(a)(ii), (b)(ii), (c), (d)(iv), or (f)** against a person (except under **subsection (3)**) if—

(a) that person is acting in accordance with—

(i) a rule in a plan; or

(ii) a resource consent; or

(iii) a designation; and

(b) the adverse effects in respect of which the order is sought were expressly recognised by the person who approved the plan, or granted the resource consent, or approved the designation, at the time of the approval or granting, as the case may be.

(3) The Environment Court may make an enforcement order if—

(a) the court considers it appropriate after having regard to the time that has elapsed and any change in circumstances since the approval or granting, as the case may be; or

(b) the person was acting in accordance with a resource consent that has been changed or cancelled under **section 700(1)(g)**.

Compare: 1991 No 69 s 319

706 Interim enforcement order

(1) **Sections 700 to 705** apply to the application for, and determination of, an interim enforcement order in the manner provided in this section.

(2) If an Environment Judge or a District Court Judge considers it necessary to do so, the Judge may make an interim enforcement order—

(a) without requiring service of notice in accordance with **section 703**; and

(b) without holding a hearing.

(3) Before making an interim enforcement order, the Environment Judge or the District Court Judge must consider—

(a) what the effect of not making the order would be on the environment; and

(b) whether the applicant has given an appropriate undertaking as to damages; and

(c) whether the Judge should hear the applicant or any person against whom the interim order is sought; and

(d) such other matters as the Judge thinks fit.

(4) The Judge must direct the applicant or another person to serve a copy of the interim enforcement order on the person against whom the order is made, and the order takes effect from when it is served or any later date that the order directs.

(5) **Subsections (6) and (7)** apply to a person against whom an interim enforcement order has been made if that person was not heard by a Judge before the order was made.

(6) The person may apply, as soon as practicable after the service of the order, to an Environment Judge or a District Court Judge to change or cancel the order.

(7) After hearing from the person against whom the interim enforcement order was made, the applicant, and any other person the Judge thinks fit, the Environment Judge or the District Court Judge may confirm, change, or cancel the interim enforcement order.

(8) An interim enforcement order stays in force until—

(a) an application for an enforcement order under **section 702** is determined; or

(b) the order is cancelled by an Environment Judge or a District Court Judge under **subsection (7)** or by the Environment Court under **section 707**.

Compare: 1991 No 69 s 320

707 Change or cancellation of enforcement order

(1) Any person directly affected by an enforcement order may at any time apply to the Environment Court in the prescribed form to change or cancel the order.

(2) **Sections 703 to 705** (which relate to notification, hearing, and decision) apply to every application under **subsection (1)** as if it were an application for an enforcement order.

(3) This section does not limit **section 706(5)**.

Compare: 1991 No 69 s 321

Abatement notices

708 Scope of abatement notice

(1) An abatement notice may be served on any person by an enforcement officer—

(a) requiring the person to cease, or prohibiting that person from starting, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,—

(i) contravenes or is likely to contravene this Act, any regulations, a rule in a plan, or a resource consent; or

(ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment:

(b) requiring the person to do something that, in the opinion of the enforcement officer, is necessary to ensure compliance by or on behalf of that person with this Act, any regulations, a plan rule or a proposed plan, or a resource consent, and also necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the environment—

(i) caused by or on behalf of the person; or

(ii) relating to any land of which the person is the owner or occupier:

(c) requiring a person who is contravening **section 15** (which relates to unreasonable noise) to adopt the best practicable option of ensuring that the emission of noise from that land or water does not exceed a reasonable level, if that person is—

(i) an occupier of any land; or

(ii) a person carrying out any activity in, on, under, or over a water body or the water within the coastal marine area:

(d) requiring the person to take or refrain from taking any specified action so as to comply with any consent notice or covenant issued or entered into under a condition of a resource consent:

(e) requiring the person to take preventative action to avoid actual or likely adverse effects on the environment:

(f) requiring the person to cease, or prohibit a person from starting, anything specified in the abatement notice to avoid the risk of imminent ~~risk of~~harm.

(2) If any person is under a duty not to contravene a rule in a proposed plan under **sections 17, 19(3), 21(3), or 22(3)**, an abatement notice may be issued to require a person—

(a) to cease, or prohibit that person from starting, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer, contravenes or is likely to contravene a rule in a proposed plan; or

(b) to do something that, in the opinion of the enforcement officer, is necessary in order to ensure compliance by or on behalf of that person with a rule in a proposed plan.

(3) An abatement notice may be made subject to such conditions as the enforcement officer serving it thinks fit.

(4) An abatement notice must not be served unless the enforcement officer has reasonable grounds for believing that any of the circumstances in **subsection (1) or (2)** exist.

(5) The power to make an ~~enforcement order~~ abatement notice under this section is not limited by **section 14(2)**.

Compare: 1991 No 69 s 322

709 Compliance with abatement notice

(1) A person on whom an abatement notice is served must—

(a) comply with the notice within the period specified in the notice; and

(b) unless the notice directs otherwise, pay all the costs and expenses of complying with the notice.

(2) If a person against whom an abatement notice is made under **section 708(1)(c)** (which relates to the emission of noise), fails to comply with the notice, an enforcement officer may, without further notice, enter the place where the noise source is situated (with a constable if the place is a ~~dwelling-house~~ dwelling house), and—

(a) take all any reasonable steps as they consider necessary to cause the noise to be reduced to a reasonable level; and

(b) when accompanied by a constable, seize and impound the noise source.

(3) This section is subject to the rights of appeal in **section 711**.

Compare: 1991 No 69 s 323

710 Form and content of abatement notice

(1) An abatement notice must be in the prescribed form and must state—

(a) the name of the person to whom it is addressed; and

(b) the reasons for the notice; and

(c) the action required to be taken or ceased or not undertaken; and

(d) the period within which the action must be taken or cease, having regard to the circumstances giving rise to the abatement notice~~. if the abatement notice is within the scope of **section 708(1)(a)(ii)** and the person against whom the notice is served is complying with this Act, any regulation, a rule in a plan, or a resource consent~~; and

(e) the consequences of not complying with the notice or lodging a notice of appeal; and

(f) the rights of appeal under **section 711**; and

(g) in the case of a notice under **section 708(1)(c)**, the rights of an enforcement officer under **section 709(2)** on failure of the recipient to comply with the notice within the time specified in the notice; and

(h) the name and address of the NBE regulator whose enforcement officer issued the notice.

(2) In stating the matters required by **subsection (1)(d)**,—

(a) regard must be had to the circumstances that gave rise to the abatement notice; and

(b) a reasonable period, not be less than 7 days after the date on which the notice is served, must be allowed to take the action required or cease the action if the abatement notice is within the scope of **section 708(1)(a)(ii)** and the person against whom the notice is served is complying with this Act, any regulation, a rule in a plan, or a resource consent.

Compare: 1991 No 69 s 324

711 Appeals

(1) Any person on whom an abatement notice is served may appeal to the Environment Court against the whole or any part of the notice.

(2) Notice of an appeal must be in the prescribed form and must—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations; and

(c) be lodged with the Environment Court and served on the NBE regulator (whose abatement notice is appealed against) within 15 working days after service of the abatement notice on the appellant.

(3) Any powers which may be exercised by an Environment Judge under this section or **section 712** may be exercised by an Environment Commissioner.

(4) The Environment Court must not confirm an abatement notice that is the subject of an appeal if—

(a) the person served with the abatement notice was acting in accordance with—

(i) a rule in a plan; or

(ii) a resource consent; or

(iii) a designation; and

(b) the adverse effects in respect of which the notice was served were expressly recognised by the person who approved the plan, notified the proposed plan, granted the resource consent, or approved the designation at the time of the approval, notification, or granting, as the case may be.

(5) However, the Environment Court may confirm an abatement notice under appeal in any case if the court considers it appropriate after having regard to

the time that has elapsed and any change in circumstances since the approval, notification, or granting, as the case may be.

Compare: 1991 No 69 s 325

712 Environment Court may order stay of abatement notice

(1) An appeal against an abatement notice does not operate as a stay of the notice unless—

(a) the abatement notice is within the scope of **section 708(1)(a)(ii)** and the person against whom the notice is served is complying with this Act, any regulation, a rule in a plan, or a resource consent; or

(b) a stay is granted by an Environment Judge under **subsection ~~(5)~~ (6)**.

(2) Any person who appeals under ~~**subsection (1)**~~ **section 711(1)** may also apply to an Environment Judge for a stay of the abatement notice pending the Environment Court's decision on the appeal

(3) An application for a stay must be in the prescribed form and must—

(a) state the reasons why the person considers it is unreasonable for the person to comply with the abatement notice; and

(b) state the likely effect on the environment if the stay is granted; and

(c) be lodged with the Environment Court and served immediately on the relevant authority whose abatement notice is appealed against.

(4) If a person applies for a stay, an Environment Judge must consider the application for a stay as soon as practicable after the application has been lodged.

(5) Before granting a stay, an Environment Judge must consider—

(a) what the likely effect of granting a stay would be on the environment; and

(b) whether it is unreasonable for the person to comply with the abatement notice pending the decision on the appeal; and

(c) whether to hear—

(i) the applicant:

(ii) the relevant authority whose abatement notice is appealed against; and

(d) such other matters as the Judge thinks fit.

(6) An Environment Judge may grant or refuse a stay and may impose any terms and conditions the Judge thinks fit.

(7) Any person to whom a stay is granted must serve a copy of it on the NBE regulator whose abatement notice is appealed against, and the stay has no legal effect until served.

(8) Any stay remains in force until an order is made otherwise by the Environment Court.

713 Cancellation of abatement notice

(1) If the NBE regulator on whose behalf an abatement notice is issued considers that the abatement notice is no longer required, the regulator may cancel the abatement notice at any time.

(2) The NBE regulator must give written notice of its decision to cancel an abatement notice to any person subject to that abatement notice.

(3) Any person who is directly affected by an abatement notice may apply in writing to the NBE regulator to change or cancel the abatement notice.

(4) The NBE regulator must, as soon as practicable, consider the application having regard to the purpose for which the abatement notice was given, the effect of a change or cancellation on that purpose, and any other matter the relevant authority thinks fit, and the relevant authority may confirm, change, or cancel the abatement notice.

(5) The relevant authority must give written notice of its decision to the person who applied under **subsection (4)**.

(6) If the NBE regulator, after considering an application made under **subsection (4)** by a person who is directly affected by an abatement notice, confirms that abatement notice or changes it in a way other than that sought by that person, that person may appeal to the Environment Court in accordance with **section 711** against the whole or any part of the abatement notice.

(7) If an abatement notice is issued on behalf of the Minister of Conservation, that Minister is an NBE regulator for the purposes of this section.

Compare: 1991 No 69 s 325A

Excessive noise

714 Meaning of excessive noise

(1) In this Act, the term **excessive noise** means any noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person (other than a person in or at the place from which the noise is being emitted), but does not include any noise emitted by any—

(a) aircraft being operated during, or immediately before or after, flight; or

(b) vehicle being driven on a road (within the meaning of section 2(1) of the Land Transport Act 1998); or

(c) train, other than when being tested (when stationary), maintained, loaded, or unloaded.

(2) Without limiting **subsection (1)**, **excessive noise**—

(a) includes noise that exceeds a standard for noise prescribed by ~~a~~ the national planning framework; and

(b) may include noise emitted by—

(i) a musical instrument; or

(ii) an electrical appliance; or

(iii) a machine, however powered; or

(iv) a person or group of persons; or

(v) an explosion or vibration.

Compare: 1991 No 69 s 326

715 Issue and effect of excessive noise direction

(1) This section applies if an enforcement officer, or any constable acting on the request of an enforcement officer,—

(a) has received a complaint that excessive noise is being emitted from any place; and

(b) upon investigation of the complaint, is of the opinion that the noise is excessive.

(2) An enforcement officer, or any constable acting on the request of an enforcement officer, may direct the occupier of the place from which the sound is being emitted, or any other person who appears to be responsible for causing the excessive noise, to immediately reduce the noise to a reasonable level.

(3) A direction under **subsection (2)** may be given in writing or orally.

(4) Every direction under **subsection (2)** must prohibit the person to whom it is given, and every other person bound by the direction, from causing or contributing to the emission of excessive noise from or within the vicinity of the place at any time during the period of ~~72 hours~~ 8 days or any shorter period that the enforcement officer or constable specifies, commencing at the time the direction is given.

(5) The powers under this section are in addition to the powers under **sections 708 to 711** to issue abatement notices relating to unreasonable noise and to seek an enforcement order under **section 702**.

Compare: 1991 No 69 s 327

716 Compliance with an excessive noise direction

(1) Every person who is given a direction under **section 715** must immediately comply with the direction.

(2) Every person who knows or ought to know that a direction under **section 715** has been given in respect of a particular place must comply with that direction as if they were the recipient of it, while on or in the vicinity of that place.

(3) If a person against whom an excessive noise direction is made fails to comply immediately with the notice, an enforcement officer (accompanied by a constable) or a constable may enter the place without further notice and—

(a) seize and remove from the place any instrument, appliance, vehicle, aircraft, train, or machine (the **item**) that is producing or contributing to the excessive noise; or

(b) render the item inoperable by the removal of any part from; or

(c) lock or seal the item so as to make unusable.

(4) If a direction under **section 715** is unable to be given because there is no person occupying the place from which the sound is being emitted or the occupier of the place cannot reasonably be identified, and there is no other person who appears to be responsible for causing the excessive noise, an enforcement officer (accompanied by a constable) or a constable may enter the place without notice and—

(a) seize and remove the item from the place; or

(b) render the item inoperable by the removal of any part from; or

(c) lock or seal the item so as to make unusable.

(5) Where any enforcement officer or constable enters any place under **subsection (4)**, they must leave in that place, in a prominent position,—

(a) a copy of the relevant written excessive noise direction issued under **section 715**; and

(b) a written notice stating—

(i) the date and time of the entry:

(ii) the name of the person in charge of the entry:

(iii) the actions taken to ensure compliance with the excessive noise direction:

(iv) the address of the office at which inquiries may be made in relation to the entry.

(6) Any enforcement officer or constable exercising any power under this section may use such assistance as is reasonably necessary.

(7) Any constable may, in exercising any power under this section, use such force as is reasonable in the circumstances.

Compare: 1991 No 69 s 328

Water shortage

716A Water shortage direction

(1) If a regional council considers that at any time there is a serious temporary shortage of water in its region or any part of its region, the regional council may issue a direction for either or both of the following:

(a) that the taking, use, damming, or diversion of water is to be apportioned, restricted, or suspended to the extent and in the manner set out in the direction:

(b) that the discharge of any contaminant into water is to be apportioned, restricted, or suspended to the extent and in the manner set out in the direction.

(2) A direction may relate to any specified water, to water in any specified area, or to water in any specified water body.

(3) A direction may not last for more than 14 days but may be amended, revoked, or renewed by the regional council by a subsequent direction.

(4) A direction comes into force on its issue and continues in force until it expires or is revoked.

(5) A direction may be issued by any means the regional council thinks appropriate, but notice of the particulars of the direction shall be given to all persons required to apportion, restrict, or suspend—

(a) the taking, use, damming, or diversion of water as far as they can be ascertained, as soon as practicable after its issue; or

(b) the discharge of any contaminant into water as far as they can be ascertained, as soon as practicable after its issue.

(6) For the purpose of this section, notice may be given to a person by serving it on the person or by publishing the notice in 1 or more daily newspapers circulating in the area where the person takes, uses, dams, or diverts the water, or discharges a contaminant into water.

Compare: 1991 No 69 s 329

Restrictions relating to enforcement orders and abatement orders

717 Restrictions on certain applications for enforcement orders and abatement notices

(1) No person may apply to the Environment Court for an enforcement order of a kind specified in any of **section 700(1)(a) to (d)**, and no abatement notice may be served on any person, in respect of anything done or to be done,—

(a) by or on behalf of the Director of Maritime New Zealand under section 248 or ~~section~~ 249 of the Maritime Transport Act 1994; or

(b) by or on behalf of any person in accordance with any instructions issued under either of those sections of that Act; or

(c) by or on behalf of any on-scene commander under section 305 or ~~section~~ 311 of that Act or in accordance with a direction given under section 310 of that Act; or

(d) by or on behalf of the master or owner of any ship, or the owner or operator of any oil transfer site or offshore installation, or any other person, in accordance with a direction given under section 305 or 311 of that Act.

(2) No person (other than the Minister, the Director of Maritime New Zealand, or an NBE regulator) may apply to the Environment Court for an enforcement order to require any person to comply with or cease contravening **section 24** (which imposes restrictions on discharges of harmful substances, contaminants, and water from ships and offshore installations).

(3) No person may apply for an enforcement order of a kind specified in **section 700(1)(d**) in respect of any actual or reasonable costs and expenses, where the costs and expenses that a person has incurred or is likely to incur constitute pollution damage (as defined in section 342 of the Maritime Transport Act 1994) in respect of which the owner of a CLC ship (as so defined) is liable in damages under Part 25 of that Act, and no order relating to such damage may be made by the Environment Court or any other court in any proceedings (including prosecutions for offences) under this Act.

(4) An enforcement order or abatement notice may be served on a person to require a person—

(a) to cease, or prohibit a person from doing, any activity that, in the opinion of the Environment Court or an enforcement officer is, or is likely to be, noxious, dangerous, offensive, or objectionable to the extent that it has or is likely to have an adverse effect on the environment; or

(b) to do something that, in the opinion of the Environment Court or an enforcement officer, is necessary to avoid, minimise, remedy, offset, or take steps to provide for redress for an actual or likely adverse effect on the environment caused by or on behalf of that person.

(5) **Subsection (1)** is subject to **section 705(2)** (which specifies limits to the jurisdiction of the Environment Court to make enforcement orders).

Compare: 1991 No 69 ss 17(3), (4), 325B

Monetary benefit orders

718 Monetary benefit orders

(1) The Environment Court (in any case) or the District Court (if proceedings for an offence are taken in that court) may order a person to pay an amount not exceeding the amount that the court is satisfied, on the balance of probabilities, represents the amount of any monetary benefits acquired by the person, or accrued or accruing to the person, as a result of the commission of the offence or contravention under this Act in relation to which the order is made.

(2) When determining an amount that the person must pay under an order under **subsection (1)**, the court may take into account—

(a) the person's financial circumstances; and

(b) any amount submitted to the court by the NBE regulator under **subsection (3)** or the person under **subsection (3A)**.

(3) The NBE regulator may submit to the court the amount the regulator considers to be a reasonable estimate of the monetary benefits acquired by the person, or accrued or accruing to the person, as a result of the commission of the offence or contravention in relation to which the order under **subsection (1)** is sought, as determined in accordance with—

(a) a prescribed guideline, method, or protocol; or

(b) any other method the regulator considers appropriate.

(3A) The person has a right of reply to the NBE regulator's submission under **subsection (3)**.

(4) For the purposes of **subsection (1)**, the court may assume that an amount represents any monetary benefits acquired by a person, or accrued or accruing to the person, as a result of the commission of an offence or contravention if—

(a) the NBE regulator submits that amount to the court under **subsection (3)**; and

(b) the regulator determined that amount in accordance with a prescribed guideline, method, or protocol.

(5) Any amount received as the payment of an order made under **subsection (1)** must be paid to the NBE regulator unless otherwise directed by the court.

(6) In this section, **monetary benefits**—

(a) means monetary, financial, or economic benefits; and

(b) includes any monetary, financial, or economic benefit the person acquires or accrues by avoiding or delaying the person's compliance with the provision, condition, or duty to which the person's offence or contravention relates.

Compare: Environmental Protection Act 2017 s 329 (Victoria)

Revocation or suspension of resource consent for non-compliance with legislation

719 Environment Court may revoke or suspend resource consent

(1) If an NBE regulator is satisfied that there has been ~~ongoing and severe~~ significant or repeated non-compliance with this Act or the Resource Management Act 1991 in relation to a resource consent, the regulator may apply to the Environment Court (in any case) or the District Court (if proceedings for an offence are taken in that court) for an order—

(a) revoking the resource consent in whole or part; or

(b) suspending the resource consent in whole or part for a specified period.

(2) The NBE regulator must demonstrate in their application that, on the balance of probabilities, the revocation or suspension is in the best interests of the public and will not result in any ~~further~~ adverse effects on the environment.

(3) The NBE regulator must, within 5 working days after the application is made to the court, serve notice of the application in the prescribed form on every person directly affected by the application.

(4) The court may, having regard to the nature of the non-compliance,—

(a) revoke the resource consent with effect on a specified date; or

(b) suspend the resource consent for a specified period unconditionally or subject to any conditions the court thinks fit.

(5) **Subsection (4)** does not apply until ~~the court has heard from~~ the person to whom an order, if made, will apply has been given an opportunity to be heard.

(6) No court may order that compensation or redress be paid or provided to any person for any loss or damage arising from the revocation or suspension of the person's resource consent under this section.

Declaration if certain restrictions contravened

720 Declaration relating to trade competition

(1) Proceedings may be brought in the Environment Court under **subpart 5 of Part 4** (restrictions relating to trade competition) seeking a declaration that person A or person C—

(a) has contravened any of the provisions of that subpart:

(b) aided, abetted, counselled, induced, procured, or conspired with a person to contravene any of the provisions of that subpart:

(c) was in any other way knowingly concerned about any of the provisions of that subpart being contravened.

(2) The proceedings may be brought by any person other than person A or person C who was—

(a) a party to an appeal against a decision under this Act in favour of person B; or

(b) a party to a proceeding in the Environment Court lodged by person B under any of the provisions referred to in **section 150(2)**.

(3) Proceedings under this section—

(a) must not be commenced until the appeal or proceedings referred to in **subsection (2)** have been determined; but

(b) must be commenced not later than 6 years after the action occurred that contravened that subpart.

(4) The Environment Court may make the declaration.

(5) Terms used in this section and **section 147** have the meanings given in that section.

Compare: 1991 No 69 s 308G

721 Costs if declaration made

(1) This section applies if the Environment Court makes a declaration under **section 720**.

(2) The Environment Court must make an order that the party against whom the declaration is made must pay any other party an amount for costs and expenses, calculated by—

(a) totalling the costs and expenses (including witness expenses) that the other party incurred because the party against whom the declaration is made contravened **subpart 5 of Part 4**; and

(b) deducting from the total under **paragraph (a)** any amount paid by the party against whom the declaration is made to the other party in previous proceedings on the same matter.

(3) The Environment Court must also make an order that the party against whom the declaration is made must pay to the Crown an amount for costs and expenses, calculated by—

(a) totalling the costs and expenses incurred by the court because the party against whom the declaration is made contravened **subpart 5 of Part 4**; and

(b) deducting from the total under **paragraph (a)** any amount paid by the party against whom the declaration is made to the other party in previous proceedings on the same matter.

(4) The court may decline to make an order under **subsection (2) or (3)**, but only if it considers that an order should not be made because of exceptional circumstances relevant to the matter.

(5) If the court declines to make an order under **subsection (2) or (3)**, it may make an order under **clause 91(1) or (3) of Schedule 13** (which relates to awarding costs).

(6) If the court makes a declaration against person C, it must also make an order that person A must not, directly or indirectly, reimburse person C for the costs and expenses that the court has ordered person C to pay.

Compare: 1991 No 69 s 308G

722 Proceedings for damages in High Court

(1) A person who obtains a declaration under **section 720** may bring proceedings in the High Court for damages against the person against whom the declaration was made by the Environment Court.

(2) The proceedings must—

(a) be commenced within 6 years of the declaration being made under **section 720**; and

(b) be brought in accordance with the High Court Rules 2016.

(3) The High Court must order the payment of damages for loss suffered by the plaintiff because of the conduct of the defendant that gave rise to the making of the declaration.

Subpart 2—Enforceable undertakings

723 NBE regulator may accept enforceable undertakings

(1) An NBE regulator may accept an enforceable undertaking given by a person in writing in connection with a matter relating to a contravention or an alleged contravention by the person of this Act or the regulations.

(2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

Compare: 2015 No 70 s 123

724 Undertaking may include requirements as to compensation or penalties

(1) An undertaking under **section 723** may include—

(a) an undertaking to pay compensation to any person or otherwise take action to avoid, remedy, or mitigate any actual or likely adverse effects arising from a contravention, involvement in a contravention, or possible contravention or involvement in a contravention of any provision of this Act or the regulations:

(b) an undertaking to pay to the NBE regulator an amount in compensation for the remediation of any actual or likely adverse effects arising from the contravention, involvement in a contravention, or possible contravention or involvement.

~~(2) The NBE regulator may retain 90% of the amount collected under **subsection (1)(b)** and must pay the remainder into a Crown Bank Account.~~

(2) The NBE regulator must apply the amount collected under **subsection (1)(b)** to the purpose for which the amount was collected.

(3) If an undertaking referred to in **subsection (1)~~(b)~~** is given, the NBE regulator must give notice of that undertaking on its Internet site (whether or not it gives notification of other undertakings given in relation to the same matter)

(4) The notice under **subsection (3)** must include—

(a) notice of the decision to accept an enforceable undertaking and the reasons for that decision; and

~~(b) a statement of the amount that has been undertaken to be paid, and a brief explanation of what the amount relates to and how it will be applied; and~~

(b) a statement of the amount of compensation to be paid or action to be taken to avoid, remedy, or mitigate any actual or likely effects arising; and

(ba) the name of the person providing the undertaking; and

(c) a brief description of the circumstances and nature of the alleged contravention to which the undertaking relates.

(5) This section does not limit **section 723**.

Compare: 2011 No 5 s 46A

725 Notice of decision and reasons for decision

The NBE regulator must, within 15 working days after receiving a proposed enforceable undertaking, give the person seeking to make ~~an~~ the enforceable undertaking written notice of—

(a) its decision to accept or reject the undertaking; and

(b) the reasons for the decision.

Compare: 2015 No 70 s 124

726 When enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the NBE regulator's decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the regulator.

Compare: 2015 No 70 s 125

727 Compliance with enforceable undertaking

A person must not contravene an enforceable undertaking given by that person that is in force.

Compare: 2015 No 70 s 126

728 Contravention of enforceable undertaking

(1) The NBE regulator may apply to the District Court for an order if a person contravenes an enforceable undertaking.

(2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court may make either or both of the following orders:

(a) an order directing the person to comply with the undertaking:

(b) an order discharging the undertaking.

(3) In addition to the orders referred to in **subsection (2)**, the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay to the NBE regulator—

(a) the costs of the proceedings; and

(b) the reasonable costs of the regulator in monitoring compliance with the enforceable undertaking in the future.

(4) This section does not prevent proceedings being brought for the contravention or alleged contravention of this Act or regulations to which the enforceable undertaking relates if the undertaking is not complied with.

Compare: 2015 No 70 s 127

729 Withdrawal or variation of enforceable undertaking

(1) A person who has given an enforceable undertaking may at any time, with the written agreement of the NBE regulator,—

(a) withdraw the undertaking; or

(b) vary the undertaking.

(2) However, the provisions of the undertaking cannot be varied to provide for a different alleged contravention of this Act or regulations.

(3) The NBE regulator must publish, on an Internet site maintained by or on behalf of the regulator, notice of the withdrawal or variation of an enforceable undertaking.

Compare: 2015 No 70 s 128

730 Proceedings for alleged contravention

(1) No proceedings (whether civil or criminal) for a contravention or an alleged contravention of this Act or regulations may be brought against a person if an enforceable undertaking is in effect in relation to that contravention unless the undertaking has not been complied with.

(2) No proceedings may be brought for a contravention or an alleged contravention of this Act or regulations against a person who—

(a) has made an enforceable undertaking in relation to that contravention; and

(b) has completely discharged the enforceable undertaking.

(3) The NBE regulator may accept an enforceable undertaking in relation to a contravention or an alleged contravention before proceedings in relation to that contravention have been completed.

(4) If the NBE regulator accepts an enforceable undertaking before the proceedings are completed, the regulator must take all reasonable steps to have the proceedings discontinued as soon as practicable.

Compare: 2015 No 70 s 129

Adverse publicity orders

731 Adverse publicity orders

(1) An order under this section (an **adverse publicity order**) to address non-compliance with this Act ~~in relation to a resource consent~~ may—

(a) be made by the Environment Court in enforcement proceedings on application by the NBE regulator; or

(aa) be made by the District Court in proceedings in that court for an offence under this Act on application by the prosecutor; or

(b) be offered by the consent holder as part of an enforceable undertaking.

(2) An adverse publicity order may require the consent holder or another person involved in the commission of the non-compliance to do 1 or more of the following:

(a) take any specified action to publicise—

(i) the non-compliance:

(ii) any impacts on human health or the environment or other consequences arising or resulting from the non-compliance:

(iii) if applicable, any penalties imposed, or other orders made, by the court as a result of the commission of the non-compliance:

(iv) any specified additional information:

(b) take any specified action to notify a specified person or class of person of the matters listed in **paragraph (a)**.

(3) Any person ~~on~~ against whom an adverse publicity order is ~~served may appeal to the Environment Court~~ made by the Environment Court or District Court may appeal to the High Court against the whole or any part of the order.

(4) Notice of an appeal must be in the prescribed form and must—

(a) state the reasons for the appeal and the relief sought; and

(b) state any matters required by regulations; and

(c) be lodged with the Environment Court and served on the consent holder and the NBE regulator within 15 working days after service of the order on the appellant.

(4A) The High Court may confirm or reverse the order appealed against or modify the order in any manner that the court thinks fit.

(4B) If any question arises as to whether non-compliance with this Act has been established, the question must be determined on the balance of probabilities.

(4C) If an appeal is lodged against an adverse publicity order, the order is stayed until the appeal is determined.

(5) In this section, **non-compliance** includes alleged non-compliance in the case of an enforceable undertaking.

Compare: Environmental Protection Act 2017 s 330 (Victoria)

Subpart 3—Financial assurances

732 Plan may require financial assurance

~~(1) An NBE regulator may require a person undertaking a particular activity to provide a financial assurance if authorised to do so by—~~

~~(a) the relevant plan; or~~

~~(b) the regulations.~~

(1) An NBE regulator may require a person undertaking a particular activity to provide a financial assurance.

(1A) A consent authority may include a condition in a resource consent that requires a person undertaking a particular activity to provide a financial assurance.

(2) The purpose of a financial assurance is to provide security for the costs and expenses of remediation or clean up in connection with a particular activity.

(3) If the NBE regulator requires a person to provide a financial assurance, the regulator must notify the person in writing of the form and amount of the financial assurance.

(4) If a person is given notice under **subsection (3)**, the person must provide the financial assurance within a period, not less than 30 working days, to be specified by the NBE regulator.

733 Form of financial assurance

(1) An NBE regulator may require a financial assurance to be provided—

(a) as a bond; or

~~(b) as an environmental restoration account; or~~

(c) as a form of insurance; or

(d) in any other form specified by the regulator.

(2) **Sections 734 and 735** apply in relation to bonds under this section.

734 Bonds

(1) A bond may be given for the performance of any 1 or more conditions the NBE regulator considers appropriate and may continue after the expiry of the resource consent or other permission to secure the ongoing performance of conditions relating to long-term effects, including—

(a) a condition relating to the alteration or removal of structures:

(b) a condition relating to remedial, restoration, or maintenance work:

(c) a condition providing for ongoing monitoring of long-term effects.

(2) A condition describing the terms of the bond to be entered into may—

(a) require that the bond be given before the resource consent or permission is exercised or at any other time:

(b) require that **section 735** apply to the bond:

(c) provide that the liability of the holder of the resource consent or permission be not limited to the amount of the bond:

(d) require the bond to be given to secure performance of conditions of the consent, including conditions relating to any adverse effects on the

environment that become apparent during or after the expiry of the consent or permission:

(e) require the holder of the resource consent or permission to provide any security that the NBE regulator thinks fit for the performance of any condition of the bond:

(f) require the holder of the resource consent or permission to provide a guarantor (acceptable to the NBE regulator) to bind itself to pay for the carrying out of a condition in the event of a default by the holder or the occurrence of an adverse environmental effect requiring remedy:

(g) provide that the bond may be varied or cancelled or renewed at any time by agreement between the holder and the NBE regulator.

(3) If an NBE regulator considers that an adverse effect may continue or arise at any time after the expiration of a resource consent or permission granted by it, the NBE regulator may require that a bond continue for a specified period that the regulator thinks fit.

Compare: 1991 No 69 s 108A

735 Special provisions in respect of bonds

(1) A bond given under **section 734** in respect of a land use consent or subdivision consent, and any other bond to which this subsection is applied as a condition of the consent,—

(a) is to be treated as an instrument creating an interest in the land within the meaning of section 51 of the Land Transfer Act 2017, and may be registered accordingly; and

(b) when registered under the Land Transfer Act 2017, is a covenant running with the land and, despite anything to the contrary in section 103 of the Land Transfer Act 2017, binds all subsequent owners of the land.

(2) If the registered bond is varied, cancelled, or expires, the Registrar-General of Land must make an appropriate entry in the register and on any relevant instrument of title noting that the bond has been varied or cancelled or has expired, and the bond takes effect as so varied or ceases to have any effect, as the case may be.

(3) If the bond has been given in respect of the completion of any work, or for the purposes of ascertaining whether the work has been completed to the satisfaction of the consent authority, the NBE regulator may from time to time, under section 171 of the Local Government Act 2002, enter on the land where the work is required to be, is being, or has been carried out.

(4) If the holder fails, within the period prescribed by the resource consent or other permission (or within any further period that the NBE regulator may allow), to complete, to the satisfaction of the NBE regulator, any work in respect of which any bond is given (including completion of any interim monitoring required)—

(a) the regulator may enter on the land and complete the work and recover the cost of the work from the holder out of any money or securities deposited with the regulator or money paid by a guarantor, so far as the money or securities will extend; and

(b) on completion of the work to the satisfaction of the regulator, any money or securities remaining in the hands of the regulator after payment of the cost of the works must be returned to the holder or the guarantor, as the case may be.

(5) If the cost of any work done by the NBE regulator under **subsection (4)** exceeds the amount recovered by the regulator under that subsection, the amount of that excess is a debt due to the regulator by the holder, and becomes a charge on the land.

(6) The provisions of this Part continue to apply despite the entry into, or subsequent variation or cancellation of, any bond.

Compare: 1991 No 69 s 109

~~**736 Environmental restoration account**~~

~~(1) An NBE regulator may require an applicant for a resource consent or other permission to make a payment to the Commissioner of Inland Revenue for entry in the applicant's environmental restoration account under section EK 4 of the Income Tax Act 2007.~~

~~(2) An amount entered in the account must be applied as directed by the NBE regulator to enable the applicant to carry out a specific project for the restoration and enhancement of the environment.~~

~~(3) An amount entered in the account may not, while in the account,—~~

~~(a) be assigned or charged in any way, except by the NBE regulator:~~

~~(b) pass by operation of law to, or into the custody or control of, someone else, except the regulator:~~

~~(c) be an asset for the payment of the debts or liabilities of a dead person's estate.~~

737 Amount of financial assurance

The NBE regulator may determine the amount of a financial assurance, having regard to—

(a) a reasonable estimate of the costs and expenses of remediation or clean-up activities for the particular activity; and

(b) any method for calculating the amount of financial assurances published by the regulator; and

(c) any independent assessment obtained by the regulator; and

(d) any guidance issued by the chief executive of the Ministry for the Environment.

738 Independent assessment of amount of financial assurance

(1) For the purpose of determining the amount of a financial assurance, the NBE regulator may require a person to provide an independent assessment of a matter within a period specified by the regulator.

(2) If the NBE regulator requires a person to provide an independent assessment under **subsection (1)**, the person must pay any costs associated with obtaining the independent assessment.

(3) An independent assessment required by the NBE regulator under **subsection (1)** must be conducted by a suitably qualified person.

739 Method for calculating financial assurance amount

(1) The NBE regulator may publish a method for calculating financial assurance amounts.

(2) The method takes effect on the day notice is published or on any later day if specified in the notice.

(3) The NBE regulator must publish the method on the regulator's Internet site.

740 Costs associated with financial assurance

A person who is required to provide a financial assurance is responsible for all reasonable costs incurred by the NBE regulator that are associated with—

(a) providing the financial assurance; and

(b) determining the form and amount of a financial assurance

741 NBE regulator may review financial assurance

(1) The NBE regulator may review—

(a) the requirement for a person to provide a financial assurance:

(b) the amount of a financial assurance:

(c) the form of a financial assurance.

(2) The NBE regulator may review a financial assurance in any case or class of cases prescribed by the regulations.

742 NBE regulator may amend financial assurance

(1) The NBE regulator may, subject to **subsection (2)**, amend—

(a) the form of a financial assurance:

(b) the amount of a financial assurance:

(c) the form and the amount of a financial assurance.

(2) If following a review, the NBE regulator proposes to amend a financial assurance, the regulator must—

(a) notify the person who provided the financial assurance in writing; and

(b) invite the person who provided the financial assurance to make a submission on the proposed amendment, within 20 working days after the date of notice; and

(c) consider any submissions from the person who provided the financial assurance.

(3) If the NBE regulator decides to amend a financial assurance, the regulator must notify the person in writing of the decision.

(4) On amending a financial assurance, the NBE regulator—

(a) may make any changes the regulator considers necessary to implement that amendment in an instrument or document; and

(b) despite anything to the contrary in this Act or the regulations, may make any changes the regulator considers necessary to implement the amendment in a resource consent or other permission under this Act by complying only with this section.

(5) If a person is given notice under **subsection (3)** and is required to provide a further form, amount, or form and amount of a financial assurance, the person must provide the further requirement within a period, not less than 30 working days, to be specified by the NBE regulator.

743 NBE regulator may make a claim on financial assurance

(1) This section applies if—

(a) the NBE regulator determines that the person who provided a financial assurance has failed to conduct the remediation or clean-up activities required by this Act or the regulations; or

(b) the regulator has exercised clean-up powers in connection with the particular activity that the financial assurance was provided in relation to.

(2) The NBE regulator may make a claim on a financial assurance for any reasonable costs incurred, or that the regulator considers are likely to be incurred, by the regulator in conducting the remediation or clean-up activities.

(3) The NBE regulator may make a claim on a financial assurance with respect to a power specified in **subsection (1)(b)** whether or not any costs incurred by the NBE regulator in conducting the remediation or clean-up activities are the result of an act or omission before the financial assurance was provided.

(4) If the NBE regulator makes a claim under this section and the costs incurred by the regulator in conducting the remediation or clean-up activities exceed the amount of the financial assurance, the regulator may recover as a debt due to the Crown in a court of competent jurisdiction any reasonable costs incurred by the regulator in conducting the remediation or clean-up activities.

(5) If the NBE regulator makes a claim under this section, nothing in this Part prevents the regulator from making a further claim for reasonable costs incurred,

or that the regulator considers are likely to be incurred, in conducting clean-up or remediation activities.

(6) Any money recovered under this section is to be paid ~~into the Crown Bank Account~~ to the NBE regulator.

744 Procedure for claim on financial assurance in the event of person's failure to remediate or clean up

(1) Before the NBE regulator makes a claim on a financial assurance for a matter specified in **section 743**, the regulator must—

(a) notify the person who provided the financial assurance in writing; and

(b) invite the person who provided the financial assurance to make a submission on the regulator's intention to make a claim within 20 working days of the date of the notice; and

(c) consider any submissions made within the period specified in **paragraph (b)**.

(2) The NBE regulator may proceed with the claim 10 working days after the day the regulator receives any submissions or within the period specified in **subsection (1)(b)**, whichever occurs first.

(3) The NBE regulator must notify the person who provided the financial assurance of a decision under **subsection (2)** in writing within 5 working days after the day of the decision.

745 Procedure for claim on financial assurance in the event of immediate or serious risk

If the NBE regulator makes a claim on a financial assurance for a matter specified in **section 743** that involves an immediate or serious risk to life or the environment, the regulator must—

(a) notify the person who provided the financial assurance in writing within 10 working days of the date of the claim; and

(b) give reasons for making the claim.

746 Notice to replenish financial assurance

(1) If the NBE regulator makes a claim on a financial assurance, the regulator may require the person who provided the financial assurance to replenish the amount of the financial assurance by giving notice in writing.

(2) A notice under **subsection (1)** must set out the amount the person is required to provide to replenish the amount of the financial assurance consequent to the claim.

(3) If a person is given notice under **subsection (1)**, the person must provide the amount required to replenish the financial assurance within a period, not less than 30 working days, to be specified by the NBE regulator.

747 Specified conditions for release of financial assurance

(1) The NBE regulator must release all or part of a financial assurance (as the case requires) in any case or class of cases prescribed by the regulations.

(2) If the NBE regulator releases all or part of a financial assurance, the regulator must notify the person who provided the financial assurance in writing.

748 Application for release of financial assurance

(1) A person who provides a financial assurance under this subpart may apply at any time to the NBE regulator for the release of all or part of the financial assurance.

(2) In considering an application under **subsection (1)**, the NBE regulator must—

(a) have regard to the prescribed risk-assessment criteria (if any); and

(b) notify the person of the regulator's decision within 40 working days after the date the application is received.

(3) If, in considering an application under **subsection (1)**, the NBE regulator determines further information is required, the NBE regulator may—

(a) request the person to provide further information; and

(b) extend the period specified in **subsection (2)(b)**.

749 Transfer of financial assurance

(1) The NBE regulator may transfer a financial assurance if—

(a) a person is required to provide a financial assurance under **section 732**; and

(b) that financial assurance may be released or partly released to the person under **section 747 or 748**; and

(c) the person is required to provide another financial assurance under **section 732**.

(2) The NBE regulator must notify the person in writing of a decision to transfer a financial assurance.

(3) On transferring a financial assurance, the NBE regulator may make any changes the regulator considers necessary to implement the transfer in an instrument or document.

(4) If a person is given notice under **subsection (2)** and is required to provide a further amount as a financial assurance, the person must provide the further amount of the financial assurance within a period, not less than 30 working days, to be specified by the NBE regulator.

750 Enforcement of financial assurance

(1) A person must not refuse or fail to do any of the following within the specified period:

(a) provide a financial assurance:

(b) provide a further amount as a financial assurance following amendment by the NBE regulator:

(c) replenish the amount of a financial assurance consequent to a claim on the financial assurance.

(2) If a person refuses or fails to fulfil a requirement specified in **subsection (1)** when it is due, the NBE regulator may suspend the relevant resource consent or other permission until the person fulfils the requirement.

Subpart 4—Miscellaneous provisions relating to compliance and enforcement action

Emergency works

751 Exclusion of certain provisions where emergency works or remedial action necessary

(1) This section applies to an adverse effect or sudden event described in **subsection (2)** if the person, authority, network utility operator, or lifeline utility concerned considers the following is affected by or likely to be affected by it:

(a) any public work for which any person has financial responsibility:

(b) any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act:

(c) any project or work or network utility operation for which any network utility operator is approved as a requiring authority under **section 499(3)**:

(d) any service or system that any lifeline utility operates or provides.

(2) ~~This~~ The adverse events or sudden events are—

(a) an adverse effect on the environment that requires immediate preventive measures:

(b) an adverse effect on the environment that requires immediate remedial measures:

(c) any sudden event causing or likely to cause loss of life, injury, or serious damage to property.

(3) **sections 17 and 19 to 22** do not apply to any activity undertaken by or on behalf of that person, authority, network utility operator, or lifeline utility to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency, whether or not the adverse effect or sudden event was foreseeable.

(4) In this section and **section 754**, **lifeline utility** means a lifeline utility within the meaning of section 4 of the Civil Defence Emergency Management Act 2002 other than a lifeline utility that is a network utility operator to which **subsection (1)(c)** applies.

Compare: 1991 No 69 s 330(1), (1A), (5)

752 Defence in case of unforeseen emergency

(1) A person who is prosecuted under **section 760** for breaching any of **sections 17 to 22** may raise any applicable defence provided for in **sections 762 and 763**.

(2) No person may be prosecuted for acting in accordance with **section 753** (which relates to actions undertaken in an emergency).

Compare: 1991 No 69 s 18

753 Power to take preventive or remedial action

(1) **Subsection (2)** applies if—

(a) a local authority or consent authority has—

(i) financial responsibility for any public work; or

(ii) jurisdiction under this Act in respect of any natural and physical resource or area; and

(b) in the reasonable opinion of that local authority or consent authority, that work, resource, or area is likely to be affected by any of the conditions described in **section 751(2)**.

(2) The local authority or consent authority by its employees or agents may, without prior notice, enter any place (including a ~~dwellinghouse~~ dwelling house when accompanied by a constable) and may take any action, or direct the occupier to take any action, that is immediately necessary and sufficient to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(3) **Sections 17 and 19 to 22** do not apply to any action taken under **subsection (2)**.

(4) As soon as practicable after entering any place under this section, a person entering must identify themselves and inform the occupier of the place of the entry and the reasons for it.

(5) Nothing in this section authorises any person to do anything in relation to an emergency involving a marine oil spill or suspected marine oil spill within the meaning of section 281 of the Maritime Transport Act 1994.

Compare: 1991 No 69 s 330(2)–(4)

754 Resource consents for emergency works

(1) If an activity is undertaken under **section 751 or 753**, the person (other than the occupier), authority, network utility operator, or lifeline utility who or

which undertook the activity must advise the appropriate consent authority, within 7 days, that the activity has been undertaken.

(2) The person (other than the occupier), authority, network utility operator, or lifeline utility who or which undertook the activity must, within 30 working days of the notification under **subsection (1)**, apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity (that would breach this Act but for **section 751 or 753**).

(3) **Subsection (2)** applies only if the adverse effects of the activity continue.

(4) In its consideration of retrospective consent applications, the consent authority may direct those who have undertaken the emergency works or activity that requires a consent to remediate any ongoing adverse environmental effects.

(5) If the application is made within the time stated in **subsection (2)**, the activity may continue until the application for a resource consent and any appeals have been finally determined.

Compare: 1991 No 69 s 330A

755 Emergency works under Civil Defence Emergency Management Act 2002

(1) If any activity is undertaken by any person exercising emergency powers during a state of emergency declared, or transition period notified, under the Civil Defence Emergency Management Act 2002, **sections 17 and 19 to 22** do not apply to any activity undertaken by or on behalf of that person to remove the cause of, or mitigate any actual or adverse effect of, the emergency.

(2) If an activity is undertaken to which **subsection (1)** applies, the person who authorised the activity must advise the appropriate consent authority, within 7 days, that the activity has been undertaken.

(3) The person who authorised the activity must, within 60 working days of the notification under **subsection (2)**, apply in writing to the appropriate consent authority for any necessary resource consents required in respect of the activity (that would breach this Act but for this section).

(4) **Subsection (3)** applies only if the adverse effects of the activity continue.

(5) In its consideration of retrospective consent applications, the consent authority may direct those who have undertaken the emergency works or activity that requires a retrospective consent to remediate any ongoing adverse environmental effects.

(6) If the application is made within the time stated in **subsection (3)**, the activity may continue until the application for a resource consent and any appeals have been finally determined.

(7) A person does not commit an offence under **section 760(1)(a)** by acting in accordance with this section.

Compare: 1991 No 69 s 330B

756 Reimbursement or compensation for emergency works

(1) If a local authority or consent authority takes action under **section 753(2)** because of the default of any person, the authority may require reimbursement from that person of its actual and reasonable costs (as defined in **section 700(2)**).

(2) If the costs required to be paid under **subsection (1)** are not duly paid within 20 working days of being required, the authority may seek an enforcement order under **section 700(1)**.

(3) **Subsection (4)** applies to—

(a) every person having an estate or interest in land that is injuriously affected by the exercise of any power under **section 753(2)**; and

(b) every other person suffering any damage as a result of the exercise of that power.

(4) The person is entitled to compensation from the authority in respect of any damage which did not arise from any failure of that person to abide by their duties under the Act.

(5) Any compensation under **subsection (4)** must be claimed and determined in accordance with Part 5 of the Public Works Act 1981 and the provisions of that Act, so far as they apply and with all necessary modifications, apply accordingly.

Compare: 1991 No 69 s 331

757 Protection against imprisonment for dumping and discharge offences involving foreign ships

(1) No person may be imprisoned for any offence of contravening or permitting a contravention of **section 23 or 24** involving a foreign ship unless the court is satisfied that—

(a) either—

(i) the person intended to commit the offence; or

(ii) the offence occurred as a consequence of any reckless act or omission by that person with the knowledge that that act or omission would, or would be likely to, cause a significant or irreversible adverse effect on the coastal marine area; and

(b) the commission of the offence has had, or is likely to have, a significant or irreversible adverse effect on the coastal marine area.

(2) In this section, **foreign ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994.

Compare: 1991 No 69 s 339A

758 Amount of fine or other monetary penalty recoverable by distress and sale of ship or from agent (placeholder)

(1) The court may order that the amount of an unpaid fine be levied by distress and sale of the ship and its equipment if—

(a) the master or owner of a ship is convicted of an offence against **section 760** in respect of any contravention of **section 23 or section 24 or section 25**; and

(b) any fine or other monetary penalty imposed by a court under **section 765 or 776** in respect of that offence is not paid on time.

(2) Without limiting **subsection (1)**, **subsection (3)** applies if any master or owner of a ship—

(a) is convicted of an offence against **section 760** in respect of any contravention of **section 23 or section 24 or section 25**; and

(b) fails to pay the full amount of any fine or other monetary penalty imposed by the court under **section 765 or 776**.

(3) The agent of the ship is civilly liable to pay to the Crown or, if the proceedings in relation to the offence were commenced by or on behalf of a local authority, to that local authority, any amount of that fine or monetary penalty that remains unpaid and the Crown or that local authority may recover that amount from that agent as a debt.

(4) For the purpose of **subsection (2)**, any proceedings in relation to the offence that were commenced by or on behalf of a local authority include any proceedings in which the EPA was assisting the local authority (*see* **section 796(b)**).

(5) Every agent of a ship who, under this section, pays the whole or part of any fine or other monetary penalty imposed on the master or owner of the ship is entitled to recover the amount so paid from that master or owner as a debt or deduct that amount out of or from any money that is or becomes payable by that agent to that master or owner, and any amount so paid by the agent is, for the purposes of section 4(1)(p) of the Admiralty Act 1973, deemed to be a disbursement made on account of the ship.

(6) The District Court has jurisdiction to hear and determine proceedings for the recovery, in accordance with this section, of any money from any agent, master, or owner of a ship whatever the amount of money involved.

(7) This section applies despite any enactment or rule of law.

Compare: 1991 No 69 s 339C

Subpart 5—Offences, penalties, and related provisions

Limitation periods

759 Limitation period for offences or civil penalties under this Act

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of—

(a) an offence against this Act or the regulations ends on the date that is 2 years after the date on which the contravention giving rise to the charge first became known, or should have become known, to the ~~NBE regulator~~ person on whose behalf the charge was filed:

(b) the imposition of a pecuniary penalty, an enforceable undertaking, a monetary benefit order, or an adverse publicity order under this subpart is 6 years after the date on which the contravention giving rise to the liability for the penalty first became known, or should have become known, to the ~~regulator~~ person on whose behalf the penalty was imposed.

Offences

760 Offences against this Act

(1) A person commits an offence against this Act if the person contravenes, or permits a contravention of, any of the following:

(a) **sections 17 to 22** (which impose duties and restrictions in relation to land, subdivision, the coastal marine area, the beds of certain rivers and lakes, water, and discharges of contaminants):

(b) any enforcement order:

(c) any condition of a resource consent:

(d) any abatement notice, other than a notice under **section 708(1)(c)**:

(da) any monetary benefit order made under **section 719**:

(e) **section 727** (which imposes a duty to comply with an enforceable undertaking)~~.~~:

(f) any adverse publicity order made by a court under **section 731**.

(2) A person commits an offence against this Act if the person contravenes, or permits a contravention of, **section 23 or 25** (which impose restrictions in relation to waste or other matter).

(3) If any harmful substance or contaminant or water is discharged in the coastal marine area in breach of **section 24**, the following persons each commit an offence:

(a) if the discharge is from a ship, the master and the owner of the ship:

(b) if the discharge is from an offshore installation, the owner of the installation.

(4) A person commits an offence against this Act if the person contravenes, or permits a contravention of, any of the following:

(a) **section 789**, which relates to failure to provide certain information to an enforcement officer:

(b) **clause 90 or 118 of Schedule 7**, which relates to the protection of sensitive information:

(c) any direction under **section 715**:

(d) any abatement notice for unreasonable noise under **section 708(1)(c)**:

(e) any order (other than an enforcement order) made by the Environment Court.

(5) A person commits an offence against this Act if the person—

(a) wilfully obstructs, hinders, resists, or deceives any person in the execution of any powers conferred on that person by or under this Act:

(b) without sufficient cause, contravenes, or permits a contravention of, any summons or order to give evidence issued or made under **clause 92 of Schedule 7 or clause 71 of Schedule 13**:

(c) without sufficient cause, contravenes, or permits a contravention of, any provision (as provided in **Schedule 11** specified in an instrument for the creation of an esplanade strip or in an easement for an access strip, or enters a strip that is closed under **section 613**.

Compare: 1991 No 69 s 338

761 Liability of principal for acts of agents

(1) **Subsection (2)** applies if an offence is committed against this Act by a person (**person A**) acting as the agent or employee of another (**person B**).

(2) Person B is liable for the offence as if person B had personally committed it, if it is proved that person B—

(a) authorised~~, permitted,~~ or consented to the act constituting the offence; or

(b) knew the offence was, or was to be, committed and failed to take all reasonable steps to prevent or stop it.

(3) ~~**Subclause**~~ **Subsection (2)** does not prejudice the liability of person A.

(4) If proceedings are brought against person B under **subsection (2)**, person B has a good defence if—

(a) person B proves,—

(i) in the case of a natural person (including a partner in a firm),—

(A) that person B did not know, and could not reasonably be expected to have known, that the offence was to be or was being committed; or

(B) that person B took all reasonable steps to prevent the commission of the offence; or

(ii) in the case of a person other than a natural person,—

(A) that neither the directors (if any) nor any person involved in the management of person B knew, or could reasonably be expected to have known, that the offence was to be or was being committed; or

(B) that person B took all reasonable steps to prevent the commission of the offence; and

(b) person B proves that they took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

(5) If a person other than a natural person is convicted of an offence against this Act, a director of the defendant (if any), or a person involved in the management of the defendant, is guilty of the same offence if it is proved—

(a) that the act or omission that constituted the offence took place with the person's authority, permission, or consent; and

(b) that the person knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Compare: 1991 No 69 s 340

762 Strict liability and defences

(1) In any prosecution for an offence of contravening or permitting a contravention of any of **sections 17 to 22**, it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution of the kind referred to in **subsection (1)** if the defendant proves—

(a) that—

(i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, preventing serious damage to property, or avoiding an actual or likely adverse effect on the environment; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

(b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case—

(i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.

(3) Except with the leave of the court, **subsection (2)** does not apply unless, within 7 days after the service of the summons or within such further time as the court may allow, the defendant delivers to the prosecutor a written notice—

(a) stating that the defendant intends to rely on **subsection (2)**; and

(b) specifying the facts that support the defendant's reliance on **subsection (2)**.

Compare: 1991 No 69 s 341

763 Liability and defences for discharging harmful substances

(1) In any prosecution for an offence against **section 760(3)** (which relates to the discharge of harmful substances, contaminants, or water, in breach of **section 24**) it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution for an offence against **section 760(3)** if the defendant proves that—

(a) the harmful substance or contaminant or water was discharged for the purpose of securing the safety of a ship or an offshore installation, or for the purpose of saving life and that the discharge was a reasonable step to effect that purpose; or

(b) the harmful substance or contaminant or water escaped as a consequence of damage to a ship or its equipment or to an offshore installation or its equipment; and—

(i) such damage occurred without the negligence or deliberate act of the defendant; and

(ii) as soon as practicable after that damage occurred, all reasonable steps were taken to prevent the escape of the harmful substance or contaminant or water or, if any such escape could not be prevented, to minimise any escape.

Compare: 1991 No 69 s 341B

764 Burden of proving defences

Despite anything to the contrary in the Criminal Procedure Act 2011, the burden of proving that a defence in **section 762 or 763** applies lies on the defendant.

Penalties

765 Penalties

(1) A person who commits an offence against **section 760(1), (2), or (3)** is liable on conviction,—

(a) in the case of a natural person, to imprisonment for a term not exceeding 18 months or a fine not exceeding $1,000,000:

(b) in the case of a person other than a natural person, to a fine not exceeding $10,000,000.

~~(2) A person who commits an offence against **section 760(1), (2), or (3)** is also liable on conviction, if the offence is a continuing one, to a fine not exceeding $10,000 for every day or part of a day during which the offence continues.~~

(2) A person who commits an offence against **section 760(1), (2), or (3)** is also liable on conviction, if the offence is a continuing one,—

(a) in the case of an individual, to a fine not exceeding $10,000 for every day or part of a day during which the offence continues:

(b) in any other case, to a fine not exceeding $50,000 for every day or part of a day during which the offence continues.

(3) A person who commits an offence against **section 760(4)** is liable on conviction to a fine not exceeding ~~$10,000~~ $15,000, and, if the offence is a continuing one, to a further fine not exceeding ~~$1,000~~ $1,500 for every day or part of a day during which the offence continues.

(4) A person who commits an offence against **section 760(5)** is liable on conviction to a fine not exceeding ~~$1,500~~ $5,000.

(5) A court may sentence any person who commits an offence against this Act to a sentence of community work, and the provisions of Part 2 of the Sentencing Act 2002, with all necessary modifications, apply accordingly.

(6) If a person is convicted of an offence against **section 760**, the court may, instead of or in addition to imposing a fine or a term of imprisonment, make 1 or more of the following orders:

(a) the orders specified in **section 700**:

(b) an order requiring a consent authority to serve notice, under **section 277**, of the review of a resource consent held by the person, but only if the offence involves an act or omission that contravenes the consent.

(7) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act is to be treated as a continuing offence.

Compare: 1991 No 69 s 339

765A Fines to be paid to NBE regulator instituting prosecution

(1) If a person is convicted of an offence under **section 760** and the court imposes a fine, the court must, if the proceedings in relation to the offence were commenced by or on behalf of an NBE regulator, order that the fine be paid to the regulator.

(2) There must be deducted from every amount payable to a regulator under **subsection (1)**, a sum equal to 10% of that amount, and this sum must be credited to a Crown Bank Account.

(3) Despite anything in **subsection (2)**, if any money awarded by a court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a regulator under **subsection (1)**, no deduction may be made under **subsection (2)** in respect of that money.

(4) Subject to **subsection (2)**, an order of the court made under **subsection (1)** is sufficient authority for the Registrar receiving the fine to pay that fine to the regulator entitled to it under the order.

(5) Nothing in section 73 of the Public Finance Act 1989 applies to any fine ordered to be paid to a regulator under **subsection (1)**.

Compare: 1991 No 69 s 342

766 Insurance against fines unlawful

(1) To the extent that an insurance policy or a contract of insurance indemnifies or purports to indemnify a person for the person's liability to pay a fine, infringement fee, or pecuniary penalty under this Act,—

(a) the policy or contract is of no effect; and

(b) no court or tribunal has jurisdiction to grant relief in respect of the policy or contract, whether under sections 75 to 82 of the Contract and Commercial Law Act 2017 or otherwise.

(2) A person must not—

(a) enter into, or offer to enter into, a policy or contract described in **subsection (1)**; or

(b) indemnify, or offer to indemnify, another person for the other person's liability to pay a fine, infringement fee, or pecuniary penalty under this Act; or

(c) be indemnified, or agree to be indemnified, by another person for that person's liability to pay a fine, infringement fee, or pecuniary penalty under this Act; or

(d) pay to another person, or receive from another person, an indemnity for a fine, infringement fee, or pecuniary penalty under this Act.

(3) Nothing in this section prevents parties to a contract or arrangement from apportioning their liability in relation to an activity by means of indemnities or

otherwise, as long as the apportionment of liability is not in respect of liability to pay a fine, infringement fee, or pecuniary penalty under this Act.

(4) The prohibition in this section against insurance does not apply to legal costs or remediation work connected with an activity under this Act.

Compare: 2015 No 70 s 29

Infringement offences

767 Infringement offences

(1) A person who is alleged to have committed an infringement offence may—

(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be issued with an infringement notice under **section 769**.

(2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

(3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

(4) However, despite section 21(8)(d) of the Summary Proceedings Act 1957, if a notice of hearing is filed in a court within the 2-year limitation period specified in **section 759**, proceedings in respect of the offence to which the infringement notice relates may be commenced in accordance with section 21 of that Act.

Compare: 1991 No 69 s 343B

768 Who may issue infringement notices

An enforcement officer may issue infringement notices under this Act.

Compare: 1991 No 69 s 343C(1)

769 When infringement notice may be issued

An enforcement officer may issue an infringement notice to a person if the enforcement officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

Compare: 1991 No 69 s 343C(1)

770 Revocation of infringement notice before payment made

(1) The enforcement officer may revoke an infringement notice before—

(a) the infringement fee is paid; or

(b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

(2) The enforcement officer must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.

(3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 767(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter.

771 What infringement notice must contain

An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:

(a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:

(b) the amount of the infringement fee:

(c) the address of the ~~[*reference to the enforcement authority*]~~ NBE regulator:

(d) how the infringement fee may be paid:

(e) the time within which the infringement fee must be paid:

(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(g) a statement that the person served with the notice has a right to request a hearing:

(h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:

(i) any other matters prescribed in ~~the~~ regulations made under **section 857**.

Compare: 1991 No 69 s 343C(3)

772 How infringement notice may be served

(1) An infringement notice may be served on the person who the enforcement officer believes is committing or has committed the infringement offence by—

(a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or

(b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or

(c) leaving it for the person at the person's place of working or work with another person; or

(d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or

(e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.

(2) Unless the contrary is shown,—

(a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and

(b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the enforcement authority.

Compare: 1991 No 69 s 343C(2)

773 Payment of infringement fees

All infringement fees paid for infringement offences must be paid ~~to the relevant enforcement authority~~ in accordance with **section 765A**.

Compare: 1991 No 69 s 343D

774 Reminder notices

A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.

Compare: 1991 No 69 s 343C(4)

~~*Regulations*~~

~~775 Regulations relating to infringement offences~~

~~The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:~~

~~(a) specifying offences under this Act that constitute infringement offences against this Act:~~

~~(b) specifying infringement fees (which may be different fees for different offences) —~~

~~(i) not exceeding $2,000, in the case of a natural person, for an infringement offence prescribed under this section:~~

~~(ii) not exceeding $4,000, in the case of a person other than a natural person, for an infringement offence prescribed under this section:~~

~~(iii) not exceeding $100 per stock unit for each infringement offence that is differentiated on the basis of the number of stock units, to a maximum fee of —~~

~~(A) $2,000 for each infringement offence in the case of a natural person; and~~

~~(B) $4,000 for each infringement offence in the case of a person other than a natural person.~~

Pecuniary penalties

776 Pecuniary penalty order

(1) The Environment Court, on application by an NBE regulator, may order a person to pay a pecuniary penalty to the Crown or any other person specified by the court if the court is satisfied that the person ~~failed to comply with a requirement imposed on the person by~~ has contravened or permitted a contravention of this Act or regulations.

(2) The court must not make the order if the person satisfies the Court—

(a) that the ~~failure~~ contravention was necessary for the purpose of—

(i) saving or protecting life or health, preventing serious damage to property, or avoiding an actual or likely adverse effect on human health or a natural and physical resource; and

(ii) the person's conduct was reasonable in all the circumstances; and

(iii) the person took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the ~~failure~~ contravention after it occurred; or

~~(b) that the following apply:~~

~~(i) the failure was due to an event beyond the person's control, including natural disaster, mechanical failure, or sabotage; and~~

~~(ii) the person could not reasonably have foreseen the event; and~~

~~(iii) the person could not reasonably have taken steps to prevent the event occurring; and~~

~~(iv) the person took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the failure after the event occurred; or~~

(b) that the action or event to which the contravention relates was due to an event beyond the person's control, including natural disaster, mechanical failure, or sabotage, and in each case—

(i) the action or event could not reasonably have been foreseen or been provided against by the person; and

(ii) the effects of the action or event were adequately mitigated or remedied by the person after it occurred; or

(c) that the person did not know, and could not reasonably have known, of the ~~failure~~ contravention.

(3) The standard of proof in proceedings under this section is the standard of proof that applies in civil proceedings.

(4) The regulator may apply for an order of the court to obtain discovery and administer interrogatories.

Compare: 1993 No 95 s 154H

777 Liability of principals and employers

(1) **Subsections (2) and (3)** apply if the person who is liable under **section 776** (**person A**) was acting as the agent or employee of another person (**person B**) at the time of the non-compliance.

(2) Person B is liable under **section 776** in the same manner and to the same extent as if they had personally failed to comply, if it is proved—

(a) that the act or omission that constituted the non-compliance took place with their authority, permission, or consent; or

(b) that they knew that the non-compliance was occurring or was to occur and failed to take all reasonable steps to prevent or stop it.

(3) The liability described in **subsection (2)** does not affect the liability described in **subsection (1)**.

(4) If the Environment Court makes an order under **section 776** against a body corporate, the court may also make an order against every director or person concerned in the management of the body corporate if it is proved—

(a) that the act or omission that constituted the non-compliance took place with the director or person's authority, permission, or consent; or

(b) that the director or person knew that the non-compliance was occurring or was to occur and failed to take all reasonable steps to prevent or stop it.

Compare: 1993 No 95 s 154I

778 Amount

(1) In determining the appropriate amount of a pecuniary penalty under **section 776**, the court must have regard to all relevant matters, including—

(a) the nature and extent of the contravention:

(b) the nature and extent of loss or damage caused to a person, human health, or a natural ~~and physical resource~~ environment as a result of the contravention:

(c) the circumstances in which the contravention took place:

(d) whether or not the person has been found in previous proceedings under this Act to have engaged in similar conduct:

(e) the steps taken by the person to bring the contravention to the attention of the appropriate authority:

(f) the steps taken by the person to avoid, remedy, or mitigate the effects of the contravention.

(2) **Subsections (3) to (7)** state the limits on the amounts of pecuniary penalty that the court may order.

(3) For a natural person, the limit is $1,000,000.

(4) For a body corporate,—

(a) **subsection (5)** states the limit that applies if—

(i) the court is satisfied that the contravention occurred in the course of producing a commercial gain; and

(ii) the commercial gain can be readily ascertained:

(b) **subsection (6)** states the limit that applies if—

(i) the court is satisfied that the contravention occurred in the course of producing a commercial gain; and

(ii) the commercial gain cannot be readily ascertained:

(c) **subsection (7)** states the limit that applies if the court is not satisfied that the contravention occurred in the course of producing a commercial gain.

(5) For the purposes of **subsection (4)(a)**, the limit is the greater of—

(a) $10,000,000; and

(b) 3 times the value of the commercial gain resulting from the contravention.

(6) For the purposes of **subsection (4)(b)**, the limit is the greater of—

(a) $10,000,000; and

(b) 10% of the turnover of the body corporate and all of its interconnected bodies corporate (if any) (**interconnected** and **turnover** having the meanings they have in the Commerce Act 1986).

(7) For the purposes of **subsection (4)(c)**, the limit is $10,000,000.

Compare: 1993 No 95 s 154J

779 Other orders instead of or in addition to pecuniary penalty order

The Environment Court may, instead of or in addition to making a pecuniary penalty order, make—

(a) an order that the person mitigate or remedy any adverse effects, on persons or a natural ~~and physical resource~~ environment, that are caused by or on behalf of the person:

(b) an order that the person mitigate or remedy any adverse effects, on persons or a natural ~~and physical resource~~ environment, that relate to land owned or occupied by the person:

(c) an order that the person pay the costs of mitigating or remedying the adverse effects referred to in **paragraph (a) or (b)**.

Compare: 1993 No 95 s 154K

780 Person not liable for fine and pecuniary penalty for same conduct

A person must not, for the same conduct,—

(a) be convicted of an offence under this Act; and

(b) be ordered to pay a pecuniary penalty under this Act.

Compare: 2021 No 13 s 139

Cost recovery under this Part

781 Cost recovery

(1) An NBE regulator may require a person to pay any reasonable costs incurred by the regulator in, or incidental to, taking any action in connection with monitoring or enforcing the person's compliance with this Act.

(2) The costs that are recoverable under **subsection (1)** include (without limitation) the costs of or incidental to action taken by the NBE regulator in respect of—

(a) any enforcement action referred to in **subsection (3)**:

(b) any investigation, supervision, and monitoring of the adverse effect on the environment, and the costs of any actions required to avoid, remedy, or mitigate the adverse effect:

(ba) any consent and permitted activity monitoring and taking related enforcement action, including any investigations or monitoring related to that enforcement action:

(c) a statutory notice:

(d) an enforcement order:

(e) an abatement notice:

(ea) a monetary benefit order made under **section 719**:

(eb) an enforceable undertaking under **section 723**:

(ec) an adverse publicity order made by a court under **section 731**:

(ed) a prosecution for a breach of this Act or regulations, including reasonable legal costs:

(f) any prescribed action.

(3) In **subsection (2)(a)**, **enforcement action** means—

(a) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of determining whether there is or has been—

(i) a contravention of a provision of this Act, any regulations, a rule in a plan, a rule in a proposed plan that has legal effect, the national planning framework, or a resource consent; or

(ii) a failure to comply with a requirement of a statutory notice, an enforcement order, or an abatement notice; or

(b) an application for an enforcement order under **section 700**; or

(c) an application for an interim enforcement order under **section 706**; or

(d) the service of an abatement notice under **section 708**; or

(da) an application for a monetary benefit order made under **section 719**:

(db) accepting an enforceable undertaking under **section 723**:

(dc) an application to a court for an adverse publicity under **section 731**:

(e) the filing of a charging document relating to an offence described in **section 760**; or

(f) the issuing of an infringement notice under **section 769**; or

(g) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an enforcement action described in **paragraphs (b) to (f)**.

(4) For the purposes of **subsection (1)**, **reasonable costs** include the costs of investigation, supervision, and monitoring of the adverse effect on the environment, and the costs of any actions required to avoid, remedy, or mitigate the adverse effect.

(5) An NBE regulator may recover the costs in any court of competent jurisdiction as a debt due to the regulator.

(6) A person required to pay costs under this section may appeal against the requirement to the Environment Court or the District Court, and the court may confirm, modify, or revoke the requirement to pay costs as it thinks fit.

Compare: 1991 No 69 s 42CA

Subpart 6—Provisions relating to monitoring, etc

~~**782 Regulations relating to compliance and monitoring activities**~~

~~(1) The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:~~

~~(a) prescribing the manner or content of applications, notices, or any other documentation or information as may be required under this Part:~~

~~(b) prescribing, for the purposes of **section 783**,—~~

~~(i) indicators or other matters by reference to which a local authority is required to monitor the state of the environment of its region or district:~~

~~(ii) matters by reference to which monitoring must be carried out:~~

~~(iii) standards, methods, or requirements applying to the monitoring, which may differ depending on what is being monitored:~~

~~(c) requiring local authorities to provide information gathered under **sections 783 and 849** to the Minister, and prescribing the content of the information to be provided and the manner in which, and time limits by which, it must be provided:~~

(d) providing for any matters necessary or desirable for the efficient operation of this Part.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

783 Local authorities to monitor to effectively carry out their functions and duties under this Act

(1) A local authority must monitor —

(a) the state of the whole or any part of the environment of its region or district —

(i) to the extent that is appropriate to enable the local authority to effectively carry out its functions and responsibilities under this Act; and

(ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations; and

(b) the efficiency and effectiveness of policies, rules, or other methods in its plan content in —

(i) upholding any natural environmental limits that apply in its region; and

(ii) promoting the system outcomes under **subpart 1 of Part 1**; and

(iii) addressing or managing other matters of regional or local significance that have been identified within its plan; and

(c) the exercise of any functions, powers, or duties delegated or transferred by it; and

(d) 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 powers, functions, or duties are exercised or performed; and

(e) the exercise of the resource consents that have effect in its region or district, as the case may be; and

(f) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(g) permitted activities that have effect in the region or district.

(2) Monitoring required by this section must be undertaken in accordance with any regulations under this Act.

(3) For the purpose of **subsection (1)(a)**, the local authority must—

(a) prioritise monitoring of natural environmental limits and targets, other matters identified in the national planning framework, and regionally significant matters identified in its plan; and

(b) conduct monitoring in a way that complies with any requirements on mātauranga Māori and tikanga Māori methods that are included in the regional monitoring and reporting strategy, and may voluntarily adopt further mātauranga Māori and tikanga Māori methods that are not included in the regional monitoring and reporting strategy.

(4) The local authority must take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.

(5) The local authorities in the region must provide iwi authorities and groups that represent hapū within the region with opportunities, in relation to the state of environmental monitoring under **subsection (1)(a)** and plan effectiveness monitoring under **subsection (1)(b)**, to—

(a) be involved in the development and implementation of mātauranga Māori, tikanga Māori, and other monitoring methods and approaches; and

(b) be involved with the development of policy and guidance on the detailed ways in which the regional monitoring and reporting strategy is to be operationalised; and

(c) carry out the actual monitoring work where agreed with the relevant local authority.

(6) The local authority must make available or accessible to the public the results of its state of environment monitoring activities under **subsection (1)(a)** to enable the public to be informed and participate under this Act.

(7) The regional planning committee must, every 5 years, publish an assessment of the state of environmental monitoring conducted under **subsection (1)(a)** in its region that demonstrates the environmental changes, trends, pressures, emerging risks, and outlooks within the region.

Compare: 1991 No 61 s 35(2)–(3)

784 Local authorities and planning committees to take action in significant risk situations and other circumstances

If monitoring shows a risk that a local authority or regional planning committee considers is a significant risk to ecological integrity or human health exists in its region or district, the local authority or regional planning committee must take appropriate action to respond to the risk.

~~**785 Regional monitoring and reporting strategies**~~

~~(1) A regional planning committee must prepare a regional monitoring and reporting strategy to describe how the local authorities in its region are to carry out their monitoring functions under this Part.~~

~~(2) A regional monitoring and reporting strategy must—~~

~~(a) ensure that monitoring and reporting is comprehensive and well co-ordinated; and~~

~~(b) describe the monitoring responsibilities of each local authority in the region; and~~

~~(c) describe when and how mana whenua (if agreed) are to be involved in local authority monitoring activities.~~

~~(3) The regional planning committee must—~~

~~(a) publish the regional monitoring and reporting strategy within the 4 year time frame for plan making; and~~

~~(b) keep the strategy up to date and review the strategy when the full plan review evaluation is conducted; and~~

~~(c) invite the local authorities to provide input to assist the committee to prepare the strategy.~~

786 NBE regulators to publish information about their functions, duties, and powers

NBE regulators must publish on an Internet site maintained by or on their behalf that is accessible to the public free of charge—

(a) information about their functions, duties, and powers; and

(b) a register of all their enforcement activities that result in a conviction or court order; and

(c) all decisions to accept enforceable undertakings, including the content of each enforceable undertaking and a summary of the reasons for the decision to accept it.

787 Functions, duties, and powers of Ministry

The chief executive must ensure that the Ministry prepares and issues guidance to assist NBE regulators in the exercise of their enforcement functions, duties, and powers under this Act.

Enforcement and other powers

788 Authorisation and responsibilities of enforcement officers

(1) A local authority may authorise any of the following persons to carry out all or any of the functions and powers as an enforcement officer under this Act:

(a) any of its officers:

(b) any of the officers of any other local authority, or of the ~~new~~ Ministry for Primary Industries, or the Department of Conservation, or Maritime New Zealand, subject to such terms and conditions as to payment of salary and expenses and as to appointment of their duties as may be agreed upon between the relevant authorities.

(2) A local authority may authorise any of the followings persons to exercise or carry out all or any of the functions and powers of an enforcement officer under **sections 715 and 716** (which relate to excessive noise):

(a) the holder of a licence as a property guard issued under section 34 of the Private Security Personnel and Private Investigators Act 2010:

(b) a person who is employed by a person authorised under **paragraph (a)** and who is—

(i) the holder of a certificate of approval issued under section 40 of that Act; or

(ii) a person in respect of whom permission granted under section 37 of that Act is in force.

(3) The Minister of Conservation may authorise any officers of the Department of Conservation or of a local authority to exercise and carry out the functions and powers of an enforcement officer under this Act in relation to—

(a) compliance with a resource consent issued by that Minister under **section ~~648~~ 30T**:

(b) 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.

(4) Any authorisation under **subsection (3)** to an officer of a local authority is subject to such terms and conditions as to payment of salary and expenses, and as to appointment of their duties, as may be agreed between the Minister and the local authority.

(5) The local authority or Minister must supply every enforcement officer authorised under this section with a warrant, and that warrant must clearly state the functions and powers that the person concerned has been authorised to exercise and carry out under this Act.

(6) Every enforcement officer authorised under this section who exercises or purports to exercise any power conferred on the person by this Act must have with them, and produce if required to do so, their warrant and evidence of their identity.

(7) Every enforcement officer who holds a warrant issued under this section must, on the termination of their appointment as such, surrender the warrant to the local authority or Minister, as the case may be.

Compare: 1991 No 69 s 38

789 Duty to give certain information

(1) This section applies if an enforcement officer has reasonable grounds to believe that a person (**person A**) is breaching, or has breached, an obligation under or provision of this Act or the regulations.

(2) The enforcement officer may direct person A to give—

(a) their full name, address, and date of birth (if that person is a natural person); or

(b) their full name and address (if that person is not a natural person).

(3) If person A is breaching, or has breached, the obligation or provision on behalf of another person (**person B**), the enforcement officer may also direct person A to give the officer the following information about person B:

(a) their full name, address, and date of birth (if that person is a natural person); or

(b) their full name and address (if that person is not a natural person).

(4) In the situation described in **subsection (3)**, the enforcement officer may also direct person B give the officer the following information about person A:

(a) their full name, address, and date of birth (if that person is a natural person); or

(b) their full name and address (if that person is not a natural person).

Powers of entry and search

790 Power of entry for inspection

(1) Any enforcement officer, specifically authorised in writing by ~~any local authority, consent authority, or the EPA~~ an NBE regulator to do so, may at all reasonable times go on, into, under, or over any place or structure, except a ~~dwelling-house~~ dwelling house or marae, for the purpose of inspection to determine whether—

(a) this Act, any regulations, a rule of a plan, a resource consent, **section 26** (certain existing uses protected), **section 28** (certain existing activities allowed), or **section 30** (certain existing lawful activities allowed) is being complied with; or

(b) an enforcement order, interim enforcement order, abatement notice, or water shortage direction is being complied with; or

(c) any person is contravening a rule in a proposed plan in a manner prohibited by any of **sections 17, 19(3), 21(1), and 22**.

(2) For the purposes of **subsection (1)**, an enforcement officer may take samples of water, air, soil, or organic matter.

(3) If a sample is taken under **subsection (2)**, an enforcement officer may also take a sample of any substance that the enforcement officer has reasonable cause to suspect is a contaminant of any water, air, soil, or organic matter.

(4) Every enforcement officer who exercises any power of entry under this section must produce for inspection their warrant of appointment and written authorisation upon initial entry and in response to any later reasonable request.

(5) If the owner or occupier of a place subject to inspection is not present at the time of the inspection, the enforcement officer must leave, in a prominent position at the place or attached to the structure, a written notice showing the date and time of the inspection and the name of the officer carrying out the inspection.

(6) An enforcement officer may not enter land without the permission of the landowner if permission to enter the land is required by any other Act.

(7) An enforcement officer exercising any power under this section may use any assistance that is reasonably necessary.

Compare: 1991 No 69 s 332

791 Power of entry for survey

(1) For the purposes of this Act, any enforcement officer specifically authorised in writing by any local authority or consent authority to do so may do all or any of the following:

(a) carry out ~~inspections,~~ surveys, investigations, tests, or measurements:

(b) take samples of any water, air, soil, or vegetation:

(c) enter or re-enter land (except a ~~dwellinghouse~~ dwelling house or marae).

(2) The powers conferred by **subsection (1)** are exercisable at any reasonable time, with or without such assistance (including expert or technical assistance on the matter concerned), vehicles, appliances, machinery, and equipment as is reasonably necessary for that purpose.

(3) Reasonable written notice must be given to the occupier of land to be entered under **subsection (1)**—

(a) that entry on to the land is authorised under this section:

(b) of the purpose for which entry is required:

(c) how and when entry is to be made.

(4) Every enforcement officer who exercises any power of entry under this section must produce for inspection their warrant of appointment and written authorisation upon initial entry and in response to any later reasonable request.

Compare: 1991 No 69 s 333

792 Application for warrant for entry for search

An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who, on an application made in the manner provided in subpart 3 of Part 4 of that Act, may issue a warrant authorising the entry and search of any place or vehicle if satisfied that there is reasonable ground for believing that there is in, on, under, or over any place or vehicle anything—

(a) in respect of which an offence has been or is suspected of having been committed against this Act or regulations that is punishable by imprisonment; or

(b) that there is reasonable ground to believe will be evidence of an offence against this Act or regulations that is punishable by imprisonment; or

(c) anything that there is reasonable ground to believe is intended to be used for the purpose of committing an offence against this Act or regulations that is punishable by imprisonment.

Compare: 1991 No 69 s 334(1)

793 Application of Search and Surveillance Act 2012

(1) The provisions of Part 4 of the Search and Surveillance Act 2012 apply for the purposes of **section 792**.

(2) Despite **subsection ~~(2)~~ (1)**, sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Compare: 1991 No 69 s 334(2), (3)

794 Direction and execution of warrant for entry for search

Every warrant under **section 792** must be directed to and executed by—

(a) any specified constable; or

(b) any specified enforcement officer when accompanied by a constable; or

(c) generally, every constable; or

(d) generally, every enforcement officer when accompanied by a constable.

Compare: 1991 No 69 s 335

Subpart 7—Enforcement functions of EPA

795 Interpretation

(1) In this Part,—

enforcement action means—

(a) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of determining whether there is or has been—

(i) a contravention of a provision of this Act, any regulations, a rule in a plan, a rule in a proposed plan that has legal effect, ~~the~~

~~national planning framework~~ a framework rule, or a resource consent; or

(ii) a failure to comply with a requirement of an enforcement order or abatement notice; or

(b) an application for an enforcement order under **section 702**; or

(c) an application for an interim enforcement order under **section 706**; or

(d) the service of an abatement notice under **section 708**; or

(e) the filing of a charging document relating to an offence described in **section 760**; or

(f) the issuing of an infringement notice under **section 769**; or

(g) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an enforcement action described in **paragraphs (b) to (f)**

enforcement function means a function of the EPA described in **section 796**

incident means an occurrence that may, directly or indirectly, be linked to—

(a) a contravention or possible contravention of a provision of this Act, any regulations, a ~~national planning~~ framework rule, a rule in a plan, or a resource consent; or

(b) a failure or possible failure to comply with a requirement of an enforcement order or an abatement notice

subsequent action—

(a) means a prosecution, proceeding, application, or other activity that the EPA or a local authority may carry out under this Act in relation to an enforcement action that has been executed; and

(b) includes an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an activity described in **paragraph (a)**.

(2) In **paragraph (a)** of the definition of enforcement action in **subsection (1)**, **other activity** includes (without limitation) an application for a declaration under **section 697**.

(3) In this Part, an enforcement action is **executed** when, as the case may be, the application for the enforcement order or interim order is made, the abatement notice is served, the charge is laid, or the infringement notice is issued.

Compare: 1991 No 69 s 343E

796 Enforcement functions of EPA

The EPA may perform any of the following enforcement functions if satisfied that the performance of the function is necessary or desirable to promote the purpose of this Act:

(a) the EPA may take an enforcement action and any subsequent action in relation to an incident if the local authority has not commenced taking any enforcement action in relation to the same incident:

(b) the EPA may, with the agreement of a local authority, assist the local authority with an enforcement action in relation to an incident and any subsequent action:

(c) the EPA may intervene in an enforcement action of a local authority in relation to an incident by taking over the enforcement action and taking any subsequent action~~.~~:

(d) the EPA may take enforcement action against a regional council in relation to an alleged breach of this Act by the council.

Compare: 1991 No 69 s 343F

797 Intervention by EPA

(1) If the EPA intervenes in an enforcement action of a local authority in relation to an incident,—

(a) the EPA must notify the chief executive of the local authority in writing of the incident to which the intervention relates and the date on which the intervention takes effect; and

(b) the local authority must,—

(i) on receipt of the notice, cease any enforcement action in relation to the incident, except for an enforcement action described in **paragraph (a) or (g)** of the definition of enforcement action in **section 795(1)**; and

(ii) from the date specified in the notice, cease all enforcement action in relation to the incident; and

(c) the EPA takes over all enforcement action in relation to the incident from the date specified in the notice; and

(d) only the EPA may take any enforcement action or subsequent action in relation to the incident unless **subsection (3)** applies.

(2) When intervening in an enforcement action of a local authority, the EPA must not intervene in relation to an enforcement action that the local authority has already executed in respect of a person.

(3) If the EPA decides to cease its intervention,—

(a) it must notify the chief executive of the local authority in writing of its decision and the date on which it takes effect; and

(b) it must specify in the notice the date on which the intervention will cease; and

(c) the local authority may, from the date referred to in **paragraph (b)**,—

(i) take an enforcement action or subsequent action in relation to the incident; or

(ii) resume any enforcement action that it had commenced before the intervention.

(4) To avoid doubt, **subsection (2)** does not prevent the EPA from taking an enforcement action in relation to another incident in respect of the same person.

Compare: 1991 No 69 s 343G

798 EPA may change enforcement functions

(1) The EPA may change its enforcement function in relation to an incident to another function described in **section 796** if the EPA considers that the circumstances require it.

(2) If the EPA decides to change to an intervention function described in **section 796(c)**, it must include its reasons for the change in the notice required under **section 797(1)**.

Compare: 1991 No 69 s 343H

799 EPA enforcement officers

(1) The EPA may authorise a person described in **subsection (2)** to be an enforcement officer for the purpose of carrying out its enforcement functions under this Act.

(2) A person may be authorised as an enforcement officer if the person—

(a) has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to the person; or

(b) is an employee of the EPA who is suitably qualified and trained.

(3) The EPA must supply each enforcement officer with a warrant that—

(a) states the full name of the person; and

(b) includes a summary of the powers conferred on the person under this Act.

(4) An enforcement officer may exercise the powers under this Act, in accordance with their warrant, only for the purposes for which they were appointed.

(5) An enforcement officer exercising a power under this Act must have with them, and must produce if required to do so, their warrant and evidence of their identity.

(6) An enforcement officer who holds a warrant issued under this section must, on the termination of the officer's appointment, surrender the warrant to the EPA.

Compare: 1991 No 69 s 343I

800 EPA may require information from local authority

(1) The EPA may require a local authority to provide information that the EPA requires for taking an enforcement action in relation to an incident.

(2) The EPA must notify the chief executive of the local authority in writing and specify the incident for which information is required.

(3) A local authority must provide the required information to the EPA as soon as is reasonably practicable, but no later than 10 working days after the chief executive is notified.

Compare: 1991 No 69 s 343J

801 Additional reporting requirements

(1) The annual report of the EPA under section 150 of the Crown Entities Act 2004 must include information about the performance of the EPA's enforcement functions, including the number and type of enforcement actions executed by the EPA.

(2) The EPA is not required to provide information under subsection (1) that would prejudice the maintenance of law, including the prevention, investigation, or detection of offences, or the right to a fair trial.

Compare: 1991 No 69 s 343K

802 Order for payment of EPA's costs in bringing a prosecution

(1) On the application of the EPA, the court may order a person convicted of an offence under this Act to pay to the EPA a sum that the court thinks just and reasonable towards the costs of the prosecution (including the costs of investigating the offence and any associated costs).

(2) If the court makes an order under **subsection (1)**, it must not make an order under section 4 of the Costs in Criminal Cases Act 1967.

(3) If the court makes an order under **subsection (1)** in respect of a Crown organisation, any costs and fees awarded must be paid from the funds of that organisation.

Compare: 1991 No 69 s 343L

Part 12

~~Miscellaneous~~ General provisions

Environment Court

803 Provisions relating to Environment Court

Schedule 13 applies in relation to the Environment Court and its proceedings.

Application of Act to courts performing relevant judicial functions

803A Application of certain provisions of this Act to courts

(1) To avoid doubt, references in **sections 4 and 6 to 6B** to all persons exercising powers and performing functions and duties under this Act do not include a court.

(2) However, before a court exercises a power, function, or duty under this Act of a kind that may be exercised by a person other than a court, the court must be satisfied that **sections 4 and 6 to 6B** have, where relevant, been complied with.

(3) In this section, **court** includes, where relevant, a person exercising a judicial power or performing a judicial function or duty.

~~*Procedural and information principles*~~

~~**804 Procedural principles**~~

~~(1) Every person exercising power and performing functions and duties under this Act must take all practical steps —~~

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

~~(b) to promote collaboration between or among local authorities, communities, and Māori on their common resource management issues.~~

~~(2) If no time limit is prescribed for taking an action or making a decision under this Act, the person responsible for the action or decision must take that action or make that decision as promptly as is reasonable in the circumstances.~~

~~**805 Best information**~~

~~(1) A requirement under this Act to use the best information available at the time is a requirement to use, if practicable, complete and scientifically robust information.~~

~~(2) If scientifically robust information is not available, the best information may include —~~

~~(a) information obtained from modelling; and~~

~~(b) partial information; and~~

~~(c) local knowledge; and~~

~~(d) information obtained from other sources.~~

~~(3) If a person uses information obtained from other sources, that person must —~~

~~(a) prefer sources of information that provide the greatest level of certainty; and~~

~~(b) take all practicable steps to reduce uncertainty (as by improving any monitoring or validation models used).~~

~~(4) A persons who is required to use the best information available at the time—~~

~~(a) must not delay making decisions solely because of uncertainty about the quality or quantity of the information available; and~~

~~(b) if the information is uncertain, must interpret the information in a way that best achieves the purpose of this Act.~~

Service of documents

806 Service of documents

(1) A notice or any other document required or authorised to be served on or given to a person for the purposes of this Act may be served or given by—

(a) delivering it to the person; or

(b) leaving it at the person's usual or last known place of residence or business or at the address specified by the person in any notice, application, or other document given under this Act; or

(c) sending it by post to the person's usual or last known place of residence or business or to the address specified by the person in any notice, application, or other document given under this Act; or

(d) emailing it to the person at an email address that is used by the person; or

(e) complying with a means of service prescribed in regulations ~~made under this Act~~.

(2) **Subsection (1)** does not—

(a) apply if the court, whether expressly or in its rules or practices, requires a different method of service; or

(b) override the Electronic Courts and Tribunals Act 2016.

(3) If a notice or other document is to be served on a Minister of the Crown for the purposes of this Act, service on the chief executive of the appropriate department of the public service in accordance with **subsection (1)** is to be treated as service on the Minister.

(4) If a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with **subsection (1)** is to be treated as service on the body.

~~(5) If a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with **subsections (1) and (4)** is to be treated as service on the partnership.~~

(5) In relation to any partnership that is a firm under the Partnership Law Act 2019, section 30 of that Act applies in relation to service of notices under this section.

(6) Despite **subsection (1)**, if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served—

(a) by delivering it at the organisation's head office or principal place of business; or

(b) by sending it to the ~~fax number or~~ electronic address that the organisation has specified for its head office or principal place of business; or

(c) by a method agreed between the organisation and the person serving the notice or document.

(7) If a notice or other document is sent by post to a person in accordance with this section, it is to be treated, in the absence of proof to the contrary, as having been received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

Compare: 1986 No 5 s 102(1); 1991 No 69 s 352

807 Mode of service of summons on master or owner of ship

(1) If the master or owner of a ship is a defendant in a prosecution for an offence against **section 760** for contravening **section 23, 24, or 25**, service on the defendant of a summons or other document is effected for the purposes of the Criminal Procedure Act 2011—

(a) if it is delivered personally to the agent of the ship on behalf of the defendant or is brought to the notice of the agent if the agent refuses to accept it on behalf of the defendant; or

(b) if it is sent to the agent of the ship by registered letter addressed to that agent on behalf of the defendant at the agent's last known or usual place of residence or the agent's place of business.

(2) **Subsection (1)** applies despite any other enactment.

(3) However, a District Court Judge or Justice or Community Magistrate or the Registrar may direct that the summons or other document be served on the defendant in accordance with rules made under the Criminal Procedure Act 2011, where they are satisfied that it would not be impracticable to do so in the particular circumstances.

(4) Unless the contrary is shown, the time at which service is treated as having been effected on the defendant is,—

(a) for service is effected in accordance with **subsection (1)(a)**, the time when the summons or other document is personally delivered to the agent of the ship or brought to that agent's attention, as the case may be; or

(b) for service is effected in accordance with **subsection (1)(b)**, the time when the letter would have been delivered to the agent of the ship in the ordinary course of post.

(5) In this section,—

District Court Judge means a District Court Judge appointed under the District Court Act 2016

Justice has the same meaning as in section 2 of the Justice of the Peace Act 1957

Registrar has the same meaning as in section 5 of the Criminal Procedure Act 2011.

Compare: 1991 No 69 s 352A

808 Notices and consents in relation to ~~Maori~~ Māori land

Part 10 of Te Ture Whenua Maori Act 1993 applies to the service of notices under this Act on owners of Māori land, except that in no case may the period fixed for anything to be done by the owners be extended by more than 20 working days under section 181(4) of that Act, unless otherwise provided by the local authority or the EPA.

Compare: 1991 No 69 s 353

809 Availability of documents by electronic and other means

(1) In this section, **document** includes the following if they are required to be made available for inspection to the public, a class of members of the public, a person, or a class of persons, whether free of charge or at a reasonable cost:

(a) information of any kind; and

(b) public notices of any kind; and

(c) reports and evidence of any kind; and

(d) policy statements and plans of any kind, together with any changes or variations of those documents.

(2) This section applies if a document must be made available to the public, for inspection in physical form by members of the public, a class of members of the public, or a person or class of persons at a specified place such as council offices or a library.

(3) The requirement described in **subsection (1)** is met if the persons responsible for making the document available—

(a) makes it available in electronic form free of charge on an Internet site; and

(b) provides advice on how the document may be obtained or accessed.

(4) The person responsible for making a document available may also—

(a) make it available in physical form for inspection; and

(b) upon request, make a physical copy of the document available at a reasonable cost.

Compare: 1991 No 69 s 2AC

Existing rights

810 Crown's existing rights to resources to continue

(1) This section applies to the rights, interests, and titles to any land or water acquired, accrued, or established by, or vested in, the Crown that were continued by section 354 of the Resource Management Act 1991.

(2) Those rights, interests, and titles are continued in effect on the same terms by this section.

(3) Any person may take, use, dam, or divert, or discharge into, any water in which the Crown has an interest, without obtaining the consent of the Crown, if the taking, use, damming, diversion, or discharge by that person does not contravene this Act or regulations ~~made under this Act~~.

(4) Any person may use or occupy any part of the common marine and coastal area without obtaining consent, unless consent must be obtained under—

(a) this Act; or

(b) any other enactment; or

(c) any instrument or order made under an enactment.

Compare: 1991 No 69 s 354

811 Vesting of reclaimed land

(1) Any person may apply to the Minister of ~~Lands~~ Land Information for any right, title, or interest in any land to be vested in that person, if the land—

(a) forms part of a riverbed or lakebed that is land of the Crown; and

(b) has been reclaimed or is proposed to be reclaimed.

(2) The Minister of ~~Lands~~ Land Information may, if they think fit, by notice in the *Gazette*, vest in the applicant any right, title, or interest in any area of reclaimed land that forms part of a riverbed or lakebed that is not within the coastal marine area and that is land of the Crown after—

(a) determining an appropriate price (if any) to be paid by the applicant; and

(b) ensuring that the consent authority has issued a certificate under **section 600**.

(3) Every *Gazette* notice published under **subsection (2)** must—

(a) state the name of the person or local authority in whom or which the right, title, or interest is vested, and accurately describe the position and extent of the reclaimed land; and

(b) describe the right, title, or interest vested; and

(c) refer to any encumbrances or restrictions imposed on the applicant's right, title, or interest in the land; and

(d) be sent by the relevant Minister to the Registrar-General of Land, with a request that a record of title be issued accordingly; and

(e) be registered, without fee, by the Registrar-General of Land as soon as practicable after receipt from the Minister.

(4) The Registrar-General of Land must, in accordance with a request made under **subsection (3)(d)**, issue an appropriate record of title in respect of the right, title, or interest in the land vested by the *Gazette* notice.

(5) For the purposes of this section, references to land that forms part of a riverbed or lakebed include land that was part of that bed before it was reclaimed.

Compare: 1991 No 69 s 355

812 Application for consent to unlawful reclamation

(1) If land has at any time (whether before or after the commencement of this Act) been reclaimed from the coastal marine area unlawfully, any person may apply under **section 173** to the relevant consent authority for, and the consent authority may grant to that person, a coastal permit consenting to that reclamation, as if the land were still situated within the coastal marine area.

(2) The provisions of **Part 5** apply in respect of any application made under **subsection (1)**.

Compare: 1991 No 69 s 355A

813 Enforcement powers against unlawful reclamations

(1) If, since the commencement of this Act, any land has been unlawfully reclaimed from the coastal marine area, the powers of the Minister of Conservation, a regional council, and the EPA under **Part 11** apply to that reclaimed land as if the land were still situated within the coastal marine area.

(2) If any land has been unlawfully reclaimed from the coastal marine area before the commencement of this Act, the Minister of Conservation, a regional council, or the EPA may seek an enforcement order against the person who reclaimed the land, or the occupier of the reclaimed land, requiring that person to take such action as, in the opinion of the Environment Court, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by the carrying out of the reclamation or by the reclaimed land, and, in that case, **Part 11** applies with all necessary modifications.

(3) Whether or not an enforcement order has been sought or granted under **subsection (2)**, the Minister of Conservation, a regional council, and the EPA, either jointly or severally, may take any necessary action to remove the unlawfully reclaimed land from the coastal marine area.

(4) To avoid doubt, any action taken under **subsection (3)** to remove any reclaimed land requires a resource consent unless expressly allowed by a plan rule or proposed plan.

Compare: 1991 No 69 s 355B

Protection of rights or interests in freshwater and geothermal resources

814 Rights or interests in freshwater and geothermal resources preserved

Purpose

(1) The purpose of this section is to achieve both of the following outcomes:

(a) any rights or interests in freshwater or geothermal resources are preserved, consistent with assurances given by the Crown to the High Court in 2012, and recorded in *New Zealand Māori Council v Attorney-General* [2013] NZSC 6, [2013] 3 NZLR 31 at [145]:

(b) this Act, and duties, functions, and powers under this Act, operate effectively.

Act does not create, transfer, extinguish, or determine rights or interests

(2) This Act, and legislation made under it, do not—

(a) create or transfer any proprietary right or interest in freshwater or geothermal resources:

(b) extinguish or determine any customary right or interest (for example, one founded on, or arising from, aboriginal title or customary law) that may exist in freshwater or geothermal resources.

Nothing in section affects duties, functions, and powers under Act

(3) Nothing in this section affects, or affects the lawfulness or validity of the performance or exercise by any person of, any duty, function, or power under this Act.

Compare: 2010 No 24 s 90(1)(a); 2014 No 74 s 15(5)(a); 2017 No 7 s 46(1), (2)(b)

Arbitration

815 Matters may be determined by arbitration

(1) Two or more persons may apply to the Environment Court for an order authorising a matter to be determined by arbitration, under the Arbitration Act 1996, on any terms and conditions that the court considers appropriate, if—

(a) those persons are unable to agree about any matter in respect of which any of those persons has a right of appeal under this Act; and

(b) every person who has that right of appeal agrees to the application being made.

(2) However, no person may apply to the Environment Court for an order under **subsection (1)** in relation to any of the following matters:

(a) any matter relating to a requirement, designation, or heritage protection order:

~~(b) any matter relating to a proposed plan.~~

(b) any component of a proposed plan that relates to a regional policy statement or regional coastal plan under the Resource Management Act 1991.

(3) If an order under **subsection (1)** is made, no person may, in relation to the matter to which the order relates, lodge or proceed with any appeal without the leave of the court.

(4) Subject to the terms of any order made under **subsection (1)**, the arbitrator has the same powers, duties, and discretions in respect of any decision to which the order relates as the consent authority who made that decision, and may, in their award, confirm, amend, or cancel the decision accordingly.

(5) Except as otherwise expressly provided, nothing in this section limits the right of any persons to refer to arbitration any disputed matter arising under this Act.

Compare: 1991 No 69 s 356

Obligations relating to gathering and sharing information

816 Duty to gather information and keep records

(1) Every local authority must—

(a) gather the information, and undertake or commission research, as necessary to enable the local authority to carry out its functions effectively under this Act; and

(b) keep the information described in **subsection (2)**, to the extent that it relates to the region or district of the authority, reasonably available to the public at its principal office and, where possible, available free of charge on an Internet site.

(2) **Subsection (1)** requires information relevant to the administration of—

(a) the national planning framework; and

(b) operative and proposed plans; and

(c) the monitoring of resource consents; and

(d) the current resource management issues of the area relating to a function of a local authority and any matters for which local authorities are responsible for under this Act.

(3) The purpose of the requirement under **subsection (1)** is to enable the public—

(aaa) exercise their right to access the information; and

(a) to be better informed of their duties and of the functions, powers, and duties of the local authority; and

(b) to participate effectively under this Act.

(4) In particular, local authorities must keep information that includes—

(a) copies of ~~proposed changes to the national planning framework,~~ the operative and any proposed ~~provisions of the~~ plan, and ~~proposed changes to the national planning framework or plans~~ any national planning framework proposals; and

(b) copies of requirements for designations and heritage protection orders; and

(c) copies of material incorporated in plans or proposed plans by reference under this Act; and

(d) submissions made by the local authority on plans not yet operative; and

(e) in the case of a regional council, copies of any Order in Council served on the council under **section 485(a)**; and

(f) records of all applications for resource consents, certificates of compliance, existing use certificates, and permitted action notices received by the local authority and decisions on those applications; and

(g) records of all decisions made in relation to waivers, extension of time, and notification; and

(h) records of the transfer of any resource consents; and

(i) a summary of all written complaints received by the local authority within the previous 5 years relating to alleged breaches of this Act, the national planning framework, or a plan, and information on how each complaint was dealt with; and

(j) records of all natural hazards, including the effects of climate change on those hazards, to the extent that the local authority thinks appropriate for the effective discharge of its functions; and

(k) in the case of a territorial authority, the location and area of all esplanade reserves, esplanade strips, and in the district; and

(l) in the case of a regional council (including the Chatham Islands Council), records of every protected customary rights order or agreement relating to a part of the common marine and coastal area within its region; and

(m) any other information gathered under **subsection (1)**.

Compare: 1991 No 69 s 35(1), (3), (4), (5)

817 Regional councils must share records of protected customary rights with regional planning committee

A regional council must, in accordance with regulations and at the request of the regional planning committee, share records of protected customary rights within its region with the regional planning committee.

818 Local authority Māori participation policies

(1) Local authorities must develop a policy relating to Māori participation in the functions, duties, and powers exercised by the local authority under this Act and under the **Spatial Planning Act 2022** (a **local authority Māori participation policy**)

(2) A local authority Māori participation policy must be developed in collaboration with iwi authorities and groups that represent hapū that have a rohe that is within or partly within their region, district, or city.

(3) A local authority Māori participation policy must include—

(a) the priorities of Māori within the relevant area to participate in the exercise of the functions, duties, and powers exercised by the local authority, as provided to the local authority by iwi authorities and groups that represent hapū; and

(b) how the local authority will work with Māori on each of the priority areas; and

(c) subject to regulations made under **clause 41 of Schedule 8**, a schedule of the reasonable costs (as agreed between the local authority, iwi, and hapū) for any engagement with iwi, hapū, or Māori that is required for a consent applicant or holder to comply with this Act, a requirement of the national planning framework, a rule in a plan, or a condition of a resource consent:

(d) any other matters that, by agreement of the council, iwi, and hapū, are considered necessary.

819 Duty to keep records relating to iwi ~~and hapū~~, hapū, and Māori

(1) For the purposes of this Act and regulations, each local authority must keep and maintain the following records for the iwi ~~and hapū and any groups that represent hapū~~ authorities, groups that represent hapū, and Māori groups with interests in their region or district:

(a) the contact details of each iwi authority ~~and any groups that represent hapū for the purposes of this Act~~, any groups that represent hapū, and Māori groups with interests for the purposes of this Act or the regulations; and

(aa) engagement undertaken with iwi authorities, groups that represent hapū, and Māori groups with interests; and

(b) the planning documents that are recognised by each of those iwi authorities or other groups and lodged with the local authority; and

(c) any area of the region or district over which 1 or more iwi or hapū exercise kaitiakitanga; and

(d) any Mana Whakahono ā Rohe applying within the region or district entered into under **subpart 6 of Part ~~10~~ 2A**.

(2) For the purposes of **subsection (1)(a) and (c)**, the Crown must maintain and provide to each local authority information (including updated information) on—

(a) the iwi authorities in the region or district of that local authority and the area over which 1 or more iwi authorities exercise kaitiakitanga within that region or district; and

(b) any groups that represent hapū for the purposes of this Act or regulations within the region or district of the local authority and the area over which the hapū exercise kaitiakitanga; and

(ba) the Māori groups with interest who hold resource management interests within that region or district; and

(c) the matters referred to in **paragraphs (a) ~~and (b)~~, (b), and (ba)** that the local authority has advised to the Crown.

(2A) The Minister must ensure that the information kept under **subsection (2)** is published in the *Gazette*.

~~(3) The requirements of **subsection (1)** do not apply to hapū unless a hapū, through the group representing it for the purposes of this Act, requests the Crown or the relevant local authority to include information on the hapū in the record.~~

(4) Local authorities must—

(a) include in their records all the information provided to them by the Crown ~~under **subsection (3)**~~; and

~~(b) share with the Crown the lists they maintain (including updated information) of iwi authorities, groups that represent hapū, and other Māori groups with interests in the region or district of the local authority.~~

(b) share with the Crown the information maintained under **subsection (1)**.

(5) A local authority may also keep a record of information relevant to its region or district—

(a) on the iwi of that region or district, as provided directly to the local authority by the iwi; and

(b) on the hapū of that region or district, as provided directly to the local authority by the group representing the hapū for the purposes of this Act~~.~~; and

(c) on the Māori groups with interests who hold resource management interests in that region, as directly provided to the local authority by those Māori groups.

(6) If information recorded under **subsection (1)** conflicts with a provision of another enactment, advice given under the other enactment, or a determination made under the other enactment, as the case may be,—

(a) the provision of the other enactment prevails; or

(b) the advice given under the other enactment prevails; or

(c) the determination made under the other enactment prevails.

~~(7) Information kept and maintained under this section —~~

~~(a) may be used by the local authority only for the purposes of this Act; and~~

~~(b) must be provided in accordance with any prescribed requirements.~~

(7) Information kept and maintained under this section must be provided in accordance with any prescribed requirements.

Compare: 1991 No 69 s 35A

820 Purpose of records

(1) Subject to **section 819(7)**, the records kept and maintained under **section 819~~(7)~~** must be made available, on request, including to a relevant regional planning committee and the Local Government Commission.

(2) The records referred to in **subsection (1)** are intended to support local authorities and those who need to operate within this Act and the **Spatial Planning Act 2022**, including local authorities, private persons, and representative groups.

(3) However, the records are not intended to determine, presume, or imply the mana whenua status of any person or group or that any group has a mandate to represent ~~an iwi, hapū, or group that represents hapū~~ any iwi, hapū, or Māori group with interests.

(4) Information kept and maintained under **section 819** may be used by the local authority only for the purposes of this Act.

(5) Local authorities and others who are required under this Act or the **Spatial Planning Act 2022** to contact any iwi authority, group that represents hapū, or Māori group with interests must be treated as having satisfied the requirement if they have used their best endeavours to contact the entity or group listed on the central record in relation to the relevant region, district, or other area as at the date on which the information is relied on.

How administrative charges to be set

821 Administrative charges and additional charges

Administrative charges

(1) A local authority must fix fees or charges (**administrative charges**) payable in respect of the following functions performed under this Act:

(a) receiving, processing, and granting any certificate, authority, approval, permit, or consent:

(b) carrying out any inspection, monitoring (other than monitoring carried out under **section 781**), supervision, or administration:

(c) issuing permitted activity notices under **section 302**:

(ca) processing notices of requirement and construction implementation plans:

(d) processing objections under **section 830(1)**:

(e) the hearing of objections by commissioners under **sections 468 and 830(1)**):

~~(f) certifying freshwater farm plans **section 405**:~~

(f) the functions undertaken by a regional council under **clause 407**:

(g) granting authorisations under **Part 5**:

(h) supplying documents~~:~~:

(i) any other function that the local authority is required to perform.

~~(2) A regional planning committee must fix fees or charges (**administrative charges**) payable in respect of the following functions performed under this Act:~~

~~(a) processing independent plan change requests under **Part 2 of Schedule 7**:~~

~~(b) processing notices of requirement for a designation under **subpart 1 of Part 8**.~~

(2) A regional planning committee must fix fees or charges (**administrative charges**) payable in respect of processing private plan change requests under **Part 2 of Schedule 7**.

(3) Administrative charges are payable by—

(a) a person applying for the certificate, authority, approval, permit, or consent:

(b) a submitter who makes a request to the local authority in relation to an application for a certificate, authority, approval, permit, or consent:

(c) a holder of a consent that is reviewed:

(d) a freshwater farm operator in respect of whom functions are performed:

(e) an objector, if the objection is to be considered by a hearings commissioner under **section 830(1)**:

(f) a person carrying out the activity to which the inspection, monitoring, or other function relates:

(g) a person who requests a document or information about a plan, certificate, authority, approval, permit, or consent:

(h) any other person in respect of whom the function is performed.

(4) Administrative charges must be either specific amounts or determined by reference to scales of charges or other formulas fixed by the local authority or regional planning committee:

(5) Administrative 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 822**.

(6) A local authority must fix an administrative charge if required to do so by regulations made under **section 855**.

Additional charges

(7) Except where regulations are made under **section 855**, if a charge fixed under this section is, in any particular case, inadequate to enable a local authority or regional planning committee to recover its actual and reasonable costs in respect of the matter concerned, the local authority or committee may require the person who is liable to pay the charge to also pay an additional amount (an **additional charge**) to the local authority.

(8) A local authority or regional planning committee 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.

(9) **Sections 828 to 835** (which deal with rights of objection and appeal against certain decisions) apply in respect of the requirement by a local authority or regional planning committee to pay an additional charge.

Compare: 1991 No 69 s 36

822 Criteria for fixing administrative charges

(1) The sole purpose of a charge is to recover the actual and reasonable costs incurred by the local authority or regional planning committee in respect of the activity to which the charge relates.

(2) The local authority or regional planning committee 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 or regional planning committee of carrying out any of its functions, powers, and duties.

Compare: 1991 No 69 s 36AAA

823 Other matters relating to administrative charges

(1) A local authority or regional planning committee may, in any particular case, remit the whole or any part of an administrative charge or additional charge that would otherwise be payable if—

(a) it is administratively inefficient to allocate and recover costs from users; or

(b) charging full cost may lead to an activity being undertaken at a scale that would undermine achievement of plan outcomes or not being undertaken; or

(c) charging may provide an incentive for non-compliance.

(2) The local authority or regional planning committee need not perform an action for which the charge is payable until the charge has been paid to it in full.

(3) However, **subsection (2)** does not apply to a charge relating to independent hearings commissioners requested by submitters or reviews required by a court order.

(4) A local authority or regional planning committee must publish and maintain, on an Internet site to which the public has free access, an up-to-date list of administrative charges.

Compare: 1991 No 69 s 36AAB

824 Local authority policy on discounting administrative charges

(1) A local authority or regional planning committee must adopt a policy for discounting administrative charges.

(2) A local authority must adopt a policy in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002 that provides for discounts—

(a) when local authorities are responsible for applications for a resource consent and do not process an application within the time frame required under this Act:

(b) for applications to change or cancel conditions under **section 274** and do not process an application within the time frame required under this Act:

(c) for applications made under an allocation rule that has been included in a plan under **section 433**, and processing certificates of compliance, existing use certificates, and permitted activity notices.

(3) The policy must specify—

(a) the discount, or the method for determining the discount, that would be given for any application fees or charges paid or owing; and

(b) the procedure an applicant must follow to obtain the discount.

(4) The policy is subject to any regulations under **section 855** relating to discounting administrative charges.

Compare: 1991 No 69 s 36AA

825 Money obtained through market-based allocation method

Any money that is obtained through the use of a market-based allocation method to determine the allocation of a right to apply for a resource consent—

(a) may be collected by a local authority; but

(b) must be spent by a local authority only in accordance with regulations.

826 How money collected from market-based allocation methods must be applied

(1) Money that is collected under **section ~~825~~ 126(3)** must be applied to meet the costs of any 1 or more of the following, subject to any requirements in regulations:

(a) restoration of ecosystems:

(b) improving resilience to the effects of climate change or other ~~natural disasters~~ natural hazard events:

(c) reducing the environmental impact of the use of resources:

(d) improving public amenities relating to resources:

(e) managing resources:

(f) increasing the capability and capacity of Māori, iwi and hapū, and local government:

(g) providing solutions (including research and development) to—

(i) manage increased demand for resources; and

(ii) enable more equitable and efficient use of resources:

(h) addressing Māori rights and interests.

(2) In this section, **resources** is not limited to resources specified in **section ~~646~~ 30R**.

827 Regulations relating to market-based allocation method

(1) The Governor-General may, by Order in Council, make regulations relating to—

(a) the use of market-based allocation method under the national planning framework or a plan; and

(b) the collection and spending of money from their use.

(2) The regulations may—

(a) state the proportion of the money for which—

(i) the Secretary for the Environment is responsible for administering; and

(ii) the regional councils are responsible for administering; and

(iii) unitary authorities are responsible for administering; and

(b) require regional councils and unitary authorities to pay all or part of the money to the Crown; and

(c) provide criteria or procedures that apply to how the money is to be used for the purposes specified in **section 826**, including—

(i) providing for the involvement of ~~iwi, hapu, and Māori groups~~ iwi and hapū in decision making about the use of the money; and

(ii) specifying the proportion of the money to be returned to regional councils and unitary authorities to be used for a purpose specified in **section 826**; and

(d) impose requirements (including any requirements as to payment) that apply to those who use or participate in a market-based allocation method under the national planning framework or a plan; and

(da) require rebates of payments in specified circumstances; and

(e) prescribe interest on any amount for which interest is required to be paid.

(3) In this section, **money**—

(a) means money collected from the use of a market-based allocation method that is required or permitted under the national planning framework or required under a plan; and

(b) includes money that is collected through the imposition of interest by regulations made under this section.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Rights of objection

828 Rights of objection against certain decisions

Rights of objection conferred by this Act are listed in the following table:

Provision conferring right	Decision subject to objection	Who hears objection
Section 27(2)	Territorial authority declines application for extension of existing use	Territorial authority
clause 89 of Schedule 7	Authority strikes out person's submission	Authority conducting hearing on matter described in **clause 79**
Section 174(1)	Consent authority decides person's application incomplete	Consent authority
Section 178(2) or 181(2)	Consent authority returns person's application	Consent authority
Section 213(8)	Board of inquiry exercising powers of consent authority declines to process or consider person's application or submission	Board of inquiry

Provision conferring right	Decision subject to objection	Who hears objection
Section 298	EPA declines person's request for certificate of compliance	EPA
Section 522(4)	Regional planning committee declines requiring authority's notice to remove part of designation	Regional planning committee
Section 523	Regional planning committee declines requiring authority's application to fix longer period for designation	Regional planning committee
Section 530(4) to (6)	Regional planning committee declines requiring authority's or heritage protection authority's request for requirement to be decided by Environment Court	Regional planning committee

Compare: 1991 No 69 s 357

829 Right of objection to consent authority against certain decisions or requirements

(1) A person has a right of objection to a consent authority—

(a) against its decision on an application by the person under—

(i) **section 268(2)** (which relates to the exercise of a resource consent while applying for a new resource consent):

(ii) **section 272(2)(b)** (which relates to the lapsing of consents):

(iii) **section 273(2)(b)** (which relates to the cancellation of consents):

(iv) **section 294** (which relates to certificates of compliance):

(v) **section 299** (which relates to existing use certificates):

(b) against its decision to decline to process or to consider an application or a submission made by the person, as provided for by **section 213(8)**:

(c) against its decision under **section 168~~(2) to (4)~~** on the person's request under **section 166**:

(ca) against its determination under **section 276** on an application by the person for a resource consent, that **section 275** does not affect the duration of the consent:

(d) against its decision on the person's application or review described in **subsections (2) to (5)**, if the person is an applicant or consent holder, and—

(i) the application or review was notified; and

(ii) either no submissions were received or any submissions received were withdrawn:

(e) against its decision on the person's application or review described in **subsections (2) to (5)**, if the person is an applicant or consent holder, and the application or review was not notified~~.~~:

(f) against its decision under **section 280** to cancel or prevent a transfer under any of **sections 286 to 288**.

(2) **Subsection (1)(d) and (e)**—

(a) apply to an application made under **section 173** for a resource consent:

(b) apply if an officer of the consent authority exercising delegated authority under **section ~~655~~ 30ZA** declines the resource consent under **sections 224 and 225**:

(c) do not apply if the consent authority declines the resource consent under **sections 224 and 225**.

(3) **Subsection (1)(d) and (e)** apply to an application made under **section 274** for a change or cancellation of a condition of a resource consent.

(4) **Subsection (1)(d) and (e)** apply to a review of the conditions of a resource consent under **section 277 to 281**.

(5) **Subsection (1)(d) and (e)** apply to an application made under **section 629** to vary or cancel a condition specified in a consent notice.

Compare: 1991 No 69 s 357A

830 Objection under section 829(1)(d) or (e) may be considered by hearings commissioner

(1) An applicant for a resource consent who has a right of objection under **section 829(1)(d) or (e)** (as applied by **section 829(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 ~~655~~ 30ZA**, delegate its functions, powers, and duties under **sections 832 and 834** to 1 or more hearings commissioners who are not members of the consent authority.

Compare: 1991 No 69 s 357AB

831 Right of objection in relation to imposition of additional charges or recovery of costs

A person has a right of objection—

(a) to a local authority against its requirement to pay an additional charge under **section 821(7)** or costs under ~~**section 374(1)**~~ **clause 81(1) of Schedule 10A**:

(b) to the EPA against its requirement to pay costs under ~~**section 374(2) or (3)**~~ **clause 81(2) or (3) of Schedule 10A**:

(c) to the Minister against the Minister's requirement to pay costs under ~~section 374(4)~~ **clause 84(4) of Schedule 10A**.

Compare: 1991 No 69 s 357B

832 Procedure for making and hearing objection under sections 828 to 831

(1) An objection under **section 828, 829, or 831** must be made by notice in writing not later than 15 working days after the decision or requirement is notified to the objector, or within any longer time allowed by the person or body to which the objection is made.

(2) A notice of objection must set out the reasons for the objection.

(3) A notice of an objection made under **section 829(1)(d) or (e)** may include a request that the objection be considered by a hearings commissioner instead of by the consent authority.

(4) In the case of an objection made under **section 828 or 829**, the person or body to which the objection is made must—

(a) consider the objection within 20 working days; and

(b) if the objection has not been resolved, give at least 5 working days' written notice to the objector of the date, time, and place for a hearing of the objection.

(5) In the case of an objection made under **section 831**, the person or body to which the objection is made must—

(a) consider the objection as soon as is reasonably practicable; and

(b) if the objection has not been resolved, give at least 5 working days' written notice to the objector of the date, time, and place for a hearing of the objection.

Compare: 1991 No 69 s 357C

833 Powers of hearings commissioner considering objection under section 829(1)(d) or (e)

(1) This section applies if a hearings commissioner is considering an objection made under **section 829(1)(d) or (e)**.

(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 they consider that the information or report will assist the hearings commissioner to make a decision on the objection.

Compare: 1991 No 69 s 357CA

834 Decision on objections made under sections 828 to 831

(1) The person or body to which an objection is made under **sections 828 to 831** may—

(a) dismiss the objection; or

(b) uphold the objection in whole or in part; or

(c) in the case of an objection under **section 831(a)**, as it relates to an additional charge under **section 821(7)**, remit the whole or any part of the additional charge over which the objection was made.

(2) The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.

(3) In the case of an objection made under **section 829(1)(c)**, if the consent authority upholds the objection in whole or in part, that decision replaces the part of the earlier decision to which the objection relates.

Compare: 1991 No 69 s 357D

835 Appeals against certain decisions or objections

(1) Any person who has made an objection under **section 828, 829(1)(a), (b), (d), or (e), or 831** may appeal to the Environment Court against the decision on the objection.

(2) However, an appeal against a decision on any of the following objections is excluded:

(a) an objection against a decision under **clause 89 of Schedule 7** to strike out a submission, if the 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 against a decision under **section 178(2) or 181(2)** to return an application:

(c) an objection against a decision under **section 530(4) to (6)** to decline a request:

(d) an objection against a decision of a board of inquiry under **clause 89 of Schedule 7** or **section 213(8)** to decline an application.

(3) Notice of an appeal under this section must be in the prescribed form, stating the reasons for the appeal, and be lodged with the court within 15 working days after the decision on the objection being notified to that person under **section 834(2)** or within any further time that the Environment Court may in any case allow.

(4) Any person lodging an appeal under this section must ensure that a copy of the notice of appeal is served on the consent authority or local authority at the same time as the notice is lodged with the Environment Court.

(5) This section does not apply to any person who has already exercised a right of appeal in respect of the same matter under **section 253**.

Compare: 1991 No 69 s 358

System performance and monitoring

836 Evaluation framework

(1) The chief executives of the responsible departments must prepare, publish, and maintain an integrated monitoring, reporting, and evaluation framework (the **evaluation framework**) for the operation and effectiveness of this Act and the **Spatial Planning Act 2022**.

(2) The purpose of the framework is to support the ongoing operation and effectiveness of the system under this Act and the **Spatial Planning Act 2022**.

(3) When preparing or updating the framework, the chief executives must engage with relevant government agencies and local government, regional planning committees, the Parliamentary Commissioner for the Environment, the National Māori Entity, iwi, hapū, and Māori.

837 Reporting

(1) The chief executives of the responsible departments must report annually on the monitoring of system performance in a form that is easily accessible to the public.

(2) The chief executives must submit to the responsible Ministers, at least every 6 years, a system evaluation report that evaluates the operation and effectiveness of this Act and the **Spatial Planning Act 2022**.

(3) The chief executives must co-ordinate and consolidate reporting on monitoring and evaluation for both Acts to enable an integrated view of overall system performance, unless it is impracticable.

(4) The chief executives must publish evaluation reports and the Minister for the Environment must present the reports to the House of Representatives.

(5) Reporting under this section must comply with any requirements prescribed by regulations ~~made under this Act~~.

838 Parliamentary Commissioner for Environment ~~to~~ may review evaluation reports

~~(1) The Parliamentary Commissioner for the Environment must carry out an independent review of each evaluation report published under **section 837** and report on the review to the House of Representatives.~~

(1) The Parliamentary Commissioner for the Environment may, at their discretion and in accordance with their functions and powers under the Environment Act 1986, review the evaluation report published under **section 837**.

(2) The responsible Ministers must respond in writing to ~~the Commissioner's review~~ any review carried out by the Commissioner.

839 Local authorities to report on costs of functions under this Act and Spatial Planning Act 2022

(1) A local authority must each year prepare an annual report on the costs, drivers, and funding associated with discharging its functions, duties, and powers under this Act and the **Spatial Planning Act 2022**.

(2) The report must include the costs and funding associated with Māori participation under both Acts and participation of all parties in the regional planning committee.

(3) The local authority must provide the report to the chief executives of the departments responsible for the administration of those Acts.

839A Regulations relating to compliance and monitoring activities

(1) The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:

- (a) prescribing the manner or content of applications, notices, or any other documentation or information as may be required under this Part:
- (b) prescribing, for the purposes of **section 839B**,—
  - (i) indicators or other matters by reference to which a local authority is required to monitor the state of the environment of its region or district:
  - (ii) matters by reference to which monitoring must be carried out:
  - (iii) standards, methods, or requirements applying to the monitoring, which may differ depending on what is being monitored:
- (c) requiring local authorities to provide information gathered under **sections 839B and 819** to the Minister, and prescribing the content of the information to be provided and the manner in which, and time limits by which, it must be provided:
- (d) providing for any matters necessary or desirable for the efficient operation of this Part.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

839B Local authorities to monitor to effectively carry out their functions and duties under this Act

(1) A local authority must monitor—

- (a) the state of the whole or any part of the environment of its region or district—

(i) to the extent that is appropriate to enable the local authority to effectively carry out its functions and duties under this Act; and

(ii) in addition, by reference to any indicators or other matters prescribed by regulations, and in accordance with the regulations; and

(b) the efficiency and effectiveness of policies, rules, or other methods in its plan in—

(i) upholding any environmental limits and targets that apply in its region; and

(ii) promoting the system outcomes under **subpart 1 of Part 1**; and

(iii) addressing or managing other matters of regional or local significance that have been identified within its plan; and

(c) the exercise of any functions, powers, or duties delegated or transferred by it; and

(d) 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 powers, functions, or duties are exercised or performed; and

(e) the exercise of the resource consents that have effect in its region or district, as the case may be; and

(f) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and

(g) permitted activities that have effect in the region or district, where monitoring of those permitted activities is required by the national planning framework or the relevant plan.

(2) Monitoring required by this section must be undertaken in accordance with any regulations.

(3) For the purpose of **subsection (1)(a)**, the local authority must prioritise monitoring of environmental limits and targets, other matters identified in the national planning framework, and regionally significant matters identified in its plan.

(4) The local authority must take appropriate action (having regard to the methods available to it under this Act) where monitoring shows this to be necessary.

(5) The local authorities in the region must provide iwi authorities and groups that represent hapū within the region with opportunities, in relation to the state of

environmental monitoring under **subsection (1)(a)** and plan effectiveness monitoring under **subsection (1)(b)**, to—

(a) be involved in the development and implementation of mātauranga Māori, tikanga Māori, and other monitoring methods and approaches; and

(b) be involved with the development of policy and guidance on the detailed ways in which the regional monitoring and reporting strategy is to be operationalised; and

(c) carry out the actual monitoring work where agreed with the relevant local authority.

(6) The local authority must make available or accessible to the public the results of its state of environment monitoring activities under **subsection (1)(a)** to enable the public to be informed and participate under this Act.

(7) The regional planning committee must, every 6 years, publish an assessment of the state of the environment conducted under **subsection (1)(a)** in its region that demonstrates the environmental changes, trends, pressures, emerging risks, and outlooks within the region.

Compare: 1991 No 61 s 35(2)–(3)

839C Regional monitoring and reporting strategies

(1) A regional planning committee must prepare a regional monitoring and reporting strategy to describe how the local authorities in its region are to carry out their monitoring functions under this Part.

(2) A regional monitoring and reporting strategy must—

(a) ensure that monitoring and reporting is comprehensive and well co-ordinated; and

(b) describe the monitoring responsibilities of each local authority in the region; and

(c) describe when and how iwi authorities and groups that represent hapū (if agreed) are to be involved in local authority monitoring activities.

(3) The regional planning committee must—

(a) develop the strategy in collaboration with local authorities and have particular regard to their input; and

(b) publish the regional monitoring and reporting strategy within the 4-year time frame for plan making; and

(c) keep the strategy up to date and review the strategy when the full plan review evaluation is conducted; and

(d) invite the local authorities to provide input to assist the committee to prepare the strategy.

Plan reviews

839D Duty of local authorities to report to relevant planning committee

(1) Each local authority must report to its relevant regional planning committee every 3 years (a **3-yearly reporting cycle**).

(2) The first 3-yearly report must be made in accordance with the date specified in the regional monitoring and reporting strategies made under **section 839C**.

839E Purpose of reports

(1) The purpose of a 3-yearly report is to provide the relevant regional planning committee with information required to plan and initiate a programme of work for the next 3 years in relation to plan changes needed to ensure continuing compliance of the plan with the requirements of this Act.

(2) Any regional planning committee may initiate plan changes that it adds to the programme of work for the next 3 years.

839F Contents of reports

A 3-yearly report must include the following matters:

(a) a consideration of the results from monitoring under **section 839B**, including the state of the environment and the effectiveness and efficiency of the relevant plan; and

(b) an evaluation of the effectiveness and efficiency of the relevant plan; and

(c) recommendations on any matters that the plan should include; and

(d) any plan changes that the local authority requests.

839G 9-yearly review of plans

(1) Each regional planning committee must undertake a review of its plan for the region at least every 9 years (a **9-yearly review**).

(2) A 9-yearly review period starts as soon as a plan becomes operative and continues in successive 9-year periods.

(3) However, if a regional planning committee resolves to undertake a full plan review, the 9-year cycle ceases, beginning again when the new plan becomes operative.

(4) A 9-yearly review must cover the following matters:

(a) whether the strategic content of the plan is still appropriate; and

(b) whether the plan gives effect to the national planning framework; and

(c) whether the plan continues to be consistent with the regional spatial strategy for the region; and

(d) whether there is a need to change or retain plan provisions that have not been reviewed in the previous 9 years; and

(e) any other matter that the regional planning committee considers appropriate.

(5) Each regional planning committee must, after completing its 9-yearly review, publish the results of that review, stating how it intends to respond to any matters requiring further consideration that are identified in it.

(6) A regional planning committee must respond to its review, as appropriate, by—

(a) making plan changes; or

(b) notifying a wholly new plan; or

(c) any other method that the committee considers appropriate.

Additional powers of Minister for Environment and Minister of Conservation

840 Minister may make grants and loans

(1) The Minister for the Environment may make grants or loans to any person to assist in achieving the purpose of this Act.

(2) The Minister may impose terms and conditions on a grant or loan as the Minister thinks fit.

(3) Money spent or advanced by the Minister under this section must be paid out of money appropriated by Parliament for the purpose.

(4) Money received by the Minister under this Act must be paid into a Crown Bank Account or other account approved by the Minister of Finance.

Compare: 1991 No 69 s 26

841 Supply of information

(1) The Minister for the Environment may give written and dated notice requiring information to be supplied by the following bodies:

(a) a regional planning committee:

(b) a local authority:

(c) a requiring authority:

(d) a heritage protection authority.

(2) The information that may be required is information that—

(a) is about the body's exercise or performance of any of its functions, powers, or duties under this Act; and

(b) is held by the body or can reasonably be produced by the body; and

(c) may reasonably be required by the Minister.

(3) The body must supply the information to the Minister within—

(a) 20 working days after the date of the notice; or

(b) a longer time set by the Minister.

(4) The body must not charge the Minister for supplying the information.

Compare: 1991 No 69 s 27

842 Information must be supplied to Minister of Conservation

(1) The Minister of Conservation may, if it is reasonable to do so, require a local authority to supply information about the local authority's monitoring of—

(a) a coastal permit; or

(b) provisions of a plan that relate to the coastal marine area; or

(c) the exercise of protected customary rights.

(2) The Minister of Conservation must request the required information by giving a written and dated notice to the local authority.

(3) The local authority must supply the information to the Minister of Conservation within—

(a) 20 working days after the date of the notice; or

(b) a longer time set by the Minister of Conservation.

(4) The local authority must not charge for supplying the information.

(5) The Minister must notify the Minister for the Environment of the making of the requirement.

Compare: 1991 No 69 s 28A

Miscellaneous matters

843 Regional councils to pay rents, royalties, and other money received into Crown Bank Account

All rents, royalties, and other sums of money that the holders of resource consents are, by virtue of any authorisation granted under **section 452** or any regulations made under **section 848(1)(b)**, required to pay, are the property of the Crown and every regional council must—

(a) collect and receive from the holders of such resource consents in its region all such rents, royalties, and other sums of money on behalf of the Crown; and

(b) pay that money into a Crown Bank Account in accordance with the Public Finance Act 1989.

Compare: 1991 No 69 s 359

~~844 Cost recovery for specified function of EPA~~

~~(1) If the Minister asks the EPA under **section 639** to provide secretarial and support services to a person (a **supported person**),~~

~~(a) the Minister may direct the EPA to recover from 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 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 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 that person as distinct from the community as a whole:~~

~~(c) the extent to which any activity by the 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.~~

~~Compare: 1991 No 69 s 42CA~~

845 Power of waiver and extension of time limits

(1) A consent authority or local authority may, in any particular case,—

(a) extend a time period specified in this Act or in regulations, whether or not the time period has expired; or

(b) waive a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.

(2) However, a consent authority must not, under **subsection (1)**, waive or extend a time period for the purpose of providing more time for a pre-request aquaculture agreement to be negotiated under section 186ZM of the Fisheries Act 1996.

(3) If a person is required to provide information under this Act, regulations, or a plan and the information is inaccurate or omitted, or a procedural requirement is omitted, the consent authority or local authority may—

(a) waive compliance with the requirement; or

(b) direct that the omission or inaccuracy be rectified on such terms as the consent authority or local authority thinks fit.

Compare: 1991 No 69 s 37

846 Requirements for waivers and extensions

(1) A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with **section 845** unless it has taken into account—

(a) the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and

(b) the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and

(c) its duty under **section 804** to act promptly; and

(d) whether the extension or waiver will support the consent authority's assessment of the application, to ensure that a decision to grant or decline the application aligns with ~~planning~~ plan outcomes.

(2) A time period may be extended under **section 845** for—

(a) a time not exceeding twice the maximum time period specified in this Act; or

(b) a time exceeding twice the maximum time period specified in this Act if the applicant or requiring authority requests or agrees.

(3) Instead of **subsections (1) and (2)**, **subsection (4)** applies to an extension of a time limit imposed on a consent authority in respect of—

(a) an application for a resource consent; or

(b) an application to change or cancel a condition of a resource consent; or

(c) a review of a resource consent.

(4) A consent authority may extend a time period under **section 845** only if—

(a) the time period as extended does not exceed twice the maximum time period specified in this Act; and

(b) either—

(i) special circumstances apply (which includes special circumstances existing by reason of the scale or complexity of the matter, but does not include a lack of staffing capacity or expertise); or

(ii) the applicant agrees to the extension; and

(c) the authority has taken into account the matters specified in **subsection (1)**.

(5) A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.

Compare: 1991 No 69 s 37A

847 Persons to have powers of consent authority for purposes of sections 845 and 846

The following bodies have the powers of a consent authority under **sections 845 and 846** for the following matters:

(a) the Minister, while carrying out any of their functions under ~~subpart 9 of Part 5~~ **Part 3 of Schedule 10A**:

(b) a board of inquiry appointed under ~~section 349~~ **clause 62 of Schedule 10A**, while carrying out its functions under ~~subpart 9 of Part 5~~ **Part 3 of Schedule 10A**, except in respect of the time periods and requirements under ~~section 355~~ **clause 68 of Schedule 10A**:

(c) the EPA, while carrying out its functions under ~~subpart 9 of Part 5~~ **Part 3 of Schedule 10A**, except in respect of the time periods and requirements under ~~section 336(1)~~ **clause 49(1) of Schedule 10A**:

(d) a special tribunal appointed under **section 381**, for all matters while carrying out its functions.

Compare: 1991 No 69 s 37B

Regulations

848 Regulations relating to payment of fees and charges

(1) The Governor-General may from time to time, by Order in Council, make regulations for 1 or more of the following purposes:

(a) prescribing, for the purpose of the Registrar deciding whether to waive, reduce, or postpone the payment of a fee under **clause 90 of Schedule 13**, 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:

(b) prescribing the amount, methods for calculating the amount, and circumstances and manner in which holders of resource consents are liable to pay for—

(i) the occupation of the coastal marine area, to the extent that it is within the common marine and coastal area; and

(ii) the occupation of the bed of any river or lake that is land of the Crown; and

(iii) the extraction of any sand, shingle, shell, and other natural materials from an area described in **subparagraph (i) or (ii)**; and

(iv) the use of geothermal energy.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360(a), (aa), (ac), (b), (baa), (c), (d), (da), (he), (hk)

849 Regulations relating to network utility operations

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister for the Environment, make regulations providing for any project or work to be a network utility operation for the pur-

pose of **paragraph (j)** of the definition of network utility operator in **section 7**.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360(e)

850 Regulations relating to local authority functions under this Act or Spatial Planning Act 2022

(1) The Governor-General may from time to time, by Order in Council, make regulations for 1 or more of the following purposes:

(a) 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:

(b) authorising the Minister or responsible Ministers to specify requirements that local authorities must meet when reporting on the costs of functions under this Act and the **Spatial Planning Act 2022**.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360(1)(hp)

851 Regulations amending plans in relation to aquaculture activities and allocation processes

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister responsible for aquaculture,—

(a) amend provisions in ~~a~~an operative plan that relate to the management of aquaculture activities in the coastal marine area; and

(b) amend ~~a~~an operative plan to establish ~~a process~~rules for the allocation of specified aquaculture-related authorisations.

(1A) Regulations made under **subsection (1)** may amend more than one plan at the same time, including plans that relate to different regions.

(2) An amendment made under **subsection (1)**—

(a) becomes part of the operative plan as if it had been notified under ~~clause 20 of Schedule 1~~ **clause 41 of Schedule 7**; and

(b) must not be inconsistent with, and is subject to, the other provisions of this Act ~~(for example, subpart 1 of Part 7A)~~; and

(c) may be amended—

(i) under this section; or

(ii) in accordance with **Schedule 7**; or

(iii) under any other provision of this Act.

(3) Regulations establishing a process for the allocation of specified aquaculture-related authorisations—

(a) must provide for how allocation offers for those authorisations are to be decided; and

(b) must specify the aquaculture-related authorisations (or class of authorisations) to which the process applies; and

(c) may specify—

(i) that the Minister responsible for aquaculture is the decision maker for allocation offers made under the process; and

(ii) the circumstances in which, and the criteria by which, the Minister must make those decisions; and

(d) must specify the unit of measurement for a specified aquaculture-related resource or class of resource (for example, based on volume, meterage, or percentage); and

(e) may provide for any other matter necessary for establishing or giving effect to the process.

(4) If a regional planning committee makes changes to the plan or develops a new plan, the committee may specify that the Minister responsible for aquaculture is the decision maker for allocation offers made under an allocation process, but only if—

(a) the plan has been amended by regulations establishing an allocation process and specifying the matters referred to in **subsection (3)(c)**); and

(b) either—

(i) the allocation process proposed in the changes or the new plan, is the same as that made under the regulations; or

(ii) the Minister responsible for aquaculture agrees to the changes to the plan or the new plan before it is notified.

(5) In this section and **sections 852 and 853**,—

amend provisions includes—

(a) omitting provisions (whether other provisions are substituted or not):

(b) adding provisions

aquaculture-related authorisation means the exclusive right to apply for a resource consent for an aquaculture-related resource, within the meaning of **sections 160(2) and 429**

~~**aquaculture-related resource—**~~

~~(a) means occupation of coastal or marine space:~~

~~(b) may include feed use, nutrient discharge, biomass, production, meterage of lines, or take and use of seawater.~~

aquaculture-related resource means—

(a) the occupation of space in a common marine and coastal area for aquaculture activities:

(b) the capacity of coastal water (including estuaries) to assimilate a discharge of a contaminant from an aquaculture activity:

(c) any other resource related to aquaculture identified in the national planning framework under **section 88(1)(i)**:

(d) any other resource related to aquaculture.

(6) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360A

852 Conditions to be satisfied before regulations made under section 851

Ministerial considerations

(1) The Minister responsible for aquaculture must not recommend the making of regulations under **section 851**, unless the Minister—

(a) has first had regard to the provisions of the plan that will be affected by the proposed regulations; and

(b) has carried out consultation on the proposed regulations in accordance with this section; and

(c) is satisfied that—

(i) the proposed regulations are necessary or desirable for the management of aquaculture activities in accordance with the Government's policy for aquaculture in the coastal marine area; and

(ii) the matters to be addressed by the proposed regulations are of regional or national significance; and

(iii) the proposed regulations do not result in a rule in the plan that contravenes **section 137**; and

(iv) the plan (as amended by the proposed regulations) continues to give effect to the national planning framework and does not conflict with or duplicate it; and

(v) the plan (as amended by the proposed regulations) is consistent with the regional spatial strategy; and

(d) has prepared an evaluation report under **clause 25 of Schedule 7** for the proposed regulations and had particular regard to that report when deciding whether to recommend the making of the regulations.

(2) When deciding whether to recommend the making of regulations that directly affect a customary marine title area, the Minister responsible for aquaculture must consider any content—

(a) in a planning document that has been lodged with the Minister under section 91 of the Marine and Coastal Area (Takutai Moana) Act 2011 or lodged with the regional council under section 86 of that Act; and

(b) is identified in that planning document as relevant to the Minister's decision whether to recommend the making of regulations that directly affect the customary marine title area.

(3) When deciding whether to recommend the making of regulations that relate to the allocation of coastal space, the Minister responsible for aquaculture must consider how the proposed regulations affect any preferential rights described in **section 450**.

(3A) When deciding whether to recommend the making of regulations that relate to **paragraph (b)** of the definition of aquaculture-related resource in **section 851(5)**, the Minister must have particular regard to the allocation principles.

Consultation requirements

(4) The Minister responsible for aquaculture must consult on the proposed regulations with—

(a) the Minister of Conservation; and

(b) other Ministers that the Minister responsible for aquaculture considers relevant to the proposed regulations; and

(c) any regional council that will be affected by the proposed regulations as well as the relevant regional planning committee; and

(d) any customary marine title group in the area covered by the plan; and

(e) any applicant group (within the meaning of section 9 of the Marine and Coastal Area Takutai Moana Act 2011) in the area covered by the plan; and

(f) the public, the relevant iwi authorities, and groups that represent hapū within the relevant region.

(5) When consulting organisations, people, and groups under **subsection (4)(d) to (f)**, the Minister responsible for aquaculture—

(a) must notify them of the proposed regulations; and

(b) must establish a process that—

(i) the Minister ~~of Aquaculture~~ responsible for aquaculture considers gives them adequate time and opportunity to comment on the proposed regulations; and

(ii) requires a report and recommendation to be made to the Minister on those comments and the proposed regulations; and

(c) must publicly notify the report and recommendation; and

(d) is not required to consult on matters that have already been the subject of consultation if the Minister is satisfied that the previous consultation related to subject matter that is in substance the same as that proposed in the regulations.

(6) A single consultation process may be used if—

(a) the proposed regulations amend 2 or more plans at the same time; and

(b) the requirements of **subsections (4) and (5)** are met in respect of each plan.

Compare: 1991 No 69 s 360B

853 Regional planning committee obligations

(1) As soon as practicable after regulations are made under **section 851**, the regional planning committee whose plan is or will be amended by the regulations must—

(a) give public notice that the regulations have been made, of the date on which the regulations come into force, and that provides a general description of the nature and effect of the regulations; and

(b) amend the plan in accordance with the regulations—

(i) without using the process in **Schedule 7**; and

(ii) by any date specified in the regulations for that purpose or, if no date is specified, as soon as practicable after the regulations come into force.

(2) To avoid doubt, **section 434** does not apply to any amendments to a plan that have been made in accordance with regulations made under **section 851**.

Compare: 1991 No 69 s 360C

854 Emergency response regulations

(1) The Governor-General, by Order in Council, may, on the recommendation of the Minister, make regulations (**emergency response regulations**) for the purpose of—

(a) responding to a natural ~~disaster~~ hazard event or other emergency in an area; and

(b) recovery efforts in the affected area (including any work required to improve the resilience or standard of assets).

(2) Before recommending emergency response regulations, the Minister must—

(a) be satisfied that the order is necessary or desirable for the purpose of ~~the~~ this Act:

(b) be satisfied that the order is not broader than is reasonably necessary:

(ba) consult the Minister for Emergency Management before recommending any emergency response regulations:

(c) consult with any affected councils and ~~planing~~ regional planning committees, and invite them to provide written comments about the proposed regulations:

~~(d) have regard to comments from the Committee of the House of Representatives responsible for the review of disallowable instruments, who must respond on the draft order within 5 working days.~~

(d) provide a draft of the regulations to the committee of the House of Representatives that is responsible for the review of disallowable instruments:

(e) have regard to comments, if any, from the Committee of the House of Representatives responsible for the review of disallowable instruments.

(2A) Before recommending emergency response regulations, the Minister may invite any other persons or representatives of persons that the Minister considers appropriate (including local Māori and local community groups), or the public generally, to provide written comments about the proposed regulations.

(2B) Written comments provided in response to an invitation from the Minister must be provided within 5 working days unless the Minister extends that period.

(3) Emergency response regulations—

(a) may apply only to an area where a state of national or local emergency, or a local or national transition period, has been declared under the Civil Defence Emergency Management Act 2002; and

(b) may continue to apply to that area after the declaration ceases to have effect; and

(c) expire on the date that is 3 years after the first declaration is made or any earlier date specified in the regulations.

(4) Emergency response regulations may—

(a) permit, authorise, or prohibit specific activities, noting that this will not give long-term existing use rights to these activities:

(b) modify or alter the plan development processes:

(c) apply a temporary stay to types or categories of applications (processing and granting of consents):

(d) extend or shorten consent processing time frames.

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

855 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 for the purpose of specifying the charges that a local authority is required to fix under **section 821**.

(2) Regulations made under this section—

(a) may prescribe the fees payable or the methods for calculating fees and recovering costs in respect of consent applications, applications under an allocation method in a plan, tenders, or other matters under this Act that require an application:

(b) may require local authorities—

(i) to fix charges for hearings commissioners determining resource consent applications, in accordance with a delegation from the local authority under **section ~~655~~ 30ZA**, 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 regional planning committees—

(i) to fix charges for processing independent plan change requests under **Part 2 of Schedule 7** ~~and processing notices of requirement for a designation under **subpart 1 of Part 8**~~:

(ii) before a hearing commences, to set the overall charge payable by the applicant for a plan change ~~or designation hearing~~:

(d) may require local authorities to fix charges for resource consents, for the carrying out by the local authority of any 1 or more of its functions in relation to the receiving, processing, and granting of resource consents (including certificates of compliance, existing use certificates and permitted activity notices) and applications made under an allocation rule that has been included in a plan under **section 433**:

(e) providing for discounts on administrative charges imposed under **section 821**—

(i) when local authorities are responsible for applications for a resource consent:

(ii) for applications to change or cancel conditions under **section 274**:

(iii) for processing certificates of compliance, existing use certificates, and permitted activity notices.

(3) Regulations that relate to a function referred to in **subsection (2)(d)**—

(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.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360F

856 Regulations relating to ~~specified housing and infrastructure~~ fast-track consenting process

The Governor-General may, by Order in Council, for the purpose of ~~subpart 8 of Part 5~~ **Part 2 of Schedule 10A**, make regulations that—

(a) impose requirements in relation to an application to use a ~~specified housing and infrastructure~~ fast-track consenting process (including the manner in which the application must be made):

~~(b) require the EPA to invite comment on an application for a resource consent or notice of requirement using the specified housing and infrastructure fast-track consenting process:~~

~~(c) specify person or organisations from whom that comment must be invited:~~

~~(d) provide for the establishment and operation of the expert consenting panel, including—~~

~~(i) the appointment of members of the panel by the Chief Environment Court Judge; and~~

~~(ii) nomination of members to the panel by local authorities and iwi authorities; and~~

~~(iii) the appointment of the chairperson of the panel; and~~

~~(iv) remuneration of members of the panel; and~~

~~(v) removal and resignation of members of the panel; and~~

(e) enable limited suspension of the processing of an application by the panel in specified circumstances or if specified criteria apply; and

(f) provide for procedural and administrative matters for the purpose of ~~subpart 8 of Part 5~~ **Part 2 of Schedule 10A**.

857 Regulations relating to infringement offences

(1) The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:

(a) specifying the offences in this Act that are infringement offences:

(b) specifying infringement offences for the breach of regulations ~~made under this Act~~:

(c) prescribing infringement fees (which may be different fees for different offences)—

(i) not exceeding $2,000, in the case of a natural person, for an infringement offence prescribed under this subsection:

(ii) not exceeding $4,000, in the case of a person other than a natural person, for an infringement offence prescribed under this subsection:

(iii) not exceeding $100 per stock unit for each infringement offence that is differentiated on the basis of the number of stock units, to a maximum fee of—

(A) $2,000 for each infringement offence in the case of a natural person; and

(B) $4,000 for each infringement offence in the case of a person other than a natural person.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360(1)(ba), (bb)

858 Regulations relating to general matters

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister for the Environment, make regulations for all or any of the following purposes:

(a) the form or content of applications, notices, or any other documentation or information that may be required under this Act, including the use of templates:

(aa) the form and content of, and the procedure for, assessments of environmental effects:

(b) the manner in which applications, notices, information, or any other documentation that may be required under this Act are to be processed, including—

(i) procedural steps and time limits relating to the resource consent process:

(ii) requirements that apply to specific consents or activities:

(iii) service requirements and related administrative matters:

(iv) the ways in which local authorities must make information gathered under **sections 816 and 839B** available to the public:

(c) templates for reports required to be prepared under this Act, including notification reports, decision reports, and reports that a local authority

may require under this Act, which may apply to specific consents or activities:

(d) the practice and procedure of the Environment Court and the form of proceedings, both under this Act and in relation to the exercise of any jurisdiction conferred on the court by any other Act:

(e) procedural steps that apply when the Environment Court or a board of inquiry determines an affected application, including the disapplication of provisions in **Part 5**:

(f) prescribing criteria for the exercise, in a particular hearing or class of hearing, of any of the powers specified in **clauses 87 to 89 of Schedule 7**:

(g) prescribing, for the purposes of sections 168, 469, and 530,—

(i) threshold amounts, which may differ for proposals of different types or in different locations; and

(ii) matters to which an authority is required to have regard in determining whether exceptional circumstances exist:

(h) prescribing exemptions from any provision of **section 22**, either absolutely or subject to any prescribed conditions, and either generally or specifically or in relation to particular descriptions of contaminants or to the discharge of contaminants in particular circumstances or from particular sources, or in relation to any area of land, air, or water specified in the regulations:

(ha) prescribing how the consent engagement costs payable by consent applicants or holders, either locally or nationally, are to be determined:

(i) providing transitional and savings provisions concerning the coming into force of this Act that may be in addition to, or in substitution for, the transitional and savings provisions in **Schedule 1**:

(j) providing that (subject to any conditions specified in the regulations), during a specified transitional period,—

(i) specified provisions of this Act (including definitions or transitional and savings provisions) do not apply (or apply with modifications or additions) either generally or in respect of a specified region or area:

(ii) specified provisions repealed, revoked, or amended by this Act continue to apply (or continue to apply with modifications or additions):

(iii) regulations, Orders in Council, notices, schemes, rights, licences, permits, approvals, authorisations, or consents made or given under the Resource Management Act 1991 continue to apply:

(iv) specified terms have the meanings given to them by regulations:

(k) providing for any other matters necessary for facilitating or ensuring an orderly transition from the legislative regime under the Resource Management Act 1991 to the legislative regime that applies when this Act comes fully into force:

(l) providing for any other such matters as are contemplated by, or necessary for giving full effect to, this Act and for its due administration.

(2) Any regulations ~~under this Act~~ may apply generally or may apply or be applied from time to time by the Minister for the Environment by notice in the *Gazette*, within any specified district or region of any local authority or within any specified part of New Zealand, or to any specified class or classes of persons.

(3) The Minister must not recommend the making of regulations under **subsection (1)(a) to (c)** without consulting the affected consent authorities.

(3A) The Minister must not recommend the making of regulations under this Act that impact on the Environment Court without the concurrence of the Chief Environment Court Judge.

(4) Regulations may be made under **subsection (1)(g)** only on the recommendation of the Minister for the Environment after having regard to the intent of the regulations, which is to require requests for direct referral to be granted for proposals of a significant economic scale.

(4A) Regulations may be made under **subsection (1)(h)** only on the recommendation of the Minister after being satisfied that affected persons have been consulted.

(5) Regulations under **subsection (1)(b)** may prescribe or provide for—

(a) additional procedural steps and matters (including the form and content of notices served on parties):

(b) additional time limits for procedural steps that do not alter time limits established by this Act:

(c) additional procedural steps and time limits that will not be counted towards time limits established by this Act.

(6) On the close of the day that is 5 years after the date of their commencement,—

(a) **subsection (1)(i), (j), and (k)** are repealed; and

(b) any regulations made under any of those provisions are revoked.

(7) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1991 No 69 s 360

858A Power of Secretary for Environment to approve forms and templates

(1) The Secretary for the Environment may approve forms and templates for any applications, certificates, and notices under **Part 5**, unless a regulation requires the use of a prescribed form or template under that Part.

(2) The Secretary for the Environment must publish the approved forms and templates on an Internet site maintained by the Ministry for the Environment.

Special Acts

859 Conflicts with special Acts

Every local authority or other public body must be guided, in the exercise of any function, power, or duty in relation to natural or physical resources imposed or conferred by any of the Acts specified in ~~Schedule 9 of the Resource Management Act 1991~~ **Schedule 14A** or any Act passed in substitution for any of those Acts, by the provisions of this Act, and where any conflict arises between any of those enactments and this Act, the provisions of this Act prevail.

Compare: 1991 No 69 s 363

Repeals, revocations, and amendments

860 Repeal

The Resource Management Act 1991 (1991 No 69) is repealed.

Compare: 1991 No 69 s 361

861 Consequential amendments

(1) Amend the Acts specified in **Part 1 of Schedule 15** as set out in that Part.

(2) Amend the Fisheries Act 1996 (1996 No 88) as set out in **Part 2 of Schedule 15**.

(2A) Amend the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) as set out in **Part 2A of Schedule 15**.

(3) Amend the Resource Management Act 1991 (1991 No 69) as set out in **Part 3 of Schedule 15**.

Compare: 1991 No 69 s 362

Schedule 1
Transitional, savings, and related provisions

s 10

Contents

Part 2
Provisions relating to Marine and Coastal Area (Takutai Moana) Act 2011

Part 1
Provisions relating to this Act as enacted

1 Interpretation

(1) In this Part, unless the context otherwise requires,—

national direction instrument means any of the following under Part 5 of the Resource Management Act 1991:

(a) a national environmental standard:

(b) a national policy statement:

(c) a New Zealand coastal policy statement:

(d) a national planning standard

RMA means the Resource Management Act 1991

RMA document means any of the following documents made or granted, or deemed to have been made or granted, under the RMA:

(a) a national environmental standard:

(b) a national policy statement:

(c) a coastal policy statement:

(d) a resource consent:

(e) a district plan:

(f) a regional plan:

(g) a regional coastal plan:

(h) a combined document:

(i) a heritage order:

(j) an intensification planning instrument:

(lc) a certificate of compliance

transition period means the period that starts with the commencement of **subpart 2** and ends on the close of a date appointed by the Governor-General by Order in Council.

(2) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Subpart 1—Provisions relating to RMA documents, leases, and approvals

2 RMA documents and first generation natural and built environment plans

(1) Every RMA document in force immediately before the commencement of this clause continues in force according to its terms subject to this Act.

(2) The first plan prepared in accordance with **Schedule 7** for a region applies from the time the regional planning committee notifies its decisions on IHP recommendations.

(3) However, **subclause (2)** does not apply if any rules contained within the plan—

(a) affect any existing use of land, and meet the requirements set out in **section 26(2)** of this Act; or

(b) specify the use of an allocation method or methods for a resource, as allowed under **section 126** of this Act.

(4) The regional planning committee must publicly notify the date on which the plan applies at least 5 working days before the date on which it is intended to apply.

(5) Any parts of a district plan, regional plan, regional coastal plan, or regional policy statement that apply to the relevant region or part of the relevant region to which the regional planning committee's first plan applies cease to have any further legal effect as from the notification of the committee's decision on its plan under this Act.

3 Savings in respect of cross leases, company leases, and retirement village leases

Nothing in **section 18 or Part 9** applies—

(a) to the registration of a memorandum of cross lease or company lease, in renewal or in substitution for a cross lease or company lease, and the issue of a record of title for the lease in respect of a building or part of a building shown on a plan—

(i) deposited or lodged in the land registry office for cross lease or company lease purposes before the commencement of this Act; or

(ii) that relate to units, cross-lease developments, or company-lease developments that are ready to be registered at the time when this Act comes into force; or

(b) to the renewal or substitution of a company lease in respect of a building or part of a building if the original company lease was in existence before the commencement of this Act (whether or not the renewal or substitution is part of the original company lease or a subsequent company lease).

Compare: 1991 No 69 s 226A

4 Cancellation of prior approvals

(1) This section applies if—

(a) before or after the date of commencement of this Act, a survey plan (**Plan A**) has been deposited under the Land Transfer Act 2017, under any other authority, or in the Deeds Register Office; and

(b) a survey plan (**Plan B**) of the same land is deposited in accordance with **section 579**.

(2) If approval is given to Plan A on or before the date of deposit of Plan B, the approval given to Plan A—

(a) is to be treated as being cancelled; or

(b) if the land in Plan B is part only of the land in Plan A, the approval is to be treated as being cancelled to the extent that it relates to the land in Plan B.

(3) **Subsection (2)** does not apply to the deposit of a unit plan or to a survey plan that gives effect to—

(a) the grant of a lease to which **section 569(a)(iii)** applies; or

(b) a cross lease; or

(c) a company lease.

Compare: 1991 No 69 s 227

Subpart 2—Provisions relating to national direction

5 Obligation to notify first national planning framework within 6 months

(1) The Minister for the Environment must, in accordance with **clause 8 of Schedule 6** and within 6 months after the date of commencement of **Part 3**, give public notice of the national planning framework proposal.

(2) The Minister for the Environment will not, if they comply with **subsection (1)**, be in breach of **section 32** during the period from the date of commencement of this Act until the first national planning framework becomes operative.

6 National direction instruments may be amended or issued during transition period

(1) During the transition period, the Minister for the Environment (or the Minister of Conservation, in the case of amendments to the New Zealand coastal policy statement or provisions of the national planning standards that relate to the coastal marine area) may amend an existing national direction instrument or issue a new national direction instrument under—

(a) Part 5 of the RMA; or

(b) a combined process, where the same board of inquiry that is hearing a proposed national planning framework or a change to a national planning framework hears public submissions, and reports its recommendations to the Minister, on the proposed national direction instrument.

(2) For the purposes of **subclause (1)(b)**, a board of inquiry that conducts a hearing into a proposed national direction instrument and the Minister must follow the relevant requirements of Part 5 of the RMA, with the modifications provided in **subclauses (3) and (4)**.

(3) If the instrument proposes to amend or issue a national environmental standard or national policy statement,—

(a) the Minister may establish a process under section 46A(3)(b) of the RMA that involves a board of inquiry appointed under **Schedule 6** of this Act making the report and recommendations referred to in section 46A(4)(c) of the RMA:

(b) in addition to the matters that the board of inquiry must consider under section 46A(4)(d) of the RMA, the board must also consider the desirability of consistency with this Act:

(c) in addition to the matters that the Minister must consider under sections 44(2)(a) or 52(1)(a) of the RMA (as the case requires), the Minister must also consider the desirability of consistency with this Act.

(4) If the instrument is a national planning standard,—

(a) the Minister may establish a process under section 58D(3)(d) of the RMA that involves a board of inquiry appointed under **Schedule 6** this Act making the report and recommendations referred to in section 58D(3)(d)(ii) of the RMA:

(b) when preparing the report referred to in section 58D(3)(d)(ii) of the RMA, the board of inquiry must consider the desirability of consistency with this Act:

(c) in addition to the matter that the Minister must consider under section 58E(1)(a) of the RMA, the Minister must also consider the desirability of consistency with this Act.

~~**7 Amendment of national direction instruments to remove redundant or duplicative provisions**~~

~~During the transition period, the Minister for the Environment (or the Minister of Conservation, in the case of amendments to the New Zealand coastal policy statement or provisions of the national planning standards that relate to the coastal marine area) may amend a national direction instrument as if section 44(3), 53(2)(a), or 58H(2) of the RMA applied, if the Minister is satisfied that—~~

~~(a) the content would be more efficiently addressed through the processes in the Natural and Built Environment Act **2022** or the Spatial Planning Act **2022**; or~~

~~(b) the content is redundant because of the transition from the RMA to the Natural and Built Environment Act **2022** and the Spatial Planning Act **2022**.~~

~~Subpart 3—Environment Court~~

~~**8 Continuation of Environment Court**~~

~~(1) A person who is a Judge of the Environment Court, an Environment Commissioner, a Deputy Environment Commissioner, a Registrar, or other officer of the court immediately before the commencement of this clause continues to hold their office subject to this Act.~~

~~(2) All proceedings pending or in progress in the Environment Court operating under the RMA immediately before the commencement of this clause must be continued, completed, and enforced under that Act.~~

~~(3) All jurisdictions, offices, appointments, Orders in Council, orders, warrants, rules, regulations, seals, forms, books, records, instruments that relate to the Environment Court and originated under the RMA, and that are subsisting or in force on the commencement of this clause, have full effect as if they had originated under the corresponding provisions of this Act and, where necessary, must be treated as having originated under this Act.~~

Part 1
Provisions relating to this Act as enacted

Subpart 1—Preliminary matters

1 Interpretation

In this Part, unless the context otherwise requires,—

decisions version means the plan that a regional planning committee must publish under **clause 127(5)(b) of Schedule 7** after having made decisions on the recommendations of the IHP

national direction instrument means any of the following under Part 5 of the RMA:

(a) a national environmental standard:

(b) a national policy statement:

(c) a New Zealand coastal policy statement:

(d) a national planning standard

NBE plan means a natural and built environment plan

notification of the decision version of the NBE plan means a regional planning committee's notification of its first NBE plan for its region under **clause 127 of Schedule 7**

notification of the proposed first NBE plan means a regional planning committee's notification of its proposed first NBE plan for its region for public submissions under **clause 31 of Schedule 7**

region's NBEA date means the date that the decisions version of the first plan for a region is treated as operative under **clause 5(5)**, being 10 working days after the date the plan is published under **clause 127(5)(b) of Schedule 7**

RMA means the Resource Management Act 1991

RMA document means any of the following documents made or granted, or deemed to have been made or granted, under the RMA:

(a) a national environmental standard:

(aa) a national planning standard:

(b) a national policy statement:

(c) a coastal policy statement:

(ca) a regional policy statement:

(d) a resource consent:

(e) a district plan:

(ea) any plan change, variation, or notice of requirement:

(f) a regional plan:

(g) a regional coastal plan:

(h) a combined document:

(i) a heritage order:

(j) an intensification planning instrument:

(k) a certificate of compliance:

(l) any secondary legislation made under the RMA, including a water conservation order

RMA instrument means any secondary legislation made the RMA, including—

(a) any proposed or operative regional policy statement, regional plan, regional coastal plan, or district plan; and

(b) any change or variation to a regional policy statement, regional plan, regional coastal plan, or district plan requested under Part 2 of Schedule 1 of the RMA; and

(c) any national direction instrument; and

(d) any water conservation orders

RMA plan includes any regional plan or district plan under the RMA

RSS adoption date means the date that the first regional spatial strategy is adopted for a region in accordance with **clause 4 of Schedule 4** of the **Spatial Planning Act 2022**

RSS notification date means the date that the first regional spatial strategy is notified for a region in accordance with **clause 4 of Schedule 4** of the **Spatial Planning Act 2022**

transition period means, in relation to a region, the period that—

(a) starts on the day after the day on which this Act receives the Royal assent; and

(b) ends on the region's NBEA date.

Subpart 2—National planning framework

2 National planning framework provisions that apply immediately

On the commencement of the national planning framework, the following provisions of the framework apply in all regions unless and to the extent that the framework provides otherwise:

(a) provisions that the framework identifies as a provision that a regional planning committee must give effect to when preparing a plan:

(b) provisions that the framework identifies as a provision that a regional planning committee must give effect to when preparing a regional spatial strategy:

(c) any other provisions except those described in **clause 3**.

3 National planning framework provisions that apply on region's NBEA date

(1) On a region's NBEA date, the following provisions of the national planning framework apply in that region:

(a) framework rules:

(b) a provision identified in the national planning framework as a provision made under any of the following sections:

(i) **section 80**:

(ii) **section 81(b) to (i)**.

(2) However, the national planning framework may require a provision in described in **subclause (1)** to commence on a date later than the region's NBEA date.

Subpart 3—Planning

4 When Parts 3 and 5 of RMA and RMA instruments cease to apply in region

(1) On a region's NBEA date—

(a) all RMA instruments cease to apply in the region except as provided in this schedule; and

(b) Parts 3 and 5 of the RMA cease to apply in the region.

(2) If a district plan covers 2 or more regions (or parts of those regions), this clause only affects those regions in which the region's NBEA date has occurred.

5 Preparation and effect of first natural and built environment plan

(1) A regional planning committee must prepare the first natural and built environment plan for the region in accordance with **Schedule 7** but subject to the modifications in this clause and other provisions of this schedule.

(2) A regional planning committee may use the information and science that informed RMA policy statements and plans to develop the plan if—

(a) in doing so, it complies with any applicable requirements of this Act; and

(b) the information or science—

(i) represents the best information of the effectiveness of the RMA policy statement or plan; and

(ii) has been consulted on through a process prescribed under the RMA or the Local Government Act 2004.

(3) *See also* **clause 37(4)**.

Legal effect of rules in first plan

(4) A rule in the first plan for the region—

(a) does not have legal effect while the plan is a proposed plan; and

(b) has legal effect only when the plan is treated (in accordance with **subclause (7)**) as operative unless **subclause (9)** applies to the rule.

(5) **Subclause (4)** applies despite **sections 130 to 133**.

Publication of decisions version of plan

(6) When the regional planning committee publishes the decisions version of the plan under **clause 127(5)(b) of Schedule 7**, the committee must—

(a) make the decisions version available in the manner described in **clause 42(1) of Schedule 7**; and

(b) publicly notify by notice in the *Gazette* and by notice on its Internet site—

(i) that the decisions version is available and how it is available; and

(ii) the effect of **subclause (7) and clause 6**; and

(b) provide a copy of the decisions version to the persons and groups listed in **clause 42(2) of Schedule 7**.

Decisions version of plan treated as operative 10 days after publication

(7) The decisions version of the plan, except for the rules described in **subclause (9)**, is treated as operative on the date that is 10 working days after the date it is published under **clause 127(5)(b) of Schedule 7**.

(8) **Subclause (7)** does not—

(a) affect the regional planning committee's obligation to complete the standard process for the plan and make the plan operative in accordance with **clause 41 of Schedule 7**; or

(b) limit any right of appeal in **subpart 6 of Schedule 7**.

Certain rules in decisions version of plan not to be treated as operative

(9) The following kinds of rule in the decisions version of the plan must not be treated as operative until **section 135** applies to the rule:

(a) a rule described in **section 26(2)** that requires an existing use of land to comply with it; or

(b) a rule that relates to the use of the affected application consenting process; or

(c) a rule that relates to the use of a market-based allocation method.

Designations under RMA

(10) **Clause 28 of Schedule 7** applies with the following modifications:

(a) a designation means a designation made under the RMA that—

(i) has not lapsed during the preparation of the proposed plan; and

(ii) affects the region; and

(b) in **clause 28(1)(b) of Schedule 7**, an associated primary CIP is not relevant for an existing designation in a district plan under the RMA.

6 Region's NBEA date

The date on which the decisions version of the plan for a region is treated as operative is the region's NBEA date (*see* **clause 5(7)**).

7 Part 2 applies in region on region's NBEA date

Part 2 of this Act applies in a region on the region's NBEA date.

RMA plan and policy statement changes after regional spatial strategy is notified

8 How limits and targets and regional spatial strategy affect preparation of plans and policy statements under RMA

(1) The following applies to a regional plan prepared or changed by a regional council on or after the region's RSS notification date:

(a) the regional council must, in addition to the matters in section 66(2) of the RMA, have regard to any relevant limits and targets in the national planning framework; and

(b) in addition to the matters in section 67(4) of RMA, the plan or plan change must not be inconsistent with any notified or adopted regional spatial strategy.

(2) The following applies to a district plan prepared or changed by a territorial authority on or after the region's RSS notification date:

(a) the territorial authority must, in addition to the matters in section 74(2) of the RMA, have regard to any relevant limits and targets in the national planning framework; and

(b) the plan or plan change must not be inconsistent with any notified or adopted regional spatial strategy.

(3) The following applies to a regional policy statement prepared or changed by a regional council on or after the region's RSS notification date:

(a) the regional council must, in addition to the matters in section 61(2) of the RMA, have regard to any relevant limits and targets in the national planning framework; and

(b) in addition to the matters in section 62(3) of the RMA, the policy statement or change must not be inconsistent with any notified or adopted regional spatial strategy.

RMA plan changes after regional spatial strategy adopted

9 Restrictions on changes to policy statements and plans after regional spatial strategy adopted

Key event: regional spatial strategy adopted

(1) This clause applies to a local authority—

(a) whose region is covered by a regional strategy that has been—

(i) adopted by a regional planning committee; and

(ii) publicly notified in accordance with **clause 6 of Schedule 4 of the Spatial Planning Act 2022**; and

(b) on and from the date that the regional spatial strategy is adopted.

Amendments to policy statement or plan

(2) The local authority must not commence the preparation of any amendment to its policy statement or plan under Part 1 of Schedule 1 of the RMA unless—

(a) the local authority is satisfied that the amendment is needed to—

(i) address an emerging or urgent issue; or

(ii) recognise a national environmental standard under section 44A of the RMA or a national policy statement under section 55 of the RMA; or

(b) clause 20A of Schedule 1 of the RMA applies.

Request for changes to policy statement or plan

(3) The local authority must not accept a request made under clause 21 of Schedule 1 of the RMA to change a district plan, regional plan, or a regional coastal plan unless it is satisfied that the change is needed to—

(a) fix an error in the plan or policy statement; or

(b) address an emerging or urgent issue; or

(c) implement a requirement in a national direction instrument.

Applications under section 80C of RMA limited

(4) The local authority must not apply to the Minister for a direction under section 80C of the RMA to use the streamlined planning process to prepare a planning instrument unless the local authority is satisfied that the direction is needed to—

(a) address an emerging or urgent issue; or

(b) implement a national direction instrument.

Restrictions on Minister's ability to call in proposal of national significance

(5) If section 142(1) of the RMA applies and the matter lodged with the consent authority is a planning matter, the Minister must not consider the matter unless satisfied that a direction under that section is needed to—

(a) address an emerging or urgent issue; or

(b) implement a national direction instrument.

(6) If a district plan covers 2 or more regions (or parts of those regions), this clause only affects those regions in which a regional spatial strategy has been notified or adopted.

(7) In this clause,—

amendment includes any change or variation to a policy statement or plan, including any replacement of it

planning matter means a matter described in any of paragraphs (c) to (l) of the definition of matter in section 141 of the RMA.

10 Notification of intensification planning instrument

Key event: notification of major regional issues

(1) This clause applies to a territorial authority of a region on and from the date that the region's major regional policy issues are publicly notified under **clause 16 of Schedule 7**.

Territorial authority must not notify intensification planning instrument

(2) The territorial authority must not notify any intensification planning instrument (within the meaning of section 80E of the RMA) that covers the region (whether wholly or in part).

11 Review of regional policy statements or plans

If before the date that this Act receives Royal assent, a local authority has commenced but not completed a review of a regional policy statement, regional plan, or district plan,—

(a) the local authority must continue to complete the review and fulfil its obligations under section 79 of the RMA as if that section were still in force; but

(b) any review that is not completed by the region's NBEA date ceases to have effect.

Subpart 4—Provisions relating to national direction

12 National direction instruments may be amended or issued during transition period

(1) During any transition period, the Minister for the Environment (or the Minister of Conservation, in the case of amendments to the New Zealand coastal policy statement or provisions of the national planning standards that relate to the coastal marine area) may amend an existing national direction instrument or issue a new national direction instrument under—

(a) Part 5 of the RMA; or

(b) a combined process, where the same board of inquiry that is hearing a proposed national planning framework or a change to a national planning framework hears public submissions, and reports its recommendations to the Minister, on the proposed national direction instrument.

(2) For the purpose of **subclause (1)(a)**, the relevant requirements of Part 5 of the RMA apply with the modifications provided in **subclauses (3) and (4)**.

(3) If the instrument proposes to amend or issue a national environmental standard or national policy statement (including the New Zealand coastal policy statement),—

(a) in addition to the matters that must be considered under section 46A(4)(d) or 51(1) of the RMA (as the case requires), the person making the report and recommendations or board of inquiry must also consider the desirability of consistency with this Act:

(b) in addition to the matters that the Minister must consider under section 44(2)(a) or 52(1)(a) of the RMA (as the case requires), the Minister must also consider the desirability of consistency with this Act.

(4) If the instrument is a national planning standard,—

(a) when preparing the report referred to in section 58D(3)(d)(ii) of the RMA, the person making the report must consider the desirability of consistency with this Act:

(b) in addition to the matter that the Minister must consider under section 58E(1)(a) of the RMA, the Minister must also consider the desirability of consistency with this Act.

(5) For the purposes of **subclause (1)(b)**, a board of inquiry that conducts a hearing into a proposed national direction instrument and the Minister must follow the relevant requirements of Part 5 of the RMA, with the modifications provided in **subclauses (6) and (7)**.

(6) If the instrument proposes to amend or issue a national environmental standard or national policy statement (including the New Zealand coastal policy statement),—

(a) the Minister may establish a process under section 46A(3)(b) of the RMA that involves a board of inquiry appointed under **Schedule 6** of this Act making the report and recommendations referred to in section 46A(4)(c) of the RMA:

(b) in addition to the matters that the board of inquiry must consider under section 46A(4)(d) of the RMA, the board must also consider the desirability of consistency with this Act:

(c) in addition to the matters that the Minister must consider under section 44(2)(a) or 52(1)(a) of the RMA (as the case requires), the Minister must also consider the desirability of consistency with this Act:

(d) section 32AA of the RMA does not apply.

(7) If the instrument is a national planning standard,—

(a) the Minister may establish a process under section 58D(3)(d) of the RMA that involves a board of inquiry appointed under **Schedule 6** this Act making the report and recommendations referred to in section 58D(3)(d)(ii) of the RMA:

(b) when preparing the report referred to in section 58D(3)(d)(ii) of the RMA, the board of inquiry must consider the desirability of consistency with this Act:

(c) in addition to the matter that the Minister must consider under section 58E(1)(a) of the RMA, the Minister must also consider the desirability of consistency with this Act:

(d) sections 32AA and 58E(1)(b) of the RMA do not apply.

13 Amendment of national direction instruments to remove redundant or duplicative provisions

During any transition period, the Minister for the Environment (or the Minister of Conservation, in the case of amendments to the New Zealand coastal policy statement or provisions of the national planning standards that relate to the coastal marine area) may amend a national direction instrument as if section 44(3), 53(2)(a), or 58H(2) of the RMA applied, if the Minister is satisfied that—

(a) the content would be more efficiently addressed through the processes in the Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**; or

(b) the content is redundant because of the transition from the RMA to the Natural and Built Environment Act **2022** and the **Spatial Planning Act 2022**.

14 Application of clauses 12 and 13

Clauses 12 and 13 apply until the region's NBEA date.

Subpart 5—Provisions relating to proposals of national significance

15 Restriction on using call-in processes in Part 6AA of RMA

(1) During any transition period,—

(a) the Minister, at their own initiative, may apply section 142 of the RMA to a matter lodged with a local authority; or

(b) an applicant or a local authority may request the Minister to apply section 142 of the RMA to a matter; or

(c) a person may lodge a matter directly with the EPA under section 145 of the RMA.

(2) The matter must be a matter in respect of a plan under the RMA that applies in a region.

(3) The application of section 142, request to apply section 142, or lodgement with the EPA must be taken or made before the relevant regional planning committee adopts its regional spatial strategy.

(4) If the application, request, or lodgement is not finally dealt with before the adoption of the relevant regional spatial strategy, Part 6AA of the RMA continues to apply to the matter until the region's NBEA date.

(5) On a region's NBEA date, **Part 3 of Schedule 10A** of this Act starts to apply in relation to the region and Part 6AA of the RMA ceases to apply in relation to the region.

Subpart 6—Consenting

16 When RMA ceases to apply to resource consents in region and when this Act applies

(1) On a region's NBEA date, the RMA ceases, except as provided in this subpart, to apply to resource consents and resource consent applications lodged in the region.

(2) On a region's NBEA date, this Act applies to—

(a) resource consent applications lodged with the relevant local authority on or after that date; and

(b) resource consents granted under the RMA that are treated under **clause 17** as resource consents granted under this Act.

17 Resource consents granted under RMA treated as resource consents under this Act

(1) This clause applies to a resource consent granted under the RMA for an activity in a region if the consent—

(a) commences on or after the region's NBEA date; or

(b) has commenced before the region's NBEA date and has not expired or lapsed by that date.

(2) The resource consent is treated as a resource consent granted under this Act—

(a) on the region's NBEA date, if it commences before or on that date; or

(b) on the date that it commences, if it commences after the region's NBEA date.

(3) The terms and conditions of the resource consent that applied immediately before the region's NBEA date continue to apply after that date.

(4) The commencement of the region's NBEA date does not affect any calculation of time in relation to the resource consent.

(5) **Subclause (2)** does not affect the completion of any RMA process that relates to the resource consent and that was initiated before the region's NBEA date. Any such process must be completed in accordance with Part 6 the RMA and to avoid doubt, may result in changes to the conditions of the resource consent.

(6) In this section, **RMA process** means a process under Part 6 of the RMA.

18 Resource consent applications under RMA not determined by region's NBEA date

(1) This clause applies to an application under the RMA for a resource consent for an activity in a region if the application—

(a) was lodged before the region's NBEA date; but

(b) has not been determined by or on that date.

(2) The application must, despite the region's NBEA date having occurred, continue to be processed and determined under the RMA.

(3) If the application is granted, **clauses 17(2) to (6)** apply to the resource consent when it commences in accordance with section 116 of the RMA.

19 Review of conditions or duration of transitioned consent

(1) A requirement in a plan to review the conditions or duration of a resource consent does not apply to a transitioned consent until all appeals in relation to that requirement have been determined, withdrawn, or dismissed.

(2) In this clause, a **transitioned consent** means a resource consent that is treated under **clause 17** as a resource consent under this Act.

(3) *See* **section 177(7)**.

20 Certain notices under RMA treated as permitted activity notice under this Act

(1) On a region's NBEA date, a notice given under section 87BA or 87BB of the RMA (for an activity in the region) before that date, is treated as a permitted activity notice given under this Act (*see* **sections 157 and 302**).

(2) **Subclause (3)** applies to a consent authority if it—

(a) receives a proposal for an activity under section 87BA of the RMA before the region's NBEA date but has not made a decision under section 87BA(2)(a) or (b) by that date; or

(b) it commences consideration of whether a particular activity is a permitted activity under section 87BB of the RMA but has not made a decision under section 87BB(1)(d) by that date.

(3) The consent authority must—

(a) continue to make the decision under section 87A(2)(a) or (b), or if applicable, under section 87BB(1)(d) of the RMA; and

(b) if the consent authority decides to give a notice under section 87BA or 87BB of the RMA, on the date the notice is given, the notice is treated as a permitted activity notice given under section 157 or 302 this Act.

(4) The commencement of the region's NBEA date does not affect any calculation of time in relation to the notice.

21 Certificates of compliance

(1) On the region's NBEA date, the RMA ceases to apply to the processing and determination of any request made on or after that date for a certificate of compliance under section 139 of the RMA for an activity in the region.

(2) No request made on or after the region's NBEA date for a certificate of compliance under the RMA may be processed.

(3) If a certificate of compliance under the RMA is issued for an activity in a region and is in force on the region's NBEA date, the certificate—

(a) is, on that date, treated as being issued under this Act; and

(b) lapses on the date it would have lapsed under the RMA.

(4) If a certificate for compliance under the RMA is issued on or after the region's NBEA date,—

(a) on the date that the certificate is issued, the certificate is treated as a certificate of compliance issued under this Act; and

(b) the certificate lapses on the date it would have lapsed under the RMA.

22 Existing use certificates

(1) On the region's NBEA date, the RMA ceases to apply to the processing and determination of any request made on or after that date for a certificate of existing use under section 139A of the RMA relating to land in the region.

(2) No request made on or after the region's NBEA date for a certificate of existing use under the RMA relating to land in the region may be processed.

(3) If a certificate of existing use relating to land in a region is issued under the RMA and is in force on the region's NBEA date, the certificate—

(a) is treated as being issued under this Act; and

(b) lapses on the date it would have lapsed under the RMA.

(4) If a certificate of existing use under the RMA is issued on or after the region's NBEA date,—

(a) on the date that the certificate is issued, the certificate is treated as a certificate of existing use issued under this Act; and

(b) the certificate lapses on the date it would have lapsed under the RMA.

23 Affected resource consents under RMA

(1) In this clause,—

affected resource consent has the meaning given in clause 38 of Part 6 of Schedule 12 of the RMA

Part 6 of Schedule 12 of the RMA means Part 6 of Schedule 12 of the RMA as inserted by **section 861 and Part 3 of Schedule 15** of this Act.

(2) If an application for an affected resource consent is lodged with a consent authority before Part 6 of Schedule 12 of the RMA comes into force—

(a) the application must be processed and determined under the RMA as if this Act had not been enacted; and

(b) **clauses 16 and 17** of this subpart apply accordingly.

24 Financial contributions made under RMA

If a consent granted under the RMA is treated as a consent granted under this Act, an environmental contribution cannot be required for the activity (to which the consent relates) if a financial contribution has already been made in accordance with the RMA.

25 Original activity category applies despite changes to plan

(1) If a resource consent application is lodged on or after a region's NBEA date and the plan is later altered in a way that affects the activity category for the rule to which the activity relates, the consent authority must—

(a) process, consider, and decide the application in accordance with the activity category that applied when the application was first lodged; but

(b) for the purpose of **section 223(2)(c)(i), (2)(d)(i), and (2)(e)** have regard to the plan that exists at the time it considers the application.

(2) In this clause, **resource consent application** means an application for resource consent for an activity in a region made under **section 173 or clause 47 of Schedule 10A**.

Subpart 7—Provisions relating to fast-track consenting

26 Fast-track consenting while NBE matters incomplete

(1) This clause applies—

(a) to a referral application that is made, or a substantive application or notice that is lodged, and processed under **Part 2 of Schedule 10A** (the **fast-track consenting matter**); but

(b) only to the extent that the fast-track consenting matter happens while any of the following has not been completed, and is affected by that lack of completion (an **incomplete NBE matter**):

(i) the national planning framework is made:

(ii) for a region in which the activity is proposed,—

(A) the first regional spatial strategy is adopted:

(B) the first NBE plan is operative.

(2) The fast-track consenting matter must be done and processed under **Part 2 of Schedule 10A**, in respect of any incomplete NBE matter,—

(a) by applying any RMA instrument or RMA document that the incomplete NBE matter will, with or without modification, replace or correspond to; and

(b) by applying any required provision of the RMA that relates to the RMA instrument or RMA document; and

(c) with any necessary modifications.

(3) Examples of RMA instruments, RMA documents, and provisions of the RMA that will apply, and of necessary modifications, are as follows:

(a) **clause 22(2)(a)(ii) of Schedule 10A** will not apply while any RMA instrument or RMA document is applied instead of an incomplete NBE matter:

(b) under **clause 31(2) of Schedule 10A**, the territorial authority must amend its district plan without using Schedule 1 of the RMA.

(4) A resource consent that is granted or a designation that is confirmed in a region under **Part 2 of Schedule 10A** before the region's NBEA date is deemed to have been granted or confirmed under the RMA.

Subpart 8—Provisions relating to designations

27 Application of subpart 1 of Part 8 of this Act in regions

(1) Despite **section 2(2)**, **subpart 1 of Part 8** (except **sections 499 to 501**) of this Act applies in relation to a region only on and after the region's NBEA date.

(2) **Sections 499 to 501** of this Act apply generally from the time they come into force under **section 2(2)** (which is 3 months after Royal Assent).

(3) Sections 166 to 186 of the RMA continue to apply to the extent provided in this subpart.

28 Status of existing requiring authorities and applications under RMA to become requiring authorities

(1) Every person or entity that is a requiring authority under Part 8 of the RMA immediately before the commencement of **sections 499 to 501** must be treated as a requiring authority for the purposes of those provisions of this Act.

(2) An application to become a requiring authority under Part 8 of the RMA may be made at any time before the commencement of **sections 499 to 501**.

(3) An application to become a requiring authority under Part 8 of the RMA that is lodged before the commencement of **sections 499 to 501** but not determined by or on that commencement date must continue to be processed in accordance with section 167 of the RMA.

(4) Until **subpart 1 of Part 8** of this Act applies in relation to a region, sections 167(5) and (6) and 180 of the RMA apply in relation to the revocation and

transfer of any approval of a requiring authority in the region given under the RMA or this Act during that period, except that section 167(5)(c) of the RMA does not apply to an applicant that is not a network utility operator.

29 Requirement to consider regional spatial strategy when RMA process applies

(1) In addition to the provisions in sections 168A and 171 of the RMA that apply to a territorial authority when considering a notice of requirement and any submissions received, a territorial authority must also consider the relevant provisions of the regional spatial strategy adopted for the region (if any) (as if sections 168A(3)(a) and 171(1)(a) of the RMA expressly required its consideration).

(2) **Subclause (1)** applies from the commencement of **sections 499 to 501**.

30 Continued application of Part 8 of RMA to notices of requirement

(1) If a notice of requirement for a designation is lodged but not confirmed before the region's NBEA date, the notice of requirement must continue to be processed under Part 8 of the RMA and that Part applies subject to any modifications required by **clauses 28 and 30**.

(2) Section 178 of the RMA (which relates to the interim effect of requirements for designations) applies to the notice of requirement and the designation to which the notice relates, except that, where the notice of requirement is confirmed after the notification of the decision version of the NBE plan, section 178(4)(c) applies as if it referred to the day on which the designation is included in the NBE plan.

31 Transition to Part 8 of this Act

(1) If a notice of requirement is lodged with a territorial authority under the RMA but not confirmed before the region's NBEA date, and the notice is lodged within the 40 days preceding the regional planning committee's notification of its proposed first NBE plan, the following modifications apply to the RMA provisions:

(a) the regional planning committee may invite the requiring authority to agree to include the notice of requirement in the proposed first NBE plan:

(b) if the requiring authority agrees that the notice of requirement should be included in the proposed first NBE plan, the territorial authority must transfer the notice of requirement to the regional planning committee for processing:

(c) if the requiring authority declines the invitation and instead proceeds with confirming the notice of requirement separately from the plan development process, the territorial authority must continue to process the notice of requirement under Part 8 of the RMA.

(2) Unless **clause 28 in Schedule 7** applies, if a notice of requirement is processed under Part 8 of the RMA and confirmed before the region's NBEA date,—

(a) the designation must be included in the district plan under the RMA; and

(b) the regional planning committee must, without following the relevant process set out in **subpart 1 of Part 8** of this Act, include the designation in the decision version of its NBE plan on notification.

(3) If a notice of requirement is processed under Part 8 of the RMA and confirmed after the region's NBEA date, the regional planning committee must, without following the relevant process set out in **subpart 1 of Part 8** of this Act, include the designation in its NBE plan.

(4) A requiring authority may continue to submit outline plans for an RMA designation existing in a district plan until the region's NBEA date for the region.

(5) Sections 184 and 184A of the RMA (which relate to the lapsing of designations after 5 years if not given effect to) continue to apply to district plan designations in effect immediately before the region's NBEA date for the region, however, the designation lapsing provisions in this Act (after 10 years if not given effect to) apply to new designations confirmed after the notification of the decision version of the NBE plan for the region.

(6) From the region's NBEA date,—

(a) the RMA provisions relating to designations cease to apply in relation to the region, except as provided in **subclause (5)**:

(b) **subpart 1 of Part 8** of this Act applies in relation to the region:

(c) any process commenced under section 167(5) of the RMA to revoke an approval of a requiring authority, but not completed before the commencement of **subpart 1 of Part 8** of this Act, may be completed under **section 502** of this Act:

(d) secondary CIPs must be submitted to the regional planning committee instead of outline plans under the RMA.

(7) For a secondary CIP submitted in relation to a notice of requirement processed and confirmed under the RMA, and included in a regional planning committee's NBE plan, **section 508** of this Act applies as if—

(a) for **subsections (1) and (2)** of that section there were substituted the following provision:

"Within 20 working days after receiving the secondary CIP, the regional planning committee may request the requiring authority to make changes to the secondary CIP":

(b) in **subsection (3)** of that section, the reference to **subsection (1)(b)(ii)** of that section were a reference to the substituted provision set out in **paragraph (a)** of this subclause.

Subpart 9—Provisions relating to heritage orders under RMA

32 Application

(1) **Subpart 2 of Part 8** of this Act (**sections 541 to 554**) applies in a region on and after the region's NBEA date.

(2) Sections 187 to 198 of the RMA, as far as they are applicable, continue to apply in the manner provided in this subpart to applications for heritage protection authority status and notices of requirement under any of those provisions that are made or given before the region's NBEA date.

33 Status of existing heritage protection authorities and authorities subsequently confirmed under RMA

(1) Every heritage protection authority approval under section 188 of the RMA that is in force immediately before the commencement of **subpart 2 of Part 8** of this Act must be treated as an approval given under **section 541** of this Act for the purposes of heritage orders for which the authority is responsible under the RMA and on the same terms as approved under section 188 of the RMA.

(2) **Subclauses (3) and (4)** apply if an application under section 188 of the RMA by a body corporate to be approved as a heritage protection authority is made but not determined before the region's NBEA date.

(3) The application must continue to be processed and determined under section 188 of the RMA.

(4) If approved under section 188 of the RMA, the applicant must be treated as a heritage protection authority approved under **section 541** of this Act for the purposes of heritage orders for which the authority is responsible under the RMA and on the same terms as approved under section 188 of the RMA.

34 Status of existing applications for approval as heritage protection authority and heritage orders confirmed under RMA

(1) Every application for approval under section 188 of the RMA that is made but not determined before the commencement of **subpart 2 of Part 8** of this Act must be treated as an application for approval under **section 541** of this Act.

(2) Every heritage order confirmed under Part 8 of the RMA on or after the commencement of **subpart 2 of Part 8** of this Act must be treated as confirmed under that subpart.

35 Notices of requirement for heritage order under RMA: notification decision made before first NBE plan notified

(1) This clause applies if, before the region's NBEA date,—

(a) a notice of a requirement for a heritage order has been given under section 189 or 189A of the RMA; and

(b) the territorial authority has decided whether to give public or limited notification of the notice.

(2) The territorial authority must continue to process and confirm the notice of requirement under the RMA heritage order processes as if the relevant provisions of **Part 8** of this Act had not taken effect.

(3) If the heritage order is confirmed under the RMA heritage order processes, **clause 36** applies.

36 Transitioning heritage orders into NBE plans

(1) This clause applies to heritage orders in force on notification of the proposed first NBE plan and heritage orders subsequently confirmed under the RMA heritage order processes.

(2) A heritage protection authority responsible for a heritage order must decide to transition the order into the heritage protection order regime in this Act either by means of option 1 or option 2 set out in this clause, and different orders may be transitioned by different means.

Option 1—transition without submissions and hearing process

(3) If the heritage protection authority decides to adopt this option, it continues to be the approval authority for the heritage order, must notify the regional planning committee of its decision, and the following provisions apply:

(a) the regional planning committee must include provisions in its proposed first NBE plan that give effect to the protection proposed by the heritage protection authority, with the same effect as the heritage order had under the RMA:

(b) despite anything in **Schedule 7** of this Act, no submissions may be heard on the protection proposed by the heritage protection authority and no hearing under that schedule may consider the proposed protection:

(c) a proportionate plan change process under **section 548** of this Act is not required if the process in this subclause is followed:

(d) until the NBE plan has effect, the heritage order must be treated as having legal effect as a heritage protection order for the purposes of **sections 544, 545, and 550** of this Act:

(e) sections 197 and 198 of the RMA (which relate to compulsory acquisition powers) continue to apply in relation to heritage orders being transitioned into an NBE plan under this subclause.

Option 2—transition with submissions and hearing process

(4) If the heritage protection authority decides to adopt this option, it must notify the regional planning committee of its decision and the following provisions apply:

(a) the heritage protection authority must provide to the regional planning committee the information required by **section 543(3)** of this Act within 4 months after the first NBE plan is notified:

(b) the regional planning committee must follow the process set out in **sections 547 and 548** of this Act, during which time the heritage protection authority may amend its proposed protection outlined in the information provided under **section 543(3)(d)** and any other relevant information provided by it:

(c) a proportionate plan change process under **section 548** of this Act is not required if the process in this subclause is followed:

(d) until the protection proposed by the heritage protection authority is notified in the proposed first NBE plan, the heritage order must be treated as having legal effect as a heritage protection order for the purposes of **sections 544, 545, and 550** of this Act:

(e) sections 197 and 198 of the RMA (which relate to compulsory acquisition powers) do not apply in relation to heritage orders being transitioned into an NBE plan under this subclause:

(f) once the protection proposed by the heritage protection authority is notified in the proposed first NBE plan,—

(i) that protection has legal effect and, as part of the proposed plan, is subject to the submissions, hearings, and approval process in **Schedule 7** of this Act:

(ii) the written approval of the heritage protection authority is required for any relevant non-notified resource consent application or permitted activity notice:

(iii) the heritage protection authority must be notified of any relevant notified or limited notified resource consent, or of any relevant plan provisions proposed through the plan making process.

Subpart 10—Provisions relating to water conservation orders

37 Water conservation orders made under Part 9 of RMA

(1) Part 8 of the RMA continues to apply in a region until the region's NBEA date.

(2) **Subpart 1 of Part 6** applies in a region on and from the region's NBEA date.

(3) On the region's NBEA date, water conservation orders made under the RMA—

(a) are recognised, and treated to have been made, under this Act; and

(b) must be given effect to in the relevant region by the regional planning committee in making its plan (*see* **section 102(2)(h)**).

(4) A provision of a proposed plan that gives effect to a water conservation order granted under the RMA cannot be submitted on or considered during the hearings process for the plan.

38 Applications for orders made, but not completed, under Part 9 of RMA

(1) This section applies to an application for a water conservation order, or to revoke or amend a water conservation order that has not proceeded to the point where there is no further right of appeal.

(2) The application must proceed and be determined in accordance with the RMA, as if this Act had not been enacted.

Subpart 11—Provisions relating to joint management agreements and Mana Whakahono ā Rohe

Joint management agreements

39 Saving of joint management agreements made under RMA

(1) A joint management agreement made under any provisions of the RMA and in existence immediately before the day on which this Act receives Royal assent continues to exist in accordance with its terms on and after that day.

(2) If the process to set up a joint management agreement has been initiated under the RMA but not finalised before the day on which this Act receives Royal assent, the parties to the process—

(a) may continue under the RMA until an agreement is made final; or

(b) may discontinue the process in favour of setting up a new agreement under this Act.

(3) No person may initiate a joint management agreement under the RMA on or after the day on which this Act receives Royal assent.

(4) Joint management agreements saved or finalised and saved under this clause must be transitioned in accordance with the provisions of **Schedule 2** and any regulations made under **clause 5 of Schedule 2**.

40 Transitioning of joint management agreements

(1) The iwi, hapū, or post-settlement governance entities that are parties to a joint management agreement described in **clause 39(1)** and the Crown must—

(a) enter into an agreement to transition from the joint management agreement to the arrangement provided for by this Act; and

(b) agree the transitioned joint management agreement; and

(c) comply with the provisions of **Schedule 2** and any regulations made under **clause 5 of Schedule 2**.

(2) Before an agreement is entered into, however, the Minister must consult the local authority party to the joint management agreement on the agreement proposed to apply under this Act, including decisions on how the joint management functions will be split between the local authority and the regional planning committee.

(3) The parties to a proposed joint management agreement described in **clause 39(2)** must agree either—

(a) to follow the process set out in **subclause (1)**; or

(b) agree to discontinue the process.

(4) Any joint management agreement made under this Act or transitioned from an agreement under the RMA to one under this Act may provide for the exercise of functions, powers, and duties relevant to the agreement until the earlier of the following:

(a) the date on which a function, power, or duty is transitioned for a region from the RMA system to the system under this Act; and

(b) the region's NBEA date.

(5) The Minister may assign a joint management agreement, or parts of such an agreement, to the extent that it relates to the functions of the regional planning committee, to the relevant regional planning committee (rather than to the relevant local authority) under an agreement with iwi, hapū, or a post settlement governance entity.

(6) A joint management agreement reached under **subclause (1)(a)** is a joint management agreement under this Act.

40A Transfer of functions, powers, and duties

(1) Before the NBEA date in a region, a local authority may transfer under **section 650(1)** any of the functions, powers, or duties under the RMA that—

(a) it could exercise at the time of the transfer; or

(b) it could transfer under section 33 of the Resource Management Act 1991; or

(c) is an equivalent function, power, or duty that it will hold under this Act from the NBEA date for the region.

(2) On the NBEA date for a region, a transfer that was previously made under section 33 of the Resource Management Act 1991 must be treated as having been made under **section 30V** of this Act.

(3) **Subclause (2)** applies only if the local authority that made the transfer under section 33 of the Resource Management Act 1991 still holds the equivalent function, power, or duty under this Act.

Mana Whakahono ā Rohe arrangements

41 Saving of Mana Whakahono ā Rohe arrangements entered into under RMA

(1) A Mana Whakahono ā Rohe arrangement entered into under subpart 2 of Part 5 of the RMA and in existence immediately before the day on which this Act

receives Royal assent continues to exist in accordance with its terms on and after that day.

(2) If the process to set up a Mana Whakahono ā Rohe has been initiated under the RMA but not finalised before the day on which this Act receives Royal assent, the parties to the process—

(a) may continue under the RMA until a Mana Whakahono ā Rohe arrangement is made final under that Act; or

(b) may discontinue the process in favour of setting up a new Mana Whakahono ā Rohe under this Act.

(3) Mana Whakahono ā Rohe arrangements saved, or finalised and saved, under this clause must be transitioned in accordance with the provisions of **Schedule 2** and any regulations made under **clause 5 of Schedule 2**.

(4) No person may initiate a Mana Whakahono ā Rohe under the RMA on or after the day on which this Act receives Royal assent.

42 Transition of Mana Whakahono ā Rohe arrangements

(1) The iwi, hapū, or post-settlement governance entities that are parties to a Mana Whakahono ā Rohe described in **clause 41(1)** must—

(a) enter into an agreement with the Crown that the transitioned Mana Whakahono ā Rohe is a Mana Whakahono ā Rohe under this Act; and

(b) comply with the provisions of **Schedule 2** and any regulations made under **clause 5 of Schedule 2**.

(2) Before an agreement is entered into under **subclause (1)(a)**, however, the Minister must consult the local authority party to the agreement.

(3) The parties to a proposed Mana Whakahono ā Rohe described in **clause 41(2)** must agree either—

(a) to follow the process set out in **subclause (1)**; or

(b) to discontinue the process.

(4) A Mana Whakahono ā Rohe made under this Act or transitioned to an arrangement under this Act may require, as part of the contents of the transitioned arrangement, that the exercise of functions, powers, and duties relevant to the arrangement be continued under the RMA until the earlier of—

(a) the date on which a function, power, or duty is transitioned from the RMA system to the system under this Act; and

(b) the date on which the plan becomes operative in accordance with **clause 41 of Schedule 7**.

(5) The Minister may assign, under an agreement with iwi, hapū, or post-settlement governance entities, as relevant, a Mana Whakahono ā Rohe, or parts of one, to the relevant regional planning committee rather than to the relevant local authority.

(6) An agreement reached under **subclause (1)(a)** is an agreement for the purposes of this Act.

Subpart 12—Provisions relating to contaminated land

43 How provisions in subpart 4 of Part 6 take effect

Sections 418 to 421 take effect in a region on the region's NBEA date.

44 Powers of EPA in relation to contaminated land sites of national significance

If before a region's NBEA date, the Minister classifies a site in the region as a contaminated land site of national significance, the EPA's role in **section 423** as lead regulator in relation to that site is subject to the following modifications:

(a) until the region's NBEA date occurs, the EPA has only the functions and powers of a local authority and regional council under the RMA as if the site were contaminated land under the RMA; and

(b) when the region's NBEA date occurs, the EPA ceases to have those functions and powers, and instead has the functions and powers of a local authority and regional council described in **section 423**.

Subpart 13—Provisions relating to freshwater farm plans

45 Relevant date defined

In this subpart, **relevant date** means the region's NBEA date for a region to which Part 9 of the RMA applies (by virtue of an Order in Council made under section 217C of the RMA).

46 Effect of Order in Council made under section 217C of RMA

If Part 9 of the RMA applies to a region by virtue of an Order in Council made under section 217C of the RMA,—

(a) that region is on the relevant date, treated as a region, to which **subpart 2 of Part 6** applies; and

(b) the Order in Council made under section 217 of the RMA continues as if it were an Order in Council made under **section 401**.

47 Freshwater farm plans

A freshwater farm plan that has been certified in accordance with regulations made under section 217M of the RMA, is on the relevant date, treated as if it were a freshwater farm plan certified in accordance with regulations made under **section 411** of this Act.

48 Certifiers and auditors appointed under RMA

A certifier or auditor appointed by a regional council under section 217K of the RMA, is on the relevant date, treated as if they were a certifier or auditor appointed under **section 409** of this Act.

Subpart 14—Provisions relating to subdivision of land

50 Application of Part 9 and Schedule 11 of this Act in regions

(1) Despite **section 2(2)**, **Part 9 and Schedule 11** of this Act apply in relation to a region only on and from the region's NBEA date.

(2) Until **Part 9 and Schedule 11** apply in relation to a region, sections 355 and 355A, Part 10, and Schedule 10 of the RMA apply in relation to the region, subject to any modifications in this subpart.

51 Transitional arrangements for deemed subdivision consents and consents for reclamation

(1) On and from the date when resource consents granted under the RMA are treated as resource consents under this Act *(see* **clause 17**), the provisions of this Act relevant to a subdivision consent or to a consent for a reclamation apply in place of the provisions of the RMA for any part of the process and any action that has not commenced under the RMA.

(2) If a process has begun under the RMA in relation to a subdivision consent or consent for a reclamation before the decisions version of a relevant plan has been notified, that process continues in accordance with the RMA.

(3) If a provision under this Act relating to survey plan requirements has been complied with under the equivalent provision of the RMA, any reference to another provision in this Act must be read as including a reference to the equivalent provision in the RMA.

(4) If a survey plan for a subdivision or reclamation has been approved under section 223 or 245 of the RMA before the decision version of the plan is notified under this Act, the 3-year period provided for under **section 501(3) or 580(1)** of this Act lapses at the same time as it would have lapsed under section 224H or 246(2) of the RMA.

(5) In the case of a consent for a reclamation obtained under the RMA, the requirement of **section 599(1)(a)** is replaced by a requirement that the reclamation must conform with the relevant provisions of the regional plan made under the RMA.

(6) Any condition imposed or entered into in relation to a subdivision consent or consent for reclamation granted under the RMA, including any bond or covenant imposed, must be treated as the equivalent of a condition imposed or entered into under this Act.

Subpart 15—Provisions relating to compliance, monitoring, and enforcement

52 Interpretation

In this subpart, **commencement** means the start of the day after the day on which this Act receives the Royal assent.

53 Application of Part 4 of RMA and part of Part 2A of this Act during transition period

(1) If there is any inconsistency arising between the operation of section 30 of the RMA (regional councils) and **sections 30O and 30P** (regional councils and unitary authorities) of this Act during the transition period in any region,—

(a) section 30 of the RMA prevails in relation to actions of the local authority taken under Part 4 of the RMA; and

(b) **sections 30O and 30P** prevail in relation to actions taken under **Part 2A** of this Act.

(2) If there is any inconsistency arising between the operation of section 31 of the RMA (territorial authorities) and **sections 30Q and 30R** of this Act (territorial authorities and unitary authorities) during the transition period in any region,—

(a) section 31 of the RMA prevails in relation to actions of the local authority taken under Part 4 of the RMA; and

(b) **sections 30Q and 30R** prevail in relation to actions taken under **Part 2A** of this Act.

54 Enforcement action for breaches of RMA available on commencement

Breaches of RMA committed before commencement

(1) All proceedings, abatement notices, enforcement orders, and infringement notices pending or in progress at commencement in respect of a breach or alleged breach of the RMA may be continued, completed, and enforced under the RMA as if this Act had not been passed.

(2) An abatement notice under section 322 of the RMA may include a requirement that a person take preventative action to avoid actual or likely adverse effects on the environment, as if that section included **section 708(1)(e)** of this Act.

(3) An enforcement officer authorised under section 38 of the RMA may continue to carry out all or any of the functions and powers as an enforcement officer under that Act in any case to which this clause applies.

(4) In addition, the enforcement officer must be treated as if authorised as an enforcement officer under **section 788** of this Act and may carry out all or any of the functions and powers as an enforcement officer under this Act as if this Act applied to the breach or alleged breach.

(5) An enforcement officer who holds a warrant issued under **section 788** of this Act may carry out all or any of the functions and powers as an enforcement officer under the RMA or this Act in any case to which this clause applies.

Enforcement action available for any breach of RMA available on commencement

(6) **Subclauses (7) to (9)** apply to any breach or alleged breach of the RMA committed before or on or after commencement.

(7) **Subpart 3 of Part 11** of this Act (**sections 732 to 750**) applies as if—

(a) the relevant consent authority under the RMA were an NBE regulator; and

(b) the relevant consent authority under the RMA may impose a condition on a resource consent that requires a person undertaking an activity to provide a financial assurance.

(8) A consent authority may, when considering an application for a resource consent under the RMA, consider any prior non-compliance by the applicant in relation to the RMA and for which enforcement action has been taken under that Act, as if section 104(1) of the RMA included **section 223(3B)** of this Act.

(9) **Section 695** of this Act applies to proceedings for any breach or alleged breach of the RMA as if the RMA included that section.

55 Enforcement action for breaches of RMA available on commencement, where breach committed on or after commencement

(1) **Subclauses (2) to (6)** apply to any breach or alleged breach of the RMA committed on or after commencement.

(2) A breach of a condition of a resource consent must be treated as an offence against section 338(1) of the RMA, as if that provision included **section 760(1)(c)** of this Act.

(3) For the purposes of applying the provisions of the RMA in any case to which this clause applies,—

(a) section 338(4) of the RMA applies as if for "12 months" there were substituted "2 years":

(b) section 339(1) of the RMA applies as if—

(i) for "$300,000" there were substituted "$1,000,000":

(ii) for "$600,000" there were substituted "$10,000,000":

(c) section 339(1A) of the RMA applies as if for "$10,000" there were substituted "$50,000":

(d) section 339(2) of the RMA applies as if—

(i) for "$10,000" there were substituted "$15,000":

(ii) for "$1,000" there were substituted "$1,500":

(e) section 339(3) of the RMA applies as if for "$1,500" there were substituted "$5,000".

(4) Section 343C of the RMA applies in relation to an infringement offence against the RMA as if it included **section 767(4)** of this Act.

(5) If the consent authority is satisfied that the breach or alleged breach is an ongoing and severe non-compliance with the RMA in relation to a resource consent, the consent authority may apply to the Environment Court for an order under **section 719** of this Act, which applies as if the RMA included that section and applies whether the resource consent was issued before or on or after commencement.

(6) A consent authority may require a person to pay any reasonable costs incurred by the consent authority in, or incidental to, taking any action in connection with monitoring or enforcing the person's compliance with the RMA, and **section 781** of this Act applies as if the RMA included that section and applies whether the consent authority became aware of the breach or alleged breach before or on or after commencement.

56 Enforcement action for breaches of RMA available 6 months after commencement

(1) This clause applies to any breach or alleged breach of the RMA committed on or after the day that is 6 months after commencement.

(2) Section 314(1) of the RMA applies in relation to any breach or alleged breach in relation to a resource consent as if it included power to make an adverse publicity order under **section 731** and accept an enforceable undertaking under **section 723** of this Act.

(3) From the start of the day that is 6 months after commencement, the relevant enforcement authority may perform or exercise the functions or powers in any of the following provisions of this Act in relation to the breach or alleged breach:

(a) **sections 723 to 730** (enforceable undertakings):

(b) **section 731** (adverse publicity orders).

(4) Those provisions apply in addition to the relevant provisions of the RMA that apply in relation to the breach or alleged breach.

57 Enforcement action for breaches of RMA available 2 years after commencement

(1) This clause applies to any breach or alleged breach of the RMA committed on or after the day that is 2 years after commencement.

(2) Section 314(1) of the RMA applies in relation to any breach or alleged breach as if it included power to make a monetary benefit order under **section 718** and impose a pecuniary penalty under **section 776** of this Act.

(3) From the start of the day that is 2 years after commencement, the relevant enforcement authority may perform or exercise the functions or powers in any of the following provisions of this Act in relation to the breach or alleged breach:

(a) **section 718** (monetary benefit orders):

(b) **sections 776 to 780** (pecuniary penalties).

(4) Those provisions apply in addition to the relevant provisions of the RMA that apply in relation to the breach or alleged breach.

58 When first NBE plan able to be enforced

On the region's NBEA date, the plan becomes enforceable under this Act and must be treated as the region's operative plan for the purposes of **Part 11** of this Act.

59 Regulations relating to this subpart

(1) Without limiting **section 858(1)(i) to (k)**, the Governor-General may from time to time, by Order in Council, make regulations that—

(a) impose constraints or limitations on the use or application of the new enforcement measures available under this Act that are specified in this subpart for the purpose of enforcing breaches or alleged breaches of the RMA during the transition period:

(b) impose different constraints or limitations for different cases on any differential basis (for example for different geographical areas, activities, or breaches or alleged breaches of the RMA).

(2) The Resource Management (Infringement Offences) Regulations 1999 apply as if a reference in those regulations to an offence under the RMA included the corresponding offence (if any) under this Act.

(3) When a regional planning committee notifies its first plan under **clause 127 of Schedule 7** or regulations made under **section 775** of this Act take effect, whichever is the later, the Resource Management (Infringement Offences) Regulations 1999 cease to apply in relation to that region.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

60 Application and expiry of transitional measures

(1) This subpart and regulations made under **clause 59** cease to apply in relation to a region on the region's NBEA date.

(2) This subpart expires and is repealed on a date to be appointed by the Governor-General by Order in Council made on the recommendation of the Minister for the Environment.

(3) Regulations made under **clause 59** expire and are revoked on the expiry of this subpart.

Subpart 16—Provisions relating to Environment Court

61 Continuation of Environment Court

(1) A person who is a Judge of the Environment Court, an Environment Commissioner, a Deputy Environment Commissioner, a Registrar, or other officer of the court immediately before the commencement of this clause continues to hold their office subject to this Act.

(2) All proceedings pending or in progress in the Environment Court operating under the RMA immediately before the commencement of this clause must be continued, completed, and enforced under that Act.

(3) All jurisdictions, offices, appointments, Orders in Council, orders, warrants, rules, regulations, seals, forms, books, records, instruments that relate to the Environment Court and originated under the RMA, and that are subsisting or in force on the commencement of this clause, have full effect as if they had originated under the corresponding provisions of this Act and, where necessary, must be treated as having originated under this Act.

Subpart 17—Provisions relating to RMA documents, leases, and approvals

62 RMA documents and first generation natural and built environment plans

(1) Every RMA document in force immediately before the commencement of this clause continues in force according to its terms subject to this Act.

(2) The first plan prepared in accordance with **Schedule 7** for a region applies from the time the regional planning committee notifies its decisions on IHP recommendations.

(3) However, **subclause (2)** does not apply if any rules contained within the plan—

(a) affect any existing use of land, and meet the requirements set out in **section 26(2)** of this Act; or

(b) specify the use of an allocation method or methods for a resource, as allowed under **section 126** of this Act.

(4) The regional planning committee must publicly notify the date on which the plan applies at least 5 working days before the date on which it is intended to apply.

(5) Any parts of a district plan, regional plan, regional coastal plan, or regional policy statement that apply to the relevant region or part of the relevant region to which the regional planning committee's first plan applies cease to have any further legal effect as from the notification of the committee's decision on its plan under this Act.

63 Savings in respect of cross leases, company leases, and retirement village leases

Nothing in **section 18 or Part 9** applies—

(a) to the registration of a memorandum of cross lease or company lease, in renewal or in substitution for a cross lease or company lease, and the issue of a record of title for the lease in respect of a building or part of a building shown on a plan—

(i) deposited or lodged in the land registry office for cross lease or company lease purposes before the commencement of this Act; or

(ii) that relate to units, cross lease developments, or company lease developments that are ready to be registered at the time when this Act comes into force; or

(b) to the renewal or substitution of a company lease in respect of a building or part of a building if the original company lease was in existence before the commencement of this Act (whether or not the renewal or substitution is part of the original company lease or a subsequent company lease).

Compare: 1991 No 69 s 226A

64 Cancellation of prior approvals

(1) This section applies if—

(a) before or after the date of commencement of this Act, a survey plan (**Plan A**) has been deposited under the Land Transfer Act 2017, under any other authority, or in the Deeds Register Office; and

(b) a survey plan (**Plan B**) of the same land is deposited in accordance with **section 579**.

(2) If approval is given to Plan A on or before the date of deposit of Plan B, the approval given to Plan A—

(a) is to be treated as being cancelled; or

(b) if the land in Plan B is part only of the land in Plan A, the approval is to be treated as being cancelled to the extent that it relates to the land in Plan B.

(3) **Subclause (2)** does not apply to the deposit of a unit plan or to a survey plan that gives effect to—

(a) the grant of a lease to which **section 569(a)(iii)** applies; or

(b) a cross lease; or

(c) a company lease.

Compare: 1991 No 69 s 227

Subpart 18—Provisions relating to coastal matters

65 Application of Part 7 in region

(1) **Part 7**, other than the provisions specified in **subclause (2)**, applies in a region on the region's NBEA date.

(2) **Sections 428, 432, 433, 434, 438, and 450** apply in a region on the date after this Act receives the Royal assent.

66 Authorisations issued under RMA

(1) If a region's NBEA date has occurred in a region, the holder of an authorisation issued under the RMA may, within the specified period, use their authorisation to apply for a coastal permit under the relevant rule in the plan for the region.

(2) In this clause, **specified period** means the period that—

(a) commences on the region's NBEA date; and

(b) ends on the date that the authorisation lapses or would have lapsed under section 165 of the RMA.

67 Suspension of coastal permit applications for aquaculture activities

(1) If, before the region's NBEA date, a notice has been issued under section 165ZD or 165ZDA of the RMA suspending coastal permit applications for aquaculture activities in the region, the notice—

(a) continues to have effect after the region's NBEA date; and

(b) must be treated as if it were a notice issued under **section 454 or 459** (subject to any necessary modifications); and

(c) ceases to have effect when the notice expires or on the expiry of any further notice referred to in **section 460(1)**.

(2) If, before a region's NBEA date, a request has been made under section 165ZB(2) of the RMA to suspend coastal permit applications for aquaculture activities in the region, the request—

(a) continues to have effect after the region's NBEA date; and

(b) must be treated as if it were a request under **section 454** (subject to any necessary modifications).

(3) In this section, **coastal permit applications for aquaculture activities** means applications for coastal permits to occupy space in a common marine and coastal area for purpose of aquaculture activities.

68 Subpart 4 of Part 7A of RMA

Subpart 4 of Part 7A of the RMA remains in force in a region until the region's NBEA date.

69 Continued application of Fisheries Act 1996 to aquaculture decisions relevant to coastal permit applications

(1) This clause applies if an application under the RMA for a coastal permit for aquaculture activities in a region—

(a) is made before the region's NBEA date but not determined by that date; and

(b) is subject to an aquaculture decision by the chief executive of the Ministry responsible for the administration of the Fisheries Act 1996.

(2) The Fisheries Act 1996 (as it was immediately before the commencement of this Act) continues to apply in respect of the aquaculture decision until the decision is made and any judicial review under section 186J of that Act has concluded.

70 Application of Marine and Coastal (Takutai Moana) Act 2011 before and after region's NBEA date

(1) If a matter is carried out in a region under the RMA before the region's NBEA date, the provisions of the Marine and Coastal (Takutai Moana) Act 2011 (if any) that apply to that matter are the provisions of that Act as it was immediately before the commencement of this Act.

(2) If a matter is carried out in a region under this Act on or after the region's NBEA date, the provisions of the Marine and Coastal (Takutai Moana) Act 2011 (if any) that apply to that matter are the provisions of that Act as amended by this Act.

71 Processes relating to Marine and Coastal (Takutai Moana) Act 2011 commenced before region's NBEA date

(1) **Subclause (2)** applies if an applicant makes a request under section 67 of the Marine and Coastal (Takutai Moana) Act 2011 in respect of a resource consent that—

(a) has been applied for under the RMA before the region's NBEA date but has not been determined by that date; or

(b) has been granted under the RMA but has not commenced by the region's NBEA date.

(2) The 40-working-day time period in which a customary marine title group must notify its decision to the applicant under section 67 of the Marine and Coastal (Takutai Moana) Act 2011 is not affected by the occurrence of the region's NBEA date.

(3) If before a region's NBEA date, a customary marine title group notifies its decision in writing on a request for permission under section 67 of the Marine and Coastal (Takutai Moana) Act 2011, the exercise of the RMA permission right by the group is treated as an exercise of an NBEA permission right.

(4) A written approval given before a region's NBEA date by a protected customary rights group under section 55(2)(a) of the Marine and Coastal (Takutai Moana) Act 2011 continues to have effect after the region's NBEA date.

(5) If—

(a) before a region's NBEA date, an applicant for a resource consent notifies applicant groups about their application and seeks their views under sections 62(2), (3) and 62A of the Marine and Coastal (Takutai Moana) Act 2011; and

(b) after the region's NBEA date, the applicant lodges the application for the resource consent,—

the process commenced under those sections must be completed by the applicant regardless of the occurrence of the region's NBEA date.

(6) If a resource consent granted under the RMA for an activity in a region has not commenced by the region's NBEA date, any process relating to the resource consent that is commenced under the RMA in relation to Part 3 of the Marine and Coastal (Takutai Moana) Act 2011 but is not completed by that date, must continue in accordance with Part 3 of that Act as it was immediately before the commencement of this Act.

(7) The occurrence of a region's NBEA date does not affect the obligations of an applicant for a resource consent under sections 62 and 62A of the Marine and Coastal (Takutai Moana) Act 2011 in respect of an activity in the region.

Subpart 19—Miscellaneous provisions

72 Application of amendments in Schedule 15

(1) This clause applies to amendments made by **Schedule 15** to a provision of another enactment (the **amended provision**) where—

(a) the amended provision is amended to refer to, apply, or modify the application of any provisions in this Act; and

(b) any relevant provision in this Act—

(i) is not in force; or

(ii) does not yet apply in relation to a region (for example, because an NBE plan for the region has not been made or does not yet have effect).

(2) Until the relevant provision in this Act is in force or applies in relation to the relevant region, the amended provision must be read as if the amendment had not been made.

(3) An amended provision includes (without limitation) a provision that—

(a) refers to an authorisation under this Act (such as a resource consent or permit):

(b) refers to a natural and built environment plan or other document under this Act:

(c) applies this Act or any provision of this Act:

(d) requires consultation before taking action.

(4) This clause is subject to express provisions to the contrary elsewhere in this Act or in regulations made under this Act.

73 Regulations may make consequential amendments to other secondary legislation

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that amend any secondary legislation (as defined in section 5(1) of the Legislation Act 2019) to make amendments that are consequential on the passing of this Act or the **Spatial Planning Act 2022**.

(2) The same set of regulations made under this clause may amend 1 or more instruments that are secondary legislation.

(3) Regulations made under this clause may make transitional and savings provisions as necessary to reflect in the secondary legislation the transition from the RMA to this Act.

(4) This clause does not limit section 41 of the Legislation Act 2019.

(5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

~~Part 2~~

~~Provisions relating to Marine and Coastal Area (Takutai Moana) Act 2011~~

~~9 Consideration of consent applications if planning document is applicable~~

~~If a proposed activity is in an area within the scope of a planning document under the Marine and Coastal Area (Takutai Moana) Act 2011, in fulfilling its obligations, the consent authority must continue have regard to the matters relevant to that document until the relevant policy statements and plans made under the Resource Management Act 1991 are replaced by the relevant provisions of the national planning framework and the plan made under the Natural and Built Environment Act **2022**.~~

~~10 Planning document prepared before plans under Natural and Built Environment Act 2022 made~~

~~(1) This section applies if a customary marine title group has prepared a planning document under the Marine and Coastal Area (Takutai Moana) Act 2011 before the plan or regional spatial strategy has been made for that region.~~

(2) The customary marine title group may review its planning document and amend it to align the document with the provisions in the operative plan and regional spatial strategy for that region.

Subpart 1—Provisions relating to application of Part 7

11 Part 7 takes effect when plan made operative

(1) Part 7, other than the provisions that take effect earlier as specified in **subclause (2)**, takes effect in a region on the date that the plan for the region is made operative.

(2) **Sections 428, 432, 433, 434, 438, and 450** take effect on the date that **Schedule 7** comes into force.

12 Authorisations issued under RMA

(1) If a plan for a region has been made operative, the holder of an authorisation issued under the RMA may, within the specified period, use their authorisation to apply for a coastal permit under the relevant rule in the plan.

(2) In this clause, **specified period** means the period that—

(a) commences on the date that the plan for the region is made operative; and

(b) ends on the date that the authorisation lapses or would have lapsed under section 165 of the RMA.

13 Suspension of coastal permit applications for aquaculture activities

(1) If, before a plan for a region has been made operative, a notice has been issued under section 165ZD or 165ZDA of the RMA suspending coastal permit applications for aquaculture activities, the notice—

(a) continues to have effect after the plan has been made operative; and

(b) must be treated as if it were a notice issued under **section 454 or 459** (subject to any necessary modifications); and

(c) ceases to have effect when the notice expires or on the expiry of any further notice referred to in **section 460(1)**.

(2) If, before a plan for a region has been made operative, a request has been made under section 165ZB(2) of the RMA to suspend coastal permit applications for aquaculture activities, the request—

(a) continues to have effect after the plan has been made operative; and

(b) must be treated as if it were a request under **section 454** (subject to any necessary modifications).

(3) In this section, **coastal permit applications for aquaculture activities** means applications for coastal permits to occupy space in a common marine and coastal area for purpose of aquaculture activities.

~~**14 Subpart 4 of Part 7A of RMA**~~

~~Subpart 4 of Part 7A of the RMA remains in force for each region until the decision version of the plan for the region has been issued.~~

Schedule 2
Transitional, savings, and related provisions for upholding Treaty settlements, NHNP Act, and other arrangements

s 11

1 Purpose of this schedule

The purpose of this schedule is to ensure that the integrity, intent, and effect of Treaty settlements, the NHNP Act, and other arrangements ~~made under~~ relating to the Resource Management Act 1991 are upheld in relation to this Act.

2 Interpretation

In this schedule,—

claimant group means a group of Māori with Treaty of Waitangi claims against the Crown, whether or not those claims have been lodged with, or heard by, the Waitangi Tribunal under the Treaty of Waitangi Act 1975

~~**joint management agreement** means a joint management agreement, as defined in section 2(1) of the Resource Management Act 1991, that is entered into under that Act before **sections 656 to 658** of this Act comes into force~~

joint management agreement means a joint management agreement made under any provisions of the Resource Management Act 1991 and in force on the day after this Act receives Royal assent

~~**Mana Whakahono ā Rohe** means an iwi participation arrangement entered into under subpart 2 of Part 5 of the Resource Management Act 1991 before **subpart 6 of Part 10** of this Act comes into force~~

Mana Whakahono ā Rohe means an arrangement entered into under subpart 2 of Part 5 of the Resource Management Act 1991 and in force on the day after this Act receives Royal assent

~~**ngā hapū o Ngāti Porou** has the meaning given in section 10 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019~~

~~**NHNP Act** means provisions of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 that relate to the exercise of a power or the performance of a function or duty under the Resource Management Act 1991~~

other arrangements means Mana Whakahono ā Rohe and joint management agreements

post-settlement governance entity—

(a) means a body corporate or the trustees of a trust established by a claimant group for the purposes of receiving redress or participating in arrangements established under a Treaty settlement Act; and

(b) includes an entity established to represent a collective or combination of claimant groups

relevant party means,—

(a) in relation to a Treaty settlement, the post-settlement governance entity for the Treaty settlement:

(b) in relation to the NHNP Act, ngā hapū o Ngāti Porou:

(c) in relation to other arrangements, each iwi authority or group that represents hapū that is party to that arrangement

Treaty of Waitangi claim means a claim within the meaning of section 6 of the Treaty of Waitangi Act 1975, whether that claim was submitted or not to the Waitangi Tribunal

Treaty settlement means provisions of a Treaty settlement Act or Treaty settlement deed that relate to the exercise of a power or the performance of a function or duty under the Resource Management Act 1991

~~**Treaty settlement Act** means—~~

~~(a) an Act whose title is listed in of the Treaty of Waitangi Act 1975 by an Act that was enacted before the commencement of this clause; and~~

~~(b) any other Act that was enacted before the commencement of this clause and that provides redress for Treaty of Waitangi claims, including an Act that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act~~

Treaty settlement Act—

(a) means—

(i) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975 by an Act that was enacted on or before the day on which this Act receives Royal assent; and

(ii) any other Act that was enacted on or before the day on which this Act receives Royal assent and that provides redress for Treaty of Waitangi claims, including—

(A) an Act that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act; and

(B) to avoid doubt, the Hawke's Bay Regional Planning Committee Act 2015; but

(b) does not include the Maori Commercial Aquaculture Claims Settlement Act 2004

Treaty settlement deed—

(a) means a deed or other agreement that—

(i) is signed, ~~before the commencement of this clause~~ on or before the day on which this Act receives Royal assent, for and on behalf

of the Crown by 1 or more Ministers of the Crown and by representatives of a claimant group; and

(ii) is in settlement of the Treaty of Waitangi claims of the members of that group, or in express anticipation, or on account, of that settlement; but

(b) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed.

3 Treaty settlements, NHNP Act, and other arrangements to be given same or equivalent effect

(1) A person exercising a power or performing a function or duty under this Act must give a Treaty settlement, the NHNP Act, or an other arrangement an effect that is the same as, or equivalent ~~as~~ to, the effect that it has in relation to the Resource Management Act 1991.

(2) **Subclause (1)** applies to the extent that the power, function, or duty being exercised or performed under this Act is generally the same or equivalent to a power, function, or duty under the Resource Management Act 1991 that is affected by the Treaty settlement, NHNP Act, or other arrangement.

(3) For the purpose of complying with **subclause (1)** and despite any other provision of this Act,—

(a) a person or regional planning committee may act in accordance with any applicable regulations made under **clause 6**; and

(b) a regional planning committee may delegate its power to make decisions on a plan ~~under this Act~~ or a regional spatial strategy ~~under the **Spatial Planning Act 2022**~~ if the delegation is necessary to give effect to a Mana Whakahono ā Rohe or joint management agreement.

~~(4) This clause ceases to apply to a Treaty settlement, the NHNP Act, or other arrangement when,—~~

~~(a) in the case of Treaty settlements and the NHNP Act, the relevant Treaty settlement Act or Treaty settlement deed or the NHNP Act is amended in accordance with **clause 4**:~~

~~(b) in the case of other arrangements, they have been given effect to in accordance with regulations made under **clause 5**.~~

(4) This clause ceases to apply in relation to a Treaty settlement, the NHNP Act, or an other arrangement when,—

(a) in the case of a Treaty settlement or the NHNP Act,—

(i) the relevant Treaty settlement Act or Treaty settlement deed or the NHNP Act is amended in accordance with **clause 4**; or

(ii) the Crown and the relevant party agree that amendments are not necessary to uphold the Treaty settlement or the NHNP Act in relation to this Act:

(b) in the case of an other arrangement, it has been transitioned to the arrangements under this Act in accordance with **subpart 8 of Schedule 1**.

4 Process for upholding Treaty settlements, NHNP Act, and other arrangements

(1) The Crown must uphold the integrity, intent, and effect of Treaty settlements, the NHNP Act, and other arrangements in accordance with this clause.

(2) The Crown must, unless otherwise agreed with the relevant party,—

(a) discuss with each relevant party, for the purpose of agreeing, how the integrity, intent, and effect of the Treaty settlement, the NHNP Act, or the other arrangement will be upheld in relation to this Act; and

(b) support the capacity of the relevant party to participate effectively in those discussions, including by providing appropriate resources; and

(c) enter into any agreements with the relevant party that are necessary to uphold the Treaty settlement, the NHNP Act, or the other arrangement, including by entering into a deed to amend the entity's Treaty settlement deed.

(3) If necessary to give effect to an agreement relating to a Treaty settlement or the NHNP Act, the Crown must—

(a) take all necessary steps within the Crown's authority to introduce a Bill to the House of Representatives that—

(i) amends the relevant party's Treaty settlement Act or the NHNP Act; and

(ii) is in a form that has been agreed by the relevant party; and

(b) use the Crown's best endeavours to promote the enactment of the Bill no later than 18 months after the enactment of this Act.

(4) The Crown must also—

(a) monitor progress of the matters set out in **subclauses (2) and (3)**; and

(b) every 3 months, make a report on the progress available to the relevant party.

~~(5) In this clause, **relevant party** means,~~

~~(a) in relation to a Treaty settlement, the post-settlement governance entity for the Treaty settlement:~~

~~(b) in relation to the NHNP Act, ngā hapū o Ngāti Porou:~~

~~(c) in relation to other arrangements, each iwi authority or group that represents hapū that is party to that arrangement.~~

5 Regulations to uphold other arrangements

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations providing for a process for giving effect to Mana Whakahono ā Rohe and joint management agreements in relation to this Act.

(2) The regulations may (without limitation) provide for terms of Mana Whakahono ā Rohe and joint management agreements to be modified, but only with the agreement of every iwi authority or group that represents hapū that is party to the Mana Whakahono ā Rohe or joint management agreement.

(3) The Minister must not recommend the making of regulations under this clause unless the Minister is satisfied that the regulations are consistent with the purpose of this schedule.

(4) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

6 Regulations to modify regional planning committee processes

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that modify how any provisions of **Schedule 8** ~~of this Act~~ apply to a regional planning committee or a class of regional planning committees.

(2) The Minister must not recommend the making of regulations under this clause unless the Minister is satisfied that the regulations are consistent with the purpose of this schedule.

(3) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Schedule 3
Principles for biodiversity offsetting and biodiversity compensations

~~s 63(1)~~ 427V

Part 1
Biodiversity offsetting

~~The following sets out a framework of principles for the use of biodiversity offsets. Principles 1–12 must be complied with for an action to qualify as a biodiversity offset. Principles 13–14 should be met for an action to qualify as a biodiversity offset.~~

This schedule sets out a framework of principles for the use of biodiversity offsets. An action must comply with the principles in order to qualify as a biodiversity offset.

1 Adherence to ~~mitigation hierarchy~~ effects management framework

A biodiversity offset is a commitment to provide a measurable conservation outcome in accordance with the principles set out in this schedule to deal with ~~redress~~ more than ~~minor~~ trivial residual adverse impacts. It should only be contemplated after steps to avoid, ~~remedy,~~ and ~~mitigate~~ minimise, and remedy adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual indigenous biodiversity impacts.

2 Limits to biodiversity offsetting

(1) Many biodiversity values cannot be offset and if they are adversely affected ~~then~~ they will be permanently lost. These situations include where—

(a) residual adverse effects cannot be offset because ~~of the irreplaceability or vulnerability of~~ the indigenous biodiversity affected is vulnerable or irreplaceable:

(b) there are no technically feasible or socially acceptable options by which to secure gains within acceptable time frames:

(c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse or irreversible. In these situations, an offset would be inappropriate.

(2) This principle reflects a standard of acceptability for offsetting and a proposed offset must provide an assessment of these limits that supports its success.

(3) In this clause and in **clauses 16 and 22**, **vulnerable**, in relation to biodiversity, means biodiversity that is listed as threatened or at risk in the New Zealand Threat Classification System.

3 No net loss and preferably net gain

The ~~values to be lost through the~~ adverse effects of an activity to which the offset applies ~~are~~ should be counterbalanced by the proposed offsetting activity so that ~~which is at least commensurate with the adverse effects on indigenous bio-~~

~~diversity so that~~ the overall result is no net loss of, and preferably a net gain in, biodiversity. Net loss and net gain are measured by ecosystem type, number or amount, and condition of biodiversity species at the impact and offset site and require an explicit loss and gain calculation.

4 ~~Additionality~~ Gains must be additional

A biodiversity offset must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the ~~offset~~ offsetting action and, including that gains are additional to any avoidance, minimisation, or remediation ~~and mitigation~~ undertaken in relation to the adverse effects of the activity. ~~Offset design and implementation must~~ Offsetting must be designed and carried out so as to avoid displacing activities harmful to indigenous biodiversity to other locations.

5 Like-for-like

The ecological values being gained at the offset site are the same as those being lost at the impact site across types of indigenous biodiversity, amount of indigenous biodiversity (including condition), over time and spatial context.

6 Landscape context

Biodiversity offset actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district, and must consider the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.

7 Long-term outcomes

The biodiversity offset must be managed to secure long-term biodiversity outcomes ~~of the activity~~ that last as least as long as the impacts, and preferably in perpetuity.

8 Time lags

The delay between the loss of indigenous biodiversity at the impact site and the gain or maturity of indigenous biodiversity at the offset site must be ~~minimised so that gains are achieved within the consent period.~~

(a) the least that is necessary to achieve offset goals; and

(b) must not exceed the consent period or 35 years, whichever is the shorter.

~~9 Trading up~~

~~When trading up forms part of an offset, the proposal must demonstrate that the indigenous biodiversity values gained are demonstrably of higher value than those lost, and the values lost are not indigenous taxa that are listed as Threatened, At risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.~~

10 Offsets in advance

A biodiversity offset developed in advance of an application for resource consent must provide a clear link between the offset and the future effect. That is, the offset can be shown to have been created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.

11 Proposing a biodiversity offset

A proposed biodiversity offset must include a specific biodiversity offset management plan which includes a specified time limit to assist in ensuring the long-term biodiversity outcomes required under **clause 7**.

12 Science and mātauranga Māori

The design and implementation of a biodiversity offset must be a documented process informed by science, including an appropriate consideration of mātauranga Māori.

13 Stakeholder participation

Opportunity for the effective participation of stakeholders ~~should~~ must be demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the offset consideration process.

14 Transparency

The design and implementation of a biodiversity offset and communication of its results to the public ~~should~~ must be undertaken in a transparent and timely manner. This includes transparency of the loss and gain calculation and the data that informs a biodiversity offset.

Part 2
Biodiversity compensation

This schedule sets out a framework of principles for the use of biodiversity compensation. These principles must all be complied with for an action to qualify as biodiversity compensation.

15 Adherence effects management framework

Biodiversity compensation is a commitment to provide redress for more than trivial residual adverse impacts. It must only be contemplated after steps to avoid, minimise, remedy, and offset adverse effects have been demonstrated to have been sequentially exhausted.

16 Limits to biodiversity compensation

(1) Many biodiversity values cannot be compensated for, so if they are adversely affected compensation will be inappropriate, including—

(a) if residual adverse effects cannot be compensated for because the indigenous biodiversity affected is irreplaceable or vulnerable:

(b) if there are no technically feasible or socially acceptable options for securing gains within an acceptable time frame:

(c) if effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects would be significantly adverse (or would be irreversible), so that compensation would be inappropriate.

(2) The limits described in **subclause (1)** reflect a standard to acceptability for compensation; any compensation proposed must include an assessment of these limits to support the success of the compensation proposed.

17 Scale of biodiversity compensation

The values to be lost through the activity to which the biodiversity compensation applies must be addressed by positive effects to indigenous biodiversity that are proportionate to the adverse effects on indigenous biodiversity.

18 Additionality

Biodiversity compensation must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, including that gains are additional to any avoidance, minimisation, or remediation undertaken in relation to the adverse effects of the activity. The design and implementation of compensation must avoid displacing activities harmful to indigenous biodiversity to other locations.

19 Landscape context

Biodiversity compensation actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district. The actions must consider the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.

20 Long-term outcomes

The biodiversity compensation must be managed to secure biodiversity outcomes that last as least as long as the impacts, and preferably in perpetuity.

21 Time lags

The delay between the loss of indigenous biodiversity at the impact site and the gain or maturity of indigenous biodiversity at the compensation site must be—

(a) the least necessary to achieve compensation goals; and

(b) must not exceed the consent period or 35 years, whichever is the shorter.

22 Trading up

When trading up forms part of biodiversity compensation, the proposal must demonstrate the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal must also show the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.

23 Environmental contributions

Environmental contributions must only be considered when there is no effective option available for delivering indigenous biodiversity gains on the ground. These contributions must be related to the indigenous biodiversity impact. When proposed, environmental contributions must be directly linked to an intended indigenous biodiversity gain or benefit.

24 Biodiversity compensation in advance

Biodiversity compensation developed in advance of an application for resource consent must provide a clear link between the compensation and the future effect. That is, the compensation can be shown to have been created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.

25 Science and mātauranga Māori

The design and implementation of biodiversity compensation must be a documented process informed by science, including an appropriate consideration of mātauranga Māori.

26 Stakeholder participation

Opportunity for the effective participation of stakeholders must be demonstrated when planning for biodiversity compensation, including evaluation, selection, design, implementation, and monitoring. Stakeholders are best engaged early in the process.

27 Transparency

The design and implementation of biodiversity compensation and communication of its results to the public must be undertaken in a transparent and timely manner.

Schedule 4
Principles for biodiversity redress

s 63(2)

The following sets out a framework of principles for the use of cultural heritage offsetting. These principles are a standard for of redress.

1 Adherence to mitigation hierarchy

Biodiversity redress is a commitment to provide redress for more than minor residual adverse impacts. It must only be contemplated after steps to avoid, remedy, mitigate and offset adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual biodiversity impacts.

2 Limits to biodiversity compensation

In deciding whether biodiversity redress is appropriate, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be redressed because —

(a) the indigenous biodiversity affected is irreplaceable or vulnerable:

(b) there are no technically feasible or socially acceptable options by which to secure proposed gains within acceptable time frames:

(c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.

3 Scale of biodiversity redress

The values to be lost through the activity to which the biodiversity redress applies must be addressed by positive effects to indigenous biodiversity that are proportionate to the adverse effects on indigenous biodiversity.

4 Additionality

Biodiversity redress must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, including that gains are additional to any remediation and mitigation undertaken in relation to the adverse effects of the activity. The design and implementation of redress must avoid displacing activities harmful to indigenous biodiversity to other locations.

5 Landscape context

Biodiversity redress actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district. The actions must consider the landscape context of both the impact site and the redress site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.

~~6~~ ~~Long-term outcomes~~

~~The biodiversity redress must be managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity.~~

~~7~~ ~~Time lags~~

~~The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the redress site must be minimised.~~

~~8~~ ~~Trading up~~

~~When trading up forms part of biodiversity redress, the proposal must demonstrate the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal must also show the values lost are not indigenous taxa that are listed as Threatened, At risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.~~

~~9~~ ~~Environmental contributions~~

~~Environmental contributions must only be considered when there is no effective option available for delivering indigenous biodiversity gains on the ground. These contributions must be related to the indigenous biodiversity impact. When proposed, environmental contributions must be directly linked to an intended indigenous biodiversity gain or benefit.~~

~~10~~ ~~Biodiversity redress in advance~~

~~Biodiversity redress developed in advance of an application for resource consent must provide a clear link between the redress and the future effect. That is, the redress can be shown to have been created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.~~

~~11~~ ~~Science and mataurranga Māori~~

~~The design and implementation of biodiversity redress must be a documented process informed by science, including an appropriate consideration of mataurranga Māori.~~

~~12~~ ~~Stakeholder participation~~

~~Opportunity for the effective participation of stakeholders should be demonstrated when planning for biodiversity redress, including evaluation, selection, design, implementation, and monitoring. Stakeholders are best engaged early in the process.~~

~~13~~ ~~Transparency~~

~~The design and implementation of biodiversity redress and communication of its results to the public should be undertaken in a transparent and timely manner.~~

Schedule 5
Principles for cultural heritage offsetting ~~redress~~ and compensation

~~s 63(2)~~ 427V

Contents

Cultural heritage offsetting

The following sets out a framework of principles for use in cultural heritage offsetting. These principles provide a standard for cultural heritage offsetting and all must be complied with for an action to qualify as cultural offsetting.

1 Adherence to effects management framework

A cultural heritage offset is a commitment to redress any more than minor ~~residual~~ trivial adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.

2 When cultural heritage offsetting is not appropriate

(1) Cultural heritage offsetting is not appropriate if cultural heritage values cannot be offset to achieve a net enhancement of outcome for cultural heritage, including if—

~~(a) cultural heritage values cannot be offset to achieve a net enhancement outcome:~~

~~(b) cultural heritage values are adversely affected so that they will be permanently lost.~~

(a) residual adverse effects cannot be offset because the cultural heritage affected is irreplaceable or vulnerable:

(b) there are no options that are technically feasible or socially acceptable for securing enhancement within acceptable time frames:

(c) the effects on cultural heritage are uncertain, unknown, or little understood, but there is a potential for significant adverse effects to occur.

~~(2) This principle reflects a standard of acceptability for demonstrating, and then achieving, a net enhancement in cultural heritage values. Examples of where offsetting will be inappropriate include where—~~

~~(a) residual adverse effects cannot be offset because the cultural heritage affected is irreplaceable or vulnerable:~~

~~(b) effects on cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse.~~

(2) This principle, reflecting an acceptable standard for offsetting, requires that a proposed offset be assessed against **subclause (1)(a), (b), and (c)**.

3 Net enhancement

The cultural heritage values that would be lost through the activity to which the offset would apply are counterbalanced and exceeded by the proposed offsetting activity, making the result a net enhancement.

4 Additional enhancements

(1) A cultural heritage offset ~~achieves~~ must achieve enhancement in cultural heritage greater than the enhancements that would have been achieved ~~with~~ without the offsetting, such as enhancements that are additional to any ~~minimisation and remediation undertaken in relation to~~ that would be achieved by avoiding, minimising or remedying the adverse effects of the activity.

(2) A cultural heritage offset must be designed and implemented to avoid displacing activities that are harmful to cultural heritage in other locations.

4A Like-for-like

Enhancements gained at an offset site must, where practicable, be the same or similar to the cultural heritage values lost at the impact site.

~~**5 Leakage**~~

~~The design and implementation of offsetting avoids displacing activities that are harmful to cultural heritage in other locations.~~

6 Landscape context

Cultural heritage offset actions are undertaken—

(a) where this will result in the best heritage outcome, ~~preferably close~~ as close as possible to the impact site ~~or~~ and within the same district; and

(b) where the landscape context is considered for both the impact site and the offset site.

7 Long-term outcomes

Cultural heritage offsetting is managed to secure outcomes from the activity that last at least as long as the impacts, and preferably in perpetuity.

8 Time lags

The delay between the loss of cultural heritage at the impact site and ~~enhancement~~ the enhancement of cultural heritage at the offset site ~~is minimised so that the calculated enhancement is achieved within the consent period.~~ must be—

(a) the least that is necessary to achieve the offset goals; and

(b) not exceed the consent period or 35 years, whichever is the shorter.

8A Offsets in advance of resource consent application

A cultural heritage offset developed in advance of an application for a resource consent must provide a clear link between the offset and the future effect of the proposed resource consent, showing that the offset—

(a) has been created or commenced in anticipation of the specific effect of the proposed activity; and

(b) would not have been created or commenced if that effect were not anticipated.

8B Proposing an offset

A proposed cultural heritage offset must include a specific cultural heritage offset management plan that must include timing requirements to assist in ensuring that the long-term outcomes required by **clause 7** are achieved.

9 Conservation principles and mātauranga Māori

The design and implementation of a cultural heritage offset ~~is~~ must be a documented process informed by heritage conservation principles, ~~and~~ including an appropriate consideration of mātauranga Māori ~~(where applicable)~~.

10 ~~Stakeholder participation~~ Engagement

(1) Opportunity for the effective and early participation of stakeholders ~~is~~ must be demonstrated when planning a cultural heritage offset, including its evaluation, selection, design, implementation, and monitoring.

(2) In particular, when planning a cultural heritage offset, there must be engagement—

(a) with Māori in respect of any relevant site of significance to Māori; and

(b) with Heritage New Zealand Pouhere Taonga in respect of—

(i) a national historic landmark in the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu (the Landmarks list); or

(ii) a place on the New Zealand Heritage List/Rārangi Kōrero.

11 Transparency

The design and implementation of a cultural heritage offset, and communication of its results to the public, is undertaken in a transparent and timely manner.

Cultural heritage ~~redress~~ compensation

The following is a framework of principles for use in cultural heritage ~~redress~~ compensation. They are a standard for cultural heritage compensation and must be complied with for an action to ~~quality~~ qualify as cultural heritage ~~redress~~ compensation.

12 Adherence to effects management framework

Cultural redress compensation is a commitment to ~~redress~~ compensate for more than ~~1 minor~~ any trivial residual adverse impact and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.

13 When cultural heritage ~~redress~~ compensation is not appropriate

Cultural heritage ~~redress~~ compensation is not appropriate where cultural heritage values cannot be compensated for, because, for example,—

(a) the affected cultural heritage is irreplaceable or vulnerable:

(b) the effects on the cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse:

(c) there are no technically feasible options for securing proposed enhancements within an acceptable time frame

14 Scale of cultural heritage ~~redress~~ compensation

The values lost through the activity to which the cultural heritage ~~redress~~ compensation applies ~~are balanced~~ must be dealt with by positive effects to the cultural heritage~~, outweighing~~ that are proportionate to the adverse effects on the cultural heritage.

15 Additional enhancements

(1) Cultural heritage compensation ~~achieves~~ must achieve enhancements in cultural heritage that are greater than would have occurred in the absence of compensation, ~~such as~~ including enhancements that are additional to any avoidance, minimisation, ~~or~~ remediation, or offsetting undertaken in relation to the adverse effects of the activity.

(2) The design and implementation of compensation must avoid activities that would be harmful to cultural heritage in other locations.

~~**16 Leakage**~~

~~The design and implementation avoid displacing activities or environmental factors that are harmful to cultural heritage in other locations.~~

17 Landscape context

Cultural heritage ~~redress~~ compensation actions are undertaken—

(a) where this will result in the best heritage outcome, preferably ~~close~~ as close as possible to the impact site or within the same district; and

(b) where the landscape context is considered for both the impact site and the ~~offset~~ compensation site.

18 Long-term outcomes

Cultural heritage ~~redress~~ compensation is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity.

19 Time lags

The delay between the loss of cultural heritage at the impact site and enhancement at the ~~redress~~ compensation site ~~is minimised.~~ must—

(a) be the least that is necessary to achieve the compensation goals; and

(b) not exceed the consent period or 35 years, whichever is the shorter.

20 Trading up

If trading up forms part of cultural heritage ~~redress~~ compensation, the proposal demonstrates that ~~the cultural heritage values enhanced are greater than those lost. The proposal also shows that the values lost are not considered vulnerable or irreplaceable.~~—

(a) the cultural heritage values enhanced are greater than those lost; and

(b) the values lost are not considered vulnerable or irreplaceable.

21 Financial contributions

Financial contributions are only considered when there is no effective option for delivering cultural heritage enhancements. Any contributions related to the cultural heritage impacts must be directly linked to an intended cultural heritage enhancement or benefit.

21A Compensation in advance

Cultural heritage compensation developed in advance of an application for a resource consent must provide a clear link between the compensation and the future effect, showing that the compensation—

(a) was created or commenced in anticipation of the specific effect; and

(b) would not have been created or commenced if that effect were not anticipated.

22 Conservation principles and mātauranga Māori

The design and implementation of cultural heritage ~~redress~~ compensation is a documented process informed by heritage conservation principles ~~and~~, including the appropriate consideration of mātauranga Māori ~~(where available)~~.

23 Stakeholder participation

(1) Opportunity for the effective and early participation of stakeholders ~~is~~ must be demonstrated when planning cultural heritage ~~redress~~ compensation, including its evaluation, selection, design, implementation, and monitoring.

(2) In particular, when planning cultural heritage compensation, there must be early engagement—

(a) with Māori in respect of any relevant site of significance to Māori; and

(b) with Heritage New Zealand Pouhere Taonga in respect of—

(i) a national historic landmark in the National Historic Landmarks/Ngā Manawhenua o Aotearoa me ōna Kōrero Tūturu (the Landmarks list); or

(ii) a place on the New Zealand Heritage List/Rārangi Kōrero.

24 Transparency

The design and implementation of ~~a cultural heritage offset~~ cultural heritage compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.

Schedule 6
Preparation, change, and review of national planning framework

ss 32, 696

Contents

~~**1 Interpretation**~~

~~In this Schedule, unless the context otherwise requires,—~~

~~**NPF proposal** means—~~

~~(a) a proposed national planning framework; or~~

~~(b) a proposed change to the national planning framework~~

~~**public notification** means the notification of an NPF proposal required by **clause 8**.~~

1 Overview

(1) This schedule sets out requirements for preparing, changing, or reviewing the national planning framework.

(2) **Section 34** requires that the national planning framework must be made in the form of regulations. Before those regulations may be made, the applicable processes set out in this schedule must be completed.

(3) The national planning framework (and any replacement or revocation of it) must be prepared in accordance with the standard process (which involves, among other things, pre-notification engagement, the appointment of a limits review panel (if limits are set or required to be set) and a board of inquiry, the preparation of an evaluation report, public notification, and the hearing of submissions (*see* **Part 1**).

(4) Changes to the national planning framework must be prepared in accordance with any of the following processes (as applicable):

(a) the standard process (as described above):

(b) the streamlined process, which modifies aspects of the standard process and may be used only if certain criteria are satisfied (*see* **clauses 23 to 24**):

(c) on the recommendation of the responsible Minister if satisfied that the change is of a kind described in **clause 26** (for example, changes for minor or technical amendments and updates required by certain legislation).

(5) The first national planning framework must be prepared in accordance with the standard process subject to modifications and requirements in **clauses 30A to 32**.

(6) The national planning framework is to be reviewed at least every 9 years.

Part 1
Standard process for preparing and amending national planning framework

What must occur before NPF proposal publicly notified

2 Pre-notification engagement

~~(1) Before public notification of an NPF proposal—~~

~~(a) the chief executive of the Ministry for the Environment must invite the National Māori Entity to collaborate with the Ministry on the proposal; and~~

~~(b) the responsible Minister must engage with—~~

~~(i) iwi authorities and groups that represent hapū on the proposal; and~~

~~(ii) individuals or organisations that the Minister considers representative of the local government sector.~~

(1) The responsible Minister must, when developing an NPF proposal, engage with—

(a) the National Māori Entity; and

(b) iwi authorities, groups that represent hapū, and groups that represent Māori (other than iwi and hapū); and

(c) individuals or organisations that the Minister considers representative of the local government sector.

(2) The responsible Minister may when developing an NPF proposal engage with any other person that the responsible Minister considers appropriate before public notification of the proposal.

3 Limits ~~and targets~~ review panel

(1) The responsible Minister must appoint a limits review panel if an NPF proposal sets or includes requirements for environmental limits or minimum acceptable limits.

(2) The functions of the panel are to—

(a) provide a report on the matters requested by the responsible Minister under **clause 3A** in relation to an NPF proposal that sets or includes requirements for limits; and

(b) provide advice sought by the responsible Minister on any request made under **section 44** for an exemption from a limit; and

(c) provide advice sought by the responsible Minister under **section 427D(2)** relating to criteria for identifying significant biodiversity areas.

~~(1) If the NPF proposal contains limits or minimum level targets, the responsible Minister must appoint a panel to advise the Minister on the extent to which those limits or targets —~~

~~(a) provide effective, reliable, and sufficient measures to protect human health and the ecological integrity of the natural environment, and~~

~~(b) can be monitored, reported on, and evaluated; and~~

~~(c) are underpinned by evidence that is inclusive, rigorous, transparent, and accessible.~~

~~(2) The responsible Minister must consider the panel's advice before the public notification of the proposal.~~

(3) When appointing members of the panel, the responsible Minister must be satisfied that the panel, collectively have knowledge and expertise in relation to—

(a) ecological integrity:

(b) the interplay between the natural environment and human health:

(c) mātauranga Māori:

(d) environmental science:

(e) environmental and natural resource management.

(4) The responsible Minister may set terms of reference for the panel.

3A Advice of limits review panel

(1) If an NPF proposal sets or includes requirements for environmental limits or minimum acceptable limits, the responsible Minister must request that the limits review panel—

(a) consider the extent to which the limits—

(i) provide effective, reliable, and sufficient measures to protect human health and the ecological integrity of the natural environment, and

(ii) can be monitored, reported on, and evaluated; and

(iii) are underpinned by evidence that is inclusive, rigorous, transparent, and accessible; and

(b) assess, in light of the relevant provisions of **subpart 2 of Part 3** of the Act, the overall sufficiency and comprehensiveness of—

(i) the limits proposed in an NPF proposal:

(ii) the limits (if any) in the current national planning framework; and

(c) provide advice on the matters described in **paragraphs (a) and (b)**.

(2) The responsible Minister must consider the panel's advice before public notification of the NPF proposal.

4 NPF proposal relating to coastal marine area

If the NPF proposal contains provisions that apply to the whole or part of the coastal marine area, the responsible Minister must seek and consider the views of the customary marine title groups on the register.

5 Evaluation report

The responsible Minister must prepare an evaluation report of the NPF proposal.

~~**6 Content of evaluation report**~~

~~An evaluation report that is required to be prepared under this schedule must—~~

~~(a) examine the extent to which the proposal is the most appropriate way to achieve—~~

~~(i) the purpose of this Act; and~~

~~(ii) the purpose of the national planning framework (*see* **section 33**); and~~

~~(iii) the purpose of setting environmental limits (*see* **section 37**); and~~

~~(iv) the purpose of setting targets (*see* **section 47**); and~~

~~(b) examine alternative options for achieving the purpose of this Act; and~~

~~(c) state the reasons for selecting the preferred option; and~~

~~(d) examine whether it is appropriate to apply provisions or directions at a national, rather than at a local, level; and~~

~~(e) contain a level of detail that is proportionate to the scale and significance of the proposal; and~~

~~(f) must be prepared and presented succinctly and in plain language and in a way that—~~

~~(i) is useful for decision-makers and members of the public; and~~

~~(ii) will encourage a cost-effective process.~~

6 Contents of evaluation report on NPF proposal

(1) An evaluation report must include consideration of the following matters:

(a) the effectiveness of the NPF proposal to achieve the relevant system outcomes; and

(b) how the decision-making principles have been used to determine how they provide most appropriately for the relevant system outcomes; and

(c) the impact on the environment and on the economy (whether adverse or beneficial) of any NPF proposal to regulate or not to regulate; and

(d) how the NPF proposal will be monitored.

(2) In reporting on the matters required under **subsection (1)**, the report must contain—

(a) the reasonably practicable alternative options in the proposal for achieving the purpose of the Act; and

(b) the reasons for preferring the selected option.

(3) The analysis for an evaluation report must begin early in the process of developing an NPF proposal.

(4) An evaluation report must be prepared and presented in a way that—

(a) is cost-effective; and

(b) provides a level of detail that is proportionate to the scale and significance of the proposal; and

(c) is succinct and plainly expressed; and

(d) optimises the usefulness of the evaluation to decision makers and the public.

(5) The evaluation report must respond to any matters raised in the advice of the limits review panel provided to the Minister under **clause 3A**.

~~**7 Challenges to framework rule**~~

~~A framework rule—~~

~~(a) may be challenged on the grounds that an evaluation report has not been prepared or undertaken, or has not been regarded or complied with; but~~

~~(b) may only be challenged in a submission made under this schedule.~~

~~Compare: 1991 No 69 Schedule 1 cl 32A~~

7 NPF proposal may be challenged on failure of evaluation report

(1) An NPF proposal or any provision of it—

(a) may be challenged on the grounds that the requirements of **clauses 5 and 6** have not been complied with; but

(b) may only be challenged in a submission to a board of inquiry made under this schedule.

(2) **Subclause (1)** does not limit any consideration of the evaluation report by the board of inquiry.

Compare: 1991 No 69 Schedule 1 cl 32A

Public notice of NPF proposal

8 Minister must give public notice of NPF proposal and invite submissions

(1) The responsible Minister must give public notice of—

(a) the NPF proposal; and

(b) an overview of the policy intent of the proposal; and

(c) the evaluation report of the proposal.

(2) The public notice must—

(a) provide the details of the Internet site on which the documents referred to in **subclause (1)** may be accessed:

(b) invite ~~written~~ submissions on the proposal from any person:

(c) state the closing date for submissions (which must not be earlier than 40 working days after the date the public notice is given).

~~(3) A submission must be in writing and must state whether the person wishes to be heard in respect of the submission.~~

8A Submissions on NPF proposal

(1) Any person may make a submission on a NPF proposal that is notified in accordance with **clause 8**.

(2) If a submitter wishes to be heard in respect of the submission, they must say so in their submission.

(3) A submission must also state any other matter or be in a form required by regulations (if any).

Appointment of board of inquiry

9 Board of inquiry

(1) The responsible Minister must establish a board of inquiry to—

(a) enquire into an NPF proposal; and

(b) make recommendations on the proposal.

(2) The responsible Minister may—

(a) appoint the members of the board; or

(b) decide that a convenor appoint the members of the board.

(3) Before appointing the board, the responsible Minister or convenor (as the case may be) must—

(a) request nominations to the board from the National Māori Entity; and

(b) consider nominations (if any) made within 20 working days after the request.

(4) When appointing members of the board, the responsible Minister or convenor (as the case may be) must be satisfied that the board collectively have knowledge and expertise in relation to—

(a) resource management issues and processes; and

(b) te Tiriti o Waitangi and its principles; and

(c) tikanga Māori and mātauranga Māori.

10 Appointment of convenor

(1) The responsible Minister may appoint a convenor for the purpose of appointing members of a board of inquiry.

(1A) A convenor must be—

(a) a current or former (including retired) Environment Judge; or

(b) a person—

(i) who meets the requirements of section 15 of the District Court Act 2016; and

(ii) who the Minister considers to have appropriate skills, knowledge, and experience to perform the role of convenor.

(2) A convenor ~~must be a current or former (including retired) Environment Judge and~~ may be appointed for a term specified by the responsible Minister.

(3) The responsible Minister must, as soon as practicable after giving public notice of an NPF proposal, provide the convenor with the NPF proposal.

(4) The convenor must, subject to **clause 11(5) to (7)**, appoint the board of inquiry as soon as practicable after receiving the proposal.

~~(5) A convenor may appoint themselves as a chairperson of the board.~~

(6) The responsible Minister may remove a ~~convener~~ convenor for just cause (which includes, misconduct, inability to perform the functions of office, neglect of duty, and breach of duty).

11 Board of inquiry membership and appointment of chairperson

(1) A board of inquiry must have at least 4 members including the chairperson.

~~(2) The chairperson of the board must be a current or former Environment Judge.~~

(3) A member of the 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.

(4) Board members are entitled to be—

(a) paid fees at a rate set by the responsible Minister~~, in accordance with the Cabinet Fees Framework~~:

(b) reimbursed for actual and reasonable travelling and other expenses~~, in accordance with the Cabinet Fees Framework~~.

(5) A chairperson must be—

(a) a current or former (including retired) Environment Judge; or

(b) a person—

(i) who meets the requirements of section 15 of the District Court Act 2016; and

(ii) who the Minister considers to have appropriate skills, knowledge, and experience to perform the role of chairperson.

(6) The Minister—

(a) may appoint the chairperson or require the convenor to appoint the chairperson; but

(b) the criteria in **subclause (5)** must be met in either case.

(7) A convenor may appoint themselves as chairperson if they meet the criteria in **subclause (5)**.

12 Minister may set terms of reference

The responsible Minister may set terms of reference for a board of inquiry.

13 Due date for Board of inquiry report

The responsible Minister may—

(a) specify a date by which a board of inquiry must provide its report on the NPF proposal; and

(b) change that date before the board provides its report.

14 Chairperson has casting vote

If there is an equality of votes between members of a board of inquiry, the chairperson has the casting vote.

14A Powers of chairperson

The chairperson of the board of inquiry has the following powers:

(a) to conduct, and maintain order at, the hearing:

(b) to decide how many, and which, members of the board are to be present at each hearing session:

(c) to direct that the board hold 2 or more hearing sessions concurrently:

(d) to appoint another member to act as chairperson for the purposes of any hearing session at which the chairperson of the board will not be present for any reason:

(e) to appoint a friend of the submitter for the purpose of providing support to the submitter in relation to a hearing:

(f) to appoint as a special advisor a person who is able to assist the board in any hearing:

(g) to deal with any complaints in respect of the board or any member of the board.

Hearing of submissions

15 Conduct of hearing

(1) **Subpart 3 of Part 2 of Schedule 7** applies, with all necessary modifications, in respect of an inquiry by a board into the NPF proposal as if every reference in that subpart to an authority or regional planning committee were a reference to a board of inquiry.

(2) A board of inquiry must give at least 10 working days' notice of the dates, time, and place of the hearing of the inquiry.

(3) At each hearing session, no fewer than 2 board members must be present.

16 Responsible Minister and National Māori Entity may be heard

The responsible Minister and the National Māori Entity each have a right to be heard at a board of inquiry hearing (regardless of whether they made a submission).

Suspension of board's consideration

17 Board of inquiry to suspend consideration or consider additional material

(1) The responsible Minister may do either or both of the following:

(a) direct a board of inquiry to suspend its inquiry for a specified period or until a specified event occurs (for example, until the Minister provides the board with additional material):

(b) provide the board with additional material to consider.

(2) The responsible Minister must give public notice of any direction to the board to suspend its inquiry and include reasons for the direction.

(3) The board must suspend its inquiry in accordance with the direction.

Withdrawal of NPF proposal

18 How NPF proposal may be withdrawn

(1) The responsible Minister may withdraw all or part of an NPF proposal before it is approved.

(2) The responsible Minister must give public notice of the withdrawal together with reasons.

(3) If the responsible Minister withdraws all of the proposal before the board has reported under **clause 20**, the board is discharged on and from the date of the public notice.

(4) If the responsible Minister withdraws part of the proposal before the board has reported, the board must inquire into and report on only the matters that are not withdrawn.

Consideration by board of inquiry

19 What the board must consider

(1) The board of inquiry must—

(a) have particular regard to the evaluation report that is notified with the NPF proposal; and

(b) have regard to—

(i) the submissions; and

(ii) any evidence received; and

(iii) any recommendations in the most recent report (if any) on any review of the national planning framework; and

(iv) any other matter the board considers relevant.

(2) In making its recommendations, the board must not have regard to—

(a) any effect of an activity on scenic views from private properties ~~or land transport assets that are not stopping places~~; or

(b) ~~any effect on~~ the visibility of commercial signage or advertising being obscured as an effect of an activity; or

(c) any adverse effect, real or perceived, arising from the use of the land ~~by~~ for housing, if that effect is attributed to—

(i) the social or economic characteristics of residents; or

(ii) types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries; or

(iii) residents requiring support or supervision in their housing because of their legal status or disabilities.

~~(i) people on low incomes; or~~

~~(ii) people with special housing needs; or~~

~~(iii) people whose disabilities mean that they need support or supervision in their housing.~~

(3) The board must ensure its recommendations on the NPF proposal are—

(a) in accordance with—

(i) the purpose of this Act; and

(ii) the purpose of the national planning framework set out in **section 33**; and

(iii) the purpose of ~~setting~~ environmental limits, minimum acceptable limits, mandatory targets, and discretionary targets set out in ~~**section 37**~~ **sections 37, 37A, 37B, and 37C**; and

~~(iv) the purpose of setting targets set out in **section 47**; and~~

(b) are not inconsistent with any provisions in an emissions reduction plan or national adaption plan identified as relevant to this Act or the **Spatial Planning Act 2022**.

20 Board of inquiry report and recommendations

(1) After completing its inquiry, the board of inquiry must arrange for a report to be made to the responsible Minister in accordance with any terms of reference set by the Minister.

(2) The report must set out the board's recommendations together with reasons.

(3) The board is not limited in making recommendations only within the scope of submissions made on the NPF proposal.

(4) The responsible Minister must publish the report on an Internet site to which the public has free access.

Minister's decision

21 Minister's decision

(1) The responsible Minister must make a decision on the final content of the NPF proposal.

(2) Before making the decision, the responsible Minister must—

(a) have particular regard to the evaluation report that is notified with the NPF proposal; and

(b) have regard to—

(i) the board of inquiry's report; and

(ii) any recommendations in the most recent report (if any) on any review of the national planning framework; and

(iii) any other matter the Minister considers relevant.

(3) The responsible Minister must ensure that their decision on the NPF proposal is—

(a) in accordance with—

(i) the purpose of this Act; and

(ii) the purpose of the national planning framework set out in **section 33**; and

(iii) the purpose of ~~setting~~ environmental limits, minimum acceptable limits, mandatory targets, and discretionary targets set out in ~~**section 37**~~ **sections 37, 37A, 37B, and 37C**; and

~~(iv) the purpose of setting targets set out in **section 47**; and~~

(b) not inconsistent with any provisions in an emissions reduction plan or national adaptation plan identified as relevant to this Act or the **Spatial Planning Act 2022**.

(4) The responsible Minister may,—

(a) make any changes, or no changes, to the proposal; and

(b) withdraw all or part of the proposal.

(5) After deciding the final content of the NPF proposal in accordance with this clause, the responsible Minister may recommend that the NPF proposal be made in the form of regulations in accordance with **section 34**.

22 Minister must publish decision

The responsible Minister's decision on the NPF proposal must—

(a) must be published on an Internet site that is freely available to the public; and

(b) must include a statement of reasons in relation to any of the board's recommendations that the Minister does not adopt.

Part 2
Other processes for amending national planning framework

Streamlined process

23 When streamlined process may be used

The national planning framework may be amended in accordance with the streamlined process if—

(a) the responsible Minister is satisfied that—

(i) the proposed amendment does not represent a significant departure from any existing direction in the framework; and

(ii) that it is appropriate to use the streamlined process after considering—

(A) the advantages and disadvantages of amending the framework quickly, including the consequences of not acting:

(B) the extent and timing of any public debate and consultation that has taken place on the matter:

(C) any other matter the Minister considers relevant:

(b) the responsible Minister can demonstrate compliance with **paragraph (a)** in the evaluation report that is notified with the NPF proposal.

24 What streamlined process involves

The streamlined process is the standard process with the following modifications:

(a) the board of inquiry has a minimum of three members including the chairperson:

(b) the closing date for public submissions must not be earlier than 20 working days (instead of 40 working days):

(c) the board of inquiry must not hold a hearing, but instead consider submissions on the papers:

(d) there is no hearing of public submissions and submitters are not required to indicate in their submissions whether or not they wish to be heard:

(e) the responsible Minister and National Māori Entity are not entitled to appear before the board but they may each may provide information to the board:

(f) the board of inquiry must provide its report on the NPF proposal on a date specified by the Minster that is no earlier than 30 working days after the closing date for public submissions.

Other amendments

25 National planning framework may be amended by regulations ~~Order in Council~~ for certain matters

(1) The national planning framework may be amended by regulations made under **section 34**, ~~the Governor-General, by Order in Council,~~ on the recommendation of the responsible Minister made in accordance with **clause 26**.

(2) To avoid doubt, the responsible Minister is not required to complete the standard process or the streamlined process before making a recommendation.

26 Criteria for recommending amendments

The responsible Minister may make a recommendation under **clause 25** if satisfied that the proposed amendment—

(a) has no more than a minor effect, corrects errors, or makes similar technical alterations; or

~~(b) is necessary to ensure consistency with provisions in an emissions reduction plan or national adaptation plan; or~~

(b) is necessary to ensure that the national planning framework is not inconsistent with any provisions in any emissions reduction plan or national adaptation plan identified as relevant to this Act or the **Spatial Planning Act 2022**; or

(c) omits or inserts the names or a description of waste or other matter or harmful substance in national planning framework to make it comply with the provisions of ~~an~~ any international convention relating to the pollution of the marine environment.

Part 3
Review of national planning framework

27 National planning framework must be reviewed at least every 9 years

(1) The responsible Minister must review the national planning framework at least once every 9 years.

(2) The first review must be completed no later than 9 years after the commencement of the first national planning framework.

(3) The responsible Minister must review the national planning framework by—

(a) assessing the extent to which the framework (as a whole) is meeting its purpose; and

(b) reviewing the effectiveness of each provision of the framework that has not been reviewed or amended in the last 9 years; and

(c) reviewing the effectiveness of any other provision of the framework that the Minister considers appropriate; and

(d) considering whether any changes to the framework are appropriate.

(4) The ~~chief executive of the Ministry for the Environment must invite the~~ responsible Minister must engage with the National Māori Entity ~~to collaborate with the Ministry~~ on any review of the national planning framework.

28 Minister must consider need for review ~~in certain circumstances~~ when emissions reduction plan or national adaptation plan presented

The Minister for the Environment must consider whether it is necessary to review the national planning framework ~~each time~~ as soon as reasonably practicable after an emissions reduction plan or a national adaptation plan ~~is issued or amended~~ or an amendment to either plan is presented to the House of Representatives under section 5ZI or 5ZT of the Climate Change Response Act 2002.

29 Report on review

(1) After completing a review of the national planning framework, the responsible Minister must prepare a report that sets out—

(a) the findings of the review; and

(b) any recommendations.

(2) If the review recommends amendments to the national planning framework, the responsible Minister must prepare those amendments in accordance with the appropriate process in this schedule.

Part 4
Other matters

Publication

30 Publication of national planning framework

(1) The national planning framework must be published on an internet site maintained by or on behalf of the chief executive of the Ministry for the Environment.

(2) **Subclause (1)** applies despite section 69(1)(c) and (d) of the Legislation Act 2019, unless the Attorney-General directs otherwise.

First national planning framework

30A First NPF proposal must be notified within 6 months

(1) The Minister for the Environment must within 6 months after the date of commencement of **Part 3** of this Act, give public notice of the first NPF proposal in accordance with **clause 8**.

(2) The Minister for the Environment will not, if they comply with **subclause (1)**, be in breach of **section 32** during the period—

(a) starting from the date of commencement of this Act; and

(b) ending on the date that the first national planning framework becomes operative.

(3) In this Part, the **first national planning framework** means the NPF proposal required to be notified by **subclause (1)**.

30B Required content of first national planning framework

(1) In order to facilitate a smooth transition from the Resource Management Act 1991 to this Act and to enable the development of the first regional spatial strategies, the first national planning framework must include content that—

(a) carries over the policy of the RMA national direction (as defined in **clause 31A(2)**) to the extent that it is compatible with the requirements of this Act:

(b) provides direction for the development of regional spatial strategies.

(2) The requirements of this Act relating to the content and purpose of the national planning framework apply to the first national planning framework only to the extent those requirements are relevant to the content required by **subclause (1)**.

(3) The content required by **sections 38, 39, 40, 40A, 49, 54, 58(a), (b), and (h), 198AAA, 198AAB, 427C, and 427D(1)** is not required to be included in the first national planning framework.

(4) Content that, but for **subclauses (2) and (3)**, would otherwise be required by this Act to be included in the first national planning framework—

(a) may be included in the first national planning framework; and

(b) may be included in any changes to or any review of the national planning framework before 1 January 2028.

(5) Content that is required by this Act to be included in the national planning framework but has not been included because of **subclauses (2) and (3)** must be included in an NPF proposal notified by 1 January 2028.

31 Preparation of first national planning framework

(1) The first national planning framework must be prepared in accordance with the standard process subject to the following ~~modifications~~ modification:

(a) any engagement of a kind described in **clauses 2 and 4** that has been carried out on the NPF proposal before the commencement of the Act counts as engagement for the purposes of those clauses; and

(b) the responsible Minister is not required to appoint a limits review panel; and

(c) **clauses 2(1)(a), 3, and 9(3)** do not apply.

~~(b) a limits and targets review panel is not required to be appointed to advise the responsible Minister on any environmental limits or target in the NPF proposal; and~~

~~(c) **section 50(1) and 58(a) and (b)** do not apply; and~~

~~(d) **clauses 2(1)(a) and 9(3)** do not apply; and~~

~~(e) for the purpose of facilitating a smooth transition from the Resource Management Act 1991 to this Act,—~~

~~(i) the first national planning framework must be prepared on the basis of the RMA national direction; and~~

~~(ii) the board of inquiry must, when considering the matters specified in **clause 19**, also have particular regard to maintaining consistency with the policy intent of the RMA national direction to the extent it is compatible with this Act; and~~

~~(iii) the responsible Minister must, when considering the matters specified in **clause 21**, also have particular regard to maintaining consistency with the policy intent of the RMA national direction to the extent it is compatible with this Act.~~

~~(2) In this clause, **RMA national direction** means the national direction prepared under the Resource Management Act 1991, and includes the medium density residential standards set out in Schedule 3A of the Resource Management Act 1991.~~

31A Relationship with RMA national direction

(1) For the purpose of facilitating a smooth transition from the Resource Management Act 1991 to this Act,—

(a) the content of the first national planning framework must be prepared on the basis of the RMA national direction to the extent it is compatible with the requirements of this Act; and

(b) the board of inquiry must, when considering the matters specified in **clause 19**, also have particular regard to maintaining consistency with the policy of the RMA national direction to the extent it is compatible with the requirements of this Act; and

(c) the responsible Minister must, when considering the matters specified in **clause 21**, also have particular regard to maintaining consistency with the policy of the RMA national direction to the extent it is compatible with the requirements of this Act.

(2) In this clause, **RMA national direction** means—

(a) the national direction prepared under the RMA and finalised under the relevant RMA process as at 31 May 2023 but excluding—

(i) the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017; and

(ii) the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007; and

(iii) the National Planning Standards 2019; and

(iv) the National Policy Statement for Renewable Electricity Generation 2011; and

(v) the National Policy Statement on Electricity Transmission 2008:

(b) the medium-density residential standards set out in Schedule 3A of the Resource Management Act 1991:

(c) the Resource Management (Measuring and Reporting of Water Takes) Regulations 2020:

(d) the Resource Management (Stock Exclusion) Regulations 2020.

(3) Nothing in this clause prevents any of the following from being included in an NPF proposal to the extent it is compatible with the requirements of this Act:

(a) the national direction prepared under the RMA and finalised under the relevant RMA process after 31 May 2023:

(b) the instruments described in **subclause (2)(a)(i) to (v)**.

~~*Minimum level targets*~~

~~**32 NPF proposal containing minimum level targets must be notified by 1 January 2028**~~

~~The responsible Minister must notify an NPF proposal that contains minimum level targets required by **section 50** by 1 January 2028.~~

Schedule 7
Preparation, change, and review of natural and built environment plans

ss 7, 98, 101

Contents

Preliminary matters

1 Interpretation and application

(1) In this schedule, unless the context otherwise requires, **proposal** means—

(a) a proposed plan or plan change or variation; and

~~(b) includes consideration of the plan outcomes, policies, rules, and methods associated with a plan or plan change before the plan or plan change is notified.~~

(b) includes—

(i) consideration of the plan outcomes; and

(ii) in light of those outcomes, evaluation of the policies and rules or methods that deal with the same matter or issue.

(1A) In this schedule, **supporting information**—

(a) must include all the information that a submitter intends to rely on in support of their submission; and

(b) may also include technical and non-technical information, including expert advice.

(2) **Parts 1 and 2** of this schedule apply to—

(a) the initial development of plans under this Act and to the full review of plans; and

(b) the process, including the time frames, for each of the plan change processes (standard, ~~proportional~~ proportionate, and urgent), unless **Part 2** of this schedule directs otherwise.

(3) **Part 3** of this schedule relates to—

(a) the requirements and processes relating to an independent hearing panel (**IHP**); and

(b) appeal rights.

(4) In this schedule, a reference to a plan change includes, as the context requires, a plan variation if the regional planning committee has varied a proposed plan or a plan change after it has been notified.

2 Overview of time frames for development of first plans or full review

(1) The first plan in each region must be prepared within 4 years and 4 months, in accordance with the following time frame:

(a) a plan must be notified within 2 years of a resolution by the regional planning committee to begin drafting a new plan; and

~~(b) the resolution referred to in **paragraph (a)** must be made within 40 working days of a decision to adopt the applicable spatial strategy under Schedule 4 of the Spatial Planning Act **2022**; and~~

(b) the committee must, in that resolution, determine to begin drafting its plan no later than 40 working days after deciding to adopt the applicable spatial strategy under **Schedule 4 of the Spatial Planning Act 2022**; and

(c) the submission, hearing, and recommendations processes that enable the regional planning committee to ~~issue decisions must be completed~~ meet its obligations under **clause 127** within the remaining 2 years of the ~~4-year~~ planning cycle.

(2) If a regional planning committee undertakes a full review of an existing plan, the development of the plan must follow the same time frame as the development of the first plan, except that **subclause (1)(b)** does not apply.

3 Forms to be approved by ~~chief executive~~ Secretary for the Environment

The ~~chief executive must~~ Secretary for the Environment may approve forms or templates, and publish them on the Internet site of the Ministry for the Environment~~, forms for the following documents:~~ (unless a form or template has been prescribed by regulations for the same purpose).

~~(a) enduring submissions (*see* **clause 20**):~~

~~(b) primary submissions (*see* **clause 34**):~~

~~(c) secondary submissions (*see* **clause 36**):~~

~~(d) nomination form for IHP membership (*see* **clause 96**):~~

~~(e) notices of appeal to Environment Court (*see* **clauses 67, 132, and 133**):~~

Part 1
Plan development

Subpart 1—Principles applying to making and changing plans

4 Plans and plan changes to be prepared in accordance with Mana Whakahono ā Rohe and relevant legislation

A regional planning committee must prepare its plans in accordance with—

(a) any applicable Mana Whakahono ā Rohe; and

(b) any relevant engagement agreement; and

(c) any relevant iwi and hapū participation legislation or agreement under that legislation; and

(d) this schedule.

Plan change processes

5 How plan changes are initiated

(1) All plan changes must be initiated by a request to a regional planning committee—

(a) from a local authority ~~under this subpart~~ or jointly with other local authorities (*see* **section 839E**); or

(b) from any person other than a local authority under **subpart 2 of Part 2** (relating to ~~independent~~ private plan change requests); or

(c) from the planning committee itself.

(2) However, only the regional planning committee, ~~and~~ constituent local authorities, and direction by the national planning framework may initiate a change to the strategic content of the plan.

6 Processes for making plan changes

(1) This clause describes the following 3 processes available for changing plans under this Act:

(a) the standard plan change process (*see* **clause 7A**) ~~that applies to the development of plans is the process described in **Part 1**~~:

(b) the proportionate process (*see* ~~**clause 8**~~ **clauses 44 to 47**), which may use limited notification:

(c) the urgent process, which provides for a shortened process (*see* **clauses ~~12 to 14~~ 47 to 50**).

(2) The regional planning committee must determine which of the 3 processes is to be applied in any given case.

7 Principles guiding which process is to apply

Standard process

(1) The standard process ~~must be used~~ as described in this Part—

(a) must be used for the first ~~plans~~ plan prepared under this Act for a region and any subsequent reviews of the full plan; and

~~(b) in any circumstances where it is proposed to amend the strategic content of a plan~~

(b) must also be used for any plan change in any circumstance where it is proposed to amend the strategic content of a plan (*see* **clause 7A**), unless the criteria for an urgent plan change apply.

Proportionate process

(2) The proportionate process may be used if—

(a) the regional planning committee identifies all those ~~directly~~ affected by the proposed change; or

(b) the proposed change does not meet the criteria for the standard or the urgent process.

Urgent process

(3) The urgent process may be used if urgent environmental issues arise, but is only available for plan changes arising outside the 3-yearly reporting cycle.

7A Standard plan change process

(1) If a regional planning committee is satisfied that a standard process is appropriate for a plan change, the committee must follow the requirements for the standard plan development process, except in respect of the following matters:

(a) matters for consultation do not need to be identified or notified (*see* **clause 14**):

(b) an engagement register is not required (*see* **clause 15**):

(c) an engagement policy need not be prepared (*see* **clause 17**):

(d) provision is not needed for enduring submissions (*see* **clause 20**), but may be lodged any time after the intended programme of work is notified by the regional planning committee, but not after the proposed plan change is notified:

(2) 20 working days before notifying a proposed plan change, the regional planning committee must submit a report prepared under **clause 29** to the Secretary for the Environment and (if relevant) the Director-General of Conservation.

(3) Notification of a standard plan change must be in accordance with **clauses 31 and 32**, except that—

(a) the closing date for primary submissions on a proposed plan change must be not less that 40 working days after the date on which public notice is given; and

(b) the regional planning committee may set a later closing date.

(4) The regional planning committee must give public notice if it decides to accept or reject recommendations on a standard plan change within 2 years after the plan change is notified.

8 When multiple plan changes may be dealt with together

If a regional planning committee has multiple requests for plan changes that are all to be dealt with under the same process, these may be processed together and heard together.

8A When proposal to prepare, change, or vary plan must be withdrawn

(1) A regional planning committee may withdraw a proposal to prepare, change, or vary a plan.

(2) The power to withdraw under **subclause (1)** may be exercised any time until—

(a) if an appeal has been not been lodged, or has been withdrawn,—

(i) in the case of a proposal plan or plan change, using the standard process, under **subpart 6 of Part 3 of this schedule**; or

(ii) in the case of a proposal plan or plan change, using a proportionate or urgent process, under **clause 67**; or

(b) if an appeal has been lodged, before the hearing commences; or

(c) before the hearing commences, in the case of an appeal to the Environment Court.

(3) If a local authority, or more than 1 jointly, has requested a plan change, they may ask the regional planning committee to withdraw a proposed plan change and the regional planning committee must do so.

(4) The regional planning committee must give notice if it withdraws a proposal under **subclause (1) or (3)**, with the reasons for that withdrawal.

Compare: 1991 No 69 Schedule 1 cl 8D

Subpart 2—Preparation of plans~~:~~ and standard plan changes

Engagement agreements

9 Purpose of engagement agreements

The purpose of an engagement agreement is to provide a mechanism for a regional planning committee and 1 or more Māori groups with interests in the region to—

(a) agree and record how the groups are to participate in preparing a plan or plan change for the region; and

(b) agree how the groups' combined participation is to be funded by the committee from the committee's budget as determined by its statement of intent (*see* **clause 38 of Schedule 8**).

10 When engagement agreements must or may be initiated

Plan making

(1) A regional planning committee must initiate engagement agreements under **clause 11**,—

(a) for its first plan, as soon as practicable after the committee is established; and

(b) for subsequent ~~plans that use the standard plan-making process~~ reviews of the full plan, as soon as practicable after the regional planning committee has resolved to prepare a new plan.

Plan changes

~~(2) A regional planning committee may initiate engagement agreements when using a proportional or urgent plan change process as soon as practicable after the committee gives public notice of its intended programme of work for the next 3 years.~~

(2) As soon as practicable after the committee gives public notice of its intended programme of work for the next 3 years, a regional planning committee—

(a) may initiate engagement agreements when using a proportionate or urgent plan change process; and

(b) must initiate engagement agreements when using the standard process for making plan changes.

~~(3) The regional planning committee must, in using the standard plan making process for making plan changes, conclude any engagement agreement within 30 working days of the statement of major regional policy issues being notified.~~

(3) If the regional planning committee notifies draft strategic content, it must conclude any engagement agreement within 30 working days of giving that notice, but if the parties cannot agree the content of an engagement agreement by that date, the process ceases.

Limits to application of this clause

(4) A regional planning committee does not need to initiate an engagement agreement for its first plan or for subsequent plan changes if an existing engagement agreement has been reached that also applies to subsequent plan changes.

11 Initiation and formation of engagement agreements

(1) A regional planning committee must initiate engagement agreements by inviting the following Māori groups ~~(Māori groups)~~ with interests in the region to enter into 1 or more agreements:

(a) iwi authorities, and groups that represent hapū, whose area of interest includes any part of the region:

(b) customary marine title groups whose customary marine title area ~~under the Marine and Coastal Area (Takutai Moana) Act 2011~~ includes any part of the region:

(c) other Māori groups with interests in the region, if the committee considers that entering into engagement agreements with those groups is desirable to ensure that the views of all Māori groups with interests in the region are properly considered in preparing the region's plan.

(2) In initiating and developing an engagement agreement, the regional planning committee must use its best endeavours to—

(a) achieve the purpose of an engagement agreement; and

(b) negotiate the terms of the agreement in good faith and in a timely manner to achieve ~~harmonious~~ participation in preparing a plan for the region.

(3) However, no Māori group with interests in the region and invited to enter into an engagement agreement is required to respond to an invitation under **subclause (1)**.

(4) Despite **subclause (1)**, a regional planning committee is not required to initiate an engagement agreement with a Māori group with interests in the region if the committee and the ~~Nāori~~ Māori group—

(a) are party to a Mana Whakahono ā Rohe; and

(b) agree that the Mana Whakahono ā Rohe achieves the purpose of an engagement agreement.

(5) A single engagement agreement may—

(a) be entered into with 1 or more Māori groups in the region:

(b) deal with both the preparation of a plan or plan change and a regional spatial strategy.

12 Form and content of engagement agreements

(1) If an engagement agreement is reached, the agreement must—

(a) be in writing; and

(b) identify the parties to the agreement; and

(c) record the agreement of the parties as to—

(i) how the parties will participate in preparing or amending the plan or plan change for the region; and

(ii) how each party will be resourced to participate.

(2) If the parties cannot agree the content of an engagement agreement at least 60 working days before the plan change is notified, the process ceases.

13 When engagement agreements end

(1) An engagement agreement may remain in place as long as the parties wish, but it ceases to apply after the plan or plan change is ~~publicly~~ notified under **clause ~~49~~ 31**.

(2) However, if the parties agree, even if the agreement no longer applies in accordance with **subclause (1)**, they may leave the engagement agreement in place, or amend it, for future use in processes relating to the relevant plan.

13A Planning committees to have engagement policy

(1) Each regional planning committee must prepare an engagement policy within 3 months of a resolution being made—

(a) to begin drafting a new plan; or

(b) to undertake a full review of an existing plan (*see* **clause 2(1)(a)**).

(2) An engagement policy must state, at a minimum,—

(a) how the committee will ensure that it engages with the constituents of each district of its region on the approach to the matters for consultation; and

(b) the different forms, methods, or techniques of engagement to be used by the committee (such as online methods or hui) to reach the constituents in innovative and effective ways and obtain the views of its wider communities; and

(c) how the committee will collect and record feedback and enduring submissions made under **clause 20**.

(3) The purpose of an engagement policy is to ensure that the regional planning committee—

(a) hears a diverse range of views on the approach to the matters for consultation; and

(b) ensures that the constituents of each district of its region can be heard and easily provide feedback on the approach to the matters for consultation; and

(c) identifies the degree of significance attached to particular issues or decisions set out in the approach to the matters for consultation.

13B Consultation during preparation of plan

(1) Before the matters for consultation have been notified in accordance with **clause 16**, a regional planning committee must begin to consult the following parties relevant to the region:

(a) the Minister for the Environment; and

(c) the Minister for Conservation and each relevant regional conservator; and

(d) other Ministers of the Crown whose responsibilities may be affected by the plan or plan change; and

(e) the constituent local authorities; and

(f) any adjacent local authorities; and

(g) requiring authorities; and

(h) iwi authorities.

(2) If a proposed plan or plan change relates to the coastal marine area, the regional planning committee—

(a) must consult with—

(i) the Minister responsible for aquaculture in relation to the management of aquaculture activities; and

(ii) the Minister responsible for fisheries in relation to fisheries management; and

(b) must consult with customary marine title groups in the area.

Compare: 1991 No 69 Schedule 1 cl 3(1), (3)

13C Previous consultation under other legislation

(1) A regional planning committee need not consult as required by **clause 13B** to the extent that the matter in the proposed plan or plan change has been the subject of consultation with the same person or group of persons, or their representative or agent, under other legislation.

(2) The exemption under **subclause (1)** applies only if—

(a) the previous consultation took place within the 36 months before public notice was given of the proposed plan or plan change that the matter relates to; and

(b) the person, group of persons, or their representative or agent was advised that the information obtained from that consultation would also apply to matters under this Act.

Compare: 1991 No 69 Schedule 1 cl 3C

~~*Major regional policy issues*~~

~~**14 Identification of major regional policy issues**~~

~~(1) A regional planning committee must identify the major regional policy issues and, where practicable, the plan outcomes sought to be achieved through the committee's approach to the major regional policy issues.~~

~~(2) For the purposes of this clause, major regional policy issues —~~

~~(a) must include —~~

~~(i) the approach to issues directed to be included in plans through the NPF or RSS:~~

~~(ii) the draft zoning for the region:~~

~~(iii) any other matters that are significant to the region or districts within the region; and~~

~~(b) may include draft plan outcomes.~~

~~(3) In identifying the major regional policy issues, the regional planning committee must have regard to —~~

~~(a) any statement of community outcomes prepared by a territorial authority or unitary authority made under **section 645(1)b)**; and~~

~~(b) any statement of regional environmental outcomes prepared by the regional council or unitary authority made under **section 643(1)(b)**.~~

14 Identification of draft strategic content

(1) A regional planning committee must identify—

(a) the draft strategic content that must be notified in accordance with **clause 16**; and

(b) if practicable, the plan outcomes that the committee wishes to achieve through its approach to those matters.

(2) For the purposes of this clause, the matters that the regional planning committee must identify and notify include—

(a) draft strategic content that—

(i) reflects the environmental issues of importance to a region or its constituent districts; and

(ii) outlines the requirements that must be met so that the plan—

(A) is consistent with the regional spatial strategy; and

(B) gives effect to the national planning framework; and

(b) the draft zoning for the region; and

(c) the matters relevant to the protection of places of national importance (*see* **section 427C**); and

(d) any other matters that are significant to the region or its constituent districts.

Engagement register

15 Engagement register

~~(1) A regional planning committee must establish and maintain an engagement register for the purpose of identifying any person who is interested in being consulted by the regional planning committee in the plan development process.~~

(1) A regional planning committee must—

(a) establish and maintain an engagement register for the purpose of identifying any person who is interested in providing feedback to the regional planning committee in the plan development process; and

(b) as far as practicable, seek feedback from any party that has registered an interest in a topic, also allowing time for responses to those parties.

(2) The planning committee is not obliged to consult the persons identified in the register, but must act in good faith when considering matters known to be of interest to particular persons.

~~(3) The following groups, however, do not need to register but are included as having a right to be consulted under this clause:~~

~~(a) government departments and ministries; and~~

~~(b) local authorities in the region; and~~

~~(c) requiring authorities; and~~

~~(d) iwi authorities; and~~

~~(e) customary marine title groups.~~

(3) The following persons and groups relevant to the region, however, do not need to register as they have a right to be consulted on plan preparation under **clause 13B**:

(a) the Minister for the Environment; and

(b) the Minister of Conservation and each relevant regional conservator; and

(c) the constituent local authorities; and

(d) requiring authorities; and

(e) iwi authorities; and

(f) customary marine title groups; and

(g) hapū with an engagement agreement.

(4) Except as provided in **subclause (3)**, a regional planning committee is not obliged to consult persons who are not registered under this clause.

Notification of ~~major regional policy issues~~ and engagement register

16 How engagement register and ~~major regional policy issues~~ draft strategic content to be notified

(1) Within 12 months of a resolution being made by the regional planning committee referred to in **clause 2(1)(a)**, the committee must publicly notify—

(a) how persons can register to engage in the plan development process and how the engagement register works; and

~~(b) the major regional policy issues, for the purposes of public feedback.~~

(b) the draft strategic content.

(2) The public notification of the register and those issues must be given—

(a) concurrently; and

(b) in the same manner as the public notification of a proposed plan under **clauses 31 and 32**, which apply with the necessary modifications.

(3) Persons who register under this clause must identify the topics or issues that they are interested in.

~~**17 Planning committees to have engagement policy**~~

~~(1) A regional planning committee must prepare an engagement policy that states, at a minimum,—~~

~~(a) how the committee will ensure that it engages with the constituents of each district of its region on the approach to the major regional policy issues; and~~

~~(b) the different forms, methods, or techniques of engagement to be used by the committee (such as online methods or hui) to reach the constituents in innovative ways and obtain the views of its wider communities; and~~

~~(c) how the committee will collect and record feedback and enduring submissions made under **clause 20**.~~

~~(2) The purpose of an engagement policy is to ensure that the planning committee—~~

~~(a) hears a diverse range of views on the approach to the major regional policy issues; and~~

~~(b) ensures that the constituents of each district of its region can be heard and easily provide feedback on the approach to the major regional policy issues; and~~

~~(c) identifies the degree of significance attached to particular issues or decisions set out in the approach to the major regional policy issues.~~

~~**18 Provision of feedback on major regional policy issues**~~

~~Feedback on the document containing the major regional policy issues must be submitted to the regional planning committee within 30 working days of the document being publicly notified;~~

19 Time frame for registration of engagement register

Registration of the engagement register—

(a) opens when the regional planning committee notifies the ~~major regional policy issues document~~ draft strategic content; and

(b) closes 30 days after the date of notification of the document.

Enduring submissions and consultation requirements

20 Enduring submissions

(1) Once public notice of the ~~major regional policy issues~~ draft strategic content is given under **clause 16**, any persons may make an enduring submission ~~until the plan is~~, but must do so not later than 90 working days after the matters for consultation have been notified.

(2) ~~Affected local~~ Local authorities, including the regional council of a region and every territorial authority whose district is wholly or partly in the region, may make enduring submissions.

(3) Any other person may make an enduring submission, but, if the person could gain an advantage in trade competition through the submission, the person's right to make a submission is limited by **subclause (4)**.

(4) A person who could gain an advantage in trade competition through a submission may make the submission only if directly affected by an effect that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(5) An enduring submission must be in the prescribed form ~~approved for the purpose by the chief executive~~, and may be updated, withdrawn, carried over, or replaced with a primary submission by the submitter.

(6) An enduring submission has the same status under this Act as a primary submission.

21 ~~Evidence~~ Supporting information to be provided with enduring submissions

Persons making an enduring submission must provide ~~evidence~~ all supporting information which they are going to rely on, either—

(a) with the submission; or

(b) during the primary submission period.

22 Consultation during preparation of plan

(1) A regional planning committee must consult the following parties during the preparation of a plan:

(a) the Minister for the Environment; and

(b) the Minister of Conservation; and

(c) the relevant regional conservator for the Department of Conservation; and

(d) other Ministers of the Crown who may be affected by the plan; and

(e) the constituent local authorities of the region; and

(f) any adjacent local authorities; and

(g) requiring authorities; and

(h) iwi authorities of the region.

(2) If a proposed plan or plan change relates to the coastal marine area, the regional planning committee—

(a) must consult with—

(i) the Minister responsible for aquaculture in relation to the management of aquaculture activities; and

(ii) the Minister of Oceans and Fisheries in relation to fisheries management; but

(b) does not have to consult either Minister in relation to minor plan changes, and

(c) must consult with customary marine title groups in the area.

Compare: 1991 No 69 Schedule 1 cl 3(1), (3)

23 Previous consultation under other legislation

(1) A regional planning committee need not consult as required by **clause 22** to the extent that the matter in the proposed plan or plan change has been the subject of consultation with the same person or group of persons, or their representative or agent, under other legislation.

(2) The exemption under **subclause (1)** applies only if—

(a) the previous consultation took place within the 36 months before public notice was given of the proposed plan or plan change that the matter relates to; and

(b) the person, group of persons, or their representative or agent was advised that the information obtained from that consultation would also apply to matters under this Act.

Compare: 1991 No 69 Schedule 1 cl 3C

Evaluation reports

24 Requirement to prepare evaluation report

(1) A regional planning committee that has prepared a proposal for a proposed plan or plan change must—

(a) prepare an evaluation report in accordance with ~~**subclause (2)**~~ **clause 25**; and

(b) have particular regard to that report when deciding whether to proceed with the plan or plan change.

(2) If the proposal is included as part of a request for ~~an independent~~ a private plan change (*see* **subpart 2 of Part 2**), an evaluation report must be prepared by—

(a) the requester or their representative; ~~or~~ and

(b) the relevant local authority, if the local authority has recommended alternative provisions to those proposed by the requester.

(3) The local authority's obligation under **subclause (2)(b)** applies only in respect of the part of the proposal that the local authority's recommendations for change apply to.

(4) The regional planning committee~~, in~~ or any person preparing an evaluation report on a proposal, may consider together, for evaluation purposes, the components of the proposal such as the plan outcomes, and its policies, rules, and methods.

(5) The power to consider the components of a proposal together under **subclause (4)** applies only if, and to the extent that, the components relate to the same plan outcome or deal with the same matter or issue.

Compare: 1991 No 69 Schedule 1 cl 5(1)(a)

~~**25 Contents of evaluation report on proposal for plan or plan change**~~

~~(1) An evaluation report must include—~~

~~(a) a consideration of the extent to which the proposal presents the most appropriate way of achieving the purpose of the Act; and~~

~~(b) an examination of any alternative options to the proposal for achieving the purpose of the Act; and~~

~~(c) the reasons for selecting the preferred option; and~~

~~(d) any consideration of the extent to which implementation of the proposal can be monitored.~~

~~(2) An evaluation report must—~~

~~(a) be expressed succinctly and plainly; and~~

~~(b) contain a level of detail that is proportionate to the scale and significance of the proposal; and~~

~~(c) be prepared and presented in a way that—~~

~~(i) is useful for decision-makers and members of the public; and~~

~~(ii) will encourage a cost-effective process.~~

~~(3) An evaluation report may be limited by reference to a provision in the national planning framework, if the provisions to give effect to the proposal are intended, wholly or significantly, to give effect to that provision of the framework.~~

~~(4) Evaluation reports must be made in the form prescribed by regulations.~~

25 Contents of evaluation report on proposal for plan or plan change

(1) An evaluation report must examine the extent to which the proposal presents the most appropriate way to achieve the purpose of the Act.

(2) An evaluation report must include consideration of the following matters:

(a) the effectiveness of the proposal to achieve the system outcomes; and

(b) how the decision-making principles have been used to determine how they provide most appropriately for the system outcomes; and

(c) the impact on the environment and on the economy (whether adverse or beneficial) of any proposal to regulate or not to regulate; and

(d) how the implementation of the proposal can be monitored.

(3) In reporting on the matters required under **subsection (2)**, the report must contain—

(a) the reasonably practicable alternative options in the proposal for achieving the purpose of the Act; and

(b) the reasons for preferring the selected option.

(4) The analysis for an evaluation report must begin early in the process of developing a plan.

(5) Evaluation reports must be made in the form prescribed by regulations.

(6) An evaluation report must be prepared and presented in a way that—

(a) is cost-effective; and

(b) provides a level of detail that is proportionate to the scale and significance of the proposal; and

(c) is succinct and plainly expressed; and

(d) optimises the usefulness of the evaluation to decision makers and the public.

(7) An evaluation report may be limited by reference to a provision in the national planning framework, if the provisions to give effect to the proposal are intended, wholly or significantly, to give effect to that provision of the framework.

(8) A regional planning committee must include in its evaluation report a statement as to how, if at all, it has responded in its plan to the matters specified in **section 107(1)**.

26 Amending proposal

(1) If a proposal includes amending an existing proposal, consideration of whether the amending proposal is the most appropriate way to achieve the purpose of the Act must relate to—

(a) the provisions of the amending proposal; and

(b) the existing proposal, as far as its provisions—

(i) are relevant to the provisions of the amending proposal; and

(ii) would remain if the amending proposal takes effect.

(2) If an amending proposal would impose a greater or lesser restriction on an activity than the existing restriction imposed by the national planning framework, the evaluation report must examine whether the restriction is justified in the circumstances of the region where the restriction would have effect.

27 Challenges to evaluation report

A plan proposal—

(a) may be challenged on the grounds that an evaluation has not been prepared or undertaken, or has not been regarded or complied with; but

(b) may only be challenged in a submission made under this schedule.

Designations included in the preparation of plans

28 Requirements relating to designations

(1) The regional planning committee must give written notice to any requiring authority with a designation that has not lapsed affecting the region for which the planning committee is to develop, or review, the plan for the region,—

(a) inviting the requiring authority to state in writing whether the requiring authority needs the designation and the associated primary CIP, as relevant, to be included, with or without modification, in the proposed plan; and

(b) specifying the final date by which the requiring authority must provide its response (which must be not less than 30 working days after the notice given under **subclause (1)**).

(2) **Subclause (1)** applies before the planning committee notifies a proposed plan ~~or change~~ under **clause 31**.

(3) If a requiring authority does not notify the ~~territorial authority~~ regional planning committee as required by **subclause (1)**, the planning committee must not include the designation in the proposed plan.

(4) The regional planning committee must include in the proposed plan any designation or requirement for a designation notified to it if **section 511** applies.

(5) If a regional planning committee includes a requirement, or a modified requirement, in the proposed plan, the committee must make all the information required for the notice publicly available.

(6) A requiring authority may withdraw a requirement for a designation by giving written notice to the relevant regional planning committee in accordance with **section 522**.

Compare: 1991 No 69 Schedule 1 cl 4

Reporting and reviewing plans

29 Regional planning committee to report to ~~chief executive~~ Secretary for the Environment on compliance with NPF

(1) A regional planning committee must submit a report to the ~~chief executive~~ Secretary for the Environment (or the Director-General of Conservation in the case of plan provisions relating to the coastal marine area) with details about how the plan will—

(a) give effect to the national planning framework; and

(b) set and apply environmental limits.

(2) The regional planning committee must submit the report at least 3 months before the date on which the plan must be notified, but may submit the report earlier.

(3) **Subclause (2)** applies only in relation to the development of a full plan~~,~~ or a full review of a plan~~, and the standard process~~.

~~(4) In the case of proportionate or urgent plan change processes, the regional planning committee must submit the report to the Ministry for the Environment or, as the case requires, the Department of Conservation, 20 working days before the proposed plan change is notified.~~

~~(5) The chief executive or the Director-General of Conservation, as the case requires, must review the report and may take any action under this Act in respect of the report that they think appropriate.~~

(5) The Secretary for the Environment or the Director-General of Conservation, as the case requires,—

(a) must review the report and may take any action under this Act in respect of the report that they think appropriate; and

(b) may identify alternative provisions for the regional planning committee to consider.

(6) The report must include the contents, and be in the form, prescribed by regulations (if any) ~~prescribed~~ under **clause 140(1)(c)**.

30 Review ~~of full plan development and review~~ by appointing body

(1) This clause applies only to a review by an appointing body (*see* **clause 1 of Schedule 8**) in respect of the development or review of a full plan.

(2) Before the regional planning committee decides to proceed with a proposed plan, an appointing body for the region ~~may request~~ must be given an opportunity to review the proposed plan for the purpose of—

(a) familiarising themselves with the content of the proposed plan; and

(b) identifying any errors; and

(c) identifying any risks in the implementation or operation of the plan.

(3) The regional planning committee must—

(a) provide the appointing body with the most recent copy of the proposed plan for that purpose; and

(b) specify a 3-month time frame for the review; and

(c) ensure that the review has the same time frame as the report required by **clause 29**.

(4) The appointing body must provide any comments on the proposed plan to the regional planning committee within the time frame for the review.

(5) The regional planning committee may amend the proposed plan in response to those comments.

30A Review of proposed plan

(1) Before a regional planning committee decides to proceed with a proposed plan, each regional planning committee must provide, to the constituent local authorities of its region, an opportunity to review a proposed plan to the extent that the plan deals with the following matters:

(a) how the plan provides for—

(i) statements of community outcomes; and

(ii) statements of regional environment outcomes (*see* **section 107(1)(a)**); and

(b) the financial and operation implications for the local authorities of implementing the plan.

(2) The regional planning committee must—

(a) provide the relevant local authorities with the most recent copy of the proposed plan for that purpose; and

(b) specify a 3-month time frame for the review; and

(c) ensure that the review has the same time frame as the report required by **clause 29**.

(3) The local authority must provide any comments on the proposed plan to the regional planning committee within the time frame for the review.

(4) The regional planning committee may amend the proposed plan in response to those comments.

Notification of proposed plans

31 Planning committee to notify proposed plan

(1) If a regional planning committee decides to proceed with a proposed plan, it must provide a copy of the proposed plan and the associated evaluation report to—

(a) the Minister for the Environment; and

(b) the Minister of Conservation and each appropriate regional conservator in the Department of Conservation; and

~~(c) any affected local authorities, including the regional council of a region and every constituent local authority whose district is wholly or partly in the region; and~~

(c) the constituent local authorities of the region and any adjacent local authorities; and

(d) the regional councils adjacent to the affected region, and any ~~affected~~ constituent local authorities in ~~the~~ an adjacent ~~regions~~ region; and

(e) iwi authorities in the region.

~~(2) The plan and its associated evaluation report must be publicly notified across the whole region including, at least,—~~

~~(a) notice to every ratepayer in the constituent local authorities of the region—~~

~~(i) by public notice:~~

~~(ii) by electronic notice, if a person is likely to be directly affected by the proposed plan; and~~

~~(b) notice on the Internet site of each constituent local authority; and~~

~~(c) access to a copy in the library of each constituent local authority.~~

(2) The plan and its associated evaluation report must be publicly notified across the whole region including, at least, by giving public notice—

(a) on an Internet site of the regional planning committee that is open and free to the public; and

(b) on the public Internet sites of the constituent local authorities of the region; and

(c) access to a copy in the library of each constituent local authority.

(3) Regional planning committees may, but are not obliged to, give written notice to directly affected ratepayers under this clause ~~.~~ when notifying—

(a) a proposed plan:

(b) a plan change.

(4) However, there is an obligation to serve notice on directly affected ratepayers—

(a) if the regional planning committee is undertaking a proportionate plan change that is given limited notification (*see* **clause 45**):

(b) in the case of land that is subject to a requirement for, or modification of, a designation, if the regional planning committee is notifying land owners and occupiers likely to be directly affected.

(5) The version of the proposed plan that is publicly notified must state which rules in the plan are intended to have immediate legal effect under **section 130**.

32 Form and time frame of public notice

(1) Public notice under **clause 31** must—

(a) set out the following matters:

(i) where the proposed plan and its associated evaluation report may be inspected; and

(ii) that any person may make a primary submission on the proposed plan; and

(iii) the process for public participation in the consideration of the proposed plan; and

(iv) the closing date for submissions; and

(v) an address for service for—

(A) written submissions; and

(B) electronic submissions; and

(b) include any further information prescribed by regulations made under **clause 140(1)(d)**.

(2) The public notice must—

(a) also identify the rules that are intended to affect any existing land uses (*see* **section 26**); and

(b) be in the form prescribed for the purpose by regulations (if any)~~.~~; and

(c) specify that, for primary submissions on the proposed plan,—

(i) a submission must be submitted to the regional planning committee not later than 40 working days after the public notification of the proposed plan; and

(ii) supporting information identified in the submission must be provided—

(A) not later than 80 working days after the closing date under **subparagraph (i)**; and

(B) to the regional planning committee.

~~(3) The closing date for primary submissions on the proposed plan is 40 working days after public notification and using the standard change process.~~

~~**33 Notification of requirement for, or modification of, designations**~~

~~Despite **clause 32**, a regional planning committee must ensure that notice is given of any requirement or modification of a designation to land owners and occupiers who, in the committee's opinion, are likely to be directly affected.~~

Primary and secondary submissions

34 Who may make primary ~~submission~~ submissions

(1) Once a proposed plan is publicly notified under **clause 31**, the persons described in **subclause (2)** may make a submission (a **primary submission**) on it to the regional planning committee.

(2) The persons are—

(a) affected local authorities, including the constituent local authorities of a region; and

(b) the relevant regional planning committee; and

(c) any other person~~, subject to **subclause (3)**~~.

~~(3) A primary submission must—~~

~~(a) be in a form (if any) approved for the purpose by the chief executive; and~~

~~(b) identify each provision of the plan being submitted on; and~~

~~(c) include all the evidence that the submitter intends to submit in support of the submission.~~

(4) **Clause 20(4)** applies under this clause.

Compare: 1991 No 69 Schedule 1 cls 6, 6A

34A Contents of primary submissions

(1) A primary submission must—

(a) be in a form (if any) approved for the purpose by the Secretary for the Environment; and

(b) identify each provision of the plan being submitted on; and

(c) include all the supporting information that the submitter intends to rely on in support of the submission, or where the supporting information is not provided at the time of the submission, the submission must identify the type of supporting information that will be provided by the closing date provided for in **clause 32(2)(c)(ii)(A)**; and

(d) specify the relief that is sought; and

(e) identify the type of supporting information that will be provided, as by supplying a list.

(2) All supporting information identified under **subclause (1)(e)** and that the submitter will rely on must be lodged with the primary submission not later than 80 working days after public notification (*see* **clause 32(2)(c)**).

35 Public notice of submissions

Primary submissions received

(1) Not later than 10 working days after the closing of the final period for primary submissions lodged under **clause 32(2)(c)(ii)(A)**, a regional planning committee must give public notice, ~~on its Internet site~~ in the same manner as the public notification is given of a proposed plan under **clause 31**, of—

(a) all primary submissions it receives (including enduring submissions that must be treated as primary submissions); and

(b) where ~~primary and enduring~~ submissions relating to a proposed plan can be inspected; and

(c) ~~whether~~ where a summary of submissions ~~on a proposed plan~~, based on the information lodged under **clause 32(2)(c)(i)** is available and, if so, where the summary can be inspected; and

(ca) where the supporting information lodged under **clause 32(2)(c)(ii)** can be inspected; and

~~(d) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in **clause 36(1)** may make a secondary submission on the proposed plan; and~~

(e) the last day for making secondary submissions, which must be at least 40 working days after the notice is given under this subclause; and

(f) the limitations on the content and form of a secondary submission.

(2) The public notice required by **subclause (1)** must be served on every person who made a primary submission.

~~(a) be given not later than 10 working days after the closing of the period for primary submissions to be made; and~~

~~(b) be served on every person who made a primary submission.~~

~~(3) No later than 20 working days after the notice given under **subclause (1)**, any secondary submissions on the proposed plan must be—~~

~~(a) submitted to the regional planning committee; and~~

~~(b) served on any submitter who made the primary or the enduring submission to which the secondary submission relates.~~

~~(4) Not later than 10 working days after the closing period for secondary submissions to be lodged, the regional planning committee must give public notice on~~

~~its Internet site of where secondary submissions and a summary, if available, can be inspected.~~

(3) A summary made under **subclause (1)(c)** must—

(a) identify the provisions of the proposed plan that the submission relates to; and

(b) identify whether or not the submitter agrees with the provisions or seeks to amend the provisions; and

(c) be made in the prescribed form (if any).

(4) Not later than 10 working days after the closing period for secondary submissions to be lodged, the regional planning committee must give public notice, in the same manner as for public notification of a proposed plan under **clause 31**, as to where secondary submissions and relevant supporting information can be inspected.

(5) A regional planning committee may, but is not obliged to, prepare a summary of submissions based on the information received with the submission under **clause 32(3)**.

Accessibility of submissions

(6) Every local authority in the region must make—

(a) a copy of the notice available on its website and in every public library in its area; and

(b) a copy of every primary, secondary, and enduring submission available on its website in a searchable format.

Compare: 1991 No 69 Schedule 1 cl 7

36 Certain persons may make secondary submissions

(1) The following persons may make a secondary submission in the prescribed form (**secondary submission**) on a proposed plan to the relevant planning committee in response to a primary submission or an enduring submission:

(a) any person directly affected by the subject matter dealt with in an enduring or a primary submission:

(aa) any person representing a relevant aspect of the public interest, including the regional planning committee on its own plan:

(b) a constituent local authority of the region:

(c) any Minister of the Crown~~:~~.

~~(d) the Attorney-General representing a relevant aspect of the public interest.~~

(2) A secondary submission must—

~~(a) be made in the prescribed form; and~~

(b) be limited to a matter in support of or in opposition to ~~the relevant primary submissions or enduring~~ a primary submission made under **clauses 20 and 34**; and

(c) include all the ~~evidence~~ supporting information that the submitter intends to submit in support of the submission; and

(d) explain how the submitter is directly affected by ~~a provision in the plan~~ the content of a primary or enduring submission.

~~(3) A person who makes a primary, secondary, or enduring submission must serve the submission as soon as practicable on—~~

~~(a) the relevant planning committee; and~~

~~(b) the person who made the enduring or primary submission to which the secondary submission relates.~~

(3) Not later than 40 working days after notice is given under **clause 35(1)**, any secondary submission and any supporting evidence must be submitted to the regional planning committee.

(3B) A person who makes a secondary submission must serve all supporting information that the person intends to rely on as soon is practicable on the person who made the enduring or primary submissions to which the secondary submission relates.

(4) **Clause 20(4)** applies under this clause.

Compare: 1991 No 69 Schedule 1 cl 8

37 Planning committee may request further information and commission reports

A regional planning committee may,—

(a) by written notice, request a submitter to provide further information relating to the person's submission:

(b) commission any person to prepare a report on any issue relating to a matter in the submission.

38 Power to strike out submissions

(1) A regional planning committee has the power to strike out the whole or a part of a submission in accordance with this clause.

(2) Before a regional planning committee provides any information to an independent hearing panel or commissioners for the purposes of a hearing, the regional planning committee may direct that the whole, or a part of, a submission be struck out if the regional planning committee considers that—

(a) ~~that~~ the whole submission, or the part, is frivolous or vexatious; or

(b) ~~that~~ the whole submission, or the part, discloses no reasonable or relevant case; or

(c) ~~that~~ it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further; or

~~(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; or~~

(d) supporting information provided with the submission, though purporting to be prepared by a person with specialised knowledge or expertise, has been prepared by a person who is not independent or who does not have specialised knowledge or expertise; or

(e) it contains offensive language; or

(f) in the case of a primary submission, that it does not identify the plan provision that is being submitted on; or

(g) it seeks relief that the IHP or commissioners ~~does~~ do not have jurisdiction to grant.

(3) If a regional planning committee makes a direction under **subclause (1)**, it must provide the reasons for making the direction to—

(a) the submitter; and

(b) the IHP or commissioners, as relevant.

(4) A person whose submission is struck out, in whole or in part, has a right of objection under **clause 66**.

Compare: 1991 No 69 Schedule 1 cl 8

39 Regional planning committee to provide information to IHP

(1) A regional planning committee must provide copies in electronic form of the following to an IHP (in the case of a plan or plan change using the standard process) or commissioners (in the case of a plan change using a proportionate or an urgent process):

(a) the proposed plan or proposed plan change:

(b) any notices about designations, or notices of requirements for designations, including the responses of requiring authorities:

(c) the ~~committee's~~ relevant evaluation report (if prepared by an entity other than by the committee) and any relevant evaluation report prepared by a relevant local authority ~~under **clause 25**~~:

(d) the report prepared under **clause 29**:

(e) the primary, secondary, and enduring submissions, together with all supporting ~~evidence~~ information received by the closing date for submissions to be received:

(f) any other relevant information held by the committee that is requested by the IHP or commissioners.

(2) The copies required by **subclause (1)** must be provided as soon as practicable, but not later than 40 working days after the date on which the secondary submissions are notified under **clause 35(4)**.

40 Amendment of proposed plans

Without using the processes provided in this schedule, the planning committee must amend a proposed plan if directed to do so—

~~(a) must amend a proposed plan if—~~

~~(i) directed to do so by the Environment Court under **clause 48 of Schedule 13**:~~

~~(ii) directed by the national planning framework to do so; and~~

~~(b) may amend a proposed plan if the amendment is of minor effect or to correct minor errors.~~

(a) by the Environment Court under **clause 48 of Schedule 13**; or

(b) in the national planning framework.

Compare: 1991 No 69 Schedule 1 cl 16

41 When plan becomes operative

(1) The regional planning committee must—

(a) approve a proposed plan or proposed plan change once it has made any amendments required under **clause 40 or 121**; and

(b) publicly notify the date on which the proposed plan or proposed plan change becomes operative~~, which must be~~ at least 5 working days before ~~the~~ that date ~~on which it becomes operative~~.

(2) The regional planning committee ~~may~~ must not approve ~~part of~~ a proposed plan or proposed plan change, ~~if~~ or part of a proposed plan or proposed plan change unless all submissions and appeals relating to that part of the plan or plan change have been ~~disposed of~~ withdrawn or finally determined.

(3) An approval of a proposed plan or proposed plan change is made effective by resolution of the regional planning committee.

(4) The regional planning committee must notify an approval—

(a) to the Minister; and

(b) publicly by notice in the *Gazette*~~.~~; and

(c) on the regional planning committee's Internet site; and

(d) by notice to the relevant local authorities within the region.

(5) A proposed plan or proposed plan change becomes operative on the date specified in the notification given under **subclause (4)**, which must be at least 5 working days after notice is given under that subclause.

42 Availability of operative plan

(1) The regional planning committee must make a copy of its plan, once operative, on its Internet site and in every public library in its region.

(2) The regional planning committee must also provide a copy of the operative plan to—

(a) the Minister for the Environment; and

(b) the Minister of Conservation; and

(c) any affected local authorities, including—

(i) the regional council of the region; and

(ii) the territorial authority of every constituent district; and

(d) the adjacent ~~regional territorial~~ local authorities; and

(e) iwi authorities in the region.

43 Correction and change of plans

(1) A regional planning committee may, without using ~~1~~ any of the processes in this schedule, amend ~~a proposed or~~ an operative or a proposed plan if the amendment is of minor effect or is made to correct minor errors.

(2) A regional planning committee may remove a scheduled item from a proposed or an operative plan if the scheduled item ~~has been partly or wholly destroyed by a natural hazard.~~—

(a) has been partly or wholly destroyed by a natural hazard; or

(b) has been removed or demolished as a result of the grant of a resource consent or notice of requirement for the activity.

Compare: 1991 No 69 Schedule 1 cl 20A

Part 2
Other plan change processes

Subpart 1—Proportionate and urgent processes for making plan changes

Proportionate plan change process

44 Application of proportionate process for plan changes

(1) If a regional planning committee is satisfied that a proportionate process is appropriate for a plan change (*see* **clause 7(2)**), the committee must follow the requirements for the standard process, except as varied by this clause.

~~(2) The committee must not—~~

~~(a) provide information to an IHP (as required by **clause 39**), but a separate hearing process will be applied; or~~

~~(b) give public notice of how it intends to deal with any major regional policy issues (*see* **clause 14**); or~~

~~(c) give notice of an engagement register; or~~

~~(d) provide for secondary submissions (*see* **clause 36**).~~

(2) The regional planning committee must not—

(a) identify, or give public notice of, the draft strategic content (*see* **clauses 14 and 16**); or

(b) prepare an engagement policy (*see* **clause 17**); or

(c) give notice of an engagement register (*see* **clause 16**); or

(d) provide for enduring or secondary submissions (*see* **clauses 20 and 36**).

(3) A regional planning committee may, at its discretion,—

(a) enter into engagement agreements:

(b) send the proposed plan change to any adjacent (non-constituent) local authorities.

(4) A proportionate plan changes process must not be used to change the strategic content of a plan.

(5) If the regional planning committee is using the proportionate process, it must undertake consultation with the following groups if the committee considers that they are affected by the matters covered by the proposed plan change:

(a) iwi authorities and groups representing hapū within the region; and

(b) constituent local authorities; and

(c) Ministers of the Crown who may be affected by the plan change; and

(d) requiring authorities.

~~(6) As a general rule, enduring submissions—~~

~~(a) may be lodged from the time that the intended programme of work for the next 3 years is notified by the regional planning committee; but~~

~~(b) may not be lodged after the proposed plan change is notified.~~

~~(7) However, enduring submissions may be lodged before a plan change using a proportionate process is notified, as long as the submitter explains the submitter's interest in the matter.~~

~~(8) Twenty working days before the regional planning committee notifies a proposed plan change, the regional planning committee must submit a report prepared under **clause 31** to the Ministry for the Environment and (if relevant) the Department of Conservation.~~

(8) Twenty working days before the regional planning committee notifies the proposed plan change, it must submit a report prepared under **clause 29** to the

Secretary for the Environment and (if relevant) the Director-General of Conservation.

(10) **Clause 39** applies to the proportionate and urgent plan change processes, except that submissions will be heard by commissioners, not by the IHP~~;~~ (*see* **subpart 3 of Part ~~3~~ 2** of this schedule).

(11) A regional planning committee must give public notice of its decision to accept or reject the recommendations on a proportionate plan change within 2 years after the plan change is notified.

45 Proportionate process ~~must~~ may use targeted or limited notification

(1) After undertaking ~~an early engagement process~~ consultation under **clause 44**, a regional planning committee may give limited notification of the proportionate process, but only if it is able to identify all the persons directly affected by the change (*see* **clause 46**).

(2) If a regional planning committee is unable to identify all the persons directly affected by a plan change, the committee must, as an alternative ~~for a proportionate process~~ to limited notification, give targeted notice, in order to avoid region-wide public notice being given where there is no legitimate public interest in the change.

(3) If either limited or targeted notification is given, the regional planning committee—

(a) must provide a copy of the proposed change ~~or variation~~, without charge, to—

(i) the Minister for the Environment; and

(ii) the Minister of Conservation and the Director-General of Conservation, in the case of a change ~~or variation~~ that relates to the coastal marine area; and

(iii) each local authority responsible for the plan or part of the plan to which the change ~~or variation~~ relates; and

(iv) iwi authorities and groups representing hapū and customary marine title groups affected by the matters that the change ~~or variation~~ relates to; and

(b) may provide any further information on the proposed change ~~or variation~~ that it considers appropriate.

(4) If a regional planning committee has given targeted notice any person may make a primary submission.

(5) Targeted notice must be given—

(a) in a way that targets persons and communities that have an interest in the subject area to which the change relates, including ~~to ratepayers and others~~ those likely to be directly affected by the change; and

(b) on ~~an Internet site~~ Internet sites of both the regional planning committee and the local authority to whose jurisdiction the plan change relates.

~~(6) **Clause 75** applies to the public notice required by **subclause (5)**, except that the closing date for primary submissions on a proposed plan change is 20 working days after the public notice is given.~~

(6) **Clauses 31 and 32** apply with any necessary modifications to the public notice required by **subclause (5)**, except that but may be extended by the regional planning committee—

(a) the closing date for primary submissions on a proposed plan change must be at least 20 working days after the targeted notification is given; or

(b) the regional planning committee may set a later closing date.

Compare: 1991 No 69 Schedule 1 cl 5A

46 Limited notification and submissions if proportionate process used

(1) The regional planning committee must serve limited notification on the persons identified as being directly affected, stating—

(a) where the proposed change or variation can be viewed; and

(b) that only those given limited notification may make a submission on the change; and

(c) how those persons may participate in the consideration of the proposed change; and

(d) the closing date for submissions~~, which~~ —

(i) must be at least 20 working days after limited notification is given under this clause (though the regional planning committee may set a later date); or

(ii) may set, as an earlier closing date, the last day on which the regional planning committee receives, from all the directly affected persons, a submission or written notice that no submission will be made; and

(e) the address for service for a submission or notice on the planning committee.

~~(2) The only persons who may make a primary submission on a plan change dealt with under the proportionate process are those given limited notification under **clause 45(2)** and those provided with the proposed plan change or variation under **clause 45(4)**.~~

Urgent plan change process

47 Initiation of urgent process for making plan change

~~(1) If a regional planning committee receives a request for an urgent plan change, it must assess whether the request, or part of it, meets 1 of the reasons set out in **subclause (2)** for applying the urgent process to a plan change.~~

(1) This section applies—

(a) if a regional planning committee receives a request for an urgent plan change; or

(b) if the committee itself identifies the need for an urgent plan change.

(1A) The regional planning committee must assess whether the plan change requested or identified, or part of it, meets 1 of the reasons set out in **subclause (2)** for applying the urgent process to a plan change.

(2) The regional planning committee may initiate an urgent plan change process, including a process that is outside the 3-yearly reporting cycle ~~if~~ for 1 of the following reasons ~~for applying the urgent process is met~~:

(a) the Minister has directed a plan change or a review of a matter; or

(b) the national planning framework has directed a plan change or a review of a matter; or

(c) a plan change is required to avoid significant harm to the environment or to human health; or

(d) it would be inappropriate to delay dealing with an environmental issue until the next 3-yearly reporting cycle, as long as making the plan change issue does not interfere with the 3-yearly programme of work; or

(e) the regional planning committee agrees that there are exceptional circumstances that warrant the use of the urgent process.

(3) If the regional planning committee considers that none of the reasons for granting an urgent process applies, it must advise the requester accordingly.

(3A) If the Minister directs a plan change that affects the strategic content of a plan, the standard plan change process must be used.

(4) A regional planning committee may accept a request in full or in part, but must not, because the full scope of the request does not come within the reasons set out in **subclause (2)**, decline changes—

(a) requested by the Minister; or

(b) directed by the national planning framework.

(5) If a regional planning committee proceeds with an urgent plan change,—

(a) it is not required to give public notice that an urgent plan change has been included in the programme of work; but

(b) it must change the programme of work to accommodate the urgent plan change.

48 Application of urgent process for plan changes

(1) If a regional planning committee is satisfied that an urgent process is appropriate for a plan change, the committee must follow the requirements for the standard process, except as varied by this clause.

(2) ~~However, the~~ The regional planning committee must not include the following steps:

~~(a) giving public notice of how the committee intends to deal with any major regional policy issues (*see* **clause 20**) (enduring submissions); or~~

(a) identifying and giving public notice of the draft strategic content (*see* **clauses 14 and 16**); or

(aa) preparing an engagement policy (*see* **clause 17**); or

(b) giving notice of an engagement register (*see* **clause 16**); or

(c) providing for enduring submissions (*see* **clause 20**); or

(d) providing for secondary submissions (*see* **clause 36**).

(3) A regional planning committee may, at its discretion,—

(a) enter into engagement agreements:

(b) send the proposed plan change to any adjacent (non-constituent) local authorities:

(c) ~~elect~~ decide whether commissioners are to hold hearings of submissions forwarded to the commissioners under **clause 39**.

(4) The urgent plan change process must not be used to change the strategic content of a plan, unless that course is directed by the national planning framework ~~or by the Minister for the Environment~~.

(5) ~~When using the urgent process,~~ If the regional planning committee is using the urgent process, it must undertake early ~~engagement~~ consultation with the following groups, if the committee considers that they are affected by the matters covered by the proposed plan change:

(a) iwi authorities and groups representing hapū within the region; and

(b) constituent local authorities; and

(ba) Ministers of the Crown whose responsibilities may be affected by the plan change; and

(c) government departments and ministries; and

(d) requiring authorities.

~~(6) A regional planning committee must,~~

~~(a) 20 working days before the committee notifies the proposed plan change, submit a report prepared under **clause 29** to the Ministry for~~

~~the Environment and (if relevant) to the Department of Conservation; and~~

~~(b) give public notice of its decision to accept or reject the recommendations on an urgent plan change within 1 year after the plan change is notified.~~

(6) Twenty days before a regional planning committee notifies a proposed plan change, it must submit a report prepared under **clause 29** to the Secretary for the Environment and (if relevant) to the Director-General of Conservation.

(7) **Clause 39** (regional planning committee to provide information to IHP) applies to urgent plan change processes, except that submissions will be heard (subject to **subclause (3)(c)** and recommendations) by commissioners and not by the IHP (*see* **subpart 2 of Part 2** of this schedule).

(8) Within 1 year of an urgent plan change being notified, the regional planning committee must give public notice of a decision to accept or reject the recommendations relating to the urgent plan change.

~~49~~ ~~Appointment of commissioners~~

~~If a regional planning committee does not, for any reason, choose to hold a hearing in the course of applying an urgent plan change process, the committee must appoint 1 or more commissioners —~~

~~(a) to consider any submissions received; and~~

~~(b) to make recommendations to the regional planning committee.~~

50 Notification and submissions if urgent process applied

(1) A regional planning committee must publicly notify a plan change being undertaken under the urgent process in the same manner as a plan is notified (*see* **clauses 31 and 32**).

(2) Any person may make a primary submission on a plan change to which an urgent process is applied.

(3) The closing date for primary submissions under the urgent process must be at least 20 working days after the date on which the plan change is notified, but the regional planning committee may extend the notification period for an urgent plan change process.

~~(4) There is no right to make a secondary submission if the urgent process is applied.~~

~~Plan reviews~~

~~51~~ ~~Duty of local authorities to report to relevant planning committee~~

~~(1) Each local authority must report to its relevant regional planning committee every 3 years (a **3-yearly reporting cycle**).~~

~~(2) The first 3-yearly report must be made in accordance with the date specified in the regional monitoring and reporting strategies made under **section 785**.~~

~~52~~ ~~Purpose of reports~~

~~The purpose of a 3-yearly report is to provide the relevant regional planning committee with information required to plan and initiate a programme of work for the next 3 years in relation to plan changes needed to ensure continuing compliance of the plan with the requirements of this Act.~~

~~53~~ ~~Contents of reports~~

~~A 3-yearly report must include the following matters:~~

~~(a) a consideration of the results from monitoring the state of the environment as required by a regional monitoring and reporting strategy (if any); and~~

~~(b) an evaluation of the effectiveness and efficiency of the relevant plan; and~~

~~(c) recommendations on any matters that the plan should include; and~~

~~(d) any plan changes that the local authority requests.~~

~~54~~ ~~9-yearly review of plans~~

~~(1) Each regional planning committee must undertake a review of its plan for the region at least every 9 years (a **9-yearly review**).~~

~~(2) A 9-yearly review must cover the following matters:~~

~~(a) whether the strategic direction of the plan is still appropriate; and~~

~~(b) whether the plan gives effect to the national planning framework; and~~

~~(c) whether the plan continues to be consistent with the regional spatial strategy for the region; and~~

~~(d) whether there is a need to change or retain plan provisions that have not been reviewed in the previous 9 years; and~~

~~(e) any other matter that the regional planning committee considers appropriate.~~

~~(3) Each regional planning committee must, after completing its 9-yearly review, publish the results of that review, stating how it intends to respond to any matters requiring further consideration that are identified in it.~~

~~(4) A regional planning committee must respond to its review, as appropriate, by—~~

~~(a) making plan changes; or~~

~~(b) notifying a wholly new plan; or~~

~~(c) any other method that the regional planning committee considers appropriate.~~

Hearings for proportionate and urgent plan changes

55 Appointment of commissioners

(1) A regional planning committee must appoint 1 or more accredited commissioners to hear submissions and make recommendations to the ~~planning~~ committee on any proportionate or urgent plan changes.

(2) In considering appointments of persons to be commissioners, the regional planning committee must—

~~(a) consult iwi, hapū, and Māori of the region; and~~

(a) consult iwi and groups representing hapū of the region; and

(b) appoint at least 1 person with an understanding of te Tiriti o Waitangi and its principles, tikanga Māori and~~, as appropriate, the perspectives of the local iwi or hapū~~ the mātauranga of the iwi and hapū of the region.

(2A) If a regional planning committee does not, for any reason, choose to hold a hearing in the course of applying an urgent plan change process, the committee must appoint 1 or more accredited commissioners—

(a) to consider any submissions received; and

(b) to make recommendations to the regional planning committee.

(3) A commissioner—

(a) is not liable for anything done, reported, stated, or omitted in the exercise or intended exercise of the powers and performance or intended performance of the duties of the commissioner, unless the person acted in bad faith:

(b) must not be compelled to give evidence in court or in any proceedings of a judicial nature in relation to the commissioner, unless leave of the court is granted to bring proceedings relating to an allegation of bad faith against the commissioner.

~~(4) Commissioners are entitled to be reimbursed.~~

56 Functions and powers of commissioners

(1) The principal function of commissioners is to hear submissions and make recommendations on a proposed plan change, following the proportionate or urgent plan change process.

~~(2) In doing so, they may—~~

~~(a) hold hearings; and~~

~~(b) for the purposes of **paragraph (a)**,—~~

~~(i) hold or authorise pre-hearing meetings, and conferences of experts, and conduct or authorise alternative dispute resolution processes; and~~

~~(ii) commission reports; and~~

~~(c) make recommendations on a proposed plan change to the regional planning committee; and~~

~~(d) carry out any other functions or exercise any powers conferred by this Act or that are incidental and related to, or consequential on, any of their functions and powers under this Act.~~

(2) Commissioners must—

(a) hold hearings (except in the case of an urgent plan change, if the regional planning committee determines that no hearing is to be held); and

(b) make recommendations on submissions received on a proposed plan change to the regional planning committee.

(2A) For the purposes of **subclause (2)(a)**, Commissioners may—

(a) hold or authorise pre-hearing meetings and conferences of experts, and conduct or authorise alternative dispute resolution processes; and

(b) commission reports.

~~(3) However, commissioners must not accept late submissions.~~

~~(4) Commissioners may, except as expressly provided otherwise by or under this Act, regulate as they see fit how they conduct their proceedings.~~

~~(5) If more than 1 commissioner is hearing a proceeding, the commissioners must select 1 of their number to chair the proceeding.~~

~~(6) The commissioner acting as chairperson has the powers necessary to—~~

~~(a) conduct the hearing; and~~

~~(b) maintain order at the hearing; and~~

~~(c) appoint a submitter to have a supporter at the hearing.~~

57 Hearings conducted by commissioners

(1) Commissioners must hold hearings of submissions on a proposed plan change, subject to the requirements of the plan change process.

(2) Hearings must be held in public, unless an exception is permitted to protect sensitive information as required by—

(a) **clause 90**:

(b) section 48 of the Local Government Official Information and Meetings Act 1987.

(3) Commissioners may, except as expressly provided otherwise by or under this Act, regulate as they see fit how they conduct their proceedings.

(4) However, commissioners must not accept late submissions.

(5) If more than 1 commissioner is hearing a proceeding, the commissioners must select 1 of their number to chair the proceeding.

(6) The commissioner acting as chairperson has the powers necessary to—

(a) conduct the hearing; and

(b) maintain order at the hearing; and

(c) permit a submitter to have a supporter at the hearing.

58 Recommendations by commissioners

(1) Commissioners who have heard submissions on a proposed plan change must make their recommendations in written reports to the relevant regional planning committee not later than 40 working days after the close of the hearing.

(2) Recommendations made under **subclause (1)** may include recommended changes to the provisions of the proposed plan change.

(3) If no hearing is held, commissioners must make their recommendations in written reports to the relevant regional planning committee within 40 working days after the closing date for submissions.

(4) Commissioners may make recommendations on matters within the scope of the submissions, but may also make recommendations on any matters outside the scope of the submissions, if necessary or desirable to preserve the policy and coherence of the plan.

59 Reports on recommendations

(1) The reports that must be provided to the regional planning committee under **section 58** must include—

(a) the recommendations of the commissioner on the topics covered by the report; and

(b) any recommendations that are outside the scope of the submissions; and

(c) the recommendations on particular provisions of the proposed plan change as they relate to particular topics of the report; and

(d) the reasons why the commissioner has accepted or rejected submissions.

(2) Each report may include—

(a) matters relating to changes to the proposed plan change that are needed as a consequence of matters raised in the submissions:

(b) any other matter that the commissioner considers to be relevant to the proposed plan change as a result of matters raised in the submissions.

(3) The commissioner may deal with the submissions by grouping them according to topics or in accordance with the provisions to which they relate.

(4) The commissioner is not required to make recommendations that deal with each submission individually.

60 Matters that affect recommendations

When formulating recommendations, commissioners must—

(a) have regard to any reports prepared under **clause 56(2)(b)(ii)**; and

(b) have particular regard to any evaluation report ~~prepared under **clauses 70(2) and 71(4)**~~; and

~~(c) have regard to the report prepared under **clause 44(9) or 48(6)(a)**; but~~

(c) have regard to the report prepared under **clause 29**; and

(ca) apply the matters in **clause 126** in formulating its recommendations.

~~(d) disregard trade competition and the effects of trade competition.~~

61 Consideration of recommendations

(1) When a regional planning committee receives a report of a commissioner in relation to a hearing on a plan change, the committee—

(a) must decide whether to accept or reject each recommendation in the report:

(b) may, if it rejects a recommendation, decide on an alternative to that recommendation:

(c) may accept a recommendation but make a minor alteration to it or correct a minor error:

(d) may accept a recommendation of the commissioner that is outside the scope of the submissions.

(2) An alternative proposed under **subclause (1)(b)** may (but need not) include in part the proposed plan change and in part the commissioner's recommendations, as long as the alternative is within the scope of the submissions.

(3) When making its decisions under **subclause (1)**, a regional planning committee—

(a) is not required to consult any person or consider submissions of other ~~evidence~~ supporting information from any person; but

(b) must not consider any submission or other ~~evidence~~ supporting information unless the commissioner had access to the submission or other ~~evidence~~ supporting information before they completed the report required by **clause 58**.

62 Decisions of regional planning committee

(1) The regional planning committee must—

(a) make its decisions within 40 working days after it receives the reports with the recommendations of the commissioner; and

(b) give public notice of its decisions across the region and on an Internet site maintained by the local authorities of the region concerned, including the recommendations of the commissioner that the committee accepted and those it rejected, with reasons in each case, and, if relevant,

any alternative provided by the ~~planning~~ committee for a rejected recommendation; and

(c) at the same time as it gives public notice of its decisions,—

(i) make the commissioner's report publicly available with advice as to where it may be inspected; and

(ii) serve a copy of the public notice on every person who made a submission, with advice as to the time frame within which an appeal to the Environment Court may be lodged.

(2) However, if a proportionate process is being used and only limited notification has been provided, the regional planning committee only gives notice of its decisions to the persons notified of the plan change for the purpose of making submissions.

63 Plan change must be amended

The regional planning committee must amend the proposed plan change in accordance with its decisions notified under **clause 62**.

64 Variation and merger

(1) The regional planning committee may use any of the processes described in **clause ~~6~~ 7** to vary a proposed plan or proposed plan change at any time after the proposed plan or proposed plan change is notified but before the plan or change is approved.

(2) A variation ~~initiated under **clause 64**~~ must be merged in, and become part of, the proposed plan or proposed plan change when the variation reaches the same procedural stage as the proposed plan or plan change.

(3) If a variation includes a provision that is to be substituted in the proposed plan or plan change, and a submission or appeal has been lodged against that provision, the submission or appeal must be treated as a submission or appeal against the variation.

(4) On and after the date that the variation is notified, the proposed plan or plan change has effect as if it had been varied.

(5) **Subclause (4)** does not apply to a proposed plan or proposed plan change if the regional planning committee approved the proposed plan or proposed plan change for which it has initiated a variation.

(6) The provisions of this schedule apply, with any necessary modifications, to a variation as if it were a plan change.

Compare: 1991 No 69 Schedule 1 cls 16A, 16B

~~65 Application for extension of time~~

~~(1) A regional planning committee may request the Minister to extend the deadline referred to in **clause 62(1)(a)** (the **original deadline**).~~

~~(2) A request must be made before the original deadline is reached or, if the original deadline has already been extended, before the extended deadline is reached.~~

~~(3) A request must be made in writing, specifying a proposed date for the extended deadline that is no later than 20 working days after the original deadline.~~

~~(4) If the Minister grants a request, the original deadline is extended accordingly.~~

~~Compare: 1991 No 69 Schedule 1 cl 10A~~

65 Extension of deadlines

(1) A regional planning committee may extend the deadline referred to in **clause 62(1)(a)** to allow more time to finalise decisions on recommendations.

(2) Any extension must be no longer than 20 working days.

Compare: 1991 No 69 Schedule 1 cl 10A

66 Objection rights

(1) A person who made a submission on a proposed plan change may exercise a right of objection to the regional planning committee on— a decision under **clause 38 or 89** to strike out the whole or a part of the person's submission.

~~(a) a recommendation of a commissioner under **clause 62**; or~~

~~(b) a decision of a regional planning committee under **clause 38** to strike out the whole or a part of the person's submission.~~

(2) The right of objection must be exercised in writing, giving reasons for the objection, within 15 working days after a ~~decision of the kind referred to in **subclause (1)**~~ recommendation or decision is notified to the person.

(3) ~~The regional planning committee~~ A commissioner must—

(a) consider the objection as soon as practicable; and

(b) give the objector not less than 5 working days' notice of the date, time, and place for a hearing on the objection.

(4) After the hearing, the ~~regional planning committee~~ commissioner must—

(a) either dismiss the objection or uphold it in whole or in part; and

(b) advise the objector in writing of the decision and the reasons for it.

(5) The decision of the ~~regional planning committee~~ commissioner under this clause is final.

~~(6) A regional planning committee may delegate its functions under this clause to 1 or more commissions.~~

Appeal rights relating to use of proportionate and urgent processes

67 Appeals

(1) If a regional planning committee has used either the proportionate or the urgent process to determine a proposed plan change, there is a right to appeal to the Environment Court for persons who made submissions on the proposed plan change.

(2) Appeals may be made in respect of any of the following:

(a) a provision included in the proposed plan change:

(b) a matter not included in the proposed plan change:

(c) a provision arising from a submission that is proposed to be—

(i) included in the plan change:

(ii) excluded from the plan change.

(3) An appeal is permitted only if the submitter referred to the provision or matter in the person's submission on the proposed plan change.

(4) Appeals must be lodged, in the prescribed form, not later than 30 working days after the regional planning committee's notice of its decision is served.

(5) The appellant must serve a copy of the notice of appeal in the prescribed manner.

(6) In the case of an appeal in relation to a ~~independent~~ private plan change request, the requester has the same rights as a submitter.

Compare: 1991 No 69 Schedule 1 cls 14, 27

Environment Court hearing

68 Environment Court hearing

(1) The Environment Court must hold a public hearing on any provision or matter referred to it.

(2) If the Environment Court, in a hearing on any provision of a proposed plan, directs a regional planning committee on any matter under **clause 48 of Schedule 13**, the committee must comply with the direction.

Compare: 1991 No 69 ~~Sch~~ Schedule 1 cl 15(1), (2)

Subpart 2—~~Independent~~ Private plan changes

~~Independent~~ Private plan change requests

69 ~~Independent~~ Private plan change requests

(1) Any person (other than a local authority) may request a plan change under this subpart (**~~independent~~ private plan change**), unless excluded by **subclause (3)**.

(1A) Despite **subsection (1)**, the local authority of an adjacent region may request a private plan change.

~~(2) A request under **subclause (1)** must be made to the local authority that—~~

~~(a) is responsible for the region or district to which the request relates; and~~

~~(b) has the functions and duties relevant to administering the part of the plan that the requested plan change relates to.~~

(2) A request under **subclause (1) or (1A)** may be made—

(a) to the local authority or more than 1 local authorities acting jointly that—

(i) is responsible for the region or district to which the request relates; and

(ii) has the functions and duties relevant to administering the part of the plan that the requested plan change relates to; or

(b) directly to the Environment Court if **section 139(3)(b)** applies.

(3) No person may request ~~an independent~~ a private plan change that affects the strategic content of a plan.

(4) If the requested plan change affects more than 1 local authority, the request ~~may~~ must be made jointly to each of the relevant local authorities.

Compare: 1991 No 69 Schedule 1 cl 21

70 Form of ~~independent~~ private plan change requests

(1) A person making a request for ~~an independent~~ a private plan change must—

(a) make the request in writing to ~~the~~ 1 or more relevant local ~~authority~~ authorities; and

(b) explain the purpose of, and the reasons for, the requested plan change; and

(c) include an evaluation report, as provided for in **clause 24** (requirement to prepare evaluation report); and

(d) describe the actual and potential effects on the environment of allowing the request; and

(e) set out whether, and to what extent, the request, if granted, would contribute to the relevant outcomes and policies, and respond to, environmental limits~~,~~ and targets~~, and policies~~ identified in—

(i) the relevant operative or proposed plan; and

(ii) a regional spatial strategy; and

(iii) the national planning framework.

(2) A request must also include a draft report to the ~~chief executive~~ Secretary for the Environment, with details about how the ~~independent~~ private plan change request—

(a) will give effect to the national planning framework; and

(b) will comply with the environmental limits.

Compare: 1991 No 69 Schedule 1 cl 22

71 Information and report may be required

(1) A local authority that receives a request for ~~an independent~~ a private plan change under **clause 70** may, within 20 working days of receiving the request, give written notice to the person making the request (the **requester**) to advise that further information is required to enable the local authority to better understand—

(a) the nature of the request and the effects on the environment likely to arise from the ~~independent~~ private plan change requested; and

(b) how adverse effects on the environment may be managed; and

(c) the benefits and costs, including effectiveness and efficiency likely to arise from the ~~independent~~ private plan change requested; and

(d) any possible alternatives to the ~~independent~~ private plan change requested; and

(e) the nature of any consultation undertaken or to be undertaken; and

(f) whether, and to what extent, the ~~independent~~ private plan change requested would, if granted, contribute to the relevant outcomes, environmental limits, targets, and policies identified in—

(i) any relevant operative or proposed plan:

(ii) a regional spatial strategy:

(iii) the national planning framework.

(2) Information required under this clause must be appropriate to the scale and significance of the anticipated effects of the requested plan change.

(3) A local authority may require a requester to provide additional information on the request within 15 working days of information being received from the requester in response to a notice given under **subclause (1)**.

(4) A local authority may commission an independent report on the requested plan change—

(a) within 20 working days of receiving a request under **clause 70**; or

(b) within 15 working days of receiving additional information under **subclause (3)**.

(5) The local authority must notify the requester in writing if a report is commissioned under **subclause (4)**.

(6) A requester may—

(a) decline to provide further or additional information:

(b) disagree with the commissioning of a report:

(c) require the local authority to proceed with considering the request.

(7) A local authority—

(a) must specify reasons for requiring information, or commissioning a report, under this clause; and

(b) may, with the requester's agreement, modify the request as a result of information received or other matters relevant to the request.

Compare: 1991 No 69 Schedule 1 cls 23, 24

Consideration of ~~independent~~ private plan change requests

~~**72 When request must be considered**~~

~~(1) A local authority that receives a request under **clause 69(1)** for an independent plan change may, after having particular regard to all the information provided under **clause 70(1)**,—~~

~~(a) accept the request, or part of it, under **clause 31**, and forward it to the regional planning committee (*see* **clause 75**); or~~

~~(b) decide to deal with the request as if it were an application for a consent (and the provisions of **Part 4** will apply); or~~

~~(c) recommend alternative provisions; or~~

~~(d) reject the request.~~

~~(2) The local authority must,—~~

~~(a) within 30 working days of receiving all the information under **clause 71(1), (3), or (4)** or modifying the request in accordance with **clause 70(7)(b)**,—~~

~~(i) pay particular regard to the information received under **clause 46(1)**; and~~

~~(ii) decide how to deal with the request under **subclause (1)**; and~~

~~(b) within 10 working days of making a decision under this clause, notify the requester of its decision and the reasons for that decision.~~

~~Compare: 1991 No 69 Schedule 1 cl 25(1), (1A)(3), (5)~~

72 When request must be considered

(1) The local authority must,—

(a) 30 working days after receiving all the information under **clause 71(1), (3), or (4)** or modifying the request in accordance with **clause 71(7)(b)**,—

(i) pay particular regard to the information received under **clauses 70 and 71**; and

(ii) decide how to deal with the request under **subclause (1)**; and

(b) within 10 working days of making a decision under this clause, notify the requester of its decision and the reasons for that decision.

(2) A local authority that receives a request under **clause 69(1)** for a private plan change may, after having particular regard to all the information provided under **clause 70(1)**,—

(a) accept the request, in whole or in part

(b) deal with the request as if it were an application for a resource consent (and the provisions of **Part 5** will apply); or

(c) reject the request.

(3) If **subclause (1)(b)** applies, the applicant must lodge a formal resource consent application.

Compare: 1991 No 69 Schedule 1 cl 25(1), (1A)(3), (5)

72A Plan change request to more than 1 local authority

(1) This clause applies if a request is made for a plan change to more than 1 local authority, and those local authorities cannot agree on how to progress the request.

(2) The local authorities that received the request must, within 30 working days of receiving it, forward the request and all information received to the regional planning committee.

(3) Within 30 working days, those local authorities must notify the requester that the request has been forwarded to the regional planning committee and the reasons for that decision.

(4) After receiving the request and information from the local authorities, the regional planning committee must—

(a) within 30 working days of receiving the request and information from the local authorities, decide how to deal with the request in accordance with **section 72(1)**; and

(b) within 10 working days of making that decision, notify the requester with the reasons for the decision it has made.

(5) **Clauses 72 and 73 to 78** apply to the processing of the request and provide for a right of appeal if a request is rejected by the regional planning committee.

72B Plan change request applying to whole of region

(1) If a private plan change request applies to a land use or subdivision across all the districts of a region, the regional planning committee is responsible for processing the request.

(2) **Clauses 72 to 78** apply to the processing of a request and provide and a right of appeal if a request is rejected by the regional planning committee.

73 Grounds for rejecting request

(1) In considering a request for ~~an independent~~ a private plan change under **clause ~~69~~ 72**, a local authority may reject the request on any of the following grounds:

(a) ~~the substance of~~ the request—

(i) was considered in the previous 3-yearly reporting cycle; or

(ii) is to be considered in the regional planning committee's current programme of work (*see* **~~clause 52~~ section 839E**):

(iii) would result in there being insufficient infrastructure or funding available to support the development of infrastructure, unless the requester has an agreement with the relevant infrastructure provider:

(b) the request is frivolous or vexatious:

(c) the request, if granted, would mean that—

(i) ~~make~~ the plan would be non-compliant with ~~this Act~~ **Part 4**:

~~(ii) be inconsistent with the national planning framework:~~

(iii) ~~be inconsistent~~ the plan is inconsistent with the relevant regional spatial strategy:

(iv) the plan would be inconsistent with its strategic content:

(d) the request ~~relates to~~ proposes to amend the strategic content of the plan.

(1A) A local authority must reject a request if the request—

(a) relates to a plan that has been operative for less than 2 years; or

(b) would mean that the plan cannot give effect to the national planning framework.

(2) If the local authority rejects a request for ~~an independent~~ a private plan change on any of the grounds set out in **subclause (1)**, the request must not be progressed further.

74 Right of appeal

(1) Within 15 working days of receiving a decision of the local authority under **clause ~~73~~ 72(2)**, a requester for ~~an independent~~ a private plan change under **clause 69**~~,~~ may appeal to the Environment Court against any of the following decisions:

(a) a decision to deal with the request as if it were an application for a resource consent:

(b) a decision to reject the request in part or as a whole.

(2) To avoid doubt, there is no right of appeal to the Environment Court against the decision of the regional planning committee as to which of the 3 plan-change

processes is to be used in relation to ~~an independent~~ a private plan change request.

Compare: 1991 No 69 Schedule 1 cl 27

75 Process if request is not rejected

(1) If a local authority does not reject a request for ~~an independent~~ a private plan change on any of the grounds set out in **clause 73(1)**, the local authority must proceed as follows:

(a) the local authority must forward the request to the relevant regional planning committee immediately; or

(b) the local authority may recommend alternative provisions that are to be notified with the request.

(2) Any provisions recommended under **subclause (1)(b)** must be within the scope of the original plan change request.

(3) If a local authority recommends alternative provisions for ~~an independent~~ a private plan change, the local authority must—

(a) within 40 working days of making that recommendation, undertake an additional evaluation report; and

(b) submit that report to the regional planning committee together with the request for ~~an independent~~ a private plan change.

76 How regional planning committee is to proceed

(1) ~~A~~ Once a local authority has accepted a request for a private plan change, the regional planning committee must—

(a) select which of the 3 plan change processes is to be used in respect of the request for ~~an independent~~ a private plan change; and

(b) apply that process in accordance with this schedule.

(2) If a regional planning committee receives more than 1 request for a plan change to proceed using the same plan change process, it may manage them together and give joint public notice of them.

(3) If a plan change request rejected by a local authority under **clause 73** is appealed (*see* **clause 74**), the regional planning committee must add the plan change ~~of~~ to their programme of work as if it had not been rejected, but is not required to proceed with the request until the appeal is determined.

~~(4) Once a local authority has accepted a request for an independent plan change, the regional planning committee must—~~

~~(a) select which of the 3 plan change processes is to be used in respect of the request for an independent plan change; and~~

~~(b) apply that process as required by this schedule.~~

~~*Cost recovery for independent plan change requests*~~

~~**77 Cost recovery**~~

~~(1) A local authority may recover from a person making an independent plan change request the reasonable and actual costs incurred by the local authority.~~

~~(2) A regional planning committee may recover from a person making an independent plan change request the reasonable and actual costs incurred by the committee —~~

~~(a) in providing assistance prior to a request being made (whether or not the document is subsequently lodged):~~

~~(b) in exercising its functions and powers under this schedule, including —~~

~~(i) the costs incurred in providing support and advice by the secretariat to an IHP or commissioner; and~~

~~(ii) the costs incurred in gathering information (*see* **clause 71**); and~~

~~(iii) the costs charged by the local authority in giving advice.~~

~~(3) A regional planning committee must, when requested by a person requesting an independent plan change, provide an estimate of the costs likely to be recoverable.~~

~~(4) A regional planning committee, when recovering costs under this clause, must have regard to the following criteria:~~

~~(a) the sole purpose of cost recovery is to recover the reasonable costs incurred in the relevant matter; and~~

~~(b) a person requesting an independent plan change should be required to pay costs only to the extent that the requester, rather than the community as a whole, benefits from the actions of the regional planning committee; and~~

~~(c) whether, and the extent to which, the person requesting the independent plan change undertakes actions that reduce the costs to the regional planning committee of undertaking its functions, duties, and powers.~~

~~(5) A person may object under **section 828** to being required to pay costs under this clause.~~

Request may be withdrawn

78 Withdrawal of request

(1) A requester may withdraw a request for ~~an independent~~ a private plan change at any time~~:~~

(a) before the relevant plan change becomes operative in accordance with **clause 41(5)**; or

(b) before the relevant regional planning committee notifies its decision under **clause 62**.

(2) If a regional planning committee or local authority (as relevant), has reasonable ground to consider that a requester does not wish to continue with the request for ~~an independent~~ a private plan change, the committee or local authority may send a notice to the requester's last known address, stating that the request will be treated as having been withdrawn if the requester does not advise the ~~regional planning~~ committee or ~~local~~ authority otherwise within 30 working days.

(3) The regional planning committee or local authority (as relevant) may treat the request as being withdrawn if a response is not received in accordance with **subclause (2)**.

(4) If the requester gives notice of withdrawal under **subclause (1)** or is treated as having withdrawn the request under **subclause (2)**, the regional planning committee must—

(a) cease to prepare the independent plan change; and

(b) if the request has been notified, ensure that public notice, with reasons, is given of the withdrawal within 15 working days of—

(i) receiving a notice of withdrawal under **subclause (1)**; or

(ii) treating the request as being withdrawn under **subclause (3)**.

Compare: 1991 No 69 Schedule 1 cl 28

Subpart 3—General hearings provisions

~~**79 Application of this Part**~~

~~(1) Unless otherwise provided in this Act, this subpart applies if a local authority, consent authority, planning committee, or person delegated or appointed to conduct hearings under this Act (the **authority**) holds a hearing in relation to—~~

~~(a) an application for a resource consent:~~

~~(b) a review of a resource consent; or~~

~~(c) an application to change or cancel a condition of a resource consent:~~

~~(d) a notice of requirement for a designation or heritage protection order, or to alter a designation or heritage protection order:~~

~~(e) a plan change or variation:~~

~~(f) a proposal of national significance that is referred to a board of inquiry:~~

~~(g) an application for a water conservation order that it referred to a special tribunal.~~

~~(2) Unless otherwise provided in this Act, this subpart does not apply to a hearing of an IHP.~~

80 Hearings to be public and without unnecessary formality

(1) The authority must hold the hearing in public (unless permitted to do otherwise by **clause 118** (which relates to the protection of sensitive information) or the Local Government Official Information and Meetings Act 1987), and must establish a procedure that is appropriate and fair in the circumstances.

(2) In determining an appropriate procedure, the authority must—

(a) avoid unnecessary formality; and

(b) recognise tikanga Māori where appropriate and receive evidence written or spoken in Māori, subject to Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016; and

(c) not permit any person other than the chairperson or other member of the hearing body to question any party or witness; and

(d) not permit cross-examination.

(3) However, nothing in **subclause (2)(c) or (d)** applies to a hearing referred to in **clause 113**.

Compare: 1991 No 69 s 39

81 Hearing using remote access facilities

Interpretation

(1) In this clause,—

audio link means a facility (such as a telephone facility) that enables audio communication between an authority and 1 or more persons with a right to be heard at a hearing

audiovisual link means a facility that enables both audio and visual communication between an authority and 1 or more persons with a right to be heard at a hearing

remote access facility means any of the following:

(a) audio link:

(b) audiovisual link:

(c) any other similar facility.

Direction to use remote access facilities

(2) An authority may direct that a hearing or part of a hearing may be conducted using 1 or more remote access facilities.

(3) A direction may be made under **subclause (2)**—

(a) on the initiative of the authority itself; or

(b) at the request of any person with a right to be heard at the hearing.

(4) An authority may make a direction under **subclause (2)** if the authority—

(a) considers it appropriate and fair to do so; and

~~(b) is satisfied that the necessary remote access facilities are available.~~

~~(5) If a hearing is conducted in full or in part using a remote access facility, the authority must,—~~

~~(a) if it is reasonably practicable to do so, enable access to the hearing by making the hearing available live and free of charge to the public, for example, on an Internet site; or~~

~~(b) as soon as practicable after the hearing closes, make available free of charge on its Internet site—~~

~~(i) an audio or a video recording of the hearing; or~~

~~(ii) a written transcript of the hearing.~~

~~*Exclusions*~~

~~(6) This clause does not apply—~~

~~(a) to a public hearing if the relevant authority is represented by 1 or more persons appearing in person at the hearing and 1 or more persons make submissions or give evidence by means of a remote access facility; or~~

~~(b) to a hearing to which section 47A of the Local Government Official Information and Meetings Act 1987 applies.~~

~~Compare: 1991 No 69 s 39AA~~

~~82 Accreditation~~

~~(1) The Minister must—~~

~~(a) approve a qualification or qualifications establishing a person's accreditation; and~~

~~(b) notify each qualification in the *Gazette*.~~

~~(2) An accreditation that is valid on the day that this clause comes into force continues to be valid until it expires on the terms of the accreditation.~~

~~Compare: 1991 No 69 s 39A~~

~~83 Persons who may be given hearing authority~~

~~(1) This clause applies if an authority authorises a person to conduct a hearing on any of the following matters:~~

~~(a) a plan change or plan variation:~~

~~(b) an application for a resource consent:~~

~~(c) a review of a resource consent:~~

~~(d) an application to change or cancel a condition of a resource consent:~~

~~(e) a notice of requirement given for a designation or heritage protection order:~~

~~(f) an objection relating to any matter under **section 808**.~~

(2) If the authority wants to authorise 1 person to conduct a hearing, it may do so only if the person is accredited.

(3) If the authority wants to authorise a group of persons that has a chairperson to conduct a hearing, it may do so only if —

(a) all persons in the group, including the chairperson, are accredited; or

(b) the authority is satisfied that special circumstances apply and over half of the persons in the group are accredited.

(4) If the local authority wants to give authority to a group of persons that does not have a chairperson, it may do so only if —

(a) all the persons in the group are accredited; or

(b) over half of all the persons in the group are accredited and there are special circumstances.

Compare: 1991 No 69 s 39B

84 Effect of lack of accreditation

(1) This clause applies when an authority purports to delegate authority to a person or group of persons, or appoint a person or group of persons under **clause 88**, but does not in fact give it because the person, chairperson of the group, or members of the group are not accredited as required by the clause.

(2) No decision made by the person or group of persons is invalid solely because the person, the chairperson of the group, or members of the group were not accredited as required by **clause 88**.

Compare: 1991 No 69 s 39C

85 Persons who may be heard at hearings

(1) At any hearing described in **clause 80**, the applicant, and every person who has made a submission and stated that they wished to be heard at the hearing, may speak (either personally or through a representative) and call evidence.

(2) Despite **subclause (1)**, the authority may, if it considers that there is likely to be excessive repetition, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.

(3) **Subclause (4)** applies if any of the following fail to appear at the hearing:

(a) the applicant:

(b) any person who made a submission and stated they wished to be heard at the hearing.

(4) If this subclause applies, the authority may proceed with the hearing if it considers it fair and reasonable to do so.

Compare: 1991 No 69 s 40

86 Control of hearings

An authority conducting a hearing on a matter described in **clause 84(1)** may exercise a power under any of **clauses 83 to 92** after considering whether the scale and significance of the hearing makes the exercise of the power appropriate.

Compare: 1991 No 69 s 41A

87 Directions to provide evidence within time limits

(1) The authority may direct the applicant to provide briefs of evidence in writing or electronically to the authority before the hearing.

(2) The applicant must provide the briefs of evidence at least 10 working days before the hearing.

(3) The authority may direct a person who has made a submission and who is intending to call expert evidence to provide briefs of the evidence to the authority before the hearing.

(4) Except in the case of a hearing where a proportionate or urgent process is being used, the person must provide the briefs of evidence at least 5 working days before the hearing.

(5) Where a proportionate or urgent process is being used, all supporting information, including any expert evidence, must be provided with the submission.

Compare: 1991 No 69 s 41B

88 Directions and requests before or at hearings

(1) Before or at the hearing, the authority may—

(a) direct the order of business at the hearing, including the order in which evidence and submissions are presented; or

(b) direct that evidence and submissions be—

(i) recorded; or

(ii) taken as read; or

(iii) limited to matters in dispute; or

(c) direct the applicant, when presenting evidence or a submission, to present it within a time limit; or

(d) direct a person who has made a submission, when presenting evidence or a submission, to present it within a time limit.

(2) Before or at the hearing, the authority may request a person who has made a submission to provide further information.

(3) At the hearing, the authority may request the applicant to provide further information.

(4) At the hearing, the authority may commission a consultant or any other person employed for the purpose to prepare a report on any matter on which the authority requires further information, if both the following apply:

(a) the activity that is the subject of the hearing may, in the authority's opinion, have a significant adverse environmental effect; and

(b) the applicant agrees to the commissioning of the report.

(5) The authority must provide a copy of any further information requested under **subclause (2)**, and received before the hearing, to the applicant and every person who made a submission.

(6) **Subclause (8)** applies to —

(a) any further information that —

(i) is requested under **subclause (2) or (3)**; and

(ii) is received in writing or electronically after the start of the hearing; but

(iii) is not given as evidence at the hearing; and

(b) any report that is commissioned under **subclause (4)**.

(7) In the case of a notified consent application, the consent authority may require a report from a consultant on the information provided by the applicant or by submitters.

(8) The authority must —

(a) provide a copy of the further information or report to the applicant and every person who made a submission and stated a wish to be heard; and

(b) make the further information or report available at its office to any person who made a submission and did not state a wish to be heard.

(9) However, the authority does not need to provide further information to the applicant or submitter who provided the information.

(10) At the hearing, the authority may direct a person presenting a submission not to present —

(a) the whole submission, if all of it is irrelevant or not in dispute; or

(b) any part of it that is irrelevant or not in dispute.

Compare: 1991 No 69 s 41C

89 Striking out submissions

(1) An authority conducting a hearing on a matter described in **clause 84(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:~~

~~(f) it seeks relief that the authority does not have jurisdiction to grant:~~

~~(2) An authority—~~

~~(a) may make a direction under this clause before, at, or after the hearing; and~~

~~(b) must record its reasons for any direction made.~~

~~(3) A person whose submission is struck out, in whole or in part, has a right of objection—~~

~~(a) under **section 123**; or~~

~~(b) if the objection relates to a plan change, under **clause 66**.~~

~~Compare: 1991 No 69 s 41D~~

~~90 Protection of sensitive information~~

~~(1) An authority may, on its own motion or on the application of any submitter, make an order described in **subclause (2)** where it is satisfied—~~

~~(a) that the order is necessary to avoid—~~

~~(i) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or~~

~~(ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and~~

~~(b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.~~

~~(2) An order may—~~

~~(a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded:~~

~~(b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the authority in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.~~

(3) An order made under **subclause (2)(a)** is to be treated as a resolution passed under section 48 of the Local Government Official Information and Meetings Act 1987.

(4) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the authority under this clause.

(5) On an application made under **subclause (4)**, an Environment Judge sitting alone may, having regard to the matters to which the authority had regard and to any other matters that the Environment Judge thinks fit,—

(a) make an order cancelling or varying any order made under the authority of this clause on any terms that the Judge thinks fit; or

(b) decline to make an order.

Compare: 1991 No 69 s 42

91 Reports to authority

(1) This clause applies to an authority that may hold a hearing (*see* **clause 79(1)**) in relation to any of the following matters:

(a) a proposed provision of the national planning framework:

(b) an application for, or review of, a resource consent:

(c) an application to change or cancel a condition of a resource consent:

(d) a notice of requirement for, or to alter, a designation or a heritage protection order:

(e) an application for a water conservation order:

(f) a matter for which a direction has been made under **section 329 or 337**.

(2) The authority may require a report to be prepared on any information provided in relation to those matters—

(a) at any reasonable time before a hearing; or

(b) if no hearing is to be held, before a decision is made by the local authority.

(3) A report, if required, may—

(a) be prepared by an officer of the authority; or

(b) be commissioned from a consultant or other person engaged for the purpose of preparing a report.

(4) If a written report is prepared, the authority must—

(a) provide a copy to the applicant and all submitters wishing to be heard—

(i) at least 15 working days before the hearing, if a direction is given under **clause 87**; or

(ii) at least 5 working days before the hearing if no direction is given under that clause; and

(b) make the report available at its office to any submitter not stating that they wish to be heard; and

(c) advise those submitters by written or electronic notice where they may see the report.

(5) An authority may waive compliance with the following requirements if it is satisfied that there is not material prejudice, or is unaware of material prejudice, to any person who should have been provided with a copy or a notice of the report under this clause:

(a) the time frames set out in **subclause (4)(a)**:

(b) the requirement for notice under **subclause (4)(c)**.

(6) A report prepared under this clause —

(a) does not need to repeat information included in the applicant's initial application; but

(b) may adopt —

(i) all the information; or

(ii) any part of it, by reference to the part adopted.

(7) A report prepared under this clause may be considered at any hearing.

Compare: 1991 No 69 s 42A

92 Other procedural matters

(1) The following provisions of the Inquiries Act 2013 apply to hearings under this Schedule held by a regional planning committee, as if each hearing were an inquiry under that Act:

(a) section 19 (evidence):

(b) section 23 (power to summon witnesses):

(c) section 27 (other immunities and privileges of participants):

(d) section 25 (expenses of witnesses and other participants).

(2) A summons to a witness to appear at a hearing session must be in the prescribed form and be signed by the chairperson.

(3) All expenses of a witness must be paid by the party on whose behalf the witness is called.

(4) However, if the hearing body calls a witness, that body must pay the expenses of that witness.

(5) The hearing body may request and receive, from a person who is heard by the hearing body or who is represented at a hearing session, any information and advice that is relevant and reasonably necessary for the hearing body to make its recommendations under **clause 124**.

79 Application of this subpart

(1) This subpart applies, with any necessary modifications, to hearings in relation to each of the following matters:

(a) an application for a resource consent:

(b) a review of a resource consent:

(c) an application to change or cancel a condition of a resource consent:

(d) a notice of requirement for, or to alter, a designation or heritage protection order:

(e) a plan change or plan variation, when either a proportionate or an urgent process under this schedule is used:

(f) a proposal of national significance that is referred to a board of inquiry:

(g) an NPF proposal that is referred to a board of inquiry.

(2) Unless otherwise provided in this Act, this schedule does not apply to a hearing of an IHP.

(3) In this subpart, **authority** means the body or person that conducts hearings to which this subpart relates.

80 Hearings to be public and without unnecessary formality

(1) The authority must hold the hearing in public (unless permitted to do otherwise by **clause 118** (which relates to the protection of sensitive information) or the Local Government Official Information and Meetings Act 1987), and must establish a procedure that is appropriate and fair in the circumstances.

(2) In determining an appropriate procedure, the authority must—

(a) avoid unnecessary formality; and

(b) recognise tikanga Māori where appropriate and receive evidence or speak to their supporting information, written or spoken, as applicable, in Māori, subject to Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016; and

(c) not permit any person other than the chairperson or other member of the authority to question any party or witness; and

(d) not permit cross-examination.

(3) However, nothing in **subclause (2)(c) or (d)** applies to a hearing referred to in **clause 62 of Schedule 10A**.

Compare: 1991 No 69 s 39

81 Hearing using remote access facilities

Interpretation

(1) In this clause,—

audio link means a facility (such as a telephone facility) that enables audio communication between an authority and 1 or more persons with a right to be heard at a hearing

audiovisual link means a facility that enables both audio and visual communication between an authority and 1 or more persons with a right to be heard at a hearing

remote access facility means any of the following:

(a) audio link:

(b) audiovisual link:

(c) any other similar facility.

Direction to use remote access facilities

(2) An authority may direct that a hearing or part of a hearing may be conducted using 1 or more remote access facilities.

(3) A direction may be made under **subclause (2)**—

(a) on the initiative of the authority itself; or

(b) at the request of any person with a right to be heard at the hearing.

(4) An authority may make a direction under **subclause (2)** if the authority—

(a) considers it appropriate and fair to do so; and

(b) is satisfied that the necessary remote access facilities are available.

(5) If a hearing is conducted in full or in part using a remote access facility, the authority must,—

(a) if it is reasonably practicable to do so, enable access to the hearing by making the hearing available live and free of charge to the public, for example, on an Internet site; or

(b) as soon as practicable after the hearing closes, make available free of charge on its Internet site—

(i) an audio or a video recording of the hearing; or

(ii) a written transcript of the hearing.

Exclusions

(6) This clause does not apply—

(a) to a public hearing if the authority is represented by 1 or more persons appearing in person at the hearing and 1 or more persons make submissions or give evidence or supporting information by means of a remote access facility; or

(b) to a hearing to which section 47A of the Local Government Official Information and Meetings Act 1987 applies.

Compare: 1991 No 69 s 39AA

81A When no hearing needed

If submissions are provided, but no person wishes to be heard, or a request to be heard is withdrawn, the authority must consider the submissions along with the other relevant matters, but is not required to hold a hearing.

Compare: 1991 No 69 Schedule 1 cl 8C

82 Accreditation

(1) The Minister must—

(a) approve a qualification or qualifications establishing a person's accreditation; and

(b) notify each qualification in the *Gazette*.

(2) An accreditation that is valid on the day that this clause comes into force continues to be valid until it expires on the terms of the accreditation.

Compare: 1991 No 69 s 39A

83 Persons who may be given hearing authority

(1) This clause applies if a local authority authorises a person to conduct a hearing under **section 30ZA** on any of the following matters:

(a) an application for a resource consent:

(b) a review of a resource consent:

(c) an application to change or cancel a condition of a resource consent:

(d) a notice of requirement for, or to alter, a designation:

(e) an objection relating to any matter under **section 832**.

(2) If the authority wants to authorise 1 person to conduct a hearing, it may do so only if the person is accredited.

(3) If the authority wants to authorise a group of persons that has a chairperson to conduct a hearing, it may do so only if—

(a) all persons in the group, including the chairperson, are accredited; or

(b) the authority is satisfied that special circumstances apply and over half of the persons in the group are accredited.

(4) If the authority wants to give authority to a group of persons that does not have a chairperson, it may do so only if—

(a) all the persons in the group are accredited; or

(b) over half of all the persons in the group are accredited and there are special circumstances.

Compare: 1991 No 69 s 39B

84 Effect of lack of accreditation

(1) This clause applies if—

(a) a local authority purports to delegate authority to a person or group of persons under **clause 83** but no delegation occurs because the requirement for accreditation is not met; or

(b) a regional planning committee appoints a commissioner to hear submissions on a plan change or variation, using the urgent or proportionate process under **clause 55 of Schedule 7**, but the appointment fails because the requirement for accreditation is not met.

(2) No decision made by the person or group of persons is invalid solely because the person, the chairperson of the group, or members of the group were not accredited as required by **clause 55 of Schedule 7 or clause 83 of this schedule**.

Compare: 1991 No 69 s 39C

85 Persons who may be heard at hearings

(1) At any hearing described in **clause 79 of Schedule 7**, the applicant, and every person who has made a submission and stated that they wish to be heard at the hearing, may speak (either personally or through a representative) and call evidence or speak to their supporting information, as applicable.

(2) Despite **subclause (1)**, the authority may, if it considers that there is likely to be excessive repetition, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support or speak to their supporting information, as applicable, but must do so with caution.

(3) **Subclause (4)** applies if any of the following fail to appear at the hearing:

(a) the applicant:

(b) any person who made a submission and stated they wished to be heard at the hearing.

(4) If this subclause applies, the authority may proceed with the hearing if it considers it fair and reasonable to do so.

Compare: 1991 No 69 s 40

86 Control of hearings

An authority conducting a hearing on a matter described in **clause 79(1)** may exercise a power under any of **clauses 87 to 92 of Schedule 7** after considering whether the scale and significance of the hearing makes the exercise of the power appropriate.

Compare: 1991 No 69 s 41A

87 Directions to provide evidence within time limits

(1) This clause applies to the matters listed in **clause 79(1)** (except **paragraph (e)**) (a plan change using either a proportionate or urgent process).

(2) The authority may direct the applicant to provide briefs of evidence in writing or electronically to the authority before a hearing.

(3) The applicant must provide the briefs of evidence least 10 working days before the hearing.

(4) The authority may direct a person who has made a submission and who is intending to call expert evidence to provide briefs of the evidence to the authority before the hearing.

(5) The person must provide the briefs of evidence at least 5 working days before the hearing.

Compare: 1991 No 69 s 41B

87A Hearings conducted under proportionate or urgent process

(1) This clause applies to a hearing on a plan change or variation if either a proportionate or urgent process is used.

(2) The authority may direct a person who has made a submission, and who is intending to call an expert to provide briefs of that supporting information to the authority before the hearing or at a time other than that specified in **subclause (4)**.

(3) Unless the authority makes a direction, the time frames provided in **subclause (4)** must be adhered to.

(4) If a proportionate or urgent process is being used,—

(a) all supporting information, including any supporting information of an expert, must be provided with the submission; and

(b) the chairperson of the authority may, at the chairperson's discretion, require legal submissions to be circulated before the hearing.

88 Directions and requests before or at hearings

(1AAA) This clause applies to the matters listed in **clause 79(1)** (except **paragraph (e)** of that clause) (a plan change or variation using either a proportionate or urgent process).

(1) Before or at a hearing, the authority may—

(a) direct the order of business at the hearing, including the order in which evidence and submissions are presented; or

(b) direct that evidence and submissions be—

(i) recorded; or

(ii) taken as read; or

(iii) limited to matters in dispute; or

(c) direct the applicant, when presenting evidence or a submission, to present it within a time limit; or

(d) direct a person who has made a submission, when presenting evidence or a submission, to present it within a time limit.

(2) Before or at the hearing, the authority may—

(a) request a person who has made a submission to provide further information:

(b) request the applicant to provide further information:

(c) commission a consultant or any other person engaged for the purpose to prepare a report on any matter on which the authority requires further information, if both of the following apply:

(i) the activity that is the subject of the hearing may, in the authority's opinion, have a significant adverse environmental effect; and

(ii) the applicant agrees to a report being commissioned.

(3) The authority must provide a copy of any further information requested under **subclause (2)(a)**, and received before the hearing, to the applicant and every person who made a submission.

(4) **Subclause (6)** applies to—

(a) any further information that—

(i) is requested under **subclause (2) or (3)**; and

(ii) is received in writing or electronically after the start of the hearing; but

(iii) is not given as evidence at the hearing; and

(b) any report that is commissioned under **subclause (2)**.

(5) In the case of a notified consent application, the consent authority may require a report from a consultant on the information provided by the applicant or by submitters.

(6) The authority must—

(a) provide a copy of the further information or report to the applicant and every person who made a submission and stated a wish to be heard; and

(b) make the further information or report available at its office to any person who made a submission and did not state a wish to be heard.

(7) However, the authority does not need to provide further information to the applicant or submitter who provided the information.

(8) At the hearing, the authority may direct a person presenting a submission not to present—

(a) the whole submission, if all of it is irrelevant or not in dispute; or

(b) any part of it that is irrelevant or not in dispute.

Compare: 1991 No 69 s 41C

89 Power to strike out submissions

(1) An authority conducting a hearing on a matter described in **clause 79(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 or supporting information that, though purporting to be prepared by an independent person with specialised knowledge or expertise, has been prepared by a person who is not independent or who does not have expertise or specialised knowledge:

(e) it contains offensive language:

(f) it seeks relief that the authority does not have jurisdiction to grant.

(2) An authority—

(a) may make a direction under this clause before, at, or after the hearing; and

(b) must record its reasons for any direction made.

(3) A person whose submission is struck out, in whole or in part, has a right of objection—

(a) under **section 828**; or

(b) if the objection relates to a plan change, under **clause 66**.

Compare: 1991 No 69 s 41D

90 Protection of sensitive information

(1) A submitter, or an authority on its own behalf, may apply for an order described in **subclause (3)** to protect sensitive information.

(2) An authority may make such an order described in **subclause (3)** if it is satisfied—

(a) that the order is necessary to avoid—

(i) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or

(ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and

(b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.

(3) An order may—

(a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded:

(b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the authority in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.

(4) An order made under **subclause (3)(a)** is to be treated as a resolution passed under section 48 of the Local Government Official Information and Meetings Act 1987.

(5) A party to the proceedings may apply to the Environment Court for an order cancelling or varying an order made by the authority under this clause.

(6) On an application made under **subclause (5)**, an Environment Judge sitting alone may, having regard to the matters to which the authority had regard and to any other matters that the Environment Judge thinks fit,—

(a) make an order cancelling or varying any order made under the authority of this clause on any terms that the Judge thinks fit; or

(b) decline to make an order.

(7) A party to an application for an order described in **subclause (3)** may, if that order is declined, apply to the Environment Court under **clause 15 of Schedule 13** for an order.

Compare: 1991 No 69 s 42

91 Reports to authority

(1) An authority may require a report to be prepared on any information provided in relation to those matters—

(a) at any reasonable time before a hearing; or

(b) if no hearing is to be held, before a decision is made by the authority.

(2) A report, if required, may—

(a) be prepared by an officer of the authority; or

(b) be commissioned from a consultant or other person engaged for the purpose of preparing a report.

(3) If a written report is prepared, the authority must—

(a) provide a copy to the applicant and all submitters wishing to be heard—

(i) at least 15 working days before the hearing, if a direction is given under **clause 87**; or

(ii) at least 5 working days before the hearing if no direction is given under that clause; and

(b) make the report available at its office to any submitter not stating that they wish to be heard; and

(c) advise those submitters by written or electronic notice where they may see the report.

(4) An authority may waive compliance with the following requirements if it is satisfied that there is not material prejudice, or is unaware of material prejudice, to any person who should have been provided with a copy or a notice of the report under this clause:

(a) the time frames set out in **subclause (3)(a)**:

(b) the requirement for notice under **subclause (3)(c)**.

(5) A report prepared under this clause—

(a) does not need to repeat information included in the applicant's initial application; but

(b) may adopt—

(i) all the information; or

(ii) any part of it, by reference to the part adopted.

(6) A report prepared under this clause may be considered at any hearing.

Compare: 1991 No 69 s 42A

92 Other procedural matters

(1) The following provisions of the Inquiries Act 2013 apply to hearings under this schedule held by an authority, an IHP, or a regional planning committee, as if each hearing were an inquiry under that Act:

(a) section 19 (evidence):

(b) section 23 (power to summon witnesses):

(c) section 24 (service of summons):

(d) section 27 (other immunities and privileges of participants):

(e) section 25 (expenses of witnesses and other participants).

(2) A summons to a witness to appear at a hearing session must be in the prescribed form and be signed by the chairperson.

(3) All expenses of a witness must be paid by the party on whose behalf the witness is called.

(4) However, if the authority calls a witness, that body must pay the expenses of that witness.

(5) The authority, IHP, or regional planning committee, as the case may be, may request and receive, from a person who is heard by the authority or panel or who is represented at a hearing session, any information and advice that is relevant and reasonably necessary for the authority or panel to make its recommendations under **clause 124**.

Part 3
Independent hearings panels process

Subpart 1—Establishment of IHPs and members

93 IHPs established for each region

(1) An IHP is established for each region, and each IHP comprises—

(a) a chairperson appointed by the Chief Environment Court Judge; and

(b) 3 to 6 other members appointed by the Chief Environment Court Judge from the regional pool of IHP candidates, after consulting iwi authorities and groups representing hapū; and

(c) up to 2 additional other members from the regional candidate pool who are approved by the Minister under **subclause (5)** and appointed by the Chief Environment Court Judge.

(2) The Chief Environment Court Judge must appoint members in each region who collectively have skills, knowledge, and experience of—

(a) relevant legislation and legal processes, planning, and cultural heritage; and

~~(b) planning; and~~

(c) te Tiriti o Waitangi and its principles; and

(d) local kawa and tikanga, and the mātauranga of the iwi and hapū in the region; and

(e) Māori in the region; and

(f) the local community and local government; and

(g) environmental science, including freshwater quality, quantity, and ecology; and

~~(h) relevant legal processes.~~

(h) the built environment and infrastructure; and

(i) any other skills, knowledge, and experience that the Chief Environment Judge considers appropriate for the region.

(3) The chairperson must be—

(a) an Environment Judge; or

(b) a person, other than an Environment Judge, who—

(i) has previous experience of chairing hearings panels (but is not required to be accredited); and

(ia) meets the requirements of section 15 of the District Court Act 2016; and

(ii) meets all of the other requirements for appointment as an IHP member; and

(iii) is considered by the Chief Environment Court Judge to have the appropriate skills, knowledge, and experience to undertake the role of chairperson.

(4) The Chief Environment Court Judge must consult the National Māori Entity regarding the required collective skills, knowledge, and experience for members of IHPs.

(5) The Minister may approve the appointment of up to 2 additional members in excess of the 6 members allowed by **subclause (1)(b)** where necessary to ensure that the IHP can fulfil its statutory functions in the region in a timely manner.

(6) The Chief Environment Court Judge has a discretion to decide the total number of other appointed members referred to in **subclause (1)(b) and (c)**.

(7) The Chief Environment Court Judge must appoint all members of an IHP (other than Environment Judges and alternate Environment Judges) from the regional pool of IHP candidates.

(8) The Chief Environment Court Judge may appoint a member to replace a member who ceases to hold office.

Compare: 2010 No 37 s 161

94 Regional pool of IHP candidates

(1) The Chief Environment Court Judge must compile and maintain the regional pool of IHP candidates.

(2) The regional pool comprises—

(a) all Environment Court commissioners in New Zealand:

(b) all iwi-approved commissioners in the relevant region:

(c) candidates nominated by iwi authorities and groups that represent hapū in the relevant region:

(d) candidates nominated by the relevant regional planning committee and local authorities within the relevant region.

(3) Iwi authorities and groups representing hapū ~~Māori~~ may determine who makes nominations on their behalf.

(4) There is no limit on the number of nominations that can be made for the regional candidate pool for any year.

(5) The Chief Environment Court Judge must, by public notice, invite written nominations annually.

(6) The Chief Environment Court Judge may proceed to appoint members of an IHP once the specified period for nominations closes, whether or not any nom-

inations of candidates referred to in **subclause (2)(c)** have been received within the specified period.

(7) Once a person is nominated for the regional pool, the person remains in the regional candidate pool until removed by the nominator or ~~advised~~ until the person advises that they are no longer available.

(8) A person may be removed from the regional candidate pool on any relevant ground specified for the removal of an IHP member in **clause 100**.

(9) Local authorities ~~and iwi and~~, iwi authorities, and groups representing hapū may nominate candidates for more than 1 regional candidate pool.

(10) In this schedule, **iwi-approved commissioners** means commissioners indicated by iwi and hapū to be suitable appointees to serve where statutory provision is made for iwi participation, as in an IHP or joint management agreement.

95 Nominations for IHP for particular region

(1) At the time when a proposed plan or plan change is notified, the Chief Environment Court Judge must establish, as required, ~~1 or more IHPs~~ an IHP for each region from the regional candidate pool by inviting written nominations.

(2) Nominations must close 10 working days after the primary submissions are notified under **clause 35**.

96 Requirement relating to nomination of IHP candidates

(1) A person, group, or body nominating an IHP candidate must provide the Chief Environment Court Judge with the following information:

(a) whether the candidate ~~knew~~ knows they had been nominated as an IHP member:

(b) if the candidate ~~knew~~ knows they had been nominated as an IHP member, how the opportunity to be nominated was made known to the candidate:

(c) the reasons why the candidate is considered suitable for the role of an IHP member:

(d) whether the candidate is accredited:

(e) the relevant skills, knowledge, and experience of the candidate.

(2) The nomination must be in the form (if any) approved by the ~~chief executive~~ Secretary for the Environment.

97 Accreditation

(1) All members of an IHP must be accredited, except—

(a) an Environment Judge:

(b) an Environment Commissioner:

(c) any other person, if the Chief Environment Court Judge (or their delegate under **clause 99**) considers that there are special circumstances that apply and exempts the person from compliance with the requirement.

~~(2) The Minister must approve a qualification or qualifications establishing a person's accreditation.~~

~~(3) A notice under **subclause (2)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).~~

(3) The Minister may prescribe accreditation requirements by notice in the *Gazette*.

98 How members are appointed

(1) The Chief Environment Court Judge must give a person appointed as a member of an IHP (other than the chairperson) a written notice of the appointment.

(2) The notice of appointment must—

(a) state the date on which the appointment takes effect; and

(b) state the duration of the appointment.

(3) The manner of appointment of members is the same for all IHPs, in either the plan development stage or in a standard plan change process.

Compare: 2010 No 37 s 162

99 Chief Environment Court Judge may delegate power to appoint IHP members

The Chief Environment Court Judge may delegate to another Environment Judge or alternate Environment Judge the powers in **clause 93(1)(b) and (c) and (8)** to appoint IHP members (other than the chairperson) where necessary to enable the efficient appointment of IHPs.

100 When member ceases to hold office

(1) A member of an IHP remains a member until the earliest of the following:

(a) their term of office ends:

(b) they die:

(c) they resign by giving 20 working days' written notice to the Chief Environment Court Judge:

(d) they are removed under **subclause (2)**:

(e) the IHP ceases to exist.

(2) The Chief Environment Court Judge may, at any time for just cause, remove a member by written notice to the member.

(3) The notice must state—

(a) the date on which the 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 an IHP is not entitled to any compensation or other payment or benefit relating to their ceasing, for any reason, to hold office as a member.

(5) In **subclause (2)**, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the IHP or the individual duties of members.

Compare: 2010 No 37 s 163

101 Immunity of members of IHP

A member of an IHP—

(a) is not liable for anything done, reported, stated, or omitted in the exercise or intended exercise of the powers and performance or intended performance of the duties of the IHP, unless the IHP or person acted in bad faith:

(b) may not be compelled to give ~~evidence~~ supporting information in court or in any proceedings of a judicial nature in relation to the IHP, unless leave of the court is granted to bring proceedings relating to an allegation of bad faith against the IHP or any member of the IHP.

Compare: 2010 No 37 s 16; 2013 No 60 s 26

102 Functions of IHP

(1) The principal function of an IHP is to hear submissions on a proposed plan.

(2) For the purpose of **subclause (1)**, an IHP has the following functions and powers:

(a) to hold hearing sessions:

(b) for the purposes of **paragraph (a)**,—

(i) to hold or authorise the holding of pre-hearing session meetings, conferences of experts, and alternative dispute resolution processes; and

(ii) to commission reports:

(iii) to hear any objections made in accordance with **clause 123**:

(c) to make recommendations to the regional planning committee on the proposed plan:

(d) except as expressly provided by this Act, to regulate its own proceedings in the manner it thinks fit:

(e) to perform or exercise any other functions or powers conferred by this Act or that are incidental and related to, or consequential upon, any of its functions and powers under this Act.

Compare: 2010 No 37 s 164

103 Term of IHP

(1) An IHP exists until it has completed the performance or exercise of its functions and powers in relation to the hearing, including any appeals in relation to the hearing that are filed in any court.

(2) However, if an IHP is reconvened for a further hearing, but not all of its members are available for the further hearing, the members who are available may hear and determine the matter.

Compare: 2010 No 37 s 166

104 Application of Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 applies, with any necessary modifications, to an IHP as if it were a board of inquiry given authority to conduct a hearing under ~~section 349~~ **clause 62 of Schedule 10A**.

Compare: 2010 No 37 s 167

Subpart 2—Pre-hearings, expert conferences, and alternative dispute resolution

105 Pre-hearing session meetings

(1) Before a hearing session, the IHP may invite or require the persons listed in **subclause (2)** to attend a meeting for the purpose of—

(a) clarifying a matter or an issue relating to the proposed plan; or

(b) facilitating resolution of a matter or an issue relating to the proposed plan.

(2) The persons are—

(a) 1 or more submitters; and

(b) the regional planning committee; and

(c) any other persons that the IHP considers appropriate, including 1 or more experts.

(3) A meeting may be chaired by the chairperson of the IHP or a person appointed by the chairperson.

(4) If so required by the chairperson of the meeting, submitters and the regional planning committee must, at least 5 working days before the meeting, provide a written statement of their position in relation to the matters or issues to be addressed at the meeting.

(5) The chairperson of the meeting must, after a meeting, prepare a report that—

(a) sets out any clarification or resolution of a matter or an issue agreed between the persons who attended the meeting; and

(b) sets out any outstanding matter or issue between them; and

(c) addresses any matter or issue identified to the chairperson by the IHP.

(6) The chairperson of the meeting must provide the report in writing or electronically to the IHP and the persons who attended the meeting no less than 5 working days before the hearing session to which the meeting relates.

(7) A report prepared under **subclause (5)** must not, without a person's consent, include any material that the person communicated or made available at the meeting on a without-prejudice basis.

Compare: 2010 No 37 s 131

106 Consequences of submitter not attending pre-hearing session meeting

~~(1) This clause applies if a submitter who is required to attend a meeting under **clause 105** fails to do so without reasonable excuse.~~

(1) This clause applies if a submitter fails, without reasonable excuse,—

(a) to attend a meeting when required under **clause 105**:

(b) to provide a written statement of their position when required by **clause 105(4)**.

(2) The IHP may decline to consider the person's submission.

(3) If the IHP acts under **subclause (2)**, the person—

(a) has no rights of appeal under **clause 132 or 133**; and

(b) may not become, under **clause 53 of Schedule 13**, a party to proceedings as the result of any appeal right exercised by another person under **clause 132 or 133**.

(4) However, the person may object under **clause 123**.

Compare: 2010 No 37 s 132

107 Conference of experts

(1) The IHP may, at any time during the hearing, direct that a conference of experts be held for the purpose of—

(a) clarifying a matter or an issue relating to the proposed plan; or

(b) facilitating resolution of a matter or an issue relating to the proposed plan.

(2) A conference may be facilitated by a member of the IHP or a person appointed by the IHP.

(3) The facilitator of a conference must, after the conference, prepare a report on the conference and provide it in writing or electronically to—

(a) the IHP; and

(b) the persons who attended the conference.

(4) A facilitator must act under **subclause (3)(a) or (b)** only if the IHP requires them to do so.

(5) A report prepared under **subclause (3)** must not, without a person's consent, include any material that the person communicated or made available at the conference on a without-prejudice basis.

(6) To avoid doubt, the regional planning committee may attend a conference under this clause only if authorised to do so by the IHP.

Compare: 2010 No 37 s 133

108 Alternative dispute resolution

(1) The IHP may, at any time during the hearing, refer to mediation or any other alternative dispute resolution process the persons listed in **subclause (2)** if—

(a) the IHP considers that it is—

(i) appropriate to do so; and

(ii) likely to resolve issues between the parties that relate to the proposed plan; and

(b) each person has consented (other than the members of the regional planning committee, but the committee must participate if referred by the IHP).

(2) The persons are—

(a) 1 or more submitters; and

(b) the members of the regional planning committee; and

(c) any other person that the IHP considers appropriate.

(3) The director of the regional planning committee secretariat must appoint sufficient skilled and experienced persons to facilitate the mediation or other process (the **mediator**).

(4) The mediator may, but need not, be an accredited person.

(5) The person who conducts the mediation or other process must report the outcome to the IHP.

(6) In reporting the ~~outcome~~ result under **subclause ~~(4)~~ (5)**, material must not be included~~,~~ without a person's consent~~,~~ if the material was communicated or made available by the person at the mediation or other process on a without-prejudice basis.

Compare: 2010 No 37 s 134

Subpart 3—Hearing by IHP

109 Hearing by panel

(1) An IHP must hold a hearing into submissions on the proposed plan.

(2) The IHP must hold each hearing session in public unless permitted to do otherwise by—

(a) **clause 118** (which relates to the protection of sensitive information); or

(b) section 122 of the Local Government Official Information and Meetings Act 1987 (as that Act applies in accordance with **clause 104**).

Compare: 2010 No 37 s 128

110 Powers of chairperson

The chairperson of the IHP has the following powers:

(a) to conduct, and maintain order at, the hearing:

(b) to decide how many, and which, members of the IHP are to be present at each hearing session:

(c) to direct that the IHP hold 2 or more hearing sessions concurrently:

(d) to appoint another member to act as chairperson for the purposes of any hearing session at which the chairperson of the IHP will not be present for any reason:

(e) to appoint a friend ~~or~~ of the submitter for the purpose of providing support to the submitter in relation to a hearing:

(f) to appoint as a special advisor a person who is able to assist the panel in any hearing:

(g) to deal with any complaints in respect of the IHP or any member of the ~~Panel~~ IHP.

Compare: 2010 No 37 s 165

111 Who may be heard

~~(1) Every person who has made a submission and stated that they wish to be heard at the hearing may speak on the matters raised in the submission at a hearing, either personally or through a representative, and call evidence.~~

(1) Every person who has made a submission and stated that they wish to be heard at the hearing, either personally or through a representative, may—

(a) speak on the matters raised in the submission at a hearing; and

(b) speak to their supporting information.

~~(2) Despite **subclause (1)**, the IHP may limit the circumstances in which parties having the same interest in a matter may speak or call evidence, if the IHP considers that there is likely to be excessive repetition.~~

(2) Despite **subclause (1)**, if the IHP considers that there is likely to be excessive repetition, it may limit the circumstances in which parties with the same interest in a matter may speak, call evidence, or speak to their supporting information.

(3) **Subclause (4)** applies if a person who has made a submission and stated that they wish to be heard fails to appear, or any representative of the person fails to appear, at the relevant hearing session.

(4) The IHP may proceed with the hearing session if it considers it fair and reasonable to do so.

Compare: 2010 No 37 s 129

112 Notice of hearing sessions

The IHP must give no less than 10 working days' notice of the dates, times, and places of the hearing sessions to—

(a) every person who made a submission and who requested to be heard (and has not since withdrawn the request); and

(b) every requiring authority that has a designation included in the proposed plan.

Compare: 2010 No 37 s 130

113 Hearing procedure

(1) At each hearing session, no fewer than 3 members of the IHP must be present.

(2) If the IHP is divided into 2 or more panels and the chairperson is not present at a hearing, the chairperson must appoint another member as chairperson for the purposes of the hearing session.

(3) At the hearing session,—

(a) a party may cross-examine any other party or witness only by leave granted by the chairperson and only after the members have had an opportunity to question the party or witness; and

(b) the IHP must receive ~~evidence~~ supporting information, written or spoken, in Māori~~;~~; in which case Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies as if the hearing session were legal proceedings before a tribunal named in Schedule 2 of that Act.

(4) Otherwise, the IHP must establish a procedure for hearing sessions that—

(a) is appropriate and fair in the circumstances (including in respect of the granting to a person of any waiver of the requirements of the IHP); and

(b) avoids unnecessary formality; and

(c) recognises tikanga Māori where appropriate.

(5) No chairperson or member of an IHP or hearing session may accept late submissions for any hearing.

(6) The director of the regional planning committee secretariat must ensure that a full record of the hearing sessions (which may be in the form of a full written transcript or an audio or video recording) and any other proceedings is retained, including on the ~~regional planning~~ committee's publicly available Internet site.

Compare: 2010 No 37 s 136

114 Regional planning committee must be represented at hearing sessions

(1) A representative of the regional planning committee must attend the hearing sessions to assist the IHP in 1 or more of the following ways:

(a) to clarify or discuss matters in the proposed plan:

(b) to give ~~evidence~~ supporting information:

(c) to speak to submissions or address issues raised by them:

(d) to provide any other relevant information as requested by the IHP.

(2) However, the IHP may excuse a regional planning committee representative from attending or remaining at any particular hearing session.

(3) A failure by the regional planning committee or the IHP to comply with this clause does not invalidate the hearing or the hearing sessions.

(4) To avoid doubt, this clause does not limit or prevent the regional planning committee from—

(a) making a submission on the proposed plan; or

(b) being heard on that submission.

Compare: 2010 No 37 s 137

115 Directions to provide ~~evidence~~ supporting information

(1) The IHP may direct a submitter or the regional planning committee to provide briefs of ~~evidence~~ supporting information in writing or electronically to the IHP before a hearing session.

(2) The IHP may direct a submitter or the ~~planning~~ committee, if the submitter or the committee is intending to call for supporting information from an expert ~~evidence~~, to provide briefs of ~~the evidence~~ that information in writing or electronically to the IHP before a hearing session.

~~(3) The IHP may direct a submitter or the regional planning committee to provide updated briefs of evidence in writing or electronically to the IHP before a hearing session, if updated evidence is necessary to reflect any unforeseen relevant circumstances or any resolution reached through alternative dispute resolution.~~

(3) If updated information is required in response to a report commissioned under **clause 119**, the IHP may direct a submitter or the regional planning committee to provide, in writing or electronically to the IHP, updated briefs of that supporting information.

(4) The submitter or the regional planning committee must provide briefs of ~~evidence~~ supporting information under this clause in the time frame specified by the IHP.

(5) The IHP must give electronic notice to any relevant submitters of briefs of ~~evidence~~ supporting information that are made available under **clause 120**.

Compare: 2010 No 37 s 139

~~**116 Hearing using remote access facilities**~~

~~*Interpretation*~~

~~(1) In this clause,~~

~~**audio link** means a facility (such as a telephone facility) that enables audio communication between an authority and 1 or more persons with a right to be heard at a hearing~~

~~**audiovisual link** means a facility that enables both audio and visual communication between an authority and 1 or more persons with a right to be heard at a hearing~~

~~**remote access facility** means any of the following:~~

~~(a) audio link:~~

~~(b) audiovisual link:~~

~~(c) any other similar facility.~~

~~*Direction to use remote access facilities*~~

~~(2) For the purposes of **clause 113**, an IHP may direct that a hearing or part of a hearing may be conducted using 1 or more remote access facilities.~~

~~(3) A direction may be made under **subclause (2)**~~

~~(a) on the initiative of the IHP itself; or~~

~~(b) at the request of any person with a right to be heard at the hearing under **clause 114**.~~

~~(4) The IHP or commissioners may make a direction under **subclause (2)** provided that they~~

~~(a) consider it appropriate and fair to do so; and~~

~~(b) are satisfied that the necessary remote access facilities are available.~~

~~(5) If a hearing is conducted in full or in part using a remote access facility, the secretariat, on behalf of the IHP or commissioners, must,~~

~~(a) if it is reasonably practicable to do so, enable access to the hearing by making the hearing available live and free of charge to the public, for example, on an Internet site; or~~

~~(b) as soon as practicable after the hearing closes, make available free of charge on its Internet site~~

~~(i) an audio or a video recording of the hearing; or~~

~~(ii) a written transcript of the hearing.~~

~~Compare: 1991 No 69 s 39AA(1)–(5)~~

116 Hearing using remote access facilities

Clause 81(1) to (5) applies with all necessary modifications to a hearing under **clause 111** as if references to an authority were a reference to the IHP or commissioners.

Compare: 1991 No 69 s 39AA(1)–(5)

117 Directions and requests before or at hearing session

(1) Before or at a hearing session, the IHP may do 1 or more of the following:

(a) direct the order of business at the hearing session, including the order in which submissions and ~~evidence~~ supporting information are presented:

(b) direct that submissions and ~~evidence~~ supporting information be recorded, taken as read, or limited to matters in dispute:

(c) direct a submitter, when presenting a submission or ~~evidence~~ supporting information, to present it within a time limit:

(d) request a submitter to provide further information.

(2) Before or at a hearing session, the IHP may direct that the whole, or a part of, a submission be struck out if the IHP considers that—

(a) the whole submission, or the part, is frivolous or vexatious; or

(b) the whole submission, or the part, discloses no reasonable or relevant case; or

(c) it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further; or

~~(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; or~~

(d) it is supported only by information that, though purporting to be prepared by an independent person with specialised knowledge or expertise, has been prepared by a person who is not independent or who does not have expertise or specialised knowledge; or

(e) it contains offensive language; or

(f) it is on the whole of the plan; or

(g) in the case of a primary submission, it does not identify the plan provision that is being submitted on; or

(h) it seeks relief that the IHP does not have jurisdiction to grant.

(3) At a hearing session, the IHP may direct a submitter not to present—

(a) the whole submission, if all of it is irrelevant or not in dispute; or

(b) any part of the submission that is irrelevant or not in dispute; or

(c) any part of the submission that does not relate to that part of the proposed plan being addressed at the hearing session.

(4) If the IHP gives a direction under **subclause (2)**, it must record its reasons for the direction.

(5) A person whose submission, in whole or in part, is struck out has a right of objection under **clause 123**.

Compare: 1991 No 69 s 41D; 2010 No 37 s 140

118 Protection of sensitive information

(1) The IHP may, on its own motion or on the application of any submitter, make an order described in **subclause (2)** where it is satisfied—

(a) that the order is necessary to avoid—

(i) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or

(ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and

(b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.

(2) An order may—

(a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded:

(b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the IHP in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.

(3) An order of the kind described in **subclause (2)(a)**—

(a) must be treated, for the purposes of section 48(3) of the Local Government Official Information and Meetings Act 1986, as a resolution passed under that section; and

(b) must be made available on the Internet site of the IHP.

(4) On an application made under **subclause (3)**, an Environment Judge sitting alone may, having regard to the matters to which the IHP had regard and to any other matters that the Environment Judge thinks fit,—

(a) make an order cancelling or varying any order made by the IHP under this clause on any terms that the Judge thinks fit; or

(b) decline to make an order.

(5) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the IHP under this clause.

(6) If a party applies for an order of a kind described in **subclause (2)**, but the application is declined, the party may apply to the Environment Court under **clause 15 of Schedule 13**.

Compare: 2010 No 37 s 141

119 IHP may commission reports

(1) The IHP may, at any time before or during the hearing, require the regional planning committee, or commission a consultant or any other person, to prepare a report on—

(a) 1 or more submissions; or

(b) any matter arising from a hearing session; or

(c) any other matter that the IHP considers necessary for the purposes of the IHP making its recommendations.

(2) The report does not need to repeat information included in any submission.

(3) Instead, the report may—

(a) adopt all of the information; or

(b) adopt any part of the information by referring to the part adopted.

(4) The IHP—

(a) may consider a report prepared under **subclause (1)** at the hearing session or when making its recommendations, or both; and

(b) must require the regional planning committee to make the report available for inspection on their Internet sites and offices.

(5) The IHP may request and receive, from a person who makes a report under this clause, any information and advice that is relevant and reasonably necessary for the IHP to make its recommendations under **clause 124**.

Compare: 2010 No 37 s 142

120 ~~Evidence~~ Supporting information and reports must be made available

(1) The secretariat, on behalf of the IHP, must require the regional planning committee to make available for inspection, on its Internet site,—

(a) any written or electronic ~~evidence or~~ supporting or other information received by the IHP during the hearing; and

(b) any written or electronic report provided to the IHP.

(2) However, this clause does not apply to any ~~evidence~~ supporting information, or part of a report, or information that the IHP considers it is not reasonable to make available for inspection.

Compare: 2010 No 37 s 143

121 Restriction on amendments or variations

~~(1) The regional planning committee may vary the proposed plan in accordance with a direction of the IHP.~~

(2) The IHP may direct the regional planning committee to vary the proposed plan if the IHP is satisfied that—

(a) the variation is required—

(i) to give effect, in the provisions of the proposed plan, to the provisions of the NPF; or

(ii) to correct a substantial error in the proposed plan; and

(b) the IHP is able to deal with the variation as provided in **subclause (4)** before the deadline for providing its report or reports under **clause ~~125~~ 126**.

(3) The regional planning committee must vary the proposed plan in accordance with the direction of the IHP and deal with the variation under **clause 122**.

(4) The IHP must deal with the variation under **clauses 109 to 125** as if the variation were the proposed plan.

(5) **Clause 122** applies to the variation, and the variation must be merged in and become part of the proposed plan in time for the IHP to provide, in a report under **clause ~~46~~ 124**, recommendations on the proposed plan as varied.

Compare: 2010 No 37 s 124(4)–(8)

122 Merger with proposed plan

(1) Every variation initiated under **clause 121** is merged in and becomes part of the proposed plan as soon as the variation and the proposed plan are both at the same procedural stage; but, if the variation includes a provision to be substituted for a provision in the proposed plan against which a submission or an appeal has been lodged, that submission or appeal must be treated as a submission or appeal against the variation.

(2) From the date of notification of a variation, the proposed plan has effect as if it had been so varied.

Compare: 1991 No 69 Schedule 1 cl 16B(1), (2)

123 Objection rights

(1) A person who made a submission on the proposed plan has the following rights of objection to the IHP:

(a) a decision of the IHP under **clause 106(2)** to decline to consider the person's submission:

(b) a decision of the IHP under **clause 117(2)** to strike out the whole or a part of the person's submission.

(2) An objection must be made by notice in writing, setting out the reasons for the objection, no later than 15 working days after the decision is notified to the person or any longer time allowed by the IHP.

(3) The chairperson of the hearing and at least 2 other members of the IHP must—

(a) consider the objection as soon as practicable; and

(b) hold a hearing on the objection, having given the objector no less than 5 working days' notice of the date, time, and place of hearing.

(4) After the hearing, the IHP must—

(a) dismiss the objection or uphold the objection in whole or in part; and

(b) inform the objector in writing of the IHP's decision and the reasons for it.

(5) A decision of the IHP under this clause is final and there is no right of appeal against it.

Compare: 2010 No 37 s 154

Subpart 4—Recommendations and decisions on a proposed plan

IHP recommendations

124 IHP must make recommendations on proposed plan

(1) The IHP must make recommendations on the proposed plan, including any recommended changes to the proposed plan, within 40 working days after the close of the hearing.

(2) The IHP may make recommendations in respect of a particular topic after it has finished hearing submissions on that topic.

(3) The IHP must make any remaining recommendations after it has finished hearing all of the submissions that will be heard on the proposed plan.

(4) The IHP must make recommendations on any provision included in the proposed plan that relates to designations.

(5) However, the IHP—

(a) is not limited to making recommendations only within the scope of the submissions made on the proposed plan; and

(b) may make recommendations on any matters beyond the scope of submissions, where necessary or desirable to preserve the policy structure and coherence of the plan.

(6) In formulating its recommendations, the IHP must ensure that any substantive requirements for making decisions will be complied with, if the recommendations were accepted.

(7) The IHP must not make a recommendation on any existing designations that are included in the proposed plan without modification and on which no submissions are received.

Compare: 1991 No 69 Schedule 1 cl 9; 2010 No 37 s 144(1)–(6)

125 Recommendations must be provided in reports

(1) The IHP must provide its recommendations to the regional planning committee in 1 or more reports.

(2) Each report must include—

(a) the IHP's recommendations on the topic or topics covered by the report, and identify any recommendations that are beyond the scope of the submissions made in respect of that topic or those topics; and

(b) the IHP's recommendations on the provisions and matters raised in submissions made in respect of the topic or topics covered by the report; and

(c) the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—

(i) the provisions of the proposed plan to which they relate; or

(ii) the matters to which they relate.

(3) Each report may also include—

(a) matters relating to any consequential alterations necessary to the proposed plan arising from submissions; and

(b) any other matter that the ~~IHP1~~ IHP considers relevant to the proposed plan that arises from submissions or otherwise.

Compare: 2010 No 37 s 144(7)–(10)

126 Matters that affect recommendations of IHP

(1) The IHP, in formulating its recommendations, must—

(a) have regard to any reports prepared under **clauses 105(5) and 107(3)**; and

(b) take account of any ~~outcomes~~ results reported under **clause 108(5)**; and

(c) have particular regard to the planning committee's evaluation report under **clause 25**; and

(d) have regard to the report prepared on the proposed plan under **clause 29**; and

(e) disregard trade competition and the effects of trade competition; and

(f) ensure that, were the regional planning committee to accept the recommendations, **section 512** would be complied with.

(2) However, the IHP, in formulating its recommendations, must not have regard to—

(a) any effect on scenic views from private properties ~~or land transport assets that are not stopping places~~; or

(b) ~~any effect on~~ the visibility of commercial signage ~~and~~ or advertising being obscured as an effect of an activity; or

(c) any adverse effect, real or perceived, arising from the use of the land ~~by~~ for housing, if that effect is attributed to—

(i) the social or economic characteristics of residents; or

(ii) types of residential use, such as rental housing, housing for people with disability needs or who are beneficiaries; or

(iii) residents who require support or supervision in their housing because of their legal status or disabilities.

~~(i) people on low incomes; or~~

~~(ii) people with special housing needs; or~~

~~(iii) people whose disabilities mean that they need support or supervision in their housing.~~

Compare: 2010 No 37 s 145

Subpart 5—Decisions

127 Regional planning committees to consider recommendations and notify decisions on them

(1) ~~The~~ A regional planning committee must—

(a) decide whether to accept or reject each recommendation of the IHP; and

(b) for each rejected recommendation, decide an alternative solution, which—

(i) may or may not include elements of both the proposed plan as notified and the IHP's recommendation in respect of that part of the proposed plan; but

(ii) must be within the scope of the submissions; and

(c) identify any decisions made on the basis of an exception to the requirement for consistency with the relevant regional spatial strategy.

(2) ~~The~~ A regional planning committee must make its decision within 40 working days after it receives the recommendations of the IHP under **clause 125**.

(3) When making decisions under **subclause (1)**,—

(a) ~~the~~ a committee is not required to consult any person or consider submissions or other ~~evidence~~ supporting information from any person; and

(b) ~~the~~ a committee must not consider any submission or other ~~evidence~~ supporting information unless it was made available to the IHP before the IHP made the recommendation that is the subject of the committee's decision.

(4) To avoid doubt, ~~the~~ a committee may accept recommendations of the IHP that are beyond the scope of the submissions made on the proposed plan.

(5) ~~The~~ A committee must, no later than 40 working days after it is provided with the report (or, if there is more than 1 report, the last of the reports) under **clause 125**,—

(a) publicly notify its decisions under **subclause (1)**, on an Internet site maintained by the relevant local authorities in a way that sets out the following information:

(i) each recommendation of the IHP that it accepts; and

(ii) each recommendation of the IHP that it rejects and the reasons for doing so; and

(iii) the alternative solution for each rejected recommendation; and

(b) publish on its Internet site a copy of the plan that incorporates changes required to reflect the ~~regional planning~~ a committee's decisions; and

(c) electronically notify each requiring authority affected by the decisions of the committee under **subclause (1)** of the information referred to in **paragraph (a)** that specifically relates to the decision recommending that the authority confirm, modify, impose conditions on, or withdraw the designation.

Compare: 2010 No 37 s 148(1)–(4), (8)

128 Regional planning committee may accept recommendation with minor alteration

(1) The regional planning committee may accept a recommendation of the IHP but alter the recommendation in a way that has a minor effect or to correct a minor error.

(2) The committee may notify the recommendation as accepted, but only if, when complying with **clause 127(5)(b)**, it sets out the alterations to the recommendation.

(3) The recommendation must, for all purposes, be treated as a recommendation of the IHP accepted by the committee.

Compare: 2010 No 37 s 148(5)–(7)

129 Regional planning committees to release IHP report

At the same time as the regional planning committee publicly notifies its decisions under **clause 127**, the committee must make the report or reports provi-

ded by the IHP under **clause 125** available on an Internet site maintained by the relevant local authorities.

Compare: 2010 No 37 s 150

130 Designations

(1) If a notice of requirement is included in a proposed plan, the relevant regional planning committee must notify the requiring authority of the regional planning committee's recommendation to confirm, modify, impose conditions, or withdraw the designation.

(2) The notice required by **subclause (1)** must be given within 40 working days after the regional planning committee receives the IHP's recommendations.

(3) The relevant requiring authority must notify the regional planning committee as to whether it accepts or rejects the recommendations, in whole or in part, not later than 30 working days after the ~~regional planning~~ committee has given notice under **subclause (1)**.

(4) A requiring authority may modify a requirement, but only if that modification is recommended by the regional planning committee or is not inconsistent with the requirement as notified.

(5) If the requiring authority rejects the recommendation in whole or in part, or modifies the requirement, the authority must give reasons for its decision.

(6) Within 15 working days after the regional planning committee receives the decision of the requiring authority, the regional planning committee must serve, on all submitters and on landowners and occupiers directly affected by the decision,—

(a) the notice of the requiring authority's decision; and

(b) the date by which any appeal may be lodged with the Environment Court or the High Court.

131 Extension of deadlines for decisions

(1) The regional planning committee may ~~request the Minister to~~ extend, by no more than 20 working days, the deadline referred to in **clause ~~1270(2)~~ 127(2)** (the **original deadline**).

(2) A request must be made to the regional planning committee before the original deadline or, if the original deadline has already been extended, before the extended deadline.

(3) A request must be in writing and specify a proposed date for the extended deadline that is no later than 20 working days after the original deadline.

(4) If the ~~Minister grants a~~ request is granted, the original deadline is extended accordingly.

Subpart 6—Appeals

Appeals against planning committee decisions

132 Right of appeal to Environment Court if regional planning committee rejects IHP recommendation and makes alternative decision

(1) This clause applies if—

(a) the regional planning committee rejects an IHP recommendation on the proposed plan; and

(b) the committee makes an alternative decision to that recommended by the IHP that results in the inclusion of a provision in, or exclusion of a matter from, the proposed plan that is within the scope of submissions; and

(c) any person made a submission in respect of the provision or matter recommended by the IHP.

(2) Once the committee notifies its decisions on the proposed plan, the person may appeal to the Environment Court in respect of the differences between the alternative decision and the recommendation.

(3) The appeal is limited to the effect of the differences between the alternative decision and the recommendation.

(4) Notice of the appeal must be in the form (if any) approved by the ~~chief executive~~ Secretary for the Environment, lodged with the Environment Court, and served on the regional planning committee not later than 30 working days after the ~~regional planning~~ committee notifies the matters under **clause 127**.

(5) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the ~~notice is lodged with the Environment Court~~ person complies with **subclause (4)**.

Compare: 2010 No 37 s 156

133 Right of appeal to Environment Court if regional planning committee accepts IHP recommendation beyond scope of submissions

(1) This clause applies if—

(a) the regional planning committee accepts an IHP recommendation on the proposed plan that results in the inclusion of a provision in, or exclusion of a matter from, the proposed plan; and

(b) the IHP identified the recommendation as being beyond the scope of the submissions made on the proposed plan; and

(c) any person is, was, or will be unduly prejudiced by the inclusion of the provision or exclusion of the matter.

(2) Once the committee notifies its decisions on the proposed plan, the person may appeal to the Environment Court in respect of the inclusion of the provision or exclusion of the matter.

(3) Notice of the appeal must be in the prescribed form and lodged with the Environment Court, and served on the regional planning committee, no later than 30 working days after the ~~regional planning~~ committee notifies the matters under **clause ~~130(3)~~ 127**.

(4) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the ~~notice is lodged with the Environment Court~~ person complies with **subclause (3)**.

Compare: 2010 No 37 s 156

Appeals against requiring authority decisions on designations

134 Right of appeal to Environment Court on designations

(1) This clause applies if an existing designation or a requirement for a designation is included in a proposed plan under **clause 130**.

(2) A person may appeal to the Environment Court in accordance with this clause against any aspect of a decision of a requiring authority under **clause 130**, where an existing designation or notice of requirement was included in the proposed plan, if—

(a) the person is an owner or occupier of land to which the designation applies; and

(b) the person made a submission on the requirement that referred to that aspect of the decision.

(3) A person may appeal to the Environment Court in accordance with this clause against any aspect of a decision of a requiring authority under **clause 130**, if an existing designation or notice of requirement was included in the proposed plan, if—

(a) the person is not an owner or occupier of land to which the designation applies; and

(b) the person made a submission on the requirement that referred to that aspect of the decision; and

(c) in that aspect of the decision, the requiring authority rejected the planning committee's recommendation on the matter.

(4) The regional planning committee may appeal to the Environment Court in accordance with this clause against any aspect of a decision of a requiring authority under **clause 130**, where an existing designation or notice of requirement was included in the proposed plan.

(5) Within 30 working days after the regional planning committee notifies the matter under **clause ~~130(3)~~ 130(1)**, notice of the appeal must be—

(a) lodged in the prescribed form with the Environment Court; and

(b) served on the regional planning committee and affected requiring authority.

Compare: 2010 No 37 s 157

135 Appeal to High Court on point of law

(1) A person may appeal to the High Court against any aspect of a decision of a requiring authority under **clause 130** if—

(a) the person is not an owner or occupier of land to which the designation applies; and

(b) the person made a submission on the requirement that referred to that aspect of the decision; and

(c) in that aspect of the decision, the requiring authority accepted the regional planning committee's recommendation on the matter.

(2) However, an appeal under this clause may only be on a question of law.

(3) Except as otherwise provided in this clause, **clauses ~~79 and~~ 80 to ~~87~~ 92** apply, with all necessary modifications, to an appeal under this clause.

(4) Notice of the appeal must be filed with the High Court, and served on the requiring authority, no later than 20 working days after the requiring authority notifies its decision to accept the committee's recommendation.

~~(5) If the subject-matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the notice is filed with the High Court.~~

Compare: 2010 No 37 s 158

Environment Court hearings

136 Environment Court hearing

(1) The Environment Court must hold a public hearing into any provision or matter referred to it under **~~clause 79, 80, 132, 133, or 134~~ clauses 132 to 134**.

(2) The Environment Court must hear the appeals by way of a new hearing, subject to **subclauses (3) to (5)**.

(3) In an appeal under **~~clause 79~~ clauses 132 and 134**, the Environment Court—

(a) must consider only the full record of the IHP proceedings (including all ~~evidence~~ supporting information or other material that was before the IHP), unless it allows fresh ~~evidence~~ supporting information under **paragraph (b)**:

(b) may consider fresh ~~evidence~~ supporting information if it considers that—

(i) the record of the IHP is incomplete in a material way; or

(ii) any ~~evidence~~ supporting information needs to be updated to properly reflect events or circumstances that have changed or arisen after the IHP hearing; or

(iii) the interests of justice require that the additional ~~evidence~~ supporting information be admitted.

~~(4) The limits described in **subclause (3)(b)** on the evidence that may be brought in an appeal under **clause 133** do not apply, unless the appellant made a submission.~~

(5) In an appeal under **clause 133**, the Environment Court—

(a) is not limited to the record of the IHP proceedings or the matters raised in submissions made to the IHP~~:~~; but

(b) may consider fresh ~~evidence~~ supporting information on the same basis as that provided in **subclause (3)(b)**.

(5A) The limits described in **subclause (3)(b)** on the supporting information that may be brought in an appeal under **clause 133** do not apply, unless the appellant made a submission.

(6) The limits in **subclauses (3) and (4)** on fresh ~~evidence~~ supporting information do not prevent parties from amending their position during any rehearing process.

(7) If the Environment Court directs a regional planning committee under **clause 48 of Schedule 13**, the committee must comply with the court's directions.

Compare: 1991 No 69 Schedule 1 cl 15

Appeal to High Court on point of law

137 Right of appeal to High Court on question of law if regional planning committee accepts IHP recommendation ~~within scope of submissions~~

(1) This clause applies if—

(a) the regional planning committee accepts an IHP recommendation on the proposed plan that results in the inclusion of a provision in, or exclusion of a matter from, the proposed plan; and

(b) the IHP has not identified the recommendation as being beyond the scope of the submissions made on the proposed plan; and

(c) any person made a submission in respect of the provision or matter recommended by the IHP.

(2) Once the committee notifies its decisions on the proposed plan, the person may appeal to the High Court in respect of the inclusion of that provision or exclusion of that matter.

(3) An appeal under this clause may only be on a question of law.

(4) Except as otherwise provided in this clause, **clauses 79(2) and 80 to 87 of Schedule 13** apply, with all necessary modifications, to an appeal under this clause.

(5) Notice of the appeal must be filed in the High Court, and served on the regional planning committee, no later than 20 working days after the committee notifies the matters under **clause ~~130~~ 127**.

(6) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after ~~the notice is filed in the High Court~~ the person complies with **subclause (5)**.

Compare: 2010 No 37 s 158

138 Judicial review

(1) This Part does not limit or affect any right of judicial review a person may have in respect of a matter to which this Part applies.

(2) However, a person must not apply for both judicial review of a decision made under this Part and appeal to the High Court under **clause 135 or 137~~)~~** unless the person lodges the application for judicial review and the appeal together.

(3) If an application for judicial review and an appeal are lodged together, the High Court must try to hear the judicial review and appeal proceedings together, unless the court considers it is impracticable to do so in the circumstances of the particular case.

139 Rehearing directed by High Court

(1) This clause applies if the High Court directs a regional planning committee to rehear any matter raised in a point of law appeal under **clause 135 or 137**.

(2) The regional planning committee may request the IHP convener to ensure that any rehearings by the IHP are conducted efficiently, such as by scheduling any rehearings together or reconvening only some of the IHP members.

140 Regulations

(1) The Governor-General may, by Order in Council, on the advice of the Minister, make regulations to prescribe or provide for—

(a) ~~prescribing~~ methods to assist in developing a process for making plans:

(b) ~~prescribing~~ the form and manner of assessment methods and evaluation reports:

(ba) the methodology to be used in preparing the assessments required for the purpose of those evaluation reports:

(c) ~~prescribing~~ the form of reports required by **clause 29** of this schedule:

(d) ~~prescribing~~ the form for notifying plans under **clause 31** of this schedule and any information required for that process:

(e) ~~providing for~~ anything incidental that is necessary for carrying out, or giving full effect to, this Act.

(2) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

~~**141 Regulations relating to the making of plans and evaluation reports associated with plans**~~

~~(1) The Governor-General may, by Order in Council made on the recommendation of the Minister for the Environment, make regulations that prescribe —~~

~~(a) methods to assist in developing a process for making plans; and~~

~~(b) the form in which evaluation reports required by **clause 25** of this schedule must be prepared and published; and~~

~~(c) the methodology to be used in preparing the assessments required for the purpose of those evaluation reports.~~

~~(2) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).~~

Schedule 8
Provisions relating to membership, support, and operations of regional planning committees

s 101(2)

Contents

Part 1
Appointment of members

1 Interpretation

In this schedule, unless the context otherwise requires,—

appointing body means—

(a) a local authority that appoints, or 1 or more local authorities acting jointly that appoint, a member of a regional planning committee:

(b) any Māori appointing body:

(c) the ~~responsible~~ Minister responsible for the **Spatial Planning Act 2022**, for the appointment of a member for the purposes of participating as a voting member in any process, committee business, and decision making under ~~the Spatial Planning Act 2022~~ that Act

~~**iwi and hapū committee** means the committee formed by the iwi and hapū in a region for the purpose of—~~

~~(a) agreeing with local authorities the composition arrangements for the region under **clause 3**; and~~

~~(b) leading the process to determine the one or more Māori appointing bodies~~

iwi and hapū committee means a committee set up under **clause 3(1)**

~~**Māori appointing body** means any body identified by the iwi and hapū committee to make appointments to the regional planning committee~~

Māori appointing body means—

(a) any Māori individual, group, or collective of groups identified by the iwi and hapū committee:

(b) an existing body (such as an iwi authority or existing Māori organisation) or a body established specifically for undertaking the functions described in this schedule:

(c) an iwi and hapū committee

Māori appointment process means the process of iwi authorities and groups that represent hapū in a region determining Māori appointing bodies as described in **clauses 2, 3, and 7**.

~~**responsible Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Spatial Planning Act 2022~~

~~**statutory deadline A, B, C, or D** means the deadline described as such in **clause 41**.~~

2 Members

(1) A regional planning committee must comprise at least 6 members, but there is no limit on the total number of members.

(2) Each local authority in the region of the regional planning committee may appoint at least 1 member.

(3) Members appointed by a local authority must be appointed in accordance with a composition arrangement in accordance with this schedule.

~~(4) Iwi authorities and groups that represent hapū must, by a process they determine themselves, set up an iwi and hapū committee for the purpose of determining the Māori appointing body or bodies.~~

(5) At least 2 members must be appointed by 1 or more Māori appointing bodies of the region.

~~(6) The responsible Minister may appoint 1 member to participate in the functions of the committee under the Spatial Planning Act **2022**.~~

(6) The Minister responsible for the **Spatial Planning Act 2022** must appoint 1 member, in addition to the 6 members required by **subclause (1)**, to participate in the functions of the regional planning committee under that Act.

3 Composition arrangement

~~(1) The local authorities and the iwi and hapū committee in the region of a regional planning committee must reach agreement on a composition arrangement, which must include—~~

~~(a) the total number of members of the regional planning committee of the region; and~~

~~(b) how many members will be appointed by local authorities; and~~

~~(c) how many members will be appointed by 1 or more Māori appointing bodies; and~~

~~(d) who are to be the appointing bodies.~~

(1) Iwi authorities and groups that represent hapū in a region must, by a process they determine themselves, set up an iwi and hapū committee to be the sole iwi and hapū committee for the region for the purpose of—

(a) agreeing the composition arrangement for the region with local authorities; and

(b) determining the Māori appointing body or bodies.

(1A) The local authorities and the iwi and hapū committee in the region of a regional planning committee must reach agreement on a composition arrangement (being the number of members and the appointing bodies) as follows:

(a) the local authorities and the iwi and hapū committee must reach agreement on the total number of members of the regional planning committee, how many members will be appointed by 1 or more local authority appointing bodies, and how many will be appointed by the Māori appointing body or bodies:

(b) the local authorities must determine the local authority appointing bodies:

(c) the iwi and hapū committee must determine the Māori appointing bodies.

(2) The composition arrangement must ensure that, having regard to the purpose of this Act and the purpose of the **Spatial Planning Act 2022**,—

(a) the size of the regional planning committee supports effective decision making and efficient functioning; and

(b) regional, district, urban, rural, and Māori interests are effectively represented; and

(c) consideration has been given to the ~~purpose of local government (as set out in section 10 of the Local Government Act 2002)~~ extent to which the composition arrangement will enable the regional planning committee to fulfil its role under **section 30N**; and

(d) in the case of a region with multiple local authorities, the local authority membership of the regional planning committees has been agreed with consideration of the different populations of the individual local authorities and the desirability of applying some weighting in respect of that.

(3) When agreeing on a composition arrangement, the ~~parties~~ local authorities and the iwi and hapū committee must ensure that consideration is given to any existing arrangements between—

(a) ~~iwi, hapū~~iwi authorities, groups that represent hapū, and Māori groups with interests in the region; and

(b) between those groups and local authorities in the region.

~~(4) The regional council or unitary authority in the region must, by the relevant statutory deadline, provide in writing to the Local Government Commission—~~

~~(a) an outline of the agreed composition arrangement for the regional planning committee in their region; and~~

~~(b) a statement of how the composition arrangements meet the requirements in **clause 2** and give consideration to the matters listed in **clause 3(2)**; and~~

~~(c) if a party or parties have dissenting views and wish to have them listed, a list of the dissenting views.~~

(4) A composition arrangement must be treated as agreed when the Local Government Commission receives from the regional council or unitary authority in the region, no later than 8 months after the council or authority receives the notification given under **clause 8(1)(a)**,—

(a) a written outline of the agreed composition arrangement for the regional planning committee in their region; and

(b) a written statement of how the composition arrangement meets the requirements in **clause 2** and give consideration to the matters listed in **subclause 2)**.

(4A) The Māori appointing body or bodies for a region must be treated as having been agreed when the Local Government Commission receives the notification from the iwi and hapū committee under **subclauses (4B) and (4C)**.

(4B) If the composition arrangement is agreed within the same time frame specified in **subclause (4)**, the iwi and hapū committee must notify the Local Government Commission of the names of the Māori appointing body or bodies within that time frame.

(4C) If the composition arrangement is determined under **clause 8(4)**, the iwi and hapū committee must notify the Local Government Commission of the names of the Māori appointing body or bodies within 6 months following the Local Government Commission's publication of the final determination on composition.

(5) If the ~~parties~~ local authorities and the iwi and hapū committee cannot reach agreement on a composition arrangement, the regional council or unitary authority must, ~~by statutory deadline A~~ no later than 8 months after the council or authority receives the notification given under **clause 8(1)(a)**, provide to the Local Government Commission a proposed composition arrangement with dissenting views.

(5A) The information required by **subclause (5)** must be sufficient to enable the Local Government Commission to understand the substance of any disagreement on composition and the views of the local authorities and the iwi and hapū committee in their disagreement.

(6) The regional council or unitary authority acts on behalf of the local authorities and iwi and hapū committee when writing to the Local Government Commission under **subclause (4) or (5)**.

~~**4 Iwi and hapū dispute resolution process**~~

~~(1) Before any appointments to the regional planning committee are made under **clause 2**, the iwi and hapū committee must appoint, to provide for dispute resolution should that be needed,~~

~~(a) a person able to conduct an arbitration; and~~

~~(b) 1 or more mediators.~~

~~(2) A dispute as to the persons appointed under **subclause (1)** must be referred to the Māori Land Court for determination.~~

4 Application of section 85 of Local Government (Auckland Council) Act 2009

(1) Section 85 of the Local Government (Auckland Council) Act 2009 does not confer on the board referred to in that section any right to appoint members of a regional planning committee.

(2) However, **subclause (1)** does not prevent the board from undertaking any role in the appointment process under this schedule (including making an

appointment) if the role is determined to be appropriate by the iwi and hapū committee or a Māori appointing body or bodies.

~~5 Māori appointing bodies~~

~~(1) The Māori appointing body or bodies for a region must be treated as having been agreed if, by statutory deadline A, the Local Government Commission has received the information required by **clause 3(4)**.~~

~~(2) An iwi and hapū committee or a Māori appointing body may engage an independent facilitator to assist the appointing body to make decisions on appointments.~~

~~(3) The Crown must pay the reasonable costs and expenses of the facilitator.~~

~~(4) Not later than 3 years after the first regional planning committee is established for a region, the Minister must —~~

~~(a) commence a full review of the process for appointing Māori members to regional planning committees that is to be lead in accordance with **subclause (5)**; and~~

~~(b) notify iwi authorities and groups that represent hapū of the review.~~

~~(5) Iwi authorities and groups that represent hapū must lead the review process in accordance with their own kawa and tikanga.~~

6 Te Runanga o Ngai Tahu to represent Ngāi Tahu Whanui

For all purposes of this schedule relating to composition discussions and appointment processes in respect of the regional planning committees, Ngāi Tahu Whanui, as defined in section 2 of Te Runanga o Ngai Tahu Act 1996, must be represented by Te Runanga o Ngāi Tahu in accordance with that Act.

7 Participation of iwi and hapū and other Māori groups

(1) Before agreeing to a composition arrangement and ~~identifying an appointing body~~ determining the Māori appointing body or bodies, the iwi and hapū committee must engage with iwi and hapū and other Māori groups with interests in the region.

(2) In order to meet the obligation under **subclause (1)**, the iwi and hapū committee must—

(a) hold 1 or more hui to discuss—

(i) the composition arrangement; and

(ii) the Māori appointing body or bodies; and

(iii) disputes resolution processes set out in **clauses 12 and 12A** that are available to participants and may be followed in the event of a dispute in relation to the matters under **subclause (1)**; and

(b) so as to ensure as far as possible that those attending the hui are properly informed by—

(i) providing not less than 30 days' notice of the date of the hui; and

(ii) giving details in the notice of the date, place, time, and agenda of the hui.

(3) The iwi and hapū committee must—

(a) keep records as to what hui were held, who attended, and the agreed outcomes of those hui; and

(b) make the records available, if requested, to persons or groups who did attend, or could have attended, the hui.

8 Role of Local Government Commission

(1) The Local Government Commission must,—

(a) as soon as possible after the date specified in the Order in Council under **section 2(6)** for a region, notify the local authorities, iwi authorities, and groups representing hapū in ~~each~~ the region of the~~ relevant statutory deadlines described in **clause 41(2)(a)**~~ time frames for the composition and appointment process under this schedule; and

(b) if requested by the local authorities or the iwi and hapū committee, facilitate the process between any of them, where appropriate, to assist in reaching agreement.

(1A) The Local Government Commission may rely on relevant information kept under **section 819(2)** for the purpose of notifying iwi authorities and groups representing hapū.

(2) On being advised that the local authorities and iwi and hapū committee have agreed the composition arrangements for the regional planning committee, the Local Government Commission must—

(a) confirm that the composition arrangement complies with this Part; and

(b) make both the composition arrangement and the Commission's confirmation of it publicly available by notice in the *Gazette*.

(3) **Subclause (4)** applies if—

(a) neither the regional council nor the unitary authority in the region complies with~~ **section 820(1)**~~ **clause 3(4)**; or

(b) the regional council or the unitary authority advises that the ~~parties~~ local authorities and the iwi and hapū committee have been unable to agree the composition arrangement; or

(c) the regional council or the unitary authority provides a composition arrangement that does not meet the requirements of this schedule and relevant arrangements in Treaty settlement legislation.

(4) If this subclause applies, the Local Government Commission must determine—

(a) the total number of members on the regional planning committee; and

(b) the local authority appointing bodies and the number of members to be appointed by those bodies; and

(c) the number of members to be appointed by the Māori appointing body or bodies (but not to determine the Māori appointing bodies).

(5) The Local Government Commission, when determining a regional planning committee's composition, must—

(aaa) comply with **clauses 2 and 3(2) and (3)**; and

(a) provide a draft determination to the local authorities~~, iwi authorities, and groups that represent hapū~~ and the iwi and hapū committee as soon as possible~~, by statutory deadline C~~; and

(b) take account of written submissions from the local authorities~~, iwi authorities, and groups that represent hapū~~ and the iwi and hapū committee, and any other relevant information provided as a result of facilitation or mediation (such as reports from a Crown facilitator); and

(c) if requested, convene 1 joint meeting with ~~all the notified parties~~ the local authorities and iwi and hapū committee to discuss a draft determination; and

~~(d) by statutory deadline D, publish a final determination that complies with the requirements in **clause 2** and gives consideration to the matters listed in **clause 3(2) and (3)**.~~

(d) as soon as possible, but within 4 months after receiving the proposed composition arrangement from the regional council or unitary authority under **clause 3(5)**, publish a final determination.

(6) Section 35 and Schedules 4 and 5 of the Local Government Act 2002 apply with any necessary modifications to proceedings of the Local Government Commission under this schedule.

9 Temporary appointments to Local Government Commission

(1) The Local Government Commission may request the Minister of Local Government, under clause 5 of Schedule 4 of the Local Government Act 2002, to appoint a ~~temporary member of a regional planning committee~~ temporary member of the Local Government Commission to assist the Commission in its role under **clause 8** (for example, where the Commission is unable to determine a matter referred to it under **clause 8**).

(2) Before making an appointment under **subclause (1)**, the Minister of Local Government must be satisfied that the temporary member has—

(a) knowledge of the region in question; and

(b) expertise in—

(i) te Tiriti o Waitangi and its principles; and

(ii) local kawa and tikanga, and mātauranga of the iwi and hapū in the region.

10 Particular requirements for Nelson and Tasman unitary authorities

Despite anything in **clause 3**, in the case of the Nelson and Tasman unitary authorities, they must agree which of them is to carry out the requirements in relation to information required by **clause 3(4) and (5)**. ~~the following:~~

~~(a) information required by **clause 3(4) and (5)**; and~~

~~(b) information from Māori appointing bodies that is to be provided to the Local Government Commission under **clause 3(4)**.~~

11 Facilitation to support composition and appointment process

(1) The local authorities, iwi, and hapū committee, or Local Government Commission may request the Minister ~~for the Environment~~ to appoint a facilitator to support the process for reaching agreement on a composition arrangement for a period not exceeding 6 weeks.

(2) The Crown must pay the reasonable costs and expenses of the facilitator under **subclause (1)** for a period not exceeding 6 weeks.

(3) If, at the end of their appointment, an agreement on a composition arrangement has not been reached, the facilitator must prepare a report to assist the Commission to make a determination on the composition arrangement.

(4) An iwi and hapū committee or the Māori appointing body or bodies may engage an independent facilitator to assist with their roles under this schedule.

(5) The Crown must pay the reasonable costs and expenses of the facilitator under **subclause (4)**.

~~**12 Access to iwi and hapū committee dispute resolution process**~~

~~(1) An iwi and hapū committee must provide access to a dispute resolution process for those participating in the process of determining the Māori appointing bodies in the region for the purpose of appointing members of the relevant regional planning committee (*see* **clause 4**).~~

~~(2) The processes that may be available include —~~

~~(a) facilitated hui:~~

~~(b) mediation:~~

~~(c) arbitration.~~

~~(3) A determination of the Māori Land Court must be sought in the case of a dispute about —~~

~~(a) the appointment of a mediator or arbitrator; or~~

~~(b) the mediation or arbitration process.~~

~~(4) For the purpose of assisting to resolve a dispute of the kind described in **clause 4 or subclause (3)**, the Māori Land Court has jurisdiction to hear the dispute if a resolution has not been reached.~~

~~(5) Proceedings may be filed in accordance with Te Ture Whenua Maori Act 1993 by or on behalf of any of the participants referred to in **subclause (1)**.~~

~~(6) Proceedings must be commenced by notice given in the form and manner prescribed by the Māori Land Court Rules 2011,—~~

~~(a) if there is no agreement on the mediator to be appointed, not later than 1 month after the date of the hui referred to in **subclause (2)(a)**:~~

~~(b) if there is no agreement on the arbitrator to be appointed, not later than 1 month after the date of the hui referred to in **subclause (2)(a)** or 2 months after the mediation process referred to in **subclause (2)(b)**:~~

~~(c) if there is no agreement on the mediation or arbitration processes to be followed, not later than 1 month after the appointment of the arbitrator or mediator to those processes:~~

~~(d) within any further period that the Māori Land Court may allow.~~

~~(7) If there is no agreement following the use of arbitration, the participants may lodge an appeal with the Māori Appellate Court.~~

12 Dispute resolution process for iwi, hapū, and other Māori groups

(1) The purpose of this clause is to provide a process to support the resolution of disputes, if required, for the Māori appointment process under this schedule.

(2) The Māori appointment process only to the first time the process is undertaken.

(3) A dispute may (without limitation) be resolved by means of—

(a) optional tikanga-based facilitated hui:

(b) optional tikanga-based mediation:

(c) if necessary to assist the parties to resolve any remaining disputes to ensure Māori members are appointed by the time the regional planning committee is established, arbitration.

(4) To ensure that arbitration is available throughout the Māori appointment process, iwi authorities and groups that represent hapū must appoint an arbitrator within 3 months of notification by the Local Government commission that the regional planning committee composition process has begun.

(5) If an arbitrator is not appointed by agreement within 3 months after the notification by the Local Government commission under **clause 8(1)(a)**, the Secretary for the Environment must, on application, request the Māori Land Court to appoint an arbitrator.

(6) A dispute must be referred to arbitration if—

(a) there is no agreement on the composition of the iwi and hapū committee by the statutory deadline in **clause 3(4)**; or

(b) by the time the regional planning committee is established (as provided in **clause 15(1)**), there is no agreement on the Māori appointing body or bodies, or the Māori appointing body or bodies have yet to appoint members to the regional planning committee.

(7) Any party entitled to participate at any stage in the Māori appointment process may commence arbitration relating to that stage at an earlier time by giving notice to the other parties.

(8) Arbitration must be conducted by an arbitrator appointed in accordance with this clause.

(9) The terms of appointment of an arbitrator must provide that—

(a) the arbitrator's determination must be in writing and incorporate the matters agreed between the parties, if any, and the arbitrator's determination of any outstanding matters; and

(b) the determination be made within 20 working days after the arbitrator is notified of the parties' intention to enter into arbitration; and

(c) the arbitrator must immediately notify the parties of the determination; and

(d) the arbitrator must not disclose confidential information provided to the arbitrator in the course of the arbitration.

12A Appeals against arbitrator's determination

(1) Any party to an arbitrator's determination may appeal to the Māori Land Court on any question of law arising out of the determination—

(a) if the parties have so agreed before the making of that determination; or

(b) with the consent of every other party given after the making of that determination; or

(c) with the leave of the Māori Land Court.

(2) The Māori Land Court must not grant leave under **subclause (1)(c)** unless it considers that, having regard to all the circumstances, the determination of the question of law concerned could substantially affect the rights of 1 or more of the parties.

(3) The Māori Land Court may grant leave under **subclause (1)(c)** on any conditions that it sees fit.

(4) On the determination of an appeal under this clause, the Māori Land Court may, by order,—

(a) confirm, vary, or set aside the determination; or

(b) remit the determination, together with the Māori Land Court's opinion on the question of law which was the subject of the appeal, to the arbitrator for reconsideration.

(5) If the determination is remitted under **subclause (3)(b)**, the arbitrator must, unless the order otherwise directs, make the determination not later than 3 months after the date of the order.

(6) With the leave of the Māori Land Court, any party may appeal to the Māori Appellate Court from any refusal of the Māori Land Court to grant leave or from any determination of the Māori Land Court under this clause.

(7) If the Māori Land Court refuses to grant leave to appeal under **subclause (3)**, the Māori Appellate Court may grant special leave to appeal and section 56 of Te Ture Whenua Maori Act 1993 applies.

(8) If the arbitrator's determination is varied on an appeal under this clause, the determination as varied has effect (except for the purposes of this clause) as if it were the arbitrator's determination; and the party relying on the determination must supply the duly authenticated original order of the Māori Land Court varying the award or a duly certified copy.

(9) The Māori Land Court and the Māori Appellate Court may give any directions under Part 3 of Te Ture Whenua Maori Act 1993 that it considers appropriate in any proceedings before the court under this clause.

(10) For the purposes of this clause, **question of law**—

(a) includes an error of law that involves an incorrect interpretation of the applicable law (whether or not the error appears on the record of the determination); but

(b) does not include any question as to whether—

(i) the determination or any part of the determination was supported by any evidence or any sufficient or substantial evidence; and

(ii) the arbitrator drew the correct factual inferences from the relevant primary facts.

13 Review of composition arrangement

(1) The Local Government Commission may undertake a review of regional planning committee composition for a region if—

(a) it finds there has been significant ~~local government reform that impacts the local government arrangements in the region~~ reform or reorganisation of local government that affects the operation of the regional planning committee; or

(b) a local authority, iwi authority, or a group that represents hapū requests a review, and the Commission determines that a review is warranted because changes have occurred in relation to the matters listed in **clause 3(2)** or other reasonable circumstances warrant a review.

(2) The Local Government Commission must not undertake a review for a region unless—

(a) the first regional spatial strategy has been published; and

(b) all appeals relating to the first plan have been determined; and

(c) at least 3 years have elapsed since any former review under this clause has been completed.

(2A) However, **subclause (2)** does not apply to a review undertaken under **subclause (1)(a)**.

(3) The processes in **clauses 3 to 8** **12A** apply to the review with any necessary modifications, except that the Commission may, in accordance with this Act, set the time frames for conducting the review.

~~(4) Regulations made under this Act may not set or authorise a Minister to set time frames for the review.~~

13A Change of appointing body

(1) Appointing bodies may be changed at any time as long as the change does not impact the overall number of members on the regional planning committee or the balance of Māori and local government members.

(2) A local authority appointing body must be changed if the existing appointing body notifies the Local Government Commission of a change of the appointing body.

(3) A Māori appointing body must be changed if the iwi and hapū committee notifies the Local Government Commission of a change of the Māori appointing body.

(4) The Local Government Commission must make any change to appointing bodies publicly available by the same means used to make the relevant composition arrangement publicly available under **clause 8(2)**.

(5) If a change of an appointing body impacts on the overall number of members or the balance of Māori and local government members, the Local Government Commission must treat the change as requiring a review under **clause 13(1)(b)**.

~~**14 General obligations of all appointing bodies**~~

~~(1) Each appointing body must establish and follow a process, including an appointment policy, for making its appointments to the planning committee.~~

~~(2) The appointment policy must include processes for appointing replacements or substitutes in the event of the resignation, absence, or removal of a member by an appointing body.~~

~~(3) An appointing body may remove or replace any of its representatives on the planning committee, at any time, in accordance with its appointment policy.~~

~~(4) An appointing body must make the appointment policy publicly available.~~

~~(5) The appointing bodies must, by statutory deadline B,—~~

~~(a) make their appointments to the planning committee; and~~

~~(b) give the host local authority notice of the appointments.~~

~~(6) The appointment policy of a local authority must be consistent with relevant requirements in the Local Government Act 2002, including—~~

~~(a) the purpose of local government (*see* section 10 of the Local Government Act 2002); and~~

~~(b) the principles relating to local authorities (*see* section 14 of that Act).~~

~~(7) The appointing body may change its appointment process when making replacement appointments, and must make the changed process publicly available.~~

14 Process for appointing members of regional planning committees

(1) An appointing body must establish an appointment policy that sets out—

(a) the process for appointing its members of a regional planning committee; and

(b) the criteria or considerations that will inform appointment decisions; and

(c) the process for appointing replacements or substitutes in the event of the resignation of a member; and

(d) the circumstances when appointees may be removed and replaced, including under **subclause (2)**.

(2) A person is disqualified from holding office as member of a regional planning committee if the person is convicted of an offence punishable by a term of imprisonment of 2 years or more.

(3) An appointing body may remove or replace any of its members on the regional planning committee, at any time, in accordance with its appointment policy.

(4) An appointing body must make the appointment policy publicly available.

(5) If an appointment is to be made by a local authority or by 2 or more local authorities, the voting system for making appointments set out in clause 25 of Schedule 7 of the Local Government Act 2002 applies to the appointment.

(6) The host local authority must make the appointments public by publishing it on its website.

(7) The appointing bodies must make their appointments and give notice to the host local authority—

(a) if there is agreement between the local authorities and iwi and hapū committee on the composition arrangement, within 4 months after the confirmation of the composition arrangement:

(b) if the Local Government Commission is determining the composition arrangement, within 6 months after the Local Government Commission publishes the final determination.

(8) The appointment policy of a local authority appointing body must be consistent with relevant requirements in the Local Government Act 2002, including—

(a) the purpose of local government (*see* section 10 of the Local Government Act 2002); and

(b) the principles relating to local authorities (*see* section 14 of that Act).

(9) The appointing body may change its appointment policy when making replacement appointments, and must make the changed policy publicly available.

15 When regional planning committees treated as established

(1) A regional planning committee must be treated as established and may commence operating on the earliest of the following:

~~(a) statutory deadline B:~~

(a) at the end of the time periods specified in **clause 14(7)**:

(b) any time before ~~statutory deadline B~~ those periods end when all members have been appointed.

(2) Any change to the composition arrangement arising from an appeal under Schedule 5 of the Local Government Act 2002 does not of itself invalidate the regional planning committee or its actions and decisions.

(3) An unfilled appointment on a regional planning committee must be treated as a vacancy until filled by the appointing body.

(4) A failure to identify an appointing body or a failure of an appointing body to make an appointment does not of itself invalidate the regional planning committee or its actions and decisions.

~~16 Change of appointing body~~

~~(1) A local authority may request the Local Government Commission to change the appointing body that represents their interests.~~

~~(2) The Local Government Commission must confirm the change on being satisfied by evidence that the former appointing body agreed to the change.~~

~~(3) A Māori appointing body must be changed if the iwi and hapū committee notifies the Local Government Commission of a change in the composition of the Māori appointing body.~~

~~(4) The Local Government Commission must make any change to appointing bodies publicly available by the same means used to make the relevant composition arrangement publicly available under **clause 8(2)**.~~

17 Duty to act collectively

~~(1)~~ The members of a regional planning committee and members of subcommittees and cross-regional planning committees must work collectively and collaboratively to achieve the purpose of this Act and the **Spatial Planning Act 2022** across the region of the regional planning committee.

~~(2) It is the duty of the member of the committee appointed by the responsible Minister to communicate to the other members of the committee the government's strategic priorities in relation to the Spatial Planning Act **2022**.~~

~~(3) The responsible Minister must ensure that relevant central government strategic priorities in relation to that Act are provided to the committee in a co-ordinated way.~~

17A Member appointed for role under Spatial Planning Act 2022

(1) The key role of the member of a regional planning committee appointed by the Minister responsible for the **Spatial Planning Act 2022** is to communicate to the other members of the committee the government's strategic priorities in relation to that Act.

(2) That Minister must ensure that relevant central government strategic priorities in relation to the **Spatial Planning Act 2022** are provided to the regional planning committee in a co-ordinated way.

(3) A member appointed by that Minister is entitled to participate and vote on matters arising under the **Spatial Planning Act 2022**, and on matters relating to the operation of the regional planning committee (including appointment of the director of the secretariat, the establishment of subcommittees, standing orders, codes of conduct, and other operational matters set out in this schedule), but not on other matters arising under this Act.

Part 2
Procedural provisions

18 Decisions of regional planning committees

(1) The members of the regional planning committee may, subject to **clause 17A(3)**, participate fully in the committee's decision-making without the appointing body's prior authority.

(2) Decisions of the regional planning committee do not need to be ratified by the appointing bodies.

19 Procedure generally

A regional planning committee may regulate its own procedure in accordance with its standing orders, except as otherwise provided by this Act or the Local Government Act 2002.

20 Consensus decision making

(1) The regional planning committee must do all things reasonably possible to achieve consensus in its decision making under this Act and the **Spatial Planning Act 2022** on—

(a) the regional spatial strategy; and

(b) the plan; and

(c) the appointment of the director of the secretariat under **clause 33**; and

(d) the establishment of subcommittees under **clause 32 or 42** and cross regional committees under **section 42 of the Spatial Planning Act 2022**.

(2) The chairperson must determine whether a consensus can be achieved on an issue.

(3) If the chairperson determines that a consensus cannot be achieved, the chairperson must convene a vote under **clause 23(1)**.

(4) In this clause, **consensus** means—

(a) unanimity; or

(b) general agreement characterised by the absence of sustained opposition on any substantial issue.

21 Appointment of chairperson

(1) The members of a regional planning committee may appoint—

(a) a member to be the single chairperson:

(b) co-chairpersons:

(c) a person who is not a member to be a non-voting independent chairperson:

(d) members to be alternative chairpersons (in addition to chairpersons under **paragraphs (a) to (c)**).

(2) The members of a regional planning committee must ensure that, at all times, there is at least 1 appointed chairperson.

22 Quorum

~~At every meeting of the committee, a quorum for the transaction of business is 50% plus 1 of the members.~~

A regional planning committee may set in its standing orders its own quorum for the transaction of business that is at least 50% plus 1 of all members.

23 Voting

~~(1)~~ If a vote must be convened under **clause 20(3)**, the matter must be decided by a majority (50% plus 1) of all members of the regional planning committee and not just 50% plus 1 of the members present at the meeting when the vote is taken, except as otherwise provided by this Act.

~~(2) A member appointed by the responsible Minister is entitled to vote on matters arising under the Spatial Planning Act **2022**, but not on matters arising under this Act that relate to a plan.~~

24 Mediation

(1) This clause applies if the members of a regional planning committee are unable to agree on a matter that needs to be resolved and the chairperson considers that a mediator should be appointed to resolve the dispute.

(2) The chairperson may appoint a suitably qualified person to act as mediator.

(3) The regional planning committee is responsible for meeting the mediator's costs and related expenses.

25 Minority reports

A regional planning committee may include in its decision on a matter a minority report by any member who has a substantial dissenting view.

26 Chairperson to refer matter to Minister if no decision achievable

(1) This clause applies if—

(a) a regional planning committee needs to decide a matter in order to fulfil its responsibilities under this Act ~~this Act~~ or the **Spatial Planning Act 2022**; and

(b) a consensus is not reached on the matter; and

(c) a vote under **clause 23(1)** fails to resolve the matter; and

(d) a mediator fails to resolve the matter through mediation.

(2) The chairperson must advise the ~~responsible~~ Minister or the Minister responsible for the **Spatial Planning Act 2022**, as the case may be, that a decision is required on the matter.

(3) The ~~responsible~~ Minister responsible for the **Spatial Planning Act 2022** may, in the case of a regional spatial strategy,—

(a) review and determine the matter; or

(b) appoint an independent person to review and determine the matter.

(4) The Minister may, in the case of a plan, appoint an independent person with resource management experience to review and determine the matter.

(5) The regional planning committee must comply with information requests from the Minister or person making the determination that are relevant to the matter requiring decision.

(6) The Minister or person making the determination must consider any relevant information provided to them by the committee and provide a determination within a reasonable time frame.

(7) The Minister or the Minister responsible for the **Spatial Planning Act 2022**, as the case may be, must advise the committee of the determination and the committee must make the determination publicly available.

(8) The determination is binding on the regional planning committee.

27 Intervention by Minister

(1) This clause applies if ~~a member of a regional planning committee or~~ a regional planning committee is unable to effectively fulfil ~~their or~~ its responsibilities under this Act.

(2) The ~~responsible~~ Minister may appoint a Crown observer to assist the regional planning committee if the Minister—

(a) reasonably believes that a significant problem is preventing the committee from performing its statutory functions and dispute resolution mechanisms have failed to resolve the problem; or

(b) has received a written request from the chairperson or the committee to do so.

(3) The Crown observer must assist the regional planning committee to address the problem and make recommendations to the Minister.

(3A) The regional planning committee may respond to the recommendations made by the Crown observer.

(4) The Minister may appoint as a Crown observer only a person who, in the Minister's opinion, has the appropriate knowledge, skills, and experience to address the problem and make recommendations to the Minister.

(5) The Minister may dissolve a regional planning committee and replace it with a commission on the recommendation of a Crown observer if the Minister considers that further dispute resolution mechanisms are unlikely to resolve the problem.

(6) The Minister ~~responsible~~ must notify the appointment of a commission—

(a) to the appointing bodies of that regional planning committee; and

(b) to the committee, in writing; and

(c) by notice in the *Gazette* and by public notice.

(6A) The Minister's notification must include the details required for a notification under section 258S of the Local Government Act 2002.

(6B) The commission has all the powers of a regional planning committee.

(7) At the end of the commission's term, the regional planning committee's membership reverts to that specified in the composition arrangement that was in place at the time when the commission was appointed.

(8) However, at the end of the commission's term if recommended by the Commission, the Minister may require the appointing bodies to make new appointments.

28 Standing orders and code of conduct

(1) A regional planning committee must adopt, abide by, and maintain a set of standing orders that provides for the conduct of its meetings and a code of conduct for its members, as soon as practicable after the committee is established.

(2) The regional planning committee ~~may~~ must adopt the host local authority's standing orders and code of conduct, if it decides not to develop its own standing orders and code of conduct.

(3) The members must comply with the standing orders and code of conduct.

(4) The adoption or amendment of the standing orders and of the code of conduct requires a vote in support of not less than 75% of the members present.

29 Application of Local Government Official Information and Meetings Act 1987 and Public Records Act 2005

(1) The Local Government Official Information and Meetings Act 1987 and the Public Records Act 2005 apply to regional planning committees and their members, subject to this schedule.

(2) Section 7(2) of the Local Government Official Information and Meetings Act 1987 must be read as if the following paragraphs were added:

(k) avoid serious offence to tikanga; or

(l) avoid the disclosure of the location of wāhi tapu of significant interest.

(3) Parts 1 to 6 of the Local Government Official Information and Meetings Act 1987 apply ~~as if the regional planning committee were part of the host local authority~~ with any necessary modifications to a regional planning committee and its director.

(4) Part 7 of the Local Government Official Information and Meetings Act 1987 applies as if—

(a) every reference to a local authority includes a reference to a regional planning committee; and

(b) every reference to the chief executive includes a reference to the director of a secretariat of a regional planning committee.

30 Application of Local Authority (Members' Interests) Act 1968

(1) The Local Authority (Members' Interests) Act 1968 applies to regional planning committees and their members, subject to this schedule.

(2) A member of a regional planning committee is not precluded from discussing or voting on a matter just because of their iwi and hapū membership or related cultural factors.

(3) However,—

(a) a person is disqualified from being appointed as a member of a regional planning committee if the total of all payments made or to be made by or on behalf of the secretariat in respect of all contracts made by it in which that person is concerned or interested exceeds $25,000 in any financial year:

(b) a person is not disqualified from being a member of a regional planning committee if they are over that financial limit for work undertaken for a local authority, including the host authority:

(c) despite anything in Local Authority (Members' Interests) Act 1968, a person employed by the director in order to undertake business of a regional planning committee is disqualified from being a member of the committee.

31 ~~Committees~~ Regional planning committees may delegate functions, duties, or powers

(1) A regional planning committee may not delegate its power to make decisions on a plan under this Act or a regional spatial strategy, except as otherwise provided in this Act, the **Spatial Planning Act 2022**, or any Treaty settlement legislation.

(1A) Nothing in **subclause (1)** prevents a joint management agreement or Mana Whakahono ā Rohe being completed or transitioned under **Schedule 1**.

(2) A regional planning committee may delegate its functions, duties, and other powers to a subcommittee or any other person or organisation, subject to **subclause (1)**.

(3) In exercising its functions, duties, or powers, a regional planning committee may seek advice from any subcommittee or any other person or organisation.

32 Subcommittees of regional planning committees

(1) A regional planning committee may establish subcommittees to provide advice as it sees fit, including joint subcommittees that include members of other planning committees.

(2) A regional planning committee may seek views from appointing bodies when establishing subcommittees.

(3) A regional planning committee may appoint any member of the committee, and any other person, to be members of a subcommittee.

Part 3
Hosting and support of regional planning committee

33 ~~Committee secretariats~~Secretariat arrangements

(1) A regional planning committee must appoint a director of the secretariat to support it in carrying out its functions, duties, and powers.

(1A) An existing employee of a local authority or other person may be appointed as the director.

(1B) The director must consult the regional planning committee on a resourcing plan for staffing the secretariat, and in preparing that plan must consider the expertise and skills available across all the groups represented on the committee.

(1C) The director must also consult the appointing bodies about the draft resourcing plan and collaborate with the local authorities in the region when the director proposes to draw on the skills and expertise of their staff.

(1D) In preparing the resourcing plan, the director must consider the desirability of seconding existing local authority staff to work in secretariat, rather than employing or contracting new staff.

(2) The director ~~must~~ may, but is not required to, appoint any employees necessary for carrying out its functions, duties, and powers.

(3) The director and employees appointed under **subclause (2)** are employees of the ~~host local authority~~ regional planning committee.

~~(4) Despite **subclause (3)** and section 42(2)(g) and (h) of the Local Government Act 2002, the host local authority must be treated as—~~

~~(a) having delegated to the committee all rights, powers, and duties of the host local authority as employer of the director; and~~

~~(b) having delegated to the director all rights, powers, and duties of the host local authority that are reasonably necessary to carry out their responsibilities, functions, and duties, including the power to enter contracts, leases, and other agreements to enable the secretariat to operate efficiently and effectively, but which does not allow the director to commit to expenditure outside the agreed budget in the final statement of intent; and~~

~~(c) not having those rights, powers and duties in relation to the director and employees appointed under **subclause (2)** commit expenditure outside that agreed under 36(4) or (5), or determined under 37(2) or (3).~~

(4) The director has all the rights, powers, and duties that are reasonably necessary to enable the regional planning committee to carry out its responsibilities and to enable the secretariat to operate efficiently and effectively, including—

(a) the power to enter contracts, leases, and other agreements; and

(b) with the approval of the committee, the power to enter multi-year contracts or agreements that commit expenditure outside that agreed under **clause 36(4) or (5)**, or determined under **clause 37(2) or (3)**.

~~(5) The regional planning committee has all the rights, powers, and duties of an employer in relation to the director, but the host local authority is the legal employer of the director and is responsible for ensuring that the director's legal obligations in that role are met.~~

~~(6) The director has all the rights, powers, and duties of an employer in relation to the staff of the secretariat, subject to **subclause (5)**, and the staff must be treated as employees of the host local authority.~~

(5) *See* **clause 33A** if the host local authority is a unitary authority (other than the Nelson City Council or the Tasman District Council).

33A Secretariat arrangements where host local authority is unitary authority

(1) This clause applies if the host local authority is a unitary authority (other than the Nelson City Council or the Tasman District Council).

(2) The unitary authority must employ a director of the secretariat on the direction of the regional planning committee given after consulting the chief executive of the unitary authority.

(3) The unitary authority must provide staff (whether employed, contracted, or seconded) in accordance with the resourcing plan prepared under **clause 33(1B) to (1D)** to support the regional planning committee and enable the director to meet their responsibilities under **clauses 33(1) and 34(1)** (which apply with any necessary modifications).

(4) **Clause 33(2) and (3)** do not apply to a unitary authority other than the Nelson City Council or the Tasman District Council.

34 Responsibilities of director of secretariat

~~(1)~~ The director of the secretariat of a regional planning committee is responsible for—

(a) providing technical advice and administrative support to the committee:

(b) establishing and facilitating collaborative working arrangements with and between local authorities and Māori in the region for the purposes of plan making:

(c) ensuring that the secretariat has the technical expertise and skills in local kawa, tikanga, and mātauranga of the iwi and hapū in the region:

(d) providing administrative support to independent hearings panels in a way that maintains the independence of panels.

~~(2) The director must consult the regional planning committee on a resourcing plan for staffing the secretariat, and in preparing that plan must consider the expertise and skills available across all the groups represented on the planning committee.~~

35 Host local authority

(1) The host local authority must provide administrative support to the regional planning committee and the secretariat, and manage the ~~planning~~ committee's finances on behalf of the committee.

(2) The local authorities in a region, after consultation with ~~iwi authorities and groups that represent hapū in the region~~ the iwi and hapū committee, must endeavour to appoint 1 of the local authorities to act as the host of the regional planning committee in accordance with the relevant composition decision process.

(3) The appointment of a host local authority—

(a) must be made ~~by statutory deadline A~~ no later than 8 months after the local authorities receive the notification given under **clause 8(1)(a)**; and

(b) may be decided by a simple majority of the local authorities in the region.

(4) However, if the local authorities are unable to decide the matter under **subclause (3)**, the regional council must act as the host local authority.

(5) **Subclause (3)(b)** does not apply to the Nelson and Tasman unitary authorities, and they must agree which of them is to be the host local authority.

~~(6) The local authorities may request the Local Government Commission to change the host local authority.~~

~~(7) The Local Government Commission may change the host local authority if—~~

~~(a) the request is supported by all the local authorities in the region; and~~

~~(b) the local authorities have consulted with iwi authorities and groups that represent hapū who would be eligible to participate in composition arrangement discussions.~~

(6) The local authorities may change the host local authority by unanimous agreement after consulting the iwi and hapū committee.

(7) A reference in this schedule to a host local authority must be read as including a unitary authority (other than the Nelson City Council or the Tasman District Council).

36 Funding and resourcing for regional planning committees

(1) The local authorities in the region of a regional planning committee must jointly fund and provide resources sufficient to enable the committee and the secretariat to perform or exercise their functions, duties, and powers.

(2) The remuneration and expenses of a member appointed by the ~~responsible~~ Minister responsible for the **Spatial Planning Act 2022** must be paid out of money appropriated by Parliament.

(3) A member of a regional planning committee (other than a member appointed by the Minister responsible for the **Spatial Planning Act 2022**) is entitled to receive remuneration for services as a member at a rate and of a kind determined by the Remuneration Authority in accordance with clauses 6 to 9 of Schedule 7 of the Local Government Act 2002, which apply with the necessary modifications.

(4) If multiple local authorities are required to contribute funding for a regional planning committee, those local authorities must, having regard to draft statement of intent under **clause 38(1)**, work together in good faith to agree the amount of funding to be provided to the committee and the share of funding to be provided by each authority.

(5) In the case of a region with a unitary authority, the authority must, having regard to draft statement of intent under **clause 38(1)**, determine the amount of funding to be provided to the regional planning committee.

(6) The local authorities must not—

(a) direct the regional planning committee as to the use of the funding; or

(b) alter the amount of the funding without the consent of the committee.

(7) The funding and resourcing of a regional planning committee must be treated as being within the functions and duties of a local authority for the purposes of the Local Government Act 2002.

(8) The regional planning committee must pay any Remuneration Authority levy for a determination made under this clause by the Remuneration Authority.

37 Funding disputes

(1) If any dispute exists regarding the amount of funding to be provided to a regional planning committee, or the share of funding to be provided by each local authority in the region, the committee or any of the local authorities may apply to the Minister ~~for the Environment~~ to appoint a suitably qualified, independent person to investigate and resolve the dispute.

(2) The appointee may ~~decide an appropriate budget outcome by fixing the amount of funding~~, having regard to draft statement of intent under **clause 38(1)**, determine the funding to be provided or the respective contributions to be made by the local authorities, or both (as the case requires).

(3) The ~~responsible~~ Minister may, having regard to draft statement of intent under **clause 38(1)**, set a provisional funding contribution to be provided by each local authority if the Minister considers it necessary ~~because the dispute will otherwise have an imminent impact on the duties and functions of the committee~~.

(4) The Minister must consult the Minister of Local Government when taking action under this clause.

(5) Decisions made under **subclause (2) or (3)** are binding on the local authorities.

38 Statement of intent

(1) A regional planning committee must prepare and make publicly available an annual draft statement of intent for the next financial year and submit it to the appointing bodies within a time frame agreed by the local authorities.

(2) The regional planning committee must prepare and make publicly available a final statement of intent for that financial year that reflects the ~~budget agreed for the committee~~agreed final amount of funding.

(3) Draft and final statements of intent must include the information prescribed by regulations under **clause 41(1)(d)** (if any).

~~(4) The committees must include, in the statement of intent, provision of funding for Māori participation in the development, implementation, and monitoring of regional spatial strategies and plans, in accordance with any regulations under **clause 41(1)(f)**.~~

(4) The statement of intent must include—

(a) forecast expenditure for the following 3 years and a description of the work planned for the following 3 years, including key activities and milestones, that is consistent with the funding agreed under **clause 36** or determined under **clause 37**; and

(b) provision of funding for Māori participation in the development, implementation, and monitoring of plans, in accordance with **Parts 4 and 10** and **Schedule 7** of this Act and the regional spatial strategy in accordance with the **Spatial Planning Act 2022**.

(5) The regional planning committee must take into account the views of appointing bodies when finalising the statement of intent.

(6) The funding agreed under **clause 36** or determined under **clause 37** may be amended with the agreement of the regional planning committee and all relevant local authorities.

(7) If the host local authority is a unitary authority (other than the Nelson City Council or the Tasman District Council), a statement of intent is not required, but the unitary authority must include the matters specified in **subclause (4)(a) and (b)** in its annual plan or long-term plan in accordance with the Local Government Act 2002.

39 Annual reports

(1) A regional planning committee must prepare and make publicly available an annual report for each financial year and provide it to the appointing bodies within 3 months after the end of the financial year to which it relates.

(2) A regional planning committee's annual report must include the information prescribed by regulations under **clause 41(1)(e)** (if any).

(3) A regional planning committee's annual report is not an annual report for the purposes of section 67 or 98 of the Local Government Act 2002.

(4) An annual report is not required if the host local authority is a unitary authority (other than the Nelson City Council or the Tasman District Council).

39A Transitional provisions relating to establishment of regional planning committees

(1) A host local authority may commit expenditure for the purpose of the establishment or operation of the regional planning committee for the period from the establishment of the committee until the committee's first statement of intent takes effect.

(2) That expenditure incurred under **subclause (1)** must be reimbursed by the regional planning committee.

(3) The host local authority may appoint an interim director of the committee until the regional planning committee appoints a permanent director, and the interim director has all the powers of a director under this schedule.

Part 4
Miscellaneous provisions

~~**40 Relationship between this schedule and Local Government Act 2002 and Local Government (Auckland Council) Act 2009**~~

~~In the event of a conflict between a provision in this schedule and a provision in the Local Government Act 2002 or the Local Government (Auckland Council) Act 2009, the provision in this schedule prevails.~~

40 Relationship between this schedule and legislation relating to local government

(1) The following provisions of the Local Government Act 2002 apply (with any necessary modifications) as if a regional planning committee were a local authority, and as if the references to a chief executive were references to a director of a committee secretariat:

(a) section 76AA(1), (2), and (4) to (6):

(b) sections 76 to 80:

(c) section 81, as if section 81(2)(a) referred to the role of the committee:

(d) section 82:

(e) clauses 19(2) to (6), 20, 22, 22A, 25A(1) to (3) and (5) to (7), 26, 28, 29, 31(4)(b), 36, and 36A of Schedule 7.

(2) A host local authority's significance policy applies to decision making by the regional planning committee (with any necessary modifications), unless the committee adopts its own significance policy.

(3) A regional planning committee must hold the meetings that are necessary to fulfil its role.

(4) Clause 19(3) of Schedule 7 of the Local Government Act 2002 applies as if a meeting must be called and conducted by the regional planning committee in accordance with this Act and the **Spatial Planning Act 2022**.

(5) The first meeting of a regional planning committee must be convened as soon as practicable after the committee is established, to—

(a) elect a chairperson or chairpersons; and

(b) receive a general explanation from the director of the relevant legislation that applies to the members and their proceedings; and

(c) fix a date and time for their first meeting, or the adoption of a schedule of meetings.

(6) Nothing in the Local Government (Auckland Council) Act 2009 overrides the decision-making framework that applies under this Act to a regional planning committee operating in the Auckland region.

(7) A regional planning committee is not a separate public entity for the purpose of the Public Audit Act 2001.

(8) In the event of a conflict between a provision in this Act or the **Spatial Planning Act 2022**, and a provision in any other enactment relating to local government functions, duties, or powers that affects the operation of a regional planning committee, the provision in this Act or the **Spatial Planning Act 2022** prevails.

41 ~~Regulations~~ Secondary legislation relating to regional planning committees

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister ~~for the Environment~~, after consultation with the Minister responsible for the **Spatial Planning Act 2022** and the Minister for Local Government, make regulations for 1 or more of the following purposes:

~~(a) subject to **subclause (3)**, setting or varying, or authorising the Minister for the Environment to set or vary, any of the statutory deadlines referred to in **subclause (2)**:~~

(b) prescribing the processes the Local Government Commission must follow in making determinations on a composition arrangement:

(c) prescribing procedures and processes to be followed by regional planning committees, and their subcommittees, in performing or exercising their functions, duties, or powers under this Act or the **Spatial Planning Act 2022**, and requiring regional planning committees to establish subcommittees for any particular purpose specified in the regulations or by the Minister ~~for the Environment~~:

(d) prescribing information that must be included in any statement of intent required under **clause 38**:

(e) prescribing information that must be included in any annual report under **clause 39**~~:~~.

~~(f) prescribing processes that the regional planning committees must follow for engaging with iwi authorities, groups that represent hapū, and Māori groups with interests in the region on the funding provided for Māori participation:~~

~~(g) prescribing how the consent engagement costs payable by consent applicants or holders, either locally or nationally, are to be determined:~~

~~(h) prescribing requirements for the process by which local authorities develop local authority participation policies, including any mechanism~~

~~for dealing with any failure of local authorities and iwi or hapū, to agree on consent engagement costs.~~

~~(2) The following statutory deadlines are to be set:~~

~~(a) if the parties in the region are able to reach agreement on a composition arrangement,—~~

~~(i) **statutory deadline A**: the date by which the local authorities and the iwi and hapū committee must report to the Local Government Commission under **clause 3(4)** on the outcome of the composition arrangement discussions:~~

~~(ii) **statutory deadline B**: the date by which the committee must be established:~~

~~(b) if statutory deadline A is not complied with, or agreement is not be reached on the composition arrangement (*see* **clause 8(3) to (5)**),—~~

~~(i) **statutory deadline C**: the date by which the Local Government Commission must provide a draft determination on composition, being no later than 2 months after the date on which the Minister publishes the revised dates (*see* **clause 8(5)(a)**):~~

~~(ii) **statutory deadline D**: the date by which the Local Government Commission must publish a final determination on composition, being no later than 2 months after statutory deadline C (*see* **clause 8(5)(d)**).~~

~~(3) The regulations—~~

~~(a) may provide for the Minister for the Environment to alter, for a region, any of the prescribed statutory deadlines that would otherwise apply, in circumstances specified in the regulations, so long as statutory deadline B is at least 3 months later than statutory deadline A or (if applicable) statutory deadline D:~~

~~(b) must require the Minister for the Environment to alter statutory deadlines C and D in any case where statutory deadline A is not met.~~

(2) The Minister may extend any time frames specified in this schedule after—

(a) considering that the extension would assist in reaching an agreement on a matter that must be agreed to support the timely formation of a regional planning committee; and

(b) considering whether anyone would be disadvantaged by the extension and whether that impact can be mitigated; and

(c) considering any other matters the Minister considers relevant; and

(d) consulting the relevant local authorities and the iwi and hapū committee on the proposed extension.

(3) The Minister may grant an extension more than once in relation to the same matter, but may not extend a time frame by more than 6 months in total at any point in the process.

(4) Regulations under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) An instrument by which the Minister ~~for the Environment~~ sets or varies, or alters for a region, any statutory deadlines is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

42 Transitional provisions relating to ~~freshwater~~ subcommittees

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister ~~for the Environment~~,—

~~(a) direct a regional planning committee to establish a freshwater subcommittee:~~

(a) direct a regional planning committee to establish a subcommittee for the purpose of providing advice and recommendations on—

(i) the matters for which regional councils and unitary authorities are responsible under **section 30P**:

(ii) any particular matters under **section 30P** that are specified in the order:

(b) specify membership requirements in addition to those in **subclauses (2) and (3)**:

(c) specify processes that relate to the establishment or operation of a subcommittee in addition those in **subclauses (4) and (5)**:

~~(d) specify a date or dates by which a subcommittee—~~

~~(i) must be established:~~

~~(ii) may be disestablished:~~

~~(iii) must be disestablished.~~

(d) provide for the subcommittee to be established for a specified period or on an ongoing basis until disestablished in accordance with the order.

(2) A regional planning committee to which an order under **subclause (1)** applies must establish a ~~freshwater~~ subcommittee from a pool of people nominated by—

(a) the regional council or unitary authority (as applicable) and, in the case of the case of the Nelson and Tasman unitary authorities, by each unitary authority; and

(b) the Māori appointing bodies in the region.

(3) Membership of a ~~freshwater~~ subcommittee may include, but is not limited to, members of the regional planning committee (if nominated by all the relevant parties referred to in **subclause (2)**).

(4) A ~~freshwater~~ subcommittee must, before the regional planning committee notifies its plan, provide advice and recommendations to the regional planning committee on the provisions of the plan that relate to ~~freshwater~~ matters for which regional councils and unitary authorities are responsible under **section 30P**.

(5) The ~~freshwater~~ subcommittee must comply with the standing orders of the regional planning committee, and **clauses 19 to 25, 29, and 30** of this schedule apply to its proceedings with any necessary modifications.

(5A) Only one subcommittee may be established by a regional planning committee under the direction of an Order in Council made under this section.

(6) An Order in Council must not be made under this clause in respect of a region after the regional planning committee notifies its first plan under this Act.

(7) An Order in Council under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

43 Committee of unitary authority may become regional planning committee

(1) A unitary authority (other than the Nelson District Council and Tasman District Council) may, in accordance with this clause, determine for efficiency reasons that an existing committee of the unitary authority (the **existing committee**), with a composition agreed under this clause, be the regional planning committee for the relevant region.

(2) The existing committee has all the functions, powers, and duties of a regional planning committee under this Act and the **Spatial Planning Act 2022**.

(3) Once the unitary authority makes the determination under **subclause (1)**, the provisions of this Act (including this schedule) apply in the same way as they apply to a regional planning committee appointed for the relevant region of a unitary authority (other than the Nelson District Council and Tasman District Council).

(4) The provisions of this schedule apply to the existing committee.

(5) In agreeing composition, the unitary authority and the iwi and hapū committee, in addition to the considerations in **clauses 2 and 3**, must have particular regard to the desirability of continuing existing arrangements that enable participation in decision making of the unitary authority by iwi authorities, groups that represent hapū, and other Māori groups with interests in region.

(6) To ensure Treaty settlement arrangements are provided for, a unitary authority may make a determination under **subclause (1)** only after the Order in Council provided for in **section 2(6)** has been made for the region.

(7) The existing committee must be treated as being established as the regional planning committee once the requirements of **clause 15** have been met.

Schedule 9
Water quality classes

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Note: The standards listed for each class apply after reasonable mixing of any contaminant or water with the receiving water and disregard the effect of any natural perturbations that may affect the water body.

1 Class AE Water (being water managed for aquatic ecosystem purposes)

(1) The natural temperature of the water must not be changed by more than 3° Celsius.

(2) The following must not be allowed if they have an adverse effect on aquatic life:

- (a) any pH change:
- (b) any increase in the deposition of matter on the bed of the water body or coastal water:
- (c) any discharge of a contaminant into the water.

(3) The concentration of dissolved oxygen must exceed 80% of saturation concentration.

(4) There must be no undesirable biological growths as a result of any discharge of a contaminant into the water.

2 Class F Water (being water managed for fishery purposes)

(1) The natural temperature of the water—

- (a) must not be changed by more than 3° Celsius; and
- (b) must not exceed 25° Celsius.

(2) The concentration of dissolved oxygen must exceed 80% of saturation concentration.

(3) Fish must not be rendered unsuitable for human consumption by the presence of contaminants.

3 Class FS Water (being water managed for fish spawning purposes)

(1) The natural temperature of the water must not be changed by more than 3° Celsius. The temperature of the water must not adversely affect the spawning of the specified fish species during the spawning season.

(2) The concentration of dissolved oxygen must exceed 80% of saturation concentration.

(3) There must be no undesirable biological growths as a result of any discharge of a contaminant into the water.

4 Class SG Water (being water managed for the gathering or cultivating of shellfish for human consumption)

(1) The natural temperature of the water must not be changed by more than 3° Celsius.

(2) The concentration of dissolved oxygen must exceed 80% of saturation concentration.

(3) Aquatic organisms must not be rendered unsuitable for human consumption by the presence of contaminants.

5 Class CR Water (being water managed for contact recreation purposes)

(1) The visual clarity of the water must not be so low as to be unsuitable for bathing.

(2) The water must not be rendered unsuitable for bathing by the presence of contaminants.

(3) There must be no undesirable biological growths as a result of any discharge of a contaminant into the water.

~~6 Class WS Water (being water managed for water supply purposes)~~

~~(1) The pH of surface waters must be within the range 6.0–9.0 units.~~

~~(2) The concentration of dissolved oxygen in surface waters must exceed 5 grams per cubic metre.~~

~~(3) The water must not be rendered unsuitable for treatment (equivalent to coagulation, filtration, and disinfection) for human consumption by the presence of contaminants.~~

~~(4) The water must not be tainted or contaminated so as to make it unpalatable or unsuitable for consumption by humans after treatment (equivalent to coagulation, filtration, and disinfection), or unsuitable for irrigation.~~

~~(5) There must be no undesirable biological growths as a result of any discharge of a contaminant into the water.~~

~~7 Class I Water (being water managed for irrigation purposes)~~

~~(1) The water must not be tainted or contaminated so as to make it unsuitable for the irrigation of crops growing or likely to be grown in the area to be irrigated.~~

~~(2) There must be no undesirable biological growths as a result of any discharge of a contaminant into the water.~~

8 Class IA Water (being water managed for industrial abstraction)

(1) The quality of the water must not be altered in those characteristics which have a direct bearing upon its suitability for the specified industrial abstraction.

(2) There must be no undesirable biological growths as a result of any discharge of a contaminant into the water.

9 Class NS Water (being water managed in its natural state)

The natural quality of the water must not be altered.

10 Class A Water (being water managed for aesthetic purposes)

The quality of the water must not be altered in those characteristics which have a direct bearing upon the specified aesthetic values.

11 Class C Water (being water managed for cultural purposes)

The quality of the water must not be altered in those characteristics which have a direct bearing upon the specified cultural or spiritual values.

Schedule 10
Information required in application for resource consent

s 173, 227

Contents

Part 1
Information required in resource consent application

1 Information must be specified in sufficient detail

(1) Information included in an application for a resource consent must—

(a) be sufficiently detailed and adequate to enable the consent authority to ~~commence~~ undertake its assessment; and

(b) be proportionate to the scale and significance of the activity; and

(c) demonstrate how the activity ~~will~~ —

(i) is consistent with relevant outcomes (including relevant targets and environmental limits); and

(ii) will avoid, remedy, offset, or compensate for adverse effects.

~~(i) meet or align with applicable outcomes under this Act (including relevant environmental targets and limits); and~~

~~(ii) manage adverse effects.~~

~~(2) A consent authority must take a proportionate response when deciding whether the information provided at lodgement satisfies the purpose for which it is required.~~

(3) *See* **section 174** (incomplete applications).

2 Information required in all applications

(1) An application for a resource consent for an activity (the **activity**) must include the following:

(a) a description of the activity:

(b) a description of the site at which the activity is to occur:

(c) a description of any other activities that are part of the proposal to which the application relates:

(d) a description of any other resource consents required for the proposal to which the application relates:

(da) an assessment of the activity with regard to the national planning framework but only if it is necessary for a reason specified in **section 223(10)(a)(i) to (iii)**:

(e) an assessment of the activity ~~against~~ with regard to the purpose of this Act, but only if~~—~~ it is necessary for a reason specified in **section 223(10)(b)(i) to (iii)**:

~~(i) the national planning framework does not provide for how the activity is to be assessed; and~~

~~(ii) provisions in the plan are ambiguous or uncertain, or there is a gap its provision, in relation to the activity:~~

(f) an assessment of the activity with regard to the matters referred to in **section 223(2)(c) to (e)**.

(2) The assessment under **subclause (1)(f)** must include an assessment of the activity against—

(a) any relevant outcomes, policies, or rules in the national planning framework, and the relevant plan, and the relevant regional planning strategy; and

(b) any relevant requirements, conditions, or permissions in any rules of those documents; and

(c) any other relevant requirements in those documents.

(3) An application must also include an assessment of the activity's effects on the environment that—

(a) includes the information required by clause 6; and

(b) addresses the matters specified in clause 7; and

(c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

3 Additional information required in some applications

An application must also include any of the following that apply:

(a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under **section ~~453~~ 75AAA**):

(b) if the application is affected by **section 474(1)(c)** (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of **section 223(4)**):

(c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of **section 223(6)**).

4 Additional information required in application for subdivision consent

An application for a subdivision consent must also include information that adequately defines the following:

(a) the position of all new boundaries:

(b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan:

(c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips:

(d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips:

(e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under **section 578**:

(f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under **section 578**):

(g) the locations and areas of land to be set aside as new roads.

5 Additional information required in application for reclamation

An application for a resource consent for reclamation must also include information to show the area to be reclaimed, including the following:

(a) the location of the area:

(b) if practicable, the position of all new boundaries:

(c) any part of the area to be set aside as an esplanade reserve or esplanade strip.

Assessment of environmental effects

6 Information required in assessment of environmental effects

(1) An assessment of the activity's effects on the environment must include the following information:

(a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:

(b) an assessment of the actual or potential effect on the environment of the activity:

(c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use~~:~~ including any risks that have—

(i) a low probability of occurrence; but

(ii) have a high potential impact on the environment:

(d) if the activity includes the discharge of any contaminant,—

(i) a description of the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

(ii) a comparative assessment of any possible alternative methods of discharge, including discharge into any other receiving environment and the possibility of no discharge:

(e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:

(f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:

(g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved:

(h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).

(2) A requirement to include information in the assessment of environmental effects is subject to the provisions of ~~any policy statement or~~ the national planning framework or the plan.

(3) To avoid doubt, **subclause (1)(f)** obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—

(a) oblige the applicant to consult any person about the application; or

(b) create any ground for expecting that the applicant will consult any person.

7 Matters that must be addressed by assessment of environmental effects

(1) An assessment of the activity's effects on the environment must address the following matters:

(a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:

~~(b) any physical effect on the locality, including any landscape and visual effects:~~

(c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:

(d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:

(e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:

(f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

(1A) An assessment of the activity's effects on the environment must not address any matter described in **section 108(a) to (d)**.

(2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of ~~any policy statement or~~ the national planning framework or the plan.

~~8 Regulations relating to form and content of assessment of environmental effects~~

~~(1) The Governor-General may, by Order in Council made on the recommendation of the Minister for the Environment, make regulations prescribing the form and content of, and the procedure for, assessments of environmental effects.~~

~~(2) Regulations under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).~~

Schedule 10A
Other consenting processes and proposals of national significance

s 152AAA

Contents

Part 1
Comparative consenting process

1 Defined terms

In this Part,—

affected application means an application that satisfies the requirements of **clause 2(a) and (b)**

required time period means the time period determined under **clause 3**.

2 Consent authority must deal with affected consent applications under this Part if required by rule

A consent authority must hear, process, and determine an application for a resource consent in accordance with this Part only if—

(a) the application is of a kind that is required to be dealt with under this Part by a framework rule or a plan rule; and

(b) the application is made within the required time period.

3 Consent authority must determine and publicly notify required time period

(1) A consent authority must—

(a) determine the time period (**required time period**) within which it will receive affected applications; and

(b) no later than 40 working days before the required time period commences,—

(i) give public notice of the required time period; and

(ii) make publicly available a report setting out its reasons and its assessment required by **subclause (2)**.

(2) The consent authority must conduct an assessment of the required time period against any direction in the national planning framework or a plan.

4 Part 5 applies to affected application subject to this Part

Part 5 of this Act applies to an affected application except and to the extent that this Part provides otherwise.

5 2 or more affected applications must be dealt with at same time

All affected applications submitted to a consent authority within the required time period,—

(a) must, subject to this Part, undergo the procedures and requirements of the standard consenting process; and

(b) must undergo those procedures and requirements in accordance with the same timetable.

6 Consent authority must provide certain information to affected applicants

A consent authority must as soon as practicable after the close of the required time period, give each affected applicant—

(a) the names and contact details of every other affected applicant; and

(b) a copy of every other affected application.

7 When processing time frame for affected applications commences

The processing time frame of an affected application commences on the next working day after the close of the required time period.

8 Suspension of processing

A consent authority may suspend the processing of an affected application under **section 176 or 179** only if—

(a) a request is made by all affected applicants; and

(b) the consent authority considers it is appropriate to suspend processing.

9 Consent authority may request Environment Court to determine affected applications

(1) A consent authority may request that the Environment Court determine the affected applications.

(2) The request—

(a) must be made within 20 working days after the expiry of the required time period; and

(b) must be made in accordance with the process set out in regulations; and

(c) to avoid doubt, does not require any agreement from any affected applicant.

10 Affected applicant must not make certain requests unless all other affected applicants agree

An affected applicant must not, unless all other affected applicants agree,—

(a) apply under **Part 5** of this Act to the Environment Court to determine the affected applications:

(b) request the Minister to call in the affected applications as a matter of national significance.

11 Decision maker must consider merits of affected applications and apply criteria

(1) When determining affected applications under **Part 5** of this Act, a decision maker must—

(a) when having regard to the matters in **section 223(2)**, consider the merits of each affected application against the merits of all other affected applications; and

(b) have regard to any other applicable criteria set out—

(i) the national planning framework; and

(ii) a plan.

(2) For the purpose of **subclause (1)**, decision maker must not determine an affected application in the order that it is lodged.

(3) **Subclause (1)** is in addition to any other requirements, criteria, or other matters that a decision maker must consider or take into account under **Part 5** of this Act when determining an affected application.

(4) In this clause, **decision maker** means the consenting authority, the Environment Court, or the Board of Inquiry, as the case may be.

Part 2
Fast-track consenting process

Subpart 1—Fast-track consenting process

Preliminary matters

12 Purpose of fast-track consenting process

The purpose of this subpart is to provide an alternative consenting process (the **fast-track consenting process**) for either of the following:

(a) an application for a resource consent for an eligible activity:

(b) a notice of requirement for a designation for an eligible activity.

13 Interpretation

In this subpart, unless the context otherwise requires—

eligible activity has the meaning given by **clause 14**

land returned under a Treaty settlement includes land vested in or transferred to a Treaty settlement entity under a Treaty settlement

panel means an expert consenting panel that is appointed in accordance with, and that complies with,—

(a) **subpart 2** of this Part; and

(b) in any other respects, regulations

referral application means an application to use the fast-track consenting process to determine a resource consent application or a notice of requirement for a designation

substantive application or notice means the resource consent application or notice of requirement for which a referral application is made

Treaty settlement means—

(a) a Treaty settlement Act; or

(b) a Treaty settlement deed

Treaty settlement Act means—

(a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or

(b) for the purposes only of this Act, the following:

(i) Maori Commercial Aquaculture Claims Settlement Act 2004:

(ii) Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

(iii) Nga Wai o Maniapoto (Waipa River) Act 2012:

(iv) Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010

Treaty settlement deed means a deed or other agreement that—

(a) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and

(b) is in settlement of the claims of that group, or in express anticipation, or on account, of that settlement; but

(c) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed

Treaty settlement entity means any of the following:

(a) a post-settlement governance entity:

(b) a board, trust, committee, authority, or other body, incorporated or unincorporated, that is recognised in or established under a Treaty settlement Act:

(c) an entity or a person that is authorised to act for a natural resource with legal personhood:

(d) a mandated iwi organisation (as defined by section 5 of the Maori Fisheries Act 2004):

(e) an iwi aquaculture organisation (as defined by section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004)

usual consenting pathway means, for a substantive application or notice that is—

(a) an application for a resource consent, the standard consenting process; and

(b) a notice of requirement for a designation, the process set out in **subpart 1 of Part 8**.

14 Activities eligible for fast-track consenting process

In this subpart, an **eligible activity** means any activity that is, or is ancillary to, the following:

Communications

(a) a broadcasting facility:

(b) a telecommunications network:

Energy

(c) an electricity or gas distribution or an electricity transmission network:

(d) a renewal of a consent for renewable energy generation (including hydro-electricity):

(e) wind or solar energy generation:

Housing

(f) a housing development:

Transport

(g) an airport operated by an airport authority as defined in section 2 of the Airport Authorities Act 1996, including any airport-related navigation infrastructure:

(h) a port operated by a port company (as defined in section 2(1) of the Port Companies Act 1988):

(i) the state and local rail network (including the interisland ferry facilities):

(j) the state highway network, local roads, or rapid transit services:

Water

(k) flood control and protection, including drainage:

(l) the distribution or treatment of water, wastewater, or stormwater:

Other central, local government, or private assets

(m) correction facilities (including the provision of rehabilitation and reintegration services):

(n) defence facilities operated by the New Zealand Defence Force:

(o) educational facilities:

(p) fire and emergency service facilities:

(q) health facilities.

15 Ineligible activities in customary marine title areas and protected customary rights areas

The fast-track consenting process must not be used for an activity that—

(a) would occur in a customary marine title area or protected customary rights area; and

(b) has not been agreed to in writing by the relevant customary marine title group or protected customary rights group.

16 Discretionary grounds for declining referral application

(1) The following are grounds upon which the Minister may decline a referral application (even for an eligible activity) under **clause 18**:

(a) another consenting process is more appropriate for the activity:

(b) the activity may have significant adverse effects on the environment (which may include consideration of any emissions of greenhouse gases):

(c) the applicant has previously breached this Act, regulations made under this Act, or any other legislation that relates to environmental matters:

(d) the activity—

(i) would occur on land returned under a Treaty settlement; and

(ii) has not been agreed to in writing by the relevant landowner:

(e) the activity would be inconsistent with a Treaty settlement:

(f) the activity would occur on land that the Minister for Treaty of Waitangi Negotiations considers is required for the settlement of any historical Treaty claim (as defined by section 2 of the Treaty of Waitangi Act 1975):

(g) the activity is or is ancillary to a housing development to which none of the criteria set out in **subclause (2)** apply.

(2) The criteria are that the housing development would—

(a) support the well-functioning urban area outcomes set out in **section 5(6)**:

(b) contribute significantly to addressing the demand or need for housing in a region, including the demand or need for a particular scale or type of housing (for example, affordable housing):

(c) be located—

(i) in an urban area defined in a regional spatial strategy or a plan; or

(ii) on Māori land.

Referral application made to EPA and decided by Minister

17 Referral application made to EPA to use fast-track consenting process

Applicant makes referral application to EPA

(1) A person must apply to the EPA if they wish to use the fast-track consenting process for a resource consent application or notice of requirement for a designation.

(2) The referral application must—

(a) describe the activity and explain why it is an eligible activity; and

(b) if the activity is or is ancillary to a housing development, describe the extent to which the development meets the criteria set out in **clause 16(2)**; and

(c) provide reasons why the fast-track consenting process is more appropriate than the usual consenting pathway for the activity; and

(d) include a statement of whether the activity is planned to proceed in stages and, if so, an outline of the nature and timing of the staging; and

(e) include the information required by **section 173** unless and to the extent that other requirements are specified in regulations.

(3) The referral application—

(a) must include the information specified in **subclause (2)**; but

(b) need only provide a general level of detail, sufficient to inform the Minister's decision on the referral application, as opposed to the level of detail that a panel would require to be provided in the substantive application or notice.

(4) The referral application must be made in the approved form.

(5) The EPA must approve an application form for the purpose of this clause and ensure that it is made available on an Internet site maintained by or on behalf of the EPA.

EPA decides whether referral application is complete

(6) The EPA must decide whether the referral application is complete within 10 working days after receiving it.

(7) The EPA may request further information for the purpose of deciding whether the referral application is complete.

(8) If the EPA decides that the referral application is complete, the EPA must provide to the Minister—

(a) the referral application; and

(b) its advice as to whether it considers that the application should be accepted.

(9) If the EPA decides that the referral application is incomplete, the EPA must immediately return the application to the applicant, with written reasons for returning it.

18 Process after Minister receives referral application and advice from EPA

(1) This clause applies after the Minister receives a complete referral application from the EPA.

Invitations for written comments

(2) The Minister must copy the application to, and invite written comments from,—

(a) the relevant local authorities; and

(b) the Ministers of the Crown responsible for any portfolios affected by the application:

(c) any person required by regulations.

(3) The Minister may also copy the application to, and invite written comments from, any other person.

EPA's report

(4) The Minister must obtain and consider a report on the referral application that—

(a) is prepared by the EPA in consultation with the Office for Māori Crown Relations—Te Arawhiti; and

(b) identifies the following things:

(i) the relevant iwi authorities and relevant Treaty settlement entities:

(ii) the Treaty settlements that relate to the proposed area of the activity:

(iii) the relevant principles and provisions in those Treaty settlements, including those that relate to the composition of a decision-making body for the purposes of this Act or the former Resource Management Act 1991:

(iv) any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the proposed area of the activity:

(v) any customary marine title area or protected customary rights area in the proposed area of the activity.

Requests for further information

(5) The Minister may, at any time before deciding whether to accept the referral application,—

(a) request further information about the application from the applicant or the relevant local authorities; and

(b) at their absolute discretion, consider any further information provided after the deadline set for providing the information (but need not do so).

Deadlines

(6) The Minister must set the deadlines for the processes covered by this clause.

19 Minister's decision on referral application

(1) The Minister must decide whether to accept a referral application, and the decision may differ from the EPA's advice about whether the application should be accepted.

(2) However, if the referral application relates to an activity within a coastal marine area, the decision must be made jointly with the Minister of Conservation (together, the **Minister**).

(3) Before deciding on the referral application, the Minister must consider—

(a) the EPA's advice about whether the application should be accepted; and

(b) all comments, reports, and information obtained under **clause 18**.

(4) The Minister—

(a) must decline a referral application if the Minister considers that—

(i) the activity is not an eligible activity; or

(ii) there is insufficient information to decide whether the activity is an eligible activity:

(b) may, at their discretion, decline a referral application if they consider that any of the grounds set out in **clause 16**, or any other relevant grounds, apply.

(5) In deciding to accept a referral application, the Minister may—

(a) impose any restrictions on the relevant substantive application or notice, including that its proposed activity is restricted to any specified geographical location, duration, or activity; and

(b) impose a deadline by which the applicant must lodge the relevant substantive application or notice.

Substantive application or notice lodged with EPA and decided by expert consenting panel

20 If Minister accepts referral application, EPA gives notice and applicant lodges substantive application or notice

(1) This clause applies if the Minister accepts the referral application.

(2) The Minister must prepare and sign a notice—

(a) describing the application and stating that it has been accepted; and

(b) stating the Minister's reasons for accepting the application; and

(c) specifying any restrictions imposed by the Minister on the relevant substantive application or notice; and

(d) specifying the deadline for lodging the relevant substantive application or notice, meaning the deadline imposed by the Minister or, if there is none, within 2 years after the notice is given to the applicant (the **deadline**).

(3) The EPA must give the notice—

(a) to the following persons:

(i) the applicant; and

(ii) anyone invited to comment on the application under **clause 18**; and

(iii) the Chief Environment Court Judge; and

(iv) the relevant iwi authorities and Treaty settlement entities identified in the report obtained under **clause 18(4)**; and

(v) any other iwi authorities or Treaty settlement entities that the Minister considers have an interest in the matter; and

(vi) any group that is a party to a joint management agreement or Mana Whakahono ā Rohe that relates to the area of the activity; and

(b) by public notice.

(4) If the applicant wishes to lodge the relevant substantive application or notice, the applicant must do the following:

(a) before the deadline, lodge the substantive application or notice as follows, except that it must be lodged with the EPA and as modified by any regulations:

(i) for an application for a resource consent, in accordance with **section 173**; or

(ii) for a notice of requirement for a designation, in accordance with **sections 503 to 506**; and

(b) on or before lodging the substantive application or notice, withdraw any relevant resource consent application or notice of requirement for a designation that they have already made or given under the usual consenting pathway.

(5) If the applicant lodges the substantive application or notice by the deadline, the EPA must confirm whether the following matters are satisfied:

(a) the substantive application or notice is complete; and

(b) the substantive application or notice complies with the restrictions imposed by the Minister (if any); and

(c) there is no relevant resource consent application or notice of requirement for a designation still being processed under the usual consenting pathway.

(6) The EPA may request further information for the purpose of confirming the matters.

(7) The deadline for confirming the matters is—

(a) within 10 working days after the substantive application or notice is lodged with the EPA; or

(b) if the EPA requests further information, any longer period specified by the EPA in its request.

(8) If the EPA cannot confirm the matters, the EPA must immediately return the substantive application or notice to the person who lodged it, with written reasons for returning it.

21 If matters confirmed, EPA refers substantive application or notice to panel

(1) This clause applies if the EPA confirms the matters about the substantive application or notice.

(2) The EPA must, no later than 20 working days after confirming the matters,—

(a) provide the substantive application or notice and all relevant information to the Chief Judge of the Environment Court; and

(b) refer the substantive application or notice to a panel for decision, by providing the substantive application or notice and all relevant information to the panel.

(3) The relevant information is the information received by the EPA that relates to the matter, including—

(a) the referral application; and

(b) the report obtained under **clause 18(4)**; and

(c) any comments received under **clause 18**.

(4) The EPA may, at any time before the panel makes it final decision on the substantive application or notice,—

(a) request further information from the applicant in relation to the substantive application or notice; and

(b) provide any further information to the panel.

(5) The Minister may, at any time after the substantive application or notice has been referred to the panel, give a written direction with reasons to the EPA that the panel must suspend processing or further processing of the application or notice.

(6) The Minister may withdraw a direction under **subclause (5)** in the same manner as it was made.

22 How panel notifies substantive application or notice

(1) The panel must not give public or limited notification of the substantive application or notice.

(2) If the substantive application or notice is an application for a resource consent, the panel,—

(a) no later than 5 working days after the application is referred to it,—

(i) must notify the application to, and invite submissions from, the relevant persons or groups, except as modified by any regulations; and

(ii) may notify the application to, and invite submissions from, any other person or group for whom the panel considers that the activity is relevant, after taking into account—

(A) the purpose of notification set out in **section 198**; and

(B) any affected persons identified in a plan; and

(b) must otherwise deal with submissions as would be required under the usual consenting pathway, except that the deadline for making submissions is 20 working days after notification.

(3) If the substantive application or notice is a notice of requirement, the panel must, no later than 5 working days after the notice is referred to it, notify the notice, invite submissions, and deal with submissions as would be required under the usual consenting pathway.

(4) The **relevant persons or groups** (for an application for a resource consent) are as follows:

(a) the relevant local authorities:

(b) the relevant iwi authorities, including those identified in the report obtained under **clause 18(4)**:

(c) a Treaty settlement entity relevant to the proposed activity, including—

(i) an entity that has an interest under a Treaty settlement in an area where the activity is to occur; and

(ii) an entity identified in the report obtained under **clause 18(4)**:

(d) if the application relates to an activity in a customary marine title area or protected customary rights area, the relevant customary marine title group or protected customary rights group, including those identified in the report obtained under **clause 18(4)**:

(e) the owners of the land on which the activity is to be undertaken and the land adjacent to that land:

(f) the occupiers of the land on which the activity is to be undertaken and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified:

(g) Ministers of the Crown responsible for any portfolios affected by the activity:

(h) the Director-General of Conservation:

(i) any requiring authority that has a designation on land on which the activity is to be undertaken, or on land that is adjacent to that land:

(j) any person who the panel considers represents a relevant aspect of the public interest.

23 Submissions on substantive application or notice

Sections 209 to 213 apply to the making and hearing of submissions on a substantive application or notice.

24 Expert consenting panel must decide whether hearing is appropriate

(1) The panel—

(a) must consider whether it is appropriate to hold a hearing on the substantive application or notice; and

(b) may require evidence to be provided from submitters or the applicant before the start of the hearing (if any).

(2) There is no requirement for a panel to hold a hearing in respect of the substantive application or notice and no person has a right to be heard by a panel.

25 Procedure if hearing held

(1) The hearing of the substantive application or notice must be in accordance with **clauses 83 to 92 of Schedule 7** but is subject to **subclause (2)**.

(2) If a hearing is held, a panel must—

(a) avoid unnecessary formality; and

(b) recognise tikanga Māori where appropriate; and

(c) receive evidence, written or spoken, in Māori (and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies accordingly); and

(d) not permit any person other than the chairperson or members of a panel to question a party or witness; but

(e) if the chairperson of a panel gives leave, permit cross-examination.

26 Limited suspension

(1) An applicant for a resource consent or a requiring authority may make a written request to the EPA that the panel suspend processing the substantive application or notice.

(2) The request must be dealt with and determined in accordance with regulations.

27 Request for certificate of compliance

(1) An applicant for a resource consent or a requiring authority may request a certificate of compliance from the EPA, but only if the request is made at the same time as, and as part of, the substantive application or notice.

(2) A panel must consider the request and may issue a certificate of compliance by applying **section 295** with the necessary modifications.

(3) Nothing in this subpart prevents an applicant for a resource consent or a requiring authority from request a certificate of compliance from a local authority under this Act in relation to any activity to which this subpart applies.

28 Consideration of substantive application or notice by panel

(1) The panel must consider a substantive application or notice that relates to a resource consent for an eligible activity in accordance with **sections 223 to 239, 242, and 293**. Those sections apply as if the panel were a consent authority and with any necessary modifications.

(2) If the substantive application or notice relates to a notice of requirement for a designation for an eligible activity, the panel must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a consent authority and with any necessary modifications.

29 Decisions may be issued in stages

(1) A panel considering a substantive application or notice that includes multiple activities may issue a series of decisions in stages to enable activities to be started while the panel considers and determines later stages of the project that is the subject of the same application or notice.

(2) **Subclause (1)** does not provide an exception to the time frames that apply under **clause 30**.

30 Final decision on substantive application or notice

(1) As soon as practicable after a panel has completed its consideration of a substantive application or notice, the panel must—

(a) make its final decision; and

(b) produce a written report of that decision (the **decision**).

(2) In its decision, the panel may do the following, as it thinks fit:

(a) for an application for a resource consent,—

(i) grant the resource consent, with our without conditions; or

(ii) decline to grant the resource consent:

(b) for a notice of requirement for a designation,—

(i) cancel the requirement; or

(ii) confirm a requirement, with or without modifications or conditions.

(3) **Sections 76, 231 to 240, 585, 615 to 618, and 620** apply to the imposition of conditions under **subclause (2)(a)**, subject to all necessary modifications, including the following:

(a) a reference to a consent authority must be read as a reference to a panel; and

(b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.

(4) The panel must issue its final decision,—

(a) if no hearing is held, no later than 60 working days after the closing date for submissions or comments; or

(b) if a hearing is held, no later than 90 working days after the closing date for submissions or comments.

(5) However, the panel may, if regulations allow for an extension, extend the period for issuing its final decision in accordance with any prescribed requirements.

Contents of written report of decision

(6) The written report of the decision must—

(a) state the decision made by the panel; and

(b) state the panel's reasons for its decision; and

(c) include a statement of the principal issues that were in contention; and

(d) include the main findings of the panel on those issues.

(7) The decision must also specify the date on which a resource consent or designation lapses unless it is given effect to by the specified date.

(8) The date specified under **subclause (7)** must not be later than 2 years—

(a) from the date of commencement, in the case of a resource consent; or

(b) from the date on which a designation is included in a plan.

(9) However, if the panel considers it appropriate in the circumstances, the date specified under **subclause (7)** may be up to (and including) 5 years from the date that the resource consent commences or designation is included in a plan.

(10) A resource consent granted under this subpart commences on the first working day after the date on which—

(a) all appeal rights under this Act have been exhausted or have expired; or

(b) all appeals under this Act are determined.

31 Designations to be included in plans

(1) This clause applies as soon as is reasonably practicable—

(a) after a panel determining a notice of requirement confirms a designation (with or without modification); and

(b) any right of appeal under **clause 33** is exhausted or has expired.

(2) As soon as practicable after any right of appeal is exhausted or has expired, the territorial authority must, without using **Schedule 7**,—

(a) include the designation in its plan and any proposed plan, as if it were a rule in the plan or proposed plan; and

(b) state in the plan and any proposed plan the name of the requiring authority that has the benefit of the designation.

32 Effect of resource consents granted or designations confirmed or modified by panel

(1) This clause applies to—

(a) a resource consent that is granted by a panel; and

(b) a designation that is confirmed by a panel and included in a plan.

(2) The resource consent or designation has effect, and the relevant consent authority has all the functions, powers, and duties in relation to it, as if it were granted or confirmed by that local authority.

33 Appeal rights

(1) Any of the following persons may appeal to the High Court against the whole or part of a panel's final decision made under **clause 30** on a substantive application or notice, but only on a question of law:

(a) the applicant for the resource consent or the requiring authority, as the case requires:

(b) any relevant local authority:

(c) the regional planning committee:

(d) the Attorney-General:

(e) any person or group that provided comments in response to an invitation given under **clause 22**:

(f) any person who has an interest in the decision appealed against that is greater than that of the general public.

(2) **Clauses 80 to 87 of Schedule 13** apply to the appeal subject to the following:

(a) every reference to the Environment Court in those clauses must be read as a reference to the panel; and

(b) those clauses must be read with any other necessary modifications; and

(c) the High Court Rules 2016 apply if a procedural matter is not dealt with in the clauses.

(3) No appeal may be made to the Court of Appeal from a determination of the High Court under this clause.

(4) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 73 to 76 of the Senior Courts Act 2016 apply with any necessary modifications.

(5) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 75 of the Senior Courts Act 2016), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal.

(6) No appeal may be made from any appeal determined by the Court of Appeal in accordance with **subclause (5)**.

(7) Despite any enactment to the contrary,—

(a) an application for leave for the purposes of **subclause (4)** must be filed no later than 10 working days after the determination of the High Court; and

(b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this clause applies as a matter of priority and urgency.

Subpart 2—Expert consenting panels

34 Purpose of expert consenting panels

(1) The purpose of an expert consenting panel appointed under this schedule is to ensure that decisions are made on 1 or more substantive applications or notices.

(2) A panel must determine substantive applications or notices in accordance with the provisions of this Act.

35 Membership of panels

(1) The Chief Environment Court Judge must appoint the members of a panel.

(2) Up to 4 persons may be appointed to be members of a panel.

(3) The membership of a panel must include—

(a) 1 person nominated by the relevant local authorities; and

(b) 1 person nominated by the relevant regional planning committee; and

(c) 1 person nominated by the relevant iwi authorities.

(4) The person nominated by a local authority may, but need not, be an elected member of the local authority.

(5) If the relevant local authorities, the relevant regional planning committee, or the relevant iwi authorities nominate more than 1 person for appointment as a panel member, the Chief Environment Court Judge must decide which one of those nominees is to be appointed as a panel member.

(6) If the relevant local authorities, the relevant regional planning committee, or the relevant iwi authorities do not make a nomination under **subclause (2)** within 10 working days after being requested to do so, the Chief Environment Court Judge must appoint a person with the appropriate skills and experience to be a member of the panel.

(7) Despite the limit specified on the membership by **subclause (2)**, that number may be exceeded (including by the appointment of more than 1 person nominated under **subclause (3)(a), (b), or (c)**), at the discretion of the Chief Environment Court Judge, if warranted by, or required to accommodate,—

(a) the circumstances unique to a particular district or region; or

(b) the number of substantive applications or notices that have to be considered in that particular district or region; or

(c) the nature and scale of the substantive application or notice under consideration; or

(d) matters unique to any relevant Treaty settlement Act; or

(e) the collective knowledge and experience needed under **clause 37**.

(8) This clause is subject to **clause 37**.

36 Chairperson and quorum of panel

(1) The Chief Environment Court Judge must appoint a Judge or retired Judge, as one of the members appointed under **clause 35**, to be the chairperson of a panel.

(2) However, the Chief Environment Court Judge may act as the chairperson of a panel, instead of appointing another person as chairperson of the panel.

(3) Despite **subclauses (1) and (2)**, the Chief Environment Court Judge may, if the circumstances require it, appoint a suitably qualified lawyer with experience in resource management law to be the chairperson of a panel.

(4) In the event of an equality of votes, the chairperson of the panel has a casting vote.

(5) A panel has a quorum of 3 members.

37 Skills and experience of members of panel

(1) The members of a panel must, collectively, have—

(a) the knowledge, skills, and expertise relevant to resource management issues; and

(b) the technical expertise relevant to the activity; and

(c) an understanding of te Tiriti o Waitangi and its principles, tikanga Māori, and mātauranga Māori.

(2) Unless **subclause (3)** applies, a person must, in order to be eligible for appointment as a panel member, be accredited.

(3) However, the Chief Environment Court Judge may at their discretion appoint as a panel member a person who is not accredited if the person satisfies the requirements of **subclause (1)(a), (b), or (c)**.

38 Remuneration of panel members

(1) The members of the panel are entitled—

(a) to receive remuneration not within **paragraph (b)** for services as a panel member at a rate and of a kind determined by the Minister in

accordance with the fees framework, unless they are the Chief Environment Court Judge or another Judge; and

(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out their office as a panel member, as if they were members of a statutory board for the purposes of the Fees and Travelling Allowances Act 1951.

(2) In this clause, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

39 Support and advice available to panels

(1) The EPA must provide advice and secretariat support—

(a) to the Chief Environment Court Judge to appoint the chairperson and members of a panel and carry out the other functions in relation to panels under this Act; and

(b) to a panel in its role of determining any matters before it under this Act.

(2) A relevant local authority must assist the panel by providing advice within the knowledge of the authority, if requested by the panel.

40 Liability of Chief Environment Court Judge and members

(1) The members appointed to a panel are not liable for anything that they do or omit to do in good faith in performing or exercising the functions, duties, or powers of the panel.

(2) Any other legislation that limits the liability of the Chief Environment Court Judge when acting judicially is extended to the Chief Environment Court Judge when appointing the chairperson and members of a panel, acting as a chairperson of a panel, or carrying out the other functions in relation to panels under this Act.

(3) Any other legislation that limits the liability of another Judge when acting judicially is extended to the Judge when acting as a chairperson of a panel.

Part 3
Proposal of national significance

41 Interpretation of terms in this Part and Parts 4 and 5

In this Part and **Parts 4 and 5** of this schedule, unless the context otherwise requires,—

applicant means—

(a) the person who lodged the application, for a matter that is an application for—

(i) a resource consent; or

(ii) a change to or cancellation of the conditions of a resource consent:

(b) the requiring authority that lodged the notice of requirement, for a matter that is a notice of requirement for a designation or to alter a designation:

(c) the regional planning committee, for a matter that is—

(i) a proposed change to its plan; or

(ii) a variation to a proposed plan

call in a matter means to make a direction under **clause 42(2)**

local authority means the consent authority that would process an application lodged under **section 173 or 274** or, if an application is lodged with the EPA, the consent authority that would have been responsible for processing the application if it had been lodged under **section 173 or 274**, for a matter that is an application for a resource consent or for a change to or cancellation of the conditions of a resource consent

matter means—

(a) an application for a resource consent; or

(b) an application for a change to or cancellation of the conditions of a resource consent; or

(c) a proposed plan change, or part of a proposed plan change; or

(d) a variation to a proposed plan or part of a variation to a proposed plan; or

(e) a notice of requirement for a designation; or

(f) a notice of requirement to alter a designation; or

(g) a combination of any 2 or more matters described in **paragraphs (c) to (f)**

regional planning committee means—

(a) the regional planning committee responsible for the plan or proposed plan, for a matter that is a proposed plan change or a variation to a proposed plan change:

(b) the regional planning committee responsible for dealing with a notice of requirement given under **subpart 1 of Part 8** or, if a notice of requirement is lodged with the EPA, the regional planning committee that would have been responsible for dealing with the notice if it had been given under that subpart, for a matter that is a notice of requirement.

Compare: 1991 No 69 s 141

Matter lodged with local authority

42 Minister may call in matter that is or is part of proposal of national significance

(1) This clause applies if a matter has been lodged with a local authority or a regional planning committee, or in the case of a proposed plan change or variation, progressed by a regional planning committee, and—

(a) the Minister, at their own initiative, decides to apply this clause; or

(b) the Minister receives a request from an applicant or a local authority or regional planning committee to make a direction for the matter under **subclause (2)**.

(2) If the Minister considers that a matter is or is part of a proposal of national significance, the Minister may call in the matter by making a direction to—

(a) refer the matter to a board of inquiry for decision; or

(b) refer the matter to the Environment Court for decision.

(3) In deciding whether a matter is, or is part of, a proposal of national significance and whether to invoke this Part, the Minister must have regard to—

(a) whether the matter gives effect to the national planning framework:

(b) the nature, scale and significance of the proposal:

(c) its potential to contribute to achieving framework outcomes for the environment and the social, economic, environmental and cultural well-being of people and communities:

(d) whether there is evidence of widespread public concern or interest regarding its actual or potential effects on the environment:

(e) whether it has the potential for significant or irreversible effects on the environment:

(f) whether it affects the natural and built environments in more than 1 region:

(g) whether it relates to a network utility operation affecting more than 1 district or region:

(h) whether it affects or is likely to affect a structure, feature, place, or area of national significance, including in the coastal marine area:

(i) whether it involves technology, processes, or methods that are new to New Zealand and may affect the environment:

(j) whether it would assist in fulfilling New Zealand's international obligations in relation to the global environment:

(k) whether by reason of complexity or otherwise it is more appropriately dealt with under this Part rather than by the normal processes under this Act:

(l) any other relevant matter.

(4) In deciding whether to make a direction under **subclause (2)**, the Minister must have regard to—

(a) the views of the applicant and the local authority or regional planning committee; and

(b) the capacity of the local authority or the regional planning committee to process the matter; and

(c) the recommendations of the EPA.

(5) To avoid doubt, the Minister may make a direction under **subclause (2)** that differs from the direction recommended by the EPA under **clause 46**.

(6) The Minister must not make a direction under **subclause (2)(b)** if **clause 55(2)(a) or (b)** applies (which relates to public notification).

Compare: 1991 No 69 s 142(1)–(4), (7), (8)

43 Requirements about call in direction

(1) A direction to call in a matter, made under **clause 42(2)** must—

(a) be in writing and be signed by the Minister; and

(b) state the Minister's reasons for making the direction.

(2) If a local authority, a regional planning committee, or an applicant requests the Minister to call in a matter (by making a direction under **clause 42(2)**) and the Minister decides not to do so, the EPA must give notice of the Minister's decision to the local authority, regional planning committee, and applicant.

(3) When requesting the Minister to call in a matter (by making a direction under **clause 42(2)**), a local authority, a regional planning committee, or an applicant must at the same time serve the other party (the local authority, regional planning committee, or the applicant, as the case may be) with notice of the request.

Compare: 1991 No 69 s 142(5)–(7A)

44 Restriction on when regional planning committees may request call in

A regional planning committee may not make a request to the Minister in respect of either of the following matters unless it has complied with all of the requirements of **Schedule 7** that apply to the relevant plan change process, up to and including **clause 31** of that schedule:

(a) a proposed plan change:

(b) a variation to a proposed plan change.

Compare: 1991 No 69 s 143

45 Restriction on when Minister may call in matter

(1) The Minister must not call in a matter (by making a direction under **clause 42(2)**)—

(a) later than 5 working days before the date fixed for the commencement of the hearing, if the local authority or regional planning committee has notified the matter; or

(b) after the local authority or regional planning committee gives notice of its decision or recommendation on the matter, if the local authority or committee has decided not to notify the matter.

(2) If the matter is a proposed plan change or a variation to a proposed plan change under **Schedule 7**, the Minister must not call in the matter until the proposed plan change or variation has been notified in accordance with that schedule.

Compare: 1991 No 69 s 144

46 EPA to advise and make recommendations to Minister in relation to call in

(1) The Minister may request the EPA to advise the Minister on whether a matter is, or is part of, a proposal of national significance.

(2) **Clause 42(3)** applies to the EPA as if the reference to the Minister were a reference to the EPA.

(3) The EPA must provide advice under **subclause (1)** no later than 20 working days after receiving the Minister's request.

(4) The EPA's advice must include its recommendation that the Minister—

(a) call the matter in and make a direction to refer it to a board of inquiry for a decision; or

(b) call the matter in and make a direction to refer it to the Environment Court for a decision; or

(c) not call the matter in.

(5) The EPA must serve a copy of its recommendation on the applicant, local authority, and regional planning committee.

(6) The 20-working-day time frame specified in **subclause (3)** applies subject to **clause 52(5) and (6)**.

Compare: 1991 No 69 s 144A

Matter lodged with EPA

47 Matter lodged with EPA

(1) A person may lodge any of the following with the EPA:

(a) an application for a resource consent:

(b) an application for a change to or cancellation of the conditions of a resource consent.

(2) A requiring authority may lodge any of the following with the EPA:

(a) a notice of requirement for a designation:

(b) a notice of requirement to alter a designation.

(3) A matter may not be lodged with the EPA under this clause if—

(a) the same matter has been lodged with a local authority or the regional planning committee; and

(b) the applicant, the regional planning committee, or the local authority has requested that the Minister call in the matter.

(4) A person who lodges a matter with the EPA under **subclauses (1) to (3)** must serve the local authority with notice of the matter and of its lodging with the EPA under this clause.

Compare: 1991 No 69 s 145(1)–(4), (10), (11)

48 Application of other provisions

(1) This clause applies to matters lodged with the EPA under **clause 47**.

(2) If the matter is an application for a resource consent, **section 173** applies, except that—

(a) every reference in that section to a consent authority must be read as a reference to the EPA; and

(b) the applicant has no right of objection under **section 173(7)** if the EPA determines that the application is incomplete under **section 174**.

(3) If the matter is an application for a change to or cancellation of the conditions of a resource consent,—

(a) **section 274** applies, except that every reference in that section to a consent authority must be read as a reference to the EPA; and

(b) **section 173** applies, except that—

(i) the application must be treated as if it were an application for a resource consent for a discretionary activity; and

(ii) every reference in that section to a consent authority, a resource consent, and the effects of the activity must be read as a reference to the EPA, the change or cancellation of the conditions, and the effects of the change or cancellation, respectively; and

(iii) the applicant has no right of objection under **section 173(7)** if the EPA determines that the application is incomplete under **section 174**.

(4) If the matter is a notice of requirement for a designation or to alter a designation, **section 503** applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.

Compare: 1991 No 69 s 145(5)–(9A)

49 EPA to recommend course of action to Minister

(1) No later than 20 working days after receiving a matter lodged under **clause 47**, the EPA must recommend to the Minister that the Minister make a direction under **clause 50(1)(a), (b), (c), or (d)**.

(2) The EPA may also recommend to the Minister that the Minister exercise 1 or more of the following powers:

(a) if the EPA recommends that the Minister make a direction under **clause 50(1)(a), (b), (c), or (d)**,—

(i) to make a submission on the matter for the Crown:

(ii) to extend the 9-month period by which any board of inquiry appointed to determine the matter must report under **clause 68(1)** because special circumstances exist:

(b) if the EPA recommends that the Minister make a direction under **clause 50(1)(c) or (d)**,—

(i) to make a submission on the matter for the Crown:

(ii) to appoint a project co-ordinator for the matter to advise the local authority or regional planning committee:

(iii) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities and the regional planning committee to hold a joint hearing on the matters:

(iv) if the local authority or regional planning committee appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

(3) The EPA must serve a copy of its recommendation on the applicant and the local authority.

(4) The 20-working day time frame specified in **subclause (1)** applies subject to **clause 52(5) and (6)**.

Compare: 1991 No 69 s 146

50 Minister makes direction after EPA recommendation

(1) After the Minister receives a recommendation from the EPA under **clause 49**, the Minister may make a direction to—

(a) refer the matter to a board of inquiry for decision; or

(b) refer the matter to the Environment Court for decision; or

(c) refer the matter to the local authority; or

(d) refer the matter back to the regional planning committee.

(2) The Minister may make a direction under **subclause (1)(a) or (b)** only if they consider that the matter is or is part of a proposal of national significance.

(3) The Minister must apply **clause 42(3)** in deciding whether the matter is or is part of a proposal of national significance.

(4) In deciding on making a direction under **subclause (1)**, the Minister must have regard to—

(a) the views of the applicant, local authority, and regional planning committee (as relevant); and

(b) the capacity of the local authority or regional planning committee (as relevant) to process the matter; and

(c) the recommendations of the EPA.

(5) A direction made under **subclause (1)** must—

(a) be in writing and be signed by the Minister; and

(b) state the Minister's reasons for making the direction.

(6) To avoid doubt, the Minister may make a direction under **subclause (1)** that differs from the direction recommended by the EPA under **clause 49(1)**.

Compare: 1991 No 69 s 147

General provisions for matter lodged with local authority or EPA

51 Proposals relating to coastal marine area

(1) If a proposal of national significance relates wholly to the coastal marine area, this Part applies with the following modifications:

(a) references to the Minister must be read as references to the Minister of Conservation; and

(b) **clause 68(5)(f) and (g)** must be read as 1 paragraph saying "the Minister of Conservation".

(2) If a proposal of national significance relates partly to the coastal marine area, this Part applies with the following modifications:

(a) references to the Minister must be read as references to the Minister and the Minister of Conservation; and

(b) **clause 68(5)(f) and (g)** must be read as 1 paragraph saying "the Minister and the Minister of Conservation".

Compare: 1991 No 69 s 148

52 EPA may request further information or commission report

(1) **Subclause (2)** applies to a matter if—

(a) the matter has been lodged with the EPA under **clause 47**; or

(b) a request relating to the matter has been made by a local authority, a regional planning committee, or an applicant for a direction under **clause 42(1)(b)**; or

(c) the Minister decides, at their own initiative, to apply **clause 42**.

(2) The EPA may,—

(a) by written notice, request an applicant to provide further information relating to the matter:

(b) require an EPA employee, or commission any person, to prepare a report on any issue relating to a matter (including in relation to information contained in the matter or provided under **paragraph (a)**).

(3) An applicant who receives a request under **subclause (2)(a)** must, within 15 working days after the date of the request, do one of the following things:

(a) provide the information; or

(b) tell the EPA by written notice that the applicant agrees to provide the information; or

(c) tell the EPA by written notice that the applicant refuses to provide the information.

(4) If the EPA receives a notice under **subclause (3)(b)**, the EPA must—

(a) set a reasonable time within which the applicant must provide the information; and

(b) tell the applicant by written notice the date by which the applicant must provide the information.

(5) If the EPA requests further information under **subclause (2)(a)** before making its recommendation to the Minister on a matter under **clause 46 or 49**, the time frame referred to in **clause 46(3) or 49(1)** (being the time within which the EPA must make its recommendation) begins on,—

(a) if the information is provided in accordance with this clause, the day after the day on which the EPA receives the information; or

(b) if the EPA receives a notice of refusal under **subclause (3)(c)**, the day after the day on which the EPA receives the notice; or

(c) in any other case, the day after the day on which the deadline for providing the information expires.

(6) If the EPA requires a report under **subclause (2)(b)** before making its recommendation to the Minister on a matter under **clause 46 or 49**, the time frame referred to in **clause 46(3) or 49(1)** (being the time within which the EPA must make its recommendation) begins on the day after the day on which the EPA receives the report.

(7) The EPA must make its recommendation even if the applicant—

(a) does not provide the information before the deadline; or

(b) refuses to provide the information.

Compare: 1991 No 69 s 149

How matter processed if direction made to refer matter to board of inquiry or court

53 EPA must serve Minister's direction on local authority or regional planning committee, and applicant

As soon as practicable after the Minister makes a direction under **clause 42(2) or 50(1)(a) or (b)**, the EPA must serve the direction on—

(a) the local authority or regional planning committee; and

(b) the applicant, if relevant.

Compare: 1991 No 69 s 149A

54 Local authority's or regional planning committee's obligations if matter called in

(1) **Subclause (2)** applies to a local authority or regional planning committee if—

(a) the Minister calls in a matter by making a direction under **clause 42(2)**; and

(b) the local authority or regional planning committee has been served with the direction under **clause 53**.

(2) The local authority or regional planning committee must, without delay, provide the EPA with—

(a) the matter; and

(b) all information received by the local authority that relates to the matter; and

(c) if applicable, the submissions received by the local authority or regional planning committee on the matter.

Compare: 1991 No 69 s 149B

55 EPA must give public notice of Minister's direction

(1) The EPA must give public notice of a direction the Minister makes under **clause 42(2) or 50(1)(a) or (b)**.

(2) **Subclause (1)** does not apply if—

(a) the Minister instructs that the giving of public notice be delayed under **clause 56**; or

(b) the Minister decides under **section 80** that the application or notice to which the direction relates is not to be publicly notified.

(3) A public notice must—

(a) state the Minister's reasons for making the direction; and

(b) describe the matter to which the direction applies; and

(c) state where the matter, its accompanying information, and any further information may be viewed; and

(d) state that any person may make submissions on the matter to the EPA; and

(e) state the closing date for the receipt of submissions; and

(f) specify an electronic address for sending submissions; and

(g) state the address for service of the EPA and the applicant (or each applicant if more than 1).

(4) When the EPA gives public notice, it must also serve a copy of the notice on—

(a) each owner and occupier (other than an applicant) of any land to which the matter relates; and

(b) each owner and occupier of any land adjoining any land to which the matter relates; and

(c) if applicable, every person who has made a submission on the matter to the local authority or the regional planning committee.

Compare: 1991 No 69 s 149C

56 Minister may instruct EPA to delay giving public notice pending application for additional consents

(1) The Minister may instruct the EPA to delay giving public notice of a direction under **clause 55** in relation to a matter.

(2) **Subclause (1)** applies if the Minister considers, on reasonable grounds, that—

(a) resource consents, or other resource consents, will also be required in respect of the proposal to which the matter relates; and

(b) the nature of the proposal will be better understood if applications for the resource consents, or other resource consents, are lodged before proceeding further with the matter.

(3) The EPA must, without delay, give notice to the local authority or the regional planning committee, and the applicant, of the instruction under **subclause (1)**.

(4) The Minister may, at any time, rescind an instruction given under **subclause (1)** and instruct the EPA to give public notice of the direction concerned under **clause 55**.

Compare: 1991 No 69 s 149D

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

(1) Any person (including the Minister, for the Crown) may make a submission to the EPA about a matter for which—

(a) the Minister has made a direction under **clause 42(2) or 50(1)(a) or (b)**; and

(b) public notice has been given under **clause 55**.

(2) **Subclause (1)** applies—

(a) whether or not the person has already made a submission to the local authority or the regional planning committee on the matter; but

(b) subject to **subclauses (7) to (10)**.

(3) A submission must be—

(a) in the prescribed form; and

(b) served—

(i) on the EPA, within the time allowed under **subclause (11)**; and

(ii) on the applicant, as soon as practicable after service on the EPA.

(4) If a person who makes an electronic submission on the matter has specified an electronic address as an address for service, and has not requested a method of service specified in **section 806(1)** (as applied by **subclause (5)**), any further correspondence relating to the matter must be served by sending it to that electronic address.

(5) If **subclause (4)** does not apply, the further correspondence may be served by any of the methods specified in **section 806(1)**.

(6) A submission must state whether it supports the matter, it opposes the matter, or it is neutral.

(7) If the person is a trade competitor of the applicant, the person may make a submission only if directly affected by an effect of the activity to which the matter relates, and the effect—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

(8) However, if the matter is a change to a plan or a variation to a proposed plan, **subclause (7)** does not apply and the person—

(a) must not make a submission if the person could gain an advantage in trade competition through the submission; and

(b) may make a submission only if directly affected by an effect of the change or variation that—

(i) adversely affects the environment; and

(ii) does not relate to trade competition or the effects of trade competition.

(9) The closing date for making a submission is 30 working days after the day on which public notice of the direction is given.

(10) Any submissions on the matter received by the local authority or the regional planning committee before the matter is called in (by a direction being made under **clause 42(2)**) must be treated as having been made to the EPA under this clause.

Compare: 1991 No 69 s 149E

58 EPA to receive secondary submissions if matter is proposed plan change or variation

(1) **Subclause (2)** applies if the matter for which the Minister makes a direction under **clause 42(2) or 50(1)(a) or (b)** is a proposed plan change or a variation to a proposed plan.

(2) The EPA must produce a summary of all the submissions on the matter received under **clause 57** and give public notice of—

(a) the availability of a summary of submissions on the matter; and

(b) where the summary and the submissions can be inspected; and

(c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in **subclause (3)** may make a secondary submission on the matter; and

(d) the date of the last day for making secondary submissions (as calculated under **paragraph (c)**); and

(e) an electronic address for sending secondary submissions; and

(f) the address for service of the EPA.

(3) The following persons may make a secondary submission on the matter:

(a) any person representing a relevant aspect of the public interest; and

(b) any person that has an interest in the matter greater than the interest that the general public has; and

(c) the regional planning committee.

(4) However, a secondary submission may only be in support of or in opposition to a submission made on a matter under **clause 57**.

(5) A secondary submission must be in the prescribed form.

(6) If a person who makes a secondary electronic submission on a matter to which the secondary submission relates has specified an electronic address as an address for service, and has not requested a method of service specified in **section 806(1)** (as applied by **subclause (7)**), any secondary correspondence relating to the matter must be served by sending it to that electronic address.

(7) If **subclause (6)** does not apply, the secondary correspondence may be served by any of the methods specified in **section 806(1)**.

(8) A person who makes a secondary submission must serve a copy of it on—

(a) the applicant; and

(b) the person who made the submission under **clause 57** to which the secondary submission relates.

(9) The secondary submission must be served no later than 5 working days after the day on which the person provides the EPA with the secondary submission.

Compare: 1991 No 69 s 149F

59 EPA must provide board or court with necessary information

(1) This clause applies if a matter is referred to a board of inquiry or the Environment Court under this Part.

(2) The EPA must provide the board of inquiry or Environment Court, as the case may be, with each of the following things as soon as is reasonably practicable after receiving it:

(a) the matter:

(b) all the information received by the EPA that relates to the matter:

(c) the submissions received by the EPA on the matter.

(3) The EPA must also commission the regional planning committee to prepare a report on the key issues in relation to the matter that includes—

(a) any relevant provisions of the national planning framework, a plan, or proposed plan; and

(b) a statement on whether all required resource consents in relation to the proposal to which the matter relates have been applied for; and

(c) if applicable, the activity category of all proposed activities in relation to the matter.

(4) The EPA must provide a copy of the report to—

(a) the board of inquiry or the Environment Court, as the case may be; and

(b) the applicant; and

(c) every person who made a submission on the matter.

Compare: 1991 No 69 s 149G

60 Regional planning committee may not notify further change or variation in certain circumstances

If the Minister makes a direction under **clause 42(2) or 50(1)(a) or (b)** to refer any of the following matters to a board of inquiry or the Environment Court, the regional planning committee must not notify a further change or variation relating to the same issue until after the board or the court, as the case may be, has made a decision on the matter:

(a) a matter that is a proposed plan change; or

(b) a matter that is a variation to a proposed plan.

Compare: 1991 No 69 s 149H

61 Limitation on withdrawal of change or variation

A regional planning committee may withdraw a plan change or a variation to a proposed plan, for which the Minister has made a direction under **clause 42(2)**, no later than 5 working days after the close of the last day on which secondary submissions may be made under **clause 58**.

Compare: 1991 No 69 s 149I

Part 4
How matter decided if direction made to refer matter to board of inquiry or court

Matter decided by board of inquiry

62 Minister to appoint board of inquiry

(1) This clause applies if the Minister makes a direction under **clause 42(2)(a) or 50(1)(a)** to refer a matter to a board of inquiry for decision.

(2) As soon as practicable after making the direction, the Minister must appoint a board of inquiry to decide the matter and to complete the performance or exercise of its functions, duties, and powers in relation to the matter (including any appeals in relation to the matter that are filed in any court).

(3) The Minister must appoint—

(a) no fewer than 3, but no more than 5, members; and

(b) 1 member as the chairperson, who may (but need not) be a current, former, or retired Environment Judge or a retired High Court Judge.

(4) The Minister may, if they consider 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) The Minister may, as they see fit, set terms of reference about administrative matters relating to the inquiry.

(6) 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

63 How members appointed

(1) The Minister must comply with this clause when appointing a board of inquiry under **clause 62**.

(2) The Minister must seek suggestions for members of the board from the local authority.

(3) However, the Minister may appoint a person as a member of the board whether or not the Minister receives a suggestion for the person under **subclause (2)**.

(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

(iii) the local community; and

(iv) the exercise of control over the manner of examining and cross-examining witnesses; and

(b) an understanding of Tiriti o Waitangi and its principles; and

(c) an understanding of tikanga Māori and mātauranga Māori; and

(d) legal expertise; and

(e) technical expertise in relation to the matter or type of matter that the board will be considering.

Compare: 1991 No 69 s 149K

64 EPA may make administrative decisions

(1) The EPA—

(a) must provide secretarial and support services to a board of inquiry appointed under **clause 62**:

(b) may make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this Part:

(c) may allow the board of inquiry to make decisions referred to in **paragraph (b)**.

(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 **subclause (1)(a) or (b)**.

Compare: 1991 No 69 s 149KA

65 Conduct of inquiry

(1) A board of inquiry appointed to determine a matter under **clause 62** may, in conducting its inquiry, exercise any of the powers, rights, and discretions of a consent authority under **sections 183 to 186 and 213 to 215** as if—

(a) the matter were an application for a resource consent; and

(b) every reference in those sections to an application or an application for a resource consent were a reference to the matter.

(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 they wish to be heard and who has not subsequently advised the board that they no longer wish to be heard.

(3) The EPA may provide a board of inquiry with an estimate of the amount of funding required to process a proposal of national significance.

(4) A board of inquiry—

(a) must conduct its inquiry in accordance with any terms of reference set by the Minister under **clause 62(5)**:

(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 213 and 214 and clauses 80 and 85 to 89 of Schedule 7**,—

(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 regional planning committee; 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 **subclause (3)**.

(5) A board of inquiry may obtain planning advice from the EPA in relation to—

(a) the national planning framework, relevant plans, and other similar documents:

(b) the issues raised by the matter being considered by the board.

Compare: 1991 No 69 s 149L

66 Process if matter is before board of inquiry is plan change or variation

(1) If the matter before a board of inquiry is a plan change or a variation to a proposed plan, the board of inquiry must conduct an inquiry on the plan change or variation to proposed plan in accordance with **clause 67**.

(2) The board of inquiry must produce a final report on the plan change or variation under **clause 68**.

Compare: 1991 No 69 s 149M

67 Consideration of matter by board

(1) A board of inquiry considering a matter must—

(a) have regard to the Minister's reasons for making a direction in relation to the matter; and

(b) consider any information provided to it by the EPA under **clause 59**; and

(c) act in accordance with **subclause (2), (3), (4), (6), (7), (8), (9), or (10)** as the case may be.

(2) A board of inquiry considering a matter that is an application for a resource consent must apply **sections 223 to 225, 227 to 238, 240, and 293** as if it were a consent authority.

(3) A board of inquiry considering a matter that is an application for a change to or cancellation of the conditions of a resource consent must apply **sections 223 to 225, 227 to 238, and 240** as if—

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

(4) A board of inquiry considering a matter that is a notice of requirement for a designation or to alter a designation—

(a) must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a territorial authority; and

(b) may—

(i) cancel the requirement; or

(ii) confirm the requirement; or

(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and

(c) may, under **section 504(4)**, waive the requirement for a secondary CIP to be submitted.

(5) However, if the requiring authority is the Minister of Education or the Minister of Defence, the board of inquiry may not impose a condition under **subclause (4)(b)(iii)** requiring an environmental contribution.

(6) A board of inquiry considering a matter that is a proposed plan change or a variation to a proposed plan—

(a) must make decisions on the provisions and matters raised in submissions and include the reasons for accepting or rejecting the submissions (but, to avoid doubt, it is not necessary to address each submission individually); and

(b) may exercise the powers under **clause 48 of Schedule 13** as if it were the Environment Court; and

(c) must apply **Part 4** as if it were a regional planning committee.

Compare: 1991 No 69 s 149P

68 Board to produce report

(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) The board must perform the duties in **subclause (1)** no later than 9 months after—

(a) the day on which the EPA gave public notice under **clause 55** of the Minister's direction under **clause 42(2) or 50(1)(a)** in relation to the matter, unless **paragraph (b)** applies; or

(b) the day on which the EPA gave limited notification under **clause 80(4)**, if the EPA gave that notice for the matter before the board.

(3) For the purposes of **subclause (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 **clause 84(3)** (as calculated from the date of notification of suspension under **clause 84(5)** to the date of notification of resumption under **clause 84(5)**).

(4) The report—

(a) must state the board's decision; and

(b) must give reasons for the decision; and

(c) must include a statement of the principal issues that were in contention; and

(d) must include the main findings on the principal issues that were in contention; and

(e) may recommend that changes be made to the national planning framework or a plan (being changes in addition to any changes that may result from the implementation of the decision); and

(f) may recommend changes to the national planning framework.

(5) The EPA must provide a copy of the report to—

(a) the applicant; and

(b) the local authority; and

(c) any relevant local authorities; and

(d) the regional planning committee; and

(e) the persons who made submissions on the matter; and

(f) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and

(g) the Minister; and

(h) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the decision.

(6) The EPA must publish the board's report and give public notice of where and how copies of it can be obtained.

(7) Nothing in **section 845(1)** applies to the time periods or the requirements in this clause that apply to a board.

(8) For the purposes of **subclause (5)(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)**.

Compare: 1991 No 69 s 149R

69 Minor corrections of board decisions, etc

(1) At any time during its term of appointment, a board of inquiry may issue an amendment to a decision, or an amended decision, that corrects minor omissions, errors, or other defects in any decision of the board, and this power includes the powers set out in **subclauses (2) to (4)**.

(2) The board may correct a resource consent as if the board were a consent authority acting under **section 284** (which applies within 20 working days of the grant of the resource consent).

(3) The board may amend a proposed plan change, as if it were a regional planning committee, to alter any information if the alteration is of minor effect or to correct minor errors before the earlier of the following:

(a) the day on which the regional planning committee approves the proposed plan under **clause 41 of Schedule 7**:

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

(4) The board may correct a requirement before the earlier of the following:

(a) the day on which the regional planning committee includes the relevant designation in its plan and any proposed plan under **section 515**:

(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.

Compare: 1991 No 69 s 149RA

70 Minister may extend time by which board must report

(1) Despite **clause 68(2)**, the Minister may, at any time (including before the board is appointed), grant an extension or extensions of time in which a board of inquiry must produce its final report.

(2) The Minister may grant an extension only if—

(a) they consider that special circumstances apply; and

(b) the time period as extended does not exceed 18 months from—

(i) the day on which the EPA gives public notice under **clause 55** of the Minister's direction under **clause 42(2) or 50(1)(a)** in relation to the matter, unless **subparagraph (ii)** applies; or

(ii) the day on which the EPA gives limited notification under **clause 80(4)**, if the EPA gives that notice for the matter before the board.

(3) However, the Minister may grant an extension that results in a time period greater than that described in **subclause (2)(b)** if the applicant agrees.

(4) For the purposes of **subclause (2)(b)**, the period of 18 months excludes any time while an inquiry is suspended under **clause 84(3)** (as calculated from the date of notification of suspension under **clause 84(5)** to the date of notification of resumption under **clause 84(5)**).

(5) The EPA must give written notice to the following persons if the Minister grants an extension under **subclause (1)**, or each time the Minister grants an extension under **subclause (1)**, as the case may be:

(a) the applicant; and

(b) the local authority; and

(c) the regional planning committee; and

(d) any person who made a submission on the matter.

(6) The EPA must, on request by a board of inquiry, request the Minister to grant an extension under **subclause (1)** in relation to any matter before the board.

(7) **Subclause (6)** does not limit **subclause (1)**.

Compare: 1991 No 69 s 149S

Matter decided by Environment Court

71 Matter referred to Environment Court

(1) This clause applies if the Minister makes a direction under **clause 42(2)(b) or 50(1)(b)** to refer a matter to the Environment Court for decision.

(2) The matter is referred to the Environment Court by the applicant lodging with the court—

(a) a notice of motion specifying the orders sought and the grounds on which the application is made; and

(b) a supporting affidavit on the circumstances giving rise to the application.

(3) The applicant must—

(a) serve a copy of the notice of motion and the affidavit on the local authority and, if applicable, every person who made a submission on the matter; and

(b) serve the documents as soon as is reasonably practicable after lodging them; and

(c) tell the Registrar when the documents have been served.

(4) If the matter is a proposed plan change or a variation to a proposed plan change, the regional planning committee must also serve a copy of the notice of motion and affidavit on any requiring authority that made a requirement under **clause 28 of Schedule 7** in respect of the change or variation.

(5) The court may at any time direct the applicant to serve a copy of the notice of motion and affidavit on any other person.

Compare: 1991 No 69 s 149T

72 Consideration of matter by Environment Court

(1) The Environment Court, when considering a matter referred to it under **clause 71**, must—

(a) have regard to the Minister's reasons for making a direction in relation to the matter; and

(b) consider any information provided to it by the EPA under **clause 59**; and

(c) act in accordance with **subclause (2), (3), (4), (6), or (7)**, as the case may be.

(2) If considering a matter that is an application for a resource consent, the court must apply **sections 223 to 225, 227 to 238, 240, and 293** as if it were a consent authority.

(3) If considering a matter that is an application for a change to or cancellation of the conditions of a resource consent, the court must apply **sections 223 to 225, 227 to 238, and 240** as if—

(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

(4) If considering a matter that is a notice for a designation or to alter a designation, the court—

(a) must have regard to the matters set out in **section 512(2)** and comply with **section 512(1)** as if it were a regional planning committee; and

(b) may—

(i) cancel the notice; or

(ii) confirm the notice; or

(iii) confirm the notice, but modify it or impose conditions on it as the court thinks fit; and

(c) may, under **section 504(4)**, waive the requirement for a secondary CIP to be submitted.

(5) However, if the requiring authority is the Minister of Education or the Minister of Defence, the court may not impose a condition under **subclause (4)(b)(iii)** requiring an environmental contribution.

(6) If considering a matter that is a proposed plan change or a variation to a proposed plan, the court—

(a) must make decisions on the provisions and matters raised in submissions and include the reasons for accepting or rejecting the submissions (but, to avoid doubt, it is not necessary to address each submission individually); and

(b) may exercise the powers under **clause 48 of Schedule 13**; and

(c) must apply **Part 4** as if it were a regional planning committee.

(7) **Schedule 13** applies to proceedings under this clause, except if inconsistent with any provision of this clause.

Compare: 1991 No 69 s 149U

Appeals

73 Appeal from decisions only on question of law

(1) A person described in **clause 68(5)(a) to (f)** may appeal to the High Court against a decision under **clause 68(1) or 72**, but only on a question of law.

(2) An applicant for a matter to which **clause 66** applies may appeal to the High Court against a decision under **subclause (2)(b)** of that clause, but only on a question of law.

(3) If the appeal is from a decision of a board of inquiry, **clauses 80 to 87 of Schedule 13** apply to the appeal subject to the following:

(a) every reference to the Environment Court in those clauses must be read as a reference to the board of inquiry; and

(b) those clauses must be read with any other necessary modifications; and

(c) the High Court Rules 2016 apply if a procedural matter is not dealt with in the clauses.

(4) If the appeal is from a decision of the Environment Court, **clause 79 of Schedule 13** applies to the appeal.

(5) No appeal may be made to the Court of Appeal from a determination of the High Court under this clause.

(6) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 73 to 76 of the Senior Courts Act 2016 apply with any necessary modifications.

(7) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 75 of the Senior Courts Act 2016), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal.

(8) No appeal may be made from any appeal determined by the Court of Appeal in accordance with **subclause (7)**.

(9) Despite any enactment to the contrary,—

(a) an application for leave for the purposes of **subclause (6)** must be filed no later than 10 working days after the determination of the High Court; and

(b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this clause applies as a matter of priority and urgency.

Compare: 1991 No 69 s 149V

Part 5
Miscellaneous provisions

Process after decision of board of inquiry or court on certain matters

74 Regional planning committee to implement decision of board or court about proposed plan change or variation

(1) **Subclauses (2) and (3)** apply to a regional planning committee if a board of inquiry or the Environment Court—

(a) considers a matter that is a proposed plan change or a variation to a proposed plan; and

(b) decides that changes must be made to that matter.

(2) As soon as practicable after receiving notice of the decision of the board or the court under **clause 68(5) or 72**, as the case may be, the regional planning committee must—

(a) amend the proposed plan or a change or variation to a plan under **clause 40 of Schedule 7**, and that clause applies accordingly as if the decision were a direction of the Environment Court under **clause 48 of Schedule 13**; and

(b) approve the proposed plan change, or variation under **clause 41 of Schedule 7** and make the plan, change, or variation operative by giving public notice in accordance with that clause.

(3) A regional planning committee must comply with **section 515** if a board of inquiry or the Environment Court confirms a requirement under this Part.

Compare: 1991 No 69 s 149W

75 Residual powers of local authority

(1) **Subclause (2)** applies to a resource consent that has been granted by a board of inquiry or the Environment Court under **clause 72**, as the case may be.

(2) The consent authority concerned has all the functions, duties, and powers in relation to the resource consent as if it had granted the consent itself.

(3) **Subclause (4)** applies to a requirement confirmed (with or without modifications) by a board of inquiry or the Environment Court under **clause 68 or 72**.

(4) The territorial authority concerned has all the functions, duties, and powers in relation to the requirement as if it had dealt with the matter itself.

Compare: 1991 No 69 s 149X

Minister makes direction to refer matter to local authority

76 EPA must refer matter to local authority and regional planning committee if direction made by Minister

(1) This clause applies if the Minister makes a direction under **clause 50(1)(c) or (d)**—

(a) to refer a matter lodged with the EPA back to the local authority, if the matter is a resource consent or a change to or cancellation of the conditions of a resource consent:

(b) to refer a matter lodged with the EPA back to the regional planning committee, if the matter is a proposed plan or a variation to a proposed plan, or a notice of requirement for a designation or to alter a designation.

(2) The EPA must give notice of the Minister's direction to the local authority or regional planning committee, and the applicant.

(3) The EPA must also—

(a) provide the local authority or regional planning committee with—

(i) the matter; and

(ii) all the material received by the EPA that relates to the matter; and

(b) inform the local authority or regional planning committee that it must process the matter in accordance with **clause 77**.

Compare: 1991 No 69 s 149Y

77 Local authority or regional planning committee must process referred matter

(1) A local authority or regional planning committee must process a matter referred to it under **clause 76(3)** in accordance with this clause, subject to any action the Minister may take under **clause 78**.

(2) If the matter is an application for a resource consent, the local authority must treat the application as if—

(a) it had been made to the local authority under **section 173(1)**; and

(b) it had been lodged on the date that the local authority received notification from the EPA under **clause 76(2)**; and

(c) **section 174** did not apply to the application.

(3) If the matter is a notice for a designation or to alter a designation, the regional planning committee must treat the notice as if it had been—

(a) given to the regional planning committee under **section 503**; and

(b) lodged on the date that the regional planning committee received notification from the EPA under **clause 76(2)**.

(4) However, if the matter is a notice of requirement for a designation, or to alter a designation, to which **section 503** applies, the regional planning committee must instead comply with **section 521**, with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under **clause 76(3)**.

(5) If the matter is a request relating to a proposed plan change or a variation to a proposed plan, the regional planning committee must continue to process the matter under **Schedule 7**.

(6) If the matter is an application for a change to or cancellation of the conditions of a resource consent, the local authority must treat the application as if it had been—

(a) made to the local authority under **section 173**; and

(b) lodged on the date that the local authority received notification from the EPA under **clause 76(3)**.

Compare: 1991 No 69 s 149Z

Minister's powers to intervene in matter

78 Minister's powers to intervene in matter

(1) The Minister may intervene in a matter at any time by exercising 1 or more of the following powers in relation to the matter:

(a) to make a submission on the matter for the Crown:

(b) to appoint a project co-ordinator for the matter, to advise the local authority or regional planning committee:

(c) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters:

(d) if the local authority or regional planning committee appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

(2) In deciding whether to act under **subclause (1)**, the Minister must consider the extent to which the matter is or is part of a proposal of national significance.

(3) If the Minister makes a direction under **subclause (1)(c)**,—

(a) the local authorities must hold the joint hearing; and

(b) **section 218** applies, with the necessary modifications, to the hearing.

(4) If the Minister appoints a hearings commissioner under **subclause (1)(d)**, the commissioner has the same powers, functions, and duties as the commissioner or commissioners appointed by the local authority or regional planning committee.

(5) To avoid doubt, if the matter has come before the Minister by way of an application lodged with the EPA, the Minister may exercise the powers under **subclause (1)** in relation to the matter whether or not the EPA made any recommendations about the matter to the Minister under **clause 49(2)**.

Compare: 1991 No 69 s 149ZA

Process if related matter already subject to direction to refer to board of inquiry or court

79 How EPA must deal with certain applications and notices of requirement

(1) This clause applies to a matter that is an application or notice of requirement described in **subclause (2)** if—

(a) the activity that the application or notice relates to is part of a proposal of national significance in relation to which 1 or more matters have already been subject to a direction under **clause 42(2) or 50(1)(a) or (b)**; and

(b) the application or notice was lodged with the EPA either—

(i) before the board of inquiry or Environment Court, as the case may be, has determined the matter or matters already subject to a direction under **clause 42(2) or 50(1)(a) or (b)**; or

(ii) after the matter or matters have been determined by the board or the court and the matter or matters have been granted or confirmed.

(2) The applications and notices are—

(a) an application for a resource consent:

(b) an application for a change to or cancellation of the conditions of a resource consent:

(c) a notice of requirement to alter a designation.

(3) In addition to making a recommendation to the Minister under **clause 49** on whether to make a direction under **clause 50(1)(a), (b), or (c)** in relation to the application or notice, the EPA must also recommend whether the application or notice should be notified (*see* **section 207**).

Compare: 1991 No 69 s 149ZB

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

(1) If the Minister decides to make a direction under **clause 50(1)(a) or (b)** for an application or notice of requirement to which **clause 79** applies, the Minister must also decide whether to notify the application or notice.

(2) **Section 207** applies to the Minister when making their decision under **subclause (1)** as if each reference to a consent authority were a reference to the Minister.

(3) If the Minister decides that the application or notice is to be publicly notified, **clauses 55 to 57** apply.

(4) If the Minister decides that the application or notice is not to be publicly notified, but is to be subject to limited notification, the EPA must give limited notification of the application or notice.

(5) Any person who receives a notice under **subclause (4)** may make a submission to the EPA and, for that purpose, **clause 57(3) to (8)** apply.

(6) However, the closing date for making a submission under **subclause (5)** is 20 working days after the day on which the EPA gives the notice under **subclause (4)**.

Compare: 1991 No 69 s 149ZC

Costs of processes under this Part and Parts 2 to 4

81 Costs of processes under this Part and Parts 2 to 4 recoverable from applicant

(1) A local authority or regional planning committee must recover from an applicant the actual and reasonable costs incurred by the local authority or committee in complying with this Part or any of **Parts 2 to 4** of this schedule.

(2) The EPA must recover from a person the actual and reasonable costs incurred by the EPA in providing assistance to the person prior to a matter or application being lodged with the EPA (whether or not the matter or application is subsequently lodged).

(3) The EPA must recover from an applicant the actual and reasonable costs incurred by the EPA in exercising or performing its functions, powers, and duties under this Part or any of **Parts 2 to 4** of this schedule (including the costs in respect of secretarial and support services provided to a board of inquiry or a panel by the EPA).

(4) The Minister must recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under this Part or **Parts 3 and 4** of this schedule or a panel.

(5) The local authority, regional planning committee, EPA, or Minister must, upon request by an applicant, provide an estimate of the costs likely to be recovered under this clause.

(6) When recovering costs under this clause, the EPA, or Minister must have regard to the following considerations:

(a) the sole purpose is to recover the reasonable costs incurred in respect of the matter or application to which the costs relate:

(b) whether it is administratively efficient to allocate to and recover costs from the applicant:

(c) whether recovering full cost may lead to an activity being undertaken at a scale that would undermine plan outcomes or not being undertaken.

(7) A person may object under **section 831** to a requirement to pay costs under any of **subclauses (1) to (4)**.

(8) In this clause—

applicant has the meaning given in **clause 41** and includes an applicant for a referral application or substantive fast-track application

application means a referral application or substantive fast-track application made under **Part 2** of this schedule

panel has the meaning given in **clause 61**.

Compare: 1991 No 69 s 149ZD

82 Remuneration, allowances, and expenses of boards of inquiry

The Fees and Travelling Allowances Act 1951 applies to a board of inquiry appointed under **clause 62** as follows:

(a) the board is a statutory board within the meaning of the Act; and

(b) a member of the board may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:

(i) remuneration by way of fees, salary, or allowances under the Act; and

(ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the board; and

(c) the Act applies to payments under **paragraph (b)**.

Compare: 1991 No 69 s 149ZE

83 Liability to pay costs constitutes debt due to EPA or the Crown

(1) This clause applies when—

(a) the EPA or the Minister has required a person to pay costs recoverable under **clause 81(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 831** or appealed under **section 835** 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 **subclause (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.

Compare: 1991 No 69 s 149ZF

84 Process may be suspended if costs outstanding

(1) This clause applies if—

(a) the EPA or the Minister has required a person to pay costs recoverable under **clause 81(2), (3), or (4)**; and

(b) the EPA has given the person written notice that, unless the costs specified in the notice are paid,—

(i) the EPA may cease to carry out its functions in relation to the matter; and

(ii) if it does so, the inquiry will be suspended.

(2) If the person 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 **subclause (3)** or is resumed under **subclause (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) any relevant local authorities; and

(e) the regional planning committee; and

(f) every person who has made a submission on the matter.

(6) Nothing in this clause affects or prejudices the right of a person to object under **section 831** or appeal under **section 835**, but an objection or an appeal does not affect the right of the EPA under **subclause (2)** of this clause to cease carrying out its functions.

Compare: 1991 No 69 s 149ZG

Schedule 11
Provisions about esplanade strips and access strips

s 123

Contents

How esplanade strips are varied or cancelled

1 Interpretation

In this Part,—

owner and **occupier** include any employees or agents authorised by the owner or occupier

parties, in relation to an easement for an access strip, means the local authority and the registered owner of the relevant land

relevant land,—

(a) in relation to an instrument that creates an esplanade strip, means the land over which the esplanade strip is created; and

(b) in relation to an easement for an access strip, means the land over which the access strip is created

Part 1
Registration requirements for instruments creating esplanade strips

2 Registration requirements

(1) The Registrar-General of Land must not register an instrument to create an esplanade strip unless the requirements of **subclause (2) or (3)** are satisfied.

(2) If the esplanade strip is required by **subpart 3 of Part 9** when land is subdivided or reclaimed, the strip identified in the instrument must be the same as that shown on the survey plan approved by the territorial authority (for subdivisions) or regional council (for reclamations).

(3) If the esplanade strip is created by agreement (*see* **section 609**),—

(a) every person who has a registered interest in the relevant land must consent to the strip; and

(b) that consent must be~~ endorsed on the instrument.~~ provided on a consent form approved under the Land Transfer Act 2017 and attached to the relevant instrument.

3 Esplanade strip need not be surveyed

Despite anything to the contrary in the Land Transfer Act 2017, an esplanade strip—

(a) need not be surveyed; but

(b) if it is shown on a survey plan, must be clearly identified in the manner that the chief executive of Land Information New Zealand considers appropriate.

Compare: 1991 No 69 s 237(2)

4 Requirements for instrument that creates esplanade strip

(1) An instrument to create an esplanade strip must,—

(a) for registration purposes, be in the form approved by the Registrar-General of Land; and

(b) for the purpose of recording the rights and interests attaching to the esplanade strip, be in the prescribed form.

(2) The instrument must also—

(a) be created in favour of the local authority; and

(b) be executed by the local authority and the owner of the subdivided land (the **parties**); and

(c) create an interest in land, and may be registered under the Land Transfer Act 2017; and

(d) when registered with the Registrar-General of Land, run with and bind the land that is subject to the instrument; and

(e) bind every mortgagee or other person who has an interest in the land, without that person's consent; and

(f) provide for any modifications or exclusions agreed by the parties under **clause 5** (what parties must consider when deciding matters to provide for in instrument); and

(g) contain the relevant provisions that are set out in **Part 3** of this schedule.

Compare: 1991 No 69 s 232(1)–(2)

5 What parties must consider when deciding matters to provide for in instrument

(1) The decisions about what to include in the instrument that creates an esplanade strip are—

(a) which provisions in the following clauses (if any) to modify (including by the imposition of conditions) or to exclude from the easement:

(i) **clause 12** (other prohibitions); and

(ii) **clause 13** (fencing requirements); and

(iii) **clause 15** (closure); and

(b) whether it is appropriate for the instrument to provide for any other matters.

(2) The decisions must be made—

(a) by the territorial authority, if the esplanade strip is required by **subpart 3 of Part 9**; or

(b) by agreement between the local authority and the owner of the relevant land, if the esplanade strip is created by agreement (*see* **section 609**).

(3) When making the decisions, the decision makers must consider—

(a) the plan; and

(b) the provisions and other matters included in any existing instrument for an esplanade strip, or easement for an access strip, in the vicinity; and

(c) the purpose or purposes of the strip, including the needs of potential users of the strip; and

(d) the use of the strip and adjoining land by the owner and occupier; and

(e) the use of the river, lake, or coastal marine area within or adjacent to the strip; and

(f) the management of any reserve in the vicinity.

Compare: 1991 No 69 s 232(4)–(5)

Part 2
How access strips are created

6 Access strip created by registration of easement

(1) An access strip is created by the registration under the Land Transfer Act 2017 of an easement that complies with the requirements of this schedule.

~~(2) The easement cannot be registered unless every person who has a registered interest in the relevant land has endorsed their consent on the easement.~~

(2) The easement cannot be registered unless—

(a) every person who has a registered interest in the relevant land has consented to creating the access strip; and

(b) that consent is provided on a form of consent approved under the Land Transfer Act 2017 and attached to the relevant instrument.

Compare: 1991 No 69 s 237B(5), (7)

7 Requirements for easements

(1) An easement to create an access strip must—

(a) for registration purposes, be in the form approved by the Registrar-General of Land; and

(b) for the purpose of recording the rights and interests attaching to the esplanade strip, be in the prescribed form.

(2) The instrument creating an access strip must also—

(a) be executed by the local authority and the registered owner of the relevant land (the **parties**); and

(b) provide for modifications or exclusions agreed by the parties under **clause 8** (what parties must consider when deciding matters to provide for in easement); and

(c) contain the relevant provisions that are set out in **Part 3** of this schedule.

Compare: 1991 No 69 s 237B(2)–(4)

8 What parties must consider when deciding matters to provide for in easement

(1) The parties to an easement ~~for an~~ must decide—

(a) which provisions in the following clauses (if any) to modify (including by the imposition of conditions) or to exclude from the easement:

(i) **clause 12** (other prohibitions); and

(ii) **clause 13** (fencing requirements); and

(iii) **clause 15** (closure); and

(b) whether it is appropriate for the easement to provide for any other matters.

(2) When making those decisions, the parties must consider—

(a) any relevant rules in the plan for the region; and

(b) the provisions and other matters included in any existing instrument for an esplanade strip, or easement for an access strip, in the vicinity; and

(c) the purpose of the strip, including the needs of potential users of the strip; and

(d) the use of the strip and adjoining land by the owner and occupier; and

(e) where appropriate, the use of the river, lake, or coastal marine area within or adjacent to the access strip; and

(f) the management of any reserve in the vicinity.

9 How easement is varied or cancelled

(1) The local authority and the registered owner may, by agreement, vary or cancel the easement.

(2) The parties must take into account—

(a) **clause 8** (what parties must consider when deciding matters to provide for in easement); and

(b) any change of circumstances.

(3) When all the appeals (if any) are finally determined, the local authority must lodge a certificate with the Registrar-General of Land for registration under the Land Transfer Act 2017.

(4) The certificate must—

(a) be signed by the chief executive or other authorised officer of the local authority; and

(b) specify the variations to the easement or that the easement is cancelled.

(5) The Registrar-General of Land must make an appropriate entry in the register and on the easement noting that the instrument has been varied or cancelled, and the easement has effect as varied or ceases to have any effect, as applicable.

Compare: 1991 No 69 ss 234(7)–(8), 237B(7)–(8)

Part 3

Provisions to include in instrument or easement that creates strip

10 Application

This Part sets out the provisions to be included in—

(a) an instrument that creates an esplanade strip; and

(b) an easement for an access strip.

Provisions that apply when any strip is created

11 Mandatory prohibitions

The instrument or easement must specify that the following acts are prohibited on the relevant land:

(a) any act that wilfully endangers, disturbs, or annoys any lawful user (including the land owner or occupier) of the relevant land:

(b) any act, by a person other than the owner or occupier of the relevant land, that—

(i) wilfully damages or interferes with any structure that is on or adjoins the relevant land, including any building, fence, gate, stile, marker, bridge, or notice:

(ii) wilfully interferes with or disturbs any livestock lawfully permitted on the relevant land.

Compare: 1991 No 69 Schedule 10 cl 1

12 Other prohibitions

(1) The instrument or easement must specify any prohibition described in **subclause (2)** that is,—

(a) for an instrument agreed by the parties under **clause 5(1)(a)(i)**; or

(b) for an easement agreed by the parties under **clause 8(1)(a)(i)**.

(2) The following acts may be prohibited on the relevant land:

(a) lighting any fire:

(b) carrying any firearm:

(c) discharging or shooting any firearm:

(d) camping:

(e) taking any animal on to, or having charge of any animal on, the relevant land:

(f) taking any vehicle on to, or driving or having charge or control of any vehicle on, the relevant land (whether the vehicle is motorised or non-motorised):

(g) wilfully damaging or removing any plant (unless acting in accordance with the Biosecurity Act 1993):

(h) laying any poison or setting any snare or trap (unless acting in accordance with the Biosecurity Act 1993).

Compare: 1991 No 69 Schedule 10 cl 2

13 Fencing requirements

The instrument or easement may include any fencing requirements, including—

(a) a requirement about a gate or stile:

(b) a requirement to reposition or remove any fence.

Compare: 1991 No 69 Schedule 10 cl 3

14 Access on strips created for access purposes

(1) This clause applies only if an esplanade strip or is created for access purposes.

(2) The instrument or easement must specify—

(a) that any person has the right, at any time, to pass and repass over and along the relevant land; and

(b) that that right of access is subject to other provisions of the instrument or easement.

Compare: 1991 No 69 Schedule 10 cl 5

15 Closure

The instrument or easement may specify—

(a) that the relevant land may be closed to the public for any specified period, including particular times and dates; and

(b) who must notify the public, by signs erected at all entry points to the relevant land and any other means agreed, that the relevant land is closed to the public as a result of closure periods specified in the instrument or easement.

Compare: 1991 No 69 Schedule 10 cl 7

Provisions that apply only when esplanade strip is created

16 Access on esplanade strips created for conservation purposes

(1) This clause applies only if an esplanade strip is created for the protection of conservation values.

(2) The instrument may specify—

(a) a limited right of access, in that—

(i) no person other than the owner or occupier of the relevant land may enter or remain on that land; or

(ii) only specified persons may enter or remain on the relevant land; and

(b) that that right of access is subject to other provisions of the instrument.

Compare: 1991 No 69 Schedule 10 cl 4

17 Access on esplanade strips created for recreational purposes

(1) This clause applies only if an esplanade strip is created for public recreational use.

(2) The instrument must specify—

(a) that any person has the right, at any time, to enter on the relevant land and remain on that land for any period of time for the purpose of recreation; but

(b) that the right of access is subject ~~tony~~ to other provisions of the instrument.

Compare: 1991 No 69 Schedule 10 cl 6

Part 4
Other provisions relating to esplanade strips

18 Effect of change to boundary of esplanade strip

(1) This section applies if, for any reason,—

(a) any of the following alters:

(i) the mark of mean ~~high water~~ high-water springs of the sea:

(ii) the bank of a river:

(iii) the margin of a lake; and

(b) the alteration affects an existing esplanade strip within an allotment~~.~~.

(2) A new esplanade strip that coincides with the alteration is deemed to have been created simultaneously with the alteration.

(3) The instrument that created the existing esplanade strip (the **original instrument**)—

(a) continues in existence; and

(b) applies to the new esplanade strip without any alteration other than the location of the strip.

(4) The new esplanade strip—

(a) must have the same dimensions, and be situated and subject to the same conditions, as if it had been created by the original instrument; and

(b) extinguishes in whole or in part, as the case may require, the existing esplanade strip which would have continued but for the ~~alterations made by this section~~ alteration.

(5) Any person who has an interest in land that is affected by the new esplanade strip is bound by the instrument that applies to that strip.

Compare: 1991 No 69 s 233

How esplanade strips are varied or cancelled

19 Land owner may apply to vary or cancel esplanade strip

(1) The registered owner of the land that includes an esplanade strip may apply to the territorial authority to vary or cancel the instrument that created the strip.

(2) The application must include—

(a) a description of the strip and its location; and

(b) an assessment of the effects of varying or cancelling the strip.

(3) **Section ~~2743~~ 273** applies to the application by the owner of the land, as appropriate and with any necessary modifications, as if it were an application by a consent holder for a change or cancellation of a condition of a resource consent.

(4) The territorial authority must have regard to the following matters when considering the application:

(a) the matters set out in **section 223**, which applies with all necessary modifications:

(b) the purpose or purposes for which the strip was created (*see* **section 604**):

(c) any change in circumstances that has made the strip, or any of the conditions in the instrument that created the strip, inappropriate or unnecessary.

(5) After considering the application, the territorial authority may—

(a) grant the application with or without modifications; or

(b) decline the application.

Compare: 1991 No 69 s 234(1)–(3), (5), (6)

20 Territorial authority may initiate proposal to vary or cancel esplanade strip

(1) A territorial authority may initiate a proposal to vary or cancel an esplanade strip by preparing a statement that includes—

(a) a description of the strip and its location; and

(b) an assessment of the effects of varying or cancelling the strip.

(2) **Sections 277 to 282** apply to the proposal, as appropriate and with any necessary modifications, as if it were a review of consent conditions initiated by the territorial authority.

Compare: 1991 No 69 s 234(2)–(4)

21 How esplanade strip is varied or cancelled

(1) This section applies if—

(a) a territorial authority decides to vary or cancel ~~or~~ an esplanade strip, whether under **clause 19 or 20**; and

(b) that decision is upheld after all the appeals (if any) are finally determined.

(2) The territorial authority must lodge for registration with the Registrar-General of Land a certificate that specifies the variations to the instrument or that the instrument is cancelled.

(3) The certificate must be signed by the chief executive or other authorised officer of the territorial authority.

(4) The Registrar-General of Land must make an appropriate entry in the register and on the instrument noting that the instrument has been varied or cancelled.

(5) The instrument takes effect as varied or, if cancelled, ceases to have any effect.

Compare: 1991 No 69 s 234(7)–(8)

Schedule 12
Incorporation of documents by reference in plans

s 107(2)

1 Incorporation of documents by reference

(1) The following written material may be incorporated by reference in a plan or proposed plan:

(a) standards, requirements, or recommended practices of international or national organisations:

(b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:

(c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan or proposed plan.

(2) Material may be incorporated by reference in a plan or proposed plan—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the plan or proposed plan.

(3) Material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan.

(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 plan or proposed plan.

(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.

(6) In this schedule, **material** includes a map.

2 Effect of amendments to, or replacement of, material incorporated by reference

An amendment to, or replacement of, material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan only if—

(a) a variation that has merged into and become part of the proposed plan under **Schedule 7** states that the amendment or replacement has that effect; or

(b) an approved change made to the plan under **Schedule 7** states that the amendment or replacement has that effect.

3 Proof of material incorporated by reference

(1) A copy of material incorporated by reference in a plan or proposed plan, including any amendment to, or replacement of, the material (the **material**), must be—

(a) certified as a correct copy of the material by the regional planning committee; and

(b) retained by the committee.

(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the plan or proposed plan of the material.

4 Effect of expiry of material incorporated by reference

Material incorporated by reference in a plan or proposed plan that expires or is revoked, or that ceases to have effect, ceases to have legal effect as part of the plan or proposed plan only if—

(a) a variation that has merged in and become part of the proposed plan under **Schedule 7** states that the material ceases to have effect; or

(b) a change to the plan made and approved under **Schedule 7** states that the material ceases to have effect.

5 Consultation on proposal to incorporate material by reference

(1) This clause applies to a proposed plan, a variation of a proposed plan, or a change to a plan—

(a) that incorporates material by reference:

(b) that states that an amendment to, or replacement of, material incorporated by reference in the proposed plan or plan has legal effect as part of the plan.

(2) Before a regional planning committee publicly notifies a proposed plan, a variation of a proposed plan, or a change to a plan under **clause 31 of Schedule 7**, the regional planning committee must—

(a) make copies of the material proposed to be incorporated by reference or the proposed amendment to, or replacement of, material incorporated by reference (the **proposed material**) available for inspection during working hours for a reasonable period at the offices of all local authorities within the region of the regional planning committee; and

(b) make copies of the proposed material available for purchase in accordance with **sections 821 to 823** at the offices of all local authorities within the region of the regional planning committee; and

(c) give public notice, or inform the public by means of its Internet site, stating that—

(i) the proposed material is available for inspection during working hours, the places at which it can be inspected, and the period during which it can be inspected; and

(ii) copies of the proposed material can be purchased and the places at which they can be purchased; and

(d) allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference; and

(e) consider any comments they make.

(3) The reference in **subclause (2)** to the proposed material includes, if the material is not in an official New Zealand language, an accurate translation of the material in an official New Zealand language.

(4) A failure to comply with this clause does not invalidate a plan or proposed plan that incorporates material by reference.

6 Access to material incorporated by reference

(1) The regional planning committee—

(a) must make the material referred to in **subclause (2)** (the **material**) available for inspection during working hours at the offices of all local authorities within the region of the regional planning committee; and

(b) must make copies of the material available for purchase in accordance with **sections 821 to 823** at the offices of all local authorities within the region of the regional planning committee; and

(c) must give public notice, at the same time as the public notification of the plan or plan change under **clause 31 of Schedule 7**, stating that—

(i) the material is incorporated in a plan or proposed plan; and

(ii) the material is available for inspection during working hours free of charge and the places at which it can be inspected; and

(iii) copies of the material can be purchased and the places at which they can be purchased.

(2) The material referred to in **subclause (1)** is—

(a) material incorporated by reference in a plan or proposed plan:

(b) any amendment to, or replacement of, that material that is incorporated in the plan or proposed plan or the material referred to in **paragraph (a)** with the amendments or replacement material incorporated; and

(c) if the material referred to in **paragraph (a) or (b)** is not in an official New Zealand language, as well as the material itself, an accurate translation of the material in an official New Zealand language.

Schedule 13
Environment Court

s 803

Contents

1 Interpretation

In this Act, unless the context otherwise requires,—

clause 94 order means an order made under **clause 94**

Environment Court means the Environment Court continued by **clause 3**

extended order means a **clause 94** order with the extended effect described in **clause 94(2)(b)**

limited order means a **clause 94** order with the limited effect described in **clause 94(2)(a)**.

2 Overview of Schedule

(1) This Schedule continues the Environment Court.

(2) **Part 1** is about the constitution of the court.

(3) **Part 2** is about the members of the court, including how they are appointed and their powers when sitting alone.

(4) **Part 3** sets out the powers of the court.

(5) **Part 4** is about court procedure.

(6) **Part 5** is about decisions and appeals.

(7) **Part 6** contains miscellaneous and general provisions.

Part 1
Constitution of Environment Court

3 Environment Court continued

(1) There continues to be an Environment Court.

(2) The court is the same court as the court that was continued by section 247 of the Resource Management Act 1991.

(3) The court is a court of record.

(4) The court has—

(a) the jurisdiction and powers conferred on the court by or under this Act or any other Act; and

(b) all the powers inherent in a court of record.

Compare: 1991 No 69 s 247

4 Seal

The Environment Court continues to have a seal, and the Registrar is responsible for the seal.

Compare: 1991 No 69 s 298

5 Membership of Environment Court

The Environment Court consists of—

(a) Environment Judges appointed under **clause 8**; and

(b) Environment Commissioners appointed under **clause 24**.

Compare: 1991 No 69 s 248

6 Environment Court sittings

(1) The quorum for the Environment Court is—

(a) 1 Environment Judge and 1 Environment Commissioner sitting together; or

(b) for the following purposes, 1 Environment Judge sitting alone:

(i) to exercise any power described in **clauses 15 to 18** (which set out the powers of an Environment Judge sitting alone); or

(ii) to exercise any power conferred by the Chief Environment Court Judge under **clause 19**; or

(iii) to hear any proceedings under **Part 11** of this Act; or

(c) 1 Environment Commissioner sitting alone to exercise any power conferred under **clauses 29 to 31**~~; or~~.

~~(d) for a proceeding that involves a question of tikanga Māori, a quorum specified in **paragraph (a), (b), or (c)** that —~~

~~(i) includes at least 1 alternate Environment Judge who is a Māori Land Court Judge or an acting Māori Land Court Judge; or~~

~~(ii) includes at least 1 Environment Commissioner who has knowledge and expertise in tikanga Māori; or~~

~~(iii) receives advice on the question from a pūkenga.~~

(1A) In a proceeding that involves a question of tikanga Māori, the court must do 1 of the following:

(a) include at least 1 alternate Environment Judge who is a Māori Land Court Judge or an acting Māori Land Court Judge:

(b) include at least 1 Environment Commissioner who has knowledge and expertise in tikanga Māori:

(c) receive advice on the question from a pūkenga.

(2) When an Environment Judge sits with an Environment Commissioner or special advisor, the Environment Judge presides at the sitting.

(3) A decision of a majority of the members of the court present at a sitting is the decision of the court.

(4) However, if there is no majority, the decision of the presiding member is the decision of the court.

Compare: 1991 No 69 s 265

7 Constitution of the Environment Court cannot be questioned

(1) The member of the Environment Court who presides at a sitting of the court has the sole discretion to decide whether the court has been properly constituted and convened.

(2) The exercise of discretion under this clause cannot be questioned in proceedings before the court or in another court.

Compare: 1991 No 69 s 266

Part 2
Members of Environment Court

Environment Judges and alternate Environment Judges

8 Appointment of Environment Judges and alternate Environment Judges

(1) The Governor-General may appoint an eligible person (*see* **clause 10**) as an Environment Judge or an alternate Environment Judge.

(2) An appointment may be made only—

(a) on the recommendation of the Attorney-General; and

(b) after the Attorney-General consults the Minister for the Environment and the Minister for Māori Development; and

(c) in accordance with any requirements that apply under—

(i) **clause 9** (which restricts the number of appointments); and

(ii) **clause 10** (which set conditions for some appointments).

(3) The Attorney-General must publish information explaining their process for—

(a) seeking expressions of interest for the appointment of Environment Judges and alternate Environment Judges; and

(b) nominating a person for appointment as an Environment Judge or an alternate Environment Judge.

Compare: 1991 No 69 s 250(1), (5)

9 Number of appointments

(1) At any one time,—

(a) no more than 10 Environment Judges may hold office; and

(b) any number of alternate Environment Judges may hold office.

(2) For the purpose of **subclause (1)(a)**,—

(a) an Environment Judge who is acting on a full-time basis counts as 1:

(b) an Environment Judge who is acting on a part-time basis counts as an appropriate fraction of 1:

(c) the aggregate number (for example, 7.5) must not exceed the maximum number of Environment Judges that is permitted.

Compare: 1991 No 69 s 250(3), (4)

10 Who is eligible for appointment as Environment Judge or alternate Environment Judge

Environment Judges

(1) A person may be appointed an Environment Judge only if they are, or are eligible to be, a District Court Judge.

(2) An appointee who is not a District Court Judge must be appointed to that office at the time of their appointment as an Environment Judge.

Alternate Environment Judges

(3) A person may be appointed as an alternate Environment Judge only if—

(a) they are a District Court Judge, an acting District Court Judge, a Māori Land Court Judge, or an acting Māori Land Court Judge; or

(b) both of the following apply:

(i) they are a retired Environment Judge under the age of 75 years; and

(ii) the Chief Environment Court Judge certifies to the Attorney-General that the appointment is necessary for the proper conduct of the Environment Court.

(4) However, a person eligible for appointment under **subclause (3)(b)**—

(a) may be appointed as an alternate Environment Judge only for a term of not more than 2 years; and

(b) may be reappointed for 1 or more terms; but

(c) must not be appointed—

(i) for a term that extends beyond the date on which the Judge reaches the age of 75 years; or

(ii) for multiple terms that collectively total more than 5 years.

Compare: 1991 No 69 ss 249, 250(2B)

11 Tenure of office

(1) An Environment Judge continues to hold that office until—

(a) they resign or are removed from office under this Act; or

(b) they cease to hold office as a District Court Judge.

(2) An alternate Environment Judge continues to hold that office until—

(a) they resign or are removed from office under this Act; or

(b) they cease to hold an office that would make them eligible for appointment as an alternate Environment Judge (*see* **clause 10(1)** (eligibility for appointment); or

(c) their term of appointment expires (*see* **clause 10(4)**).

Compare: 1991 No 69 s 250(2), (2B)

12 Restrictions on judges

(1) An Environment Judge or alternate Environment Judge must not—

(a) practise as a lawyer; or

(b) undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Chief Environment Court Judge.

(2) However, **subclause (1)(b)** does not apply to another office if any legislation permits or requires the office to be held by a Judge.

(3) The Chief Environment Court Judge may approve other employment or another office only if they are satisfied that the other employment or office is consistent with judicial office.

Compare: 1991 No 69 ss 250(6), 250A; 2016 No 49 s 17

13 Protocol containing guidance on Judges' activities

(1) The Chief Justice must develop and publish a protocol that contains guidance on—

(a) the employment, or types of employment, that they consider may be undertaken consistent with being an Environment Judge or alternate Environment Judge; and

(b) the offices, or types of offices, that they consider may be held consistent with being an Environment Judge or alternate Environment Judge.

(2) The Chief Justice must consult with the Chief Environment Court Judge when preparing the protocol.

Compare: 1991 No 69 s 250B; 2016 No 49 s 18

14 When an alternate Environment Judge may act

(1) An alternate Environment Judge may act as an Environment Judge when the Chief Environment Court Judge considers it necessary for them to do so.

(2) The Chief Environment Court Judge must make their decision under **subclause (1)** in consultation with the Chief District Court Judge or Chief Māori Land Court Judge.

(3) When an alternate Environment Judge acts as an Environment Judge,—

(a) they are a member of the Environment Court for all purposes; and

(b) they have the jurisdiction, powers, protections, privileges, and immunities of a District Court Judge under the District Court Act 2016.

Compare: 1991 No 69 ss 250(2A), 252

Powers of Environment Judge sitting alone

15 Power to make orders and declarations generally

An Environment Judge sitting alone may make any of the following:

(a) an order in the course of proceedings:

(b) an order that is not opposed:

(c) an order about any matter that the parties to the proceedings agree should be heard and decided by an Environment Judge sitting alone:

(d) an order giving directions about service of anything:

(e) an order in any proceedings when the matter at issue is substantially a question of law only:

(f) an order, made on the application of a party to proceedings when the matter at issue is substantially a question of law only, directing that those proceedings should be heard and decided by an Environment Judge sitting alone:

(g) an order, in any proceedings where questions of law and other matters are raised, directing that any proceedings should be heard and decided by 1 Environment Judge and 1 Environment Commissioner sitting together:

(h) an order about costs:

(i) an order to approve or decline an application for a rehearing:

(j) an order on any appeal against a requirement to pay an administrative charge:

~~(k) a declaration about any inconsistency between the national planning framework and a plan:~~

(l) an order directing that any decision under **section 175** (deferral pending application for additional consents) be revoked.

Compare: 1991 No 69 s 279(1)

16 Power to give waivers and directions

An Environment Judge sitting alone may waive a requirement or give a direction under **clause 89**.

Compare: 1991 No 69 s 279(2)(b)

17 Power to make orders protecting sensitive information

(1) An Environment Judge sitting alone may make any of the following orders (which relate to protecting sensitive information):

(a) on an application made under **clauses 90(3) and 118(4) of Schedule 7**, an order cancelling or varying any order made by an authority or IHP under those clauses:

(b) on an application made at any stage of proceedings before the Environment Court, an order described in **clause 90 of Schedule 7** with the same effect as an order made under **clause 90 of Schedule 7**.

(2) However, the Judge must first have regard to the matters set out in **clause 90 of Schedule 7** and to any other matters that the Judge thinks fit.

(3) The Judge—

(a) may make an order under this clause on any terms that the Judge thinks fit; or

(b) may decline to make an order under this clause.

Compare: 1991 No 69 s 279(3)

18 Power to strike out all or part of case

(1) An Environment Judge sitting alone may, at any stage of proceedings, make an order that the whole or any part of a person's case be struck out if the Judge considers—

(a) that it is frivolous or vexatious; or

(b) that it shows no reasonable or relevant case in respect of the proceedings; or

(c) that it would otherwise be an abuse of the process of the Environment Court to allow the case to be taken further.

(2) The Judge may make an order under this clause on any terms that the Judge thinks fit.

Compare: 1991 No 69 s 279(4)

19 Powers conferred by Chief Environment Court Judge

(1) An Environment Judge sitting alone may exercise powers conferred by the Chief Environment Court Judge under this clause.

(2) The Chief Environment Court Judge—

(a) may confer any power of the Environment Court; and

(b) may confer a power—

(i) generally or in relation to a particular matter; and

(ii) on any terms and conditions that the Chief Environment Court Judge thinks fit.

Compare: 1991 No 69 s 279(2)(a), (5)

Chief Environment Court Judge

20 Chief Environment Court Judge

(1) The Governor-General may appoint an Environment Judge as the Chief Environment Court Judge.

(2) The appointment may be made only on the recommendation of the Attorney-General.

(3) The Chief Environment Court Judge—

(a) must ensure the orderly and efficient conduct of the Environment Court's business; and

(b) may, for that purpose, decide which members of the court are to exercise the court's jurisdiction in particular matters or classes of matters and in particular places and areas.

(4) However, the Chief Environment Court Judge's power to make decisions under **subclause (3)(b)**—

(a) is subject to the provisions of this Act or any other Act; and

(b) may be exercised only after the Chief Environment Court Judge consults Environment Judges to the extent that the Chief Environment Court Judge considers appropriate and practicable.

Compare: 1991 No 69 s 251

21 Appointment of acting Chief Environment Court Judge

(1) This clause applies if—

(a) the Chief Environment Court Judge is unable to exercise the duties of office because of illness, absence from New Zealand, or any other reason; or

(b) the office of Chief Environment Court Judge is vacant.

(2) The Governor-General may appoint another Environment Judge to act in place of the Chief Environment Court Judge until the Chief Environment Court Judge resumes the duties of that office or a successor is appointed.

(3) While acting in place of the Chief Environment Court Judge, the acting Chief Environment Court Judge—

(a) may perform the functions and duties of the Chief Environment Court Judge; and

(b) may, for that purpose, exercise all the powers of the Chief Environment Court Judge.

Compare: 1991 No 69 s 251A

Environment Commissioners and Deputy Environment Commissioners

22 Appointment of Environment Commissioner or Deputy Environment Commissioner

(1) The Governor-General may appoint a suitable person (*see* **clause 24**) as an Environment Commissioner or a Deputy Environment Commissioner.

(2) An appointment may be made only—

(a) on the recommendation of the Attorney-General; and

(b) after the Attorney-General consults the Minister for the Environment and the Minister for Māori Development.

(3) A person—

(a) may be appointed as an Environment Commissioner or Deputy Environment Commissioner for a period not exceeding 5 years; and

(b) may be reappointed any number of times.

Compare: 1991 No 69 s 254(1)–(2)

23 Number of appointments

At any one time, any number of Environment Commissioners or Deputy Environment Commissioners may hold office.

Compare: 1991 No 69 s 254(3)

24 Who is suitable for appointment as Environment Commissioner or Deputy Environment Commissioner

(1) This clause applies when the Attorney-General is considering whether a person is suitable to be appointed as an Environment Commissioner or Deputy Environment Commissioner.

(2) The Attorney-General must have regard to the need to ensure that the Environment Court possesses a mix of knowledge and experience in matters coming before the court, including knowledge and experience in—

(a) economic, commercial, and business affairs, local government, and community affairs:

(b) planning, resource management, and heritage protection:

(c) environmental science, including the physical and social sciences:

(d) architecture, engineering, surveying, minerals technology, and building construction:

(e) alternative dispute resolution processes:

(f) matters relating to ~~the~~ te Tiriti o Waitangi and kaupapa Māori:

(g) matters relating to te ao Māori, tikanga Māori, and mātauranga Māori.

Compare: 1991 No 69 s 253

25 Term of appointments

(1) An Environment Commissioner or Deputy Environment Commissioner continues to hold that office until—

(a) they resign or are removed from office under this Act; or

(b) their term of appointment expires (*see* **clause 22(3)**).

(2) Despite **subclause (1)(b)**, an Environment Commissioner or Deputy Environment Commissioner whose term of appointment expires may, even if they are not reappointed, continue in office until their successor comes into office.

Compare: 1991 No 69 s 254(4)

26 Oath of office

(1) A person appointed as an Environment Commissioner or a Deputy Environment Commissioner must take an oath of office that they will honestly and impartially perform the duties of the office.

(2) The person must take the oath before they undertake any duties of the office.

Compare: 1991 No 69 s 256

~~**27 Remuneration of Environment Commissioners and Deputy Environment Commissioners**~~

~~(1) Every Environment Commissioner and Deputy Environment Commissioner is entitled to be paid, out of money appropriated by Parliament for the purpose,—~~

~~(a) remuneration by way of fees, salary, or allowances; and~~

~~(b) travelling allowances and expenses.~~

~~(2) The Fees and Travelling Allowances Act 1951 applies to payments for the purpose of this clause as if the Environment Court were a statutory board.~~

~~Compare: 1991 No 69 s 263~~

27 Remuneration of Environment Commissioners and Deputy Environment Commissioners

(1) Each Environment Commissioner and Deputy Environment Commissioner—

(a) must be paid a salary, or a fee, or an allowance, at the rate determined by the Remuneration Authority; and

(b) must be paid any additional allowances (including travelling allowances and expenses) in accordance with the Fees and Travelling Allowances Act 1951.

(2) Expenses may be incurred, without further appropriation than this section, to meet the salaries, fees, or allowances determined under **subclause (1)(a)**.

(3) For the purposes of **subclause (1)(b)**, the Fees and Travelling Allowances Act 1951 applies as if each Environment Commissioner and Deputy Environ-

ment Commissioner were a member of a statutory Board as defined in section 2 of that Act.

Compare: 1991 No 69 s 263

28 When a Deputy Environment Commissioner may act

(1) A Deputy Environment Commissioner may act in place of an Environment Commissioner when—

(a) the Environment Commissioner is unavailable; or

(b) the Chief Environment Court Judge considers it necessary that the Deputy Environment Commissioner act.

(2) When a Deputy Environment Commissioner is acting for an Environment Commissioner, the Deputy Environment Commissioner must be considered as an Environment Commissioner of the Environment Court for all purposes.

Compare: 1991 No 69 s 255

Powers of Environment Commissioners sitting without Environment Judge

29 Powers conferred by Chief Environment Court Judge

(1) One or more Environment Commissioners sitting without an Environment Judge may exercise powers conferred by the Chief Environment Court Judge under this clause.

(2) The Chief Environment Court Judge—

(a) may confer any power of the Environment Court; and

(b) may confer a power—

(i) generally or in relation to a particular matter; and

(ii) on any terms and conditions that the Chief Environment Court Judge thinks fit.

(3) The powers that may be conferred include—

(a) the power to issue a summons to require the attendance of a witness; and

(b) the power to convene a conference under **clause 57**.

Compare: 1991 No 69 s 280(1)

30 Powers conferred by Environment Judge

(1) One or more Environment Commissioners sitting without an Environment Judge may exercise powers conferred by an Environment Judge under this clause.

(2) An Environment Judge may confer a power only if—

(a) the proceedings relate to an appeal under **section 253** (which provides a right of appeal against a consent authority's decision about a resource consent or consent conditions); and

(b) the power is one that **clauses 15 to 18** confers on an Environment Judge sitting alone; and

(c) the power is conferred in relation to a particular matter; and

(d) the power is conferred after a conference is held under **clause 57** in relation to that matter.

(3) A power may be conferred on any terms and conditions that the Environment Judge thinks fit.

Compare: 1991 No 69 s 280(1AA)

31 Powers conferred by or under Act

One or more Environment Commissioners sitting without an Environment Judge may do anything else that this Act empowers them to do.

32 Review of exercise of power by Environment Commissioners

(1) Any party affected by the exercise of any power under **clauses 29 to 31** may, within 15 working days after the exercise of that power, apply in writing to an Environment Judge for leave to make an application for a review of the exercise of that power by a fully constituted Environment Court.

(2) If an Environment Judge grants leave, the party may, within a further 7 working days, apply in writing for a review of the exercise of that power by a fully constituted Environment Court.

(3) The court, after reviewing the exercise of the power, may substitute or set aside the Environment Commissioner's decision and make any further or other orders that the case requires.

Compare: 1991 No 69 s 280(2)–(4)

33 Power to take declarations or affidavits

An Environment Commissioner may take a declaration or an affidavit.

Compare: 1991 No 69 s 280(1B)

Removal and resignation of members

34 Resignation of members

An Environment Judge, alternate Environment Judge, Environment Commissioner, or Deputy Environment Commissioner may resign from office at any time by written notice to the Attorney-General.

Compare: 1991 No 69 s 257

35 Removal of members

(1) The Governor-General may, on the advice of the Attorney-General, remove an Environment Judge, alternate Environment Judge, Environment Commissioner, or Deputy Environment Commissioner from their office on the grounds of inability or misbehaviour.

(2) The removal of a District Court Judge from office as an Environment Judge or an alternate Environment Judge does not remove them from office as a District Court Judge.

Compare: 1991 No 69 s 258

Special advisors

36 Special advisors

(1) The Chief Environment Court Judge may appoint, as a special advisor, a person who is able to assist the Environment Court in a proceeding before it.

(2) A special advisor is not a member of the court but may sit with it and assist it in any way the court decides.

Compare: 1991 No 69 s 259

37 Remuneration of special advisors

(1) Every special advisor is entitled to be paid, out of money appropriated by Parliament for the purpose,—

(a) remuneration by way of fees, salary, or allowances; and

(b) travelling allowances and expenses.

(2) The Fees and Travelling Allowances Act 1951 applies to payments for the purpose of this clause as if every special advisor were a member of a statutory board.

Compare: 1991 No 69 s 263

Registrar and other officers of court

38 Registrar and other officers of court

(1) The Environment Court—

(a) must have a Registrar; and

(b) may have 1 or more Deputy Registrars; and

(c) may have other persons to assist it in an administrative capacity.

(2) The Registrar, a Deputy Registrar, and every other person assisting the court (other than as a special advisor) must—

(a) be appointed under the Public Service Act 2020; and

(b) be officers of the court.

(3) A Deputy Registrar has all the powers, functions, duties, and immunity of the Registrar, subject to the control of the Registrar.

(4) An officer of the court may also hold another office or employment in the public service.

Compare: 1991 No 69 s 260

Powers of Registrar

39 Powers of Registrar

(1) The Registrar may, if directed to do so by an Environment Judge, act on behalf of the Environment Court or an Environment Judge to do something that is preliminary or incidental to any proceedings, including—

(a) to issue a summons to require the attendance of a witness; and

(b) to make an order for the production of documents; and

(c) to convene a conference under **clause 57**.

(2) An order made by the Registrar under this clause, or an application granted by the Registrar under **clause 89** (waivers and directions), must be treated as if it were an order of the court.

(3) The Registrar may do anything else that this Act empowers the Registrar to do.

Compare: 1991 No 69 s 278(3)–(4)

40 Review of exercise of power by Registrar

(1) A person directly affected by the exercise of a power by the Registrar may apply to an Environment Judge to reconsider the matter.

(2) The application must be by notice to the Registrar and other persons affected.

(3) The notice must be given within 10 working days after the Registrar's decision or action.

(4) The Environment Judge may confirm, modify, or reverse the decision of the Registrar.

Compare: 1991 No 69 s 281B

41 Power to take declarations or affidavits

A Registrar may take a declaration or an affidavit.

Compare: 1991 No 69 s 278(5)

Protection from legal proceedings

42 Protection from legal proceedings

(1) No action lies against any member of the Environment Court for anything they say, do, or omit to say or do while acting in good faith in the performance of their duties.

(1A) The immunity conferred by **subclause (1)** also applies in relation to functions and duties of a current, former, or retired Environment Judge or a retired High Court Judge under any of the following provisions:

(a) **clause 62 of Schedule 10A** (Minister to appoint board of inquiry):

(b) **clause 9 of Schedule 6** (board of Inquiry):

(c) **clause 93 of Schedule 7** (IHPs established for each region).

(2) A member of the court who is a District Court Judge ~~also~~ has the immunities conferred by section 23 of the District Court Act 2016 (that is, the same immunities as a Judge of the High Court) in relation to all functions and duties performed by the Judge under that Act.

(3) No action lies against the Registrar for anything the Registrar says, does, or omits to say or do while acting in good faith under any of the following clauses:

(a) **clause 39** (powers of Registrar):

(b) **clause 89(5)** (waivers and directions):

(c) **clause 90** (Registrar may waive, reduce, or postpone payment of fee).

(4) No action lies against a special advisor appointed under **clause 36** for anything they say, do, or omit to say or do while acting in good faith in the performance of their duties.

Compare: 1991 No 69 s 261

Environment Court members who are ratepayers

43 Environment Court members who are ratepayers

A member of the Environment Court is not considered to have an interest in a proceeding before the court solely on the ground that the member is a ratepayer.

Compare: 1991 No 69 s 262

Part 3
Powers of Environment Court

General

44 Environment Court has powers of District Court

The Environment Court and Environment Judges have the same powers that the District Court has in the exercise of its civil jurisdiction.

Compare: 1991 No 69 s 278(1)

Appeals and inquiries

45 Powers of court for appeals and inquiries

(1) The Environment Court has the same power, duty, and discretion, in respect of a decision that is the subject of an appeal or inquiry, as the person who made that decision.

(2) The court may—

(a) confirm, amend, or cancel a decision that is the subject of an appeal; or

(b) recommend, in the case of a decision that is the subject of an inquiry, that the decision be confirmed, amended, or cancelled.

(3) In deciding an appeal or inquiry, the Environment Court must have regard to the decision that is the subject of the appeal or inquiry.

(4) Nothing in this clause affects any specific power or duty the court has under this Act or any other legislation.

Compare: 1991 No 69 ss 290, 290A

46 Powers of court in regard to certain appeals ~~under clause 132 or 133 of Schedule 7~~ relating to plans

(1) This clause applies when the Environment Court is hearing an appeal ~~under clause 132 or 133 of Schedule 7 that~~ under this Act where the appeal concerns a plan and relates to **section 68(1)**.

(2) The court may consider only the question of law raised.

Compare: 1991 No 69 s 290AA

Plans

47 Remedying defects in plans

(1) The Environment Court may, in any proceedings before it, direct a regional planning committee to amend ~~a~~ an operative plan to which the proceedings relate in order to—

(a) remedy any mistake, defect, or uncertainty; or

(b) give full effect to the plan.

(2) ~~The process in~~ **Schedule 7** does not apply to the amendment.

Compare: 1991 No 69 s 292

48 Environment Court may order change to proposed plans

(1) This clause applies after the Environment Court hears an appeal against, or an inquiry into, the provisions of any proposed plan that is before the court.

(2) The court may—

(a) direct the regional planning committee to—

(i) prepare changes to the proposed plan to address any matters identified by the court:

(ii) consult the parties and other persons that the court directs about the changes:

(iii) submit the changes to the court for confirmation:

(b) give other directions related to any of those matters that it considers necessary for the purposes of the appeal.

(3) The court must state its reasons for giving a direction.

(4) **Subclause (5)** applies if the court finds that a proposed plan that is before the court departs from—

(a) the national planning framework:

(b) a water conservation order.

(5) The court may allow a departure to remain if it considers that it has minor significance and does not affect the general intent and purpose of the proposed plan.

(6) In **subclauses (4) and (5)**, **departs** and **departure** mean that a proposed plan does not give effect to—

(a) the national planning framework; or

(b) a water conservation order.

Compare: 1991 No 69 s 293

49 Decisions on agreements made under Marine and Coastal Area (Takutai Moana) Act 2011 relating to protected customary rights

(1) This clause applies to a decision made by the Environment Court on—

(a) an appeal that relates to—

(i) a submission made in reliance on **section 137(2)(a)**:

(ii) a request made in reliance on **section 137(2)(b)**:

(b) an application made under **section 137(2)(c)**.

(2) The court must—

(a) decide the matters referred to in **subclause (1)** in accordance with **clause 136 of Schedule 7**; and

(b) consider the matters set out in **section 137(3)**.

(3) An application made under **section 137(2)(c)** must be—

(a) made in accordance with **clause 51**; and

(b) without limiting the discretion about service under **clause 51**, served on every relevant local authority and regional planning committee.

Compare: 1991 No 69 s 293A

Part 4
Procedure

General

50 Court procedure

(1) Except as expressly provided in this Act, the Environment Court may regulate its own proceedings in the way it thinks fit.

(2) However, the court must regulate its proceedings in a way that best promotes their timely and cost-effective resolution.

(3) Court proceedings may be conducted without procedural formality where it is consistent with fairness and efficiency.

(4) The court must recognise tikanga Māori where appropriate.

(5) The court may, in any proceedings or any conference under **clause 57**, use or allow the use of any telecommunication facility that will assist in the fair and efficient determination of the proceedings or conference.

Compare: 1991 No 69 s 269

51 Originating applications

(1) Every originating application to the Environment Court must be made by notice of motion, except as otherwise provided in this Act or any other legislation.

(2) The notice of motion—

(a) must specify the order sought, the grounds on which the application is made, and the persons the notice is to be served on; and

(b) must be supported by an affidavit about the matters that give rise to the application.

(3) The applicant must, as soon as is reasonably practicable after lodging a notice of motion with the Registrar, serve copies of the notice and affidavit on any persons that are parties to the application and advise the Registrar accordingly.

(4) An Environment Judge may at any time direct the applicant to serve a copy of the notice of motion and affidavit on any other person.

(5) If a person who has been served a notice of motion wishes to be heard on the application, they must give written notice to the Registrar and the applicant of their wish to be heard and the matters they wish to raise.

(6) A written notice for the purpose of **subclause (5)** must be—

(a) given in the form approved by the Registrar; and

(b) given within 15 working days after the date of service of the relevant notice of motion.

Compare: 1991 No 69 s 291

52 Court may refer questions of law to High Court

(1) The Environment Court may, in any proceedings before it,—

(a) state a case for the opinion of the High Court on any question of law that arises in the proceedings; and

(b) either conclude the proceedings subject to that opinion or adjourn them until after the opinion has been given.

(2) A case is stated under this clause when it is settled and signed by an Environment Judge and sent to the Registrar at the appropriate registry of the High Court.

(3) The Environment Court may ask the Registrar at the appropriate registry of the High Court to set a date for the stated case to be heard.

(4) However, the Environment Court may make a request under **subclause (3)** only after it gives the parties notice of its intention to do so.

(5) For the purposes of this clause, the **appropriate registry of the High Court** is the office of the High Court nearest to the place where the appeal, inquiry, or other proceedings was, or is being, conducted.

Compare: 1991 No 69 s 287

Representation at proceedings

53 Who may be represented at proceedings

Minister, local authorities, or Attorney-General representing public interest

(1) The following persons may be a party to any proceedings before the Environment Court:

(a) the Minister:

(b) a local authority:

(c) the Attorney-General representing a relevant aspect of the public interest~~:~~.

~~(d) any other person representing a relevant aspect of the public interest.~~

(1A) The court may allow any other person representing a relevant aspect of the public interest to be a party to any proceedings before the court if the court thinks the person's participation will assist the court in addressing the issues in the proceedings.

Persons with interest greater than general public

(2) A person may be a party to any proceedings before the Environment Court if they have an interest in the proceedings that is greater than the interest that the general public has.

(3) However, **subclause (2)** is subject to **sections 149 and 150** (which limit a person's options to oppose trade competitors).

(4) To decide whether a person has an interest in proceedings greater than the interest that the general public has, the Environment Court must have regard to every relevant statutory acknowledgment.

Persons who make submissions

(5) A person may be a party to any proceedings before the Environment Court if—

(a) the person makes a submission about the subject matter of the proceedings; and

(b) either—

(i) the submission complies with **section 148** and **clauses 20(4) and 34(4) of Schedule 7** (which limit the making of submissions), to the extent that those provisions are relevant to the submission; or

(ii) none of those provisions are relevant to the submission.

Parties under this clause must not oppose withdrawal or abandonment of proceedings

(6) A person who becomes a party to any proceedings under this clause must 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.

Compare: 1991 No 69 s 274(1), (5), (6)

54 How to become party to proceedings

(1) This clause applies to a person who is entitled to be represented at proceedings before the Environment Court (*see* **clause 53**).

(2) The person may become a party to the proceedings by giving notice within 15 working days after—

(a) the period for lodging a notice of appeal ends, if the proceedings are an appeal:

(b) the decision to hold an inquiry, if the proceedings are an inquiry:

(c) the proceedings are commenced, in any other case.

(3) The notice must be given to—

(a) the court; and

(b) the relevant local authority; and

(c) the relevant regional planning committee; and

(d) either—

(i) in the case of an appeal, the appellant; or

(ii) in the case of any other proceedings, the person who commenced them.

(4) The notice 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 (*see* **clause 53**); and

(d) an address for service.

(5) The person giving notice must, no later than 5 working days after the deadline that applies under **subclause (2)**, give the same notice to all other parties to the proceedings.

Compare: 1991 No 69 s (2)–(3)

55 Personal appearance or by representative

A person who has a right to appear, or is allowed to appear, before the Environment Court may appear in person, remotely under **clause 58(2)(aa)**, or be represented by another person.

Compare: 1991 No 69 s 275

56 Successors to parties to proceedings

(1) If a person brings proceedings before the Environment Court, the proceedings are deemed to be also brought on behalf of—

(a) the person's personal representatives; and

(b) the successors, if any, to the rights or interests affected by the proceedings.

(2) Every party appearing in proceedings before the court is deemed to appear also on behalf of—

(a) the party's personal representatives; and

(b) the successors, if any, to the rights or interests affected by the proceedings.

Compare: 1991 No 69 s 273

Conferences

57 Convening a conference

(1) An Environment Judge must, as soon as practicable after proceedings are lodged, consider whether to convene a conference presided over by a member of the Environment Court.

(2) Any party to the proceedings may ask an Environment Judge to convene a conference.

Compare: 1991 No 69 s 267(1)(a), (2)

58 Requirement to be present at conference

(1) An Environment Judge may, at any time after proceedings are lodged, require any of the following be present at a conference presided over by a member of the Environment Court:

(a) the parties:

(b) any Minister, local authority, or other person that or who has given notice of intention to appear under **clause 54** (representation at proceedings).

(2) Each person required to be present at a conference must—

(a) be present in person; or

(aa) by agreement with the court, participate remotely by any audio-visual link (as defined in section 3 of the Courts (Remote Participation) Act 2010); or

(b) have at least 1 representative present who has the authority to make decisions on the person's behalf on any matters that may reasonably be expected to arise at the conference.

Compare: 1991 No 69 s 267(1)(b), (1A)

59 Powers of member of court presiding at conference

(1) The member of the Environment Court who presides at a conference may, after giving the parties an opportunity to be heard, do all or any of the following things:

(a) direct that the pleadings be amended in the way that the member thinks necessary:

(b) direct that any admissions that have been made by any party, and that do not appear in the pleadings, be recorded in the way that the member thinks fit:

(c) define the issues to be tried:

(d) direct that any issue, whether of fact or of law or of both, be tried before any other issue:

(e) set the dates by which the respective parties must deliver to the court, and to the other parties, statements of the evidence to be given on behalf of the respective parties:

(f) direct the order in which the parties must present their respective cases:

(g) direct the order in which a party may cross-examine witnesses called on behalf of any other party:

(h) limit the number of addresses and cross-examinations of witnesses by parties having the same interest:

(i) direct that the evidence, or the evidence of any particular witness or witnesses, be given—

(i) orally in open hearing; or

(ii) by affidavit; or

(iii) by pre-recorded statement or report duly sworn by the witness before or at the hearing; or

(iv) by any combination of these ways of testifying:

(j) decide any question of admissibility about any evidence that a party proposes to tender at the hearing:

(k) require further or better information about any matters connected with the proceedings:

(l) adjourn the conference to allow for consultations among the parties:

(m) give any further or other directions that the member considers necessary.

(2) If a direction is made under **subclause (1)(i)** (about how evidence is given), any opposing party must, if they require it, have the opportunity to cross-examine any witness.

(3) The member of the court who presides at a conference—

(a) must ensure that the parties are given an opportunity to make any admissions, and any agreements about the conduct of the proceedings, that ought reasonably to be made by them; and

(b) may, with a view to any special order about costs that may be made at the hearing, ensure that a record is made, in the form that the member directs, of any refusal to make an admission or agreement.

Compare: 1991 No 69 s 267(3), (4)

Alternative dispute resolution

60 Alternative dispute resolution

(1) At any time after proceedings are lodged, the Environment Court may, to help resolve a matter, ask a member of the court or another person to conduct an ADR process before or at any time during the course of a hearing.

(2) The court may act under this clause on its own motion or on request.

(3) A member of the court who conducts an ADR process is not disqualified from resuming their role as a member of the court to decide a matter if—

(a) the parties agree that the member should resume their role and decide the matter; and

(b) the member concerned and the court are satisfied that it is appropriate for the member to do so.

(4) In this Act, **ADR process** means an alternative dispute resolution process (for example, mediation) designed to help resolve a matter.

Compare: 1991 No 69 s 268

61 Mandatory participation in alternative dispute resolution processes

(1) This clause applies to an ADR process conducted under **clause 60**.

(2) Each party to the proceedings must participate in the ADR process in person or by a representative, unless they are excused under this clause.

(3) A party to the proceedings may apply to the Environment Court to be excused from the ADR process.

(4) The court may approve the application if it considers that it is not appropriate for the applicant to participate in the ADR process.

(5) Each person required to participate in an ADR process must—

(a) be present in person; or

(aa) by agreement with the court, participate remotely by any audio-visual link (as defined in section 3 of the Courts (Remote Participation) Act 2010); 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.

Compare: 1991 No 69 s 268A

Hearing

62 Hearing of proceedings

(1) The Environment Court must hear and decide all proceedings as soon as practicable after the date on which they are lodged with it.

(2) However, the court need not comply with **subclause (1)** if, in the circumstances of a particular case, the court does not consider it appropriate to do so.

(3) The Registrar must—

(a) set the time and place of the hearing of proceedings before the court, in accordance with any requirements set by regulations ~~made under this Act~~; and

(b) give each party to the proceedings not less than 15 working days' notice of the time and place set for the hearing.

(4) An Environment Judge may, if they think fit, reduce the period of notice required by **subclause (3)(b)** in any particular case.

(5) If a person who has initiated proceedings before the court fails, without sufficient cause, to appear before the court at the time and place set for the hearing, the court may dismiss the proceedings.

Compare: 1991 No 69 s 272

63 Hearing matters together

(1) The Environment Court must hear 2 or more proceedings together if they relate to the same subject matter, unless the court considers that that would be impracticable, unnecessary, or undesirable.

(2) **Subclause (1)** applies whenever the court has jurisdiction to hear the proceedings, whether they arise under this Act or any other legislation.

Compare: 1991 No 69 s 270

64 Local hearings

Unless the parties agree otherwise, the Environment Court must conduct a conference or hearing at a place that is as near as the court considers convenient to the locality of the subject matter to which the proceedings relate.

Compare: 1991 No 69 s 271

Evidence

65 Who may call evidence at proceedings

(1) A person who becomes a party to the proceedings under **clause 53** may appear and call evidence.

(2) However, evidence must not be called unless—

(a) it is on a matter that is within the scope of the appeal, inquiry, or other proceeding; and

(b) if the person becomes a party under **clause 53(5)** by making a submission, it is on a matter—

(i) that arises out of that person's submissions in the previous related proceedings; or

(ii) on which that person could have appealed.

Compare: 1991 No 69 s (4)–(4B)

66 Evidence

(1) The Environment Court may—

(a) receive anything in evidence that it considers appropriate to receive; and

(b) call for anything to be provided in evidence that it considers will assist it to make a decision or recommendation; and

(c) call before it a person to give evidence who, in its opinion, will assist it in making a decision or recommendation.

(2) The court may, whether or not the parties consent,—

(a) accept evidence that was presented at a hearing held by the consent authority under **clause 79 of Schedule 7**:

(b) direct how evidence must be given to the court.

~~(3) The court is not bound by the rules of law about evidence that apply to judicial proceedings.~~

(3) The Evidence Act 2006 applies to Environment Court proceedings, except that the court may accept, admit, and call for any evidence that it considers appropriate in the proceedings even though the evidence is not otherwise admissible under the rules of law about evidence.

(4) The court may receive evidence written or spoken in Māori, and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies accordingly.

Compare: 1991 No 69 s 276

67 Evidence of documents

(1) If a copy of, or extract from, a plan is certified, it is admissible in evidence in legal proceedings to the same extent as the original document.

(2) In this clause, **certified** means certified to be a true copy by the principal administrative officer or by any other authorised officer of the relevant local authority.

Compare: 1991 No 69 s 276A

68 Hearings and evidence generally must be held in public

(1) All hearings of the Environment Court must be held in public except as provided in this clause.

(2) The court may do either or both of the following if it considers that the reasons for doing so outweigh the public interest in a public hearing and publication of evidence:

(a) order that any evidence be heard in private:

(b) prohibit or restrict the publication of any evidence.

Compare: 1991 No 69 s 277

69 Order for discovery or production of documents

An application for an order for discovery or production of documents may be made only with the leave of an Environment Judge.

Compare: 1991 No 69 s 278(2)

Witnesses

70 Witness expenses

(1) A witness who is summoned to attend the Environment Court is entitled to be paid, by the party requiring their attendance, expenses for travelling and maintenance while absent from their usual residence.

(2) The expenses must be paid in accordance with the scale of allowances for witnesses in civil cases under the District Court Act 2016.

(3) When a witness is called or evidence is obtained by the court, the court may direct that the expenses incurred—

(a) form part of the costs of the proceedings; or

(b) be paid from money appropriated by Parliament for the purpose.

Compare: 1991 No 69 s 284

71 Offence to disobey witness summons or refuse to co-operate

(1) A person commits an offence if, without reasonable cause, they—

(a) fail to appear in accordance with a summons issued by an Environment Judge, an Environment Commissioner, or the Registrar, or fail to produce anything that the summons requires them to produce; or

(b) refuse to be sworn or to give evidence at proceedings before the Environment Court; or

(c) refuse to answer a question put by a member of the court during proceedings before the court.

(2) It is a defence to a charge under **subclause (1)** that the person was not given travelling expenses in accordance with the scale for witnesses in civil cases under the District Court Act 2016 either—

(a) at the time the summons was served; or

(b) at some reasonable time before the hearing.

(3) A person who commits an offence against this clause is liable on conviction to a fine not exceeding $1,500.

Compare: 1991 No 69 ss 283, 338(3)(b), 339(3)

72 Who may take affidavit

Any of the following persons may take an affidavit or a statutory declaration to be used in the Environment Court:

(a) the Registrar:

(b) an Environment Commissioner:

(c) any person authorised by or under the District Court Act 2016 to take an affidavit or an affirmation to be used in the District Court (*see* **section 104** of that Act).

Compare: 1991 No 69 ss 278(5), 280(1B)

Privileges and immunities

73 Privileges and immunities

Witnesses and counsel appearing before the Environment Court have the same privileges and immunities as they have when they appear in the same capacity in proceedings in the District Court.

Compare: 1991 No 69 s 288

Part 5
Decisions and appeals

Decisions of Environment Court

74 Environment Court decisions are final

A decision of the Environment Court under this Act or any other legislation, on any matter other than an inquiry, is final unless it is reheard under **clause 75** or appealed under **clause 79**.

Compare: 1991 No 69 s 295

75 Review of court decision by rehearing

(1) This clause applies if, after the Environment Court gives a decision,—

(a) new and important evidence becomes available that might have affected the decision; or

(b) there has been a change in circumstances that might have affected the decision.

(2) The court may order a rehearing of the proceedings on any terms and conditions that it thinks reasonable.

(3) Any party may apply to the court for a rehearing of the proceedings.

(4) If the court receives an application under **subclause (3)**, the court must—

(a) give notice to the other parties concerned and hear any evidence that it thinks fit; and

(b) decide whether to order a rehearing under **subclause (2)**.

(5) The decision of the court on the reheard proceedings has the same effect as a decision of the court on the original proceedings.

Compare: 1991 No 69 s 294

76 No other review of decisions unless right of appeal or reference to inquiry exercised

(1) This clause applies if a person has a right, under this Act or any other legislation, to—

(a) refer a matter for inquiry to the Environment Court; or

(b) appeal to the Environment Court against a decision that is made under this Act or any other legislation by a local authority, consent authority, or any other person.

(2) In relation to that matter or decision, the following restrictions apply until the right has been exercised and the court has made a decision:

(a) the person cannot apply for review under the Judicial Review Procedure Act 2016; and

(b) the High Court cannot hear any proceedings that seek a declaration, an injunction, or a writ of or in the nature of mandamus, prohibition, or certiorari.

Compare: 1991 No 69 s 296

77 Court decisions must be in writing

(1) This clause applies to—

(a) any decision, determination, or order of the Environment Court, unless it is pronounced orally at a sitting of the court; and

(b) any report, recommendation, or determination made by the court on an inquiry.

(2) The decision, determination, order, report, or recommendation must be—

(a) in writing; and

(b) signed by the member who presided at the hearing or inquiry or by a majority of the members who sat on the hearing or inquiry; and

(c) authenticated with the seal of the court.

Compare: 1991 No 69 s 297

78 Judicial notice of sealed documents

All courts and persons acting judicially must take judicial notice of any document that bears the seal of the court.

Compare: 1991 No 69 s 298

Appeals from Environment Court decisions

79 Appeal to High Court on question of law

(1) A party to a proceeding before the Environment Court under this Act or any other legislation may appeal on a question of law to the High Court against any decision, report, or recommendation that the Environment Court makes in the proceeding.

(2) The appeal must be made in accordance with the High Court Rules 2016, except to the extent that those rules are inconsistent with **clauses 80 to 87**.

Compare: 1991 No 69 s 299

80 Notice of appeal

(1) A party (the **appellant**) may commence an appeal under **clause 79** as follows:

(a) within 15 working days after being notified of the Environment Court's decision, or report and recommendation, the appellant must—

(i) file a notice of appeal with the Registrar of the High Court; and

(ii) serve a copy of the notice on the authority whose decision was the subject of the Environment Court's decision or report and recommendation; and

(b) before, or within 5 working days after, the appellant files the notice of appeal, they must serve a copy of the notice on—

(i) every other party to the proceedings; and

(ii) the Registrar of the Environment Court.

(2) The notice of appeal must specify—

(a) the decision or report and recommendation, or part of the decision or report and recommendation, that is appealed against; and

(b) the error of law alleged by the appellant; and

(c) the question of law to be resolved; and

(d) the grounds of appeal, which must be expressed in sufficient detail for the High Court and other parties to understand them; and

(e) the relief sought.

(3) The Registrar of the Environment Court 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.

Compare: 1991 No 69 s 300

81 Right to appear and be heard on appeal

(1) A person may appear and be heard on an appeal to the High Court under **clause 79** if they are—

(a) a party to the relevant proceeding; or

(b) a person who appeared before the Environment Court in the proceeding.

(2) If the person wishes to appear and be heard on the appeal, they must comply with **subclause (3)** within 10 working days after they were served with the notice of appeal.

(3) The person must serve notice of their intention to appear on all of the following:

(a) the appellant:

(b) the Registrar of the High Court:

(c) the Registrar of the Environment Court:

(d) if the decision or report and recommendation was made by the Environment Court after an appeal to it, the authority whose decision was appealed.

Compare: 1991 No 69 s 301

82 Parties to the appeal before the High Court

(1) The parties to an appeal before the High Court are the appellant and any person who gives notice of intention to appear under **clause 81**.

(2) The Registrar of the High Court must ensure that the parties to an appeal before the High Court are served with—

(a) every document relating to the appeal that is filed or lodged with the Registrar of the High Court; and

(b) notice of the date set for hearing the appeal.

Compare: 1991 No 69 s 302

83 Orders of the High Court

(1) The High Court may make an order directing the Environment Court to lodge with the Registrar of the High Court any or all of the following:

(a) anything in the possession of the court:

(b) a report that records, in respect of any matter or issue that is specified by the High Court, any of the court's findings of fact that are not set out in its decision or report and recommendation:

(c) a report that sets out, to the extent that is reasonably practicable and in respect of any issue or matter that is specified in the order, any reasons or considerations that the court had regard to but that are not set out in its decision or report and recommendation.

(2) An order under this clause—

(a) may be made on application to the High Court or on its own motion; and

(b) may be made only if the High Court is satisfied that the order is required for a proper decision on a question of law; and

(c) may be made subject to any conditions that the High Court thinks fit.

(3) An application for an order under this clause must be made,—

(a) if it is made by the appellant, within 20 working days after the date on which the notice of appeal is filed; or

(b) if it is made by any other party to the appeal, within 20 working days after the date on which they are served a copy of the notice of appeal.

Compare: 1991 No 69 s 303

84 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.

Compare: 1991 No 69 s 304

85 Additional appeals on questions of law

(1) This clause applies if a party to an appeal other than the appellant wishes to contend that the decision or report and recommendation of the Environment Court is in error on other questions of law.

(2) Within 20 working days after the date on which that party (the **specified party**) is served with a copy of the notice of appeal, they must—

(a) file a notice to that effect with the Registrar of the High Court; and

(b) serve a copy of the notice on the authority whose decision was the subject of the Environment Court's decision or report and recommendation.

(3) Before, or within 5 working days after, the specified party files a notice under **subclause (2)(a)**, they must serve a copy of the notice on—

(a) every other party to the proceedings; and

(b) the Registrar of the Environment Court.

(4) If a notice is filed under this clause, the following clauses apply with any necessary modifications:

(a) **clause 83** (orders of the High Court):

(b) **clause 84** (dismissal of appeal).

(5) An appeal under this clause must be made in accordance with the High Court Rules, except to the extent that those rules are inconsistent with this clause.

Compare: 1991 No 69 s 305

86 Extension of time

On the application of a party to an appeal, the High Court may extend any period of time stated in any of the following clauses:

(a) **clause 79** (appeal to High Court of question of law):

(b) **clause 80** (notice of appeal):

(c) **clause 81** (right to appear and be heard on appeal):

(d) **clause 83** (orders of the High Court):

(e) **clause 85** (additional appeals on questions of law).

Compare: 1991 No 69 s 306

87 Hearing date

(1) An appeal is ready for hearing when a party to an appeal notifies the Registrar of the High Court—

(a) that the notice of appeal has been served on all parties to the proceedings; and

(b) either—

(i) that no application has been filed under **clause 83** (orders of the High Court); or

(ii) that any application filed under that clause has been complied with.

(2) When an appeal is ready for hearing, the Registrar of the High Court must arrange a hearing date as soon as practicable.

Compare: 1991 No 69 s 307

88 Appeals to Court of Appeal

(1) A party to an appeal to the High Court under **clause 79** may appeal against the High Court's decision on that appeal only as permitted by this clause.

General right of further appeal

(2) A party may appeal against the High Court's decision in accordance with subpart 8 of Part 6 of the Criminal Procedure Act 2011 (which provides for appeals on questions of law), and that subpart applies—

(a) as if the High Court were the first appeal court (*see* section 300 of the Criminal Procedure Act 2011); and

(b) with any other necessary modifications.

Right of further appeal limited if decision relates to proposal of national significance

(3) However, if the appeal under **clause 79** was against a decision of the Environment Court on a matter referred to it under ~~**section 358**~~ **clause 71 of Schedule 10A** (which relates to proposals of national significance), a party—

(a) may apply to the Court of Appeal for leave to appeal to that court against the High Court's decision; or

(b) may apply to the Supreme Court for leave to appeal to that court against the High Court's decision.

(4) **Subclauses (5) and (6)** apply if the Supreme Court—

(a) refuses to give leave under **subclause (3)(b)** (on the grounds that exceptional circumstances have not been established under section 75 of the Senior Courts Act 2016); but

(b) considers that a further appeal from the decision of the High Court is justified.

(5) The Supreme Court may remit the proposed appeal to the Court of Appeal.

(6) No appeal may be made from any appeal determined by the Court of Appeal.

Compare: 1991 No 69 s 308

Part 6
Miscellaneous and general provisions

Waivers and directions

89 Waivers and directions

Application for waiver or direction

(1) A person may apply to the Environment Court to waive a requirement of this Act or any other legislation about any of the following:

(a) the time within which something must be served:

(b) the time within which an appeal or submission to the court must be lodged:

(c) the time within which a person must give notice under **clause 54** that the person wishes to be a party to the proceedings:

(d) the method of service:

(e) the documents that must be served:

(f) the persons anything must be served on:

(g) the information, or the accuracy of information, that must be supplied.

(2) A person may apply to the court to give a direction about any of the following:

(a) the time within which, or the method by which, anything must be served:

(b) what must be served, whether or not the direction complies with this Act or any other legislation:

(c) the terms, including terms about adjournment, costs, or other things, on which any information must be supplied.

Threshold for granting application

(3) The court must not grant an application under this clause unless the court is satisfied,—

(a) for a waiver under **subclause (1)(b)**, that—

(i) the appellant or applicant and the respondent consent to that waiver; or

(ii) any of those parties who have not consented will not be unduly prejudiced; and

(b) for any other waiver, that none of the parties to the proceedings will be unduly prejudiced.

(4) The court may waive a requirement about time whether or not the application under this clause is made before the requirement is breached.

Registrar may exercise powers under this clause

(5) The Registrar may exercise a power referred to in this clause if the Chief Environment Court Judge confers that power on the Registrar.

(6) The power may be conferred generally or in relation to a specific matter, and on any terms and conditions that the Chief Environment Court Judge thinks fit.

Compare: 1991 No 69 s 281

90 Registrar may waive, reduce, or postpone payment of fee

(1) A person may apply to the Registrar to waive, reduce, or postpone payment to the Environment Court of any fee prescribed by regulations ~~made under this Act~~.

(2) The application must be made in the form approved by the Chief Executive of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

(3) The Registrar may waive, reduce, or postpone the payment of the fee only if the Registrar is satisfied, after applying any criteria prescribed by the regulations, 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.

Compare: 1991 No 69 s 281A

Costs

91 Awarding costs

Costs orders

(1) The Environment Court may make any of the following orders about costs:

(a) an order that requires any party to proceedings before the court to pay to any other party the costs and expenses (including witness expenses) incurred by the other party that the court considers reasonable:

(b) an order that requires any party to proceedings before the court to pay to the Crown all or any part of the court's costs and expenses:

(c) an order that requires a party who fails to proceed with a hearing at the time the court arranges, or who fails to give adequate notice of the abandonment of the proceedings, to pay to any other party or to the Crown any of the costs and expenses incurred by the other party or the Crown:

(d) an order that requires an applicant to pay the costs and expenses—

(i) that a consent authority, a regional council, or a regional planning committee incurred in assisting the court in relation to a report

provided by the authority under **section 169, 469(7), 531, or 537**; and

(ii) that the court considers reasonable.

(2) However, the court must not, in relation to the same proceedings,—

(a) make an order under both **subclause (1)(a)** and **section 721(2)**; or

(b) make an order under both **subclause (1)(b)** and **section 721(3)**.

Presumptions and considerations

(3) **Subclause (4)** applies only in proceedings under **section 170, ~~358,~~ 532, or 538, or clause 71 of Schedule 10A**.

(4) The court must,—

(a) when deciding whether to make an order under **subclause (1)(a) or (b)**,—

(i) apply a presumption that costs under those paragraphs are not to be ordered against a person who is a party under **clause 53**; and

(ii) apply a presumption that costs under **subclause (1)(b) or (d)** are to be ordered against the applicant; and

(b) when deciding on the amount of any order it decides to make, have regard to the fact that the proceedings are at first instance.

(5) **Subclause (6)** applies when the court is deciding whether to make an order under **subclause (1)(d)** in any proceedings.

(6) The court must apply a presumption that costs are not to be ordered against a person who is a party under **clause 53**.

Compare: 1991 No 69 s 285

92 Enforcing orders for costs

An order for costs made by the Environment Court may be filed in the District Court at the office of the court named in the order and then becomes enforceable as a judgment of the District Court in its civil jurisdiction.

Compare: 1991 No 69 s 286

Contempt

93 Application of Contempt of Court Act 2019

(1) The following provisions of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Environment Court:

(a) subparts 2 and 4 of Part 2:

(b) sections 25 and 26(1) and (2).

(2) Those provisions apply to proceedings of the Environment Court as if—

(a) references to a court include the Environment Court; and

(b) references to a Judge include an Environment Judge and an alternate Environment Judge; and

(c) references to a judicial officer include an Environment Commissioner and a Deputy Environment Commissioner; and

(d) references to an officer of the court include an officer of the Environment Court.

Compare: 1991 No 69 s 282

Restriction on commencing or continuing proceedings

94 Order restricting person from commencing or continuing proceedings

(1) A Judge may make an order (a **clause 94 order**) restricting a person from commencing or continuing civil proceedings in the Environment Court.

(2) The order may have—

(a) a limited effect (a **limited order**); or

(b) an extended effect (an **extended order**).

(3) A limited order restrains a party from commencing or continuing civil proceedings on a particular matter in the Environment Court.

(4) An extended order restrains a party from commencing or continuing civil proceedings on a particular or related matter in the Environment Court.

(5) Nothing in this clause limits the court's inherent power to control its own proceedings.

Compare: 1991 No 69 s 288C; 2016 No 49, s 213

95 Grounds for making clause 94 order

(1) A Judge may make a **clause 94** order if the Judge considers that the following proceedings in the Environment Court are or were totally without merit:

(a) for a limited order, 2 or more proceedings about the same matter; or

(b) for an extended order, at least 2 proceedings about any matter.

(2) In deciding whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application, appeals, or criminal prosecutions involving the party to be restrained, but is not limited to those considerations.

(3) The proceedings concerned must be proceedings commenced or continued by the party to be restrained, whether against the same person or different persons.

(4) For the purpose of this clause and **clauses 96 and 97**, an appeal in a civil proceeding must be treated as part of that proceeding and not as a distinct proceeding.

Compare: 1991 No 69 s 288D

96 Terms of clause 94 order

(1) A **clause 94** order may restrain a party from commencing or continuing any civil proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the Environment Court.

(2) A **clause 94** order, whether limited or extended, has effect—

(a) for a period of up to 3 years as specified by the Judge; or

(b) if the Judge is satisfied that there are exceptional circumstances justifying a longer period, a period of up to 5 years as specified by the Judge.

Compare: 1991 No 69 s 288E

97 Procedure relating to clause 94 orders

(1) A party to any proceeding may apply for a limited order or an extended order.

(2) A Judge may make a **clause 94** order either on an application under this clause or on the Judge's own initiative.

(3) A party subject to a **clause 94** order may apply without notice for leave to continue or commence a civil proceeding, but the Environment Court may direct that the application for leave be served on any specified person.

(4) An application for leave must be decided on the papers, unless the Judge considers that an oral hearing should be conducted because there are exceptional circumstances and it is appropriate to do so in the interests of justice.

(5) A Judge's decision on an application for leave is final.

(6) A **clause 94** order does not prevent or affect the commencement of a private criminal prosecution in any case.

Compare: 1991 No 69 s 288F(1)–(6)

98 Appeals relating to clause 94 orders

(1) The party against whom a **clause 94** order is made may appeal against the order to the High Court.

(2) The appellant in an appeal under this clause, or the applicant for the **clause 94** order concerned, may, with the leave of the High Court, appeal against the High Court's decision on the appeal to the Court of Appeal.

(3) A court deciding an appeal under this clause has the same powers as the court appealed from has to decide an application or appeal, as the case may be.

Compare: 1991 No 69 s 288F(7)–(9)

Reserved judgments

99 Information about reserved judgments

The Chief Environment Court Judge must, in consultation with the Chief Justice,—

(a) publish information about how parties to proceedings before the Environment Court may obtain information about the status of any reserved judgment in those proceedings; and

(b) periodically publish information about the number of judgments of the court that the Judge considers are outstanding beyond a reasonable time for delivery; and

(c) publish information about reserved judgments that the Judge considers is useful.

Compare: 1991 No 69 s 288A

Recusal

100 Recusal guidelines

The Chief Environment Court Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding.

Compare: 1991 No 69 s 288B

Annual report

101 Annual report of Registrar

(1) The Registrar must make an annual report to the Minister of the Crown who is responsible for the Ministry of Justice (the **Minister of Justice**).

(2) The report must—

(a) contain the information that the Minister requires about the administration, workload, and resources of the Environment Court during a 12-month period that ends on 30 June; and

(b) be delivered to the Minister of Justice no later than 2 months after the expiry of that 12-month period.

(3) The Minister of Justice must, within 10 sitting days after they receive a report under this clause, present the report to the House of Representatives in accordance with the House's rules and practice.

Compare: 1991 No 69 s 264

Schedule 14
Acts that include statutory acknowledgements

ss 7, 201

Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008

Ahuriri Hapū Claims Settlement Act 2021

Heretaunga Tamatea Claims Settlement Act 2018

Hineuru Claims Settlement Act 2016

Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018

Maniapoto Claims Settlement Act 2022

Maraeroa A and B Blocks Claims Settlement Act 2012

Maungaharuru-Tangitū Hapū Claims Settlement Act 2014

Moriori Claims Settlement Act 2021

Ngaa Rauru Kiitahi Claims Settlement Act 2005

Ngāi Tahu Claims Settlement Act 1998

Ngāi Tai ki Tāmaki Claims Settlement Act 2018

Ngai Tāmanuhiri Claims Settlement Act 2012

NgāiTakoto Claims Settlement Act 2015

Ngāruahine Claims Settlement Act 2016

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014

Ngāti Apa (North Island) Claims Settlement Act 2010

Ngāti Awa Claims Settlement Act 2005

Ngāti Hauā Claims Settlement Act 2014

Ngāti Hinerangi Claims Settlement Act 2021

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014

Ngāti Koroki Kahukura Claims Settlement Act 2014

Ngāti Kuri Claims Settlement Act 2015

Ngāti Mākino Claims Settlement Act 2012

Ngāti Manawa Claims Settlement Act 2012

Ngāti Manuhiri Claims Settlement Act 2012

Ngāti Maru (Taranaki) Claims Settlement Act 2022

Ngāti Mutunga Claims Settlement Act 2006

Ngāti Pāhauwera Treaty Claims Settlement Act 2012

Ngati Porou Claims Settlement Act 2012

Ngāti Pūkenga Claims Settlement Act 2017
Ngāti Rangi Claims Settlement Act 2019
Ngāti Rangiteaorere Claims Settlement Act 2014
Ngāti Rangitihi Claims Settlement Act 2022
Ngāti Rangiwewehi Claims Settlement Act 2014
Ngati Ruanui Claims Settlement Act 2003
Ngati Tama Claims Settlement Act 2003
Ngāti Tamaoho Claims Settlement Act 2018
Ngati Toa Rangatira Claims Settlement Act 2014
Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005
Ngāti Tūwharetoa Claims Settlement Act 2018
Ngāti Whare Claims Settlement Act 2012
Ngāti Whātua o Kaipara Claims Settlement Act 2013
Ngāti Whātua Ōrākei Claims Settlement Act 2012
Ngatikahu ki Whangaroa Claims Settlement Act 2017
Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009
Pouakani Claims Settlement Act 2000
Rangitāne o Manawatu Claims Settlement Act 2016
Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017
Raukawa Claims Settlement Act 2014
Rongowhakaata Claims Settlement Act 2012
Tapuika Claims Settlement Act 2014
Taranaki Iwi Claims Settlement Act 2016
Te Arawa Lakes Settlement Act 2006
Te Atiawa Claims Settlement Act 2016
Te Aupouri Claims Settlement Act 2015
Te Kawerau ā Maki Claims Settlement Act 2015
Te Rarawa Claims Settlement Act 2015
Te Roroa Claims Settlement Act 2008
Te Uri o Hau Claims Settlement Act 2002
Waitaha Claims Settlement Act 2013

Schedule 14A
Special Acts under which local authorities and other public bodies exercise functions, powers, and duties

s 00

Ashley River Improvement Act 1925 (1925 No 41)

Auckland Metropolitan Drainage Act 1944 (1944 No 8 (L))

Auckland Metropolitan Drainage Act 1960 (1960 No 15 (L))

Christchurch District Drainage Act 1951 (1951 No 21 (L))

Dunedin Waterworks Extension Act 1875 (1875 No 5 (P))

Dunedin Waterworks Extension Act 1930 (1930 No 7 (L))

Dunedin Waterworks (Silverstream Supply) Extension Act 1945 (1945 No 6 (L))

Dunedin Waterworks (Taieri River Supply) Extension Act 1951 (1951 No 16 (L))

Ellesmere Lands Drainage Act 1905 (1905 No 59)

Eltham Borough Drainage and Water Supply Empowering Act 1905 (1905 No 4 (L))

Eltham Drainage Board Act 1914 (1914 No 13 (L))

Hawera Borough Drainage Empowering Act 1900 (1900 No 21 (L))

Kaituna River District Act 1926 (1926 No 19 (L))

Lake Wanaka Preservation Act 1973 (1973 No 107)

Lakes District Waterways Authority (Shotover River) Empowering Act 1985 (1985 No 2 (L))

Makerua Drainage Board Empowering Act 1952 (1952 No 8 (L))

Makerua Drainage Board Loan Empowering Act 1927 (1927 No 13 (L))

Manawatu-Oroua River District Act 1923 (1923 No 5 (L))

North Shore Boroughs (Auckland) Water Conservation Act 1944 (1944 No 3 (L))

North Shore Drainage Act 1963 (1963 No 15 (L))

Oxford Road District Act 1905 (1905 No 37 (L))

Rangitaiki Land Drainage Act 1956 (1956 No 34)

South Canterbury Catchment Board Act 1946 (1946 No 10 (L))

South Wairarapa River Board Empowering Act 1931 (1931 No 4 (L))

Southland Land Drainage Act 1935 (1935 No 13 (L))

Springs County Council Reclamation and Empowering Act 1913 (1913 No 10 (L))

Springs County Council Reclamation and Empowering Act 1915 (1915 No 15 (L))

Summit Road (Canterbury) Protection Act 1963 (1963 No 16 (L))

Taieri River Improvement Act 1920 (1920 No 20 (L))

Taupiri Drainage and River Board Empowering Act 1936 (1936 No 1 (L))

Taupiri Drainage and River District Act 1929 (1929 No 23)

Tumu-Kaituna Drainage Board Empowering Act 1928 (1928 No 16 (L))

Waimakariri River Improvement Act 1922 (1922 No 22 (L))

Wairau River Board Empowering Act 1934 (1934 No 8 (L))

Wanganui River Trust Act 1891 (1891 No 19 (L))

Wellington Regional Water Board Act 1972 (1972 No 3 (L))

Schedule 15
Amendments to other legislation

s 861

Part 1
Amendments to Acts

Airport Authorities Act 1966 (1966 No 51)

In section 6(8), replace "section 11 and Part 10 of the Resource Management Act 1991" with "**section 18 and Part 9** of the Natural and Built Environment Act **2022**".

Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (2004 No 109)

Replace section 34 with:

34 References to principal Act in sections 35 to 54

In sections 35 to 54, references to provisions of the principal Act (formerly the Resource Management Act 1991) must be read as references to the corresponding provisions of the Natural and Built Environment Act **2022**.

Auckland City Council (St Heliers Bay Reserve) Act 1995 (1995 No 4 (L))

In section 6(1)(e), replace "section 326 of the Resource Management Act 1991" with "**section 714** of the Natural and Built Environment Act **2022**".

Auckland Improvement Trust Act 1971 (1971 No 9 (L))

In section 4(1D),—

(a) replace "application of the Resource Management Act 1991" with "application of the Natural and Built Environment Act **2022**":

(b) replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 5(1D),—

(a) replace "application of the Resource Management Act 1991" with "application of the Natural and Built Environment Act **2022**":

(b) replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

Biosecurity Act 1993 (1993 No 95)

In section 7(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Biosecurity Act 1993 (1993 No 95)—*continued*

In the heading to section 7A, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 7A(1) and (4), replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**" in each place.

In section 7A(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**" in each place.

In section 7A(6), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 7D(1)(a), replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**".

Replace section 71(a)(iv) with:

(iv) a ~~National Planning Framework or~~ plan prepared under the Natural and Built Environment Act **2022**; or

Replace section 74(a)(iv) with:

(iv) a ~~National Planning Framework or~~ plan prepared under the Natural and Built Environment Act **2022**; or

Replace section 76(6) with:

(6) The application is made under **clause 51 of Schedule 13** of the Natural and Built Environment Act **2022** and regulations made under that Act.

Replace section 91(a)(iii) with:

(iii) a ~~National Planning Framework or~~ plan prepared under the Natural and Built Environment Act **2022**; or

Replace section 94(a)(iii) with:

(iii) a National Planning Framework or plan prepared under the Natural and Built Environment Act **2022**; or

Replace section 96(6) with:

(6) The application is made under **clause 51 of Schedule 13** of the Natural and Built Environment Act **2022** and regulations made under that Act.

Replace section 100F(3) with:

(3) The application is made under **clause 51 of Schedule 13** of the Natural and Built Environment Act **2022** and regulations made under that Act.

Building Act 2004 (2004 No 72)

In section 7(1), definition of **heritage building**, paragraph (a)(iv), replace "heritage order within the meaning of section 187 of the Resource Management Act 1991" with "heritage protection order within the meaning of **section 7** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **heritage building**, replace paragraph (a)(v) with:

Building Act 2004 (2004 No 72)—*continued*

(v) a place, or part of a place, that is included in a schedule of a plan under the Natural and Built Environment Act **2022** because of its heritage value:

In section 7(1), definition of **territorial authority**, paragraph (a)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 10(1)(b)(i) and (2)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 35(2), definition of **special feature of the land concerned**, paragraph (c), replace "district plan under the Resource Management Act 1991" with "plan under the Natural and Built Environment Act **2022**".

In section 37(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 116A, replace "section 224(f) of the Resource Management Act 1991" with "**section 584** of the Natural and Built Environment Act **2022**".

In section 133BW(4)(g), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 133BY, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 177(3)(h), replace "section 224(f) of the Resource Management Act 1991" with "**section 584** of the Natural and Built Environment Act **2022**".

In section 212(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 1, clause 1AA, definition of **rural zone**, replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In Schedule 1, clause 41(2), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

Burial and Cremation Act 1964 (1964 No 75)

In section 45A(1)(c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 45D(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Canterbury Property Boundaries and Related Matters Act 2016 (2016 No 40)

In section 10, replace "section 11 or Part 10 of the Resource Management Act 1991" with "**section 18 or Part 9** of the Natural and Built Environment Act **2022**".

Chatham Islands Council Act 1995 (1995 No 41)

In section 7(1)(a)(iv) and (b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Chatham Islands Council Act 1995 (1995 No 41)—*continued*

Repeal section 26.

In section 27, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 28, replace "section 38 of the Resource Management Act 1991" with "**section 788** of the Natural and Built Environment Act **2022**".

Christ Church Cathedral Reinstatement Act 2017 (2017 No 52)

In Schedule 2, replace paragraph (h) with:

(h) the Natural and Built Environment Act **2022**:

Christchurch City Council (Robert McDougall Gallery) Land Act 2003 (2003 No 4 (L))

In section 9, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Christchurch District Drainage Act 1951 (1951 No 21 (L))

In section 43(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Christchurch District Drainage Amendment Act 1969 (1969 No 1 (L))

In section 4(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Civil Defence Emergency Management Act 2002 (2002 No 33)

Replace section 17(3)(j) with:

(j) Natural and Built Environment Act **2022**:

In the heading to section 111, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 111,—

(a) replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**":

(b) replace "section 330B" with "**section 755**".

Clevedon Agricultural and Pastoral Association Empowering Act 1994 (~~Private Act~~ 1994 No 6 (P))

In section 4(3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Climate Change Response Act 2002 (2002 No 40)

In section 5ZO(1), after "departments", insert "and regional planning committees".

Climate Change Response Act 2002 (2002 No 40)—*continued*

After section 5ZO(2), insert:

(3) In this section, **regional planning committee** has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**.

After section 5ZW(8)(c), insert:

(ca) regional planning committees, as defined in **section 7** of the Natural and Built Environment Act **2022**:

In section ~~187(4)(a)~~ 182A(4)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section ~~188(1)(e)(i)~~ 182C(1)(c)(i), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Conservation Act 1987 (1987 No 65)

In section 2(1), definition of **contaminant**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 2(1), definition of **effect**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 17P with:

17P Relationship with Natural and Built Environment Act 2022

(1) This Part does not relieve any person from any obligation to obtain a resource consent under the Natural and Built Environment Act **2022**.

(2) However, **section 18 and Part 9** of the Natural and Built Environment Act **2022** do not apply to any lease granted by the Minister.

In section 17SD(1), replace "environmental impact assessment" with "assessment of environmental effects".

Replace section 17SD(3) with:

(3) An assessment of environmental effects that is provided for the purposes of this section must—

(a) contain the information required by **Schedule 10** of the Natural and Built Environment Act **2022** to be in an assessment of environmental effects under that Act; or

(b) be in a form that the Minister requires.

In section 23(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 24(5), replace "section 230 of the Resource Management Act 1991" with "**section 606** of the Natural and Built Environment Act **2022**".

In section 39(6), replace "but it shall be a defence to the charge if the defendant can show that the contaminant was discharged in terms of the conditions of a current discharge permit granted under the Resource Management Act 1991 or was a permitted

Conservation Act 1987 (1987 No 65)—*continued*

activity in the relevant regional plan under that Act," with "but it is a defence to the charge if the defendant can show that the contaminant was discharged in terms of the conditions of a current discharge permit under the Natural and Built Environment Act **2022**, was expressly permitted by regulations under that Act to be discharged, or was a permitted activity in the relevant plan under that Act,".

Contract and Commercial Law Act 2017 (2017 No 5)

In Schedule 5, Part 4, paragraph (s), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Corrections Act 2004 (2004 No 50)

In section 32(2A), replace "section 9 of the Resource Management Act 1991" with "**section 17** of the Natural and Built Environment Act **2022**".

Replace section 178 with:

178 Application of Natural and Built Environment Act 2022

For the purposes of **subparts 1 and 2 of Part 8** of the Natural and Built Environment Act **2022**, the construction, management, operation, and maintenance of a prison (other than a Police jail) or community work centre is to be treated as a public work for which the Minister has financial responsibility, whether or not the prison or community work centre, or proposed prison or community work centre, is, or is to be, constructed, managed, operated, or maintained by the Crown.

Costs in Criminal Cases Act 1967 (1967 No 129)

In section 4(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 7(3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 10(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

COVID-19 Recovery (Fast-track Consenting) Act 2020 (2020 No 35)

In section 7(1), definition of **coastal marine area**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **designation**, replace "section 166 of the Resource Management Act 1991" with "**section ~~497~~ 7** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **effect**, replace "section 3 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

COVID-19 Recovery (Fast-track Consenting) Act 2020 (2020 No 35)—*continued*

In section 7(1), definition of **Environment Judge**, paragraph (a), replace "section 250 of the Resource Management Act 1991" with "**clause 8 of Schedule 13** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **infrastructure**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **notice of requirement**, replace "section 168 of the Resource Management Act 1991" with "**section ~~7~~ 503** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **person**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **proposed plan**, replace "section 43AAC of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 7(1), definition of **requiring authority**, replace "section 166 of the Resource Management Act 1991" with "**section ~~49~~ 7** of the Natural and Built Environment Act **2022**".

Crown Forest Assets Act 1989 (1989 No 99)

In section 33(1) and (2), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

Crown Minerals Act 1991 (1991 No 70)

In section 2(1), definition of **coastal marine area**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 2(1), definition of **consent authority**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 2(1), definition of **serve**, replace "section 352 or section 353 of the Resource Management Act 1991" with "**section 806 or 808** of the Natural and Built Environment Act **2022**".

In section 2(1), definition of **specified Act**, replace paragraph (c) with:

(c) Natural and Built Environment Act **2022**:

In sections 61(3) and 61B(3),—

(a) replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**":

(b) replace "section 2(1)" with "**section 7**".

Crown Minerals Act 1991 (1991 No 70)—*continued*

In section 89B(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 89E(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section ~~89E(3)(b)~~ 90E(3)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**" in each place.

In section 95(2), replace "sections 352 and 353 of the Resource Management Act 1991" with "**sections 806 and 808** of the Natural and Built Environment Act **2022**".

In section 96, replace "Sections 352 and 353 of the Resource Management Act 1991" with "**Sections 806 and 808** of the Natural and Built Environment Act **2022**".

In Schedule 1, clause 12(1)(b), replace "the Resource Management Act 1991~~, then the Resource Management Act 1991 does apply~~" with "the Natural and Built Environment Act **2022**~~, then the Natural and Built Environment Act **2022** does apply~~" in each place.

In Schedule 1, in the heading to clause 15, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In Schedule 1, clause 15(1)(b) and (8)(b), replace "section 30 or 31 of the Resource Management Act 1991" with "**section ~~643 or 646~~ 30O or 30Q** of the Natural and Built Environment Act **2022**".

In Schedule 1, clause 15(1), replace "provisions of the Resource Management Act 1991" with "provisions of the Natural and Built Environment Act **2022**".

In Schedule 1, clause 15(6), replace "section 332 of the Resource Management Act 1991" with "**section 790** of the Natural and Built Environment Act **2022**".

In Schedule 1, clause 15(8), replace "section 30 or 31 of the Resource Management Act 1991" with "~~**sections 643 to 646**~~ **section 30O or 30Q** of the Natural and Built Environment Act **2022**".

In Schedule 1, clause 16(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)

In section 3(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 6(1)(c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 7(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 8(5), replace "section 4(9) of the Resource Management Act 1991" with "**section ~~43(9)~~ 12(9)** of the Natural and Built Environment Act **2022**".

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)—*continued*

Replace section 10(1)(b)(vii) with:

(vii) **section 789** of the Natural and Built Environment Act **2022**; or

Crown Pastoral Land Act 1998 (1998 No 65)

In section 96(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 1AC, clause 44(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Crown Research Institutes Act 1992 (1992 No 47)

In section 32, replace "section 11 or Part 10 of the Resource Management Act 1991" with "**section 18 or Part 9** of the Natural and Built Environment Act **2022**".

Earthquake Commission Act 1993 (1993 No 84)

In section 19(a)(i), replace "a district plan" with "a plan under the Natural and Built Environment Act **2022**".

In section 19(a)(i), replace "the district plan" with "that plan".

Education and Training Act 2020 (2020 No 38)

In section 563(1)(b), replace "district schemes" with "plans under the Natural and Built Environment Act **2022**".

In section 563(8),—

(a) replace "section 168 of the Resource Management Act 1991" with "**section 503** of the Natural and Built Environment Act **2022**":

(b) replace "in the Resource Management Act 1991" with "in the Natural and Built Environment Act **2022**".

Replace section 564(4)(c) with:

(c) **section 810** of the Natural and Built Environment Act **2022**:

In section 571(5), replace "section 218 of the Resource Management Act 1991" with "**section 569** of the Natural and Built Environment Act **2022**".

Electricity Act 1992 (1992 No 122)

In section 23F(6), replace "sections 310 to 313 of the Resource Management Act 1991" with "**sections 696 to 699** of the Natural and Built Environment Act **2022**".

In section 23F(9), replace "sections 299 to 308 of the Resource Management Act 1991" with "**clauses 79 to 88 of Schedule 13** of the Natural and Built Environment Act **2022**".

In section 24A(3) and (5), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

Electricity Industry Act 2010 (2010 No 116)

In section 116, definition of **consent authority**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 116, definition of **permit**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 122(3)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 126, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 126(1), replace "Sections 88 to 121 and 127 of the Resource Management Act 1991" with "**Sections 173 to 265 and 274** of the Natural and Built Environment Act **2022**".

Energy Efficiency and Conservation Act 2000 (2000 No 14)

In section 3, definition of **environment**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 11 with:

11 Consistency with National Planning Framework

A strategy must be consistent with any National Planning Framework in force under the Natural and Built Environment Act **2022**.

Environment Act 1986 (1986 No 127)

In section 2, definition of **consent**, replace paragraph (c) with:

(c) any plan or proposed plan under the Natural and Built Environment Act **2022**—

In the Schedule, insert in its appropriate alphabetical order:

Natural and Built Environment Act 2022

Environmental Protection Authority Act 2011 (2011 No 14)

In section 5, definition of **environment**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 5, definition of **environmental Act**, replace paragraph (e) with:

(e) the Natural and Built Environment Act **2022**:

In section 5, definition of **natural and physical resources**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 13(c)(iia), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Environmental Protection Authority Act 2011 (2011 No 14)—*continued*

In section 24(1)(e), replace "section 29(4) of the Resource Management Act 1991" with "**section ~~640(1)~~ 30L(1)** of the Natural and Built Environment Act **2022**".

Environmental Reporting Act 2015 (2015 No 87)

In section 4, definition of **structure**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72)

In section 4(1), definition of **existing interest**, paragraph (c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 4(2), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Replace section 4(2)(a) with:

(a) **indigenous biodiversity**:

Replace section 7(2)(l) with:

(l) Natural and Built Environment Act **2022**:

In section 33(3)(d), replace "biological diversity" with "indigenous biodiversity".

In section 39(1)(e), replace "biological diversity" with "indigenous biodiversity".

In section 59(2)(d), replace "biological diversity" with "indigenous biodiversity".

In section 88, definition of **assessment of environmental effects**, replace "section 88(2)(b) of the Resource Management Act 1991" with "**section 173(4)(b)** of the Natural and Built Environment Act **2022**".

In section 88, definition of **coastal marine area**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 88, definition of **joint application for consent** or **joint application**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 88, definition of **resource consent**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 88, definition of **resource consent authority**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Replace section 90(a)(ii) with:

(ii) the Natural and Built Environment Act **2022**, and any regulations, National Planning Framework, or plans made under that Act; or

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72)—*continued*

In section 91(3), replace "section 88(2)(b) of the Resource Management Act 1991" with "**section 173(4)(b)** of the Natural and Built Environment Act **2022**".

In section 91(4), replace "section 145 of the Resource Management Act 1991" with "~~**section 334**~~ **clause 47 of Schedule 10A** of the Natural and Built Environment Act **2022**".

In section 94(4)(a), replace "section 142(2)(b) or 147(1)(b) of the Resource Management Act 1991" with "~~**section 329(2)(b) or 337(1)(b)**~~ **clause 42(2)(b) or 50(1)(b) of Schedule 10A** of the Natural and Built Environment Act **2022**".

In section 94(4)(b), replace "section 87D of the Resource Management Act 1991" with "**section 166** of the Natural and Built Environment Act **2022**".

In section 94(5), replace "section 149T of the Resource Management Act 1991" with "~~**section 358**~~ **clause 71 of Schedule 10A** of the Natural and Built Environment Act **2022**".

In section 94(6), replace "sections 87F(2) to (5) and 87G to 87I of the Resource Management Act 1991" with "**sections 169(2) to (5) and 170 to 172** of the Natural and Built Environment Act **2022**".

In section 94A(4)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 98(3), replace "sections 104 to 116 of the Resource Management Act 1991" with "**sections 243 and 258 to 263** of the Natural and Built Environment Act **2022**".

In section 99(1), replace "section 142(2)(a) or 147(1)(a) of the Resource Management Act 1991" with "~~**section 329(2)(a) or 337(1)(a)**~~ **clause 42(2)(a) or 50(1)(a) of Schedule 10A** of the Natural and Built Environment Act **2022**".

In section 99(3)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 99A(1)(b), replace "section 142(2)(a) or 147(1)(a) of the Resource Management Act 1991" with "~~**section 329(2)(a) or 337(1)(a)**~~ **clause 42(2)(a) or 50(1)(a) of Schedule 10A** of the Natural and Built Environment Act **2022**".

In section 99A(5)(a)(i) and (10)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 99A(9) with:

(9) The following provisions of the Natural and Built Environment Act **2022** 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 352**~~ **clause 65 of Schedule 10A** (which deals with the conduct of the inquiry):

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72)—*continued*

(b) ~~**section 355**~~ **clause 68 of Schedule 10A** (which requires the board to produce a final report), but not ~~**subsections**~~ **subclauses (4)(e) and (f) and (5)(b), (c), and (d)**:

(c) ~~**section 356**~~ **clause 69 of Schedule 10A** (which allows the board to make minor corrections to board decisions and resource consents):

(d) ~~**section 357**~~ **clause 70 of Schedule 10A** (which allows the Minister for the Environment to extend the time by which the board must report), but not ~~**subsections**~~ **subclause (5)(b) and (c)**:

(e) ~~**section 360**~~ **clause 73 of Schedule 10A** (which provides for appeals against decisions to be on questions of law only) as if the reference in that ~~section to **section 355(5)(a) to (f)** were a reference to **section 355(5)(a), (e), (f), and (g)**~~ **clause 68(5)(a) to (f) of Schedule 10A** were a reference to **clause 68(5)(a), (e), (f), and (g) of Schedule 10A**.

Replace section 116(3) with:

(3) **Schedule 13** of the Natural and Built Environment Act **2022** applies as if the application were made under **Part 11** of that Act.

Replace section 129(3) with:

(3) **Schedule 13** of the Natural and Built Environment Act **2022** applies as if the appeal were lodged under **Part 11** of that Act.

In section 131, replace "Sections 299 to 308 of the Resource Management Act 1991" with "**Clauses 79 to 88 of Schedule 13** of the Natural and Built Environment Act **2022**".

In section 158(6), replace "section 279(3)(a) of the Resource Management Act 1991" with "**clause 17 of Schedule 13** of the Natural and Built Environment Act **2022**".

In section 158(7), replace "section 279(3)(b) of the Resource Management Act 1991" with "**clause 17(1)(b) of Schedule 13** of the Natural and Built Environment Act **2022**".

In section 158B(4), definition of **regulatory agency**, paragraph (a), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Farm Debt Mediation Act 2019 (2019 No 73)

In section 6(1), definition of **property**, paragraph (b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Fencing Act 1978 (1978 No 50)

In section 3(1)(e), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 (2005 No 36)

In section 4(1), definition of **management agency**, replace paragraph (e) with:

(e) the joint planning committee for the region under the Natural and Built Environment Act **2022**

In section 4(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 11(3), replace "Part 1 of Schedule 1 of the Resource Management Act 1991" with "**Part 1 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 15(2)(a), replace "Southland Regional Council" with "joint planning committee for the region".

In Schedule 3, clause 1(3)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 13, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Fire and Emergency Act 2017 (2017 No 17)

In section 6, definition of **fire in open air**, paragraph (a), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 61(5)(a), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

Food Act 2014 (2014 No 32)

Replace section 368(3)(i) with:

(i) the Natural and Built Environment Act **2022**; or

Forestry Rights Registration Act 1983 (1983 No 42)

In section 6, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Forests Act 1949 (1949 No 19)

In section 67L, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 67P(3), replace "Part 11 of the Resource Management Act 1991" with "**Schedule 13** of the Natural and Built Environment Act **2022**".

Replace section 67V with:

67V Relationship with Natural and Built Environment Act 2022

Nothing in this Part derogates from the Natural and Built Environment Act **2022**.

Forests Act 1949 (1949 No 19)—*continued*

In section 67ZD(10), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 67ZU with:

67ZU Relationship with Natural and Built Environment Act 2022

Nothing in this Part derogates from the Natural and Built Environment Act **2022**.

In Schedule 2, replace clause 4 with:

4 Plan to specify relevant requirements under Natural and Built Environment Act 2022

The plan must specify the relevant details of all applicable plans under the Natural and Built Environment Act **2022**.

~~**Forestry Rights Registration Act 1983 (1983 No 42)**~~

~~In section 6, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".~~

Gas Act 1992 (1992 No 124)

In section 25A(3), replace "a district plan" with "a plan under the Natural and Built Environment Act **2022**".

In section 25A(3), replace "the district plan" with "the plan under that Act".

In section 25A(5), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

Goods and Services Tax Act 1985 (1985 No 141)

In section 5(7B)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 5(7C)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Gore District Council (Otama Rural Water Supply) Act 2019 (2019 No 1 (L))

In section 9(d), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 9(e), replace "regional plan" with "plan under the Natural and Built Environment Act **2022**".

Government Roading Powers Act 1989 (1989 No 75)

In section 43(1), replace the definition of **Environment Court** with:

Environment Court means the Environment Court continued by **clause 3 of Schedule 13** of the Natural and Built Environment Act **2022**

Government Roading Powers Act 1989 (1989 No 75)—*continued*

In section 48(8), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 61(10), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 73(e) and (f), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 88(6), replace "section 238(1)(c) of the Resource Management Act 1991" with "**section 587(2)(c)** of the Natural and Built Environment Act **2022**".

Hauraki Gulf Marine Park Act 2000 (2000 No 1)

Replace sections 9 and 10 with:

9 Relationship with Natural and Built Environment Act 2022

(1) For the purposes of this section and **section 10**,—

national planning framework has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

plan means a plan under the Natural and Built Environment Act **2022**

proposed plan means a proposed plan under the Natural and Built Environment Act **2022**

regional planning committee has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

regional spatial strategy means a regional spatial strategy under the **Spatial Planning Act 2022**:

resource consent has the meaning given in **section 7** of the Natural and Built Environment Act **2022**.

(2) A regional planning committee must ensure that any part of a plan or regional spatial strategy that applies to the Hauraki Gulf, its islands, and catchments does not conflict with sections 7 and 8.

(3) A consent authority must, when considering an application for a resource consent for the Hauraki Gulf, its islands, and catchments, have regard to sections 7 and 8 in addition to the matters contained in the Natural and Built Environment Act **2022**.

10 Sections 7 and 8 treated as part of national planning framework

(1) For the coastal environment of the Hauraki Gulf, sections 7 and 8 must be treated as part of the national planning framework.

(2) For the coastal environment of the Hauraki Gulf, if there is a conflict between sections 7 and 8 and the provisions of the national planning framework, the national planning framework prevails.

Hauraki Gulf Marine Park Act 2000 (2000 No 1)—*continued*

In Schedule 1, repeal the item relating to the Resource Management Act 1991.

In Schedule 1, insert in its appropriate alphabetical order:

Natural and Built Environment Act **2022**

Hawke's Bay Endowment Land Empowering Act 2002 (2002 No 1 (L))

In section 5(3)(b), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

In section 2(1), definition of **natural and physical resources**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 97(1)(h)(ii) and (2)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 142(4)(b), replace "section 15 of the Resource Management Act 1991" with "**section 22** of the Natural and Built Environment Act **2022**".

In section 142(4), replace "section 128 of the Resource Management Act 1991" with "**section 277** of the Natural and Built Environment Act **2022**".

In section 142(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Health Act 1956 (1956 No 65)

In section 54(7), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Health and Safety at Work Act 2015 (2015 No 70)

In the heading to section 230, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 230(3)(b), replace "section 15 of the Resource Management Act 1991" with "**section 22** of the Natural and Built Environment Act **2022**".

In section 230(4), replace "section 128 of the Resource Management Act 1991" with "**section 277** of the Natural and Built Environment Act **2022**".

In section 230(5), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Health Sector (Transfers) Act 1993 (1993 No 23)

In Schedule 1, clause 5, replace "section 11 or Part 10 of the Resource Management Act 1991" with "**section 18 or Part 9** of the Natural and Built Environment Act **2022**".

In Schedule 1, replace clause 8 with:

Health Sector (Transfers) Act 1993 (1993 No 23)—*continued*

8 Uses deemed to be permitted activity

If any land is transferred to a transferee under this Act, the use of that land which is established at the date of the transfer is deemed to be a permitted activity under the Natural and Built Environment Act **2022** until the next completion of the review of the plan or appropriate part of the plan under that Act, and after that review the status of that use is to be as provided from time to time in or under the plan under that Act.

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)

In section 6, replace the definition of **Environment Court** with:

Environment Court means the Environment Court continued by **clause 3 of Schedule 13** of the Natural and Built Environment Act **2022**

~~In section 6, replace the definition of **heritage order** with:~~

~~**heritage protection order** has the meaning given in **section 7** of the Natural and Built Environment Act **2022**~~

In section 6, repeal the definition of **heritage order**.

In section 6, definition of **heritage protection authority**, replace "section 187 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 6, definition of **statutory acknowledgement**, replace "Schedule 11 of the Resource Management Act 1991" with "**Schedule 14** of the Natural and Built Environment Act **2022**".

In section 6, insert in its appropriate alphabetical order:

heritage protection order has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

In section 7(b)(ii), replace "Part 8 of the Resource Management Act 1991" with "**Part 8** of the Natural and Built Environment Act **2022**".

In section 13(1)(i), replace "Part 8 of the Resource Management Act 1991" with "**Part 8** of the Natural and Built Environment Act **2022**".

In section 21(j), replace "heritage order under Part 8 of the Resource Management Act 1991" with "heritage protection order under **Part 8** of the Natural and Built Environment Act **2022**".

In section 40(2)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 46(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**" in each place.

Replace section 58(3)(b) with:

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)—*continued*

(b) state any matters that are prescribed in regulations made under the Natural and Built Environment Act **2022** for appeals under **section 253** of that Act; and

In section 58(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 59(2) and (5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 59(5), replace "heritage order" with "heritage protection order".

In section 65(3)(c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 92(2) with:

(2) An application under subsection (1) is to be treated as if it were an application for an enforcement order under **section 700** of the Natural and Built Environment Act **2022**, and **sections 701(1) to (3), 703, 704, 706, and 707** of that Act apply to an application, except as those provisions are modified by this section or section 93.

In section 92(4)(b), replace "Part 12 of the Resource Management Act 1991" with "**Part 11** of the Natural and Built Environment Act **2022**".

In section 92(5), replace "section 320 of the Resource Management Act 1991" with "**section 706** of the Natural and Built Environment Act **2022**".

In section 92(6)(b), replace "section 320(5) of the Resource Management Act 1991" with "**section 706(5)** of the Natural and Built Environment Act **2022**".

In section 92(6)(c), replace "section 321 of the Resource Management Act 1991" with "**section 707** of the Natural and Built Environment Act **2022**".

In section 92~~(11)~~(7), replace "Part 11 of the Resource Management Act 1991" with "**Schedule 13** of the Natural and Built Environment Act **2022**".

Housing Act 1955 (1955 No 51)

Replace section 3A with:

3A Relationship to Natural and Built Environment Act 2022

Nothing in this Part derogates from any provisions of the Natural and Built Environment Act **2022**.

In section 11(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Housing Assets Transfer Act 1993 (1993 No 50)

In section 7(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Income Tax Act 2007 (2007 No 97)

In section CB 14(2)(a), (e), and (g), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section CB 14(2)(i), replace "heritage order, obligation, prohibition, or restriction under the Resource Management Act 1991" with "heritage protection order, obligation, prohibition, or restriction under the Natural and Built Environment Act **2022**".

In section DB 19(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section DU 12(a)(iii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section EE 57(3)(cb), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section YA 1, definition of **contaminant**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section YA 1, definition of **property**, paragraph (a), after "Resource Management Act 1991", insert "or the Natural and Built Environment Act **2022**".

In section YA 1, definition of **resource consent**, replace "section 2 of the Resource Management Act 1991", with "**section 7** of the Natural and Built Environment Act **2022**".

In Schedule 14, replace item 10 with:

10 a consent granted under the Resource Management Act 1991 to do something that otherwise would contravene sections 12 to 15B of that Act or under the Natural and Built Environment Act **2022** that would otherwise contravene **sections 19 to 24** of that Act (in either case other than a consent for a reclamation), being a consent granted in or after—

(~~i~~a) the 1996–97 tax year, if the consent relates to sections 12 to 15 of the Resource Management Act 1991 or **sections 19 to 22** of the Natural and Built Environment Act **2022**; or

(~~ii~~b) the 2014–15 income year, if the consent relates to sections 15A and 15B of the Resource Management Act 1991 or **sections 23 ~~to~~ and 24** of the Natural and Built Environment Act **2022**

Infrastructure Funding and Financing Act 2020 (2020 No 47)

In section 7(1), insert in its appropriate alphabetical order:

environmental contribution has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

In section 7(1), repeal the definition of **financial contribution**.

Infrastructure Funding and Financing Act 2020 (2020 No 47)—*continued*

Section 8(3), definition of **natural hazard**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(6), definition of **establishment costs**, paragraph (b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 11(2), definition of **mana whenua**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In sections 76(3) and 87(3), replace "financial contributions" with "environmental contributions".

In the cross heading above section 94, replace "*financial contributions*" with "*environmental contributions*".

In section 94(2)(b), replace "a financial contribution that was a condition under section 108(2)(a) of the Resource Management Act 1991" with "an environmental contribution that was a condition under **section 232** of the Natural and Built Environment Act **2022**".

Inquiries Act 2013 (2013 No 60)

~~In Schedule 1, repeal the item "Resource Management Act 1991 s 41".~~

In Schedule 1, repeal the item relating to section 41 of the Resource Management Act 1991.

Irrigation Schemes Act 1990 (1990 No 52)

Replace sections 12 and 13 with:

12 Section 18 and Part 9 of Natural and Built Environment Act 2022 and Part 21 of Local Government Act 1974 not to apply

Section 18 and Part 9 of the Natural and Built Environment Act **2022** do not apply to or in respect of the transfer of any land or interest in land under this Part and do not apply to any subdivision required in respect of the transfer.

13 Activity permitted as of right

To avoid doubt, if any irrigation scheme is sold or otherwise disposed of under this Part, any use for irrigation purposes of the land upon which the irrigation scheme is situated is deemed to be a permitted activity within the meaning of the Natural and Built Environment Act **2022**.

In section 15(1), replace "section 386 of the Resource Management Act 1991" with "the Natural and Built Environment Act **2022**".

Joint Family Homes Act 1964 (1964 No 45)

In section 3(3), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

Lake Wanaka Preservation Act 1973 (1973 No 107)

In section 6(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 8(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Land Act 1948 (1948 No 64)

In section 2, definition of **Crown land**, paragraph (f), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 24(2A), replace "district plan changes" with "plan changes under the Natural and Built Environment Act **2022**".

In section 66A(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 82(3A)(b), replace "sections 238 or 239 of the Resource Management Act 1991" with "**section 587 or 588** of the Natural and Built Environment Act **2022**".

In section 93(1), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 93(3), replace "section 238 of the Resource Management Act 1991" with "**section 587** of the Natural and Built Environment Act **2022**".

In section 165(6A), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Land Drainage Act 1908 (1908 No 96)

Replace section 2A with:

2A Relationship with Natural and Built Environment Act 2022

Nothing in this Act derogates from the Natural and Built Environment Act **2022**.

Land Transport Management Act 2003 (2003 No 118)

Replace section 14(c)(ii) with:

(ii) relevant National Planning Framework or plans in force under the Natural and Built Environment Act **2022**; and

Replace section 19B(b)(v) with:

(v) relevant National Planning Framework or plans in force under the Natural and Built Environment Act **2022**; and

Land Transport Management Act 2003 (2003 No 118)—*continued*

Replace section 20(3)(a)(ii) with:

(ii) relevant National Planning Framework or plans in force under the Natural and Built Environment Act **2022**; and

Replace section 22G(1)(b)(iii) with:

(iii) any relevant National Planning Framework or plans in force under the Natural and Built Environment Act **2022**; and

In section 63(5)(a), replace "section 218 of the Resource Management Act 1991" with "**section 569** of the Natural and Built Environment Act **2022**".

Replace section 67(1)(b)(ii) with:

(ii) any relevant National Planning Framework or plans in force under the Natural and Built Environment Act **2022**; and

Replace section 124(c)(ii) with:

(ii) any relevant ~~National Planning Framework or~~ plans in force under the Natural and Built Environment Act **2022**; and

In section 140(7), replace "Part 11 of the Resource Management Act 1991" with "**Schedule 13** of the Natural and Built Environment Act **2022**".

In section 140(8),—

(a) replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**":

(b) replace "section 120" with "**section 253**".

Lawyers and Conveyancers Act 2006 (2006 No 1)

In section 322(6), definition of **conveyance**, paragraph (a)(i), replace "section 2 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Legal Services Act 2011 (2011 No 4)

In section 7(1)(o), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Legislation Act 2019 (2019 No 58)

In Schedule 3, insert in its appropriate alphabetical order:

Natural and Built Environment Act 2022		
Section 97	Exemption applies	Exemption applies

Local Authorities (Members' Interests) Act 1968 (1968 No 147)

Replace section 6(3)(e) with:

Local Authorities (Members' Interests) Act 1968 (1968 No 147)—*continued*

(e) the preparation, recommendation, approval, or review of a plan under the Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**; or

In Schedule 1, Part 1, insert in its appropriate alphabetical order:

Regional planning committees	Natural and Built Environment Act **2022** and **Spatial Planning Act 2022**

Local Electoral Act 2001 (2001 No 35)

In section 5(1), definition of **allotment**, replace "section 218(2) of the Resource Management Act 1991" with "**section 570** of the Natural and Built Environment Act **2022**".

Local Government Act 1974 (1974 No 66)

In section 2(1), repeal the definitions of **district plan**, **operative**, and **proposed plan**.

In section 2(1), replace the definition of **Environment Court** with:

Environment Court means the Environment Court continued by ~~**section 7**~~ **clause 3 of the Schedule 13** of the Natural and Built Environment Act **2022**

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

~~**plan** means a plan under the Natural and Built Environment Act **2022**~~

NBEA plan means a plan under the Natural and Built Environment Act **2022**

operative, in relation to ~~a~~ an NBEA plan, has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

In section 2(1), definition of **rural area**, replace "district plan" with "NBEA plan".

~~In section 319(1)(e), delete "district".~~

In section 319(1)(e), replace "district" with "NBEA".

In section 336(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 336(6) with:

(6) Subsections (2)(b) and (3) to (5) do not apply to a declaration that gives effect to the provisions of ~~a plan under the Natural and Built Environment Act **2022**~~ an NBEA plan.

In section 340(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 341(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 345(3), replace "(as defined in section 2(1) of the Resource Management Act 1991) for the purposes specified in section 229 of the Resource Management Act

Local Government Act 1974 (1974 No 66)—*continued*

1991" with "(as defined in **section 7** of the Natural and Built Environment Act **2022**) for the purposes specified in **section 604** of that Act".

In section 345(4), replace "a district plan under section 77 of the Resource Management Act 1991" with "~~plan under **section 123** of the Natural and Built Environment Act **2022**~~an NBEA plan".

In section~~ 340G(2)~~ 346G(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section~~ 340G(3)~~ 346G(3), replace "section 299 of the Resource Management Act 1991" with "**clause 79 of Schedule ~~14~~ 13** of the Natural and Built Environment Act **2022**".

In section 347, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 348(6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 502, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 502, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 517A with:

517A This Part subject to Natural and Built Environment Act 2022 and Soil Conservation and Rivers Control Act 1941

Nothing in this Part derogates from the provisions of the Natural and Built Environment Act **2022** or the Soil Conservation and Rivers Control Act 1941.

In section 517B, definition of **scheme asset**, paragraph (e), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

~~In section 517I(i), delete "district".~~

In section 517I(i), replace "district" with "NBEA".

In section 517I(j), replace "regional plan or proposed regional plan" with "NBEA plan or proposed NBEA plan".

In section 517I(k), replace "have become resource consents under section 386 of the Resource Management Act 1991" with "are resource consents under the Natural and Built Environment Act **2022**".

In section 517U(e), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

~~In section 517Z(b), delete "district".~~

In section 517Z(1)(b), replace "district" with "NBEA".

Local Government Act 1974 (1974 No 66)—*continued*

In section 517Z(3), replace "section 167 of the Resource Management Act 1991" with "**section 499** of the Natural and Built Environment Act **2022**".

Replace section 517ZH with:

517ZH Section 18 and Part 9 of Natural and Built Environment Act 2022 and Part 21 of this Act not to apply

Section 18 and Part 9 of the Natural and Built Environment Act **2022** and Part 21 of this Act do not apply to or in respect of the transfer of any land or interest in land under this Part ~~nor to~~ or any subdivision required in respect of that transfer.

In Schedule 10, clause 6, replace "district plan" with "~~plan under the Natural and Built Environment Act **2022**~~NBEA plan".

Local Government Act 2002 (2002 No 84)

In section 5(1), definition of **natural hazard**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

After section 41A(5), insert:

(5A) Despite subsections (1) to (5), any appointment of a mayor or other member of a territorial authority to a regional planning committee under the Natural and Built Environment Act **2022** must be made only in accordance with that Act.

After section 47, insert:

47A Application of sections 43 to 47 to planning committees under Natural and Built Environment Act 2022

Sections 43 to 47 apply to the acts and failures of a member of a regional planning committee under the Natural and Built Environment Act **2022** (whether the person is a member of a local authority or appointed to represent other interests under that Act) that occur in the course of, and relate to, the business of the planning committee.

In section 48J(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

After section 54A(1)(c), insert:

(d) members of regional planning committees appointed under the Natural and Built Environment Act **2022**.

In section 54C(1), replace "or (c)" with "(c), or **(d)**".

In section 79(3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Local Government Act 2002 (2002 No 84)—*continued*

~~In section 103(2)(h), replace "financial contributions under the Resource Management Act 1991" with "environmental contributions under the Natural and Built Environment Act **2022**".~~

In sections 102(2)(d) and (3A)(a), replace "financial contributions" with "environmental contributions".

In section 103(2)(h), replace "financial contributions under the Resource Management Act 1991" with "environmental contributions under the Natural and Built Environment Act **2022**".

In the heading to section 106, replace "**financial contributions**" with "**environmental contributions**".

Replace section 106(1) with:

(1) In this section, **environmental contributions** has the meaning given to it by **section 7** of the Natural and Built Environment Act **2022**.

In sections 106(2) and (4), replace "financial contributions" with "environmental contributions" in each place.

In sections 106(2)(d), replace "a financial contribution" with "an environmental contribution".

In section 106(2)(f) and (4), replace "the district plan or regional plan prepared under the Resource Management Act 1991" with "the plan under the Natural and Built Environment Act **2022**".

In section 126(3)(b), replace "district plan prepared under the Resource Management Act 1991" with "plan under the Natural and Built Environment Act **2022**".

In section 148(6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 174(5)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 195(1)(b) and (2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 196(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 197(1), definition of **allotment**, replace "section 218(2) of the Resource Management Act 1991" with "**section 570** of the Natural and Built Environment Act **2022**".

In section 197(1), definition of **network utility operator**, replace "section 166 of the Resource Management Act 1991" with "**section ~~497~~ 7** of the Natural and Built Environment Act **2022**".

In section 197(2), replace the definition of **resource consent** with:

Local Government Act 2002 (2002 No 84)—*continued*

resource consent has the meaning given by **section 7** of the Natural and Built Environment Act **2022** and includes a change to a condition of a resource consent under **section 274** of that Act

In section 198(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 200(1)(a), replace "section 108(2)(a) of the Resource Management Act 1991" with "**section 232(1)(a)** of the Natural and Built Environment Act **2022**".

In section 202(1)(b)(i), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 207D(3)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 207D(3)(d) replace "section 224 of the Resource Management Act 1991" with "**section 573** of the Natural and Built Environment Act **2022**".

In section 208(1)(a)(i), replace "section 224(c) of the Resource Management Act 1991" with "**section 573** of the Natural and Built Environment Act **2022**".

In section 208(1)(a)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 209(1)(a)(i), replace "section 125 of the Resource Management Act 1991" with "**section 272** of the Natural and Built Environment Act **2022**".

In section 209(1)(a)(ii), replace "section 138" with "**section 291**".

In section 211, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 212, repeal the definitions of **plan** and **proposed plan**.

Replace section 222 with:

222 Provisions of Natural and Built Environment Act 2022 and Building Act 2004 continue to apply

Except as otherwise provided in this subpart or in Schedule ~~13~~ 14, sections 215 to 221 and Schedule ~~13~~ 14 apply in addition to, and not in derogation of, the provisions relating to the removal or alteration of fences, structures, or vegetation under this Act, the Natural and Built Environment Act **2022**, and the Building Act 2004.

In section 225(2)(a)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 3, clause 2, definition of **affected area**, paragraph (d), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 3, clause 23(1)(e)(ii) and (3)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 3, replace clause 43(1)(e) with:

Local Government Act 2002 (2002 No 84)—*continued*

(e) provisions dealing with—

(i) the administration of an existing, proposed, or operative plan under the Natural and Built Environment Act **2022**:

(ii) the administration of any designations, resource consents, and notices of requirement under that Act, but subject to **Parts 5, and 7, and subpart 1 of Part 8** of that Act:

In Schedule 7, after clause 6(1)(f), insert:

(g) chairpersons and members of regional planning committees.

In Schedule 14, replace clause 4 with:

4 Circumstances when certain other Acts do not apply

A removal order may be made under section 216 even if the fence, structure, or vegetation complies with Natural and Built Environment Act **2022**.

Local Government (Auckland Council) Act 2009 (2009 No 32)

In section 15(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 45(b)(ii), replace "section 167 of the Resource Management Act 1991" with "**section 499** of the Natural and Built Environment Act **2022**".

In section 47(1), replace "section 167 of the Resource Management Act 1991" with "**section 499** of the Natural and Built Environment Act **2022**".

In section 47(2), replace "Part 8 of the Resource Management Act 1991" with "**subpart 1 of Part 8** of the Natural and Built Environment Act **2022**".

In section 47(2)(a), replace "section 166" with "**section 7**".

In section 47(3), replace "section 180(1) of the Resource Management Act 1991" with "**section 526** of the Natural and Built Environment Act **2022**".

In section 48(3)(a), replace "section 186 of the Resource Management Act 1991" with "**section 525** of the Natural and Built Environment Act **2022**".

In section 48(3)(b), replace "sections 185(5) and (6) and 186" with "**sections 524(5) and (6) and 525** of the Natural and Built Environment Act **2022**".

In section 48(5), replace "sections 185 and 186(2) and (4)" with "**sections 524 and 525(2)** of the Natural and Built Environment Act **2022**".

In section 50(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 59(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 75(2)(a)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37)

In section 58(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 60(1) and (2), replace "section 108 of the Resource Management Act 1991" with "**section 232** of the Natural and Built Environment Act **2022**".

In the heading to section 71, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 71(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 71(2), replace "section 34A(1)(b) of that Act" with "**section ~~655~~ 30ZA** of that Act".

In section 77(1), replace "Section 81 of the Resource Management Act 1991" with "**Section 143** of the Natural and Built Environment Act **2022**".

Local Government Official Information and Meetings Act 1987 (1987 No 174)

In section 7(2)(ba), replace "heritage order, under the Resource Management Act 1991" with "heritage protection order, under the Natural and Built Environment Act **2022**".

In section 44A(2)(a)(ii), replace "the district scheme under the Town and Country Planning Act 1977 or a district plan under the Resource Management Act 1991" with "a plan under the Natural and Built Environment Act **2022**".

Replace section 45(1A) with:

(1A) Despite subsection (1), **meeting**, in relation to a local authority that is a board of inquiry or special tribunal given authority to conduct hearings under **section 349 or 381** of the Natural and Built Environment Act **2022**, is limited to any hearing that the board or tribunal holds under either or those sections of that Act.

In section 45A(a), replace "section 149J of the Resource Management Act 1991" with "**~~section 349~~ clause 62 of Schedule 10A** of the Natural and Built Environment Act **2022**".

In section 45A(b), replace "section 202 of the Resource Management Act 1991; and" with "**section 381** of the Natural and Built Environment Act **2022**."

Repeal section 45A(c).

In Schedule 1, Part 1, replace "section 33, 34, 34A, 117, 149J, or 202 or clause 58 of Schedule 1 of the Resource Management Act 1991" with "**section 381, 650, 653, 655, ~~349, or 384~~ or clause 62 of Schedule 10A** of the Natural and Built Environment Act **2022**".

In Schedule 1, Part 1, insert in its appropriate alphabetical order:

Regional planning committees established under the Natural and Built Environment Act **2022** with functions set out in **section 30N** of that Act

Local Government Official Information and Meetings Act 1987 (1987 No 174)—*continued*

In Schedule 6, replace clause 2 with:

2 Application of amendments to boards of inquiry and special tribunals

The amendments made by the amendment Act apply to a board of inquiry appointed under ~~**section 349**~~ **clause 62 of Schedule 10A** of the Natural and Built Environment Act **2022**, or to a special tribunal appointed under **section 381** of that Act, whether appointed before or after the commencement of the amendments.

Local Government (Rating) Act 2002 (2002 No 6)

In Schedule 2, replace ~~clauses~~ items 2 and 3 with:

2 The activities that are permitted, controlled, discretionary, or prohibited for the area in which the land is situated under the Natural and Built Environment Act **2022** and the rules to which the land is subject under an operative plan under that Act.

3 The activities that are proposed to be permitted, controlled, discretionary, or prohibited activities under the Natural and Built Environment Act **2022** and the proposed rules for the area in which the land is situated under a proposed plan under that Act, but only if—

(a) no submissions in opposition have been made under **subpart 2 of Part 2 of Schedule 7** of that Act on those proposed activities or rules, and the time for making submissions has expired; or

(b) all submissions in opposition, and any appeals, have been determined, withdrawn, or dismissed.

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**~~

~~In section 9(1), the definition of **infrastructure**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".~~

~~In section 9(1), insert in its appropriate alphabetical order:~~

~~**NBA permission right** means the right held by a customary marine title group under a customary marine title order or agreement as provided for in sections 66 to 68~~

~~In section 9(1), insert in the appropriate alphabetical order:~~

~~**national planning framework** means the framework provided for in **Part 3** of the Natural and Built Environment Act **2022**~~

~~**regional planning committee** means the regional planning committee within the meaning of the Natural and Built Environment Act **2022**~~

~~In section 9(1), repeal the definition of **RMA permission right**.~~

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

After section 9, insert:

9A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1A have effect according to their terms.

In section 19(3A)(b), replace "section 12(7) of the Resource Management Act 1991" with "**section 20(5)** of the Natural and Built Environment Act **2022**".

In section 23(4), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 30(2), replace "section 245(5) of the Resource Management Act 1991" with "**section 600** of the Natural and Built Environment Act **2022**".

In section 35(7), replace "section 12(7) of the Resource Management Act 1991" with "**section 20(5)** of the Natural and Built Environment Act **2022**".

In section 39(1)(c), replace "section 245(5)(b) of the Resource Management Act 1991" with "**section 600(2)** of the Natural and Built Environment Act **2022**".

In section 40(5), after "before the commencement of this Act", insert "and continued by the Natural and Built Environment Act **2022**".

In section 43(5), replace "section 245(5)(b) of the Resource Management Act 1991" with "**section 600(2)** of the Natural and Built Environment Act **2022**".

Replace section 52(1) with:

(1) A protected customary right may be exercised under a protected customary rights order of an agreement without any further approval, including a resource consent, despite any prohibition, restriction, or imposition that would otherwise apply under **sections 14, 15, and 19 to 25** of the Natural and Built Environment Act **2022**.

In section 52(2)(a), replace "section 166 of the Resource Management Act 1991" with "**section 120** of the Natural and Built Environment Act **2022**".

In section 52(2)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

After section 55(1), insert:

(1A) In the case of a proposed permitted activity that is described by the plan for the area under the Natural and Built Environment Act **2022** as having localised impacts only, and no wider environmental effects to be assessed (including consideration of cultural values), a consent authority must not grant a resource consent to be carried out in a protected customary rights area if the activity will, or is likely to, have more than minor adverse effects (including cumulative effects) on the relationship of the relevant protected customary rights group to their protected customary rights area unless the group gives its written approval for the proposed activity (see **section 137** of that Act).

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

In section 55(3)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 55(3)(b), replace "section 330A of the Resource Management Act 1991" with "**section 754** of the Natural and Built Environment Act **2022**".

In section 55(3)(b), replace "section 330" with "**section 753**".

After section 55(3), insert:

(3A) The existence of a protected customary right does not limit or otherwise affect an aquaculture activity being carried out as a permitted activity under the Natural and Built Environment Act **2022** in a specified part of the common marine and coastal area,—

(a) regardless of whether—

(i) any application or notice is lodged in relation to the aquaculture activity; or

(ii) there is any change in the species farmed; or

(iii) there is any change in the location of the coastal space occupied by the aquaculture activity.

In section 59(4)(b)(ii), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 60(2)(b)(i), replace "section 64A of the Resource Management Act 1991" with "**section 120** of the Natural and Built Environment Act **2022**".

In section 60(2)(b)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 62(1)(a) with:

(a) an NBA permission right (*see* sections 66 to 70); and

After section 62, insert:

62A Information requirements for applicants for resource consents

(1) This section applies in a case where a person applies for a resource consent relating to an area where applicant groups seek customary marine title.

(2) The person applying for a resource consent must—

(a) confirm that they have notified the applicant groups in the area to which the resource consent application relates and that they have sought the views of those applicant groups; and

(b) provide a list of the applicant groups notified; and

(c) record the views obtained from the applicant groups, describing how these views have influenced the contents of the resource consent application.

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

(3) If an application does not contain the information described in **subsection (2)**, the consent authority must return the application as incomplete in accordance with **section 174** of Natural and Built Environment Act **2022**.

In section 63, definition of **accommodated infrastructure**, paragraph (b)(iii), replace "section 166 of the Resource Management Act 1991" with "**section 498** of the Natural and Built Environment Act **2022**".

In section 63, definition of **accommodated infrastructure**, after subparagraph (b)(vi), insert:

(vii) each of the water service entities established by **section 10** of the Water Services Entities Act **2022**:

In section 63, definition of **associated operations**, paragraph (a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 63, definition of **emergency activity**, paragraph (e)(vi), replace "section 330 of the Resource Management Act 1991" with "**sections 751 and 793** of the Natural and Built Environment Act **2022**".

Replace section 64(2)(e) with:

(e) an existing aquaculture activity carried out in a specified part of the common marine and coastal area may continue to be carried out in that part of the common marine and coastal area, regardless of whether the activity requires a coast permit under the Marine and Coastal Area (Takutai Moana) Act 2011 to continue:

In the cross-heading above section 66, replace "*RMA*" with "*NBA*".

In the heading to section 66, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 66(2), (4), and (5), replace "RMA" each time it occurs with "NBA".

In section 66(6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 66, replace "**RMA**" with "**NBA**".

In section 66(1), replace "RMA" with "NBA".

In section 67(1)(a), after "notice", insert "in writing".

In section 67(5), replace "section 116 of the Resource Management Act 1991" with "**sections 258 to 263** of the Natural and Built Environment Act **2022**".

After section 67(5), insert:

(6) When a consent authority receives and application for a resource consent to which this section applies, the consent authority must refer the application to the relevant customary marine title group unless the group has already given its permission for the activity.

In the heading to section 68, replace "**RMA**" with "**NBA**".

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

In section 68(2)(b), replace "section 357 or 357A of the Resource Management Act 1991" with "**sections 828 and 829** of the Natural and Built Environment Act **2022**".

In section 69(1), replace "RMA" with "NBA".

In section 77, insert as subsections (2) and (3):

(2) If the Minister for the Environment and the Minister of Conservation are proposing to prepare, issue, change, review, or revoke any provisions in the national planning framework that apply to the whole or part of the coastal marine area, the Minister must seek and consider the views of the customary marine title groups recorded on the register.

(3) The responsible Ministers must,—

(a) in deciding whether to set an environmental limit or target nationally or regionally, consider whether the limit or target would directly affect a customary marine title group and (if they agree that it would) consider that as a factor in favour of setting the limit or target regionally; and

(b) in setting a limit or target that applies to a specific management unit that includes a customary marine title area, consider any planning document prepared under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011.

In section 84(2), after "the following royalties", insert "or charges".

Replace section 84(2)(b) with:

(a) from the regional council, any charges for sand and shingle taken from the customary marine title area imposed by regulations made under the Natural and Built Environment Act **2022**.

In section 84(3), after "Royalties", insert "or charges".

After section 85(3)(a), insert:

(aa) any matter managed under the Natural and Built Environment Act **2022** or the Spatial Planning Act **2022**; and

After section 85(3), insert:

(3A) A planning document—

(a) may contain content relevant to the decision by the Minister responsible for aquaculture to recommend the making of regulations under **section 851** of the Natural and Built Environment Act **2022**:

(b) may be lodged with the Minister responsible for aquaculture and, if lodged, must be considered by that Minister in deciding whether to recommend the making of regulations that directly affect the relevant customary marine title area.

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

In section 85(5)(d), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022** or the Spatial Planning Act **2022**".

After section 86(1)(a), insert:

(aa) the host local authority for the regional planning committee, if it is not the regional council; and

(ab) the regional planning committee for the region to which the planning instrument relates; and

In section 92, replace the definition of **regional document** with:

regional document means any of the following:

(a) a plan under the Natural and Built Environment Act **2022** that applies to the region of a regional council:

(b) a proposed plan under the Natural and Built Environment Act **2022** that applies to the region of a regional council:

(c) a regional spatial strategy under the Spatial Planning Act **2022**:

(d) a draft regional strategy that has been made publicly available under the Spatial Planning Act **2022**

In section 93(1) and (2), replace "regional council" with "regional planning committee".

In section 93(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022** or the Spatial Planning Act **2022**".

In section 93(3), replace "section 104 of the Resource Management Act 1991" with "**section 223** of the Natural and Built Environment Act **2022**".

In section 93(5)(a), replace "Schedule 1 of the Resource Management Act 1991" with "**Schedule 7** of the Natural and Built Environment Act **2022**".

After section 93(5), insert:

(5A) The regional planning committee must notify the regional council when the alteration of the regional document in accordance with this section becomes operative.

In section 93(6) and (10)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022** or the Spatial Planning Act **2022**".

In section 93(6) and (8) to (12), replace "regional council" with "regional planning committee" in each place.

After section 93(6), insert:

(6A) The process required by subsection (6) applies to proposed first generation regional documents, and to any proposed changes to, or variations or reviews of, any provision in a regional document, that apply to a customary marine title area.

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

(6B) To the extent that a planning document applies to any part of the area outside the relevant customary marine title area (where the group exercises kaitiakitanga), the regional planning committee must give active consideration to any matters identified under subsection (2)(a).

In section 93(9)(a), replace "Part 5 of the Resource Management Act 1991" with "**Part 4** of the Natural and Built Environment Act **2022**".

In section 93(9)(b), replace "Schedule 1" with "**Schedule 7**".

In section 93(11), replace "clause 5 of Schedule 1 of the Resource Management Act 1991" with "**clause 73 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 93(12), replace "Part 2 of the Resource Management Act 1991" with "**subpart 3 of Part 4 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 93(12)(a), replace "Part 2" with "**subpart 3 of Part 3 of Schedule 7**".

In section 93(12)(a), replace "clause 25" with "**clause 72 of Part 4 of Schedule 7**".

After section 110(2)(b)(ii), insert:

(iia) the relevant regional planning committee; and

After section 110(3)(b)(i), insert:

(ia) the relevant regional planning committee; and

(ib) the relevant consent authority; and

After section 128, insert:

Schedule 1
Transitional, savings, and related provisions

s 9A

Part 1
Provisions relating to Natural and Built Environment Act 2022

1 Definitions

In this Part, unless the context otherwise requires,—

applicable interim period means, for a customary marine title group, the period—

(a) commencing on the date that the Natural and Built Environment Act **2022** comes into force; and

(b) ending on the date that the relevant plan is notified.

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3) *continued*

notification means notification, as the case may be, of—

(a) a natural and built environment plan under the Natural and Built Environment Act **2022**

(b) a regional spatial strategy under the Spatial Planning Act **2022**

relevant plan means, in relation to a customary marine title group, the first natural and built environment plan under the Natural and Built Environment Act **2022** for the region in which the customary marine title area is located

relevant regional spatial strategy means, in relation to a customary marine title group, the first regional spatial strategy natural and built environment plan under the Spatial Planning Act **2022** for the region in which the customary marine title area is located.

2 Lodgment and consideration of planning documents during applicable interim period

(1) A customary marine title group may, during the applicable interim period, lodge a planning document in accordance with section 86.

(2) If a planning document is lodged with the regional council during the applicable interim period before a regional planing committee has been established,—

(a) the regional council must comply with section 93 as it was immediately before it was amended by the Natural and Built Environment Act **2022**; and

(b) the regional council must, as soon as practicable after the regional planning committee for the region is established, provide the regional planning committee with the planning document; and

(c) the fact that the regional council has provided the planning document to the regional planning committee constitutes lodgement of the planning document under **section 86**; and

(d) the regional planning committee must, as soon as practicable after receipt of the planning document, advise the customary marine title group in writing—

(i) that the planning document has been lodged; and

(ii) of the matters referred to in **subclause (3) and (4)**.

(3) A customary marine title group may lodge a revised planning document prior to notification of the relevant regional spatial strategy or the relevant plan.

(4) However, section 93(6) does not apply to a regional planning committee (in relation to a revised planning document referred to in **subclause (3)**) unless the customary marine title group has lodged the revised planning document

~~**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)** *continued*~~

~~within a time frame notified by the regional council on an Internet site maintained by the regional council.~~

~~(5) If a revised planning document is not lodged within that time frame, the regional planning committee must consider the planning document that is currently lodged when developing the relevant regional spatial strategy or relevant plan.~~

~~(6) If a planning document has been lodged prior to notification of the relevant regional spatial strategy or the relevant plan, a regional planning committee must comply with its obligations under section 93(2) in relation to the planning document within 40 working days after the document was lodged under **subclause (1)(b) and (c)**.~~

~~(7) Before notifying the time frame for the purpose of **subclause (4)**, a regional council must take into account —~~

~~(a) the need for customary marine title groups to review their planning documents and prepare any revised planning documents; and~~

~~(b) the expected time frames for the preparation and notification of the relevant plan or relevant regional spatial strategy.~~

~~In Schedule 2, Part 1, clauses 6(b) and 10(a), replace "RMA" with "NBA".~~

Maori Commercial Aquaculture Claims Settlement Act 2004 (2004 No 107)

In section 4, definition of **aquaculture activities**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **authorisation**, replace "section 165C of the Resource Management Act 1991" with "**section ~~428~~ 429** of the Natural and Built Environment Act **2022**".

In section 4, definition of **coastal marine area**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **coastal permit**, replace "section 2(1) of the Resource Management Act 1991" with "**section 152(c)** of the Natural and Built Environment Act **2022**".

In section 4, definition of **new space**, paragraph (a), replace "section 116A of the Resource Management Act 1991" with "**section 264** of the Natural and Built Environment Act **2022**".

In section 4, definition of **occupy**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **public notice**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Maori Commercial Aquaculture Claims Settlement Act 2004 (2004 No 107)—*continued*

In section 4, definition of **regional council**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **space**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 5(1)(aa), replace "section 165K, or a notice in the *Gazette* under section 165N, of the Resource Management Act 1991" with "**section 438**, or a notice in the *Gazette* under **section 441**, of the Natural and Built Environment Act **2022**".

In section 11(2)(b)(ii), replace "section 165ZH of the Resource Management Act 1991" with "**section 474** of the Natural and Built Environment Act **2022**".

In section 12(3), replace "Section 165E of the Resource Management Act 1991" with "**Section 431** of the Natural and Built Environment Act **2022**".

In section 13(6), replace "section 165R of the Resource Management Act 1991" with "**section 445** of the Natural and Built Environment Act **2022**".

In section 14(4)(d)(iv)(A), replace "Resource Management Act 1991 that could commence under section 116A of that Act" with "Natural and Built Environment Act **2022** that could commence under **section 264** of that Act".

In section 16A(1), replace "Section 165T of the Resource Management Act 1991" with "**Section 447** of the Natural and Built Environment Act **2022**".

In section 16A(2)(b), replace "section 116A(3) or (7) of the Resource Management Act 1991" with "**section 264(3) and (7)** of the Natural and Built Environment Act **2022**".

In section 16A(3), replace "section 165S of the Resource Management Act 1991" with "**section 446** of the Natural and Built Environment Act **2022**".

Replace section 17(2) with:

(2) The holder of the coastal permit must be treated as if the holder holds an authorisation under section 13 in relation to the space that was subject to the coastal permit.

In section 50(6), replace "sections 135 and ~~165M~~ 165S of the Resource Management Act 1991" with "**sections 286 and ~~445~~ 446** of the Natural and Built Environment Act **2022**".

Maritime Transport Act 1994 (1994 No 104)

In section 4(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 33I(4)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Maritime Transport Act 1994 (1994 No 104)—*continued*

In section 33M(2)(d)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 110(1)(d), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 225, definition of **pollution incident**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 227(1)(b), replace "section 15B of the Resource Management Act 1991" with "**section 24** of the Natural and Built Environment Act **2022**".

In section 227(6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 232(1) and (1A), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 233(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 235(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 261(5)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 272(1)(e)(iii) with:

(iii) any provision of the national planning framework made under the Natural and Built Environment Act **2022**; or

In section 272(1)(e)(iv), replace "any of paragraphs (ha) and (he) of section 360(1) of the Resource Management Act 1991" with "**section 858** of the Natural and Built Environment Act **2022**".

In section 276(2)(a) and (c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 291(2)(c) with:

(c) any plan under the Natural and Built Environment Act **2022**:

In section 397(2) and (7), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**" in each place.

In section 463(2B)(b), replace "section 15B of the Resource Management Act 1991" with "**section 24** of the Natural and Built Environment Act **2022**".

In section 464(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 467, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

Maritime Transport Act 1994 (1994 No 104)—*continued*

In section 467, replace "sections 9, 12, 13, 14, 15, 15A, 15B, and 15C of the Resource Management Act 1991" with "**sections 17 and 19 to 25** of the Natural and Built Environment Act **2022**".

Mauao Historic Reserve Vesting Act 2008 (2008 No 31)

In section 11(1), replace "section 11 or Part 10 of the Resource Management Act 1991" with "**section 18 or Part 9** of the Natural and Built Environment Act **2022**".

National Parks Act 1980 (1980 No 66)

In section 7(6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

National War Memorial Park (Pukeahu) Empowering Act 2012 (2012 No 76)

In section 4, definition of **consent authority**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **designation**, replace "section 166 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **discharge permit**, replace "section 87(e) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, replace the definition of **district plan** with:

district plan—

(a) means the plan for the Wellington Region as approved under **Schedule 7** of the Natural and Built Environment Act **2022**; and

(b) includes all operative changes to that plan; and

(c) includes a proposed plan, to the extent that—

(i) it has legal effect under **section 130** of the Natural and Built Environment Act **2022**; or

(ii) it must be treated as operative under **section 135** of that Act; and

(d) includes any changes to the former district plan notified before 1 October 2009

In section 4, definition of **land use consent**, replace "section 87(a) of the Resource Management Act 1991" with "**section 152** of the Natural and Built Environment Act **2022**".

In section 4, definition of **requiring authority**, replace "section 166 of the Resource Management Act 1991" with "**section ~~497~~ 7** of the Natural and Built Environment Act **2022**".

National War Memorial Park (Pukeahu) Empowering Act 2012 (2012 No 76)—*continued*

In section 4, definition of **resource consent**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 4, definition of **water permit**, replace "section 87(d) of the Resource Management Act 1991" with "**section 152** of the Natural and Built Environment Act **2022**".

Replace section 9(4) with:

(4) The provisions of the Natural and Built Environment Act **2022** apply to the designation provided for by this section.

Natural Hazards Insurance Act 2023 (2023 No 1)

Replace section 44(6) with:

(6) In this section,—

area cap means,—

(a) if there is an NBE plan minimum area, the lesser of—

(i) the NBE plan minimum area; and

(ii) 4,000 square metres; or

(b) if there is no NBE plan minimum area, 4,000 square metres

NBE plan means the operative plan under the Natural and Built Environment Act **2022** for the region where the damaged residential land is situated

NBE plan minimum area means the minimum area (in square metres) allowable under the NBE plan for land that is used for the purpose for which the damaged residential land was being used at the time the natural hazard damage occurred.

New Plymouth District Council (Waitara Lands) Act 2018 (2018 No 2 (L))

In the heading to section 53, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 53, replace "Section 11 and Part 10 of the Resource Management Act 1991" with "**Section 18 and Part 9** of the Natural and Built Environment Act **2022**".

New Zealand Railways Corporation Act 1981 (1981 No 119)

Replace section 3A with:

3A Relationship to Natural and Built Environment Act 2022

Despite **section ~~43~~ 12** of the Natural and Built Environment Act **2022**, that Act applies to the Corporation as if it were a Crown organisation.

New Zealand Railways Corporation Act 1981 (1981 No 119)—*continued*

In section 31(9), replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**".

New Zealand Railways Corporation Restructuring Act 1990 (1990 No 105)

In section 12(3), replace "Section 11(1) of the Resource Management Act 1991" with "**Section 18** of the Natural and Built Environment Act **2022**".

In section 25A(1), replace "section 11 and Part 10 of the Resource Management Act 1991" with "**section 18 and Part 9** of the Natural and Built Environment Act **2022**".

In section 25A(2)(b) and (6)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 25A(12), definition of **allotment**, replace "section 218 of the Resource Management Act 1991" with "**section 570** of the Natural and Built Environment Act **2022**".

Northland Regional Council and Far North District Council Vesting and Empowering Act 1992 (1992 No 2 (L))

In the Preamble, paragraph (c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 7, ~~heading~~ replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 7(1), replace "section 218 of the Resource Management Act 1991" with "**section 569** of the Natural and Built Environment Act **2022**".

In section 7(1), replace "purposes of the Resource Management Act 1991" with "purposes of the Natural and Built Environment Act **2022**".

In section 7(2), replace "Section 11 and Part 10 of the Resource Management Act 1991" with "**Section 18 and ~~Parts 5 and~~ Part 9** of the Natural and Built Environment Act **2022**".

In section 7(2), replace "Part 6 of the Resource Management Act 1991" with "**Part 5** of the Natural and Built Environment Act **2022**".

In section 8(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Ombudsmen Act 1975 (1975 No 9)

~~In Schedule 1, Part 2, insert the following item in its appropriate alphabetical order: "the National Māori Entity".~~

In Schedule 1, Part 2, insert in their appropriate alphabetical order:

National Māori Entity	
Regional planning committee established under the Natural and Built Environment Act **2022**	

Overseas Investment Act 2005 (2005 No 82)

~~In section 6(1), definition of **historic heritage**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".~~

In section 6(1), insert in its appropriate alphabetical order:

> **cultural heritage** has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

In section 6(1), repeal the definition of **historic heritage**.

In section 6(1), definition of **kaitiakitanga**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 6(1), definition of **lake**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 6(1), definition of **natural and physical resources**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 6(1), definition of **river**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 16A(6)(b), replace "historic heritage" with "cultural heritage".

In section 17(1)(c) and (d), replace "historic heritage" with "cultural heritage".

In section 61B(c)(vii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 1, ~~part 1.~~ Part 1, table 1, item 8, replace "district plan or proposed district plan under the Resource Management Act 1991" with "plan under the Natural and Built Environment Act **2022**".

In Schedule 1, ~~part 1.~~ Part 1, table 1, item 9, replace "heritage order, or a requirement for a heritage order, under the Resource Management Act 1991" with "heritage protection order, or a requirement for a heritage protection order, under the Natural and Built Environment Act **2022**".

In Schedule 5, clause 21, replace "section 11 and Part 10 of the Resource Management Act 1991" with "**section 18 and Part 9** of the Natural and Built Environment Act **2022**".

Property Law Act 2007 (2007 No 91)

In section 325(4), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 326, definition of **reasonable access**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 330(3), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

Property Law Act 2007 (2007 No 91)—*continued*

In section 333(3)(a), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 335(1)(b)(ii) and (vi), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 336(2), replace "Part 8 of the Resource Management Act 1991" with "**Part 8** of the Natural and Built Environment Act **2022**".

In section 340(1), replace "section 11 or Part 10 of the Resource Management Act 1991" with "**section 18 or Part 9** of the Natural and Built Environment Act **2022**".

In Schedule 2, clause 4(b)(i), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 2, clause 14(2)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Prostitution Reform Act 2003 (2003 No 28)

In section 15(1), (2), and (3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 15(2), replace "sections 104A to 104D~~ of the Resource Management Act 1991~~" with "**sections 224 and 225** ~~of the Natural and Built Environment Act **2022**~~".

In section 15(2), replace "section 108" with "**section 231**".

In section 15(3), replace "district plan or proposed district plan" with "plan or proposed plan under the Natural and Built Environment Act **2022**".

Public Audit Act 2001 (2001 No 10)

~~In Schedule 2, insert the following item in is appropriate alphabetical order: "the National Māori Entity".~~

In Schedule 2, insert in its appropriate alphabetical order:

National Māori Entity

Public Safety (Public Protection Orders) Act 2014 (2014 No 68)

In section 114(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Public Works Act 1981 (1981 No 35)

In section 2, replace the definition of **Environment Court** with:

> **Environment Court** means the Environment Court continued by **clause 3 of Schedule 13** of the Natural and Built Environment Act **2022**

In section 24(6A)(a), replace "section 39(1) of the Resource Management Act 1991" with "**clause 79 of Schedule 7** of the Natural and Built Environment Act **2022**".

Public Works Act 1981 (1981 No 35)—*continued*

In section 24(14), replace "sections 299 and 308 of the Resource Management Act 1991" with "**clauses 79 to 88 of Schedule 13** of the Natural and Built Environment Act **2022**".

In section 27(8), replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**".

In section 46(3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 59, definition of **notified**, paragraph (a), replace "section 168 of the Resource Management Act 1991" with "**section 503** of the Natural and Built Environment Act **2022**".

In section 59, definition of **notified**, paragraph (a), replace "section 189" with "**section 543**".

In section 59, definition of **notified**, paragraph (a), replace "clause 4 of Part 1 of Schedule 1~~ of that Act~~" with "**clause 28 of Schedule 7~~ of that Act~~**".

In section 59, definition of **notified**, paragraph (b), replace "heritage order, included in an operative or proposed district plan under the Resource Management Act 1991" with "heritage protection order, included an operative or proposed plan under the Natural and Built Environment Act **2022**".

In section 71(1)(b), replace "section 167 of the Resource Management Act 1991" with "**section 501** of the Natural and Built Environment Act **2022**".

In section 71(9), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 111A(1)(ba), replace "section 166 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 111A(1)(ba), replace "section 167" with "**section 499**".

In section 118(2), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 166(e), (f), and (g), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 190(3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 191(9), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 218(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 224(20), replace "Resource Management Act 1991, in his or its own name or on behalf of all parties, may make any requirement under Part 8 of the Resource Management Act 1991" with "Natural and Built Environment Act **2022**, in their or

Public Works Act 1981 (1981 No 35)—*continued*

its own name or on behalf of all parties, may make any requirement under **subpart 1 of Part 8** of that Act".

Racing Industry Act 2020 (2020 No 28)

Replace section 32(12) and the ~~cross-heading~~ heading above section 32(12) with:

*Application of Natural and Built Environment Act **2022***

(12) **Section 18 and Part 9** of the Natural and Built Environment Act **2022** do not apply to—

(a) the vesting of a surplus venue under this subpart; or

(b) any matter incidental to, or required for the purpose of, the vesting.

Railways Act 2005 (2005 No 37)

In section 77(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Rating Valuations Act 1998 (1998 No 69)

In section 2, replace the definition of **district plan** with:

district plan means a plan under the Natural and Built Environment Act **2022** for a district

Remuneration Authority Act 1977 (1977 No 110)

In Schedule 4, insert in its appropriate alphabetical order:

The members of regional planning committees appointed under the Natural and Built Environment Act **2022** by the Minister responsible for the **Spatial Planning Act 2022**

Reserves Act 1977 (1977 No 66)

In section 14(2), replace "a district plan makes provision for the use of the land as a reserve or the land is designated as a proposed reserve under an operative district plan under the Resource Management Act 1991" with "a plan under the Natural and Built Environment Act **2022** ~~makes provision~~ provides for the use of the land as a reserve or the land is designated as a proposed reserve under an operative plan under that Act".

In section 15(2), replace "an operative district plan under the Resource Management Act 1991" with "an operative plan under the Natural and Built Environment Act **2022**".

Replace section 15AA(1) with:

(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—

Reserves Act 1977 (1977 No 66)—*continued*

(a) the application is made jointly—

(i) with an application for a resource consent under **section 173(1) and (2)** of the Natural and Built Environment Act **2022** (the **NBEA**); or

(ii) with a request for a change to a plan under **clause 69 of Schedule 7** of the NBEA; and

(b) the recreation reserve land is vested in the administering body ~~for~~ of the reserve; and

(c) the administering body of the reserve is also the relevant local authority under the NBEA.

In section 15AA(2)(a)(i), replace "section 88(6)(a) of the RMA" with "**section 173(3)(a)** of the NBEA".

In section 15AA(2)(a)(ii), replace "section 95A of the RMA" with "**sections 199 and 205(2)** of the NBEA".

In section 15AA(2)(c), replace "RMA" with "NBEA".

In section 15AA(3)(a)(i), replace "clause 21(5)(a) of Schedule 1 of the RMA" with "**clause 69 of Schedule 7** of the NBEA".

In section 15AA(3)(a)(ii), replace "clause 26 of Schedule 1 of the RMA" with "**clause 73 of Schedule 7** of the NBEA".

In section 15AA(3)(c), replace "RMA" with "NBEA".

In section 15AA(5)(a), replace "RMA" with "NBEA".

In section 16(2A)(g), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 16(5)(b), replace "district plan under the Resource Management Act 1991" with "plan under the Natural and Built Environment Act **2022**".

In section 23(2)(a), after "Part 10 of the Resource Management Act 1991", insert "or under **Part 9** of the Natural and Built Environment Act **2022**".

In section 24(7), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 24A(3)(a), replace "district plan in force under the Resource Management Act 1991" with "plan in force under the Natural and Built Environment Act **2022**".

In section 24A(3)(b), replace "Part 6" with "**Part 5**".

In section 48(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 53(1)(i) and (j), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Reserves Act 1977 (1977 No 66)—*continued*

~~In section 24(7), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".~~

In section 54(2A)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 54(2A)(b), replace "section 93(2)" with "**sections 199 and 205(2)**".

In section 55(1)(d) and (2)(f), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 56(3)(b), replace "Part 6 of the Resource Management Act 1991" with "**Part 5** of the Natural and Built Environment Act **2022**".

In section 58A(3)(b), replace "Part 6 of the Resource Management Act 1991" with "**Part 5** of the Natural and Built Environment Act **2022**".

Riccarton Racecourse Development Enabling Act 2016 (2016 No 30)

In section 9(c), replace "regional and district planning requirements" with "planning requirements under the Natural and Built Environment Act **2022**".

River Boards Act 1908 (1908 No 165)

In section 76(d) and (f), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 86(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Sale and Supply of Alcohol Act 2012 (2012 No 120)

In section 47A(4), replace "section 9 of the Resource Management Act 1991" with "**section 17** of the Natural and Built Environment Act **2022**" in each place.

In section 78(2)(a), replace "its district plan" with "the relevant plan under the Natural and Built Environment Act **2022**".

In the heading to section 93, replace "**district plans**" with "**plans under ~~the~~ Natural and Built Environment Act 2022**".

In section 93(1) and (2), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 100(f), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 143(1)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, repeal the item relating to the Resource Management Act 1991.

In the Schedule, ~~replace the item relating to the Resource Management Act 1991 with~~ insert in its appropriate alphabetical order:

Search and Surveillance Act 2012 (2012 No 24)—*continued*

Natural and Built Environment Act **2022**	**792**	Constable or enforcement officer may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that ~~at,~~ in, on, over, or under any place or vehicle there is anything in respect of which imprisonable offence under Natural and Built Environment Act **2022** or any regulations made under that Act has been committed or anything that is evidence of such offence or that is intended to be used to commit such offence	All (except that sections 118 and 119 apply to constables only)

Selwyn Plantation Board Empowering Act 1992 (1992 No 4 (L))

In section 3(8), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Sentencing Act 2002 (2002 No 9)

In section 4(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Sharemilking Agreements Act 1937 (1937 No 37)

In the Schedule, note above clause 67, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Soil Conservation and Rivers Control Act 1941 (1941 No 12)

~~In section 10A, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022** and the Spatial Planning Act **2022**".~~

Replace section 10A with:

10A Relationship to Natural and Built Environment Act 2022

Despite section 10, nothing in this Act derogates from the provisions of sections 176 to 182 of the Harbours Act 1950, the Natural and Built Environment Act **2022**, or the **Spatial Planning Act 2022**.

State-Owned Enterprises Act 1986 (1986 No 124)

In section 23(1)(ba), replace "district schemes" with "plans under the Natural and Built Environment Act **2022**".

In section 27D(5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 29(1), definition of **assets**, paragraph (e), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (ji), insert:

(jj) ~~section 3 of Schedule 13~~ **section 769** of the Natural and Built Environment Act **2022**; or

Summit Road (Canterbury) Protection Act 2001 (2001 No 3 (L))

In section 4(1), replace the definition of **Environment Court** with:

Environment Court means the Environment Court continued by ~~**section**~~ **clause 3 of Schedule 13** of the Natural and Built Environment Act **2022**

In section 4(1), definition of **subdivision**, replace "section 218 of the Resource Management Act 1991" with "**section 569** of the Natural and Built Environment Act **2022**".

Replace section 8 with:

8 Consultation obligations under Natural and Built Environment Act 2022

For the purposes of the Natural and Built Environment Act **2022**, the relevant regional planning committee must—

(a) consult and notify the Authority about, and give the Authority the opportunity to make any submissions in respect of, any proposal to prepare, change, or review any plan under that Act that affects or may affect the protected land; and

(b) provide the Authority with 1 copy of any proposed plan under that Act that affects or may affect the protected land.

In section 12(2)(b)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 15, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 15, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 24(2)(b) with:

(b) state any matters that regulations made under the Natural and Built Environment Act **2022** require to be stated in the case of an appeal under **section ~~293~~ 253** of that Act; and

In section 24(5)~~,~~ and (6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 27, replace "sections 352 and 353 of the Resource Management Act 1991" with "**sections 806 and 808** of the Natural and Built Environment Act **2022**".

Replace section 29(1)(a) with:

(a) apply to the Environment Court for an enforcement order under **section 700** of the Natural and Built Environment Act **2022**, as if the notice

Summit Road (Canterbury) Protection Act 2001 (2001 No 3 (L))—*continued*

under subsection (1) were an abatement notice within the meaning of **section 708** of that Act; and

In section 29(2), replace "section 315 of the Resource Management Act 1991" with "**section 701** of the Natural and Built Environment Act **2022**".

In section 29(3), replace "section 314 of the Resource Management Act 1991, as if that continuing breach or continuing offence contravenes, or is likely to contravene, the Resource Management Act 1991" with "**section 700** of the Natural and Built Environment Act **2022**, as if that continuing breach or continuing offence contravenes, or is likely to contravene, the Natural and Built Environment Act **2022**".

Taumata Arowai–the Water Services Regulator Act 2020 (2020 No 52)

In section 4, replace the definition of **Te Mana o te Wai** with:

Te Mana o te Wai—

(a) has the meaning set out in the national planning framework made by Order in Council under **section 34** of the Natural and Built Environment Act **2022** (and *see also* sections 5, 10, 17, and 18 of this Act):

(b) applies, for the purposes of this Act, to water (as that term is defined in **section 7(1)** of the Natural and Built Environment Act **2022**

Telecommunications Act 2001 (2001 No 103)

In section 3(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the cross-heading above section 69XI, replace "*Resource Management Act 1991*" with "*Natural and Built Environment Act **2022***".

In the heading to section 69XI, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 69XI(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 69XI(2) with:

(2) **Subpart 1 of Part 8** of the Natural and Built Environment Act **2022** applies with necessary modifications as if the ~~approval had been given under **section 499** of that Act~~ designation has been transferred under that Part.

In the heading to section 69XJ, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 69XJ(1), replace "section 166 of the Resource Management Act 1991" with "**section ~~497~~ 7** of the Natural and Built Environment Act **2022**".

In section 69XJ(2)(a), replace "section 180 of the Resource Management Act 1991" with "**section 526** of the Natural and Built Environment Act **2022**".

Telecommunications Act 2001 (2001 No 103)—*continued*

In section 69XJ(3), replace "section 177 of the Resource Management Act 1991" with "**section 517** of the Natural and Built Environment Act **2022**".

Replace section 69XJ(4) with:

(4) **Subpart 1 of Part 8** of the Natural and Built Environment Act **2022** applies with necessary modifications as if the approval had been given under **section 499** of that Act.

In section 117(2), replace "district plan or regional plan under the Resource Management Act 1991" with "plan under the Natural and Built Environment Act **2022**".

In section 119(3), replace "district plan as an area in relation to which, under the district plan" with "plan under the Natural and Built Environment Act **2022** as an area in relation to which, under that plan".

In section 119(5), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In Schedule 1, Part 3, item relating to limits on access principles, paragraph (c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Te Ture Whenua Maori Act 1993 (1993 No 4)

In section 4, definition of **subdivision consent**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 99(3), replace "section 2 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 123(6A), replace "section 2 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In the heading to section 301, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 301(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 301(3)(a), replace "section 218 of the Resource Management Act 1991" with "**section 569** of the Natural and Built Environment Act **2022**".

In section 301(3)(b), replace "sections 120 and 121 of the Resource Management Act 1991" with "**sections 253 and 254** of the Natural and Built Environment Act **2022**".

In section 301(4), replace "section 230(3) to (5) of the Resource Management Act 1991" with "**section 606** of the Natural and Built Environment Act **2022**".

In section 302(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

In section 302(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 302(2)(b), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 303(1) and (3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 303(2)(a), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

In section 303(2)(b), replace "sections 229 to 237H of the Resource Management Act 1991" with "**sections 604 to 614 and Schedule ~~12~~ 11** of the Natural and Built Environment Act **2022**".

In section 304(3)(b), replace "sections 229 to 237H of the Resource Management Act 1991" with "**sections 604 to 614 and Schedule ~~12~~ 11** of the Natural and Built Environment Act **2022**".

In section 304(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 326D(5), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

Unit Titles Act 2010 (2010 No 22)

Replace section 13 with:

13 General relationship with Natural and Built Environment Act 2022

(1) Except as provided in this section and sections 28 and 29, nothing in this Act derogates from the provisions of the Natural and Built Environment Act **2022**.

(2) Nothing in **section 18 or Part 9** of the Natural and Built Environment Act **2022** applies to section 74, subparts 2 and 3 of Part 4, or section 204.

Compare: 1972 No 15 s 2A(1), (2)

In section 26, replace "district plan requirements applied at the date on which approval of the proposed unit development plan under section 223 of the Resource Management Act 1991" with "plan requirements under the Natural and Built Environment Act **2022** applied at the date on which approval of the proposed unit development plan under **section 573** of that Act".

In the heading to section 28, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 28(1), replace "section 11 or Part 10 of the Resource Management Act 1991" with "**section 18 or Part 9** of the Natural and Built Environment Act **2022**".

In section 28(1)(a), replace "section 224(c)" with "**section 582**" in each place.

In section 28(1)(b), replace "section 224(e)" with "**section 580(2)**".

Unit Titles Act 2010 (2010 No 22)—*continued*

In section 28(2), replace "Section 11 and Part 10 of the Resource Management Act 1991" with "**Section 18 and Part 9** of the Natural and Built Environment Act **2022**".

In section 28(2), replace "section 224(c)" with "**section 582**".

In section 28(3) and (4), replace "section 224(c) of the Resource Management Act 1991" with "**section 582** of the Natural and Built Environment Act **2022**".

In the heading to section 29, replace "**section 224(c) of Resource Management Act 1991**" with "**section 582 of Natural and Built Environment Act 2022**".

In section 29(1) and (2), replace "section 224(c) of the Resource Management Act 1991" with "**section 582** of the Natural and Built Environment Act **2022**".

In section 29(1)(b)(ii), replace "section 224(c)(i), (ii), and (iii) of the Resource Management Act 1991" with "**section 582(4)(a)(i), (ii), and (iii)** of the Natural and Built Environment Act **2022**".

In section 35(b) and (c), replace "district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 36(3), replace "district plan or the requirements of the Resource Management Act 1991" with "plan under the Natural and Built Environment Act **2022** or the requirements of that Act".

Urban Development Act 2020 (2020 No 42)

Replace section 4 with:

4 Tiriti o Waitangi~~/Treaty of Waitangi~~

All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.

In section 5(1)(a)(ii), replace "amenities" with "facilities".

Replace section 5(1)(b) with:

(b) promote Te Oranga o te Taiao through—

(i) complying with the national environmental limits set under the Natural and Built Environment Act **2022**; and

(ii) promoting the system outcomes set out in **section 5** of the Natural and Built Environment Act **2022**.

Replace section 5(2) with:

(2) In this section, **Te Oranga o te Taiao** has the meaning given in **section ~~3(2)~~ 7** of the Natural and Built Environment Act **2022**.

In section 7(2)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 9, insert in their appropriate alphabetical order:

Urban Development Act 2020 (2020 No 42)—*continued*

cultural heritage has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

implementation plan has the same meaning as in **section 8 of the Spatial Planning Act 2022**

national planning framework ~~has the meaning given~~ has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

natural and built environment plan ~~has the meaning given~~ has the same meaning as plan in **section 7** of the Natural and Built Environment Act **2022**

regional planning committee ~~has the meaning given~~ has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

~~**regional spatial strategy**, in relation to a region, means the spatial strategy that is made for the region under the Strategic Planning Act **2022**~~

regional spatial strategy has the same meaning as in **section 8 of the Spatial Planning Act 2022**

te Tiriti o Waitangi has the same meaning as Treaty in section 2 of the Treaty of Waitangi Act 1975

In section 9, definition of **coastal marine area**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9, definition of **designation**, paragraph (a), replace "section 166 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9, definition of **development contribution**, paragraph (a), replace "section 87(b) of the Resource Management Act 1991" with "**section 152~~(2)~~(b)** of the Natural and Built Environment Act **2022**".

In section 9, replace the definition of **dwelling house** with:

~~**dwellinghouse** has the meaning given~~ **dwelling house** has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

~~In section 9, definition of **historic heritage**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".~~

In section 9, definition of **infrastructure**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9, definition of **interest**, paragraph (a), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 9, replace the definition of **iwi authority** with:

Urban Development Act 2020 (2020 No 42)—*continued*

iwi authority ~~has the meaning given~~ has the same meaning as in **section 7** of the Natural and Built Environment Act **2022**

~~In section 9, definition of **iwi participation legislation**, replace "section 58L of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".~~

In section 9, replace the definition of **iwi participation legislation** with:

iwi and hapū participation legislation has the same meaning as in **section 7 of the Natural and Built Environment Act 2022**

In section 9, definition of **iwi planning document**, paragraph (b), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 9, definition of **iwi planning document**, after paragraph (d), insert:

(e) Natural and Built Environment Act **2022**

In section 9, definition of **land**, paragraph (a), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

~~In section 9, definition of **limited notification**, replace "section 95B of the Resource Management Act 1991" with "**section 206** of the Natural and Built Environment Act **2022**".~~

In section 9, replace the definition of **limited notification** with:

limited notification has the same meaning as in **section 7 of the Natural and Built Environment Act 2022**

In section 9, definition of **Māori entity**, paragraph (h), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 9, definition of **nationally significant infrastructure**, paragraph (g), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 9, definition of **network utility operator**, replace "section 166 of the Resource Management Act 1991" with "**section ~~497~~ 7** of the Natural and Built Environment Act **2022**".

In section 9, definition of **participation arrangement**, after "the Resource Management Act 1991", insert ", the Natural and Built Environment Act **2022**,".

In section 9, definition of **participation arrangement**, paragraph (a), replace "planning instrument" with "natural and built environment plan".

In section 9, definition of **public notice**, replace "section 2AB of the Resource Management Act 1991" with "**section ~~7~~ 8** of the Natural and Built Environment Act **2022**".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 9, definition of **requiring authority**, replace "section 166 of the Resource Management Act 1991" with "**section ~~497~~ 7** of the Natural and Built Environment Act **2022**".

In section 9, definition of **resource consent**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9, definition of **working day**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9, repeal the definitions of **amenity values**, **combined planning instrument**, **district plan**, **historic heritage**, **planning instrument**, **regional plan**, and **regional policy statement**.

In section 14(1)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022** and the **Spatial Planning Act 2022**".

In section 17(5), definition of **mana whenua**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Replace section 28(b)(ii) with:

(ii) the national planning framework; and

~~In section 31(d), before "publicly", insert "subject to section 39,".~~

Insert as new section 31(2):

(2) However, Kāinga Ora may stop an assessment at any time if Kāinga Ora decides that the project should not be established as a specified development project (*see* sections 37 and 39 for requirements that then apply).

In section 32(1)(e), replace "historic heritage" with "cultural heritage".

In section 32(1)(f), after "urban growth", insert ", including how the project aligns with the regional spatial strategy".

In section 32(2)(a), delete "existing planning instruments and".

In section 33(4)(f), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 33(5), replace "historic heritage" with "cultural heritage".

In section 37(1)(c), after "joint Ministers", insert "unless section 39 does not require it".

Replace the heading to section 38 with "**Contents of report: project should be established**".

In section 38(2)(a)(viii), replace "historic heritage" with "cultural heritage".

~~After section 39(3), insert:~~

Urban Development Act 2020 (2020 No 42)—*continued*

~~(4) No public notification of the project as a potential specified development project is necessary if Kāinga Ora decides early on in the process to recommend that the project not be established.~~

Replace section 39 with:

39 Contents of report: project should not be established

(1) This section applies if, during or on completion of an assessment, Kāinga Ora decides that a project should not be established as a specified development project.

(2) The project assessment report must,—

(a) broadly, describe and assess the project; and

(b) set out why Kāinga Ora has decided that the project should not be established as a specified development project; and

(c) if the report must be provided to the joint Ministers under **subsection (4)**, include a recommendation that the project not be established as a specified development project.

(3) The report does not have to include all of the things in section 38(2) and Kāinga Ora does not have to comply with section 40.

(4) Kainga Ora must provide the report to the joint Ministers if either or both of the following apply:

(a) the project has been publicly notified as a potential specified development project:

(b) the joint Ministers selected the project in accordance with section 29, and their direction has not been withdrawn.

In section 48(1)(c), replace "section 33 of the Resource Management Act 1991" with "**section ~~650~~ 30V** of the Natural and Built Environment Act **2022**".

In section 51(2), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 57(a), replace "the objectives of any planning instrument" with "the plan outcomes of any natural and built environment plan".

Replace section 58(a) with:

(a) the national planning framework:

In section 60(4)(b) and (5)(b), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In the heading above section 60(5), replace "*planning instruments*" with "*natural and built environment plans*".

Urban Development Act 2020 (2020 No 42)—*continued*

~~In section 60(5)(a), replace "objectives, policies, methods, and rules in planning instruments" with "outcomes, policies, methods, and rules in natural and built environment plans".~~

Replace section 60(5)(a) with:

(a) any provisions that override, add to, or suspend any plan outcomes or policies, rules, or other methods in natural and built environment plans to enable the project objectives to be achieved; and

In section 60(5)(c), delete "or restricted discretionary".

After section 60(5), insert:

Modification of consent authority identity

(6) A development plan may provide that Kāinga Ora will not become the consent authority for the project area (*see* section 109 for the effect of this).

In section 63(5)(a), replace "district plan" with "natural and built environment plan".

In the heading to section 64, replace "**planning instruments**" with "**natural and built environment plans**".

Replace section 64(1) and (2) with:

(1) A development plan may incorporate material by reference, applying the provisions of **Schedule ~~43~~ 12** of the Natural and Built Environment Act **2022** with all necessary modifications, as if—

(a) a reference to a natural and built environment plan or proposed natural and built environment plan included a development plan:

(b) a reference to the Ministry for the Environment were a reference to Kāinga Ora:

(c) a reference to the Minister were a reference to the responsible Minister under this Act.

(2) Any plan outcomes~~,~~ or policies~~, methods, or rules~~, rules, or other methods of a development plan that override, add to, or suspend any provisions of a natural and built environment plan must—

(a) not go beyond the scope provided for natural and built environment plans under the Natural and Built Environment Act **2022**; and

(b) provide for classes of activities to be specified that are consistent with those set out in **section ~~453~~ 75AAA** of the Natural and Built Environment Act **2022**; and

(c) be clearly identified in the development plan; and

(d) if relevant, enable the provision of all necessary infrastructure for a specified development project.

Replace section 68(1)(b)(i) with:

Urban Development Act 2020 (2020 No 42)—*continued*

(i) any relevant regional spatial strategies and implementation plans made under the **Spatial Planning Act 2022** and natural and built environment plans made under the Natural and Built Environment Act **2022**:

In section 69(1), replace "change the planning instruments" with "override, add to, or suspend the natural and built environment plan".

Replace 69(4)(a) to (d) with:

(a) examine the extent to which the objectives of the proposal in the draft development plan are the most appropriate way to achieve the project objectives, by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(b) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions of the draft development plan; and

(c) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions of the draft development plan, including the opportunities for—

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(d) if practicable, quantify the benefits and costs referred to in **paragraph (c)**; and

(da) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions; and

In section 70(1)(b)(i), replace "historic heritage" with "cultural heritage".

In section 72(8)(a), replace "regional coastal plan" with "natural and built environment plan".

In section 72(9)(b), replace "regional coastal plan" with "natural and built environment plan".

In section 72(10)(e), replace "historic heritage" with "cultural heritage".

In section 72(10)(f), replace "section 229 of the Resource Management Act 1991" with "**section 604** of the Natural and Built Environment Act **2022**".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 83(4), replace "regional coastal plan" with "natural and built environment plan".

Replace section 86(a) with:

> (a) Kāinga Ora is the consent authority for resource consent applications to the territorial authority for the project area, as defined in the development plan, unless the development plan provides otherwise or another exception applies (*see* section 109(1)):

In section 86(b), replace "district plan" with "natural and built environment plan".

In the heading to section 87, replace "**planning instruments**" with "**natural and built environment plan**".

In section 87(1), replace "planning instruments" with "natural and built environment plans".

In section 87(2), replace "district plan" with "natural and built environment plan".

In section 87(3), replace "planning instrument" with "natural and built environment plan".

In the heading to section 88, replace "**planning instruments**" with "**natural and built environment plan**".

In section 88(1), replace "planning instrument that applies to the project area" with "natural and built environment plan that applies to the project area and, despite ~~**section 97(b)**~~ **sections 97(b) and 104** of the Natural and Built Environment Act **2022**, may be inconsistent with the applicable regional spatial strategy".

~~In section 88(2), replace "planning instrument" with "natural and built environment plan".~~

Replace section 88(2) with:

> (2) However, subsection (1) does not apply to any plan outcome or policy, rule, or other method relating to cultural heritage included in a natural and built environment plan, unless the change imposes more stringent management or protection for cultural heritage.

In section 89(1) and (2)(b), replace "planning instrument" with "natural and built environment plan".

In section 89(3), replace "subpart 2 of Part 5 of the Resource Management Act 1991" with "**subpart 6 of Part ~~10~~ 2A** of the Natural and Built Environment Act **2022**".

In section 90(3), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 90(3)(a), (b), and (c), replace "planning instrument" with "natural and built environment plan".

In section 91(2)(a)(i), replace "planning instruments" with "natural and built environment plans".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 91(2)(a)(i), replace "an instrument" with "a natural and built environment plan".

In section 91(2)(a)(ii), replace "any relevant new or amended national direction" with "any amendments to the national planning framework".

In section 92(1), replace "planning instrument is modified" with "natural and built environment plan is overridden by, added to, or suspended by".

In section 93(2), replace "Part 2 of Schedule 1 of the Resource Management Act 1991" with "**~~Part 3~~ subpart 2 of Part 2 of Schedule 7** of the Natural and Built Environment Act **2022**".

In the heading to section 95, replace "**planning instruments**" with "**natural and built environment plans**".

In section 95(a), replace "planning instruments" with "natural and built environment plans".

In section 95(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In the heading to section 96, replace "**planning instruments**" with "**natural and built environment plans**".

Replace section 96(1) with:

(1) Without using the processes required for a plan change under **~~Part 3~~ subpart 2 of Part 2 of Schedule 7** of the Natural and Built Environment Act **2022** or the process required by **section 30 of the Spatial Planning Act 2022**, every regional planning committee must include in the electronic versions of its natural and built environment plan and regional spatial strategy—

(a) a map showing the area of any project area within its district or region; and

(b) advice on where to access the relevant development plan or draft development plan.

In section 97(1), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 97(2) with:

(2) **Section ~~650~~ 30V** of the Natural and Built Environment Act **2022** applies in relation to the transfer as if Kāinga Ora were a public authority under **section ~~650(5)~~ 30V(5)** of that Act.

In the cross-heading above section 98, replace "*Regional or district plan*" with "*Natural and built environment plan*".

In section 98(1), replace "district or regional plan" with "natural and built environment plan".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 98(1) and (2), replace "local authority" with "regional planning committee".

In the heading to section 99, replace "**Relevant local authority**" with "**Regional planning committee**".

In section 99(1), replace "district or regional plan" with "natural and built environment plan".

Replace section 99(2) with:

(2) The regional planning committee must notify Kāinga Ora of that fact, in writing, at least 20 working days before the date on which the committee considers whether to approve or adopt the plan change under **clause ~~62~~ 41 of Schedule 7** of the Natural and Built Environment Act **2022**.

In section 100(1), replace "an approval, adoption, or submission of information under clause 17, 18, or 83(1) of Schedule 1 of the Resource Management Act 1991" with "a decision under **clause ~~62~~ 41 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 100(1)(b) and (3)(a), replace "relevant local authority" with "regional planning committee".

In section 100(7), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 101(1)(c), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 102(4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 103(1) and (5), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 104(3) with:

(3) When Kāinga Ora is exercising a power under subsection (1), **sections 223 to 239** of the Natural and Built Environment Act **2022** apply as if Kāinga Ora were the consent authority, but with the modification that ~~references in those sections to **subpart 1 of Part 1** of that Act are treated as references to subpart 1 of Part 1 of this Act~~ a reference to the purpose of that Act must be treated as a reference to subpart 1 of Part 1 of this Act.

Replace section 105(3) with:

(3) **Sections 832 to 835** of the Natural and Built Environment Act **2022** apply, with the necessary modifications, as if the objection were made under **section 829** of that Act.

In section 108(1) and (3), replace "iwi participation legislation" with "iwi and hapū participation legislation".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 108(1)(a), replace "section 35A of the Resource Management Act 1991" with "**section 819** of the Natural and Built Environment Act **2022**".

In section 109(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 109(1)(b) with:

(b) is not the consent authority if—

(i) a regional council, the Minister for the Environment, or the Environmental Protection Authority would be the consent authority under the Natural and Built Environment Act **2022**; or

(ii) the development plan states that Kāinga Ora is not to be the consent authority (in which case each relevant territorial authority is the consent authority for the part of the project area that is within its district and this section and sections 110 to 128 apply to the territorial authority with the necessary modifications).

In section 109(2)(b) and (c), replace "district plan as amended by" with "natural and built environment plan as overridden by, added to, or suspended by".

In section 109(3), replace "section 38 of the Resource Management Act 1991" with "**section 788** of the Natural and Built Environment Act **2022**".

In section 109(4), replace "sections 332, 334, and 335 of the Resource Management Act 1991" with "~~**section**~~ **sections 790 and 792 to 794** of the Natural and Built Environment Act **2022**".

In section 109(5), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 110(1) and (2), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

After section 112, insert:

112A Kāinga Ora may transfer consenting functions to relevant territorial authorities

(1) Kāinga Ora may, at any time, transfer its functions, duties, and powers under sections 109 and 110 to each of the relevant territorial authorities for a specified development project.

(2) Kāinga Ora—

(a) must give each relevant territorial authority at least 20 working days' written notice of the transfer; but

(b) may make the transfer regardless of whether the relevant territorial authority agrees to it.

(3) Nothing in **subsection (2)(b)** limits the ability of Kāinga Ora and a relevant territorial authority to agree the terms of a transfer.

Urban Development Act 2020 (2020 No 42)—*continued*

(4) If Kāinga Ora makes a transfer under this section to a relevant territorial authority, the territorial authority is the consent authority for the part of the project area that is within its district and sections 109 to 112 and 113 to 128 apply to the territorial authority with the necessary modifications.

In section 113(1)(b), replace "sections 104 to 107 of the Resource Management Act 1991" with "**sections ~~226 and 228~~ 223 to 230** of the Natural and Built Environment Act **2022**".

~~In section 113(2)(a), replace "Part 2 of the Resource Management Act 1991" with "**subpart 1 of Part 1** of the Natural and Built Environment Act **2022**".~~

~~In section 113(2)(b), replace "plan or proposed plan" with "natural and built environment plan or proposed natural and built environment plan".~~

Replace section 113(2) with:

(2) The modifications referred to in subsection (1)(b) are as follows:

(a) a reference to the purpose of the Natural and Built Environment Act **2022** is to be read as a reference to subpart 1 of Part 1 of this Act:

(b) a reference to a natural and built environment plan or proposed natural and built environment plan is to be read as a reference to a natural and built environment plan as overridden by, added to, or suspended by a development plan:

(c) **section 223(2)(c)(ii) of the Natural and Built Environment Act 2022** does not apply:

(d) **section 223(2)(e)** of that Act does not apply to the extent that it relates to a regional spatial strategy.

In section 113(3), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 113(3)(a) and (4), replace "district plan" with "natural and built environment plan".

In the cross-heading above section 114, replace "*Resource Management Act 1991*" with "*Natural and Built Environment Act **2022***".

In section 114(1), replace "sections 9 to 15 of the Resource Management Act 1991" with "**sections 17 to 30** of the Natural and Built Environment Act **2022**".

In section 114(2), replace "Sections 87AA to 87D of the Resource Management Act 1991" with "**Sections 153 to 166** of the Natural and Built Environment Act **2022**".

Replace section 114(3) with:

(3) The following provisions of the Natural and Built Environment Act **2022** apply with the following modifications:

Urban Development Act 2020 (2020 No 42)—*continued*

(a) ~~**section**~~ **sections 167 and 168** (except~~ **subsection (4)**~~ **section 168(4)**):

(b) **section 169** (but **subsection (5)** is to be read as including Kāinga Ora, unless Kāinga Ora is acting as the consent authority):

(c) **sections 170 to 172** (but **section 170(6) and (7)** must be read as requiring the Environment Court to apply the decision-making framework set out in section 113 of this Act if the court is determining a new consent application or an application for a change to, or cancellation of, a resource consent).

In section 115(2), replace "section 88(2) of the Resource Management Act 1991" with "**section 173(4)** of the Natural and Built Environment Act **2022**".

Replace section 115(2)(b) with:

(b) an assessment of environmental effects that complies, to the extent that is relevant, with **Schedule 10** of that Act, modified to replace—

(i) a reference to the purpose that Act with a reference to subpart 1 of Part 1 of this Act:

(ii) a reference to a natural and built environment plan with a reference to a natural and built environment plan as overridden by, added to, or suspended by the development plan.

In section 115(4)(a)(i), delete "or restricted discretionary".

In section 115(4)(a)(ii), delete "or non-complying".

In section 115(6), replace "section 88 of the Resource Management Act 1991" with "**section 173** of the Natural and Built Environment Act **2022**".

In section 116(2), replace "Sections 88A to 88E, 89, and 89A of the Resource Management Act 1991" with "**Sections ~~188~~ 157, 159, 187 to 191, 196, and 197** of the Natural and Built Environment Act **2022**".

Replace section 116(3) with:

(3) **Section 175** of the Natural and Built Environment Act **2022** (deferral pending application for additional consents) applies, modified by reading the reference to additional consents under ~~the Natural and Built Environment Act **2022**~~ that Act as a reference to additional consents under a development plan or under that Act (*see* **section 175(1)(a)** of that Act).

Replace section 117 with:

117 Deferral and suspension

Sections 176 to 182 of the Natural and Built Environment Act **2022** apply to applications made under this subpart or under that Act for further consents in relation to a project area.

Urban Development Act 2020 (2020 No 42)—*continued*

In section 118(1), replace "section 92 of the Resource Management Act 1991" with "**sections 183 and 184** of the Natural and Built Environment Act **2022**".

In section 118(2), replace "Sections 92A and 92B of the Resource Management Act 1991" with "**Sections 185 and 186** of the Natural and Built Environment Act **2022**".

In section 119(2), replace "in a plan as modified" with "in a natural and built environment plan as overridden by, added to, or suspended by".

Replace section 119(3) with:

(3) For activities other than those required to be notified by rules in a development plan or natural and built environment plan, the consent authority may determine whether to notify an application for a resource consent, applying the relevant provisions of **sections 198 to 205** of the Natural and Built Environment Act **2022**, modified by reading—

(a) a reference to a natural and built environment plan ~~as including a reference to a development plan; and~~ —

(i) as a reference to a natural and built environment plan as overridden by, added to, or suspended by the development plan; and

(ii) as including a reference to a development plan; and

~~(b) a reference to a rule as including a reference to a rule in a development plan; and~~

(c) the time limits required under subsection (4) instead of ~~those~~ that provided for in **section 199~~(2)~~(1A)** of the Natural and Built Environment Act **2022**.

In section 119(4)(a), delete "and restricted discretionary".

~~In section 119(5), replace "sections 95A and 95B of the Resource Management Act 1991" with "**section 205** of the Natural and Built Environment Act **2022**".~~

~~In section 119(6), replace "district or regional plan under the Resource Management Act 1991" with "natural and built environment plan under the Natural and Built Environment Act **2022**".~~

Replace section 119(6) with:

(6) A rule for notification continues to apply if—

(a) the rule is in a natural and built environment plan as overridden by, added to, or suspended by the development plan; or

(b) the rule is in the national planning framework.

In section 120(1)(a), delete "or restricted discretionary".

In section 120(3), replace "section 115 of the Resource Management Act 1991" with "**section ~~272~~ 242** of the Natural and Built Environment Act **2022**".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 121(1), replace "sections 96 to 99A and 100A of the Resource Management Act 1991" with "**sections 209 to 217** of the Natural and Built Environment Act **2022**".

In section 121(3), replace "section 100A(2) and (4)" with "**section 217(2) and (3)** of the Natural and Built Environment Act **2022**".

Replace section 122(5) with:

(5) Despite subsections (2) to (4), there is no right to a hearing in respect of applications for resource consents for land use or subdivision activities that are controlled activities under the natural and built environment plan as that plan is ~~modified~~ overridden by, added to, or suspended by the development plan.

In section 122(6), replace "section 41D of the Resource Management Act 1991" with "**clause 89 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 123, replace "Sections 101 to 103B of the Resource Management Act 1991" with "**Sections 216 ~~to 224~~ and 218 to 222** of the Natural and Built Environment Act **2022**".

In section 123(a), replace "section 101(3)" with "**section 216(3)**".

In section 123(b), replace "section 102(2)" with "**section 218(2)**".

In section 123(c), replace "section 103B(2)(a)" with "**section 221(2)(a)**".

In section 123(c), replace "section 42A(1)" with "~~**section 94**~~**clause 91 of Schedule 7**".

In section 124(a), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In section 124(b), replace "regional or district plan" with "natural and built environment plan".

~~In section 125, replace "Sections 108 to 111 of the Resource Management Act 1991" with "**Sections 231 to 239** of the Natural and Built Environment Act **2022**".~~

~~In section 125(a), replace "section 108(10)(a)" with "**section 232(3)**".~~

~~Replace section 125(b) with:~~

~~(b) in **section 231(2)(b)(ii)** of that Act, the reference to an applicable natural and built environment plan includes a reference to an applicable rule in the relevant development plan:~~

~~In section 125(c), replace "section 109(3)" with "**section 236(3)**".~~

Replace section 125 with:

125 Conditions and other obligations

Sections 231 to 239 of the Natural and Built Environment Act 2022 apply to resource consents granted under this subpart by a consent authority, but with the following modifications:

Urban Development Act 2020 (2020 No 42)—*continued*

(a) for the purposes of **section 231(1)** of that Act, the consent authority may include a condition when granting a resource consent only after being satisfied—

(i) of the matters described in **section 231(1)(a) and (b)** of that Act; and

(ii) that the condition will not adversely affect the ability of the specified development project to achieve its project objectives:

(b) in **section 231(2)(b)(ii)** of that Act, the reference to an applicable provision in a natural and built environment plan means a provision in an applicable natural and built environment plan as overridden by, added to, or suspended by a development plan:

(c) in **section 232(3)** of that Act, a reference to a natural and built environment plan means a natural and built environment plan as overridden by, added to, or suspended by a development plan:

(d) in **section 235(3)** of that Act, the reference to section 171 of the Local Government Act 2002 is a reference to section 280 of this Act.

In section 126(1), replace "Sections 113 and 114(1) to (3) of the Resource Management Act 1991" with "**Sections 241 and 243(1) to (3)** of the Natural and Built Environment Act **2022**".

In section 126(1)(a), replace "section 113(1)(a)" with "~~**section 241(1)(a)**~~**section 241(1)(b)**".

Replace section 126(1)(b) with:

(b) in **section 241(1)(c)** of that Act, a reference to a natural and built environment plan is a reference to a natural and built environment plan, as the case requires, overridden by, added to, or suspended by a development plan:

In section 126(1)(c), replace "section 114(2)" with "**section 243(2)**".

In section 127, replace "Sections 116 to 119A of the Resource Management Act 1991" with "**Sections 258 to 265** of the Natural and Built Environment Act **2022**".

In section 128(1), replace "Sections 357 to 358 of the Resource Management Act 1991" with "**Sections 828 to 835** of the Natural and Built Environment Act **2022**".

In section 129(3), replace "section 120 of the Resource Management Act 1991" with "**section 253** of the Natural and Built Environment Act **2022**".

Replace section 129(4) with:

(4) **Section 254** of the Natural and Built Environment Act **2022** applies to an appeal under this section, except that the reference in **section 254(1)(c)** to the

Urban Development Act 2020 (2020 No 42)—*continued*

consent authority must be read as including Kāinga Ora if Kāinga Ora is not the consent authority.

Replace section 130 with:

130 Right of appeal against direction given under section 139 of Natural and Built Environment Act 2022

Nothing in this Act limits or affects a right of appeal to the High Court on points of law under **clause 79 of Schedule 13** of the Natural and Built Environment Act **2022** that a person may have against a direction given under **section 139** of that Act (which relates to the reasonable use of land that is subject to controls).

In section 131(1), replace "section 167 of the Resource Management Act 1991" with "**section 499** of the Natural and Built Environment Act **2022**".

~~Replace section 132(3) and (4) with:~~

~~(3) **Sections 503 to 522** of the Natural and Built Environment Act **2022** apply, with the following necessary modifications, as if —~~

~~(a) a reference to **subpart 1 of Part 1** of the Natural and Built Environment Act **2022** were a reference to subpart 1 of Part 1 of this Act; and~~

~~(b) a reference to the regional planning committee were a reference to Kāinga Ora, as the context may require; and~~

~~(c) a reference to the national planning framework in **section 502** of the Natural and Built Environment Act **2022**, and in **sections 369, 370, 371, 372, and 373** of that Act (as applied by **section 502** of that Act) included a rule in a development plan; and~~

~~(d) references to a natural and built environment plan were references to a plan as modified by a development plan (*see* **sections 502(2)(a)(iii) and 511(2)** of the Natural and Built Environment Act **2022**); and~~

~~(e) the reference to **section 503** in **section 502** of the Natural and Built Environment Act **2022** were a reference to section 134(4) of this Act; and~~

~~(f) the reference to a proposed plan in **section 514(3)(c)** of the Natural and Built Environment Act **2022** were a reference to the draft development plan; and~~

~~(g) a reference to a recommendation of a territorial authority were a reference to a decision of Kāinga Ora; and~~

~~(h) a reference to a local authority (when it is the requiring authority) is a reference to Kāinga Ora; and~~

Urban Development Act 2020 (2020 No 42)—*continued*

~~(i) a reference to the process under **Part 1 of Schedule 7** of the Natural and Built Environment Act **2022** were a reference to the process for preparing a development plan under subpart 2 of Part 2 of this Act; and~~

~~(j) a reference to **clause 28 of Schedule 7** of the Natural and Built Environment Act **2022** were a reference to this section.~~

~~(4) References to a proposed natural and built environment plan in **sections 515, 516, 517, and 521** of the Natural and Built Environment Act **2022** do not apply to designations within the meaning of this subpart.~~

Replace section 132(3) and (4) with:

(3) **Sections 503 to 527D of the Natural and Built Environment Act 2022** apply, with all necessary modifications, as if—

(a) a reference to a territorial authority or regional planning committee were a reference to Kāinga Ora, as the context may require; and

(b) a reference to a natural and built environment plan were a reference to a natural and built environment plan as overridden by, added to, or suspended by a development plan; and

(c) a reference to the purpose of the Natural and Built Environment Act **2022** were a reference to the project objectives of the specified development project and subpart 1 of Part 1 of this Act; and

(d) the references to a proposed plan in **sections 511 and 518(3)(d) of the Natural and Built Environment Act 2022** were references to the draft development plan; and

(e) a reference to a recommendation of a territorial authority or regional planning committee (or both) were a reference to a decision of Kāinga Ora; and

(f) a reference to the process in **Schedule 7 of the Natural and Built Environment Act 2022** were a reference to the process for preparing a development plan under subpart 2 of Part 2 of this Act; and

(g) a reference to **clause 28 of Schedule 7 of the Natural and Built Environment Act 2022** were a reference to, as applicable, section 65, 66, 67, or 134(4) of this Act.

(4) References to a proposed natural and built environment plan in **sections 507A, 512, 515, 516, 517, and 521 of the Natural and Built Environment Act 2022** do not apply to designations within the meaning of this subpart.

In section 132(5), replace "Section 180 of the Resource Management Act 1991" with "**Section 526** of the Natural and Built Environment Act **2022**".

In section 132(6), replace "Section 186 of the Resource Management Act 1991" with "**Section 525** of the Natural and Built Environment Act **2022**".

Urban Development Act 2020 (2020 No 42)—*continued*

In the heading to section 133, replace "**Part 8 of Resource Management Act 1991**" with "**Part 8 of Natural and Built Environment Act 2022**".

In section 133(1), replace "section 176(1) of the Resource Management Act 1991" with "**section 516(1)** of the Natural and Built Environment Act **2022**".

In section 133(2), replace "section 176(1)(b) of the Resource Management Act 1991" with "**section 516(1)(b)** of the Natural and Built Environment Act **2022**".

In section 133(3), replace "section 177 of the Resource Management Act 1991" with "**section 517** of the Natural and Built Environment Act **2022**".

In section 133(3)(b), replace "district plan" with "natural and built environment plan".

~~In section 133(5), replace "Section 171(1) of the Resource Management Act 1991" with "**Section 512(2)** of the Natural and Built Environment Act **2022**".~~

Replace section 133(5) with:

(5) **Section 511 of the Natural and Built Environment Act 2022** applies as follows:

(a) **subsection (1)** of that section does not apply:

(b) **subsection (2)** of that section applies if Kāinga Ora proposes to include a requirement in a draft development plan under section 67 or 134(4) of this Act.

(5A) **Section 512 of the Natural and Built Environment Act 2022** applies as follows:

(a) **subsection (1A)** of that section does not apply:

(b) **subsection (2)** of that section applies as if the person considering a requirement (whether Kāinga Ora or a local authority) must—

(i) have regard to the matters set out in that subsection (other than **subsection (2)(b)**); and

(ii) have particular regard to—

(A) the project objectives of the specified development project and subpart 1 of Part 1 of this Act; and

(B) whether the work and designation are reasonably necessary for achieving the project objectives.

In section 133(6), replace "Section 178(2) to (6) of the Resource Management Act 1991" with "**Section 518(2) to (6)** of the Natural and Built Environment Act **2022**".

In section 135(2), replace "section 145 of the Resource Management Act 1991" with "~~**clause 126 of Schedule 7**~~ **clause 47 of Schedule 10A** of the Natural and Built Environment Act **2022**".

Urban Development Act 2020 (2020 No 42)—*continued*

In section 136(2), replace "section 168 of the Resource Management Act 1991" with "**section 503** of the Natural and Built Environment Act **2022**".

In section 136(4), replace "Sections 169 to 185 (but not section 175) of the Resource Management Act 1991" with "**Sections ~~504~~ 503 to 527** (but not **section 515**) of the Natural and Built Environment Act **2022**".

In section 136(5), replace "Resource Management Act 1991 provided in section 132(3)(a), (c), and (g), (4), (5), and (6)" with "Natural and Built Environment Act **2022** provided in section 132(3)(e), (4), (5), and (6)".

Replace section 136(7) with:

(7) A designation applying wholly outside a project area must be included in the relevant natural and built environment plan, as required by **section ~~508~~ 515** of the Natural and Built Environment Act **2022**.

In section 136(8)(b), replace "district plan" with "natural and built environment plan".

Replace section 136(9) with:

(9) A designation referred to in subsection (6), **(7)**, or (8) must be included in a development plan or natural and built environment plan, as the case requires, without applying section 91 of this Act or **Schedule 7** of the Natural and Built Environment Act **2022**.

In section 144(3)(c), replace "a scheme plan, an operative district scheme, or a district plan" with "a natural and built environment plan".

In section 223(1)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 232(1)(a)(i), replace "section 224(c) of the Resource Management Act 1991" with "**section 582** of the Natural and Built Environment Act **2022**".

In section 232(1)(a)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 235(4)(d), replace "section 244 of the Resource Management Act 1991" with "**section 582** of the Natural and Built Environment Act **2022**".

~~In section 244(1)(g)(ii), replace "section 128(1)(a) or (c) of the Resource Management Act 1991" with "**section 277(1)(a) or (b)** of the Natural and Built Environment Act **2022**".~~

~~In section 244(1)(g)(iii), replace "section 128(2) of the Resource Management Act 1991" with "**section 277(2)** of the Natural and Built Environment Act **2022**".~~

Replace section 244(1)(g)(ii) with:

(ii) under **section 277 of the Natural and Built Environment Act 2022**:

Repeal section 244(1)(g)(iii) and (h).

Urban Development Act 2020 (2020 No 42)—*continued*

In section 244(1)(j)(i), replace "section 36 of the Resource Management Act 1991 (*see* section 36(1)(g) of that Act)" with "**section 821** of the Natural and Built Environment Act **2022**".

~~In section 251, definition of **housing**, replace paragraph (b)(i) with:~~

~~(i) a dwelling house:~~

In section 265(4)(d), replace "section 224 of the Resource Management Act 1991" with "**section 582** of the Natural and Built Environment Act **2022**".

In Schedule 1, after Part 1, insert:

Part 2
Provisions relating to Natural and Built Environment Act 2022

~~**2 Interpretation**~~

~~In this Part, **commencement** means the day on which **Part 4** of the Natural and Built Environment Act **2022** comes into force.~~

2 Meaning of region's NBEA date

In this Part, **region's NBEA date** has the meaning given in **clause 1 of Schedule 1** of the Natural and Built Environment Act **2022**.

3 Transitional provisions for projects underway before ~~commencement~~ region's NBEA date

(1) This clause applies if a specified development project is underway, but not completed, immediately before ~~commencement~~ the relevant region's NBEA date.

(2) The project may continue to proceed under the development plan provisions ~~and~~, planning instruments, and other relevant legislation as in force immediately before ~~commencement~~ the region's NBEA date if—

(a) the development plan has already been approved; or

(b) the development plan has been notified but is subject to any amendments or decisions before being approved.

(3) **Subclause (2)** does not apply if the development plan is prepared after ~~commencement~~ the region's NBEA date.

(4) At the review of a development plan in accordance with section 90(1) after commencement, the development plan ~~must~~ may be amended to align with the legislative changes made to this Act by the Natural and Built Environment Act **2022** that are in force when the review is conducted.

(5) Any project area shown in a planning instrument must also be included in the relevant natural and built environment plan under ~~that Act~~ the Natural and

Urban Development Act 2020 (2020 No 42)—*continued*

Built Environment Act **2022** when it is prepared, unless the project has been disestablished.

(6) In **subclause (2)**, **relevant legislation** means this Act and any other legislation that—

(a) applies to the project by operation of this Act; and

(b) is amended by the Natural and Built Environment Act **2022**.

4 Disestablishment process for projects disestablished after natural and built environment plan established

(1) This clause applies if,—

(a) before ~~commencement~~ a region's NBEA date, a development plan for a project was prepared and amended planning instruments under the Resource Management Act 1991; and

(b) the project is disestablished after Kāinga Ora decides which provisions of the development plan are to be carried across to the relevant natural and built environment plan.

(2) On the notification of a natural and built environment plan, Kāinga Ora must—

(a) identify any provisions of the development plan that it considers should be carried across to the natural and built environment plan and consider how those provisions can be aligned with the natural and built environment plan; and

(b) provide an opportunity for the local authorities and ~~joint~~ regional planning committee for the project area to provide comments on the format and drafting of provisions in the development plan that Kāinga Ora considers should be amended to align with the natural and built environment plan.

(3) Unless any comments about the format and drafting of the amended provisions are provided within 20 working days, those provisions are to be considered appropriate for inclusion into the natural and built environment plan.

(4) Kāinga Ora must consider any comments received on the draft provisions and may amend any of those provisions in response to the comments received.

(5) As soon as practicable after the relevant disestablishment order takes effect, and without using any plan change process under the Natural and Built Environment Act **2022**, Kāinga Ora must—

(a) include the draft provisions (with any amendments) in the natural and built environment plan: and

(b) include in the natural and built environment plan any designations that are in the development plan; and

(c) remove the project area from the natural and built environment plan.

Urban Development Act 2020 (2020 No 42)—*continued*

In Schedule 2, clause 10(2)(b), replace "section 10, 10A, 10B, or 20A(2) of the Resource Management Act 1991" with "**sections 26 to 30** of the Natural and Built Environment Act **2022**".

In Schedule 2, replace clause 10(3) with:

(3) After a disestablishment order comes into force, the relevant local authorities, without using the processes in **Schedule 7** of the Natural and Built Environment Act **2022**,—

(a) may include any applicable ~~objectives, policies, rules, or methods~~ plan outcomes and policies, rules, and other methods from a development plan in the natural and built environment plan; and

(b) must update the natural and built environment plan to include the designations that were in the development plan; and

(c) must remove the project area from the natural and built environment plan.

In Schedule 2, clause 10(6), replace "planning instruments" with "natural and built environment plan".

In Schedule 3, replace clause 1(2) with:

(2) At least 1 member of an IHP who is an accredited person in accordance with **clause 82 of Schedule 7** of the Natural and Built Environment Act **2022** must be given hearing authority under **clause 83 of Schedule 7** of that Act, but more than 1 member who is accredited may be given hearing authority.

In Schedule 3, clause 1(4)(c), replace "the Treaty of Waitangi" with "te Tiriti o Waitangi".

In Schedule 3, clause 1(4)(e), replace "iwi participation legislation" with "iwi and hapū participation legislation".

In Schedule 3, replace clause 6(1)(b) with:

(b) by any person accredited in accordance with **clause 97 of Schedule 7** of the Natural and Built Environment Act **2022** or is otherwise suitably skilled to undertake the role, as long as the person is not involved in the preparation of the draft development plan or its supporting documents.

In Schedule 3, clause 8(2), replace "section 149J of the Resource Management Act 1991" with "~~**section 349**~~ **clause 62 of Schedule 10A** of the Natural and Built Environment Act **2022**".

Waitakere Ranges Heritage Area Act 2008 (2008 No 1 (L))

In section 4(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 7(2)(i), after "built environment", insert "and amenity values".

After section 7(2), insert:

Waitakere Ranges Heritage Area Act 2008 (2008 No 1 (L))—*continued*

(3) In this section, **amenity values** means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

Replace sections 9 to 11~~,~~ and the cross-heading above section 9~~,~~ with:

*Matters relating to Natural and Built Environment Act **2022***

9 Relationship between this Act and Natural and Built Environment Act 2022

(1) If a conflict arises between this Act and the Natural and Built Environment Act **2022**, the Natural and Built Environment Act **2022** prevails.

(2) **Subsection (1)** does not apply to section 13(1)(a)(ii) or 15(2)(b).

10 Plans under Natural and Built Environment Act 2022

(1) When preparing or reviewing a ~~natural and built environment~~ plan under the Natural and Built Environment Act **2022** that affects the heritage area, the planning committee must give effect to the purpose of this Act and the objectives.

(2) The requirements in **subsection (1)** are in addition to the requirements in **Part 4** of the Natural and Built Environment Act **2022**.

(3) When evaluating a proposed plan~~,~~ under the Natural and Built Environment Act **2022** that affects the heritage area, the regional planning committee must also examine whether the proposed plan is the most appropriate way to achieve the objectives (having regard to the purpose of this Act).

(4) The requirements in **subsection (3)** are in addition to the requirements in **clause ~~26(4)~~ 25(1) of Schedule 7** of the Natural and Built Environment Act **2022**.

In section 12(3)(a), replace "clause 22 of Schedule 1 of the Resource Management Act 1991" with "**clause 70 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 12(4), replace "section 65(4) or 73(2) of the Resource Management Act 1991" with "**clause 69 of Schedule 7** of the Natural and Built Environment Act **2022**".

In section 12(4)(a), replace "regional or district plan" with "plan under the Natural and Built Environment Act **2022**".

In section 13(1), delete "or non-complying".

In section 13(1)(a)(ii), replace "national policy statement or New Zealand coastal policy statement" with "National Planning Framework".

In section 13(1)(b), replace "regional and district plans" with "plans".

Waitakere Ranges Heritage Area Act 2008 (2008 No 1 (L))—*continued*

In section 13(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Replace section 13(3) with:

(3) When considering an application for resource consent for a controlled activity in the heritage area, a consent authority must consider the purpose of this Act and the relevant objectives as if they were matters over which a plan or the national planning framework has reserved control.

In section 14, replace "section 108 of the Resource Management Act 1991" with "**section 232** of the Natural and Built Environment Act **2022**".

In the heading to section 15, after "**heritage**", insert "**protection**".

~~In section 15(1)(a), replace "section 168A, 171, 172, 174, 179, 181, or 182 of the Resource Management Act 1991" with "**sections 503, 512, 513, 520, 521, or 522** of the Natural and Built Environment Act **2022**".~~

Replace section 15(1) with:

(1) Subsection (2) applies to a person if the person is making a decision or recommendation that relates to the heritage area or a part of it for—

(a) a designation under **subpart 1 of Part 8** of the Natural and Built Environment Act **2022**; or

(b) a heritage protection order under **subpart 2 of Part 8** of the Natural and Built Environment Act **2022**.

In section 15(2)(b), replace "national policy statement or New Zealand coastal policy statement" with "national planning framework".

In section 15(3), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 16, replace "Sections 309 to 313 of the Resource Management Act 1991 apply as if the following matters were stated in section 310" with "**Sections 695 to 699** of the Natural and Built Environment Act **2022** apply as if the following matters were stated in **section 696**".

In the heading to section 28, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

Replace section 28(1) with:

(1) A regional planning committee may include in a plan made under the Natural and Built ~~Environments~~ Environment Act **2022** any part of a LAP that relates to managing the use, development, or protection of natural and physical resources.

In section 28(2), replace "Part 1 of Schedule 1 of the Resource Management Act 1991" with "**Schedule 7** of the Natural and Built Environment Act **2022**".

Waitakere Ranges Heritage Area Act 2008 (2008 No 1 (L))—*continued*

In section 28(3) and (4), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 35(b), replace "Schedule 11 of the Resource Management Act 1991" with "**Schedule ~~45~~ 14** of the Natural and Built Environment Act **2022**".

Waste Minimisation Act 2008 (2008 No 89)

In section 5(1), definition of **environment**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Water Services Act 2021 (2021 No 36)

In section 3(1)(b), replace "Resource Management Act 1991, regulations made under that Act, and the National Policy Statement for Freshwater Management" with "Natural and Built Environment Act **2022**, regulations made under that Act, and the relevant part of the National Planning Framework under that Act".

In section 5, repeal the definition of **National Policy Statement for Freshwater Management**.

In section 5, insert in its appropriate alphabetical order:

> **NPF freshwater provisions** means a framework rule under the Natural and Built Environment Act **2022** that relate to freshwater management

Replace section 14(1) with:

(1) In this Act, **Te Mana o te Wai**—

(a) has the meaning set out in the national planning framework made by Order in Council under **section 34** of the Natural and Built Environment Act **2022** (and *see also* sections 5, 10, 17, and 18 of this Act):

(b) applies, for the purposes of this Act, to water (as that term is defined in **section 7(1)** of the Natural and Built Environment Act **2022**.

~~In section 41, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".~~

In section 41, replace "Resource Management Act 1991, regulations made under that Act, and the National Policy Statement for Freshwater Management" with "Natural and Built Environment Act **2022**, regulations made under that Act, and the national planning framework freshwater provisions".

In section 43(2)(d), replace "National Policy Statement for Freshwater Management" with "NPF freshwater provisions".

In the heading to section 65, replace "**Part 3 of Resource Management Act 1991**" with "**Part 2 of ~~the~~ Natural and Built Environment Act 2022**".

In section 65(1), replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**".

Water Services Act 2021 (2021 No 36)—*continued*

In section 66(1), replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**".

In section 67, replace "Part 3 of the Resource Management Act 1991" with "**Part 2** of the Natural and Built Environment Act **2022**".

In section 106(1), replace "sections 9, 12, 13, 14, and 15 of the Resource Management Act 1991" with "**sections 17, 19, 20, 21, and 22** of the Natural and Built Environment Act **2022**".

~~**Weathertight Homes Resolution Services Act 2006 (2006 No 84)**~~

~~In section 125B(1), definition of **associated costs**, paragraph (e), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".~~

Wellington Regional Council (Water Board Functions) Act 2005 (2005 No 1 (L))

In section 3, definition of **renewable energy**, replace "section 2 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Wellington Town Belt Act 2016 (2016 No 1 (L))

In section 28(7), replace "Section 11 and Part 10 of the Resource Management Act 1991" with "**Section 18 and Part 9** of the Natural and Built Environment Act **2022**".

Whakarewarewa and Roto-a-Tamaheke Vesting Act 2009 (2009 No 50)

Repeal section 9(1).

In section 9(2)(c), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 25(3), replace "section 11 and Part 10 of the Resource Management Act 1991" with "**section 18 and Part 9** of the Natural and Built Environment Act **2022**".

Whakatane Paper Mills, Limited, Water-supply Empowering Act 1936 (1936 No 7 (P))

~~In section 24A, replace "section 386 of the Resource Management Act 1991" with "the Natural and Built Environment Act **2022**".~~

In section 24A(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Part 2
Amendments to Fisheries Act 1996

Section 2

In section 2(1), definition of **aquaculture activities**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 2(1), definition of **coastal marine area** and **coastal permit**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 2(1), repeal the definition of **regional plan**.

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

> **NBEA plan** means a plan for a region under the Natural and Built Environment Act **2022**
>
> **regional planning committee** has the meaning set out in **section 7** of the Natural and Built Environment Act **2022**

Section 6

In the heading to section 6, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 6(1), replace "regional plan" with "natural and built environment plan".

In section 6(2)(a), replace "section 30(1)(d) of the Resource Management Act 1991" with "**section ~~643~~ 30P(b)** of the Natural and Built Environment Act **2022**".

In section 6(3), definition of **occupy**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Section 11

Replace section 11(2)(a) with:

> ~~(a) any national planning framework, natural and built environment plan, or proposed natural and built environment plan under the Natural and Built Environment Act **2022**; and~~
>
> (a) any NBEA plan or proposed NBEA plan; and

Section 182

In section 182, replace "sections 299 and 308 of the Resource Management Act 1991" with "**clauses 79 and 88 of Schedule 13** of the Natural and Built Environment Act **2022**".

Section 186C

In section 186C, insert in their appropriate alphabetical order:

> **aquaculture area** has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

Section 186C—*continued*

aquaculture area decision means a determination or a reservation in respect of an aquaculture area and the aquaculture activities that may be carried out in the area

In section 186C, definitions of **coastal permit** and **regional council**, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 186C, definition of **application for a coastal permit**, paragraph (a), replace "section 88 of the Resource Management Act 1991" with "**section 173** of the Natural and Built Environment Act **2022**".

In section 186C, definition of **application for a coastal permit**, paragraph (b)(i), replace "section 127" with "**section 274**".

In section 186C, definition of **application for a coastal permit**, paragraph (b)(ii), replace "section 128" with "**section 277**".

~~In section 186C, insert in their appropriate alphabetical order:~~

~~**aquaculture zone** has the meaning given in **section 7** of the Natural and Built Environment Act **2022**~~

~~**aquaculture zone decision** means a determination or a reservation in respect of an aquaculture zone and the aquaculture activities that may be carried out in the zone~~

In section 186C, replace the definition of **determination** with:

determination,—

(a) in relation to a coastal permit, means a decision by the chief executive that they are satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing:

(b) in relation to an aquaculture~~ zone~~ area, means a decision by the chief executive that they are satisfied that the aquaculture activities provided for within the aquaculture~~ zone~~ area will not have an undue adverse effect on fishing

In section 186C, replace the definition of **reservation** with:

reservation,—

(a) in relation to a coastal permit, means a decision by the chief executive that they are not satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing:

(b) in relation to an aquaculture~~ zone~~ area, means a decision by the chief executive that they are not satisfied that the aquaculture activities provided for within the aquaculture~~zone~~ area will not have an undue adverse effect on fishing

Section 186D

In section 186D(1), replace "section 107F of the Resource Management Act 1991" with "**section 230** of the Natural and Built Environment Act **2022**".

Section 186E

In section 186E(1), replace "section 114 of the Resource Management Act 1991" with "**section 243** of the Natural and Built Environment Act **2022**".

Section 186F

In section 186F(3), replace "section 114(5) of the Resource Management Act 1991" with "**section 243(5)** of the Natural and Built Environment Act **2022**".

Section 186GA

In section 186GA(a)(ii) and (b), after "Resource Management Act 1991", insert "or the Natural and Built Environment Act **2022**".

In section 186GA(d), replace "section 114(6) of the Resource Management Act 1991" with "**section 243(6)** of the Natural and Built Environment Act **2022**".

New section 186GAA

After section 186GA, insert:

186GAA Aquaculture decisions must not be made in relation to certain areas

The chief executive must not make an aquaculture decision in relation to any ~~area within the~~ part of an aquaculture ~~zone~~ area that is subject to a coastal permit for aquaculture activities for which an aquaculture ~~zone~~ area decision has already been made.

New subpart 1A of Part 9A

After section 186J, insert:

Subpart 1A—Aquaculture ~~zone~~ area decisions

186JA Chief executive may seek information or consult certain persons for purposes of making aquaculture ~~zone~~ area decision

(1) After receiving a request under **section 477** of the Natural and Built Environment Act **2022** for an aquaculture ~~zone~~ area decision, the chief executive may, for the purpose of making an aquaculture ~~zone~~ area decision, seek information from—

(a) the person who requested the aquaculture ~~zone~~ area decision:

(b) any fisher whose interests may be affected:

(c) the relevant regional planning committee:

(d) persons and organisations that the chief executive considers represent the classes of persons who have customary, commercial, or recreational fish-

New subpart 1A of Part 9A—*continued*

ing interests that may be affected by the aquaculture activities that may be carried out within the aquaculture ~~zone~~ area.

(2) For the purposes of **subsection (1)**, the chief executive—

(a) may set a date by which information must be provided and may grant 1 or more extensions of that date if the chief executive considers it necessary to do so; and

(b) is not required to consider or take into account any information received after that date or extended date (as the case may be).

(3) Before making an aquaculture ~~zone~~ area decision under **section 186JB** or a decision to extend it under **section 186JI**, the chief executive may consult any of the persons or organisations specified in **subsection (1)**.

(4) For the purposes of **subsection (3)**, the chief executive—

(a) may set a date by which the consultation is to be completed and may grant 1 or more extensions of that date if they consider it necessary to do so; and

(b) is not required to consider or take into account any submissions made for the purposes of the consultation received after that date or extended date (as the case may be).

186JB Chief executive to make aquaculture ~~zone~~ area decision

(1) Within 4 months after receiving a request for an aquaculture ~~zone~~ area decision under **section 477** of the Natural and Built Environment Act **2022**, the chief executive must—

(a) make a determination; or

(b) make a reservation; or

(c) make 1 or more determinations or reservations or both in relation to different parts of the aquaculture ~~zone~~ area to which the request relates.

(2) The period of 4 months referred to in **subsection (1)** excludes—

(a) a period during which the chief executive is undertaking consultation under **section 186JA(3)**; and

(b) a period during which the chief executive is, in compliance with **section 186JC(1)**, making an aquaculture ~~zone~~ area decision in relation to a prior request.

(3) In making an aquaculture ~~zone~~ area decision, the chief executive must have regard to—

(a) information held by the Ministry; and

(b) information supplied, or submissions made, to the chief executive under **section 186JA(1) or (3)**; and

New subpart 1A of Part 9A—*continued*

(c) information that is forwarded by the person who requested the decision; and

(d) any other information that the chief executive has requested and obtained.

(4) For the purposes of this section, the chief executive is not required to consider or take into account any information received after the dates specified under **section 186JA(2) and (4)**.

186JC Order in which requests for aquaculture ~~zone~~ area decisions to be processed

(1) The chief executive must make aquaculture ~~zone~~ area decisions in the same order in which the requests for the aquaculture decisions or aquaculture ~~zone~~ area decisions are received.

(2) However, the chief executive may make aquaculture ~~zone~~ area decisions in a different order from that required by **subsection (1)**, but only if satisfied that in making an aquaculture ~~zone~~ area decision out of order it will not have an adverse effect on any other previously received requests for an aquaculture decision under **section 243** of the Natural and Built Environment Act **2022** ~~section 114 of the Resource Management Act 1991~~ or an aquaculture ~~zone~~ area decision under **section 477** of that Act ~~the Natural and Built Environment Act **2022**~~.

186JD Provision of fisheries information relating to stock

For the purposes of this subpart and subparts 1 and 4, the chief executive may, by notice in the *Gazette*, specify the manner and form in which fisheries information relating to stocks is to be made publicly available by the Ministry of Fisheries.

186JE Matters to be considered before aquaculture ~~zone~~ area decision made

In making an aquaculture ~~zone~~ area decision, the chief executive must have regard only to the following matters:

(a) the location of the aquaculture ~~zone~~ area in relation to areas in which fishing is carried out:

(b) the likely effect of the aquaculture activities that may be carried out in the aquaculture ~~zone~~ area on fishing of any fishery, including the proportion of any fishery likely to become affected:

(c) the degree to which those aquaculture activities, if carried out in the aquaculture ~~zone~~ area, will lead to the exclusion of fishing:

(d) the extent to which fishing for a species in the location of the aquaculture ~~zone~~ area can be carried out in other areas:

New subpart 1A of Part 9A—*continued*

(e) the extent to which the occupation of the aquaculture ~~zone~~ area by aquaculture activities will increase the cost of fishing:

(f) the cumulative effect on fishing of any authorised aquaculture activities, including any structures authorised before the introduction of any relevant stock to the quota management system:

(g) the provisions of the ~~NBA~~ NBEA plan that relate to the relevant aquaculture ~~zone~~ area.

186JF Requirements for aquaculture ~~zone~~ area decision

(1) An aquaculture ~~zone~~ area decision must—

(a) be in writing; and

(b) define the areas that are subject to the decision; and

(c) provide reasons for the decision; and

(d) be notified to—

(i) the person that requested the decision; and

(ii) the relevant ~~regional planning committee~~ consent authority; and

(iii) the persons and organisations who supplied information to the chief executive under **section 186JA(1)**; and

(iv) the persons and organisations consulted by the chief executive under **section 186JA(3)**.

(2) The fact that an aquaculture ~~zone~~ area decision has been made and where a copy can be obtained must be—

(a) notified in the *Gazette*; and

(b) made accessible via the Internet.

(3) If the chief executive makes a determination, the determination may—

(a) specify any aquaculture ~~zone~~ area rule that is material to the decision and that relates to the character, intensity, or scale of the aquaculture activities within the aquaculture ~~zone~~ area; and

(b) state that the aquaculture ~~zone~~ area rules may not be changed or cancelled until the chief executive makes a further aquaculture ~~zone~~ area decision in relation to the area affected by the change or cancellation.

(4) If the chief executive makes a reservation, the reservation must also include—

(a) whether the reservation relates to customary, recreational, or commercial fishing, or a combination of them; and

(b) if the reservation relates to commercial fishing, the stocks and areas concerned, specifying any stocks subject to the quota management system and any other stock not subject to the quota management system; and

New subpart 1A of Part 9A—*continued*

(c) any other matters required by regulations to be included.

(5) The chief executive must include, in the notification under **subsection (1)(d)**,—

(a) the information specified in **subsections (1)(b) and (c), (3), and (4)**, as appropriate; and

(b) information about where a copy of the determination or reservation can be obtained.

186JG Judicial review of aquaculture area decision

(1) Any person wishing to seek, under the Judicial Review Procedure Act 2016, judicial review of an aquaculture ~~zone~~ area decision must do so within 30 working days after the notification of the decision under **section 186JF(2)(a)**.

(2) The chief executive must notify the relevant regional planning committee and regional council of—

(a) any proceedings brought to seek judicial review of an aquaculture ~~zone~~ area decision; and

(b) the result of those proceedings, including any appeals.

186JH Expiry of aquaculture ~~zone~~ area decision

(1) An aquaculture ~~zone~~ area decision expires 9 years after the date that the decision is notified under **section 186JF**, except in the following circumstances:

(a) if regulations under **section 851** of the Natural and Built Environment Act **2022** amend any relevant aquaculture area rules, the aquaculture ~~zone~~ area decision expires on the date that the regulations come into force:

(b) if in accordance with **Part 1 of Schedule 7** of the Natural and Built Environment Act **2022**, a regional planning committee reviews an NBEA plan and approves changes to any relevant aquaculture area rules, the aquaculture ~~zone~~ area decision expires on the date that the plan change becomes operative:

(c) if an NBEA plan is undergoing its 9-yearly review under **Part 2 of Schedule 7** of the Natural and Built Environment Act **2022**, the aquaculture ~~zone~~ area decision does not expire until—

(i) the date that the new plan becomes operative; or

(ii) the date that a plan change that amends a relevant aquaculture area rule becomes operative; or

(iii) the date that the regional planning committee publishes the results of the review, if there is no plan change that affects a relevant area aquaculture rule.

New subpart 1A of Part 9A—*continued*

(2) In this section, **relevant aquaculture area rule** means an aquaculture rule in an NBEA plan that is the subject of or affected by a determination under **section 186JF(3)**.

186JI Extension of duration of aquaculture ~~zone~~ area decision

If the chief executive receives a request for an extension of the duration of an aquaculture area decision under **section 480** of the Natural and Built Environment Act **2022**, the chief executive may extend the expiry of the aquaculture ~~zone~~ area decision for a further 9 years if the chief executive is satisfied that there has been no significant change to the nature and extent of fishing in the aquaculture ~~zone~~ area since the previous aquaculture ~~zone~~ area decision.

Section 186N

In section 186N(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Section 186R

In section 186R(2), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Section 186S

In section 186S(2)(a)(i), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Section 186ZD

In section 186ZD, insert in their appropriate alphabetical order:

proposed aquaculture activity means any aquaculture activity authorised by the coastal permit or any aquaculture activity provided for within the aquaculture ~~zone~~ area

reservation means a reservation decision made under subpart 1 or **1A** of Part 9A

New section 186ZEA

After section 186ZE, insert:

186ZEA Negotiator in respect of aquaculture ~~zone~~ area decisions

(1) If an aquaculture ~~zone~~ area decision includes a reservation in relation to stocks subject to the quota management system, the Minister responsible for aquaculture must appoint a negotiator ~~(who may be the Minister or a representative body)~~ for the purpose of—

(a) obtaining consent from quota owners (*see* section 186ZF) and registering an aquaculture agreement:

New section 186ZEA—*continued*

(b) providing compensation to quota owners and registering a compensation declaration.

(2) If an aquaculture agreement or compensation declaration is registered by the negotiator, the negotiator must make the terms of the aquaculture agreement or compensation declaration available to any person who applies for a resource consent or authorisation for an aquaculture activity in the aquaculture ~~zone~~ area.

(3) The negotiator may be—

(a) the Minister responsible for aquaculture or a person or body appointed by the Minister; or

(b) a body that represents aquaculture interests (including the Aquaculture Settlement Trustee).

Section 186ZF

Replace section 186ZF(3) and (4) with:

(3) After an aquaculture agreement is registered, no person whose consent is contained in the agreement may revoke the consent, but the consent and the aquaculture agreement itself come to an end when—

(a) the coastal permit to which they relate comes to an end, unless it is replaced by a new permit in accordance with **section 474** of the Natural and Built Environment Act **2022**; or

(b) the aquaculture ~~zone~~ area decision expires under **section 186JH**, unless it has been extended by the chief executive under **section 186JI**.

(4) For the purposes of this section, subsection (2) applies to the persons specified in that subsection as at 5 pm on the date on which the chief executive gives notice of—

(a) a reservation under section 186H(2)(a) in relation to the coastal permit concerned; or

(b) a reservation under **section 186JF(2)(a)** in relation to an aquaculture ~~zone~~ area.

Section 186ZI

Replace section 186ZI(1)(b) with:

(b) within 6 months after the notification of—

(i) the reservation under section 186H(2)(a) in relation to the coastal permit concerned; or

(ii) the reservation under **section 186JF(2)(a)** in relation to an aquaculture ~~zone~~ area.

Section 186ZI—*continued*

In section 186ZI(4)(c), after "chief executive's aquaculture decision", insert "or aquaculture ~~zone~~ area decision".

Section 186ZIA

Replace section 186ZIA(1)(b) with:

(b) within 6 months after the date of the notification of—

(i) the reservation under section 186H(2)(a) in relation to the coastal permit concerned; or

(ii) the reservation under **section 186JF(2)(a)** in relation to an aquaculture ~~zone~~ area.

In section 186ZIA(4)(c), after "chief executive's aquaculture decision", insert "or aquaculture ~~zone~~ area decision".

Section 186ZK

In section 186ZK(1), after "must", insert "in the case of an aquaculture decision or an aquaculture area decision".

~~After section 186ZK(2), insert:~~

~~(3) The chief executive must in the case of an aquaculture decision or aquaculture zone decision, notify the regional planning committee of the matters of any matter specified in subsection (2) as soon as practicable after the matter has occurred.~~

Section 186ZL

In section 186ZL(1) and (3), after "section 186E", insert "or **186JB**".

In section 186ZL(2), after "section 186H", insert "or **186JF**".

Section 186ZM

In section 186ZM(1), replace "section 114 of the Resource Management Act 1991" with "**section 243** of the Natural and Built Environment Act **2022**".

In section 186ZM(5)(b), replace "section 165ZH of the Resource Management Act 1991" with "**section 474** of the Natural and Built Environment Act **2022**".

New section 186ZNA

After section 186ZN, insert:

186ZNA Compensation to be provided by negotiator if aquaculture agreement not lodged in respect of an aquaculture ~~zone~~ area

(1) This section applies if—

New section 186ZNA—*continued*

(a) the chief executive has, in relation to an aquaculture ~~zone~~ area, made a reservation in relation to commercial fishing of quota management stock; and

(b) the negotiator appointed under **section 186ZEA** has not lodged an aquaculture agreement in respect of the stock before the expiry of the period specified in **section 186ZI(1)(b)** or any extension of that period under section 186ZI(2), subject in either case to section 186ZI(4).

(2) The negotiator must ensure each affected quota owner is paid compensation for the loss of value of the owner's affected quota as determined by an arbitrator appointed in accordance with section 186ZO.

(3) In **subsection (2)**, **quota owner** means a person who is a registered quota owner as at 5 pm on the date on which the relevant reservation is notified in the *Gazette* under **section 186JF(2)(a)**.

Section 186ZO

Replace section 186ZO(1) with:

(1) The holder of a coastal permit or the negotiator appointed under **section 186ZEA** may submit to an arbitrator a request to determine the amount of compensation to be provided under section 186ZN or **186ZNA** and the provisions of the Arbitration Act 1996 (other than those relating to the appointment of an arbitrator) apply as if this section were an arbitration agreement.

Replace section 186ZO(2)(a) with:

(a) by agreement—

(i) between the holder of the coastal permit and all the quota owners if the reservation related to a coastal permit; or

(ii) between the negotiator and all the quota owners if the reservation related to an aquaculture ~~zone~~ area; but

Section 186ZP

In section 186ZP(3)(a), after "coastal permit", "or the negotiator, as the case may be".

Section 186ZQ

Replace section 186ZQ(2) with:

(2) For the purposes of section 186ZR(3)(a)(ii), the holder of the coastal permit or the negotiator, as the case may be, and quota owners may submit proposals to the arbitrator that set out the maximum extent to which complementary use may be made of the site or area concerned for particular quota stocks and aquaculture activities.

After section 186ZQ(5), insert:

Section 186ZQ—*continued*

(6) If, after the arbitrator has made an award, the negotiator decides not to proceed to register the compensation declaration, then the negotiator must pay the quota owners' reasonable costs and expenses, as determined by the arbitrator, for participating in the arbitration.

Section 186ZR

In section 186ZR(1)(b), replace "the aquaculture activities authorised by a coastal permit" with "the proposed aquaculture activities".

In section 186ZR(3)(a)(ii), after "the site", insert "or area".

Part 2A
Amendments to Marine and Coastal Area (Takutai Moana) Act 2011

Section 9

In section 9(1), definition of **aquaculture**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **coastal permit**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **consent authority**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **environment**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **kaitiakitanga**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), replace the definition of **infrastructure** with:

infrastructure means—

(a) pipelines that distribute or transmit natural or manufactured gas, petroleum, biofuel, or geothermal energy:

(b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:

(c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989:

(d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or inten-

Section 9—*continued*

ded to be used to convey electricity, excluding facilities, lines, and support structures if a person—

(i) uses them in connection with the generation of electricity for the person's use; and

(ii) does not use them to generate any electricity for supply to any other person:

(e) a water supply distribution system, including a system for irrigation:

(f) a drainage or sewerage system:

(g) structures for transport on land by cycleways, rail, roads, walkways, or any other means:

(h) facilities for the loading or unloading of cargo or passengers transported on land by any means:

(i) an airport as defined in section 2 of the Airport Authorities Act 1966:

(j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990:

(k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988

In section 9(1), definition of **marine and coastal area**, paragraph (b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 9(1), definition of **plan**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **proposed plan**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **public notice**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **regional council**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **resource consent**, replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), definition of **structure**, paragraph (a), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

In section 9(1), insert in their appropriate alphabetical order:

Section 9—*continued*

environmental limit has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

NBEA permission right means the right held by a customary marine title group under a customary marine title order or agreement as provided for in sections 66 to 68

network utility operator means a person who—

(a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or

(b) operates or proposes to operate a network for the purpose of—

(i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or

(ii) radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989; or

(c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or

(d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or

(e) undertakes or proposes to undertake a drainage or sewerage system; or

(f) constructs, operates, or proposes to construct or operate, a road or railway line; or

(g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or

(h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or

(i) is a responsible special purpose vehicle that is constructing or proposing to construct eligible infrastructure,—

and the words **network facility operation** have a corresponding meaning

national planning framework means the framework provided for in **Part 3** of the Natural and Built Environment Act **2022**

permitted activity has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

permitted activity notice has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

regional planning committee means the regional planning committee within the meaning of **section 7** of the Natural and Built Environment Act **2022**

Section 9—*continued*

regional spatial strategy means the regional spatial strategy within the meaning of **section 8 of the Spatial Planning Act 2022**

target has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

te Oranga o te Taiao has the meaning given in **section 7** of the Natural and Built Environment Act **2022**

In section 9(1), repeal the definition of **RMA permission right**.

In section 9(2), definition of **effect**, replace "section 3 of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

New section 9A

After section 9, insert:

9A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1A** have effect according to their terms.

Section 19

In section 19(3A)(b), replace "section 12(7) of the Resource Management Act 1991" with "**section 19(5)** of the Natural and Built Environment Act **2022**".

In section 19(3C), replace "regional coastal plan" with "plan" in both places.

Section 23

In section 23(4), replace "Part 10 of the Resource Management Act 1991" with "**Part 9** of the Natural and Built Environment Act **2022**".

Section 30

In section 30(2), replace "section 245(5) of the Resource Management Act 1991" with "**section 600** of the Natural and Built Environment Act **2022**".

Section 39

In section 39(1)(c), replace "section 245(5)(b) of the Resource Management Act 1991" with "**section 600(2)** of the Natural and Built Environment Act **2022**".

Section 43

In section 43(5), replace "section 245(5)(b) of the Resource Management Act 1991" with "**section 600(2)** of the Natural and Built Environment Act **2022**".

Section 51

In section 51(2)(e), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Section 52

Replace section 52(1) with:

(1) A protected customary right may be exercised under a protected customary rights order of an agreement without any further approval, including a resource consent, despite any prohibition, restriction, or imposition that would otherwise apply under **sections 14, 15, and 19 to 25** of the Natural and Built Environment Act **2022**.

In section 52(2)(a), replace "section 64A of the Resource Management Act 1991" with "**section 120** of the Natural and Built Environment Act **2022**".

In section 52(2)(b), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Section 55

In section 55(3)(a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 55(3)(b), replace "section 330A of the Resource Management Act 1991" with "**section 754** of the Natural and Built Environment Act **2022**".

In section 55(3)(b), replace "section 330" with "**section 753**".

After section 55(3), insert:

(3A) The existence of a protected customary right does not limit or otherwise affect an aquaculture activity being carried out as a permitted activity under the Natural and Built Environment Act **2022** in a specified part of the common marine and coastal area, regardless of whether—

(a) any application or notice is lodged in relation to the aquaculture activity; or

(b) there is any change in the species farmed; or

(c) there is any change in the location of the coastal space occupied by the aquaculture activity.

Section 59

In section 59(4)(b)(ii), replace "section 2(1) of the Resource Management Act 1991" with "**section 7** of the Natural and Built Environment Act **2022**".

Section 60

In section 60(2)(b)(i), replace "section 64A of the Resource Management Act 1991" with "**section 120** of the Natural and Built Environment Act **2022**".

In section 60(2)(b)(ii), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Section 62

Replace section 62(1)(a) with:

Section 62—*continued*

(a) an NBEA permission right (*see* **sections 66 to 70**); and

After section 62, insert:

62A Information requirements for applicants for resource consents

(1) This section applies in a case where a person applies for a resource consent relating to an area where applicant groups seek customary marine title.

(2) The person applying for a resource consent must—

(a) confirm that they have notified the applicant groups in the area to which the resource consent application relates and that they have sought the views of those applicant groups; and

(b) provide a list of the applicant groups notified; and

(c) record the views obtained from the applicant groups, describing how these views have influenced the contents of the resource consent application.

(3) If an application does not contain the information described in **subsection (2)**, the consent authority must return the application as incomplete in accordance with **section 174** of Natural and Built Environment Act **2022**.

Section 63

In section 63, definition of **accommodated infrastructure**, paragraph (b)(iii), delete "(within the meaning of section 166 of the Resource Management Act 1991)".

In section 63, definition of **accommodated infrastructure**, after subparagraph (b)(vi), insert:

(vii) each of the water service entities established by section 11 of the Water Services Entities Act 2022:

In section 63, definition of **associated operations**, paragraph (a), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In section 63, definition of **emergency activity**, paragraph (c)(vi), replace "section 330 of the Resource Management Act 1991" with "**sections 751 and 753** of the Natural and Built Environment Act **2022**".

Section 64

Replace section 64(2)(e) with:

(e) an existing aquaculture activity carried out in a specified part of the common marine and coastal area may continue to be carried out in that part of the common marine and coastal area,—

(i) regardless of when the application or permitted activity notice is lodged or whether there is any change in the species farmed or in the method of marine farming; but

Section 64—*continued*

(ii) not so as to increase the area, or change the location, of the coastal space occupied by the aquaculture activities for which the existing coastal permit or permitted activity notice was granted or accepted:

Section 66

In the cross-heading above section 66, replace "*RMA*" with "*NBEA*".

In the heading to section 66, replace "**Resource Management Act 1991**" with "**Natural and Built Environment Act 2022**".

In section 66(1), (2), (4), and (5), replace "RMA" with "NBEA".

In section 66(6), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

Section 67

In the heading to section 67, replace "**RMA**" with "**NBEA**".

In section 67(1), replace "RMA" with "NBEA".

In section 67(1)(a), after "notice", insert "in writing".

In section 67(5), replace "section 116 of the Resource Management Act 1991" with "**sections 258 to 263** of the Natural and Built Environment Act **2022**".

After section 67(5), insert:

(6) When the relevant consent authority receives an application for a resource consent to which an NBEA permission right applies, it must refer the application to the relevant customary marine title group unless the group has already notified its decision to the applicant and consent authority under **subsection (2)**.

Section 68

In the heading to section 68, replace "**RMA**" with "**NBEA**".

In section 68(2)(b), replace "section 357 or 357A of the Resource Management Act 1991" with "**sections 828 and 829** of the Natural and Built Environment Act **2022**".

Section 69

In section 69(1), replace "RMA" with "NBEA".

Section 77

Replace cross heading above section 77 with:

National planning framework

Replace section 77 with:

Section 77—*continued*

77 Consultation

(1) If the responsible Minister within the meaning of **section 94** of the Natural and Built Environment Act **2022** proposes to prepare, issue, change, review, or revoke any provisions in the national planning framework that apply to the whole or part of the coastal marine area.

(2) The responsible Minister must,—

(a) in deciding whether to set an environmental limit or target nationally or regionally, consider whether the limit or target would directly affect a customary marine title group and (if they agree that it would) consider that as a factor in favour of setting the limit or target regionally; and

(b) in setting a limit or target that applies to a specific management unit that includes a customary marine title area, consider any planning document prepared under section 85.

Section 84

Replace section 84(2)(b) with:

(b) from the regional council, any charges for sand and shingle taken from the customary marine title area imposed by regulations made under the Natural and Built Environment Act **2022**.

Section 85

After section 85(2)(a), insert:

(aa) set out a vision and objectives of the group for the customary marine title area; and

(ab) provide strategic direction to support the vision and objectives; and

(ac) set out the key actions that must be taken to make progress towards the vision and objectives:

Replace section 85(3) with:

(3) A planning document may include any matter that can be regulated or managed under the enactments specified in subsection (5), including matters that are relevant to—

(a) promoting the use, development, and protection of the environment in the customary marine title area; and

(b) recognising and upholding te Oranga o te Taiao; and

(c) the protection of the cultural identity and historic heritage of the group.

After section 85(3), insert:

(3A) A planning document—

Section 85—*continued*

(a) may contain content relevant to the decision by the Minister responsible for the Fisheries Act 1996 recommend the making of regulations under **section 851** of the Natural and Built Environment Act **2022**:

(b) may be lodged with that Minister and, if lodged, must be considered by that Minister in deciding whether to recommend the making of regulations that directly affect the relevant customary marine title area.

In section 85(5), replace "The planning document may include only matters that may be regulated under" with "The enactments referred to in subsection (3) are as follows:".

In section 85(5)(d), replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**".

Section 86

After section 86(1)(a), insert:

(ab) the regional planning committee for the region to which the planning instrument relates; and

Section 92

In section 92, replace the definition of **regional document** with:

regional document means any of the following:

(a) a plan under the Natural and Built Environment Act **2022**:

(b) a proposed plan under the Natural and Built Environment Act **2022**:

(c) a regional spatial strategy under the **Spatial Planning Act 2022**:

(d) a draft regional strategy that has been made publicly available under the **Spatial Planning Act 2022**

Section 93

Replace section 93 with:

93 Obligations on regional councils in relation to planning documents

Preliminary obligations

(1) A regional planning committee in a region where 1 or more planning documents are registered in accordance with section 86 must, until the requirements of **subsection (5)** have been completed, attach the planning documents to copies of its relevant regional documents that it makes publicly available.

Identification and application of natural and built environment matters included in planning document

(2) Between the time that a planning document is lodged under section 86(1) and the time it is deemed to be registered under section 86(2), a regional planning committee must identify the matters in the planning document that relate to

Section 93—*continued*

natural and built environment issues under the Natural and Built Environment Act **2022** and spatial planning issues under the **Spatial Planning Act 2022**, to the extent that those matters are within its functions under those Acts and are relevant within—

(a) the customary marine title area to which the planning document relates; and

(b) any parts of the common marine and coastal area to which the planning document relates other than the customary marine title area.

(3) When considering under **section 223** of the Natural and Built Environment Act **2022**, a resource consent application for an activity that would, if the consent were granted, directly affect, wholly or in part, the area to which the planning document applies, a consent authority of a regional council must have regard to any matters identified under **subsection (2)**.

(4) The obligation under **subsection (3)** applies only to the matters in respect of which a regional council is able to exercise discretion.

(5) The obligation under **subsection (3)** continues until—

(a) a regional document, altered in accordance with this section, becomes operative in accordance with **Schedule 7** of the Natural and Built Environment Act **2022**; or

(b) 30 working days after the date that the customary marine title group is informed of the decision under **subsection (11)** that no alterations are to be made to the relevant regional documents.

(6) A regional planning committee must notify the regional council when the alteration of the regional document in accordance with this section becomes operative.

Obligations with respect to relevant regional documents

(7) A regional planning committee must initiate a process to determine whether to alter its relevant regional documents, if and to the extent that any alteration would achieve the purpose of the Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**, in order to—

(a) recognise and provide for any matters identified under **subsection (2)(a)**; and

(b) have particular regard to any matters identified under **subsection (2)(b)**.

(8) The process required by **subsection (7)**—

(a) may be commenced at any time after a planning document is registered; but

(b) must be commenced immediately after the first proposed relevant regional document that applies to the customary marine title area.

Section 93—*continued*

(9) In making a determination under **subsection (7)**, a regional planning committee must consider the extent to which alterations must be made to its relevant regional documents to—

(a) recognise and provide for the matters in a planning document that relate to the customary marine title area; and

(b) have particular regard to the matters in a planning document that relate to the parts of the common marine and coastal area other than the customary marine title area.

(10) The obligations on a planning committee under **subsection (9)** must be carried out in accordance with the requirements and procedures that relate to regional documents in—

(a) Part 4 and **Schedule 7** of the Natural and Built Environment Act **2022**; and

(b) the **Spatial Planning Act 2022**.

(11) A planning committee may decide, in conducting the process required by **subsection (7)**, not to alter its relevant regional documents, but only on the grounds that the matters in the planning document—

(a) are already provided for in a relevant regional document; or

(b) would not achieve the purpose of the Natural and Built Environment Act **2022** or the Spatial Planning Act **2022**; or

(c) would be more effectively and efficiently addressed in another way.

(12) If a regional planning committee determines that no alterations should be notified in a plan that is notified under **clause 73 of Schedule 7** of the Natural and Built Environment Act **2022**, or **Schedule 4 of the Spatial Planning Act 2022**, it must inform the customary marine title group in writing and provide reasons for its decision within 5 working days of that decision.

(13) If an application is made to a regional planning committee under subpart 3 of Schedule 7 of the Natural and Built Environment Act **2022** for an independent plan change that includes a customary marine title area in respect of which a planning document has been lodged,—

(a) the provisions of **subpart 2 of Part 2** of that schedule apply to the application, subject to the regional planning committee having regard to any matters in the planning document when making a decision under clause 72 of that schedule; and

(b) if the independent plan change is not rejected or treated as a resource consent application, the regional council must adopt the request and initiate the process required by **subsection (7)**.

Section 110

After section 110(2)(b)(ii), insert:

(iia) the relevant regional planning committee; and

After section 110(3)(b)(i), insert:

(ia) the relevant regional planning committee; and

(ib) the relevant consent authority; and

New Schedule 1A

After Schedule 1, insert:

Schedule 1A
Transitional, savings, and related provisions

s 9A

Part 1
Provisions relating to Natural and Built Environment Act 2022 and Spatial Planning Act 2022

1 Definitions

In this Part, unless the context otherwise requires,—

applicable interim period means, for a customary marine title group, the period—

(a) commencing on the day after the date that the Natural and Built Environment Act **2022** receives the Royal assent; and

(b) ending on the date that the relevant plan or regional spatial strategy is notified

notification means notification, as the case may be, of—

(a) a natural and built environment plan under the Natural and Built Environment Act **2022**; or

(b) a regional spatial strategy under the **Spatial Planning Act 2022**

relevant plan means, in relation to a customary marine title group, the first plan under the Natural and Built Environment Act **2022** for the region in which the customary marine title area is located

relevant regional spatial strategy means, in relation to a customary marine title group, the first regional spatial strategy under the **Spatial Planning Act 2022** for the region in which the customary marine title area is located.

New Schedule 1A—*continued*

2 Lodgement and consideration of planning documents during applicable interim period

(1) A customary marine title group may, during the applicable interim period, lodge a planning document in accordance with section 86.

(2) If a planning document is lodged with a regional council during the applicable interim period before a regional planning committee has been established,—

(a) the regional council must comply with section 93 as it was immediately before it was amended by the Natural and Built Environment Act **2022**; and

(b) the regional council must, as soon as practicable after the regional planning committee for the region is established, provide the regional planning committee with the planning document; and

(c) the fact that the regional council has provided the planning document to the regional planning committee constitutes lodgement of the planning document under section 86; and

(d) the regional planning committee must, as soon as practicable after lodgement of the planning document, advise the customary marine title group in writing—

(i) that the planning document has been lodged; and

(ii) of the matters referred to in **subclauses (3) and (4)**.

(3) A customary marine title group may lodge a revised planning document prior to notification of the first relevant regional spatial strategy or the first relevant plan.

(4) A customary marine title group must lodge a revised planning document by the date specified by the regional planning committee in a public notice published on an Internet site maintained by the committee.

(5) If a revised planning document is not lodged within that date, the regional planning committee must fulfil with its obligations in **section 93(2)** in relation to the planning document that is currently lodged when developing the relevant regional spatial strategy or relevant plan.

(6) If a planning document is lodged by the regional council under **subclause (1)(c)** or by the customary marine title group under **subclause (4)**, a regional planning committee has an additional period of 40 working days after the date of lodgement to fulfil its obligations under **section 93(2)** in relation to the planning document.

(7) Before specifying a date the purpose of **subclause (4)**, a regional council must take into account—

(a) the need for customary marine title groups to review their planning documents and prepare any revised planning documents; and

New Schedule 1A—*continued*

(b) the expected time frames for the preparation and notification of the relevant plan or relevant regional spatial strategy.

Schedule 2

In Schedule 2, Part 1, clause 1, replace "Resource Management Act 1991" with "Natural and Built Environment Act **2022**".

In Schedule 2, Part 1, clauses 6(b) and 10(a), replace "RMA" with "NBEA".

In Schedule 2, Part 1, clause 10(d), replace "Resource Management Act 1991" with "the Natural and Built Environment Act **2022**".

Part 3
Amendments to Resource Management Act 1991

Section 28B

After section 28B(c), insert:

(d) making decisions on the allocation of authorisations under Part 7A where the Minister is specified as the decision maker in a regional plan (as a result of amendments to the regional plan by regulations made under section 360A).

Section 33

Repeal section 33.

Section 44

Replace section 44(2)(a) with:

(a) must consider a report and any recommendations made to the Minister under section 46A(4)(c) or 51, as the case requires, and consider the desirability of consistency with the Natural and Built Environment Act **2022**; and

After section 44(3), insert:

(4) The Minister need not follow the steps in section 46A if the Minister is recommending the making of an amendment to remove content and is satisfied that—

(a) the content would be more efficiently addressed through the processes in the Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**; or

(b) the content is redundant because of the transition from the RMA to the Natural and Built Environment Act **2022** and the **Spatial Planning Act 2022**.

Section 51

After section 51(1)(d), insert:

(da) the desirability of consistency with the Natural and Built Environment Act **2022**; and

Section 52

Replace section 52(1)(a) with:

(a) first, must consider a report and any recommendations made to the Minister by a board of inquiry under section 46A(4)(c) or 51, as the case requires, and consider the desirability of consistency with the Natural and Built Environment Act **2022**; and

Section 53

After section 53(2), insert:

(2A) The Minister may, without using a process referred to in subsection (1), amend a national policy statement to remove content if the Minister is satisfied that—

(a) the content would be more efficiently addressed through the processes in the Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**; or

(b) the content is redundant because of the transition from the RMA to the Natural and Built Environment Act **2022** and the **Spatial Planning Act 2022**.

Section 58E

After section 58E(1)(a), insert:

(aa) consider the desirability of consistency with the Natural and Built Environment Act **2022**; and

Section 58H

After section 58H(2A), insert:

(2B) The Minister may change a national planning standard to remove content without following the process set out in sections 58D and 58E if the Minister is satisfied that—

(a) the content would be more efficiently addressed through the processes in the Natural and Built Environment Act **2022** or the **Spatial Planning Act 2022**; or

(b) the content is redundant because of the transition from the RMA to the Natural and Built Environment Act **2022** and the **Spatial Planning Act 2022**.

New section 79A

After section 79, insert:

New section 79A—*continued*

79A Local authority must not commence full plan review after Natural and Built Environment Act 2022 receives Royal assent

Despite section 79 or any other provision of this Act, local authority must not commence a full review of a regional or district plan on and from day after the date that the Natural and Built Environment Act **2022** receives the Royal assent.

New section ~~85A~~ 85AA

After section ~~85~~ **85A**, insert:

~~85A~~85AA Plan ~~or proposed plan~~ must be updated to reflect changes to aquaculture settlement area

If a notice issued under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 declares space in the coastal marine area to be an aquaculture settlement area or adds or removes space from an aquaculture settlement area, a regional planning committee must—

(a) amend any aquaculture settlement area shown on the plan ~~or proposed plan map~~ to reflect any new aquaculture settlement areas or changes to existing areas made by the notice; and

(b) make the amendment as soon as practicable after the notice is issued; and

(c) make the amendment without using the process set out in Schedule 1.

Section 88

After section 88(6), insert:

(7) If a person applies for a resource consent relating to an area where an applicant group seeks customary marine title or protected customary rights,—

(a) the person must comply with **section 62A** of the Marine and Coastal Area (Takutai Moana) Act 2011 (which requires the person to notify applicant groups, provide a list of the groups notified, and record their views); and

(b) the application must be treated as incomplete if this is not done.

(8) In this section, **applicant group** has the meaning given to it by section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011.

Section 165I

After section 165I(2)(b), insert:

(c) **subsection (4)**.

After section 165I(3), insert:

Section 165I—*continued*

(4) If a regional coastal plan includes a rule that provides for public tendering or another method of allocating authorisations and the Minister of Aquaculture is identified as the decision maker as a result of an amendment to the regional coastal plan by regulations under section 360A, the Minister of Aquaculture must, by public notice and in accordance with the rule, offer authorisations for coastal permits for the occupation of space in the common marine and coastal area.

Section 165U

In section 165U(1), replace "165I" with "165I(1)".

New section 165UA

After section 165U, insert:

165UA Public notice of offer of authorisations by Minister of Aquaculture

(1) A notice given under **section 165I(4)** must—

(a) specify the activities that the authorisation will apply to after it is issued; and

(b) describe the space in the common marine and coastal area that offers for authorisations are invited for, including the size and location of the space; and

(c) subject to sections 123 and 123A, specify the maximum term of the coastal permit; and

(d) specify the closing date for offers; and

(e) specify the criteria that the Minister will apply in selecting successful offers for authorisations; and

(f) specify the manner in which offers for authorisations must be submitted; and

(g) specify any charge payable under section 36(1)(ca); and

(h) specify any other matter that the Minister considers appropriate in the circumstances.

(2) A notice may specify conditions on which the authorisation will be granted, including—

(a) a date earlier than 2 years from the date of its granting on which the authorisation will lapse; and

(b) restrictions on the transfer of authorisations.

(3) If an offer of authorisations is to be by tender, the notice must also—

(a) specify the form of remuneration required, whether all by advance payment, or by deposit and annual rental payments; and

New section 165UA—*continued*

(b) specify whether there is a reserve price.

Section 165W

In section 165W(2), replace "Subsection (1)" with "Subsections (1) and **(4)**".

After section ~~265W(3)~~ 165W(3), insert:

(4) In conducting a tender of authorisations under this Part, the Minister of Aquaculture must give effect to any preferential right to purchase a proportion of authorisations.

(5) For the purposes of **subsection (4)**, provisions in the Acts referred to in subsection (2) relating to a preferential right that refer to the Minister of Conservation or Part 7 of this Act apply as if the references were to the Minister of Aquaculture and relevant provisions of this Part.

Section 165X

After section 165X(4), insert:

(5) For the purposes of offers of authorisations where a public notice has been issued under **section 165I(4)**, this section applies as if the references to a regional council were references to the Minister of Aquaculture.

New section 165YA

After section 165Y, insert:

165YA Grant of authorisation

If the Minister of Aquaculture accepts an offer or reaches an agreement with a person who made an offer under section 165X, the Minister must direct the relevant regional council to grant an authorisation to the person concerned.

Sections 165ZB to 165ZE

Replace sections 165ZB to 165ZE with:

165ZB Regional council may request suspension of applications to occupy common marine and coastal area for purposes of aquaculture activities

(1) A regional council may request the Minister of Aquaculture to suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purpose of aquaculture activities if—

(a) the council has identified actual or anticipated high demand or competing demands for those permits and considers that—

(i) the provisions of the plan will not enable it to manage the demand effectively; and

Sections 165ZB to 165ZE—*continued*

(ii) the suspension is desirable to enable it to amend the plan or to use other measures available under the Act to deal with the demand; or

(b) the council identifies an actual or emerging biosecurity concern relating to aquaculture activities and considers that—

(i) the provisions of a plan will not enable it to manage effectively the biosecurity concern; and

(ii) the suspension is desirable to enable ~~it to amend~~ the plan to be amended or ~~to use~~ other measures available under this Act or other legislation to be used to manage the biosecurity concern.

(2) A request under **subsection (1)** must—

(a) specify—

(i) the space in the common marine and coastal area it is proposed the suspension will apply to; and

(ii) the aquaculture activities that it is proposed the suspension will apply to; and

(iii) the planning or other measure that the council proposes to implement to deal with the identified demand or biosecurity concern; and

(iv) the proposed duration of the suspension, which must be not more than 12 months; and

(b) be accompanied by information about the actual or anticipated high demand or competing demands for coastal permits for occupation of the space for the purposes of the aquaculture activities or biosecurity concern covered by the request.

(3) A regional council must—

(a) give public notice of a request under **subsection (1)** on the day the request is made or as soon as practicable after the request is made; and

(b) give notice of the request to the Environmental Protection Authority.

(4) A public notice under **subsection (3)** must include—

(a) the matters specified in **subsection (2)(a)**; and

(b) a statement to the effect of **section 165ZC(2) and (3)**.

165ZC Effect on applications of request under section 165ZB

(1) **Subsection (2)** applies if a regional council has made a request under **section 165ZB(1)**.

(2) A person must not apply for a coastal permit to occupy any space that is the subject of the request for the purpose of an aquaculture activity in the request

Sections 165ZB to 165ZE—*continued*

during the period commencing on the day on which public notice of the request is given under **section 165ZB(3)(a)**, and ending on,—

(a) if the request is declined, the day on which the regional council publicly notifies under **section 165ZD(6)** that the request has been declined; or

(b) if the request is granted, the date on which the *Gazette* notice issued by the Minister of Aquaculture under **section 165ZD** in response to the request expires.

(3) Neither this section nor **section 165ZD** affects—

(a) any application received by the regional council before the request was made under **section 165ZB(1)**:

(b) any application to which section 165ZH applies:

(c) any application made in accordance with an authorisation.

165ZD Minister of Aquaculture may suspend applications to occupy the common marine and coastal area for the purposes of aquaculture activities

(1) If the Minister of Aquaculture receives a request under **section 165ZB(1)**, the Minister—

(a) must consult the Minister of Conservation; and

(b) may—

(i) consult any other person whom the Minister considers it appropriate to consult; and

(ii) request any further information from the regional council that made the request; and

(c) must, within 25 working days after receiving the request,—

(i) approve the request by notice in the *Gazette*—

(A) on the terms specified by the regional council in the request; or

(B) on terms that in the Minister's opinion will better manage the actual or anticipated high demand or competing demands in the space or biosecurity concerns; or

(ii) decline the request.

(2) A failure to comply with the time limit in **subsection (1)(c)** does not prevent the Minister from making a decision on the request.

(3) Any period of consultation under **subsection (1)(b)(i)** is excluded from the period specified in **subsection (1)(c)**.

(4) The Minister must not approve the request unless they consider that—

Sections 165ZB to 165ZE—*continued*

(a) there is actual or likely high demand or competing demands for coastal permits for occupation of the space for the purpose of the aquaculture activities that the request applies to; or

(b) there is actual or emerging biosecurity concerns relating to aquaculture activities; and

(c) the planning or other measure that the council proposes to implement, or any modified terms determined by the Minister will—

(i) effectively manage the high demand or competing demands identified under **paragraph (a)**; or

(ii) effective manage the biosecurity concern; and

(iii) be implemented within a time frame that is, in the Minister's opinion, reasonable.

(5) A *Gazette* notice under **subsection (1)(c)(i)** must specify—

(a) the space and aquaculture activities that the suspension on applications will apply to; and

(b) the date the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.

(6) If the Minister declines a request made under **section 165ZB(1)**,—

(a) the Minister must notify the regional council of the decision to decline the request; and

(b) the regional council must, as soon as practicable after receiving notice under **paragraph (a)**, publicly notify that—

(i) the request was declined; and

(ii) applications may be made for coastal permits to occupy any space for any aquaculture activity that was the subject of the request.

(7) The Minister must notify the Minister of Conservation and the Environmental Protection Authority of a decision to issue a *Gazette* notice, or to decline a request for a suspension on receipt of applications.

165ZDA Minister of Aquaculture may suspend applications to occupy the common marine and coastal area for the purposes of aquaculture activities on own initiative

(1) The Minister of Aquaculture may, ~~on~~ at their own initiative, suspend receipt of applications for coastal permits to occupy space in a common marine and coastal area for the purpose of aquaculture activities if the Minister—

(a) has identified actual or anticipated high demand or competing demands for coastal permits for occupation of space in a common marine and coastal area for the purpose of aquaculture activities and considers that—

Sections 165ZB to 165ZE—*continued*

(i) the provisions of the operative plan will not enable ~~it to manage~~ the demand to be managed effectively; and

(ii) the suspension is desirable—

(A) to enable the operative plan to be amended or for ~~the Minister to use~~ other measures available under this Act to ~~deal with~~ be used to manage the demand; or

(B) for the Minister to use other measures available under the Maori Commercial Aquaculture Claims Settlement Act 2004 ~~or~~ for the purpose of upholding the Crown's settlement obligations under that Act in the region; ~~and~~ or

(b) has identified an actual or emerging biosecurity concern relating to aquaculture activities and considers that—

(i) the provisions of ~~a~~ the operative plan will not enable ~~it to manage~~ the biosecurity concern to be managed effectively ~~the biosecurity concern~~; and

(ii) the suspension is desirable to enable the operative plan to be amended or for other measures ~~to be used~~ available under this Act or ~~under~~ other legislation ~~related to biosecurity~~ to be used to manage the biosecurity concern.

(2) The Minister must consult the regional council and Minister of Conservation, and may consult any other person the Minister considers it appropriate to consult.

(3) The Minister must issue the suspension by notice in the *Gazette*, which must specify—

(a) the space and aquaculture activities that the suspension on applications will apply to; and

(b) the date the notice expires, which must not be more than 12 months after the date of the *Gazette* notice.

(4) To avoid doubt, this section may apply in relation to an aquaculture activity, 1 or more classes of aquaculture activities, or all aquaculture activities.

165ZDB Effect on applications of suspension under section 165ZDA

(1) A person must not apply for a coastal permit to occupy any space that is the subject of a *Gazette* notice issued by the Minister of Aquaculture under **section 165ZDA** for the purpose of an aquaculture activity during the period commencing on the day on which the *Gazette* notice is issued and ending on the date on which the *Gazette* notice expires.

(2) Neither this section nor **section 165ZDA** affects—

Sections 165ZB to 165ZE—*continued*

(a) any application received by the regional council before the *Gazette* notice was issued by the Minister of Aquaculture under **section 165ZDA**:

(b) any application to which section 165ZH applies:

(c) any application made in accordance with an authorisation.

165ZE Subsequent requests for direction in relation to suspension of receipt of applications

(1) The Minister of Aquaculture may issue a further *Gazette* notice under **section 165ZD** before the expiry of a notice issued under that section if—

(a) a request for a further suspension on the receipt of applications is made by a regional council under **section 165ZB**; and

(b) the Minister considers that—

(i) there remains actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; and

(ii) the regional council does not have in place planning or other measures that will satisfactorily manage the high demand or competing demands; and

(iii) the Minister is satisfied that more time is needed to put in place plan provisions to deal with the demand; or

(c) the Minister considers that—

(i) there remains an actual or emerging biosecurity concern relating to aquaculture activities; and

(ii) the regional council does not have in place planning or other measures that will satisfactorily manage the biosecurity concern; and

(iii) the Minister is satisfied that more time is needed to put in place plan provisions or other measures to deal with the biosecurity concern.

(2) **Sections 165ZB to 165ZD** apply with any necessary modifications to a request for a further suspension of receipt of applications.

(3) The Minister of Aquaculture may issue a further *Gazette* notice under **section 165ZDA** before the expiry of a notice issued under that section if—

(a) the Minister considers that—

(i) there remains actual or likely high demand or competing demands for coastal permits to occupy the space for the relevant activity or activities; and

Sections 165ZB to 165ZE—*continued*

(ii) planning or other measures are not in place that will satisfactorily manage the high demand or competing demands; and

(iii) the Minister is satisfied that more time is needed to put in place plan provisions or other measures to deal with the demand; or

(b) the Minister considers that—

(i) there remains an actual or emerging biosecurity concern relating to aquaculture activities; and

(ii) planning or other measures are not in place that will satisfactorily manage the biosecurity concern; and

(iii) the Minister is satisfied that more time is needed to put in place plan provisions or other measures to deal with the biosecurity concern.

Section 357A

After section 357A(d), insert:

(da) against its determination under **clause 40 of Schedule 12** on an application by the person for a resource consent, that **clause 39 of Schedule 12** does not apply to the activity to which the application relates:

Section 360A

Replace section 360A(1) with:

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister of Aquaculture,—

(a) amend provisions in a regional coastal plan that relate to the management of aquaculture activities in the coastal marine area; and

(b) amend a regional coastal plan to establish a process for the allocation of authorisations for aquaculture activities.

After section 360A(2), insert:

(2A) Regulations establishing a process for the allocation of authorisations for aquaculture activities—

(a) must provide for how allocation offers for those authorisations are to be decided; and

(b) may specify—

(i) that the Minister of Aquaculture is the decision maker for allocation offers made under the process; and

(ii) the circumstances in which the Minister must make those decisions; and

(iii) criteria by which the Minister must make those decisions; and

Section 360A—*continued*

(c) may require the regional council to issue any aquaculture related authorisation in respect of any allocation offer that the Minister has accepted under the process; and

(d) may provide for any other matter necessary for establishing or giving effect to the process.

After section 360A(3), insert:

(3A) In this section, **authorisation** has the same meaning as in section 165C.

Section 360B

After section 360B(2)(b)(iv), insert:

(v) any customary marine title holder in the area covered by the plan; and

(vi) any applicant group as defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011 in the area affected by the plan; and

After section 360B(2)(d), insert:

(e) has considered any relevant planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 and lodged with the Minister or regional council, to the extent that their content has a bearing on the proposed regulations; and

(f) has first had regard to how the proposed regulations may affect the preferential rights provided for in section 165W, if the proposed regulations would amend a regional coastal plan to establish a process for the allocation of authorisations for aquaculture activities.

Schedule 12

In Schedule 12, after Part 5, insert:

Part 6
Provisions relating to Natural and Built Environment Act 2022

38 Interpretation

In this Part, unless the context otherwise requires,—

affected resource consent means any of the following resource consents for the following activities under this Act:

(a) a water permit for an activity that takes, uses, dams, or diverts freshwater ~~water other than open coastal water and geothermal water~~:

(b) a discharge permit for an activity that—

Schedule 12—*continued*

(i) discharges any contaminant or water into freshwater ~~water~~; or

(ii) discharges any contaminant onto or into land in circumstances that may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering freshwater ~~water~~:

(c) a land use consent for an activity that would otherwise contravene section 15(1)(a) and (b) ~~(discharges to water)~~ by discharging a contaminant or water into freshwater or discharging a contaminant onto or into land in circumstances that may result in the contaminant entering freshwater

applicable interim period, in relation to a resource consent, means the period—

(a) commencing on the day after the date that the Natural and Built Environment Act **2022** ~~comes into force~~ receives the Royal assent; and

(b) ending on the date that the first natural and built environment plan for the region (in which the resource consent is granted) is notified~~.~~

relevant rules means rules in the first natural and built environment plan for a region that provide for allocation methods.

~~**39 Affected resource consents expire 3 years after close of applicable interim period**~~

~~An affected resource consent that is granted on or after the date that the Natural and Built Environment Act **2022** comes into force expires 3 years after the close of the applicable interim period unless—~~

~~(a) the resource consent was granted for a shorter period; or~~

~~(b) the consent authority has made a determination under **clause 40** that this clause does not apply to the resource consent.~~

39 Duration of affected resource consent

(1) The duration of an affected resource consent that is granted during the applicable interim period must be determined by a consent authority in accordance with this clause.

(2) The consent authority must be granted for a period that does not exceed 5 years after the date that the relevant rules have legal effect.

(3) A consent authority must, no later than 10 working days after receiving an application for an affected resource consent, notify the applicant that **clauses 38 to 40** applies to their application.

40 When clause 39 does not affect duration of resource consent

(1) **Clause 39** does not affect the duration of an affected resource consent if—

Schedule 12—*continued*

(a) a person (regardless of whether they are a holder of an affected resource consent)—

(i) applies, during the ~~interim~~ applicable interim period, for an affected resource consent (or an affected resource consent for the same activity); and

(ii) seeks, as part of their resource consent application, a determination from the consent authority that **clause 39** does not ~~apply~~ affect the duration of the consent; and

(iii) demonstrates that the application is primarily for an activity described in **subclause (3)** ~~or an activity described in regulations made under **subclause (4)**~~; and

(b) the consent authority determines that **clause 39** does not ~~apply~~ affect the duration of the consent after being satisfied that the application is primarily for an activity described in **subclause (3)** ~~or an activity described in regulations made under **subclause (4)**~~.

(2) If **subclause (1)** applies, the consent authority must determine the duration of the affected resource consent in accordance with sections 104 and 123.

(3) The activities referred to in **subclause (1)(b)** are as follows:

(a) the construction, operation, upgrading, or maintenance of local authority or community reticulated water supply networks:

(aa) the construction, operation, upgrading, and maintenance of infrastructure that forms part of a public wastewater, stormwater, or sewerage network:

(b) the ~~construction,~~ operation, upgrading, or maintenance of ~~the following hydro-electric schemes:~~

(i) Waikato Hydro-Electric Scheme:

(ii) Tongariro Hydro-Electric Scheme:

(iii) Waitaki Hydro-Electric Scheme:

(iv) Manapouri Hydro-Electric Scheme:

(v) Clutha Hydro-Electric Scheme:

(vi) hydrogeneration facilities with an operational capacity of 5 megawatts or greater:

(c) the construction, upgrading, or maintenance of any of the following infrastructure activities:

(i) State highways:

(ii) the high-pressure gas transmission pipeline network operating in the North Island ~~; or~~:

(iii) the national grid electricity transmission network or local distribution network:

Schedule 12—*continued*

(iv) the New Zealand rail network (including light rail):

(v) renewable electricity generation facilities that connect directly to the national grid electricity transmission network or that connect to a local distribution network:

(vi) any airport used for regular air transport services by aeroplanes capable of carrying more than 30 passengers:

(vii) port facilities of each port company referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002:

~~(viii) infrastructure that forms part of a public wastewater, storm water, or sewerage network:~~

(ix) infrastructure that forms part of a public telecommunications network~~.~~:

(d) replacement, repair, or removal activities for the purpose of an activity described in **paragraphs (a) to (c)**:

(e) an activity specified in an Order in Council under made under this clause.

(3A) The activities described in **subclause (3)(c)(vi) and (vii)** do not include any ancillary commercial activity or facilities for that activity.

(4) The Governor-General may, on the recommendation of the Minister, make regulations specifying further infrastructure activities that are not affected by **clause 39** ~~for the purpose of this clause~~.

(5) Before making make a recommendation under **subclause (4)**, the Minister must be satisfied that the activity is—

(a) an infrastructure activity that has regional or national significance; or

(b) an activity that is associated with an activity described in **paragraph (a)**; or

(c) the construction, operation, upgrading, and maintenance of water storage facilities for the purpose of improving outcomes related to resilience to environmental change or climate change.

~~(5) Before recommending regulations under **subclause (4)**, the Minister must have regard to the criteria in **section 329(3)** of the Natural and Built Environment Act **2022**.~~

(6) The activities described in **subclause (3)(c)(vi) and (vii)** do not include any ancillary commercial activity or facilities for that activity.

(7) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Schedule 12—*continued*

41 Public notification of applications for affected resource consent for same activity precluded

(1) A consent authority must not, during the interim applicable period, give public notification of an application for an affected resource consent if the application is for the same activity to which an application under section 124 relates.

(2) To avoid doubt, **subclause (1)**—

(a) applies despite any provision of this Act or any rule in a national environmental standard or regional plan; and

(b) does not prevent a consent authority from giving limited notification of the affected resource consent.

(3) This clause applies on and from the day after the date that the Natural and Built Environment Act **2022** receives the Royal assent.

42 Submitters appeal rights restricted for limited notified affected resource consent application

(1) A person who made a submission on a limited notified application for an affected resource consent may not, despite section 120(1)(b), appeal against the whole or any part of a decision of a consent authority on the application, unless the Environment Court is satisfied that the person has an interest in the application that is greater than the interest that the general public has.

(2) This clause applies on and from the day after the date that the Natural and Built Environment Act **2022** receives the Royal assent.

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