

Fast-track Approvals Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Fast-track Approvals Bill and recommends by majority that it be passed. We recommend all amendments by majority.

Some of us do not agree with the amendments proposed or the rationale provided for those proposed amendments. We have provided more detail about our differing views later in this commentary.

Introduction

This omnibus bill would provide a streamlined decision-making process to expedite infrastructure and development projects that offer significant regional or national benefits.

Infrastructure and development projects are subject to a range of approvals.¹ Due to the numerous and varying requirements of individual regulatory regimes, consenting large or complex projects can be time-consuming and costly, and can place insufficient value on the benefits of a project. This bill aims to provide a more efficient and certain pathway for projects to seek approvals. To achieve this, it would consolidate multiple approval processes that are typically required for large or complex projects, in a one-stop-shop arrangement.

The bill would provide for approvals to be granted under the following Acts:

- Resource Management Act 1991
- Conservation Act 1987

¹ Depending on the relevant Act or regulation, an approval could be a resource consent, notice of requirement, certificate of compliance, licence, permission, clearance, or other authority.

- Reserves Act 1977
- Wildlife Act 1953
- Heritage New Zealand Pouhere Taonga Act 2014
- Freshwater Fisheries Regulations 1983
- Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
- Crown Minerals Act 1991
- Public Works Act 1981
- Fisheries Act 1996.

Part 2 of the bill would set out the fast-track approvals process for eligible projects. An expert panel would consider listed and referred projects. These proposed projects would be listed in Schedule 2 of the bill. Part A of Schedule 2 lists projects that would be directly referred to an expert panel. Applications for Part A listed projects would be lodged directly with the Environmental Protection Authority (EPA) for consideration by an expert panel. Projects in Part B of Schedule 2 would first be considered by joint Ministers before being referred to an expert panel. These are referred to as Part A and Part B listed projects in this commentary. Unlisted projects could also apply for the fast-track approvals process.

The bill as introduced would establish as joint Ministers the Minister for Infrastructure, the Minister of Transport, and the Minister for Regional Development. Where an approval concerns anything that relates to the Wildlife Act 1953, the Minister of Conservation must act jointly with those Ministers. For an approval relating to the Crown Minerals Act 1991, the Minister responsible for that Act must act jointly with those Ministers.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We raised a number of matters with officials and some of us are satisfied with the information and advice we received. From our consideration of various matters, the majority of us have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments and the structure of this commentary

In this commentary, we discuss only the main changes we recommend to the bill. We have organised our comments by topic, rather than following the order of the clauses as they appear in the bill.

The main amendments we propose in this commentary relate to the following topics:

- the bill's purpose statement
- decision-making powers
- eligibility criteria

- ineligible activities
- referral application requirements and time frames
- obligations relating to Treaty settlements
- expert panel membership and process requirements
- decision-making process and requirements for approvals under specified legislation
- international obligations, including international conservation agreements.

In addition, we have proposed extensive restructuring of the bill's provisions to improve its workability. Much of this involves reordering and renumbering of clauses, rather than changes to their substance. To help find the new clause number, we refer readers to Appendix B, which sets out clause comparison tables produced by the Parliamentary Counsel Office.

Where we propose substantive changes, we draw attention to them and discuss them. We do not discuss purely technical and consequential amendments.

Purpose clause

Clause 3 sets out the purpose of the bill as “to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits”. This would be the primary consideration for decision-making.

Some submitters suggested that the purpose statement in the bill as introduced is overly focused on providing a fast-track decision-making process, and that more weight should be given to the delivery of the projects. We agree that the purpose as stated in the bill as introduced could be seen as focused on process. Many submitters were also concerned that environmental considerations are excluded from the purpose clause and requested that they be included. We, by majority, emphasise that the policy intent is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

We recommend amending clause 3 so that the purpose of the bill is “to facilitate the delivery of infrastructure and development projects with significant regional or national benefits”.

Power to decide whether to approve projects

As introduced, clause 25 would require the expert panel to which a project had been referred to prepare a report with recommendations on the application and provide this to the joint Ministers. Subclause 25(7) would then require the joint Ministers to approve or decline the project, taking into consideration the expert panel's report. Joint Ministers could deviate from the expert panel's recommendations in certain circumstances.

Many submitters opposed this proposal, saying that Ministers could be susceptible to bias, corruption, or potential lobbying. We agree that it would be more appropriate for

an expert panel to be the final substantive decision-maker on all approvals, rather than the joint Ministers. We consider that this amendment would give greater confidence that decision-making is independent, objective, and well informed.

We recommend inserting new subpart 2B (clauses 24A through 25D) to set out a revised process for panel consideration of substantive applications. Under our proposed clause 24W(1), the panel would be required to decide whether to grant the approval and set any conditions, or decline the approval.

Who should decide and be consulted on referral applications

We consider that the bill should be amended so that decisions on referral applications would be made solely by the Minister for Infrastructure, rather than by joint Ministers. We consider this would provide a more efficient and simple process, and be more consistent with previous fast-track legislation. Our proposed amendment would require the Minister for Infrastructure to consult the Minister for the Environment, and other relevant portfolio Ministers, on all referral applications. Some of us consider this would address some submitters' concerns about a lack of consideration of the environment in the decision-making powers proposed in the bill.

Accordingly, we recommend amending clause 4 to remove the definition of "joint Ministers". We recommend amending clause 19(1)(b) to make clear that the referral Minister would be required to invite written comments from the Minister for the Environment and other relevant portfolio Ministers.

Eligibility criteria for projects

Clause 17 as introduced sets out the eligibility criteria for projects that may be referred to an expert panel. We recommend replacing clause 17 with clause 22B, which largely retains its substance apart from the amendments noted below. Clause 17(2) as introduced sets out the criteria that the joint Ministers would need to consider when determining whether to refer a project to an expert panel. Although clause 17(2) would require the criteria to be considered, it is silent on whether the criteria must be met.

We recommend inserting clause 22A(1) to make clear that the Minister must be satisfied that a project meets the criteria in new clause 22B before deciding to accept the referral application.

Significant regional or national benefits

One of the criteria to be considered under clause 17(2) as introduced (renumbered as 22B(1)) is whether the project would have significant regional or national benefits. Clause 17(3) as introduced lists the matters that would help guide applicants as to what may be considered when the significance of a project's benefits is assessed (renumbered as 22B(2)).

Many submitters commented that the bill is not clear about which types of projects would be considered to have significant regional or national benefits. We note that

the policy intent of the bill is to provide an approvals pathway for a wide range of activities that could be considered to have such benefits.

We recommend inserting clause 22B(2)(a)(ii) to include projects that would enable the continued functioning of existing regionally or nationally significant infrastructure as projects of significant regional or national benefit, so that maintenance and upgrades can be eligible for the fast-track approvals process. Further, we recommend inserting clause 22B(2)(b) so that the Minister may consider any other matters they think relevant when assessing the regional or national benefits of a project.

We note that Part B listed projects would be considered to have significant regional or national benefits for the purpose of referral.

Ineligible activities

Clause 18 in the bill as introduced lists activities that would make a project ineligible for consideration. We recommend restructuring it as new clause 4A, which retains its substance.

High value conservation land

Clause 18(h) as introduced would make an activity ineligible if it would occur on land that is listed in items 1–11 or 14 of Schedule 4 of the Crown Minerals Act.² This is intended to ensure that high-value conservation land is ineligible for non-mining activities under the fast-track approvals process.

The bill as introduced uses Schedule 4 of the Crown Minerals Act as a reference for the highly protected conservation land that would be ineligible for non-mining activities under the bill. Some submitters found this confusing. We therefore recommend inserting Schedule 3A into the bill which would expressly set out the land on which non-mining activities are ineligible. Changes to this schedule could be made on the recommendation of the Minister of Conservation by Order in Council.

Some submitters suggested that land subject to Schedule 4 of that Act should be made eligible for the fast-track approvals process under certain circumstances. We note that there is existing nationally significant infrastructure on land subject to Schedule 4 of the Crown Minerals Act, and this infrastructure would be ineligible for re-consenting using the fast-track approvals process as introduced. We consider that there may be merit in applications for some electricity generation and transmission activities on high-value conservation land being eligible. This could help to maintain and enhance New Zealand's electricity generation and transmission capacity. We recommend that the Government consider this as a potential change for an amendment paper.

Under clause 18(f) as introduced, an activity would be ineligible if it would require an access arrangement under section 61 or 61B of the Crown Minerals Act for an

² This would not apply to activities that would require an access arrangement under the Crown Minerals Act. These are addressed in Schedule 10 of the bill.

area for which a permit cannot be granted under that Act. This could be interpreted to mean that mining activities with a more than minimum impact would be allowed on land subject to Schedule 4 of the Crown Minerals Act. The intent of the bill is not to enable any additional types of land or waters to be used for mining activities beyond what is already provided for in the Crown Minerals Act. Nonetheless, we consider that the bill could be clarified so that an access arrangement under section 61 or 61B of the Crown Minerals Act cannot be provided for in areas for which one could not be granted under the Crown Minerals Act. We recommend inserting clause 4A(1)(f) to this effect.

Identified Māori land or land returned under Treaty settlements

A project would be ineligible under clause 18(a) (renumbered as 4A(1)(a)) if it included an activity that occurred on identified Māori land, or land returned under a Treaty settlement, and the relevant landowner had not agreed in writing to the activity taking place.

Some submitters expressed concern that the requirement for written agreement from relevant landowners would make many linear infrastructure projects ineligible, because of the difficulty of identifying all landowners of Māori land. We agree with these concerns but recommend retaining clause 18(a) as reflected in new clause 4A(1)(a). Instead, we recommend inserting clauses 22D(1)(a) and 22D(1)(b) to allow the Minister the discretion to determine that an activity on identified Māori land is not ineligible if it is on Māori freehold land or general land owned by Māori that was previously Māori freehold land, and is for the construction of electricity lines or land transport infrastructure by a network utility provider that is a requiring authority. Before making a determination, the Minister would be required by new clause 22D(2) to consider the effects of the activity on the land and on the rights or interests of Māori in that land. If the Minister considered that the activity would have adverse effects on that land, or on Māori rights or interests in that land, they could decline to make a determination. The activity would remain ineligible unless it had been agreed to in writing by the owners of the land.

For clarity, we recommend inserting the following definitions in new clause 22D(4):

- “electricity lines” means works that are used or intended to be used for the conveyance of electricity
- “land transport infrastructure” means structures for transport on land by cycleways, rail, roads, walkways, or any other means.

Mātaitai reserves and taiāpure

We recommend inserting clause 4A(1)(da) to make ineligible any activity that would occur in an area that is taiāpure (local fishery), a mātaitai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996 and that:

- would have a more than minor adverse effect on the use or management of the area
- has not been agreed to in writing by the tangata whenua of the area.

Reserves

Clause 2 of Schedule 5 would enable council reserves to be eligible for the fast-track approvals process.

Some submissions from local government expressed concern about this because decision-makers would be able to grant property rights over council-owned reserves without councils' consent. We acknowledge that local authorities must be able to decide how their reserves are managed, given that they bear the costs and risks associated with a reserve and its use.

We recommend inserting clause 4A(1)(j) and (k) so that an activity on land owned or managed by a local authority, or any reserve that is owned by someone other than the Crown or managed by someone other than the Department of Conservation, would not be eligible for the fast-track approvals process if the activity has not been agreed to in writing by the relevant owner or manager. We recommend also inserting clause 4A(2) so that the agreement referred to in paragraphs (j) and (k) must not be withheld unreasonably.

Referral applications

As introduced, subpart 2 of Part 2 sets out the decision-making process for referral applications.

Information required in referral application

Clause 14 would enable any person to apply to the responsible agency to use the fast-track approval process for a Part B listed project or an unlisted project. Subclause (3) sets out the information that would be required in that application.

Some submitters expressed concern that projects that have previously been declined could be eligible for the fast-track approvals process. We recommend that any prior consideration of the projects under any legislation, and any related decisions of the courts, should be considered as part of a referral decision.

We recommend inserting paragraph 14(3)(ua) to require applicants to include information on whether any activities involved in the project have been considered under other legislation. This would include any details of the application or, if a decision had been made, the outcome of the decision and the reasons for it.

Completion of referral application

Clause 15 sets out the procedure of the responsible agency after receiving a referral application. Clause 15(1) would require the responsible agency to decide whether the referral application is complete within 10 working days after receiving it.

Some submitters commented that this time frame is too short and may hinder good decision-making. One submitter said that the responsible agency would not be able to review whether all requirements have been sufficiently addressed in the application. Some of us consider 10 working days to be an appropriate time frame because the responsible agency's consideration of the referral application is intended to be a high-level check. However, we consider this intention could be better expressed.

We recommend inserting clause 15(1A) to make clear that the referral application would be compliant if it complies with clause 14, and the responsible agency considers that, on the face of the application, the project may be capable of satisfying the criteria in clause 22B, and does not appear to involve an ineligible activity.

Time frame for parties to provide comment

Clause 19 sets out the process after the Minister receives an application, including who they must seek written comments from. Clause 19(5) would require anyone who is invited to provide written comments to do so within 10 working days after receiving the copy of the application.

Some submitters shared concerns about this proposed time frame for invited parties to respond, suggesting various alternatives between 15 and 30 days. We agree that extending the time frame will improve the quality of information received and provide a fairer process.

We recommend amending clause 19(5) to change the time frame to 20 working days.

Report on arrangements for public conservation land

We understand that ownership and management arrangements of conservation land can be complicated. Bespoke arrangements can also apply in some circumstances. We therefore consider that the Minister should be required to consider any formal or informal arrangements over conservation land when considering whether to accept a project into the fast-track process.

We recommend inserting clause 19B to require the Minister to obtain and consider a report on these existing arrangements. The report would be prepared by the Department of Conservation, in consultation with any owner or administrator of the land other than the Crown.

Application requirements for Part A listed projects

As introduced, the bill does not provide a mechanism for the expert panel to have access to information provided at the referral stage. We consider that substantive applications for Part A listed projects should be required to comply with the same information and engagement requirements as referred projects in clauses 14 and 16, to the extent not already covered by the substantive application. This would ensure that Part A listed projects include all the information that would otherwise be provided in the referral stage for Part B listed projects.

We recommend inserting clauses 24CA and 24D to set out requirements for substantive applications, in respect of Part A projects. Subclause 24D(2) would specify that, if the substantive application is for a Part A listed project, it must also contain the information required by clause 14(3). Clause 24CA would explicitly require consultation with the persons and groups in section 16.

Report on Treaty settlements and other obligations

Clause 13 as introduced would require joint Ministers to obtain and consider a report about any Treaty settlements or other obligations that affect Māori interests in a referral application. Proposed new clause 19A replaces clause 13.

Report contents

We recommend inserting new clause 19A(2) so that the report also includes:

- information about Treaty settlements that relate to any land, species, or other resources within the project area (new paragraph (b))
- any protected customary rights or customary marine title granted within the project area (new paragraph (e))
- any applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 that seek recognition of customary marine title or protected customary rights within the project area (new paragraph (f))
- whether the project area would be within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou and, if relevant, the provisions of that Act (new paragraph (g)).

Further, we recommend inserting clause 19A(3)(a) to require the responsible agency to prepare the report in consultation with the relevant departments.

Report requirements for Part A listed projects

As discussed previously, the bill as introduced does not provide a mechanism for the expert panel to have access to information that Part B listed projects are required to provide at the referral stage. However, under clause 6 the expert panel must require the report to comply with its obligations under Treaty settlements and customary rights (discussed further below).

We recommend inserting clause 24FB to require the EPA to request a report under clause 19A from the responsible agency. The responsible agency would be required to provide the report within 10 working days. We note that a report provided under this amendment would not include the summary of comments received by the Minister or the responsible agency's advice on whether the referral application should be declined for any reason connected with the report (which are otherwise required by clause 19A(2)(j) and (k)), given that Part A projects would bypass the requirement for referral by the Minister.

Obligation relating to Treaty settlements and recognised customary rights

Clause 6 would require all persons exercising functions, powers, and duties under the bill to act in a manner that is consistent with the obligations of existing Treaty settlements, and the customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

We are aware that the use of the word “existing” could be misinterpreted to refer only to Treaty settlements that exist at the time of enactment. The policy intent is to include Treaty settlements that exist at the time functions, powers, and duties are exercised, rather than only those that exist at the time the legislation is enacted. We recommend inserting clause 6(3) to define “existing Treaty settlements” accordingly.

We also recommend inserting clause 6(2) to make clear that clause 6(1) does not apply to the courts, or to any procedural or administrative matters concerning courts.

Expert panels

Schedule 3 of the bill relates to expert panels, which would be established to consider and make decisions on the approvals sought in a substantive application.

Membership of panels

Schedule 3, clause 3 sets out the requirements for the membership of expert panels. As introduced, up to 4 persons could be appointed as members, and under clause 3(2)(b) membership must include 1 person nominated by the relevant iwi authorities.

The expert panel would be required by Schedule 3, clause 5 to comply with any Treaty settlement Acts and other arrangements that require, among other things, iwi or hapū participation, notification, and consultation in relation to hearings and other procedural matters. In practice, clause 5 would provide for iwi to nominate or influence the nomination of panel members if an equivalent arrangement is provided for by a Treaty settlement or other arrangement.

To avoid overlap between clauses 3 and 5, we recommend deleting clause (3)(2)(b). We acknowledge that this could be viewed as reducing the ability of Māori to have a role in decision-making. However, we consider that clause 5, as well as the overarching obligation to act in a manner consistent with Treaty settlements and customary rights,³ will ensure that Māori rights and interests are considered in decision-making processes.

Skills and experience of members of panel

Schedule 3, clause 7 sets out skills and experience that would be required of panel members.

Many submitters commented that the bill lacks assurance of expertise and quality decision-making. They suggested various amendments to the skills and expertise required of members on the panel. Some submissions from local government recommended specific skills requirements related to consents and the Resource Management Act 1991. Some submissions from business and industry groups said that the panel should have infrastructure and development experience, to reflect the purpose

³ The overarching obligation in clause 6 regarding customary rights is only in relation to the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

of the bill. We agree that there should be more skills and experience required of members on the panel, to ensure robust decision-making.

We recommend amending Schedule 3, clause 7 to require the members of a panel to collectively have:

- the knowledge, skills, and expertise relevant to the approvals sought in the substantive application
- expertise in environmental matters.

As introduced, clause 7(1)(d) would require the members of a panel to collectively have an understanding of tikanga Māori and mātauranga Māori. Given the bill's focus on development, we consider that the panel should have an understanding of te ao Māori more broadly, and Māori development specifically. We believe this would ensure that knowledge of te Tiriti o Waitangi, tikanga Māori, and mātauranga Māori are incorporated in decision-making.

We recommend replacing clause 7(1)(d) with clause (7)(1A)(b) to require the panel membership to include at least one member who is suitably qualified in te ao Māori and Māori development.

Expert panel processes

Schedule 4 as introduced sets out the process for approvals under the Resource Management Act 1991 (RMA). However, many of the processes in Schedule 4 are intended to apply to approvals other than those under the RMA, so we propose restructuring the bill by deleting these provisions in Schedule 4, and reinserting them in the body of the bill. To improve the flow and readability of the provisions that would remain in Schedule 4, we recommend that Schedule 4 as introduced be struck out entirely and replaced with proposed new Schedule 4. This would make it clearer that the process in this schedule would apply to RMA approvals only.

Content of panel report

Following its consideration of a consent application or notice of requirement, a panel would be required by Schedule 4, clause 39 to make a recommendation and produce a report on that recommendation. Clause 39(7) to (9) sets out the information that must be included in the report. Our proposed new clause 24X in the body of the bill now details the content required in a panel report, based on clauses 39(1), 39(2)(b), and 39(7).

Lapse period for consents and designations

The panel would be required by clause 39(8) to recommend the date on which a resource consent or designation would lapse unless given effect to by that specified date. Clause 39(9) would require this date to be no later than 2 years from the date of commencement or inclusion in a district plan.

Many submitters suggested that the lapse period should be consistent with sections 125 to 127 of the RMA. We agree that a two-year lapse period may be insufficient and that the bill should allow some discretion. We recommend inserting clause

24X(1)(b) to allow the expert panel to specify the date on which a resource consent or designation would lapse unless given effect to, with a minimum lapse period of two years. Where the panel did not set a lapse period, a default lapse period of 5 years would apply.

Timing of panel decisions

Schedule 4, clause 39(3) would require the panel to issue its recommendation within the following time frames:

- for listed projects, no later than 25 working days after the date specified for receiving comments under Schedule 4, clause 21
- for referred projects, no later than 25 working days after the date specified for receiving comments under Schedule 4, clause 21, or no later than the time frame specified in the referral decision.

Proposed new clause 24V is based on clause 39(3).

We recommend retaining the time frame of 25 working days. However, to provide for applications that are particularly complex, we recommend inserting clause 24V(2) to enable the panel convener to extend the time frame as it thinks fit.

Requirement for panel to seek advice from administering agencies

We note that there is no mechanism in the bill as introduced to prompt administering agencies to provide advice to the panel.⁴

We recommend inserting clause 24G so that, after receiving a substantive application, the panel convenor must direct the EPA to obtain any advice from the relevant administering agencies. Under clause 24G(3), that advice would need to be provided to the EPA within 10 working days of the panel inviting comments on the substantive application.

Approvals under specified Acts

The remainder of our commentary discusses the approvals that could be granted under the bill.

Clause 10 as introduced sets out that the bill would apply if 1 or more of the approvals specified in clause 10(1) are required for a proposed listed project or proposed referred project. Our proposed new clause 24C(3) is based on clause 10(1).

All approvals, which would be set out in new clause 24C(3), are dealt with in further detail under the following schedules:

- Schedule 4—resource consents, certificates of compliance, notices of requirement under the Resource Management Act 1991 (including freshwater fish

⁴ An administering agency means a department that is responsible for the administration of a specified Act. In this bill, this would also include other agencies where they have statutory functions under the specified Act.

provisions related to the Freshwater Fisheries Regulations 1983 and the Conservation Act 1987)

- Schedule 5—concessions under the Conservation Act 1987 and Reserves Act approvals under the Reserves Act 1977 (Part 1), exchanges of some types of conservation land held under the Conservation Act 1987 and Reserves Act (Part 3), and covenants in force under section 27 of the Conservation Act 1987 or section 77 of the Reserves Act 1977 (Part 4).
- Schedule 6—Wildlife Act approvals under the Wildlife Act 1953
- Schedule 7—approvals for archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014
- Schedule 9—marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
- Schedule 10—access arrangements under the Crown Minerals Act 1991.

We consider that some of these approvals are described in a way that is unclear. We propose redrafting clause 10(1) (as new clause 24C(3)) to better describe the approvals that may be sought in a substantive application. We discuss these changes in the relevant sections below.

Integrated decision-making process

Many submitters pointed out that the bill does not provide an “integrated pathway” for different approvals because decision-making clauses are placed across different schedules. We agree that this could undermine the “one-stop-shop” approach that this bill aims to implement. We consider that the bill should set out a clear decision-making process for the expert panel, as the recommended substantive decision-maker. We recommend inserting clause 24W to this effect.

First, we propose that clause 24W(2) sets out all clauses that the panel must apply and comply with in its decision-making. Second, we propose that clause 24W(3) lists all approvals that may be sought under the fast-track approvals process, and the corresponding clauses in Schedules 4 to 10 that detail the decision-making considerations and other matters for each approval.

To further assist the panel in its decision-making on substantive applications, as set out under new clause 24W, we recommend setting out clear criteria that would require the expert panel to:

- give the greatest weight to the purpose of the bill when considering an application for any approval⁵
- consider factors for each approval under the relevant schedule
- issue a set of decisions on all the approvals sought for the project.

⁵ The only exception would be for certificates of compliance and the net conservation benefit test for land exchanges.

We propose incorporating these amendments into the relevant schedules relating to criteria that the expert panel must consider, with the necessary modifications to make this workable for individual approvals.

Accordingly, we recommend inserting the following:

- clauses 12, 17 and 18A in Schedule 4 (relating to resource consents, certificates of compliance, and designations)
- clauses 5, 17D, and 26 in Schedule 5 (relating to concessions, conservation covenants, and land exchanges)
- clause 1C in Schedule 6 (relating to Wildlife Act approvals)
- clause 2A in Schedule 7 (relating to an archaeological authority)
- clause 9 in Schedule 9 (relating to marine consents)
- clauses 3A and 4A in Schedule 10 (relating to access arrangements).

Information requirements for substantive applications

We consider that the bill should clearly set out the information requirements for substantive applications to give applicants certainty. We recommend amendments to the following schedules to set out the information requirements when an application includes various individual approvals:

- clauses 2, 6, and 7 in Schedule 4 (resource consents, certificates of compliance, and designations)
- clauses 2, 17C, and 23 in Schedule 5 (concessions, land exchanges, and amendment or revocation of conservation covenants)
- clause 1A in Schedule 6 (Wildlife Act approvals)
- clause 2B in Schedule 7 (archaeological authority)
- clauses 4 and 8 in Schedule 9 (marine consents)
- clause 2A in Schedule 10 (access arrangements).

Subsequent variations to fast-track approvals

In Schedules 5, 6, 9, and 10, any variations to any fast-track approvals that have already been granted would be determined by standard decision-makers, using a standard (not fast-track) process. However, those decisions would still be subject to the tests and considerations of the bill.

We recommend that the bill clarifies this in the following schedules:

- clauses 8 and 8A in Schedule 5 (variation to or extension of concessions or Reserves Act approvals)
- clause 2 of Schedule 6 (variation of Wildlife Act approvals)
- clause 13 of Schedule 9 (variation to conditions of marine consents)
- clause 9 of Schedule 10 (variation of access arrangements).

Parties invited to provide written comments

Clause 20 of Schedule 4 specifies that public and limited notification would not be permitted. The clause identifies specific persons and groups that the expert panel could, or would be required to, seek written comments from for listed and referred projects. The substance of this clause would largely be retained, and is reflected in clause 24M so that it applies to all approvals in substantive applications.

Some submitters were concerned that clause 20 would not allow for adequate public participation. They said that failing to do so, particularly for listed projects, would pose significant democratic, social, economic, and environmental risks. The policy intent is for specific persons and groups with a particular interest in the project to be invited to comment, not to seek comments from the broader public. We agree that there may be circumstances where broader public consultation on a project would be beneficial, and we emphasise that the bill would not prevent an applicant from engaging the public outside of statutory processes.

To make the expert panel's obligations clearer and to improve flexibility in the bill, we recommend some amendments:

- requiring the same list of persons and groups to be invited to comment for both listed and referred projects
- removing reference to specific ministerial portfolios and instead requiring the expert panel to seek comments from relevant portfolio ministers
- removing reference to the Director-General of Conservation and Heritage New Zealand Pouhere Taonga, and instead referring to all relevant statutory or other bodies or departments
- removing reference to the New Zealand Infrastructure Commission.

Clause 20(4), which would enable the panel to invite comments from any other person it considers appropriate, is retained and reflected in clause 24M(3).

Parties invited to comment on conservation approvals

The New Zealand Conservation Authority, conservation boards, the New Zealand Fish and Game Council, and the Game Animal Council have statutory responsibilities for their areas and represent conservation, hunting, and fishing interests.

We consider that these parties should be added to the list of those invited to comment on substantive fast-track applications, where projects include relevant conservation approvals.

We recommend inserting the following clauses in the relevant schedules:

- clause 4 in Schedule 5
- clause 1BA in Schedule 6
- clause 2C in Schedule 10.

Modifications to Public Works Act process

Schedule 11 relates to modifications to the Public Works Act process to acquire land.

Requirement for the court to accept any determination relating to notices of requirement

Clause 3 of Schedule 11 would amend the Public Works Act to allow the Environment Court to accept any determination about the adequacy of consideration of alternative sites, routes, or methods, whether or not the parties consented. Clause 3 would also enable the court to consider any material new evidence relating to the matters described in clause 36(1)(a) of Schedule 4.

We note that a submitter questioned the effectiveness of the provision, suggesting that the court would be unlikely to choose to accept the determination.

The intent of this modification to the Public Works Act is to increase efficiency by limiting the objection process to determinations made using the fast-track approvals process. To better align with the intent of the provision, we consider that the bill should require the court to accept the determination of the expert panel. This would limit consideration by the Environment Court to that of material new evidence relating to the matters in section 24(7)(b) of the Public Works Act. We recommend replacing clause 3 of Schedule 11 accordingly.

International obligations

Some submitters suggested that decisions made under the bill could be inconsistent with several of New Zealand's international obligations and targets including, among others, the United Nations Convention on the Law of the Sea, the Global Biodiversity Framework, and the Paris Agreement on climate change. Some submitters also suggested that the bill could breach New Zealand's obligations under free trade agreements. Some of us were of the opinion that the advice provided to the committee did not sufficiently inform us of the risks the bill might pose to New Zealand's international obligations and free trade agreements.

The majority of us are satisfied that we have considered these concerns. We recommend that the Ministry of Foreign Affairs and Trade and the Ministry for the Environment develop supplementary guidance for the Minister and the expert panel to help them identify the relevant international obligations that may apply to consent applications as they consider them.

International conservation agreements

Clause 1(2)(c) in Schedule 6 would require the joint Ministers or panel to take into account the impacts on threatened, data deficient, and at-risk wildlife species (as defined in the New Zealand Threat Classification System). Proposed new clause 1A(e) is based on this clause.

One submitter noted that various migratory species are protected under the Wildlife Act and are listed in the appendices of the Convention on the Conservation of Migratory Species of Wild Animals but may not be defined in the New Zealand

Threat Classification System because they spend part of their lifecycle elsewhere. This means that these species are not given a threat status under the classification system and would therefore not qualify under clause 1(2)(c). Some submitters raised concerns that this would increase the risk of species becoming extinct. One submitter noted that domestic legislation needs to be consistent with New Zealand's international obligations, notably the Convention on the Conservation of Migratory Species of Wild Animals.

We agree that there is a gap in the bill regarding those migratory species. We consider that Schedule 6 should include a provision that would require panels to consider species that are the subject of international conservation agreements in their decision-making.

We recommend inserting clause 1C(d) in Schedule 6 to require the panel to take into account the "information and requirements relating to the protected wildlife that is to be covered by the approval". This could include the New Zealand Threat Classification System or any relevant international conservation agreement.

Amendments to other legislation

Schedule 13 would make minor changes to other legislation that is relevant to the bill to maintain legislative integration.

The Parliamentary Commissioner for the Environment (PCE) submitted that the Commissioner has the right to be heard in any proceedings that arise from obtaining, or attempting to obtain, any consent. We note that clause 10(5) of the bill as introduced would require any approval granted under the bill to be treated as if they were granted, issued, or entered into in accordance with the legislation that establishes or provides for it. Based on this, it is arguable that the PCE could be heard in any proceedings as if the consent was issued under their relevant legislation. However, to avoid doubt, we consider that the Fast-track Approvals Act should be directly referenced in the Schedule of the Environment Act 1986.

We recommend amending Schedule 13 of the bill accordingly.

New Zealand Labour Party differing view

This legislation enables the most radical and unbalanced consenting regime in living memory, including for projects with significant adverse environmental effects.

As Parliament's Commissioner for the Environment submitted to the committee, the bill goes further and has fewer protections than applied under the then notorious National Development Act 1979.

Despite masquerading under the same name as earlier iterations of Fast-track, it is fundamentally different.

Labour is not opposed to a process whereby important infrastructure and housing projects are fast-tracked through the consenting process. Indeed, we legislated and operated a version of fast-track that worked well.

However, this bill is not about process. Instead, this bill enables the leap-frogging of environmental protections for private projects that would otherwise be non-consentable. The ability to override environmental protections for private projects is both wrong and unnecessary.

Purpose

The purpose of the bill is found at clause 3 and has been amended to clarify that the bill is about substantive decision-making rather than a fast and one-stop-shop process. There is no reference to the environment or sustainable management in its purpose. The wider scheme of the bill also gives by far the greatest weight to the development purpose. This results in an override of the environmental legislation (i.e. the specified Acts).

Labour's view is that the purpose should include a reference to the environment and sustainable management. Advice to the Minister included an addition at the end of the purpose "while continuing to promote the sustainable management of natural and physical resources for current and future generations". If the Government's position is that the bill will not cause environmental harm then this addition (or similar) must be included.

Labour also agrees with the Parliamentary Commissioner for the Environment's submission that eligible projects should be limited to projects that provide significant public (rather than private) benefits.

Treaty clause

Most of the specified Acts include a Treaty clause to "take into account" or "give effect to" Te Tiriti o Waitangi/The Treaty of Waitangi. There is no such provision in this bill. There is a focus on settled iwi but nothing more general (such as section 6(e) of the Resource Management Act) or Treaty-specific. Labour considers that there should both be a Treaty clause as well as more general provisions.

Listed projects

The bill provides for projects to be included in Schedule 2 that are not yet in the bill. Submitters have been prevented from submitting upon its content. The schedule is currently empty and Ministers have said that it will be populated at the committee stage. Because the bill gives primacy to development, it will be difficult to decline listed projects. This means that any private projects included on the list will receive a direct benefit from a Government Act. If the Government wants to give a private company a specific benefit it should do this through a private Act. Government Acts are supposed to be generic to avoid undue influence; this is an important constitutional issue. Schedule 2 and related provisions should be removed to avoid this discrepancy.

It is also very poor process for the listed projects to not be subject to select committee scrutiny.

The Government recently released a list to the public which it says it intends to introduce into the bill at the committee stage.

This list includes projects that are currently in other processes. For example, the application to build New Zealand's first large waste incineration plant near Waimate. This project was "called in" at the request of the local council and referred by the Minister for the Environment to the Environment Court for decision, including consideration of the greenhouse gas and other pollution impacts from burning large quantities of plastic. That decision-making process has been taken off the Environment Court mid-process, which is itself improper. This will deprive many of those already interested of a right to be heard or to present evidence. Further, it will likely now be considered without public input nor proper consideration of the complex issues which arise. This is an example of the limitations of the fast-track process.

Another example is the application to mine tens of millions of tonnes of iron sands at sea annually for export, which until now has had public input including submissions and hearings via the Environmental Protection Authority.

New or expanded projects on the list include a massive gold mine in central Otago, potentially the biggest in New Zealand, with possible environmental impacts on the Clutha, Lindis, and Manuherikia rivers as well as many streams and landscape features, and impact local communities. This is in the heart of one of New Zealand's tourism areas and it is wrong that this can proceed without local public input.

Other projects include extensions to coal mines, which is so obviously contentious given the climate crisis will be made worse by burning more coal.

Previously declined

Projects that have already gone through a consenting/permissions process and been declined are able to be rehabilitated under this bill. It is a disgrace that any project declined on environmental grounds could proceed. This undermines any argument from Ministers that the regime will have positive environmental outcomes. New Zealand's international agreements that rely on enforcing environmental protections are put at risk by this bill with its development-focussed purpose and disregard for previous decisions to decline an application.

Prohibited activities and water conservation orders

The Resource Management Act 1991 provides for "prohibited" activities and means that consent cannot be granted. There is a high bar for councils to assign prohibited status through plans. The ability to be granted fast-track approval for a prohibited activity undermines the council community process and any argument that this bill will lead to positive environmental outcomes. Labour is concerned that the speed of the process will not result in fulsome analysis and prohibited activities could be granted leading to inappropriate activities that are detrimental for environment and economy (such as building houses in a flood plain). Labour opposes prohibited activities becoming consentable under this bill.

The RMA also provides for a very thorough process to protect outstanding water bodies via a water conservation order. There are only 16 nation-wide. These water conservation orders are considered to be a protection akin to National Park status. This bill does not override National Park protections, but there are no requirements in this bill for consistency with a water conservation order. Communities that have taken the time to apply for an order, such as for Te Waikoropupū Springs, are concerned that all their work will be undone. Labour opposes this bill applying to the 16 water bodies that have a water conservation order in place.

Local plans can be ignored

The prior versions of fast-track did assist to free up land for housing and other uses. This was achieved without overriding RMA plans, which have been developed by councils in consultation with their communities. Under this version of fast-track, those plans can be overridden. This is wrong and will also risk rates increases if decisions drive higher infrastructure costs for councils.

Time for comments

The 20 working day period for comments for councils and other parties who do have the right to participate is intended to include all evidence the party may wish to provide as of right to the panel. We consider this will be close to impossible to do properly in any application that is complex.

Panels

Because this bill includes powers to override normal environmental protections, it is exceptionally important that the decision-making panels are equivalent to the Environment Court and that hearings are held. The bill provides for hearings being optional and the chair being either a lawyer or a planner. The applications under this bill will be substantial and must be heard by a Judge, preferably an Environment Court Judge. The shortened time frames should also have more flexibility for extension so that analysis is not rushed or missed on projects with complex effects.

Loss of ministerial responsibility

The delegation to panels of the ministerial discretions under the Conservation and Wildlife Acts, coupled with the ability to override the statutory limits to those discretions, will both produce worse environmental outcomes and reduce ministerial accountability for those decisions. This also makes worse the absence of rights for environmental groups to submit on applications.

Participation

There is very little room for public participation in applications made under this bill. The COVID-19 Recovery (Fast-track Consenting) Act 2020 did include specified groups including Forest & Bird and Business New Zealand that were able to participate. Labour agrees with the submission from the Parliamentary Commissioner for the Environment that the bill should “expand the range of parties who are entitled to

have their views listened to by the panels”. A fast-track proposal can now proceed without a single environmental entity having the right to submit on the proposal. This is so obviously one-sided that it is fair to conclude that it is the Government’s intention to push through environmentally damaging projects.

Prior fast-track did speed up process and reduce costs

The prior fast-track process did not override the environmental protections in the RMA, Conservation, Wildlife or other Acts. Under it, close to 100 significant projects were consented including subdivisions, wind farms, solar farms, various other infrastructure projects, and retirement villages. About 5 percent of projects were declined. That process worked well, and there is no justification for this bill, which rather than speeding up processes is designed to override environmental protection and deny public participation.

Green Party of Aotearoa New Zealand differing view

The Green Party opposes the Fast-track Approvals Bill in the strongest terms.

The bill is an unprecedented and direct override of democratic participation, Te Tiriti o Waitangi, environmental protections, climate change obligations, and the principles of transparency and accountability that all New Zealanders deserve from their Government.

The bill is the result of an unnecessarily rushed and narrow consultation process for a bill with such serious and significant implications for Aotearoa New Zealand. The response from submitters speaks volumes about the nation-wide strong opposition to the bill, with only 0.3 percent (including petitions) to 0.6 percent (excluding petitions) of submitters supporting the bill in full. The vast majority of submitters opposed the bill (93 percent when including petitions, 85 percent excluding petitions). Of the 2,900 who wished to present their submission to the committee, only 794 submitters were granted permission to be heard, greatly limiting the scope of the already narrow democratic involvement in the development of this bill.

Flawed rationale for the bill

The bill responds to a purported need to provide faster approvals of consent. However, the overall scheme of the bill is focused not only on quicker processes, but processes that remove any public input, meaningful scrutiny, or genuine ability to decline consents with significant adverse effects. Current processes are already providing rapid consenting where projects align with national direction and relevant planning documents. For example, consenting data for solar and wind farms in the first half of 2023 saw consents granted on average of 23 days and 35 days respectively. The processes for consenting projects of national significance under Part 6AA of the Resource Management Act could have appropriately been extended to projects of regional significance, as a durable and robust alternative to the scheme being created under this bill. Processes under the Urban Development Act 2020 are also available for major infrastructure and housing.

Further, consenting data shows that 93 percent of notified consent applications are granted. In this context, we are concerned that the Government is blatantly aiming to grant consent for projects with significant environmental harm, and bypassing protections that would ensure environmental effects are considered in full and appropriately addressed.

Democratic participation and processes severely limited

The bill deliberately shuts out public, iwi, and hapū voice from contributing to the decision-making in their rohe and local communities. It has been demonstrated time and time again in council processes and through the courts that decision making is enhanced, and gaps in knowledge and understanding of the impacts of proposed projects are better identified, filled, and addressed by the meaningful participation of the community. It is deeply concerning that for projects of purportedly regional and national significance, that public, iwi, and hapū input would be so severely limited. Public, iwi, and hapū participation in the process would ensure information was accurate, assist with community buy-in and social licence of projects, and ensure more robust outcomes for community, environment, and business.

The fact that this bill empowers Ministers and the expert panels to override democratically agreed district and regional plans demonstrates a concerning disregard for local government and local community. Approvals granted under the bill are then transferred back to local government with inadequate direction about how they then manage any potential liability of these approvals, which may be in breach of their own planning framework and potentially in conflict with rights of existing consent holders. Further, “prohibited activities”, activities that have been considered so detrimental to the community that they are explicitly prohibited under district or regional plans, are also eligible for consideration under the bill.

It is highly likely that projects that were previously denied by the courts on environmental grounds for their adverse effects and impacts will be consented under this bill, in a concerning departure from norms of good governance and previous judicial processes.

Despite the fast-track process being about a condensed consenting process, we remain concerned at the limited time frames in the bill for expert panel processes and consultation with Ministers and third persons. Acting with such speed on complex and large projects, intended to deliver national and regional benefits, will mean mistakes are made and unintended consequences are missed, potentially leading to disaster and catastrophic outcomes.

Te Tiriti o Waitangi violation

This bill is a violation of Māori rights and Te Tiriti o Waitangi. As tangata whenua, Māori have a unique role as kaitiaki of their environment; however, this bill fails to safeguard their ability to engage substantively on matters and exercise rangatiratanga and mana whakahaere in their rohe.

The provisions in the bill simply do not provide for adequate participation from iwi and hapū with insufficient engagement opportunities throughout the bill's processes. This is a backwards step, and breaches the Crown's obligations under Te Tiriti o Waitangi. The select committee heard that "a key theme that came through some of the submissions from local government and Māori groups was the need for cost recovery or support to enable engagement with relevant iwi, hapū and Treaty settlement entities, and local authorities". No changes have been made to the bill to ensure that Māori groups are resourced to participate in the fast-track consenting process; this is especially concerning considering the short time periods within which written comments can be provided.

Alarmingly, the bill remains silent on how Treaty settlements will continue to be upheld and we are disappointed at the lack of protections for groups without settlements. This is in contrast to the framework under the Urban Development Act.

A bill of this significance has wide-ranging implications for iwi and hapū and it is therefore extremely concerning that there is no requirement for decision makers under the bill to uphold Te Tiriti, whether through a general Treaty clause or a more specific set of obligations when considering matters under the bill. Without these protections, there is a significant risk of projects being consented despite opposition from the local iwi and hapū, and without meaningful ability for their views to be considered in the process. This is directly contrary to findings and recommendations of the Wai262 claim.

Environmental protections overridden

We consider this bill relegates what was previously understood as an "environmental protection", to be more accurately described as merely an environmental "consideration", that are all ultimately directed to be overridden by the purpose clause. In a clear disregard for environmental impacts, the purpose clause has been strengthened through a directive to the expert panel decision-makers to give "greatest" weighting to the purported "significant regional and national benefits". Environmental legislation (such as the Resource Management Act, the Conservation Act, the Wildlife Act, the Reserves Act among others) and national direction in national policy statements and national environmental standards are weakened to mere considerations. Very few of the country's environmental protections now remain intact with even water conservation orders and conservation covenants, set up to be protections in perpetuity, being no barrier to development approvals in the bill.

Projects approved under this bill are likely to be large and complex, almost certainly have long-term environmental consequences, and in some cases are likely to have irreversible impacts on our unique ecosystems, including risks to endangered wildlife, taonga species and plants, the health of freshwater and coastal environments, and the permanent loss of cultural and recreational values. In fact, it is highly likely that projects that were previously denied by decision makers on environmental grounds for their adverse effects and impacts will now have a pathway for approval through the bill, making a mockery of judicial processes. This indicates a clear direction

to grant approvals based on claimed benefits by applicants, with no regard for the significant environmental, social, and cultural costs.

Climate change obligations overlooked

We are extremely concerned that the bill does not take into account Aotearoa New Zealand's domestic and international climate change obligations. It is not in Aotearoa's interests, or the interests of the planet as whole, to enable new mining for fossil fuels. A fit-for-purpose framework would instead promote quick consenting of projects that meet high environmental standards while contributing to a low emissions economy. Under the bill as it stands, projects will be enabled that are blatantly inconsistent with our climate change objectives to move towards a low-carbon economy.

International obligations risk being breached

We are disappointed and concerned that the committee was comfortable to proceed with the report-back of this bill to Parliament without understanding and considering the implications for international law and Aotearoa New Zealand's trade agreements and international obligations. This was emphasised by the lack of input from officials and Crown Law in providing adequate advice to the committee. It is of serious concern that fast-track approvals can be granted despite being inconsistent with Aotearoa New Zealand's international obligations under the Paris Climate Change Agreement, which commits us to reducing greenhouse gas emissions.

Lack of transparency and accountability

The vast discretion afforded to Ministers in determining what projects meet the test of offering "significant regional and national benefits" is entirely inappropriate, given the narrow framework under which the expert panels then make their decisions, that make it very difficult to decline applications.

We are deeply concerned about the actual and potential conflicts of interest due to applications by businesses that made electoral donations to Ministers and political parties in the current coalition Government. Reporting has already shown that a number of companies or individuals associated with companies who have donated to candidates and parties, have applied for and are progressing through the fast-track process.

The approach taken to managing conflicts of interests is not, in our view, robust enough, particularly in the context that once a project is listed in the schedule of the bill, the consenting process does not provide clear avenues for balanced scrutiny by the panel or declining a consent application if environmental effects are severe. Despite claims that conflict of interest management plans were in place, the entire scheme of the legislation is premised on near-automatic consenting for hand-picked projects. It is incredibly difficult to have confidence in the process because of the lack of transparency.

It is highly irregular and unprecedented that the projects to be listed in the bill were kept secret, and unable to be considered by the select committee. The select committee report time should have been extended, and submissions re-opened, to

allow scrutiny of the scheduled projects. We remain gravely concerned that the list of projects has not had adequate independent review.

Over the past several decades, despite amendments by successive governments, the underlying principles of environmental management in Aotearoa have been fairly durable, with cross-party agreement that it is the role of government to set direction at a national level (both through regulations and legislation) while consenting remains independent. This bill is a drastic departure, for spurious reasons, and puts an unjustifiable amount of power in the hands of a small group of Ministers. The projects announced include many that are likely to have serious adverse effects on the environment. And by weakening the protections that could be provided through consent conditions, even projects which are likely to be able to mitigate adverse effects sufficiently to be consistent with current standards may not have consent conditions imposed to achieve these mitigations appropriately.

In light of this, the Green Party considers it necessary for a future government to establish review processes for consents granted under this legislation. It will be utterly untenable to allow serious environmental damage to continue for decades, and quite conceivably indefinitely, based on the poor and undemocratic decision-making processes being introduced through this bill.

The Green Party rejects this bill in its entirety.

Te Pāti Māori differing view

Te Pāti Māori opposes the Fast-track Approvals Bill in its entirety because it violates our core values of mana motuhake, oranga whenua, and mana mokopuna.

This bill violates our mana motuhake by placing unprecedented powers in the hands of three Ministers, and deliberately omitting references to Te Tiriti o Waitangi in the approval process.⁶ Both of these decisions diminish mana Māori motuhake by reinforcing the Crown's superiority, overriding our rangatiratanga, and ignoring the duties of partnership inherited in 1840. The Government has also deliberately concealed the names of projects contained in Schedule 2. This decision denies the public the autonomy to make submissions on the specific projects that will be fast-tracked on the passage of this bill.

The apparent focus on mining and drilling projects, the lack of requirement for an environmental expert on the decision-making panel, and the potential resurrection of “zombie” projects, will be detrimental to oranga whenua. For example, Trans-Tasman Resources (TTR) have had their application to mine the seabed off the coast of Taranaki denied multiple times by the courts and the Environmental Protection Authority due to its devastating long-term impacts. TTR have also faced fierce opposition from

⁶ Te Tiriti o Waitangi is mentioned once in clause 7 of Schedule 3, but the only requirement is that one member of the panel has to have “an understanding of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.” There is no requirement that Te Tiriti o Waitangi/ the Treaty of Waitangi or its principles be considered in the actual approval process.

iwi, hapū, and environmental groups over the past 12 years. This bill would allow TTR to bypass these hurdles without any consideration for our voices, our whenua, or our moana.

Our mokopuna will inherit the consequences of the decisions we make today. Undermining mana motuhake and oranga whenua will create a hostile world for our mokopuna. Whānau, hapū, and iwi Māori cannot exercise kaitiakitanga over our Taiao without meaningful decision-making power. Ignoring Māori voices and fast-tracking mining and drilling projects will accelerate the climate crisis we are currently faced with and make life significantly harder for future generations.

Although we welcome the amendment to remove Ministers' veto power from the end of the approval process, this change has not impacted our opposition to the bill as a whole. Ministers still have the power to appoint expert panel membership and decide which projects to send through the approval process.

Darleen Tana, Independent MP, differing view

With respect to the purpose of the bill, I hold a differing view:

I support the need to expedite decision-making processes for significantly important infrastructure that brings significant public benefit. However, not without considering the full costs to the environment and allowing for some form of remedy, mitigation, or indeed offset.

With respect to the rights and interests of tangata whenua being those whose whakapapa obliges them to tiaki moana, whenua, and tangata, I hold a differing view which is to say:

- Ngā iwi Māori maintain Tino Rangatiratanga and Mana Motuhaketanga over all taonga mai tuku iho and latterly as per Te Tiriti o Waitangi (1840);
- As Crown representatives, we are obliged to honour Te Tiriti o Waitangi and its articles. The fact that the Crown has reached Treaty settlements with some iwi or hapū does not mean that we can simply cast the obligation to *honour* Te Tiriti aside.

It is deeply concerning that the Fast-track Approvals Bill restricts participation rights to those hapū and iwi who have settled or whose rights are recognised in legislation.

Ngāpuhi, the largest iwi/hapū Māori collective, have not settled and unless distinct Mana Whakanoho a Rohe arrangements are in place, this legislation will deny the largest iwi to be involved in considering fast-track applications.

There is no legislative requirement for any fast-track decision to take Te Tiriti o Waitangi into account. The absence of the usual reference to “principles” of Te Tiriti o Waitangi is stark given current public debates on the Treaty Principles Bill.

In terms of participation to the expert panel, while I do appreciate the requirement for said panel to have expertise across matters relating to tikanga and matauranga, I am concerned that insufficient discussion has been had to understand resourcing support and remuneration to ensure capability of the expert panel.

With respect to the compulsory acquisition of private property, I hold a differing view:

The application of the Public Works Act has particularly significant ramifications for whenua Māori, and wāhi tapu in particular. I would hope that consideration could be given, perhaps in directions to the expert panel regarding recognition to cultural matters and a requirement to find alternatives to acquiring wāhi tapu under any circumstance rather than by force.

One can only avoid disturbing wāhi tapu. There is no remedy, mitigation, or offset possible.

With respect to granting permits for previously rejected projects, I hold a differing view.

I object that projects which have already been through a failed legislative process should be enabled via fast-track. It is disconcerting that the likes of Trans-Tasman Resources') application to mine the seabed off the coast of Taranaki, denied multiple times by the courts and the Environmental Protection Authority due to its devastating long-term impacts, should be accepted onto the fast-track list.

This is clear case that the adjudication of the fast-track list requires work.

With respect to impacts for regional, territorial or unitary authorities, I hold a differing view:

It is not yet clear whether decisions taken during fast-track process can create inconsistencies for territorial local authorities in complying with their own plans. It is perhaps a matter yet to be resolved, but I raise that concern here nonetheless.

With respect to international obligations, I hold a differing view:

I am not satisfied that the committee has received sufficient advice from MFAT officials about whether the bill aligns sufficiently with any relevant obligations and whether the bill could result in inconsistencies particularly in terms of environmental protections as well as the rights of indigenous peoples.

I would have expected to view an analysis that compared fast-track against our agreed international policy obligations.

Appendix A

Committee process

The Fast-track Approvals Bill was referred to the committee on 7 March 2024. We invited the Minister Responsible for RMA Reform to provide an initial briefing on the bill. He did so on 23 May 2024.

We called for submissions on the bill with a closing date of 19 April 2024. We received and considered submissions (including form submissions) from 26,855 interested groups and individuals. We heard oral evidence from 794 submitters at hearings in Wellington and via videoconference.

Advice on the bill was provided by the Ministry for the Environment. We also received independent advice from the Parliamentary Commissioner for the Environment and from Gerard Willis. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clause 31.

Committee membership

Hon Scott Simpson (Chairperson)

Glen Bennett

Hon Rachel Brooking

Mike Butterick

Dr Hamish Campbell

Simon Court

Hon Marama Davidson

Katie Nimon

Lan Pham

Dr Carlos Cheung, Hon David Parker, Hūhana Lyndon, David MacLeod, Debbie Ngārewa-Packer, and Darleen Tana participated in consideration of this bill.

Related resources

The documents received as advice and evidence are available on the Parliament website.

Appendix B

Clause comparison

The tables below set out the corresponding provisions of the bill as introduced and the revision-tracked version of the bill. Both tables are set out in the numerical order of the bill as introduced:

- Table 1 shows the movement of clauses within the body of the bill.
- Table 2 shows the movement of clauses from Schedule 4 to the body of the bill. All RMA-specific elements of Schedule 4 have been retained in that schedule.

The revision-tracked version is the final version as reported back to the House. It is attached to this commentary.

Table 1—body of bill

Clause in bill as introduced	Revision-tracked version
10(1)	24C(3)
10(2)	14(2)(b)
10(3)	Covered by 24B and 24W
10(4)	24C(1) and (3)
10(5)	25C
11	24A
12(1)	14(1) and (2)
12(2)	14(1) and 24C(1)
12(3)	22B(5)
12(4) and (5)	Deleted, covered by express terms of subpart 2 of Part 2
13	19A
17	22B
18	4A
21(1) and (2)	22A(3) to (5)
21(3) and (4)	22A(6) and 22E
21(5)	22A(1) and (2) and 22C
21(6)	22A(4)
22(1)(a) and (b)	18A
22(1)(d)	18A and 19(6)
22(1)(e)	18A and 20(2)
22(2)	18B
22(3) and (4)	22A(1) and (2) and 22C
25	24X

Table 2—Schedule 4

Clause in bill as introduced	Revision-tracked version
4	25B
5 and 6	24F
7	24H
8(1)	24QA

8(2) and (3)	24QB
10	24K
11	24L
17	24E
19	24J
20	24M
21	24N
21(5) and 22	24O
23	24P
24	24Q to 24QAAB (24Q(7) from clause 16, Schedule 3)
25	24R and 24RA
26	24S and 24SA
27	24T
28	24U
31	25A
32(2) and (3)	24WA
37(3)	24WC
38	24UA
39	24V and 24X
40(2) (para (b) not carried over because (a) is sufficient)	25D
41	24Y
43	24Z

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Chris Bishop

Fast-track Approvals Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Fast-track Approvals Act **2024**.

2 Commencement

This Act comes into force on the day after Royal assent.

5

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is to ~~provide a fast track decision making process~~
~~that facilitates~~ facilitate the delivery of infrastructure and development projects
with significant regional or national benefits.

10

4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

administering agency—

(a) means a department that, with the authority of the Prime Minister, is responsible for the administration of a specified Act; and

(b) includes,—

(i) in relation to the Heritage New Zealand Pouhere Taonga Act 2014, Heritage New Zealand Pouhere Taonga: 5

(ii) in relation to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the EPA:

(iii) in relation to the Crown Minerals Act 1991,—

(A) the Department of Conservation, if the appropriate Minister for the relevant land is or includes the Minister of Conservation: 10

(B) Land Information New Zealand, if the appropriate Minister for the relevant land is or includes the Minister of Lands

~~approval includes a resource consent, notice of requirement, certificate of compliance, licence, permission, clearance, or other authority~~ 15

appropriate Minister has the meaning given in section 2A of the Crown Minerals Act 1991

approval has the meaning given in **section 24C(3)**

approval under a specified Act means a matter under a specified Act that corresponds to an approval under this Act 20

~~archaeological authority means an authority described in section 44(a) or (b) of the Heritage New Zealand Pouhere Taonga Act 2014~~

aquaculture decision means a determination or a reservation made by a panel under **clause 16 of Schedule 4** 25

~~authorised person, in relation to a referral application, means the person identified as such in the application~~

authorised person means,—

(a) in relation to a Part A listed project or a Part B listed project, the authorised person specified for the project in **Schedule 2**: 30

(b) in relation to an unlisted project, the authorised person specified for the project under **section 23(2)**

chief executive has the meaning given in section 2(1) of the Fisheries Act 1996

conservation area has the meaning given in **clause 17 of Schedule 5**

Conservation Board has the meaning given in section 2(1) of the Conservation Act 1987 35

Crown-owned reserve has the meaning given in **clause 17 of Schedule 5**

customary marine title area means a customary marine title area as defined in—

- (a) section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- (b) section 9 of the ~~NHNP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 5

customary marine title group means—

- (a) a customary marine title group as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- (b) a customary marine title hapū as defined in section 9 of the ~~NHNP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 10

determination, in relation to an approval described in **section 24C(3)(a)** (resource consent), means a decision by the panel or a recommendation by the chief executive that they are satisfied that the aquaculture activities authorised by the approval will not have an undue adverse effect on fishing 15

~~**eligible activity** has the meaning given by section 17~~

~~**EPA** means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011~~

fast-track approvals process means the process for granting an approval ~~for an eligible activity~~ that is set out in **subparts 2A and 2B of Part 2** 20

Game Animal Council means the council established under section 6 of the Game Animal Council Act 2013

General land owned by Māori has the meaning given in section 4 of Te Ture Whenua Māori Act 1993

identified Māori land includes— 25

- (a) Māori freehold land;
- (b) 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);
- (c) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014; 30
- (d) ~~general~~ General land owned by Māori that was previously Māori freehold land, but ceased to have that status in accordance with—
 - (i) an order of the Māori Land Court made on or after 1 July 1993; or
 - (ii) Part 1 of the Māori Affairs Amendment Act 1967: 35
- (e) ~~land that, under a Treaty settlement,~~
 - (i) ~~is owned by the governance entity of a collective group of Māori such as an iwi or a hapū; and~~

- (ii) ~~is managed in accordance with the Conservation Act 1987 or legislation referred to in Schedule 1 of that Act;~~
- (f) ~~any reserve under the Reserves Act 1977 that, under a Treaty settlement, is managed wholly or jointly by the governance entity of a collective group of Māori such as an iwi or a hapū;~~ 5
- (g) land vested in the Māori Trustee that—
 - (i) is constituted as a Māori reserve by or under the Maori Reserved Land Act 1955; and
 - (ii) remains subject to that Act:
- (ga) a reserve under the Reserves Act 1977 that, under a Treaty settlement, is managed wholly or jointly by a Treaty settlement entity; 10
- (gb) land owned by a Treaty settlement entity if the land was acquired—
 - (i) as redress for the settlement of Treaty of Waitangi claims; or
 - (ii) by the exercise of rights under a Treaty settlement;
- (h) 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 15

iwi participation legislation means legislation, including any Treaty settlement-~~Acts Act~~, that provides a role for iwi or hapū in processes relevant to this Act, including processes for an approval under a specified Act 20

~~joint Ministers~~

- (a) ~~means the Minister for Infrastructure, Minister of Transport, and Minister for Regional Development, acting jointly; and~~
- (b) ~~in relation to an approval to do anything otherwise prohibited by the Wildlife Act 1953, includes the Minister of Conservation acting jointly with those other Ministers; and~~ 25
- (c) ~~in relation to an approval under the Crown Minerals Act 1991, includes the Minister responsible for that Act or the appropriate Minister (within the meaning of that Act) acting jointly with those other Ministers~~ 30

~~**land returned under a Treaty settlement** includes land vested in or transferred to a Treaty settlement entity under a Treaty settlement~~

Māori customary land has the meaning given in section 4 of Te Ture Whenua Maori Act 1993

Māori freehold land has the meaning given in section 4 of Te Ture Whenua Maori Act 1993 35

Māori incorporation has the meaning given in section 4 of Te Ture Whenua Maori Act 1993

Māori land has the meaning given in section 4 of Te Ture Whenua Maori Act 1993

mātaitai reserve means a mātaitai reserve declared by notice in the *Gazette* under Part 9 of the Fisheries Act 1996

Minister means the Minister for Infrastructure 5

~~**Ministry** means the department for the time being responsible for the administration of this Act~~

~~**ngā rohe moana o Ngā Hapū o Ngāti Porou** has the meaning given in section 11 of the NHNP Act~~

~~**NHNP Act** means the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019~~ 10

New Zealand Conservation Authority has the meaning given in section 2(1) of the Conservation Act 1987

New Zealand Fish and Game Council has the meaning given in section 2(1) of the Conservation Act 1987

~~**notice of requirement** means a notice of requirement for, or to alter, a designation~~ 15

owner, —

(a) in relation to Māori freehold land, means—

(i) if the land is vested in 1 or more trustees, those trustees:

(ii) if the land is vested in a Māori incorporation, that incorporation: 20

(iii) if 1 or more agents have been appointed for the land under Part 10 of Te Ture Whenua Maori Act 1993 with the power to take the relevant action under this Act, those agents:

(iv) in any other case, the beneficial owners of the land:

(b) in relation to land referred to in **paragraph (b)** of the definition of identified Māori land, means the person or persons who, under an Act referred to in that paragraph, act for the natural feature 25

panel means an expert panel that is appointed in accordance with, and that complies with, **Schedule 3**

panel convener means the panel convener appointed under **clause 2 of Schedule 3** 30

Part A listed project means a project listed in **Part A of Schedule 2**

Part B listed project means a project listed in **Part B of Schedule 2**

~~**Part B listed referred project** means a project listed in **Part B of Schedule 2** that is referred to an expert panel under **section 22**~~ 35

~~**permission** includes agreement, authority, licence, permit, and right~~

~~**project** includes any part of a project and any related activity~~

post-settlement governance entity—

(a) means a body corporate or the trustees of a trust established, for the purpose of receiving redress in the Treaty settlement of a claimant group,—

(i) by that group; or

(ii) by or under an enactment or order of a court; and

5

(b) includes—

(i) an entity established to represent a collective or combination of claimant groups; and

(ii) an entity controlled by an entity referred to in **paragraph (a)**; and

10

(iii) an entity controlled by a hapū to which redress has been transferred by an entity referred to in **paragraph (a)**

project—

(a) means,—

(i) in relation to a Part A listed project, the project as described in **Schedule 2**;

15

(ii) in relation to a Part B listed project,—

(A) the project as described in **Schedule 2**; or

(B) if the project has been referred, the project as described in the notice under **section 24**;

20

(iii) in relation to an unlisted project,—

(A) the project as described in the referral application for the project or, if the referral application is yet to be lodged, as it will be described in the application; or

(B) if the project has been referred, the project as described in the notice under **section 24**; and

25

(b) includes any activity involved in the project

project area means the whole or any part of the geographical location in which a project is to be undertaken

proposed approval, in relation to a Part B listed project or an unlisted project, means an approval specified in the referral application under **section 14(2)(b)** as one that the applicant proposes to apply for under the fast-track approvals process

30

protected customary rights area means—

(a) a protected customary rights area as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or

35

- (b) an area in which a protected customary activity, as defined in section 9 of the ~~NIHNP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, is recognised under that Act

protected customary rights group means—

- (a) a protected customary rights group as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or 5
- (b) a protected customary activity hapū as defined in section 9 of the ~~NIHNP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

referral application means an application under **section 14** to use the fast-track ~~approval~~ approvals process 10

referred, in relation to a Part B listed project or an unlisted project, means referred to the fast-track approvals process under **section 22C**

relevant administering agency,—

- (a) in relation to a referral application, means an administering agency for a specified Act that relates to a proposed approval for the project: 15
- (b) in relation to a substantive application, means an administering agency for a specified Act that relates to an approval being sought in the substantive application

reservation, in relation to an approval described in **section 24C(3)(a)** (resource consent), means a decision by a panel or a recommendation by the chief executive that they are not satisfied that the aquaculture activities authorised by the approval will not have an undue adverse effect on fishing 20

responsible agency means—

- (a) ~~the Ministry for the Environment;~~
- (b) ~~the Ministry of Business, Innovation, and Employment~~ 25

responsible agency means the Ministry for the Environment

specified Act means any of the following:

- (a) the Conservation Act 1987;
- (b) the Crown Minerals Act 1991;
- (c) the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012: 30
- (d) the Heritage New Zealand Pouhere Taonga Act 2014;
- (e) the Reserves Act 1977;
- (f) the Resource Management Act 1991;
- (g) the Wildlife Act 1953 35

substantive application means an application under **section 24C** for approvals for a Part A listed project or a referred project

taiāpure-local fishery means a taiāpure-local fishery established under Part 9 of the Fisheries Act 1996

tangata whenua, in relation to a taiāpure-local fishery, mātaihai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996, has the meaning given in section 2(1) of that Act

5

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 10
- (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, including—
 - (i) the Maori Commercial Aquaculture Claims Settlement Act 2004: 15
 - (ii) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
 - (iii) the Nga Wai o Maniapoto (Waipa River) Act 2012:
 - (iv) the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010: 20
 - (v) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act

~~**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 25~~
- ~~(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 deed—

30

- (a) means a deed or other agreement that—**

- (i) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and**
- (ii) is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; and**

35

- (b) to avoid doubt, includes a deed or other agreement of the kind described in paragraph (a) that relates to the claims of a collective or combination of Māori groups; 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 any ~~iwi participation legislation~~ Treaty settlement Act: 5
- (c) an entity or a person that is authorised by a Treaty settlement Act to act for a natural ~~resource~~ feature with legal personhood:
- (d) Te Ohu Kai Moana or a mandated iwi organisation (as those terms are defined in section 5(1) of the Maori Fisheries Act 2004): 10
- (e) an iwi aquaculture organisation (as defined in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004):

unlisted project means a project that is not listed in **Schedule 2**.

- (2) Terms used in this Act that are not defined in this Act have the same meanings as they have in the Resource Management Act 1991, if they are defined in that Act. 15
- ~~(3) Terms used in this Act that are not defined in this Act have the same meanings as they have in the Marine and Coastal Area (Takutai Moana) Act 2011, if they are defined in that Act and not in the Resource Management Act 1991 (but modified as applicable if the NHNP Act applies).~~ 20
- (3A) Terms used in this Act that are not defined in this Act or the Resource Management Act 1991 have the same meanings as they have in the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, as applicable. 25
- (4) Other terms used in this Act that are not defined in this Act have the same meanings as they have in ~~legislation dealing with the relevant subject matter~~ the relevant specified Act.

4A Meaning of ineligible activity

- (1) In this Act, **ineligible activity** means any of the following: 30
- (a) an activity that—
- (i) would occur on identified Māori land; and
- (ii) has not been agreed to in writing by the owners of the land or been subject to a determination under **section 22D**:
- (b) an activity that— 35
- (i) would occur in a customary marine title area; and
- (ii) has not been agreed to in writing by the customary marine title group:

- (c) an activity that—
- (i) would occur in a protected customary rights area; and
 - (i) would have a more than minor adverse effect on the exercise of the protected customary right; and
 - (iii) has not been agreed to in writing by the protected customary rights group: 5
- (d) an activity that would occur on either of the following classes of land:
- (i) Māori customary land;
 - (ii) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993: 10
- (da) an activity that—
- (i) would occur in an area that is taiāpure-local fishery, a mātaihai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and
 - (ii) would have a more than minor adverse effect on the use or management of the area; and 15
 - (iii) has not been agreed to in writing by the tangata whenua of the area:
- (e) an aquaculture activity or an activity that is incompatible with aquaculture activities— 20
- (i) that would occur within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or an area reserved under another Treaty settlement for the aquaculture activities of a particular group; and
 - (ii) for which the applicant is not authorised to apply for a coastal permit under the Resource Management Act 1991: 25
- (f) an activity that would require an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 for an area for which an access arrangement or a permit cannot be granted under that Act:
- (g) an activity that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991: 30
- (h) an activity (other than an activity that would require an access arrangement under the Crown Minerals Act 1991) that would occur on land that is listed in **Schedule 3A** of this Act:
- (i) an activity that— 35
- (i) would occur on a national reserve held under the Reserves Act 1977; and
 - (ii) requires approval under that Act:
- (i) an activity that—

- (i) would occur on a reserve held under the Reserves Act 1977 that is vested in someone other than the Crown; and
- (ii) has not been agreed to in writing by the person or persons in whom the reserve is vested;
- (k) an activity that— 5
- (i) would occur on a reserve held under the Reserves Act 1977 that is managed by someone other than the Department of Conservation; and
- (ii) has not been agreed to in writing by the person or persons responsible for managing it; 10
- (l) an activity that is—
- (i) a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act; or
- (ii) an activity that is described in section 15B of the Resource Management Act 1991 and is a prohibited activity under that Act or regulations made under it; or 15
- (iii) an activity that is prohibited by section 15C of the Resource Management Act 1991:
- (m) a decommissioning-related activity (which is an activity described in section 38(3) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012); 20
- (n) an activity undertaken for the purposes of an offshore renewable energy project.
- (2) The agreement referred to in **subsection (1)(j) or (k)** must be not be unreasonably withheld. 25
- Compare: 2020 No 35 s 18(3); 2023 No 46 Schedule 10 cl 15
- 5 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms. 30
- 6 Obligation relating to Treaty settlements and recognised customary rights**
- (1) All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—
- (a) the obligations arising under existing Treaty settlements; and
- (b) customary rights recognised under— 35
- (i) the Marine and Coastal Area (Takutai Moana) Act 2011;
- (ii) the ~~NIINP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

- (2) To avoid doubt, **subsection (1)** does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.
- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, power, or duty is performed or exercised (rather than only those that exist at the commencement of this Act). 5
- 7 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)**). 10
- (2) Te Ture Whaimana—
- (a) prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard; and
- (b) in its entirety is deemed to be part of the Waikato regional policy statement; and any regional plan or district plan that affects the Waikato River or the Waipā River or activities within their catchments must give effect to Te Ture Whaimana. 15
- (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 20
- (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. 25
- Compare: 2023 No 46 s 104
- 8 Act binds the Crown**
- This Act binds the Crown.
- 9 Procedural principles**
- (1) Every person performing functions and exercising powers under this Act must take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions, duties, or powers being performed or exercised. 30
- (2) This includes a duty to act promptly in circumstances where no time limit has been set for the performance or exercise of a function, power, duty, or requirement under this Act. 35
- (3) However, a failure to comply with this section does not of itself invalidate the performance of a function or duty or the exercise of a power under this Act.
- Compare: 2020 No 35 s 10

Part 2

Fast-track ~~approval~~ approvals process for eligible projects

Subpart 1 ~~Application of this Part to approval processes in other~~ legislation

Application

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10 ~~Application of this Part to specified approval processes~~

- (1) ~~This Act applies if 1 or more of the following (the **approvals**) are required for a proposed listed project or proposed referred project:~~
- (a) ~~a resource consent, notice of requirement, or certificate of compliance under the Resource Management Act 1991:~~ 10
 - (b) ~~authority to do anything otherwise prohibited under the Wildlife Act 1953:~~
 - (c) ~~an approval under the Conservation Act 1987 or the Reserves Act 1977:~~
 - (d) ~~an approval under the Freshwater Fisheries Regulations 1983:~~
 - (e) ~~an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014:~~ 15
 - (f) ~~a marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:~~
 - (g) ~~a coastal permit under the Resource Management Act 1991 that authorises aquaculture activities to be undertaken in the coastal marine area and requires decisions under Part 9A of the Fisheries Act 1996:~~ 20
 - (h) ~~a land access arrangement under section 61 or 61B of the Crown Minerals Act 1991:~~
 - (i) ~~a proclamation under section 26 of the Public Works Act 1981 to take or deal with land:~~ 25
- (2) ~~An applicant must identify in their referral application all of the consents, authorities, and permissions that are being applied for under the fast track process.~~
- (3) ~~The approval (other than a proclamation under section 26 of the Public Works Act 1981) may be granted, issued, or entered into under this Act, instead of under the legislation that establishes or provides for it.~~ 30
- (4) ~~An approval under this Act may be for a single approval or a bundle of all the approvals required for the project.~~
- (5) ~~An approval under this Act has full effect on its terms for all purposes, and any specific approval referred to in **subsection (1)** that is included in the approval under this Act must be treated as if it were granted, issued, or entered into in accordance with the legislation that establishes or provides for it.~~ 35

*Listed and referred projects***11 ~~Panels consider listed projects and referred projects~~**

~~An expert panel must be appointed under **Schedule 3** for—~~

- ~~(a) each project listed in **Part A of Schedule 2** (a **Part A listed project**) that is referred to a panel under **section 42(2)**; and~~
- ~~(b) each project or part of a project listed in **Part B of Schedule 2** (a **Part B listed referred project**) that is referred to a panel by the joint Ministers; and~~
- ~~(c) any other project or part of a project referred to a panel by the joint Ministers (a **referred project**).~~

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12 ~~Who makes referral decisions~~

- ~~(1) Any person may apply to the joint Ministers for a project to be referred to an expert panel.~~
- ~~(2) However, for a Part A listed project, the authorised person must lodge the application with the EPA (rather than apply to the Ministers) for assessment by an expert panel and the EPA must refer the project to a panel to be assigned by the panel convener.~~
- ~~(3) The Part B listed referred projects are considered to have significant regional or national benefits and may be referred to a panel, whether in full or part, by joint Ministers in accordance with this Act.~~
- ~~(4) The provisions of this Act that apply to referred projects apply with the necessary modifications to Part B listed referred projects, subject to **subsection (3)**.~~
- ~~(5) Other eligible non listed projects may be referred to an expert panel by joint Ministers in accordance with this Act.~~

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13 ~~Ministers must consider Treaty settlements and other obligations report~~

- ~~(1) Before deciding to refer a project to an expert panel, the joint Ministers must obtain and consider a report from the responsible agency on the application for referral that is prepared in accordance with this section.~~
- ~~(2) The report must include the following matters:~~
 - ~~(a) who are the relevant iwi authorities and relevant Treaty settlement entities;~~
 - ~~(b) what Treaty settlements relate to the project area;~~
 - ~~(c) 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 the Resource Management Act 1991;~~
 - ~~(d) any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area;~~

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- ~~(e) any court orders that recognise, in relation to the project area, protected customary rights or customary marine title, whether the court orders or agreements are granted under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act:~~
- ~~(f) any applicant groups under sections of the Marine and Coastal Area (Takutai Moana) Act 2011:~~ 5
- ~~(g) any part of the proposed area of the activity that is within Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (and if so, the relevant provisions of the NIHP Act, including those that relate to decisions about resource consents):~~ 10
- ~~(h) the relevant iwi or hapū that are parties to any Mana Whakahono ā Rohe or joint management agreement under the RMA in the proposed area of the activity:~~
- ~~(i) the relevant principles and provisions in those Mana Whakahono ā Rohe and joint management agreements:~~ 15
- ~~(j) any relevant other Māori groups with interests:~~
- ~~(k) a summary of comments received by the Ministers following inviting comments from Māori groups, a summary of any further information received by the Ministers from those groups, and the responsible agency's advice on whether the referral application should be accepted:~~ 20
- ~~(3) In preparing the report required by this section, the responsible agency must consult the Minister of Māori Development and the Minister for Māori Crown Relations: Te Arawhiti at the same time as other relevant Ministers are consulted under **section 19**, and those 2 specified Ministers must respond to the responsible agency within 5 working days of receiving the draft report.~~ 25

Subpart 2—Decisions about referral of projects and process of referral

Application process

14 Referral application

- ~~(1) Any person may apply to the responsible agency if they wish to use the fast track approval process for an eligible project.~~ 30
- (1) A person may apply to use the fast-track approvals process for a Part B listed project or an unlisted project by lodging a referral application with the responsible agency.
- (1A) The applicant must be,—
 - (a) in the case of a Part B listed project, the authorised person; and 35
 - (b) in any case, a person who, for each of the proposed approvals, would be eligible to apply for any corresponding approval under a specified Act.
- (2) The referral application must—

- (a) ~~must include the information specified in **subsection (3)** or required by a relevant schedule of this Act; but, and~~
- (b) ~~need only provide a general level of detail about the different approvals required for the project, sufficient to inform the joint Ministers' decision on the application.~~ 5
- (b) specify all of the proposed approvals, but need only provide a general level of detail about each proposed approval, sufficient to inform the Minister's decision on the referral application; and
- (c) if the proposed approvals include approvals described in **section 24C(3)(aa) or (g)** (certificate of compliance or archaeological authority), also include as proposed approvals those required by **section 24C(5) and (6)(a).** 10
- (3) The information to be included in the referral application is as follows:
- Proposal and effects*
- (a) a description of the ~~proposed~~ project and the activities it involves: 15
- (ab) an explanation of how the project meets the criteria in **section 22B:**
- (b) ~~the geographical location of the project (which may be included in the form of a map) that is sufficient, for example, to identify whether or not the project would occur on public conservation land.~~
- (ba) a description or map of the whole project area that identifies its boundaries in sufficient detail to enable consideration of the referral application: 20
- (c) the anticipated commencement and completion dates for construction activities (where relevant):
- (d) a statement of whether the project is planned to proceed in stages and, if so, ~~an outline of the nature and timing of the staging:~~ 25
- (i) an outline of the nature and timing of the stages; and
- (ii) a statement of whether a separate substantive application is to be lodged for each of the stages; and
- (iii) an explanation of how each stage meets the criteria in **section 22B:** 30
- (da) a statement of whether a part of the project is proposed as an alternative project in itself and, if so,—
- (i) a description of that part of the project; and
- (ii) an explanation of how that part of the project meets the criteria in **section 22B:** 35
- (e) a description of the anticipated and known adverse effects of the project on the environment:
- (ea) a statement of any activities involved in the project that are prohibited activities under the Resource Management Act 1991:

- (f) ~~a general assessment of the project in relation to national policy statements and national environmental standards (as those terms are defined in the Resource Management Act 1991):~~
~~Alignment with criteria~~
- (g) ~~an explanation of how the project meets the criteria in **section 47**:~~ 5
~~Persons affected~~
- (h) ~~a list of the persons the applicant considers are likely to be affected by the project, including relevant local authorities, relevant iwi authorities, and relevant Treaty settlement entities, protected customary rights groups, customary marine title groups, applicant groups under the Marine and Coastal (Takutai Moana) Act 2011, ngā hapū o Ngāti Porou, and any person with a registered interest in land that may need to be acquired under the Public Works Act 1981:~~ 10
- (ha) a list of the persons the applicant considers are likely to be affected by the project, including— 15
- (i) relevant local authorities:
- (ii) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements:
- (iii) other relevant iwi authorities: 20
- (iv) relevant Treaty settlement entities:
- (v) relevant protected customary rights groups and customary marine title groups:
- (vi) ngā hapū o Ngāti Porou, if the project area is within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou: 25
- (vii) relevant applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011:
- (viii) persons with a registered interest in land that may need to be acquired under the Public Works Act 1981: 30
- (i) ~~a summary of any consultation already undertaken on the project with the persons referred to in **paragraph (h)** and **section 46**:~~
- (ia) a summary of—
- (i) the consultation undertaken for the purposes of **section 16** and any other consultation undertaken on the project with the persons and groups referred to in **paragraph (ha)**; and 35
- (ii) how the consultation has informed the project:
- (ib) a summary of the steps taken for the purposes of **section 16A**:

- (j) a list of any Treaty settlements that apply to the ~~geographical location of the project~~ project area, and a summary of the relevant principles and provisions in those settlements:
- (k) ~~a list of the protected customary rights groups, customary marine title groups, applicant groups under the Marine and Coastal (Takutai Moana) Act 2011 (MACA), and ngā hapū o Ngāti Porou in the list of likely affected parties:~~ 5
- (l) a description of any processes already undertaken under the Public Works Act 1981 in relation to the project ~~land or any part of the land on which the project will occur:~~ 10
- (m) any relevant principles or provisions in the ~~NIINP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019:
- (n) information identifying the parcels of Māori land ~~within the project area~~, marae, and identified wāhi tapu within the project area:
- (o) ~~whether the project is proposed on any land returned under a Treaty settlement or any identified Māori land described in the ineligibility criteria and whether the applicant has secured the relevant landowners' consent:~~ 15
- (p) ~~whether the project is proposed in any customary marine title area, protected customary rights area, or aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement:~~ 20
- (q) ~~an assessment of any effects of the activity on the exercise of a protected customary right:~~
- Information relating to potentially ineligible activities* 25
- (qa) whether the project involves an activity on land described in **section 4A(1)(a)** and, if so, whether the applicant has secured the agreement referred to in that section:
- (qb) whether the project involves an activity on land or in an area described in **section 4A(1)(b), (j), or (k)** and, if so, whether the applicant has secured the relevant agreement referred to in that section: 30
- (qc) whether the project involves an activity in an area described in **section 4A(1)(c)** and, if so,—
- (i) whether the applicant has secured the agreement referred to in that section; and 35
- (ii) an assessment of the effects of the activity on the exercise of the protected customary rights:
- (qd) whether the project involves an activity in an area described in **section 4A(1)(da)** and, if so,—

- (i) whether the applicant has secured the agreement referred to in that section; and
- (ii) an assessment of the effects of the activity on the use and management of the area:
- (qe) whether the project involves an activity described in **section 4A(1)(e)** and, if so, whether the applicant is authorised to apply for a coastal permit under the Resource Management Act 1991 for that activity: 5
What is needed to complete the project
- (r) a description of the applicant's legal interest (if any) in the land on which the project will occur, including a statement of how that affects the applicant's ability to undertake the work: 10
- (s) an outline of the types of ~~resource consents and any certificates, designations, or changes to designations, concessions, and other legal authorisations~~ (other than contractual authorisations or the proposed approvals) that the applicant considers are needed to authorise the project, including any that the applicant considers may be needed by someone other than the applicant: 15
- (t) ~~a description of other legal authorisations (other than contractual) that the applicant considers may be required to commence the project (for example, authorities under the Heritage New Zealand Pouhere Taonga Act 2014 or concessions under the Conservation Act 1987):~~ 20
- Other matters*
- (u) ~~a statement of whether the applicant has already made consent applications or lodged notices of requirement under the Resource Management Act 1991 in respect of the same or a similar project and, if so, details of those applications and notices and any decisions made on them:~~ 25
- (ua) whether any activities that are involved in the project, or are substantially the same as those involved in the project, have been the subject of an application or a decision under a specified Act and,—
- (i) if an application has been made, details of the application: 30
- (ii) if a decision has been made, the outcome of the decision and the reasons for it:
- (v) a description of whether and how the project would be affected by climate change and natural hazards:
- (va) evidence of compliance with **subsection (1A)(b):** 35
- (w) a summary of compliance or enforcement actions (if any), and the outcome of those actions, taken against the applicant under a specified Act: ~~by a local authority or the EPA under the Resource Management Act 1991, and the outcome of those actions:~~

Matters relating to specific proposed approvals

- (x) if the proposed approvals include—
- (i) an approval described in **section 24C(3)(a) or (b)** (resource consent or designation), the information specified in **clause 1A of Schedule 4:** 5
 - (ii) an approval described in **section 24C(3)(aa)** (certificate of compliance), the information specified in **clause 1B of Schedule 4:**
 - (iii) an approval described in **section 24C(3)(d)** (land exchange), the information specified in **clause 17A of Schedule 5:**
 - (iv) an approval described in **section 24C(3)(h)** (marine consent), the information specified in **clause 4 of Schedule 9.** 10
- (4) ~~The Secretary for the Environment~~ responsible agency must approve ~~an application~~ a form for the purpose of this section referral applications and ensure that it is made available on an ~~Internet~~ internet site maintained by or on behalf of the ~~Ministry~~ responsible agency. 15
- (5) The referral application must be made in the approved form.
- (6) In **subsection (3)(ua)**, **application** includes a notice of requirement and any other means by which a decision may be sought under a specified Act.
 Compare: 2020 No 35 s 20; 2023 No 46 Schedule 10 cl 17(1)–(6)
- 15 Responsible agency decides whether referral application is complete and within scope** 20
- (1) The responsible agency must decide whether the referral application ~~is complete~~ complies with **subsection (1A)** within 10 working days after receiving it.
- (1A) A referral application complies with this subsection if— 25
- (a) the application complies with **section 14**; and
 - (b) the responsible agency considers that, on the face of the application, the project—
 - (i) may be capable of satisfying the criteria in **section 22B**; and
 - (ii) does not appear to involve an ineligible activity. 30
- (1B) For the purposes of **subsection (1A)(b)(ii)**, an activity described in **section 22D(1)(a) and (b)** is not considered to be an ineligible activity.
- (2) If the responsible agency decides that the referral application ~~is complete~~ complies with **subsection (1A)**, the responsible agency must provide the application to the ~~joint Ministers~~ Minister. 35
- (3) If the responsible agency decides that the referral application ~~is incomplete~~ does not comply with that subsection, the responsible agency must immediately return the application to the applicant, with written reasons for returning it.

(3A) If a referral application is lodged again with the responsible agency after it has returned the application,—

- (a) that application must be treated as a new referral application; and
- (b) the time period specified in **subsection (1)** begins again for the responsible agency.

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(4) In this section, ~~complete~~, in relation to a referral application, means that the application—

- (a) ~~complies with **section 14**; and~~
- (b) ~~describes an activity that the responsible agency considers is an eligible activity based on the description and explanation set out in the application, having regard to **sections 17 and 18**.~~

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Compare: 2023 No 46 Schedule 10 cl 17(7)–(10)

16 Consultation requirements for ~~applicants for approvals~~ referral applications

(1) ~~For an application for an approval under this Act, the applicant must undertake engagement with the following groups before~~ **Before** lodging a referral application, ~~the applicant must consult—~~

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(a) ~~any~~ relevant iwi ~~authorities~~, hapū, and Treaty settlement entities, ~~including—~~

(i) ~~iwi~~ authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and

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(ii) ~~the~~ tangata whenua of any area within the project area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and

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(b) any relevant applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana Act) 2011; ~~and~~

~~(c) if relevant, ngā hapū o Ngāti Porou;~~

~~(ca) ngā hapū o Ngāti Porou, if the project area is within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou; and~~

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(d) ~~the~~ relevant local authorities; ~~and~~

(e) ~~the~~ relevant administering agencies.

(2) ~~An applicant must include in their referral application a record of the engagement and a statement explaining how it has informed the project.~~

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16A Notice of request to grant right of access for proposed access arrangement

(1) This section applies if a proposed approval is an approval described in **section 24C(3)(i) or (j)** (access arrangement).

- (2) Before lodging the referral application, the applicant must comply with section 59(1) and (2) of the Crown Minerals Act 1991 (which applies as if a reference to an access arrangement under that Act were to an access arrangement under this Act).

Eligibility criteria for projects

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~~17 Eligibility criteria for projects that may be referred to panel~~

- (1) ~~An application to use the fast track approval process in this Act must be considered by the joint Ministers after being forwarded by the responsible agency.~~
- (2) ~~The joint Ministers must consider the following criteria:~~ 10
- ~~(a) whether referring the project is consistent with the purpose of this Act;~~
 - ~~(b) whether access to the fast track process will enable the project to be processed in a more timely and cost efficient way than under normal processes;~~
 - ~~(c) the impact referring this project will have on the efficient operation of the fast track process;~~ 15
 - ~~(d) whether the project would have significant regional or national benefits;~~
 - ~~(e) whether the application contains sufficient information to inform the referral decision.~~
- (3) ~~In considering under **subsection (2)(d)** whether the project would have significant regional or national benefits, the joint Ministers may consider whether the project—~~ 20
- ~~(a) has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list;~~ 25
 - ~~(b) will deliver regionally or nationally significant infrastructure;~~
 - ~~(c) will increase the supply of housing, address housing needs, or contribute to a well functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020);~~ 30
 - ~~(d) will deliver significant economic benefits;~~
 - ~~(e) will support primary industries, including aquaculture;~~
 - ~~(f) will support development of natural resources, including minerals and petroleum;~~
 - ~~(g) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions;~~ 35
 - ~~(h) will support adaptation, resilience, and recovery from natural hazards;~~
 - ~~(i) will address significant environmental issues;~~

- (j) ~~is consistent with local or regional planning documents, including spatial strategies.~~
- (4) ~~A project is considered to have significant regional or national benefits for the purpose of **subsection (2)(d)** if it involves a resource consent application for an aquaculture activity within —~~ 5
- (a) ~~an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 where the applicant holds the relevant authorisation; or~~
- (b) ~~an area identified within an individual iwi settlement as being reserved for aquaculture activities.~~ 10
- (5) ~~A project is not ineligible just because the project includes an activity that is a prohibited activity under the Resource Management Act 1991.~~
- 18 Ineligible projects**
- ~~A project must not include any of the following activities:~~
- (a) ~~an activity that —~~ 15
- (i) ~~would occur on land returned under a Treaty settlement or on identified Māori land; and~~
- (ii) ~~has not been agreed to in writing by the relevant landowner;~~
- (b) ~~an activity that would occur on any of the following classes of Māori land:~~ 20
- (i) ~~Māori customary land;~~
- (ii) ~~land set apart as Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993;~~
- (c) ~~an activity that —~~
- (i) ~~would occur in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011; and~~ 25
- (ii) ~~has not been agreed to in writing by the holder of the relevant customary marine title order issued under that Act;~~
- (d) ~~an activity that —~~
- (i) ~~would occur in a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 and have a more than minor adverse effect on the exercise of the protected customary right; and~~ 30
- (ii) ~~has not been agreed to in writing by the holder of a relevant protected customary rights order issued under that Act;~~ 35
- (e) ~~an aquaculture activity or other incompatible activity that would occur within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement, unless the applicant holds the~~

~~relevant authorisation under that Act or the relevant Treaty settlement Act:~~

- ~~(f) an activity that would require an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 for an area for which a permit cannot be granted under that Act:~~ 5
- ~~(g) an activity that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991:~~
- ~~(h) an activity (other than an activity that would require an access arrangement under the Crown Minerals Act 1991) that would occur on land that is listed in items 1 to 11 or 14 of Schedule 4 of that Act:~~ 10
- ~~(i) an activity on a national reserve held under the Reserves Act 1977 that requires approval under that Act:~~
- ~~(j) a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act:~~ 15
- ~~(k) decommissioning related activities within the meaning of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:~~
- ~~(l) offshore renewable energy projects (whether under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991) that begin before separate offshore renewable energy permitting legislation comes into force:~~ 20

~~Joint Ministers to decide whether to refer application to panel~~

Process after Minister receives referral application

18A Process after Minister receives referral application 25

If the Minister receives a referral application from the responsible agency under **section 15**, the Minister must—

- (a) consider the application; and
- (b) comply with **section 18B**; and
- (c) comply with **sections 19 to 19B**, unless before doing so, the Minister decides to decline the application in accordance with **section 22E**; and 30
- (d) make a decision on the application in accordance with **section 22A**.

18B Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Taketaitai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, a Mana Whakahono ā Rohe, or a joint management agreement provides for— 35

- (a) the consideration of any document;
 - (b) procedural requirements.
 - (2) The Minister must, where relevant,—
 - (a) give the document referred to in **subsection (1)(a)** the same or equivalent effect through the Minister’s process and decision making as it would have under any relevant specified Act; and 5
 - (b) comply with any applicable procedural requirements referred to in **subsection (1)(b)**; and
 - (c) in any notice under **section 24**, direct any panel that considers a substantive application for the project to comply with any applicable requirements. 10
 - (3) In this section, **document**—
 - (a) means any document, arrangement, or other matter; and
 - (b) includes any statutory planning document amended as a result of the settlement, Act, arrangement, or agreement referred to in **subsection (1)**. 15
- 19 ~~Process after joint Ministers receive application~~ Minister invites comments**
- (1) ~~Unless the joint Ministers decide to decline the application before inviting comments, the Ministers~~ The Minister must copy the application to, and invite written comments from,— 20
 - (a) the relevant local authorities; and
 - (b) the Minister for the Environment and other relevant portfolio Ministers; and
 - (ba) the Māori groups identified in the list provided to the Minister under **subsection (2A)**; and 25
 - ~~(c) the relevant iwi authorities; and~~
 - ~~(d) the relevant Treaty settlement entities; and~~
 - ~~(e) the relevant Takutai Moana rights holders and applicants; and~~
 - ~~(f) ngā hapū o Ngāti Porou (if the proposed activity is in or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou); and~~ 30
 - ~~(g) the iwi and hapū parties to Mana Whakahoā ā Rohe and joint management agreements (where relevant to the proposed activity); and~~
 - ~~(h) in respect of any Māori land in the proposed area of activity,—~~
 - ~~(i) any Māori land administering entity (trusts under Part 12 of Te Ture Whenua Māori Act and Māori incorporations); and~~ 35
 - ~~(ii) agents appointed by the Māori Land Court for the owners of a Māori land block that doesn’t have an administering entity.~~
 - (h) the owners of Māori land in the project area.

- (2) ~~The joint Ministers must consult the relevant iwi authorities, Treaty settlement or related entities, hapū, ngā hapū o Ngāti Porou (if the project relates to ngā rohe moana o ngā hapū o Ngāti Porou), and other appropriate parties identified in the report obtained under **section 13**.~~
- (2A) Before the Minister invites comments under **subsection (1)**, the responsible agency must provide the Minister with a list of the Māori groups referred to in **section 19A(2)**. 5
- (3) ~~If the application includes an activity that would occur on~~ Without limiting **subsection (1)(b)**, if the project area includes land within a World Heritage Area, the Minister of Conservation is a relevant portfolio Minister under ~~sub-section (1)(b)~~ that subsection. 10
- (4) ~~The joint Ministers~~ Minister may also copy the application to, and invite written comments from, any other person.
- (5) Anyone who is invited to provide written comments under this section has ~~10~~ 20 working days from the receipt of the copy of the application to do so. 15
- (6) ~~The joint Ministers are not required to consider any comments received after that time, but may do so, in their absolute discretion, as long as the Ministers have not already made decisions on the application.~~
- (6) The Minister—
- (a) must consider any comments received within that time frame: 20
- (b) is not required to consider any comments received after that time frame, but may do so, in the Minister's absolute discretion, as long as the Minister has not already made a decision under **section 22A**.
- (7) ~~In **subsection (3)** this section,~~—
- World Heritage Area** means a property included in the World Heritage List under paragraph 2 of Article 11 of the World Heritage Convention, as amended from time to time 25
- World Heritage Convention** means the United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage, done at Paris on 16 November 1972. 30
- Compare: 2020 No 35 s 21; 2023 No 46 Schedule 10 cl 18(1)–(4)

19A Report on Treaty settlements and other obligations

- (1) The Minister must, for a referral application, obtain and consider a report that is prepared by the responsible agency in accordance with this section.
- (2) The report must include the following matters: 35
- (a) any relevant iwi authorities and relevant Treaty settlement entities:
- (b) any Treaty settlements that relate to land, species of plants or animals, or other resources within the project area:

- (c) 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 the Resource Management Act 1991:
- (d) any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area: 5
- (e) any court orders or agreements that recognise protected customary rights or customary marine title within the project area:
- (f) any applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011 that seek recognition of customary marine title or protected customary rights within the project area: 10
- (g) whether the project area would be within or adjacent to, or the project would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou (and, if so, the relevant provisions of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019):
- (ga) whether the project area includes any taiāpure-local fisheries, mātaimai reserves, or areas that are subject to bylaws made under Part 9 of the Fisheries Act 1996 (and, if so, who the tangata whenua are): 15
- (gb) whether the project involves an activity described in **section 22D(1)(a) and (b)** (and, if so, who the owners of the land are):
- (h) if the proposed approvals include an approval described in any of **section 24C(3)(a) to (b)** (resource consent, certificate of compliance, or designation), iwi authorities and groups that represent hapū that are parties to any relevant Mana Whakahono ā Rohe or joint management agreements: 20
- (ha) the relevant principles and provisions in those Mana Whakahono ā Rohe and joint management agreements: 25
- (i) any other Māori groups with relevant interests:
- (j) a summary of—
- (i) comments received by the Minister after inviting comments from Māori groups under **section 19(1)(ba) and (h)**; and 30
- (ii) any further information received by the Minister from those groups:
- (k) the responsible agency's advice on whether the referral application should be declined under **section 22A(5)(a)** or for any other reason connected with the content of the report. 35
- (3) In preparing the report required by this section, the responsible agency must—
- (a) consult relevant departments; and
- (b) provide a draft of the report to the Minister for Māori Development and the Minister for Māori Crown Relations: Te Arawhiti.

- (4) Those Ministers must respond to the responsible agency within 5 working days after receiving the draft report.

Compare: 2020 No 35 s 17; 2023 No 46 Schedule 10 cl 18(7)

19B Report on arrangements for public conservation land

- (1) The Minister must, for a referral application, obtain and consider a report that is prepared by the Department of Conservation in accordance with this section. 5
- (2) The report must—
- (a) include the existing arrangements for the administration, access to, or use of land in the project area that is held under the Conservation Act 1987, the Reserves Act 1977, or the National Parks Act 1980; and 10
 - (b) be prepared by the Department of Conservation in consultation with every owner or administrator of the land who is not the Crown.
- (3) The report must cover arrangements of the kind described in **subsection (2)(a)** regardless of whether the arrangements are formal or informal.

20 ~~Ministers~~ Minister may request information 15

- (1) ~~The joint Ministers~~ The Minister may request further information about a referral application from the applicant, ~~or the relevant local authorities, or the relevant administering agencies~~ to be provided within the time frame specified in the request.
- (2) ~~The Ministers are not required to consider any information provided after that time, but may do so, in their absolute discretion, as long as the Ministers have not already made their referral decisions on the application.~~ 20
- (2) The Minister—
- (a) must consider any information received within that time frame;
 - (b) is not required to consider any information received after that time frame, but may do so, in the Minister's absolute discretion, as long as the Minister has not already made a decision under **section 22A**. 25
- (3) A request may be made at any time before a decision on the referral application is made under **section 22A**.

Compare: 2020 No 35 s 22; 2023 No 46 Schedule 10 cl 18(1)–(4)

30

21 ~~Decision to decline application for referral~~

- (1) ~~The joint Ministers must decline an application for referral if the Ministers are satisfied that—~~
- (a) ~~referral of the project to a panel is inconsistent with the purpose of this Act; or~~ 35
 - (b) ~~the project does not meet the criteria in **section 17**; or~~
 - (c) ~~the project includes and ineligible activity.~~

- (2) ~~The Ministers may decline an application, even if they are satisfied that it meets the eligibility criteria, if the Ministers consider that —~~
- (a) ~~the project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHI Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahoā ā Rohe, or a joint management agreement; or~~ 5
 - (b) ~~it is more appropriate to deal with the application under another Act; or~~
 - (c) ~~the project may have significant adverse effects on the environment; or~~
 - (d) ~~the applicant has a poor compliance history under the relevant legislation; or~~
 - (e) ~~the project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes; or~~ 10
 - (f) ~~the project includes an activity that is a prohibited activity under the Resource Management Act 1991; or~~
 - (g) ~~the application should be declined for any other relevant reason.~~ 15
- (3) ~~A decision to decline an application may be made —~~
- (a) ~~before or after a report on the application is obtained under **section 13**; and~~
 - (b) ~~before or after comments on the application are invited; and~~
 - (c) ~~whether or not further information on the application is requested and provided.~~ 20
- (4) ~~However, if a report has been obtained, or if comments or further information have been sought and provided within the required time frame, the Ministers must consider those things, along with the application and any consultation required to be undertaken with relevant Māori groups, before deciding to decline the application.~~ 25
- (5) ~~A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the Ministers may decline some parts of an application and accept others.~~
- (6) ~~Even if a project or part of a project meets all the eligibility criteria, the Ministers may decide not to refer it to an expert panel.~~ 30

~~22 Decision to accept application for referral~~

- (1) ~~Before deciding to accept an application for referral, the joint Ministers must consider —~~
- (a) ~~the application; and~~ 35
 - (b) ~~the report obtained under **section 13**; and~~
 - (c) ~~any consultation required to be undertaken with relevant Māori groups; and~~

- (d) ~~any comments received within the required time frame; and~~
- (e) ~~any further information requested and provided under **section 20** within the required time frame.~~
- (2) ~~In considering the referral application, the joint Ministers must,—~~
 - (a) ~~if a Treaty settlement or related arrangement provides for the consideration of any document, arrangement, or other matter (including any statutory planning document amended as a result of that Treaty settlement or related arrangement), give that document, arrangement, or other matter the same or equivalent effect through the joint Ministers' process and decision making as it would have under the relevant legislation (if relevant); and~~ 5
 - (b) ~~if a Treaty settlement or related arrangement provides for procedural matters, comply with those requirements (if applicable) and direct the expert panel to comply with those matters (if relevant).~~ 10
- (3) ~~If the joint Ministers are satisfied that all or part of a project meets the eligibility criteria in **section 17**, the Ministers may decide—~~ 15
 - (a) ~~to refer all or part of a project to a panel;~~
 - (b) ~~to refer the initial stages of a project to the panel while deferring decisions about the project's remaining stages.~~
- (4) ~~A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the joint Ministers may accept some parts of an application and decline others.~~ 20

Decision on referral application

22A Minister's decision on referral application

Decision to accept referral application 25

- (1) The Minister may accept a referral application if the Minister is satisfied that,—
 - (a) in the case of a staged project,—
 - (i) the whole project meets the criteria in **section 22B**; and
 - (ii) each stage of the project would meet those criteria if considered as a stand-alone project; 30
 - (b) in the case of a project for which part of the project has been proposed as an alternative,—
 - (i) the whole project meets the criteria in **section 22B**; or
 - (ii) the part of the project that has been proposed as an alternative would meet those criteria if considered as a project in itself; 35
 - (c) in any other case, the project meets the criteria in **section 22B**.

- (2) If the Minister accepts a referral application, they may refer the whole or a part of the project to the fast-track approvals process in accordance with **section 22C**.
- Decision to decline referral application*
- (3) The Minister must decline a referral application if— 5
- (a) the application may not be accepted under **subsection (1)**; or
- (b) the Minister is satisfied that the project involves an ineligible activity.
- (4) The Minister may decline a referral application for any other reason, whether or not the project meets the criteria in **section 22B**.
- (5) Reasons to decline a referral application under **subsection (4)** include, without limitation, the following: 10
- (a) the project would be inconsistent with any of the following:
- (i) a Treaty settlement:
- (ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019:
- (iii) the Marine and Coastal Area (Takutai Moana) Act 2011: 15
- (iv) a Mana Whakahono ā Rohe:
- (v) a joint management agreement:
- (b) it would be more appropriate to deal with the matters that would be authorised by the proposed approvals under another Act or Acts:
- (c) the project may have significant adverse effects on the environment: 20
- (d) the applicant has a poor compliance history under a specified Act that relates to any of the proposed approvals:
- (e) the project area includes land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes:
- (f) the project includes an activity that is a prohibited activity under the Resource Management Act 1991: 25
- (g) the application contains inadequate information to inform the decision under this section.
- (6) The Minister may decline a referral application at any time permitted by **section 22E**. 30
- Avoidance of doubt and definitions*
- (7) To avoid doubt, the Minister is not prevented from accepting a referral application, or referring the whole or a part of a project to the fast-track approvals process, just because the project involves an activity that is a prohibited activity under the Resource Management Act 1991. 35
- (8) In this section,—
- alternative**, in relation to a project, means a part of the project that is proposed as an alternative project in itself under **section 14(3)(da)**

staged project means a project for which the referral application states under **section 14(3)(d)(ii)** that a separate substantive application is to be lodged for each stage of the project.

Compare: 2020 No 35 ss 23(1), (2), (5)–(7), 24(2)(a), (b); 2023 No 46 Schedule 10 cl 19

22B	Criteria for assessing referral application	5
(1)	The criteria for accepting a referral application are that—	
(a)	<u>the project is an infrastructure or development project that would have significant regional or national benefits; and</u>	
(b)	<u>referring the project to the fast-track approvals process—</u>	
(i)	<u>would facilitate the project, including by enabling it to be processed in a more timely and cost-efficient way than under normal processes; and</u>	10
(ii)	<u>is unlikely to materially affect the efficient operation of the fast-track approvals process.</u>	
(2)	For the purposes of subsection (1)(a) , the Minister may consider—	15
(a)	<u>whether the project—</u>	
(i)	<u>has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list;</u>	20
(ii)	<u>will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure;</u>	
(iii)	<u>will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020);</u>	25
(iv)	<u>will deliver significant economic benefits;</u>	
(v)	<u>will support primary industries, including aquaculture;</u>	
(vi)	<u>will support development of natural resources, including minerals and petroleum;</u>	30
(vii)	<u>will support climate change mitigation, including the reduction or removal of greenhouse gas emissions;</u>	
(viii)	<u>will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards;</u>	35
(ix)	<u>will address significant environmental issues;</u>	
(x)	<u>is consistent with local or regional planning documents, including spatial strategies;</u>	

- (b) any other matters the Minister considers relevant.
- (3) **Subsection (4)** applies if the Minister considers there is likely to be competition for space in areas of New Zealand's continental shelf or exclusive economic zone between activity involved in the project and proposed to be undertaken under an approval described in **section 24C(3)(h)** (marine consent) and— 5
- (a) any activities regulated under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or any other specified Act;
or
- (b) commercial fisheries activities. 10
- (4) For the purposes of **subsection (1)(a)** and without limiting **subsection (2)(b)**, the Minister may also consider—
- (a) the economic benefits and strategic importance of the proposed project; and
- (b) the likely impact of the proposed project on current and proposed marine management regimes; and 15
- (c) the environmental impacts of the competing activities.
- (5) A project is considered to meet the criterion in **subsection (1)(a)** if either or both of the following apply:
- (a) the project is a Part B listed project; 20
- (b) the project is an aquaculture activity—
- (i) that is within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or an area reserved under another Treaty settlement for the aquaculture activities of a particular group; and 25
- (ii) for which the applicant is authorised to apply for a coastal permit.

Compare: 2020 No 35 s 18(2)

22C Referral of project if referral application accepted

- (1) This section applies if the Minister accepts a referral application under **section 22A**. 30
- (2) The Minister may,—
- (a) if the application is accepted under **section 22A(1)(a)** or (c), refer the whole project;
- (b) if the application is accepted under **section 22A(1)(b)(i)**, refer—
- (i) the whole project; or 35
- (ii) the part of the project that has been proposed as an alternative;
- (c) if the application is accepted under **section 22A(1)(b)(ii)**, refer the part of the project that has been proposed as an alternative.

- (3) If the Minister refers a part of a project under **subsection (2)(b)(ii) or (c)** of this section, that part of the project constitutes the referred project.

22D Minister may determine that linear infrastructure on certain identified Māori land is not ineligible activity

- (1) In making a decision under **section 22A**, the Minister may determine that, for the purposes of the project, an activity described in **section 4A(1)(a)** is not an ineligible activity if it— 5

- (a) would occur on identified Māori land that is Māori freehold land or General land owned by Māori that was previously Māori freehold land; and 10
- (b) is the construction of electricity lines or land transport infrastructure by (or to be operated by) a network utility operator that is a requiring authority.

- (2) Before making a determination, the Minister must take into account the effects of the activity on the land and on the rights and interests of Māori in that land. 15

- (3) The Minister may decline to make a determination—

- (a) if the Minister considers that the activity would have adverse effects on that land or those rights or interests; or
- (b) for any other reason.

- (4) In this section,— 20

electricity lines means works that are used or intended to be used for the conveyance of electricity

land transport infrastructure means structures for transport on land by cycleways, rail, roads, walkways, or any other means.

22E Timing of decision to decline referral application 25

- (1) A decision to decline a referral application may be made—

- (a) before or after comments on the application are invited under **section 19(1)**;
- (b) before or after a report on the application is obtained under **section 19A or 19B**; 30
- (c) whether or not further information on the application is requested and provided under **section 20**.

- (2) However, if a report has been obtained, or if comments or further information have been sought and provided within the required time frame, the Minister must consider those things, along with the referral application, before deciding to decline the application. 35

Compare: 2020 No 35 s 23(2), (4)

23 Minister ~~may specify~~ specifies matters for accepted referral application

- (1) This section applies if the Minister accepts a referral application and refers a project.
- (2) The Minister must specify the person who lodged the referral application as the person who is authorised to lodge a substantive application for the project. 5
- (3) The Minister may specify any or all of the following:
- (a) restrictions that apply to the project (for example, on its geographical location, its duration, or the aspects of the project that may be carried out):
 - (b) in relation to a substantive application for the project,— 10
 - (i) a deadline for lodging the application:
 - (ii) information that must be submitted with the application:
 - (iii) the persons or groups from whom a panel must invite submissions in addition to those specified in **section 24M**.
- (1) ~~If the joint Ministers accept all or part of a referral application, the Ministers may specify any or all of the following:~~ 15
- (a) ~~the persons who are authorised to lodge applications or notices for approval for all or part of the activity:~~
 - (b) ~~restrictions that apply to the activity (for example, on its geographical location, its duration, or the aspects of the activity that may be carried out):~~ 20
 - (c) ~~information that must be submitted to the panel with the applications or notices:~~
 - (d) ~~persons or groups from whom the panel must invite submissions:~~
 - (e) ~~time frames for the panel to process the applications or notices, which may differ from the time frames that would otherwise apply to the panel under this Part.~~ 25
- (2) ~~The Ministers may also set a deadline by which persons must lodge the applications or notices.~~
- Compare: 2020 No 35 s 24(2)(c)–(f); 2023 No 46 Schedule 10 cl 20 30

24 Notice of ~~joint Ministers’~~ Minister’s decision on referral application

- (1) The responsible agency must give notice of ~~a decision~~ decisions made by the ~~joint Ministers~~ Minister on a referral application and the associated project under **sections 22A and 22C**, and the reasons for ~~it~~ them, to— 35
- (a) the applicant; and
 - (b) anyone invited to comment on the application.
- (2) If the ~~decision is~~ decisions are to accept ~~all or part of a~~ the referral application and refer a project, the responsible agency must also give notice to—

- (a) the panel convener; and
- ~~(b) the Māori land trusts, incorporations, or agents appointed under Te Ture Whenua Māori Act 1993 whose land is affected by the project; and~~
- (c) ~~the relevant iwi authorities, Treaty settlement entities, protected customary rights groups, customary marine title groups, and applicant groups under the Marine and Coastal (Takutai Moana) Act 2011 identified in the report obtained under **section 13**; and~~ 5
- (d) any ~~other~~ iwi authorities or Treaty settlement entities (other than those that must be notified under **subsection (1)(b)**) that the ~~Ministers consider~~ Minister considers have an interest in the matter; and 10
- ~~(e) any group that is a party to a joint management agreement or Mana Whakahoā ā Rohe that relates to the area of the activity; and~~
- (f) the EPA; and
- (g) if a proposed approval would require an aquaculture decision under **section 24VA**, the chief executive; and 15
- (h) the relevant administering agencies.
- (3) If the ~~decision is~~ decisions are to accept ~~all or part of a~~ the referral application and refer a project, the notice must—
- (a) describe the application and state that it has been accepted; and
- (b) state the ~~Ministers' Minister's~~ Minister's reasons for accepting the application, including which provision of **section 22A(1)** it was accepted under; 20
- and
- (ba) include a description of the project that incorporates any restrictions imposed on the project under **section 23(3)(a)**; and
- ~~(c) set out the matters specified by the Ministers; and~~ 25
- (d) specify the deadline for lodging the substantive application ~~any approval for all or part of the activity,~~ which must be—
- (i) the deadline set by the ~~Ministers~~ Minister under **section 23(3)(b)(i)**; or
- (ii) if no deadline is set, the date that is 2 years after the notice is given to the applicant; and 30
- (e) include any other matters specified by the Minister under **section 23**; and
- (f) include any direction under **section 18B(2)(c)**.
- (4) The Minister must provide all the information received by the Minister that relates to the matter to the responsible agency and to the panel convener, ~~with all the information received by the Minister that relates to the matter,~~ including— 35
- ~~(a) the report obtained under **section 13**; and~~

- (b) any comments received under **section 19(4)**; and
- (c) the reports obtained under **sections 19A and 19B**.

Compare: 2020 No 35 s 25; 2023 No 46 Schedule 10 cl 21

25 Panel to report and joint Ministers to decide whether to approve project

- (1) ~~The panel must prepare a report with recommendations on the substantive application referred to it under this Act and provide the report to the joint Ministers.~~ 5
- (2) ~~In preparing the report, the panel must consult the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development.~~
- (3) ~~Those Ministers must be allowed 5 working days to comment on the draft report, its assessment of the project in relation to the relevant Treaty settlement, and any conditions relevant to that assessment, before the report is provided to the joint Ministers for their final decision.~~ 10
- (4) ~~Joint Ministers must not decide to deviate from a Panel's recommendations unless they have undertaken analysis of the recommendations and any conditions included in accordance with the relevant assessment criteria.~~ 15
- (5) ~~In determining a substantive application, the joint Ministers may refer a part or the whole of the panel's recommendations back to the panel to reconsider, and give the panel any directions the Ministers think appropriate as to the reconsideration of a part or the whole of the recommendations.~~ 20
- (6) ~~The Ministers may —~~
 - (a) ~~seek clarification from the panel on any recommendation;~~
 - (b) ~~commission additional advice;~~
 - (c) ~~seek further comments from any affected parties.~~
- (7) ~~After considering the expert panel's report on a referral application for a project, the joint Ministers must —~~ 25
 - (a) ~~approve the project and grant the relevant approvals subject to the conditions (if any) specified in the approval; or~~
 - (b) ~~decline to approve the project.~~
- (8) ~~The responsible agency must notify the applicant of the joint Ministers' decision, including (if applicable) the reasons for declining approval.~~ 30
- (9) ~~An applicant whose application for approval is declined may reapply to the Ministers by lodging a fresh referral application with the responsible agency.~~

Subpart 2A—Preliminary steps for land exchange

24AA This subpart applies to land exchange 35

This subpart applies if a Part A listed project or a referred project requires a land exchange as defined in **clause 17 of Schedule 5**.

24AB Land exchange information lodged with Department of Conservation

Before lodging a substantive application for the project, the authorised person must lodge with the Department of Conservation—

- (a) the information set out in **clause 17C of Schedule 5**; and
- (b) the information relevant to the land exchange that,—
 - (i) in the case of a Part A listed project, is required under **section 24D(2)**;
 - (ii) in the case of a Part B listed project or an unlisted project, was contained in the referral application.

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24AC Department of Conservation report on land exchange

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- (1) The Department of Conservation must, not later than 5 working days after it receives the information under **section 24AB**, invite written comments on the proposed land exchange from—
 - (a) the persons and groups referred to in **section 24M**; and
 - (b) any groups with recognised negotiation mandates for, or current negotiations for, Treaty settlements in the area of the proposed land exchange.
- (2) **Sections 24M(2) and (3) to 24O**, including the time frames for comments and responses, apply—
 - (a) as if references in those sections to the panel or the EPA were references to the Department of Conservation; and
 - (b) as if references in those sections to the area to which the substantive application relates were references to the area of the land exchange; and
 - (c) with any other necessary modifications.
- (3) The Department of Conservation must provide a report to the panel convener containing the matters specified in **clause 17B of Schedule 5**.

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Subpart 2B—Process for panel consideration of substantive application**24A Appointment of panel**

- (1) The panel convener must appoint a panel under **Schedule 3** for—
 - (a) each Part A listed project for which a substantive application is lodged; and
 - (b) each referred project.
- (2) For a project that involves a land exchange, the panel convener must not appoint a panel until the convener receives the report under **section 24AC**.

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Compare: 2020 No 35 s 14

24B Process under this Act applies instead of process under specified Act

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If a substantive application seeks an approval under this Act,—

- (a) the process under this Act for obtaining the approval applies instead of the process for obtaining any corresponding approval under a specified Act; and
- (b) the process under this Act for obtaining any aquaculture decision in connection with an approval described in **section 24C(3)(a)** (resource consent) applies instead of the process for obtaining an aquaculture decision under the Fisheries Act 1996.

5

24BA Application of panel process to land exchange

Sections 24M to 24O do not apply in relation to the part of a substantive application that relates to a land exchange.

10

Substantive applications

24C Authorised person may lodge substantive application for approvals

- (1) An authorised person for a Part A listed project or a referred project may lodge with the EPA—

- (a) 1 substantive application for the project; or
- (b) if the referral application for the project was accepted under **section 22A(1)(a)**, 1 substantive application for each stage of the project.

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- (2) The authorised person must be a person who, for each of the approvals sought under **subsection (3)**, would be eligible to apply for any corresponding approval under a specified Act.

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- (3) A substantive application may seek 1 or more of the following matters (the approvals):

- (a) a resource consent that would otherwise be applied for under the Resource Management Act 1991 (but *see* **subsection (4)**):
- (aa) a certificate of compliance that would otherwise be applied for under the Resource Management Act 1991 (but *see* **subsection (5)**):
- (b) a designation or an alteration to an existing designation for which a notice of requirement would otherwise be lodged under the Resource Management Act 1991:
- (c) a concession as defined in **clause 1 of Schedule 5**:
- (d) the exchange of one of the following for land specified by the applicant that would otherwise be done under the Conservation Act 1987 or the Reserves Act 1977:
 - (i) a conservation area or part of a conservation area:
 - (ii) a Crown-owned reserve or part of a Crown-owned reserve:
- (e) an amendment to or revocation of a conservation covenant as defined in **clause 22 of Schedule 5**:
- (f) a Wildlife Act approval as defined in **clause 1 of Schedule 6**:

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- (g) an archaeological authority described in section 44(a) or (b) of the Heritage New Zealand Pouhere Taonga Act 2014 that would otherwise be applied for under that Act (but *see* **subsection (6)**):
- (h) a marine consent that would otherwise be applied for under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012: 5
- (i) an initial access arrangement or a variation to an existing access arrangement that would otherwise be applied for under section 61 of the Crown Minerals Act 1991:
- (j) an access arrangement that would otherwise be applied for under section 61B of the Crown Minerals Act 1991 or a variation to an access arrangement granted under that section. 10
- (4) A substantive application may seek an approval described in **subsection (3)(a)** for an activity that is a prohibited activity under the Resource Management Act 1991. 15
- (5) A substantive application may seek an approval described in **subsection (3)(aa)** only if the substantive application also seeks an approval described in **subsection (3)(a) or (b).**
- (6) A substantive application that seeks an approval described in **subsection (3)(g)**— 20
 - (a) may be made only if the application also seeks an approval described in **subsection (3)(a) or (b):**
 - (b) may include an application under **clause 6 of Schedule 7** (application for approval of person to carry out activity).
- (7) A substantive application must be lodged in accordance with **section 24D.** 25

24CA Consultation requirement for Part A listed project

Before lodging a substantive application for a Part A listed project, the authorised person for the project must consult the persons and groups referred to in **section 16.**

24CB Pre-request aquaculture agreement

- (1) This section applies if— 30
 - (a) a substantive application seeks an approval described in **section 24C(3)(a)** (resource consent) for aquaculture activities to be undertaken in the coastal marine area; and
 - (b) either— 35
 - (i) the authorised person for the project does not hold a coastal permit under the Resource Management Act 1991 to occupy the relevant area of the coastal marine area for aquaculture activities;
 - or

- (ii) the authorised person does hold a coastal permit of that kind but a condition under section 186H(3)(b) of the Fisheries Act 1996 has previously been set in relation to the area.
- (2) If the authorised person for the project wishes to lodge a pre-request aquaculture agreement in relation to the area, they must lodge it with the chief executive before lodging the substantive application. 5
- (3) Section 186ZM of the Fisheries Act 1996 applies in relation to the pre-request aquaculture agreement with all necessary modifications, including that the reference to the chief executive in section 186ZM(9) of that Act must be read as a reference to the panel that considers the substantive application. 10

24D Requirements for substantive application

- (1) A substantive application must—
 - (a) be lodged in the form and manner approved by the EPA; and
 - (b) comply with—
 - (i) any requirements for the application included in the notice given under **section 24**; and 15
 - (ii) the requirements listed in **subclause (3)** that apply to the approvals sought; and
 - (c) if the application seeks an approval for an activity that is the subject of a determination under **section 22D**, set out the steps taken to secure the agreement referred to in **section 4A(1)(a)**; and 20
 - (d) be made by the deadline specified under **section 24(3)(d)**.
- (2) If a substantive application is for a Part A listed project, it must also contain the information required by **section 14(3)** (which applies as if the reference in **section 14(3)(ia)** to **section 16** were a reference to **section 24CA** and with any other necessary modifications). 25
- (3) The requirements referred to in **subclause (1)(b)(ii)** are those set out in,—
 - (a) for an approval described in **section 24C(3)(a)** (resource consent), **clauses 2 to 5 of Schedule 4**;
 - (b) for an approval described in **section 24C(3)(aa)** (certificate of compliance), **clause 6 of Schedule 4**; 30
 - (c) for an approval described in **section 24C(3)(b)** (designation), **clause 7 of Schedule 4**;
 - (d) for an approval described in **section 24C(3)(c)** (concession), **clause 2 of Schedule 5**; 35
 - (e) for an approval described in **section 24C(3)(d)** (land exchange), **clause 17C of Schedule 5**;
 - (f) for an approval described in **section 24C(3)(e)** (conservation covenant), **clause 23 of Schedule 5**;

- (g) for an approval described in **section 24C(3)(f)** (Wildlife Act approval), **clause 1A of Schedule 6**:
- (h) for an approval described in **section 24C(3)(g)** (archaeological authority), **clause 2B of Schedule 7**:
- (i) for an approval described in **section 24C(3)(h)** (marine consent), **clauses 6 and 8 of Schedule 9**: 5
- (j) for an approval described in **section 24C(3)(i) or (j)** (access arrangement), **clause 2A of Schedule 10**.
- (4) The EPA must approve an application form for the purposes of this section and ensure that it is made available on an internet site maintained by the EPA. 10
 Compare: 2020 No 35 Schedule 6 cl 2(2), (5); 2023 No 46 Schedule 10 cl 22
- 24E Scope of information required**
- (1) Information required by **section 24D(1)(b)** must be provided in sufficient detail to correspond to the scale and significance of the matters that will be assessed in considering whether to grant the approvals sought, including any adverse effects of the activities to which the approvals relate. 15
- (2) **Subsection (1)** applies, taking into account any proposal by the authorised person to manage the adverse effects of an activity through conditions.
 Compare: 2020 No 35 Schedule 6 cl 14
- 24F EPA decides whether substantive application is complete and within scope** 20
- (1) Within 15 working days after receiving a substantive application and after consulting the relevant administering agencies, the EPA must decide whether the application—
- (a) complies with—
- (i) **section 24C**; and 25
- (ii) **section 24D(1) and (2)** (as applicable); and
- (b) relates solely to a Part A listed project or a referred project; and
- (c) on the face of the application, does not appear to seek an approval for an ineligible activity.
- (2) If the EPA decides that the substantive application complies with **subsection (1)(a) to (c)**, the EPA must provide the application to the panel convener. 30
- (3) If the EPA decides that the substantive application does not comply with that subsection, it must return the application immediately to the person who lodged it, with written reasons for the EPA's determination.
- (4) If a substantive application is lodged again with the EPA after the EPA has returned the application,— 35
- (a) that application must be treated as a new substantive application; and

(b) the time period specified in **subsection (1)** begins again for the EPA.

Compare: 2020 No 35 Schedule 6 cls 3, 4; 2023 No 46 Schedule 10 cl 23

24FA EPA requests recommendation in relation to aquaculture activities

- (1) If the EPA receives a substantive application to which **section 24CB** applies, the EPA must, at the same time as providing the application to the panel convener, request that the chief executive make a recommendation, in accordance with **clauses 9 to 11 of Schedule 4**, on the aquaculture decision to be made under **section 24VA**. 5
- (2) If the EPA sends 2 or more requests to the chief executive at the same time, the EPA must indicate to the chief executive the time at which the respective applications were received. 10
- (3) The EPA, at the panel's direction, must notify the chief executive of the date on which the panel intends to invite comments under **section 24M** at least 1 day before that date to allow the processes under **clause 9 of Schedule 4** to occur at the same time. 15

24FB EPA obtains **section 19A report for Part A listed project**

- (1) If a Part A listed project is referred to the fast-track approvals process, the EPA must request a report from the responsible agency that is prepared in accordance with **section 19A(2) to (4)** (but does not contain the matters in **section 19A(2)(j) and (k)**). 20
- (2) The responsible agency must provide the report within 10 working days after receiving the request.

24G Panel convener obtains other advice and reports

- (1) After receiving a substantive application, the panel convener must direct the EPA to obtain— 25
 - (a) any advice from the relevant administering agencies that the panel convener considers necessary to assess the application; and
 - (b) any reports referred to in **subsection (2)**.
- (2) The reports are as follows:
 - (a) if the substantive application seeks an approval described in **section 24C(3)(c)** (concession), a report prepared by the Department of Conservation in accordance with **clause 3 of Schedule 5**: 30
 - (b) if the substantive application seeks an approval described in **section 24C(3)(e)** (conservation covenant), a report prepared by the Department of Conservation in accordance with **clause 24 of Schedule 5**: 35
 - (c) if the substantive application seeks an approval described in **section 24C(3)(f)** (Wildlife Act approval), a report prepared the Department of Conservation in accordance with **clause 1B of Schedule 6**:

- (d) if the substantive application seeks an approval described in **section 24C(3)(g)** (archaeological authority), reports prepared by Heritage New Zealand Pouhere Taonga and the Māori Heritage Council in accordance with **clause 2C of Schedule 7**:
- (e) if the substantive application seeks an approval described in **section 24C(3)(i) or (j)** (access arrangement), a report prepared by the Department of Conservation in accordance with **clause 2B of Schedule 10**. 5
- (3) A relevant administering agency must provide any advice or report requested under **subsection (1)** to the EPA within 10 working days after the panel invites comments under **section 24M**. 10
- (4) The panel must consider any advice or report that is provided to the EPA.
- (5) The EPA—
- (a) must provide electronic copies of the advice or report to—
- (i) the members of the panel; and
- (ii) the authorised person who lodged the substantive application; and 15
- (iii) every person or group that provides comments under **section 24AC or 24M**; and
- (b) in complying with **paragraph (a)(ii) and (iii)**, may withhold information if the EPA is satisfied that there would be good reason to withhold the information under the Official Information Act 1982 if the information were requested under that Act. 20
- (6) The persons and groups that receive advice or a report under **subsection (4)(a)(iii)** may not make any further comments unless requested by the panel.

24H Withdrawal of substantive application

- (1) At any time before the panel makes a recommendation under **section 24W** on the approvals sought in a substantive application, the authorised person who lodged the application may withdraw the application by giving written notice— 25
- (a) to the EPA; and
- (b) if the withdrawal occurs after a request is made under **section 24FA**, to the chief executive; and 30
- (c) if the withdrawal occurs after persons or groups are invited to provide written comments under **section 24AC or 24M**, to those persons or groups.
- (2) As soon as practicable after receiving a notice under **subsection (1)(a)**, the EPA must advise the panel that the substantive application has been withdrawn. 35

Compare: 2020 No 35 Schedule 6 cl 5; 2023 No 46 Schedule 10 cl 32

*Provisions relating to information***24J EPA may request information from relevant administering agencies and local authorities**

- (1) This section applies to information that the EPA considers—
- (a) is held by a relevant administering agency or a local authority; and 5
 - (b) relates to a Part A listed project or a referred project; and
 - (c) is necessary for considering a current or anticipated substantive application.
- (2) The EPA, at any time before or after it receives the substantive application, may request the relevant administering agency or local authority to provide the information and set a date by which the information must be made available. 10
- (3) The relevant administering agency or local authority must,—
- (a) within the time specified by the EPA, provide the information requested; or
 - (b) advise the EPA that the information will be available, but not within the time specified by the EPA; or 15
 - (c) advise the EPA that the agency or local authority does not hold the information and, if the agency or local authority knows where the information is held, advise the EPA accordingly.
- (4) If a relevant administering agency or local authority is unable to provide the information requested under **subsection (2)** by the date specified under that subsection, the agency or local authority must provide the information as soon as practicable. 20

Compare: 2020 No 35 Schedule 6 cl 7; 2023 No 46 Schedule 10 cl 30

24K Information held by relevant administering and local authorities that is sensitive to iwi or hapū 25

Despite **section 24J**, if information sensitive to an iwi or a hapū is held by a relevant administering agency or local authority under an agreement of confidentiality, the agency or local authority must—

- (a) maintain that confidentiality; and 30
- (b) before the information is disclosed under **section 24J**, discuss with the iwi or hapū whether that information or any part of it may be disclosed and, if so, how it may be disclosed and to whom.

24L EPA powers to make certain decisions

- (1) The EPA— 35
- (a) may make administrative decisions that are incidental or ancillary to the conduct of a panel; but

- (b) must not make administrative decisions that would be inconsistent with, or preclude compliance with, **clause 5 of Schedule 3**.
- (2) The EPA must publish, free of charge to the public on an internet site it maintains, every written notice or other document that this Act requires to be—
- (a) received by the EPA or a panel from any person; or 5
- (b) sent by the EPA or a panel to any person.
- (2A) In complying with **subsection (2)**, the EPA may withhold information if the EPA is satisfied that there would be good reason to withhold the information under the Official Information Act 1982 if the information were requested under that Act. 10
- (3) In performing and exercising its functions, duties, and powers under this Act, the EPA must, as far as is reasonably practicable, minimise costs and avoid delay.
- Compare: 2020 No 35 Schedule 6 cl 8; 2023 No 46 Schedule 10 cls 43, 44

Opportunity for comment on substantive application

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24M Panel invites comments on substantive application

- (1) The panel must direct the EPA to, in accordance with this section, invite written comments on a substantive application not later than 10 working days after the panel is appointed.
- (2) Comments must be invited from— 20
- (a) the relevant local authorities; and
- (b) any relevant iwi authorities; and
- (c) any relevant Treaty settlement entities, including, to avoid doubt,—
- (i) an entity that has an interest under a Treaty settlement within the area to which the substantive application relates; and 25
- (ii) an entity operating in a collective arrangement, provided for under a Treaty settlement, that relates to that area; and
- (ca) any protected customary rights groups and customary marine title groups whose protected customary rights area or customary marine title is within the area to which the substantive application relates; and 30
- (d) any applicant group under the Marine and Coastal Area (Takutai Moana) Act 2011 that is identified in the report prepared under **section 19A or 24FB** and seeks recognition of customary marine title or protected customary rights within the area to which the substantive application relates; and 35
- (e) ngā hapū o Ngāti Porou if the area to which the substantive application relates is within or adjacent to, or the activities to which it relates would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou; and

- (ea) the tangata whenua of any area within the area to which the substantive application relates that is a taiāpure-local fishery, a mātaītai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and
- (f) the owners of the land to which the substantive application relates and the land adjacent to that land; and 5
- (g) the occupiers of the land to which the substantive application relates and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified; and
- (h) the Minister for the Environment and other relevant portfolio Ministers; and 10
- (i) relevant administering agencies; and
- (j) any requiring authority that has a designation on land to which the substantive application relates or on land adjacent to that land; and
- (k) if the approvals sought in the substantive application include— 15
- (i) an approval described in **section 24C(3)(a) or (b)** (resource consent or designation), the persons and groups listed in **clause 8 of Schedule 4**;
- (ii) an approval described in **section 24C(3)(c)** (concession), the persons listed in **clause 4 of Schedule 5**; 20
- (iii) an approval described in **section 24C(3)(f)** (Wildlife Act approval), the persons listed in **clause 1BA of Schedule 6**;
- (iv) an approval described in **section 24C(3)(i) or (j)** (access arrangement), the persons listed in **clause 2C of Schedule 10**; and 25
- (l) any persons or groups specified in the Minister’s notice under **section 23(3)(b)(iii)**.
- (3) Comments may be invited from any other person the panel considers appropriate. 30
- Compare: 2020 No 35 Schedule 6 cl 17; 2023 No 46 Schedule 10 cl 26

24N General provisions relating to invitations given under section 24M

- (1) The EPA must, at the panel’s direction, specify in its invitation for comments under **section 24M** that the comments must be received by the EPA on behalf of the panel on a specified date that is 20 working days after the date on which the invitation is given. 35
- (2) The invitation must include notice of the substantive application, with details as to how to access the application.
- (3) An iwi authority invited to provide comments under **section 24M** may—

- (a) share the substantive application for the approval with hapū whose rohe is in the area to which the substantive application relates; and
- (b) choose to include comments from that hapū with the comments provided to the panel by the iwi authority.
- (4) The panel— 5
- (a) must consider any comments received within the time frame specified in the invitation;
- (b) is not required to consider any comments received after that time frame, but may do so, in its discretion, as long as the panel has not made its decisions on the approvals sought in the substantive application under **section 24W.** 10
- (5) There is no right for any person to seek a waiver of the time limit for written comments to be received by the EPA.
- Compare: 2020 No 35 Schedule 6 cl 18(1)–(3); 2023 No 46 Schedule 10 cl 27(1)
- 24O Response to comments provided under **section 24M**** 15
- (1) The EPA must forward copies of any comments received under **section 24M** to the authorised person who lodged the substantive application.
- (2) The authorised person may provide the EPA with a response to the comments not later than 5 working days after the date specified under **section 24N(1).**
- (4) The panel— 20
- (a) must consider any response received within that time frame;
- (b) is not required to consider any response received after that time frame, but may do so, in its discretion, as long as the panel has not made its decisions on the approvals sought in the substantive application under **section 24W.** 25
- Compare: 2020 No 35 Schedule 6 cl 19

Hearing of panel

24P Hearing not required

There is no requirement for a panel to hold a hearing in respect of a substantive application and no person has a right to be heard by a panel. 30

Compare: 2020 No 35 Schedule 6 cl 20; 2023 No 46 Schedule 10 cl 28(2)

24Q Procedure if hearing is held

Who may appear and be heard

- (1) If, in its discretion, a panel considers it is appropriate to hold a hearing on a substantive application (or any part of a substantive application), it may hear from— 35
- (a) the authorised person who lodged the application; and

- (b) any person commissioned by the panel to write a report on the substantive application; and
- (c) any person or group that provided comments under **section 24AC or 24M.**
- (2) If a person or group that provided comments is heard, a panel must give the authorised person the opportunity to be heard. 5
- Notices and timing requirements*
- (3) If a panel decides to hold a hearing, the EPA, at the direction of the panel, must issue a notice of hearing to persons and groups referred to in **subsection (1),** fixing the date, time, and place of the hearing. 10
- (4) The notice must give no less than 5 working days' notice of the hearing, and must advise the persons and groups notified—
- (a) that they may appear and be heard, be represented, and call evidence in relation to the substantive application (or the part of the substantive application for which a hearing is held); and 15
- (b) that they must, within 3 working days after the notice of hearing is given, advise the EPA whether they will attend the hearing.
- (5) If a person or group advises the EPA under **subsection (4)(b)** that they will attend a hearing but fails to appear, the panel may proceed with the hearing.
- (6) A panel must complete any hearing within the time frame allowed under **section 24V** for the panel to issue its decisions under **section 24W.** 20
- Application of Local Government Official Information and Meetings Act 1987*
- (7) For the purposes of this section and **sections 24QAAA and 24QAAB,** Part 1 and sections 48 and 53 of the Local Government Official Information and Meetings Act 1987 apply, with any necessary modifications, as if a panel were a board of inquiry given authority to conduct a hearing under section 149J of the Resource Management Act 1991. 25
- Compare: 2020 No 35 Schedule 6 cl 21(1)–(6)

24QAAA Other provisions about conduct of hearing

- (1) If a hearing is held, a panel must— 30
- (a) avoid unnecessary formality; and
- (b) recognise tikanga Māori where appropriate; and
- (c) receive evidence, written or spoken, in te reo 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 35
- (e) if the chairperson of a panel gives leave, permit cross-examination.

- (2) Section 4 of the Commissions of Inquiry Act 1908 (which gives powers to maintain order) applies to any hearing conducted by a panel under this Act.
- (3) A panel may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with an application for an approval, whether or not it would be admissible in a court of law. 5
- (4) A panel may, in its discretion, make an order that prohibits or restricts the publication or other means of communication of information supplied to the panel or obtained by it in the course of a hearing.
- (5) **Subsection (4)** applies whether or not the information is material to determining whether to grant an approval sought in a substantive application if there would be good reason to withhold the information under section 6 or 7 of the Local Government Official Information and Meetings Act 1987. 10
- (6) A panel may, if it considers that there is likely to be excessive repetition, limit the circumstances in which persons with the same interests may speak or call evidence. 15
- Compare: 2020 No 35 Schedule 6 cl 21(7)–(12)

24QAAB Remote access hearing

- (1) A panel may direct that a hearing or part of a hearing be held using 1 or more remote access facilities—
- (a) on the initiative of the panel; or 20
- (b) at the request of the applicant; or
- (c) at the request of a person, or a representative of a group of persons, referred to in **section 24Q(1)**.
- (2) If a hearing is held using a remote access facility, a panel must,—
- (a) if it is reasonably practicable to do so, enable access to the hearing by making it available live and free of charge to the public, for example, on an internet site; or 25
- (b) as soon as practicable after the hearing closes, make available, free of charge on an internet site,—
- (i) an audio or a video recording of the hearing; or 30
- (ii) a written transcript of the hearing.
- (3) **Subsection (2)** is subject to section 48 of the Local Government Official Information and Meetings Act 1987 (right of local authorities to exclude public).

Compare: 2020 No 35 Schedule 6 cl 21(13)–(15)

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*Suspension of processing substantive application***24QA When processing of substantive application may be suspended**

- (1) Processing of a substantive application may be suspended in the following circumstances:
- (a) by direction of the EPA under **section 24QB**: 5
 - (b) by direction of the Minister under **section 24R**:
 - (c) at the discretion of the panel following a request under **section 24S** by the authorised person who lodged the substantive application.
- (2) Any time frame under this Act that relates to the processing of a substantive application excludes any period during which processing of the application is suspended. 10

Compare: 2020 No 35 Schedule 6 cl 6(1)

24QB EPA may direct suspension in processing substantive application

- (1) If the authorised person who lodged a substantive application has not paid the costs recoverable by the EPA, the EPA may suspend the processing of the application and must give notice of the suspension to— 15
- (a) the members of the panel; and
 - (ab) the authorised person who lodged the substantive application; and
 - (ac) if advice or a report has been requested from an agency under **section 24G** and is yet to be provided to the EPA, that agency; and 20
 - (b) if a recommendation has been requested from the chief executive under **section 24FA** and is yet to be made, the chief executive; and
 - (c) if persons or groups have been invited to provide comments under **section 24AC or 24M**, those persons or groups.
- (2) If the authorised person subsequently pays the costs recoverable by the EPA, the EPA must resume processing the substantive application and must give notice of the resumption to the persons notified of the suspension. 25
- (3) A person referred to in **subsection (1)(a), (ac), or (b)** must—
- (a) suspend processing of the substantive application if they receive a notice under that subsection; and 30
 - (b) resume processing of the application if they receive a notice under **subsection (2)**.

Compare: 2020 No 35 Schedule 6 cl 6(2)–(3)

24R Minister may direct suspension in processing substantive application

- (1) The Minister may, at any time after a substantive application has been provided to a panel, give a written direction, with reasons, to the EPA that processing of the application be suspended. 35

- (2) The Minister may give a direction under **subsection (1)** if the Minister considers that—
- (a) different or further approvals are required in respect of the project; and
 - (b) those approvals relate to the same specified Act as an approval that is sought in the substantive application; and 5
 - (c) the nature of the project would be better understood if the substantive application were amended to seek those approvals before the panel proceeds further.
- (3) If the EPA receives a direction from the Minister under **subsection (1)**, the EPA must, within 5 working days after receiving the direction, give notice of the direction to— 10
- (a) the members of the panel; and
 - (b) the relevant local authorities; and
 - (c) the authorised person who lodged the substantive application; and
 - (ca) if advice or a report has been requested from an agency under **section 24G** and is yet to be provided to the EPA, that agency; and 15
 - (cb) if a recommendation has been requested from the chief executive under **section 24FA** and is yet to be made, the chief executive; and
 - (d) if persons or groups have been invited to provide comments under **section 24AC or 24M**, those persons or groups. 20
- (4) A notice under **subsection (3)** must include a copy of the direction and reasons received from the Minister by the EPA.
- (5) A person who receives a notice under **subsection (3)(a), (ca), or (cb)** must suspend processing of the substantive application. 25
- Compare: 2020 No 35 Schedule 6 cl 22(1)–(3), (5)

24RA Resumption in processing substantive application following suspension under section 24R

- (1) The Minister may, at any time, by notice in writing with reasons, withdraw the direction given to the EPA under **section 24R**.
- (2) **Subsection (3)** applies if the Minister’s direction is withdrawn before the substantive application is amended to seek the different or further approvals referred to in **section 24R(2)**. 30
- (3) If this subsection applies, the panel and any person notified under **section 24R(3)(ca) or (cb)** must resume processing the original substantive application from the date on which the Minister’s direction is withdrawn. 35
- (4) **Subsection (5)** applies if a substantive application is amended to seek the further or different approvals referred to in **section 24R(2)** before the Minister’s direction is withdrawn.

(5) If this subsection applies, the panel and any person notified under **section 24R(3)(ca) or (cb)**, must—

- (a) process the parts of the amended substantive application that relate to the further or different approvals as if they were a new substantive application (except for the purposes of **section 24W**); and
- (b) resume processing the parts of the amended substantive application that relate to the approvals originally sought but, in doing so, observe the time frames set out in this Act that apply to the parts of the application described in **paragraph (a)**.

Compare: 2020 No 35 Schedule 6 cl 22(4), (6)–(9)

24S Authorised person may request suspension of processing substantive application

(1) The authorised person who lodged a substantive application may make a written request to the EPA that processing of the application be suspended.

(2) A request may be made only in the period between—

- (a) the time when the EPA provides the substantive application to a panel under **section 24F**; and
- (b) the time when a panel makes its decisions under **section 24W** on the approvals sought in the application.

(3) A panel may, at its discretion, suspend the processing of a substantive application when a request is made under **subsection (1)**.

(4) If a panel grants a suspension, the EPA must give notice of the date on which the panel suspended processing of the application to—

- (a) the authorised person who lodged the substantive application; and
- (b) if advice or a report has been requested from an agency under **section 24G** and is yet to be provided to the EPA, that agency; and
- (c) if a recommendation has been requested from the chief executive under **section 24FA** and is yet to be made, the chief executive; and
- (d) if persons or groups have been invited to provide comments under **section 24AC or 24M**, those persons or groups.

(5) A person who receives a notice under **subsection (4)(b) or (c)** must suspend processing of the substantive application.

Compare: 2020 No 35 Schedule 6 cl 23(1)–(5)

24SA Resumption in processing of substantive application following suspension under **section 24S**

(1) An authorised person granted a suspension under **section 24S(3)** may request in writing to the EPA that the processing of the substantive application be resumed.

- (2) If a request is made under **subsection (1)**, the panel must, as soon as is reasonably practicable, resume processing the substantive application.
- (3) The panel may decide under **section 24T(2)(b)** to resume processing the substantive application in the absence of a request under **subsection (1)**.
- (4) If a panel resumes processing a substantive application under **subsection (2) or (3)**, the EPA must give written notice of that fact, specifying the date on which the panel resumed processing, to the persons or groups notified of the suspension under **section 24S(4)**. 5
- (5) A person referred to in **section 24S(4)(b) or (c)** must resume processing the substantive application if they receive a notice under **subsection (4)**. 10
- Compare: 2020 No 35 Schedule 6 cl 23(6)–(9)

24T Return of substantive application

- (1) This section applies if 50 working days have elapsed since the processing of a substantive application was suspended under **section 24S(3)**.
- (2) A panel must decide whether to— 15
- (a) return the substantive application to the authorised person who lodged it;
or
 (b) resume processing the application.
- (3) The decision of a panel under this section must be notified in writing to—
- (a) the persons or groups notified under **section 24S(4)**; and 20
 (b) the relevant administering agencies; and
 (c) if an aquaculture decision is required under **section 24VA** in respect of the substantive application, the chief executive.
- (4) If a panel decides to return the substantive application, it must be returned together with written reasons for its return. 25
- (5) If a substantive application that has been returned is lodged again with the EPA, the application must be treated as a new application.
- (6) If a substantive application is suspended more than once, the total number of days during which processing may be suspended must not be more than 50 working days. 30

Compare: 2020 No 35 Schedule 6 cl 24

Panel may request further information

24U Further information

- (1) At any time before a panel makes its decisions under **section 24W** on a substantive application, the panel may direct the EPA— 35
- (a) to request further information in relation to the application from any or all of the following:

- (i) the authorised person who lodged the application:
 - (ii) a relevant local authority:
 - (i) a relevant administering agency:
 - (iii) any person or group invited to provide comments under **section 24AC or 24M:** 5
- (b) to prepare or commission a report (including a report from a relevant local authority) on an issue relevant to the application.
- (2) If further information is requested under **subsection (1)(a)**, the person or body requested to provide the information must—
 - (a) provide electronic copies of the information or report requested; or 10
 - (b) advise the EPA, with reasons, that it declines to provide the information or report requested.
- (3) **Subsection (2)** must be complied with by the date directed by the panel, which must not be later than 10 working days after the direction is given.
- (4) As soon as is reasonably practicable after the date on which any information or report is received by the EPA from any person or group requested or commissioned under **subsection (1)(a) or (b)**, the EPA must provide electronic copies of the information or report to— 15
 - (a) the members of the panel; and
 - (b) the authorised person who lodged the substantive application; and 20
 - (c) every person or group that provides comments under **section 24AC or 24M.**
- (5) The persons or groups that receive the information or report under **subsection (4)(c)** may not make further comments unless requested by the panel.
- (6) If information requested under **subsection (1)** is not received by the panel in accordance with **subsections (2) and (3)**, the panel must proceed as if the request for further information had been declined. 25

Compare: 2020 No 35 Schedule 6 cl 25; 2023 No 46 Schedule 10 cl 30

Draft conditions on approvals

- 24UA Panel seeks comment on draft conditions** 30
- (1) Before a panel decides to grant an approval under **section 24W**, the panel must direct the EPA to provide a copy of its draft conditions to the following, inviting comments on the draft conditions:
 - (a) the authorised person who lodged the substantive application; and
 - (b) every person or group that provided comments under **section 24AC or 24M;** and 35
 - (c) any local authority or other body with a statutory responsibility to enforce or monitor compliance with the conditions.

- (2) In providing the draft conditions and invitation to comment under **subsection (1)**, the EPA—
- (a) must include the date set by the panel by which comments on the draft conditions must be received by the EPA; and
 - (b) must include a copy of the panel's draft decisions to grant or decline approvals under **section 24W**; and
 - (c) may withhold information if the EPA is satisfied that there would be good reason to withhold the information under the Official Information Act 1982 if the information were requested under that Act.
- (3) The EPA must provide electronic copies of comments received under **subsection (1)** to—
- (a) the members of the panel; and
 - (b) the authorised person who lodged the substantive application; and
 - (c) every person or group that provided comments under **clause 24AC or 24M**.
- (4) The panel—
- (a) must consider any comments on the draft conditions that are received within the time frame specified in the invitation;
 - (b) is not required to consider any comments received after that time frame, but may do so, in its discretion, as long as the panel has not made its decisions on the approvals sought in the substantive application under **section 24W**.

Compare: 2020 No 35 Schedule 6 cl 36

- 24UB Panel provides draft conditions relating to aquaculture activities for recommendation**
- (1) This section applies if an aquaculture decision is required under **section 24VA** in respect of a substantive application for a coastal permit for aquaculture activities to be undertaken in the coastal marine area.
- (2) The panel must direct the EPA to provide a copy of its draft conditions to the chief executive for the purposes of **clause 10 of Schedule 4** at the same time as it complies with **section 24UA(1)**.

Panel decisions

24V Timing of panel decisions

- (1) The panel must issue its decisions under **section 24W** no later than 25 working days after the date specified for receiving comments under **section 24M**.
- (2) However, if the scale or nature of matters raised by the substantive application is such that the panel is unable to issue its decisions within that time frame, the panel may extend the time frame as the panel considers appropriate.

(3) If the panel extends the time frame under **subsection (2)**, the EPA must give written notice of the extension to—

- (a) the authorised person who lodged the substantive application; and
- (ab) if advice or a report has been requested from an agency under **section 24G** and is yet to be provided to the EPA, that agency; and
- (b) if a recommendation has been requested from the chief executive under **section 24FA** and is yet to be made, the chief executive; and
- (c) if the extension decision is made after persons or groups are invited to provide comments under **section 24AC or 24M**, those persons or groups.

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Compare: 2020 No 35 Schedule 6 cl 37(2), (3), (5)

24VA Aquaculture decision required for certain coastal permits

(1) This section applies if the EPA requests the chief executive to make a recommendation on an aquaculture decision under **section 24FA**.

(2) The panel must, at least 5 working days before the date prescribed by **section 24V**, make an aquaculture decision in accordance with **clause 16 of Schedule 4**.

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(3) The EPA—

- (a) must provide electronic copies of an aquaculture decision to—
 - (i) the relevant consent authority; and
 - (ii) the persons and organisations who supplied information to the chief executive; and
 - (iii) the persons and organisations consulted by the chief executive; and
- (b) in complying with **paragraph (a)**, may withhold information if the EPA is satisfied that there would be good reason to withhold the information under the Official Information Act 1982 if the information were requested under that Act.

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24W Decisions on approvals sought in substantive application

(1) The panel must, for each approval sought in a substantive application, decide whether to—

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- (a) grant the approval and set any conditions to be imposed on the approval; or
- (b) decline the approval.

(2) For the purpose of making the decision, the panel—

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- (a) must apply the applicable clauses set out in **subsection (3)**:
- (b) must comply with **section 24WA**, if applicable:

- (c) must comply with **section 24WB** in setting conditions:
- (d) may impose conditions under **section 24WC**:
- (e) may decline the approval only in accordance with **section 24WD**.
- (3) For the purposes of **subsection (2)(a)**, the clauses are as follows:
- (a) for an approval described in **section 24C(3)(a)** (resource consent), **clauses 12 to 16 of Schedule 4**: 5
- (b) for an approval described in **section 24C(3)(b)** (designation), **clauses 17 and 18 of Schedule 4**:
- (c) for an approval described in **section 24C(3)(aa)** (certificate of compliance), **clause 18A of Schedule 4**: 10
- (d) for an approval described in **section 24C(3)(c)** (concession), **clauses 5 and 6 of Schedule 5**:
- (e) for an approval described in **section 24C(3)(d)** (land exchange), **clauses 17D and 17E of Schedule 5**:
- (f) for an approval described in **section 24C(3)(e)** (conservation covenant), **clauses 26 and 27 of Schedule 5**: 15
- (g) for an approval described in **section 24C(3)(f)** (Wildlife Act approval), **clauses 1C and 1D of Schedule 6**:
- (h) for an approval described in **section 24C(3)(g)** (archaeological authority), **clauses 2A and 6A of Schedule 7**: 20
- (i) for an approval described in **section 24C(3)(h)** (marine consent), **clauses 9 and 10 of Schedule 9**:
- (j) for an approval described in **section 24C(3)(i)** (access arrangement), **clauses 3A and 5 of Schedule 10**:
- (k) for an approval described in **section 24C(3)(j)** (access arrangement), **clauses 4A and 5 of Schedule 10**. 25
- (4) To avoid doubt,—
- (a) the panel may consider the extent of a project's regional or national benefits when taking the purpose of this Act into account under a clause referred to in **subsection (3)**: 30
- (b) nothing in this section or section **24WA** or **24WD** limits **section 6**.

24WA Effect of Treaty settlements and other obligations on decision making

- (1) This section applies if a Treaty settlement, the Marine and Coastal Area (Taketaitai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, a Mana Whakahono ā Rohe, or a joint management agreement is relevant to the approval. 35
- (2) If the settlement, Act, arrangement, or agreement provides for the consideration of any document, the panel must give the document the same or equivalent

lent effect through the panel's decision making as it would have under any relevant specified Act.

(3) The panel must also,—

(a) if a Treaty settlement or an Act referred to in **subsection (1)** is relevant to the approval, consider whether granting the approval would comply with **section 6**; and

(b) if a Mana Whakahono ā Rohe or joint management agreement is relevant to the approval, consider whether granting the application would be consistent with the arrangement or agreement.

(4) In this section, **document**—

(a) means any document, arrangement, or other matter; and

(b) includes any statutory planning document amended as a result of the settlement, Act, arrangement, or agreement referred to in **subsection (1)**.

24WB Conditions must be no more onerous than necessary

When exercising a discretion to impose a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the purpose for which it is set.

24WC Conditions relating to Treaty settlements and recognised customary rights

(1) For the purposes of **section 6**, the panel may set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

(2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.

24WD When panel must or may decline approvals

When approval must be declined

(1) The panel must decline an approval if—

(a) the approval is for an ineligible activity; or

(b) in the case of an approval described in **section 24C(3)(aa)** (certificate of compliance), the approval must be declined under **clause 18A(2) or (3) of Schedule 4**; or

(c) in the case of an approval described in **section 24C(3)(d)** (land exchange), the approval must be declined under **clause 17D(2) or (4) of Schedule 5**.

Approval may be declined where adverse impacts outweigh purpose of Act

- (2) A panel may decline an approval if, in complying with **section 24W(2)**, the panel forms the view that—
- (a) the activity or activities for which the approval is sought would have 1 or more adverse impacts; and 5
 - (b) those adverse impacts are sufficiently significant to outweigh the purpose of this Act even after any conditions that the panel may set in relation to those impacts are taken into account.
- (3) In **subsection (2)**, **adverse impact** means any matter considered by the panel under **section 24W(3)** that weighs against granting the approval. 10

*Panel report***24X Content of panel report**

- (1) The written report of a panel's decisions under **section 24W**—
- (a) must—
 - (i) state the panel's decisions; and 15
 - (ii) state the panel's reasons for those decisions; and
 - (iii) include a statement of the principal issues that were in contention; and
 - (iv) include the main findings of the panel on those issues; and
 - (v) if the report includes decisions on approvals sought under **section 24C(3)(a) or (b)** (resource consent or designation), include the matters required by **clause 19 of Schedule 4**: 20
 - (b) for an approval described in **section 24C(3)(a) or (b)** (resource consent or designation), may specify the date on which an approval lapses unless it is given effect to by that specified date (which must be no less than 2 years after the approval commences). 25
- (2) If no date is specified under **subsection (1)(b)**, the approval lapses 5 years after its commencement date.
- (3) In preparing the report, a panel must consult the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development. 30
- (4) Those Ministers must be allowed 5 working days to comment on the draft report, its assessment of each approval in relation to each relevant Treaty settlement, and any conditions relevant to that assessment, before the panel makes its decisions on the approvals sought in the substantive application.
- (5) In this section, **commencement date**, in relation to an approval, means,— 35
- (a) for an approval described in **section 24C(3)(a)** (resource consent), the date on which the approval commences under **section 25D**; or

- (b) for an approval described in **section 24C(3)(b)** (designation), the date on which the designation is included in a district plan.

Compare: 2020 No 35 Schedule 6 cl 37(6)–(8); 2023 No 46 Schedule 10 cl 36(5)–(8)

24Y Service and publication of decision

- (1) Notice of a panel's decision on each approval sought in a substantive application must be served on— 5
- (a) the authorised person who lodged the substantive application; and
- (b) if the chief executive has made a recommendation on an aquaculture decision following a request under **section 24FA** in respect of the substantive application, the chief executive; and 10
- (ba) for an approval described in **section 24C(3)(g)** (archaeological authority), the persons listed in **clause 12 of Schedule 7**; and
- (c) the persons and groups invited to provide comments under **section 24AC or 24M**; and
- (d) the relevant local authorities; and 15
- (e) other persons and authorities that the panel considers appropriate.
- (2) The notice served under **subsection (1)** must include advice as to the time within which an appeal may be lodged under **section 26**.
- (3) A decision must be published on an internet site maintained by the EPA and be available free of charge to the public. 20
- (4) In complying with **subsection (3)**, the EPA may withhold information if the EPA is satisfied that there would be good reason to withhold the information under the Official Information Act 1982 if the information were requested under that Act.
- Compare: 2020 No 35 Schedule 6 cl 38; 2023 No 46 Schedule 10 cl 37 25

24Z Minor corrections

- (1) At any time during its term of appointment, a panel may issue an amendment to a decision of the panel or an amended direction, correcting minor omissions, errors, or other defects in a decision of the panel.
- (2) A panel may, within 20 working days after granting an approval, correct minor mistakes or defects in the approval. 30
- (3) A panel may correct a requirement for a designation before the earlier of the following:
- (a) the day on which the territorial authority includes the designation in its district plan and any proposed district plan under **clause 23 of Schedule 4**; and 35

- (b) the day that is 40 working days after the day on which any appeals relating to the requirement have been determined or all rights of appeal under this Act have been exhausted or have expired.

Compare: 2020 No 35 Schedule 6 cl 40; 2023 No 46 Schedule 10 cl 39

Subpart 2C—Other provisions relating to approvals

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25A Use of specified Act to apply for approval

- (1) This Act does not prevent any person from applying for an approval under a specified Act in relation to a Part A listed project or a referred project.
- (2) However, a person who has applied for an approval under a specified Act must withdraw that application before lodging a substantive application that seeks a corresponding approval under this Act for the same, or substantially the same, activity. 10

Compare: 2020 No 35 Schedule 6 cl 28

25B Exercise of existing approval under specified Act while applying for approval under this Act

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- (1) This section applies if a person holds an approval under a specified Act (an **existing approval**) that relates to a Part A listed project or a referred project.
- (2) An authorised person may—
- (a) apply for an approval under this Act that corresponds to, and is for the activity to which, the existing approval applies; and 20
- (b) continue to operate under the existing approval, despite its expiry, until the date that applies under **subsection (3)**, as long as,—
- (i) in the case of a Part A listed project, a substantive application seeking that approval is made within 6 months of the commencement of this Act or not less than 3 months before the existing approval expires, whichever date is later; 25
- (ii) in the case of a Part B listed project or an unlisted project, a referral application is made for the project within 6 months of the commencement of this Act or not less than 3 months before the existing approval expires, whichever date is later. 30
- (3) For the purposes of **subsection (2)(b)**, the date is the date on which all appeal rights under this Act in relation to the decision to grant or decline the approval have been exhausted or have expired.

25C Status of approval when granted

- (1) Subject to **subsection (2)**, an approval granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted, issued, or entered into under the relevant specified Act. 35
- (2) For the purposes of **subsection (1)**, the following apply:

- (a) for an approval described in **section 24C(3)(a), (aa), or (b)** (resource consent, certificate of compliance, or designation), **clause 24 of Schedule 4:**
- (b) for an approval described in **section 24C(3)(c)** (concession), **clauses 8 and 8A of Schedule 5:** 5
- (c) for an approval described in **section 24C(3)(d)** (land exchange), **clauses 17G to 21 of Schedule 5:**
- (d) for an approval described in **section 24C(3)(f)** (Wildlife Act approval), **clause 2 of Schedule 6:**
- (e) for an approval described in **section 24C(3)(g)** (archaeological authority), **clause 12A of Schedule 7:** 10
- (f) for an approval described in **section 24C(3)(h)** (marine consent), **clauses 12 and 13 of Schedule 9:**
- (g) for an approval described in **section 24C(3)(i) or (j)** (access arrangement), **clause 9 of Schedule 10.** 15

Compare: 2020 No 35 Schedule 6 cl 42(2)(b), (3)(b)

25D Commencement of approval

- (1) Subject to **subsection (2)**, an approval granted under this Act commences on the day after the date on which all appeal rights under this Act have been exhausted or have expired. 20
- (2) For the purposes of **subsection (1)**, the following apply:
 - (a) for an approval described in **section 24C(3)(a)** that is a coastal permit for which an aquaculture decision is required under **section 24VA**, **clause 28 of Schedule 4:**
 - (b) for an approval described in **section 24C(3)(aa)** (certificate of compliance), **clause 18B of Schedule 4:** 25
 - (c) for an approval described in **section 24C(3)(b)** (designation), **clauses 22, 23, and 25 of Schedule 4:**
 - (d) for an approval described in **section 24C(3)(d)** (land exchange), **clause 17F of Schedule 5:** 30
 - (e) for an approval described in **section 24C(3)(e)** (conservation covenant), **clause 28 of Schedule 5:**
 - (f) for an approval described in **section 24C(3)(g)** (archaeological authority), **clause 2D of Schedule 7.**

Compare: 2020 No 35 Schedule 6 cl 37(9); 2023 No 46 Schedule 10 cl 36(9)

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Subpart 3—Miscellaneous provisions

*Appeals against decisions of ~~joint Ministers~~ panels***26 Appeal against decisions only on question of law**

- (1) Any of the following persons may appeal to the High Court against the whole or a part of the ~~final~~ decision of ~~joint Ministers~~ a panel to grant or decline to grant an approval under this Act, but only on a question of law: 5
- (a) ~~either,—~~
- (i) ~~for a resource consent, notice of requirement, or certificate of compliance under the Resource Management Act 1991, the consent applicant or requiring authority (as the case requires);~~ 10
- (ii) ~~for an approval under another Act specified in **section 10**, the person who lodged the application that was the subject of the decision;~~
- (aa) the authorised person whose substantive application sought the approval:
- (b) any relevant local authority: 15
- (c) the Attorney-General:
- (d) any person or group that provided comments in response to an invitation given under this Act:
- (e) any person who has an interest in the decision appealed against that is greater than that of the general public. 20
- (2) No appeal may be made to the Court of Appeal against a determination of the High Court under this section.
- (3) 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. 25
- (4) 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. 30
- (5) No appeal may be made against any appeal determined by the Court of Appeal in accordance with **subsection (4)**.
- (6) Despite any legislation to the contrary,—
- (a) an application for leave for the purposes of **subsection (3)** must be filed no later than 10 working days after the determination of the High Court; and 35

- (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.
- (7) For the purposes of **subsection (1)**, the following are part of a decision to grant or decline an approval: 5
- (a) an aquaculture decision made by a panel in relation to the approval:
- (b) a decision made by a panel on an application under **clause 6 of Schedule 7** (application for approval of person to carry out activity).
- Compare: 1991 No 69 s 149V; 2023 No 46 Schedule 10 cl 42
- 27 Procedural matters** 10
- Notice of appeal*
- (1) A person entitled, and intending, to appeal against a decision of ~~the joint Ministers~~ a panel (the **appellant**) must file a notice of appeal no later than 15 working days after the date on which the person ~~was~~ is notified of that decision. 15
- (2) The notice of appeal must specify—
- (a) the decision or the part of the decision appealed against; and
- (b) the error of law alleged by the appellant; and
- (c) the grounds of appeal, with sufficient particularity for the court and other parties to understand them; and 20
- (d) the relief sought.
- Service of notice of appeal*
- (3) No later than the time specified for filing a notice of appeal under **subsection (1)**, the appellant must serve a copy of the notice of appeal on ~~the EPA on behalf of the Ministers~~ the panel whose decision is subject to the appeal. 25
- (4) No later than 5 working days after the notice of appeal is filed in the High Court, the appellant must serve a copy of the notice of appeal on—
- (a) ~~the consent applicant or requiring authority, as the case requires (if the appellant is not the consent applicant or requiring authority); and~~
- (aa) the authorised person whose substantive application sought the approval (if the appellant is not the authorised person); and 30
- (ab) the relevant administering agencies; and
- (b) every person or group invited to provide comments to the panel.
- Copy of decision appealed against*
- (5) The appellant must provide a copy of the whole decision appealed against to the Registrar of the High Court immediately after it becomes available. 35

Notice of intention to appear

- (6) If a person served with a notice of appeal under **subsection (4)** wishes to appear at the appeal, the person must serve a notice of intention to appear on—
- (a) the appellant; and
 - (b) the Registrar of the High Court; and
 - (c) the responsible agency.
- (7) A notice of intention to appear must be served no later than 10 working days after the day on which the person was served with the notice of appeal under **subsection (4)**.

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Parties to appeal

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- (8) The parties to an appeal under this section are—
- (a) the appellant; and
 - (aa) the panel; and
 - (b) any person who gives a notice of intention to appear.
- (9) The High Court Rules 2016 apply if a procedural matter is not provided for by this section.

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Compare: 2020 No 35 Schedule 6 cl 45Cost recovery**27A Cost recovery**

- (1) The EPA, the responsible agency, and a relevant administering agency may recover from a person who intends to lodge a referral application or a substantive application the actual and reasonable costs incurred by the EPA or agency in providing assistance to the person before the application is lodged (whether or not the application is subsequently lodged).
- (2) If a person lodges a referral application or a substantive application,—
- (a) the EPA and the responsible agency may recover from the person the actual and reasonable costs incurred by the EPA or agency in performing or exercising its functions, duties, or powers under this Act in relation to the application (including, in the case of the EPA, the costs in respect of secretarial and support services provided to a panel);
 - (b) a relevant administering agency—
 - (i) may recover from the person the actual and reasonable costs incurred by the agency in performing or exercising its functions, duties, or powers under this Act in relation to the application; but
 - (ii) may recover only from the EPA the actual and reasonable costs incurred by the agency in complying with **section 24J**;
 - (c) the Minister may recover from the person the actual and reasonable costs incurred in relation to a panel in performing or exercising the

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- panel's functions, powers, and duties under this Act in relation to the application.
- (3) Any other person that has functions, duties, or powers under this Act may recover from an applicant the actual and reasonable costs incurred in performing or exercising those functions, duties, or powers in relation to the relevant referral application or substantive application. 5
- (4) A local authority—
- (a) may recover from the EPA the actual and reasonable costs incurred by the local authority in complying with **section 24J**; and
- (b) may recover from an applicant the actual and reasonable costs incurred by the local authority in performing or exercising its functions, duties, or powers in relation to the relevant referral application or substantive application. 10
- (5) A person who may recover costs under this section (or the EPA in the case of costs recoverable under **subsection (2)(c)**)— 15
- (a) must provide an estimate of the costs likely to be recoverable under this section on the request of the person from whom the costs may be recovered; and
- (b) may require estimated costs (in full or in part) to be paid in advance of the performance or exercise of the relevant function, duty, or power. 20
- (6) A person who may recover costs under this section must have regard to the following considerations:
- (a) the sole purpose of exercising the power under this section is to recover the actual and reasonable costs incurred in respect of the application to which the costs relate; 25
- (b) whether it is administratively efficient to allocate to, and recover costs from, the person who would be required to pay the costs.
- (7) If a substantive application (including a proposed substantive application) seeks an approval described in **section 24C(3)(a) or (b)** (resource consent or designation), sections 149ZF and 357B of the Resource Management Act 1991 apply with any necessary modifications to any requirement to pay costs under this section in relation to the application. 30
- (8) This section—
- (a) does not affect a power in a specified Act to recovery costs under that Act; 35
- (b) may not be used to recover costs that may be recovered under another provision of this Act or a specified Act.

Compare: 2020 No 35 Schedule 5 cls 13, 14

27B Delegation of cost-recovery function by Minister

(1) The Minister may, in writing, delegate to the EPA the Minister's functions, powers, and duties under **section 27A** in relation to cost recovery.

(2) A delegation under this section—

(a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the EPA; and 5

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

Compare: 2020 No 35 Schedule 5 cl 15

Service of documents 10

28 Service of documents

(1) If a notice or other document is to be served on a person for the purposes of this Act,—

(a) if the person has specified an electronic address as an address for service for the matter to which the document relates, and has not requested a method of service listed in **paragraph (b)**, the document must be served by sending it to the electronic address: 15

(b) if the person has not specified an electronic or other address as an address for service or if the person has requested any of the following methods of service, the document may be served by the requested method or any of the following methods: 20

(i) delivering it to the person:

(ii) 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: 25

(iii) 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:

(iv) complying with a means of service prescribed in regulations made under **section 31**. 30

(2) However, if the document is to be served on a person to commence, or in the course of, court proceedings, **subsection (1)** does not apply if the court, whether expressly or in its rules or practices, requires a different method of service.

(3) Nothing in **subsection (1)** overrides the provisions of the Electronic Courts and Tribunals Act 2016. 35

(4) 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.

- (5) 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
- (6) 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)~~ (5)** is to be treated as service on the partnership.
- (7) However, 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. 10
- (8) 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 15
 - (b) by sending it to the 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. 20
- (9) 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 when 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

25

29A Notices in relation to Māori land

Part 10 of Te Ture Whenua Maori Act 1993 applies to the service of notices under this Act on the owners of Māori land, except that if the notice is an invitation to comment, the period fixed for the owners to provide comments may not be extended by more than 40 working days under section 181(4) of that Act, unless otherwise provided by the Minister or panel, as the case may be.

30

Compare: 1991 No 69 s 353

Information sharing

- 29 Responsible agency may provide information for purposes of this Act** 35
- ~~(1) A responsible agency may provide to a recipient specified in **subsection (2)** any information or a copy of any document that it believes would assist the recipient in the performance or exercise of the recipient's functions, duties, or powers under this Act.~~

- (2) ~~The recipients are—~~
- ~~(a) any of the joint Ministers;~~
 - ~~(b) an appropriate other Minister;~~
 - ~~(c) the chief executive of any regulatory agency that has functions, duties, or powers under this Act.~~ 5
 - ~~(d) an enforcement officer.~~
- (3) ~~A responsible agency may provide to any regulatory agency any information or a copy of any document that it believes would assist that other agency in the performance or exercise of its functions, duties, or powers under a specified Act that relate to activities under or associated with an approval under this Act.~~ 10
- (4) ~~A person or an agency that receives information provided under this section must not disclose the information to any other person or organisation unless—~~
- ~~(a) the disclosure is made for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed by this Act or a specified Act on the person or agency; or~~ 15
 - ~~(b) the information is publicly available; or~~
 - ~~(c) the disclosure is made with the consent of the person to whom the information relates or to whom the information is confidential; or~~
 - ~~(d) the disclosure is made in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other legislation; or~~ 20
 - ~~(e) the disclosure is required by another legislation; or~~
 - ~~(f) the disclosure is required by a court of competent jurisdiction.~~

Provisions relating to particular approvals

- 30 Process provisions for projects** 25
- (1) ~~**Schedules 4 to 10 and 12** set out process provisions that apply in relation to a panel's assessment of a project.~~
- (2) ~~**Schedule 11** sets out a modification that applies to the process under the Public Works Act 1981.~~
- 30A Schedules 4 to 11 have effect** 30
- Schedules 4 to 11 have effect according to their terms.**

Secondary legislation

31 Regulations

- (1) The Governor-General may, by Order in Council made on the recommendation of the ~~joint Ministers~~ Minister, make regulations for 1 or more of the following purposes: 35

- (a) providing for procedural and administrative matters for the purposes of the fast-track ~~approval~~ approvals process;
- (b) specifying requirements for a referral application or a substantive application, including— ~~(including the form or manner in which the application must be made);~~ 5
- (i) the form or manner in which the application must be made;
- (ii) information that must be included in the application;
- (c) providing for anything this Act says may or must be provided for by regulations;
- (d) providing for anything incidental that is necessary for ~~any~~ carrying out, or giving full effect to, this Act. 10
- (2) Regulations may not be made under **subsection (1)(a)** in relation to the procedure or administration of a court.
- (3) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements). 15
- 31A Order in Council to amend **Schedule 3A****
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Conservation, amend **Schedule 3A**.
- (2) Before making a recommendation, the Minister of Conservation must consult to the extent that is reasonably practicable, having regard to all the circumstances of the particular case, those persons the Minister has reason to believe are representative of interests likely to be substantially affected by the Order in Council or representative of some aspect of the public interest. 20
- (3) No Order in Council may be made under this section that results in land within a category of land described in **Schedule 3A** being excluded from that schedule. 25
- (4) An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Amendments and repeals

- 32 Amendments to other legislation** 30
- Amend the legislation specified in **Schedule 13** as set out in that schedule.
- 33 Repeal**
- Clauses 4 to 9 of Schedule 1 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 are repealed. 35

Schedule 1

Transitional, savings, and related provisions

s 5

Part 1

Provisions relating to this Act as enacted

5

1 Interpretation

In this Part,—

commencement means the day on which this Act comes into force

repealed Act means the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023. 10

2 Existing fast-track applications

- (1) This clause applies to an application made under the fast-track consenting process continued by clause 8 of Schedule 1 of the repealed Act that was made or lodged, but not finally determined, before commencement. 15
- (2) If the application has not been withdrawn before that date, the application must continue to be processed and determined under the repealed Act as if that Act had not been repealed.
- (3) The repealed Act remains in force for the purpose of completing any matter commenced under the Act before its repeal. 20
- (4) The matters referred to in **subclause (3)** include, without limitation,—
 - (a) the functions, duties, and powers of the Minister for the Environment, the Minister of Conservation (for a referral application (to which the repealed Act applies) that relates to an activity within the coastal marine area), the EPA, expert consenting panels, the Chief Environment Court Judge, and courts; that relate to the application: 25
 - (b) rights of appeal against decisions made in respect of the application under the repealed Act:
 - (c) court proceedings (including judicial review proceedings) that relate to a decision made in respect of the application under the repealed Act, whether pending or filed after commencement: 30
 - (d) the recovery of costs of the processes under Part 2 of Schedule 10 of the Natural and Built Environment Act 2023, as provided for in clause 94 of that schedule, and as applied by clause 8 of Schedule 1 of the repealed Act. 35

- (5) The obligation in clause 4 of Schedule 1 of the repealed Act to uphold Treaty settlements, the ~~NHNP Act~~ Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and other arrangements remains in force in relation to the application.

3 Withdrawal of applications

- (1) An applicant may withdraw their application continued by clause 8 of Schedule 1 of the repealed Act by giving notice in writing to the EPA. 5
- (2) The EPA must return an application if no information or responses are received from the applicant within 12 months after commencement.
- (3) An application returned under **subclause (2)** must be treated as having been withdrawn. 10

Schedule 2

Listed projects

~~ss 44, 43~~ s 4

Part A

Projects listed for direct ~~referral~~ applications to expert panel 5

No projects are listed in this Part.

Part B

Projects listed for ~~joint Ministers~~ Minister to consider referring to expert panel

No projects are listed in this Part. 10

Schedule 3

Expert panel

ss 4, ~~44~~ **24A**

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~~Purpose and functions of panel~~

1 Function of expert panel	5
(1) An expert panel must, in accordance with this schedule and section 30, consider each listed project and referred project assigned to it by the panel convener.	
(2) In assessing proposed approvals, the panel must generally take into account, giving weight to them (greater or lesser) in the order listed, —	10
(a) the purpose of this Act; and	
(b) considerations under other relevant legislation.	
(3) The panel may recommend that an approval be declined if any mandatory requirements that relate to the activity concerned are not able to be met.	

- (4) ~~After considering a project in accordance with this Act, an expert panel—~~
- (a) ~~must give the joint Ministers a written report that sets out its recommendations; and~~
 - (b) ~~its recommendations must—~~
 - (i) ~~include a recommendation that the joint Ministers either approve, or decline approval of, all or part of the project; and~~
 - (ii) ~~include any conditions that the panel considers should be imposed if the project is approved.~~

Appointment, etc, of panel convener and panel members

2 Appointment of panel convener 10

- (1) The Minister must, after consulting the other relevant portfolio Ministers, appoint a former (including retired) Environment Judge or High Court Judge to be the panel convener for the purposes of this Act for a term determined by the Minister.
- (2) The Minister may at any time remove the panel convener for just cause (within the meaning of **clause 9(3)**), and **clause 9(2)** applies with any necessary modifications. 15
- (3) The panel convener may resign their office at any time by notice in writing to the Minister.
- (4) The panel convener, unless they earlier resign or are removed from office under **subclause (2)**, continues in office until their successor is appointed by the Minister. 20
- (5) ~~The function of the panel convener is, to appoint in consultation with the Minister, the members of panels (for a term of office set by the panel convener)—~~
 - (a) ~~to make recommendations to joint Ministers about consent applications or notices of requirement for a listed project or a referred project; and~~ 25
 - (b) ~~to make recommendations to joint Ministers about the issue of certificates of compliance for a listed project or a referred project.~~
- (6) The functions of the panel convener are to—
 - (a) appoint, in consultation with the Minister, members of panels set up to consider, and make decisions on approvals sought in, substantive applications; and 30
 - (b) carry out any other functions of a panel convener under this Act.

Compare: 2020 No 35 Schedule 5 cl 2

3 Membership of panels 35

- (1) Up to 4 persons may be appointed to be members of a panel set up to consider ~~and report on a listed project, listed referred project, or referred project, and~~ make decisions on the approvals sought in, a substantive application.

- (2) The membership of a panel must include 1 person nominated by the relevant local authorities.—
- (a) ~~1 person nominated by the relevant local authorities; and~~
- (b) ~~1 person nominated by the relevant iwi authorities.~~
- (3) The person nominated by ~~a local authority~~ the relevant local authorities may, but need not, be an elected member of any of the local authority authorities. 5
- (4) If ~~either the relevant local authorities or the relevant iwi authorities~~ nominate more than 1 person for appointment as a panel member, the panel convener must decide which one of those nominees is to be appointed as a panel member. 10
- (5) If ~~a local authority or an iwi authority does~~ the relevant local authorities do not make a nomination under **subclause (2)**, the panel convener must appoint a person with the appropriate skills and experience to be a member of the panel (*see* **clause 7(1)**).
- (6) Despite the limit specified on the membership by **subclause (1)**, that number may be exceeded (including by the appointment of more than 1 person nominated under **subclause (2)(a) or (b)**), at the discretion of the panel convener, if warranted by, or required to accommodate,— 15
- (a) the circumstances unique to a particular district or region; or
- (b) the number of applications that have to be considered in that particular district or region; or 20
- (c) the nature and scale of the application under consideration; or
- (d) matters unique to any relevant iwi participation legislation; or
- (e) the collective knowledge and experience needed under **clause 7(1)**.
- (6A) If a substantive application seeks an approval described in **section 24C(3)(h)** (marine consent), the relevant local authorities for the purposes of this clause are,— 25
- (a) if the approval is for a cross-boundary activity as defined in section 88 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the local authority for each region or district in which part of the activity is or is intended to be undertaken; 30
- (b) in any other case, each local authority whose region or district is likely to be affected by the activity for which the approval is sought.
- (6B) The members of a panel are appointed to decide the approvals sought in a substantive application and to complete the performance or exercise of any other functions, duties, or powers in relation to the application (including any appeals in relation to any approvals sought in the application). 35

- (7) This clause is subject to **clause 7** (which imposes requirements regarding the qualifications of individual panel members and the collective knowledge and experience of the panel).

Compare: 2020 No 35 Schedule 5 cl 3; 2023 No 46 Schedule 10 cl 46

4 Chairperson of panel 5

- (1) The panel convener, in consultation with the Minister, must appoint, as one of the members appointed under **clause 3** a suitably qualified lawyer or planner with experience in relevant law to be the chairperson of a panel.
- (2) However, the panel convener may, in consultation with the Minister, act as the chairperson of a panel instead of appointing another person as chairperson of the panel. 10
- (3) Despite **subclauses (1) and (2)**, the panel convener may, if the circumstances require it, in consultation with the Minister, appoint a person who is accredited under section 39A of the Resource Management Act 1991 to be the chairperson of a panel. 15
- (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.
- (6) The panel may, in consultation with the Minister, modify the requirements in **subclauses (4) and (5)** to provide for— 20
- (a) different requirements under relevant iwi participation legislation:
- (b) any increase in the number of panel members.

Compare: 2020 No 35 Schedule 5 cl 4; 2023 No 46 Schedule 10 cl 47

5 Conduct of hearings and other procedural matters in context of Treaty settlements and other arrangements 25

- (1) This clause applies if any Treaty settlement Act, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, or any other iwi participation legislation ~~(within the meaning of section 2(1) of the Resource Management Act 1991), or any~~ Mana Whakahono a Rohe, or joint management agreement, includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, such as the following: 30
- (a) a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991:
- (b) a requirement that notice be given to any person or specified class of person of any steps in a resource management process: 35
- (c) any consultation requirements with iwi or hapū:
- (d) any other matter of procedure for determining ~~resource consent applications or notices of requirement lodged under the Resource Management~~

~~Act 1991~~ a matter granted under a specified Act that corresponds to an approval under this Act.

- (2) The panel convener or panel must—
- (a) comply with the arrangements in the ~~Treaty settlement Act, iwi participation legislation, or agreements~~ legislation, arrangement, or agreement referred to in **subclause (1)** as if they were a relevant decision maker (such as a local authority, government department, Crown entity, or board of inquiry); or
 - (b) obtain the agreement of the ~~relevant Treaty settlement entity or iwi authority~~ relevant party under the legislation, arrangement, or agreement to adopt a modified arrangement that is consistent with achieving the purpose of this Act, ~~the Treaty settlement Act, iwi participation legislation, and any agreements~~ and the other legislation, arrangement, or agreement referred to in **subclause (1)**.
- (3) The ~~relevant Treaty settlement entity or iwi authority~~ party referred to in **subclause (2)(b)** may not unreasonably withhold their agreement to a modified arrangement (as described in ~~subclause (2)(b)~~ that subclause).
- (4) If the panel convener or panel are unable to obtain agreement under **subclause (2)(b)** (in circumstances where that agreement is not unreasonably withheld) they must stop processing the application and must return the application to the applicant immediately.

Compare: 2020 No 35 Schedule 5 cl 5

6 Appointment of replacement panel member

The panel convener may, at any time and in consultation with the Minister, appoint a new member to replace a member removed under **clause 9** or who resigns or dies.

Compare: 2020 No 35 Schedule 5 cl 6

7 Skills and experience of members of panel

- (1) ~~The members of a panel must, collectively, have—~~
- (a) ~~the knowledge, skills, and expertise relevant to the purpose of this Act; and~~
 - (b) ~~the knowledge and skills required for matters specific to the project, including the technical expertise relevant to the project; and~~
 - (c) ~~an understanding of te Tiriti o Waitangi/the Treaty of Waitangi and its principles; and~~
 - (d) ~~an understanding of tikanga Māori and mātauranga Māori; and~~
 - (e) ~~if appropriate, conservation expertise.~~
- (1A) The members of a panel—
- (a) must, collectively, have—

- (i) knowledge, skills, and expertise relevant to the approvals sought in the substantive application; and
- (ii) expertise in environmental matters; and
- (b) must include at least 1 member who is suitably qualified in te ao Māori and Māori development. 5
- (2) A person is not ineligible for appointment as a panel member by reason only that the person is a member of a particular iwi or hapū (including an iwi or hapū that is represented by an iwi authority that must be invited by the panel to comment on the application). 10
- Compare: 2020 No 35 Schedule 5 cl 7; 2023 No 46 Schedule 10 cl 48
- 8 Remuneration of panel convener and panel members**
- (1) The panel convener and members of the panel are entitled—
- (a) to receive remuneration not within **paragraph (b)** for services as the panel convener or a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and 15
- (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 the panel convener or as a panel member as if the convener and members were members of a statutory board for the purposes of the Fees and Travelling Allowances Act 1951. 20
- (2) For the purposes of **subclause (1), 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.
- Compare: 2020 No 35 Schedule 5 cl 8; 2023 No 46 Schedule 10 cl 49
- 9 Removal and resignation of panel members** 25
- (1) The panel convener may remove any person appointed to a panel under this schedule for just cause.
- (2) The person may be removed with as little formality and technicality, and as much expedition, as is permitted by—
- (a) the principles of natural justice; and 30
- (b) a proper consideration of the matter.
- (3) In this clause, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of duty (depending on the seriousness of the breach).
- (4) A member of the panel may resign at any time as a member by notice in writing to the panel convener. 35
- Compare: 2004 No 115 ss 40, 41; 2020 No 35 Schedule 5 cl 9; 2023 No 46 Schedule 10 cl 52

*Procedural and administrative matters***10 Procedures of panel**

- (1) A panel must regulate its own procedure as it thinks appropriate, without procedural formality, and in a manner that best promotes the just and timely determination of ~~an~~ the approvals sought in a substantive application. 5
- ~~(2) Subclause (1) applies subject to any other provision in this Act relevant to the procedures of a panel.~~
- (3) A panel may appoint a special adviser to assist the panel with ~~an~~ a substantive application in relation to any matters the panel may determine.
- (4) A panel may, at any time, appoint technical advisers, including from a department of State, Crown entity, or relevant local authority, as it thinks appropriate. 10
- (5) A panel may use or allow any remote access facility that will assist in the determination of ~~an~~ the approvals sought in a substantive application.
- (6) A panel must keep a full record of its proceedings.
- (7) This clause is subject to **section 24Q** and any other provisions of this Act that are relevant to the procedure of a panel. 15

Compare: 2020 No 35 Schedule 5 cl 10

11 Protection of sensitive information

When a panel is assessing a proposed approval under the Resource Management Act 1991, section 42 of that Act applies with any necessary modifications, as if the panel were a board of inquiry given authority to conduct a hearing under section 149J of that Act. 20

12 Support and advice available to panels

- (1) The EPA must provide advice and secretariat support to— 25
- (a) the person convening the panel and appointing the panel chair; and
 - (b) members of the panel when carrying out their functions and duties under this Act; and
 - (c) the panel in its role of deciding any matters before it.
- (2) A relevant local authority must assist the panel by providing advice within the knowledge of the authority, if requested by the panel. 30

Compare: 2020 No 35 Schedule 5 cl 11; 2023 No 46 Schedule 10 cl 50

13 Liability of members

The panel convener and members appointed to a panel are not liable for anything that the panel convener or a member does or omits to do in good faith in performing or exercising the functions, duties, or powers of the panel. 35

Compare: 2020 No 35 Schedule 5 cl 12; 2023 No 46 Schedule 10 cl 51

14 ~~Costs of processes under this Act recoverable~~

- (1) ~~A local authority must recover from an applicant the actual and reasonable costs incurred by the local authority in complying with this schedule and **Schedule 4**.~~
- (2) ~~The EPA and each responsible agency must recover from the applicant the actual and reasonable costs incurred by the EPA or the agency in providing assistance to the person before a matter or application is lodged with the EPA (whether or not the matter or application is subsequently lodged).~~ 5
- (3) ~~For a proposed approval under the Resource Management Act 1991, the EPA must recover from the applicant the actual and reasonable costs incurred by the EPA in exercising its functions and powers under this schedule and **Schedule 4** (including the costs in respect of secretarial and support services provided to a panel by the EPA).~~ 10
- (4) ~~Each other agency that has functions, duties, or powers under this Act must recover from the applicant the actual and reasonable costs incurred in exercising or performing those functions, duties, or powers.~~ 15
- (5) ~~The Minister must recover from the applicant the actual and reasonable costs incurred in relation to the Minister or a panel in performing or exercising the Minister or panel's functions, powers, and duties under this Act.~~
- (6) ~~The Minister, the EPA, and any local authority, responsible agency, or other agency must, on request by an applicant, provide an estimate of the costs likely to be recoverable under this clause.~~ 20
- (7) ~~The Minister, the EPA, and any local authority, responsible agency, or other agency may require estimated costs (in full or in part) to be paid in advance of exercising the relevant function or power.~~ 25
- (8) ~~When recovering costs under this clause, the Minister, the EPA, and any local authority, responsible agency, other agency 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;~~ 30
- (b) ~~whether it is administratively efficient to allocate to, and recover costs from, the relevant person.~~
- (9) ~~For a proposed approval under the Resource Management Act 1991, an applicant may object under section 357B of that Act to a requirement to pay costs under any of **subclauses (1) to (4)**, and that Act applies accordingly and with any necessary modifications.~~ 35
- (10) ~~For a proposed approval under the Resource Management Act 1991, section 149ZF of that Act also applies, with any necessary modifications, to the recovery of costs under this Act.~~

~~15 Delegation of cost recovery function by Minister~~

~~(1) The Minister may, in writing, delegate to the EPA the Minister's functions, powers, and duties under **clause 14** in relation to cost recovery.~~

~~(2) A delegation under this clause —~~

~~(a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the EPA; and~~ 5

~~(b) does not prevent the Minister from performing or exercising the functions, duties, or powers concerned.~~

~~16 Application of Local Government Official Information and Meetings Act 1987~~ 10

~~Part 1 and sections 48 and 53 of the Local Government Official Information and Meetings Act 1987 apply, with any necessary modifications, as if a panel were a board of inquiry given authority to conduct a hearing under section 149J of the Resource Management Act 1991.~~

Schedule 3A
Land on which non-mining activities are ineligible

s 4A

- 1 Any national park (within the meaning of section 2 of the National Parks Act 1980). 5
- 2 Any reserve classified as a nature reserve under section 20 of the Reserves Act 1977.
- 3 Any reserve classified as a scientific reserve under section 21 of the Reserves Act 1977.
- 4 Any part of a reserve set apart as a wilderness area under section 47(1) of the Reserves Act 1977. 10
- 5 Any conservation area declared under section 18AA or 18(1) of the Conservation Act 1987 as—
 - (a) a wilderness area; or
 - (b) a sanctuary area. 15
- 6 Any area declared a wildlife sanctuary under section 9(1) of the Wildlife Act 1953.
- 7 Any area declared a marine reserve under section 4(1) of the Marine Reserves Act 1971.
- 8 Any land within a wetland and notified to the Ramsar Secretariat by the Minister for the time being responsible for the Ramsar Administrative Authority (as the terms Ramsar Secretariat and Ramsar Administrative Authority are defined in section 2(1) of the Conservation Act 1987). 20
- 9 The area described in the Otahu Dedicated Area Notice 1976 (*Gazette* 1976, p 654). 25
- 10 The area described in the Parakawai Geological Area Notice 1980 (*Gazette* 1980, p 2408).
- 11 All land—
 - (a) held, managed, or administered under the Conservation Act 1987, or under any enactment set out in Schedule 1 of that Act, as at 1 October 1991; and 30
 - (b) situated on any island in the area bounded by latitude 35°50'S and latitude 37°10'S, and longitude 177°E and longitude 174°35'E, other than the following islands in the Mercury Islands group:
 - (i) Red Mercury Island (Whakau): 35
 - (ii) Ātiu or Middle Island:
 - (iii) Green Island:
 - (iv) Korapuki Island.

12 The following scenic reserves:

- (a) Kaikoura Island Scenic Reserve in Auckland City (*Gazette* 2004, p 3688):
- (b) Rakitu Island Scenic Reserve (*Gazette* 1995, p 4265).

Schedule 4
Process for approvals under Resource Management Act 1991

s 30(4)

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*Preliminary matters***1 Scope of this schedule**

~~This schedule sets out—~~

- (a) ~~the requirements to be met when lodging an application for any approval under this Act that would otherwise have been an application for a resource consent under the Resource Management Act 1991; and~~ 5
- (b) ~~the requirements a panel must comply with when considering a resource consent application or notice of requirement.~~

2 Relationship between this Act and Resource Management Act 1991

- (1) ~~This clause applies except as otherwise provided in, or required by the context of, this Act.~~ 10
- (2) ~~If an application for a resource consent for an activity is made under this Act,—~~
 - (a) ~~the process for obtaining an approval under this schedule applies instead of the process for obtaining a consent under the Resource Management Act 1991; and~~ 15
 - (b) ~~a resource consent granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under the Resource Management Act 1991.~~
- (3) ~~A person—~~ 20
 - (a) ~~may apply under this Act for a change or cancellation of a condition of an existing resource consent, but only if the application accompanies a new listed or referred project and the change or cancellation of a condition in the existing consent is material to the implementation of the new project.~~ 25

- (b) ~~may lodge a notice of requirement under this Act for a designation or to alter an existing designation.~~
- (4) ~~If a notice of requirement is lodged under this Act,~~
- (a) ~~the process for confirming or modifying a designation under this schedule applies instead of the process for confirming or modifying a designation under the Resource Management Act 1991; and~~ 5
- (b) ~~a designation confirmed or modified under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were confirmed or modified under the Resource Management Act 1991.~~ 10
- (5) ~~A certificate of compliance issued by a panel has the same force and effect as if it were issued by a consent authority under section 139 of the Resource Management Act 1991.~~

Part 1

Applications, etc

15

Consent applications and notices of requirement

3 Lodging consent applications and notices of requirement

- (1) ~~An applicant in a referral application may, in respect of a listed project or a referred project, apply for a consent that would otherwise be applied for under the relevant Act listed in **section 10**.~~ 20
- (2) ~~An applicant that is a requiring authority may, in respect of a listed project or a referred project, lodge—~~
- (a) ~~a notice of requirement for a designation;~~
- (b) ~~a notice of requirement to alter a designation.~~
- (3) ~~A consent application or a notice of requirement must—~~ 25
- (a) ~~be lodged with the EPA; and~~
- (b) ~~be made in the approved form and manner; and~~
- (c) ~~comply with any restrictions or obligations, such as any information requirements included in—~~
- (i) ~~**Schedule 2**, in the case of a listed project;~~ 30
- (ii) ~~**Schedule 3** and the referral order, in the case of a referred project.~~
- (4) ~~The EPA must approve an application form for the purposes of this clause and ensure that it is made available on an Internet site maintained by the EPA.~~
- (5) ~~The provisions of this schedule apply to a notice of requirement to alter a designation as if it were a notice of requirement for a new designation.~~ 35

Compare: 2020 No 35 Schedule 6 cl 2

4 ~~Applications for approvals while existing consents continue in force~~

~~A person who holds a resource consent under the Resource Management Act 1991 may —~~

- (a) ~~apply for an approval under this Act for the activity for which the resource consent applies; and~~ 5
- (b) ~~continue to operate under the existing resource consent, —~~
 - (i) ~~in the case of Category A listed projects, until an approval is granted under this Act, as long as an application under this Act is made within 6 months of the commencement of this Act or not less than 3 months before the resource consent expires under the Resource Management Act 1991, whichever date is the later;~~ 10
 - (ii) ~~in the case of Category B listed and referred projects, so long as an application for referral is made within 6 months of the commencement of this Act or not less than 3 months before the holder's existing resource consent expires, whichever date is the later.~~ 15

*Role of EPA in consenting process***5 ~~EPA to refer consent applications and notices of requirement to panel~~**

- (1) ~~Within 5 working days of receiving a consent application or notice of requirement, the EPA must determine whether the application or notice —~~ 20
 - (a) ~~relates solely to 1 or more of the listed projects or referred projects; and~~
 - (b) ~~does not breach **clause 3(3)(c)**; and~~
 - (c) ~~contains all the information required under **clauses 12 to 16**.~~
- (2) ~~If the EPA is satisfied that a consent application or notice of requirement complies with the matters listed in **subclause (1)**, the EPA must provide the application or notice to the panel appointed to determine that application or notice.~~ 25

6 ~~When EPA must return consent applications or notices of requirement~~

- (1) ~~If the EPA determines that a consent application or notice of requirement does not comply with the requirements of **clause 5(1)**, it must return the application or notice immediately to the person who lodged it, with written reasons for the EPA's determination.~~ 30
- (2) ~~If a consent application or notice of requirement is lodged again with the EPA after the EPA has returned the application or notice to the person who lodged it, —~~ 35
 - (a) ~~that application or notice must be treated as a new application or notice; and~~
 - (b) ~~the time period specified in **clause 5(1)** begins again for the EPA.~~

7 ~~Withdrawal of consent application or notice of requirement~~

- (1) ~~At any time before a determination is given on a consent application or notice of requirement lodged under **clause 3**, the consent applicant or requiring authority may withdraw that application or notice by giving written notice—~~
- ~~(a) to the EPA; and~~ 5
 - ~~(b) in relation to a consent application for a coastal permit to undertake an aquaculture activity, to the Director General of the Ministry for Primary Industries; and~~
 - ~~(c) if the withdrawal occurs after persons or groups have been invited to provide written comments under **clause 20(2)**, to those persons or groups.~~ 10
- (2) ~~As soon as practicable after receiving a notice under **subclause (1)(a)**, the EPA must advise the panel that the relevant consent application or notice of requirement has been withdrawn.~~
- ~~Compare: 2020 No 35 Schedule 6 cl 5~~ 15

8 ~~When processing of consent applications or notices of requirement may be suspended~~

- (1) ~~Processing of a consent application or notice of requirement lodged with the EPA may be suspended in the following circumstances:~~
- ~~(a) by direction of the EPA under **subclause (2)** (for non payment of costs recoverable);~~ 20
 - ~~(b) by direction to the panel—~~
 - ~~(i) under **clause 25** (Minister may direct delay);~~
 - ~~(ii) under **clause 26** (request by consent applicant or requiring authority for suspension of processing).~~ 25
- (2) ~~If a consent applicant or requiring authority has not paid the costs recoverable by the EPA, the EPA may suspend the processing of the consent application or notice of requirement and must give notice of the suspension—~~
- ~~(a) to the applicant or requiring authority; and~~
 - ~~(b) if the suspension occurs after persons or groups have been invited to provide comments under **clause 20(2)**, to those persons or groups.~~ 30
- (3) ~~If the applicant or requiring authority subsequently pays the costs recoverable by the EPA, the EPA must resume processing the consent application or notice of requirement and must give notice of the resumption to the persons notified of the suspension.~~ 35
- ~~Compare: 2020 No 35 Schedule 6 cl 6~~

9 ~~Information sharing between EPA and relevant local authorities~~

- (1) ~~This clause applies if the EPA considers that information held by a local authority in respect of a listed project or a referred project is necessary and~~

- ~~relevant to a current or an anticipated consent application or notice of requirement.~~
- (2) ~~The EPA, at any time before or after it receives a consent application or notice of requirement under **clause 3**, may request the relevant local authority to provide the information and set a date by which the information must be made available.~~ 5
- (3) ~~The local authority concerned must,—~~
- (a) ~~within the time specified by the EPA, provide the information requested; or~~
- (b) ~~advise the EPA that the information will be available, but not within the time specified by the EPA; or~~ 10
- (c) ~~advise the EPA that the local authority does not hold the information and, if the local authority knows where the information is held, advise the EPA accordingly.~~
- (4) ~~If a local authority is unable to provide the information requested under **sub-clause (2)** within the time specified under that subclause, the local authority must provide the information as soon as practicable.~~ 15
- (5) ~~The local authority is entitled to set, and recover from the EPA, a reasonable charge for the supply of information requested by the EPA under this clause.~~
- ~~Compare: 2020 No 35 Schedule 6 cl 7~~ 20
- 10 Confidential information**
- ~~Despite **clause 9**, if information sensitive to an iwi or hapū is held by a local authority under an agreement of confidentiality, the local authority must—~~
- (a) ~~maintain that confidentiality; and~~
- (b) ~~before the information is disclosed under **clause 9**, discuss with the relevant iwi or hapū whether that information or any part of may be disclosed, and if so, how it may be disclosed and to whom.~~ 25
- 11 EPA powers to make certain decisions**
- (1) ~~The EPA—~~
- (a) ~~may make administrative decisions that are incidental or ancillary to the conduct of the panel; but~~ 30
- (b) ~~must not make administrative decisions that would be inconsistent with, or preclude, compliance with, **clause 5 or Schedule 3** (Treaty settlement arrangements).~~
- (2) ~~The EPA must publish, free of charge to the public on an Internet site it maintains, every written notice or other document that this Act requires to be—~~ 35
- (a) ~~received by the EPA or a panel from any person; or~~
- (b) ~~sent by the EPA or a panel to any person.~~

- ~~(3) In performing and exercising its functions, duties, and powers under this schedule, the EPA must, as far as is reasonably practicable, minimise costs and avoid delay.~~

~~Compare: 2020 No 35 Schedule 6 cl 8~~

~~*Information required for consent applications for listed projects and referred projects*~~ 5

12 Information required in consent applications

- ~~(1) Every consent application for a listed or a referred project made under **clause 3** must include the following information:~~
- ~~(a) a description of the proposed activity; and~~ 10
 - ~~(b) a description and map of the site at which the activity is to occur, including whether the site is within or adjacent to a statutory area (as defined in the relevant Treaty settlement Act); and~~
 - ~~(c) confirmation that the consent application complies with **clause 5(4)**; and~~ 15
 - ~~(d) the full name and address of—~~
 - ~~(i) each owner of the site and of land adjacent to the site; and~~
 - ~~(ii) each occupier of the site and of land adjacent to the site who, after reasonable inquiry, is able to be identified by the consent applicant; and~~ 20
 - ~~(e) a description of any other activities that are part of the proposal to which the consent application relates; and~~
 - ~~(f) a description of any other resource consents, notices of requirement for designations, or alterations to designations required for the proposal to which the consent application relates; and~~ 25
 - ~~(g) an assessment of the activity against—~~
 - ~~(i) sections 5, 6, and 7 of the Resource Management Act 1991; and~~
 - ~~(ii) the purpose of this Act; and~~
 - ~~(iii) the matters set out in **section 24** (whether project helps to achieve purpose of Act); and~~ 30
 - ~~(h) an assessment of the activity against any relevant provisions in any of the documents listed in **subclause (2)**; and~~
 - ~~(i) information about any Treaty settlements that apply in the project area, including—~~
 - ~~(i) the identification of the relevant provisions in those Treaty settlements; and~~ 35

- (ii) ~~a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and~~
- (j) ~~a statement as to whether the site is within or adjacent to a statutory area (as defined in a relevant Treaty settlement Act); and~~ 5
- (k) ~~the conditions that the applicant proposes for the resource consent.~~
- (2) ~~The documents referred to in **subclause (1)(h)** are the following:~~
- (a) ~~a national environmental standard;~~
- (b) ~~other regulations made under the Resource Management Act 1991;~~
- (c) ~~a national policy statement;~~ 10
- (d) ~~a New Zealand coastal policy statement;~~
- (e) ~~a regional policy statement or proposed regional policy statement;~~
- (f) ~~a plan or proposed plan;~~
- (g) ~~a planning document recognised by a relevant iwi authority and lodged with a local authority.~~ 15
- (3) ~~An assessment under **subclause (1)(h)** must include an assessment of the activity against —~~
- (a) ~~any relevant objectives, policies, or rules in a document listed in **subclause (2)**; and~~
- (b) ~~any requirement, condition, or permission in any rules in any of those documents; and~~ 20
- (c) ~~any other requirements in any of those documents.~~
- (4) ~~A consent application must include an assessment of the activity's effects on the environment that —~~
- (a) ~~includes the information required by **clause 13**; and~~ 25
- (b) ~~covers the matters specified in **clause 14**.~~
- (5) ~~A consent application must also include the following information:~~
- (a) ~~if a permitted activity is part of the proposal to which the consent application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the Resource Management Act 1991); and~~ 30
- (b) ~~if the activity is to occur in an area that is 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 **clause 33(3)**); and~~ 35

- (e) ~~in the case of a referred project, all the additional information required by the relevant referral order.~~
- (6) ~~If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site, because the land is Māori land in multiple ownership, the applicant must include a statement to that effect.~~ 5
- 13 Information required to assess environmental effects**
- (1) ~~An assessment of an activity's effects on the environment under **clause 12(4)** must include the following information:~~
- (a) ~~an assessment of the actual or potential effects on the environment:~~ 10
- (b) ~~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:~~
- (e) ~~if the activity includes the discharge of any contaminant, a description of—~~
- (i) ~~the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and~~ 15
- (ii) ~~any possible alternative methods of discharge, including discharge into any other receiving environment:~~
- (d) ~~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 of the activity:~~ 20
- (e) ~~identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:~~
- (f) ~~if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision:~~ 25
- (g) ~~if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:~~
- (h) ~~an assessment of any effects of the activity on the exercise of a protected customary right.~~ 30
- (2) ~~A consent application need not include any additional information specified in a relevant policy statement or plan that would be required in an assessment of environmental effects under clause 6(2) or 7(2) of Schedule 4 of the Resource Management Act 1991.~~ 35
- Compare: 2020 No 35 Schedule 6 cl 10*
- 14 Matters to be covered in assessment of environmental effects**
- ~~The assessment of an activity's effects on the environment under **clause 12(4)** must cover the following matters:~~

- (a) ~~any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects;~~
- (b) ~~any physical effect on the locality, including landscape and visual effects;~~
- (c) ~~any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity;~~ 5
- (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 and options for the treatment and disposal of contaminants;~~ 10
- (f) ~~the unreasonable emission of noise;~~
- (g) ~~any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.~~

~~Compare: 2020 No 35 Schedule 6 cl 11~~

15

15 Information required in applications for subdivision or reclamation

Information required for subdivision consents

- (1) ~~In addition to the information required in a consent application under **clause 42**, a consent application for a subdivision in a project area must include information that adequately defines the following:~~ 20
 - (a) ~~the position of all new boundaries; and~~
 - (b) ~~the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan; and~~
 - (c) ~~the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips; and~~ 25
 - (d) ~~the locations and areas of existing esplanade reserves, esplanade strips, and access strips; and~~
 - (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 237A of the Resource Management Act 1991; and~~ 30
 - (f) ~~the locations and areas of any land within the coastal marine area that is to become part of the common marine and coastal area under section 237A of the Resource Management Act 1991; and~~
 - (g) ~~the locations and areas of land to be set aside as new roads.~~

Information required for reclamation consents

35

- (2) ~~In addition to the information required for a consent application by **clause 42**, a consent application for a reclamation must include information to show the area to be reclaimed, including the following:~~

- ~~(a) the location of the area to be reclaimed;~~
- ~~(b) if practicable, the position of all new boundaries;~~
- ~~(c) any part of the reclaimed area to be set aside as an esplanade reserve or esplanade strip.~~

~~Compare: 2020 No 35 Schedule 6 cl 12~~

5

~~Information required in notices of requirement for listed projects and referred projects~~

~~16 Information required in notices of requirement~~

- ~~(1) A notice of requirement for a listed project or in a referred project must include the following information:~~** 10
 - ~~(a) a description of the site to which the notice of requirement applies, including whether the site is within or adjacent to a statutory area (as defined in a relevant Treaty settlement Act); and~~
 - ~~(b) information on the effects of the proposed project or work on the environment, together with a description of how any adverse effects will be mitigated; and~~ 15
 - ~~(c) confirmation that the notice of requirement complies with **clause 5(4)**; and~~
 - ~~(d) an assessment of the project or work against —~~
 - ~~(i) sections 5, 6, and 7 of the Resource Management Act 1991 and the purpose of this Act; and~~ 20
 - ~~(ii) any relevant provisions in any of the documents listed in **sub-clause (4)**; and~~
 - ~~(e) information about any Treaty settlements that apply in the project area, including —~~ 25
 - ~~(i) the identification of the relevant provisions in those Treaty settlements; and~~
 - ~~(ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and~~ 30
 - ~~(f) the full name and address of —~~
 - ~~(i) each owner of the land to which the notice of requirement relates and of the land adjacent to that land; and~~
 - ~~(ii) each person who, after reasonable inquiry, is known by the requiring authority to be an occupier of the land to which the notice relates and of the land adjacent to that land; and~~ 35

- (g) ~~an assessment of whether the project or work and the designation sought are reasonably necessary for achieving the objectives of the requiring authority; and~~
- (h) ~~any consideration of alternative sites, routes, or methods of undertaking the project or work; and~~ 5
- (i) ~~a list of the resource consents needed for the project or work and whether these have been applied for; and~~
- (j) ~~a description of any consultation undertaken with parties likely to be affected by the project or work and the designation; and~~
- (k) ~~any conditions that the requiring authority proposes for the designation.~~ 10
- (2) ~~In the case of a referred project, a notice of requirement must also include all the additional information required by the relevant referral order.~~
- (3) ~~The documents referred to in **subclause (1)(d)(ii)** are the following:~~
 - (a) ~~a national policy statement;~~
 - (b) ~~a New Zealand coastal policy statement;~~ 15
 - (c) ~~a regional policy statement or proposed regional policy statement;~~
 - (d) ~~a plan or proposed plan;~~
 - (e) ~~a planning document recognised by a relevant iwi authority and lodged with a local authority.~~
- (4) ~~If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site, because the land is Māori land in multiple ownership, the applicant must include a statement to that effect.~~ 20

~~Compare: 2020 No 35 Schedule 6 cl 13~~

General requirement

25

~~17 Scope of information required~~

- (1) ~~The information required by **clauses 12 to 16** must be provided in sufficient detail to correspond to the scale and significance of the effects that the activity is anticipated to have on the environment.~~
- (2) ~~**Subclause (1)** applies, taking into account any proposal by a consent applicant or requiring authority to manage the adverse effects of an activity through conditions, including conditions requiring the preparation of a management plan.~~ 30

Applications relating to activities in coastal marine area

~~18 Applications for coastal permits~~

35

~~If a consent application is made under this schedule for a coastal permit to undertake an aquaculture activity, or includes such an application, a copy of~~

~~the application must be included for the Director General of the Ministry for Primary Industries.~~

~~19 Applications relating to land in coastal marine area~~

- (1) ~~If a consent application is made to subdivide land that, in whole or in part, is in the coastal marine area, a panel must decide the application as if the whole of the land to be subdivided were part of the abutting district.~~ 5
- (2) ~~**Subclause (3)** applies if a consent application is made for an activity that the applicant intends to undertake once the proposed location of the activity has been reclaimed, but on the date on which the application is lodged, the proposed location of the new activity is still within the coastal marine area.~~ 10
- (3) ~~The panel may decide the application as if—~~
- ~~(a) the application related to an activity within the abutting district; and~~
 - ~~(b) the district plan applying in the abutting district applied to the proposed location of the activity.~~

~~Processing of consent applications and notices of requirement~~ 15

~~20 Public and limited notification not permitted~~

- (1) ~~A panel must not give public or limited notification of a consent application or notice of requirement.~~
- (2) ~~However, not later than 5 working days after the responsible agency has determined that the application meets the requirements of **section 47** and has referred the consent application or notice of requirement to a panel under that clause, the panel must invite written comments on the application or notice of requirement before it from the persons or groups listed in **subclauses (3) to (6)**.~~ 20

~~Persons that must or may be invited to comment on listed project~~ 25

- (3) ~~For a listed project, a panel must invite comments on a consent application or notice of requirement before it from the following:~~
- ~~(a) the relevant local authorities; and~~
 - ~~(b) the relevant iwi authorities; and~~
 - ~~(c) a Treaty settlement entity relevant to the listed project, including—~~ 30
 - ~~(i) an entity that has an interest under a Treaty settlement in an area where a listed project is to occur; and~~
 - ~~(ii) an entity that has an interest under the NIINP Act; and~~
 - ~~(iii) any iwi or hapū that is party to a relevant Mana Whakahoā Rohe or joint management agreement under the Resource Management Act 1991; and~~ 35
 - ~~(d) if a consent application relates to an activity in a customary marine title area, the relevant customary marine title group; and~~

- (e) ~~if a consent application relates to an activity in a protected customary rights area, the relevant protected customary rights group; and~~
- (f) ~~the owners of the land on which the project is to be undertaken and the land adjacent to that land; and~~
- (g) ~~the occupiers of the land on which the project is to be undertaken and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified; and~~ 5
- (h) ~~Ministers of the Crown responsible for the following portfolios:~~
- ~~(i) Arts, Culture and Heritage; and~~
 - ~~(ii) Climate Change; and~~ 10
 - ~~(iii) Conservation; and~~
 - ~~(iv) Defence; and~~
 - ~~(v) Education; and~~
 - ~~(vi) Housing; and~~
 - ~~(vii) Energy and Resources; and~~ 15
 - ~~(viii) Infrastructure; and~~
 - ~~(ix) Land Information; and~~
 - ~~(x) Local Government; and~~
 - ~~(xi) Māori Crown Relations: Te Arawhiti; and~~
 - ~~(xii) Transport; and~~ 20
 - ~~(xiii) Treaty of Waitangi Negotiations; and~~
 - ~~(xiv) Urban Development; and~~
 - ~~(i) the Director General of Conservation; and~~
 - ~~(j) any requiring authority that has a designation on land on which the project is to be undertaken, or on land that is adjacent to the land on which the project is to be undertaken.~~ 25
- (4) ~~A panel may invite written comments from any other person the panel considers appropriate.~~
- Persons who must or may be invited to comment on referred project*
- (5) ~~For a referred project, a panel must invite comments on a consent application or notice of requirement before it from the following:~~ 30
- ~~(a) the relevant local authorities; and~~
 - ~~(b) the relevant iwi authorities, including those identified in the report obtained under **section 13**; and~~
 - ~~(e) a Treaty settlement entity relevant to the referred project, including —~~ 35
 - ~~(i) an entity that has an interest under a Treaty settlement in an area where a referred project is to occur; and~~

- (ii) ~~an entity that has an interest under the NHIIP Act; and~~
- (iii) ~~an entity identified in the report obtained under **section 13**; and~~
- (iv) ~~an entity with a role under any iwi participation legislation other than a Treaty settlement Act; and~~
- (v) ~~an entity operating in a collective arrangement; and~~ 5
- (d) ~~if a consent application relates to an activity in a customary marine title area, the relevant customary marine title group (including any relevant customary marine title group identified in the report obtained under **section 13**); and~~
- (e) ~~if a consent application relates to an activity in a protected customary rights area, the relevant protected customary rights group (including any relevant protected customary rights group identified in the report obtained under **section 13**); and~~ 10
- (f) ~~any applicant group under the Marine and Coastal Area (Takutai Moana) Act 2011 identified in the report obtained under **section 13**; and~~ 15
- (g) ~~the owners of the land on which the project is to be undertaken and the land adjacent to that land; and~~
- (h) ~~the occupiers of the land on which the project is to be undertaken and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified; and~~ 20
- (i) ~~Ministers of the Crown responsible for the portfolios listed in **sub-clause (3)(h)**; and~~
- (j) ~~the Director General of Conservation; and~~
- (k) ~~any requiring authority that has a designation on land on which the project is to be undertaken, or on land that is adjacent to that land; and~~ 25
- (l) ~~Heritage New Zealand Pouhere Taonga and the New Zealand Infrastructure Commission/Te Waihanga.~~
- (6) ~~A panel may invite comments from any other person the panel considers appropriate.~~
- (7) ~~If a panel has not been appointed by the date provided for under **subclause (2)**, the panel convener must, without undue delay, appoint a panel which must, without undue delay, comply with the requirements of that clause.~~ 30
- ~~Compare: 2020 No 35 Schedule 6 cl 17~~
- 21 General provisions relating to invitations given under clause 20(2)**
- (1) ~~A panel must specify in its invitation that written comments on a consent application or notice of requirement must be received by the EPA on behalf of the panel on a specified date (which must be 10 working days after the date on which the invitation is given under **clause 20(2)**).~~ 35

- (2) ~~The invitation must include notice of the consent application or notice of requirement, with details as to how to access the consent application or notice of requirement.~~
- (3) ~~An iwi authority invited to provide comments under **clause 20(2)** may —~~
- (a) ~~share the consent application or notice of requirement with hapū whose rohe is in the project area proposed in the application or notice; and~~
 - (b) ~~choose to include comments from that hapū with the comments provided to the panel by the iwi authority.~~
- (4) ~~Written comments may be returned to the EPA by electronic means.~~
- (5) ~~The EPA must forward copies of any comments received under this clause to the consent applicant or requiring authority.~~
- (6) ~~The panel is not required to consider any comments received after the time specified in the invitation, but may do so, in its discretion, as long as the panel has not issued its decision.~~
- (7) ~~There is no right for any person to seek a waiver of the time limit for written comments to be received by the EPA.~~

~~Compare: 2020 No 35 Schedule 6 cl 18~~

22 Response on comments provided under clause 21

~~The consent applicant or requiring authority, if it makes a response to comments provided under **clause 21** on a consent application or notice of requirement, must provide that response to the EPA not later than 5 working days after the date by which those comments provided under **clause 21** had to be received by the EPA in accordance with that clause.~~

~~Compare: 2020 No 35 Schedule 6 cl 19~~

23 Hearing not required

~~There is no requirement for a panel to hold a hearing in respect of a consent application or notice of requirement and no person has a right to be heard by a panel.~~

~~Compare: 2020 No 35 Schedule 6 cl 20~~

24 Procedure if hearing is held

~~*Who may appear and be heard*~~

- (1) ~~If, in its discretion, a panel considers it is appropriate to hold a hearing, it may hear from —~~
- (a) ~~the applicant; and~~
 - (b) ~~any person commissioned by the panel to write a report on the relevant consent application or notice of requirement; and~~
 - (c) ~~any person or group that provided comments in response to an invitation given under **clause 20(2)**.~~

- (2) ~~If a person or group that provided comments is heard, a panel must give the consent applicant or requiring authority the opportunity to be heard.~~
- ~~Notices and timing requirements~~
- (3) ~~If a panel decides to hold a hearing, the EPA, at the direction of the panel, must issue a notice of hearing to persons or groups referred to in **subclause (4)**, fixing the date, time, and place of the hearing.~~ 5
- (4) ~~The notice must give no less than 5 working days' notice of the hearing, and must advise the persons notified—~~
- (a) ~~that they may appear and be heard, be represented, and call evidence in relation to the consent application or notice of requirement; and~~ 10
- (b) ~~that they must, within 3 working days after the notice of hearing is given, advise the EPA whether they will attend the hearing.~~
- (5) ~~If a person or group advises a panel under **subclause (4)(b)** that they will attend a hearing but fails to appear, the panel may proceed with the hearing.~~
- (6) ~~A panel must complete any hearing within the time frame allowed under **clause 39(2)** for the panel to issue its final recommendation.~~ 15
- ~~Other provisions as to conduct of hearing~~
- (7) ~~If a hearing is held, a panel must—~~
- (a) ~~avoid unnecessary formality; and~~
- (b) ~~recognise tikanga Māori where appropriate; and~~ 20
- (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.~~ 25
- (8) ~~Section 4 of the Commissions of Inquiry Act 1908 (which gives powers to maintain order) applies to any hearing conducted by a panel under this Act.~~
- (9) ~~A panel may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with a consent application or notice of requirement, whether or not it would be admissible in a court of law.~~ 30
- (10) ~~A panel may, in its discretion, make an order that prohibits or restricts the publication or other means of communication of information supplied to the panel or obtained by it in the course of a hearing.~~
- (11) ~~**Subclause (10)** applies whether or not the information is material to determining a consent application or notice of requirement if there would be good reason to withhold the information under section 6 or 7 of the Local Government Official Information and Meetings Act 1987.~~ 35

- (12) ~~A panel may, if it considers that there is likely to be excessive repetition, limit the circumstances in which persons with the same interests may speak or call evidence.~~
- Remote access hearing*
- (13) ~~A panel may direct that a hearing or part of a hearing be held using 1 or more remote access facilities —~~ 5
- ~~(a) on the initiative of the panel; or~~
 - ~~(b) at the request of the applicant or requiring authority; or~~
 - ~~(c) at the request of a person or a representative of a group of persons referred to in **subclause (1)**.~~ 10
- (14) ~~If a hearing is held using a remote access facility, a panel must, —~~
- ~~(a) if it is reasonably practicable to do so, enable access to the hearing by making it 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 an Internet site, —~~ 15
 - ~~(i) an audio or a video recording of the hearing; or~~
 - ~~(ii) a written transcript of the hearing.~~
- (15) ~~**Subclause (14)** is subject to section 48 of the Local Government Official Information and Meetings Act 1987 (right of local authorities to exclude public).~~ 20
- ~~Compare: 2020 No 35 Schedule 6 cl 24~~
- 25 Minister may direct delay in processing consent application or notice of requirement**
- (1) ~~The Minister may, at any time after a consent application or notice of requirement has been provided to a panel, give a written direction, with reasons, to the EPA that the panel must suspend processing, or further processing, of the application or notice.~~ 25
- (2) ~~If the EPA receives a direction from the Minister under **subclause (1)**, the EPA must, within 5 working days of receiving the direction, give written notice of it, and the Minister's reasons, to —~~ 30
- ~~(a) the members of the panel; and~~
 - ~~(b) the relevant local authorities; and~~
 - ~~(c) the applicant or requiring authority; and~~
 - ~~(d) any person or group invited to provide comments under **clause 20(2)**.~~ 35
- (3) ~~The Minister may exercise the discretion under **subclause (1)** if the Minister considers that —~~

- (a) ~~resource consents, or further resource consents, are required in respect of the proposal to which the consent application or notice of requirement relates; and~~
- (b) ~~the nature of the proposal will be better understood if a consent application is made for those resource consents before the panel proceeds further.~~ 5
- (4) ~~The Minister may, at any time, by notice in writing with reasons, withdraw the direction given to the EPA under **subclause (1)**.~~
- (5) ~~A copy of the Minister's direction given under **subclause (1)** must be given to the persons and groups listed in **subclause (2)**.~~ 10
- (6) ~~**Subclause (7)** applies if the Minister's direction given under **subclause (4)** is withdrawn under **subclause (4)** before any consent applications for further resource consents are lodged.~~
- (7) ~~If this subclause applies, the panel must resume processing the original consent application or notice of requirement from the date on which the Minister's direction is withdrawn.~~ 15
- (8) ~~**Subclause (9)** applies if consent applications for further resource consents are lodged with the EPA before the Minister's direction given under **subclause (4)** is withdrawn.~~
- (9) ~~If this subclause applies, the panel must —~~ 20
- (a) ~~resume processing the original consent application or notice of requirement; and~~
- (b) ~~observe the time frames set out in this schedule that apply to the further consent applications, instead of the time frames that would have applied to the original consent application or notice of requirement.~~ 25
- 26** ~~Consent applicant or requiring authority may request suspension, etc, of processing~~
- (1) ~~A consent applicant or a requiring authority may make a written request to the EPA that a panel suspend processing a consent application or notice of requirement.~~ 30
- (2) ~~A request may be made only in the period between —~~
- (a) ~~the time when the EPA provides the consent application or notice of requirement to a panel under **clause 5**; and~~
- (b) ~~the time when a panel issues its final recommendation on an application or notice under **clause 39**.~~ 35
- (3) ~~The EPA must provide a copy of the request received under **subclause (1)** —~~
- (a) ~~to the relevant local authority; and~~
- (b) ~~to any person or group invited to provide comments under **clause 20(2)**.~~

- (4) ~~A panel, at its discretion,—~~
- (a) ~~may suspend the processing of a consent application or notice of requirement when a request is made under **subclause (1)**; but~~
 - (b) ~~if it does grant a suspension, must give the consent applicant or requiring authority written advice of the date on and after which the panel ceased to process the application or notice.~~ 5
- (5) ~~Despite **subclause (4)**, a panel must grant a request to suspend the processing of a consent application that relates to an aquaculture activity, if the consent applicant advises that the suspension is necessary for the purpose of negotiating a pre-request aquaculture agreement under section 186ZM of the Fisheries Act 1996.~~ 10
- (6) ~~A consent applicant or requiring authority granted a suspension under **subclause (4) or (5)** may request in writing that the processing of the application or notice be resumed.~~
- (7) ~~If a panel receives a request under **subclause (6)**, it must, as soon as is reasonably practicable, resume processing the consent application or notice of requirement.~~ 15
- (8) ~~If a panel does not receive a request under **subclause (6)**, it may decide under **clause 27(2)(b)** to continue to process the consent application or notice of requirement.~~ 20
- (9) ~~If processing of a consent application or notice of requirement is resumed or continued under **subclause (7) or (8)**, the EPA must give written notice of that fact, specifying the date on which processing was resumed or continued,—~~
- (a) ~~to the consent applicant or requiring authority; and~~
 - (b) ~~to the relevant local authority; and~~ 25
 - (c) ~~to any person or group invited to provide comments under **clause 20(2)**.~~
- 27 Return of consent application or notice of requirement**
- (1) ~~This clause applies if 50 working days have elapsed since the processing of a consent application or notice of requirement was suspended under **clause 26(4)(a) or (5)**.~~ 30
- (2) ~~A panel must decide whether—~~
- (a) ~~to return the consent application or notice of requirement to the applicant or requiring authority; or~~
 - (b) ~~to continue to process the application or notice.~~ 35
- (3) ~~The decision of a panel under this clause must be notified in writing to—~~
- (a) ~~the applicant or requiring authority; and~~
 - (b) ~~the relevant local authority; and~~

- (e) ~~in relation to a consent application for a coastal permit to undertake an aquaculture activity, the Director General of the Ministry for Primary Industries; and~~
- (d) ~~any person or group invited to provide comments under **clause 20(2)**.~~
- (4) ~~If a panel decides to return the consent application or notice of requirement, it must be returned together with written reasons for its return.~~ 5
- (5) ~~If a consent application or notice of requirement that has been returned is lodged again with the EPA, the application or notice must be treated as a new application or notice.~~
- (6) ~~If a consent application or notice of requirement is suspended more than once, the total number of days over which processing may be suspended must not be more than 50 working days.~~ 10
- 28 Further information**
- (1) ~~At any time before a panel issues its final recommendation on a consent application or notice of requirement under **clause 39**, the panel may direct the EPA —~~ 15
- (a) ~~to request further information on a proposal from any of the following:~~
- (i) ~~a consent applicant or requiring authority;~~
 - (ii) ~~a relevant local authority;~~
 - (iii) ~~any person or group invited to provide comments under **clause 20(2)**.~~ 20
- (b) ~~to prepare or commission a report (including a report from a relevant local authority) on an issue relevant to the consent application or notice of requirement.~~
- (2) ~~If further information is requested under **subclause (1)(a)**, the person or body requested to provide the information must —~~ 25
- (a) ~~provide electronic copies of the information or report requested; or~~
 - (b) ~~advise the EPA, with reasons, that it declines to provide the information or report requested.~~
- (3) ~~**Subclause (2)** must be complied with by the date directed by the panel, which must not be later than 10 working days after the direction is given.~~ 30
- (4) ~~As soon as is reasonably practicable after the date on which any information or report is received by the EPA from any person or body requested or commissioned under **subclause (1)(a) or (b)**, the EPA must provide electronic copies of the information or report —~~ 35
- (a) ~~to the members of the panel; and~~
 - (b) ~~to the consent applicant or requiring authority; and~~
 - (e) ~~to every person or group that provided comments under **clause 20(2)**.~~

- (5) ~~The persons and groups that receive the information or report under **sub-clause (4)(c)** may not make further comments unless requested by the panel.~~
- (6) ~~If information requested under **subclause (1)** is not received by the panel in accordance with **subclauses (2) and (3)**, the panel must proceed as if the request for further information had been declined.~~

5

29 Further requirements in relation to aquaculture

~~Section 107F of the Resource Management Act 1991 applies to a panel with the necessary modifications, including the following:~~

- (a) ~~the reference to a consent authority must be read as a reference to a panel;~~
- (b) ~~the references to submissions must be read as references to comments provided under **clause 24**;~~
- (c) ~~the reference to section 88(3A) of the Resource Management Act 1991 must be read as a reference to **clause 6(1)** of this schedule;~~
- (d) ~~the references to sections 41C, 42A, 92, and 149 of the Resource Management Act 1991 must be read as references to **clause 28** of this schedule.~~

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Certificate of compliance

30 Application for certificate of compliance

- (1) ~~A consent applicant or requiring authority may lodge an application for a certificate of compliance with the EPA, but only if the application is lodged at the same time as, and as part of, a consent application or notice of requirement.~~
- (2) ~~A panel must consider the application and may issue a certificate of compliance by applying section 139 of the Resource Management Act 1991 with the necessary modifications.~~
- (3) ~~Nothing in this schedule prevents a consent applicant or requiring authority from applying to a local authority under the Resource Management Act 1991 for a certificate of compliance in relation to any activity to which this Act applies.~~

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Resource Management Act 1991 processes may be used for listed projects and referred projects

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31 Use of Resource Management Act 1991 processes for listed projects and referred projects

- (1) ~~This clause applies to a person who is authorised under this Act to apply to a panel for a resource consent or designation for —~~
- (a) ~~a listed project; or~~
- (b) ~~a referred project.~~

35

- (2) ~~This Act does not prevent that person from lodging, in relation to a listed project or a referred project,—~~
- (a) ~~an application for a resource consent under the Resource Management Act 1991; or~~
 - (b) ~~a notice of requirement under the Resource Management Act 1991.~~ 5
- (3) ~~However, a person who has lodged an application for a resource consent or a notice of requirement under the Resource Management Act 1991 in relation to a listed project or a referred project must withdraw that application or notice of requirement before lodging a consent application or notice of requirement under this Act for the same, or substantially the same, activity.~~ 10

Part 2

Assessment of consent applications and notices of requirement by panel

- 32 Panel considers applications and notices of requirement for listed and referred projects** 15
- (1) ~~The expert panel must assess an application or notice of requirement for a listed or referred project, and any written comments received on the application or notice, giving weight to the following matters, if relevant, in the order listed (greater to lesser):~~
- (a) ~~the purpose of this Act; and~~ 20
 - (b) ~~the purpose of the Resource Management Act 1991 set out in section 5 of that Act; and~~
 - (c) ~~the matters for consideration in section 6 of the Resource Management Act 1991; and~~
 - (d) ~~the matters for consideration in section 7 of the Resource Management Act 1991; and~~ 25
 - (e) ~~the provisions of any of the following, if relevant, made under the Resource Management Act 1991:~~
 - (i) ~~any national direction;~~
 - (ii) ~~operative and proposed policy statements and plans;~~ 30
 - (iii) ~~iwi management plans;~~
 - (iv) ~~Mana Whakahono ā Rohe;~~
 - (v) ~~joint management agreements; and~~
 - (f) ~~the relevant provisions of the Resource Management Act 1991 or any other legislation that direct decision making under the Resource Management Act 1991 (see, for example, sections 104 to 107 of that Act and the provisions referred to in **clauses 31 to 35**).~~ 35

- (2) ~~The panel must also, in assessing listed and referred projects under this clause, consider the extent to which any relevant Treaty settlement and the Crown's commitments under the Marine and Coastal Area (Takutai Moana) Act 2011, the NHNP Act, and any relevant Mana Whakahono ā Rohe and joint management agreements would be met if the application were approved.~~

5

- (3) ~~If a Treaty settlement imposes an obligation on a local authority or other decision maker when determining an application for a resource consent, a panel must comply with that obligation as if it were imposed by the local authority or other decision maker.~~

Example

10

Compliance with obligations imposed by Treaty settlement

~~Under the Waikato Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the consent authority must, when making decisions relating to the river, have particular regard to the vision and strategy set out in that Act.~~

~~A panel determining a relevant consent application or notice of requirement under this Act must comply with that obligation in addition to the obligations imposed by this Act.~~

15

- (4) ~~**Subclause (3)** is subject to **clause 5 of Schedule 3** (conduct of hearings and other procedural matters in context of Treaty settlements).~~

~~Compare: 2020 No 35 Schedule 6 cl 29~~

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33 Further matters relevant to consent applications and notices of requirement for listed and referred projects

- (1) ~~If a consent application or notice of requirement for a listed or referred project relates to an activity in an area where a planning document applies that is prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a panel must have regard to any resource management matters in that document until all obligations under section 93 of that Act have been met by the relevant local authority.~~

25

- (2) ~~After considering the report of an expert panel on a listed or referred project, the joint Ministers, before deciding to approve or decline the project, must consider whether the proposed decision would be consistent with a relevant Treaty settlement or commitment of the Crown to iwi and hapū under the Marine and Coastal Area (Takutai Moana) Act 2011, the NHNP Act, or a Mana Whakahono ā Rohe or joint management agreement.~~

30

- (3) ~~In considering whether a decision made under **subclause (1)** would be consistent with the commitments referred to in that subclause, the joint Ministers must apply the decision making criteria set out in **clause 32(2)**.~~

35

- (4) ~~If a consent application or notice of requirement relates to an area where an environment covenant applies prepared by Ngā Hapū o Ngāti Porou under the~~

~~Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, a panel must have regard to any resource management matters in that document.~~

~~Compare: 2020 No 35 Schedule 6 cl 30(3)~~

~~*Resource consents and notices of requirement for listed or referred projects*~~

- 34** ~~**Consideration of consent applications and notices of requirement for listed and referred projects**~~ 5
- ~~*Matters which panel may or must disregard*~~
- (1) ~~When forming an opinion for the purposes of determining the actual and potential effects on the environment of allowing an activity, a panel may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.~~ 10
- (2) ~~A panel must not,—~~
- (a) ~~when considering a consent application or notice of requirement, have regard to—~~
- (i) ~~trade competition or the effects of trade competition; or~~ 15
- (ii) ~~any effect on a person who has given written approval to the application (unless that approval is withdrawn before the application is decided);~~
- (b) ~~when considering a consent application relating to housing, have regard to any adverse effect, real or perceived, arising from the kind of housing intended (whether for rental housing, for people with disability needs, or for people who are beneficiaries).~~ 20
- (3) ~~A panel considering a consent application or notice of requirement must disregard **subclause (2)(a)(ii)** if the person withdraws the approval in a written notice received by the panel before the date of the hearing (if any) or, if there is no hearing, before the application is determined.~~ 25
- ~~*Other matters relevant to decisions*~~
- (4) ~~A panel may recommend in its report that a consent application or notice of requirement—~~
- (a) ~~be granted on the ground that the activity concerned is a controlled, restricted discretionary, discretionary, non-complying, or prohibited activity, regardless of what type of activity the application was expressed to be for;~~ 30
- (b) ~~be declined on the ground that the information provided by the applicant is inadequate to make any recommendation.~~ 35
- (5) ~~In making an assessment on the adequacy of the information, a panel must have regard to whether any request made to an applicant for further informa-~~

~~tion or reports resulted in further information or any report being made available.~~

~~Compare: 2020 No 35 Schedule 6 cl 31(4) – (6)~~

35 Further matters relevant to considering consent applications for referred projects

- (1) ~~Sections 104A to 104C, 105 to 107, and 138A(1), (2), (5), and (6) of the Resource Management Act 1991 apply to a panel's consideration of a consent application for a referred project.~~
- (2) ~~The provisions referred to in **subclause (1)** apply with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.~~
- (3) ~~If a consent application for a listed or referred project relates to an activity in an area where a planning document applies that is prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a panel must have regard to any resource management matters in that document until all obligations under section 93 of that Act have been met by the relevant local authority.~~
- (4) ~~In considering whether a decision made under **subclause (3)** would be consistent with the commitments referred to in that subclause, the joint Ministers must apply the decision-making criteria set out in **clause 32(2)**.~~
- (5) ~~To avoid doubt, section 104D of the Resource Management Act 1991 does not apply to a panel's consideration of a resource consent for a referred project.~~

Requirements for designations for listed projects and referred projects

36 Consideration of notices of requirement for listed projects and referred projects

- (1) ~~When considering a notice of requirement and any comments received in response to an invitation given under **clause 20(2)**, a panel must, subject to **clause 32(1)**, consider the effects on the environment of allowing the requirement, having particular regard to —~~
 - (a) ~~whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if —~~
 - (i) ~~the requiring authority does not have an interest in the land sufficient to undertake the work; or~~
 - (ii) ~~it is likely that the work will have a significant adverse effect on the environment; and~~
 - (b) ~~whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority seeking the designation; and~~
 - (c) ~~any other matter the panel considers reasonably necessary in order to make a decision on the requirement.~~

- (2) ~~The effects that are to be considered under **subclause (1)** may include positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, but only if those effects result from measures proposed or agreed by the requiring authority.~~ 5
- (3) ~~If a panel recommends a requirement,—~~
- (a) ~~it may waive the requirement for an outline plan as required by section 176A of the Resource Management Act 1991; but~~
- (b) ~~if it does not waive the requirement under that section, the outline plan must be submitted to the territorial authority in accordance with that section.~~ 10
- (4) ~~If a Treaty settlement imposes an obligation on a territorial authority or other decision maker when determining, or making a recommendation on, a notice of requirement, a panel must comply with that obligation as if it were the territorial authority or other decision maker (see the example relating to **clause 32**).~~ 15

Conditions

37 Conditions applying to resource consents

- (1) ~~This clause applies to consent applications in respect of both listed projects and referred projects.~~
- (2) ~~A panel may recommend that an application be subject to the conditions it considers appropriate, including conditions required to ensure that any aspect of a Treaty settlement or other arrangement with 1 or more iwi or hapū is recognised or protected.~~ 20
- (3) ~~Without limiting **subclause (2)**, a panel may recommend conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011, the NHNP Act, a Mana Whakahoā Rohe, or joint management agreement, or to protect iwi and hapū interests.~~ 25
- (4) ~~Sections 108, 108A to 112, and 220 of the Resource Management Act 1991 apply to conditions imposed under **subclause (2)**, subject to all necessary modifications, including the following:~~ 30
- (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 related to the project that is the subject of the consent application.~~ 35

38 Panel to provide copies of draft conditions

- (1) ~~Before a panel recommends that a resource consent or notice of requirement be approved, the panel must provide a copy of its draft conditions to the following, inviting comments on the draft conditions:~~

- (a) ~~the consent applicant or requiring authority; and~~
- (b) ~~every person or group that provided comments in response to an invitation given under **clause 20(2)**.~~
- (2) ~~A panel must set a date by which any comments on the draft conditions must be received by the EPA.~~ 5
- (3) ~~The EPA must, as soon as practicable after receiving comments under **sub-clause (1)**, provide electronic copies of those comments to—~~
 - (a) ~~the members of the panel; and~~
 - (b) ~~the consent applicant or requiring authority; and~~
 - (c) ~~every person or group that provided comments in response to an invitation given under **clause 20(2)**.~~ 10
- (4) ~~Sections 123 and 123A of the Resource Management Act 1991 apply to the duration of any resource consent or notice of requirement recommended by a panel.~~
- (5) ~~Before making a recommendation on a consent application or notice of requirement, a panel must have regard to all comments received under **subclause (1)**.~~ 15

Recommendation of panel

39 Panel to make recommendation

Report on recommendation

- (1) ~~As soon as practicable after a panel has completed its consideration of a consent application or notice of requirement, the panel must—~~ 20
 - (a) ~~make its recommendation; and~~
 - (b) ~~produce a written report of that recommendation (the **recommendation**).~~
- (2) ~~In preparing the report on its recommendation for the joint ministers, the panel must—~~ 25
 - (a) ~~consider any relevant Treaty settlements, the NIINP Act if relevant, and any relevant Mana Whakahoā Rohe and joint management agreements; and~~
 - (b) ~~consult the Minister of Māori Development and the Minister for Māori Crown Relations: Te Arawhiti on a draft of the report, who must respond to the panel within 5 working days of receiving the draft report.~~ 30
- (3) ~~The panel must issue its recommendation,—~~
 - (a) ~~in the case of a listed project, no later than 25 working days after the date specified for receiving comments under **clause 24**; or~~ 35
 - (b) ~~in the case of a referred project, no later than—~~

- (i) ~~25 working days after the date specified for receiving comments under **clause 24**, if the referral order is silent on the matter; or~~
 - (ii) ~~any other number of working days after the date specified for receiving comments under **clause 24**, as may be provided for in the referral order.~~ 5
- (4) ~~However, if the scale or nature of the proposal that is the subject of a consent application or notice of requirement is such that the panel is unable to make a final recommendation within the time specified in **subclause (2)**, the panel may extend the period for issuing its recommendation,—~~
 - (a) ~~in the case of a listed project, by up to a further 25 working days; or~~ 10
 - (b) ~~in the case of a referred project,—~~
 - (i) ~~by up to a further 25 working days, if the referral order is silent on the matter; or~~
 - (ii) ~~by any other number of working days, as may be provided for in the referral order.~~ 15
- (5) ~~The period allowed under **subclause (3) or (4)** does not include any time that a consent application or notice of requirement was suspended—~~
 - (a) ~~at the direction of the Minister under **clause 25**; or~~
 - (b) ~~by a decision of a panel under **clause 26**.~~
- (6) ~~If the panel extends the time under **subclause (4)**, the EPA must give written notice of the extended time to—~~ 20
 - (a) ~~the consent applicant or requiring authority, as the case requires; and~~
 - (b) ~~any person or group invited to provide comments under **clause 20(2)**.~~

Contents of recommendation report
- (7) ~~The written report of the panel's recommendation must—~~ 25
 - (a) ~~state the panel's recommendation; and~~
 - (b) ~~state the panel's reasons for that recommendation; 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.~~
- (8) ~~The recommendation must also specify the date on which a resource consent or designation lapses unless it is given effect to by that specified date.~~ 30
- (9) ~~The date specified under **subclause (8)** 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.~~

40 Ministerial decision

- (1) ~~After considering the recommendation of the panel issued in accordance with clause 39, the joint Ministers must make a final decision in accordance with section 25 of this Act.~~
- (2) ~~A resource consent granted under this Act commences on the day after the date on which—~~ 5
- (a) ~~all appeal rights under this Act have been exhausted or have expired; or~~
- (b) ~~all appeals under this Act are determined.~~
- (3) ~~Sections 123 and 123A of the Resource Management Act 1991 apply to the duration of any resource consent granted under this Act.~~ 10

41 Service and publication of decision

- (1) ~~Notice of the joint Ministers' decision must be served—~~
- (a) ~~on the applicant or requiring authority, as the case requires; and~~
- (b) ~~on any person or group invited to provide comments under clause 20(2); and~~ 15
- (c) ~~on the relevant local authority; and~~
- (d) ~~on other persons and authorities that the panel considers appropriate.~~
- (2) ~~The notice served under subclause (1) must include advice as to the time within which an appeal may be lodged.~~
- (3) ~~A decision must be published on an Internet site maintained by the responsible agency and be free of charge to the public.~~ 20
- (4) ~~Section 114(4) of the Resource Management Act 1991 applies to a panel, with the necessary modifications.~~

42 Decisions may be issued in stages

- (1) ~~A panel considering a consent application or notice of requirement 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.~~ 25
- (2) ~~Subclause (1) does not provide an exception to the time frames that apply under clause 39.~~ 30

43 Minor corrections

- (1) ~~At any time during its term of appointment, a panel may issue an amendment to a decision of the panel or an amended direction, correcting minor omissions, errors, or other defects in a decision of the panel.~~
- (2) ~~A panel may, within 20 working days of granting a resource consent, correct a resource consent as if it were a consent authority acting under section 133A of the Resource Management Act 1991.~~ 35

- (3) ~~A panel may correct a requirement for a designation before the earlier of the following:~~
- (a) ~~the day on which the territorial authority includes the designation in its district plan and any proposed district plan under **clause 44**; and~~
 - (b) ~~the day that is 40 working days after the day on which any appeals relating to the requirement have been determined or all rights of appeal under this Act have been exhausted or have expired.~~ 5
- 44 Designations to be included in district plans**
- (1) ~~This clause applies as soon as is reasonably practicable —~~
- (a) ~~after a panel determining a notice of requirement confirms or modifies a designation (with or without modification); and~~ 10
 - (b) ~~after any right of appeal under **clause 47** 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 1 of the Resource Management Act 1991, —~~ 15
- (a) ~~include the designation in its district plan and any proposed district 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.~~
- 45 Role of local authorities in relation to resource consents granted or designations confirmed or modified under this Act** 20
- (1) ~~This clause applies to —~~
- (a) ~~a resource consent that is granted by a panel; and~~
 - (b) ~~a designation that is confirmed or modified by a panel and included in a district plan.~~ 25
- (2) ~~The local authority that, but for this Act, would have had responsibility —~~
- (a) ~~for granting a resource consent under the Resource Management Act 1991 has all the functions, powers, and duties in relation to a resource consent granted under this Act, as if it had granted the resource consent itself; and~~ 30
 - (b) ~~for recommending, under the Resource Management Act 1991, that a designation be confirmed or modified, has all the functions, powers, and duties in relation to the designation as if it had dealt with the matter itself.~~
- (3) ~~Unless otherwise specified in this Act, —~~ 35
- (a) ~~a resource consent granted, or a designation confirmed or modified and included in a district plan, under this Act has full force and effect for its~~

- ~~duration, and according to its terms and conditions, as if it were granted under the Resource Management Act 1991; and~~
- (b) ~~any provision of an enactment that refers to a resource consent granted, or a designation confirmed or modified and included in a district plan, under the Resource Management Act 1991 (including any such provision in that Act) must be read, with any necessary modifications, as including a resource consent granted, or a designation confirmed and included in a district plan, under this Act.~~ 5
- (4) ~~Section 116A of the Resource Management Act 1991 (when coastal permit for aquaculture may commence) applies to the commencement of any coastal permit to undertake aquaculture activities in the coastal marine area, subject to a reference to a consent authority being read as a reference to the regional council that, but for this Act, would have had responsibility for the coastal permit.~~ 10
- (5) ~~To avoid doubt, the functions, powers, and duties referred to in **subclause (2)** include —~~ 15
- (a) ~~determining any application to extend the period for which a consent may lapse under section 125(1A) or 184 of the Resource Management Act 1991; and~~
- (b) ~~the determination of any application for a change or cancellation of a condition of a resource consent under section 127 of the Resource Management Act 1991.~~ 20
- 46 Interim effect of designations**
- ~~Section 178(2) to (6) of the Resource Management Act 1991 applies, with the necessary modifications, to a notice of requirement lodged with the EPA under **clause 3**.~~ 25

Schedule 4
Approvals relating to Resource Management Act 1991

s 30A

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1 Interpretation

In this schedule,—

certificate of compliance means an approval of the kind described in **section 24C(3)(aa)**

consent application means an application for an approval described in **section 24C(3)(a)** 5

designation means a designation for which an application is lodged under **section 24C(3)(b)**

notice of requirement means an application for an approval described in **section 24C(3)(b)** 10

resource consent or **consent** means an approval of the kind described in **section 24C(3)(a)**.

*Information required in referral application***1A Information required in referral application for resource consent or notice of requirement** 15

The information required to be provided under **section 14(3)(x)(i)** is an assessment of the project against—

- (a) any relevant national policy statement; and
- (b) any relevant national environmental standards; and
- (c) if relevant, the New Zealand Coastal Policy Statement. 20

1B Information required in referral application for certificate of compliance

The information required to be provided under **section 14(3)(x)(ii)** is information that shows the activity that the certificate of compliance is intended to cover can be done lawfully in the particular location without a resource consent.

5

*Application requirements etc for approvals***2 Information required in consent application****(1) A consent application must include the following information:**

- (a) a description of the proposed activity; and**
- (b) a description and map of the site at which the activity is to occur, including whether the site is within or adjacent to—** 10
 - (i) a statutory area (as defined in the relevant Treaty settlement Act); or**
 - (ii) a statutory overlay (as identified in section 11 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019); or** 15
 - (iii) a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011; and**
- (c) confirmation that the consent application complies with **section 24F(1)(a) to (c)**; and**
- (d) the full name and address of—** 20
 - (i) each owner of the site and of land adjacent to the site; and**
 - (ii) each occupier of the site and of land adjacent to the site whom the applicant is unable to identify after reasonable inquiry; and**
- (e) a description of any other activities that are part of the proposal to which the consent application relates; and** 25
- (f) a description of any other resource consents, notices of requirement for designations, or alterations to designations required for the project to which the consent application relates; and**
- (g) an assessment of the activity against the criteria in **clauses 12 to 14**; and** 30
- (h) an assessment of the activity against any relevant provisions in any of the documents listed in **subclause (2)**; and**
- (i) information about any Treaty settlements that apply in the project area, including—**
 - (i) identification of the relevant provisions in those Treaty settle- 35**

- (ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and
- (i) a list of any relevant customary marine title groups, protected customary rights groups, ngā hapū o Ngāti Porou (where an application is within, adjacent to or directly affecting ngā rohe moana o ngā hapū o Ngāti Porou), or applicants under the Marine and Coastal Area (Takutai Moana) Act 2011; and 5
- (k) the conditions that the applicant proposes for the resource consent.
- (2) The documents referred to in **subclause (1)(h)** are the following: 10
- (a) a national environmental standard;
- (b) other regulations made under the Resource Management Act 1991;
- (c) a national policy statement;
- (d) a New Zealand coastal policy statement;
- (e) a regional policy statement or proposed regional policy statement; 15
- (f) a plan or proposed plan;
- (g) a planning document recognised by a relevant iwi authority and lodged with a local authority.
- (3) An assessment under **subclause (1)(h)** must include an assessment of the activity against— 20
- (a) any relevant objectives, policies, or rules in a document listed in **subclause (2)**; and
- (b) any requirement, condition, or permission in any rules in any of those documents; and
- (c) any other requirements in any of those documents. 25
- (4) A consent application must include an assessment of the activity's effects on the environment that—
- (a) includes the information required by **clause 3**; and
- (b) covers the matters specified in **clause 4**.
- (5) A consent application must also include the following information: 30
- (a) if a permitted activity is part of the proposal to which the consent application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the Resource Management Act 1991); and 35
- (b) if the activity is to occur in an area that is 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 or the environmental covenant prepared by ngā hapū o Ngāti Porou under section

- 19 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, an assessment of the activity against any resource management matters set out in that document; and
- (c) if the activity is to occur in an area that is taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996, an assessment of the effects of the activity. 5
- (6) If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site because the land is Māori land in multiple ownership, the applicant must include a statement to that effect. 10
- Compare: 2020 No 35 Schedule 6 cl 9
- 3 Information required to assess environmental effects**
- (1) An assessment of an activity's effects on the environment under **clause 2(4)** must include the following information:
- (a) an assessment of the actual or potential effects on the environment: 15
- (b) 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:
- (c) if the activity includes the discharge of any contaminant, a description of—
- (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and 20
- (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
- (d) 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 of the activity: 25
- (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:
- (f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision: 30
- (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:
- (h) an assessment of any effects of the activity on the exercise of a protected customary right. 35
- (2) A consent application need not include any additional information specified in a relevant policy statement or plan that would be required in an assessment of

environmental effects under clause 6(2) or 7(2) of Schedule 4 of the Resource Management Act 1991.

Compare: 2020 No 35 Schedule 6 cl 10

4 Matters to be covered in assessment of environmental effects

The assessment of an activity's effects on the environment under **clause 2(4)** must cover the following matters:

- (a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:
- (b) any physical effect on the locality, including landscape and visual effects:
- (c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity:
- (d) any effect on natural and physical resources that have 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 and options for the treatment and disposal of contaminants:
- (f) any unreasonable emission of noise:
- (g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

Compare: 2020 No 35 Schedule 6 cl 11

5 Information required in applications for subdivision or reclamation

Information required for subdivision consents

- (1) In addition to the information required under **clause 2**, a consent application for a subdivision must include information that adequately defines the following:

- (a) the position of all new boundaries; and
- (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan; and
- (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips; and
- (d) the locations and areas of existing esplanade reserves, esplanade strips, and access strips; and
- (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 237A of the Resource Management Act 1991; and

- (f) the locations and areas of any land within the coastal marine area that is to become part of the common marine and coastal area under section 237A of the Resource Management Act 1991; and
- (g) the locations and areas of land to be set aside as new roads.
- Information required for reclamation consents* 5
- (2) In addition to the information required by **clause 2**, a consent application for a reclamation must include information to show the area to be reclaimed, including the following:
- (a) the location of the area to be reclaimed;
- (b) if practicable, the position of all new boundaries; 10
- (c) any part of the reclaimed area to be set aside as an esplanade reserve or esplanade strip.
- Compare: 2020 No 35 Schedule 6 cl 12*
- 6 Information required in application for certificate of compliance**
- (1) An application for a certificate of compliance must include the following information: 15
- (a) a description of the proposed activity; and
- (b) a description and map of the site at which the activity is to occur, including whether the site is within or adjacent to—
- (i) a statutory area (as defined in the relevant Treaty settlement Act); 20
- or
- (ii) a statutory overlay (as identified in section 11 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019); or
- (iii) a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011; and 25
- (c) confirmation that the application for the certificate of compliance complies with **section 24F(1)(a) to (c)**; and
- (d) the full name and address of—
- (i) each owner of the site and of land adjacent to the site; and
- (ii) each occupier of the site and of land adjacent to the site whom the applicant is unable to identify after reasonable inquiry; and 30
- (e) a description of any other activities that are part of the proposal to which the application for the certificate of compliance relates; and
- (f) a description of any other resource consents, notices of requirement for designations, or alterations to designations required for the project to which the application for the certificate of compliance relates; and 35
- (g) an assessment of the activity against any relevant provisions in any of the documents listed in **subclause (2)**; and

- (h) a list of any relevant customary marine title groups, protected customary rights groups, ngā hapū o Ngāti Porou (where an application is within, adjacent to or directly affecting ngā rohe moana o ngā hapū o Ngāti Porou), or applicants under the Marine and Coastal Area (Takutai Moana) Act 2011. 5
- (2) The documents referred to in **subclause (1)(g)** are the following:
- (a) a national environmental standard:
 - (b) other regulations made under the Resource Management Act 1991:
 - (c) a national policy statement:
 - (d) a New Zealand coastal policy statement: 10
 - (e) a regional policy statement or proposed regional policy statement:
 - (f) a plan or proposed plan:
 - (g) a planning document recognised by a relevant iwi authority and lodged with a local authority.
- (3) An assessment under **subclause (1)(g)** must include an assessment of the activity against— 15
- (a) any relevant objectives, policies, or rules in a document listed in **subclause (2)**; and
 - (b) any requirement, condition, or permission in any rules in any of those documents; and 20
 - (c) any other requirements in any of those documents.
- (4) An application for a certificate of compliance must include an assessment of the activity's effects on the environment that—
- (a) includes the information required by **clause 3** (which applies with any necessary modifications); and 25
 - (b) covers the matters specified in **clause 4** (which applies with any necessary modifications).
- (5) An application for a certificate of compliance must also include the following information:
- (a) if a permitted activity is part of the proposal to which the application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the Resource Management Act 1991); and 30
 - (b) if the activity is to occur in an area that is 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 or the environmental covenant prepared by ngā hapū o Ngāti Porou under section 19 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, an 35

assessment of the activity against any resource management matters set out in that document.

- (6) If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site because the land is Māori land in multiple ownership, the applicant must include a statement to that effect. 5

7 Information required in notice of requirement

- (1) A notice of requirement must include the following information:
- (a) a description of the site to which the notice of requirement applies, including whether the site is within or adjacent to a statutory area (as defined in a relevant Treaty settlement Act); and 10
 - (b) information on the effects of the proposed project or work on the environment, together with a description of how any adverse effects will be mitigated; and
 - (c) confirmation that the notice of requirement complies with **section 24F(1)(a) to (c)**; and 15
 - (d) an assessment of the project or work against—
 - (i) sections 5, 6, and 7 of the Resource Management Act 1991 and the purpose of this Act; and
 - (ii) any relevant provisions in any of the documents listed in **sub-clause (4)**; and 20
 - (e) information about any Treaty settlements that apply in the area to which the substantive application relates, including—
 - (i) identification of the relevant provisions in those Treaty settlements; and 25
 - (ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the area to which the substantive application relates; and
 - (f) the full name and address of—
 - (i) each owner of the land to which the notice of requirement relates and of the land adjacent to that land; and 30
 - (ii) each person who, after reasonable inquiry, is known by the requiring authority to be an occupier of the land to which the notice relates and of the land adjacent to that land; and
 - (g) an assessment of whether the project or work and the designation sought are reasonably necessary for achieving the objectives of the requiring authority; and 35
 - (h) any consideration of alternative sites, routes, or methods of undertaking the project or work; and

- (i) a list of the resource consents needed for the project or work and whether they have been applied for; and
- (i) a description of any consultation undertaken with parties likely to be affected by the project or work and the designation; and
- (k) any conditions that the requiring authority proposes for the designation. 5
- (3) The documents referred to in **subclause (1)(d)(ii)** are the following:
 - (a) a national policy statement:
 - (b) a New Zealand coastal policy statement:
 - (c) a regional policy statement or proposed regional policy statement:
 - (d) a plan or proposed plan: 10
 - (e) a planning document recognised by a relevant iwi authority and lodged with a local authority.
- (4) If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site because the land is Māori land in multiple ownership, the applicant must include a statement to that effect. 15

Compare: 2020 No 35 Schedule 6 cl 13

8 Persons to be invited to provide written comments

For the purposes of **section 24M(2)(k)**, the persons or groups are—

- (a) the Director-General of Conservation: 20
- (b) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements.

Recommendation by chief executive on aquaculture decision requested under section 24FA

9 Chief executive may seek information or consult certain persons 25

- (1) For the purpose of making a recommendation on an aquaculture decision requested under **section 24FA**, the chief executive may seek information relevant to the application for the resource consent from—
 - (a) the applicant:
 - (b) any fisher whose interests may be affected: 30
 - (c) persons and organisations that the chief executive considers represent the classes of persons who have customary, commercial, or recreational fishing interests that may be affected by the granting of the coastal permit or change to, or cancellation of, the conditions of the coastal permit. 35

- (2) Before making a recommendation on an aquaculture decision, the chief executive may consult any of the persons or organisations specified in **subclause (1)**.
- (3) If the chief executive seeks information or consults persons or organisations under this clause,— 5
- (a) the chief executive must do so at the same time as the panel seeks written comments on the application for the resource consent; and
- (b) the persons or organisations must provide the information or submissions to the chief executive within 20 working days after the chief executive's request. 10
- (4) The chief executive must provide any submissions received under **subclause (2)** to the EPA no later than 5 working days after the date by which submissions must be received under **subclause (3)**.
- 10 Chief executive to make recommendation to panel on aquaculture decision**
- (1) The chief executive must, within 5 working days after receiving from the panel under **section 24UB** draft consent conditions relating to the application for the resource consent, recommend an aquaculture decision consisting of— 15
- (a) a determination; or
- (b) a reservation; or
- (c) 1 or more determinations or reservations, or both, in relation to different parts of the area to which the request relates. 20
- (2) After having regard to the following, the chief executive must make a recommendation under **subclause (3)**:
- (a) information held by the Ministry that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Fisheries Act 1996; and 25
- (b) information supplied, or submissions made, to the chief executive under **clause 9(3)(b)**; and
- (c) information that is forwarded by the panel; and
- (d) any other information that the chief executive has requested and obtained. 30
- (3) In making a recommendation on an aquaculture decision, the chief executive must take into account, giving greatest weight to **paragraph (a)**,—
- (a) the purpose of the Act; and
- (b) sections 8 to 10 and 186GB(1) and (2) of the Fisheries Act 1996. 35
- (4) A recommendation on an aquaculture decision must—
- (a) be in writing; and
- (b) define the areas that are subject to the recommendation; and

- (c) provide reasons for the recommendation.
- (5) If the chief executive recommends a determination, the recommended determination may—
- (a) specify any condition of the coastal permit that is material to the recommendation and that relates to the character, intensity, or scale of the aquaculture activities; and 5
- (b) state that the condition may not be changed or cancelled until the chief executive makes a further aquaculture decision in relation to the area affected by the change or cancellation under the Fisheries Act 1996.
- (6) If the chief executive recommends a reservation, the recommended reservation must also include— 10
- (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 15
- (c) any other matters required to be included by regulations made under the Fisheries Act 1996, as if the recommended reservation were an aquaculture decision made under that Act.
- 11 Order in which recommendation requests to panel on aquaculture decision to be processed** 20
- (1) The chief executive must make recommendations on aquaculture decisions in the same order in which the requests for the decisions are received.
- (2) For the purposes of **subclause (1)**, the order in which recommendations must be made in relation to requests received on the same day is determined by the time when the requests are received. 25
- (3) If 2 or more requests for recommendations are received at the same time, the chief executive must make recommendations in the order specified by the EPA.
- (4) The chief executive must give higher priority to processing a request made by a panel under **section 24FA** than a request made as a consequence of coastal permits granted under the Resource Management Act 1991. 30

Panel decision

- 12 Criteria and other matters for assessment of consent application**
- (1) For the purposes of **section 24W**, when considering a consent application and setting conditions, the panel must take into account, giving the greatest weight to **paragraph (a)**,— 35
- (a) the purpose of this Act; and

- (b) the provisions of Parts 2, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D); and
- (c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991. 5
- (2) For the purpose of applying any provisions in **subclause (1)**,—
- (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and
- (b) if the consent application relates to an activity that is the subject of a determination under **section 22D** of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991. 10
- (3) **Subclause (4)** applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in **subclause (1)(c)** that would require a decision maker to decline an application for a resource consent. 15
- (4) For the purposes of **subclause (1)**, the panel must take into account that the provision referred to in **subclause (3)** would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering. 20
- (5) In the case of an application for a coastal permit for aquaculture activities, if the panel makes a reservation under **clause 16** in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system, the panel must not grant the coastal permit in respect of the areas covered by the reservation. 25
- (6) For the purposes of **subclause (1)**, the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.
- 13 Conditions on resource consent** 30
- When setting conditions on a consent, the provisions of Parts 9 and 10 of the Resource Management Act 1991 relevant to setting conditions on a resource consent apply to the panel, 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. 35

14 Conditions on resource consent may deal with freshwater fisheries matters

(1) A panel may in accordance with **clause 12** set conditions on a consent in respect of an activity for which approval or authorisation is required, or for which a requirement may be imposed, under the following provisions (the **activity**):

5

- (a) regulation 42 of the Freshwater Fisheries Regulations 1983;
- (b) regulation 43 of the Freshwater Fisheries Regulations 1983, in relation to a temporary dam or diversion structure only;
- (c) regulation 65(2) of the Freshwater Fisheries Regulations 1983;
- (d) section 26ZM(2)(a) or (3)(b) of the Conservation Act 1987.

10

(2) If the panel sets conditions under **subclause (1)**, they must be the conditions the panel considers necessary to manage the effects of the activity on freshwater fish species, taking into account—

- (a) best practice standards; and
- (b) the New Zealand Fish Passage Guidelines.

15

(3) The provisions referred to in **subclause (1)(a) to (d)** do not apply to the holder of a resource consent issued under this Act who complies with the relevant conditions imposed under this clause.

Guidance note

The New Zealand Fish Passage Guidelines are available at <https://niwa.co.nz/freshwater/new-zealand-fish-passage-guidelines>

20

16 Panel to make aquaculture decision

(1) For the purposes of **section 24VA**, an aquaculture decision may consist of—

- (a) a determination; or
- (b) a reservation; or
- (c) 1 or more determinations or reservations or both in relation to different parts of the area to which the request relates.

25

(2) The panel must have regard to the information described in **clause 10(2)**.

(3) In making an aquaculture decision, the panel must—

- (a) take into account, giving the greatest weight to **subparagraph (i)**,—
 - (i) the purpose of this Act; and
 - (ii) sections 8 to 10 and 186GB(1) and (2) of the Fisheries Act 1996; and
- (b) have regard to the recommendation of the chief executive made under **clause 10**.

30

35

(4) An aquaculture decision may differ from the recommendation made by the chief executive.

- (5) If the panel makes a determination, the determination may—
- (a) specify any condition of the coastal permit that is material to the decision and that relates to the character, intensity, or scale of the aquaculture activities; and
 - (b) state that the condition may not be changed or cancelled until the chief executive makes a further aquaculture decision under the Fisheries Act 1996 in relation to the area affected by the change or cancellation. 5
- (6) If the panel 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 10
 - (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
 - (c) any other matters required to be included by regulations made under the Fisheries Act 1996, as if the reservation were an aquaculture decision made under that Act. 15
- (7) An aquaculture decision must—
- (a) be in writing; and
 - (b) define the areas that are subject to the decision; and
 - (c) provide reasons for the decision. 20
- 16A Conditions to be included in coastal permit relating to reservation**
- In the case of an application for a coastal permit for aquaculture activities, if the panel makes a reservation under **clause 16** in relation to commercial fishing in relation to stocks or species subject to the quota management system, the panel must include consent conditions on the coastal permit noting the areas affected by the reservation. 25
- 16B Content of coastal permit**
- (1) If the panel makes a determination under **clause 16** in relation to a coastal permit and grants the coastal permit, the panel must note any conditions on the coastal permit that may not be changed or cancelled until a further aquaculture decision is made under the Fisheries Act 1996. 30
- (2) If the panel makes a reservation in relation to commercial fishing in relation to stocks or species subject to the quota management system, the panel must—
- (a) notify the applicant that the permit will not commence in the area affected by the reservation unless— 35
 - (i) an aquaculture agreement is registered in accordance with section 186ZH of the Fisheries Act 1996; or

- (ii) a compensation declaration is registered under section 186ZHA of the Fisheries Act 1996.

17 Criteria and other matters for assessment of notice of requirement

- (1) For the purposes of **section 24W**, when considering a notice of requirement and setting conditions, the panel must take into account, giving the greatest weight to **paragraph (a)**.— 5
- (a) the purpose of this Act; and
- (b) the provisions of Part 8 of the Resource Management Act 1991 that direct decision making on an application for a designation (except section 170); and 10
- (c) the relevant provisions of any other legislation that directs decision-making under the Resource Management Act 1991.
- (2) For the purpose of applying any provisions in **subclause (1)**.—
- (a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and 15
- (b) if the notice of requirement relates to an activity that is the subject of a determination under **section 22D** of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991. 20
- (3) For the purposes of **subclause (1)**, the provisions referred to in that subclause must be read with all necessary modifications, including (where appropriate) that a reference to a consent authority must be read as a reference to a panel.

18 Conditions on designation

When setting conditions on a designation, the provisions of Part 8 of the Resource Management Act 1991 relevant to setting conditions on a designation apply to the panel, subject to all necessary modifications, as if references to a consent authority were references to a panel. 25

18A Criteria and other matters for assessment of applications for certificate of compliance 30

- (1) For the purposes of **section 24W**, the panel must grant the certificate of compliance if the activity that the certificate is intended to cover can be done lawfully in the particular location without a resource consent.
- (2) The panel must not grant the certificate of compliance if—
- (a) the application under this Act for the certificate is made after a proposed plan is notified; and 35
- (b) the activity could not be done lawfully in the particular location without a resource consent under the proposed plan.

- (3) The panel must not issue a certificate of compliance if a notice for the activity is in force under section 87BA(1)(c) or 87BB(1)(d) of the Resource Management Act 1991.

18B Content of certificate of compliance

Section 139(7) of the Resource Management Act 1991 applies to a certificate issued under this Act. 5

19 Panel report

The report of the panel under **section 24X** must—

- (a) specify the relevant Treaty settlement and the Crown's commitments under the Marine and Coastal Area (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and any relevant Mana Whakahono ā Rohe and joint management agreements that the panel considered under **section 24WA**; and 10
- (b) specify any matters of the kind specified in **section 24WA** that the panel applied to its decision making; and 15
- (c) specify any conditions the panel set on the consent or requirement that are relevant to **section 24WC**.

Provisions applying to approvals once granted

22 Panel may waive requirement for outline plan for designation

If a panel grants a designation,— 20

- (a) it may waive the requirement for an outline plan as required by section 176A of the Resource Management Act 1991; but
- (b) if it does not waive the requirement under that section, the outline plan must be submitted to the territorial authority in accordance with that section. 25

Compare: 2020 No 35 Schedule 6 cl 33(7)

23 Designations to be included in district plans

- (1) This clause applies as soon as is reasonably practicable—

- (a) after a panel determining a notice of requirement confirms or modifies a designation (with or without modification); and 30
- (b) after any right of appeal under **section 26** 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 1 of the Resource Management Act 1991,—

- (a) include the designation in its district plan and any proposed district plan, as if it were a rule in the plan or proposed plan; and 35

- (b) state in the plan and any proposed plan the name of the requiring authority that has the benefit of the designation.

Compare: 2020 No 35 Schedule 6 cl 41

- 24 Status of resource consents or certificates of compliance granted or designations confirmed or modified under this Act and role of local authority** 5
- (1) This clause applies to—
- (a) a resource consent that is granted under this Act; and
- (b) a certificate of compliance that is granted under this Act; and
- (c) a designation that is confirmed or modified and included in a district plan. 10
- (2) The local authority that, but for this Act, would have had responsibility—
- (a) for granting a resource consent or certificate of compliance under the Resource Management Act 1991 has all the functions, powers, and duties in relation to a resource consent or certificate of compliance granted under this Act, as if it had granted the resource consent or certificate of compliance itself; and 15
- (b) for recommending, under the Resource Management Act 1991, that a designation be confirmed or modified, has all the functions, powers, and duties in relation to the designation as if it had dealt with the matter itself. 20
- (3) Unless otherwise specified in this Act,—
- (a) a resource consent or certificate of compliance granted, or a designation confirmed or modified and included in a district plan, under this Act has full force and effect for its duration, and according to its terms and conditions, as if it were granted under the Resource Management Act 1991; and 25
- (b) any provision of an enactment that refers to a resource consent or certificate of compliance granted, or a designation confirmed or modified and included in a district plan, under the Resource Management Act 1991 (including any such provision in that Act) must be read, with any necessary modifications, as including a resource consent or certificate of consent granted, or a designation confirmed and included in a district plan, under this Act. 30
- (4) Despite **subclause (3)(a)**, section 116A of the Resource Management Act 1991 does not apply in respect of the commencement of coastal permits for aquaculture activities granted under this Act. 35
- (5) To avoid doubt, the functions, powers, and duties referred to in **subclause (2)** include—

- (a) determining any application to extend the period for which a consent may lapse under section 125(1A) or 184 of the Resource Management Act 1991; and
- (b) determining any application for a change or cancellation of a condition of a resource consent under section 127 of the Resource Management Act 1991. 5
- Compare: 2020 No 35 Schedule 6 cl 42
- 25 Interim effect of designations**
- Section 178(2) to (6) of the Resource Management Act 1991 applies, with the necessary modifications, to an application for an approval described in section 24C(3)(b). 10
- Compare: 2020 No 35 Schedule 6 cl 43
- 26 Application of subpart 4 of Part 9A of Fisheries Act 1996**
- (1) Subpart 4 of Part 9A of the Fisheries Act 1996 applies, subject to the modifications in this clause, in respect of— 15
- (a) a coastal permit issued under this Act; and
- (b) a reservation made by the panel under this Act, as if it were a reservation made by the chief executive under the Fisheries Act 1996.
- (2) Section 186ZD must be read as if it included the following definition:
- panel** means a panel as defined in section 4 of the Fast-track Approvals Act **2024** 20
- (3) Section 186ZN must be read as if subsection (3) were replaced with:
- (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 made by a panel under the Fast-track Approvals Act **2024**. 25
- 27 Aquaculture decision by panel to be treated as determination for purposes of Fisheries Act 1996**
- A determination under **clause 16(5)(b)** must be treated as a determination under section 186H(3)(b) of the Fisheries Act 1996.
- 28 Notification of aquaculture agreement or compensation declaration** 30
- If **clause 16B(2)** applies and the relevant consent authority has been notified by the chief executive that an aquaculture agreement or a 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 is reasonably practicable,— 35
- (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 as subject to the reservation on the date of notification under this paragraph, unless the permit states a later date.

29 **Resource Management Act 1991 modified in respect of conditions made under clause 16(5)(b)**

5

In sections 114(6), 127(3A), and 128(3) of the Resource Management Act 1991, the reference to a condition that has been specified under section 186H(3) or 186H(1A) of the Fisheries Act 1996 must be read as a condition imposed under **section 24W** in accordance with **clause 16(5)(b)** of this schedule in relation to a coastal permit for aquaculture activities granted under this Act.

10

30 **Schedule 2 of Fisheries (Commercial Fishing) Regulations 2001 applies in respect of aquaculture decisions and other aquaculture activities**

Clauses 18A and 20 of Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001 apply in respect of recommendations for aquaculture decisions and aquaculture decisions made under this Act, as if they were aquaculture decisions made under the Fisheries Act 1996.

15

Schedule 5
Process Approvals relating to Conservation Act 1987 and Reserves Act 1977

ss-40, s 30(1)

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Part 1 Process relating to concessions ~~under Conservation Act 1987 and~~ approvals ~~under Reserves Act 1977~~

1	Interpretation	
(1)	In this Part, —	5
	fast track concession means a concession under Part 3B of the Conservation Act 1987 or a Reserves Act approval —	
(a)	that is required for a listed project or referred project; and	
(b)	to which this Act applies	

- ~~reserve has the meaning given in section 2(1) of the Reserves Act 1977~~
- ~~**Reserves Act approval** means an authorisation, licence, or right to do something under the Reserves Act 1977 on a reserve.~~
- (2) ~~A term used in this Part that is defined in the Conservation Act 1987, but not in this Act, has the meaning given in the Conservation Act 1987.~~ 5
- (3) ~~To avoid doubt, a Reserves Act approval is to be treated as if it were a concession, regardless of the nature of that approval.~~
- 2 Relationship between this Act, Conservation Act 1987, and Reserves Act 1977**
- (1) ~~If an application for a fast track concession is made under this Act,—~~ 10
- (a) ~~this Part and the fast track approval process (as modified by Part 2 of this schedule) apply instead of the process for obtaining a concession under the Conservation Act 1987 or a Reserves Act approval (as the case may be); and~~
- (b) ~~a fast track concession granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under the Conservation Act 1987.~~ 15
- (2) ~~Remaining provisions of the Conservation Act 1987 that are not modified by this schedule otherwise apply to a fast track concession, to the extent that they are relevant and with any necessary modifications.~~ 20
- (3) ~~However, if a Reserves Act approval relates to land that is not owned by a local authority, the approval is only to be treated as a fast track concession with the written consent of the owner, trustee, or controlling authority of the land.~~
- 3 Minister of Conservation to make decisions on fast track concessions**
- ~~In relation to a fast track concession,—~~ 25
- (a) ~~the Minister of Conservation has the functions, duties, and powers of the joint Ministers in relation to the fast track process for the concession, instead of those ministers; and~~
- (b) ~~references to the joint Ministers in this Act must be read as references to the Minister of Conservation in relation to the fast track process for the concession.~~ 30
- 4 Sections of Conservation Act 1987 disappplied**
- ~~The following provisions of the Conservation Act 1987 do not apply to a fast track concession:~~
- (a) ~~section 17SA;~~ 35
- (b) ~~section 17SB;~~
- (c) ~~section 17SC;~~
- (d) ~~section 17SD;~~

-
- (e) ~~section 17SE;~~
 - (f) ~~section 17T, except that the Minister of Conservation must consider an application for a concession if the application complies with section 17R(2);~~
 - (g) ~~section 17U(3);~~ 5
 - (h) ~~section 17U(4);~~
 - (i) ~~section 17W.~~
- 5 Matters panel must consider**
- ~~In assessing a proposed application that involves a fast track concession and in its report on the substantive application referred by the Minister of Conservation, the expert panel must include consideration of—~~ 10
- (a) ~~whether an activity that involves a fast track concession in relation to a conservation area could reasonably be undertaken in another location that—~~
 - (i) ~~is outside the conservation area; or~~ 15
 - (ii) ~~is in another conservation area or another part of the conservation area, where the potential adverse effects would be significantly less; and~~
 - (b) ~~the legal and financial liabilities associated with decisions on leases, licences to occupy land, and easements; and~~ 20
 - (c) ~~any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity.~~
- 6 Matters Minister must consider in deciding whether to grant fast track concession** 25
- ~~(1) In deciding whether to grant a fast track concession, the Minister of Conservation must—~~
- (a) ~~have regard to the purpose of this Act; and~~
 - (b) ~~have regard to any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity, and seek the views of the entity on the proposed fast track concession; and~~ 30
 - (c) ~~consider the purposes for which the land concerned is held; and~~
 - (d) ~~consider the status, ownership, and administration of the land that would be subject to a fast track concession; and~~ 35
 - (e) ~~consider whether the land is subject to any existing arrangements that create obligations in relation to the land; and~~

- (f) ~~consider the legal and financial liabilities associated with decisions on leases, licences to occupy land, and easements; and~~
- (g) ~~obtain and consider a report on the application for referral that is prepared in accordance with this clause.~~
- (2) ~~The report must be prepared by the Department of Conservation and must contain information about any existing arrangements that create obligations in relation to the land.~~ 5
- (3) ~~In preparing the report, the Department of Conservation must consult with every person that is an owner or administrator of the land (except for an owner or administrator that is the Crown).~~ 10
- 7 ~~Variation of concession conditions~~**
- ~~If a fast track concession is granted, and a concessionaire applies to the Minister of Conservation for a variation or extension to the concession, this Part applies to the variation as if it were an application for a fast track concession.~~
- 8 ~~Compensation must benefit conservation land~~** 15
- (1) ~~The Department of Conservation must ensure that compensation in relation to a fast track concession for land administered by the Department of Conservation is used to ensure positive effects on land administered by the Department of Conservation (and not other land).~~
- (2) ~~In this clause, **compensation** means any measure—~~ 20
- (a) ~~proposed or agreed to by the applicant for a fast track concession to ensure positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing an activity; or~~
- (b) ~~imposed by the Minister of Conservation under section 17X(d) of the Conservation Act 1987.~~ 25
- 1 Interpretation**
- In this schedule,—
- concession** means—
- (a) a concession that would otherwise be applied for under the Conservation Act 1987; or 30
- (b) a Reserves Act approval
- reserve** has the meaning given in section 2(1) of the Reserves Act 1977
- Reserves Act approval** means—
- (a) a concession as defined in section 2(1) of the Reserves Act 1977 that would otherwise be applied for under section 59A of that Act; or 35
- (b) a lease, licence, permit, or easement in respect of a reserve other than a Crown-administered reserve.

2 Information required for application for concession

An application for a concession must include—

- (a) a description of the proposed activity:
- (b) a description, maps, and GPS co-ordinates identifying the places where the proposed activity will be carried out (including the classification of those places, the ownership and management arrangements, and, if applicable, the name, of the places): 5
- (c) information about whether the project could reasonably be undertaken in another location, or in another conservation area or another part of the conservation area, where the potential adverse effects would be significantly less: 10
- (d) in the case of an application for an approval within **paragraph (a)** of the definition of concession or **paragraph (a)** of the definition of Reserves Act approval, information about the extent to which the project is consistent with— 15
 - (i) the relevant conservation management strategy and conservation management plan:
 - (ii) any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity: 20
- (e) in the case of an application for an approval within **paragraph (b)** of the definition of Reserves Act approval, information about the extent to which the project is consistent with any management plan approved under section 41 of the Reserves Act 1977:
- (f) information about the extent to which the project is in keeping with the purposes for which the land is held, status, ownership and administration: 25
- (g) a description of—
 - (i) the potential effects (positive and negative) of the proposed activity: 30
 - (ii) any actions that the applicant proposes to take to avoid, remedy, mitigate, offset, or compensate for any adverse effects of the proposed activity:
 - (iii) details of the type of concession for which the applicant is applying: 35
- (h) a statement of—
 - (i) the proposed duration of the concession; and
 - (ii) the reasons for the proposed duration:
- (i) relevant information relating to the applicant, including any information relevant to their ability to carry out the proposed activity (including 40

- whether the applicant or any company director, trustee, partner, or any-one else involved with the application has been convicted of any offence or has any current criminal charges pending before a court):
- (j) if the applicant applies for a lease, a licence granting an interest in land, or an easement,— 5
- (i) reasons for the request; and
- (ii) sufficient information to satisfy the panel that, in terms of **clause 5**, it is appropriate under **section 24W** to grant the lease, licence, or easement (as the case may be):
- (k) full details of any consultation undertaken with relevant iwi and with reserve owners and managers: 10
- (l) information about financial and legal liabilities and obligations associated with the land.
- 3 Report by Department of Conservation**
- (1) The report referred to in **section 24G** must include information about— 15
- (a) any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity, and the views of the entity on the proposed concession; and
- (b) the purposes for which the land concerned is held; and 20
- (c) the status, ownership, and administration of the land that would be subject to the concession; and
- (d) whether the land is subject to any existing arrangements that create obligations in relation to the land; and
- (e) the legal and financial liabilities associated with decisions on leases, licences to occupy land, and easements. 25
- (2) In preparing the report, the Department of Conservation must consult every person that is an owner or administrator of the land (except for an owner or administrator that is the Crown).
- 4 Persons to be invited to provide written comments** 30
- For the purposes of **section 24M(2)(k)**, the persons are—
- (a) the New Zealand Conservation Authority; and
- (b) relevant Conservation Boards; and
- (c) the New Zealand Fish and Game Council; and
- (d) the Game Animal Council. 35

5 Criteria for assessment of application for concession

- (1) For the purpose of **section 24W**, when considering an application for a concession, the panel, giving the greatest weight to **paragraph (a)(i)**,—
- (a) must take into account—
- (i) the purpose of this Act; and 5
 - (ii) Part 3B of the Conservation Act 1987 (except sections 17SB, 17U(3) and (4), and 17W) as if the application were an application for a concession under Part 3B; and
 - (iii) any other relevant provisions of Parts 3, 4, 4A, 5, 5B, and 5C of the Conservation Act 1987 that direct decision making in relation to Part 3B of that Act; and 10
 - (iv) the purpose for which the land is held (in the case of a Reserves Act approval, taking into account Parts 1, 2, and 3 and section 122 of the Reserves Act 1977); and
 - (v) in the case of an approval referred to in **paragraph (a)** of the definition of concession or **paragraph (a)** of the definition of Reserves Act approval,— 15
 - (A) any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity; and 20
 - (B) the views of the entity referred to in **subsubparagraph (A)** on the proposed concession; and
 - (vi) in the case of an approval within **paragraph (b)** of the definition of Reserves Act approval,—
 - (A) any reserve management plans that have been co-authored, authored, or approved by a Treaty settlement entity; and 25
 - (B) the views of the entity referred to in **subsubparagraph (A)** on the proposed concession; and
 - (vii) the status, ownership, and administration of the land that would be subject to a concession; and 30
 - (viii) whether the land is subject to any existing arrangements that create obligations in relation to the land; and
 - (ix) the legal and financial liabilities associated with decisions on leases, licences to occupy land, and easements; and
 - (x) the report on the application that is prepared in accordance with **clause 3**; 35
- (b) may consider,—
- (i) in the case of an approval referred to in **paragraph (a)** of the definition of concession or **paragraph (a)** of the definition of

- Reserves Act approval, any policy statement or management plan of the Crown (other than a strategy or plan referred to in **paragraph (a)(v)**):
- (ii) in the case of an approval within **paragraph (b)** of the definition of Reserves Act approval, any reserve management plan of the administering authority (other than a plan referred to in **paragraph (a)(vi)**. 5
- (2) For the purpose of **subclause (1)(a)(ii)**, sections 17U(5) and (6) and 17W of the Conservation Act 1987 are to be treated as factors that must be taken into account by the panel under **subclause (1)(a)(ii)** rather than mandatory requirements. 10
- (3) For the purposes of this clause, the provisions referred to in **subclause (1)** must be read with all necessary modifications, including that a reference to the Minister in section 17U of the Conservation Act 1987 must be read as a reference to a panel. 15
- 6 Conditions**
- (1) Section 17X of the Conservation Act 1987 applies with any necessary modifications to conditions for a concession as if the first reference in that section to the Minister were a reference to a panel.
- (2) Section 17Y of the Conservation Act 1987 applies in respect of a concession granted under this Act as if the first reference in that section to the Minister were a reference to a panel. 20
- 7 Duration of approval**
- Section 17Z of the Conservation Act 1987 applies to the duration of a concession granted by a panel under this Act as if the references in that section to the Minister were references to a panel. 25
- 8 Status of concession and variation to or extension of concession**
- (1) An approval referred to in **paragraph (a)** of the definition of concession that is granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were a concession granted under the Conservation Act 1987, except that section 17A of that Act does not apply. 30
- (2) An application for a variation or an extension to the concession must be determined by the Minister of Conservation in accordance with the Conservation Act 1987 with the following modifications:
- (a) sections 17S, 17SC, 17U(1), (3), (4), and (8), 17W, and 49 of that Act do not apply; and 35
- (b) **sections 24M and 24N** of this Act apply with all necessary modifications as if—

- (i) references in **sections 24M and 24N** to the panel were references to the Minister of Conservation; and
- (ii) references in **section 24N** to the EPA were references to the Minister of Conservation; and
- (c) for the purposes of section 17ZC, clause 5 applies with any necessary modifications as if the references in that clause to the panel were references to the Minister of Conservation. 5

8A Status of Reserves Act approval and variation to or extension of Reserves Act approval

- (1) A Reserves Act approval that is granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under section 59A of the Reserves Act 1977, except that sections 40A and 40B of that Act do not apply to it. 10
- (2) An application for a variation or an extension to an approval referred to in **paragraph (a)** of the definition of Reserves Act approval must be determined by the Minister of Conservation in accordance with Part 3B of the Conservation Act 1987 as if it were a variation to a concession within the meaning of the Reserves Act 1977 with the following modifications: 15
 - (a) sections 17S, 17SC, 17U(1), (3), (4), and (8), 17W, and 49 of the Conservation Act 1987 do not apply; and 20
 - (b) **sections 24M and 24N** of this Act apply with all necessary modifications as if—
 - (i) references in **sections 24M and 24N** to the panel were references to the Minister of Conservation; and
 - (ii) references in **section 24N** to the EPA were references to the Minister of Conservation; and 25
 - (c) for the purpose of section 17ZC of the Conservation Act 1987, **clause 5** applies with any necessary modifications as if the references in that clause to the panel were references to the Minister.
- (3) An application for a variation or an extension to an approval referred to in **paragraph (b)** of the definition of Reserves Act approval must be determined by the administering body in accordance with Part 3B of the Conservation Act 1987 as if it were a variation to a concession within the meaning of the Reserves Act 1977 with the following modifications: 30
 - (a) sections 17S, 17SC, 17U(1), (3), (4), and (8), 17W, and 49 of the Conservation Act 1987 do not apply; and 35
 - (b) **sections 24M and 24N** of this Act apply with all necessary modifications as if—
 - (i) references in **sections 24M and 24N** to the panel were references to the administering body; and 40

- (ii) references in **section 24N** to the EPA were references to the administering body; and
- (c) for the purpose of section 17ZC of the Conservation Act 1987, **clause 5** applies with any necessary modifications as if the references in that clause to the panel were references to the administering body.

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8B Compensation must benefit conservation land

- (1) The chief executive of the Department of Conservation must ensure that compensation in relation to a concession granted under this Act for land administered by the Department of Conservation is applied to land administered by the Department of Conservation (and not other land) with the objective of achieving positive effects.
- (2) In any case to which **subclause (1)** does not apply, the owner of land must ensure that compensation in relation to a concession granted under this Act for the land is applied to reserve land administered by that owner (and not other land) with the objective of achieving positive effects.
- (3) In this clause, **compensation** means any measure—
- (a) proposed or agreed to by the applicant for a concession to ensure positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing an activity; or
- (b) imposed by a panel under **section 24W** of this Act in accordance with 17X(d) of the Conservation Act 1987.

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Part 2

~~Modifications to fast-track approvals process for concessions~~

~~9 Section 14 of this Act modified~~

~~Section 14(3)~~ must be read as if the following paragraphs were inserted after **~~section 14(3)(f)~~**:

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- (fa) ~~a general assessment of the project in relation to conservation planning documents, including a statement of general policy, a conservation management strategy, a conservation management plan (as those terms are used or defined in the Conservation Act 1987) or a management plan (as that term is defined in the Reserves Act 1977);~~

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Information required by Conservation Act 1987

- (fb) ~~if the project includes an application for a concession under Part 3B of the Conservation Act 1987, the information that is required by section 17S of that Act;~~

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~~10 Section 16 of this Act modified~~

~~Section 16(1)~~ must be read as if the following paragraph were inserted after **~~section 16(1)(d)~~**:

- (e) ~~statutory and other bodies and departments that administer legislation under which approvals are sought.~~
- 11 ~~Section 19 of this Act modified~~**
~~Section 19(1)~~ must be read as if the following paragraph were inserted after **~~section 19(1)(b)~~**: 5
- (ba) ~~the relevant statutory and other bodies that administer legislation under which approvals are sought; and~~
- 12 ~~Section 20 of this Act modified~~**
~~Section 20(1)~~ must be read as if, after “relevant local authorities”, the following words were inserted: “or the relevant statutory and other bodies and departments that administer legislation under which approvals are sought”. 10
- 13 ~~Section 23 of this Act modified~~**
~~Section 23(1)~~ must be read as if the following paragraph were inserted after **~~section 23(1)(c)~~**: 15
- (ea) ~~what approvals are able to be considered by the expert panel:~~
- 14 ~~Section 24 of this Act modified~~**
~~Section 24(2)~~ must be read as if the following paragraph were inserted after **~~section 24(2)(b)~~**: 20
- (ba) ~~the relevant statutory and other bodies and departments that administer legislation under which approvals are sought; and~~
- 15 ~~Schedule 3 of this Act modified~~**
- (1) ~~In **Schedule 3, clauses 2(5) and 6** must be read as if, after “the Minister”, the following words were inserted: “and relevant portfolio Ministers”.~~
- (2) ~~In **Schedule 3, clause 4(3)** must be read as if, after “accredited under section 39A of the Resource Management Act 1991”, the following words were inserted: “, or who has an equivalent relevant environmental qualification,”.~~ 25

Part 3

Land exchanges

- 16 ~~Application of this Part~~**
This Part applies if an applicant requests, in relation to a project that is referred to an expert panel, the exchange of one of the following for land specified by the applicant: 30
- (a) ~~a conservation area or part of a conservation area;~~
- (b) ~~a Crown owned reserve or part of a Crown owned reserve.~~

17 Interpretation

In this Part,—

conservation area has the meaning given in section 2(1) of the Conservation Act 1987, but excludes land listed in ~~Schedule 4 of the Crown Minerals Act 1991~~ **Schedule 3A**

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Crown-owned reserve means land that is—

- (a) vested in and managed by the Crown; and
- (b) either—
 - (i) classified under the Reserves Act 1977 as a scenic reserve, recreation reserve, historic reserve, government purpose reserve, or local purpose reserve; or
 - (ii) declared under section 14A of the Wildlife Act 1953 to be a wildlife management reserve.

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land exchange means an approval of the kind described in **section 24C(3)(d)**.

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17A Information about land exchange required in referral application

The information required to be provided under **section 14(3)(x)(ii)** is—

- (a) a description of both land areas proposed for exchange (for example, maps showing areas and location, addresses, and legal descriptions where possible;
- (b) the financial value of the land proposed to be acquired by the Crown;
- (c) a brief description of the conservation values of both pieces of land, excluding an explanation of why the exchange would benefit the conservation estate;
- (d) if the exchange would trigger a right of first refusal or a gift-back obligation, confirmation that the applicant has written approval for the exchange from the holder of that right or obligation;
- (e) confirmation by the applicant that no part of any land to be exchanged by the Crown is—
 - (i) land listed in **Schedule 3A**; or
 - (ii) a reserve declared to be a national reserve under section 13 of the Reserves Act 1977.

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17B Report by Department of Conservation

The report referred to in **section 24AC** must include information about—

- (a) the conservation values of the land concerned, including how threatened or abundant they are, and a comparative assessment of the values that relate to each area of land concerned; and
- (b) the financial implications for the Crown of the land exchange; and

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- (c) whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve; and
- (d) the legal and financial liabilities, and health and safety risks, associated with any leases, licences to occupy land, or easements; and 5
- (e) statements of general policy approved under section 17B or 17C of the Conservation Act 1987.

17C Information to be included in application for land exchange

The information provided for the purposes of **section 24AB** must include— 10

- (a) an assessment of the conservation values of both pieces of land, including an explanation of why the exchange would benefit the conservation estate;
- (b) details of any improvement work to be done to provide a net conservation benefit, including how any money to be provided for improvements to the land could be spent; 15
- (c) any proposals to address impacts on existing users of the land to be disposed of by the Crown, such as proposed easements where access to private land or a culturally significant site is via the public conservation land that will become private land; 20
- (d) information about financial and legal liabilities and obligations associated with the land to be acquired by the Crown;
- (e) if the exchange would trigger a right of first refusal or a gift-back obligation, a copy of the written approval for the exchange from the holder of that right or obligation; 25
- (f) full details of any consultation undertaken by the applicant with relevant iwi, and any others with interests in the land to be exchanged by the Crown.

17D Criteria for panel

- (1) For the purposes of **section 24W**, when considering an application for a land exchange, the panel must take into account, giving the greatest weight to paragraph (a),— 30
 - (a) the purpose of this Act; and
 - (b) the conservation values of the land concerned, including how threatened or abundant they are, and a comparative assessment of the values that relate to each area of land concerned; and 35
 - (c) the financial implications for the Crown of the land exchange; and
 - (d) whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land

- exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve; and
- (e) the legal and financial liabilities, and health and safety risks, associated with any leases, licences to occupy land, easements, or permits; and
- (f) statements of general policy approved under section 17B or 17C of the Conservation Act 1987. 5
- (2) The panel must not grant the application unless the panel is satisfied that the land exchange (including any money that may be received under **clause 17E(2)** will enhance the conservation values of land managed by the Department of Conservation. 10
- (3) If the land exchange would trigger a right of first refusal or a gift-back, the panel must be satisfied before granting the application that the land exchange has been agreed in writing by the holder of the first right of refusal or gift-back right.
- (4) The panel must not grant the application if the land to be exchanged by the Crown is— 15
- (a) land listed in **Schedule 3A**; or
- (b) a reserve declared to be a national reserve under section 13 of the Reserves Act 1977.
- (5) If, in relation to land, a declaration has been made under the Conservation Act 1987,— 20
- (a) the declaration does not prevent the land from being subject to a land exchange in accordance with this clause; and
- (b) a revocation under section 18(7) of that Act is not required to effect that land exchange. 25
- (6) In **subclause (5)**, declaration means—
- (a) a declaration under section 18 of the Conservation Act 1987; or
- (b) the classification of land under section 61 or 62 of that Act as land deemed to be held for specified purposes under those sections.
- 17E Conditions** 30
- The panel may grant a land exchange subject to the condition that the land being given by way of exchange by the Crown will be subject to a reservation, classification, interest, or encumbrance specified by the panel.
- 17F Further provisions concerning land exchange**
- (1) If a panel grants a land exchange under this Act, the Minister of Conservation must give notice in the *Gazette* of the exchange. 35

- (2) All land acquired by the Crown under this clause must be held for any conservation purposes that the Minister of Conservation may specify in respect of that land by notice in the *Gazette*.
- (3) Alongside a land exchange under this clause, the panel may authorise the receipt by the Crown of money. 5
- (4) Money received under **subclause (3)** must be used on improvements to the land acquired by the Crown that are necessary to satisfy the Minister of Conservation that the land exchange will enhance the conservation values of land managed by the Department of Conservation.
- (5) The Minister of Conservation or the Director-General may, on behalf of the Crown, do anything that may be necessary to effect the land exchange. 10

17G Effect of land exchange

When the land exchange is effected in accordance with **clause 17E(1)**, the land being given by way of exchange by the Crown is no longer subject to any reservation, classification, interest, or encumbrance, unless included as a condition of the exchange under **clause 17E** and notified in the *Gazette* notice of the exchange. 15

17H Sections of Reserves Act 1977 disappplied

Nothing in section 15(2) or (6) of the Reserves Act 1977 applies to a land exchange granted under this Act. 20

18 Exchanges of conservation areas and Crown-owned reserves

- (1) ~~If this Part applies, the Minister of Conservation may, in accordance with this clause, authorise by notice in the *Gazette* the exchange of the following land for land specified by the applicant (a **land exchange**):~~
- (a) ~~a conservation area or part of a conservation area;~~ 25
- (b) ~~a Crown-owned reserve or part of a Crown-owned reserve.~~
- (2) ~~In considering whether to authorise a land exchange, the Minister of Conservation must—~~
- (a) ~~consider statements of general policy approved under section 17B or section 17C of the Conservation Act 1987; and~~ 30
- (b) ~~be satisfied that the land exchange (including any money that may be received under **subclause (5)**) will enhance the conservation values of land managed by the Department of Conservation; and~~
- (c) ~~obtain and consider a report on the land exchange that is prepared in accordance with this clause.~~ 35
- (3) ~~The report must be prepared by the Department of Conservation and must assess—~~

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- (a) ~~the conservation values of the land concerned, including how threatened or abundant they are, and a comparative assessment of the values that relate to each area of land concerned; and~~
- (b) ~~the financial implications for the Crown of the land exchange; and~~
- (e) ~~whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve.~~ 5
- (4) ~~All land acquired by the Crown under this clause must be held for any conservation purposes that the Minister of Conservation may specify in respect of that land by notice in the *Gazette*.~~ 10
- (5) ~~Alongside a land exchange under this clause, the Minister of Conservation may authorise the receipt by the Crown of money that must be used on improvements to the land acquired by the Crown that are necessary to satisfy the Minister of Conservation that the land exchange will enhance the conservation values of that land.~~ 15
- (6) ~~The Minister of Conservation or the Director General may, on behalf of the Crown, do anything that may be necessary to effect the land exchange.~~
- (7) ~~When the land exchange is effected, the land concerned is no longer subject to the Conservation Act 1987 or the Reserves Act 1977.~~ 20
- (8) ~~To the extent of any inconsistency, this schedule applies to a land exchange under this clause instead of the Conservation Act 1987 or the Reserves Act 1977.~~
- (9) ~~If, in relation to land, a declaration has been made under the Conservation Act 1987—~~ 25
- (a) ~~the declaration does not prevent the land from being subject to a land exchange in accordance with this clause; and~~
- (b) ~~a revocation under section 18(7) of that Act is not required to effect that land exchange.~~
- (10) ~~In subclause (9), a declaration means—~~ 30
- (a) ~~a declaration under section 18 of the Conservation Act 1987; or~~
- (b) ~~the classification of land under section 61 or 62 of that Act as land deemed to be held for specified purposes under those sections.~~
- 19 Sections of Conservation Act 1987 disappplied**
- The following provisions of the Conservation Act 1987 do not apply to land that is subject to given by the Crown by way of a land exchange granted under ~~clause 18~~ this Act: 35
- (a) section 24:
- (b) section 24E(2) to (4):

- (c) section 24F;
- (d) section 62.

20 Section 40 of Public Works Act 1981 disappplied

Nothing in section 40 of the Public Works Act 1981 applies to land that is subject to a land exchange granted under ~~clause 18~~ this Act.

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21 Land exchange deemed to be disposal under Conservation Act 1987 for purposes of Treaty settlement Acts

For the purposes of a Treaty settlement Act, a land exchange granted under ~~clause 18~~ this Act is deemed ~~to be a disposal under section 16A of the Conservation Act 1987~~ for the purposes of section 16A of the Conservation Act 1987 or, as the case may be, section 15 of the Reserves Act 1977 to be a disposal of the land exchanged.

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Part 4

Conservation covenants

22 ~~Application of this Part~~

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- (1) ~~This Part applies if an applicant requests the amendment or revocation of a conservation covenant in relation to a project that is referred to an expert panel.~~
- (2) ~~In this Part, **conservation covenant** means a covenant in force under section 27 of the Conservation Act 1987 or section 77 of the Reserves Act 1977.~~

23 ~~Revocation and amendment of conservation covenants~~

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- (1) ~~If this Part applies, the Minister of Conservation may amend or revoke a conservation covenant in accordance with this clause.~~
- (2) ~~The Minister of Conservation may only amend or revoke the covenant with the written consent of the owner of land that would be affected by the referred project.~~
- (3) ~~In considering whether to amend or revoke a conservation covenant, the Minister of Conservation must—~~
 - (a) ~~have regard to the purpose of this Act; and~~
 - (b) ~~have regard to the purpose of the covenant and the conservation values of the land concerned; and~~
 - (c) ~~take into account whether the amendment or revocation will compromise values of regional, national, or international significance.~~
- (4) ~~The Minister of Conservation must give effect to the amendment or revocation by—~~

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- ~~(a) applying in writing to the Registrar General of Land to remove any registration or notation of the conservation covenant from the record of title for the land, or to amend the registration or notation; and~~
- ~~(b) doing anything else necessary to amend or revoke the conservation covenant.~~

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22 Interpretation

In this Part, **conservation covenant** means a covenant in force under section 27 of the Conservation Act 1987 or section 77 of the Reserves Act 1977.

23 Information required for application for amendment or revocation of conservation covenant

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An application for an approval described in **section 24C(3)(e)** (amendment or revocation of conservation covenant) must include—

- (a) a general assessment of the values protected by the covenant (informed by the covenant purpose and objectives), including the extent of any values of regional, national or international significance;
- (b) if the application relates only to a portion of the area protected by a conservation covenant, a description of the area affected, and the values contained within it;
- (c) assessment of impacts of the project on those values and any proposed methods of addressing those impacts;
- (d) whether and to what extent the values that will be impacted by the project are found elsewhere in any part of the covenanted area that will remain subject to the covenant protection;
- (e) the contact details of the owner of the burdened land or, if the covenant relates to more than 1 parcel of land, of the owner of each piece of land that will be directly affected by the proposed activity;
- (f) the written consent to the proposed amendment or revocation of each person referred to in **paragraph (e)**;
- (g) if the covenant was granted in favour of a local authority or other body under section 77 of the Reserves Act 1977, the written consent of that local authority or other body;
- (h) details of the covenant, including—
 - (i) the addresses of all land subject to the covenant;
 - (ii) a copy of the covenant deed and any variations.

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24 Report by Department of Conservation

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The report referred to in **section 24G(2)(b)** must include information about—

- (a) the purpose of the covenant and the conservation values of the land concerned; and

- (b) whether the amendment or revocation will compromise values of regional, national, or international significance.

26 Criteria for assessment of application for amendment or revocation of conservation covenant

- (1) For the purposes of **section 24W**, when considering an application for an amendment or revocation of a conservation covenant, the panel must take into account, giving the greatest weight to **paragraph (a)**,— 5
- (a) the purpose of this Act; and
- (b) the purpose of the covenant and the conservation values of the land concerned; and 10
- (c) whether the amendment or revocation will compromise values of regional, national, or international significance.
- (2) The panel must not grant the application unless the written consent referred to in **clause 23(f)** and, as the case may be, **clause 23(g)** has been obtained.

27 Conditions

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A panel may set conditions relating to the use of land on the amendment or revocation of a covenant, including—

- (a) in the case of the revocation of a covenant, the protection by the applicant of equivalent land outside the area of the covenant;
- (b) in the case of the variation of a covenant, the carrying out by the applicant of works to enhance conservation values on land remaining within the covenant. 20

28 Minister of Conservation, local authority, or other body to give effect to amendment or revocation of covenant

The Minister of Conservation (or, if the covenant was granted in favour of a local authority or other body under section 77 of the Reserves Act 1977, that local authority or other body) must give effect to an amendment or a revocation of a covenant granted under this Act by— 25

- (a) applying in writing to the Registrar-General of Land to remove any registration or notation of the conservation covenant from the record of title for the land, or to amend the registration or notation; and 30
- (b) doing anything else necessary to amend or revoke the conservation covenant.

Schedule 6

~~Process for approvals under~~ Approvals relating to Wildlife Act 1953

~~s-30(4)~~ 30A

~~1 Authority to do anything otherwise prohibited under Wildlife Act 1953~~

- (1) ~~This clause applies if an application for a project seeks authority to do anything otherwise prohibited by the Wildlife Act 1953.~~ 5
- (2) ~~The joint Ministers or a panel (as the case may be), in considering whether such authority should be included in an approval under this Act, must—~~
- (a) ~~take into account the purpose of the Wildlife Act 1953 when assessing wildlife effects of a project; and~~ 10
 - (b) ~~have particular regard to any report by the Director General of Conservation on the risks to wildlife; and~~
 - (c) ~~take into account impacts on threatened, data deficient, and at risk wildlife species (as defined in the New Zealand Threat Classification System); and~~ 15
 - (d) ~~include conditions considered necessary to ensure that best practice standards are met; and~~
 - (e) ~~in setting any condition, consider whether—~~
 - (i) ~~the condition would minimise any impacts on protected wildlife, through avoidance, mitigation, or offsetting; or~~ 20
 - (ii) ~~compensation should be provided for when impacts cannot be mitigated.~~
- (3) ~~The panel must request the Director General of Conservation to provide a report on the risks and impacts mentioned in **subclause (2)**.~~

~~2 Effect of authority~~ 25

- (1) ~~Authority provided for in the Wildlife Act 1953 that is included in an approval under this Act is lawful authority to do anything in respect of wildlife that is specified in the consent.~~
- (2) ~~That lawful authority has full effect on its terms and may be enforced under the Wildlife Act 1953 as if the authority were granted under that Act.~~ 30

1 Interpretation

In this schedule, **Wildlife Act approval** means a lawful authority for an act or omission that would otherwise be an offence under any of sections 58(1), 63(1), 63A, 64, 65(1)(f), 70G(1), 70P, and 70T(2) of the Wildlife Act 1953.

1A Information required for application for wildlife approval 35

An application for a wildlife approval must—

- (a) specify the purpose of the proposed activity:

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- (b) identify the actions the applicant wishes to carry out involving protected wildlife and where they will be carried out (whether on or off public conservation land):
 - (c) include an assessment of the activity and its impacts against the purpose of the Wildlife Act: 5
 - (d) list protected wildlife species known or predicted to be in the area and, where possible, the numbers of wildlife present and numbers likely to be impacted:
 - (e) outline impacts on threatened, data deficient, and at-risk wildlife species (as defined in the New Zealand Threat Classification System): 10
 - (f) state how the methods proposed to be used to conduct the actions specified under **paragraph (b)** will ensure that best practice standards are met:
 - (g) describe the methods to be used to safely, efficiently, and humanely catch, hold, or kill the animals and identify relevant animal ethics processes: 15
 - (h) state the location or locations in which the activity will be carried out, including a map (and GPS co-ordinates if available):
 - (i) state whether authorisation is sought to temporarily hold or relocate wildlife: 20
 - (j) list all actual and potential wildlife effects (adverse or positive) of the proposed activity, including effects on the target species, other indigenous species, and the ecosystems at the site:
 - (k) where adverse effects are identified, state what methods will be used to avoid and minimise those effects, and any offsetting or compensation proposed to address unmitigated adverse effects (including steps taken before the project begins, such as surveying, salvaging, and relocating protected wildlife): 25
 - (l) state whether the applicant or any company director, trustee, partner, or anyone else involved with the application has been convicted of any offence under the Wildlife Act: 30
 - (m) state whether the applicant or any of the company director, trustee, partner, or anyone else involved with the application has any current criminal charges under the Wildlife Act pending before a court:
 - (n) provide proof and details of all consultation, including with hapū or iwi, on the application specific to wildlife impacts: 35
 - (o) provide any additional written expert views, advice, or opinions the applicant has obtained concerning their proposal.

1B Report by Department of Conservation

The report referred to in **section 24G** must address the risks to wildlife of the project and the impacts of the project on wildlife.

1BA Persons to be invited to provide written comments

For the purposes of **section 24M(2)(k)**, the persons are—

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- (a) the New Zealand Conservation Authority; and
- (b) relevant Conservation Boards; and
- (c) the New Zealand Fish and Game Council; and
- (d) the Game Animal Council.

1C Criteria for assessment of application for wildlife approval

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For the purposes of **section 24W**, when considering an application for a wildlife approval, the panel must take into account, giving the greatest weight to **paragraph (a)**,—

- (a) the purpose of this Act; and
- (b) the purpose of the Wildlife Act 1953 and the effects of the project on the protected wildlife that is to be covered by the approval; and
- (c) the report by the Director-General of Conservation prepared in accordance with **clause 1B**; and
- (d) information and requirements relating to the protected wildlife that is to be covered by the approval (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement).

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1D Conditions

(1) A panel may set conditions on a Wildlife Act approval that it considers appropriate to ensure that best practice standards are met.

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(2) In setting any condition under **subclause (1)**, the panel must—

- (a) consider whether the condition would avoid, minimise, or remedy any impacts on protected wildlife that is to be covered by the approval; and
- (b) where more than minor residual impacts on protected wildlife cannot be avoided, minimised, or remedied ensure that they are offset or compensated for where possible and appropriate; and
- (c) take into account, as the case may be, the New Zealand Threat Classification System or any relevant international conservation agreement that may apply in respect of the protected wildlife that is to be covered by the approval.

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2 Status of Wildlife Act approval and variation of Wildlife Act approval

(1) A Wildlife Act approval granted under this Act—

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- (a) has force and effect for its duration, and according to its terms and conditions, as a lawful authority for the purposes of Part 5 of the Wildlife Act 1953 for the act or omission for which the approval was granted; and
- (b) is treated as if it were granted under that Act. 5
- (2) The Director-General of Conservation may at any time vary or replace a Wildlife Act approval referred to in **subclause (1)** on application by the holder of the approval.
- (3) For the purposes of **subclause (2)**,—
- (a) the information required to be submitted to the Director-General is the information specified in **clause 1A**; and 10
- (b) the Director-General must decide the application for the variation or replacement and set any conditions in accordance with **clauses 1C(a), (b), and (d) and 1D** as if the application were for a Wildlife Act approval and as if the references in **clauses 1C and 1D** to the panel were to the Director-General; and 15
- (c) **Part 2** of this Act does not apply.
- (4) The Director-General may revoke a Wildlife Act approval granted under this Act.
- (5) Section 53(7) of the Wildlife Act 1953 applies to a Wildlife Act approval as if it were an approval granted under section 53 of that Act. 20
- 3 Section 71 of Wildlife Act 1953 disapplied**
- Section 71 of the Wildlife Act 1953 (which requires joint ministerial consent in certain cases) does not apply if an approval under this Act includes any authority provided for in that Act. 25

Schedule 7
Application process for archaeological authority under Approvals
relating to Heritage New Zealand Pouhere Taonga Act 2014

s-~~30(4)~~ **30A**

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- ~~1~~ **Application of this schedule**
- (1) ~~This schedule sets out the process that must be followed if an applicant applies for an authority described in section 44(a) or (b) of the HNZPT Act (an archaeological authority).~~
- (2) ~~However, this schedule applies only if —~~

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- (a) ~~the applicant also applies for a resource consent or lodges a notice of requirement under the Resource Management Act 1991, in accordance with **Schedule 4**; and~~
- (b) ~~the archaeological authority is required for the purpose of a proposed listed project or proposed referred project.~~

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2 Interpretation

- (1) In this schedule,—

archaeological authority means an approval described in **section 24C(3)(g)**

HNZPT Act means the Heritage New Zealand Pouhere Taonga Act 2014.

~~**Māori Heritage Council** has the meaning given in section 6 of the HNZPT Act.~~

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- (2) ~~A term used in this schedule that is defined in the HNZPT Act, but not in this Act, has the meaning given in the HNZPT Act.~~

2A Information that must be provided with application for archaeological authority

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- (1) For the purposes of **section 24D**, an application for an archaeological authority must include the following information:

- (a) a legal description of the land or, if one is not available, a description that is sufficient to identify the land to which the application relates; and
- (b) the name of the owner of the relevant land, if the applicant is not the owner of the land; and
- (c) proof of consent, if the owner has consented to the proposed activity; and
- (d) confirmation that the application complies with **section 24F(1)(a) to (c)**; and
- (e) a description of each archaeological site to which the application relates and the location of each site; and
- (f) a description of the activity for which the authority is sought; and
- (g) a description of how the proposed activity will modify or destroy each archaeological site; and
- (h) except in the case of an application described in section 44(b) of the HNZPT Act, an assessment of—
 - (i) the archaeological, Māori, and other relevant values of the archaeological site in the detail that is appropriate to the scale and significance of the proposed activity and the proposed modification or destruction of the archaeological site; and
 - (ii) the effect of the proposed activity on those values; and

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- (i) a statement as to whether consultation with tangata whenua, the owner of the relevant land (if the applicant is not the owner), or any other person likely to be affected—
- (i) has taken place, with details of the consultation, including the names of the parties and the tenor of the views expressed; or 5
- (ii) has not taken place or been completed, with the reasons why consultation has not occurred or been completed (as applicable).
- (2) If the substantive application includes the information required by **subclause (1)** for the purposes of an application under **section 24C(3)(a) or (b)** (a **planning application**), the substantive application may— 10
- (a) include the same information for the purposes of this clause; but
- (b) must ensure that all of the information required by **subclause (1)** is provided.
- Compare: 2014 No 26 s 46(2), (5)
- 2B Contents of report** 15
- A report referred to in **section 24G** may recommend—
- (a) that an archaeological authority be granted with conditions, including any conditions imposed under **clause 6A**; or
- (b) that the application be declined.
- 2C Criteria for assessment of application under **section 24C(3)(g)**** 20
- (1) For the purposes of **section 24W**, when considering an application under **section 24C(3)(g)**, the panel must take into account, giving the greatest weight to **paragraph (a)**,—
- (a) the purpose of this Act; and
- (b) the purpose of the HNZPT Act (*see* section 3 of that Act); and 25
- (c) the principles of the HNZPT Act (*see* section 4 of that Act); and
- (d) the matters set out in section 59(1)(a) of the HNZPT Act; and
- (e) a relevant statement of general policy confirmed or adopted under the HNZPT Act.
- (2) In the case of a substantive application that seeks an archaeological authority described in section 44(b) of the HNZPT Act, without limiting the matters that the panel may have regard to for the purpose of determining whether the effects of the proposed activity are (or are likely to be) no more than minor, the panel must have regard to— 30
- (a) the significance of a site or sites in relation to evidence of the historical and cultural heritage of New Zealand; and 35
- (b) the extent to which the proposed activity will modify or destroy the site or sites.

2D Commencement and duration of archaeological authority

- (1) An archaeological authority granted under this Act commences when—
- (a) the timing for lodging an appeal under **section 26** expires and—
 - (i) no appeals have been lodged; or
 - (ii) any appeals have been withdrawn; or
 - (b) the High Court determines any appeals.
- (2) **Subclause (1)** applies subject to a later date being specified—
- (a) in the authority; or
 - (b) by the High Court.
- (3) If an authority is granted before the land owner's consent to a proposed activity has been obtained, the authority does not commence until the consent of the land owner has been obtained and notified to Heritage New Zealand Pouhere Taonga.
- (4) An authority is current—
- (a) for a period not exceeding 35 years, as specified in the authority; or
 - (b) if no period is specified, for a period of 5 years from the date on which the authority commences, which must not be more than 30 years after the authority is granted.
- (5) On the applicable date, the authority expires.
Compare: 2014 No 26 s 54

3 ~~Application for archaeological authority~~

- (1) ~~If an applicant requires an archaeological authority for a proposed listed project or a proposed referred project,—~~
- (a) ~~the process set out in this Act applies subject to—~~
 - (i) ~~the modifications set out in **clause 4**; and~~
 - (ii) ~~**clauses 5, 14, and 15**; and~~
 - (b) ~~except as required for the purposes of **clauses 4, 5, 14, and 15**, the process set out in the HNZPT Act does not apply.~~
- (2) ~~For the purposes of the HNZPT Act, an archaeological authority granted under this schedule must be treated as an authority granted under that Act.~~

4 ~~Modifications to process~~

- (1) ~~The modifications are as follows:~~
- (a) ~~before deciding whether to refer the application to a panel and in addition to complying with the requirements set out in this Act, the joint Ministers must consult the following parties to determine whether the information provided with the application is sufficient:~~
 - (i) ~~Heritage New Zealand Pouhere Taonga; and~~

- (ii) ~~the Minister who, with the authority of the Prime Minister, is for the time being responsible for the administration of the HNZPT Act;~~
- (b) ~~before a panel gives the joint Ministers a written report that sets out its recommendations (see **clause 1(5) of Schedule 3**), the panel must—~~ 5
- (i) ~~refer the application to Heritage New Zealand Pouhere Taonga and the Māori Heritage Council; and~~
- (ii) ~~consider any recommendations made by either or both of those parties; and~~
- (iii) ~~consider the purpose of this Act (see **section 3**) and also consider the purpose of the HNZPT Act (see section 3 of that Act) as a secondary purpose; and~~ 10
- (iv) ~~consider the principles of the HNZPT Act (see section 4 of that Act);~~
- (c) ~~when making a recommendation or decision in relation to an archaeological authority, the panel or the joint Ministers (as the case may be) must take into account a relevant statement of general policy confirmed or adopted under the HNZPT Act;~~ 15
- (d) ~~a recommendation from Heritage New Zealand Pouhere Taonga or the Māori Heritage Council may recommend that the joint Ministers grant an archaeological authority with conditions, including any conditions imposed under **clause 13**;~~ 20
- (e) ~~when making a recommendation to the joint Ministers, a panel may recommend the commencement date and duration of an archaeological authority.~~ 25
- (2) ~~To avoid doubt,—~~
- (a) ~~the modifications in **subclause (1)** apply in addition to the requirements set out in **Part 2** of this Act; and~~
- (b) ~~nothing in this Act affects a power under the HNZPT Act for Heritage New Zealand Pouhere Taonga to recover costs (for example, under section 57(2)(c) of that Act).~~ 30
- 5 Certain provisions of HNZPT Act to apply**
- ~~If the joint Ministers grant an archaeological authority, the following sections of the HNZPT Act apply with all necessary modifications:~~
- (a) ~~section 54 (which relates to the commencement and duration of an archaeological authority);~~ 35
- (b) ~~section 55 (which relates to the effect of an archaeological authority);~~

- 6** Application ~~must be made to joint Ministers~~ for approval of person to carry out activity
- (1) ~~At any time before an activity in relation to an archaeological site is carried out under an archaeological authority, the person applying for the archaeological authority (or the holder of an archaeological authority) must apply to the joint Ministers for approval of any person nominated to undertake the activity under an authority.~~ 5
- (1) A substantive application that seeks an archaeological authority under this Act may include an application for approval of any person nominated to undertake an activity under the authority. 10
- (1A) An application for approval of a person to undertake an activity under an authority,—
- (a) if it is made with the application for the authority under this Act, must be considered under this Act; or
- (b) if it is made after the archaeological authority has been approved (whether under this Act or under the HNZPT Act and despite **section 24B**), must be made and considered under the HNZPT Act. 15
- (1B) In the case of an application under **subclause (1A)(a)**, before the panel decides whether to approve an application for approval of a person nominated to undertake an activity under an authority, the panel must seek and have regard to a recommendation from Heritage New Zealand Pouhere Taonga as to whether to approve the application. 20
- (1C) Heritage New Zealand Pouhere Taonga must provide a recommendation sought under **subclause (1B)** no later than 10 working days after receiving the request for the recommendation. 25
- (2) Heritage New Zealand Pouhere Taonga must not recommend that the panel approve a person ~~be approved~~ to carry out an activity under an authority **subclause (1)** unless satisfied that the person—
- (a) has sufficient skill and competency, is fully capable of ensuring that the proposed activity is carried out to the satisfaction of Heritage New Zealand Pouhere Taonga, and has access to appropriate institutional and professional support and resources; and 30
- (b) in the case of a site of interest to Māori,—
- (i) has the requisite competencies for recognising and respecting Māori values; and 35
- (ii) has access to appropriate cultural support.
- (3) If it is necessary at any time, and for any reason, to replace the person approved to carry out an activity under an archaeological authority granted under this Act, the holder of the archaeological authority must, ~~by written~~

~~application to the joint Ministers, seek approval under the HNZPT Act for another nominated person to carry out that activity.~~

Compare: 2014 No 26 s 45(1)–(3)

6A Imposition of conditions on archaeological authorities

- (1) In relation to an archaeological authority, a panel may impose any conditions, including conditions that— 5
- (a) the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and 10
 - (b) the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the panel); and
 - (c) any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and 15
 - (d) Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report as soon as practicable after its completion to—
 - (i) the holder of the authority; and
 - (ii) the owner of the archaeological site concerned, if different from the holder of the authority; and 20
 - (iii) Heritage New Zealand Pouhere Taonga, unless Heritage New Zealand Pouhere Taonga prepared the report.
- (2) The panel may impose a condition requiring an investigation under the HNZPT Act, but only if the panel is satisfied on reasonable grounds that the investigation is likely to provide significant information in relation to the historical and cultural heritage of New Zealand. 25

Compare: 2014 No 26 s 52

7 Information that must be provided with application for archaeological authority 30

- (1) ~~Every application for an archaeological authority made under this schedule must be made in writing to the joint Ministers in the form and manner prescribed by regulations made under this Act or as may be approved for the purpose by the responsible agency.~~
- (2) ~~An application must include the following information:~~ 35
- (a) ~~a legal description of the land or, if one is not available, a description that is sufficient to identify the land to which the application relates; and~~
 - (b) ~~the name of the owner of the relevant land, if the applicant is not the owner of the land; and~~

- ~~(c) proof of consent, if the owner has consented to the proposed activity; and~~
- ~~(d) a description of each archaeological site to which the application relates and the location of each site; and~~
- ~~(e) a description of the activity for which the authority is sought; and~~ 5
- ~~(f) a description of how the proposed activity will modify or destroy each archaeological site; and~~
- ~~(g) except in the case of an application described in section 44(b) of the HNZPT Act, an assessment of—~~
 - ~~(i) the archaeological, Māori, and other relevant values of the archaeological site in the detail that is appropriate to the scale and significance of the proposed activity and the proposed modification or destruction of the archaeological site; and~~ 10
 - ~~(ii) the effect of the proposed activity on those values; and~~
- ~~(h) a statement as to whether consultation with tangata whenua, the owner of the relevant land (if the applicant is not the owner), or any other person likely to be affected—~~ 15
 - ~~(i) has taken place, with details of the consultation, including the names of the parties and the tenor of the views expressed; or~~
 - ~~(ii) has not taken place, with the reasons why consultation has not occurred.~~ 20
- ~~(3) The application may (but need not) include an application under **clause 6**.~~
- ~~(4) An applicant who provides the information required under **subclause (2)** for the purposes of a resource consent application or notice of requirement for a designation under the Resource Management Act 1991 (the planning application)—~~ 25
 - ~~(a) may provide the joint Ministers with the same information as that provided for the planning application under the Resource Management Act 1991; but~~
 - ~~(b) must ensure that all of the information required by **subclause (2)** is also provided.~~ 30

Compare: 2014 No 26 s 46(1) (3), (5)

8 Processing of applications for archaeological authorities

- ~~(1) Not later than 5 working days after receiving an application for an archaeological authority described in section 44(a) or (b) of the HNZPT Act, the joint Ministers must, if satisfied that the application includes all of the information required by **clause 7**,—~~ 35
 - ~~(a) determine,—~~

- (i) ~~in the case of an application for an archaeological authority described in section 44(a) of the HNZPT Act, whether the assessment required by **clause 7(2)(g)** is adequate:~~
- (ii) ~~in the case of an application for an archaeological authority described in section 44(b) of the HNZPT Act, whether the effects of the proposed activity are, or are likely to be, no more than minor, assessed in accordance with **subclause (5)**; and~~ 5
- (b) ~~if the joint Ministers are satisfied that the application meets the relevant requirements under this subclause, they must —~~
- (i) ~~accept the application; and~~ 10
- (ii) ~~advise the applicant of the latest date by which, in accordance with **section 25(7)**, the joint Ministers will give notice of the decision on the application.~~
- (2) ~~In the case of an application to which **subclause (1)(a)(ii)** applies, the joint Ministers must ensure that an assessment required by **clause 7(2)(g)** is undertaken by or on behalf of Heritage New Zealand Pouhere Taonga in relation to the archaeological site.~~ 15
- (3) ~~If the joint Ministers determine that an application does not meet the relevant requirements under **subclause (1)**, they must, within the time specified in that subclause, —~~ 20
- (a) ~~return the application to the applicant, giving written reasons why the application has been returned; and~~
- (b) ~~advise the applicant by notice of what further information is required before the application can be accepted.~~
- (4) ~~For the purposes of making a decision under this clause, an application that is returned under **subclause (3)** and resubmitted with further information must be treated by the joint Ministers as a new application.~~ 25
- (5) ~~In the case of an application for an archaeological authority described in section 44(b) of the HNZPT Act, without limiting the matters that the joint Ministers may have regard to for the purpose of determining whether an application meets the requirements of **subclause (1)(a)(ii)**, they must have regard to —~~ 30
- (a) ~~the significance of a site or sites in relation to evidence of the historical and cultural heritage of New Zealand; and~~
- (b) ~~the extent to which the proposed activity will modify or destroy the site or sites.~~ 35

Compare: 2014 No 26 s 47

9 Determination

- (1) ~~In determining an application for an archaeological authority, the joint Ministers may —~~ 40

- (a) ~~grant an archaeological authority, in whole or in part, subject to any conditions they see fit, including conditions that may be imposed under **clause 13**; or~~
- (b) ~~refuse to grant an authority.~~
- (2) ~~The joint Ministers must make their determination in accordance with the requirements of **clauses 10 to 13**.~~ 5
 Compare: 2014 No 26 s 48
- 10 Factors relevant to making determination**
- (1) ~~Before determining an application under **clause 9** that relates to a customary marine title area in respect of which a planning document has been lodged with Heritage New Zealand Pouhere Taonga under section 86(1)(b) of the Marine and Coastal Area (Takutai Moana) Act 2011, the joint Ministers must comply with section 89(a) of that Act, to the extent it is relevant to the application being considered.~~ 10
- (2) ~~In making a determination, the joint Ministers must have regard to the matters set out in section 59(1)(a) of the HNZPT Act (the matters to which the Environment Court must have regard when determining an appeal).~~ 15
 Compare: 2014 No 26 s 49(1), (2)
- 11 Time within which applications must be determined**
- ~~The joint Ministers must make a determination under this schedule, and give notice of the determination, in accordance with the time limits specified in this Act.~~ 20
- 12 Notification of determination**
- (1) ~~After determining an application under this schedule, the joint Ministers must give notice of their decision to —~~ 25
- (a) ~~the applicant; and~~
- (b) ~~the owner of the relevant land, if the applicant is not the owner; and~~
- (c) ~~the local authorities that have jurisdiction in the relevant area, except a local authority that is the applicant; and~~
- (d) ~~in the case of a site of interest to Māori, the appropriate iwi or hapū; and~~ 30
- (e) ~~the chief executive or the nearest public museum; and~~
- (f) ~~any other person with a right of appeal under this Act.~~
- (2) ~~In this section, **public museum** has the meaning given in section 2(1) of the Protected Objects Act 1975.~~ 35
 Compare: 2014 No 26 s 51
- 12 Service and publication of decision**
- (1) For the purposes of **section 24Y**, the persons are—

- (a) the nearest public museum; or
- (b) the chief executive of the department that, with the authority of the Prime Minister, is for the time being responsible for the administration of the HNZPT Act.
- (2) In **subclause (1), public museum** has the meaning given in section 2(1) of the Protected Objects Act 1975. 5

12A Status of archaeological authority

An archaeological authority granted under this Act—

- (a) has the same force and effect as if it were granted under section 48 of the HNZPT Act; and 10
- (b) for the purposes of the HNZPT Act, must be treated as if it were an authority granted under that Act.

Conditions

13 Imposition of conditions on archaeological authorities

- (1) ~~An archaeological authority granted under this schedule may include any conditions, including conditions that —~~ 15
 - (a) ~~the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and~~ 20
 - (b) ~~the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the joint Ministers); and~~
 - (c) ~~any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and~~ 25
 - (d) ~~Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report as soon as practicable after its completion to —~~
 - (i) ~~the holder of the authority; and~~
 - (ii) ~~the owner of the archaeological site concerned, if different from the holder of the authority; and~~ 30
 - (iii) ~~Heritage New Zealand Pouhere Taonga, unless Heritage New Zealand Pouhere Taonga prepared the report.~~
- (2) ~~The joint Ministers may impose a condition requiring an investigation, but only if they are satisfied on reasonable grounds that the investigation is likely to provide significant information in relation to the historical and cultural heritage of New Zealand.~~ 35

~~Compare: 2014 No 26 s 52~~

14 ~~Review of conditions of archaeological authority~~

~~Section 53 of the HNZPT Act applies, with all necessary modifications, at any time while an archaeological authority that is subject to conditions imposed under **clause 13** is current.~~

Appeals

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15 ~~Right of appeal~~

~~The appeal rights set out in **section 26** of this Act apply, with all necessary modifications, under this schedule.~~

Schedule 8**Process for approval under Freshwater Fisheries Regulations 1983
or section 26ZM of Conservation Act 1987****~~s-30(4)~~**

- 1 Application of fast-track approval process** 5
- (1) ~~This clause applies to —~~
- (a) ~~the approval of culverts and other structures to which the NIWA Guidelines apply (which would otherwise be regulated by regulations 42 and 43 of the Freshwater Fisheries Regulations 1983);~~
 - (b) ~~fish rescue activities where fish are to be moved within the same water body;~~ 10
 - (c) ~~temporary works for infrastructure projects that would affect fish passage or local habitat;~~
 - (d) ~~possessing and killing noxious fish as specified in Schedule 3 of the Freshwater Fisheries Regulations 1983 that are encountered during fish rescue or other operations;~~ 15
 - (e) ~~the transfer or release of live aquatic life into any freshwater under section 26ZM of the Conservation Act 1987.~~
- (2) ~~An approval under this Act may include approval to undertake any of the activities specified in **subclause (1)**.~~ 20
- (3) ~~An approval under this Act must not include approval under section 26ZM(2)(a) of the Conservation Act 1987 (which relates to the movement of live aquatic life).~~
- (4) ~~A panel must recommend any conditions that it considers necessary for the purpose of managing the specified activities.~~ 25
- (5) ~~Any approval for an activity specified in **subclause (1)(a) to (d)** may be included in a resource consent that is included in an approval under this Act.~~
- 2 Application of Freshwater Fisheries Regulations 1983 to specified activities**
- ~~The Freshwater Fisheries Regulations 1983 do not apply to any activity specified in **clause 1(1)(a) to (d)** that is included in a consent under this Act if the applicant complies with the conditions specified in the consent in relation to that activity.~~ 30

Schedule 9
**~~Process for marine consents under~~ Approvals relating to Exclusive
Economic Zone and Continental Shelf (Environmental Effects) Act
2012**

~~ss 40, s 30(4)~~ **30A** 5

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~~1~~ **~~Application of this schedule~~**
~~This schedule applies if a marine consent is required under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the EEZ Act) for a proposed listed project or proposed referred project.~~

1 Interpretation 10
In this schedule, **marine consent** means an approval of the kind described in section 24C(3)(h).

2 Exclusion of this Act
Despite ~~clause 1~~, nothing in this Act authorises a marine consent to be granted — 15

- (a) ~~for a prohibited activity (as defined in section 4(1) of the EEZ Act or the Exclusive Economic Zone and Continental Shelf (Environmental Effects Discharge and Dumping) Regulations 2015);~~
- (b) ~~for any activity relating to decommissioning under that Act.~~
- 3 Competition for space in respect of different activities** 5
- (1) ~~**Subclause (2)** applies if the joint Ministers consider there is likely to be competition for space to undertake any activities regulated under any of the Acts specified in **section 11** in areas of New Zealand's continental shelf or exclusive economic zone.~~
- (2) ~~In addition to the matters that the joint Ministers may consider under **section 18(4)**, they may also consider—~~ 10
- (a) ~~the economic benefits and strategic importance of the proposed project; and~~
- (b) ~~the likely impact of the proposed project on current and proposed marine management regimes; and~~ 15
- (c) ~~the environmental impacts of the competing activities.~~
- 4 Additional information required to be included in referral application**
- ~~If an applicant for approval to use the fast track approval process for a project requires a marine consent under the EEZ Act, the applicant must include the information required by **section 15** with the following modifications: The information required to be provided under **section 14(3)(x)(ii)** is—~~ 20
- (a) information about whether the Minister of Conservation is an affected person:
- (b) additional information about whether the applicant has already made an application for a consent under the EEZ Act in relation to ~~that the~~ the project, and, if so,— 25
- (i) details of any application made; and
- (ii) the decisions made on that application; and
- (iii) information about the matters that the ~~joint Ministers~~ Minister may consider under ~~**clause 3(2)**~~ **section 22B(4)**: 30
- (c) additional information (in a summary form) about compliance or enforcement action taken against the applicant by the EPA under the EEZ Act.
- 5 Consultation by joint Ministers when considering referral**
- ~~When considering whether to refer an application for fast track approval that includes an application for a marine consent under the EEZ Act, the joint Ministers must, in addition to complying with the other applicable consultation requirements, consult—~~ 35

- (a) ~~the Minister for the Environment; and~~
 (b) ~~if relevant, the Minister of Conservation.~~
- 6 Combination of applications under EEZ Act and RMA for marine consent and approval described in section 24C(3)(a)**
- (1) **Subclause (2)** applies if ~~there is an application for fast track approval and there are~~ the substantive application includes related applications for a marine consent ~~under the EEZ Act and a consent under the RMA~~ and an application for an approval described in **section 24C(3)(a)** for a ~~cross-boundary cross-boundary~~ activity (within the meaning of section 88 of the EEZ Act). 5
- (2) The impact assessment under the EEZ Act and the assessment of environmental effects under the Resource Management Act 1991 must be combined. 10
- 7 Applicable Act to be applied by panel**
- ~~In deciding whether to recommend the granting of a marine consent under the EEZ Act in respect of a project that is referred to a panel, the applicable Act to be applied by the panel is the EEZ Act, irrespective of whether the panel is considering —~~ 15
- (a) ~~only an application for a marine consent under the EEZ Act; or~~
 (b) ~~such an application and 1 or more applications for different consents under 2 or more Acts specified in **section 10**.~~
- 8 Panel convener must consult EPA in certain circumstances** 20
- (1) ~~A panel convener must, when a panel is to be appointed to consider applications affecting New Zealand's economic zone, consult the EPA about the membership of the panel, before the panel is appointed.~~
- (2) ~~In recommending members to be appointed to that panel and in making those appointments, the EPA or the panel convener, as the case requires, must consider the need for members who collectively have —~~ 25
- (a) ~~knowledge, skill, and experience related to the EEZ Act; and~~
 (b) ~~knowledge, skill, and experience related to the activities or matters in respect of which consent is sought; and~~
 (c) ~~knowledge, skill, and experience relating to tikanga, the Treaty of Waitangi, the law generally, and relevant technical matters.~~ 30
- 8 Information required for application for marine consent**
- An application for an approval described in **section 24C(3)(h)** must include the following information:
- (a) a description of the proposed activity: 35
 (b) an impact assessment prepared in accordance with section 39 of the EEZ Act and any requirements prescribed in regulations made under that Act; and

- (c) if the application relates to an activity referred to in section 20(2)(a), (b), or (c) of the EEZ Act, a description in general terms of how and when it is proposed that the structure, submarine pipeline, or submarine cable will be dealt with at the end of its life.
- 9 Procedures of panel** 5
- (1) ~~The procedures to be followed by a panel when considering an application for a marine consent under the EEZ Act, are those set out in **Schedule 4**, but with the following modifications:~~
- (a) ~~when a panel considers an application, it must, in addition to the other matters it is required to consider, consider (giving greater or lesser weight) in order to—~~ 10
- (i) ~~the purposes of this Act;~~
- (ii) ~~the purposes and principles of the EEZ Act set out in subpart 2 of Part 1 of that Act;~~
- (iii) ~~any relevant policy statements issued under the EEZ Act;~~ 15
- (iv) ~~any relevant provisions of the EEZ Act relating to assessments and the provision of information (see sections 59 to 64);~~
- (b) ~~when a panel considers an application it must not consider sections 6 and 7 of the RMA, or any national policy statements under that Act;~~
- (e) ~~a panel must invite comments from persons provided with copies of applications for activities publicly notified under section 46 of the EEZ Act;~~ 20
- (d) ~~section 63 of the EEZ Act (relating to the grant of conditions) must be applied in a way that gives effect to the purposes of this Act;~~
- (e) ~~a panel must consult the EPA on the conditions to be recommended to apply to a marine consent.~~ 25
- (2) ~~In taking the matters referred to in **subclause (1)(a)(i) to (iv)** into account, the panel must give weight to them in that order (from greater to lesser).~~
- 9 Criteria for assessment of application for marine consent**
- (1) For the purpose of **section 24W**, when considering an application for a marine consent, and setting conditions, the panel must take into account, giving the greatest weight to **paragraph (a)**,— 30
- (a) the purpose of this Act; and
- (b) the purposes and principles of the EEZ Act set out in subpart 2 of Part 1 of that Act; and 35
- (c) any relevant policy statements issued under the EEZ Act; and
- (d) sections 59, 60, 61(1)(b) and (c) and (2) to (5), 62(1A) and (2), 63, and 64 to 67 of the EEZ Act.

- (2) For the purposes of **subclause (1)(d)**, the panel must take into account that section 62(1A) of the EEZ Act would normally require an application to be declined, but must not treat that provision as requiring the panel to decline the application the panel is considering.
- 10 Conditions** 5
Sections 63 to 67 of the EEZ Act apply with any necessary modifications as if the references to a marine consent authority in those sections were references to the panel.
- ~~**10 Information requirements**~~ 10
~~The information requirements that apply to applicants for a marine consent for an aquaculture activity which are considered by a panel are those set out in section 38 of the EEZ Act.~~
- ~~**11 Powers of panel**~~ 15
~~The panel may request information, and commission or seek advice from the parties, and sections 54 to 56 of the EEZ Act apply with any necessary modifications.~~
- 12 Marine consents deemed to be issued under EEZ Act** 20
~~A marine consent granted in accordance with the procedures in this schedule is to be treated and enforced in the same way as every other marine consent granted under the EEZ Act (for example, the EPA is responsible for compliance, monitoring, and enforcement of the consent and its conditions).~~
A marine consent that is granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were a marine consent granted under the EEZ Act.
- 13 Variations to conditions of marine consents** 25
- (1) ~~An application for a variation of conditions of a marine consent is determined—~~
~~(a) in accordance with the EEZ Act; and~~
~~(b) not in accordance with the procedures set out in this Act.~~
- (2) ~~However, if the marine consent was granted in accordance with the procedures in this schedule, an application for a variation of the conditions of the consent must be determined under the EEZ Act, which is to be applied with regard to the purposes of this Act.~~ 30
- (1) An application for a variation of the conditions of, or a review by the EPA of the conditions of, a marine consent granted under this Act must be conducted in accordance with the EEZ Act, except that when applying any of the provisions of the EEZ Act set out in clause 9(1)(d), the EPA must take into account the purpose of this Act. 35

~~14 EPA may recover costs from applicants and consent holders~~

- ~~(1) The EPA may recover the costs associated with determining applications for marine consents in accordance with the processes set out in this schedule.~~
- ~~(2) If a marine consent is granted in accordance with the processes set out in this schedule, the EPA may recover from the consent holder the costs of compliance, monitoring, and enforcement activities relating to that consent or the conditions of that consent.~~ 5

Schedule 10

Process under Approvals relating to Crown Minerals Act 1991

~~ss 40, 30(4)s~~ **30A**

1 Application of this schedule

~~This schedule applies if an application is made under section 61 or 61B of the Crown Minerals Act 1991 for an access arrangement in relation to a —~~ 5

- ~~(a) proposed listed project; or~~
- ~~(b) proposed referred project.~~

2 Interpretation

In this schedule, unless the context otherwise requires, **access arrangement** means the relevant approval of the kind referred to in **section 24C(3)(i) or (j).**— 10

~~appropriate Minister has the same meaning as in section 2A of the Crown Minerals Act 1991~~

~~Minister has the same meaning as in section 2(1).~~ 15

2A Information requirements for access arrangement

For the purposes of **section 24D(2)**, an application for an access arrangement must include the following:

- (a) a copy of the relevant permit under the Crown Minerals Act 1991:**
- (b) a clear map or plan of the application area with GPS co-ordinates:** 20
- (c) a document identifying the areas of conservation land located within the application area, its classification, and an assessment against its purpose:**
- (d) a description of the proposal, including—**
 - (i) the application area including location and features (for example, water courses, roads, and amenities):** 25
 - (ii) a summary of proposed activities (including type of prospecting, exploration, or mining methods, duration, and scale of activity):**
 - (iii) a statement of the objectives of any Act under which the land is administered:**
 - (iv) any policy statement, management strategy, or management plan of the Crown that applies in relation to the land:** 30
 - (v) details of any resource consents and concessions held or applied for, or intended applications in relation to the application area:**
 - (vi) in the case of an application under **section 24C(3)(i)**, a statement of the direct net economic and other benefits of the proposed activities in relation to which the access arrangement is sought:** 35

- (vii) in the case of an application under **section 24C(3)(i)**, the interests of the owner of the mineral, or of any person to whom the owner of the mineral has granted any rights in relation to the mineral, in obtaining access to that mineral:
- (e) an assessment of the environment, including— 5
- (i) a description of the existing natural environment in and around the application area (including flora, fauna, aquatic life, and landscape):
- (ii) a description of any historic, cultural, and archaeological sites within the application area (position and significance): 10
- (iii) a description of the social environment in and around the application area (including scenic qualities, recreation facilities, and their use):
- (iv) an assessment of the effects that proposed activities will have on the environment described in **subparagraph (i)**, both while the activities are taking place and after their completion: 15
- (v) an outline of consultation undertaken, including full details of consultation with relevant iwi:
- (vi) a description of the proposed safeguards and mitigation measures to be put in place (for example, proposed rehabilitation, water management, management of flora and fauna and cultural or historic sites, and the way in which risks will be managed): 20
- (vii) information about financial and legal liabilities and obligations associated with the land.
- 2B Report by Department of Conservation** 25
- The report referred to in **section 24G(2)(e)** must include information—
- (a) about the report to address the matters in **clauses 3A and 4A** (as applicable); and
- (b) any other matters relating to the environmental effects of the application; and 30
- (c) any conditions that should be imposed.
- 2C Persons to be consulted under **section 24M(2)(k)****
- For the purposes of **section 24M(2)(k)**, the persons are—
- (a) the New Zealand Conservation Authority; and
- (b) relevant Conservation Boards; and 35
- (c) the New Zealand Fish and Game Council; and
- (d) the Game Animal Council; and
- (e) the Director-General of Conservation.

2D Provisions of Crown Minerals Act 1991 applied

For the purposes of this Act,—

- (a) in relation to an application referred to in **section 24C(3)(i)**,—
 - (i) section 61(1), (1AA), and (1A) of the Crown Minerals Act 1991 applies with any necessary modifications as if the references to the appropriate Minister or, as the case may be, the Minister and the appropriate Minister were references to the panel; and 5
 - (ii) section 59(3) of that Act applies; but
 - (iii) sections 61(1AAB) and (2) and 61C of that Act do not apply;
- (b) in relation to an application referred to in **section 24C(3)(i)**,— 10
 - (i) section 59(3) of the Crown Minerals Act 1991 applies; but
 - (ii) sections 61B(2) and 61C of that Act do not apply.

3 Exclusion of this Act

~~Despite **clause 1**, nothing in this Act applies in respect of an application for an access arrangement for any land or offshore area for which a permit cannot be granted under the Crown Minerals Act 1991.~~ 15

3A Criteria for assessment of application under **section 24C(3)(i) (relating to section 61 of Crown Minerals Act 1991)**

For the purposes of **section 24W**, when considering an application for an access arrangement referred to in **section 24C(3)(i)**, the panel, giving the greatest weight to **paragraph (a)(i)**,— 20

- (a) must take into account,—
 - (i) the purpose of this Act; and
 - (ii) the objectives of any Act under which the land is administered; and 25
 - (iii) any purpose for which the land is held by the Crown; and
 - (iv) any policy statement or management plan of the Crown in relation to the land if authored, co-authored or approved by a Treaty settlement entity; and
 - (v) any safeguards against potential adverse effects of carrying out the proposed programme of work; and 30
 - (vi) the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and
 - (vii) any other matters that the panel considers relevant.
- (b) may consider any policy statement or management plan of the Crown (other than a statement or plan referred to in **paragraph (a)(iv)**). 35

4 Section 61(2) of Crown Minerals Act 1991 disappplied

(1) ~~Section 61(2) of the Crown Minerals Act 1991 does not apply and **subclause (2)** applies instead.~~

(2) ~~In considering whether to agree to an access arrangement or a variation to an access arrangement in respect of Crown land, the appropriate Minister (in the case of section 61(1) of the Crown Minerals Act 1991) and the Minister and the appropriate Minister (in the case of section 61(1AA) of that Act) —~~

(a) ~~must have regard to the objectives of any Act under which the land is administered; and~~

(b) ~~must have regard to any purpose for which the land is held by the Crown; and~~

(c) ~~may consider any policy statement or management plan of the Crown in relation to the land; and~~

(d) ~~must have regard to any safeguards against potential adverse effects of carrying out the proposed programme of work; and~~

(e) ~~must have regard to the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and~~

(f) ~~must have regard to any other matters that the Minister or the appropriate Minister or both (as the case requires) considers relevant.~~

4A Criteria for assessment of application under **section 24C(3)(j) (relating to section 61B of Crown Minerals Act 1991)**

For the purposes of **section 24W**, when considering an application for an access arrangement referred to in **section 24C(3)(j)**, the panel, giving the greatest weight to **paragraph (a)(i)**, —

(a) must take into account, —

(i) the purpose of this Act; and

(ii) the objectives of any Act under which the land is administered; and

(iii) any purpose for which the land is held by the Crown; and

(iv) any policy statement or management plan of the Crown in relation to the land if authored, co-authored or approved by a Treaty settlement entity; and

(v) any safeguards against potential adverse effects of carrying out the proposed programme of work; and

(vi) the interests of the owner of the mineral, or of any person to whom the owner of the mineral has granted any rights in relation to the mineral, in obtaining access to that mineral; and

(vii) any other matters that the panel considers relevant:

- (b) may consider any policy statement or management plan of the Crown (other than a statement or plan referred to in **paragraph (a)(iv)**.

5 Section 61B(2) of Crown Minerals Act 1991 disappplied

- (1) ~~Section 61B(2) of the Crown Minerals Act 1991 does not apply and **sub-clause (2)** applies instead.~~ 5
- (2) ~~In considering whether to agree to an access arrangement in respect of Crown land for the purpose described in section 61B(1) of the Crown Minerals Act 1991, the appropriate Minister—~~
- (a) ~~must have regard to the objectives of any Act under which the land is administered; and~~ 10
- (b) ~~must have regard to any purpose for which the land is held by the Crown; and~~
- (c) ~~may consider any policy statement or management plan of the Crown in relation to the land; and~~
- (d) ~~must have regard to any safeguards against potential adverse effects of carrying out the proposed programme of work; and~~ 15
- (e) ~~must have regard to the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and~~
- (f) ~~must have regard to any other matters that the Minister or the appropriate Minister or both (as the case requires) considers relevant.~~ 20

5 Conditions

On granting an application for an access arrangement referred to in **section 24C(3)(i) or (j)**, the panel may impose conditions as provided in section 60 (other than section 60(1)(h)) of the Crown Minerals Act 1991. 25

6 No public notification required

- (1) ~~No public notification of an application under section 61 or 61B of the Crown Minerals Act 1991 is required and section 61C of that Act does not apply.~~
- (2) ~~For the purposes of this schedule the Minister responsible for Energy and Resources is a joint Minister.~~ 30

7 Avoidance of duplication of work

~~A responsible agency is not required to undertake any activity for the purpose of enabling the Minister or the appropriate Minister or both (as the case requires) to decide whether to agree to an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 in relation to a proposed listed project or a proposed referred project, if it or another responsible agency has undertaken the same or substantially the same activity in relation to a different consent or authority sought under this Act for the same project.~~ 35

8 ~~Powers of Minister and appropriate Minister may be exercised by joint Ministers~~

~~If an application to which this schedule applies is included in an application under **section 14** the powers ordinarily exercisable under this Act by the Minister or appropriate Minister may instead be exercised by the joint Ministers or (to the extent applicable) a panel, within the meaning of this Act.~~

9 Status of access arrangement and variation of access arrangement

- (1) An access arrangement referred to in **section 24C(3)(i)** and granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were an access arrangement granted under section 61 of the Crown Minerals Act 1991.
- (2) An application for a variation to an access arrangement referred to in **sub-clause (1)** must be determined under the Crown Minerals Act 1991, but—

 - (a) section 61C of that Act does not apply; and
 - (b) **sections 24M and 24N** apply with all necessary modifications as if—

 - (i) references in **sections 24M and 24N** to the panel were references to the appropriate Minister; and
 - (ii) references in **section 24N** to the EPA were references to the Minister of Conservation.
- (3) However, instead of section 61(2) of that Act, **clause 3A** (and any provisions referred to in that clause) applies with any necessary modifications as if the references in that clause to the panel were references to the appropriate Minister or, as the case may be, the Minister and the appropriate Minister.
- (4) An access arrangement referred to in **section 24C(3)(j)** and granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were an access arrangement granted under section 61B of the Crown Minerals Act 1991.
- (5) An application for a variation to an access arrangement referred to in **sub-clause (4)** must be determined under the Crown Minerals Act 1991.
- (6) However, instead of section 61B(2) of that Act, **clause 4A** (and any provisions referred to in that clause) applies with any necessary modifications as if the references in that clause to the panel were references to the appropriate Minister.
- (7) To avoid doubt, any land to which access is granted by an access arrangement referred to in this clause is, while that arrangement is in force, not subject to any conservation management strategy, conservation management plan, statement of general policy, or freshwater fisheries management plan of the Crown.
- (8) The Minister, local authority or other person or body (as applicable) must give effect to a decision of a panel about an access arrangement or a variation to an access arrangement.

(9) In this clause,—

- (a) **appropriate Minister** has the meaning given in section 2A of the Crown Minerals Act 1991;
- (b) **Minister** has the meaning given in section 2(1) of the Crown Minerals Act 1991.

5

Schedule 11

Modifications to process under Public Works Act 1981 to take or deal with land

~~ss 45, s 30(2) 30A~~

- | | | |
|----------|--|----------------------------------|
| 1 | Interpretation
In this schedule,—
court means the Environment Court
land has the meaning given to it in section 2 of the Public Works Act 1981. | 5 |
| 2 | Application of this schedule
This schedule applies if— <ul style="list-style-type: none"> (a) a process is being conducted under the Public Works Act 1981 to acquire land that is part of a project being dealt with using the fast-track approvals process; and (b) the project has been referred to a panel; and (c) a person has objected to the taking of the land to the court under section 23 of the Public Works Act 1981. | 10

15 |
| 3 | Court may accept determination of Ministers about consideration of alternative sites, etc
(1) The court may, whether or not the parties consent, accept any determination of joint Ministers under section 25 that relates to the matters in clause 36(4)(a) of Schedule 4.
(2) Without limiting subclause (1), the court may consider any material new evidence relating to the matter described in clause 36(4)(a) of Schedule 4 that is provided to the court. | 20

20 |
| 3 | <u>Court must accept determination of panel about consideration of alternative sites, etc</u>
<u>(1) The court must, whether or not the parties consent, accept any determination of a panel that relates to the matters in section 168A(3)(b) or 171(1)(b) of the Resource Management Act 1991 when making the enquiries required under section 24(7)(b) of the Public Works Act 1981.</u>
<u>(2) Despite subclause (1), the court may consider any material new evidence relating to the matters in section 24(7)(b) of the Public Works Act 1981 that is provided to the court.</u> | 25

30 |

Schedule 12

Process under Fisheries Act 1996

ss 40, 30(4)

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 1	 Application	
	This schedule applies if an application under section 14 to use a fast track consenting process —	5
	(a) indicates that an application is required under the RMA for a coastal permit (or any associated notice of requirement) to undertake aquaculture activities; and	
	(b) an application is made under clause 2 of Schedule 4 ; and	10
	(c) clause 26 of Schedule 4 applies.	
 2	 Obligations of the panel	
(1)	The panel must within 3 working days of receiving the application, and at least 2 working days before inviting written comments, request the chief executive of Ministry for Primary Industries (the chief executive) to make a recommendation on the aquaculture decision to be made.	15

- (2) ~~If the panel sends 2 or more requests to the chief executive at the same time, the panel must indicate to the chief executive, the time at which the respective applications were received.~~
- (3) ~~The panel must, before it makes a request under **subclause (1)**, lodge an aquaculture agreement that is relevant to the application in question with the chief executive.~~ 5
- 3 Applicant may request suspension of processes**
- (1) ~~The applicant for a coastal permit to undertake aquaculture activities may request the EPA in writing to ask the panel to suspend processing the application for consent (or any associated notice of requirement) for the purposes of negotiating an aquaculture agreement.~~ 10
- (2) ~~Any request under **subclause (1)** must be made to the EPA, before the panel makes a request to the chief executive under **clause 2(1)**.~~
- 4 Section 186C and subpart 1 of Part 9A of Fisheries Act to apply**
- ~~Section 186C and subpart 1 of Part 9A of the Fisheries Act 1996 apply to an application to which this schedule applies (including an application under **clause 3(1)**), with any modifications necessary to give effect to —~~ 15
- (a) ~~the obligations of the panel under this schedule;~~
- (b) ~~the obligations of the chief executive under this schedule to make a recommendation or updated recommendation on the aquaculture decision in question.~~ 20
- 5 Consultation and seeking information by chief executive**
- ~~If the chief executive, under section 186D of the Fisheries Act 1996, seeks information or consults certain persons for the purpose of making a recommendation on an aquaculture decision to be made under this Act, —~~ 25
- (a) ~~the chief executive must do so at the same time that the panel seeks written comments on the application; and~~
- (b) ~~the information must be provided to the chief executive within 10 working days of the chief executive's request.~~
- 6 Priority of requests** 30
- ~~The chief executive must give higher priority to processing a request made by a panel under **clause 2(1)**, than a request made as a consequence of consents granted under the RMA but not as a result of a fast track approvals process.~~
- 7 Panel's recommendations to joint Ministers**
- ~~When the panel makes a recommendation to joint Ministers on whether to grant or decline to grant a marine consent in respect of aquaculture activities, it must (irrespective of whether it follows the recommendations of the chief executive) include with the panel's recommendations —~~ 35

- ~~(a) the recommendation of the chief executive; and~~
- ~~(b) any comments that the panel has on that recommendation.~~

8 ~~Changes to scope of application during panel consideration process~~

- ~~(1) This clause applies if, during the panel's consideration of the application, the proposed area for the aquaculture activities or the proposed physical structures used for those activities materially alter.~~ 5
- ~~(2) If this clause applies the panel may request the chief executive to provide an updated recommendation on whether the application for a marine consent should be granted.~~
- ~~(3) If the panel makes a request under **subclause (2)**, the chief executive must provide the panel with an updated recommendation within 5 working days.~~ 10

9 ~~Responsibilities of joint Ministers~~

- ~~(1) If the joint Ministers decide to grant a marine consent for an aquaculture activity, the joint Ministers must also make any further decisions required to be made under the Fisheries Act 1996 in respect of that activity.~~ 15
- ~~(2) The joint Ministers may make different decisions than the decision recommended by either —~~
 - ~~(a) the panel; or~~
 - ~~(b) the chief executive.~~

10 ~~Changes to scope of application during consideration by joint Ministers~~ 20

- ~~(1) This clause applies if, during the panel's consideration of the application, the proposed area for the aquaculture activities or the proposed physical structures for those activities materially alters.~~
- ~~(2) If this clause applies the joint Ministers may request the chief executive to provide an updated recommendation on whether the application for a marine consent should be granted.~~ 25
- ~~(3) If the joint Ministers make a request under **subclause (2)**, the chief executive must provide the joint Ministers with an updated recommendation within 5 working days.~~

11 ~~Subpart 4 of Part 9A of Fisheries Act applies with necessary modifications~~ 30

~~Subpart 4 of Part 9A of the Fisheries Act 1996 applies in relation to the decision-making process by joint Ministers in respect of applications to which this schedule applies with any necessary modifications.~~

-
- 12 ~~Fisheries (Aquaculture Compensation Methodology) Regulations 2012 apply with necessary modifications~~**
- ~~The Fisheries (Aquaculture Compensation Methodology) Regulations 2012 apply in relation to decisions by joint Ministers in respect of applications to which this schedule applies, with any necessary modifications.~~ 5
- 13 ~~Section 116A of Fisheries Act 1996 applies in respect of commencement of marine consents~~**
- ~~Section 116A of the Fisheries Act 1996 applies in respect of the commencement of marine consents for aquaculture activities granted by joint Ministers in response to applications to which this schedule applies, with any necessary modifications.~~ 10
- 14 ~~Recovery of costs~~**
- ~~The chief executive may recover from applicants for marine consents for aquaculture activities to which this schedule applies, the costs incurred by their department and any other agency in providing recommendations in response to requests from the panel or joint Ministers.~~ 15

Schedule 13

Amendments to other legislation

ss 30(4), s 32

Environment Act 1986 (1986 No 127)

In the Schedule, insert in its appropriate alphabetical order:

5

Fast-track Approvals Act 2024

Environmental Protection Authority Act 2011 (2011 No 14)

In section 5, definition of **environmental Act**, replace paragraph (ca) with:

(ca) the Fast-track Approvals Act **2024**:

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)

10

~~Replace section 5(2)(c) with:~~

- (e) ~~continues to prohibit the modification or destruction of an archaeological site unless an authority for the modification or destruction is obtained —~~
- (i) ~~from Heritage New Zealand Pouhere Taonga under this Act; or~~
- (ii) ~~from the joint Ministers under the Fast track Approvals Act 2024;~~
- ~~and~~

15

~~In section 6, replace the definition of **authority** with:~~

~~**authority** means an authority to undertake an activity that will or may modify or destroy 1 or more archaeological sites granted by —~~

- (a) ~~Heritage New Zealand Pouhere Taonga under section 48, 56, or 62; or~~
- (b) ~~the joint Ministers under the Fast track Approvals Act 2024~~

20

~~In section 6, insert in its appropriate alphabetical order:~~

~~**joint Ministers** has the meaning given in **section 4(1)** of the Fast track Approvals Act 2024~~

In section 23, replace “or the Crown Entities Act 2004” with “, the Crown Entities Act 2004, or the Fast-track Approvals Act **2024**”.

25

~~Replace section 42(1) with:~~

- (1) ~~No person may modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site if that person knows, or ought reasonably to have suspected, that the site is an archaeological site.~~

30

(1A) ~~**Subsection (1)** does not apply if —~~

- (a) ~~an authority is granted under section 48, 56(1)(b), or 62 in respect of the archaeological site; or~~
- (b) ~~an authority is granted under the Fast track Approvals Act 2024 in respect of the archaeological site.~~

35

Ngāti Rangi Claims Settlement Act 2019 (2019 No 40)

In Schedule 5, after clause 1(b), insert:

(ba) Fast-track Approvals Act **2024**:

Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato-~~River~~ River Act 2010 (2010 No 119)

5

After section 18(4)(b), insert:

(ba) Fast-track Approvals Act **2024**:

Official Information Act 1982 (1982 No 156)

In Schedule 1, insert in its appropriate alphabetical order:

Panel convener and panels appointed under the Fast-track Approvals Act **2024**

10

Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7)

In Schedule 2, after clause 1(b), insert:

(ba) Fast-track Approvals Act **2024**:

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)

15

After section 17(4)(a), insert:

(aa) Fast-track Approvals Act **2024**:

Legislative history

7 March 2024

Introduction (Bill 31–1), first reading and referral to Environment Committee