

# **Resource Legislation Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

#### **Introduction**

The overarching purpose of the Resource Legislation Amendment Bill (the **Bill**) is to create a resource management system that achieves the sustainable management of natural and physical resources in an efficient and equitable way.

Sitting beneath this overarching purpose are 3 main objectives. Specifically, the Bill seeks to achieve—

- better alignment and integration across the resource management system, so that—
  - duplication within the system is reduced and legislative frameworks are consistent internally and with each other; and
  - the tools under the resource management legislation are fit for purpose; and
  - resource management legislation is implemented in a consistent way and the hierarchy of planning documents is better aligned:
- proportional and adaptable resource management processes, so that—
  - there is increased flexibility and adaptability of processes and decision makers; and
  - processes and costs are able to be scaled, where necessary, to reflect specific circumstances:
- robust and durable resource management decisions, so that—
  - there is high value participation and engagement, including from iwi and hapū, in resource management processes; and

- decision makers have the evidence, capability, and capacity to make high quality decisions and accountabilities are clear; and
- engagement is focussed on upfront planning decisions rather than individual consent decisions.

The principal proposed amendments are to the Resource Management Act 1991 (**RMA**), the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (**EEZ Act**), and the Environmental Protection Authority Act 2011 (**EPA Act**). The Bill would also amend the Conservation Act 1987 (**Conservation Act**), the Reserves Act 1977 (**Reserves Act**), and the Public Works Act 1981 (**PWA**).

### Proposals

The current package of resource management reform proposals comprises over 40 individual proposals aimed at delivering substantive, system-wide improvements to the resource management system.

#### *National direction*

While resource management legislation is largely implemented by local government, central government can provide national direction in several ways. Specific tools to provide national direction include National Policy Statements (**NPSs**) and National Environmental Standards (**NESs**), regulations, the exercise of Ministerial intervention powers, the use of special legislation, and amendments to the purpose and principles, or the statutory functions and powers of decision makers, in resource management legislation.

The Bill seeks to—

- sharpen processes for developing NPSs and NESs under the RMA to address current limitations on the (joint) development of these tools and broaden what they can provide for:
- introduce a new regulation-making power in the RMA to permit specified land uses so as to avoid unreasonable restrictions on land and prohibit and remove council planning provisions that duplicate the functions in, or have the effect of overriding, other legislation or impose unnecessary restrictions on land use for residential development:
- introduce provisions in the EEZ Act for a tool to allow the Government to propose national direction to support decision making on applications for marine consents:
- enable the development of a national planning template to improve the consistency of RMA plans and policy statements, reduce complexity, and improve the clarity and user-friendliness of plans:
- better manage risks from natural hazards in New Zealand by including “the management of significant risks from natural hazards” as a new matter of national importance in section 6 of the RMA. This change also supports changes

to section 106 regarding consideration of risks from all natural hazards in subdivision consents:

- amend sections 30 and 31 of the RMA to make it a function of regional councils and territorial authorities to ensure sufficient residential and business development capacity to meet long-term demand. This is designed to enable better provision of residential and business development capacity, and therefore improved housing affordability outcomes:
- remove the explicit function of regional councils and territorial authorities to manage hazardous substances. This is designed to remove duplication between the RMA and the Hazardous Substances and New Organisms Act 1996.

### *Plan making*

The RMA requires councils to develop regional policy statements, district and regional plans that explain how the council will manage the environment. Plans contain objectives, policies, and rules that address land use, subdivision, air quality, coastal, and other resource management issues within the region or district. The RMA sets out a process for preparing or changing a regional policy statement or plan, which allows for public input at different stages. However, current plan-making processes are often litigious and costly. The length of time taken to develop a new plan and resolve any appeals (approximately 6 years) means that plans lack agility and are not able to be responsive to urgent issues. A significant amount of the time taken for plans to become operative has been spent resolving appeals in the Environment Court.

The Bill proposes changes to the current plan-making process to enable a more efficient, flexible, and proportionate plan change process. The Bill also introduces 2 new planning tracks for councils, namely, the streamlined planning process and the collaborative planning process.

The streamlined planning process will provide for more flexibility in planning processes and time frames and allow these to be tailored to specific issues and circumstances. The collaborative planning process encourages greater front-end public engagement, which will produce plans that better reflect community values and will thereby reduce litigation costs and lengthy delays.

The Bill also seeks to place a statutory obligation on councils to invite iwi to form an iwi participation arrangement that will establish the engagement expectations when consulting during the early stages of the Schedule 1 plan making processes. This proposal aims to improve consistency in iwi engagement in plan development.

### *Consenting*

Council plans set out all the rules and conditions for different types of activities within their area. The process that a consent authority must follow in coming to a decision on a consent application can involve a decision on whether to notify the application, an officer's report, a hearing, and, if the resource consent is granted, the setting of consent conditions.

The Bill introduces greater proportionality into the process of obtaining resource consents by introducing a 10-working-day time limit for determining simple applications (fast-track applications) and allowing councils to treat certain activities as permitted.

The Bill also aims to make consent processes more simple and efficient by identifying the parties eligible to be notified of different types of applications. In particular, the Bill refines the notification regime and introduces limits to the scope and content of submissions and subsequent appeals.

The Bill removes the presumption under section 11 of the RMA that requires subdivision to be expressly provided for in plans and makes changes that clarify the scope of conditions that may be placed on resource consents.

To increase certainty for applicants, the Bill proposes a regulation-making power that requires consent authorities to fix the fees for processing certain consent applications and hearings, and the remuneration for hearings panels.

#### *Courts and appeals*

Making decisions on plans and resource consents is usually the responsibility of consent authorities. If an applicant disagrees with a decision made by a consent authority, they can either make a formal objection to the decision, or lodge an appeal. When a decision is appealed, the appeal is heard and decided on by the Environment Court.

The Bill introduces a number of improvements to Environment Court processes to support the efficient and speedy resolution of appeals. It also enables applicants to request that their objections to a council's decision be heard by an independent commissioner rather than by the council.

The Bill also provides the Environment Court with the new ability to direct councils to acquire land (where planning provisions have rendered land incapable of reasonable use and placed an unfair and unreasonable burden on the landowner) as an alternative to the existing approach of amending planning provisions.

#### *Process alignment*

Measures are proposed to reduce overlaps and duplications between various statutes within the resource management system. While not all overlaps or duplications are undesirable, in some cases changes to the legislation have been made to improve alignment and to provide greater efficiencies where a particular activity triggers more than 1 piece of resource management legislation. These include—

- an optional joint process of public notification, hearings, and decisions for proposals that involve publicly notified plan changes or resource consents under the RMA and recreation reserve exchanges under the Reserves Act. This process would be particularly beneficial to facilitate urban redevelopment projects;
- alignment of the notified concessions process under the Conservation Act with notified resource consents under the RMA. These changes to the Conservation

Act will bring concessions processes and time frames in line with resource consent processes:

- alignment of the processing of certain notified discretionary marine consents under the EEZ Act with the board of inquiry process for nationally significant proposals under the RMA. Greater consistency between the EEZ Act and the RMA will enable the Environmental Protection Authority (**EPA**) to make efficiency gains by standardising business processes.

### *Process improvement*

The Bill makes several process improvements. The proposals described do not relate to a particular part of the resource management system. Some proposals apply to all decision makers under the RMA, whereas others apply to specific decision-making bodies such as councils, boards of inquiry, or the EPA.

The Bill ensures that servicing of documents to parties via online platforms will occur more often. Where a document has been provided electronically, a hard copy version will not be required unless specifically requested or required by a court. It also requires all RMA public notices to be written clearly and concisely and be made publicly accessible on an Internet site. Only summaries of public notices will be required to be published in newspapers. This will reduce end user costs and align RMA processes with changing social and technological preferences.

The Bill enables regulations to be made to prescribe how councils undertake monitoring, including what information must be collected, what methodologies must be used, and how these would be reported. This will lead to standardised information collation, which will better facilitate council comparisons and improve the quality and consistency of the information that the Ministry for the Environment receives from councils.

Amendments are proposed to reduce board of inquiry cost and complexity, which include incorporating electronic provision of information in the process, requiring boards to have regard to cost effectiveness, and changing the composition of boards to improve their efficiency. The Bill also enables the EPA to provide secretarial and support services to decision makers appointed under any Act that amends or overrides RMA processes where major hearings are held. Where necessary, the EEZ Act will also be amended to reflect these proposed changes.

In addition, the Bill introduces new requirements in Part 3 of the RMA to ensure decision makers apply procedural principles to minimise the costs of implementing RMA processes. The Bill simplifies charging regimes for new developments by removing financial contributions from the RMA. It also removes the ability for heritage protection authorities that are bodies corporate to give notice of a heritage order over private land, and allows for ministerial transfer of heritage orders.

The Bill introduces provisions in the EEZ Act to provide for decommissioning structures once they reach the end of their productive life. This includes a requirement that owners or operators must prepare a decommissioning plan in accordance with requirements set out in regulations.

The Bill makes other changes to the EEZ Act to ensure that it can be implemented effectively and efficiently, including amendments to transitional provisions and enforcement provisions.

#### *Minor fixes*

Finally, there are minor or technical amendments that are sought to some parts of existing legislation to either improve an existing resource management process or to address an unintended consequence. These include—

- providing for equality of treatment of those who take water for stock drinking purposes:
- giving regional councils the discretion to remove abandoned coastal structures:
- creating a new regulation-making power to require stock to be excluded from water bodies:
- removing redundant provisions on water quality classes from the RMA, as this has been superseded by a national objectives framework in the 2014 National Policy Statement for Freshwater Management:
- making minor and technical amendments to provide clarity and improve the workability of the EEZ Act.

#### **Amendments to Public Works Act 1981**

The amendments to the PWA are intended to make the land acquisition process and compensation fairer and more efficient by—

- giving incentives for landowners to enter into agreements with the Crown more readily by increasing (to up to \$50,000) the non-land-related compensation for landowners whose home is acquired under the PWA and by introducing new compensation (of up to \$25,000) for landowners whose land, but not their home, is acquired. These amounts, which are in addition to valuation-based compensation under the PWA, will be able to be adjusted by Order in Council:
- enabling the Minister for Land Information to delegate an administrative function to the chief executive of Land Information New Zealand:
- aligning the objections process for land acquisition cases under the PWA with that which operates under the RMA.

#### **Departmental disclosure statement**

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=101>

### Regulatory impact statement

The Ministry for the Environment produced regulatory impact statements on 28 October 2015 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <http://www.mfe.govt.nz/more/cabinet-papers-and-related-material-search/regulatory-impact-statements/rlab>
- <http://www.mfe.govt.nz/more/cabinet-papers-and-related-material-search/regulatory-impact-statements/rlab-eez>
- <http://www.mfe.govt.nz/more/cabinet-papers-and-related-material-search/regulatory-impact-statements/rlab-align>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It sets out the provisions of the Bill that have a delayed commencement as follows:

- the provisions of *subpart 2 of Part 1* (amendments to the RMA) and of *Part 4* (amendments to the Conservation Act 1987) commence on the day that is 6 months after the date on which the Bill receives the Royal assent:
- the provisions of *subpart 3 of Part 1* (amendments to the RMA relating to financial contributions) come into force on the day that is 5 years after the date on which the Bill receives the Royal assent:
- all other provisions in the Bill, namely *subpart 1 of Part 1, and Parts 2, 3, and 5* and their related schedules, come into force on the day after the date on which the Bill receives the Royal assent.

## Part 1

### Amendments to Resource Management Act 1991

*Clause 3* provides that *Part 1* amends the Resource Management Act 1991 (the **principal Act**).

#### Subpart 1—Amendments that commence day after Royal assent

##### *Amendments to Part 1 of principal Act*

*Clause 4* amends section 2, which is an interpretation provision. New terms defined include collaborative planning process, development capacity, iwi participation arrangement, iwi participation legislation, and national planning template.

### *Amendments to Part 2 of principal Act*

*Clause 5* inserts in section 6 a new matter of national importance, the management of significant risks from natural hazards.

### *Amendments to Part 3 of principal Act*

*Clause 6* expands the powers under section 12 to enable regional councils to remove structures from the common marine and coastal area, in compliance with the Marine and Coastal Area (Takutai Moana) Act 2011 (see amendments to that Act in *Schedule 3*).

*Clause 7* amends section 14 to clarify that the relevant exemption applies to a body corporate and not only to an individual.

*Clause 8* inserts *new section 18A* to provide for certain procedural principles to apply to all persons exercising powers or performing functions under the RMA.

### *Amendments to Part 4 of principal Act*

*Clauses 9 and 10* provide for ministerial functions in relation to the national planning template (see *new sections 58B to 58J*).

*Clause 11* amends the functions of regional councils under the RMA (section 30) to include measures intended to ensure that there is sufficient development capacity in relation to residential and business land. The term development capacity is defined as the capacity of such land for development that will meet the long-term development needs of the region, taking into account factors such as zoning, the availability of adequate infrastructure, and constraints on development. The amendment also removes obligations on regional councils in relation to hazardous substances.

*Clause 12* amends the functions of territorial authorities under the RMA (section 31) to provide for measures relating to the development capacity of residential and business land to meet the long-term needs of the district. It also removes obligations on territorial authorities in relation to hazardous substances.

*Clause 13* amends section 32 by inserting *new subsection (4A)*, which requires evaluation reports to summarise all advice received from iwi authorities under Schedule 1 and the responses to this advice.

*Clauses 14 and 15* include the national planning template among obligations on local authorities in relation to preparing and publishing evaluation reports under sections 32 to 32A.

*Clause 16* inserts *new section 34A(1A)* to require local authorities to consult tangata whenua, through relevant iwi authorities, on the appointment of hearings commissioners with an understanding of tikanga Māori and of the perspectives of local iwi and hapū for the purpose of hearings under Part 1 of Schedule 1. If the local authority considers that it is appropriate, the local authority must make at least 1 such appointment in consultation with the relevant iwi authorities.

*Clause 17* inserts *new section 34B*, which provides for a consent authority to fix the fees payable to a hearings commissioner for hearing and deciding a matter in the



event of that matter being delegated to a hearings commissioner: for example, hearing and deciding a consent application (whether or not the delegation is the result of a request under section 100A) or hearing and deciding certain objections (whether or not the delegation is mandatory under *new section 357AB* as inserted by *clause 144*). A consent authority must fix a fee under *new section 34B* if required to do by regulations made under *new section 360E* (inserted by *clause 105*), and must publish its fixed fees on an Internet site to which the public has free access.

*Clause 18* amends section 35 to require local authorities to monitor additional matters: the efficiency and effectiveness of the processes used by local authorities in exercising their powers and performing their functions and duties, as well as the overall satisfaction of those in respect of whom the powers are exercised and the functions and duties are performed.

*Clause 19* amends section 35A, which relates to a local authority's duty to keep records about iwi and hapū within its region or district, to include iwi participation arrangements entered into under *new section 58L* (as inserted by *clause 38*).

*Clauses 20 and 21*: section 36 of the principal Act authorises local authorities to fix administrative charges. To improve readability, the information in section 36 (apart from the list of charges in section 36(1)) is reorganised into *new section 36(2) to (8)* (inserted by *clause 20*) and *new sections 36AAA and 36AAB* (inserted by *clause 21*). The substantive differences between existing section 36 and the new provisions are as follows:

- a new kind of administrative charge is authorised by *new section 36(1)(cc)*:
- *new section 36(4)* requires local authorities to fix certain charges relating to resource consents if required to do by regulations made under *new section 360E* (inserted by *clause 105*):
- *new section 36AAA(5)* provides that if a local authority fixes a charge under section 36 that includes a component payable to a hearings commissioner for hearing and deciding a matter (for example, a consent application or an objection), the amount of that component must match the amount of the hearings commissioner fee fixed by the local authority under *new section 34B* (inserted by *clause 17*), if the local authority has fixed a fee under that section:
- *new section 36AAB* requires a local authority to publish its fixed charges on an Internet site to which the public has free access.

#### *Amendments to Part 4A of principal Act*

*Clause 22* amends section 42C, which sets out the functions of the EPA as follows:

- *new section 42C(daa)* specifies that one of the EPA's functions is to provide planning advice to a board of inquiry:
- *new section 42C(dab)* enables the EPA to provide secretarial and support services to a person who is appointed under another Act to make a decision that requires the application of provisions of the RMA. The EPA may provide these services only if the Minister asks it to do so:

- *new section 42C(dac)* enables the EPA, if requested by the Minister, to provide advice and administrative support in relation to the Minister’s functions under the streamlined planning process.

*Clause 23* inserts *new section 42CA*, which enables the EPA to recover costs incurred in providing services under *new section 42C(dab)* (inserted by *clause 22*).

#### *Amendments to Part 5 of principal Act*

*Clauses 24 to 61* amend Part 5 to include new material on NESs, NPSs, the NPT, iwi participation arrangements, the collaborative planning process, and the streamlined planning process. The amendments to Part 5 also include an alternative remedy for landowners affected by provisions that render their land incapable of reasonable use and place an unfair or unreasonable burden on them. Some clauses also introduce new subpart headings and cross-headings to clarify the expanded structure of Part 5.

Under the new subpart heading “National instruments” (*clause 24*), *clauses 25 to 36* amend provisions relating to NESs, NPSs, and the New Zealand coastal policy statements (NZCPS), as follows:

- *clause 25* amends section 43 to empower the making of regulations prescribing NESs to be made generally, or to relate to a specified district or region or to another specified part of New Zealand (but *see* the qualification in *clause 28*, which amends section 44):
- *clause 26* amends section 43A to include the right to charge for monitoring permitted activities specified by the standard and to provide direction as to how functions are to be performed by consent authorities to achieve the standard:
- *clause 27* amends section 43B to clarify that a rule or resource consent that is more lenient than an NES prevails over the standard, if that is permitted within the standard:
- *clause 28* amends section 44 to clarify how the power to limit the application of an NES applies:
- *clause 29* inserts *new section 45A*, setting out the contents of NPSs. The only mandatory element is the current requirement to provide objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA; any further matters are discretionary and allow an NPS to require specific methods and monitoring requirements. NPSs may apply generally or only to a particular region, district, or other specified part of New Zealand:
- *clauses 30 to 32* make amendments to sections 46A, 48, and 52 respectively to provide for the situation where an NPS applies only to a specified area:
- *clause 33* amends section 55 to clarify the directive nature of NPSs:
- *clause 34* inserts *new section 55A* to provide that a combined process may be used to prepare an NES and an NPS:

- *clauses 35 and 36* amend provisions relating to NZCPSs to include objectives. As in the other national instruments, provision is made for the instrument, or any of its provisions, to apply generally within, or to a specified part of, the coastal environment.

*Clause 37* inserts a new cross-heading “National planning template” and *new sections 58B to 58J*, which provide for this new instrument.

*New section 58B* states that the purpose of the NPT is to assist with achieving the purpose of the RMA. To that end, the NPT must set out requirements or other provisions relating to any aspect of the structure, format, or content of regional policy statements and plans to address matters that the Minister considers are nationally significant or require national consistency. By virtue of section 43AA, this section applies to regional policy statements, regional plans, and district plans.

*New section 58C* relates to the contents of the NPT, which may specify—

- the structure and form of regional policy statements and plans:
- the *new section 45A(2) and (4)* matters:
- objectives, policies, or methods (including rules) that must or may be included in plans:
- objectives, policies, or methods (but not rules) that must or may be included in regional policy statements.

*New section 58D* provides that if the Minister decides to prepare an NPT, the requirements of that section and *new sections 58E to 58J* apply. Matters to which the Minister may have regard are also listed. The required process includes the preparation of a draft and an evaluation report and a public consultation process.

*New section 58E* provides for the Minister (and the Minister of Conservation in relation to a regional coastal plan) to approve the NPT after considering the evaluation report and recommendations received under *new section 58D*. The Minister must carry out a section 32AA evaluation. The Minister and the Minister of Conservation may approve their respective parts of the template, with or without changes, or may withdraw their respective parts. Notice of approval must be given in the *Gazette*.

The approval of the NPT must be publicly notified as the Minister thinks fit (*new section 58F*). The NPT, the report, and any recommendations made under *new section 58D* must be published on an Internet site to which the public has free access.

*New section 58G* sets out the procedure for changing or revoking the NPT.

*New section 58H* provides for each local authority to recognise the NPT by amending its plans and policy statements as directed by the NPT.

*New section 58I* requires the first NPT to be in place within 2 years after the date on which this Bill receives the Royal assent. An NPT must be in force at all times after that.

*New section 58J* requires every local authority, not later than 1 year after the approval of the NPT, to make the applicable operative and proposed plans and policy statements available on an Internet site to which the public has free access.

*Clause 38* inserts a subpart heading “Iwi participation arrangements”, *new sections 58K to 58P*, and a new subpart heading for local authority policy statements and plans.

*New section 58K* states that the purpose of this subpart is to provide for local authorities and iwi authorities to discuss, agree, and record how tangata whenua, through iwi authorities, are to participate in the plan-making processes under Schedule 1.

*New section 58L* requires local authorities to invite iwi authorities representing the tangata whenua of a region or district to enter into 1 or more iwi participation arrangements. This requirement is triggered by a triennial general election held under section 10 of the Local Electoral Act 2001. The invitation must be given not later than 30 working days after the date of the relevant triggering event.

*New section 58M* sets out the required content of iwi participation arrangements, including—

- how an iwi authority party may participate in the preparation or change of a policy statement or plan;
- how the parties will give effect to the requirements of any provision of any iwi participation legislation.

*New section 58N* sets out a 6-month time frame for concluding an iwi participation arrangement, after which the local authority must offer a mediation process, although an iwi authority is not compelled to enter a mediation process. No mediated agreement may include a provision requiring the local authority to suspend its planning process.

*New section 58O* provides for the Minister to provide assistance, on request, to the parties to enable them to conclude an iwi participation arrangement.

*New section 58P* provides that any relevant iwi participation legislation prevails over an iwi participation arrangement.

*Clauses 39 to 47* make technical amendments to sections 61, 62, 65 to 67, and 73 to 75 to include references to the NPT and to remove the requirement for a local authority to specify, in a regional policy statement, objectives, policies, and methods for the control of land to prevent or mitigate the adverse effects of hazardous substances.

*Clause 44* amends section 69 to exclude the application of Schedule 3 of the RMA to fresh water. This change aligns the Act with the implementation of the national objectives framework.

*Clause 48* repeals a cross-heading above section 78.

*Clauses 49 and 50* insert cross-headings above sections 79 and 80.

*Clause 51* amends section 80 to clarify that when preparing a combined document, the local authorities concerned must apply the requirements of Part 5, and if the com-

bined document includes a proposed regional policy statement, the local authorities concerned may give effect to the proposed policy statement that is part of the combined document and have regard to the operative policy statement.

*Clause 52* inserts 2 new subparts, *new subpart 4* and *new subpart 5*, and a *new subpart 6 heading* as follows:

- *new subpart 4*, comprising *new section 80A*, gives an overview of the collaborative planning process, the details of which are contained in *new Part 4* of Schedule 1; and
- *new subpart 5*, comprising *new sections 80B and 80C*, sets out the purpose and scope of the new streamlined planning process. The process requires a local authority to apply to the Minister (or in the case of a regional coastal plan, to the Minister of Conservation or to both Ministers where the planning is to encompass matters within the jurisdiction of both Ministers) for a direction to use this process. *New section 80C* sets out criteria that must be satisfied before the streamlined planning process may be used. Application must be made first under *new subpart 5* before a local authority gives notice under clause 5 or *new clause 5A* of Schedule 1 or *new Part 4* of Schedule 1.

*Clause 53* amends section 82 to apply the dispute provisions in that section to the NPT.

*Clause 54* amends section 85. *Subclause (1)* amends the heading to make it consistent with the discretion conferred on a local authority to acquire private land in certain circumstances; *subclause (2)* removes the restriction to the process under Part 1 of Schedule 1. *New subsection (3)* provides that the discretion applies in the case of an application to change a plan or proposed plan under Part 2 of Schedule 1 or on an appeal in relation to a provision of a proposed plan or plan change. *New subsection (3A)* empowers the Environment Court, if satisfied that both grounds in *new subsection (3B)* are met, to direct the relevant local authority to do 1 or other of the following, as the local authority considers appropriate (other than in respect of a regional coastal plan or proposed regional coastal plan):

- to modify, delete, or replace the relevant provision as the court specifies; or
- with the agreement of the person whose estate or interest is affected, to acquire the land under the PWA.

In the case of a proposed or operative regional coastal plan (*see new subsection (3A)(b)*), the court may report its findings to the applicant, the relevant regional council, and the Minister of Conservation and direct the regional council to modify, delete, or replace the relevant provision of the plan.

*New subsection (3B)* provides the grounds for determining a challenge, namely that the provision concerned—

- renders land incapable of reasonable use; and
- places an unfair and unreasonable burden on the person with an estate or interest in the land.

Before making a determination under *new subsection (3A)*, the court must have regard (*see new subsection (3C)*) to—

- Part 3 of the RMA (including the effect of section 9(3) which limits the use of land; and
- the effect of section 85(1) (which deems an interest in land not to be taken or injuriously affected by a provision in a plan unless provided for by the RMA).

*New subsection (3D)* provides that the discretion to order compulsory acquisition is not available unless—

- the owner of the land (or the owner's spouse, civil union partner, or de facto partner) had acquired the estate or interest in the land before the date when the relevant provision was first publicly notified (or otherwise included in the relevant plan); and
- the provision remained in substantially the same form as when it was first included in a proposed plan or change to a plan; and
- the owner's consent to compulsory purchase has been obtained.

*New subsections (4) and (5)* confirm the application in section 85 of clause 15 of Schedule 1 (which relates to hearings by the Environment Court).

Section 85, as amended by *clause 54*, does not apply if a challenge is made against a provision prior to the commencement of this clause (*see new clause 12(2)(c)* of Schedule 12 as inserted by *clause 110*).

*Clause 55* amends section 86 to reflect the new mechanism introduced by *new section 85(3)(a)(ii)*.

*Clause 56* replaces the cross-heading above section 86A with a subpart heading.

*Clauses 57 to 61* consequentially amend sections 86A, 86B, 86D, 86E, and 86G respectively to take account of the repeal of former section 86B(6).

#### *Amendments to Part 6 of principal Act*

*Clause 62* amends section 104, which sets out what a consent authority must, and must not, have regard to when considering an application for a resource consent and any submissions received, as follows:

- *new section 104(1)(ab)* is inserted to require a consent authority to have regard to any measure proposed by the applicant for the purpose of ensuring positive effects on the environment to offset any adverse effects on the environment that will or may result from allowing the activity. This requirement is intended to cover both offsetting and environmental compensation measures:
- *new section 104(1A)* provides for a consent authority to have particular regard to the objectives and policies in the NPT that are included in a regional policy statement or plan as required under *new section 58C(1)(c) or (d)* and are specified in an objective or a policy to deal with a matter that the Minister considers to be nationally significant.

*Clauses 63 and 64:* *clause 63* amends section 108, which allows a consent authority to attach conditions to resource consents and lists the requirements for conditions that may be imposed. A consent authority's discretion under this section is currently subject to regulations. The effect of the amendment is to make it also subject to *new section 108AA*, which is inserted by *clause 64*. The new section requires conditions of a resource consent to be directly connected to an adverse effect of the activity on the environment or to an applicable district rule or a regional rule. Other conditions may be included only if the applicant agrees.

*Clause 65* amends section 139, under which consent authorities and the Environmental Protection Authority can issue certificates of compliance. The effect of the amendment is to clarify that any costs the EPA is entitled to recover under section 139(13) are recoverable as a debt due to the Crown that is recoverable in any court of competent jurisdiction.

#### *Amendments to Part 6AA of principal Act*

*Clause 66* amends section 142 to provide that, when deciding whether a matter is or is part of a proposal of national significance, the Minister must have regard to whether the matter gives effect to a national policy statement or the NPT.

*Clause 67* amends section 144 to change the time frame in which the Minister can call in a matter from 5 working days after the last day for making submissions to 5 working days before the date fixed for the commencement of the hearing.

*Clause 68* amends section 149C to require that a notice (that the Minister has made a direction to refer certain matters that are part of a proposal of national significance to a board of inquiry, an Environmental Court, or a local authority) must include an electronic address for sending submissions.

*Clause 69* amends section 149E to extend the submission period from 20 to 30 working days and to provide that, if a person sends an electronic submission on a matter that is part of a proposal of national significance, the electronic address used to send the submission will be deemed to be an address for service unless the person specifies otherwise.

*Clause 70* amends section 149F to provide that a notice (specifying that a summary of submissions on a matter that is part of a proposal of national significance is available) must include an electronic address for sending further submissions and, if a person sends a further electronic submission and does not specify otherwise, that electronic address will be deemed to be an address for service.

*Clause 71* amends section 149G to provide that, where a matter that is part of a proposal of national significance is referred to a board of inquiry or the Environment Court and the EPA commissions the local authority to prepare a report, the report must include relevant provisions of an NPT.

*Clause 72* amends section 149J to provide that when a board of inquiry is appointed by the Minister to consider a matter that is part of a proposal of national significance, the Minister may appoint members of the EPA board to the board of inquiry, may al-

low the EPA to nominate board members, and may set terms of reference for the board of inquiry. The amended provision also makes discretionary the former requirement for the chair to be a current, former, or retired Judge.

*Clause 73* amends section 149K to provide that the Minister, in appointing members of a board of inquiry, should consider the need for the board to have knowledge, skill, and experience relating to the management of the examination (and cross-examination) of witnesses, and to have legal expertise and relevant technical expertise.

*Clause 74* inserts a *new section 149KA* to provide that, for the purpose of minimising cost and delay, the EPA may make decisions on administrative and support matters that are incidental or ancillary to the conduct of a board of inquiry or allow the board to make those decisions.

*Clause 75* amends section 149L—

- to allow the EPA to provide a board of inquiry with a funding estimate:
- to require a board of inquiry to conduct an inquiry in accordance with any terms of reference set by the Minister:
- to require a board of inquiry to carry out its duties in a timely and cost-effective manner:
- to require a board of inquiry to have regard to a funding estimate provided by the EPA:
- to allow a board of inquiry to obtain planning advice from the EPA.

*Clause 76* amends section 149O to extend the submission period from 20 to 30 working days and to require the EPA, in giving notice of a plan or change proposed by a local authority under section 149N, to include in the notice an electronic address for sending submissions.

*Clause 77* repeals section 149Q and the requirement for a board of inquiry to produce a draft report (before producing a final report).

*Clause 78* amends section 149R to make consequential amendments as a result of other changes made in this Bill, to clarify the time frame in which a board must make a decision, and to prescribe how the EPA may provide a copy of a final report to a submitter.

*Clause 79* amends section 149RA to make a minor clarification.

*Clause 80* amends section 149S to clarify that the period of 18 months by which the Minister may extend the time in which a board of inquiry must produce a final report does not include a period while the board is suspended.

*Clause 81* inserts *new sections 149ZF and 149ZG*. *New section 149ZF* provides that where a person is required to pay costs, the requirement to pay is final and constitutes a debt due to the Crown if the person has not objected or appealed in the time permitted or has objected or appealed but the appeal has been decided against them. *New section 149ZG* provides that a board of inquiry may be suspended if a person required to pay costs does not do so.



### *Amendments to Part 8 of principal Act*

*Clauses 82, 83, and 85* amend sections 168A, 171, and 191 respectively to ensure that account is taken of the national planning template.

*Clause 84* inserts a *new subsection (1A)* in section 189 to provide that a notice of requirement must not be given by a heritage protection authority that is a body corporate in respect of private, but not Crown, land. The definition of Crown in *new subsection (6)* includes Crown entities, mixed ownership model companies, State enterprises, and local authorities.

*Clause 86* inserts *new sections 195B and 195C*, which permit the Minister to transfer responsibility for an existing heritage order to another heritage protection authority (other than one that is a body corporate). Before doing so, the Minister must take into account the heritage values of the relevant place or area, the reasonable use of the place or area while being subject to a heritage order, and other matters the Minister considers relevant, such as—

- the effect of the order on the property rights of the owner or occupier; and
- the ability of the heritage protection authority transferee to protect the place or area.

Notice must be given by the Minister of the intention to transfer responsibility (*new subsection (3)*); those notified have a right to object or submit to the Minister (*new subsection (4)*); and the Minister must take into account the objections and submissions received within the specified time before making a decision to transfer an order.

The Minister must publish a *Gazette* notice of the final decision and the local authority concerned must amend the district plan as soon as reasonably practicable to note the transfer of responsibility (*new section 195C*).

### *Amendments to Part 9 of principal Act*

*Clauses 87 and 88* amend sections 207 and 212 respectively to provide for the objectives and policies of the NPT to be considered in the deliberations of a special tribunal and the Environment Court.

### *Amendments to Part 11 of principal Act*

*Clause 89* consequentially amends section 265(1)(c), which specifies the quorum for the Environment Court, to authorise a single Environment Commissioner to sit in accordance with directions given by an Environment Judge under section 280 (as amended by *clause 95*).

*Clause 90* amends section 267, which enables Environment Judges to convene conferences, so that—

- it is mandatory for an Environment Judge, as soon as practicable after the lodging of proceedings, to consider whether to convene a conference (but whether a conference is convened or not remains within the discretion of the Environment Judge); and

- where a person is required to attend in person or by a representative, any representative attendee must be a person with the authority to make decisions on behalf of the person represented.

*Clause 91* replaces section 268 with *new sections 268 and 268A*. Section 268 currently enables the Environment Court, with the consent of the parties, to ask one of its members, or another person, to conduct a form of alternative dispute resolution (an **ADR process**) before or during the course of a hearing. The key changes under *new sections 268 and 268A* are as follows:

- the purpose of conducting an ADR process is changed from “encouraging settlement” to “facilitating the resolution of a matter”;
- the Environment Court will not require the consent of the parties to arrange an ADR process;
- if an ADR process is arranged, each party to the proceedings will be required to participate in the process unless the Environment Court grants leave to the contrary;
- where a party is required to participate in an ADR process, a person may represent that party only if the person has authority to make decisions on their behalf.

*Clause 92* amends section 276, which sets out matters relating to evidence in the Environment Court, to make it subject to *new section 277A* (as inserted by *clause 93*).

*Clause 93* inserts *new section 277A*, which modifies the powers of the Environment Court in relation to evidence heard on appeal by way of rehearing. The new section applies to an appeal brought under *new clause 59* of Schedule 1 (inserted by *clause 108*) in the context of the collaborative planning process, and enables the Environment Court to rehear evidence received by the local authority or panel whose decision is the subject of the appeal.

*Clause 94* amends section 279, which sets out the powers of an Environment Judge sitting alone. *New subsection (5)* is added to authorise the Principal Environment Judge to extend the powers of Environment Judges sitting alone in proceedings relating to an appeal under section 120, so that an Environment Judge may make orders on any matters at issue in consent appeals. The Principal Environment Judge will be able to confer these powers without the agreement of parties to the proceedings and without the need for a conference.

*Clause 95* amends section 280, which sets out the powers of an Environment Commissioner sitting without an Environment Judge. *Clause 95(1)* inserts *new section 280(1AA)*, which—

- enables an Environment Judge to delegate to 1 or more Environment Commissioners sitting alone the powers that the Judge has under section 279(1) to (4) when sitting alone, in the context of proceedings relating to an appeal under section 120; and

- provides that such powers may be delegated only after a conference where an Environment Judge has determined that 1 or more Environment Commissioners sitting alone may exercise the powers.

*Clause 95(2)* repeals section 280(1A), which says that an order made by an Environment Commissioner under section 280(1) (ie, in accordance with a direction of the Principal Environment Judge) must be treated as if it were an order of the Environment Court. This section is redundant, because section 265(1)(c) states that the quorum for a sitting of the Environment Court is satisfied by an Environment Commissioner sitting alone in accordance with a direction of the Principal Environment Judge under section 280, and there is no need to say that an order made by a validly constituted Environment Court is an order of that court. *See also clause 89*, which consequentially amends section 265(1)(c) to align it with the other amendments to section 280 made by *clause 95*.

*Clause 96* replaces section 281A, which authorises the Environment Court Registrar to waive, reduce, or postpone the payment of a fee to the court on certain grounds. *New section 281A* differs from the existing section in the following respects:

- the Registrar may only waive, reduce, or postpone the payment of a fee after receiving an application that is in the prescribed form (if any) and accompanied by the prescribed fee (if any). Section 281A does not currently require an application to be made:
- the Registrar is required to apply prescribed criteria (if any) in assessing whether the grounds for waiving, reducing, or postponing the payment of a fee are met in a particular case. The grounds themselves have not changed (compare *new section 281A(3)(a) and (b)* and existing section 281A(2)(a) and (b)), but the requirement for the Registrar to apply any prescribed criteria is new.

*Clause 97* replaces section 290A, which currently requires the Environment Court, when determining an appeal or inquiry, to have regard to the decision that is the subject of the appeal or inquiry. The amendment adds a requirement for the Environment Court to also have regard to reports prepared by the consent authority and to the outcomes of pre-hearing meetings or ADR processes.

*Clause 98* amends section 293 to include the NPT among the planning instruments relevant to the Environment Court's consideration of a proposed policy statement or plan.

#### *Amendments to Part 12 of principal Act*

*Clause 99* amends section 310 to provide for the NPT to be taken into account in relation to declarations sought on regional policy statements and regional plans.

#### *Amendments to Part 14 of principal Act*

*Clauses 100 to 102* amend sections 352A, 357B, and 357D to update cross-references.

*Clause 103* amends the regulation-making powers in section 360 as follows:

- *new section 360(1)(baa)* enables regulations to prescribe criteria for the Environment Court Registrar to apply when considering whether to waive, reduce, or postpone the payment of a fee to the court (*see new section 281A* as inserted by *clause 96*):
- to insert in section 360(1)(ba) and (bb) a reference to infringement offences that may be prescribed under *new section 360(1)(ho)* in relation to the contravention of regulations made under *new section 360(1)(hn)* and set a maximum infringement fee of \$750 for those offences:
- *new section 360(1)(da)* enables the making of regulations that prescribe the form, content, and conditions of water permits and discharge permits:
- section 360(1)(hk) is amended to include a reference to monitoring being undertaken in accordance with regulations:
- *new section 360(1)(hk)(ia)* provides for regulations setting out matters by reference to which monitoring is to be undertaken:
- *new section 360(1)(hn)* provides for regulations that prescribe measures by which stock may be excluded for water bodies, estuaries, and coastal lakes and lagoons, including regulations that—
  - apply to stock generally or to specified types of stock:
  - apply generally to water bodies, estuaries, and coastal lakes and lagoons or to specified kinds of such areas:
  - apply different measures to different kinds of stock or different kinds of water bodies, estuaries, and coastal lakes and lagoons:
  - prescribe technical requirements for the purposes of the regulations:
- *new section 360(1)(ho)* provides for regulations to prescribe infringement offences for contravening or not complying with regulations made under *new paragraph (hn)*:
- *new section 360(1)(hp)* provides for regulations that prescribe the requirements applying under the RMA to the use by local authorities, consent holders, and others of models of systems such as farms and catchments.

*Clause 104* amends section 360B to include the NPT among the planning instruments relevant to the Minister of Aquaculture making a recommendation for regulations relating to a regional coastal plan.

*Clause 105* inserts *new sections 360D and 360E*, which create new regulation-making powers.

*New section 360D* enables regulations to be made that—

- permit specified land uses:
- prohibit a local authority from making specified rules or types of rules:
- specify rules or types of rules that the regulations override and that must therefore be withdrawn:

- prohibit or override rules or types of rules that would duplicate or overlap with other legislation, where duplication or overlap would be undesirable.

The further powers conferred by *new section 360D* include—

- the power to prescribe the extent to which a matter continues to have effect: and
- the period for which the regulation applies; and
- whether the power applies generally or to a specified district, region, or part of New Zealand.

However, regulations must not be made to permit specified land uses unless, in the Minister's opinion, the change will avoid restrictions on land that are not reasonably required to achieve the purpose of the RMA.

Regulations must not be made to prohibit or withdraw rules, unless in the Minister's opinion the rules are unnecessarily restrictive of land use for residential development or would create undesirable duplication.

The requirements of section 360(2) and (4) apply to regulations made under this section (*new section 360D(6)*), and before regulations are made the Minister must have undertaken, and have taken into account, a section 32 evaluation report (*new section 360D(7)*).

Notification requirements are set out in *new section 360D(8) and (9)*.

The power to make regulations under *new section 360D(1)(a), (b), and (c)* expires and is repealed on the anniversary of the notification of the first NPT (*new section 360D(10)*), and any regulations made under *new section 360D(1)(b) or (c)* and still in force expire and are revoked on that day.

*New section 360E* enables regulations to be made that—

- require local authorities to fix certain administrative charges under section 36:
- require local authorities to fix, under *new section 34B* (as inserted by *clause 17*), the fee payable to a hearings commissioner for hearing and deciding a consent application.

*New section 360E* comes into force on the day after Royal assent, but is amended 6 months after Royal assent by *clause 150*.

#### *Amendment to Part 15 of principal Act*

*Clause 106* makes a correction to section 401B required to reflect the changes brought about by the Marine and Coastal Area (Takutai Moana) Act 2011.

#### *Part 16 of principal Act replaced*

*Clause 107* replaces Part 16 of the principal Act to reflect the scope of the contents of that Part (which gives effect to the transitional, savings, and related provisions that are set out in Schedule 12).

*Amendments to Schedule 1 of principal Act*

Clause 108 provides for the amendments to Schedule 1 of the RMA set out in *Schedule 1* of the Bill.

*Amendments to Schedule 4 of principal Act*

Clause 109 makes consequential amendments to Schedule 4 to remove the references to hazardous substances in clauses 6 and 7 of that schedule.

*Amendments to Schedule 12 of principal Act*

Clause 110 amends Schedule 12 of the principal Act as set out in *Schedule 2* of the Bill. Schedule 12 sets out the transitional, savings, and related provisions applying in relation to amendments to the principal Act.

*Consequential amendments commencing day after Royal assent*

Clause 111 makes the consequential amendments to other enactments that are set out in *Schedule 3*.

**Subpart 2—Amendments that commence 6 months after Royal assent***Amendments to Part 1 of principal Act*

Clause 112 amends section 2, which is an interpretation provision. As well as inserting definitions of new terms introduced by this Bill, this clause changes the meaning of public notice, so that it has the meaning given by *new section 2AB* as inserted by *clause 114*.

Clause 113 makes consequential and technical amendments to section 2AA, which contains definitions relating to notification.

Clause 114 inserts *new section 2AB*, which sets out the requirements for giving public notice of something under the Act. The current definition of public notice in section 2(1) requires a notice to be published in a newspaper and recognises that a local authority may also publish the notice on an Internet site. Under *new section 2AB*,—

- the notice must be published on an Internet site to which the public has free access; and
- only a short summary of the notice, including details of the Internet site, is required to be published in a newspaper.

The notice and the summary must both be worded in a way that is clear and concise.

*Amendments to Part 3 of principal Act*

Clause 115 replaces section 11(1)(a), which allows a subdivision that is expressly allowed by an NES, a rule in a district plan or proposed district plan, or a resource consent. *New subsection (1A)* is inserted. *New subsections (1)(a) and (1A)* allow a subdivision if it—

- is not in contravention of (instead of “expressly allowed” by) an NES, a rule in a district plan, or a rule in a proposed district plan for the same district (if there is one); or
- is expressly allowed by a resource consent.

*Amendments to Part 4 of principal Act*

*Clause 116* amends section 35 so that the obligation on local authorities to keep records of certain decisions extends to decisions made under *new sections 87BA and 87BB* as inserted by *clause 122*.

*Clause 117* amends section 36, which authorises local authorities to fix administrative charges. The amendment adds 2 new administrative charges that may be fixed, which relate to—

- the cost of a local authority deciding whether an activity is a permitted activity (*see new sections 87BA and 87BB* as inserted by *clause 122*); and
- the cost of an objection being considered by a hearings commissioner (*see new section 357AB* as inserted by *clause 144*).

*Clauses 118 and 119* make consequential amendments to sections 41A and 41C respectively.

*Clause 120* inserts *new section 41D*. Section 41C(7) to (9) currently empowers an authority to direct that all or part of a submission be struck out if the authority considers that certain grounds are satisfied. *New section 41D* incorporates the substance of section 41C(7) to (9) (repealed by *clause 119*) and adds additional grounds for striking out. In effect, the new grounds—

- require submissions to relate to adverse effects, where those effects were the reason for the matter being notified; and
- require submissions to have a sufficient factual basis (sufficiency will depend on the nature of the submission and the nature and effects of the proposed activity); and
- require, where a submission is supported only by evidence that purports to be independent expert evidence, that the evidence be provided by an independent and suitably qualified person.

*New section 41D* also—

- makes it mandatory for an authority to make a direction to strike out if—
  - the submission is on an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent; and
  - 1 or more grounds are satisfied; but
- precludes any direction that would materially compromise the authority’s ability to fulfil its obligations under Part 2.

*Amendments to Part 6 of principal Act*

*Clause 121* inserts *new sections 87AAB to 87AAD*.

*New section 87AAB* sets out the meaning of boundary activity and related terms. A boundary activity is an activity that requires a resource consent only because of the application of district rules that relate to the location or dimensions of a structure in relation to a boundary.

*New section 87AAC* sets out the meaning of fast-track application. An application will be a fast-track application if it seeks a resource consent for a controlled activity (excluding subdivisions) or a prescribed activity, and if it includes an electronic address for service. The power to prescribe an activity for the purpose of this section is set out in *new section 360F*, inserted by *clause 151*. An application will cease to be a fast-track application if it is notified or if a hearing is held for the application.

*New section 87AAD* gives an overview of the application of Part 6 to boundary activities and fast-track applications.

If an activity is a boundary activity,—

- the activity may be a permitted activity if it is approved by neighbours on affected boundaries (*see new section 87BA* as inserted by *clause 122*);
- there are restrictions on who may be notified of an application for a resource consent for the activity (*see new section 95A(4) and (5)* as inserted by *clause 125* and *new section 95DA(4)* as inserted by *clause 128*);
- there is no right of appeal under section 120 against the whole or any part of a decision of a consent authority referred to in section 120(1) to the extent that the decision relates to resource consent for the activity.

If an application is a fast-track application, a consent authority has 10 working days, rather than 20 working days, to decide whether to give public or limited notification of the application and to give notice of its decision on the application.

*Clause 122* inserts *new sections 87BA and 87BB*. The new sections set out circumstances in which a local authority may give a notice stating that a particular activity is a permitted activity, including—

- where the activity is a boundary activity that is approved by neighbours on affected boundaries (*new section 87BA*); and
- at the discretion of a consent authority (*new section 87BB*), where—
  - the proposed activity requires a resource consent only because of a marginal or temporary non-compliance with rules; and
  - any effects on the environment of the proposed activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance with rules; and
  - any effects of the proposed activity on a person are less than minor.



*Clause 123* amends section 88 to set different information requirements for a consent application that is a fast-track application. The information requirements for fast-track applications will be prescribed under *new section 360F*, inserted by *clause 151*.

*Clause 124* consequentially amends a cross-reference in section 88E.

*Clause 125* replaces sections 95 to 95B, which relate to notification of consent applications.

*New section 95* has the same effect as existing section 95, except that it provides a time limit of 10 working days for consent authorities to notify, or decide not to notify, a fast-track application. For other applications, there is a time limit of 20 working days for that decision to be made. If a consent authority does notify a fast-track application, it ceases to be a fast-track application: *see new section 87AAC(2)(a)* as inserted by *clause 121*.

*New section 95A*: consent authorities must apply the step-by-step process set out in this section to determine whether to publicly notify a consent application. The circumstances in which an application will be publicly notified are more limited under *new section 95A* than under existing section 95A. If an application is publicly notified because a consent authority decides that the proposed activity will have adverse effects on the environment that are more than minor, those adverse effects must be publicly notified along with the application.

*New section 95B* sets out a step-by-step process for consent authorities to follow to determine whether to give limited notification of a consent application, if it is not publicly notified. The circumstances in which an application may be notified, and the persons to whom it may be notified, are more limited under *new section 95B* than under existing section 95B. However, in relation to particular iwi interests, including those provided for under certain Treaty of Waitangi settlement arrangements, *new section 95B* does provide for the following persons to be notified of an application if they are affected persons in terms of *new section 95E*:

- if the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11, the persons to whom the statutory acknowledgement is made; and
- the following persons, unless notification of the application to those persons is precluded—either by a rule or national environmental standard or because the proposed activity is a controlled activity (other than a subdivision of land) or a prescribed activity:
  - if the proposed activity is on or adjacent to, or may affect, land in respect of which a nohoanga, an overlay classification, or a vest and vesting back (as defined in *new section 95B(11)*) is granted in accordance with an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975, the person to whom the nohoanga, overlay classification, or vest and vesting back is granted:

- if the proposed activity is on or adjacent to, or may affect, land that is the site of a wāhi tapu that is recognised in a plan or entered on the New Zealand Heritage List/Rārangī Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014, the iwi to whom the site is wāhi tapu.

There is no change to limited notification of affected protected customary rights groups and affected customary marine title groups. If a person is notified of an application because a consent authority decides that the proposed activity has adverse effects on the person that are more than minor, the person must be notified of those effects when notified of the application.

*Clause 126* consequentially amends section 95C to update a cross-reference.

*Clause 127* amends section 95D, which specifies matters that a consent authority must or may disregard in deciding whether the adverse effects on the environment of a proposed activity will be or are likely to be more than minor. The amendment adds an additional effect that a consent authority may disregard, being an adverse effect that is already taken into account by the objectives and policies of a relevant plan or proposed plan.

*Clause 128* inserts *new section 95DA*, which—

- restricts the persons eligible to be considered affected persons for the purposes of limited notification of certain consent applications; and
- includes an overriding restriction that only a prescribed person is eligible to be considered affected in relation to a consent application for a prescribed activity. Activities and persons may be prescribed for this purpose under *new section 360G(1)(b)*, inserted by *clause 151*.

*Clause 129* replaces section 95E, which currently requires a consent authority to decide that a person is an affected person, in relation to an activity, if the activity's effects on the person are minor or more than minor (but are not less than minor). Section 95E also currently sets out what a consent authority must, and must not, have regard to in making its decision. *New section 95E* is different in the following respects:

- only certain persons are entitled to be considered affected persons in respect of a consent application;
- in assessing an activity's adverse effects on a person, a consent authority is entitled to disregard an adverse effect that is already taken into account by the objectives and policies of a relevant plan or proposed plan.

*Clauses 130 to 132* make consequential amendments to sections 95F, 95G, and 104D respectively to align them with *new sections 95A and 95B*, inserted by *clause 125*.

*Clause 133* amends section 106, which allows a consent authority to refuse, or conditionally approve, a subdivision consent in certain circumstances. The circumstances currently set out in section 106(1)(a) and (b) are that the consent authority considers that there is a likelihood of material damage to land or structures being caused by erosion, falling debris, subsidence, slippage, or inundation from any source, or of mater-

ial damage caused by those hazards being accelerated, worsened or caused by any likely subsequent use of the land.

Existing section 106(1)(a) and (b) are replaced with *new section 106(1)(a) and (1A)*, which have the following effect:

- a consent authority will be able to act under section 106 if it considers that there is a significant risk from natural hazards, which is defined in section 2 of the principal Act to include a more extensive range of natural hazards than is currently referred to in section 106(1)(a) and (b); and
- the assessment of the risk from natural hazards will require a combined assessment of the likelihood of natural hazards and their consequences in terms of material damage to land or structures (including material damage that would be accelerated or worsened by, or result from, a likely subsequent use of the land for which a subdivision consent is sought).

*Clause 134* amends section 115, which sets out time limits for notifying decisions on applications for resource consents. A time limit of 10 working days is added for fast-track applications (*see new section 87AAC*, inserted by *clause 121*).

*Clause 135* amends section 120, which provides rights of appeal to the Environment Court in relation to a consent application, an application to change consent conditions, or a review of consent conditions. *New section 120(1A)* is added to—

- remove the right of appeal in relation to decisions of a consent authority that relate to resource consents for certain activities; and
- limit the right of appeal of a person who made a submission on the application or review to an appeal only in respect of provisions or matters raised in the person's submission (excluding any part of the submission that is struck out: *see new section 41D* as inserted by *clause 120*).

*Clause 135(2)* makes a consequential amendment to update a cross-reference.

*Clauses 136 and 137* consequentially amend sections 139 and 139A respectively to update cross-references.

#### *Amendment to Part 7 of principal Act*

*Clause 138* consequentially amends section 151 to remove the definition of public notice. This is superseded by the definition in *new section 2AB*, as inserted by *clause 114*.

#### *Amendment to Part 8 of principal Act*

*Clause 139* consequentially amends section 198AD to update a cross-reference.

#### *Amendment to Part 9 of principal Act*

*Clause 140* amends section 204, which requires an application for a water conservation order to be publicly notified, to incorporate the notification requirements that are set out in *new section 2AB* as inserted by *clause 114*.

*Amendment to Part 10 of principal Act*

*Clause 141* amends section 220 (which relates to the conditions that may be applied to subdivision consents). The amendment ensures that conditions may be applied for the protection of land from all hazards within the scope of the definition of a natural hazard in section 2 of the principal Act.

*Amendments to Part 14 of principal Act*

*Clause 142* amends section 352, which sets out the ways in which documents may be served on a person for the purpose of the principal Act. The effect of the amendment is to make an electronic address the default address for service of a document if—

- a person has provided an electronic address for service in relation to the matter to which the document relates; and
- the person has not requested a different method of service; and
- the court does not require a different method of service (if the document is being served on a person in the context of court proceedings).

*Clause 143* consequentially amends section 357 to update a cross-reference.

*Clause 144* inserts *new section 357AB*, which entitles an applicant for a resource consent, if that applicant has a right of objection specified in section 357A(1)(f) or (g), to request that the objection be considered by a hearings commissioner.

*Clause 145* consequentially amends section 357C to align it with changes made by *clause 144*.

*Clause 146* inserts *new section 357CA*, which provides a hearings commissioner with information-gathering powers when considering an objection.

*Clause 147* consequentially amends section 357D to align it with changes made by *clause 144*.

*Clause 148* amends section 358, which sets out rights of appeal against certain decisions and objections. The effect of the amendment is to exclude an appeal from an objection to an authority if—

- the objection was made to an authority under section 357(2) because the authority struck out the person's submission; and
- the submission related to an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent; and
- the authority was required to strike out the submission under *new section 41D(2)* (as inserted by *clause 120*).

*Clause 149* consequentially amends section 360 to update a cross-reference.

*Clause 150* amends *new section 360E* as inserted by *clause 105*. The amendment adds, to the kinds of administrative charges that a local authority may be required to fix, charges relating to a notice stating whether an activity is a permitted activity (*see new sections 87BA and 87BB* as inserted by *clause 122*).

*Clause 151* inserts *new sections 360F and 360G*, which contain, respectively, regulation-making powers relating to fast-track applications (*see* descriptions of *clauses 121 and 122*) and notification of consent applications (*see new sections 95A and 95B* as inserted by *clause 125*, and the description of *clause 128*).

#### *Amendment to Schedule 1 of principal Act*

*Clause 152* inserts *new clause 10A* in Schedule 1 to require a local authority to apply to the Minister for an extension of time for notifying a proposed policy statement or plan. This clause applies instead of the more generally applicable section 37.

#### Subpart 3—Amendments that commence 5 years after Royal assent

The amendments in this subpart, which relate to financial contributions, come into force 5 years after Royal assent.

*Clause 153* amends section 108, which enables a consent authority to grant resource consents on any condition that the consent authority considers appropriate, including a condition of a kind referred to in section 108(2). Under section 108(2)(a), the conditions can include a condition requiring that a financial contribution be made—as defined in section 108(9) and subject to section 108(10), which requires such a condition to be imposed in accordance with the relevant plan or proposed plan. The amendment repeals section 108(2)(a), (9), and (10). While the express provision for conditions requiring a financial contribution is removed, the amendments do not prevent a resource consent being granted with a condition that is akin to a financial contribution (for example, a condition that provides for a measure to offset or mitigate any adverse effects on the environment: *see new section 104(1)(ab)* as inserted by *clause 62*) if the condition meets the requirements of *new section 108AA* (inserted by *clause 64*).

*Clauses 154 to 157* make consequential amendments to remove provisions and references that are connected to the provisions being repealed by *clause 153*.

*Clauses 158 and 159* repeal sections 409 and 411, which provide for the imposition of financial contributions conditions on developments.

#### *Amendment to Schedule 12 of principal Act*

*Clause 160* amends Schedule 12 of the principal Act to insert *new clauses 17 and 18* as set out in *Schedule 4* of the Bill. Schedule 12 sets out the transitional, savings, and related provisions applying in relation to amendments to the principal Act made by this Bill. *New clauses 17 and 18*—

- ensure that the amendments relating to financial contributions (as made by *clauses 153 to 159*) do not affect resource consent applications lodged before the amendments take effect; and
- require local authorities to remove financial contributions provisions from plans and proposed plans before the amendments take effect, and enable them to do so without following the Schedule 1 process.

### *Consequential amendments*

*Clause 161* makes the consequential amendments to other enactments that are set out in *Schedule 5*.

## **Part 2**

### **Amendments to Reserves Act 1977**

*Clause 162* provides that *Part 2* of the Bill amends the Reserves Act 1977 (the **1977 Act**).

*Clause 163* inserts *new sections 14A and 14B* into the 1977 Act. *New section 14A* re-enacts the existing section 15(1) and (2), which allows the Minister to authorise an exchange of reserve land. *New section 14B* introduces an alternative process for the exchange of recreation reserve land. *New section 14B* allows an administering body to authorise an exchange of recreation reserve land where the land is vested in the administering body, the proposed exchange is part of an application for resource consent or a request for a district or regional plan change, and the administering body is the resource consent authority or local authority.

*Clause 164* amends section 15 to make consequential amendments as a result of the insertion of *new sections 14A and 14B*.

*Clause 165* makes consequential amendments to the Resource Management Act 1991 as a result of the insertion of *new section 14B* into the 1977 Act.

## **Part 3**

### **Amendments to Public Works Act 1981**

*Clause 166* provides that *Part 3* of the Bill amends the Public Works Act 1981 (the **principal Act**).

*Clause 167* makes provision for *new Schedule 1AA* (as inserted by *clause 175*) of the Public Works Act 1981, which sets out transitional, savings, and related provisions arising from *Part 3*.

*Clause 168* amends section 4C(2), which currently prohibits the Minister for Land Information from delegating certain powers. The effect of the amendment is that the section will no longer prohibit the Minister for Land Information from delegating the power to issue a notice of desire to acquire land under section 18(1).

*Clause 169* amends section 24 by inserting *new subsection (6A)*. Section 24 concerns the Environment Court's duty to conduct a hearing to inquire into an objection received under section 23. *New subsection (6A)* provides that the Environment Court may accept evidence that was presented at a hearing described in section 39(1) of the RMA or at a related inquiry or appeal heard by the court. The court may accept that evidence and direct how evidence is to be given to the court, regardless of whether the parties consent.

*Clause 170* amends section 59 by replacing the definition of owner to clarify its meaning and to ensure that a person who is in occupation of land under a lease, sublease, or licence that is a tenancy to which the Residential Tenancies Act 1986 applies is not an owner for the purposes of Parts 5 and 6 of the Public Works Act 1981.

*Clause 171* replaces section 72(1) with *new subsections (1) to (1B)*, inserts a *new section 72(3A)*, and makes a consequential amendment to section 72(6).

*New subsections (1) to (1B)* of section 72 provide that compensation of up to \$50,000 must be paid to the owner of land if that land contains a dwelling that is used as that owner's principal place of residence and certain other conditions are met. The amount of compensation to be paid must be determined in accordance with *new section 72A*, and the compensation paid for the land must not in total exceed \$50,000, regardless of the number of owners of the land or the nature of the interest or estate that the various owners of the land may hold.

*New subsection (3A)* of section 72 provides that compensation must not be paid to a person under *new section 72(1)* if that person is paid compensation under *new section 72C(1)*.

The amendment to section 72(6) is consequential on the change to the definition of owner made by *clause 170* and on the amendment to section 75 made by *clause 173* (which provides compensation for certain tenants).

*Clause 172* inserts *new sections 72A to 72E*.

*New section 72A* sets out the requirements and considerations that determine the amount of compensation that is to be paid to the owners of land under *new section 72(1)*.

*New section 72B* sets out definitions of terms that are used in *new sections 72B to 72D*.

*New section 72C* provides that compensation must be paid to an owner of land if that land is taken or acquired for a public work for which it was notified and—

- that land does not contain a dwelling that was used as the owner's principal place of residence during a specified time period; or
- a dwelling on the land was used as the owner's principal place of residence for less than a substantial part of that period.

Section 72 and *new section 72C* operate alongside each other, but do not overlap. It is not permissible to get compensation under both sections.

The compensation paid under *new section 72C* must equal 10% of the total land value, but cannot be less than \$250 or more than \$25,000. These limits apply regardless of the number of owners of the land or the nature of the estate or interest each of the owners has in the land.

If there is more than 1 owner, the compensation must be apportioned between them. However, if any of the owners are lessees or sublessees of the land under a lease or sublease that will expire in less than 5 years after the date on which vacant possession

of the land is given, the amount of compensation paid to those owners is reduced in proportion to the period of the lease or sublease that remains.

*New section 72D* sets out circumstances that disqualify an owner of land from being paid compensation under *new section 72C*. Compensation is dependent on vacant possession of the land and all buildings and structures on the land being given, and the person giving vacant possession meeting specified criteria. Further, compensation must not be paid to a person under *new section 72C(1)* if that person is paid compensation for the loss of a dwelling under *new section 72(1)*.

*New section 72E* provides that Orders in Council may be made to amend section 72, *new section 72A*, and *new section 72C* by increasing or decreasing the compensation limits and percentages set out in those sections.

*Clause 173* amends section 75 by introducing a new definition of tenant for the purposes of that section. Because a person who is in occupation of land under a lease, sublease, or licence that is a weekly or a monthly tenancy agreement, or a tenancy to which the Residential Tenancies Act 1986 applies, is not an owner for the purposes of Parts 5 and 6 of the Public Works Act 1981, such a person is not entitled to compensation under section 72 or *new section 72C* of the Public Works Act 1981. The new definition of tenant means that such a person may, however, be entitled to compensation under section 75 of the Public Works Act 1981.

*Clause 174* repeals section 249, a transitional provision now spent.

*Clause 175* inserts the *new Schedule 1AA* set out in *Schedule 6* of the Bill. *New Schedule 1AA* sets out transitional provisions that relate to amendments made by *Part 3* of the Bill.

## Part 4

### Amendments to Conservation Act 1987

*Clause 176* provides that *Part 4* of the Bill amends the Conservation Act 1987 (the **1987 Act**).

*Clause 177* makes provision for *new Schedule 1AA* of the Conservation Act 1987 (as inserted by *clause 182*), which sets out transitional, savings, and related provisions.

*Clause 178* replaces section 17S with 6 new sections.

*New section 17S* re-enacts existing section 17S(1) and (2), which prescribes the requirements for an application for a concession (a lease, licence, permit, or easement) in respect of a conservation area.

*New section 17SA* allows the Minister to return an incomplete application for a concession within 10 working days of receiving it.

*New section 17SB* re-enacts existing section 17T(2), which requires the Minister to decline an application for a concession if the Minister considers that the application is inconsistent with the 1987 Act, a conservation management strategy, or a conservation management plan.



*New section 17SC* replaces existing section 17T(4) and (5), which requires the Minister to notify his or her intention to grant certain concessions. The *new section 17SC* requires the Minister to notify applications for concessions (rather than the intention to grant those concessions).

*New section 17SD* re-enacts existing section 17S(3) and allows the Minister to seek more information from an applicant to help the Minister to make a decision on the application.

*New section 17SE* re-enacts existing section 17S(4) and (5) and allows the Minister to commission a report or seek advice in relation to an application.

*Clause 179* amends section 17T by inserting a *new section 17T(2)*, which re-enacts existing section 17S(6), and by repealing sections 17T(3) to (7).

*Clause 180* amends section 17U to make a consequential amendment as a result of other amendments in this Part and to re-enact the existing section 17T(3) as *new section 17U(8)*.

*Clause 181* amends section 49 of the 1987 Act to provide that applications that are publicly notified under *new section 17SC* are to be notified for at least 20 working days.

*Clause 182* inserts the *new Schedule 1AA* set out in *Schedule 7* of the Bill. *New Schedule 1AA* sets out transitional provisions that relate to amendments made by this Bill.

## Part 5

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

*Clause 183* provides that *Part 5* of the Bill amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **2012 Act**).

*Clause 184* amends section 4 to replace the definition of dumping, inserts new definitions of London Convention, marine consent authority, publicly notifiable application, and section 20 activity, and makes consequential amendments to the definitions of marine discharge consent and marine dumping consent as a result of changes made in this Part.

*Clause 185* changes the Part 3 heading to “Regulations”.

*Clause 186* amends section 34A to require the Minister, in developing regulations under section 29A in relation to the dumping of waste or other matter, to consider whether there are practical opportunities to reuse, recycle, or treat the waste or other matter.

*Clause 187* inserts a *new Part 3A* heading above *new section 35*.

*Clause 188* replaces sections 35 to 58 to—

- allow the Minister to adopt EEZ Policy Statements for informing decisions about applications for marine consents; and

- introduce a board of inquiry process for publicly notifiable applications for marine consents for section 20 activities; and
- restructure the provisions to accommodate those new matters and applications for marine consents for dumping and discharge activities (which were previously dealt with in sections 87A to 87J).

*Clauses 189 to 200* make consequential amendments to sections 59 to 73 as a result of the introduction of a board of inquiry process and re-location of provisions relating to marine consents for dumping and discharge activities.

*Clause 201* inserts a *new section 73A* which re-enacts section 87H with minor changes and prescribes requirements in relation to the duration of marine discharge consents and marine dumping consents.

*Clause 202* amends section 74 to make minor consequential amendments.

*Clause 203* inserts *new section 75A* to provide that, after the grant of a marine consent by a board of inquiry, the EPA has all the functions, duties, and powers in relation to the marine consent as if it had granted the consent.

*Clause 204* inserts a new cross-heading above section 84.

*Clause 205* amends section 84 to make minor consequential amendments.

*Clause 206* repeals sections 87A to 87J, which relate to marine consents for dumping and discharge activities, as these matters will now be dealt with earlier in *new Part 3A* of the 2012 Act.

*Clause 207* amends section 88 (which prescribes definitions for the purpose of subpart 3 of *new Part 3A*) to repeal the definitions of consent authority and relevant consent authority and insert definitions of processing, relevant resource consent authority, and resource consent authority.

*Clauses 208 to 210* amend sections 91 to 93 to make minor consequential amendments.

*Clause 211* amends section 94 so that the provision applies only where an application for a resource consent is referred to the Environment Court and provides for the EPA to cease joint processing of the application.

*Clause 212* inserts *new section 94A* to allow the EPA to decide whether an application for a marine consent that is part of a joint application should cease to be processed as part of a joint application and be processed separately.

*Clauses 213 to 215* replace sections 96 and 98 and amend section 99 to make consequential amendments.

*Clause 216* inserts *new section 99A* to require a joint application for a marine consent and a resource consent to be referred to a board of inquiry appointed by the Minister or Ministers responsible for the 2012 Act and the Resource Management Act 1991.

*Clause 217* inserts *new section 100A* to require the owner of an offshore installation to prepare a decommissioning plan.

*Clause 218* replaces the Part 4 subpart 1 heading.

*Clauses 219 to 221* make consequential amendments to sections 101 to 103.

*Clause 222* inserts a Part 4 *new subpart 1A* heading after section 104.

*Clauses 223* makes a minor amendment to section 105.

*Clause 224* inserts a *new subpart 1B of Part 4* to make provision for appeals of decisions of a board of inquiry to the High Court and the Supreme Court.

*Clause 225* amends section 137 to change the limitation period for offences under the 2012 Act from 6 months to 12 months.

*Clauses 226* makes minor clarifications to section 141.

*Clauses 227 and 228* make consequential amendments to sections 142 and 143.

*Clause 229* inserts *new section 147A* to allow the EPA to cease carrying out its functions and to direct a board of inquiry to suspend an inquiry if the person responsible for paying costs in relation to those activities fails to do so.

*Clause 230* amends section 148 to make an electronic address that is provided as an address for service the default address for service.

*Clause 231* inserts *new section 158BA* to allow the EPA and WorkSafe to share information relating to their respective functions under the 2012 Act and the WorkSafe New Zealand Act 2013.

*Clause 232* amends section 162, which requires a marine consent for activities that have more than a minor adverse effect on the environment. Section 162 is amended to provide that a “minor or less than minor” ruling from the EPA is only required for an activity that has some adverse effect on the environment.

*Clause 233* inserts *new sections 167B and 167C*, which prescribe savings provisions in relation to the amendments in this Part.

*Clause 234* amends the existing Schedule to make a minor consequential amendment.

*Clause 235* inserts *new Schedules 2 and 3* into the 2012 Act. *New Schedule 2* prescribes provisions in relation to EPA hearings in relation to applications for publicly notifiable discretionary activities. *New Schedule 3* provides additional provisions in relation to boards of inquiry appointed to determine applications for publicly notifiable discretionary activities.

#### *Amendments to Schedule 1 of Resource Management Act 1991*

*Clause 108 and Schedule 1* amend Schedule 1 of the RMA.

*New clause 1AA* of Schedule 1 of the RMA provides an overview of Part 1 of Schedule 1.

*New clause 1A* of Schedule 1 of the RMA requires proposed policy statements or plans to be prepared in accordance with any applicable iwi participation arrangement.

*New clause 1B* of Schedule 1 of the RMA provides that nothing in Schedule 1 limits any relevant iwi participation legislation or agreement under that legislation.

*New clause 4A* of Schedule 1 of the RMA requires local authorities to seek and have particular regard to iwi advice given on the draft proposed policy statement or plan before the draft proposed policy statement or plan is notified.

Clause 5 of Schedule 1 of the RMA is amended to provide that a local authority proceeding with a change to a policy statement or plan may either publicly notify, or give limited notification of, the change.

*New clause 5A* of Schedule 1 of the RMA Act sets out the procedure for giving limited notification of a change to a proposed policy statement or plan.

The heading to clause 6 of Schedule 1 of the RMA is amended to clarify the distinction between submissions made under the clause 5 notification process and those made under the limited notification process of *new clause 5A*. *New clause 6A* sets out the requirements for the latter. The amendments to clauses 7, 8, and 8A and also clause 25 are consequential to the notification change.

*New clause 20AB* of Schedule 1 of the RMA provides an overview of Part 2 of Schedule 1 and clarifies that nothing in Part 2 of Schedule 1 limits any relevant iwi participation legislation or agreement under that legislation, and also clarifies the application of Part 1 of Schedule 1 to Part 2 of that schedule.

*New clause 21(3A)* of Schedule 1 of the RMA restricts the right to request changes to a regional policy statement or plan approved under *new Part 4* of Schedule 1 within 3 years after the date on which it becomes operative.

*New clause 26A* of Schedule 1 of the RMA makes provision for iwi participation arrangements to apply in Part 2 (which relates to requests to a local authority for changes to policy statements or plans and for the preparation of regional plans) of Schedule 1.

*New Part 4* of Schedule 1 of the RMA, comprising *new clauses 36 to 73*, sets out the procedural matters applying to the local authority's use of the collaborative planning process for a change to a policy statement or plan, including matters such as—

- the considerations relevant to the choice of this process, including that the local authority must be satisfied that use of the process is not inconsistent with its obligations under any relevant iwi participation legislation or arrangement (*new clause 37*):
- the notification requirements (*new clause 38*):
- the establishment of a collaborative group, appointments to be made, the group's terms of reference, and publicity requirements (*new clauses 39 to 42*):
- the reporting requirements for a collaborative group (*new clauses 43 and 44*):
- obligations of the local authority responsible for establishing the collaborative group, including the preparation of a proposal (*new clauses 45 to 50, 54, and 56*):
- obligations of the collaborative group in relation to the role of a review panel (*new clause 52*):

- the establishment and role of a review panel, and its functions and powers and procedural matters (*new clauses 51, 53, and 63 to 73*):
- provisions relating to the preparation or change of a regional coastal plan (*new clause 55*):
- provision for a local authority, if it has begun preparing, changing, or reviewing a policy statement or plan before the provisions authorising the use of a collaborative planning process come into force, to use a collaborative process in accordance with the arrangement set out in *clause 14 of new Schedule 2* (as amended by *section 110*) (see *new clause 57*):
- rights of appeal under the collaborative planning process (*new clauses 58 to 61 and Schedule 2*).

*New Part 5* of Schedule 1 of the RMA, comprising *new clauses 74 to 93*, makes provision for a streamlined planning process. A local authority intending to prepare, change, or vary a policy statement or plan may apply to the responsible Minister to enter the streamlined planning process (see *new section 80C* of the RMA). This Part of Schedule 1 of the RMA sets out—

- the application requirements, how an application is to be dealt with, the responsible Minister's power to direct that a streamlined planning process is followed, and the Minister's decision on the proposed planning instrument once the streamlined planning process has been followed (*new clauses 74 to 80, 84 to 88, and 90*):
- the rights and obligations of the local authority that applies for, and enters into, a streamlined planning process (*new clauses 81 to 83, 89, and 91*):
- the operative date of the planning instrument that is approved under this Part (*new clause 92*):
- the fact that there are no appeal rights in respect of the streamlined planning process, but judicial review rights are preserved, as is the right of appeal in respect of actions taken under a planning instrument approved under this Part (*new clause 93*).

#### *New Schedule 1AA of Conservation Act 1987*

*Schedule 7* inserts *new Schedule 1AA* into the Conservation Act 1987.

*New Schedule 1AA* contains transitional, savings, and related provisions that relate to amendments made by *Part 4* of this Bill.

#### *New Schedules 2 and 3 of Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012*

*Schedule 8* inserts *new Schedules 2 and 3* into the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

*New Schedule 2* contains provisions relating to EPA hearings in relation to applications for publicly notifiable discretionary activities.

*New Schedule 3* contains additional provisions in relation to boards of inquiry appointed to determine applications for publicly notifiable discretionary activities.

*Hon Dr Nick Smith*

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Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

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

**2 Commencement**

- (1) **Subpart 2 of Part 1** (amendments to Resource Management Act 1991) and **Part 4** (amendments to Conservation Act 1987) come into force on the day that is 6 months after the date on which this Act receives the Royal assent. 5
- (2) **Subpart 3 of Part 1** (amendments to Resource Management Act 1991 relating to financial contributions) comes into force on the day that is 5 years after the date on which this Act receives the Royal assent. 10

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

## Part 1

### Amendments to Resource Management Act 1991

#### 3 Principal Act 5

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

Subpart 1—Amendments that commence on day after Royal assent

#### *Amendments to Part 1 of principal Act*

#### 4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order: 10

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

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

**combined document** means any instrument for which section 80 makes provision 15

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

- (2) In section 2(1), definition of **infrastructure**, delete “, in section 30,”.

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

**iwi participation arrangement** means an arrangement entered into under **section 58L** 20

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

**national planning template** means the national planning template approved under **section 58E**, as amended from time to time 25

#### *Amendment to Part 2 of principal Act*

#### 5 Section 6 amended (Matters of national importance)

After section 6(g), insert:

- (h) the management of significant risks from natural hazards. 30

#### *Amendments to Part 3 of principal Act*

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

After section 12(6), insert:

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

**7 Section 14 amended (Restrictions relating to water)** 5

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

**8 New section 18A and cross-heading inserted**

After section 18, insert:

*Procedure*

**18A Procedural principles** 10

Every person exercising powers and performing functions under this Act must—

- (a) use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised; and
- (b) ensure that policy statements and plans— 15
  - (i) include only those matters relevant to the purpose of this Act; and
  - (ii) are worded in a way that is clear and concise; and
- (c) promote collaboration between or among local authorities on their common resource management issues.

*Amendments to Part 4 of principal Act* 20

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

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

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

(2) In section 24(f), after “national policy statements,”, insert “the national planning template,”. 25

**10 Section 29 amended (Delegation of functions by Ministers)**

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

(da) approving, changing, replacing, or revoking the national planning template under **section 58E or 58G**:

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

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

(ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in re-



lation to residential and business land to meet the expected long-term demands of the region:

- (2) Repeal section 30(1)(c)(v).
- (3) In section 30(1)(d)(v), delete “and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances”. 5
- (4) After section 30(4), insert:
- (5) In this section and section 31, **development capacity**, in relation to residential and business land, means the capacity of the land for development, taking into account the following factors:
- (a) the zoning of the land; and 10
- (b) the provision of adequate infrastructure, existing or likely to exist, to support the development of the land, having regard to—
- (i) the relevant proposed and operative policy statements and plans for the region; and
- (ii) the relevant proposed and operative plans for the district; and 15
- (iii) any relevant management plans and strategies prepared under other Acts; and
- (c) the rules and methods in the operative plans that govern the capacity of the land for development; and
- (d) other constraints on the development of the land, including natural and physical constraints. 20

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

- (1) After section 31(1)(a), insert:
- (aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of residential and business land to meet the expected long-term demands of the district: 25
- (2) Repeal section 31(1)(b)(ii).

## 13 Section 32 amended (Requirements for preparing and publishing evaluation reports) 30

- (1) In section 32(3), after “statement,”, insert “national planning template,”.
- (2) After section 32(4), insert:
- (4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must— 35
- (a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and

	(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.	
(3)	In section 32(6), definition of <b>proposal</b> , after “statement,”, insert “national planning template.”	
<b>14</b>	<b>Section 32AA amended (Requirements for undertaking and publishing further evaluations)</b>	<b>5</b>
(1)	In section 32AA(1)(d)(i), after “New Zealand coastal policy statement”, insert “or the national planning template”.	
(2)	In section 32AA(3), after “statement,”, insert “national planning template.”	
<b>15</b>	<b>Section 32A amended (Failure to carry out evaluation)</b>	<b>10</b>
	In section 32A(3), after “statement,”, insert “national planning template.”	
<b>16</b>	<b>Section 34A amended (Delegation of powers and functions to employees and other persons)</b>	
	After section 34A(1), insert:	
(1A)	If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under Part 1 of Schedule 1,—	<b>15</b>
(a)	the local authority must consult tangata whenua through relevant iwi authorities on whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū; and	<b>20</b>
(b)	if the local authority considers it appropriate, it must appoint at least 1 commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.	<b>25</b>
<b>17</b>	<b>New section 34B inserted (Consent authority may fix fee payable to hearings commissioner)</b>	
	After section 34A, insert:	
<b>34B</b>	<b>Consent authority may fix fee payable to hearings commissioner</b>	
(1)	A consent authority may, from time to time, fix the fee payable to a hearings commissioner for hearing and deciding a matter in accordance with a delegation by the consent authority under section 34A(1).	<b>30</b>
(2)	A fee fixed under this section must be either a specific amount or determined by reference to scales of fees or other formulae fixed by the consent authority.	
(3)	A fee may be fixed under this section only—	<b>35</b>
(a)	in the manner set out in section 150 of the Local Government Act 2002; and	

- (b) after using the special consultative procedure set out in section 83 of the Local Government Act 2002.
- (4) A consent authority must fix a fee under this section if required to do so by regulations made under **section 360E**.
- (5) A consent authority must publish and maintain, on an Internet site to which the public has free access, an up-to-date record of any fee that it fixes under this section. 5
- 18 Section 35 amended (Duty to gather information, monitor, and keep records)**
- (1) After section 35(2)(c), insert: 10
- (ca) the efficiency and effectiveness of processes used by the local authority in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness, cost, and the overall satisfaction of those persons or bodies in respect of whom the functions, powers, or duties are exercised or performed; and 15
- (2) After section 35(2), insert:
- (2AA) Monitoring required by subsection (2) must be undertaken in accordance with any regulations.
- 19 Section 35A amended (Duty to keep records about iwi and hapu)** 20
- (1) In section 35A(1)(c), after “kaitiakitanga”, insert “; and”.
- (2) After section 35A(1)(c), insert:
- (d) any iwi participation arrangement entered into under **section 58L**.
- 20 Section 36 amended (Administrative charges)**
- (1) In section 36(1), delete “, subject to subsection (2),”. 25
- (2) After section 36(1)(cb), insert:
- (cc) charges payable by a person who carries out a permitted activity, for the monitoring of that activity, if the local authority is empowered to charge for the monitoring in accordance with **section 43A(8)**:
- (3) In section 36(1), delete “Charges fixed under this subsection shall be either specific amounts or determined by reference to scales of charges or other formulae fixed by the local authority.” 30
- (4) Replace section 36(2) to (8) with:
- (2) Charges fixed under this section must be either specific amounts or determined by reference to scales of charges or other formulae fixed by the local authority. 35
- (3) Charges may be fixed under this section only—

- (a) in the manner set out in section 150 of the Local Government Act 2002; and
- (b) after using the special consultative procedure set out in section 83 of the Local Government Act 2002; and
- (c) in accordance with **section 36AAA**. 5
- (4) A local authority must fix a charge under this section if required to do so by regulations made under **section 360E**.
- Additional charges*
- (5) Where a charge fixed under this section is, in any particular case, inadequate to enable a local authority to recover its actual and reasonable costs in respect of the matter concerned, the local authority may require the person who is liable to pay the charge to also pay an additional charge to the local authority. 10
- (6) A local authority must, on request by any person liable to pay a charge under this section, provide an estimate of any additional charge likely to be imposed under **subsection (5)**. 15
- (7) Sections 357B to 358 (which deal with rights of objection and appeal against certain decisions) apply in respect of the requirement by a local authority to pay an additional charge under **subsection (5)**.
- Other matters*
- (8) **Section 36AAB** sets out other matters relating to administrative charges. 20

## 21 New sections 36AAA and 36AAB inserted

After section 36, insert:

### 36AAA Criteria for fixing administrative charges

- (1) When fixing charges under section 36, a local authority must have regard to the criteria set out in this section. 25
- (2) The sole purpose of a charge is to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates.
- (3) A particular person or particular persons should be required to pay a charge only—
- (a) to the extent that the benefit of the local authority's actions to which the charge relates is obtained by those persons as distinct from the community of the local authority as a whole; or 30
- (b) where the need for the local authority's actions to which the charge relates results from the actions of those persons; or
- (c) in a case where the charge is in respect of the local authority's monitoring functions under section 35(2)(a) (which relates to monitoring the state of the whole or part of the environment),— 35

- (i) to the extent that the monitoring relates to the likely effects on the environment of those persons' activities; or
- (ii) to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole. 5
- (4) The local authority may fix different charges for different costs it incurs in the performance of its various functions, powers, and duties under this Act—
- (a) in relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or
- (b) where any activity undertaken by the persons liable to pay any charge reduces the cost to the local authority of carrying out any of its functions, powers, and duties. 10
- (5) If a local authority fixes a charge under section 36 that includes a component payable to a hearings commissioner for hearing and deciding a matter, the amount of that component must be the amount of the fee fixed under **section 34B** (if any). 15

### **36AAB Other matters relating to administrative charges**

- (1) A local authority may, in any particular case and in its absolute discretion, remit the whole or any part of any charge of a kind referred to in section 36 that would otherwise be payable. 20
- (2) Where a charge of a kind referred to in section 36 is payable to a local authority, the local authority need not perform the action to which the charge relates until the charge has been paid to it in full.
- (3) However, **subsection (2)** does not apply to a charge to which section 36(1)(ab)(ii), (ad)(ii), or (cb)(iv) applies (relating to independent hearings commissioners requested by submitters or reviews required by a court order). 25
- (4) A local authority must publish and maintain, on an Internet site to which the public has free access, an up-to-date list of charges fixed under section 36.

### *Amendments to Part 4A of principal Act*

## **22 Section 42C amended (Functions of EPA) 30**

After section 42C(d), insert:

- (daa) to provide planning advice under section 149L to a board of inquiry:
- (dab) if requested by the Minister, to provide secretarial and support services to a person appointed under another Act to make a decision requiring the application of provisions of this Act as applied or modified by the other Act: 35
- (dac) if requested by the Minister, to provide advice and secretarial and support services to the Minister in relation to the Minister's functions under

the streamlined planning process (*see* **subpart 5** of Part 5 and **Part 5** of Schedule 1).

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

After section 42C, insert:

<b>42CA Cost recovery for specified function of EPA</b>	5
(1) If the Minister asks the EPA under <b>section 42C(dab)</b> to provide secretarial and support services to a person,—	
(a) the Minister may direct the EPA to recover from the person the actual and reasonable costs incurred by the EPA in providing the services; and	
(b) the EPA may recover those costs in accordance with the direction, but only to the extent that they are not provided for by an appropriation under the Public Finance Act 1989.	10
(2) The EPA must, on request by an applicant, provide an estimate of the costs likely to be recovered under this section.	
(3) When recovering costs under this section, the EPA must have regard to the following criteria:	15
(a) the sole purpose is to recover the reasonable costs incurred in providing the services:	
(b) the applicant should be required to pay for costs only to the extent that the benefit of the services provided by the EPA is obtained by the applicant as distinct from the community as a whole:	20
(c) the extent to which any activity by the applicant reduces the cost to the EPA of providing the services.	
(4) If the EPA requires a person to pay costs recoverable under this section, the costs are a debt due to the Crown that is recoverable by the EPA on behalf of the Crown in any court of competent jurisdiction.	25

*Amendments to Part 5 of principal Act*

**24 Cross-heading above section 43 replaced**

Replace the cross-heading above section 43 with:

Subpart 1—National instruments 30

**25 Section 43 amended (Regulations prescribing national environmental standards)**

Replace section 43(3) with:

(3) Regulations made under this section or any provisions of those regulations may apply—	35
(a) generally; or	

	(b) to any specified district or region of any local authority; or	
	(c) to any other specified part of New Zealand.	
<b>26</b>	<b>Section 43A amended (Contents of national environmental standards)</b>	
	After section 43A(7), insert:	
(8)	A national environmental standard may—	5
	(a) empower a consent authority to charge for monitoring any permitted activities specified in the standard; and	
	(b) specify how consent authorities must perform their functions in order to achieve the standard.	
<b>27</b>	<b>Section 43B amended (Relationship between national environmental standards and rules or consents)</b>	10
	Replace section 43B(3) with:	
(3)	A rule or resource consent that is more lenient than a national environmental standard prevails over that standard, so long as the standard expressly permits a rule or consent to be more lenient than the standard.	15
<b>28</b>	<b>Section 44 amended (Restriction on power to make national environmental standards)</b>	
	After section 44(2), insert:	
(2A)	In relation to a proposal for a national environmental standard that relates to a specified district, region, or other part of New Zealand, the references in subsection (2) to the public and iwi authorities must be read as references to the public and iwi authorities within the specified region, district, or other part of New Zealand.	20
<b>29</b>	<b>New section 45A inserted (Contents of national policy statements)</b>	
	After section 45, insert:	25
<b>45A</b>	<b>Contents of national policy statements</b>	
(1)	A national policy statement must state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act.	
(2)	A national policy statement may also state—	
	(a) the matters that local authorities must consider in preparing policy statements and plans:	30
	(b) methods or requirements that local authorities must, in developing the content of policy statements or plans, apply in the manner specified in the national policy statement, including the use of models and formulas:	
	(c) the matters that local authorities are required to achieve or provide for in policy statements and plans:	35

- (d) constraints or limits on the content of policy statements or plans:
- (e) objectives and policies that must be included in policy statements and plans:
- (f) directions to local authorities on the collection and publication of specific information in order to achieve the objectives of the statement: 5
- (g) directions to local authorities on monitoring and reporting on matters relevant to the statement, including—
- (i) directions for monitoring and reporting on their progress in relation to any provision included in the statement under this section; and 10
- (ii) directions for monitoring and reporting on how they are giving effect to the statement; and
- (iii) directions specifying standards, methods, or requirements for carrying out monitoring and reporting under **subparagraph (i) or (ii)**: 15
- (h) any other matter relating to the purpose or implementation of the statement.
- (3) A national policy statement or any provisions of it may apply—
- (a) generally; or
- (b) to any specified district or region of any local authority; or 20
- (c) to any other specified part of New Zealand.
- (4) A national policy statement may include transitional provisions for any matter, including its effect on existing matters or proceedings.
- 30 Section 46A amended (Minister chooses process)**
- After section 46A(2), insert: 25
- (2A) If the Minister uses the process in subsection (1)(b) in relation to a proposed national policy statement that relates to a specified district, region, or other part of New Zealand, the reference in that subsection to public and iwi authorities must be read as a reference to the public and iwi authorities within the specified region, district, or other part of New Zealand. 30
- 31 Section 48 amended (Public notification of proposed national policy statement and inquiry)**
- After section 48(1), insert:
- (1A) However, if a proposed national policy statement applies only to a specified district, region, or other part of New Zealand, the obligations under subsection (1) do not apply and are replaced by the obligation— 35



(a)	to publish a notice of the proposed national policy statement and the inquiry in a newspaper in regular circulation in the specified district, region, or other part of New Zealand; and	
(b)	to serve the notice on the local authorities and other persons and authorities within that district, region, or other part of New Zealand, as the board considers appropriate.	5
<b>32</b>	<b>Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)</b>	
	After section 52(3), insert:	
(4)	However, if a national policy statement applies only to a specified district, region, or other part of New Zealand, the obligation under subsection (3)(b) is—	10
(a)	to publicly notify the statement and report in whatever form the Minister thinks appropriate; and	
(b)	to send copies to the local authorities in the specified district, region, or other part of New Zealand to which the national policy statement applies.	15
<b>33</b>	<b>Section 55 amended (Local authority recognition of national policy statements)</b>	
(1)	In section 55(3), replace “specified in” with “directed by”.	20
(2)	Repeal section 55(4).	
<b>34</b>	<b>New section 55A inserted (Combined process for national policy statement and national environmental standard)</b>	
	After section 55, insert:	
<b>55A</b>	<b>Combined process for national policy statement and national environmental standard</b>	25
(1)	The Minister may prepare a national policy statement and a national environmental standard using a combined process by—	
(a)	preparing the proposed national policy statement in accordance with section 46; and	30
(b)	preparing the proposal for a national environmental standard in accordance with section 44; and	
(c)	proceeding in accordance with <b>subsection (2)</b> .	
(2)	For the purposes of <b>subsection (1)(c)</b> , the Minister must—	
(a)	use the process set out in sections 47 to 51 or the process set out in section 46A(1)(b)(iaaa), (i), and (ii), and a reference to a proposed national policy statement must be read as a reference to the proposed national	35

	policy statement and a proposal for a national environmental standard; and	
	(b) comply with sections 52 and 54 in relation to the proposed national policy statement; and	
	(c) decide whether to make a recommendation to the Governor-General for the making of the national environmental standard and comply with section 44(2)(ba) before making that decision.	5
<b>35</b>	<b>Section 56 amended (Purpose of New Zealand coastal policy statements)</b> In section 56, after “state”, insert “objectives and”.	
<b>36</b>	<b>Section 58 amended (Contents of New Zealand coastal policy statements)</b> In section 58, insert as subsections (2) and (3):	10
	(2) A New Zealand coastal policy statement may also include any of the matters specified in <b>section 45A(2) and (4)</b> (which applies as if a New Zealand coastal policy statement were a national policy statement).	
	(3) A New Zealand coastal policy statement or any provisions of it may apply—	15
	(a) generally within the coastal environment; or	
	(b) to any specified part of the coastal environment.	
<b>37</b>	<b>New sections 58B to 58J and cross-heading inserted</b> After section 58A, insert:	
	<i>National planning template</i>	20
<b>58B</b>	<b>Purposes of national planning template</b> The purposes of the national planning template are—	
	(a) to assist in achieving the purpose of this Act; and	
	(b) to set out requirements or other provisions relating to any aspect of the structure, format, or content of regional policy statements and plans to address matters that the Minister considers—	25
	(i) to be nationally significant:	
	(ii) to require national consistency:	
	(iii) to be required to address any of the procedural principles set out in <b>section 18A</b> .	30
<b>58C</b>	<b>Contents of national planning template</b>	
	(1) The national planning template may specify—	
	(a) the structure and form of regional policy statements and plans:	
	(b) any of the matters specified in <b>section 45A(2) and (4)</b> (which applies as if the national planning template were a national policy statement):	35

- (c) objectives, policies, methods (including rules), and other provisions that must or may be included in plans:
- (d) objectives, policies, methods (but not rules), and other provisions that must or may be included in regional policy statements:
- (e) a time frame or time frames for councils to give effect to the whole or part of the national planning template, including different time frames for— 5
- (i) different local authorities:
- (ii) different parts of the national planning template:
- (f) if the national planning template specifies that a rule must or may be included in plans, whether the local authority must review a discharge, coastal, or water permit under section 130 to ensure compliance with the rule. 10
- (2) For the purpose of **subsection (1)(c)**, the national planning template may include any rules that could be included in any regional or district plan under section 68 or 76. 15
- (3) The national planning template may specify requirements that relate to the electronic accessibility and functionality of policy statements and plans.
- (4) The national planning template or any provisions of it may apply generally or to specific regions or districts or other parts of New Zealand. 20
- (5) The national planning template may incorporate material by reference, and **Schedule 1AA** applies for the purposes of this subsection as if references to a national environmental standard, national policy statement, or New Zealand coastal policy statement were references to the national planning template.
- (6) The national planning template may, for ease of reference, set out (or incorporate by reference) provisions of a national policy statement, a New Zealand coastal policy statement, or regulations (including a national environmental standard), but those provisions do not form part of the national planning template for the purposes of any other provision of this Act or any other purpose. 25
- 58D Preparation of national planning template** 30
- (1) If the Minister determines to prepare a national planning template, the Minister must prepare it in accordance with this section and **sections 58E to 58J**.
- (2) In preparing or amending the national planning template, the Minister may have regard to—
- (a) the matters set out in section 45(2)(a) to (h): 35
- (b) whether it is desirable to have national consistency in relation to a resource management issue:
- (c) any other matter that is relevant to the purpose of the national planning template.

- (3) Before approving the national planning template, the Minister must—
- (a) prepare a draft national planning template; and
  - (b) prepare an evaluation report in accordance with section 32 and have particular regard to that report before deciding whether to publicly notify the draft; and 5
  - (c) publicly notify the draft; and
  - (d) establish a process that—
    - (i) the Minister considers gives the public, local authorities, and iwi authorities adequate time and opportunity to comment on the draft; and 10
    - (ii) requires a report and recommendations to be made to the Minister on those comments.
- (4) If a draft national planning template includes provisions that relate to the content or preparation of a regional coastal plan, the Minister must consult the Minister of Conservation about all of the steps referred to in **subsection (3)**. 15
- 58E Approval of national planning template**
- (1) Before approving the national planning template, the Minister must—
- (a) consider the report and recommendations made under **section 58D(3)(d)(ii)**; and
  - (b) carry out a further evaluation of the draft national planning template in accordance with section 32AA and have particular regard to that evaluation when deciding whether to approve the national planning template. 20
- (2) The Minister may—
- (a) approve the national planning template after making any changes or no changes to the draft national planning template (except to the extent that it relates to the preparation or content of regional coastal plans) as he or she thinks fit; or 25
  - (b) withdraw all or part of the draft template (except to the extent that it relates to the preparation or content of regional coastal plans) and give public notice of the withdrawal, including the reasons for the withdrawal. 30
- (3) The Minister of Conservation may amend, withdraw, or approve the draft national planning template, but only to the extent that it relates to the preparation or content of regional coastal plans.
- (4) The Minister must give notice of the approval of the national planning template in the *Gazette*. 35
- (5) The national planning template is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

**58F Publication of national planning template and other documents**

- (1) The Minister must ensure that—
- (a) the approval of the national planning template is publicly notified in any manner the Minister thinks fit; and
  - (b) a copy of the national planning template is provided to every local authority. 5
- (2) The Minister must publish the national planning template and the report and any recommendations made to him or her under **section 58D(3)(d)** on an Internet site to which the public has free access, and may publish the national planning template and the report and recommendations in any other way or form he or she considers appropriate. 10

**58G Amending, replacing, or revoking national planning template**

- (1) The Minister may amend or replace the national planning template after following the process set out in **sections 58D and 58E**.
- (2) If an amendment to the national planning template has not more than a minor effect or corrects errors or makes similar technical alterations, the Minister may make the amendment without following the process set out in **sections 58D and 58E**, other than to give notice of the amendment in the *Gazette*. 15
- (3) If the Minister wishes to revoke the national planning template in whole or in part (except to the extent that it relates to the preparation or content of regional coastal plans), the Minister— 20
- (a) must give the public and iwi authorities notice, with adequate time and opportunity to comment on the proposed revocation; but
  - (b) may make the revocation and give notice of it without following any further the process set out in **sections 58D and 58E**. 25
- (4) If the Minister of Conservation wishes to revoke the national planning template in whole or in part, to the extent that it relates to the preparation or content of a regional coastal plan, the Minister of Conservation—
- (a) must give the public and iwi authorities notice, with adequate time and opportunity to comment on the proposed revocation; but 30
  - (b) may make the revocation and give notice of it without following any further the process set out in **sections 58D and 58E**.
- (5) The revocation of the whole or part of the national planning template does not have the effect of revoking any provision of a plan included at the direction of, or in reliance on, a revoked provision of the national planning template. 35

**58H Local authority recognition of national planning template**

- (1) In this section and **section 58J**, **document** means—
- (a) a regional policy statement; or

- (b) a proposed regional policy statement; or
  - (c) a proposed plan; or
  - (d) a plan; or
  - (e) a variation.
- (2) A local authority must amend a document, if the national planning template directs so, to include specific provisions set out in the national planning template. 5
- (3) If **subsection (2)** applies, the local authority must—
- (a) make the amendments to the document as directed and make any consequential amendments to any document that are necessary to avoid duplication or conflict with the directed amendments, without using any of the processes set out in Schedule 1; and 10
  - (b) make all amendments within the time specified in the national planning template or (in the absence of a specified time) within 1 year after the date of the notification in the *Gazette* of the approval of the national planning template; and 15
  - (c) give public notice of the amendments within 5 working days after making them.
- (4) A document is amended as from the date of the relevant public notice under **subsection (3)(c)**.
- (5) A local authority must— 20
- (a) make all other amendments to any document that are required to give effect to any provision in the national planning template that affects the document, using one of the processes set out in Schedule 1; and
  - (b) make all amendments within the time specified in the national planning template or (in the absence of a specified time) within 5 years after the date of the notification in the *Gazette* of the approval of the national planning template, unless **subsection (6)** applies. 25
- (6) However, **subsection (7)** applies if an amendment relates to matters that are the subject of a proposed policy statement or plan that was notified under clause 5 or **48** of Schedule 1, but had not become operative before the approval of the national planning template. 30
- (7) If this subsection applies, the local authority—
- (a) is not required to amend the document within the time specified in **subsection (5)(b)**; but
  - (b) must make the amendments under **subsection (5)(a)** within the time specified in the template or (in the absence of a specified time) within 5 years after the date on which the proposed policy statement or plan becomes operative. 35
- (8) A local authority must also take any other action that is directed by the national planning template. 40

(9)	This section is subject to obligations placed on local authorities, or on any particular local authority, by or under any other Act that relates to the preparation or change of a policy statement or plan under this Act.	
<b>58I</b>	<b>First national planning template to be made within 2 years and template to be kept in force at all times</b>	5
(1)	The Minister must ensure that the first national planning template is approved within 2 years after the date on which <b>Part 1 of the Resource Legislation Amendment Act 2015</b> receives the Royal assent.	
(2)	The Minister must ensure that, at all times after the approval of the first national planning template, a national planning template is for the time being in force.	10
<b>58J</b>	<b>Obligation to publish planning documents</b>	
	Not later than 1 year after the date on which the approval of the national planning template is notified in the <i>Gazette</i> , a local authority must make the following publicly available, free of charge on a single searchable Internet site, as they relate to a particular district or region:	15
(a)	plans, both operative and proposed, and changes to plans; and	
(b)	policy statements, both operative and proposed.	
<b>38</b>	<b>New subpart 2 of Part 5 and new subpart 3 heading in Part 5 inserted</b>	
	After <b>section 58J</b> (as inserted by <b>section 37</b> of this Act), insert:	20
	Subpart 2—Iwi participation arrangements	
<b>58K</b>	<b>Purpose of iwi participation arrangements</b>	
	The purpose of an iwi participation arrangement is to provide an opportunity for local authorities and iwi authorities to discuss, agree, and record ways in which tangata whenua may, through iwi authorities, participate in the preparation, change, or review of a policy statement or plan in accordance with the processes set out in Schedule 1.	25
<b>58L</b>	<b>Local authorities to invite iwi to enter into iwi participation arrangement</b>	
(1)	The requirement for an invitation to be extended under this section applies when a triennial general election is held under section 10 of the Local Electoral Act 2001.	30
(2)	Not later than 30 working days after the date of a relevant event referred to in <b>subsection (1)</b> , a participating local authority must invite iwi authorities representing tangata whenua to enter into 1 or more iwi participation arrangements.	35

- (3) However, the local authority need not extend the invitation to an iwi authority if it has already agreed to an iwi participation arrangement with that iwi authority.
- (4) If an iwi authority wants to enter into an iwi participation arrangement with a local authority, it must notify its acceptance of the invitation given under **subsection (2)** to the local authority within 60 working days after the date on which the invitation is issued, but nothing in this section requires an iwi authority to respond to an invitation or enter into an iwi participation arrangement. 5
- (5) Nothing in this section prevents a local authority from preparing, changing, or reviewing a policy statement or plan in accordance with Schedule 1 while the local authority is waiting for a response from, or is negotiating an iwi participation arrangement with, 1 or more iwi authorities. 10

#### **58M Content of iwi participation arrangements**

An iwi participation arrangement—

- (a) must be recorded in writing and identify the parties to the arrangement; and 15
- (b) must record the parties' agreements about—
- (i) how an iwi authority party may participate in the preparation or change of a policy statement or plan; and
- (ii) how the parties will give effect to the requirements of any provision of any iwi participation legislation, including any requirements of any agreements entered into under that legislation; and 20
- (iii) whether any other arrangement agreed between the local authority and any 1 or more iwi authority parties that provides a role for those iwi authority parties in the preparation or change of a policy statement or plan should be maintained or, if applicable, modified or cancelled; and 25
- (iv) ways in which iwi authority parties can identify resource management issues of concern to them; and
- (v) the process for monitoring and reviewing the arrangement; and 30
- (c) may—
- (i) specify a process that the parties will use for resolving disputes about the implementation of the arrangement; and
- (ii) indicate whether an iwi authority party has delegated to any person or group of persons the role of participating in the preparation, change, or review of a policy statement or plan; and 35
- (iii) if there are 2 or more iwi authority parties or other parties, set out how those parties will work together collectively under the arrangement.



<b>58N</b>	<b>Time frame for concluding iwi participation arrangement</b>	
(1)	If an iwi authority accepts a local authority's invitation to enter into an iwi participation arrangement, the local authority and the iwi authority must use their best endeavours to conclude an arrangement within—	
(a)	6 months after the date of the acceptance; or	5
(b)	any other period agreed by all the parties.	
(2)	If a local authority and an iwi authority are not able to conclude an iwi participation arrangement within the period that applies under <b>subsection (1)</b> , the local authority must invite the iwi authority to participate in mediation or some other form of alternative dispute resolution for the purpose of concluding an arrangement.	10
(3)	No dispute resolution provisions in an iwi participation arrangement may require the local authority to suspend—	
(a)	the preparation, change, or review of a policy statement or plan; or	
(b)	any other part of a process provided for in Schedule 1.	15
<b>58O</b>	<b>Parties may seek assistance from Minister</b>	
(1)	This section applies if a local authority and an iwi authority that accepted an invitation to enter into an iwi participation arrangement—	
(a)	have endeavoured, but have been unable, to conclude an arrangement within the time specified in <b>section 58N(1)</b> ; and	20
(b)	in their endeavours to conclude an arrangement, have used mediation or some other form of alternative dispute resolution.	
(2)	The local authority or iwi authority may apply to the Minister for assistance to conclude an iwi participation arrangement.	
(3)	If the local authority and the iwi authority agree, the Minister may—	25
(a)	appoint a person to assist the local authority and the iwi authority to conclude an iwi participation arrangement; or	
(b)	direct them to use a particular alternative dispute resolution process for that purpose.	
<b>58P</b>	<b>Relationship with iwi participation legislation</b>	30
	An iwi participation arrangement does not limit any relevant provision of any iwi participation legislation or any agreement under that legislation.	
<b>Subpart 3—Local authority policy statements and plans</b>		
<b>39</b>	<b>Section 61 amended (Matters to be considered by regional council (policy statements))</b>	35
(1)	After section 61(1)(d), insert:	

- (da) a national policy statement, a New Zealand coastal policy statement, and the national planning template; and
- (2) In section 61(2), replace “62(2)” with “62(3)”.
- 40 Section 62 amended (Contents of regional policy statements)**
- (1) Repeal section 62(1)(i)(ii). 5
- (2) In section 62(3), replace “or New Zealand coastal policy statement” with “, a New Zealand coastal policy statement, or the national planning template”.
- 41 Section 65 amended (Preparation and change of other regional plans)**
- (1) Replace section 65(3)(c) with:
- (c) any risks from natural hazards: 10
- (2) In section 65(4), after “set out in”, insert “Part 2 of”.
- (3) In section 65(5), replace “by the regional council in the manner set out in Schedule 1” with “in the manner set out in the relevant Part of Schedule 1”.
- (4) In section 65(7), replace “local authority” with “regional council”.
- 42 Section 66 amended (Matters to be considered by regional council (plans))** 15
- After section 66(1)(e), insert:
- (ea) a national policy statement, a New Zealand coastal policy statement, and the national planning template; and
- 43 Section 67 amended (Contents of regional plans)**
- After section 67(3)(b), insert: 20
- (ba) the national planning template; and
- 44 Section 69 amended (Rules relating to water quality)**
- After section 69(3), insert:
- (4) On and from the commencement of this subsection, Schedule 3 ceases to be applicable to fresh water. 25
- 45 Section 73 amended (Preparation and change of district plans)**
- (1) Replace section 73(1) with:
- (1) There must at all times be 1 district plan for each district, prepared in the manner set out in the relevant Part of Schedule 1.
- (2) Replace section 73(1A) with: 30
- (1A) A district plan may be changed in the manner set out in the relevant Part of Schedule 1.
- (3) In section 73(2), after “set out in”, insert “Part 2 of”.

- 46 Section 74 amended (Matters to be considered by territorial authority)**  
 After section 74(1)(e), insert:  
 (ea) a national policy statement, a New Zealand coastal policy statement, and the national planning template; and
- 47 Section 75 amended (Contents of district plans)** 5  
 After section 75(3)(b), insert:  
 (ba) the national planning template; and
- 48 Cross-heading above section 78 repealed**  
 Repeal the cross-heading above section 78.
- 49 New cross-heading above section 79 inserted** 10  
 Before section 79, insert:  
*Review*
- 50 New cross-heading above section 80 inserted**  
 Before section 80, insert:  
*Combined documents* 15
- 51 Section 80 amended (Combined regional and district documents)**  
 (1) After section 80(6), insert:  
 (6A) In preparing or amending a combined document, the relevant local authorities must apply the requirements of this Part, as relevant for the documents comprising the combined document. 20  
 (6B) The relevant local authorities may also, in preparing the provisions of a regional plan or a district plan, as the case may be, for a combined document that includes a regional policy statement,—  
 (a) give effect to a proposed regional policy statement; and  
 (b) have regard to an operative regional policy statement. 25
- (2) In section 80(7), replace “(6)” with “**(6B)**”.
- 52 New subparts 4 and 5 of Part 5 and new subpart 6 heading in Part 5 inserted**  
 After section 80, insert:

## Subpart 4—Collaborative planning process

**80A Use of collaborative planning process**

- (1) This subpart and **Part 4** of Schedule 1 apply if a local authority gives public notice in accordance with **clause 38** of Schedule 1 of its intention to use the collaborative planning process— 5
- (a) to prepare a proposed policy statement or plan, or change a policy statement or plan:
  - (b) to prepare or change a combined regional and district document under section 80.
- (2) If this subpart applies,— 10
- (a) clauses 1, **1A(1)**, **1B**, 20, and 20A of Schedule 1 apply; but
  - (b) the rest of Part 1 of Schedule 1 does not apply, except to the extent that it is expressly applied by this subpart or **Part 4** of Schedule 1.

## Subpart 5—Streamlined planning process

**80B Purpose, scope, and definitions** 15

- (1) This subpart and **Part 5** of Schedule 1 provide a process, through a direction of the responsible Minister, for the preparation or variation of, or change to, a planning instrument in order to achieve an expeditious planning process that is proportionate to the complexity and significance of the planning issues being considered. 20
- (2) If this subpart applies,—
- (a) Part 11 does not apply; and
  - (b) clauses **1A** to 3C and 20A of Schedule 1 apply; but
  - (c) the rest of Part 1 of Schedule 1 does not apply unless it is expressly applied by— 25
    - (i) this subpart; or
    - (ii) **Part 5** of Schedule 1; or
    - (iii) a direction given under **clause 77** of Schedule 1.
- (3) In this subpart and **Part 5** of Schedule 1,— 30
- national direction** means a direction made by—
- (a) a national planning template; or
  - (b) a national environmental standard; or
  - (c) regulations made under section 360; or
  - (d) a national policy statement
- planning instrument**— 35
- (a) means a policy statement or plan; and

(b) includes a change or variation to a policy statement or plan  
**responsible Minister** means the Minister or Ministers who give a direction in accordance with this subpart and **Part 5** of Schedule 1.

### 80C Application to responsible Minister for direction

- (1) If a local authority determines that, in the circumstances, it would be appropriate to use the streamlined planning process to prepare a planning instrument, it may apply in writing in accordance with **clause 74** of Schedule 1 for a direction to proceed under this subpart to— 5
- (a) the Minister of Conservation, in the case of a regional coastal plan:
- (b) both the Minister and the Minister of Conservation, in the case of a proposed planning instrument that is to encompass matters within the jurisdiction of both those Ministers: 10
- (c) the Minister, in every other case.
- (2) However, a local authority may apply for a direction only if the local authority is satisfied that the application satisfies at least 1 of the following criteria: 15
- (a) the proposed planning instrument will implement a national direction:
- (b) as a matter of public policy, the preparation or change of a planning instrument is urgent:
- (c) the proposed planning instrument is required to meet a significant community need: 20
- (d) an operative planning instrument raises an issue that has resulted in unintended consequences:
- (e) the proposed planning instrument will combine several policy statements or plans to develop a combined document prepared under section 80:
- (f) the expeditious preparation of a planning instrument is required in any circumstance comparable to, or relevant to, those set out in **paragraphs (a) to (e)**. 25
- (3) An application under this clause must be submitted to the responsible Minister before the local authority gives notice,—
- (a) under clause 5 or **5A** of Schedule 1, of a proposal to prepare a planning instrument; or 30
- (b) under **clause 38** of Schedule 1, of its intention to use the collaborative planning process.

### Subpart 6—Miscellaneous matters

- 53 Section 82 amended (Disputes)** 35
- (1) In section 82(1)(c), after “New Zealand coastal policy statement”, insert “or the national planning template”.

- (2) In section 82(2), after “New Zealand coastal policy statement,”, insert “the national planning template,”.
- (3) In section 82(4), after “New Zealand coastal policy statement”, insert “or the national planning template”.
- (4) In section 82(4), after “the other policy statement”, insert “or the national planning template”.
- (5) In section 82(4), after “section 55”, insert “or **58H**”.
- (6) In section 82(5), after “the other policy statement”, insert “or the national planning template”.
- (7) In section 82(5), after “purpose of the policy statement,”, insert “national planning template,”.
- (8) In section 82(6), after “section 55(2)”, insert “, and giving effect to the national planning template includes giving effect to it by complying with **section 58H(2)**”.
- 54 Section 85 amended (Compensation not payable in respect of controls on land)**
- (1) Replace the heading to section 85 with “**Environment Court may give directions in respect of land subject to controls**”.
- (2) In section 85(2)(a), delete “Part 1 of”.
- (3) Replace section 85(3) and (4) with:
- (3) **Subsection (3A)** applies in the following cases:
- (a) on an application to the Environment Court to change a plan under clause 21 of Schedule 1:
- (b) on an appeal to the Environment Court in relation to a provision of a proposed plan or change to a plan.
- (3A) The Environment Court, if it is satisfied that the grounds set out in **subsection (3B)** are met, may,—
- (a) in the case of a plan or proposed plan (other than a regional coastal plan or proposed regional coastal plan), direct the local authority to do whichever of the following the local authority considers appropriate:
- (i) modify, delete, or replace the provision in the plan or proposed plan in the manner directed by the court:
- (ii) if the requirements of **subsection (3D)** are met, by agreement with the person with an estate or interest in the land or part of it, acquire all or part of the estate or interest in the land under the Public Works Act 1981; and
- (b) in the case of a regional coastal plan or proposed regional coastal plan,—

- (i) report its findings to the applicant, the regional council concerned, and the Minister of Conservation; and
- (ii) include a direction to the regional council to modify, delete, or replace the provision in the manner directed by the court.
- (3B) The grounds are that the provision or proposed provision of a plan or proposed plan— 5
- (a) renders any land incapable of reasonable use; and
- (b) places an unfair and unreasonable burden on any person who has an interest in the land.
- (3C) Before exercising its jurisdiction under **subsection (3A)**, the Environment Court must have regard to— 10
- (a) Part 3 (including the effect of section 9(3)); and
- (b) the effect of subsection (1) of this section.
- (3D) The Environment Court must not give a direction under **subsection (3A)(a)(ii)** unless the owner of the estate or interest in the land or part of the land concerned (or the spouse, civil union partner, or de facto partner of the owner)— 15
- (a) had acquired the estate or interest in the land or part of it before the date on which the provision or proposed provision was first publicly notified or otherwise included in the relevant plan or proposed plan and the provision or proposed provision remained in substantially the same form; and 20
- (b) consents to the direction being given.
- (4) Any direction given or report made under **subsection (3A)** has effect under this Act as if it were made or given under clause 15 of Schedule 1. 25
- (4) Replace section 85(5) to (7) with:
- (5) Nothing in **subsections (3) to (3D)** limits the powers of the Environment Court under clause 15 of Schedule 1 on an appeal under clause 14 of that schedule.
- (6) In this section,— 30
- provision of a plan or proposed plan** does not include a designation or a heritage order or a requirement for a designation or a heritage order
- reasonable use**, in relation to land, includes the use or potential use of the land for any activity whose actual or potential effects on any aspect of the environment or on any person (other than the applicant) would not be significant. 35

## 55 Section 86 amended (Power to acquire land)

In section 86(2), replace “section 185 and section 198” with “**sections 85(3A)(a)(ii)**, 185, and 198”.

<b>56</b>	<b>Cross-heading above section 86A replaced</b>	
	Replace the cross-heading above section 86A with:	
	Subpart 7—Legal effect of rules	
<b>57</b>	<b>Section 86A amended (Purpose of sections 86B to 86G)</b>	
	In section 86A(1), delete “or change described in section 86B(6)”.	5
<b>58</b>	<b>Section 86B amended (When rules in proposed plans and changes have legal effect)</b>	
	In the heading to section 86B, delete “and changes”.	
<b>59</b>	<b>Section 86D amended (Environment Court may order rule to have legal effect from date other than standard date)</b>	10
(1)	In section 86D(1)(a), delete “or change”.	
(2)	In section 86D(1)(b), delete “or (6)”.	
<b>60</b>	<b>Section 86E amended (Local authorities must identify rules having early or delayed legal effect)</b>	
(1)	Repeal section 86E(2).	15
(2)	In section 86E(3), delete “or change” in each place.	
(3)	In section 86E(3), delete “or (2)”.	
<b>61</b>	<b>Section 86G amended (Rule that has not taken legal effect or become operative excluded from references to rule in this Act and regulations made under this Act)</b>	20
(1)	In section 86G(1), delete “or a change”.	
(2)	In section 86G(1), delete “or change”.	
	<i>Amendments to Part 6 of principal Act</i>	
<b>62</b>	<b>Section 104 amended (Consideration of applications)</b>	
(1)	After section 104(1)(a), insert:	25
(ab)	any measure proposed by the applicant for the purpose of ensuring positive effects on the environment to offset any adverse effects on the environment that will or may result from allowing the activity; and	
(2)	After section 104(1), insert:	
(1A)	The consent authority must also have particular regard to the objectives and policies in the national planning template that—	30
(a)	are required to be included in regional policy statements or plans in accordance with <b>section 58C(1)(c) or (d)</b> , as the case may be; and	



- (b) are specified as an objective or a policy that is intended to deal with matters that the Minister considers are nationally significant.

**63 Section 108 amended (Conditions of resource consents)**

In section 108(1), replace “subject to any regulations” with “subject to **section 108AA** and any regulations”.

5

**64 New section 108AA inserted (Requirements for conditions of resource consents)**

After section 108, insert:

**108AA Requirements for conditions of resource consents**

- (1) A consent authority must not include a condition in a resource consent for an activity unless— 10
- (a) the applicant for the resource consent agrees to the condition; or
  - (b) the condition is directly connected to 1 or both of the following:
    - (i) an adverse effect of the activity on the environment;
    - (ii) an applicable district rule or regional rule. 15
- (2) For the purpose of this section, a district rule or a regional rule is **applicable** if the application of that rule to the activity is the reason, or one of the reasons, that a resource consent is required for the activity.

**65 Section 139 amended (Consent authorities and Environmental Protection Authority to issue certificates of compliance)**

20

- (1) In section 139(13)(c), after “making the request”, insert “; and”.
- (2) After section 139(13)(c), insert:
- (d) if the EPA requires a person to pay costs recoverable under paragraph (c), the costs are a debt due to the Crown that is recoverable in any court of competent jurisdiction. 25

*Amendments to Part 6AA of principal Act*

**66 Section 142 amended (Minister may call in matter that is or is part of proposal of national significance)**

- (1) After section 142(3)(a)(iii), insert:
- (iiia) if it is a matter specified in any of paragraphs (c) to (f) of the definition of matter in section 141, gives effect to a national policy statement or the national planning template; or 30
- (2) After section 142(8), insert:
- (9) In subsections (2) to (6A), references to a matter include references to a—
- (a) part of a change to a plan: 35

	(b) part of a variation to a proposed plan:	
	(c) part of a request for the preparation of a regional plan:	
	(d) part of a request for a change to a plan.	
<b>67</b>	<b>Section 144 amended (Restriction on when Minister may call in matter)</b>	
	Replace section 144(a) with:	5
	(a) later than 5 working days before the date fixed for the commencement of the hearing, if the local authority has notified the matter; or	
<b>68</b>	<b>Section 149C amended (EPA must give public notice of Minister's direction)</b>	
	After section 149C(3)(e), insert:	10
	(ea) specify an electronic address for sending submissions; and	
<b>69</b>	<b>Section 149E amended (EPA to receive submissions on matter if public notice of direction has been given)</b>	
	(1) After section 149E(3), insert:	
	(3A) A person who makes an electronic submission is to be treated as—	15
	(a) having specified the electronic address from which the submission is received as an address for service; and	
	(b) having consented to receive electronically further correspondence relating to the matter to which the submission relates.	
	(3B) <b>Subsection (3A)</b> does not apply, however, if the submission includes a request that further information relating to the matter to which the submission relates be provided in hard copy form and not electronically.	20
	(2) In section 149E(9), replace “20 working days” with “30 working days”.	
<b>70</b>	<b>Section 149F amended (EPA to receive further submissions if matter is request, change, or variation)</b>	25
	(1) After section 149F(2)(d), insert:	
	(da) an electronic address for sending submissions; and	
	(2) After section 149F(5), insert:	
	(5A) A person who makes a further electronic submission is to be treated as—	
	(a) having specified the electronic address from which the further submission is received as an address for service; and	30
	(b) having consented to receive electronically further correspondence relating to the matter to which the further submission relates.	
	(5B) <b>Subsection (5A)</b> does not apply, however, if the further submission includes a request that further correspondence relating to the matter to which the further submission relates be provided in hard copy form and not electronically.	35

- 71 Section 149G amended (EPA must provide board or court with necessary information)**
- In section 149G(3)(a), after “New Zealand coastal policy statement,”, insert “the national planning template,”.
- 72 Section 149J amended (Minister to appoint board of inquiry)** 5
- (1) In section 149J(3)(b), replace “must be” with “may (but need not) be”.
- (2) After section 149J(3), insert:
- (3A) The Minister may, if he or she considers it appropriate,—
- (a) invite the EPA to nominate persons to be members of the board:
- (b) appoint a member of the EPA board to be a member of the board of inquiry. 10
- (3B) The Minister may, as he or she sees fit, set terms of reference for the board of inquiry.
- 73 Section 149K amended (How members appointed)** 15
- Replace section 149K(4) with:
- (4) In appointing members, the Minister must consider the need for the board to have available to it, from its members,—
- (a) knowledge, skill, and experience relating to—
- (i) this Act; and
- (ii) the matter or type of matter that the board will be considering; and 20
- (iii) the local community; and
- (iv) the exercise of control over the manner of examining and cross-examining witnesses; and
- (b) legal expertise; and
- (c) technical expertise in relation to the matter or type of matter that the board will be considering. 25
- 74 New section 149KA inserted (EPA may make administrative decisions)**
- After section 149K, insert:
- 149KA EPA may make administrative decisions**
- (1) The EPA may— 30
- (a) make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this Part; or
- (b) allow the board of inquiry to make those decisions.

- (2) The EPA must have regard to the purposes of minimising costs and avoiding unnecessary delay when exercising its powers or performing its functions under **subsection (1)(a) or (b)**.

**75 Section 149L amended (Conduct of inquiry)**

Replace section 149L(2) to (4) with:

- (2) If a hearing is to be held, the EPA must—
- (a) fix a place for the hearing, which must be near to the area to which the matter relates; and
  - (b) fix the commencement date and time for the hearing; and
  - (c) give not less than 10 working days' notice of the matters stated in **paragraphs (a) and (b)** to—
    - (i) the applicant; and
    - (ii) every person who made a submission on the matter stating that he or she wished to be heard and who has not subsequently advised the board that he or she no longer wishes to be heard.
- (3) The EPA may provide a board of inquiry with an estimate of the amount of funding required to process a nationally significant proposal.
- (4) A board of inquiry—
- (a) must conduct its inquiry in accordance with any terms of reference set by the Minister under **section 149J(3B)**;
  - (b) must carry out its duties in a timely and cost-effective manner;
  - (c) may direct that briefs of evidence be provided in electronic form;
  - (d) must keep a full record of all hearings and proceedings;
  - (e) may allow a party to question any other party or witness;
  - (f) may permit cross-examination;
  - (g) may, without limiting sections 39, 40 to 41C, 99, and 99A,—
    - (i) direct that a conference of a group of experts be held;
    - (ii) direct that a conference be held with—
      - (A) any of the submitters who wish to be heard at the hearing; or
      - (B) the applicant; or
      - (C) any relevant local authority; or
      - (D) any combination of such persons;
  - (h) must, in relation to a nationally significant proposal, have regard to the most recent estimate provided to the board of inquiry by the EPA under **subsection (3)**.
- (5) A board of inquiry may obtain planning advice from the EPA in relation to—

- (a) the relevant district and regional plans, regional and national policy statements, the national planning template, national environmental standards, and other similar documents:
- (b) the issues raised by the matter being considered by the board.
- 76 Section 149O amended (Public notice and submissions where EPA receives proposed plan or change from local authority under section 149N)** 5
- (1) Replace section 149O(2) with:
- (2) On receiving a copy of the proposed plan or change, the EPA must give public notice of the proposed plan or change that—
- (a) states the Minister’s reasons for making a direction in relation to the matter; and 10
- (b) states where the proposed plan or change, accompanying information, and any further information may be viewed; and
- (c) specifies any rule in the proposed plan or change that has legal effect on and from the date that public notice of the proposed plan or change is given under this section; and 15
- (d) states that any person may make submissions to the EPA on the proposed plan or change; and
- (e) specifies the closing date for receiving submissions; and
- (f) specifies an electronic address for sending submissions; and 20
- (g) specifies the address for service of the EPA and the applicant.
- (2) In section 149O(4), replace “20 working days” with “30 working days”.
- (3) After section 149O(4), insert:
- (4A) A person who makes an electronic submission under subsection (3) is to be treated as— 25
- (a) having specified the electronic address from which the submission is received as an address for service; and
- (b) having consented to receive electronically further correspondence relating to the matter to which the submission relates.
- (4B) **Subsection (4A)** does not apply, however, if the submission includes a request that further correspondence relating to the matter to which the submission relates be provided in hard copy form and not electronically. 30
- 77 Section 149Q repealed (Board to produce draft report)**
- Repeal section 149Q.
- 78 Section 149R amended (Board to produce final report)** 35
- (1) Replace section 149R(1) with:

- (1) As soon as practicable after the board of inquiry has completed its inquiry on a matter, it must—
- (a) make its decision; and
  - (b) produce a written report.
- (2) In section 149R(2), replace “do everything under subsection (1)” with “perform the duties in **subsection (1)**”.
- (3) Replace section 149R(2A) and (2B) with:
- (2A) For the purposes of subsection (2), the 9-month period excludes—
- (a) the period starting on 20 December in any year and ending with 10 January in the following year:
  - (b) any time while an inquiry is suspended under **section 149ZG(3)** (as calculated from the date of notification of suspension under **section 149ZG(5)** to the date of notification of resumption under **section 149ZG(5)**).
- (4) In section 149R(3)(e), after “New Zealand coastal policy statement”, insert “or to the national planning template”.
- (5) In section 149R(3)(f), after “New Zealand coastal policy statement,”, insert “the national planning template,”.
- (6) In section 149R(4), replace “must send” with “must provide”.
- (7) After section 149R(7), insert:
- (8) For the purposes of subsection (4)(d), the EPA is to be taken to have provided a copy of the final report to a submitter if—
- (a) the EPA has published the final report on an Internet site maintained by the EPA to which the public has free access; and
  - (b) the submitter has specified an electronic address as an address for service (and has not requested that the final report be provided in hard copy form); and
  - (c) the EPA has sent the submitter at that electronic address a link to the final report published on the Internet site referred to in **paragraph (a)**.
- 79 Section 149RA amended (Minor corrections of board decisions, etc)**
- In section 149RA(1), replace “minor mistakes or defects” with “minor omissions, errors, or other defects”.
- 80 Section 149S amended (Minister may extend time by which board must report)**
- After section 149S(3), insert:
- (3A) For the purposes of subsection (2)(b), the period of 18 months excludes any time while an inquiry is suspended under **section 149ZG(3)** (as calculated

from the date of notification of suspension under **section 149ZG(5)** to the date of notification of resumption under **section 149ZG(5)**).

## 81 New sections 149ZF and 149ZG inserted

After section 149ZE, insert:

<b>149ZF Liability to pay costs constitutes debt due to EPA or the Crown</b>	5
(1) This section applies when—	
(a) the EPA or the Minister has required a person to pay costs recoverable under section 149ZD(2), (3), or (4); and	
(b) the requirement to pay is final, in that the person who is required to pay—	10
(i) has not objected under section 357B or appealed under section 358 within the time permitted by this Act; or	
(ii) has objected or appealed and the objection or the appeal has been decided against that person.	
(2) The costs referred to in <b>subsection (1)</b> are a debt due to the Crown that is recoverable by the EPA on behalf of the Crown in any court of competent jurisdiction.	15
<b>149ZG Process may be suspended if costs outstanding</b>	
(1) This section applies if—	
(a) the EPA or the Minister has required a person to pay costs recoverable under section 149ZD(2), (3), or (4); and	20
(b) the EPA has given the person written notice that, unless the costs specified in the notice are paid within 20 working days of the date of notice,—	
(i) the EPA may cease to carry out its functions in relation to the matter; and	25
(ii) if it does so, any board of inquiry will be suspended.	
(2) If the person referred to in <b>subsection (1)(b)</b> fails to pay the costs in the required time, the EPA may cease carrying out its functions in respect of the matter.	30
(3) If the EPA ceases to carry out its functions in respect of the matter, the inquiry is suspended.	
(4) If the EPA ceases to carry out its functions in respect of the matter, but subsequently the person required to pay the costs does so,—	
(a) the EPA must resume carrying out its functions in respect of the matter; and	35
(b) the inquiry is resumed.	

- (5) The EPA must, as soon as practicable after an inquiry is suspended under **subsection (3)** or is resumed under **subsection (4)(b)**, notify the following that the inquiry is suspended or has resumed (as the case may be):
- (a) the applicant; and
  - (b) the board; and
  - (c) the Minister; and
  - (d) the relevant local authority; and
  - (e) every person who has made a submission on the matter.
- (6) Nothing in this section affects or prejudices the right of a person to object under section 357B or appeal under section 358, but an objection or an appeal does not affect the right of the EPA under **subsection (2)** of this section to cease carrying out its functions.

*Amendments to Part 8 of principal Act*

- 82 Section 168A amended (Notice of requirement by territorial authority)**
- After section 168A(3)(a)(ii), insert:
- (ia) the national planning template:
- 83 Section 171 amended (Recommendation by territorial authority)**
- Before section 171(1)(a), insert:
- (aa) the objectives and policies in the national planning template that are—
    - (i) required to be included in regional policy statements or plans in accordance with **section 58C(1)(c) or (d)**, as the case may be; and
    - (ii) specified as an objective or a policy intended to deal with matters that the Minister considers are nationally significant; and
- 84 Section 189 amended (Notice of requirement to territorial authority)**
- (1) After section 189(1), insert:
- (1A) However, a heritage protection authority that is a body corporate must not give notice of a requirement for a heritage order in respect of any place or area of land that is private land.
- (2) After section 189(5), insert:
- (6) In this section,—
- Crown** includes—
- (a) the Sovereign in right of New Zealand; and
  - (b) departments of State; and
  - (c) State enterprises named in Schedule 1 of the State-owned Enterprises Act 1986; and



(d)	Crown entities within the meaning of section 7 of the Crown Entities Act 2004; and	
(e)	the mixed ownership model companies named in Schedule 5 of the Public Finance Act 1989; and	
(f)	local authorities within the meaning of the Local Government Act 2002	5
	<b>private land—</b>	
(a)	means any land held in fee simple by any person other than the Crown; and	
(b)	includes—	
(i)	Maori land within the meaning of section 4 of Te Ture Whenua Maori Act 1993; and	10
(ii)	land held by a person under a lease or licence granted to the person by the Crown.	
<b>85</b>	<b>Section 191 amended (Recommendation by territorial authority)</b>	
	After section 191(1)(c), insert:	15
(ca)	the objectives and policies in the national planning template that are—	
(i)	required to be included in plans or regional policy statements in accordance with <b>section 58C(1)(c) or (d)</b> , as the case may be; and	
(ii)	specified as an objective or a policy intended to deal with matters that the Minister considers are nationally significant; and	20
<b>86</b>	<b>New sections 195B and 195C inserted</b>	
	After section 195A, insert:	
	<b>195B Transfer of heritage order</b>	
(1)	The Minister may, on the Minister’s own initiative, transfer responsibility for an existing heritage order to another heritage protection authority (other than a body corporate).	25
(2)	In determining whether to transfer responsibility for an order under <b>subsection (1)</b> , the Minister must take into account—	
(a)	the heritage values of the place or area subject to the heritage order; and	30
(b)	the reasonable use of the place or area despite it being subject to a heritage order; and	
(c)	any other matters that the Minister considers relevant, such as—	
(i)	the effect of the heritage order on the property rights of the owner and occupier (if any) of the place or area:	35

- (ii) the ability of the heritage protection authority to whom the Minister proposes to transfer the heritage order to protect the place or area.
- (3) Before the Minister may make a determination to transfer responsibility for a heritage order under this section, the Minister must serve written notice of the Minister's intention to do so on— 5
- (a) the heritage protection authority currently responsible for the heritage order; and
- (b) the heritage protection authority to whom the Minister proposes to transfer that responsibility; and 10
- (c) the owner and occupier (if any) of the place or area subject to the heritage order and any other person with a registered interest in that place or area; and
- (d) the territorial authority in whose district the place or area subject to the order is located. 15
- (4) The persons or organisations served with a notice under **subsection (3)** may, within 20 working days after being served, make a written objection or submission to the Minister on the Minister's proposal.
- (5) The Minister must take into account all objections and submissions received within the specified time before making a final determination. 20

#### 195C Notice of determination

- (1) The Minister must publish a notice in the *Gazette* of the Minister's determination under **section 195B**.
- (2) The territorial authority in whose district the place or area subject to an order under **section 195B** is located must note the transfer of responsibility for the heritage order by amending the district plan accordingly as soon as is reasonably practicable without using a process set out in Schedule 1. 25

#### *Amendments to Part 9 of principal Act*

#### 87 Section 207 amended (Matters to be considered)

- In section 207, insert as subsection (2): 30
- (2) A special tribunal must also have particular regard to the objectives and policies in the national planning template that are—
- (a) required to be included in plans or regional policy statements in accordance with **section 58C(1)(c) or (d)**, as the case may be; and
- (b) specified as an objective or a policy intended to deal with matters that the Minister considers are nationally significant. 35

**88 Section 212 amended (Matters to be considered by Environment Court)**

In section 212(b), replace “and any proposed plan;” with “any proposed plan, and the national planning template;”.

*Amendments to Part 11 of principal Act***89 Section 265 amended (Environment Court sittings)**

5

In section 265(1)(c), after “Principal Environment Judge”, insert “or an Environment Judge”.

**90 Section 267 amended (Conferences)**

Replace section 267(1) with:

- (1) An Environment Judge— 10
- (a) must, as soon as practicable after the lodging of proceedings, consider whether to convene a conference presided over by a member of the court; and
  - (b) may, at any time after the lodging of proceedings, require the parties, or any Minister, local authority, or other person that or who has given notice of intention to appear under section 274, to be present at a conference presided over by a member of the court. 15
- (1A) A person required to be present at a conference may be present in person or by a representative.
- (1B) However, a person (**person A**) may represent a person required to be present at a conference (**person B**) only if person A has the authority to make decisions on behalf of person B in respect of matters that may arise at the conference. 20

**91 Section 268 replaced (Alternative dispute resolution)**

Replace section 268 with:

- 268 Alternative dispute resolution** 25
- (1) At any time after the lodgement of proceedings, the Environment Court may, for the purpose of facilitating the resolution of any matter, ask a member of the Environment Court or another person to conduct an ADR process before or at any time during the course of a hearing.
  - (2) The Environment Court may act under this section on its own motion or on request. 30
  - (3) A member of the Environment Court who conducts an ADR process is not disqualified from resuming his or her role to decide a matter if—
    - (a) the parties agree that the member should resume his or her role and decide the matter; and 35
    - (b) the member concerned and the court are satisfied that it is appropriate for him or her to do so.

- (4) In this section and **section 268A**, **ADR process** means an alternative dispute resolution process (for example, mediation) designed to facilitate the resolution of a matter.
- 268A Mandatory participation in alternative dispute resolution processes**
- (1) This section applies to an ADR process conducted under **section 268**. 5
- (2) Each party to the proceedings must participate in the ADR process in person or by a representative, unless leave is granted under this section.
- (3) A person (**person A**) may represent a person required to participate in an ADR process (**person B**) only if person A has the authority to make decisions on behalf of person B in respect of matters that may arise during the ADR process. 10
- (4) A party to the proceedings may apply to the Environment Court for leave not to participate in the ADR process.
- (5) The Environment Court may grant leave if it considers that it is not appropriate for the party to participate in the ADR process.
- 92 Section 276 amended (Evidence)** 15  
After section 276(3), insert:
- (4) This section applies subject to **section 277A**.
- 93 New section 277A inserted (Powers of Environment Court in relation to evidence heard on appeal by way of rehearing)**  
After section 277, insert: 20
- 277A Powers of Environment Court in relation to evidence heard on appeal by way of rehearing**
- (1) This section applies to an appeal brought by way of a rehearing under **clause 59** of Schedule 1.
- (2) In conducting the appeal, the Environment Court has full discretion to rehear all or any part of the evidence received by the local authority or panel whose decision is the subject of the appeal. 25
- (3) The Environment Court must rehear the evidence of a witness if the court has reason to believe that the record of evidence of that person made by direction of the local authority or panel is or may be incomplete in any material way. 30
- (4) A party to the appeal may introduce new evidence with the leave of the Environment Court.
- (5) The Environment Court may grant leave under **subsection (4)**, but only if it considers that the proposed new evidence was not able to be produced at the hearing conducted by the local authority or panel. 35
- 94 Section 279 amended (Powers of Environment Judge sitting alone)**  
After section 279(4), insert:

- (5) In the case of an appeal under section 120, in addition to exercising the powers conferred by subsections (1) to (4), an Environment Judge sitting alone may—
- (a) exercise any other powers of the Environment Court that may be conferred by the Principal Environment Judge either generally or in relation to a particular matter; and
  - (b) exercise those powers on any terms and conditions that the Principal Environment Judge may think fit.
- 95 Section 280 amended (Powers of Environment Commissioner sitting without Environment Judge)**
- (1) After section 280(1), insert:
- (1AA) If proceedings relate to an appeal under section 120, 1 or more Environment Commissioners sitting without an Environment Judge may,—
- (a) in relation to a particular matter, exercise any of the powers conferred by section 279(1) to (4) on an Environment Judge sitting alone that may be conferred by the Environment Judge after a conference held under section 267 in relation to that matter; and
  - (b) exercise the powers referred to in **paragraph (a)** on any terms and conditions that the Environment Judge may think fit.
- (2) Repeal section 280(1A).
- 96 Section 281A replaced (Registrar may waive, reduce, or postpone payment of fee)**
- Replace section 281A with:
- 281A Registrar may waive, reduce, or postpone payment of fee**
- (1) A person may apply to the Registrar for a waiver, reduction, or postponement of the payment to the court of any fee prescribed by regulations made under this Act.
  - (2) The application must be made in the prescribed form (if any).
  - (3) The Registrar may waive, reduce, or postpone the payment of the fee only if the Registrar is satisfied, after applying any prescribed criteria, that—
    - (a) the person responsible for paying the fee is unable to pay the fee in whole or in part; or
    - (b) in the case of proceedings concerning a matter of public interest, the proceedings are unlikely to be commenced or continued if the powers are not exercised.
- 97 Section 290A replaced (Environment Court to have regard to decision that is subject of appeal or inquiry)**
- Replace section 290A with:

**290A Environment Court to have regard to decision that is subject of appeal or inquiry, and to related reports and processes**

In determining an appeal or inquiry, the Environment Court must have regard to—

- (a) the decision that is the subject of the appeal or inquiry; and 5
- (b) in the case of an appeal under section 120,—
  - (i) any reports prepared by the consent authority for the purpose of a hearing on the decision; and
  - (ii) the outcome of any related pre-hearing meeting or alternative dispute resolution process. 10

**98 Section 293 amended (Environment Court may order change to proposed policy statements and plans)**

- (1) In section 293(3)(b), replace “the” with “a”.
- (2) After section 293(3)(b), insert:
  - (ba) the national planning template: 15
- (3) In section 293(5)(a), replace “the New Zealand coastal policy statement,” with “a New Zealand coastal policy statement, the national planning template,”.

*Amendments to Part 12 of principal Act***99 Section 310 amended (Scope and effect of declaration)**

- (1) In section 310(b)(i), after “New Zealand coastal policy statement”, insert “or the national planning template”. 20
- (2) In section 310(ba)(i), after “for the region”, insert with “or a relevant provision or proposed provision of the national planning template”.
- (3) In section 310(bb)(i), after “regional policy statement”, insert with “or a relevant provision or proposed provision of the national planning template”. 25

*Amendments to Part 14 of principal Act***100 Section 352A amended (Mode of service of summons on master or owner of ship)**

In section 352A(4), definition of **Registrar**, replace “section 2(1)” with “section 5”. 30

**101 Section 357B amended (Right of objection in relation to imposition of additional charges or recovery of costs)**

In section 357B(a), replace “section 36(3)” with “**section 36(5)**”.

**102 Section 357D amended (Decision on objections made under sections 357 to 357B)**

In section 357D(1)(c), replace “section 36(3)” with “**section 36(5)**”.

**103 Section 360 amended (Regulations)**

- (1) After section 360(1)(b), insert: 5
- (baa) prescribing, for the purpose of the Registrar deciding whether to waive, reduce, or postpone the payment of a fee under **section 281A**, the criteria that the Registrar must apply to—
- (i) assess a person’s ability to pay a fee; and
- (ii) identify proceedings that concern matters of public interest: 10
- (2) In section 360(1)(ba), after “under this Act”, insert “(including offences prescribed under **paragraph (ho)**)”.
- (3) In section 360(1)(bb), replace “\$1,000” with “\$750 in the case of any offence prescribed under **paragraph (ho)** and not exceeding \$1,000 in any other case”. 15
- (4) After section 360(1)(d), insert:
- (da) prescribing the form and content (including conditions) of water permits and discharge permits:
- (5) In section 360(1)(hk), replace “section 35(2)(a)(ii)” with “section 35(2) and **(2AA)**”. 20
- (6) After section 360(1)(hk)(i), insert:
- (ia) matters by reference to which monitoring must be carried out:
- (7) After section 360(1)(hm), insert:
- (hn) prescribing measures for the purpose of excluding stock from water bodies, estuaries, and coastal lakes and lagoons, including regulations that— 25
- (i) apply generally in relation to stock or to specified kinds of stock (for example, dairy cattle):
- (ii) apply generally in relation to water bodies, estuaries, and coastal lakes and lagoons or to specified kinds of water bodies, estuaries, and coastal lakes and lagoons: 30
- (iii) apply different measures to different kinds of stock or to different kinds of water bodies, estuaries, and coastal lakes and lagoons:
- (iv) prescribe technical requirements for the purposes of the regulations (for example, the minimum height and other specifications with which any required means of exclusion must comply, such as requirements for fencing or riparian planting): 35
- (ho) prescribing infringement offences for the contravention of, or non-compliance with, any regulations made under **paragraph (hn)**:

(hp)	prescribing requirements that apply to the use of models (being simplified representations of systems, for example, farms, catchments, and regions) under this Act by—	
(i)	local authorities:	
(ii)	the holders of resource consents:	5
(iii)	other persons:	
<b>104</b>	<b>Section 360B amended (Conditions to be satisfied before regulations made under section 360A)</b>	
	After section 360B(2)(c)(iii)(B), insert:	
	(BA) the national planning template; and	10
<b>105</b>	<b>New sections 360D and 360E inserted</b>	
	After section 360C, insert:	
<b>360D</b>	<b>Regulations that permit or prohibit certain rules</b>	
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—	15
(a)	to permit a specified land use:	
(b)	to prohibit a local authority from making specified rules or specified types of rules:	
(c)	to specify rules or types of rules that are overridden by the regulations and must be withdrawn:	20
(d)	to prohibit or override specified rules or types of rules that meet the description in <b>subsection (3)(b)</b> .	
(2)	Regulations made under <b>subsection (1)(a)</b> may provide for a land use to be a permitted activity, but only for the purpose of avoiding restrictions on land use that are not reasonably required to achieve the purpose of the Act.	25
(3)	Regulations must not be made—	
(a)	under <b>subsection (1)(b) or (c)</b> unless, in the Minister’s opinion, the rules would restrict land use for residential development in a way that is not reasonably required to achieve the purpose of the Act:	
(b)	under <b>subsection (1)(d)</b> unless, in the Minister’s opinion, the rules would duplicate, overlap with, or deal with the same subject matter as is included in other legislation and that duplication, overlap, or repetition would be undesirable.	30
(4)	Regulations made under <b>subsection (1)</b> may require that—	
(a)	rules inconsistent with those regulations be withdrawn or amended—	35
(i)	to the extent necessary to remove the inconsistency; and	



- (ii) as soon as practicable after the date on which the regulations come into force; and
- (iii) without using any of the processes under Schedule 1 for changing a plan or proposed plan; and
- (b) their withdrawal or amendment be publicly notified by the local authority concerned. 5
- (5) Regulations made under this section—
- (a) may specify, in relation to a rule made before the commencement of the regulations,—
- (i) the extent to which a matter that the regulations apply to continues to have effect; or 10
- (ii) the period for which a matter that the regulations apply to continues to have effect; and
- (b) may apply—
- (i) generally; or 15
- (ii) to any specified district or region; or
- (iii) to any specified part of New Zealand.
- (6) Section 360(2) and (4) applies to regulations made under this section.
- (7) Before recommending that regulations be made under this section, the Minister must— 20
- (a) prepare an evaluation report under section 32; and
- (b) have particular regard to that report when deciding whether to recommend that regulations be made.
- (8) The Minister must not recommend the making of regulations under this section unless the Minister is of the opinion that it is necessary or desirable to do so, after the Minister has— 25
- (a) notified the public, relevant local authorities, and relevant iwi authorities of the proposed regulations; and
- (b) established a process that—
- (i) the Minister considers gives the public, the relevant local authorities, and the relevant iwi authorities adequate time and opportunity to comment on the proposed regulations; and 30
- (ii) requires a report and recommendation to be made to the Minister on the comments received under **subparagraph (i)**; and
- (c) publicly notified the report and recommendation. 35
- (9) In the case of regulations relating to a specified district, region, or part of New Zealand, the requirements of **subclause (8)** may apply only to that district, region, or part of New Zealand.

- (10) The power to make regulations conferred by **subsection (1)(a), (b), and (c)** expires and is repealed on and from the day that is 1 year after the first national planning template is notified in the *Gazette* under **section 58E(4)**.
- (11) Regulations made under **subsection (1)(b) or (c)** that are still in force expire and are revoked on and from the day specified in **subsection (10)**. 5
- 360E Regulations relating to administrative charges and other amounts**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations specifying—
- (a) the charges that a local authority is required to fix under section 36 (*see section 36(4)*); and 10
- (b) whether a consent authority is required to fix a fee under **section 34B**.
- (2) Regulations made under this section—
- (a) may require a local authority to fix a charge listed in section 36(1) only if the charge relates to an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent (including charges for certificates of compliance and existing use certificates); and 15
- (b) must specify the class or classes of application in respect of which each charge or fee is to be fixed; and
- (c) may include a schedule of charges or fees to be fixed; but 20
- (d) must not fix any charges or fees.

*Amendment to Part 15 of principal Act*

- 106 Section 401B amended (Obligation to pay coastal occupation charge deemed condition of consent)**
- Replace section 401B(a) with: 25
- (a) authorises the holder to occupy any part of the common marine and coastal area; and

*Part 16 of principal Act replaced*

- 107 Part 16 replaced**
- Replace Part 16 with: 30

## Part 16

### Transitional, savings, and related provisions for amendments made on or after 4 September 2013

- 434 Transitional, savings, and related provisions for amendments made on or after 4 September 2013** 5
- The transitional, savings, and related provisions set out in Schedule 12 have effect according to their terms.
- Amendments to Schedule 1 of principal Act*
- 108 Schedule 1 amended** 10
- Amend Schedule 1 as set out in **Schedule 1** of this Act.
- Amendments to Schedule 4 of principal Act*
- 109 Schedule 4 amended**
- In Schedule 4,—
- (a) clause 6(1)(c), delete “substances and”; and
- (b) clause 7(1)(f), delete “or the use of hazardous substances”. 15
- Amendments to Schedule 12 of principal Act*
- 110 Schedule 12 amended**
- Amend Schedule 12 as set out in **Schedule 2** of this Act.
- Consequential amendments commencing on day after Royal assent*
- 111 Consequential amendments commencing on day after Royal assent** 20
- Amend the enactments specified in **Schedule 3** as set out in that schedule.
- Subpart 2—Amendments that commence 6 months after Royal assent
- Amendments to Part 1 of principal Act*
- 112 Section 2 amended (Interpretation)** 25
- (1) In section 2(1), insert in their appropriate alphabetical order:
- affected boundary**, in relation to a boundary activity, has the meaning given in **section 87AAB**
- boundary activity** and **boundary rule** have the meanings given in **section 87AAB**
- fast-track application** has the meaning given in **section 87AAC** 30
- public boundary** has the meaning given in **section 87AAB**

- (2) In section 2(1), replace the definition of **public notice** with:

**public notice** has the meaning given in **section 2AB**

**113 Section 2AA amended (Definitions relating to notification)**

Replace section 2AA(2) with:

- (2) In this Act, unless the context requires another meaning,—
- affected customary marine title group** has the meaning given in section 95G
- affected person** means a person who, under **section 95E**, a consent authority decides is an affected person in relation to the application or matter
- affected protected customary rights group** has the meaning given in section 95F
- limited notification** means serving notice of the application or matter in accordance with **section 95B** and within the time limit specified by **section 95**
- notification** means public notification or limited notification of the application or matter
- public notification** means giving public notice of the application or matter in accordance with **section 95A**, in the manner required by **section 2AB**, and within the time limit specified by **section 95**.

**114 New section 2AB inserted (Meaning of public notice)**

After section 2AA, insert:

- 2AB Meaning of public notice**
- (1) If this Act requires a person to give **public notice** of something, the person must—
- (a) publish on an Internet site to which the public has free access a notice that—
- (i) includes all the information that is required to be publicly notified; and
- (ii) is in the prescribed form (if any); and
- (b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates.
- (2) The notice and the short summary of the notice must be worded in a way that is clear and concise.

*Amendments to Part 3 of principal Act*

**115 Section 11 amended (Restrictions on subdivision of land)**

- (1) Replace section 11(1)(a) with:

- (a) a subdivision permitted by **subsection (1A)**; or
- (2) After section 11(1), insert:
- (1A) A person may subdivide land under **subsection (1)(a)** if—
- (a) either—
- (i) the subdivision is expressly allowed by a resource consent; or 5
- (ii) the subdivision does not contravene a national environmental standard, a rule in a district plan, or a rule in a proposed district plan for the same district (if there is one); and
- (b) the subdivision is shown on a survey plan that is—
- (i) deposited under Part 10 by the Registrar-General of Land, in the case of a survey plan described in paragraph (a)(i) or (b) of the definition of survey plan in section 2(1); or 10
- (ii) approved as described in section 228 by the Chief Surveyor, in the case of a survey plan described in paragraph (a)(ii) of the definition of survey plan in section 2(1). 15

*Amendments to Part 4 of principal Act*

- 116 Section 35 amended (Duty to gather information, monitor, and keep records)**
- In section 35(5)(ga), after “37”, insert “, **87BA, 87BB**”.
- 117 Section 36 amended (Administrative charges)** 20
- After section 36(1)(ad), insert:
- (ae) charges payable by persons proposing to undertake an activity, for the carrying out by the local authority of its functions in relation to issuing a notice under **section 87BA or 87BB** stating whether the activity is a permitted activity: 25
- (af) charges payable by a person making an objection under section 357A(1)(f) or (g), if the person requests under **section 357AB** that the objection be considered by a hearings commissioner, for the cost of the objection being considered and decided in accordance with the request:
- 118 Section 41A amended (Control of hearings)** 30
- In section 41A, replace “section 41B or section 41C” with “any of sections 41B to **41D**”.
- 119 Section 41C amended (Directions and requests before or at hearings)**
- Repeal section 41C(7) to (9).
- 120 New section 41D inserted (Striking out submissions)** 35
- After section 41C, insert:

**41D Striking out submissions**

- (1) An authority conducting a hearing on a matter described in section 39(1) may direct that a submission or part of a submission be struck out if the authority is satisfied that at least 1 of the following applies to the submission or the part:
- (a) it is frivolous or vexatious: 5
  - (b) it discloses no reasonable or relevant case:
  - (c) it would be an abuse of the hearing process to allow the submission or the part to be taken further.
- (2) However, the authority must direct that a submission or part of a submission be struck out if— 10
- (a) the submission is on an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent; and
  - (b) the authority is satisfied that at least 1 of the following applies to the submission or the part: 15
    - (i) it does not have a sufficient factual basis:
    - (ii) it is not supported by any evidence:
    - (iii) it is supported only by evidence that purports to be independent expert evidence on a matter but that is prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert evidence on the matter: 20
    - (iv) it is unrelated to an activity's actual or likely adverse effects, if those effects were the reason for notifying the application or review; and
  - (c) the authority considers that the direction would not materially compromise the authority's ability to fulfil its obligations under Part 2. 25
- (3) An authority—
- (a) may make a direction under this section before, at, or after the hearing; and
  - (b) must record its reasons for any direction made. 30
- (4) A person whose submission is struck out, in whole or in part, has a right of objection under section 357.

*Amendments to Part 6 of principal Act***121 New sections 87AAB to 87AAD inserted**

After section 87AA, insert: 35

**87AAB Meaning of boundary activity and related terms**

- (1) An activity is a **boundary activity** if—

- (a) the activity requires a resource consent because of the application of 1 or more boundary rules, but no other district rules, to the activity; and
- (b) no affected boundary is a public boundary.
- (2) In this section,—
- affected boundary**, in relation to a boundary activity, means a boundary that is affected by the application of a boundary rule to the activity
- boundary rule** means a district rule, or part of a district rule, to the extent that it relates to—
- (a) the distance between a structure and 1 or more boundaries of an allotment; or
- (b) the dimensions of a structure in relation to its distance from 1 or more boundaries of an allotment
- public boundary** means a boundary between an allotment and any road, river, lake, coast, esplanade reserve, esplanade strip, other reserve, or land owned by the local authority or by the Crown.
- 87AAC Meaning of fast-track application**
- (1) An application is a **fast-track application** if—
- (a) the application is for a resource consent for 1 or both of the following, but no other, activities:
- (i) a controlled activity (other than a subdivision of land):
- (ii) an activity prescribed, or identified in the manner prescribed, under **section 360F(1)(a)**; and
- (b) the application includes an address for service that is an electronic address.
- (2) An application described in **subsection (1)** ceases to be a fast-track application if—
- (a) a consent authority gives public or limited notification of the application; or
- (b) a hearing is to be held for the application.
- (3) To avoid doubt, if an application ceases to be a fast-track application under **subsection (2)**,—
- (a) the application is not incomplete by reason only that it does not include the information referred to in **section 88(2)(c)**; but
- (b) a consent authority may, under section 92, request the applicant to provide any of the information referred to in **section 88(2)(c)**.

**87AAD Overview of application of this Part to boundary activities and fast-track applications**

- (1) If an activity is a boundary activity,—

- (a) the activity may be a permitted activity if the requirements of **section 87BA** are satisfied;
- (b) there are restrictions on who may be notified of an application for a resource consent for the activity (*see* **sections 95A(4) and (5) and 95DA(4)**): 5
- (c) there is no right of appeal under section 120 against the whole or any part of a decision of a consent authority referred to in section 120(1) to the extent that the decision relates to resource consent for the activity.
- (2) If an application is a fast-track application,—
  - (a) a consent authority must, within the time limit specified in **section 95** for fast-track applications, decide whether to give public or limited notification of the application; and 10
  - (b) notice of a decision on the application must be given within the time limit specified in **section 115(4A)**; and
  - (c) except as provided for in **paragraphs (a) and (b)**, this Act applies to the application in the same way as it applies to any other application for a resource consent. 15
- (3) This overview is by way of explanation only. If any provision of this Act conflicts with this overview, that provision prevails.

**122 New sections 87BA and 87BB inserted** 20  
 After section 87B, insert:

**87BA Boundary activities approved by neighbours on affected boundaries are permitted activities**

- (1) A boundary activity is a permitted activity if—
  - (a) the person proposing to undertake the activity provides to the consent authority— 25
    - (i) a description of the activity; and
    - (ii) a plan (drawn to scale) of the site at which the activity is to occur, showing the height, shape, and location on the site of the proposed activity; and 30
    - (iii) the full name and address of each owner or occupier of the site; and
    - (iv) the full name and address of each owner or occupier of an allotment with an affected boundary; and
  - (b) each owner or occupier of an allotment with an affected boundary— 35
    - (i) gives written approval for the activity; and
    - (ii) signs the plan referred to in **paragraph (a)(ii)**; and



- (c) the consent authority notifies the person proposing to undertake the activity that the activity is a permitted activity.
- (2) If a person proposing to undertake an activity provides information to a consent authority under this section, the consent authority must,—
- (a) if **subsection (1)(a) and (b)** are satisfied, give a notice under **subsection (1)(c)**; or 5
- (b) if **subsection (1)(a) and (b)** are not satisfied, notify the person of that fact and return the information to the person.
- (3) A notice given under this section must be in writing.
- (4) If a person has submitted an application for a resource consent for a boundary activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant. 10
- 87BB Activities meeting certain requirements are permitted activities**
- (1) An activity is a permitted activity if— 15
- (a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, regulations (including any national environmental standard), a plan, or a proposed plan; and
- (b) any adverse environmental effects of the activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance referred to in **paragraph (a)**; and 20
- (c) any adverse effects of the activity on a person are less than minor; and
- (d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity that the activity is a permitted activity. 25
- (2) A consent authority may give a notice under **subsection (1)(d)**—
- (a) after receiving an application for a resource consent for the activity; or
- (b) on its own initiative.
- (3) The notice must be in writing and must include—
- (a) a description of the activity; and 30
- (b) details of the site at which the activity is to occur; and
- (c) the consent authority's reasons for considering that the activity meets the criteria in **subsection (1)(a) to (c)**, and the information relied on by the consent authority in making that decision.
- (4) If a person has submitted an application for a resource consent for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant. 35

**123 Section 88 amended (Making an application)**

- (1) Replace section 88(2)(b) with:
- (b) in the case of a fast-track application, include the prescribed information relating to the activity (*see* **section 360F(1)(b)**); and
  - (c) in the case of any other application, include the information relating to the activity, including an assessment of the activity’s effects on the environment, that is required by Schedule 4. 5
- (2) Replace section 88(3)(b) with:
- (b) include the information required by **subsection (2)(b) or (c)** (as applicable). 10

**124 Section 88E amended (Excluded time periods relating to other matters)**

In section 88E(3), replace “95E(3)” with “**95E(4)**”.

**125 Sections 95 to 95B replaced**

Replace sections 95 to 95B with:

- 95 Time limit for public notification or limited notification** 15
- (1) A consent authority must, within the time limit specified in **subsection (2)**,—
- (a) decide, in accordance with **sections 95A and 95B**, whether to give public or limited notification of an application for a resource consent; and
  - (b) notify the application if it decides to do so. 20
- (2) The time limit is,—
- (a) in the case of a fast-track application, 10 working days after the day the application is first lodged; and
  - (b) in the case of any other application, 20 working days after the day the application is first lodged. 25
- 95A Public notification of consent applications**
- (1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.
- Step 1: mandatory public notification in certain circumstances* 30
- (2) Determine whether the application meets any of the criteria set out in **subsection (3)** and,—
- (a) if the answer is yes, publicly notify the application; and
  - (b) if the answer is no, go to step 2.
- (3) The criteria for step 1 are as follows: 35
- (a) the applicant has requested that the application be publicly notified:

- (b) public notification is required under section 95C:
- (c) the application includes a proposal to exchange recreation reserve land under **section 14B** of the Reserves Act 1977.
- Step 2: if not required by step 1, public notification precluded in certain circumstances* 5
- (4) Determine whether the application meets either of the criteria set out in **subsection (5)** and,—
- (a) if the answer is yes, go to step 4 (step 3 does not apply); and
- (b) if the answer is no, go to step 3.
- (5) The criteria for step 2 are as follows: 10
- (a) a rule or national environmental standard precludes public notification of the application:
- (b) the application is for a resource consent for 1 or more of the following, but no other, activities:
- (i) a controlled activity: 15
- (ii) a restricted-discretionary or discretionary activity, but only if the activity is a boundary activity, a subdivision of land, or a residential activity:
- (iii) a prescribed activity (*see* **section 360G(1)(a)(i)**).
- (6) In **subsection (5)**, **residential activity** means an activity associated with the construction, alteration, or use of a dwellinghouse on land that, under a district plan, is intended to be used solely or principally for residential purposes. 20
- Step 3: if not precluded by step 2, public notification required in certain circumstances*
- (7) Determine whether the application meets either of the criteria set out in **subsection (8)** and,— 25
- (a) if the answer is yes, publicly notify the application and specify in the notice the adverse effects that the consent authority considers to be relevant under section 95D (if applicable); and
- (b) if the answer is no, go to step 4. 30
- (8) The criteria for step 3 are as follows:
- (a) a rule or national environmental standard requires public notification of the application:
- (b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor. 35

	<i>Step 4: public notification in special circumstances</i>	
(9)	Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—	
	(a) if the answer is yes, publicly notify the application and specify in the notice the special circumstances that warrant the application being publicly notified; and	5
	(b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under <b>section 95B</b> .	
<b>95B</b>	<b>Limited notification of consent applications</b>	10
(1)	A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under <b>section 95A</b> .	
	<i>Step 1: certain affected persons must be notified</i>	
(2)	Determine whether there are any—	15
	(a) affected protected customary rights groups; or	
	(b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).	
(3)	Determine—	
	(a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and	20
	(b) whether the person to whom the statutory acknowledgement is made is an affected person under <b>section 95E</b> .	
(4)	Notify the application to each group identified under <b>subsection (2)</b> and each affected person identified under <b>subsection (3)</b> , and specify in the notice the adverse effects that the consent authority considers to be relevant for the purpose of <b>section 95E</b> , 95F, or 95G (as applicable).	25
	<i>Step 2: notification of other affected persons precluded in certain circumstances</i>	30
(5)	Determine whether the application meets either of the criteria set out in <b>subsection (6)</b> and,—	
	(a) if the answer is yes, go to step 4 (step 3 does not apply); and	
	(b) if the answer is no, go to step 3.	
(6)	The criteria for step 2 are as follows:	35
	(a) a rule or national environmental standard precludes limited notification of the application:	

- (b) the application is for a resource consent for either or both of the following, but no other, activities:
- (i) a controlled activity other than a subdivision of land:
  - (ii) a prescribed activity (*see* **section 360G(1)(a)(ii)**).
- Step 3: if not precluded by step 2, certain other affected persons must be notified* 5
- (7) Determine—
- (a) whether the proposed activity is on or adjacent to, or may affect,—
    - (i) land in respect of which a nohoanga, an overlay classification, or a vest and vesting back is granted in accordance with an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or 10
    - (ii) land that is the site of a wāhi tapu that is recognised in a plan or entered on the New Zealand Heritage List/Rārangi Kōrero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; and 15
  - (b) whether the person to whom the nohoanga, overlay classification, or vest and vesting back is granted, or the iwi to whom the site is wāhi tapu, is an affected person under **section 95E**.
- (8) Determine—
- (a) which other persons are eligible under **section 95DA** to be considered affected persons in relation to the application (**eligible persons**); and 20
  - (b) which of the other persons are affected persons under **section 95E**.
- (9) Notify each affected person identified under **subsections (7) and (8)** of the application, and specify in the notice the adverse effects that the consent authority considers to be relevant for the purpose of **section 95E**. 25
- Step 4: further notification in special circumstances*
- (10) Determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons and,—
- (a) if the answer is yes, notify those persons and specify in the notice the special circumstances that warrant their being notified of the application; 30  
and
  - (b) if the answer is no, do not notify anyone else.
- Meaning of nohoanga, overlay classification, and vest and vesting back*
- (11) In **subsection (7)**,— 35
- nohoanga** means an instrument, whether known as a nohoanga or by another name, that provides for the grant of an entitlement to occupy 1 or more specified sites for the purpose of undertaking customary fishing and the gathering of natural resources

	<b>overlay classification</b> means an instrument, whether known as an overlay classification or by another name, that declares 1 or more specified areas to be subject to the Crown’s acknowledgement of particular values in relation to the site and the agreement by the Crown and the governance entity of the relevant iwi of certain protection principles that are directed at avoiding harm to, or avoiding the diminishing of, the values of the site	5
	<b>vest and vesting back</b> means an instrument, whether known as a vest and vesting back or by another name, that provides for the Crown to vest the fee simple estate in a specified area of land in an entity on a specified date, and for the fee simple estate in that land to vest back in the Crown on a specified date.	10
<b>126</b>	<b>Section 95C amended (Public notification of consent application after request for further information or report)</b>	
	In section 95C(1), replace “Despite section 95A(1), a consent authority must publicly notify an application for a resource consent if” with “A consent authority must publicly notify an application for a resource consent ( <i>see</i> <b>section 95A(2) and (3)</b> ) if”.	15
<b>127</b>	<b>Section 95D amended (Consent authority decides if adverse effects likely to be more than minor)</b>	
(1)	In section 95D, replace “section 95A(2)(a)” with “ <b>section 95A(8)(b)</b> ”.	
(2)	After section 95D(c), insert:	20
	(ca) may disregard an adverse effect of the activity if the adverse effect, considered in the context of the relevant plan or proposed plan, is already taken into account by the objectives and policies of that plan; and	
<b>128</b>	<b>New section 95DA inserted (Persons eligible to be considered affected persons for purpose of limited notification)</b>	25
	After section 95D, insert:	
	<b>95DA Persons eligible to be considered affected persons for purpose of limited notification</b>	
(1)	This section specifies, for the purpose of limited notification of an application for a resource consent, which persons other than those identified in <b>section 95B(3) and (7)</b> are eligible to be considered affected persons under <b>section 95E</b> in relation to the application and notified of the application under <b>section 95B(9)</b> if that subsection applies.	30
	<i>Applications for which eligibility is not limited</i>	
(2)	Any person is eligible to be considered an affected person in relation to the following applications:	35
(a)	an application for a resource consent for an activity that may be granted only by a regional council, unless the activity is an activity prescribed	

under **section 360G(1)(b)** (in which case eligibility is determined under **subsection (3)**):

- (b) any other application for a resource consent for an activity, unless—
- (i) the activity is an activity prescribed under **section 360G(1)(b)** (in which case eligibility is determined under **subsection (3)**); or
  - (ii) the activity is described in the first column of the table in **subsection (4)** (in which case eligibility is determined under that subsection).

*Limitations on eligibility*

- (3) To the extent that an application is for a resource consent for an activity prescribed under **section 360G(1)(b)**, only a person who is a prescribed person in relation to that activity is eligible to be considered an affected person in relation to the application. This subsection prevails over **subsections (2) and (4)**. 10
- (4) To the extent that an application is for a resource consent for an activity described in the first column of the following table, a person is eligible to be considered an affected person in relation to the application only if— 15
- (a) the activity is not an activity prescribed under **section 360G(1)(b)** (in which case eligibility is determined under **subsection (3)**); and
  - (b) the person is listed in the second column alongside 1 or more of the descriptions in the first column that applies to the activity: 20

Activity for which consent is sought	Persons eligible to be considered affected
A boundary activity	The owner or occupier of any allotment with an affected boundary
Any activity, other than a non-complying activity, that is to occur on land that is subject to a designation	The requiring authority responsible for the designation
A subdivision of land, unless the subdivision is a non-complying activity	The owner of infrastructure associated with providing services to the land The medical officer of health (as defined in section 2(1) of the Health Act 1956) for the health district (within the meaning of that Act) in which the proposed subdivision is located The New Zealand Fire Service A Civil Defence Emergency Management Group (as defined in section 4 of the Civil Defence Emergency Management Act 2002) of which the consent authority is a member
Any activity other than a boundary activity, a subdivision of land, or a non-complying activity	The owner or occupier of an allotment that is adjacent ( <i>see</i> <b>subsection (5)</b> ) to the allotment on which the activity is to occur The owner of infrastructure assets that pass through, over, or under the allotment on which the activity is to occur

*Meaning of adjacent*

- (5) For the purpose of **subsection (4)**, an allotment (**allotment A**) is **adjacent** to another allotment (**allotment B**) if—
- (a) any part of the boundary of allotment A touches the boundary of allotment B; or
  - (b) allotment A—
    - (i) is on the other side of a road, right of way, or watercourse from allotment B; and
    - (ii) is directly or diagonally opposite allotment B.

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**129 Section 95E replaced (Consent authority decides if person is affected person)** 10

Replace section 95E with:

**95E Affected persons for purpose of limited notification under section 95B**

- (1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under **section 95B(4) and (9)** (as applicable), a person is an **affected person** if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor). 15
- (2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,— 20
- (a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and
  - (b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and 25
  - (c) may disregard an adverse effect of the activity if the adverse effect, considered in the context of the relevant plan or proposed plan, is already taken into account by the objectives and policies of that plan; and
  - (d) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11. 30
- (3) A consent authority must record the adverse effects that are the basis for any decision that a person is an affected person.
- (4) A person is not an affected person in relation to an application for a resource consent for an activity if— 35
- (a) the person has given, and not withdrawn, written approval for the proposed activity; or



- (b) the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person’s written approval.
- (5) **Subsection (4)** prevails over **subsection (1)**.
- 130 Section 95F amended (Status of protected customary rights group)**
- (1) In the heading to section 95F, replace “**Status of**” with “**Meaning of affected**”. 5
- (2) In section 95F, replace “A consent authority must decide that a protected customary rights group is an affected protected customary rights group” with “A protected customary rights group is an **affected protected customary rights group**”.
- 131 Section 95G amended (Status of customary marine title group)** 10
- (1) In the heading to section 95G, replace “**Status of**” with “**Meaning of affected**”.
- (2) In section 95G, replace “A consent authority must decide that a customary marine title group is an affected customary marine title group” with “A customary marine title group is an **affected customary marine title group**”. 15
- 132 Section 104D amended (Particular restrictions for non-complying activities)**
- In section 104D(1), replace “for the purpose of section 95A(2)(a)” with “for the purpose of notification”.
- 133 Section 106 amended (Consent authority may refuse subdivision consent in certain circumstances)** 20
- (1) Replace section 106(1)(a) and (b) with:
- (a) there is a significant risk from natural hazards; or
- (2) After section 106(1), insert:
- (1A) For the purpose of **subsection (1)(a)**, an assessment of the risk from natural hazards requires a combined assessment of— 25
- (a) the likelihood of natural hazards occurring (whether individually or in combination); and
- (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and 30
- (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in **paragraph (b)**.
- 134 Section 115 amended (Time limits for notification of decision)**
- After section 115(4), insert: 35

(4A) Despite anything else in this section, if the application is a fast-track application, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority.

**135 Section 120 amended (Right to appeal)**

(1) After section 120(1), insert: 5

(1A) However,—

- (a) there is no right of appeal under this section against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to resource consent for—
  - (i) a boundary activity; or 10
  - (ii) a subdivision, unless the subdivision is a non-complying activity; and
- (b) there is no right of appeal under this subsection against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to resource consent for an activity that— 15
  - (i) is a residential activity (being an activity associated with the construction, alteration, or use of a dwellinghouse on land that, under a district plan, is intended to be used solely or principally for residential purposes); and 20
  - (ii) is to occur on a single allotment; and
  - (iii) is a controlled, restricted-discretionary, or discretionary activity; and
- (c) a person described in subsection (1)(b) may appeal under this section only in respect of a provision or matter raised in the person's submission (excluding any part of the submission that is struck out under **section 41D**). 25

(2) In section 120(2), after “sections 357A,”, insert “**357AB**,”.

**136 Section 139 amended (Consent authorities and Environmental Protection Authority to issue certificates of compliance)** 30

In section 139(9), after “357A”, insert “, **357AB**,”.

**137 Section 139A amended (Consent authorities to issue existing use certificates)**

In section 139A(10), after “357A”, insert “, **357AB**,”.

*Amendment to Part 7 of principal Act* 35

**138 Section 151 amended (Interpretation)**

In section 151, repeal the definition of **public notice**.

*Amendment to Part 8 of principal Act***139 Section 198AD amended (Excluded time periods relating to other matters)**

In section 198AD(1), replace “95E(3)” with “**95E(4)**”.

*Amendment to Part 9 of principal Act***140 Section 204 amended (Public notification of application)**

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Replace section 204(1)(a) with:

- (a) public notice of the application is given; and
- (ab) a copy of the short summary of the notice referred to in **section 2AB(1)(b)**, along with details of the Internet site where the notice can be accessed, is published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; and

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*Amendments to Part 10 of principal Act***141 Section 220 amended (Condition of subdivision consents)**

In section 220(1)(d),—

- (a) replace “erosion, subsidence, slippage, or inundation” with “natural hazards”; and
- (b) replace “subsidence, slippage, erosion, or inundation” with “natural hazards”.

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*Amendments to Part 14 of principal Act***142 Section 352 amended (Service of documents)**

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(1) Replace section 352(1) with:

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

- (a) if the person has specified an electronic address as an address for service for the matter to which the document relates, and has not requested a method of service listed in **paragraph (b)**, the document must be served by sending it to the electronic address; and
- (b) if **paragraph (a)** does not apply, the document may be served by any of the following methods:
  - (i) delivering it personally to the person (other than a Minister of the Crown):
  - (ii) delivering it at the usual or last known place of residence or business of the person:
  - (iii) sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person:

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<ul style="list-style-type: none"> <li>(iv) posting it to the PO box address that the person has specified as an address for service:</li> <li>(v) leaving it at a document exchange for direction to the document exchange box number that the person has specified as an address for service:</li> <li>(vi) sending it to the fax number that the person has specified as an address for service.</li> </ul>	5
<p>(1A) However, if the document is to be served on a person to commence, or in the course of, court proceedings, <b>subsection (1)</b> does not apply if the court, whether expressly or in its rules or practices, requires a different method of service.</p>	10
<p>(2) In section 352(4A)(b), replace “email address” with “electronic address”.</p> <p>(3) In section 352(5), replace “subsection (1)(c) or (d)” with “<b>subsection (1)(b)(iii) or (iv)</b>”.</p>	
<p><b>143 Section 357 amended (Right of objection against certain decisions)</b></p> <p>In section 357(2), replace “section 41C(7)” with “<b>section 41D</b>”.</p>	15
<p><b>144 New section 357AB inserted (Objection under section 357A(1)(f) or (g) may be considered by hearings commissioner)</b></p> <p>After section 357A, insert:</p>	
<p><b>357AB Objection under section 357A(1)(f) or (g) may be considered by hearings commissioner</b></p> <p>(1) An applicant for a resource consent who has a right of objection under section 357A(1)(f) or (g) (as applied by section 357A(2) to (5)) may, when making the objection, request that the objection be considered by a hearings commissioner.</p> <p>(2) If a consent authority receives a request under this section, the authority must, under section 34A(1), delegate its functions, powers, and duties under sections 357C and 357D to 1 or more hearings commissioners who are not members of the consent authority.</p>	20 25
<p><b>145 Section 357C amended (Procedure for making and hearing objection under sections 357 to 357B)</b></p> <p>After section 357C(2), insert:</p>	30
<p>(2A) A notice of an objection made under section 357A(1)(f) or (g) may include a request that the objection be considered by a hearings commissioner instead of by the consent authority.</p>	
<p><b>146 New section 357CA inserted (Powers of hearings commissioner considering objection under section 357A(1)(f) or (g))</b></p> <p>After section 357C, insert:</p>	35

**357CA Powers of hearings commissioner considering objection under section 357A(1)(f) or (g)**

- (1) This section applies if a hearings commissioner is considering an objection made under section 357A(1)(f) or (g) (*see section 357AB*).
- (2) The hearings commissioner may do 1 or more of the following: 5
- (a) require the person or body making the objection to provide further information:
  - (b) require the consent authority to provide further information:
  - (c) commission a report on any matter raised in the objection.
- (3) However, the hearings commissioner must not require further information or commission a report unless he or she considers that the information or report will assist the hearings commissioner to make a decision on the objection. 10

**147 Section 357D amended (Decision on objections made under sections 357 to 357B)**

In section 357D(3), replace “consent authority” with “person to whom, or body to which, the objection is made”. 15

**148 Section 358 amended (Appeals against certain decisions or objections)**

- (1) In section 358(1), delete “Appeals from objections under section 357(3A), (4), or (8) or, for objections only to a board of inquiry, under section 357(2) are excluded.” 20
- (2) After section 358(1), insert:

- (1A) However, appeals from the following objections are excluded:
- (a) an objection to an authority under section 357(2), if the objection relates to a decision that the authority made under **section 41D(2)**:
  - (b) an objection to an authority under section 357(3A) or (8): 25
  - (c) an objection to a board of inquiry under section 357(4).

**149 Section 360 amended (Regulations)**

In section 360(1)(hi), replace “sections 41B and 41C” with “sections 41B to **41D**”.

**150 Section 360E amended (Regulations relating to administrative charges and other amounts) 30**

Replace **section 360E(2)(a)** (as inserted by **section 105 of the Resource Legislation Amendment Act 2015**) with:

- (a) may require a local authority to fix a charge listed in section 36(1) only if the charge relates to— 35
  - (i) an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a re-

- source consent (including charges for certificates of compliance and existing use certificates); or
- (ii) a notice issued under **section 87BA or 87BB** stating whether an activity is a permitted activity; and

### 151 New sections 360F and 360G inserted

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After **section 360E** (as inserted by **section 105 of the Resource Legislation Amendment Act 2015**), insert:

#### 360F Regulations relating to fast-track applications

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations— 10
- (a) prescribing, for the purpose of **section 87AAC** (meaning of fast-track application), particular activities or classes of activities, or the methods or criteria that a consent authority must use to identify particular activities or classes of activities; and
- (b) prescribing, for the purpose of **section 88(2)(b)** (making an application), the information that an application for a resource consent must include if it is a fast-track application. 15
- (2) The Minister—
- (a) must not recommend that regulations be made under **subsection (1)(a)** unless he or she is satisfied that the scale and complexity of the activities are unlikely to warrant a consent authority taking more than 10 working days to notify an applicant of the authority's decision on a relevant application; and 20
- (b) must not recommend that regulations be made under **subsection (1)(b)** unless he or she is satisfied that the prescribed information requirements are proportional to the likely effects of activities that may be the subject of a fast-track application. 25
- (3) In **subsection (2)**, **relevant application**, in relation to an activity, means an application for a resource consent for the activity. 30
- (4) Section 360(2) and (4) applies to regulations made under this section. 30

#### 360G Regulations relating to notification of consent applications

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) prescribing particular activities or classes of activities, or the methods or criteria that a consent authority must use to identify particular activities or classes of activities,— 35
- (i) for the purpose of **section 95A(5)(b)(iii)** (to preclude public notification of an application for a resource consent for the activity):

- (ii) for the purpose of **section 95B(6)(b)(ii)** (to preclude limited notification of an application for a resource consent for the activity to certain affected persons):
- (b) prescribing, for the purpose of **section 95DA(3)** (to limit who may be considered an affected person in respect of an application for a resource consent),—
  - (i) particular activities or classes of activities, or the methods or criteria that a consent authority must use to identify particular activities or classes of activities:
  - (ii) particular persons or classes of persons, or the methods or criteria that a consent authority must use to identify particular persons or classes of persons.
- (2) The Minister must not—
  - (a) make a recommendation for the purpose of **subsection (1)(a)(i)** unless the Minister is satisfied that the nature and likely effects of the activities are unlikely to warrant public notification of a relevant application or review in the absence of special circumstances; or
  - (b) make a recommendation for the purpose of **subsection (1)(a)(ii)** unless the Minister is satisfied that the nature and likely effects of the activities are unlikely to warrant limited notification of a relevant application or review under **section 95B(9)** to affected persons referred to in **section 95B(7) and (8)**; or
  - (c) make a recommendation for the purpose of **subsection (1)(b)** unless the Minister is satisfied that the nature and likely effects of the activities referred to in **subsection (1)(b)(i)** are unlikely to warrant limited notification of a relevant application or review under **section 95B(9)** to affected persons referred to in **section 95B(8)** other than persons or classes of persons referred to in **subsection (1)(b)(ii)**.
- (3) In **subsection (2)**, **relevant application or review**, in relation to an activity, means an application for a resource consent for the activity, a review of a resource consent for the activity, or an application to change or cancel a condition of a resource consent for the activity.
- (4) Section 360(2) and (4) applies to regulations made under this section.

*Amendment to Schedule 1 of principal Act*

- 152 Schedule 1 amended** 35
- In Schedule 1, after clause 10, insert:

**10A Application to Minister for extension of time**

- (1) A local authority must, before the time for making its decision under clause 10, apply to the Minister for an extension of the time for giving a decision under

- that clause if the local authority is unable, or is likely to be unable, to meet the requirement of clause 10(4)(a) (under which decisions must be given within 2 years of notification of a proposed policy statement or plan).
- (2) An application under **subclause (1)** must be in writing, and must set out—
- (a) the reasons for the request for an extension; and 5
  - (b) the duration of the extension required.
- (3) Before applying for an extension, a local authority must take into account—
- (a) the interests of any person who, in its opinion, may be directly affected by an extension; and
  - (b) the interests of the community in achieving adequate assessment of the effects of the proposed policy statement or plan or change to a policy statement or plan; and 10
  - (c) its duty under section 21 to avoid unreasonable delay.
- (4) The Minister—
- (a) may decline or agree to an extension applied for under **subclause (1)**; but 15
  - (b) in the case of a regional coastal plan, must consider the views of the Minister of Conservation before granting an extension.
- (5) The Minister must serve notice of his or her decision on the local authority.
- (6) If the Minister grants an extension, the local authority must give public notice of that extension. 20
- (7) This clause applies instead of section 37 if the time limit prescribed by clause 10(4)(a) is to be extended.

### Subpart 3—Amendments that commence 5 years after Royal assent

#### *Amendments to Part 6 of principal Act* 25

#### **153 Section 108 amended (Conditions of resource consents)**

Repeal section 108(2)(a), (9), and (10).

#### **154 Section 110 repealed (Refund of money and return of land where activity does not proceed)**

Repeal section 110. 30

#### **155 Section 111 repealed (Use of financial contributions)**

Repeal section 111.



*Amendments to Part 10 of principal Act***156 Section 222 amended (Completion certificates)**

In section 222(1),—

- (a) delete “or on the making of a financial contribution (as defined in section 108(9))”; and
- (b) delete “or make the financial contribution (as the case may be)”.

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*Amendments to Part 15 of principal Act***157 Section 407 amended (Subdivision consent conditions)**

In section 407(1), delete “108(2)(a) or”.

**158 Section 409 repealed (Financial contributions for developments)**

Repeal section 409.

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**159 Section 411 repealed (Restriction on imposition of conditions as to financial contributions)**

Repeal section 411.

*Amendment to Schedule 12 of principal Act*

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**160 Schedule 12 amended**

In Schedule 12, after **clause 16** (as inserted by **section 110 of the Resource Legislation Amendment Act 2015**), insert the clauses set out in **Schedule 4** of this Act.

*Consequential amendments*

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**161 Consequential amendments relating to financial contributions**

Amend the enactments specified in **Schedule 5** as set out in that schedule.

**Part 2****Amendments to Reserves Act 1977****162 Principal Act**

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This **Part** amends the Reserves Act 1977 (the **principal Act**).

**163 New sections 14A and 14B and cross-heading inserted**

After section 14, insert:

*Exchange of reserves for other land***14A Minister may authorise exchange of reserve land for other land**

- (1) The Minister may, by notice in the *Gazette*, authorise the exchange of the whole or any part of the land comprised in any reserve for any other land to be held for the same purposes. 5
- (2) If the land is vested in an administering body, the Minister may authorise the exchange under **subsection (1)** only on the request of the administering body.
- (3) Before making a request under **subsection (2)**, either—
- (a) the administering body must pass a resolution authorising the request; or
  - (b) a change must have been made to a district plan under the Resource Management Act 1991 to enable the exchange to be made. 10
- (4) Before passing a resolution for the purpose of **subsection (3)(a)**, the administering body must—
- (a) publish a notice of the proposal in 1 or more newspapers circulating—
    - (i) in the district of the administering body; or 15
    - (ii) in the district or locality of the people who benefit from or enjoy the reserve; and
  - (b) give interested parties no less than 1 month to comment; and
  - (c) consider any submissions received within that period.
- (5) The administering body must forward to the Commissioner for transmission to the Minister— 20
- (a) a copy of all submissions (including any objections) received on the proposed exchange; and
  - (b) the administering body's comments on any of those submissions; and
  - (c) a copy of any resolution made for the purpose of **subsection (3)(a)**. 25

Compare: 1977 No 66 s 15(1), (2)

**14B Administering body may authorise exchange of recreation reserve land for other land**

- (1) An administering body may, by notice in the *Gazette*, authorise the exchange of the whole or any part of the land comprised in a recreation reserve that is vested in that administering body for other land to be held for the same purposes in accordance with this section if— 30
- (a) a person (the **applicant**) applies to a consent authority for—
    - (i) a resource consent under section 88 of the Resource Management Act 1991; or 35

- (ii) a change to a district plan or a regional plan (including a regional coastal plan) under section 65(4) or 73(2) of the Resource Management Act 1991; and
- (b) as part of an application under **paragraph (a)**,—
- (i) the applicant proposes an exchange of any land comprised in a recreation reserve for other land to be held for the same purposes; and 5
- (ii) the proposed exchange has been processed in accordance with—
- (A) sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B of the Resource Management Act 1991; or 10
- (B) Part 2 of Schedule 1 of the Resource Management Act 1991; and
- (iii) the proposed exchange was publicly notified—
- (A) under **section 95A** of the Resource Management Act 1991 as part of the application for a resource consent; or 15
- (B) under clause 26 of Schedule 1 of the Resource Management Act 1991; and
- (c) the relevant consent authority or local authority (as the case may be) is also the administering body in which the recreation reserve land is vested; and 20
- (d) in the case of a resource consent, the resource consent is subject to the exchange of recreation reserve land; and
- (e) all appeals (if any) in relation to the application for resource consent or the request for a change to the district plan or regional plan (as the case may be) are completed. 25
- (2) Before authorising an exchange under this section, the administering body must—
- (a) have regard to any submissions received on the exchange of recreation reserve land; and
- (b) consider that the exchange would result in a net benefit for recreation opportunities to the community that benefits from or enjoys the reserve. 30
- (3) To avoid doubt, this section does not limit **section 14A**.

**164 Section 15 amended (Exchange of reserves for other land)**

- (1) Replace the heading to section 15 with “**Giving effect to reserves exchanges**”.
- (2) Repeal section 15(1) and (2). 35
- (3) In section 15(3),—
- (a) replace “Sovereign or the administering body, as the case may require,” with “Crown or the administering body (as the case may be)”; and

- (b) replace “any exchange authorised as aforesaid” with “an exchange for the purposes of **section 14A(1) or 14B(1)**”.
- (4) In section 15(5), replace “this section” with “**section 14A(1) or 14B(1)**”.
- (5) In section 15(7)(a), replace “this section” with “**section 14A(1) or 14B(1)**”.
- (6) In section 15(8), replace “this section” with “**section 14A(1) or 14B(1)**”. 5

### 165 Consequential amendments

- (1) This section amends the Resource Management Act 1991.
- (2) After section 36(1), insert:
  - (1A) To avoid doubt, charges may be fixed under subsection (1) to recover costs incurred by the consent authority for performing its functions under— 10
    - (a) sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B in relation to an application for the exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 that is made as part of an application for a resource consent:
    - (b) Part 2 of Schedule 1 in relation to an application for the exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 that is made as part of an application for a change to a district plan or regional plan. 15
- (3) After section 65(4), insert:
- (4A) A request may include a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 if the regional council is also the administering body in whom the recreation reserve land is vested. 20
- (4) After section 73(2), insert:
- (2A) A request may include a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 if the territorial authority is also the administering body in whom the recreation reserve land is vested. 25
- (5) After section 88(1), insert:
- (1A) A person may make a joint application for a resource consent and an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977 if the relevant consent authority is also the administering body in whom the recreation reserve land is vested. 30
- (6) After section 88(5), insert:
- (6) In the case of a joint application for a resource consent and an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977, the application for the exchange of recreation reserve land must be processed in accordance with sections 88 to 88F, 91(1) and (2), 91A to 92B, **95, 95A(2)**, and 96 to 103B. 35
- (7) After section 95A(2)(b), insert:

(ba) the application includes a proposal to exchange recreation reserve land under **section 14B** of the Reserves Act 1977; or

(8) After section 114(7), insert:

(8) If a resource consent is subject to a decision to grant a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977, the consent authority must—

(a) send the Minister responsible for the administration of the Reserves Act 1977—

(i) a copy of the decision on the application for a resource consent; and

(ii) any notice served under subsection (2); and

(iii) advice of the administering body's likely decision on the request for an exchange of recreation reserve land (if the decision on the application for a resource consent is not changed on appeal); and

(b) advise the applicant that—

(i) the resource consent is still subject to a decision by the administering body on the request for an exchange of recreation reserve land (which will be made following the determination of all appeals, if any, against the decision on the application for resource consent); and

(ii) the consent may commence only in accordance with **section 116B**.

(9) If there is no appeal relating to the decision on the application for a resource consent, or following the determination of any such appeal, the administering body must—

(a) make a decision under **section 14B** of the Reserves Act 1977 on the request for an exchange of recreation reserve land; and

(b) advise the applicant of the decision; and

(c) send a copy of the decision to the Minister responsible for the administration of the Reserves Act 1977.

(9) After section 116A, insert:

**116B When resource consent commences where application includes request for exchange of recreation reserve land**

If a resource consent is subject to a decision to grant a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977,—

(a) the consent authority must notify the applicant when the procedures in **sections 14B** and 15 of that Act are complete; and

(b) the resource consent commences on—

(i) the date of the notification under **paragraph (a)**; or

- (ii) any later date that is specified in the notification.
- (10) In Schedule 1, clause 26(b)(ii), after “clause 27”, insert “; and”.
- (11) In Schedule 1, after clause 29(8), insert:
- (8A) If the decision to make a change to the district plan or regional plan is subject to a decision to grant a request for an exchange of recreation reserve land under **section 14B** of the Reserves Act 1977, the local authority must— 5
- (a) send the Minister responsible for the administration of the Reserves Act 1977—
- (i) a copy of the notice served under **paragraph (b)**; and
- (ii) advice of the administering body’s likely decision on the request for an exchange of recreation reserve land (if the decision to change the district plan or regional plan is not changed on appeal); and 10
- (b) advise the person who made the request under clause 21 that the decision on the request for an exchange of recreation reserve land will be made following the determination of all appeals, if any, against the decision to change the district plan or regional plan. 15
- (8B) If there is no appeal relating to the decision to change the district plan or regional plan, or following completion of any such appeal, the administering body must— 20
- (a) make a decision under **section 14B** of the Reserves Act 1977 on the request for an exchange of recreation reserve land; and
- (b) advise the person who made the request under clause 21 of the decision; and
- (c) send a copy of the decision to the Minister responsible for the administration of the Reserves Act 1977. 25

### Part 3

#### Amendments to Public Works Act 1981

##### 166 Principal Act

This **Part** amends the Public Works Act 1981 (the **principal Act**). 30

##### 167 New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

##### 2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms. 35

**168 Section 4C amended (Delegation of Minister's powers)**

Replace section 4C(2) with:

- (2) Despite subsection (1), the Minister for Land Information must not delegate the power to issue a notice of intention to take land under section 23(1).

**169 Section 24 amended (Objection to be heard by Environment Court)**

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After section 24(6), insert:

- (6A) The Environment Court may, whether or not the parties consent,—
- (a) accept evidence that was presented at a hearing described in section 39(1) of the Resource Management Act 1991, or at a related inquiry or appeal heard by the court; and
- (b) direct how evidence is to be given to the court.

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**170 Section 59 amended (Interpretation)**

In section 59, replace the definition of **owner** with:

**owner**, in relation to land, includes—

- (a) a person who occupies the land under a lease, sublease, or licence, or a renewal of a lease, sublease, or licence, that—
- (i) is granted by the owner of the fee simple of the land or by the lessee of the land; and
- (ii) is not—
- (A) a weekly tenancy agreement; or
- (B) a monthly tenancy agreement; or
- (C) a tenancy to which the Residential Tenancies Act 1986 applies;
- (b) a tenant for life of the land;
- (c) a beneficial owner of the land

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**171 Section 72 amended (Additional compensation for acquisition of notified dwelling)**

(1) Replace section 72(1) with:

- (1) Compensation of up to \$50,000 must be paid to the owner of land if—
- (a) the land has been notified; and
- (b) the land is taken or acquired for the public work for which it was notified; and
- (c) the land contains a dwelling that is used as the land owner's principal place of residence; and
- (d) the payment of compensation is not excluded by subsection (2), (3), or **(3A)**.

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- (1A) The amount of compensation paid under **subsection (1)** must be determined in accordance with **section 72A**.
- (1B) The compensation paid under **subsection (1)** must not in total exceed \$50,000 regardless of—
- (a) the number of owners of the land; or 5
  - (b) the nature of the estate or interest that the various owners of the land may hold.
- (2) After section 72(3), insert:
- (3A) Compensation must not be paid under **subsection (1)** to the owner of land if that person is paid compensation for that land under **section 72C(1)**. 10
- (3) In section 72(6), replace “had he been a weekly or a monthly tenant” with “if the lessee or sublessee had been a tenant (as defined in **section 75(4)**)”.

## 172 New sections 72A to 72E inserted

After section 72, insert:

- 72A Amount of compensation to be paid under section 72** 15
- (1) The amount of compensation paid under **section 72(1)** must be determined as follows:
- (a) \$35,000 must be paid to the owner of the land if the owner qualifies for compensation under **section 72(1)**; and
  - (b) a further \$10,000 must be paid to the owner if— 20
    - (i) the Minister or local authority, as applicable, and the owner, within 6 months after the negotiation start date, execute an agreement for the sale and purchase of the land under section 17; and
    - (ii) the agreement specifies a date on which vacant possession of the land, and all buildings and structures on the land, will be given to the notifying authority; and 25
  - (c) a further \$5,000 may be paid to the owner if the Minister (if the land is taken or acquired for a Government work) or local authority (if the land is taken or acquired for a local work) decides, in his, her, or its discretion, that— 30
    - (i) the personal circumstances of the owner warrant such a payment and compensation is not otherwise paid under this Act for this purpose; or
    - (ii) the circumstances concerning the acquisition of the owner’s principal place of residence warrant such a payment and compensation is not otherwise paid under this Act for this purpose. 35
- (2) In this section, **negotiation start date** means the earlier of the following:



- (a) the date on which the notifying authority notifies the owner of land that it intends to acquire the land under section 17:
- (b) the date on which the notifying authority serves notice in relation to land in accordance with section 18(1)(a).

## 72B Definitions of terms used in sections 72C and 72D

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In this section and **sections 72C and 72D**, unless the context otherwise requires,—

**category value** means the portion of total land value that is payable under this Act, as assessed in accordance with section 62, for each category of interest or estate in land (for example, for all leasehold interests in land)

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**individual value** means the portion of category value that is payable to a qualifying owner, determined by the percentage of the relevant category of interest or estate that is held by the owner in land

**land** means all land that is acquired or taken from an owner under this Act by the Minister or a local authority for a particular notified public work

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**notification date** means the date on which land is notified

**qualifying owners** means the owners of land who qualify for compensation under **section 72C(1)** and are not disqualified under **section 72D(2)**

**total land value** means the total amount of compensation payable under this Act, as assessed in accordance with section 62, for land

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**vacant possession date** means the date on which vacant possession of land, and all buildings and structures on the land, is given to the notifying authority.

## 72C Additional compensation for acquisition of notified land

(1) Compensation must be paid to an owner of land if—

- (a) the land has been notified; and
- (b) the land is taken or acquired for the public work for which it was notified; and
- (c) either of the following applies:
  - (i) the land does not contain a dwelling that was used as the owner of the land's principal place of residence for the period between the notification date and the vacant possession date:
  - (ii) the owner used a dwelling on the land as his or her principal place of residence for less than a substantial part of the period between the notification date and the vacant possession date; and
- (d) the payment of compensation is not excluded by **section 72D**.

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(2) The compensation paid under **subsection (1)** must—

- (a) equal 10% of the total land value; or
- (b) be \$250 if 10% of the total land value is equal to or less than \$250; or

- (c) be \$25,000 if 10% of the total land value is equal to or more than \$25,000.
- (3) However, the compensation paid under **subsection (1)** must not in total exceed \$25,000 regardless of—
- (a) the number of owners of the land; or 5
- (b) the nature of the estate or interest each of the owners has in the land.
- (4) If compensation is paid under **subsection (1)** for land that is owned by more than 1 person, the compensation must be—
- (a) paid only to the qualifying owners; and
- (b) apportioned between the qualifying owners in proportion to the individual value each owner has in the land. 10
- (5) The amount of compensation paid under this section to an owner who is a lessee or sublessee of the land under a lease or sublease that will expire less than 5 years after the vacant possession date—
- (a) must be reduced so that it bears the same proportion as the period from the vacant possession date to the date of expiry of the lease or sublease bears to a period of 5 years; but 15
- (b) must not be reduced to less than the amount that the owner would have received under section 75 if the owner had been a tenant (as defined in **section 75(4)**). 20
- (6) For the purposes of **subsection (5)**, the date on which a lease or sublease that contains a right of renewal will expire is deemed to be the date on which it would have expired if the right of renewal had been exercised.
- 72D Circumstances in which compensation must not be paid under section 72C**
- (1) Compensation must not be paid to an owner of land under **section 72C(1)** unless vacant possession of the land and all buildings and structures on the land is given to the notifying authority by that owner— 25
- (a) on or before the vacant possession date, or any later date that the authority allows, if the land is acquired under an agreement that specifies a vacant possession date: 30
- (b) within 1 month after the date on which the authority serves notice on the vendor or the person from whom the land is taken (as the case may be) that vacant possession is required, or within any longer period that the authority allows, if—
- (i) the land is acquired under an agreement that does not specify a vacant possession date; or 35
- (ii) no agreement for sale is entered into and the land is taken by Proclamation.

- (2) Compensation must not be paid under **section 72C(1)** unless the person giving vacant possession—
- (a) is one of the following:
    - (i) an owner of the land on the notification date:
    - (ii) the spouse, civil union partner, or de facto partner of an owner of the land on the notification date: 5
    - (iii) the person beneficially interested in the land if an owner dies after the notification date; and
  - (b) was an owner of the land on the vacant possession date; and
  - (c) was an owner of the land for a substantial part of the period between the notification date and the vacant possession date; and 10
  - (d) was—
    - (i) not a willing party to the taking or acquisition of the land; or
    - (ii) a willing party to the taking or acquisition principally because the land had been notified. 15
- (3) Compensation must not be paid under **section 72C(1)** to an owner of land if that person is paid compensation for the loss of a dwelling on that land under **section 72(1)**.

**72E Adjustment of compensation payable under section 72 or 72C**

The Governor-General may, by Order in Council made on the recommendation of the Minister, amend section 72, **72A, or 72C** by increasing or decreasing any or all of the following: 20

- (a) the compensation limit in **section 72(1) and (1B)**:
- (b) the compensation limits in **section 72A(1)(a) to (c)**:
- (c) the percentages in **section 72C(2)(a) to (c)**: 25
- (d) the compensation limits in **section 72C(2)(b) and (c) and (3)**.

**173 Section 75 amended (Compensation for tenants of residential and business premises)**

- (1) In section 75(1)(b), delete “weekly or monthly”.
- (2) After section 75(3), insert: 30
- (4) In this section, **tenant** means a person who has—
  - (a) a weekly tenancy agreement; or
  - (b) a monthly tenancy agreement; or
  - (c) a tenancy to which the Residential Tenancies Act 1986 applies.

**174 Section 249 repealed (Transitional provision)** 35

Repeal section 249.

**175 New Schedule 1AA inserted**

Before Schedule 1, insert the **Schedule 1AA** set out in **Schedule 6** of this Act.

**Part 4****Amendments to Conservation Act 1987**

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**176 Principal Act**

This **Part** amends the Conservation Act 1987 (the **principal Act**).

**177 New section 3A inserted (Transitional, savings, and related provisions)**

After section 3, insert:

**3A Transitional, savings, and related provisions**

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The transitional, savings, and related provisions (if any) set out in **Schedule 1AA** have effect according to their terms.

**178 Section 17S replaced (Contents of application)**

Replace section 17S with:

**17S Contents of application**

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Every application for a concession must include the following information:

- (a) a description of the proposed activity:
- (b) a description identifying the places where the proposed activity will be carried out (including the status of those places):
- (c) a description of—
  - (i) the potential effects of the proposed activity:
  - (ii) any actions that the applicant proposes to take to avoid, remedy, or mitigate any adverse effects of the proposed activity:
- (d) details of the type of concession for which the applicant is applying:
- (e) a statement of—
  - (i) the proposed duration of the concession; and
  - (ii) the reasons for the proposed duration:
- (f) relevant information relating to the applicant, including any information relevant to the applicant's ability to carry out the proposed activity:
- (g) if the applicant applies for a lease, a *profit à prendre*, or a licence granting an interest in land, or an easement,—
  - (i) reasons for the request; and

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- (ii) sufficient information to satisfy the Minister that, in terms of section 17U, it is both lawful and appropriate to grant the lease, *profit à prendre*, licence, or easement (as the case may be).

#### **17SA Returning non-compliant applications**

- (1) The Minister may, within 10 working days after receiving an application for the purposes of **section 17S**, determine if the application complies with **section 17S**. 5
- (2) If the Minister determines that an application does not comply with section **section 17S**, he or she must return the application to the applicant with the reasons for the determination. 10
- (3) If an application is resubmitted after having been returned, the application is to be treated as a new application.

Compare: 1991 No 69 s 88(3)–(4)

#### **17SB Minister may decline application that is inconsistent**

If the Minister is satisfied that an application does not comply with or is inconsistent with the provisions of this Act (including section 17R) or any relevant conservation management strategy or conservation management plan, he or she must, within 20 working days after an application is received,— 15

- (a) decline the application; and
- (b) inform the applicant— 20
  - (i) that he or she has declined the application; and
  - (ii) of the reasons for declining the application.

#### **17SC Public notification of application for leases, licences, permits, or easements**

- (1) The Minister must publicly notify every application for— 25
  - (a) a lease; or
  - (b) a licence for a term (including renewals) of more than 10 years.
- (2) Despite **subsection (1)(b)**, the Minister may publicly notify any application for a licence if, having regard to the effects of the licence, he or she considers it appropriate to do so. 30
- (3) The Minister may publicly notify any application for a permit or an easement if, having regard to the effects of the permit or easement, he or she considers it appropriate to do so.

#### **17SD Minister may require applicant to provide further information**

- (1) The Minister may, by notice in writing, require an applicant for a concession to supply any further information (including an environmental impact assessment) that the Minister considers necessary to enable a decision to be made. 35

- (2) The applicant must provide the information within any reasonable time that is specified in the notice.
- (3) An environmental impact assessment that is provided for the purposes of this section must be—
- (a) in the form set out in Schedule 4 of the Resource Management Act 1991; or
  - (b) in any other form that the Minister requires.

**17SE Minister may commission report or advice**

- (1) The Minister may, at the applicant’s expense,—
- (a) commission a report or seek advice from any person (including the Director-General) on any matters raised in relation to an application;
  - (b) obtain, from any source, any existing relevant information on the proposed activity (or structure) that is the subject of the application.
- (2) The Minister must—
- (a) provide the applicant with a copy of any information obtained under **subsection (1)**; and
  - (b) provide the applicant with any reasonable time that the Minister considers appropriate in which to comment on the information provided.
- (3) To avoid doubt, the report or advice under **subsection (1)** may include a review of the application and any information provided by the applicant.

**179 Section 17T amended (Process for complete application)**

Replace section 17T(2) to (7) with:

- (2) In this section, an application is **complete** if—
- (a) it complies with **section 17S**; and
  - (b) where the Minister has requested information under **section 17SD**, either—
    - (i) the applicant has provided the requested information; or
    - (ii) the applicant has not provided the requested information but the date specified under **section 17SD(2)** has passed; and
  - (c) any information requested under section **section 17SE(1)** has been obtained by the Minister and the applicant has been given reasonable time to comment on that information under **section 17SE(2)(b)**.

**180 Section 17U amended (Matters to be considered by Minister)**

- (1) In section 17U(1)(d), replace “section 17S or section 17T” with “**sections 17SC and 17SD**”.
- (2) After section 17U(7), insert:

- (8) Nothing in this Act or any other Act requires the Minister to grant any concession if he or she considers that the grant of a concession is inappropriate in the circumstances of the particular application having regard to the matters set out in this section.

**181 Section 49 amended (Public notice and rights of objection) 5**

- (1) In section 49(2), after “gives public notice of intention to exercise any power conferred by this Act”, insert “or gives public notice of an application for a concession”.

- (2) Replace section 49(2)(b) with:

(b) the Minister must give interested parties,— 10

(i) in the case of the exercise of a power, at least 40 working days to comment:

(ii) in the case of an application for a concession, at least 20 working days to comment; and

(ba) every submission must be sent to the Director-General at the place, and before the date, specified in the notice; and 15

**182 New Schedule 1AA inserted**

Before Schedule 1, insert as **Schedule 1AA** the schedule set out in **Schedule 7** of this Act.

**Part 5 20**

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

**183 Principal Act**

This **Part** amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **principal Act**). 25

**184 Section 4 amended (Interpretation)**

- (1) In section 4(1), replace the definition of **dumping** with:

**dumping**—

(a) means—

(i) any deliberate disposal into the sea of waste or other matter from ships, aircraft, and structures at sea; and 30

(ii) any deliberate disposal into the sea of ships, aircraft, and structures at sea; and

(iii) any storage of waste or other matter in the seabed and the subsoil of the seabed from ships, aircraft and structures at sea; and 35

- (iv) any abandonment or toppling at site of structures at sea for the sole purpose of deliberate disposal; but
- (b) does not include—
- (i) the disposal into the sea of waste or other matter incidental to, or derived from, the normal operations of ships, aircraft, and structures at sea and their equipment, other than waste or other matter transported by or to ships, aircraft, and structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such waste or other matter on such ships, aircraft and structures; or
- (ii) placement of matter for a purpose other than the mere disposal of the matter, but only if the placement is not contrary to the aims of the 1996 Protocol to the London Convention; or
- (iii) abandonment in the sea of matter (for example, cables, pipelines, and marine research devices) placed for a purpose other than the mere disposal of it; and
- (c) does not include the disposal or storage of waste or other matter directly arising from, or related to, the exploration, exploitation, and associated offshore processing of seabed mineral resources
- (2) In section 4(1), definitions of **marine discharge consent** and **marine dumping consent**, replace “under section 87F” with “under section 62”.
- (3) In section 4(1), insert in their appropriate alphabetical order:
- London Convention** means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)
- marine consent authority**, in relation to an application for a marine consent, means,—
- (a) in the case of a non-notified activity, the EPA;
- (b) in the case of a publicly notifiable activity that is a section 20 activity,—
- (i) a board of inquiry appointed under **section 53**;
- (ii) the EPA—
- (A) before a board of inquiry is appointed;
- (B) after a marine consent is granted (in whole or in part):
- (c) in the case of a publicly notifiable activity other than a section 20 activity, the EPA
- publicly notifiable application** means an application for a publicly notifiable activity
- section 20 activity** means an activity referred to in section 20(2) or (4)
- treat**, in relation to waste or other matter, means to treat so as to avoid, remedy, or mitigate the adverse effects of dumping



**185 Part 3 heading and subpart 1 heading in Part 3 replaced**

Replace the Part 3 heading and the subpart 1 heading in Part 3 with:

**Part 3**  
**Regulations**

**186 Section 34A amended (Matters to be considered for regulations relating to discharges and dumping) 5**

In section 34A(3)(c)(ii), after “waste” insert “or other matter”.

**187 Cross-heading above section 35 replaced**

Replace the cross-heading above section 35 with:

**Part 3A**  
**Activities and consents**

**188 Sections 35 to 58 and cross-headings replaced**

Replace sections 35 to 58 (and the headings and cross-headings in between) with:

Subpart 1—Activities

*Types of activity*

**35 Permitted activities**

(1) An activity is a **permitted activity** if it is described in regulations as a permitted activity.

(2) A person may undertake a permitted activity without a marine consent if the activity complies with any terms and conditions specified (for the activity) in regulations. 20

(3) A person intending to undertake a permitted activity must notify the Environmental Protection Authority before undertaking the activity if required to do so by regulations. 25

**36 Discretionary activities**

(1) An activity is a **discretionary activity** if regulations—

(a) describe the activity as discretionary; or

(b) allow the activity with a marine consent; or

(c) do not classify the activity as permitted, discretionary, or prohibited. 30

(2) A person must have a marine consent before undertaking a discretionary activity.

(3) **Subsection (2)** is subject to section 21.

### **37 Prohibited activities**

(1) An activity is a **prohibited activity** if it is described in regulations as a prohibited activity.

(2) No person may apply for a marine consent for a prohibited activity. 5

(3) No marine consent may be granted for a prohibited activity.

(4) Subject to section 23, no person may undertake a prohibited activity.

## Subpart 2—EEZ policy statements

### *EEZ policy statements*

#### **37A Purpose and scope of EEZ policy statements** 10

(1) The purpose of EEZ policy statements is to state objectives and policies to support decision-making on applications for marine consents.

(2) An EEZ policy statement may apply to all or part of the exclusive economic zone and the continental shelf.

(3) In determining whether it is desirable to prepare an EEZ policy statement, the Minister may have regard to— 15

(a) the actual or potential effects of the use, development, or protection of natural resources:

(b) New Zealand's obligations under any international conventions that relate to the marine environment: 20

(c) the matters in subpart 2 of Part 1:

(d) any other relevant matter.

#### **37B Notification of, and consultation on, proposed EEZ policy statement**

Before issuing an EEZ policy statement, the Minister must—

(a) notify the public, iwi authorities, regional councils, and persons whose existing interests may be affected of— 25

(i) the proposed statement; and

(ii) the Minister's reasons for considering that the proposed statement will support decision making on applications for marine consents; and 30

(b) establish a process that the Minister considers gives the public, iwi authorities, regional councils, and persons whose existing interests are likely to be affected adequate time and opportunity to comment on the subject matter of the proposed statement.

**37C Matters to be considered by Minister when determining whether to issue EEZ policy statement**

In determining whether to issue the EEZ policy statement, the Minister must consider—

- (a) the actual or potential effects of the use, development, or protection of natural resources; and 5
- (b) New Zealand's obligations under any international conventions that relate to the marine environment; and
- (c) the matters in subpart 2 of Part 1; and
- (d) any submissions received on the proposed EEZ policy statement; and 10
- (e) any other matter that the Minister considers relevant.

**37D Revision, withdrawal, and approval of proposed EEZ policy statements**

- (1) The Minister, after considering the matters in **section 37C**, may make any changes, or no changes, to the proposed EEZ policy statement, as he or she thinks fit. 15
- (2) The Minister may withdraw all or part of a proposed EEZ policy statement at any time before the statement is approved under **subsection (4)**.
- (3) The Minister must give public notice of any withdrawal under **subsection (2)**, including the reasons for the withdrawal.
- (4) The Governor-General may, by Order in Council, on the recommendation of the Minister, approve an EEZ policy statement. 20
- (5) The Minister must, as soon as practicable after an EEZ policy statement has been approved,—
  - (a) issue the statement by notice in the *Gazette*; and
  - (b) publicly notify the statement; and 25
  - (c) send a copy of the statement to the EPA; and
  - (d) provide every person who made a submission on the proposal with a copy of the approved statement; and
  - (e) present a copy of the approved statement to the House of Representatives. 30

**37E Changes to, or review or revocation of, EEZ policy statements**

- (1) The Minister may review, change, or revoke an EEZ policy statement in accordance with **sections 37B to 37D** as if the review, change, or revocation were a proposed EEZ policy statement.
- (2) Despite **subsection (1)**, the Minister may amend an EEZ policy statement without regard to **sections 37B to 37D** if the amendment is of minor effect or corrects a minor error. 35

- (3) When an EEZ policy statement is reviewed, the Minister must give notice of the review in the *Gazette*.
- (4) If an EEZ policy statement has been changed, the Minister must—
- (a) issue the revised statement by notice in the *Gazette*; and
  - (b) send a copy of the revised statement to the EPA; and
  - (c) provide every person who made a submission on the proposal with a copy of the approved statement; and
  - (d) present a copy of the revised statement to the House of Representatives.
- (5) When an EEZ policy statement is revoked, the Minister must notify the revocation by notice in the *Gazette*.
- 37F Incorporation of material by reference in EEZ policy statements**
- An EEZ policy statement may incorporate material by reference under sections 150 to 157.
- Subpart 2A—Applying for marine consents**
- 38 Application for marine consent**
- (1) Any person may apply to the Environmental Protection Authority for a marine consent, marine discharge consent, or a marine dumping consent to undertake a discretionary activity.
- (2) An application must—
- (a) be made in the prescribed form; and
  - (b) fully describe the proposal; and
  - (c) include an impact assessment prepared in accordance with section 39 and any requirements prescribed in regulations.
- 39 Impact assessment**
- (1) An impact assessment must—
- (a) describe the activity (or activities) for which consent is sought; and
  - (b) describe the current state of the area where it is proposed that the activity will be undertaken and the environment surrounding the area; and
  - (c) identify persons whose existing interests are likely to be adversely affected by the activity; and
  - (d) identify, in terms of section 59(2)(a), the effects of the activity on the environment and existing interests (including cumulative effects and effects that may occur in New Zealand or in the sea above or beyond the continental shelf beyond the outer limits of the exclusive economic zone); and

- (e) identify the effects of the activity on the biological diversity and integrity of marine species, ecosystems, and processes; and
- (f) identify the effects of the activity on rare and vulnerable ecosystems and habitats of threatened species; and
- (g) describe any consultation undertaken with persons described in **paragraph (c)** and specify those persons who have given written approval to the activity; and 5
- (h) include copies of any written approvals to the activity; and
- (i) specify any possible alternative locations for, or methods for undertaking, the activity that may avoid, remedy, or mitigate any adverse effects; and 10
- (j) specify the measures that could be taken to avoid, remedy, or mitigate the adverse effects identified (including measures that the applicant intends to take).
- (2) An impact assessment must also,— 15
- (a) if it relates to an application for a marine discharge consent, describe the effects of the activity on human health:
- (b) if it relates to an application for a marine dumping consent,—
- (i) describe the effects of the activity on human health:
- (ii) specify any practical opportunities to reuse, recycle, or treat the waste or other matter: 20
- (c) if it relates to any other application, describe the effects on human health that may arise from the effects of the activity on the environment.
- (3) An impact assessment must contain the information required under **subsections (1) and (2)** in— 25
- (a) such detail as corresponds to the scale and significance of the effects that the activity may have on the environment and existing interests; and
- (b) sufficient detail to enable the Environmental Protection Authority and persons whose existing interests are or may be affected to understand the nature of the activity and its effects on the environment and existing interests. 30
- (4) The impact assessment complies with **subsections (1)(c) to (f) and (2)** if the Environmental Protection Authority is satisfied that the applicant has made a reasonable effort to identify the matters described in those provisions.
- (5) The measures that must be specified under **subsection (1)(j)** include any measures required by another marine management regime and any measures required by or under the Health and Safety at Work Act 2015 that may have the effect of avoiding, remedying, or mitigating the adverse effects of the activity on the environment or existing interests. 35

<b>40</b>	<b>Obligation to deal with application promptly</b>	
	After receiving an application for a marine consent, the Environmental Protection Authority must deal with the application as promptly as is reasonable in the circumstances.	
<b>41</b>	<b>Environmental Protection Authority must determine if application complete</b>	5
	The Environmental Protection Authority must, within 20 working days after receiving an application determine whether the application complies with <b>section 38</b> .	
<b>42</b>	<b>Environmental Protection Authority may commission independent review of impact assessment</b>	10
(1)	The Environmental Protection Authority may commission an independent review of an impact assessment for the purpose of determining whether the impact assessment complies with <b>section 39</b> .	
(2)	If the EPA intends to commission a review, it must—	15
(a)	advise the applicant in writing; and	
(b)	include, with that advice, the EPA’s reasons for wanting to commission a review.	
(3)	The applicant may object under section 101 to a decision by the EPA to commission a review.	20
(4)	The EPA must, as soon as is reasonably practicable after receiving the results of a review, send a copy of the results to the applicant.	
<b>43</b>	<b>Environmental Protection Authority may ask applicant to complete incomplete application</b>	
(1)	The Environmental Protection Authority may, in writing, request further information from an applicant to complete an application.	25
(2)	An applicant must, within 5 working days after receiving a request under <b>subsection (1)</b> ,—	
(a)	provide the information; or	
(b)	write to the EPA telling it that the applicant refuses to provide the information.	30
(3)	The EPA must continue to process an application even if the applicant—	
(a)	does not respond to the request; or	
(b)	refuses to provide the information.	
<b>44</b>	<b>Environmental Protection Authority must return incomplete application</b>	35
(1)	The EPA must, within 20 working days after an incomplete application is received by the EPA,—	

- (a) return the incomplete application; and
- (b) give the applicant a written explanation for its finding that the application is incomplete.
- (2) If, after the EPA returns an application as incomplete, the application is sent to the EPA again, the application must be treated as a new application. 5
- (3) The applicant may object under section 101 to a decision under **subsection (1)**.
- 45 Joint processing and decision making on related applications**
- (1) This section applies if—
- (a) the Environmental Protection Authority receives more than 1 application for a marine consent in relation to the same proposal (**related applications**); and 10
- (b) at least 1 of the related applications must be publicly notified under **section 47(1)(b)(i)**; and
- (c) the EPA considers that— 15
- (i) the related applications should be heard (if more than 1 are to be heard) at the same time and place; or
- (ii) decisions on the related applications should be made on the same date.
- (2) The EPA may extend a time period that applies to the processing of the related applications in order to ensure that— 20
- (a) they are heard (if more than 1 are to be heard) at the same time and place;
- (b) decisions on the related applications are made on the same date.
- (3) However, the EPA may not extend the time period beyond the latest date that applies to any of the related applications. 25
- (4) If any of the related applications is a publicly notifiable application for a section 20 activity, the EPA must delegate its functions under sections **51** to 75 in relation to any other applications to the board of inquiry to allow all of the applications to be determined together unless the applicant requests otherwise. 30

#### Subpart 2B—Disclosure and notification

#### **46 Copy of application for non-notified activity**

If the Environmental Protection Authority is satisfied that an application for a marine consent for a non-notified activity is complete, the EPA—

- (a) must serve a copy of the application on any of the following that the EPA considers may be affected by the application: 35
- (i) iwi authorities:

- (ii) customary marine title groups:
  - (iii) protected customary rights groups:
  - (b) may serve a copy of the application on the following if the EPA considers it appropriate in the circumstances:
    - (i) Ministers with responsibilities that may be affected by the activity for which consent is sought: 5
    - (ii) Maritime New Zealand:
    - (iii) other persons that the EPA considers have existing interests that may be affected by the application:
    - (iv) regional councils whose regions may be affected by the application. 10
- 47 Copy of application for publicly notified activity**
- (1) If the Environmental Protection Authority is satisfied that an application for a marine consent for a publicly notifiable activity is complete, it must,—
    - (a) if the application is for a section 20 activity, immediately notify the Minister in writing that an application has been made (to allow a board of inquiry to be appointed under **section 53**); and 15
    - (b) within 20 working days,—
      - (i) give public notice of the application; and
      - (ii) serve a copy of the notice on— 20
        - (A) every other Minister with responsibilities that may be affected by the activity for which consent is sought:
        - (B) Maritime New Zealand:
        - (C) iwi authorities that the EPA considers may be affected by the application: 25
        - (D) customary marine title groups that the EPA considers may be affected by the application:
        - (E) protected customary rights groups that the EPA considers may be affected by the application:
        - (F) other persons that the EPA considers have existing interests that may be affected by the application: 30
        - (G) regional councils whose regions may be affected by the application.
  - (2) The notice under **subsection (1)(b)(i)** must—
    - (a) be in the prescribed form; and 35
    - (b) give a summary of the application for consent; and
    - (c) specify where the application is available for inspection.



<b>48</b>	<b>Making of submissions</b>	
(1)	Any person may make a submission to the Environmental Protection Authority about an application for a marine consent.	
(2)	A submission must be in the prescribed form.	
(3)	A submitter must provide a copy of the submission to the applicant as soon as is reasonably practicable after serving it on the EPA.	5
<b>49</b>	<b>Time limit for submissions</b>	
	Submissions must be made not later than 30 working days after public notification of the application under <b>section 47</b> .	
<b>50</b>	<b>Advising applicants of submissions</b>	10
	As soon as is reasonably practicable after the closing date for submissions, the Environmental Protection Authority must give the applicant a list of all the submissions that it has received in relation to the relevant application.	
	<b>Subpart 2C—Considering applications</b>	
	<i>Non-notified activities</i>	15
<b>51</b>	<b>Hearings in respect of applications for non-notified activities</b>	
(1)	The Environmental Protection Authority must conduct a hearing on an application for a marine consent for a non-notified activity if the applicant requests a hearing.	
(2)	The EPA may conduct a hearing, even if the applicant does not request one, if the EPA considers it necessary or desirable.	20
(3)	Schedule 1 applies to hearings of applications for marine consents for non-notified activities.	
	<i>Publicly notifiable activities other than section 20 activities</i>	
<b>52</b>	<b>Hearings in respect of applications for publicly notifiable activities other than section 20 activities</b>	25
(1)	If an application is for a publicly notifiable activity other than a section 20 activity, the Environmental Protection Authority must conduct a hearing on an application if the applicant or a submitter requests a hearing.	
(2)	The EPA may conduct a hearing, even if no applicant or submitter requests one, if the EPA considers it necessary or desirable.	30
(3)	<b>Schedule 2</b> applies to hearings under this section.	

*Publicly notifiable section 20 activities*

- 53 Minister must appoint boards of inquiry for applications for publicly notifiable section 20 activities**
- (1) As soon as practicable on being notified in accordance with **section 47(1)(a)**, the Minister must appoint a board of inquiry to— 5
- (a) decide an application for a section 20 activity; and
- (b) complete the performance or exercise of the functions, duties, and powers prescribed in this Part, in relation to the application (including any appeals in relation to the matter that are filed in any court).
- (2) The Minister may, as the Minister sees fit, set terms of reference for the board of inquiry. 10
- (3) The Minister must appoint 3 to 5 suitable persons to be members of the board of inquiry.
- (4) The Minister may, if he or she considers it appropriate,—
- (a) invite the EPA to nominate persons to be members of the board: 15
- (b) appoint a member of the EPA board to be a member of the board of inquiry.
- (5) In appointing a person to the board, the Minister must consider the need for the board to have available to it from its members, knowledge, skill, and experience relating to— 20
- (a) this Act; and
- (b) the activity or type of activities that the board will be considering; and
- (c) tikanga Māori; and
- (d) legal expertise; and
- (e) relevant technical expertise. 25
- (6) The Minister must appoint a chairperson.
- (7) The chairperson may (but need not) be a current, former, or retired Environment Court Judge or a retired High Court Judge.
- (8) **Schedule 3** applies to boards of inquiry and applications considered by a board of inquiry. 30
- Compare: 1991 No 69 s 149J(2), (3)

*Provisions that apply to all applications*

- 54 Obligation to deal with application promptly**
- A marine consent authority must deal with any application for a marine consent as promptly as is reasonable in the circumstances. 35

<b>55</b>	<b>Request for further information</b>	
(1)	A marine consent authority may request that an applicant provide further information relating to an application.	
(2)	A request may be made at any reasonable time—	
	(a) before a hearing under <b>section 51 or 52 or Schedule 3</b> ; or	5
	(b) if no hearing is held, before the marine consent authority makes a decision on the application.	
(3)	A request must be in writing and set out the marine consent authority's reasons for requesting further information.	
(4)	The marine consent authority must, in the case of a publicly notified application, provide a copy of the information provided by the applicant to every submitter as soon as practicable after the later of—	10
	(a) the date on which it receives the information; and	
	(b) the date on which the submitter makes a submission.	
<b>56</b>	<b>Response to request</b>	15
(1)	An applicant who receives a request under <b>section 55(1)</b> must, within 5 working days after the date of the request,—	
	(a) provide the information; or	
	(b) write to the marine consent authority telling it that the applicant agrees to provide the information; or	20
	(c) write to the marine consent authority telling it that the applicant refuses to provide the information.	
(2)	After the marine consent authority receives the applicant's letter under <b>subsection (1)(b)</b> , the marine consent authority must—	
	(a) set a reasonable time within which the applicant must provide the information; and	25
	(b) write to the applicant advising the applicant of the date by which the applicant must provide the information.	
(3)	The marine consent authority must consider the application under section 59 even if the applicant—	30
	(a) does not respond to the request; or	
	(b) agrees to provide the information under <b>subsection (1)(b)</b> but does not do so; or	
	(c) refuses to provide the information under <b>subsection (1)(c)</b> .	
<b>57</b>	<b>Marine consent authority may obtain advice or information</b>	35
(1)	A marine consent authority may—	

- (a) commission an independent review of an impact assessment (if no review was commissioned under **section 42**):
- (b) seek advice from the Māori Advisory Committee on any matter related to the application:
- (c) seek advice or information from any person on any aspect of— 5  
 (i) an application for a marine consent; or  
 (ii) the activity to which an application relates:
- (d) commission any person to provide a report on any aspect of—  
 (i) an application for a marine consent; or  
 (ii) the activity to which an application relates. 10
- (2) The marine consent authority must advise an applicant in writing—  
 (a) if it intends to commission a review or report or seek advice or information; and  
 (b) of the reasons for wanting to do so.
- (3) **Subsection (1)** applies at any reasonable time— 15  
 (a) before a hearing is held; or  
 (b) if no hearing is to be held, before a decision on the application is made.
- (4) An applicant may object under section 101 to a decision to commission a review or a report, or to seek advice or information.
- (5) The marine consent authority must, as soon as is reasonably practicable after receiving any advice or report under this section, notify the applicant and every submitter that the advice or report is available at the EPA's office. 20
- 58 Meetings and mediation to resolve matters before decision**
- (1) The marine consent authority may request that an applicant for a marine consent and 1 or more submitters— 25  
 (a) meet to discuss any matters in dispute in relation to the application for consent; or  
 (b) enter mediation to resolve any matters in dispute in relation to the application for consent.
- (2) The person who conducts the meeting or mediation must report on the outcome of the meeting or mediation to— 30  
 (a) the marine consent authority; and  
 (b) the persons who were at the meeting or mediation.
- (3) The report must set out—  
 (a) the matters that were agreed at the meeting or mediation; and 35  
 (b) the matters that were not resolved.

- (4) The report must not include anything communicated or made available on a without prejudice basis at the meeting or during the mediation.

**189 Cross-heading above section 59 replaced**

Replace the cross-heading above section 59 with:

Subpart 2D—Decisions

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**190 Section 59 amended (Environmental Protection Authority’s consideration of application)**

- (1) In the heading to section 59, replace “**Environmental Protection Authority’s**” with “**Marine consent authority’s**”.
- (2) In section 59(1), replace “the Environmental Protection Authority” with “a marine consent authority”.
- (3) In section 59(2), replace “The EPA” with “A marine consent authority”.
- (4) In section 59(2)(m), (3), (4), (5), and (6), replace “EPA” with “marine consent authority” in each place.
- (5) After section 59(2), insert:
- (2A) If the application is for a marine discharge consent or a marine dumping consent, the EPA must also take into account,—
- (a) in relation to the discharge of harmful substances,—
- (i) the matters described in subsection (2), except paragraph (c); and
- (ii) the effects on human health of the discharge of harmful substances if consent is granted; and
- (b) in relation to the dumping of waste or other matter,—
- (i) the matters described in subsection (2), except paragraphs (c), (f), (g), and (i); and
- (ii) the effects on human health of the dumping of waste or other matter if consent is granted; and
- (iii) any alternative methods of disposal that could be used; and
- (iv) whether there are practical opportunities to reuse, recycle, or treat the waste or other matter.
- (6) Before section 59(3)(a), insert:
- (aa) EEZ policy statements; and
- (7) Replace section 59(3)(b) with:
- (b) any advice, reports, or information sought under this Part and received in relation to the application; and

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- 191 Section 60 amended (Matters to be considered in deciding extent of adverse effects on existing interests)**
- In section 60, replace “the Environmental Protection Authority” with “a marine consent authority”.
- 192 Section 61 amended (Information principles)** 5
- (1) In section 61(1), replace “the Environmental Protection Authority” with “a marine consent authority”.
- (2) In section 61(2) and (3), replace “EPA” with “marine consent authority”.
- (3) Replace section 61(4) with:
- (4) Subsection (3) does not— 10
- (a) apply to an application for—
- (i) a marine dumping consent; or
- (ii) a marine discharge consent; or
- (b) limit section 63 or 64.
- 193 Section 62 amended (Decisions on applications for marine consents)** 15
- (1) In section 62(1), replace “the EPA” with “a marine consent authority”.
- (2) After section 62(1), insert:
- (1A) However, the marine consent authority must refuse an application for a marine dumping consent if—
- (a) the marine consent authority considers that the waste or other matter may be reused, recycled, or treated without— 20
- (i) more than minor adverse effects on human health or the environment; or
- (ii) imposing costs on the applicant that are unreasonable in the circumstances; or 25
- (b) the waste or other matter is identified in such a way that it is not possible to assess the potential effects of dumping the waste or other matter on human health or the environment; or
- (c) the marine consent authority considers that dumping the waste or other matter is not the best approach to the disposal of the waste or other matter in the circumstances. 30
- (3) In section 62(2) and (3), replace “EPA” with “marine consent authority”.
- 194 Section 63 amended (Conditions of marine consents)**
- (1) In section 63(1), replace “The Environmental Protection Authority” with “A marine consent authority”. 35
- (2) In section 63(2), (3), and (4), replace “EPA” with “marine consent authority”.

- (3) In section 63(2)(b), after “that”, insert “, if section 64 applies,”.

**195 Section 64 amended (Adaptive management approach)**

- (1) Above section 64(1), insert:

(1AA) This section applies to marine consents other than marine discharge consents and marine dumping consents.

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- (2) In section 64(1), replace “The Environmental Protection Authority” with “A marine consent authority”.

- (3) In section 64(3), replace “the EPA” with “a marine consent authority”.

**196 Section 65 amended (Bonds)**

- (1) In section 65(1), replace “the Environmental Protection Authority” with “a marine consent authority”.

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- (2) In section 65(2)(d), (e), and (f), and (3), replace “EPA” with “marine consent authority” in each place.

**197 Section 69 replaced (Decision of Environmental Protection Authority to be in writing)**

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Replace section 69 with:

**69 Decision of marine consent authority to be in writing**

Every decision of a marine consent authority on an application for a marine consent must—

- (a) be in writing; and  
(b) include the reasons for the decision.

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**198 Section 70 amended (Notification of Environmental Protection Authority’s decision)**

- (1) In the heading to section 70, replace “Environmental Protection Authority’s” with “marine consent authority’s”.

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- (2) In section 70(1), replace “Environmental Protection Authority” with “marine consent authority”.

- (3) In section 70(1)(a)(iv) and (3), replace “EPA” with “marine consent authority”.

**199 New subpart 2E heading in Part 3A inserted**

Above section 71, insert:

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**Subpart 2E—Consents**

**200 Section 73 amended (Duration of marine consent)**

In section 73(2), replace “the Environmental Protection Authority” with “a marine consent authority”.

- 201 New section 73A inserted (Duration of marine discharge consents and marine dumping consents)**
- After section 73, insert:
- 73A Duration of marine discharge consents and marine dumping consents**
- (1) The duration of a marine discharge consent or a marine dumping consent is the term specified in the consent. 5
- (2) However, the duration must not be more than 35 years.
- (3) If no duration is specified in a consent, its duration is 5 years.
- (4) When determining the duration of a consent, the marine consent authority must— 10
- (a) comply with sections 59 and 61; and
- (b) take into account the duration sought by the applicant; and
- (c) take into account the duration of any other legislative authorisations granted or required for the activity that is the subject of the application for consent. 15
- 202 Section 74 amended (Exercise of marine consent while applying for new consent)**
- (1) In section 74(2)(d), replace “the EPA” with “a marine consent authority”.
- (2) In section 74(3)(b), replace “declined” with “refused”.
- 203 New section 75A and cross-heading inserted** 20
- After section 75, insert:
- EPA responsibility for marine consents granted by board of inquiry*
- 75A Residual powers of EPA**
- (1) This section applies to a marine consent that has been granted by a board of inquiry under section 62(1)(a). 25
- (2) The EPA has all the functions, duties, and powers in relation to the marine consent as if it had granted the consent itself.
- 204 New cross-heading above section 84 inserted**
- Above section 84, insert:
- Minor corrections of marine consents* 30
- 205 Section 84 amended (Minor corrections of marine consents)**
- In section 84,—
- (a) replace “The EPA” with “A marine consent authority”:



- (b) replace “minor mistakes or defects” with “minor omissions, errors, or other defects”.
- 206 Subpart 2A of Part 3 repealed**  
Repeal subpart 2A of Part 3.
- 207 Section 88 amended (Interpretation)** 5
- (1) In section 88, repeal the definitions of **consent authority** and **relevant consent authority**.
- (2) In section 88, insert in their appropriate alphabetical order:
- processing**, in relation to an application, means processing—
- (a) before a hearing is held; or 10
- (b) if no hearing is held, before a decision is made on the application
- relevant resource consent authority** means—
- (a) the resource consent authority responsible for a district or region in which part of a cross-boundary activity is or is intended to be undertaken; or 15
- (b) the Minister of Conservation, in relation to the coastal marine areas of the Kermadec Islands, the Snares Islands, the Bounty Islands, the Antipodes Islands, the Auckland Islands, Campbell Island, and the islands adjacent to Campbell Island
- resource consent authority** means a consent authority as that term is defined in section 2(1) of the Resource Management Act 1991 20
- 208 Section 91 amended (Joint application for consent for cross-boundary activity)**
- Replace section 91(1) and (2) with:
- (1) If a person makes a joint application for consent, the joint application must be sent to— 25
- (a) the relevant resource consent authority; and
- (b) the Environmental Protection Authority.
- 209 Section 92 amended (Separate applications for consents for cross-boundary activity)** 30
- In section 92, replace “Subpart 2” with “**Subparts 2A to 2D**”.
- 210 Section 93 amended (Environmental Protection Authority may require joint application)**
- (1) In section 93(1), replace “or during the processing of an application for a marine consent for a cross-boundary activity,” with “an application for a marine consent for a cross-boundary activity is referred to a board of inquiry,” 35

- (2) In section 93(3)(a), replace “relevant consent authority” with “relevant resource consent authority”.

**211 Section 94 amended (Decision to separate joint application for consent)**

- (1) Replace the heading to section 94 with “**Joint processing must cease when application for resource consent referred to Environment Court**”. 5
- (2) Repeal section 94(1) to (3).
- (3) In section 94(7), replace “subpart 2” with “**subpart 2A**”.

**212 New section 94A inserted (Environmental Protection Authority may decide to separate joint application)**

After section 94, insert: 10

**94A Environmental Protection Authority may decide to separate joint application**

- (1) The Environmental Protection Authority may decide that the application for a resource consent and the application for a marine consent that comprise the joint application must cease to be processed as a joint application and continue to be processed separately. 15
- (2) A decision under **subsection (1)** can be made at any time before a joint application for consent is referred to a board of inquiry.
- (3) **Subsection (1)** applies only if— 20
- (a) the EPA and the relevant resource consent authority agree that the applications are sufficiently unrelated that a joint process is not necessary; or
  - (b) one application must be publicly notified, but not the other; or
  - (c) a hearing is required for one application, but not the other; or
  - (d) the joint processing of the applications for resource consent and marine consent that comprise the joint application for consent is not administratively efficient. 25
- (4) In any case described in **subsection (1)**,— 30
- (a) the relevant resource consent authority must resume processing the application for resource consent under the Resource Management Act 1991; and
  - (b) the EPA must resume processing the application for a marine consent under **subpart 2A**.

**213 Section 96 replaced (Environmental Protection Authority to administer process)**

Replace section 96 with: 35

<b>96</b>	<b>Environmental Protection Authority to administer process</b>	
(1)	The Environmental Protection Authority is responsible for ensuring the efficient and co-ordinated processing of a joint application for consent for a cross-boundary activity.	
(2)	The EPA must, in relation to the joint application, liaise with the relevant resource consent authority to—	5
	(a) prepare a request for further information under <b>section 55</b> so that, where practicable, the request covers all the information needed in relation to the whole cross-boundary activity; and	
	(b) ensure that, if both applications must be publicly notified, they are notified jointly by the EPA and the relevant resource consent authority; and	10
	(c) set a closing date for the making of submissions (if applicable); and	
	(d) receive submissions and provide copies of them to the relevant resource consent authority; and	
	(e) provide general administrative services.	15
(3)	The EPA may extend a time period that applies to the processing of the application for a marine consent in order to ensure that (where applicable)—	
	(a) the application for a marine consent is notified jointly with the application for resource consent:	
	(b) submissions on the applications close on the same date.	20

**214 Section 98 replaced (Separate decisions on marine consent and resource consent applications)**

Replace section 98 with:

<b>98</b>	<b>Separate decisions on marine consent and resource consent applications</b>	
(1)	Subject to sections 99 and <b>99A</b> ,—	25
	(a) the relevant marine consent authority must decide an application for a marine consent, a marine discharge consent, or marine dumping consent that is part of a joint application for consent; and	
	(b) the relevant resource consent authority must decide the application for a resource consent that is part of a joint application.	30
(2)	Sections 59 to 71 apply to an application for a marine consent, a marine discharge consent, or a marine dumping consent.	
(3)	Sections 104 to 116 of the Resource Management Act 1991 apply to the application for a resource consent.	

**215 Section 99 amended (Application for consent for nationally significant cross-boundary activity referred to board of inquiry)** 35

In section 99(4)(b), replace “the EPA” with “a marine consent authority”.

**216 New section 99A inserted (Joint applications for section 20 activity and for nationally significant activity to be referred to board of inquiry)**

After section 99, insert:

- 99A Joint applications for section 20 activity and for nationally significant activity to be referred to board of inquiry** 5
- (1) This section applies to a joint application for consent if—
- (a) the application for a marine consent is for a section 20 activity; and
  - (b) the application for a resource consent that is or is part of a proposal of national significance is to be referred to a board of inquiry under section 142(2)(a) or 147(1)(a) of the Resource Management Act 1991. 10
- (2) The responsible Ministers must, as soon as practicable after being notified in accordance with **section 47(1)(a)**, appoint a board of inquiry to—
- (a) decide the joint application; and
  - (b) perform or exercise the functions, duties, and powers of a marine consent authority, prescribed in **subparts 2C to 2E**, in relation to the application (including any appeals in relation to the matter that are filed in any court). 15
- (3) The responsible Ministers must appoint 3 to 5 suitable persons to be members of the board of inquiry.
- (4) The Minister may, if he or she considers it appropriate, invite the EPA to nominate persons to be members of the board. 20
- (5) In appointing a person to the board, the responsible Ministers must consider the need for the board to have available to it, from its members,—
- (a) knowledge, skill, and experience relating to—
    - (i) this Act and the Resource Management Act 1991; and 25
    - (ii) the matter or type of matter that the board will be considering; and
    - (iii) tikanga Māori; and
  - (b) legal expertise; and
  - (c) technical expertise in relation to the matter or type of matter that the board will be considering. 30
- (6) The EPA must—
- (a) process the application for a marine consent together with the associated application for a resource consent; and
  - (b) publicly notify the application under **section 47(1)(a)** if the application has not already been notified; and 35
  - (c) receive submissions made under **section 48**.
- (7) **Sections 51 to 53** do not apply to the application for a marine consent.

- (8) Despite **subsection (7), clauses 1 to 4 and 14 of Schedule 3** do apply to the processing of the application for a marine consent.
- (9) The following provisions of the Resource Management Act 1991 apply to the processing of the application for a marine consent as if the application were part of the associated application for a resource consent: 5
- (a) section 149L (which deals with the conduct of the inquiry):
  - (b) section 149R (which requires the board to produce a final report), but not subsections (3)(e) and (f) and (4)(b) and (c):
  - (c) section 149RA(1) and (2) (which allows the board to make minor corrections to board decisions and resource consents): 10
  - (d) section 149S (which allows the Minister for the Environment to extend the time by which the board must report), but not subsection (4)(b):
  - (e) section 149V (which provides for appeals against decisions to be on questions of law only) as if the reference in that section to section 149R(4)(a) to (f) were a reference to section 149R(4)(a), (d), (e), and (f). 15
- (10) In this section, **responsible Ministers** means—
- (a) the Minister; and
  - (b) the Minister for the time being responsible for the administration of the Resource Management Act 1991.

- 217 New subpart 4 of new Part 3A inserted** 20  
After section 100, insert:

#### Subpart 4—Miscellaneous

##### **100A Owner must submit decommissioning plan**

- (1) The EPA may, by written notice, require the owner of an offshore installation to prepare a decommissioning plan. 25
- (2) The decommissioning plan must be prepared in accordance with regulations (if any) prescribed under section 27.
- (3) The owner must—
  - (a) consult the EPA about the decommissioning plan within the period (if any) prescribed by regulations; and 30
  - (b) apply for a marine consent for every discretionary activity that is proposed as part of the decommissioning plan.

##### **218 Subpart 1 heading in Part 4 replaced**

In Part 4, replace the subpart 1 heading with:

Subpart 1—Objections to decisions of marine consent authority 35

- 219 Section 101 amended (Right of objection to Environmental Protection Authority against certain decisions)**
- (1) In section 101(1),—
- (a) replace “the Environmental Protection Authority” with “a marine consent authority”; and 5
- (b) replace “section 44” with “**section 42 or 57**”.
- (2) In section 101(2),—
- (a) delete “under section 58(5)”; and
- (b) replace “the EPA” with “a marine consent authority”.
- 220 Section 102 amended (Procedure for making or hearing objection)** 10
- (1) In section 102(1), replace “the Environmental Protection Authority” with “a marine consent authority”.
- (2) In section 102(3), replace “EPA” with “marine consent authority”.
- 221 Section 103 amended (Decision on objection)**
- (1) In section 103(1), replace “The Environmental Protection Authority” with “A 15  
marine consent authority”.
- (2) In section 103(2), replace “EPA” with “marine consent authority” in each place.
- 222 New subpart 1A heading in Part 4 inserted**
- After section 104, insert: 20
- Subpart 1A—Appeals against Environmental Protection Authority  
decisions
- 223 Section 105 amended (Appeals on question of law)**
- In section 105(1)(b), replace “decline” with “refuse”.
- 224 New subpart 1B of Part 4 inserted** 25
- After section 113, insert:
- Subpart 1B—Appeals against decisions of boards of inquiry
- Appeal to High Court on question of law*
- 113A Appeals on question of law**
- (1) The applicant for a consent or any submitter on an application for a consent 30  
may appeal to the High Court against the whole or a part of a decision of a  
board of inquiry to—
- (a) grant an application for a consent; or

<ul style="list-style-type: none"> <li>(b) refuse an application; or</li> <li>(c) impose any conditions on a consent.</li> </ul>	
<ul style="list-style-type: none"> <li>(2) An appeal lodged under this section may be only on a question of law.</li> <li>(3) This section is in addition to the rights provided for in section 101.</li> </ul>	
<b>113B Notice of appeal</b>	5
<ul style="list-style-type: none"> <li>(1) An appellant must file a notice of appeal with the Registrar of the High Court in Wellington within 15 working days after the date on which the appellant is notified of the decision of a board of inquiry.</li> <li>(2) The appellant must also serve a copy of the notice of the appeal on the board of inquiry and the EPA within the time limit specified in <b>subsection (1)</b>.</li> <li>(3) The notice of appeal must specify— <ul style="list-style-type: none"> <li>(a) the decision or part of the decision appealed against; and</li> <li>(b) the error of law alleged by the appellant; and</li> <li>(c) the grounds of appeal with sufficient particularity for the court and other parties to understand them; and</li> <li>(d) the relief sought.</li> </ul> </li> <li>(4) The appellant must serve a copy of the notice of appeal on— <ul style="list-style-type: none"> <li>(a) the applicant or consent holder, if the appellant is not the applicant or consent holder; and</li> <li>(b) any submitter on the application for consent, or a change of the consent conditions, or a review of consent conditions.</li> </ul> </li> <li>(5) The appellant must comply with <b>subsection (4)</b> no later than 5 working days after the appeal is filed.</li> <li>(6) The board of inquiry must send a copy of the whole of the decision appealed against to the Registrar of the High Court as soon as is reasonably practicable after receiving the notice of appeal.</li> </ul>	10 15 20 25
<b>113C Right to appear and be heard on appeal</b>	
<ul style="list-style-type: none"> <li>(1) The applicant for, or holder of, the consent to which the appeal relates and any submitters who wish to appear on an appeal to the High Court must give notice of intention to appear to— <ul style="list-style-type: none"> <li>(a) the appellant; and</li> <li>(b) the Registrar of the High Court; and</li> <li>(c) the Environmental Protection Authority; and</li> <li>(d) the board of inquiry.</li> </ul> </li> <li>(2) The notice to appear must be served within 10 working days after the person is served with the notice of appeal.</li> </ul>	30 35

**113D Parties to appeal**

The parties to an appeal before the High Court are—

- (a) the appellant; and
- (b) the board of inquiry whose decision is being appealed; and
- (c) the Environmental Protection Authority; and 5
- (d) a person who gives notice of intention to appear under **section 113C**; and
- (e) a person who becomes a party to an appeal under **section 113E**.

**113E Representation at proceedings**

- (1) The following persons may be a party to any proceedings before the High Court under this Act: 10
  - (a) the Attorney-General, representing a relevant aspect of the public interest;
  - (b) the relevant resource consent authority in relation to proceedings affecting a cross-boundary activity to which subpart 3 of Part 3 applies. 15
- (2) A person described in **subsection (1)** may become a party to the proceedings by giving notice to the High Court and to all other parties within 15 working days after—
  - (a) the period for lodging a notice of appeal ends, if the proceedings are an appeal: 20
  - (b) the proceedings are commenced, in any other case.
- (3) The notice given under **subsection (2)** must state—
  - (a) the proceedings in which the person has an interest; and
  - (b) whether the person supports or opposes the proceedings and the reasons for that support or opposition; and 25
  - (c) if applicable, the grounds for seeking representation under **subsection (1)(a)**; and
  - (d) an address for service.
- (4) A person who becomes a party to the proceedings under this section may appear and call evidence in accordance with **subsection (5)**. 30
- (5) Evidence must not be called under **subsection (4)** unless it is on matters within the scope of the appeal or other proceeding.
- (6) A person who becomes a party to the proceedings under this section may not oppose the withdrawal or abandonment of the proceedings unless the proceedings were brought by a person who made a submission in the previous proceedings on the same matter. 35



**113F Dismissal of appeal**

The High Court may dismiss an appeal if—

- (a) the appellant does not appear at the hearing of the appeal; or
- (b) the appellant does not proceed with the appeal with due diligence and another party applies to the court to dismiss the appeal.

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**113G Date of hearing**

- (1) An appeal is ready for hearing when the appellant notifies the Registrar of the High Court that the notice of appeal has been served on all parties to the proceedings.
- (2) The Registrar must arrange a hearing date as soon as practicable after being notified that the notice of appeal has been served on all parties to the proceedings.

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**113H Application of High Court Rules**

The High Court Rules apply if a procedural matter is not provided for by **sections 113A to 113G**.

*Appeal to Supreme Court*

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**113I Appeal to Supreme Court**

- (1) Any party to an appeal under **section 113D** may apply to the Supreme Court for leave to appeal a decision of the High Court under this subpart, but only on a question of law.
- (2) The Supreme Court may—
  - (a) grant leave; or
  - (b) deny leave; or
  - (c) remit the appeal to the Court of Appeal.
- (3) No appeal may be made from any appeal determined by the Court of Appeal under **subsection (2)(c)**.
- (4) An application for leave for the purposes of **subsection (1)** must be filed no later than 10 working days after the determination of the High Court.

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**225 Section 137 amended (Limitation period)**

In section 137(1) and (2), replace “6” with “12”.

**226 Section 141 amended (Power of entry for inspection)**

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Replace section 141(2) with:

- (2) The power to enter and inspect allows the person to—
  - (a) inspect any item found in a place, vehicle, vessel, or structure entered in accordance with subsection (1);
  - (b) take a sample of any substance:

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<ul style="list-style-type: none"> <li>(c) seize anything that may be lawfully seized:</li> <li>(d) conduct examinations, tests, inquiries, and demonstrations:</li> <li>(e) require the production of, and copy, any document or part of a document.</li> </ul>	
<b>227 Section 142 amended (Protection of the Crown and others)</b>	
After section 142(d), insert:	5
<ul style="list-style-type: none"> <li>(e) a board of inquiry appointed under <b>section 53</b>, 99, or <b>99A</b>.</li> </ul>	
<b>228 Section 143 amended (Principles of cost recovery)</b>	
In section 143(2), replace “include” with “include (but are not limited to)”.	
<b>229 New section 147A inserted (Process may be suspended if costs outstanding)</b>	
After section 147, insert:	10
<b>147A Process may be suspended if costs outstanding</b>	
(1) This section applies if—	
<ul style="list-style-type: none"> <li>(a) a person is required to pay costs under section 143 or 146; and</li> <li>(b) the EPA has given the person written notice that, if the costs specified in the notice are not paid within 20 working days of the date of notice,—</li> </ul>	15
<ul style="list-style-type: none"> <li>(i) the EPA may cease to carry out its functions in relation to the matter; and</li> <li>(ii) if a board of inquiry has been appointed under <b>section 53</b>, 99, or <b>99A</b>, the inquiry will be suspended.</li> </ul>	
(2) If the person to whom a notice has been given under <b>subsection (1)(b)</b> fails to pay the costs in the required time, the EPA may—	20
<ul style="list-style-type: none"> <li>(a) cease carrying out its functions in respect of the matter:</li> <li>(b) direct a board of inquiry appointed under <b>section 53</b>, 99, or <b>99A</b> to suspend the inquiry and cease carrying out its functions in respect of the matter.</li> </ul>	25
(3) If after the EPA or a board of inquiry has ceased carrying out its functions under <b>subsection (2)</b> , the person required to pay the costs does so,—	
<ul style="list-style-type: none"> <li>(a) the EPA and the board must resume carrying out their functions in respect of the matter; and</li> <li>(b) if a board of inquiry has been appointed under <b>section 53</b>, 99, or <b>99A</b>, the inquiry is resumed.</li> </ul>	30
(4) The EPA must notify the persons specified in <b>subsection (5)</b> as soon as practicable after—	
<ul style="list-style-type: none"> <li>(a) the EPA or a board of inquiry has ceased carrying out its functions under <b>subsection (2)(a)</b>:</li> <li>(b) an inquiry is suspended under <b>subsection (2)(b)</b>:</li> </ul>	35

- (c) the EPA or a board of inquiry has resumed carrying out its functions under **subsection 3(a)**;
- (d) an inquiry has resumed under **subsection (3)(b)**.
- (5) The specified persons are—
  - (a) the applicant; and 5
  - (b) the board of inquiry; and
  - (c) the Minister; and
  - (d) the relevant regional council; and
  - (e) every person who has made a submission on the matter.
- (6) Nothing in this section affects or prejudices the right of a person to object 10
  - under section 101 or appeal under section 104, but an objection or an appeal does not affect the right of the EPA under **subsection (2)** of this section—
  - (a) to cease carrying out its functions in respect of the matter; or
  - (b) to direct a board of inquiry to cease carrying out its functions in respect 15
    - of the matter.

### 230 Section 148 amended (Service of documents)

Replace section 148(1) with:

- (1) If a notice or other document is to be served on a person for the purposes of this Act,—
  - (a) it must, if the person has specified an electronic address as an address for 20
    - service for the matter to which the document relates, be served by sending it to the electronic address; and
  - (b) it may, if **paragraph (a)** does not apply, be served by any of the following methods:
    - (i) delivering it personally to the person, except if the person is a 25
      - Minister of the Crown:
    - (ii) delivering it at the usual or last known place of residence or business of the person:
    - (iii) sending it by pre-paid post addressed to the person at the usual or 30
      - last known place of residence or business of the person:
    - (iv) sending it to the usual or last known electronic address of the person:
    - (v) posting it to the post office box address that the person has specified as an address for service:
    - (vi) leaving it at a document exchange for direction to the document 35
      - exchange box number that the person has specified as an address for service:

- (vii) sending it to the fax number that the person has specified as an address for service.

**231 New section 158BA inserted (EPA and WorkSafe to share information)**

After section 158B, insert:

**158BA EPA and WorkSafe to share information**

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- (1) The Environmental Protection Authority may provide WorkSafe with any information that the EPA holds and that the EPA considers may assist WorkSafe in the performance of WorkSafe’s functions under the WorkSafe New Zealand Act 2013.
- (2) WorkSafe may provide the EPA with any information that WorkSafe holds and that it considers may assist the EPA in the performance of the EPA’s functions under this Act.
- (3) If any information provided by the EPA under **subsection (1)** is the subject of a direction made under section 158, that section continues to apply to the information and WorkSafe must comply with that section.

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**232 Section 162 amended (Existing petroleum mining activities involving structures or pipelines)**

In section 162(2),—

- (a) after “subsection (3)”, insert “where the activity has adverse effects on the environment or existing interests”; and
- (b) delete “on the environment or existing interests of an activity”.

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**233 New sections 167B and 167C inserted**

After section 167A, insert:

*Savings provisions relating to **2015** amendments*

**167B Savings provisions in relation to marine consent applications**

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All applications, matters, and proceedings that were pending or in progress under subpart 2 of Part 3 of this Act (as the Act read) immediately before the day on which **Part 5 of the Resource Legislation Amendment Act 2015** came into force must be continued and completed as if this Act had not been amended by that Act.

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**167C Savings provisions in relation to review of consent duration or conditions**

A review that had commenced under section 76 immediately before the day on which **Part 5 of the Resource Legislation Amendment Act 2015** came into force must be continued and completed as if this Act had not been amended by that Act.

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**234 Schedule amended**

In the Schedule heading, replace “s 44B” with “**s 51(3)**”.

**235 New Schedules 2 and 3 inserted**

After the Schedule, insert as **Schedules 2 and 3** the schedules set out in **Schedule 8** of this Act.

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## Schedule 1

### Amendments to Schedule 1 of Resource Management Act 1991

s 108

**New clause 1AA**

In Schedule 1, after the Part 1 heading, insert:

**1AA Overview and application of this Part**

This Part applies to the preparation of, or a change to,—

- (a) a regional policy statement by a regional council:
- (b) a regional plan by a regional council:
- (c) a district plan by a territorial authority:
- (d) a combined document by local authorities under section 80.

**New clauses 1A and 1B**

In Schedule 1, after clause 1, insert:

**1A Iwi participation arrangements to be complied with**

- (1) A proposed policy statement or plan must be prepared in accordance with any applicable iwi participation arrangement.
- (2) A local authority may comply with clause 3(1)(d) in any particular case by consulting relevant iwi authorities about a proposed policy statement or plan in accordance with an iwi participation arrangement.

**1B Relationship with iwi participation legislation**

Nothing in this schedule limits any relevant iwi participation legislation or agreement under that legislation.

**New clause 4A**

In Schedule 1, after clause 4, insert:

**4A Further pre-notification requirements concerning iwi authorities**

- (1) Before notifying a proposed policy statement or plan, a local authority must—
  - (a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and
  - (b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.
- (2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with **subclause (1)**, it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.

**Clause 5**

In Schedule 1, replace clause 5(1)(b) with:

- (b) if the local authority decides to proceed with the proposed policy statement or plan, do one of the following, as appropriate:
  - (i) publicly notify the proposed policy statement or plan: 5
  - (ii) give limited notification, as provided for in **clause 5A**.

**New clause 5A**

In Schedule 1, after clause 5, insert:

- 5A Option to give limited notification of proposed change**
- (1) This clause applies to a proposed change to a policy statement or plan. 10
  - (2) The local authority may give limited notification, but only if it is able to identify all the persons directly affected by the proposed change.
  - (3) The local authority must serve limited notification on all persons identified as being directly affected by the proposed change.
  - (4) A notice given under this clause must state— 15
    - (a) where the proposed change may be inspected; and
    - (b) that only the persons given limited notification under this clause may make a submission on the proposed change; and
    - (c) the process for participating in the consideration of the proposed change; 20
    - and
    - (d) the closing date for submissions; and
    - (e) the address for service of the local authority.
  - (5) The local authority may provide any further information relating to a proposed change that it thinks fit.
  - (6) The closing date for submissions must be at least 20 working days after limited notification is given under this clause. 25
  - (7) If limited notification is given, the consent authority may adopt, as an earlier closing date, the last day on which the consent authority receives, from all the directly affected persons, a submission, or written notice that no submission is to be made. 30
  - (8) The local authority must provide a copy of the proposed change, without charge, to—
    - (a) the Minister for the Environment; and
    - (b) for a change to a regional coastal plan, the Minister of Conservation and the Director-General of Conservation; and 35
    - (c) for a change to a district plan, the regional council and adjacent local authorities; and

**New clause 5A**—*continued*

- (d) for a change to a policy statement or regional plan, the constituent territorial authorities and adjacent regional councils; and
  - (e) tangata whenua of the area, through iwi authorities.
- (9) If limited notification is given in relation to a proposed change under this clause, the local authority must make the change publicly available in the central public library of the relevant district or region, and may also make it available in any other place considered appropriate. 5
- (10) The obligations on the local authority under **subclause (4)** are in addition to those under section 35 (which relates to the keeping of records).

**Clause 6**

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In Schedule 1, heading to clause 6, after “**submissions**”, insert “**under clause 5**”.

**New clause 6A**

In Schedule 1, after clause 6, insert:

**6A Making of submissions under clause 5A**

- (1) If limited notification is given under **clause 5A** on a proposed change to a policy statement or plan, the only persons who may make submissions or further submissions on the proposed change are— 15
- (a) the persons given limited notification under **clause 5A(3)**; and
  - (b) the persons provided with a copy of the proposed change under **clause 5A(8)**. 20
- (2) However, if a person with a right to make a submission could gain an advantage in trade competition through making a submission, that person may make a submission only if directly affected by an effect of the proposed change that—
- (a) adversely affects the environment; and
  - (b) does not relate to trade competition or the effects of trade competition. 25
- (3) The local authority in its own area may make a submission.
- (4) Submissions must be made in the prescribed form.

**Clause 7**

In Schedule 1, after clause 7(1), insert:

- (1A) However, in the case of a submission on a proposed change to a policy statement or plan, if a local authority has given limited notification under **clause 5A**, it must give notice of the matters listed in subclause (1), as relevant to— 30
- (a) the persons given limited notification under **clause 5A(3)**; and
  - (b) the persons provided with a copy of the proposed change under **clause 5A(8)**. 35



**Clause 8**

In Schedule 1, after clause 8(1), insert:

- (1A) However, in the case of submissions on a proposed change to a policy statement or plan, the persons (in addition to the relevant local authority) who may make a further submission are—
- (a) the persons given limited notification under **clause 5A(3)**; and
  - (b) the persons given a copy of the proposed change under **clause 5A(8)**.

5

In Schedule 1, clause 8(2), after “further submission”, insert “given under subclause (1) or **(1A)**”.

In Schedule 1, clause 8(2), after “clause 6”, insert “or **6A**”.

10

**Clause 8A**

In Schedule 1, clause 8A(1), after “clause 8”, insert “(1) or **(1A)**”.

In Schedule 1, clause 8A(1)(b), after “clause 6”, insert “or **6A**”.

**New clause 20AB**

In Schedule 1, after the Part 2 heading, insert:

15

**20AB Overview of this Part and application of clause 1B**

- (1) This Part applies if a request described in clause 21(1) or (2) is made.
- (2) If this Part applies,—
  - (a) **clause 1B** applies; but
  - (b) Part 1 of this schedule does not otherwise apply except to the extent that it is expressly applied by this Part.

20

**Clause 21**

In Schedule 1, after clause 21(3), insert:

- (3A) However, in relation to a policy statement or plan approved under **Part 4** of this schedule, no request may be made to change the policy statement or plan earlier than 3 years after the date on which it becomes operative under clause 20 (as applied by **section 80A(2)(a)**).

25

**Clause 25**

In Schedule 1, clause 25(2)(a)(i), after “clause 5”, insert “or **5A**”.

In Schedule 1, clause 25(5), after “that decision”, insert “, including the decision on notification”.

30

**New clause 26A**

In Schedule 1, after clause 26, insert:

**New clause 26A—continued****26A Iwi participation arrangements**

In exercising or performing any powers, functions, or duties under this Part, a local authority must comply with any iwi participation arrangement that specifically provides a role for iwi authorities in relation to any plan or change requested under this Part.

5

**New Parts 4 and 5**

In Schedule 1, after clause 35, insert:

<b>Part 4</b>		
<b>Collaborative planning process</b>		
<b>36</b>	<b>Interpretation</b>	10
	In this Part,—	
	<b>appointer</b> means the local authority that appoints a review panel for the purposes of this Part	
	<b>collaborative group</b> means a group of persons appointed by a local authority under <b>clause 40</b> for the purpose of assisting the local authority to prepare or change a proposed policy statement or plan that relates to its functions under section 30 or 31, as the case may be	15
	<b>proposed policy statement or plan</b> , if prepared under the collaborative planning process,—	
	(a) means a proposed policy statement or plan that relates to the local authority's functions under section 30 or 31, as the case may be; and	20
	(b) includes a combined document described in section 80	
	<b>review panel</b> and <b>panel</b> mean a panel established under <b>clause 63</b> .	
<i>Choice of collaborative planning process</i>		
<b>37</b>	<b>Considerations relevant to decision on choice of process</b>	25
(1)	A local authority may use the collaborative planning process to prepare or change a policy statement or plan.	
(2)	In determining whether the collaborative planning process is to be used to prepare or change a policy statement or plan, a local authority must consider—	
	(a) whether the resource management issues to be dealt with in the policy statement or plan would benefit from the use of the collaborative planning process, having regard to the scale and significance of the relevant resource management issues; and	30

**New Parts 4 and 5—continued**

- (b) the views and preferences expressed by persons who are likely to be affected by those resource management issues or who have an interest in them; and
- (c) whether the local authority has the capacity to support the collaborative planning process, having regard to the financial and other costs of the process; and 5
- (d) whether there are people in the community able and willing to participate effectively in the collaborative planning process as members of a collaborative group; and
- (e) whether any matters of national significance are likely to arise and, if so, whether these could be dealt within the collaborative planning process; and 10
- (f) whether the relevant provisions of any iwi participation legislation that applies in an area could be accommodated within the collaborative planning process, as required by this Part. 15
- (3) Before determining to use the collaborative planning process, a local authority must be satisfied that use of the process is not inconsistent with the local authority's obligations under any relevant iwi participation legislation or iwi participation arrangement.
- 38 Notification of planning process to be adopted** 20
- (1) A local authority must give public notice of its decision made under **clause 37**, stating—
- (a) the extent of the area that will be subject to the proposed policy statement or plan; and
- (b) where the decision and reasons for the decision of the local authority may be inspected. 25
- (2) If a local authority gives notice that it intends to use the collaborative planning process to prepare a policy statement or plan, it is not permitted to withdraw from that process at any stage and progress the preparation of a policy statement or plan under any of the other processes in this schedule. 30
- (3) However, **subclause (2)** does not apply if—
- (a) a local authority has been unable to appoint a collaborative group in accordance with **clause 40**; or
- (b) a collaborative group has breached its terms of reference and the local authority has followed the process specified for dispute resolution in the terms of reference, but the dispute is not resolved. 35

New Parts 4 and 5—*continued**Collaborative group***39 Collaborative group to be established**

If a local authority gives notice under **clause 38** of its decision to use the collaborative planning process, it must establish a collaborative group.

**40 Appointments**

5

(1) In establishing a collaborative group, a local authority must appoint—

(a) at least 1 person chosen by iwi authorities to represent the views of tangata whenua; and

(b) in the case of a regional policy statement or plan (other than one prepared by a unitary authority), at least 1 person to represent the views of territorial authorities within the relevant area; and 10

(c) in the case of a regional coastal plan, 1 person chosen by any customary marine title holder to represent the views of any customary marine title groups within the relevant area; and

(d) other persons who, in the opinion of the local authority, have the knowledge, experience, and skills (including skills in collaboration) that are relevant to the resource management issues to be considered by the group. 15

(2) A local authority may appoint as many persons as it considers appropriate, having regard to— 20

(a) the scale and significance of the resource management issues to be dealt with; and

(b) the need to comply with **subclauses (4) and (5)**.

(3) A local authority must not appoint persons who are employees or officers of any local authority within the relevant area. 25

(4) However, the collaborative group may include 1, but not more than 1, elected member from—

(a) the local authority that is using the collaborative planning process to prepare or change a policy statement or plan; or

(b) in the case of a combined instrument under section 80, each local authority that is using the collaborative planning process to prepare or change a policy statement or plan. 30

(5) The appointments made under this clause must result in a collaborative group whose membership, collectively, reflects a balanced range of the community's interests, values, and investments in the relevant area as they relate to the resource management issues to be considered by the group. 35

**New Parts 4 and 5—continued**

- (6) The Local Government Official Information and Meetings Act 1987 applies to a collaborative group established under this Part as if it were a committee of the local authority under the Local Government Act 2002.
- 41 Terms of reference for collaborative group**
- (1) A local authority must set the terms of reference for a collaborative group that it establishes, in consultation with that group. 5
- (2) The terms of reference must direct a collaborative group—
- (a) to consider specified matters; and
  - (b) to report to a local authority with recommendations for a proposed policy statement or plan within a specified time; and 10
  - (c) to consider how to comply with the obligations identified by the local authority that arise under this Act or any other enactment that applies to the preparation or changing of a policy statement or plan under this Act; and
  - (d) to consider how to give effect to the provisions of a national policy statement, a New Zealand coastal policy statement, or the national planning template that are identified by the local authority as relevant; and 15
  - (e) to consider how to comply with the provisions in regulations (including any national environmental standards) and water conservation orders that are identified by the local authority as relevant; and 20
  - (f) to consider how to comply with the obligations that are identified by the local authority as arising under—
    - (i) the provisions of any relevant iwi participation legislation, or any agreement entered into under that legislation:
    - (ii) the provisions of any relevant legislation that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under other legislation; and 25
  - (g) to establish and use a process for seeking the views of the community of the relevant area on the work that the collaborative group is carrying out and to specify how the local authority will support the collaborative group; and 30
  - (h) to prepare an evaluation of the costs and benefits of any recommendations it makes to the local authority.
- (3) The terms of reference must include— 35
- (a) the period for which a collaborative group is established (including the period until any appeals are completed); and
  - (b) whether, and, if so, how much, members of a group are to be paid; and

**New Parts 4 and 5—continued**

- (c) how the local authority will provide resources to a group for the period between the establishment of a collaborative group and the date on which the local authority's decision is made under **clause 54**; and
- (d) a dispute resolution process that the local authority is to use if necessary in relation to a collaborative group, including the process for removing and replacing any of the group's members or discharging the group. 5
- (4) A local authority may, at any time after consulting a collaborative group, amend the terms of reference that apply to the group.
- (5) The local authority must give public notice and notice to the chairperson of the collaborative group if amendments are made to the terms of reference under **subclause (4)**. 10
- (6) A notice given under **subclause (5)** must state where a copy of the amended terms of reference may be inspected.
- (7) The terms of reference are binding on both the local authority and the collaborative group. 15
- 42 Other matters relevant to collaborative group**
- (1) As soon as practicable after establishing a collaborative group and providing the terms of reference, a local authority must give public notice that it has appointed a collaborative group and has set its terms of reference.
- (2) The public notice must— 20
- (a) include details of the appointments; and
- (b) state where the terms of reference may be inspected.
- (3) A collaborative group must determine its own procedure.
- (4) Section 43 of the Local Government Act 2002 (which relates to indemnification) applies to the members of a collaborative group as if the group were a committee of a local authority. 25
- 43 Report of collaborative group**
- (1) A collaborative group must report to the local authority in accordance with the terms of reference.
- (2) The report must include— 30
- (a) a record of the recommendations on which the collaborative group has reached consensus; and
- (b) a summary of the costs and benefits that the collaborative group has identified in relation to those recommendations; and
- (c) a summary of any alternative options that the collaborative group considered; and 35

**New Parts 4 and 5—continued**

<ul style="list-style-type: none"> <li>(d) a record of the matters that the collaborative group considered but on which it did not reach consensus; and</li> <li>(e) a summary of how the collaborative group obtained and considered the views of the community of the relevant area.</li> </ul>	5
<i>Notification of report and preparation of planning document</i>	
<b>44 Notification of report of collaborative group</b>	
A local authority must publicly notify the report received under <b>clause 43</b> , stating where the report may be inspected.	
<b>45 Preparation of proposal</b>	
(1) As soon as is reasonably practicable after the report of the collaborative group is publicly notified under <b>clause 44</b> , the local authority must—	10
<ul style="list-style-type: none"> <li>(a) prepare a proposed policy statement or plan or change; and</li> <li>(b) comply with <b>subclauses (2) and (3)</b> and clauses 2 and 3.</li> </ul>	
(2) A proposed policy statement or plan—	
<ul style="list-style-type: none"> <li>(a) must give effect to the consensus position reached by a collaborative group; and</li> <li>(b) may include provisions— <ul style="list-style-type: none"> <li>(i) that are necessary or appropriate for giving effect to or implementing the consensus position; and</li> <li>(ii) for matters on which the collaborative group did not reach a consensus position, provided those matters were within the terms of reference given to the collaborative group.</li> </ul> </li> </ul>	15
(3) However, <b>subclause (2)(a)</b> does not apply if, in giving effect to the consensus position, the proposed policy statement or plan would not comply with—	
<ul style="list-style-type: none"> <li>(a) the relevant provisions of Parts 4 and 5 of this Act; or</li> <li>(b) any other provisions of this Act or of any other enactment that apply to the preparation or changing of a policy statement or plan under this Act.</li> </ul>	25
<b>46 Advice from iwi authorities</b>	
(1) Before notifying a proposed policy statement or plan prepared or changed under <b>clause 45</b> , a local authority must—	30
<ul style="list-style-type: none"> <li>(a) provide a copy of the relevant draft proposed policy statement or draft plan to tangata whenua of the relevant area through the relevant iwi authorities, ensuring that the iwi authorities have adequate time and opportunity to provide advice to the local authority; and</li> </ul>	

**New Parts 4 and 5—continued**

(b)	have particular regard to any advice received on the draft policy statement or draft plan from the iwi authorities if, and to the extent that, the advice is not inconsistent with the consensus position.	
(2)	This section applies only if the local authority does not have an iwi participation arrangement with any relevant iwi authority.	5
<b>47</b>	<b>Evaluation report</b>	
(1)	Before a local authority may notify a proposed policy statement or plan prepared or changed under <b>clause 45</b> , it must prepare an evaluation report under section 32 for the proposed policy statement or plan or the changing of a policy statement or plan.	10
(2)	The evaluation report must state the extent (if any) to which the proposed policy statement, plan, or change does not give effect to the consensus position, and the reasons for that.	
(3)	The local authority must have particular regard to the evaluation report before deciding whether to notify a proposed policy statement or plan or change.	15
<b>48</b>	<b>Notification of proposed policy statement or plan or change</b>	
(1)	A local authority must publicly notify a proposed policy statement or plan prepared or changed under <b>clause 45</b> .	
(2)	In carrying out its obligation to give public notice under <b>subclause (1)</b> , the local authority must comply with—	20
(a)	clause 5(2) and (3) (which relates to the contents and timing of the notice); and	
(b)	clause 5(1C) and (4) to (6) (which relates to the distribution of the notice and the proposed policy statement or plan).	
<b>49</b>	<b>Submissions on proposed policy statement or plan or change</b>	25
(1)	Clauses 6 to 8A apply to the making of submissions to a local authority on a proposed policy statement or plan or change notified under <b>clause 48</b> .	
(2)	A challenge to any part of a proposed policy statement or plan or change on the grounds that it does not comply with <b>clause 45(2)</b> may be made only in a submission to the relevant local authority under clause 6 or 8 (as applied by <b>subclause (1)</b> ).	30
<b>50</b>	<b>Local authority report on submissions</b>	
(1)	Not later than 3 months after the closing date for further submissions as notified under clause 7(1)(d) (as applied by <b>clause 49</b> ), a local authority must prepare a report that includes—	35



**New Parts 4 and 5—continued**

- (a) an analysis of whether the decisions requested by submitters are consistent or inconsistent with the consensus position of the collaborative group; and
- (b) the response of the local authority to the decisions requested.
- (2) The local authority must— 5
- (a) provide a copy of that report to the collaborative group and to tangata whenua of the relevant area through iwi authorities; and
- (b) invite comments on the report and the proposed policy statement or plan from the collaborative group and the iwi authorities.
- 51 Hearing of submissions by review panel 10**
- (1) A review panel established by a local authority under **clause 63** must hold a hearing on any submissions lodged under clause 6 or 8 (as applied by **clause 49**).
- (2) Notice of the date, time, and place of any hearing must be given to every submitter and to the chairperson of the collaborative group at least 10 working days before the hearing. 15
- (3) **Clauses 63 to 73** apply to the establishment and procedures of a review panel.
- 52 Role of collaborative group in procedures of review panel**
- (1) At the same time as a collaborative group gives comments to a local authority under **clause 50(2)(b)**, the collaborative group may give notice to the local authority that the group has appointed one of its members to attend the hearing of the review panel in order to assist the panel by— 20
- (a) clarifying matters included in the proposed policy statement or plan:
- (b) discussing with the panel issues raised in submissions: 25
- (c) providing any relevant information that the panel may request.
- (2) **Subclause (1)** does not exclude any member of the collaborative group from making a submission to the panel on the proposed policy statement or plan.
- 53 Decision and recommendations of review panel**
- (1) A review panel established by the local authority must provide a report to the local authority with recommendations on— 30
- (a) the proposed policy statement or plan; and
- (b) the matters raised in submissions.
- (2) The report must include—

**New Parts 4 and 5**—*continued*

- (a) a statement about the extent to which a proposed policy statement or plan, as notified, is inconsistent with the consensus position of the collaborative group; and
- (b) the panel’s reasons for accepting or rejecting submissions and, for that purpose, the panel may group submissions according to— 5
- (i) the provisions of the proposed policy statement or plan to which they relate; or
- (ii) any other provisions of this Act or of any other Act that apply to the preparation or changing of a policy statement or plan under this Act; and 10
- (c) a further evaluation of the proposed policy statement or plan in accordance with section 32AA; and
- (d) the panel’s recommendations in respect of—
- (i) any changes it proposes to the policy statement or plan; and
- (ii) whether the recommended changes would be consistent with the consensus position of the relevant collaborative group. 15
- (3) The review panel may also include in its report—
- (a) any changes that the panel considers necessary to the proposed policy statement or plan that arise from submissions:
- (b) any other matters that the panel considers to be relevant to the proposed policy statement or plan that arise from submissions or from other information provided to the panel. 20
- (4) However, the review panel must not recommend changes to a proposed policy statement or plan unless it is satisfied—
- (a) that changes are needed to ensure that a proposed policy statement or plan is consistent with the consensus position; or 25
- (b) that changes are needed to ensure that the proposed policy statement or plan complies with—
- (i) the relevant provisions of Parts 4 and 5 of this Act; or
- (ii) the provisions in any other enactment that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under that other enactment; or 30
- (c) that there are matters identified in submissions that were not, or not fully, considered by the collaborative group or by the local authority when preparing the proposed policy statement or plan. 35
- (5) In making recommendations to the local authority, the review panel may only make recommendations that are within the scope of—

**New Parts 4 and 5—continued**

- (a) the proposed policy statement or plan as notified; and
- (b) the submissions on the proposed policy statement or plan; and
- (c) any comments—
- (i) received under **clause 50(2)(b)**; or
  - (ii) provided to the review panel under **clause 73**. 5
- (6) A review panel is not required to deal individually with each submission, and may group submissions according to the provisions or matter to which they relate.
- 54 Decision of local authority following recommendations of review panel**
- (1) As soon as is reasonably practicable after receiving a report from a review panel, a local authority must decide whether to accept or reject each recommendation in the report. 10
- (2) If a local authority rejects a recommendation, it must develop an alternative provision for its proposed policy statement or plan, giving reasons for the alternative provision. 15
- (3) An alternative provision must be within the scope of—
- (a) a matter raised in a submission; or
  - (b) the reports and comments provided to a review panel under **clause 73**; or
  - (c) comments received under **clause 50(2)(b)**. 20
- (4) Before deciding on an alternative provision, a local authority must—
- (a) prepare an evaluation of the alternative provision under section 32; and
  - (b) ascertain whether the alternative provision is inconsistent with the consensus position; and
  - (c) ascertain whether any inconsistency is necessary to ensure that the proposed policy statement or plan complies with— 25
    - (i) the relevant provisions of Parts 4 and 5 of this Act; and
    - (ii) the provisions of any relevant enactment, including any enactment specified in Schedule 3 of the Treaty of Waitangi Act 1975, that require a local authority, in preparing or changing a proposed policy statement or plan under this Act, to give particular consideration to a document prepared under any other enactment; and 30
  - (d) specify any other reasons why the alternative provision is preferred.
- (5) A local authority is not required, when making a decision under **subclause (1)**, to consult or consider submissions, evidence, or other information that was not before the review panel when it made its decision under **clause 53**. 35

**New Parts 4 and 5—continued****55 Approval of regional coastal plan**

- (1) If the collaborative planning process is used by a regional council to prepare or change a regional coastal plan, the Minister of Conservation must approve the proposed plan.
- (2) Clauses 18 and 19 apply, with the necessary modifications, to the consideration and approval of a proposed regional coastal plan prepared or changed using the collaborative planning process. 5

**56 Notification of local authority's decision**

- (1) Not later than 2 years after notifying a proposed policy statement or plan or change under **clause 48(1)**, a local authority must publicly notify— 10
- (a) its decision under **clause 54(1) and (2)**; and
  - (b) the report and recommendations of the review panel; and
  - (c) the place where the decision and reasons may be inspected.
- (2) On and from the date on which the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision. 15

*Transitional arrangement***57 Early use of collaborative planning process**

**Clause 14** of Schedule 12 provides the transitional arrangements for the early use of a collaborative planning process.

*Rights of appeal under collaborative planning process* 20**58 Overview**

The only rights of appeal that are available in respect of decisions made under **clause 54** are—

- (a) by way of a rehearing under **clause 59**;
- (b) on a question of law under **clause 60**. 25

**59 Appeals by way of rehearing**

- (1) An appeal by way of rehearing may be made in respect of a decision under **clause 54(1)** to change a provision of the proposed policy statement or plan in a way that is inconsistent with the decision and recommendations of the review panel given under **clause 53**. 30
- (2) The following groups and persons may appeal to the Environment Court under **subclause (1)**:
- (a) a collaborative group that provided, in relation to the provision or matter that is the subject of the appeal,—

New Parts 4 and 5—*continued*

- (i) comments to a local authority under **clause 50(2)(b)**;
  - (ii) information to a panel under **clause 52**;
- (b) an iwi authority that provided comments to a local authority under **clause 50(2)(b)**, but only in relation to a provision or matter on which it provided those comments: 5
- (c) a person who made a submission to the local authority under clause 6 or 8 (as applied by **clause 49**), but only in relation to a provision or matter on which the person made a submission.
- (3) However, there is no right of appeal under this clause if the local authority records in its decision that a change has been made (or not made) to a provision of a proposed policy statement or plan to ensure that the proposed policy statement or plan complies with— 10
  - (a) Parts 4 and 5 of this Act, as relevant;
  - (b) the provisions in any enactment, including any enactment specified in Schedule 3 of the Treaty of Waitangi Act 1975, that require a local authority, in preparing or changing a policy statement or plan under this Act, to give particular consideration to a document prepared under any other enactment. 15
- (4) **Section 277A** applies to an appeal under this clause.
- 60 Appeals on questions of law** 20
- (1) A group or person specified in **clause 59(2)** may appeal to the Environment Court against a decision of a local authority made under **clause 54(1)** if there is no right of appeal in relation to that matter under **clause 59**.
- (2) An appeal under this clause is an appeal on a question of law only.
- 61 Procedural matters** 25
- (1) A notice of appeal under **clause 59 or 60** must,—
  - (a) not later than 30 working days after a local authority publicly notifies a decision under **clause 56**,—
    - (i) be lodged with the Environment Court in the prescribed form; and
    - (ii) be served on the local authority whose decision is the subject of the appeal; and 30
  - (b) if the notice of appeal relates to the coastal marine area, be served on the Minister of Conservation not later than 5 working days after the notice of appeal is lodged with the Environment Court.
- (2) Parts 11 and 11A of this Act apply to appeals under **clauses 59 and 60**. 35

**New Parts 4 and 5—continued***Approval of proposed policy statement or plan***62 Amendment, variation, merger, and approval**

- (1) The following provisions of Part 1 of this schedule apply, as far as they are relevant and with the necessary modifications, to a proposed policy statement or plan: 5
- (a) clauses 16 to 16B (which relate to amending, varying, or merging a variation with, a proposed policy statement or plan); and
  - (b) clause 17 (which relates to the final consideration and approval of a proposed policy statement or plan, other than a regional coastal plan); and
  - (c) clauses 18 and 19 (which relate to the consideration and ministerial approval of a regional coastal plan). 10
- (2) If a proposed policy statement or plan is prepared in accordance with the collaborative planning process, any variation to that statement or plan must also be undertaken in accordance with the collaborative planning process. 15

*Review panels***63 Establishment of panel**

A review panel must be established by a local authority (the **appointer**) to hear submissions and make recommendations on a proposed policy statement or plan in the course of the collaborative planning process undertaken under this Part. 20

**64 Membership of panel**

- (1) Every panel established under **clause 63** must comprise at least 3, but not more than 8, members, including the chairperson of the panel.
- (2) The majority of the members of a panel must be persons who are not elected members of an appointer. 25
- (3) A panel must consist of members who collectively have the appropriate knowledge, skills, and experience in relation to—
- (a) this Act; and
  - (b) the matter or type of matter that is to be the subject of the hearing; and
  - (c) the local community. 30
- (4) All the members of a panel must be accredited.
- (5) Every panel must include at least 1 member who—
- (a) has an understanding of tikanga Māori and the perspective of tangata whenua; and

**New Parts 4 and 5—continued**

- (b) is appointed after consultation with tangata whenua through the relevant iwi authorities.
- (6) A panel (other than one provided for in **subclause (7)**) must include the chairperson or another person nominated by the Minister if the Minister gives notice, not later than 5 working days after the date by which further submissions must be lodged under clause 7(1)(d), of his or her intention to make a nomination. 5
- (7) A panel established to hear submissions that relate to a proposed regional coastal plan must include the chairperson or another person nominated jointly by the Minister and the Minister of Conservation if the Ministers give notice, not later than 5 working days after the date by which further submissions must be lodged under clause 7(1)(d), of their intention to make a nomination. 10
- (8) Members must be appointed in accordance with **clause 65**.
- 65 How members are appointed** 15
- (1) An appointer must give written notice that states—
- (a) the date on which the appointment takes effect; and
- (b) the term of the appointment.
- (2) As soon as practicable after the members of a panel have been appointed, the appointer concerned must notify the appointments on an Internet site to which the public has free access, stating— 20
- (a) that the panel has been established; and
- (b) the purpose for which the panel is established.
- (3) An appointer may appoint—
- (a) a member to replace a member who ceases to hold office;
- (b) additional members, after the initial appointments, if the total number of members on a panel is not more than 8, including the chairperson. 25
- (4) This clause applies, to the extent that it is relevant, to the appointment of a replacement member or an additional member.
- Terms and liabilities*
- 66 Term of panel and term of office of members** 30
- (1) Every panel continues until it has performed its functions and exercised its powers in relation to the matters for which the panel is established (including the period required to complete any appeals).
- (2) A member of a panel remains a member until the earliest of the following:
- (a) the panel to which the member is appointed ceases to exist: 35
- (b) the member's term of office ends:

**New Parts 4 and 5—continued**

(c)	the member dies or is no longer able to perform the functions and duties of a member on account of ill health or other indisposition:	
(d)	the member resigns by giving 20 working days' written notice to the appointer:	
(e)	the member is removed from office under <b>subclause (3)</b> .	5
(3)	An appointer may, at any time for just cause, remove a member from a panel by providing written notice to the member, and a copy of that notice to the chairperson of the panel, that states—	
(a)	the date on which the member's removal takes effect, which must not be earlier than the date on which the notice is received by the member; and	10
(b)	the reasons for the removal.	
(4)	A member of a panel is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.	
(5)	In <b>subclause (3)</b> , <b>just cause</b> includes misconduct, an inability to perform the functions of office, a neglect of duty, and any breach of the collective duties of the panel or the individual duties of members.	15
<b>67</b>	<b>Liability of members of panel</b>	
	A member of a panel is not liable for anything the member does, or omits to do, in good faith in performing the functions and duties or exercising the powers of a panel.	20
	<i>Functions and powers</i>	
<b>68</b>	<b>Functions of panel</b>	
	The function of every panel is—	
(a)	to conduct a public hearing of submissions; and	25
(b)	to make recommendations to a local authority on a proposed policy statement or plan under the collaborative planning process.	
<b>69</b>	<b>Powers of panel</b>	
(1)	A panel has the same powers and duties as a local authority under the following provisions:	30
(a)	section 39 (which provides for how hearings are to be conducted), except section 39(2)(c) and (d):	
(b)	section 39C (which sets out the effect of a lack of accreditation):	
(c)	section 40 (which provides for the persons who may be heard at hearings):	35



**New Parts 4 and 5**—*continued*

- (d) section 41 (which provides for the application of certain provisions of the Commissions of Inquiry Act 1908):
- (e) section 41A (which relates to the control of hearings):
- (f) section 41B (which provides for the giving of directions as to the time for providing evidence in relation to a hearing): 5
- (g) section 41C (which sets out the directions and requests that may be given before or at a hearing), except section 41C(4):
- (h) **section 41D** (which provides for submissions to be struck out before or at a hearing).
- (2) If a panel exercises a power under **section 41D**,— 10
- (a) a person whose submission is struck out has a right of objection under section 357 as if the references in that section to an authority were references to the panel; and
- (b) sections 357C to 358 apply to the panel as the body to which the objection is made under section 357. 15
- (3) A panel may exercise the powers conferred by clause 8AA, except that in clause 8AA(2) to (6) the references to a local authority are to be read as references to a panel.
- (4) **Subclause (3)** applies for the purpose of clarifying or facilitating the resolution of a matter relating to a proposed policy statement or plan. 20
- (5) If a panel considers it appropriate, it may on its own initiative, or if requested, invite anyone who made a submission on a proposed policy statement or plan to meet with the local authority.
- Procedural matters*
- 70 Procedures of panel** 25
- (1) Every panel must—
- (a) regulate its own procedure in a manner that is appropriate and fair in the circumstances; and
- (b) keep a full written record of its proceedings.
- (2) Parts 1 to 6 and sections 48 and 53 of the Local Government Official Information and Meetings Act 1987 apply to a panel as if that panel were a committee appointed by a local authority under the Local Government Act 2002. 30
- (3) In the event of an equality of votes, the chairperson of the panel has a casting vote.

**New Parts 4 and 5—continued***Evidentiary matters***71 Reports**

- (1) At any time before or during a hearing, a panel may commission, or require an appointer to commission, a report on any matter, including a report by an officer of a local authority, as the panel considers necessary. 5
- (2) A report does not need to repeat material included in submissions.
- (3) An appointer must—
- (a) make any report commissioned under this clause available for inspection as soon as practicable at its offices or on an Internet site to which the public has free access; and 10
  - (b) give written notice to the persons who made submissions that a report has been commissioned and is available for inspection.
- (4) A panel may request, from the person making a report under this clause, any information and advice that the panel considers is relevant and reasonably necessary to enable the panel to make recommendations under **clause 68(b)**. 15

**72 Conference of experts**

- (1) A panel may, at any time during a hearing, direct that a conference of experts be convened for the purpose of—
- (a) clarifying a matter relating to the proposed policy statement or plan;
  - (b) facilitating the resolution of a matter relating to a proposed policy statement or plan. 20
- (2) A member of the panel, or a person appointed for the purpose by the panel, must be appointed to act as the facilitator of the conference.
- (3) If directed by the panel to do so, the facilitator must prepare a report on the conference and provide it to the panel and persons attending the conference. 25
- (4) No information given or made available to the conference on a without prejudice basis may be included in a report given under **subclause (3)**.
- (5) The appointer or his or her representatives may not attend a conference unless authorised to do so by the panel.

**73 Information provided to review panel** 30

An appointer must provide a review panel with copies of—

- (a) the publicly notified proposed policy statement or plan that is the subject of a hearing before the panel; and
- (b) the report of the relevant collaborative group provided under **clause 43**; and 35
- (c) an evaluation report required by **clause 47**; and

**New Parts 4 and 5—continued**

- (d) the submissions that were received on the proposed policy statement or plan by the closing date for submissions; and
- (e) the report prepared by the relevant local authority under **clause 50**; and
- (f) any planning documents recognised by an iwi authority and lodged with the relevant local authority; and 5
- (g) any documentation relevant to obligations arising for the relevant local authority under any relevant iwi participation legislation or iwi participation arrangement; and
- (h) any comments provided to the relevant local authority under **clause 50(2)(b)** by an iwi authority or the relevant collaborative group; and 10
- (i) any other relevant information held by the local authority and requested by the panel.

**Part 5****Streamlined planning process**

- 74 Contents of application for directions** 15
- An application to a Minister for a direction under **section 80C** to enter the streamlined planning process must—
- (a) be in writing; and
  - (b) set out the following matters:
    - (i) a description of the planning issue for which a planning instrument is required, with an explanation as to how the proposal meets any of the criteria set out in **section 80C(2)**; and 20
    - (ii) an explanation of why use of the streamlined planning process is appropriate as an alternative to using the process under Part 1 of this schedule; and 25
    - (iii) a description of the process that the local authority wishes to use and the time frames that it proposes for the steps in that process, having regard to the relevant criteria under **section 80C(2)**; and
    - (iv) the persons that the local authority considers are likely to be affected by the proposed planning instrument; and 30
    - (v) a summary of any consultation undertaken by the local authority, or intended to be undertaken, including consultation with iwi authorities under clauses **1A** to 3C; and
    - (vi) the implications of the proposal for any relevant iwi participation legislation or iwi participation arrangement entered into under **subpart 2 of Part 5** of this Act. 35

**New Parts 4 and 5—continued**

<b>75</b>	<b>How responsible Minister considers request</b>	
(1)	The requirements of this clause apply to a local authority's request to use the streamlined planning process.	
(2)	The responsible Minister must have regard to—	
	(a) the local authority's written request; and	5
	(b) whether the local authority has, in the Minister's opinion, provided sufficient information in support of its request; and	
	(c) any relevant obligations set out in any iwi participation legislation or iwi participation arrangement; and	
	(d) any other matters that the Minister considers relevant; and	10
	(e) the purpose of the streamlined planning process, as stated in <b>section 80B(1)</b> .	
(3)	The responsible Minister may require the local authority to provide any further information in support of its request that he or she may reasonably specify in writing.	15
(4)	The responsible Minister—	
	(a) must consult the local authority and any other relevant Ministers of the Crown about the streamlined planning process he or she is proposing to implement by way of a direction under <b>clause 77</b> ; and	
	(b) may consult any other person about the content of that streamlined process.	20
(5)	The responsible Minister must ensure that the streamlined planning process to be implemented by a direction given under <b>clause 77</b> is not inconsistent with obligations under any relevant iwi participation legislation or iwi participation arrangement.	25
(6)	Nothing in <b>subclause (4)</b> requires the responsible Minister to obtain the local authority's prior agreement to the streamlined planning process before making his or her decision on the local authority's request.	
<b>76</b>	<b>Responsible Minister's decision</b>	
(1)	The responsible Minister may decide a local authority's application for a direction to enter the streamlined planning process by—	30
	(a) giving a direction under <b>clause 77</b> that the local authority follow the streamlined process set by the Minister in that direction; or	
	(b) declining the local authority's request.	
(2)	The responsible Minister's decision must be in writing.	35
(3)	A decision declining a local authority's request must contain or be accompanied by the reasons for the decision.	

**New Parts 4 and 5—continued**

<b>77</b>	<b>Direction and its content</b>	
(1)	A direction applied for under <b>section 80C</b> is given under this clause.	
(2)	In deciding the content of the direction, the responsible Minister must have regard to—	
	(a) the purpose of the proposed streamlined planning process, the local authority’s request, and any supplementary information provided by the local authority; and	5
	(b) the views of persons and bodies consulted under <b>clause 75(4)</b> .	
(3)	The direction—	
	(a) must provide for the matters set out in <b>subclause (4)</b> ; and	10
	(b) must include a statement of expectations for the local authority that complies with <b>clause 78</b> ; and	
	(c) may include any matters provided for in <b>subclause (5)</b> .	
(4)	The streamlined planning process set out in the direction must, at a minimum, provide for—	15
	(a) consultation with affected parties on the proposed planning instrument, including with the responsible Minister and iwi authorities (if not already undertaken); and	
	(b) a requirement for public notification or limited notification of the proposed planning instrument; and	20
	(c) an opportunity for written submissions; and	
	(d) a report showing how submissions have been considered and the changes (if any) made to the proposed planning instrument; and	
	(e) an assessment of the costs and benefits of the proposed planning instrument, or reports under sections 32 and 32AA, as may be relevant.	25
(5)	The responsible Minister may also include in the streamlined planning process any other procedural requirements and time frames that the Minister considers appropriate, including—	
	(a) any time frames within which the process must be completed; and	
	(b) any reporting requirements; and	30
	(c) any relevant planning process requirements set out in this schedule or elsewhere in this Act.	
(6)	The direction must be given in writing, be dated, and be served on the relevant local authority.	

**New Parts 4 and 5—continued****78 Statement of expectations**

- (1) The responsible Minister's statement of expectations in the Minister's direction to a local authority must include a time frame within which the relevant direction must be complied with.
- (2) The statement of expectations may also include any other matters that the responsible Minister considers relevant. 5

**79 Form and status of directions under Legislation Act 2012**

- (1) A direction under **clause 77** is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 10
- (2) As soon as is reasonably practicable after a direction has been made in accordance with **clause 77**, the responsible Minister must notify it in the *Gazette*.
- (3) The relevant local authority must ensure that, as soon as is reasonably practicable after a direction has been notified in the *Gazette*, the public can access or download the direction free of charge at or from an Internet site maintained by the local authority or on its behalf. 15

**80 Amendment of terms of direction**

- (1) A local authority may apply to the responsible Minister in writing to request that the Minister amend a direction that applies to the local authority, including if the local authority considers that this is necessary or expedient because of a change in circumstances. 20
- (2) The local authority must provide to the responsible Minister a statement that explains why the amendment is requested.
- (3) The responsible Minister may amend his or her direction as the Minister thinks appropriate. 25
- (4) Unless an amendment made under this clause has no more than a minor effect or is made to correct a technical error, **clauses 75(2), (3), (5), and (6), 77(6), and 79** apply.

*Other matters relevant to direction***81 Time limits** 30

- (1) A local authority may apply in writing to request that the responsible Minister approve an extension to any time frames that apply to the local authority under the Minister's direction.
- (2) The Minister must consider and determine the application.
- (3) If no time limit is set in a direction, section 21 (obligation to avoid unreasonable delay) applies, but section 37 (power of waiver and extension of time) does not apply. 35

New Parts 4 and 5—*continued***82 Local authority must comply with direction**

- (1) A local authority must comply with the terms of a direction served on it under **clause 77(6)**.
- (2) The direction applies as from time to time amended in accordance with **clause 80** and subject to any extension of time allowed under **clause 81**.

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*Process for approval of proposed planning instrument***83 Local authority must submit proposed planning instrument to responsible Minister**

- (1) A local authority that is subject to a direction under **clause 77** must submit to the responsible Minister, within the time required by the direction,—
- (a) the proposed planning instrument; and
- (b) a summary report of the written submissions; and
- (c) a report showing how submissions have been considered and any modifications to the proposed planning instrument in light of the submissions; and
- (d) the required assessment of costs and benefits, or reports under sections 32 and 32AA, as may be relevant; and
- (e) a summary document showing how the local authority has met the statement of expectations; and
- (f) a summary document showing how the proposed planning instrument complies with—
- (i) any relevant national direction; and
- (ii) the requirements of this Act; and
- (g) any other information and documentation that is specified in the direction.
- (2) The local authority may provide any further information in addition to the requirements of **subclause (1)**.

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**84 Responsible Minister to consider proposed planning instrument**

- (1) The responsible Minister may—
- (a) refer the proposed planning instrument back to the local authority—
- (i) with his or her approval; or
- (ii) for further consideration; or
- (iii) with specific recommendations for changes to the proposed planning instrument; or
- (b) decline to approve the proposed planning instrument.

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**New Parts 4 and 5—continued**

- (2) In deciding which action to take under **subclause (1)**, the responsible Minister must have regard to—
- (a) whether the local authority has complied with the terms set out in the direction, including the statement of expectations; and
  - (b) whether the proposed planning instrument complies with any relevant national direction; and
  - (c) whether the proposed planning instrument meets the requirements of this Act.
- (3) In making his or her decision, the responsible Minister may have regard to the purpose of the streamlined planning process.
- (4) The responsible Minister’s decision on a local authority’s proposed planning instrument must be in writing and be served on the local authority.
- 85 Decision to approve local authority’s proposed planning instrument**
- (1) This clause applies if the responsible Minister approves a local authority’s proposed planning instrument under **clause 84(1)(a)(i)**.
- (2) The responsible Minister must refer the local authority’s proposed planning instrument back to the local authority for the local authority’s further action and, in referring it back to the local authority, must notify the local authority of his or her approval and give the local authority the reasons for the decision.
- (3) The local authority must give a final decision on the proposed planning instrument, and publicly notify that decision in the time frame specified in the Minister’s direction.
- (4) On and from the date on which the local authority’s decision is publicly notified, the proposed planning instrument is amended in accordance with that decision.
- (5) *See clause 91* for notification requirements.
- 86 Minister may refer proposed planning instrument back to local authority**
- (1) This clause applies if the responsible Minister decides that a local authority’s proposed planning instrument needs further consideration under **clause 84(1)(a)(ii)**.
- (2) The responsible Minister must notify the local authority of his or her decision and give the local authority the reasons for the decision.
- (3) The responsible Minister may extend any time frame in the relevant direction as may be required for the purposes of this clause to ensure that the local authority can comply with the direction.
- (4) The local authority must—



**New Parts 4 and 5—continued**

- (a) reconsider the planning instrument in light of the responsible Minister's stated reasons; and
- (b) make any changes that the local authority considers appropriate; and
- (c) resubmit the planning instrument to the responsible Minister.
- (5) The responsible Minister may reconsider the local authority's revised proposed planning instrument and approve it once he or she is satisfied that it meets the requirements for approval in **clause 84**. 5
- 87 Decision to recommend specific changes**
- (1) This clause applies if the responsible Minister recommends that a local authority adopt specific changes to its proposed planning instrument under **clause 84(1)(a)(iii)**. 10
- (2) The responsible Minister must notify the local authority of his or her decision and give the local authority the reasons for the decision.
- (3) The responsible Minister may extend any time frame in the relevant direction as may be required for the purposes of this clause to ensure that the local authority can comply with the direction. 15
- (4) The local authority must adopt the responsible Minister's specified changes and submit a revised proposed planning instrument (incorporating the specified changes) for approval by the Minister.
- 88 Decision to decline to approve proposed planning instrument** 20
- (1) This clause applies if the responsible Minister declines to approve a local authority's proposed planning instrument under **clause 84(1)(b)**.
- (2) The responsible Minister must notify the local authority of his or her decision and give the local authority the reasons for the decision.
- (3) The local authority must not proceed further with the proposed planning instrument under this subpart. 25
- 89 Local authority may withdraw from proposed planning instrument**
- (1) A local authority that is subject to a direction under **clause 77** may withdraw the proposed planning instrument set out in the direction at any time before the Minister's decision is made under **clause 84**. 30
- (2) The local authority must give public notice of any withdrawal under **sub-clause (1)**, including the reasons for the withdrawal.
- (3) On the public notification of the local authority's withdrawal of the proposed planning instrument, the direction ceases to have effect and is revoked.

**New Parts 4 and 5—continued****90 Minister may revoke direction**

- (1) If the responsible Minister wishes to revoke, in whole or in part, a direction given under **clause 77**, the Minister—
- (a) must give public notice, with adequate time and opportunity for the public to comment on the proposed revocation, and then give notice of the revocation in the *Gazette*; but 5
  - (b) may otherwise make the revocation without further consultation.
- (2) The revocation of the whole or part of a direction does not have the effect of revoking any provision of a plan included as a consequence of that direction.
- (3) The proposed planning instrument is deemed to be withdrawn unless the local authority decides to continue its preparation of the proposed planning instrument under Part 1 of this schedule. 10

*Notification and operation of planning instrument***91 Notification of local authority's decision**

- (1) This clause applies if a local authority makes a decision on a proposed planning instrument under **clause 85(3)**. 15
- (2) As soon as is reasonably practicable after the local authority is notified of the responsible Minister's approval, the local authority must publicly notify—
- (a) the Minister's approval; and
  - (b) the local authority's final decision under **clause 85(3)**. 20
- (3) At the same time as the local authority gives public notice of the Minister's approval under **subclause (2)(a)**, it must serve a copy of that public notice on landowners and occupiers who, in the local authority's opinion, are directly affected by the Minister's approval and the local authority's decision.
- (4) The local authority must also— 25
- (a) make a copy of the public notice and the reports prepared under **clause 83(1)** publicly available (whether physically or by electronic means) at all of its offices, and all public libraries in the district (if it relates to a district plan) or region (in all other cases); and
  - (b) include with the notice a statement of the places where a copy of the decision is available; and 30
  - (c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

**92 Operative date**

The planning instrument that is approved by the responsible Minister under **clause 84(1)** and decided by the local authority under **clause 85(3)** becomes 35

**New Parts 4 and 5—continued**

operative on and from the day after the date on which public notice is given in accordance with **clause 91(2)**.

*Effect of decisions under this Part on appeal rights***93 Appeal rights**

- (1) No right of appeal under this Act lies against any decision or action of the responsible Minister, a local authority, or any other person under this Part. 5
- (2) However, the fact that a planning instrument is prepared under a streamlined planning process under this Part does not affect any right of appeal under this Act against any decision or action of a person under the planning instrument.
- (3) Nothing in this clause affects a person's right to apply, in accordance with the law, for judicial review in relation to any decision or action of the responsible Minister, a local authority, or any other person under this Part. 10

**Schedule 2**  
**Amendments to Schedule 12 of Resource Management Act 1991**  
**commencing on day after Royal assent**

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**Schedule 12 heading** 5

Replace the Schedule 12 heading with “**Transitional, savings, and related provisions**”.

**New Part heading**

In Schedule 12, above clause 1, insert:

**Part 1**  
**Resource Management Amendment Act 2013**

10

**Clause 1**

In Schedule 12, clause 1, replace “schedule” with “Part”.

**Clause 4**

In Schedule 12, clause 4(1), replace “this section” with “this clause”.

15

**New Part 2**

In Schedule 12, after clause 10, insert:

**Part 2**  
**Part 1 of Resource Legislation Amendment Act 2015**

**11 Interpretation** 20

In this **Part**,—

**amendment Act** means **Part 1 of the Resource Legislation Amendment Act 2015**

**commencement**, in relation to a provision of the amendment Act or an amendment made by that provision, means the date on which that provision comes into force. 25

**12 Specified matters subject to transitional arrangements**

(1) An amendment made by the amendment Act does not apply in respect of a matter specified in **subclause (2)** if, immediately before the commencement of the amendment, the matter— 30

(a) has been lodged with a local authority, the EPA, or a Minister, or called in by the Minister; but

**New Part 2**—*continued*

- (b) has not proceeded to the stage at which no further appeal is possible.
- (2) The matters referred in **subclause (1)** are—
- (a) an application for a resource consent (or anything treated by this Act as if it were an application for a resource consent):
- (b) any other matter in relation to a resource consent (or in relation to anything treated by this Act as if it were a resource consent): 5
- (c) a challenge under section 85 in relation to a provision or proposed provision of a plan or proposed plan that would render any land incapable of reasonable use:
- (d) an application relating to a nationally significant proposal lodged with the EPA or called in by the Minister under Part 6AA: 10
- (e) a notice of requirement—
- (i) for a designation or heritage order; or
- (ii) to alter a designation or heritage order:
- (f) an application for a water conservation order made under section 201(1) or to amend or revoke an order under section 216(2): 15
- (g) an application or a proposal to vary or cancel an instrument that creates an esplanade strip under section 234(1) or (3):
- (h) the creation of an esplanade strip by agreement under section 235(1).
- (3) This clause does not limit **clauses 13 to 15**. 20
- 13 Proposed policy statement or plans, changes, or variations**
- (1) This clause applies to a proposed policy statement or plan, change, or variation that, immediately before the commencement of a relevant amendment made by the amendment Act,—
- (a) has been publicly notified under clause 5 or 26(b) of Schedule 1; but 25
- (b) has not proceeded to the stage at which no further appeal is possible.
- (2) The proposed policy statement, plan, change, or variation must be determined as if the amendments made by the amendment Act had not been enacted.
- 14 Transitional arrangements for early use of collaborative process**
- (1) A collaborative process may be used in accordance with this clause if, before the commencement of **subpart 4** of Part 5 (which provides for the use of a collaborative planning process), a local authority— 30
- (a) has commenced preparing, changing, or reviewing a policy statement or plan; but
- (b) has not publicly notified the proposed policy statement or plan or change under Part 1 of this schedule. 35

**New Part 2**—*continued*

- (2) If a local authority wishes to use a collaborative process in the circumstances set out in **subclause (1)**, the local authority must—
- (a) publicly notify its intention to apply to the Minister for approval to continue its process of preparing or changing a policy statement or plan using the collaborative planning process under this Part; and 5
  - (b) invite submissions, to be submitted within 20 working days of the notice, on the proposal to use the collaborative planning process; and
  - (c) submit to the Minister a summary of the submissions and a report setting out how the collaborative planning process meets the criteria set out in **subclause (3)**. 10
- (3) The criteria are as follows:
- (a) whether there has been a clear intention to set up a collaborative group and appoint its members;
  - (b) whether the composition of the collaborative group reflects the requirements set out in **clause 40** of Schedule 1: 15
  - (c) whether, in the opinion of the Minister, the commitment of the local authority to the consensus of the collaborative group is consistent with the requirement of **clause 45(2)(a)** of Schedule 1:
  - (d) whether, in the opinion of the Minister, the terms of reference for the collaborative group are consistent with the terms of reference required by **clause 41** of Schedule 1. 20
- (4) After considering any submissions and the report submitted under **subclause (2)(c)**, the Minister—
- (a) may accept the application if the Minister is satisfied that the local authority meets the criteria set out in **subclause (3)**, but must otherwise reject the application; and 25
  - (b) if the Minister accepts the application, must notify that decision to the local authority not later than 2 months after the date of the application.
- (5) If the Minister accepts the application under **subclause (4)**, the local authority must— 30
- (a) give public notice that the Minister has accepted the local authority's application to continue its process of preparing, changing, or reviewing a policy statement or plan using the collaborative planning process; and
  - (b) amend the terms of reference in accordance with **clause 41** of Schedule 1. 35
- (6) This clause ceases to apply on the date that is 1 year after the commencement of this clause or on a later prescribed date.

**New Part 2**—*continued***15 Application to fresh water of rules relating to water quality**

Nothing in **section 69(4)** (as inserted by the amendment Act) affects any plan approved, or water conservation order made, immediately before the commencement of that amendment if that plan or order refers to or incorporates any standards set out in Schedule 3.

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**16 Matters before the Environment Court**

An amendment made by the amendment Act does not apply to any proceeding lodged with the Environment Court immediately before the commencement of that amendment.

### Schedule 3

#### Consequential amendments commencing on day after Royal assent

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##### Environmental Protection Authority Act 2011 (2011 No 14)

After section 13(c)(ii), insert:

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- (ia) to provide secretarial and support services to a person appointed under an Act to make a decision requiring the application of provisions of the Resource Management Act 1991 as applied or modified by the Act under which the person is appointed:

##### Housing Accords and Special Housing Areas Act 2013 (2013 No 72)

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In section 77(1), replace “section 36(4) of the Resource Management Act 1991” with “**section 36AAA** of the Resource Management Act 1991”.

Replace section 77(2) with:

- (2) **Sections 36(5) to (7) and 36AAA** of the Resource Management Act 1991 apply to charges fixed by the authorised agency under this section—
  - (a) as if the reference in **section 36(5)** of that Act to that section were a reference to this section; and
  - (b) as if the reference in **section 36AAA(1)** of that Act to section 36 of that Act were a reference to this section; and
  - (c) with all other necessary modifications.

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In section 81(1)(g), replace “section 36(3) of the Resource Management Act 1991” with “**section 36(5)** of the Resource Management Act 1991”.

In section 83(b), replace “36(3) of the Resource Management Act 1991” with “**36(5)** of the Resource Management Act 1991”.

##### Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)

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Replace section 19(3) with:

- (3) This subsection and **subsections (3A) to (3C)** apply—
  - (a) if the ownership is uncertain in respect of a structure in a part of the common marine and coastal area for which a regional council has responsibility; and
  - (b) there is no current resource consent in respect of the structure.
- (3A) The regional council must—
  - (a) undertake an inquiry under subsection (2); or
  - (b) remove the structure under **section 12(7)** of the Resource Management Act 1991.

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**Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)—continued**

- (3B) The regional council may take action under **subsection (3A)(b)** if, in the opinion of the council, an inquiry under subsection (2) is not warranted because—
- (a) the structure is likely to have no, or minimal, value to any owner or to the community; and 5
  - (b) efforts to locate the owner have not been successful, including, as a minimum,—
    - (i) a search of the relevant records held by the council; and
    - (ii) a reasonable effort to locate the owner from any contact details in those records. 10
- (3C) A regional council may determine whether to remove a structure, in whole or in part,—
- (a) in accordance with the provisions of the regional coastal plan; or
  - (b) without complying with any conditions in the regional coastal plan or obtaining a resource consent if, in the council’s opinion, any adverse effects of removing the structure would be no more than minor. 15

**Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 (2010 No 119)**

In section 13(1)(b), after “1991”, insert “; and”.

After section 13(1)(b), insert: 20

- (c) the national planning template published under **section 58F** of the Resource Management Act 1991, to the extent that it contains provisions referred to in **section 58C(1)(b)** of that Act (which refers to matters that may be included in a national policy statement):

After section 13(3), insert: 25

- (3A) A local authority must not amend under **section 58H** of the Resource Management Act 1991 a document defined in that section, to the extent that the document contains provisions referred to in **section 58C(1)(b)** of that Act, if the amendment would make the document inconsistent with the vision and strategy. 30

**Resource Management Amendment Act 2005 (2005 No 87)**

Repeal section 115(2) to (4).

Repeal section 117.

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)** 35

In section 12(1)(b), after “1991”, insert “; and”.

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)**—*continued*

After section 12(1)(b), insert:

- (c) the national planning template published under **section 58F** of the Resource Management Act 1991, to the extent that it contains provisions referred to in **section 58C(1)(b)** of that Act (which refers to matters that may be included in a national policy statement):

5

After section 13(3), insert:

- (3A) A local authority must not amend under **section 58H** of the Resource Management Act 1991 a document defined in that section, to the extent that the document contains provisions referred to in **section 58C(1)(b)** of that Act, if the amendment would make the document inconsistent with the vision and strategy.

10

**Schedule 4**  
**Amendments to Schedule 12 of Resource Management Act 1991**  
**commencing 5 years after Royal assent**

s 160

<b>17</b>	<b>Matters relating to financial contributions</b>	5
(1)	An amendment specified in <b>subclause (2)</b> does not apply in respect of an application for a resource consent that is lodged before the commencement of the amendment.	
(2)	The amendments referred to in <b>subclause (1)</b> are the amendments, made by the amendment Act, that repeal or amend the following provisions:	10
	(a) section 108(2)(a), (9), and (10):	
	(b) sections 110 and 111:	
	(c) section 222(1):	
	(d) section 407(1):	
	(e) section 409:	15
	(f) section 411:	
	(g) the provisions of the enactments set out in <b>Schedule 5</b> of the amendment Act.	
<b>18</b>	<b>Local authorities must amend plans to remove financial contributions provisions</b>	20
(1)	This clause applies to a plan or proposed plan that, for the purpose of section 108(10), includes any provision that—	
	(a) specifies the purposes for which conditions requiring a financial contribution may be included in a resource consent; or	
	(b) describes the manner in which the level of a financial contribution is to be determined.	25
(2)	A local authority must, before the expiry of 5 years after the date of Royal assent of the amendment Act, change the plan or proposed plan to remove the provisions described in <b>subclause (1)</b> .	
(3)	The local authority—	30
	(a) need not make the change in the manner set out in Schedule 1; but	
	(b) must give public notice of the change as soon as practicable after it has been made.	

## Schedule 5

### Consequential amendments commencing 5 years after Royal assent

s 161

#### Part 1

#### Amendments to Acts

5

#### Goods and Services Tax Act 1985 (1985 No 141)

In section 5(7B)(a) and (7C)(a), after “condition of a resource consent under the Resource Management Act 1991”, insert “, where the condition is imposed under section 108(2)(a) of that Act (before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)”.

10

#### Local Government Act 2002 (2002 No 84)

In section 102(2)(d), delete “or financial contributions”.

Repeal section 103(2)(h).

In the heading to section 106, delete “or financial contributions”.

Repeal section 106(1) and (4).

15

Replace section 106(2) with:

(2) A policy adopted under section 102(1) must, in relation to the purposes for which development contributions may be required,—

(a) summarise and explain the total cost of capital expenditure identified in the long-term plan, or identified under clause 1(2) of Schedule 13, that the local authority expects to incur to meet the increased demand for community facilities resulting from growth; and

20

(b) state the proportion of that total cost of capital expenditure that will be funded by—

(i) development contributions:

25

(ii) other sources of funding; and

(c) explain, in terms of the matters required to be considered under section 101(3), why the local authority has determined to use those funding sources to meet the expected total cost of capital expenditure referred to in **paragraph (a)**; and

30

(d) identify separately each activity or group of activities for which a development contribution will be required and, in relation to each activity or group of activities, specify the total amount of funding to be sought by development contributions; and

(e) if development contributions will be required, comply with the requirements set out in sections 201 to 202A.

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**Local Government Act 2002 (2002 No 84)—continued**

In section 200(1)(a), after “under section 108(2)(a) of the Resource Management Act 1991”, insert “(before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)”.

**Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37)**

Repeal sections 58 to 60 and the cross-heading above section 58. 5

**Ngāti Awa Claims Settlement Act 2005 (2005 No 28)**

Repeal section 159(4).

**Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74)**

Repeal section 59(5).

Repeal section 68(7). 10

Repeal section 85(2).

**Ngāti Manawa Claims Settlement Act 2012 (2012 No 27)**

Repeal section 87(3).

**Ngāti Whare Claims Settlement Act 2012 (2012 No 28)**

Repeal section 90(3). 15

Repeal section 105(4).

**Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (2003 No 122)**

In section 144(2), after “condition of a resource consent under the Resource Management Act 1991”, insert “, where the condition is imposed under section 108(2)(a) of that Act (before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)”.

**Part 2****Amendment to legislative instrument****Local Government (Financial Reporting and Prudence) Regulations 2014 (LI 2014/76) 25**

In regulation 3, definition of **financial contribution**, after “under section 108(2)(a) of the Resource Management Act 1991”, insert “(before the repeal of section 108(2)(a) by **section 153 of the Resource Legislation Amendment Act 2015**)”.

**Schedule 6**  
**New Schedule 1AA of Public Works Act 1981 inserted**

s 175

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 2A

**Part 1**  
**Provisions relating to Part 3 of the Resource Legislation  
 Amendment Act 2015**

- 1 Interpretation** 10
- In this schedule,—
- amendment Act** means **Part 3 of the Resource Legislation Amendment Act 2015**
- commencement date** means the date on which the amendment Act comes into force. 15
- 2 New rule on evidence does not apply to hearings that have begun**
- Section 24(6A)** does not apply to any hearing of the Environment Court under section 24 that begins on or before the commencement date.
- 3 Circumstances in which this Act applies as if unamended**
- (1) If the Minister or a local authority, as applicable, and the owner of land have, before the commencement date, executed an agreement for the sale and purchase of the land under section 17, this Act continues to apply to the agreement, and to any claim for compensation for or in respect of the land, as if the amendments referred to in **subclause (2)** had not come into force. 20
- (2) If a Proclamation taking land has been issued in accordance with section 26 before the commencement date, this Act continues to apply to the Proclamation, and to any claim for compensation for or in respect of the land, as if the amendments referred to in **subclause (1)** had not come into force. 25
- (3) The amendments referred to in **subclause (1) and (2)** are the amendments, made by the amendment Act, that repeal, amend, replace, or insert the following provisions: 30
- (a) section 4C(2):
- (b) section 24:
- (c) section 59:
- (d) section 72: 35

	(e) <b>sections 72A to 72E:</b>	
	(f) section 75.	
<b>4</b>	<b>Negotiation start date includes dates before commencement of amendment Act</b>	
	To avoid doubt, the dates specified in <b>paragraphs (a) and (b)</b> of the definition of <b>negotiation start date</b> in <b>section 72A(2)</b> include dates that occur before the commencement date.	5
<b>5</b>	<b>Extended time to comply with section 72A(1)(b) in certain circumstances</b>	
(1)	If the negotiation start date that applies to the owner of land under <b>section 72A(1)(b)(i)</b> is 4 months or more before the commencement date, <b>section 72A</b> must be read as if—	10
	(a) it requires the agreement referred to in that section to be executed within 2 months after the commencement date; and	
	(b) the deadline referred to in that section (“within 6 months after the negotiation start date”) does not apply.	15
(2)	However, no compensation must be paid to the owner of land under <b>section 72A(1)(b)</b> if—	
	(a) the negotiation start date that applies to the owner under <b>section 72A(1)(b)(i)</b> is 6 months or more before the commencement date; and	
	(b) the notifying authority serves notice in relation to the owner’s land in accordance with section 18(1)(a) within 2 months after the commencement date.	20

**Schedule 7**  
**New Schedule 1AA of Conservation Act 1987 inserted**

s 182

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 3A

**Part 1**  
**Provisions relating to Part 4 of the Resource Legislation**  
**Amendment Act 2015**

**1** **Savings provisions relating to Part 4 of the Resource Legislation** 10  
**Amendment Act 2015**

All applications for a concession under section 17R that were pending or in progress immediately before the day on which **Part 4 of the Resource Legislation Amendment Act 2015** came into force must be continued and completed as if this Act had not been amended by **Part 4 of the Resource** 15  
**Legislation Amendment Act 2015.**



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

s 235

<b>Schedule 2</b>	5
<b>EPA hearings for publicly notifiable activities (other than section 20 activities)</b>	
	s 52
<b>1 Hearing date and notice</b>	
(1) If a hearing of an application for a marine consent is to be held, the Environmental Protection Authority must fix the commencement date and the time and place of the hearing.	10
(2) The date for the commencement of any hearing must not be later than 40 working days after the closing date for submissions on the application.	
(3) The EPA must give at least 20 working days' notice of the commencement date, time, and place of a hearing to—	15
(a) the applicant; and	
(b) every submitter on the application who stated that he or she wished to be heard and who has not subsequently advised that he or she does not wish to be heard.	20
(4) The EPA may give directions as to evidence and the general conduct of the hearing.	
<b>2 Time limit for hearing</b>	
A hearing must be completed not later than 40 working days after the first day of the hearing.	25
<b>3 Hearings to be public and without unnecessary formality</b>	
(1) A hearing must be held in public unless the Environmental Protection Authority directs, under section 158(3)(a), that the whole or part of a hearing is to be held with the public excluded.	
(2) The EPA must establish a procedure for a hearing that is appropriate and fair in the circumstances.	30
(3) In determining an appropriate and fair procedure for a hearing, the EPA must—	
(a) avoid unnecessary formality; and	
(b) recognise tikanga Māori where appropriate, and receive evidence written or spoken in Māori, and the Māori Language Act 1987 applies accordingly.	35

- (4) No person may question a party or witness unless the EPA gives permission to do so.
- 4 Persons who may be heard at hearings**
- (1) At a hearing, the applicant and every submitter who stated that he or she wished to be heard at the hearing may speak (either personally or through a representative) and call evidence. 5
- (2) However, the Environmental Protection Authority may, if it considers that excessive repetition is likely, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.
- (3) The Environmental Protection Authority may proceed with a hearing even if the applicant or a submitter who stated that he or she wished to be heard fails to appear at the hearing if the EPA considers it fair and reasonable to do so. 10
- 5 Provisions relating to hearings**
- (1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing: 15
- (a) section 4 (which gives powers to maintain order):
- (b) section 4B (which relates to evidence):
- (c) section 4D (which gives power to summon witnesses):
- (d) section 5 (which relates to the service of a summons):
- (e) section 6 (which relates to the protection of witnesses): 20
- (f) section 7 (which relates to allowances for witnesses).
- (2) Every summons to a witness to appear at a hearing must be in the prescribed form and be signed on behalf of the Environmental Protection Authority or by the chairperson of the committee that is to conduct the hearing.
- (3) All allowances for a witness must be paid by the party on whose behalf the witness is called. 25
- (4) At a hearing, the following persons must give to the EPA any information and advice that is relevant and reasonably necessary to decide the application if the EPA asks for it:
- (a) a person who reviewed the impact assessment or provided advice under **section 42 or 57**: 30
- (b) a person who is heard or represented at the hearing.
- 6 Control of hearings**
- The Environmental Protection Authority may exercise a power under **clause 7 or 8** after considering whether the scale and significance of the hearing make the exercise of the power appropriate. 35

- 7 Directions to provide evidence within time limits**
- (1) The Environmental Protection Authority may direct the applicant to provide briefs of evidence to the EPA before the hearing.
- (2) The applicant must provide its briefs of evidence at least 15 working days before the hearing. 5
- (3) The EPA may direct a submitter who intends to call expert evidence to provide briefs of the evidence to the EPA before the hearing.
- (4) The submitter must provide the briefs of evidence at least 10 working days before the hearing.
- (5) The EPA must, as soon as practicable after the EPA receives the briefs of evidence, give— 10
- (a) a copy of the applicant’s brief of evidence to every submitter; and
- (b) a copy of a submitter’s briefs of evidence to the applicant.
- 8 Directions before or at hearings**
- (1) Before or at the hearing, the Environmental Protection Authority may do 1 or 15 more of the following:
- (a) direct that a conference of a group of experts be held:
- (b) direct that a conference be held with—
- (i) any of the submitters who wish to be heard at a hearing; or
- (ii) the applicant; or 20
- (iii) in the case of a cross-boundary application, any relevant resource consent authority; or
- (iv) any combination of such persons:
- (c) specify the order of business at the hearing, including the order in which evidence and submissions are presented: 25
- (d) direct that evidence and submissions be—
- (i) recorded; or
- (ii) taken as read; or
- (iii) limited to matters in dispute:
- (e) direct the applicant, when presenting evidence or a submission, to present it within a time limit: 30
- (f) direct a submitter, when presenting evidence or a submission, to present it within a time limit.
- (2) At the hearing, the EPA may, under **section 57(1)**, seek advice on an application or the activity to which the application relates, if the applicant agrees. 35
- (3) The EPA must provide copies of the advice to the applicant and submitters.

- 
- (4) At the hearing, the EPA may direct a person presenting a submission not to present—
- (a) the whole submission, if none of it is relevant or in dispute; or
  - (b) any part of the submission that is not relevant or not in dispute.
- (5) Before or at the hearing, the EPA may direct that a submission or a part of a submission be struck out if the EPA considers that—
- (a) the submission, or the part, is frivolous or vexatious; or
  - (b) the submission, or the part, discloses no reasonable or relevant case; or
  - (c) it would be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.
- (6) If the EPA gives a direction under **subclause (5)**, it must record the reasons for the direction and give a copy of the reasons to the submitter whose submission is affected by the direction.

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### Schedule 3

#### Boards of inquiry for publicly notifiable section 20 activities

s 53(8)

##### *General*

- |          |   |    |
|----------|---|----|
| <b>1</b> | <b>EPA must provide board with necessary information</b>  | 5  |
| (1)      | The EPA must provide the board of inquiry with each of the following things as soon as is reasonably practicable after the board is appointed and the things are received:                  |    |
|          | (a) the application:  |    |
|          | (b) all the information received by the EPA that relates to the application:  | 10 |
|          | (c) the submissions received by the EPA on the application.   |    |
| (2)      | The EPA must also—  |    |
|          | (a) prepare or commission a report on the key issues relating to the application and the activity, including—   |    |
|          | (i) any relevant provisions in regulations; and   | 15 |
|          | (ii) a statement on whether the application covers all aspects of the activity for which a marine consent is required:  |    |
|          | (b) provide a copy of the report to—  |    |
|          | (i) the board of inquiry; and   |    |
|          | (ii) the applicant; and   | 20 |
|          | (iii) every submitter.  |    |
|          | Compare: 1991 No 69 s 149G(2)   |    |
| <b>2</b> | <b>EPA must provide support to board</b>  |    |
| (1)      | The EPA must provide all reasonable administrative and secretarial services that are necessary to enable a board of inquiry to discharge its functions and responsibilities under this Act. | 25 |
| (2)      | The EPA may—  |    |
|          | (a) make decisions regarding administrative and support matters that are incidental or ancillary to the conduct of an inquiry under this schedule; or                                       |    |
|          | (b) allow the board of inquiry to make those decisions.   | 30 |
| (3)      | The EPA must have regard to the purposes of minimising costs and avoiding unnecessary delay when performing its functions under <b>subclause (2)(a) or (b)</b> .                            |    |
| <b>3</b> | <b>EPA may provide board with advice</b>  |    |
|          | The EPA may provide a board of inquiry with—  | 35 |

(a)	technical advice:	
(b)	an estimate of the amount of funding required to process an application.	
<b>4</b>	<b>How board must carry out duties</b>	
	A board of inquiry must—	
(a)	carry out its duties in a timely and cost-effective manner:	5
(b)	conduct its inquiry in accordance with any terms of reference set by the Minister under <b>section 53(2)</b> :	
(c)	have regard to the most recent estimate provided to the board of inquiry by the EPA under <b>clause 3(b)</b> .	
	<i>Hearings</i>	10
<b>5</b>	<b>Hearings</b>	
(1)	The board of inquiry must conduct a hearing on an application if the applicant or a submitter requests a hearing.	
(2)	The board of inquiry may conduct a hearing, even if no applicant or submitter requests one, if the board considers it necessary or desirable.	15
(3)	The board of inquiry—	
(a)	must keep a full record of any hearings or proceedings:	
(b)	may direct that a conference of a group of experts be held:	
(c)	may direct that a conference be held with—	
(i)	any of the submitters who wish to be heard at a hearing; or	20
(ii)	the applicant; or	
(iii)	in the case of a cross-boundary application, any relevant resource consent authority; or	
(iv)	any combination of the persons described in <b>paragraphs (i) to (iii)</b> .	25
<b>6</b>	<b>Hearing date and notice</b>	
(1)	If a hearing is to be held, the board of inquiry must—	
(a)	fix the commencement date, time, and place of the hearing; and	
(b)	give 20 working days' notice of the commencement date, time, and place of the hearing to—	30
(i)	the applicant; and	
(ii)	every submitter on the application who stated that he or she wished to be heard and who has not subsequently advised that he or she does not wish to be heard.	

- (2) The board of inquiry may give directions as to evidence and the general conduct of the hearing.
- 7 Hearings to be public and without unnecessary formality**
- (1) A hearing must be held in public unless the Environmental Protection Authority, under section 158(3)(a), directs that the whole or part of a hearing is to be held with the public excluded. 5
- (2) The board of inquiry must establish a procedure for a hearing that is appropriate and fair in the circumstances.
- (3) In determining an appropriate and fair procedure for a hearing, the board of inquiry must— 10
- (a) avoid unnecessary formality; and
  - (b) where appropriate, recognise tikanga Māori; and
  - (c) receive evidence written or spoken in te reo Māori (and the Māori Language Act 1987 applies accordingly to the evidence so received).
- (4) No person may question a party or witness unless the board of inquiry gives permission to do so. 15
- 8 Persons who may be heard at hearings**
- (1) At a hearing, the applicant and every submitter who stated that he or she wished to be heard at the hearing may speak (either personally or through a representative) and call evidence. 20
- (2) However, the board of inquiry may, if it considers that excessive repetition is likely, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.
- (3) The board of inquiry may proceed with a hearing even if the applicant or a submitter who stated that he or she wished to be heard fails to appear at the hearing if the board of inquiry considers it fair and reasonable to do so. 25
- 9 Provisions relating to hearings**
- (1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing: 30
- (a) section 4 (which gives powers to maintain order):
  - (b) section 4B (which relates to evidence):
  - (c) section 4D (which gives power to summon witnesses):
  - (d) section 5 (which relates to the service of a summons):
  - (e) section 6 (which relates to the protection of witnesses):
  - (f) section 7 (which relates to allowances for witnesses). 35

- (2) Every summons to a witness to appear at a hearing must be in the prescribed form and be signed on behalf of the board of inquiry or by the chairperson of the committee that is to conduct the hearing.
- (3) All allowances for a witness must be paid by the party on whose behalf the witness is called. 5
- (4) At a hearing, the following persons must give to the board of inquiry any information and advice that is relevant and reasonably necessary to decide the application if the board of inquiry asks for it:
- (a) a person who reviewed the impact assessment or provided advice under **section 42 or 57**: 10
- (b) a person who is heard or represented at the hearing.
- 10 Control of hearings**
- A board of inquiry may exercise a power under **clause 11 or 12** after considering whether the scale and significance of the hearing make the exercise of the power appropriate. 15
- 11 Directions to provide evidence within time limits**
- (1) A board of inquiry may direct the applicant to provide briefs of evidence to the board before the hearing.
- (2) The applicant must provide its briefs of evidence at least 15 working days before the hearing. 20
- (3) The board of inquiry may direct a submitter who intends to call expert evidence to provide briefs of the evidence to the board before the hearing.
- (4) The submitter must provide the briefs of evidence at least 10 working days before the hearing.
- (5) The board of inquiry must, as soon as practicable after the board receives the briefs of evidence, give— 25
- (a) a copy of the applicant’s brief of evidence to every submitter; and
- (b) a copy of a submitter’s briefs of evidence to the applicant.
- 12 Directions before or at hearings**
- (1) Before or at the hearing, the board of inquiry may do 1 or more of the following: 30
- (a) specify the order of business at the hearing, including the order in which evidence and submissions are presented:
- (b) direct that evidence and submissions be— 35
- (i) recorded; or
- (ii) taken as read; or
- (iii) limited to matters in dispute:



- (c) direct the applicant, when presenting evidence or a submission, to present it within a time limit:
- (d) direct a submitter, when presenting evidence or a submission, to present it within a time limit.
- (2) At the hearing, the board of inquiry may seek advice on an application or the activity to which the application relates under **section 57(1)**, if the applicant agrees. 5
- (3) The board of inquiry must provide copies of the advice to the applicant and submitters.
- (4) At the hearing, the board of inquiry may direct a person presenting a submission not to present— 10
- (a) the whole submission, if none of it is relevant or in dispute; or
- (b) any part of the submission that is not relevant or not in dispute.
- (5) Before or at the hearing, the board of inquiry may direct that a submission or a part of a submission be struck out if the board considers that— 15
- (a) the submission, or the part, is frivolous or vexatious; or
- (b) the submission, or the part, discloses no reasonable or relevant case; or
- (c) it would be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.
- (6) If the board of inquiry gives a direction under **subclause (5)**, it must record the reasons for the direction and give a copy of the reasons to the submitter whose submission is affected by the direction. 20
- 13 Board to produce report**
- (1) As soon as practicable after the board of inquiry has completed its inquiry on a matter, but not later than 9 months after the relevant application was publicly notified, the board of inquiry must— 25
- (a) make its decision; and
- (b) produce a written report; and
- (c) send its report to the EPA.
- (2) The report must— 30
- (a) state the board's decision; and
- (b) give reasons for the decision; and
- (c) include a statement of the principal issues that were in contention; and
- (d) include the main findings on the principal issues that were in contention.
- (3) For the purposes of **subclause (1)**, the 9-month period excludes the period starting on 20 December in any year and ending on 10 January in the following year. 35

*Remuneration***14 Remuneration, allowances, and expenses**

- (1) The Fees and Travelling Allowances Act 1951 (the **1951 Act**) applies to a board of inquiry appointed under **section 53** as if the board were a statutory board within the meaning of the 1951 Act. 5
- (2) The Minister may direct that a member of a board of inquiry be paid the following out of money appropriated by Parliament for the purpose:
- (a) remuneration by way of fees, salary, or allowances under the 1951 Act; and
  - (b) travelling allowances and travelling expenses under the 1951 Act for time spent travelling in the service of the board. 10

Compare: 1991 No 69 s 149ZE