

# DRAFT FOR CONSULTATION

## Housing Emergency Response (Urgent Measures) Bill

Member's Bill

### Explanatory note

#### General policy statement

New Zealand has an under-supply of land available for houses and urban development. This under-supply has built up over successive governments and resulted in our cities becoming some of the most expensive places to live in the world relative to incomes. Rapidly growing house prices are putting the dream of home ownership out of reach for many New Zealanders, while unprecedented increases in rents are pushing down living standards and driving up hardship.

Our housing market is now the least affordable in the OECD. Between October 2017 and February 2021, New Zealand's median house price went from \$530,000 to \$780,000, a 47 per cent increase in just over three years.<sup>1</sup> Bond lodgement data for new tenancies reveals the median weekly cost of a new rental tenancy increased from \$400 to \$500 over that same time period.<sup>2</sup>

The New Zealand planning system uses district plans to zone land for different purposes, including residential housing. Different residential housing zones allow for different forms of housing to be built. For example, a residential zone may include provisions permitting a set building height. Building a residential dwelling above the permitted height would then require resource consent.

There is widespread agreement that our planning rules are primarily to blame for housing supply not being sufficiently responsive to growing demand, and for our

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<sup>1</sup> See REINZ Monthly Property Report November 2017(<https://reinz.co.nz/Media/Default/Statistic%20Documents/2017/Residential/October/REINZ%20Monthly%20Property%20Report%20-%20October%202017.pdf>) and REINZ Monthly Property Report March 2021 (<https://www.reinz.co.nz/Media/Default/Statistic%20Documents/2021/Residential/February/REINZ%20Monthly%20Property%20Report%20-%20February%202021.pdf>).

<sup>2</sup> See <https://www.tenancy.govt.nz/about-tenancy-services/data-and-statistics/rental-bond-data/>.

resulting high prices. In 1990, prior to the implementation of the Resource Management Act (**RMA**), the median price of a house in New Zealand was just \$200,000 in today's dollars, just a quarter of the current price. The Reserve Bank of New Zealand recently stated:<sup>3</sup>

“High house prices in New Zealand largely reflect structural and regulatory issues in New Zealand's housing market. In particular, land use restrictions, such as urban planning rules, limit the land available for housing and how intensively it can be used. These land use restrictions impede the ability of the market to increase the supply of houses when demand for houses increases. As a result, house prices tend to increase more than otherwise in response to higher housing demand. Other supply-side issues include infrastructure planning, the building consent process, and the cost of building.”

The objective of this Bill is to provide an urgent, temporary solution to the problem of housing under-supply by freeing up more land for housing and reducing reliance on the resource consenting process. It also aims to provide territorial authorities with funding to support their infrastructure investments and incentivise an uplift in housing supply.

The measures in the Bill are modelled on those successfully implemented to facilitate the Christchurch rebuild following the 2010 and 2011 Canterbury earthquakes. The Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 was made in July 2014. Planning powers were given back to Christchurch City in February 2019.<sup>4</sup>

The surge in housing supply in Christchurch enabled by the Order meant that between 2014 and 2019, despite the significant loss of houses caused by the earthquakes, housing affordability actually improved in Christchurch while it deteriorated in the rest of the country. While house prices rose by 7.4 per cent annually across New Zealand from July 2014 to March 2019, house prices only rose by 2.9 per cent annually in Christchurch.

This is clear evidence that freeing up planning rules can result in immediate house price relief. Even if new housing supply takes time to build, the signal that freeing up planning rules sends to the market is immediate.

This Bill will require all territorial authorities to urgently review their existing district plans to reduce the reliance on the resource consent process.

The Bill will achieve this by:

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<sup>3</sup> See RBNZ, Monetary Policy Statement November 2020, page 28 (<https://www.rbnz.govt.nz/-/media/ReserveBank/Files/Publications/Monetary%20policy%20statements/2020/mpsnov20.pdf?revision=f5f62295-9f98-4dcc-8dc7-ad1b8b12a7ad>)

<sup>4</sup> Canterbury Earthquake (Christchurch Replacement District Plan) Order Revocation Order 2019 (LI 2019/16) (<https://www.legislation.govt.nz/regulation/public/2019/0016/latest/whole.html>).

- requiring councils to update their district plans to: reduce consenting requirements, provide development capacity at a level that exceeds demand by a margin of 15 percent over the next 30 years, and provide for a wide range of housing types and locations; and
- suspending the appeals process to ensure these new, pro-supply district plans can be completed and put in place rapidly.

The Bill seeks to bring stability to the housing market by both allowing more houses to be built and reducing the cost of new builds. When more land is zoned for housing it means that developers have more choice on what land they buy and develop. Developers can purchase development-enabled land for a lower price and this leads to a lower price paid for houses by home buyers.

Conversely, when only a small amount of land is zoned for housing, those that own it are granted a near-monopoly on supply of land. This creates an opportunity to ‘land-bank’ by holding land while it goes up in value, rather than selling it or developing it immediately. Others may be in a situation where when their neighbourhood is zoned for density, an escalation in land value occurs creating rapid changes in the character of the neighbourhood. Even people who do not wish to sell their home and move neighbourhood may find the development pressure strong.

Overall, zoning more land for density will mean less development pressure on individual neighbourhoods and more flexibility for both land owners and developers to develop land that they choose.

Infrastructure finance may be a barrier to councils zoning more land for housing. The Bill provides a \$50,000 infrastructure grant to local authorities for every new dwelling they are able to consent over and above an historic baseline. This grant can provide a revenue stream for Councils to provide confidence that investment in infrastructure can be paid for.

The changes to the RMA have an expiry of 4 years. This is to reflect the intention that the measures are a temporary solution while more fundamental changes are made to resource management law in New Zealand.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides for the Bill to come into force on the day after it receives the Royal assent.

## Part 1

### Preliminary provisions

*Clause 3* provides for **sections 6 and 7** and **Parts 2 to 6** of the Bill to expire and be repealed after 4 years.

*Clause 4* is the purpose clause and identifies that the Bill’s purpose is to require certain territorial authorities to review and replace their district plans to facilitate an

increase in the supply of housing. It notes that to achieve this purpose the Bill modifies the Resource Management Act 1991 (the **RMA**) to provide a streamlined process.

*Clause 5* is the interpretation clause and provides definitions of key terms, including the terms **council**, **existing district plan**, and **replacement district plan**.

*Clause 6* specifies the ways in which the application of the RMA is modified for the purposes of the Bill.

*Clause 7* provides for the application of the RMA to the functions and powers carried out and exercised under this Bill unless modified by the Bill.

*Clause 8* provides for transitional, savings and related provisions set out in **Schedule 1**.

*Clause 9* provides that the Bill binds the Crown.

## Part 2

### Review of existing district plans

*Clause 10* requires a council to review its existing district plan and develop proposals for a replacement district plan, identifying the parts of the existing district plans that are to be replaced.

*Clause 11* sets out the requirements for replacement district plans, in particular that they must facilitate an increase in the supply of housing by reducing consenting requirements and ensuring sufficient development capacity and land for residential activities.

*Clause 12* provides for procedural matters relating to the review of existing district plans and the development of replacement district plans, which are set out in **Schedule 2**.

## Part 3

### Hearings panel

*Clauses 13 to 16* make provision for the appointment, functions and powers of the hearings panel, including the chairperson, and provide for the application of **Schedule 3** regarding appointments to the hearings panel. The panel must complete all its obligations in accordance with terms of reference issued under *clause 14*.

*Clauses 17 to 20* provide for hearings to be held and for the decision-making process of the hearings panel, including having particular regard to the requirements in *clause 11*.

*Clauses 21 to 23* provide for the approval of decisions of the hearings panel, and how these decisions become operative. *Clause 23* applies **Schedule 4**, which sets out further provisions relating to the functions and powers of the hearings panel.

## **Part 4**

### **Objections and appeals**

*Clause 24* provides a right of objection in relation to certain decisions of the hearings panel.

*Clause 25* sets out the rights of appeal. These are limited to a right of appeal on questions of law to the High Court that only apply to the Minister, the relevant council, and submitters (in relation to the matter of the submission only).

## **Part 5**

### **Requests for changes to existing district plan or replacement district plan**

*Clauses 26 to 28* relate to requests for changes or withdrawal of a request.

*Clause 29* provides a power for a council to recover costs incurred in carrying out its functions under this Part.

## **Part 6**

### **Application of Local Government Official Information and Meetings Act 1987**

*Clause 30* applies the Local Government Official Information and Meetings Act 1987, with the necessary modifications, to the hearings panel as if it were a board of inquiry conducting a hearing under the RMA.

## **Part 7**

### **Housing infrastructure development fund**

*Clauses 31 to 36* provide for a housing infrastructure development fund to facilitate an increase in housing supply by contributing to territorial authorities' infrastructure development costs arising from additional dwellings in their districts.



*Hon Judith Collins*

# **Housing Emergency Response (Urgent Measures) Bill**

Member's Bill

## **Contents**

		Page
1	Title	3
2	Commencement	3
<b>Part 1</b>		
<b>Preliminary provisions</b>		
3	Repeal of sections 6 and 7 and Parts 2 to 6	3
4	Purpose	3
5	Interpretation	4
6	Modification of RMA	5
7	Application of RMA	6
8	Transitional, savings, and related provisions	7
9	Act binds the Crown	7
<b>Part 2</b>		
<b>Review of existing district plans</b>		
10	Councils to review and replace existing district plans	7
11	Requirements for replacement district plans	8
12	Procedural matters applying to the review of the existing district plans	8
<b>Part 3</b>		
<b>Hearings panel</b>		
Subpart 1—Hearings panel established		
13	Hearings panel and chairperson	8
14	Terms of reference	9
15	Functions and powers of hearings panel	9
16	Application of Schedule 3	10

**Housing Emergency Response (Urgent Measures) Bill**

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	Subpart 2—Jurisdiction of hearing panel	
17	Hearings and decisions on proposals	10
18	Decisions on proposals (other than in relation to requirements)	10
19	Considerations relevant to decision making	11
20	Environmental Protection Authority may provide support to hearings panel	12
	Subpart 3—decisions of hearings panel	
21	Proposal deemed to be approved	12
22	Council must make decisions of hearings panel operative	12
23	Application of Schedule 4	13
	<b>Part 4</b>	
	<b>Objections and appeals</b>	
24	Objection rights	13
25	Appeals only on questions of law	13
	<b>Part 5</b>	
	<b>Requests for changes to existing district plan or replacement district plan</b>	
26	Request for change	14
27	Decision on request for change	14
28	Withdrawal of requests	15
29	Administrative charges	15
	<b>Part 6</b>	
	<b>Application of Local Government Official Information and Meetings Act 1987</b>	
30	Application of Local Government Official Information and Meetings Act 1987	16
	<b>Part 7</b>	
	<b>Housing infrastructure development fund</b>	
31	Purpose of this Part	16
32	Interpretation	16
33	Determination of new dwelling consents	16
34	Housing infrastructure development fund established	17
35	Payments from housing infrastructure development fund	17
36	Consequential amendment to Kāinga Ora—Homes and Communities Act 2019	17
	<b>Schedule 1</b>	18
	<b>Transitional, savings, and related provisions</b>	
	<b>Schedule 2</b>	19
	<b>Process for reviewing existing district plan and preparing replacement district plan</b>	



<b>Schedule 3</b>	24
<b>Further provisions on appointments to hearings panel</b>	
<b>Schedule 4</b>	27
<b>Provisions relating to functions and powers of hearings panel</b>	
<b>Schedule 5</b>	37
<b>Form</b>	
<b>Schedule 6</b>	39
<b>Threshold new dwelling consent numbers for territorial authorities</b>	

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

**1 Title**

This Act is the Housing Emergency Response (Urgent Measures) Act **2021**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**

**Preliminary provisions**

**3 Repeal of sections 6 and 7 and Parts 2 to 6**

**Sections 6 and 7** and **Parts 2 to 6** are repealed on the expiry of the period ending on the day that is 4 years after the date on which this Act comes into force.

**4 Purpose**

- (1) The purpose of this Act is to increase the supply of housing.
- (2) In order to achieve that purpose, this Act—
  - (a) temporarily modifies the Resource Management Act 1991 to provide a streamlined process to review the existing district plans and for the preparation of a comprehensive replacement district plan for each district; and
  - (b) requires specified territorial authorities to review and replace their district plans in accordance with the streamlined process and in a way that reduces reliance on the resource consenting process by reducing zoning controls; and
  - (c) provides a mechanism through which all territorial authorities may access funding to support the development of infrastructure to support housing growth.

## 5 Interpretation

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

**applicable timeframe**, in respect of a council, means—

- (a) for a tier 1 authority, within 40 working days of this Act coming into force;
- (b) for a tier 2 authority, within 6 months of this Act coming into force;
- (c) for a designated authority, within 6 months of being designated under this Act

**council** means any of the following:

- (a) a tier 1 authority;
- (b) a tier 2 authority;
- (c) a designated authority

**designated authority** means a territorial authority (not being a tier 1 or tier 2 authority) that is declared by the Minister to be a designated authority in accordance with a request for designation by that territorial authority

**existing district plan** means the district plan for a district that is operative immediately before the commencement of this Act

**hearing** means any hearing or part of a hearing conducted by the hearings panel under this Act

**hearings panel** means the panel appointed under **section 13**

**Minister** means the Minister who is, under the authority of any warrant or under the authority of the Prime Minister, responsible for the administration of this Act

**proposal** —

- (a) means a proposal or part of a proposal that—
  - (i) has been notified by a council under **Schedule 2** for incorporation into the replacement district plan; but
  - (ii) has not become operative under **section 22**; and
- (b) includes a requirement

**requirement** means a designation or heritage order (with or without modification) or a requirement for a designation or heritage order that is included in a proposal under **clause 4 of Schedule 2**

**replacement district plan** means the district plan for a district that is prepared and made operative in accordance with this Act as a replacement for an existing district plan

**RMA** means the Resource Management Act 1991

**tier 1 authority** means the following territorial authorities:

- (a) Auckland Council:

- (b) Hamilton City Council:
- (c) Waikato District Council:
- (d) Waipā District Council:
- (e) Tauranga City Council:
- (f) Western Bay of Plenty District Council:
- (g) Wellington City Council:
- (h) Porirua City Council:
- (i) Hutt City Council:
- (j) Upper Hutt City Council:
- (k) Kāpiti Coast District Council:
- (l) Christchurch City Council:
- (m) Selwyn District Council:
- (n) Waimakariri District Council

**tier 2 authority** means the following territorial authorities:

- (a) Whangarei District Council:
- (b) Rotorua District Council:
- (c) New Plymouth District Council:
- (d) Napier City Council:
- (e) Hastings District Council:
- (f) Palmerston North City Council:
- (g) Nelson City Council:
- (h) Tasman District Council:
- (i) Queenstown Lakes District Council:
- (j) Dunedin City Council:

**territorial authority** has the meaning given in section 5(1) of the Local Government Act 2002.

- (2) The modifications to the RMA made by this Act do not affect the text of the RMA, but require that Act to be read as if it had been amended in the manner indicated by this Act.
- (3) Except in **Part 7**, unless the context otherwise requires, a term that is defined in the Resource Management Act 1991 and not otherwise defined in this Act has the meaning given in that Act.

## **6 Modification of RMA**

- (1) Within the applicable time frame,—
  - (a) a council must not notify a proposed plan under Schedule 1 of the RMA:

- (b) Schedule 1 and section 37 of the RMA do not apply to a council acting under this Act:
  - (c) Part 2 of Schedule 1 of the RMA does not apply (except in respect of any change to a policy statement):
  - (d) **Section 10** applies to the council instead of section 79 of the RMA.
- (2) Nothing in this Act affects—
- (a) a request for a change to an existing district plan made under clause 21 of Schedule 1 of the RMA if a council had made a decision on the request under clause 25 of Schedule 1 of the RMA before the commencement of this Act:
  - (b) a change notified under Schedule 1 of the RMA before the commencement of this Act.
- (3) Any change to an existing district plan that is made operative by a council under clause 20 of Schedule 1 of the RMA while this Act is in force is deemed to be part of the relevant replacement district plan.
- (4) A council may make changes of minor effect to a change referred to in **subsection (3)** without using the process set out in Schedule 1 of the RMA or in this Act.
- (5) If a requiring authority or heritage protection authority gives notice of a requirement under Part 8 of the RMA before the commencement of this Act or while it is in force and the requirement is determined under Part 8 of the RMA, sections 175 and 192 of that Act apply, subject to references in those provisions to a proposed district plan being treated as references to a replacement district plan under this Act.
- (6) Unless **subsection (2)(a)** applies, a council must not process, or make decisions on, requests for changes to an existing district plan received under clause 21 of Schedule 1 of the RMA before the commencement of this Act.
- (7) The following provisions of the RMA do not apply to a rule contained in a proposal notified under this Act:
- (a) section 86B(1)(b) and (c), (2), and (4); and
  - (b) sections 86C and 86D; and
  - (c) section 86E(1)(b).

## 7 Application of RMA

- (1) The RMA applies to the functions and powers provided for by this Act, except to the extent that this Act modifies the provisions or application of the RMA.
- (2) The following matters are to be treated in the manner specified for each:
  - (a) a proposal notified under clause 5 of **Schedule 2** is to be treated as if it were a proposed district plan notified under clause 5 of Schedule 1 of the RMA:

- (b) a requirement included in a proposal under clause 4 of **Schedule 2** is to be treated as if it had been included in a proposed district plan under clause 4 of Schedule 1 of the RMA:
  - (c) a decision of the hearings panel notified by a council under clause 15 of **Schedule 4** is to be treated as if it were a decision made and notified by a local authority under clause 10 of Schedule 1 of the RMA:
  - (d) a proposal or part of a proposal that becomes operative under **section 22** is to be treated as if it were a district plan or part of a district plan under the RMA:
  - (e) a provision of a replacement district plan that gives effect to a requirement is to be treated as if it were a designation or heritage order under the RMA.
- (3) Sections 85 and 85B of the RMA apply as if references in those sections to a submission were references to a submission made under **Schedule 2** of this Act.

## **8 Transitional, savings, and related provisions**

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

## **9 Act binds the Crown**

This Act binds the Crown.

# **Part 2**

## **Review of existing district plans**

### **10 Councils to review and replace existing district plans**

- (1) Within the applicable timeframe, a council must, in the manner required by this Act,—
- (a) undertake a full review of the operative provisions of its existing district plan; and
  - (b) develop a replacement district plan by preparing and notifying proposals for the replacement district plan, including identifying the parts of an existing district plan that are to be replaced by proposals for the replacement district plan.
- (2) In reviewing its existing district plan and preparing proposals for the replacement district plan, a council must have particular regard to the requirements set out in **section 11**.
- (3) Despite **section 6(6)**, in reviewing its existing district plan, a council must consider—
- (a) any requests described in that subsection; and

- (b) whether to make provision for those requests.
- (4) Any action taken under **subsection (1)** before the commencement of this Act is to be treated as having been taken under and in accordance with this section, except to the extent that **clause 3(2) of Schedule 2** applies.

## 11 Requirements for replacement district plans

A replacement district plan must facilitate an increase in the supply of housing, including by—

- (a) significantly reducing (compared with an existing district plan)—
  - (i) reliance on resource consent processes; and
  - (ii) the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and
  - (iii) the requirements for notification and written approval:
- (b) ensuring that a district plan has capacity to accommodate a year-on-year increase in dwellings to meet the accommodation needs of the district while—
  - (i) having regard to constraints on environmental capacity, particularly with regard to natural hazards; and
  - (ii) providing for a wide range of housing types and locations:
- (c) zoning sufficient and suitable land for residential activities to provide development capacity at a level that exceeds expected demand by a margin of 15 percent over the next 30 years.

## 12 Procedural matters applying to the review of the existing district plans

**Schedule 2** sets out procedural matters applying to the review of existing district plans and development of replacement district plans required by **section 10(1)**.

## Part 3 Hearings panel

### Subpart 1—Hearings panel established

## 13 Hearings panel and chairperson

- (1) The Minister must establish a hearings panel to hear submissions and make decisions on any proposal notified under **clause 5 of Schedule 2**.
- (2) The Minister must appoint—
  - (a) a chairperson of the hearings panel, who may be a current, former, or retired Environment Judge or a retired High Court Judge; and

- (b) not fewer than 2 other members and not more than 20 other members.
- (3) In appointing the members of the hearings panel, the Minister must consider the need for the panel to have available to it, from its members, knowledge, skill, and experience relating to—
  - (a) the RMA; and
  - (b) tikanga Māori; and
  - (c) economics.
- (4) Before appointing persons to be members of the hearings panel, the Minister must consult—
  - (a) the Leader of the Opposition on the persons proposed to be members of the panel; and
  - (b) the chairperson on the date or dates when the appointments are to be made.
- (5) Despite **clause 3 of Schedule 3** (which relates to the powers of the chairperson), until the members of the hearings panel are appointed under **subsection (2)(b)**, the chairperson's jurisdiction is limited to determining only the matters described in **clause 4(4) of Schedule 4** (subject to any obligations specified in terms of reference under **section 14**).

#### 14 Terms of reference

- (1) The Minister must, after consulting the Leader of the Opposition, set terms of reference for the hearings panel.
- (2) The terms of reference for the hearings panel under **subsection (1)** may specify the matters and time limits referred to in **clause 4(4) of Schedule 4** for the purpose of ensuring the efficiency and effectiveness of the hearings panel and that it completes the performance of its functions in a timely manner.
- (3) The Minister may, after consulting the Leader of the Opposition, amend the terms of reference for the hearings panel.

#### 15 Functions and powers of hearings panel

- (1) The principal functions of the hearings panel are to—
  - (a) hold hearings on submissions on proposals that have been notified under **clause 5 of Schedule 2**; and
  - (b) make decisions in relation to those proposals as required by **sections 17 to 19**.
- (2) The hearings panel has the powers set out in this Act for the purposes of, or incidental to, carrying out its functions under this Act.
- (3) The hearings panel must determine its own procedures, except—
  - (a) as set out in **clause 3 of Schedule 3**; or
  - (b) as otherwise provided for in this Act.

**16 Application of Schedule 3**

**Schedule 3** sets out further provisions relating to the hearings panel.

## Subpart 2—Jurisdiction of hearing panel

**17 Hearings and decisions on proposals**

- (1) The hearings panel must, in respect of each council,—
  - (a) hold a hearing on submissions on that council’s proposal; and
  - (b) as soon as practicable after the close of the hearing,—
    - (i) in the case of a requirement, make a draft decision and final decision; and
    - (ii) in the case of all other provisions of a proposal, make a decision; and
    - (iii) in both cases, report on the decision or draft decision in accordance with **Schedule 4**.
- (2) The hearings panel must complete its obligations under **subsection (1)** within the time limits specified in any terms of reference given under **section 14**.

**18 Decisions on proposals (other than in relation to requirements)**

- (1) This section applies to the making of decisions on proposals other than in relation to requirements.
- (2) In making a decision on a proposal, the hearings panel—
  - (a) may make any changes to the proposal that it considers appropriate;
  - (b) is not limited to making changes within the scope of the submissions made on the proposal.
- (3) After having regard to the parts of that council’s existing district plan identified for replacement by a council under **section 10(1)(b)**, the hearings panel must identify the parts of an existing district plan that are to be replaced by proposals for a replacement district plan.
- (4) If the hearings panel considers that changes are needed to deal with matters that are, in a material way, outside the scope of a proposal notified by a council and to deal with submissions on it, the panel must direct the relevant council to—
  - (a) prepare and notify a new proposal; and
  - (b) invite submissions on the new proposal in accordance with **Schedule 2**.
- (5) While the hearings panel is considering a proposal, it may reconsider any decision it has already made on another proposal by the same council if it considers it is necessary or desirable to do so to ensure that a replacement district plan is coherent and consistent.



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- (6) If the hearings panel considers, after reconsidering a decision under **subsection (5)**, that an earlier proposal or a part of a replacement district plan requires change, the panel may direct the relevant council—
- (a) to make changes of no more than minor effect; or
  - (b) to prepare and notify a new proposal, and invite submissions on the new proposal in accordance with **Schedule 2**.
- (7) If a council is directed by the hearings panel under **subsection (4) or (6)**,—
- (a) the council must comply with—
    - (i) the provisions of **Schedule 2** (other than **clauses 3 and 4** of that schedule); and
    - (ii) any time limits specified by the panel; and
  - (b) the hearings panel must comply with this section, **section 17**, and **Schedule 4**.
- (8) **Section 17(2)** applies to the obligations of the hearings panel under this clause.

## **19 Considerations relevant to decision making**

- (1) In making decisions on proposals, the hearings panel must—
- (a) have regard to the information provided to the panel under **clause 9 of Schedule 2**; and
  - (b) have regard to any reports prepared under **clause 3(4), 8(1), or 9(3) of Schedule 4**; and
  - (c) take account of any outcomes reported under **clause 10(4) of Schedule 4**; and
  - (d) have particular regard to the requirements in **section 11**.
- (2) In making a decision on a requirement, the hearings panel must,—
- (a) in relation to a designation or requirement for a designation, comply with section 171 of the RMA as if the panel were a territorial authority; and
  - (b) in relation to a heritage order or requirement for a heritage order, comply with section 191 of the RMA as if the panel were a territorial authority; and
  - (c) treat all references to a recommendation in sections 171 and 191 of the RMA as references to a decision.
- (3) In making a decision on an existing designation or heritage order that is included in a proposal without modification, and on which no submissions are received, the hearings panel—
- (a) must confirm the designation or heritage order; but

- (b) must not alter, or impose new conditions on, the designation or heritage order.
- (4) In making decisions on all other provisions of a proposal, the hearings panel must—
  - (a) undertake, and have particular regard to, a further evaluation of the proposal prepared in accordance with section 32AA of the RMA; and
  - (b) apply sections 74 to 77D and 85B of the RMA as if it were the council.

## **20 Environmental Protection Authority may provide support to hearings panel**

The Environmental Protection Authority may provide administrative and technical support to the hearings panel for as long as may reasonably be required, including (without limitation)—

- (a) managing the hearings process by providing an interim hearings manager:
- (b) providing technical support associated with hosting the hearings panel's Internet site:
- (c) administering the payment of fees, expenses, and other amounts payable to members of the hearings panel:
- (d) administering the payment of fees, expenses, and other amounts payable in respect of the provision of legal advice to the panel.

### Subpart 3—decisions of hearings panel

## **21 Proposal deemed to be approved**

- (1) This section applies once a council has given public notice under **clause 15 of Schedule 4** of the decision of the hearings panel on a proposal.
- (2) The proposal is deemed to have been approved by the council under clause 17(1) of Schedule 1 of the RMA on and from—
  - (a) the date on which the appeal period expires, if no appeals relating to the proposal are made under **section 25**; or
  - (b) the date on which all appeals, including further appeals, relating to the proposal are determined, if appeals are made under **section 25**.

## **22 Council must make decisions of hearings panel operative**

- (1) As soon as is reasonably practicable after the date that a proposal is deemed to have been approved, the relevant council must make the proposal operative as part of its replacement district plan by giving public notice in accordance with clause 20 of Schedule 1 of the RMA.
- (2) On and from the day on which a proposal is made operative under **subsection (1)**, that proposal replaces any part of the existing district plan that were identi-

fied in the report of the hearings panel required by **clause 13(1)(c) of Schedule 4**.

- (3) The obligation on a council under **subsection (1)** does not limit the application of section 86F of the RMA (which relates to rules being treated as operative).

### 23 Application of Schedule 4

**Schedule 4** sets out the procedural matters relevant to the functions and powers of the hearings panel.

## Part 4 Objections and appeals

### 24 Objection rights

- (1) A person who makes a submission on a proposal has a right of objection to the hearings panel in relation to—
  - (a) a decision of the hearings panel under **clause 3(6) of Schedule 4** to decline to consider the person's submission;
  - (b) a decision of the hearings panel to strike out the whole or a part of the person's submission under **clause 7(1)(e) of Schedule 4**.
- (2) An objection must be made by notice in writing, setting out the reasons for the objection, not later than 5 working days after the decision is notified to the person or any longer time allowed by the hearings panel.
- (3) The hearings panel must—
  - (a) consider the objection as soon as practicable; and
  - (b) hold a hearing on the objection, after giving the objector not less than 5 working days' notice of the date, time, and place for the hearing.
- (4) After the hearing, the hearings panel must—
  - (a) dismiss or uphold the objection in whole or in part; and
  - (b) inform the objector in writing of the panel's decision and the reasons for it.
- (5) A decision of the hearings panel under this clause is final and there is no right of appeal against it.

### 25 Appeals only on questions of law

- (1) The persons or bodies listed in **subsection (2)** may appeal to the High Court against a decision of the hearings panel made under **section 17(1)(b)**.
- (2) The persons or bodies are—
  - (a) the Minister;
  - (b) the relevant council;

- (c) a submitter on the relevant proposal, but only in relation to matters raised in their submission.
- (3) An appeal under this section is available only on a question of law.
- (4) In relation to a decision on a requirement, the following persons also have a right of appeal on questions of law—
  - (a) the relevant requiring authority or heritage protection authority; and
  - (b) the owners and occupiers of land who are directly affected by the decision.
- (5) Notice of an appeal must be filed with the High Court and served on the relevant council not later than 20 working days after the council notifies the decision of the hearings panel under **clause 15 of Schedule 4**.
- (6) Except as otherwise provided in this Act, sections 299(2) and 300 to 307 of the RMA apply, with all necessary modifications, to an appeal under this section.
- (7) Section 308 of the RMA applies in respect of an appeal from a decision of the High Court.

## Part 5

### Requests for changes to existing district plan or replacement district plan

#### 26 Request for change

- (1) Any person may request a change to an existing district plan or a replacement district plan.
- (2) A request must be made to the relevant council in writing, and must—
  - (a) set out the purpose of the proposed change and the reasons for making the request; and
  - (b) include an evaluation prepared in accordance with section 32 of the RMA; and
  - (c) specify the environmental effects anticipated from the proposed change, taking into account the provisions of Schedule 4 of the RMA in the detail that corresponds with the scale and significance of the actual or potential effects anticipated from implementing the change.
- (3) A council must, not later than 10 working days after receiving a request, provide the request to the hearings panel.

#### 27 Decision on request for change

- (1) Not later than 20 working days after receiving a request under **section 26(3)**, the hearings panel must decide whether to accept or reject the request.
- (2) In making its decision, the hearings panel must have particular regard to the evaluation provided under **section 26(2)(b)**.

- (3) If the hearings panel accepts the request, it must direct a council to notify the request as a proposal, in accordance with **clause 5 of Schedule 2**, within the time that the hearings panel specifies.
- (4) The hearings panel may reject a request on the grounds that the request or part of it—
  - (a) is frivolous or vexatious; or
  - (b) does not accord with sound resource management practice; or
  - (c) would make a replacement district plan inconsistent with Part 5 of the RMA or this Act.
- (5) The hearings panel may also reject a request if—
  - (a) the hearings panel considers that it has insufficient information to enable it to consider or approve the request; or
  - (b) the substance of the request—
    - (i) is included in a proposal that has been notified under this Act; or
    - (ii) has been given effect to or rejected by the hearings panel under this Act.
- (6) If a council is directed by the hearings panel under **subsection (3)**,—
  - (a) the council must comply with—
    - (i) the provisions of **Schedule 2** (other than **clauses 3 and 4** of that schedule); and
    - (ii) any time limits specified by the panel; and
  - (b) the hearings panel must comply with this section, any time limits specified in any terms of reference given under **section 14**, and **Schedule 4**.

## **28 Withdrawal of requests**

- (1) A person who has made a request under **section 26** may withdraw the request at any time before the hearing panel's decision is notified by the council under **clause 15 of Schedule 4**.
- (2) If a council has reasonable grounds to consider that a person who has made a request no longer wishes to continue with it, the council may give written notice to the person that, unless the person confirms within 10 working days that they intend to continue with the request, the council deems the request to have been withdrawn.

## **29 Administrative charges**

- (1) Section 36 of the RMA applies, as far as it is relevant, to the functions of the council under **section 26 to 28**.
- (2) A council may recover its costs in carrying out its functions under **sections 26 to 28**.

## Part 6

### Application of Local Government Official Information and Meetings Act 1987

#### 30 Application of Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 applies, with the necessary modifications, to the hearings panel as if it were a board of inquiry with authority to conduct a hearing under section 149J of the RMA.

## Part 7

### Housing infrastructure development fund

#### 31 Purpose of this Part

The purpose of this Part is to establish a fund to create an effective fiscal incentive for territorial authorities to increase housing supply in their districts by contributing to an authority's infrastructure development costs.

#### 32 Interpretation

In this Part, unless the context otherwise requires,—

**Kāinga Ora–Homes and Communities** means Kāinga Ora–Homes and Communities established under section 8 of the Kāinga Ora–Homes and Communities Act 2019

**financial year** means a period of 12 months commencing on 1 July and ending with 30 June

**number of new dwelling consents** means the actual number of new dwellings consented as determined by the Statistician under **section 33**

**Statistician** has the meaning given to it by section 2 of the Statistics Act 1975.

#### 33 Determination of new dwelling consents

- (1) The Statistician must determine the number of new dwelling consents issued by each territorial authority in a financial year in accordance with **section 35**.
- (2) The Statistician must decide the following to be used in the determination under **subsection (1)**:
  - (a) concepts or terms (for example, classifications or definitions); and
  - (b) the data and statistical methodology.
- (3) The provisions of the Statistics Act 1975 that relate to official statistics apply to the Statistician, in performing duties or functions under this Part unless this Act provides otherwise or those provisions are inconsistent with this Act.

**34 Housing infrastructure development fund established**

- (1) Kāinga Ora–Homes and Communities must establish a fund to facilitate an increase in housing supply by contributing to territorial authorities' infrastructure development costs arising from additional dwellings in their districts.
- (2) In each year, out of an appropriation by Parliament for the purpose, the fund must be paid a general grant.

**35 Payments from housing infrastructure development fund**

- (1) As soon as practicable after the end of a financial year, the Statistician must determine, under **section 33**, the number of new dwelling consents issued by each territorial authority in that financial year and report those numbers to Kāinga Ora–Homes and Communities.
- (2) Kāinga Ora–Homes and Communities must pay each territorial authority an amount calculated in accordance with the following formula:

$$(a-b) \times \$c = \$d$$

where—

- a is the number of new dwelling consents issued by the territorial authority
  - b is the threshold number for that territorial authority specified in **Schedule 6**
  - \$c is \$50,000
  - \$d is the payment amount.
- (3) Despite **subsection (2)**, in any case where the number of new dwelling consents issued by a territorial authority in the financial year is less than the threshold number for that territorial authority specified in **Schedule 6**, the amount payable from the fund is zero.
  - (4) Kāinga Ora–Homes and Communities must make the payment required under **subsection (2)** within 3 months of having received the Statistician's determination under **subsection (1)**.

**36 Consequential amendment to Kāinga Ora–Homes and Communities Act 2019**

- (1) This section amends the Kāinga Ora–Homes and Communities Act 2019.
- (2) After section 13(1)(e), insert:
  - (ea) to administer the housing infrastructure development fund established under **section 34** of the Housing Emergency Response (Urgent Measures) Act **2021**:

**Schedule 1**  
**Transitional, savings, and related provisions**

**s 8**

**Part 1**  
**Provisions relating to this Act as enacted**

There are no transitional, savings, or related provisions relating to this Act as enacted.



## Schedule 2

### Process for reviewing existing district plan and preparing replacement district plan

s 12

#### Contents

		Page
1	Consultation when undertaking review and replacement	19
2	Evaluation report	19
3	Changes in response to comments from Minister	20
4	Process for inclusion of requirements in replacement district plan	20
5	Public notification of proposals	22
6	Submissions	22
7	Public notice of submissions and right to make further submission	22
8	Further submissions	23
9	Information to be supplied to hearings panel	23

#### 1 Consultation when undertaking review and replacement

- (1) This clause applies when a council reviews its existing district plan and prepares proposals (other than requirements) under **section 10(1)** of this Act.
- (2) A council must consult—
  - (a) the Minister; and
  - (b) any other Ministers of the Crown whose responsibilities may be affected by a replacement district plan; and
  - (c) the relevant Regional Council; and
  - (d) any relevant iwi authority.
- (3) A council may consult any other person during the process of reviewing its existing district plan and preparing proposals (other than requirements).
- (4) A council must carry out consultation—
  - (a) with the persons specified in **subclause (2)** in the manner agreed with those persons; and
  - (b) under **subclause (3)** in accordance with section 82 of the Local Government Act 2002.
- (5) Consultation carried out with the persons referred to in **subclauses (2) and (3)** before the commencement of this Act on any proposal that becomes part of a replacement district plan is consultation for the purposes of this clause.

#### 2 Evaluation report

- (1) Before publicly notifying a proposal (other than a requirement), a council must—

- (a) prepare a draft proposal that complies with Part 5 of the RMA; and
  - (b) prepare an evaluation report on a draft proposal in accordance with section 32 of the RMA; and
  - (c) have particular regard to that report when deciding whether to proceed with a draft proposal.
- (2) An evaluation report may not be challenged other than in a submission lodged under this schedule.
- (3) **Subclause (2)** applies instead of section 32A of the RMA.

### 3 Changes in response to comments from Minister

- (1) If a council decides to proceed with a draft proposal (other than a requirement), it must provide a copy of the draft to the Minister, who may, within 15 working days of receiving the copy, provide comments with reasons to the council.
- (2) If the Minister considers that a council's draft proposal has not met the requirements in **section 11**, the Minister may make comments under **subclause (1)** on how they consider the requirements could be met in the proposal.
- (3) A council—
- (a) must have particular regard to any comments provided by the Minister; and
  - (b) may modify its draft proposal—
    - (i) in response to the Minister's comments:
    - (ii) to correct minor errors.
- (4) Before notifying the draft proposal, a council must give written notice to the Minister summarising its response to the comments and the reasons for the response.
- (5) A council is not required to prepare a further evaluation report if it modifies a draft proposal in response to the Minister's comments.

### 4 Process for inclusion of requirements in replacement district plan

- (1) Not later than the relevant period specified in **subclause (2)**, a council must issue a written request to requiring authorities to give written notice to the council of any designations that should be included in a proposal.
- (2) The relevant period for the purposes of **subclause (1)** is—
- (a) for a tier 1 authority, within 5 working days of this Act coming into force;
  - (b) for a tier 2 authority, within 1 month of this Act coming into force;
  - (c) for a designated authority, within 1 month of being designated under this Act.
- (3) A council—

- 
- (a) must specify the date by which requiring authorities must respond, which must not be earlier—
    - (i) than 5 working days after the request is issued in respect of a tier 1 authority; or
    - (ii) than 30 working days after the request is issued in any other case; and
  - (b) must not notify a draft proposal before the date specified under **paragraph (a)**.
- (4) If written notice is not received from a requiring authority by the date specified, the designation must not be included in the proposal.
  - (5) If a requiring authority wishes to have a designation included with modifications in the proposal, the requiring authority must specify in its written notice to the council the modifications required and the reasons for them.
  - (6) A council must, in the proposals notified under **section 10(1)(b)** of this Act, make provision for—
    - (a) any designation it receives notice of under this clause; and
    - (b) any existing heritage orders.
  - (7) A council may include in a proposal—
    - (a) requirements for designations or heritage orders for which the council has responsibility; and
    - (b) existing designations or heritage orders, with or without modifications, for which the council has responsibility.
  - (8) **Subclause (9)** applies if a council—
    - (a) is given notice of a requirement for a designation under section 168 of the RMA or a heritage order under section 189 of the RMA; and
    - (b) proposes to give public notice of a proposal under **clause 5** of this schedule within 50 days of receiving the requirement.
  - (9) A council may, with the consent of the requiring authority or heritage protection authority, include the requirement in a proposal instead of complying with section 169 or 190 of the RMA.
  - (10) If a council includes a requirement in a proposal, the council must make relevant information about the requirement available for public inspection.
  - (11) A requiring authority that has given written notice to a council under this clause may withdraw the requirement in accordance with section 168(4) of the RMA, and the council must, as soon as is reasonably practicable, amend the proposal accordingly, without applying the process in this Act.
  - (12) If a council issues a written request of the kind referred to in **subclause (1)** to a requiring authority before the commencement of this Act, the request must be treated as if it were given under this Act.

**5 Public notification of proposals**

- (1) After a council has considered any comments on a draft proposal received from Minister under **clause 3** of this schedule, it must—
  - (a) give public notice of the draft proposal as provided for in **subclause (2)**; and
  - (b) if the proposal includes a requirement, give notice to any land owners and occupiers who, in the council's opinion, are likely to be directly affected.
- (2) The public notice required by **subclause (1)** must be given in the form set out in **Schedule 5**.
- (3) After a proposal has been notified under this Act, the council must not amend or withdraw any provisions of the proposal, except as provided for by **section 18(4)** of this Act and **clause 4(11)** of this schedule.

**6 Submissions**

- (1) When a proposal is publicly notified under **clause 5** of this schedule, the relevant council and any person may make a submission to the hearings panel on the proposal not later than—
  - (a) 10 working days after the date on which public notice was given in respect of a tier 1 authority; or
  - (b) 30 working days after the date of the public notice given in any other case.
- (2) However, if a person could gain an advantage in trade competition through making a submission, that person may make a submission only if the person is directly affected by an effect of the proposal that—
  - (a) adversely affects the environment; and
  - (b) does not relate to trade competition or the effects of trade competition.

**7 Public notice of submissions and right to make further submission**

- (1) Not later than 10 working days after the closing date for submissions stated in the notice given under **clause 5(1)** of this schedule, a council must—
  - (a) give public notice that submissions are available for inspection, and invite further submissions; and
  - (b) publish the submissions on its Internet site.
- (2) The public notice given under **subclause (1)** must state—
  - (a) where the submissions may be inspected; and
  - (b) the closing date for further submissions, which must be not later than 10 working days after the date of the public notice; and
  - (c) the persons who may make further submissions, as specified in **subclause (3)**; and

- (d) any limitations applying to the content and form of any further submission.
- (3) The persons referred to in **subclause (2)(c)** are—
  - (a) the Minister;
  - (b) any person representing a relevant aspect of the public interest;
  - (c) any person that has an interest in the proposal greater than the interest that the general public has;
  - (d) the council.

## **8 Further submissions**

- (1) A person making a further submission must serve a copy of it—
  - (a) on the relevant council; and
  - (b) not later than 5 working days after the copy is served on the council, on the person who made the submission to which the further submission relates.
- (2) A further submission must be limited to a matter in support of, or in opposition to, the relevant submission made under **clause 6** of this schedule.
- (3) A council must publish any further submissions on its Internet site not later than 10 working days after the closing date for the further submissions.

## **9 Information to be supplied to hearings panel**

- (1) As soon as is reasonably practicable after a proposal has been notified, a council must provide copies of the following documents and information to the hearings panel:
  - (a) a copy of the relevant proposal; and
  - (b) the council's evaluation report referred to in **clause 2(1)(b)** of this schedule; and
  - (c) any notice of, or information about, a requirement; and
  - (d) any other information that the council considers to be relevant.
- (2) As soon as is reasonably practicable after a council receives any submissions on a proposal (including submissions received after the closing date specified under **clause 6 or 7** of this schedule), the council must provide them to the hearings panel.

## Schedule 3

### Further provisions on appointments to hearings panel

s 16

#### Contents

		Page
1	Appointments to hearings panel	24
2	When member ceases to hold office	24
3	Powers of chairperson	25
4	Remuneration, allowances, and expenses of members of hearings panel	25
5	Liability of members of hearings panel	26

#### 1 Appointments to hearings panel

- (1) The Minister must give a person appointed as a member of the hearings panel written notice stating—
  - (a) the date on which the appointment takes effect; and
  - (b) the terms of reference for the hearings panel.
- (2) The term of appointment for the hearings panel continues until the panel has completed the performance of its functions and duties and the exercise of its powers under this Act, including any appeals that are filed in any court.

#### 2 When member ceases to hold office

- (1) A member of the hearings panel remains a member of the panel until the earliest of the following:
  - (a) they die;
  - (b) they resign by giving 20 working days' written notice to the Minister;
  - (c) they are removed under **subclause (2)**;
  - (d) the hearings panel ceases to exist.
- (2) The Minister may, at any time for just cause, remove a member by written notice to the member (with a copy to the hearings panel), stating—
  - (a) the date on which the removal takes effect, which must not be earlier than the date on which the notice is received by the member; and
  - (b) the reasons for the removal.
- (3) The Minister may appoint a member to replace a member who ceases to hold office under **subclause (1) or (2)**.
- (4) **Section 13(4)** of this Act applies to members appointed under **subclause (3)**.

- (5) A member of the hearings panel is not entitled to any compensation or other payment or benefit relating to their ceasing, for any reason, to hold office as a member.
- (6) In **subclause (2)**, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the hearings panel or the individual duties of members.

### 3 Powers of chairperson

- (1) The chairperson of the hearings panel has the power—
  - (a) to decide how many, and which, members of the hearings panel are to be present at each hearing or pre-hearing:
  - (b) to direct that members sit as 2 or more hearings panels and appoint a member of each panel to act as chairperson for each panel:
  - (c) to approve persons, whether members of the panel or other persons, to chair pre-hearing meetings:
  - (d) to determine when submissions are to be heard and other procedural matters for the hearing of submissions:
  - (e) to decide whether to accept any late submissions:
  - (f) to direct a council to participate in an alternative dispute resolution process:
  - (g) to deal with any complaints in respect of the hearings panel or any member of the panel.
- (2) If the chairperson is not able to attend any part of a hearing, he or she must appoint another member as chairperson.

### 4 Remuneration, allowances, and expenses of members of hearings panel

The Fees and Travelling Allowances Act 1951 applies to the hearings panel appointed under **section 13** as follows:

- (a) the hearings panel is a statutory board within the meaning of the Act; and
- (b) a member of the hearings panel may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:
  - (i) remuneration by way of fees, salary, or allowances under the Act; and
  - (ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the hearings panel; and
- (c) the Act applies to payments under **paragraph (b)**.

**5 Liability of members of hearings panel**

A member of the hearings 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 the hearings panel.



## Schedule 4

### Provisions relating to functions and powers of hearings panel

s 23

#### Contents

		Page
1	Officer or representative of council required to attend hearings	27
2	Persons with right to be heard	28
3	Pre-hearing meetings	28
4	Conduct of hearings	29
5	Compliance with time limits	30
6	Directions as to evidence	31
7	Procedural directions and requests	31
8	Hearings panel may commission reports	32
9	Conference of experts	32
10	Alternative dispute resolution	32
11	Availability of evidence and reports	33
12	Protection of sensitive information	33
	<i>Reporting and notifying</i>	
13	Reports on decisions	34
14	Draft and final reports on decisions relating to requirements	34
15	Public notice and service of decisions	35
16	Minor corrections	36

#### **1 Officer or representative of council required to attend hearings**

- (1) A council must ensure that, whenever a hearings panel is considering the council's proposals, an officer of the council, or a person commissioned by the council for the purpose, attends every hearing conducted by the hearings panel in order to assist the panel in 1 or more of the following ways:
  - (a) to clarify or discuss matters in a proposal:
  - (b) to give evidence:
  - (c) to provide a response to submissions or deal with issues raised by any submission:
  - (d) to provide any other relevant information requested by the hearings panel.
- (2) Despite **subclause (1)**, the hearings panel may excuse a council from attending or remaining at a hearing or any particular part of a hearing.
- (3) If the hearings panel excuses a council under **subclause (2)**, that does not invalidate a hearing or any part of a hearing.
- (4) To avoid doubt, this clause does not limit or prevent a council from—

- (a) making a submission on a proposal; or
- (b) being heard on that submission.

## 2 Persons with right to be heard

- (1) Any person (including a council) who has made a submission or further submission on a proposal who has stated that they wish to be heard at a hearing may speak at a hearing personally or through a representative and call evidence.
- (2) If a person referred to in **subclause (1)** fails to appear at the hearing, the hearings panel may proceed with the hearing if it considers it fair and reasonable to do so.

## 3 Pre-hearing meetings

- (1) Before a hearing is conducted on a proposal, the hearings panel may invite or require the persons listed in **subclause (2)** to attend a meeting for the purpose of—
  - (a) clarifying a matter or an issue relating to a proposal or a submission; or
  - (b) facilitating resolution of a matter or an issue relating to a proposal.
- (2) The persons are—
  - (a) any submitters;
  - (b) a council;
  - (c) any other persons that the hearings panel considers appropriate, including any experts.
- (3) A pre-hearing meeting may be chaired by a member of the hearings panel or by a person approved by the chairperson of the panel.
- (4) After the pre-hearing meeting, but not later than 5 working days before the hearing to which the pre-hearing meeting relates, the chairperson of the pre-hearing meeting must provide a report on the pre-hearing meeting to—
  - (a) the hearings panel; and
  - (b) the persons who attended the pre-hearing meeting.
- (5) The report prepared under **subclause (4)**—
  - (a) must set out—
    - (i) the issues that were agreed; and
    - (ii) the issues that remain outstanding; and
  - (b) may set out—
    - (i) the nature of the evidence that the parties are to call at the hearing;
    - (ii) the order in which the parties are to call evidence at the hearing;
    - (iii) a proposed timetable for the hearing; but

- (c) must not, without a person's consent, include any material that the person communicated or made available at the meeting on a without prejudice basis.
- (6) If a submitter is required to attend a meeting under **subclause (1)**, but fails to do so without reasonable excuse, the hearings panel may decline to consider the person's submission.
- (7) A submitter referred to in **subclause (6)** has no rights of appeal under this Act, but may object under **section 24** of this Act.

#### 4 Conduct of hearings

- (1) Not fewer than 3 members of the hearings panel must be present at each hearing.
- (2) The hearings panel must, except as expressly provided otherwise by this Act, regulate its own proceedings in the manner it thinks fit.
- (3) In carrying out its functions and exercising its powers, the hearings panel must—
  - (a) hold hearings in public unless permitted otherwise by—
    - (i) **clause 12** of this schedule (which relates to the protection of sensitive information); or
    - (ii) section 48 of the Local Government Official Information and Meetings Act 1987, as that Act applies under **section 30** of this Act; and
  - (b) fix a place, date, and time for a hearing; and
  - (c) give not less than 10 working days' notice of the place, date, and time for a hearing to—
    - (i) the relevant council; and
    - (ii) any person who lodged a submission on the proposal by the closing date for submissions or whose submission is accepted by the chairperson of the hearings panel under **clause 5** of this schedule and has requested to be heard (and who has not subsequently withdrawn the request); and
    - (iii) every requiring authority or heritage protection authority that has a requirement included in the proposal; and
  - (d) establish a procedure for a hearing that—
    - (i) is appropriate and fair in the circumstances; and
    - (ii) avoids unnecessary formality; and
    - (iii) recognises tikanga Māori where appropriate; and
  - (e) receive evidence written or spoken in te reo Māori, in which case Te Ture mō Te Reo Māori 2016 applies as if the hearing were legal proceedings before a tribunal named in Schedule 1 of that Act.

- (4) The hearings panel may determine the following matters:
  - (a) matters that are to be given priority over other matters in conducting a hearing on a proposal:
  - (b) the time within which procedural steps relating to a proposal are to be taken:
  - (c) the time within which the hearing of submissions on a proposal must be conducted and completed:
  - (d) the time within which the panel must make a decision on a proposal.
- (5) However, the discretion of the hearings panel under **subclause (4)** is subject to the obligations—
  - (a) specified under any terms of reference provided to the hearings panel; and
  - (b) set out in **section 17** of this Act.
- (6) The hearings panel may—
  - (a) permit a party to question any other party or witness; and
  - (b) permit cross-examination; and
  - (c) if it considers that there is likely to be excessive repetition, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.
- (7) Before the hearings panel exercises its power under **clauses 6 and 7** of this schedule, it must consider whether the scale and significance of the hearing makes the exercise of the power appropriate.
- (8) The hearings panel must keep a full record of every hearing and any other proceeding it conducts.
- (9) Sections 19, 20, and 23 to 25 of the Inquiries Act 2013 apply to a hearing conducted by the hearings panel.

## **5 Compliance with time limits**

- (1) The chairperson of the hearings panel may—
  - (a) extend, or waive compliance with, any time limits specified by or under this Act, except in relation to the time limit specified in **section 17(2)** of this Act; and
  - (b) accept submissions received after the relevant closing date specified under **clause 6 or 7** of **Schedule 2**.
- (2) In making a decision under **subclause (1)**, the chairperson must take into account—
  - (a) the interests of any person who, in the chairperson's opinion, may be directly affected by a waiver; and

- (b) the need to ensure that there is an adequate assessment of the effects anticipated from the implementation of the proposal; and
  - (c) the stage of the hearing when the hearings panel is provided with the submissions.
- (3) A decision of the chairperson under this clause is final and there is no right of objection or appeal against it.

## 6 Directions as to evidence

- (1) The hearings panel may direct a submitter or a council to provide briefs of evidence, including the evidence of any experts, to the panel at least 10 working days before the hearing to which the evidence relates.
- (2) The submitter or council must provide the briefs by the date specified by the hearings panel.

## 7 Procedural directions and requests

- (1) Before or in the course of a hearing, the hearings panel may—
- (a) direct the order of business of the hearing, including the order in which submissions and evidence are presented;
  - (b) direct that submissions and evidence be recorded, taken as read, or limited to matters in dispute;
  - (c) direct a council or a submitter, when presenting a submission or evidence, to present it within a time limit;
  - (d) request a submitter to provide further information;
  - (e) direct that the whole, or a part of, a submission be struck out if the panel considers that—
    - (i) the whole submission, or the part, is frivolous, is vexatious, or discloses no reasonable or relevant case; or
    - (ii) it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.
- (2) At a hearing, the hearings panel may direct a submitter not to present—
- (a) the whole or any part of a submission, if all or part of it is irrelevant or not in dispute; or
  - (b) any part of a submission that does not relate to that part of the proposal being dealt with at the hearing.
- (3) If the hearings panel gives a direction under **subclause (1)(e)**, it must record its reasons for the direction.

**8 Hearings panel may commission reports**

- (1) At any reasonable time before or during a hearing, the hearings panel may require a council, or may commission a consultant or other person, to prepare a report on—
  - (a) any submissions;
  - (b) any matters arising from the hearing;
  - (c) any other matter that it considers necessary for the purpose of the decision to be made by the panel.
- (2) A report does not need to repeat material from a submission, but may adopt the whole or any part of the assessment by reference to the relevant parts of the submission.
- (3) The hearings panel may request and receive, from any person who makes a report under this clause, any information and advice that is relevant and reasonably necessary for the panel to make its decisions under **section 17** of this Act.

**9 Conference of experts**

- (1) The hearings panel may, at any time before or during a hearing, direct that a conference of experts be held to—
  - (a) clarify a matter or an issue relating to a proposal; or
  - (b) facilitate resolution of a matter or an issue relating to the proposal.
- (2) A conference may be facilitated by a member of the hearings panel or by a person appointed by the panel.
- (3) The facilitator of a conference must, if the hearings panel so directs, prepare a written report on the conference and provide it to—
  - (a) the hearings panel; and
  - (b) the persons who attended the conference.
- (4) A report prepared under **subclause (3)** must not, without a person's consent, include any information that the person communicated or made available at the conference on a without prejudice basis.

**10 Alternative dispute resolution**

- (1) The hearings panel may, at any time before or during a hearing, direct the persons listed in **subclause (2)** to mediation or any other alternative dispute resolution process if—
  - (a) the panel considers that it is—
    - (i) appropriate to do so; and
    - (ii) likely to resolve issues between the parties that relate to the proposal; and

- (b) each person has consented (other than a council, which must participate if directed to do so by the chairperson of the hearings panel).
- (2) The persons are—
  - (a) any submitters; and
  - (b) a council; and
  - (c) any other person that the hearings panel considers appropriate.
- (3) The hearings panel must appoint the mediator or person facilitating the mediation or other process (the **mediator**).
- (4) The mediator must report the outcome of the dispute resolution process to the hearings panel.
- (5) In reporting the outcome under **subclause (4)**, the mediator must not, without a person's consent, include information that the person communicated or made available at the mediation or other process on a without prejudice basis.

#### **11 Availability of evidence and reports**

- (1) The hearings panel must direct a council to make available for inspection on its Internet site and at its offices—
  - (a) any information received by the panel during a hearing on a proposal for which the council is responsible, including information provided under **clause 1(1)(d) or 7(1)(d)** of this schedule; and
  - (b) any report provided to the panel in respect of that proposal under **clauses 3(4), 8, 9(3), or 10(4)** of this schedule.
- (2) A council must give notice to all relevant submitters when it makes the documents referred to in **subclause (1)** publicly available.

#### **12 Protection of sensitive information**

- (1) The hearings panel may, on its own motion or on the application of a submitter, make an order described in **subclause (2)** if it is satisfied that the order is necessary to avoid—
  - (a) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or
  - (b) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information.
- (2) An order may—
  - (a) require the public to be excluded from the whole or a part of a hearing at which the information is likely to be referred to;
  - (b) prohibit or restrict the publication or communication of any information supplied to the hearings panel, or obtained by it, in the course of any

proceedings, whether or not the information may be material to the proposal.

- (3) Before making an order under **subclause (1)**, the hearings panel must be satisfied that, in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.
- (4) An order made under **subclause (2)(a)** is deemed to be a resolution made under section 48(3) to (5) of the Local Government Official Information and Meetings Act 1987.
- (5) An order made under **subclause (2)(b)** may,—
  - (a) in relation to a matter described in **subclause (1)(a)**, take effect from the commencement of the proceedings to which it relates and for an indefinite period or until a date that the hearings panel considers appropriate in the circumstances:
  - (b) in relation to a matter described in **subclause (1)(b)**, take effect from the commencement of the proceeding to which it relates, but ceases to apply after the conclusion of those proceedings.
- (6) On the date that the order ceases to have effect under **subclause (5)(b)**, the provisions of the Local Government Official Information and Meetings Act 1987 apply in relation to information that was the subject of the order.

### *Reporting and notifying*

#### **13 Reports on decisions**

- (1) Every report of the hearings panel must—
  - (a) set out the decision or draft decision of the panel; and
  - (b) provide reasons for the decision, including the reasons for accepting or rejecting submissions on a proposal; and
  - (c) identify the parts (if any) of an existing district plan that a proposal replaces.
- (2) The report may group the submissions according to—
  - (a) the provisions of the proposal to which they relate; or
  - (b) the matters to which they relate.
- (3) The hearings panel is not required to address each submission individually.

#### **14 Draft and final reports on decisions relating to requirements**

- (1) As soon as practicable after making a draft decision on a requirement under **section 17** of this Act, the hearings panel must—
  - (a) prepare and produce a draft report; and
  - (b) serve a copy of the draft report on the relevant council.



- (2) The council must serve a copy of the draft report on the persons listed in **subclause (3)**.
- (3) The persons who must be served under **subclause (2)** are—
  - (a) the Minister; and
  - (b) the relevant requiring authority or heritage protection authority; and
  - (c) any person who made a submission under **Schedule 2** on the relevant requirement.
- (4) Those persons and the council may provide comments on any minor or technical aspects of the report to the council not later than 20 working days after the date of the invitation.
- (5) Comments on minor or technical aspects of the report—
  - (a) may only include comments on minor errors in the report, on the wording of provisions in the proposal, or identification of omissions from the report (for example, the report does not address a certain issue); but
  - (b) must not include comments on the hearing panel’s decision or its reasons for the decision.
- (6) The council must provide comments received under **subclause (4)** to the hearings panel not later than 5 working days after the date specified under **subclause (4)**.
- (7) As soon as practicable after the hearings panel has received any comments under **subclause (4)**, the panel must consider those comments, make its final decision, and produce a final report.

## **15 Public notice and service of decisions**

- (1) As soon as practicable after the hearings panel has made a decision on a proposal under **section 17(1)(b)(i)** of this Act or a final decision under **section 17(1)(b)(ii)** of this Act, it must serve the relevant council with a copy of the decision.
- (2) Not later than 5 working days after a council receives a decision from the hearings panel under **subclause (1)**, it must—
  - (a) give public notice of the decision; and
  - (b) serve a copy of the public notice of a decision on any requirement on—
    - (i) the relevant requiring authority or heritage protection authority; and
    - (ii) the owners and occupiers of land to which a requirement applies; and
  - (c) serve a copy of the public notice on every person who made a submission on the relevant proposal.
- (3) The notice required by **subclause (2)(a)** must—

- (a) identify the persons with a right to appeal against the decision; and
  - (b) state the date by which appeals may be lodged.
- (4) A council must also—
- (a) make a copy of the decision available at all its offices, and all public libraries in its district; and
  - (b) include with the copy of the public notice served under **subclause (2)(a)** a statement of the places where a copy of the decision is available; and
  - (c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

#### **16 Minor corrections**

- (1) The hearings panel may, at any time, issue an amendment to a decision to correct a minor mistake or defect in a decision of the panel.
- (2) This power includes the power to amend or correct a proposal, provided that the amendment or correction is made before the proposal becomes operative in accordance with **section 22** of this Act.

## Schedule 5 Form

cl 5(2) of Schedule 2

### Public notice of proposal

- 1 The [*insert name*] Council has prepared the following proposal to replace some of the provisions of the operative [*insert name*] District Plan (the **proposal**):  
*[Describe the proposal, including which parts (if any) of the existing district plan are intended to be replaced by the proposal.]*
- 2 The proposal may be inspected or purchased at [*place*]. Please contact [*name of person handling queries and contact telephone number*] if you have any questions about the proposal.
- 3 The following persons may make a submission on the proposal:
  - (a) the [*insert name*] Council; and
  - (b) any other person unless that person could gain an advantage in trade competition through the submission, in which case the person may make a submission only if the person is directly affected by an effect of the proposal that—
    - (i) adversely affects the environment; and
    - (ii) does not relate to trade competition or the effects of trade competition.
- 4 To lodge a submission, send a written or an electronic submission to the [*insert name*] Council at [*provide both an address for service for written submissions and an email address for service for electronic submissions*]. The submission must state whether or not you wish to be heard on your submission.
- 5 Submissions close on [*closing date*].
- 6 The process for public participation in the consideration of the proposal under the Act is as follows:
  - (a) after the closing date for submissions, the Council will publish all submissions and give public notice of the availability of the submissions and where the submissions can be inspected; and
  - (b) there must be an opportunity for the following persons to make a further submission in support of, or in opposition to, the submissions already made:
    - (i) any person representing a relevant aspect of the public interest; and
    - (ii) any person who has an interest in the proposal greater than the general public has; and
    - (iii) the Minister for the Environment; and

- (iv) the Council; and
- (c) a hearing must be held before the hearings panel appointed for the purpose under the Housing Emergency Response (Urgent Measures) Act **2021**; and
- (e) the following persons have the right to appeal to the High Court against the decision of the hearings panel but only on a question of law:
  - (i) a person who made a submission on a provision or matter that is the subject of the appeal; and
  - (ii) the Minister for the Environment; and
  - (iii) the Council; and
  - (iv) in the case of a decision on a designation or heritage order, the relevant requiring authority or heritage protection authority and owners and occupiers of land that are directly affected by the decision.

Date:

Signature:

(Signature on behalf of [*insert name*] Council)

**Contact details**

Physical address for service of Council:

Email address for service of Council:

Telephone:

Contact person: [*name and designation, if applicable*]

## Schedule 6

### Threshold new dwelling consent numbers for territorial authorities

s 35(2)

<b>Territorial authority</b>	<b>Threshold number of new dwelling consents</b>
Ashburton District Council	172
Auckland Council	13,113
Buller District Council	37
Carterton District Council	93
Central Hawke's Bay District Council	60
Central Otago District Council	319
Chatham Islands Council	5
Christchurch City Council	2,751
Clutha District Council	65
Dunedin City Council	434
Far North District Council	321
Gisborne District Council	89
Gore District Council	28
Grey District Council	40
Hamilton City Council	1,380
Hastings District Council	364
Hauraki District Council	113
Horowhenua District Council	254
Hurunui District Council	108
Hutt City Council	464
Invercargill City Council	144
Kaikoura District Council	38
Kaipara District Council	217
Kapiti Coast District Council	240
Kawerau District Council	8
Mackenzie District Council	113
Manawatu District Council	174
Marlborough District Council	265
Masterton District Council	161
Matamata-Piako District Council	231
Napier City Council	254
Nelson City Council	264
New Plymouth District Council	469
Ōpōtiki District Council	24
Ōtorohanga District Council	39

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<b>Territorial authority</b>	<b>Threshold number of new dwelling consents</b>
Palmerston North City Council	409
Porirua City Council	320
Queenstown-Lakes District Council	1,162
Rangitikei District Council	40
Rotorua District Council	160
Ruapehu District Council	41
Selwyn District Council	1,313
South Wairarapa District Council	89
South Taranaki District Council	60
South Waikato District Council	53
Southland District Council	120
Stratford District Council	31
Tararua District Council	25
Tasman District Council	441
Taupo District Council	290
Tauranga City Council	1,500
Thames-Coromandel District Council	310
Timaru District Council	203
Upper Hutt City Council	238
Waikato District Council	803
Waimakariri District Council	633
Waimate District Council	23
Waipa District Council	576
Wairoa District Council	10
Waitaki District Council	103
Waitomo District Council	17
Wellington City Council	1,054
Western Bay of Plenty District Council	478
Westland District Council	40
Whakatane District Council	102
Whanganui District Council	136
Whangarei District Council	606