

# Resource Management Reform Bill

Government Bill

## Explanatory note

### General policy statement

This Bill is introduced under Standing Order 260(a). Standing Order 260(a) provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

It is intended to divide the Bill at the committee of the whole House stage so that—

- *Part 1* becomes the Resource Management Amendment Bill;
- *Part 2* becomes the Local Government (Auckland Transitional Provisions) Amendment Bill;
- *Part 3* becomes the Local Government Official Information and Meetings Amendment Bill.

This Bill gives effect to the following policy proposals.

The Bill amends the Resource Management Act 1991 (the **RMA**), the Local Government (Auckland Transitional Provisions) Act 2010, and the Local Government Official Information and Meetings Act 1987. It delivers some fast, discrete improvements to the consenting regime, provides for the delivery of the first combined plan for Auckland, provides further powers to make regulations, and makes technical and operational changes.

These improvements are designed to precede larger-scale resource management reform that will deliver more substantive, system-wide

improvements to increase the long-term resilience of the resource management system, including for freshwater management and the planning system more generally.

The objectives of the Bill are to—

- further streamline the resource consent regime:
- streamline the delivery of Auckland’s first combined plan:
- improve the quality of local decision-making:
- improve the workability of the RMA through minor and technical amendments.

The main measures in the Bill—

- introduce a 6-month consent time frame for medium-sized projects, with other related improvements to consent processes, to address the remaining inefficiencies following the 2009 amendments that improved consenting processes for small and large projects:
- require a consent authority to agree to a request for direct referral if regulations are made that establish an investment threshold and if the proposal meets that threshold, unless there are exceptional circumstances:
- make other improvements to the direct referral provisions:
- introduce a one-off streamlined process to assist with delivering the first combined plan for Auckland following the recent governance reforms:
- introduce the ability for regulations to be made that require local authorities to monitor the environment according to specified priorities and methodologies so as to improve the quality of local decision-making:
- clarify the requirements on local authorities for the analysis that underpins plans and policy statements (as well as regulations), including placing greater emphasis on the need for quantitative assessment of costs and benefits and the need to consider regional economic impact and opportunity costs:
- improve decision-making by local authorities to ensure it is based on adequate, relevant, and robust evidence and analysis, and to increase the level of transparency of decision-making:

- clarify and improve the workability of the RMA through a number of technical changes, including—
  - extending access to the emergency provisions under the RMA to all lifeline utilities to enable action to save life and prevent injury or damage to property or the environment without first gaining resource consent:
  - improving the processing of proposals of national significance:
  - clarifying that a tree protection rule can only apply to a tree or group of trees that is specifically identified in a schedule to a plan by street address or legal description of the land, and that a group of trees means a cluster, grove, or line of trees that are located on the same or adjacent allotments identified by precise location:
  - removing the requirement for boards of inquiry hearing proposals of national significance and special tribunals hearing applications for water conservation orders under the RMA to comply with the meeting requirements under the Local Government Official Information and Meetings Act 1987.

### **Regulatory impact statement**

The Ministry for the Environment produced 2 regulatory impact statements on 13 September 2012 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of the regulatory impact statements can be found at—

- <http://www.mfe.govt.nz/rma/central/amendments/background-info-phase-ii-reforms/index.html>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* states the Bill's title.

*Clause 2* specifies the commencement dates of the Bill's provisions.

For *Part 1*, which amends the Resource Management Act 1991:

- *subpart 1* comes into force on the day after Royal assent:

- *subpart 2* comes into force on the day that is 3 months after Royal assent, except that it comes into force on the day after Royal assent for the purposes of the preparation of the first Auckland combined plan under *Part 2*:
- *subpart 3* comes into force on a date or dates appointed by Order in Council, or 18 months after Royal assent for any provision not in force by then.

*Part 2*, which amends the Local Government (Auckland Transitional Provisions) Act 2010, comes into force on the day after Royal assent.

*Part 3*, which amends the Local Government Official Information and Meetings Act 1987, also comes into force on the day after Royal assent.

## Part 1

### Resource Management Act 1991

*Part 1* amends the Resource Management Act 1991.

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

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

*Clause 4* amends section 2 by repealing the definition of planning document, which had inadvertently narrowed some references to planning documents.

*Clause 5* amends section 29 to enable the Minister of Conservation to delegate in writing to the Environmental Protection Authority (the EPA) his or her functions, powers, and duties under section 149ZD(4) (and for related objections). Section 149ZD(4) enables the responsible Minister to recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry. By virtue of section 148, the Minister of Conservation is the responsible Minister where a proposal of national significance relates wholly to the coastal marine area.

*Clause 6* amends section 32A to clarify that a challenge to an objective, policy, rule, or other method on the ground that section 32 has not been complied with may be made in a submission under section 149E, 149F, or 149O.

*Clause 7* amends section 35 to provide the context and a reference point for regulations made under the *new section 360(1)(hk)* set out in *clause 61* (which relates to indicators or other matters by reference to which a local authority must monitor the state of the environment of its region or district). The amendment also corrects cross-references to other sections.

*Clause 8* amends section 35A to require that information provided under the section (records about iwi and hapu) has to be provided in accordance with regulations made under the Act.

*Clause 9* amends section 39 to clarify that the prohibition on cross-examination in this section does not apply to boards of inquiry appointed under section 149J.

*Clause 10* amends section 42A to ensure that the term local authority is used consistently in this section. Section 42A enables a local authority to prepare or commission a report on issues raised by an application.

*Clause 11* amends section 53 to allow the Minister to correct minor mistakes or defects in a national policy statement without following the usual process.

*Clause 12* amends section 76(4A) to clarify the extent to which a rule protecting a tree or a group of trees may be included in a district plan. The tree or group of trees must be specifically identified in a schedule to the plan by street address or legal description, or both, and, in the case of a group of trees, must satisfy the definition in *new section 76(4B)*.

*Clause 13* amends section 87E to require consent authorities to refer applications for a resource consent directly to the Environment Court if the value of the investment in the proposal is likely to meet or exceed any threshold amount prescribed by regulations, unless exceptional circumstances exist.

*Clause 14* amends section 87F to require consent authorities to—

- address issues and suggest conditions in their reports on applications relating to resource consents:
- provide with their reports a summary of submissions received:
- provide assistance to the Environment Court in relation to their reports.

*Clause 15* amends section 87G to—

- replace subsection (2) with a new subsection that clarifies that the lodgement of a notice of motion with the Environment Court is a referral to the court (similar amendments are in *clauses 40 and 43*):
- clarify that persons who make submissions about an application to a consent authority must give notice to the court if they wish to be heard on the application:
- apply Part 11A to proceedings under the section.

*Clause 16* amends section 95B to clarify the wording.

*Clause 17* amends section 104 consequentially upon the repeal of the definition of planning document by *clause 4*.

*Clause 18* amends section 130 to correct cross-references to other sections.

*Clause 19* amends section 133A to allow a consent authority 20 (up from 15) working days to correct minor mistakes or defects in a resource consent.

*Clause 20* amends section 142 to—

- require that, if a local authority or an applicant requests the Minister to call in a matter, the party making the application has to notify the other party at the same time:
- prevent the Minister from directing that a not-yet-notified regional plan or request for a plan change be referred to the Environment Court for a decision.

*Clause 21* amends section 146 to prevent the EPA from recommending that a not-yet-notified regional plan or request for a plan change be referred to the Environment Court for a decision.

*Clause 22* amends section 147 to prevent the Minister from directing (after an EPA recommendation) that a not-yet-notified regional plan or request for a plan change be referred to the Environment Court for a decision.

*Clause 23* amends section 149, which enables the EPA to request further information for the purposes of processing a matter. The amendments made by this clause—

- remove the requirement for the Minister to have already made a direction under section 142(2):

- enable the EPA to request further information if the applicant or local authority concerned has requested a direction from the Minister under section 142(1)(b).

*Clause 24* amends section 149J to ensure that a board of inquiry can complete its functions, including any work necessary on its part in connection with an appeal.

*Clause 25* amends section 149L to facilitate conferencing for the purposes of inquiries conducted by boards of inquiry.

*Clause 26* amends section 149M to ensure that a board of inquiry considering a request for the preparation of a regional plan or a request for a change to a plan must comply with sections 149F (EPA to receive further submissions if matter is request, change, or variation) and 149O (public notice and submissions where EPA receives proposed plan or change from local authority under section 149N).

*Clause 27* amends section 149P to clarify that section 165H applies instead of section 32 to a board of inquiry before the board makes a decision on a rule in a regional coastal plan or proposed regional coastal plan in relation to the allocation of space in a common marine and coastal area. Section 165H sets out certain matters that a regional council is to have regard to and be satisfied about before including a rule in a regional coastal plan or a proposed regional coastal plan that relates to allocation of space in a common marine and coastal area for the purposes of an activity.

*Clause 28* amends section 149R to exclude the period 20 December to 10 January from the 9-month time limit within which a board of inquiry must produce its final report.

*Clause 29* inserts *new section 149RA*. *New section 149RA* enables a board of inquiry to correct minor mistakes in a decision, resource consent, plan, designation, or heritage order made or given by the board.

*Clause 30* amends section 149S to enable the EPA, on behalf of a board of inquiry, to request that the Minister exercise his or her power under the section to extend the 9-month period in which a board is to report. This would bring the process for requesting an extension within the board of inquiry hearing process.

*Clauses 31 and 32* amend sections 149ZB and 149ZC, respectively, to correct cross-references to other sections.

*Clause 33* amends section 165ZFE to require regional councils to grant requests to refer an application for a coastal permit directly to the Environment Court if the value of the investment in the proposal is likely to meet or exceed any threshold amount prescribed by regulations, unless exceptional circumstances exist.

*Clauses 34 to 37* amend sections 168A, 169, 189A, and 190, respectively, to correct cross-references to other sections.

*Clause 38* amends section 198C to require territorial authorities to grant requests to refer requirements relating to designations or heritage orders directly to the Environment Court if the value of the investment in the proposal is likely to meet or exceed any threshold amount prescribed by regulations, unless exceptional circumstances exist.

*Clause 39* amends section 198D to require territorial authorities to—

- address issues and suggest conditions in their reports on requirements for designations or heritage orders:
- provide with their reports a summary of submissions received:
- provide assistance to the Environment Court in relation to their reports.

*Clause 40* amends section 198E to—

- replace subsection (2) with a new subsection that clarifies that the lodgement of a notice of motion with the Environment Court is a referral to the court (similar amendments are in *clauses 15 and 43*):
- clarify that persons who make submissions about an application to a consent authority must give notice to the court if they wish to be heard on the requirement:
- apply Part 11A to proceedings under the section.

*Clause 41* amends section 198I to require territorial authorities to grant requests to refer requirements relating to designations or heritage orders directly to the Environment Court if the value of the investment in the proposal is likely to meet or exceed any threshold amount prescribed by regulations, unless exceptional circumstances exist.

*Clause 42* amends section 198J to require territorial authorities to—

- address issues and suggest conditions in their reports on requirements for a designation or heritage order:



- provide with their reports a summary of submissions received;
- provide assistance to the Environment Court in relation to their reports.

*Clause 43* amends section 198K to—

- replace subsection (1) with a new subsection that clarifies that the lodgement of a notice of motion with the Environment Court is a referral to the court (similar amendments are in *clauses 15 and 40*):
- clarify that persons who make submissions about an application to a consent authority must give notice to the court if they wish to be heard on the requirement:
- apply Part 11A to proceedings under the section.

*Clause 44* amends section 269 to require the Environment Court to regulate its proceedings in a manner that best promotes their timely and cost-effective resolution.

*Clause 45* amends section 274 to prevent certain persons from becoming parties to proceedings before the Environment Court by referring to *new section 308CA* (inserted by *clause 49*), which relates to trade competition. Section 274 is also amended so that a notice to become a party to proceedings is given to all other parties 5 days after the notice is given to the court and others.

*Clause 46* amends section 281B to allow a person 10 (up from 5) working days to apply for reconsideration of a Registrar's decision.

*Clause 47* amends section 285 to ensure that a consent authority or territorial authority can recover costs incurred by it in assisting the Environment Court at a hearing where its report under section 87F, 165ZFE, 198D, or 198J is considered.

*Clause 48* amends section 308A to extend the definition of person C (which relates to trade competition) to include certain persons who receive help to be parties to proceedings before the Environment Court that result from direct referral or the Minister calling in the matter (**directly referred or called-in proceedings**).

*Clause 49* inserts *new section 308CA*. The new section applies to directly referred or called-in proceedings. A person is prevented from becoming a party to the proceedings by being directly affected by an adverse effect on the environment if the effect relates to trade competition or the effects of trade competition.

*Clause 50* amends section 308D to prevent a person from becoming a party to directly referred or called-in proceedings if the purpose of becoming a party relates to trade competition in certain ways.

*Clause 51* replaces section 308E. The *new section 308E* extends the section to prevent a person from helping another person become a party to directly referred or called-in proceedings for certain purposes relating to trade competition.

*Clause 52* amends section 308F to extend a person's obligation to disclose the person's status relating to trade competition so that it applies to directly referred or called-in proceedings.

*Clause 53* amends section 310 to correct cross-references to other sections.

*Clause 54* amends section 318 so that, for an application for an enforcement order, the court must hear a person against whom the order is sought only if the person notifies the Registrar within 15 working days after being notified of the application.

*Clause 55* amends section 330(1) to include lifeline utilities within the class of works in relation to which sections 9, 12, 13, 14, and 15 do not apply in emergency situations. The clause also inserts a *new subsection 330(5)*, which defines **lifeline utility** by using a modified definition of that term as set out in section 4 of the Civil Defence Emergency Management Act 2002. The definition also applies for the purposes of section 330A.

*Clause 56* amends section 330A to include lifeline utilities and is a consequential amendment to the amendment made under *clause 55*.

*Clause 57* inserts a new cross-heading and *new section 336* to re-enact a heading and section that were inadvertently repealed.

*Clause 58* amends section 357 to extend a cross-reference to a new subsection of section 198C.

*Clause 59* amends section 357A to extend a cross-reference to a new subsection of section 87E.

*Clause 60* amends section 357C so that the person or body to which an objection is made need not give notice of a hearing if the objection is resolved.

*Clause 61* amends section 360 to enable the making of regulations—

- specifying indicators or other matters by reference to which a local authority must monitor the state of the environment of its region or district:

- requiring local authorities to provide information gathered under sections 35 and 35A to the Minister within the time limits specified in the regulations;
- prescribing thresholds (and matters that may indicate that exceptional circumstances exist) for the purposes of the amendments in *clauses 13, 33, 38, and 41* (the amendments to sections 87E, 165ZFE, 198C, and 198I, respectively).

*Clauses 62 to 65* amend sections 390C, 391A, 393, and 409, respectively, to correct cross-references to other sections.

*Clause 66* inserts *new Part 16*. The new Part contains *new section 434*, which gives effect to the transitional provisions set out in *new Schedule 12* (which relate to amendments made on or after 1 January 2013).

*Clause 67* inserts *new Schedule 12*, which contains the transitional provisions relating to the amendments by the Bill to the Resource Management Act 1991.

*Clause 68* consequentially repeals section 152 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

*Subpart 2—Amendments that commence 3  
months after Royal assent (or day after Royal  
assent for certain purposes)*

The main amendment in this subpart replaces section 32 with *new sections 32 and 32AA*. All of the other amendments in this subpart are consequential amendments that are required as a result of section 32 being replaced.

*Clause 69* replaces section 32 with *new sections 32 and 32AA*. *New section 32* sets out the requirements for preparing and publishing evaluation reports. *New section 32AA* sets out the requirements for undertaking and publishing further evaluations. The circumstances in which an evaluation report or a further evaluation must be prepared or undertaken have been removed from section 32 and instead been inserted as part of the procedural requirements for the preparation of the relevant documents. For example, the requirement for the Minister to prepare an evaluation report for a national environmental standard is now set out in *new section 44(2)(ba)* (see *clause 71*).

*New section 32* clarifies certain aspects of section 32 and adds further requirements, particularly concerning the anticipated economic effects of the proposed standard, statement, regulation, or plan being evaluated (the **proposal**). In particular,—

- other reasonably practicable options for achieving the objectives of the proposal must be identified; and
- the efficiency and effectiveness of the provisions of the proposal in achieving the objectives of the proposal must be assessed; and
- the reasons for deciding on the provisions of the proposal must be summarised; and
- the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal must be identified, assessed, and (if practicable) quantified, with particular attention being drawn to the opportunity costs for economic growth that are anticipated to be lost (but not those to be gained), as well as the opportunity costs for employment that are provided or reduced; and
- the level of detail required in an evaluation report must correspond to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

The requirements for undertaking further evaluations are set out in *new section 32AA* in order to make it clear that the requirements for a further evaluation are different from those for an evaluation report. While the matters in *new section 32* must be considered in a further evaluation, they need only be considered in relation to the changes that have been made to a proposed statement, plan, or change since the evaluation report for the statement, plan, or change was completed, and the level of detail of the further evaluation must correspond to the scale and significance of the changes. A further evaluation may be carried out by producing an evaluation report, or it may be documented as part of the overall decision-making process.

*Clause 70* consequentially amends section 32A to reflect the changes made by *new sections 32 and 32AA*.

*Clause 71* amends section 44 by requiring an evaluation report to be prepared for a national environmental standard in accordance with *new section 32* and by requiring the Minister to have particular regard

to that report when deciding whether to recommend the making of the standard.

*Clause 72* amends section 46 by requiring an evaluation report to be prepared for a proposed national policy statement in accordance with *new section 32* and by requiring the Minister to have particular regard to that report when deciding whether to issue the statement.

*Clause 73* amends section 46A(1)(b) by inserting a specific requirement for the Minister to publicly notify the public and iwi authorities of a proposed national policy statement. Section 46A(1)(b)(i) implies that this is already required, but this amendment clarifies the issue, aligns section 46A(1)(b) with section 44(2)(a), and clarifies the point at which an evaluation report for a national policy statement must be publicly notified in accordance with *new section 32(5)*.

*Clause 74* amends section 52 by inserting a requirement for a further evaluation of a proposed national policy statement to be undertaken in accordance with *new section 32AA* and a requirement for the Minister to have particular regard to that evaluation when deciding whether to recommend the statement.

*Clauses 75, 76, and 77* consequentially amend sections 61, 66, and 74, respectively, to reflect the changes made by *new sections 32 and 32AA*.

*Clause 78* amends section 165H in order to clarify the interface between this section and *new sections 32 and 32AA*. This is achieved by making it clear that *new sections 32 and 32AA* do not apply when a regional council includes an allocation rule in a regional coastal plan or a proposed regional coastal plan. Instead, new requirements about the preparation and publication of a report are inserted into section 165H itself.

*Clause 79* consequentially amends section 310 to reflect the changes made by *new sections 32 and 32AA*.

*Clause 80* amends section 360B by requiring an evaluation report to be prepared for proposed regulations in accordance with *new section 32* and by requiring the Minister to have particular regard to that report when deciding whether to recommend the making of the regulations.

*Clause 81* amends clause 5 of Schedule 1 by requiring an evaluation report to be prepared for a proposed policy statement or plan in accordance with *new section 32* and by requiring the local authority to

have particular regard to that report when deciding whether to proceed with the statement or plan.

*Clause 82* amends clause 10 of Schedule 1 by inserting a requirement for a further evaluation of a proposed policy statement or plan to be undertaken in accordance with *new section 32AA* and a requirement for the local authority to have particular regard to that evaluation when making a decision on provisions and matters raised in submissions on a proposed policy statement or plan.

*Clause 83* consequentially amends clause 22 of Schedule 1 to reflect the changes made by the insertion of *new section 32*.

*Clause 84* amends clause 25 of Schedule 1 by inserting a requirement for a local authority to have particular regard to a further evaluation prepared for a proposed plan or change in accordance with *new section 32*. The local authority must do this when deciding how to deal with a request made by a person under clause 21 of Schedule 1 for a change to be made to a plan or a policy statement, or for a plan to be prepared.

*Clause 85* amends clause 29 of Schedule 1 by inserting a requirement for a further evaluation of a plan or change to be undertaken in accordance with *new section 32AA* and a requirement for the local authority to have particular regard to that evaluation before declining, approving, or approving with modifications the plan or change.

### *Subpart 3—Amendments that commence by Order in Council*

*Clause 86* amends section 41B to remove the alternative time limits for commencing a hearing that applied when an authority required early briefs of evidence under that section. The alternative time limits are now specified in each section that still requires them.

*Clause 87* amends section 42A so that a report may adopt any information (not just an assessment of environmental effects) included in an application for a resource consent.

*Clause 88* amends section 87G to increase from 10 to 15 working days the time allowed for lodging an applicant's notice of motion with the Environment Court in a case where an application relating to a resource consent is referred directly to the court.

*Clause 89* amends section 87I so that an application must be determined by a consent authority if the applicant does not lodge a notice

of motion with the Environment Court. The authority does not have to wait to discover whether the applicant continues to want the application determined.

*Clause 90* amends section 88—

- to require an application for a resource consent to include all information required by *new Schedule 4* in accordance with that schedule (which now requires other information in addition to an assessment of environmental effects):
- to allow a consent authority 10 (up from 5) working days to determine that an application is incomplete.

*Clause 91* replaces section 88B with *new sections 88B and 88BA*. *New section 88B* provides for the deferral of deadlines to allow time for processes relating to applications for resource consent. The section tries to clarify how the clock is stopped for certain processes and how deadlines are consequently deferred. *New section 88BA* contains a table listing the provisions with deadlines and the provisions that specify the time allowed for processes that affect each deadline, which can result in deadlines being deferred.

*Clause 92* amends section 88C so that a deadline is affected by only the first request for further information that is made before notification. The time allowed for the process now starts on the third working day after the date of the request. Section 88C is also amended for consistency with *new sections 88B and 88BA*.

*Clause 93* replaces section 88D. The *new section 88D* takes a new approach to the time allowed for direct referral processes. Time is now allowed for the following processes:

- a request for direct referral that is declined, without objection by the applicant:
- a request for direct referral that is declined, with an objection by the applicant being dismissed:
- a request for direct referral that is granted, or that is declined but with an objection by the applicant being upheld.

Section 88D is also amended for consistency with *new sections 88B and 88BA*.

*Clause 94* amends section 88E. The amendments clarify the time allowed for the process of trying to obtain the approval of certain affected persons or groups. The amendments also allow time for any period during which an application is suspended under *new section*

*91A* (see clause 96). And section 88E is amended for consistency with *new sections 88B and 88BA*.

*Clause 95* amends section 88F for consistency with *new sections 88B and 88BA*.

*Clause 96* inserts *new sections 91A to 91C*. *New section 91A* lets the applicant have the processing of an application suspended. *New section 91B* provides for when a suspension ceases, which includes cessation on request by the applicant. *New section 91C* lets the consent authority return the application to the applicant if, on a total of 130 or more working days, the clock has been stopped in relation to the application's deadlines (which includes time during which the application has been suspended).

*Clause 97* amends section 95 to allow a consent authority 20 (up from 10) working days to decide whether to notify an application.

*Clause 98* replaces section 97. The *new section 97* has the closing date for submissions end early when all affected persons have served submissions on the consent authority after limited notification of an application.

*Clause 99* amends section 101 to remove the time limit for commencing the hearing for a notified application and to allow a consent authority 35 (up from 25) working days to commence the hearing for a non-notified application.

*Clause 100* replaces section 103A with *new sections 103A and 103B*. The *new section 103A* replaces the time limit for completing certain adjourned hearings and instead sets a time limit for completing a hearing for a notified application. The *new section 103B* also applies to a hearing for a notified application and requires certain things to be done within time limits before the hearing. The applicant and submitters must provide evidence to the consent authority and the consent authority must provide copies of a report and of evidence to the applicant and submitters.

*Clause 101* amends section 107F to update a cross-reference to a new subsection of section 88.

*Clause 102* amends section 115 to remove the special case for where section 87I applies and a hearing is not held. Instead, time is now allowed for direct referral processes in the provisions under which deadlines are deferred.



*Clause 103* amends section 149Z to update a cross-reference to include a new subsection of section 88.

*Clause 104* amends section 165ZFE to increase from 10 to 15 working days the time allowed for lodging an applicant's notice of motion with the Environment Court in a case where an application that is subject to a PHT requirement is referred directly to the court.

*Clause 105* amends section 165ZM to update a cross-reference to include *new section 91A* (which relates to suspension of the processing of an application).

*Clause 106* amends section 165ZP to update a cross-reference to a new subsection of section 88.

*Clause 107* amends section 165ZQ to match the amended time limit in section 88 and to update a cross-reference to include a new subsection of section 88.

*Clause 108* amends section 168A to specify alternative time limits for commencing a hearing for a notice of requirement for a designation.

*Clause 109* amends section 169 to—

- retain a time limit of 10 working days for deciding whether to notify a notice of requirement for a designation, despite an amendment increasing the time limit in section 95;
- specify alternative time limits for commencing a hearing for a notice of requirement for a designation.

*Clause 110* amends section 181 to extend the sections applied to an alteration of a designation so that they include *new sections 198AA to 198AE* (which relate to the clock stopping during the time allowed for certain processes and the consequent deferral of deadlines that relate to requirements for designations or heritage orders).

*Clause 111* amends section 189A to specify alternative time limits for commencing a hearing for a notice of requirement for a heritage order.

*Clause 112* amends section 190 to—

- retain a time limit of 10 working days for deciding whether to notify a notice of requirement for a heritage order, despite an amendment increasing the time limit in section 95;
- specify alternative time limits for commencing a hearing for a notice of requirement for a heritage order.

*Clause 113* amends section 195A to extend the sections applied to an alteration of a heritage order so that they include *new sections 198AA to 198AE* (which relate to the clock stopping during the time allowed for certain processes and the consequent deferral of deadlines that relate to requirements for designations or heritage orders).

*Clause 114* inserts a new cross-heading and *new sections 198AA to 198AE*. *New section 198AA* provides for the deferral of deadlines to allow time for processes relating to designations and heritage orders. The section tries to clarify how the clock is stopped for certain processes and how deadlines are consequently deferred. *New section 198AB* contains a table listing the provisions with deadlines and the provisions that specify the time allowed for processes that affect each deadline, which can result in deadlines being deferred. *New section 198AC* covers the time allowed for processes relating to provision of further information. *New section 198AD* covers the time allowed for processes relating to direct referral. *New section 198AE* covers the time allowed for processes relating to other matters: attempts to obtain the approval of certain affected persons or groups and referral to mediation.

*Clause 115* amends section 198E to increase from 10 to 15 working days the time allowed for lodging an applicant's notice of motion with the Environment Court in a case where a requirement relating to a designation or heritage order is referred directly to the court by a requiring authority or a heritage protection authority.

*Clause 116* amends section 198G so that a requirement must be dealt with by a territorial authority if the requiring authority or heritage protection authority does not lodge a notice of motion with the Environment Court. The territorial authority does not have to wait to discover whether the requiring authority or heritage protection authority continues to want the requirement dealt with.

*Clause 117* amends section 198K to increase from 10 to 15 working days the time allowed for lodging an applicant's notice of motion with the Environment Court in a case where a requirement relating to a designation or heritage order is referred directly to the court by a territorial authority.

*Clause 118* amends section 198M so that a requirement must be dealt with by a territorial authority if it does not lodge a notice of motion with the Environment Court. The amendment is consistent with amendments to sections 87I and 198G.

*Clause 119* amends section 206 to correct cross-references to other sections, to specify alternative time limits for commencing a hearing for an application for a water conservation order, and to clarify the effect of section 206(4).

*Clause 120* amends clause 22(2) of Schedule 1 to refer only to the clauses in *new Schedule 4* that now relate to an assessment of environmental effects.

*Clause 121* replaces Schedule 4. The *new Schedule 4* sets out more information that must be included in an application for a resource consent. It still requires an assessment of environmental effects.

## **Part 2**

### **Local Government (Auckland Transitional Provisions) Act 2010**

*Clause 122* provides that *Part 2* amends the Local Government (Auckland Transitional Provisions) Act 2010.

*Clause 123* amends section 3(2) by inserting a new item into the list of purposes of the Act relating to the first combined planning document for Auckland Council under the Resource Management Act 1991 (the **RMA**). This amendment relates to the amendment made by *clause 125*.

*Clause 124* amends section 5, which empowers the making of transitional regulations for a limited period of time. *New section 5(4)* authorises the making of transitional regulations for the purposes of preparing the first Auckland combined planning document under *new Part 4* of the Act (as inserted by *clause 125*). Under *new section 5(6)*, the Minister is prohibited from recommending the making of regulations under *new section 5(4)* unless he or she is satisfied that the regulations are necessary or desirable for the development of the first Auckland combined plan and are consistent with the purposes of the Act as set out in section 3(2). *New section 5(7)* sets out the date on which any regulations made under these new provisions are revoked with no further legal effect.

*Clause 125* inserts a *new Part 4* (*new sections 115 to 163*). *New Part 4* sets out the process for the development of the first integrated planning instrument for Auckland Council, the Auckland combined plan.

*New section 115* provides an overview of the new Part. This section is only a guide to the general scheme and effect of the Part and does not affect the interpretation or application of the other provisions of the Part.

*New section 116* is the interpretation section for the new Part and defines significant words. It also provides that, unless the context requires another meaning, a term or expression used and not defined in the Part, but defined in the RMA, has the same meaning as in that Act.

*New section 117* states that the Part only applies to the preparation of the first Auckland combined plan. Once operative, the plan may be changed only in accordance with the RMA.

#### *Initial preparation of proposed Auckland combined plan*

*New sections 118 to 123* set out how the Auckland Council must prepare the proposed plan for the first combined plan.

*New section 118* requires the Council to prepare the proposed plan in accordance with this Part and the RMA, to the extent provided in *new subsections (1)(b), (2), and (3)*.

*New section 119* specifies each planning document that is required to be included in the combined plan and provides that, once approved by the Auckland Council, the combined plan is deemed, for the purposes of the RMA, to be a plan or regional policy statement separately prepared and approved by the Council for its region or district, as the case may be.

*New section 120* requires the Auckland Council to use clauses 1 to 8A of Schedule 1 of the RMA, as modified in the manner set out in the new section, to prepare the proposed plan. *New subsection (9)* provides that a person who makes an electronic submission under clause 6 or 8 of Schedule 1 of the RMA is to be treated as having specified as an address for service the email address from which the submission is received.

*New section 121* prohibits the Auckland Council from amending or varying the proposed plan before it is operative, subject to the matters set out in *new subsections (2) and (3)*.

*New section 122* modifies how sections 32 and 165H of the RMA (as replaced or amended by *Part 1* of the Bill) apply to the Auckland

Council and the proposed plan by requiring an audit of the reports prepared under those sections by the Ministry for the Environment. *New section 123* sets out the information that the Auckland Council must provide to the Hearings Panel (established under *new section 155*).

*Hearings Panel to hold Hearing into submissions on proposed plan*

*New sections 124 to 131* require the Hearings Panel to hold a Hearing into submissions on the proposed plan. The provisions set out the rights of submitters and the powers of the Hearings Panel to authorise meetings and conferences to clarify or resolve issues relating to the plan.

*New section 124* requires the Hearings Panel to hold a Hearing, by means of 1 or more hearing sessions, into submissions on the proposed plan. Each hearing session must be held in public unless *new subsection (2)(a) or (b)* applies (which relates to sensitive information and the Local Government Official Information and Meetings Act 1987).

*New section 125* provides that every person who has made a submission and stated that they wished to be heard at the Hearing may speak at a hearing session, either personally or through a representative, and call evidence.

*New section 126* sets out the notice requirements for hearing sessions in relation to submitters and requiring authorities with designations or heritage protection orders included in the proposed plan.

*New section 127* authorises the Hearings Panel to invite or require certain persons, including submitters and the Auckland Council, to attend a meeting before a hearings session for the purpose of clarifying a matter or issue relating to the proposed plan or facilitating resolution of a matter or issue relating to the proposed plan.

*New section 128* spells out the consequences for a submitter who, when required to attend a meeting under *new section 127*, fails to do so without reasonable excuse: the Hearings Panel may decline to consider the person's submission. If it does so, the person loses the rights set out in *new subsection (3)* subject to a successful objection to the Hearings Panel decision under *new section 148*.

*New section 129* authorises the Hearings Panel to direct that a conference of experts be held for the purpose of clarifying a matter or issue relating to the proposed plan or facilitating resolution of a matter or issue relating to the proposed plan. The Auckland Council may attend a conference under this section only if authorised to do so by the Hearings Panel.

*New section 130* authorises the Hearings Panel to refer certain persons, including submitters and the Auckland Council, to mediation or any other alternative dispute resolution process, if the Panel considers that it is appropriate to do so and likely to resolve issues between the parties relating to the proposed plan. The Panel may refer a submitter only with the consent of the submitter. However, the Council must participate if referred by the Panel.

*New section 131* authorises the chairperson of the Hearings Panel to receive late submissions made on the proposed plan. In making a decision, the chairperson is required to take into account the matters set out in *new subsection (3)*.

### *Hearing procedure*

*New sections 132 to 138* set out procedural matters for the Hearing generally and each hearing session.

*New section 132* sets out requirements relating to each hearing session, including that no fewer than 3 members of the Hearings Panel must be present at each session. The section authorises the Hearings Panel to permit parties to question other parties or witnesses and to permit cross-examination and requires the Panel to receive evidence in Māori. Otherwise, the section authorises the Panel to establish a procedure for hearing session that is appropriate and fair in the circumstances, avoids unnecessary formality, and, where appropriate, recognises tikanga Māori.

*New section 133* requires the Auckland Council to attend each hearings session, unless excused by the Hearings Panel, for the purposes of assisting the Panel in 1 or more of the following ways: to clarify or discuss matters in the proposed plan; to give evidence, to speak to submissions or address issues raised by them; and to provide any other relevant information as requested by the Hearings Panel.

*New section 134* provides that sections 4, 4B, 4D, 6, and 7 of the Commissions of Inquiry Act 1908 apply to each hearing session as

if the Hearings Panel were a Commission, and the Hearing were an inquiry, under that Act. Those sections respectively relate to powers to maintain order, evidence, the power to summon witnesses, protection of witnesses and other persons, and the payment of allowances to witnesses. *New section 134(3)* requires all allowances for a witness to be paid by the party on whose behalf the witness is called, with the exception of those called by the Hearings Panel, in which case, the Council must pay (*see new section 134(4)*).

*New section 135* authorises the Hearings Panel to direct submitters in relation to providing briefs of evidence before a hearing session.

*New section 136* authorises the Hearings Panel to make certain directions and requests before or at a hearing session, including that the whole or a part of a submission be struck out. A person whose submission is struck out has a right of objection under *new section 148*.

*New section 137* authorises the Hearings Panel to make an order requiring that the whole or part of a hearing session or class of hearing sessions be held with the public excluded to protect sensitive information if it is satisfied of a matter set out in *new subsection (a) or (b)*.

*New section 138* authorises the Hearings Panel to commission reports on submissions, any matter arising from a hearing session, or any other matter that the Panel considers necessary for the purposes of making its recommendations under *new section 139*.

#### *Recommendations of Hearings Panel*

*New sections 139 to 142* relate to the recommendations of the Hearings Panel made on the proposed plan to the Auckland Council at the completion of the hearing sessions.

*New section 139* requires the Hearings Panel to make recommendations on the proposed plan after it has finished hearing submissions, including any recommended changes to the proposed plan. Recommendations are not required to be limited to the scope of the submissions and may also address any other matters relating to the proposed plan identified by the Panel or any other person during the hearing process. The Hearings Panel must provide the recommendations, in a report, to the Council within the time frame set out in *new section 141 (see new section 139(3))*. The report may also include matters relating to any consequential alterations necessary to the proposed plan arising from submissions and any other matter that the Hearings

Panel considers relevant to the proposed plan arising from submissions or otherwise.

*New section 140* sets out the matters that the Hearings Panel must have regard to, take account of, include, or ensure compliance with, in formulating its recommendations. This includes the spatial plan for Auckland prepared and adopted under section 79 of the Local Government (Auckland Council) Act 2009.

*New section 141* requires the Hearings Panel to provide its report under *new section 139(3)* to the Auckland Council no later than the date that is 50 working days before the expiry of 3 years from the date on which the Council has notified the proposed plan in accordance with *new section 120*, unless *new section 142* applies.

*New section 142* authorises the Hearings Panel and the Auckland Council to request the Minister for the Environment to extend the deadline under *new section 141* for up to 1 year.

#### *Council decisions on recommendations*

*New sections 143 to 145* set out how the Council must deal with the recommendations it receives from the Hearings Panel on the proposed plan.

*New section 143* requires the Auckland Council to decide whether to accept or reject each recommendation of the Hearings Panel and, for each rejected recommendation, decide an alternative solution, which may or may not include elements of both the proposed plan as notified and the Hearings Panel's recommendation in respect of that part of the proposed plan but which must not go beyond the scope of the submissions made on the proposed plan. In making its decisions, the Council is not required to consult any person or consider submissions or other evidence from any person. *New subsection (3)* provides, to avoid doubt, that the Council may accept recommendations of the Hearings Panel that are beyond the scope of the submissions made on the proposed plan. Under *new subsection (4)(a)*, the Council must, no later than 20 working days after being provided with the Hearings Panel's report under *new section 141*, publicly notify its decisions in a way that sets out the following information:

- each recommendation of the Hearings Panel that it accepts;
- and



- each recommendation of the Hearings Panel that it rejects and the reasons for doing so; and
- the alternative solution for each rejected recommendation.

The Council must also electronically notify each requiring authority affected by the decisions of the Council. The notification must contain the information referred to above that specifically relates to the decision recommending that the authority confirm, modify, impose conditions on, or withdraw the designation or heritage protection order concerned (*see new subsection (4)(b)*).

*New section 144* authorises the Council to request the Minister for the Environment to extend the deadline under *new section 143(4)(a)* by up to 20 working days.

*New section 145* requires the Council to release the report of the Hearings Panel required under *new section 139(3)* on the Council's Internet site and to make the report available for inspection during working hours, free of charge, at the offices of the Council.

#### *Proposed plan deemed approved or adopted*

*New section 146* applies to the proposed plan once the Auckland Council publicly notifies its decisions on the recommendations of the Hearings Panel under *new section 143(4)(a)*. The proposed plan, other than those parts relating to the coastal marine area, designations, and heritage orders,—

- is amended in accordance with the decisions of the Council; and
- is deemed to have been approved by the Council under clause 17(1) of Schedule 1 of the RMA on and from the date on which the appeal period expires, if no appeals are made under *new section 149* of this Act, or the date on which all appeals, including further appeals, are determined, if appeals are made under that section.

The parts of the proposed plan relating to the coastal marine area—

- are amended in accordance with the decisions of the Council; and
- on and from the date referred to in *new subsection (3)(b)*, are deemed to have been adopted by the Council under clause 18(1) of Schedule 1 of the RMA and must be sent by the

Council to the Minister of Conservation for his or her approval under clause 18(3) of that schedule.

The parts of the proposed plan relating to designations and heritage orders are amended in accordance with the decisions of the relevant requiring authorities under section 172 of the RMA on and from the date on which the appeal period expires, if no appeals are made under *new section 149* of this Act, or the date on which all appeals, including further appeals, are determined, if appeals are made under that section.

*RMA provisions relating to legal effect of rules apply*

*New section 147* applies sections 86A to 86G of the RMA (which relate to the legal effect of rules in a propose plan), with all necessary modifications, to a rule contained in the proposed plan to which this Part applies.

*Objections, appeals, and judicial review*

*New sections 148 to 153* set out the rights of objection, appeal, and judicial review available to a submitter and the Auckland Council under this Part.

*New section 148* provides a submitter on the proposed plan with the following rights of objection to the Hearings Panel:

- the right to object to a decision of the Hearings Panel under *new section 128* to decline to consider the person's submission:
- the right to object to a decision of the Hearings Panel to strike out the whole or a part of the person's submission under *new section 136(2)*.

An objection must be made by notice in writing, setting out the reasons for the objection, no later than 15 working days after the decision is notified to the person or any longer time allowed by the Hearings Panel. The Hearings Panel must consider the objection and hold a hearing. A decision of the Hearings Panel under this section is final and there is no right of appeal against it.

*New section 149* specifies the rights of appeal of a submitter on the proposed plan, being those under *new sections 150 and 152*. These are the only appeal rights available.

*New section 150* provides a submitter with a right of appeal to the Environment Court in respect of a provision or matter relating to the proposed plan that the person addressed in their submission and in relation to which the Council rejected a recommendation of the Hearings Panel, resulting in a provision being included in the proposed plan or a matter being excluded from the proposed plan.

*New section 151* provides a submitter who made a relevant submission and the Auckland Council with a right of appeal to the Environment Court against any aspect of a requiring authority's decision included in the proposed plan in accordance with *new section 146(4)*. An appeal under this section must be treated as if it were an appeal under section 174 of the RMA, and that section and Parts 11 and 11A of the RMA apply to the appeal (including, to avoid doubt, sections 299 to 308 of that Act).

*New section 152* provides a submitter with a right of appeal to the High Court in respect of a provision or matter relating to the proposed plan that the person addressed in their submission and in relation to which the Council accepted a recommendation of the Hearings Panel, resulting in a provision being included in the proposed plan or a matter being excluded from the proposed plan. However, the appeal may only be on a question of law.

*New section 153* provides that nothing in *new Part 4* limits or affects any right of judicial review a person may have in respect of any matter to which the Part applies, except as provided in *new section 151(2)* (which applies section 296 of the RMA, being in Part 11 of that Act).

#### *Auckland Council to notify when plan operative*

*New section 154* requires the Council to notify the date on which the plan, or each part of the plan, as the case may be, will become operative in accordance with clause 20 of Schedule 1 of the RMA.

#### *Hearings Panel*

*New sections 155 to 163* relate to the establishment of the Hearings Panel, the appointment of its members, and related provisions.

*New section 155* requires the Minister for the Environment and the Minister of Conservation to establish a Hearings Panel. The Panel comprises a chairperson and 3 to 7 other members, all of whom the

Ministers must appoint jointly after consulting the Auckland Council and the Independent Māori Statutory Board. The Ministers must appoint members who collectively have knowledge of, and expertise in relation to, the matters listed in *new subsection (4)(a) to (d)*.

*New section 156* sets out the procedural requirements for how a member must be appointed.

*New section 157* sets out when a member ceases to hold office.

*New section 158* sets out the functions of the Hearings Panel.

*New section 159* sets out the powers of the chairperson of the Hearings Panel.

*New section 160* provides that the Hearings Panel exists until it has completed the exercise or performance of its functions and powers in relation to the Hearing, including any appeals in relation to the Hearing that are filed in any court.

*New section 161* provides that a member is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the Hearings Panel.

*New section 162* imposes responsibility on the Auckland Council for all costs incurred by the Hearings Panel, and the activities related to the performance or exercise of the Panel's functions and powers, under this Part, including the remuneration and expenses of the Hearings Panel. *New subsection (3)* requires members of the Panel to be paid remuneration at a rate determined by the Minister for the Environment after consultation with the Council and actual and reasonable travelling and other expenses in accordance with the Fees and Travelling Allowances Act 1951.

*New section 163* applies the Local Government Official Information and Meetings Act 1987, with any necessary modifications, to the Hearings Panel as if it were a board of inquiry given authority to conduct a hearing under section 149J of the RMA.

### **Part 3**

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

*Clause 126* provides that *Part 3* amends the Local Government Official Information and Meetings Act 1987.

*Clause 127* amends section 45, the interpretation section for Part 7, by inserting *new subsection (1A)*. *New subsection (1A)* narrows the scope of the definition of meeting in relation to local authorities that are boards of inquiry or special tribunals given authority to conduct hearings under section 149J or 202 of the Resource Management Act 1991 to only those meetings of the boards or tribunals that are hearings.

*Clause 128* inserts a *new section 45A*. *New section 45A* limits the application of Part 7 of the Act, which deals with local authority meetings, to sections 48 and 53 in relation to boards of inquiry and to special tribunals referred to in *clause 127*.

*Clauses 129 and 130* insert, respectively, *new section 59 and new Schedule 6*. *New section 59* provides for the transitional provisions set out in *new Schedule 6* to have effect on or after 1 January 2013. The transitional provisions provide that the amendments made by *clauses 127 and 128* apply to boards of inquiry and special tribunals referred to in *clause 127*, whether appointed before or after the day on which *Part 3* of the Bill comes into force.

### Schedules

There are 3 schedules, as follows:

- *Schedule 1* contains the *new Schedule 4* of the Resource Management Act 1991, which is inserted by *clause 121 of Part 1* to replace the existing schedule:
  - *Schedule 2* contains the *new Schedule 12* of the Resource Management Act 1991, which is inserted by *clause 67 of Part 1*:
  - *Schedule 3* contains the *new Schedule 6* of the Local Government Official Information and Meetings Act 1987, which is inserted by *clause 130 of Part 3*.
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*Hon Amy Adams*

## **Resource Management Reform Bill**

Government Bill

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

**1 Title**

This Act is the Resource Management Reform Act **2012**.

**2 Commencement**

- (1) **Subpart 1 of Part 1 and Parts 2 and 3** come into force 5  
on the day after the date on which this Act receives the Royal assent.
- (2) **Subpart 2 of Part 1** comes into force as follows:
- (a) on the day after the date on which this Act receives 10  
the Royal assent, for the purposes of the preparation of  
the first Auckland combined plan under **Part 4** of the  
Local Government (Auckland Transitional Provisions)  
Act 2010:



- (b) on the day that is 3 months after the date on which this Act receives the Royal assent, for all other purposes.
- (3) **Subpart 3 of Part 1** comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions. 5
- (4) However, if any provision is not in force by the day that is 18 months after the date on which this Act receives the Royal assent, it comes into force on that day.

## Part 1

10

### Resource Management Act 1991

#### 3 Principal Act

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

Subpart 1—Amendments that commence  
day after Royal assent

15

#### 4 Section 2 amended (Interpretation)

In section 2(1), repeal the definition of **planning document**.

#### 5 Section 29 amended (Delegation of functions by Ministers)

(1) After section 29(4), insert:

20

“(4A) The Minister of Conservation may, in writing, delegate to the Environmental Protection Authority his or her functions, powers, and duties—

“(a) under section 149ZD(4); and

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

25

(2) In section 29(5), after “subsection (4)”, insert “or **(4A)**”.

#### 6 Section 32A amended (Failure to carry out evaluation)

In section 32A(1), replace “Schedule 1 or a submission under section 49” with “section 49, 149E, 149F, or 149O or under Schedule 1”.

30

- 7 Section 35 amended (Duty to gather information, monitor, and keep records)**
- (1) Replace section 35(2)(a) with:
- “(a) the state of the whole or any part of the environment of its region or district— 5
- “(i) to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and
- “(ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations; and” 10
- (2) In section 35(5)(ga), replace “95 to 95F” with “95 to 95G”.
- 8 Section 35A amended (Duty to keep records about iwi and hapu)** 15
- After section 35A(6), insert:
- “(7) Information required to be provided under this section must be provided in accordance with any prescribed requirements.”
- 9 Section 39 amended (Hearings to be public and without unnecessary formality)** 20
- After section 39(2), insert:
- “(3) Despite subsection (2), nothing in paragraph (c) or (d) of that subsection applies to a board of inquiry appointed under section 149J.”
- 10 Section 42A amended (Reports to local authority)** 25
- Replace section 42A(1) with:
- “(1) At any reasonable time before a hearing or, if no hearing is to be held, before the decision is made, a local authority (as local authority is defined in section 42(6)(b)) may require preparation of a report on information provided on any matter described in section 39(1) by the applicant or any person who made a submission. 30
- “(1AA) The report may be prepared by—
- “(a) an officer of the local authority; or

“(b) a consultant or any other person employed for the purpose.”

**11 Section 53 amended (Changes to or review or revocation of national policy statements)**

In section 53, insert as subsection (2): 5

“(2) The Minister may, without using a process referred to in subsection (1), amend a national policy statement to correct minor mistakes or defects in the statement.”

**12 Section 76 amended (District rules)**

(1) Replace section 76(4A)(a) with: 10

“(a) specifically identified in a schedule to the plan by street address or legal description of the land, or both, regardless of whether the tree or group of trees is also identified on any map in the plan; or”.

(2) Replace section 76(4B) with: 15

“(4B) In subsection (4A),—

“**group of trees** means a cluster, grove, or line of trees that are located on the same or adjacent allotments

“**urban environment** means an allotment no greater than 4 000 m<sup>2</sup>— 20

“(a) that is connected to a reticulated water supply system and a reticulated sewerage system; and

“(b) on which there is—

“(i) a building used for industrial or commercial purposes; or 25

“(ii) a dwellinghouse.

“(4C) To avoid doubt, each of the following descriptions of a group of trees does not satisfy the identification requirements of **subsection (4A)(a)**:

“(a) all trees of 1 or more named species in a defined area or zone of the plan (for example, all cabbage trees in coastal areas x, y, and z): 30

“(b) all trees in a class with defined characteristics in a defined area or zone of the plan (for example, all exotic trees over 5 metres high or 800 millimetres in girth in residential zones x, y, and z): 35

“(c) all trees in a named ecosystem (whether natural or artificial), habitat or landscape unit, or ecotone (for example, all native trees located on the valley floor of the district).”

**13 Section 87E amended (Consent authority’s decision on request) 5**

(1) After section 87E(6), insert:

“(6A) Despite the discretion to grant a request under subsection (5) or (6), if regulations have been made under **section 360(hm)**,— 10

“(a) the consent authority must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but

“(b) that obligation to grant the request does not apply if the consent authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.” 15

(2) In section 87E(9), replace “subsection (5) or (6)” with “subsections (5) to **(6A)**”. 20

**14 Section 87F amended (Consent authority’s subsequent processing)**

(1) In section 87F(4), replace “may” with “must”.

(2) In section 87F(4)(b), after “application”, insert “; and”.

(3) After section 87F(4)(b), insert: 25

“(c) provide a summary of submissions received.”

(4) After section 87F(5), insert:

“(6) The consent authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority’s report.” 30

**15 Section 87G amended (Environment Court determines application)**

(1) Replace section 87G(2) with:

“(2) The application is referred to the Environment Court by the applicant,— 35

- “(a) within 10 working days after receiving the report, lodging with the Environment Court a notice of motion in the prescribed form applying for the grant of consent and specifying the grounds upon which the application is made, and a supporting affidavit as to the matters giving rise to the application; and 5
- “(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on—
- “(i) the consent authority that granted the applicant’s request under section 87D; and 10
- “(ii) every person who made a submission to the authority on the application; and
- “(c) telling the Registrar of the Environment Court by written notice when the copies have been served.” 15
- (2) In section 87G(4), after “notice of motion”, insert “, and any person who has made a submission to the consent authority on the application and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section”. 20
- (3) In section 87G(5), replace “Part 11 applies” with “Parts 11 and 11A apply”.
- 16 Section 95B amended (Limited notification of consent application)**
- (1) Replace section 95B(1) with: 25
- “(1) If a consent authority does not publicly notify an application for a resource consent for an activity, it must decide (under sections 95E to 95G) whether there is any affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.” 30
- (2) In section 95B(3), replace “affected customary title group” with “affected customary marine title group”.
- 17 Section 104 amended (Consideration of applications)**
- In section 104(2B), after “the scope of a planning document”, insert “prepared by a customary marine title group under sec- 35

tion 85 of the Marine and Coastal Area (Takutai Moana) Act 2011”.

**18 Section 130 amended (Public notification, submissions, and hearing, etc)**

In section 130(3) and (5)(a), replace “95 to 95F” with “95 to 95G”.

**19 Section 133A amended (Minor corrections of resource consents)**

In section 133A, replace “15” with “20”.

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

(1) After section 142(6), insert:

“(6A) When requesting the Minister to call in a matter (by making a direction under subsection (2)), a local authority or an applicant must at the same time serve the other party (the local authority or the applicant, as the case may be) with notice of the request.”

(2) After section 142(7), insert:

“(8) The Minister must not make a direction under subsection (2)(b) if section 149C(2)(a) or (b) applies (which relates to a request for the preparation of a regional plan or a request for a change to a plan).”

**21 Section 146 amended (EPA to recommend course of action to Minister)**

After section 146(5), insert: 25

“(6) The EPA must not recommend to the Minister that he or she make a direction under section 147(1)(b) if section 149C(2)(a) or (b) applies (which relates to a request for the preparation of a regional plan or a request for a change to a plan).”

**22 Section 147 amended (Minister makes direction after EPA recommendation)**

After section 147(7), insert: 30

“(8) The Minister must not make a direction under subsection (1)(b) if section 149C(2)(a) or (b) applies (which relates to a request for the preparation of a regional plan or a request for a change to a plan).”

**23 Section 149 amended (EPA may request further information or commission report) 5**

Replace section 149(1) with:

“(1) Subsection (2) applies to a matter if—

“(a) the matter has been lodged with the EPA under section 145; or 10

“(b) a request relating to the matter has been made by a local authority or an applicant for a direction under section 142(1)(b); or

“(c) the Minister decides, at his or her own initiative, to apply section 142.” 15

**24 Section 149J amended (Minister to appoint board of inquiry)**

In section 149J(2), after “decide the matter”, insert “and to complete the performance or exercise of its functions, duties, and powers in relation to the matter (including any appeals in relation to the matter that are filed in any court)” 20

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

After section 149L(4)(c), insert:

“(d) without limiting sections 39, 40 to 41C, 99, and 99A,—

“(i) may direct that a conference of a group of experts be held: 25

“(ii) may direct that a conference be held of submitters who wish to be heard at the hearing, the applicant, and any relevant local authority, or any of them.” 30

**26 Section 149M amended (Process if matter is request for regional plan or change and particular circumstances apply)**

Replace section 149M(4)(c) with:

“(c) the EPA must do anything required of it by sections 149F and 149O; and”.

**27 Section 149P amended (Consideration of matter by board)**

(1) In section 149P(6)(c), after “council”, insert “; and”.

(2) After section 149P(6)(c), insert: 5

“(d) must apply section 165H as if it were a regional council, if the matter involves a rule in a regional coastal plan or proposed regional coastal plan that relates to the allocation of space in a common marine and coastal area for the purposes of an activity.” 10

**28 Section 149R amended (Board to produce final report)**

After section 149R(2), insert:

“(2A) If the 9-month period ending on the deadline specified in subsection (2) includes any days that fall during the **holiday period** (being the 22-day period starting on 20 December in any year and ending with 10 January in the following year), then the deadline is deferred by that number of days. 15

“(2B) However, if the deadline specified in subsection (2) falls during the holiday period, then the deadline is deferred by 22 days.” 20

**29 New section 149RA inserted (Minor corrections of board decisions, etc)**

After section 149R, insert:

**“149RA Minor corrections of board decisions, etc**

“(1) At any time during its term of appointment, a board of inquiry may issue an amendment to a decision, or an amended decision, that corrects minor mistakes or defects in any decision of the board, and this power includes the powers set out in **subsections (2) to (4)**. 25

“(2) The board may correct a resource consent as if the board were a consent authority acting under section 133A (which applies within 20 working days of the grant of the resource consent). 30

“(3) The board may amend a proposed plan as if the board were a local authority acting under clause 16(2) of Schedule 1 before the earlier of the following: 35



- “(a) the day on which the local authority approves the proposed plan under clause 17 of Schedule 1 or the day on which the Minister of Conservation approves the proposed regional coastal plan under clause 19 of Schedule 1, whichever applies: 5
- “(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.
- “(4) The board may correct a requirement before the earlier of the following: 10
- “(a) the day on which the local authority includes the relevant designation or heritage order in its district plan and any proposed district plan under section 175(2):
- “(b) the day that is 40 working days after the day on which any appeals relating to the matter have been determined and all rights of appeal have expired.” 15
- 30 Section 149S amended (Minister may extend time by which board must report)**
- After section 149S(4), insert:
- “(5) The EPA may, on behalf of a board of inquiry, request the Minister to grant an extension under subsection (1) in relation to any matter before the board. 20
- “(6) **Subsection (5)** does not limit subsection (1).”
- 31 Section 149ZB amended (How EPA must deal with certain applications and notices of requirement)** 25
- In section 149ZB(3), replace “95A to 95F” with “95A to 95G”.
- 32 Section 149ZC amended (Minister to decide whether application or notice of requirement to be notified)**
- In section 149ZC(2), replace “95A to 95F” with “95A to 95G”.
- 33 Section 165ZFE amended (Processing of affected applications)** 30
- (1) After section 165ZFE(4), insert:
- “(4A) Despite the discretion to grant a request under subsection (4), if regulations have been made under **section 360(hm)**,—

- “(a) the regional council must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but
- “(b) that obligation to grant the request does not apply if the consent authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.” 5
- (2) In section 165ZFE(7), replace “Section 87F(4) and (5)” with “Section 87F(4) to **(6)**”. 10
- 34 Section 168A amended (Notice of requirement by territorial authority)**  
In section 168A(1A), replace “95A to 95F” with “95A to 95E”.
- 35 Section 169 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)** 15  
In section 169(1), replace “95 to 95F” with “95 to 95E”.
- 36 Section 189A amended (Notice of requirement for heritage order by territorial authority)**  
In section 189A(2), replace “95A to 95F” with “95A to 95E”. 20
- 37 Section 190 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)**  
In section 190(1), replace “95 to 95F” with “95 to 95E”.
- 38 Section 198C amended (Territorial authority’s decision on request)** 25
- (1) After section 198C(5), insert:  
“(5A) Despite the discretion to grant a request under subsection (4) or (5), if regulations have been made under **section 360(hm)**,— 30
- “(a) the territorial authority must grant the request if the value of the investment in the proposal is likely to meet

- or exceed a threshold amount prescribed by those regulations; but
- “(b) that obligation to grant the request does not apply if the territorial authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.” 5
- (2) In section 198C(8), replace “subsection (4) or (5)” with “subsections (4) to **(5A)**”.
- 39 Section 198D amended (Territorial authority’s subsequent processing)** 10
- (1) In section 198D(4), replace “may” with “must”.
- (2) In section 198D(4)(b), after “(with or without modifications)”, insert “; and”.
- (3) After section 198D(4)(b), insert:
- “(c) provide a summary of submissions received.” 15
- (4) After section 198D(5), insert:
- “(6) The territorial authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority’s report.”
- 40 Section 198E amended (Environment Court decides)** 20
- (1) Replace section 198E(2) with:
- “(2) The requirement is referred to the Environment Court by the requiring authority or heritage protection authority,—
- “(a) within 10 working days after receiving the report, lodging with the Environment Court a notice of motion in the prescribed form applying for confirmation of the requirement and specifying the grounds upon which the application is made, and a supporting affidavit as to the matters giving rise to the application; and 25
- “(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on— 30
- “(i) the territorial authority that granted the requiring authority’s or heritage protection authority’s request under section 198B; and 35

- “(ii) every person who made a submission to the territorial authority on the requirement; and  
“(c) telling the Registrar of the Environment Court by written notice when the copies have been served.”
- (2) In section 198E(4), after “notice of motion”, insert “, and any person who has made a submission to the territorial authority on the requirement and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section”. 5
- (3) In section 198E(5), replace “Part 11 applies” with “Parts 11 and 11A apply”. 10

#### 41 Section 198I amended (Territorial authority’s decision)

After section 198I(1), insert:

- “(1A) Despite the discretion it would otherwise have to make a particular decision, if regulations have been made under **section 360(hm)**,— 15
- “(a) the territorial authority must decide that the requirement be the subject of a decision by the Environment Court under section 198K if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but 20
- “(b) that obligation to decide that the requirement be the subject of a decision by the Environment Court under section 198K does not apply if the territorial authority determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist.” 25

#### 42 Section 198J amended (Territorial authority’s subsequent processing)

- (1) In section 198J(3), replace “may” with “must”. 30
- (2) In section 198J(3)(b), after “(with or without modifications)”, insert “; and”. 30
- (3) After section 198J(3)(b), insert:  
“(c) provide a summary of submissions received.”
- (4) After section 198J(4), insert: 35

“(5) The territorial authority must ensure that it provides reasonable assistance to the Environment Court in relation to any matters raised in the authority’s report.”

**43 Section 198K amended (Environment Court decides)**

(1) Replace section 198K(1) with: 5

“(1) If the territorial authority continues to want the requirement to be determined by the Environment Court, the requirement is referred to the court by the territorial authority,—

“(a) within 10 working days after preparing the report, lodging with the Environment Court a notice of motion in the prescribed form applying for confirmation of the requirement and specifying the grounds upon which the application is made, and a supporting affidavit as to the matters giving rise to the application; and 10

“(b) as soon as is reasonably practicable after lodging the notice of motion, serving a copy of the notice of motion and affidavit on every person who made a submission to the territorial authority on the requirement; and 15

“(c) telling the Registrar of the Environment Court by written notice when the copies have been served.” 20

(2) In section 198K(3), after “notice of motion”, insert “, and any person who has made a submission to the territorial authority on the requirement and wishes to be heard on the matter by the Environment Court must give notice to the court in accordance with that section”. 25

(3) In section 198K(4), replace “Part 11 applies” with “Parts 11 and 11A apply”.

**44 Section 269 amended (Court procedure)**

After section 269(1), insert:

“(1A) However, the Environment Court must regulate its proceedings in a manner that best promotes their timely and cost-effective resolution.” 30

**45 Section 274 amended (Representation at proceedings)**

(1) After section 274(1)(d), insert:

- “(da) a person who has an interest in the proceedings that is greater than the interest that the general public has, but the person’s right to be a party is limited by **section 308CA** if the person is person A as defined in section 308A and the proceedings are for an application for a resource consent or a notice of requirement by person B as defined in section 308A:” 5
- (2) In section 274(2), delete “to the Environment Court and to all other parties”.
- (3) After section 274(2), insert: 10
- “(2A) A notice given under subsection (2) must be given to—
- “(a) the Environment Court; and
- “(b) the relevant local authority; and
- “(c) the appellant, in the case of an appeal, or the person who commenced proceedings, in any other case. 15
- “(2B) The person giving notice under subsection (2) must also, within 20 working days after the relevant time period described in that subsection, give notice to all other parties.”
- 46 Section 281B amended (Review of exercise of power by Registrar)** 20
- In section 281B(2), replace “5” with “10”.
- 47 Section 285 amended (Awarding costs)**
- After section 285(6), insert:
- “(7) The Environment Court may order an applicant to pay the costs and expenses that a consent authority or a territorial authority incurred in assisting the court in relation to a report provided by the authority under section 87F, 165ZFE(6), 198D, or 198J and that the court considers reasonable. 25
- “(8) In deciding whether to make an order under **subsection (7)**, the court must apply a presumption that such costs are to be ordered against the applicant.” 30
- 48 Section 308A amended (Identification of trade competitors and surrogates)**
- Replace section 308A(c) with:

“(c) **person C** means a person who has knowingly received, is knowingly receiving, or may knowingly receive direct or indirect help from person A—

“(i) to bring an appeal or be a party to an appeal against a decision under this Act in favour of person B: 5

“(ii) to be a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.” 10

**49 New section 308CA inserted (Limit on representation at proceedings as party under section 274)**

After section 308C, insert:

**“308CA Limit on representation at proceedings as party under section 274 15**

“(1) This section applies when person A wants to be a party under section 274 to a proceeding before the Environment Court under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K on the ground that person A has an interest in the proceedings that is greater than the interest that the general public has. 20

“(2) Person A may be a party to the proceeding only if directly affected by an effect of the subject matter of the proceeding that—

“(a) adversely affects the environment; and

“(b) does not relate to trade competition or the effects of trade competition.” 25

**50 Section 308D amended (Limit on appealing under this Act)**

In section 308D, after “Act”, insert “, or become a party to a proceeding under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.”. 30

**51 Section 308E replaced (Prohibition on using surrogate)**

Replace section 308E with:

**“308E Prohibition on using surrogate**

Person A must not, for any of the purposes in section 308D, directly or indirectly help person C—

- “(a) to bring an appeal, or be a party to an appeal, against a decision under this Act in favour of person B: 5
- “(b) to be a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K.”

**52 Section 308F amended (Surrogate must disclose status)**

- (1) Replace section 308F(a) with: 10
  - “(a) appears before the court—
    - “(i) as the appellant, or as a party to an appeal, against a decision under this Act in favour of person B:
    - “(ii) as a party to a proceeding before the Environment Court that was lodged by person B under section 87G, 149T, 165ZFE(9)(a)(ii), 198E, or 198K; and” 15
- (2) In section 308F(b), after “to the appeal”, insert “, or to be a party to the proceeding,”.

**53 Section 310 amended (Scope and effect of declaration)** 20  
In section 310(h), replace “95 to 95F” with “95 to 95G”.**54 Section 318 amended (Right to be heard)**

In section 318(b), after “heard”, insert “, but only if that person notifies the Registrar that he or she wishes to be heard within 15 working days after the date on which he or she was notified of the application” 25

**55 Section 330 amended (Emergency works and power to take preventive or remedial action)**

- (1) In section 330(1)(c), replace “167—” with “167; or”.
- (2) After section 330(1)(c), insert: 30
  - “(ca) any service or system for which any lifeline utility operates or provides—”.



- (3) In section 330(1), replace “or the authority or the network utility operator,” with “, authority, network utility operator, or lifeline utility.”
- (4) In section 330(1), replace “or network utility operator” with “network utility operator, or lifeline utility”. 5
- (5) After section 330(4), insert:
- “(5) In this section and section 330A, **lifeline utility** means a lifeline utility within the meaning of section 4 of the Civil Defence Emergency Management Act 2002 other than a lifeline utility that is a network utility operator to which subsection (1)(c) applies.” 10
- 56 Section 330A amended (Resource consents for emergency works)**  
In section 330A(1) and (2), replace “or network utility operator” with “network utility operator, or lifeline utility”. 15
- 57 New section 336 and cross-heading inserted**  
After section 335, insert:  
*“Return of property*
- “336 Return of property seized under sections 323 and 328** 20
- “(1) Where any property is seized and impounded under section 323 or 328 (which relate to failure to comply with an abatement notice to reduce noise or an excessive noise direction), the owner of the property or the person from whom it was seized may apply to the local authority, consent authority, or Police station where the property is held, at any time, to have 25  
the property returned to him or her.
- “(2) Where an application is made under **subsection (1)**, the local authority, consent authority, or constable with authority to do so must arrange for the return of the property if— 30
- “(a) satisfied that the return of the property is not likely to lead to a resumption of the emission of noise beyond a reasonable level; and 30
- “(b) the applicant has paid all costs incurred by the local authority, consent authority, or Police in seizing, impounding, transporting, and storing the property. 35

- “(3) Where the local authority, consent authority, or constable with authority to do so refuses to return the property for the reason specified in **subsection (2)(a)**, the applicant may make an application to the Environment Court, and section 325(2) applies as if— 5
- “(a) the reference to service of the abatement notice on the appellant were reference to any refusal under this section; and
- “(b) the time limit for lodging the application were 6 months from the date of seizure. 10
- “(4) The Environment Court, on an application under **subsection (3)**, may—
- “(a) order the return of the property subject to any conditions relating to the continued reduction of noise as it thinks fit; or 15
- “(b) refuse the application for the return of the property.
- “(5) Where—
- “(a) any property seized under section 323 or 328 is not claimed within 6 months of its seizure; or
- “(b) the return of the property has been refused under **subsection (3)** and no application has been lodged within 6 months of the date of seizure; or 20
- “(c) the Environment Court has refused the return of the property under **subsection (4)(b)**,—
- the local authority, consent authority, or the Police may dispose of the property in accordance with **subsection (6)**. 25
- “(6) Any local authority, consent authority, or constable wishing to dispose of property under **subsection (5)**—
- “(a) must give written notice to the person from whom the property was seized, where the person’s address is known; and 30
- “(b) may sell or cause the property to be otherwise disposed of; and
- “(c) may, where any proceeds are realised, apply these to the payment of costs and expenses incurred in selling 35
- the property under this section and any costs incurred in seizing, impounding, transporting, and storing the property; and

“(d) must, on demand, pay the remainder of the proceeds to the person from whom the property was seized.”

**58 Section 357 amended (Right of objection against certain decisions)**

In section 357(8), replace “section 198C(4) or (5)” with “section 198C(4) to **(5A)**”. 5

**59 Section 357A amended (Right of objection to consent authority against certain decisions or requirements)**

In section 357A(1)(e), replace “section 87E(5) or (6)” with “section 87E(5) to **(6A)**”. 10

**60 Section 357C amended (Procedure for making and hearing objection under sections 357 to 357B)**

In section 357C(3)(b) and (4)(b), before “give”, insert “if the objection has not been resolved,”.

**61 Section 360 amended (Regulations)**

Replace section 360(1)(hk) with: 15

“(hk) prescribing, for the purposes of **section 35(2)(a)(ii)**,—

“(i) indicators or other matters by reference to which a local authority is required to monitor the state of the environment of its region or district: 20

“(ii) standards, methods, or requirements applying to the monitoring, which may differ depending on what is being monitored:

“(hl) requiring local authorities to report information gathered under sections 35 and 35A to the Minister, and prescribing the manner and content of, and the time limits for, reporting: 25

“(hm) prescribing, for the purposes of sections 87E, 165ZFE, 198C, and 198I, threshold amounts and matters to which an authority is required to have regard in determining whether exceptional circumstances exist:” 30

- 
- 62 Section 390C amended (Dealing with applications for permissions)**  
In section 390C(1)(a) and (2), replace “95 to 95F” with “95 to 95G”.
- 63 Section 391A amended (Resource consents following approval under Clean Air Act 1972)** 5  
In section 391A(2)(a), replace “95 to 95F” with “95 to 95G”.
- 64 Section 393 amended (Applications for Orders in Council to reclaim land and approval for harbour works)**  
In section 393(1)(e), replace “95 to 95F” with “95 to 95G”. 10
- 65 Section 409 amended (Financial contributions for developments)**  
In section 409(4), replace “95 to 95F” with “95 to 95G”.
- 66 New Part 16 inserted** 15  
After section 433, insert:  
**“Part 16**  
**“Transitional provisions for amendments**  
**made on or after 1 January 2013**
- “434 Transitional provisions for amendments made on or after 1 January 2013** 20  
The transitional provisions set out in **Schedule 12** (which relate to amendments made to this Act on or after 1 January 2013) have effect for the purposes of this Act.”
- 67 New Schedule 12 inserted** 25  
After Schedule 11, insert the **Schedule 12** set out in **Schedule 2** of this Act.
- Consequential amendment*
- 68 Resource Management (Simplifying and Streamlining) Amendment Act 2009**  
(1) This section amends the Resource Management (Simplifying and Streamlining) Amendment Act 2009. 30

- (2) Repeal section 152.

Subpart 2—Amendments that commence  
3 months after Royal assent (or day after  
Royal assent for certain purposes)

- 69 Section 32 replaced (Consideration of alternatives, benefits, and costs)** 5  
Replace section 32 with:
- “32 Requirements for preparing and publishing evaluation reports**
- “(1) An evaluation report required under this Act must— 10
- “(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
- “(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by— 15
- “(i) identifying other reasonably practicable options for achieving the objectives; and
- “(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
- “(iii) summarising the reasons for deciding on the provisions; and 20
- “(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. 25
- “(2) An assessment under **subsection (1)(b)(ii)** must—
- “(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for— 30
- “(i) economic growth that are anticipated to cease to be available; and
- “(ii) employment that are anticipated to be provided or reduced; and
- “(b) if practicable, quantify the benefits and costs referred to in **paragraph (a)**; and 35

- “(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- “(3) If the proposal will amend an existing standard, statement, regulation, or plan, the examination under **subsection (1)(b)** must examine the objectives of both the proposal and the existing standard, statement, regulation, or plan. 5
- “(4) If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of the region or district that is the subject of the evaluation. 10
- “(5) The person who must have particular regard to the evaluation report must make the report available for public inspection— 15
- “(a) as soon as practicable after the proposal is made; or
- “(b) at the same time as the proposal is publicly notified.
- “(6) In this section,—
- “**objectives** means,—
- “(a) for a proposal that contains or states objectives, those objectives: 20
- “(b) for all other proposals, the purpose of the proposal
- “**proposal** means a proposed standard, statement, regulation, or plan for which an evaluation report must be prepared under this Act 25
- “**provisions** means,—
- “(a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:
- “(b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal. 30
- “**32AA Requirements for undertaking and publishing further evaluations**
- “(1) A further evaluation required under this Act— 35
- “(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation

- report for the proposal was completed (the **changes**);  
and
- “(b) must be undertaken in accordance with **section 32(1) to (4)**; and
- “(c) must, despite **paragraph (b)** and **section 32(1)(c)**, be 5  
undertaken at a level of detail that corresponds to the  
scale and significance of the changes; and
- “(d) must—
- “(i) be published in an evaluation report that is made  
available for public inspection at the same time 10  
as the proposal is publicly notified; or
- “(ii) be referred to in the decision-making record in  
sufficient detail to demonstrate that the further  
evaluation was undertaken in accordance with 15  
this section and be included in the public noti-  
fication of the proposal.
- “(2) To avoid doubt, an evaluation report does not have to be pre-  
pared if a further evaluation is undertaken in accordance with  
**subsection (1)(d)(ii)**.
- “(3) In this section, **proposal** means a proposed statement, plan, 20  
or change for which a further evaluation must be undertaken  
under this Act.”
- 70 Section 32A amended (Failure to carry out evaluation)**
- (1) In section 32A(1), replace “section 32 has not been complied  
with” with “an evaluation report required under this Act has 25  
not been prepared or regarded, a further evaluation required  
under this Act has not been undertaken or regarded, or **section  
32 or 32AA** has not been complied with”.
- (2) Replace section 32A(2) with:
- “(2) Subsection (1) does not prevent a person who is hearing a sub- 30  
mission or an appeal on a proposal from having regard to the  
matters stated in **section 32**.
- “(3) In this section, **proposal** means a proposed standard, state-  
ment, regulation, plan, or change for which—
- “(a) an evaluation report must be prepared under this Act; or 35  
“(b) a further evaluation must be undertaken under this Act.”

- 71 Section 44 amended (Restriction on power to make national environmental standards)**
- (1) After section 44(2)(b), insert:  
 “(ba) to prepare an evaluation report for the standard in accordance with **section 32** and have particular regard to that report when deciding whether to recommend the making of the standard; and” 5
- (2) In section 44(2)(c), after “recommendation”, insert “made in accordance with paragraph (b)(ii)”.
- 72 Section 46 amended (Proposed national policy statement)** 10
- (1) In section 46(b), after “statement”, insert “; and”.
- (2) After section 46(b), insert:  
 “(c) prepare an evaluation report for the proposed national policy statement in accordance with **section 32** and have particular regard to that report when deciding whether to issue the statement.” 15
- 73 Section 46A amended (Minister chooses process)**
- Before section 46A(1)(b)(i), insert:  
 “(iaaa) notifies the public and iwi authorities of the proposed national policy statement; and” 20
- 74 Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)**
- Replace section 52(1) with:
- “(1) The Minister—
- “(a) first, must consider a report and any recommendations made to him or her by a board of inquiry under section 51; and 25
- “(b) secondly, may—
- “(i) make any changes, or no changes, to the proposed national policy statement as he or she thinks fit; or 30
- “(ii) withdraw all or part of the proposed national policy statement and give public notice of the withdrawal, including the reasons for the withdrawal; and 35



“(c) thirdly, must undertake a further evaluation of the proposed national policy statement in accordance with **section 32AA** and have particular regard to that evaluation when deciding whether to recommend the statement.”

**75 Section 61 amended (Matters to be considered by regional council (policy statements))** 5

Replace section 61(1) with:

“(1) A regional council must prepare and change its regional policy statement in accordance with—

“(a) its functions under section 30; and 10

“(b) the provisions of Part 2; and

“(c) its obligation (if any) to prepare an evaluation report in accordance with **section 32**; and

“(d) its obligation to have particular regard to an evaluation report prepared in accordance with **section 32**; and 15

“(e) any regulations.”

**76 Section 66 amended (Matters to be considered by regional council (plans))**

Replace section 66(1) with:

“(1) A regional council must prepare and change any regional plan in accordance with— 20

“(a) its functions under section 30; and

“(b) the provisions of Part 2; and

“(c) a direction given under section 25A(1); and

“(d) its obligation (if any) to prepare an evaluation report in accordance with **section 32**; and 25

“(e) its obligation to have particular regard to an evaluation report prepared in accordance with **section 32**; and

“(f) any regulations.”

**77 Section 74 amended (Matters to be considered by territorial authority)** 30

Replace section 74(1) with:

“(1) A territorial authority must prepare and change its district plan in accordance with—

“(a) its functions under section 31; and 35

- “(b) the provisions of Part 2; and
- “(c) a direction given under section 25A(2); and
- “(d) its obligation (if any) to prepare an evaluation report in accordance with **section 32**; and
- “(e) its obligation to have particular regard to an evaluation report prepared in accordance with **section 32**; and 5
- “(f) any regulations.”

**78 Section 165H amended (Regional council to have regard to and be satisfied about certain matters before including allocation rule in regional coastal plan or proposed regional coastal plan)** 10

- (1) After section 165H(1), insert:
  - “(1A) The regional council must—
    - “(a) prepare a report summarising the matters required by subsection (1); and 15
    - “(b) make the report available for public inspection at the same time, or as soon as practicable after, the rule is included in the regional coastal plan or proposed regional coastal plan.”
- (2) In section 165H(2), replace “Section 32(1) to (3)” with “**Sections 32 and 32AA**”. 20

**79 Section 310 amended (Scope and effect of declaration)**  
 In section 310(a)(i), replace “imposed by section 32” with “under this Act to prepare and have particular regard to an evaluation report or to undertake and have particular regard to a further evaluation or imposed by **section 32 or 32AA**”. 25

**80 Section 360B amended (Conditions to be satisfied before regulations made under section 360A)**

- (1) In section 360B(2)(c)(iv), after “standard”, insert “; and”.
- (2) After section 360B(2)(c), insert: 30
  - “(d) has prepared an evaluation report for the proposed regulations in accordance with **section 32** and had particular regard to that report when deciding whether to recommend the making of the regulations.”

**81 Schedule 1, clause 5 amended**

In Schedule 1, replace clause 5(1) with:

- “(1) A local authority that has prepared a proposed policy statement or plan must—
- “(a) prepare an evaluation report for the proposed policy statement or plan in accordance with **section 32** and have particular regard to that report when deciding whether to proceed with the statement or plan; and
  - “(b) publicly notify the proposed policy statement or plan if the local authority decides to proceed with the policy statement or plan.”

**82 Schedule 1, clause 10 amended**

- (1) In Schedule 1, after clause 10(2)(a), insert:

“(ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with **section 32AA**; and”.

- (2) In Schedule 1, before clause 10(4)(a), insert:

“(aaa) have particular regard to the further evaluation undertaken in accordance with **subclause (2)(ab)** when making its decision; and”.

**83 Schedule 1, clause 22 amended**

In Schedule 1, clause 22(1), replace “evaluation under section 32 for any objectives, policies, rules, or other methods proposed” with “evaluation report prepared in accordance with **section 32** for the proposed plan or change”.

**84 Schedule 1, clause 25 amended**

In Schedule 1, after clause 25(1), insert:

- “(1A) The local authority must have particular regard to the evaluation report prepared for the proposed plan or change in accordance with clause 22(1)—
- “(a) when making a decision under subclause (1); and
  - “(b) when dealing with the request under subclause (2), (3), or (4).”

- 85 Schedule 1, clause 29 amended**  
 In Schedule 1, replace clause 29(4) with:
- “(4) After considering a plan or change, undertaking a further evaluation of the plan or change in accordance with **section 32AA**, and having particular regard to that evaluation, the local authority—
- “(a) may decline, approve, or approve with modifications the plan or change; and
- “(b) must give reasons for its decision.”
- 5
- Subpart 3—Amendments that commence by Order in Council 10
- 86 Section 41B amended (Directions to provide evidence within time limits)**  
 Repeal section 41B(5) to (7).
- 87 Section 42A amended (Reports to local authority)** 15  
 Replace section 42A(1A) and (1B) with:
- “(1A) The report does not need to repeat information included in the applicant’s application under **section 88(2)**.
- “(1B) Instead, the report may—
- “(a) adopt all of the information: 20
- “(b) adopt any part of the information by referring to the part adopted.”
- 88 Section 87G amended (Environment Court determines application)**  
 In **section 87G(2)(a)**, replace “10 working days” with “15 working days”. 25
- 89 Section 87I amended (When consent authority must determine application)**
- (1) In section 87I(1)(b)(ii), delete “; and”.  
 (2) Repeal section 87I(1)(c). 30
- 90 Section 88 amended (Making an application)**  
 (1) Replace section 88(2) with:

- “(2) An application must—
- “(a) be made in the prescribed form and manner; and
  - “(b) include the information relating to the activity, including an assessment of the activity’s effects on the environment, as required by **Schedule 4**.” 5
- (2) Replace section 88(3) with:
- “(3) A consent authority may, within 10 working days after an application was first lodged, determine that the application is incomplete if the application does not—
- “(a) include the information prescribed by regulations; or 10
  - “(b) include the information required by **Schedule 4**.
- “(3A) The consent authority must immediately return an incomplete application to the applicant, with written reasons for the determination.”
- 91 Section 88B replaced (Time limits from which time periods are excluded) 15**
- Replace section 88B with:
- “88B Deferral of deadlines to allow for processes relating to applications**
- “(1) This section sets out how a deadline relating to an application is deferred if 1 or more processes affect the deadline. 20
- “(2) In this section,—
- “(a) the **deadline** is the last day on which something may be done under a provision listed in the first column of the table in **section 88BA**: 25
  - “(b) the **deadline’s calculation day** is the day from which the deadline is calculated under that provision:
  - “(c) the **time allowed for a process** is the period specified in a provision listed, in relation to the deadline, in the second column of the table in **section 88BA**. 30
- “(3) The clock is stopped on each working day after the deadline’s calculation day that falls during the time allowed for a process or processes.
- “(4) For each working day on which the clock is stopped, the deadline is deferred by 1 working day. 35

- “(5) However, the clock is not stopped for a deadline once the deferred deadline has passed, or once the deadline has passed if it was not deferred.

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**Example**

In this example, numbered days are working days. 5

An applicant lodges an application on day 0. The consent authority publicly notifies the application on day 20 (see section 95). At this point, the closing date for submissions is day 40 (see **section 97(1)**) and the deadline for completing a hearing will be day 115, which is 75 working days after day 40, the closing date for submissions (see **section 103A(2)**). 10

However, the authority notifies the applicant on day 35 that it wants to commission a report (see section 92(2)(b)). The applicant agrees. The authority receives the report on day 60. As a result, the deadline for completing the hearing is deferred to day 135. 15

The reason that the deadline is deferred is as follows. The deadline’s calculation day is day 40 (see **subsection (2)(b) and section 103A(2)**). The time allowed for the report process starts on day 35 and ends on day 60 (see **subsection (2)(c)** and section 88C(4)). So the clock is stopped on days 41 to 60 (see **subsection (3)**), and the deadline is deferred by 20 working days (see **subsection (4)**). 20

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“**88BA Table of provisions with deadlines and provisions that specify time allowed for processes** 25

The table referred to in **section 88B(2)** is as follows:

<b>Provisions with deadlines</b>	<b>Provisions that specify time allowed for processes</b>
Section 95 (which relates to the deadline for notification)	Section 88C(2), (4), or (6) Section 88E(2) or <b>(4)</b> Section 88F(2)
Section 87F(3) (which relates to the deadline for a consent authority report on an application to be directly referred to the Environment Court)	Section 88C(4) or (6) Section 88E(2), (6), or <b>(8)</b> Section 88F(2)
<b>Section 101(2)</b> (which relates to the deadline for commencement of a hearing for a non-notified application)	Section 88C(2), (4), or (6) Section 88E(2) or <b>(4)</b> Section 88F(2)

**Provisions with deadlines**

**Section 103A** (which relates to the deadline for completion of a hearing for a notified application)

Section 115(3) (which relates to the deadline for notification of the decision on a non-notified application for which no hearing is held)

Section 115(4) (which relates to the deadline for notification of the decision on a notified application for which no hearing is held)

**Provisions that specify time allowed for processes**

Section 88C(4) or (6)  
**Section 88D(2), (4), or (6)**  
Section 88E(2), (6), or (8)  
Section 88F(2)

Section 88C(2), (4), or (6)  
Section 88E(2) or (4)  
Section 88F(2)

Section 88C(4) or (6)  
**Section 88D(2), (4), or (6)**  
Section 88E(2), (6), or (8)  
Section 88F(2)

**92 Section 88C amended (Excluded time periods relating to provision of further information)**

- (1) Replace the heading to section 88C with “**Time allowed for processes relating to provision of further information**”.
- (2) Above section 88C(1), insert: 5  
“*Request for further information*”.
- (3) Replace section 88C(1)(b) with:  
“(b) the request is the first request made by the authority to the applicant under that provision; and  
“(c) the request is made before the authority decides whether to notify the application.” 10
- (4) In section 88C(2), (4), and (6), replace “The period that must be excluded from every applicable provision listed in section 88B(2) is the period” with “For the purposes of **section 88B**, the time allowed for the process is the period”. 15
- (5) Replace section 88C(2)(a) with:  
“(a) starting with the third working day after the date of the request under section 92(1); and”.
- (6) Above section 88C(3), insert: 20  
“*Commissioning of report—applicant agrees*”.
- (7) Above section 88C(5), insert:

*“Commissioning of report—applicant disagrees”.*

**93 Section 88D replaced (Excluded time periods relating to direct referral (for resource consents and also for notices of requirement))**

Replace section 88D with:

5

**“88D Time allowed for processes relating to direct referral**

*“Request for direct referral declined and no objection*

**“(1) Subsection (2) applies when—**

**“(a) an applicant makes a request under section 87D(1); and**

**“(b) the consent authority declines the request under section 87E(5) to (6A); and**

10

**“(c) the applicant does not object under section 357A(1)(e).**

**“(2) For the purposes of section 88B, the time allowed for the process is the period—**

**“(a) starting with the date on which the consent authority receives the request; and**

15

**“(b) ending with the date on which the 15 working days referred to in section 357C(1) end.**

*“Request for direct referral declined and objection dismissed*

**“(3) Subsection (4) applies when—**

20

**“(a) an applicant makes a request under section 87D(1); and**

**“(b) the consent authority declines the request under section 87E(5) to (6A); and**

**“(c) the consent authority dismisses the applicant’s objection under section 357D.**

25

**“(4) For the purposes of section 88B, the time allowed for the process is the period—**

**“(a) starting with the date on which the consent authority receives the request; and**

**“(b) ending with the date on which the consent authority notifies the applicant of its decision to dismiss the objection.**

30

*“Request for direct referral granted or objection upheld*

**“(5) Subsection (6) applies when—**

**“(a) an applicant makes a request under section 87D(1); and**

35

**“(b) either—**



- “(i) the consent authority grants the request under section 87E(5) to **(6A)**; or
- “(ii) the consent authority declines the request under section 87E(5) to **(6A)**, but upholds the applicant’s objection under section 357D. 5
- “(6) For the purposes of **section 88B**, the time allowed for the process is the period—
- “(a) starting with the date on which the consent authority receives the request; and
- “(b) ending with the earlier of the following: 10
- “(i) the date on which the 15 working days referred to in **section 87G(2)(a)** end; and
- “(ii) the date on which the applicant advises the consent authority that the applicant does not intend to lodge a notice of motion with the Environment 15 Court under **section 87G(2)**.”
- 94 Section 88E amended (Excluded time periods relating to other matters)**
- (1) Replace the heading to section 88E with “**Time allowed for processes relating to other matters**”. 20
- (2) Above section 88E(1), insert:  
*“Deferral pending application for additional consents”.*
- (3) In section 88E(2) and (6), replace “The period that must be excluded from every applicable provision listed in section 88B(2) is the period” with “For the purposes of **section 88B**, the time allowed for the process is the period”. 25
- (4) Replace section 88E(3) and (4) with:  
*“Approval sought from affected persons or groups*
- “(3) **Subsection (4)** applies when an applicant tries, for the purposes of section 95E(3), 95F, or 95G, to obtain approval for an activity from any person or group who may otherwise be considered an affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity. 30
- “(4) For the purposes of **section 88B**, the time allowed for the process is the period— 35

- “(a) starting with the date on which the applicant gives written notice to the consent authority that the applicant is trying to obtain the approvals; and
- “(b) ending with the earlier of the following:
- “(i) the date on which the consent authority has received written notice of the approval (that has not been withdrawn) from all such persons and groups; and
- “(ii) the date on which the applicant gives written notice to the consent authority that the applicant has ceased trying to obtain the approvals.”
- (5) Above section 88E(5), insert:  
*“Referral to mediation”.*
- (6) After section 88E(6), insert:  
*“Suspension of application processing*
- “(7) **Subsection (8)** applies when the processing of an application is suspended under **section 91A**.
- “(8) For the purposes of **section 88B**, the time allowed for the process is the period—
- “(a) starting with the date on which the suspension started:
- “(b) ending with the date on which the suspension ceased.”
- 95 Section 88F amended (Excluded time relating to pre-request aquaculture agreements)**
- (1) Replace the heading to section 88F with **“Time allowed for process relating to pre-request aquaculture agreements”**.
- (2) In section 88F(2), replace “The period that must be excluded from every applicable provision listed in section 88B(2) is the period” with “For the purposes of **section 88B**, the time allowed for the process is the period”.
- 96 New sections 91A to 91C inserted**
- After section 91, insert:
- “91A Applicant may have processing of application suspended**
- “(1) A consent authority must suspend the processing of a notified application when a request is received in accordance with this section.

- “(2) The applicant may request the consent authority to suspend the processing of an application at any time in the period—
- “(a) starting when the application is notified; and
  - “(b) ending when—
    - “(i) the hearing is completed, if a hearing is held for the application; or
    - “(ii) the consent authority gives notice to the applicant of its decision on the application, if a hearing is not held for the application.
- “(3) However, a request must not be made if—
- “(a) the applicant has lodged a notice of motion with the Environment Court under **section 87G(2)(a)**; or
  - “(b) the Minister has made a direction under section 142(2) in relation to the application; or
  - “(c) on a total of 130 or more working days, the clock has been stopped under **section 88B** for a deadline or deadlines in relation to the application (which, under **section 88E(8)**, includes time during which the application has been suspended).
- “(4) The request must be made by written or electronic notice.
- “(5) If processing is suspended under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension started.
- “91B When suspension of processing ceases**
- “(1) A consent authority must cease to suspend the processing of an application when—
- “(a) a request is received in accordance with this section; or
  - “(b) the applicant lodges a notice of motion with the Environment Court under **section 87G(2)(a)**; or
  - “(c) the Minister makes a direction under section 142(2) in relation to the application.
- “(2) The applicant may request the consent authority to cease to suspend the processing of an application if it is currently suspended.
- “(3) The request must be made by written or electronic notice.

“(4) If a suspension is ceased under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension ceased.

**“91C Application may be returned if suspended after certain period** 5

“(1) A consent authority may return an application to the applicant if,—

“(a) on a total of 130 or more working days, the clock has been stopped under **section 88B** for a deadline or deadlines in relation to the application (which, under **section 88E(8)**, includes time during which the application has been suspended); and 10

“(b) the application is suspended at the time.

“(2) The consent authority must provide with the returned application a written explanation as to why it is being returned. 15

“(3) If, after an application has been returned, the application is lodged again with the consent authority, the application is to be treated as a new application.”

**97 Section 95 amended (Time limit for public notification or limited notification)** 20

In section 95, replace “10” with “20”.

**98 Section 97 replaced (Time limit for submissions)**

Replace section 97 with:

**“97 Time limit for submissions**

“(1) This section specifies the closing date for serving submissions on a consent authority that has notified an application. 25

“(2) If public notification was given, the closing date is the 20th working day after the date of public notification.

“(3) If limited notification was given, the closing date is the earlier of the following: 30

“(a) the 20th working day after the date of limited notification:

“(b) the day on which the consent authority has received submissions, or written approval for the application, from all affected persons.” 35

**99 Section 101 amended (Hearing date and notice)**

Replace section 101(2) with:

- “(2) If the application was not notified, the date for the commencement of the hearing must be within 35 working days after the date the application was first lodged with the consent authority.” 5

**100 Section 103A replaced (Time limit for completion of adjourned hearing)**

Replace section 103A with:

**“103A Time limit for completion of hearing for notified application 10**

- “(1) This section applies to a hearing for an application for a resource consent that was notified.
- “(2) If public notification was given, the hearing must be completed no later than 75 working days after the closing date for submissions on the application. 15
- “(3) If limited notification was given, the hearing must be completed no later than 45 working days after the closing date for submissions on the application.

**“103B Requirement to provide report and other evidence before hearing 20**

- “(1) This section applies to a hearing for an application for a resource consent that was notified.
- “(2) The consent authority must provide the following (the **authority’s evidence**) to the applicant, and to every person who made a submission and stated a wish to be heard at the hearing, at least 15 working days before the hearing: 25
- “(a) a copy of any written report prepared under **section 42A(1)**; and
- “(b) briefs of any other evidence to be called by the authority. 30
- “(3) The applicant must provide briefs of evidence (the **applicant’s evidence**) to the consent authority at least 10 working days before the hearing.
- “(4) A person who has made a submission and who is intending to call expert evidence must provide briefs of the evidence 35

- (the **submitter's evidence**) to the consent authority and the applicant at least 5 working days before the hearing.
- “(5) The consent authority must make the following available at its office to the persons specified:
- “(a) the authority’s evidence to any person who made a submission and did not state a wish to be heard: 5
  - “(b) the applicant’s evidence to any person who made a submission:
  - “(c) any submitter’s evidence to any other person who made a submission. 10
- “(6) The consent authority must give written or electronic notice that evidence is available at its office to each person to whom the evidence is made available.
- “(7) This section overrides sections 41B and 42A(3) to (5).”
- 101 Section 107F amended (Applications to undertake aquaculture activities) 15**  
 In section 107F(3)(a), replace “section 88(3)” with “**section 88(3A)**”.
- 102 Section 115 amended (Time limits for notification of decision) 20**  
 Repeal section 115(5).
- 103 Section 149Z amended (Local authority must process referred matter) 25**  
 In section 149Z(2)(c), replace “section 88(3)” with “**section 88(3) and (3A)**”.
- 104 Section 165ZFE amended (Processing of affected applications)**
- (1) In section 165ZFE(9)(a)(ii), replace “10 working days” with “15 working days”.
  - (2) In section 165ZFE(11), replace “10 working days” with “15 30 working days”.

- 105 Section 165ZM amended (Other provisions of Act apply subject to this subpart)**  
In section 165ZM(4), after “sections 88A to 88E,”, insert “**91A**,”.
- 106 Section 165ZP amended (Incomplete concurrent application)** 5  
In section 165ZP(1), replace “section 88(3)” with “**section 88(3A)**”.
- 107 Section 165ZQ amended (Additional consents)**  
(1) In section 165ZQ(1)(a), replace “5” with “10”. 10  
(2) In section 165ZQ(1)(b), replace “section 88(3)” with “**section 88(3A)**”.
- 108 Section 168A amended (Notice of requirement by territorial authority)**  
After section 168A(2), insert: 15  
“(2AA) However, **section 101(2)** does not apply to the notice of requirement, and the date for the commencement of the hearing is as follows:  
“(a) if the notice of requirement was not notified, the date must be within 25 working days after the date the notice of requirement was given by the territorial authority: 20  
“(b) if the notice of requirement was notified and the territorial authority gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the notice of requirement: 25  
“(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the notice of requirement.” 30
- 109 Section 169 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)**  
(1) In section 169(1)(e), after “designation”, insert “; and”.

- (2) After section 169(1)(e), insert:  
 “(f) the time limit specified by section 95 were 10 working days.”
- (3) After section 169(2), insert:
- “(3) However, **section 101(2)** does not apply to the notice of re- 5  
 quirement, and the date for the commencement of the hearing  
 is as follows:  
 “(a) if the notice of requirement was not notified, the date  
 must be within 25 working days after the date the notice  
 of requirement was given to the territorial authority: 10  
 “(b) if the notice of requirement was notified and the terri-  
 torial authority gives a direction under section 41B, the  
 date must be within 40 working days after the closing  
 date for submissions on the notice of requirement:  
 “(c) if the notice of requirement was notified and the terri- 15  
 torial authority does not give a direction under section  
 41B, the date must be within 25 working days after the  
 closing date for submissions on the notice of require-  
 ment.”
- 110 Section 181 amended (Alteration of designation) 20**  
 In section 181(2) and (3), after “sections 168 to 179”, insert  
 “and **198AA to 198AE**”.
- 111 Section 189A amended (Notice of requirement for 25**  
**heritage order by territorial authority)**  
 After section 189A(9), insert:  
 “(9A) However, **section 101(2)** does not apply to the notice of re-  
 quirement, and the date for the commencement of the hearing  
 is as follows:  
 “(a) if the notice of requirement was not notified, the date  
 must be within 25 working days after the date the notice 30  
 of requirement was given by the territorial authority:  
 “(b) if the notice of requirement was notified and the terri-  
 torial authority gives a direction under section 41B, the  
 date must be within 40 working days after the closing  
 date for submissions on the notice of requirement: 35



“(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the notice of requirement.”

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**112 Section 190 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)**

(1) In section 190(1)(e), after “heritage order”, insert “; and”.

(2) After section 190(1)(e), insert:

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“(f) the time limit specified by section 95 were 10 working days.”

(3) After section 190(7), insert:

“(8) However, **section 101(2)** does not apply to the notice of requirement, and the date for the commencement of the hearing is as follows:

15

“(a) if the notice of requirement was not notified, the date must be within 25 working days after the date the notice of requirement was given to the territorial authority:

“(b) if the notice of requirement was notified and the territorial authority gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the notice of requirement:

20

“(c) if the notice of requirement was notified and the territorial authority does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the notice of requirement.”

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**113 Section 195A amended (Alteration of heritage order)**

In section 195A(2) and (4), after “Sections 189 to 195”, insert “and **198AA to 198AE**”.

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**114 New sections 198AA to 198AE and cross-heading inserted**

After section 198, insert:

*“Deferral of deadlines to allow for processes relating to designations and heritage orders*

**“198AA Deferral of deadlines to allow for processes relating to designations and heritage orders**

- “**(1)** This section sets out how a deadline relating to a designation or heritage order is deferred if 1 or more processes affect the deadline. 5
- “**(2)** In this section,—
- “**(a)** the **deadline** is the last day on which something may be done under a provision listed in the first column of the table in **section 198AB**: 10
- “**(b)** the **deadline’s calculation day** is the day from which the deadline is calculated under that provision:
- “**(c)** the **time allowed for a process** is the period specified in a provision listed, in relation to the deadline, in the second column of the table in **section 198AB**. 15
- “**(3)** The clock is stopped on each working day after the deadline’s calculation day that falls during the time allowed for a process or processes.
- “**(4)** For each working day on which the clock is stopped, the deadline is deferred by 1 working day. 20
- “**(5)** However, the clock is not stopped for a deadline once the deferred deadline has passed, or once the deadline has passed if it was not deferred.

**“198AB Table of provisions with deadlines and provisions that specify time allowed for processes** 25

The table referred to in **section 198AA(2)** is as follows:

<b>Provisions with deadlines</b>	<b>Provisions that specify time allowed for processes</b>
Section 95 (which relates to the deadline for notification) as applied by section 169(1) or 190(1) to a notice of requirement given to a territorial authority	<b>Section 198AC(2), (4), or (6)</b> <b>Section 198AE(2)</b>
Section 198D(3) (which relates to the deadline for a territorial authority report on a notice of requirement, given to a territorial authority, to be directly referred to the Environment Court)	<b>Section 198AC(2), (4), or (6)</b> <b>Section 198AE(4)</b>

**Provisions with deadlines**

Section 198J(2) (which relates to the deadline for a territorial authority report on a notice of requirement, given by a territorial authority, to be directly referred to the Environment Court)

**Section 168A(2AA)(a) or 189A(9A)(a)** (which relates to the deadline for commencement of a hearing for a non-notified notice of requirement given by a territorial authority)

**Section 168A(2AA)(b) or (c) or 189A(9A)(b) or (c)** (which relates to the deadline for commencement of a hearing for a notified notice of requirement given by a territorial authority)

**Section 169(3)(a) or 190(8)(a)** (which relates to the deadline for commencement of a hearing for a non-notified notice of requirement given to a territorial authority)

**Section 169(3)(b) or (c) or 190(8)(b) or (c)** (which relates to the deadline for commencement of a hearing for a notified notice of requirement given to a territorial authority)

**Provisions that specify time allowed for processes**

**Section 198AE(4)**

**Section 198AE(2)**

**Section 198AD(8)**  
**Section 198AE(4)**

**Section 198AC(2), (4), or (6)**  
**Section 198AE(2)**

**Section 198AC(2), (4), or (6)**  
**Section 198AD(2), (4), or (6)**  
**Section 198AE(4)**

**“198AC Time allowed for processes relating to provision of further information**

*“Request for further information*

“(1) **Subsection (2)** applies when—

“(a) a territorial authority has requested a requiring authority or heritage protection authority, under section 92(1), to provide further information on a notice of requirement; and

“(b) the request is the first request made by the territorial authority to the requiring authority or heritage protection authority under that provision—

“(i) at all; or

“(ii) after the closing date for submissions.

“(2) For the purposes of **section 198AA**, the time allowed for the process is the period—

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- “(a) starting with the date of the request under section 92(1);  
and
- “(b) ending as follows:
- “(i) if the requiring authority or heritage protection authority provides the information within 15 working days, the date on which it provides the information: 5
- “(ii) if the requiring authority or heritage protection authority agrees within 15 working days to provide the information and provides the information, the date on which it provides the information: 10
- “(iii) if the requiring authority or heritage protection authority agrees within 15 working days to provide the information and does not provide the information, the date set under section 92A(2)(a): 15
- “(iv) if the requiring authority or heritage protection authority does not respond to the request within 15 working days, the date on which the period of 15 working days ends: 20
- “(v) if the requiring authority or heritage protection authority refuses within 15 working days to provide the information, the date on which it refuses to provide the information. 25
- “*Commissioning of report—other authority agrees* 25
- “(3) **Subsection (4)** applies when—
- “(a) a territorial authority has notified a requiring authority or heritage protection authority, under section 92(2)(b), of its wish to commission a report; and
- “(b) the requiring authority or heritage protection authority agrees, under section 92B(1), to the commissioning of the report. 30
- “(4) For the purposes of **section 198AA**, the time allowed for the process is the period—
- “(a) starting with the date of the notification under section 92(2)(b); and 35
- “(b) ending with the date on which the territorial authority receives the report.

- “Commissioning of report—other authority disagrees*
- “(5) **Subsection (6)** applies when—
- “(a) a territorial authority has notified a requiring authority or heritage protection authority, under section 92(2)(b), of its wish to commission a report; and 5
- “(b) the requiring authority or heritage protection authority does not agree, under section 92B(1), to the commissioning of the report.
- “(6) For the purposes of **section 198AA**, the time allowed for the process is the period— 10
- “(a) starting with the date of the notification under section 92(2)(b); and
- “(b) ending with the earlier of the following:
- “(i) the date on which the period of 15 working days ends; and 15
- “(ii) the date on which the territorial authority receives the requiring authority’s or heritage protection authority’s refusal, under section 92B(1), to agree to the commissioning of the report.
- “198AD Time allowed for processes relating to direct referral 20**
- “Request for direct referral declined and no objection*
- “(1) **Subsection (2)** applies when—
- “(a) a requiring authority or heritage protection authority makes a request under section 198B(1); and
- “(b) the territorial authority declines the request under section 198C(4) to **(5A)**; and 25
- “(c) the requiring authority or heritage protection authority does not object under section 357(8).
- “(2) For the purposes of **section 198AA**, the time allowed for the process is the period— 30
- “(a) starting with the date on which the territorial authority receives the request; and
- “(b) ending with the date on which the 15 working days referred to in section 357C(1) end.
- “Request for direct referral declined and objection dismissed 35*
- “(3) **Subsection (4)** applies when—

- “(a) a requiring authority or heritage protection authority makes a request under section 198B(1); and
- “(b) the territorial authority declines the request under section 198C(4) to **(5A)**; and
- “(c) the territorial authority dismisses the requiring authority’s or heritage protection authority’s objection under section 357D. 5
- “(4) For the purposes of **section 198AA**, the time allowed for the process is the period—
- “(a) starting with the date on which the territorial authority receives the request; and 10
- “(b) ending with the date on which the territorial authority notifies the requiring authority or heritage protection authority of its decision to dismiss the objection.
- “*Request for direct referral granted or objection upheld* 15
- “(5) **Subsection (6)** applies when—
- “(a) a requiring authority or heritage protection authority makes a request under section 198B(1); and
- “(b) either—
- “(i) the territorial authority grants the request under section 198C(4) to **(5A)**; or 20
- “(ii) the territorial authority declines the request under section 198C(4) to **(5A)**, but upholds the requiring authority’s or heritage protection authority’s objection under section 357D. 25
- “(6) For the purposes of **section 198AA**, the time allowed for the process is the period—
- “(a) starting with the date on which the territorial authority receives the request; and
- “(b) ending with the earlier of the following: 30
- “(i) the date on which the 15 working days referred to in **section 198E(2)(a)** end; and
- “(ii) the date on which the requiring authority or heritage protection authority advises the territorial authority that it does not intend to lodge a notice of motion with the Environment Court under **section 198E(2)**. 35

*“Decision to make direct referral to Environment Court*

- “(7) **Subsection (2)** applies when a territorial authority makes a decision under section 198H(1).
- “(8) For the purposes of **section 198AA**, the time allowed for the process is the period— 5
- “(a) starting with the date on which the territorial authority makes the decision; and
- “(b) ending with the earlier of the following:
- “(i) the date on which the 15 working days referred to in **section 198K(1)(a)** end; and 10
- “(ii) the date on which the territorial authority decides not to lodge a notice of motion with the Environment Court under **section 198K(1)**.

**“198AE Time allowed for processes relating to other matters***“Approval sought from affected persons or groups* 15

- “(1) **Subsection (2)** applies when a requiring authority or heritage protection authority tries, for the purposes of section 95E(3), 95F, or 95G, to obtain approval for an activity from any person or group who may otherwise be considered an affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity. 20
- “(2) For the purposes of **section 198AA**, the time allowed for the process is the period—
- “(a) starting with the date on which the requiring authority or heritage protection authority gives written notice to the territorial authority that the requiring authority or heritage protection authority is trying to obtain the approvals; and 25
- “(b) ending with the earlier of the following:
- “(i) the date on which the territorial authority has received written notice of the approval (that has not been withdrawn) from all such persons and groups; and 30
- “(ii) the date on which the requiring authority or heritage protection authority gives written notice to the territorial authority that the requiring author- 35

ity or heritage protection authority has ceased trying to obtain the approvals.

*“Referral to mediation*

- “(3) **Subsection (4)** applies when a territorial authority refers persons to mediation under section 99A. 5
- “(4) For the purposes of **section 198AA**, the time allowed for the process is the period—
- “(a) starting with the date of the reference; and
- “(b) ending with the earlier of the following:
- “(i) the date on which one of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person’s consent to the mediation; and 10
- “(ii) the date on which the mediator reports the outcome of the mediation to the territorial authority.” 15

**115 Section 198E amended (Environment Court decides)**

In **section 198E(2)(a)**, replace “10 working days” with “15 working days”.

**116 Section 198G amended (When territorial authority must deal with requirement) 20**

- (1) In section 198G(1)(b)(i), replace “that the requiring authority” with “that it”.
- (2) In section 198G(1)(b)(ii), delete “; and”.
- (3) Repeal section 198G(1)(c). 25

**117 Section 198K amended (Environment Court decides)**

In **section 198K(1)(a)**, replace “10 working days” with “15 working days”.

**118 Section 198M amended (When territorial authority must deal with requirement) 30**

- (1) In section 198M(1)(b), delete “; and”.
- (2) Repeal section 198M(1)(c).



**119 Section 206 amended (Conduct of hearing)**

(1) In section 206(3), replace “Sections 39 to 42 and 99 to 100 and 101” with “Sections 39, 40 to 42, 99 to 100, and 101”.

(2) After section 206(3), insert:

“(3A) However, **section 101(2)** does not apply to the application, and the date for the commencement of the hearing is as follows: 5

“(a) if the special tribunal gives a direction under section 41B, the date must be within 40 working days after the closing date for submissions on the application: 10

“(b) if the special tribunal does not give a direction under section 41B, the date must be within 25 working days after the closing date for submissions on the application.”

(3) Replace section 206(4) with: 15

“(4) In addition, any hearing must be held at a place determined by the special tribunal that is near the water body to which the application relates.”

**120 Schedule 1 amended**

In Schedule 1, clause 22(2), replace “the provisions” with “**clauses 5 and 6**”.

**121 Schedule 4 replaced**

Replace Schedule 4 with the **Schedule 4** set out in **Schedule 1** of this Act.

**Part 2**

25

**Local Government (Auckland Transitional Provisions) Act 2010****122 Principal Act**

This **Part** amends the Local Government (Auckland Transitional Provisions) Act 2010 (the **principal Act**).

30

**123 Section 3 amended (Purpose of this Act)**

(1) In section 3(2)(c), after “enactments”, insert “; and”.

(2) After section 3(2)(c), insert:

“(d) provides a process for the development of the first combined planning document for Auckland Council under the Resource Management Act 1991.”

**124 Section 5 amended (Transitional regulations)**

- (1) In section 5(1)(d), after “under”, insert “Part 1 or 2 of”. 5
- (2) In section 5(2), replace “This section” with “Subsection (1)”. 5
- (3) In section 5(3), replace “this section” with “subsection (1)”. 5
- (4) After section 5(3), insert:
- “(4) The Governor-General may, by Order in Council made on the recommendation of the Minister for the Environment, make regulations to— 10
- “(a) prescribe matters in respect of the preparation of the first Auckland combined plan that may be in addition to or in place of the provisions of **Part 4**: 15
- “(b) provide that, subject to any conditions specified in the regulations, during a specified period or in specified circumstances, specified provisions of **Part 4**, or the Resource Management Act 1991, do not apply, or apply with modifications, to the preparation of the first Auckland combined plan: 20
- “(c) make provision for a situation in respect of the preparation of the first Auckland combined plan for which no or insufficient provision is made by **Part 4**. 20
- “(5) Without limiting **subsection (4)(b)**, regulations may be made under that subsection in relation to the recognition of any national policy statement issued under the Resource Management Act 1991 during the preparation of the first Auckland combined plan under **Part 4** of this Act. 25
- “(6) The Minister for the Environment must not recommend the making of regulations under **subsection (4)** unless he or she is satisfied that the regulations are— 30
- “(a) necessary or desirable for the development of the first Auckland combined plan; and
- “(b) consistent with the purposes of this Act.
- “(7) **Subsection (4)** is repealed at the close of the following, and any regulations made under that subsection that are in force at that time are revoked and have no further legal effect: 35

- “(a) **1 July 2017** if no extension to the deadline referred to in **section 141** is granted under **section 142**:  
 “(b) **1 July 2018** if 1 or more extensions to the deadline referred to in **section 141** are granted under **section 142**.”

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**125 New Part 4 inserted**

After Part 3, insert:

**“Part 4****“Process for development of first combined plan for Auckland Council**

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**“115 Overview of this Part**

“(1) This Part sets out the following process for the preparation of the first Auckland combined plan:

“(a) the Auckland Council prepares a proposed plan for Auckland that meets the requirements of a regional policy statement, a regional plan, including a regional coastal plan, and a district plan:

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“(b) the plan is prepared in accordance with this Part and, to the extent provided for by this Part, the RMA:

“(c) the Council notifies the proposed plan and calls for submissions:

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“(d) at the same time as the plan is notified, the Council releases its reports on the proposed plan under **sections 32** and 165H of the RMA, and an audit of those reports as undertaken by the Ministry for the Environment:

25

“(e) the Council notifies a summary of submissions and calls for further submissions:

“(f) the Council then forwards all relevant information obtained up to this point to a specialist Hearings Panel appointed by the Minister for the Environment and the Minister of Conservation:

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“(g) the Hearings Panel holds a Hearing into submissions on the proposed plan by means of hearing sessions conducted in accordance with the procedural and other requirements of this Part:

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- “(h) the Council must attend the hearing sessions and otherwise assist the Hearings Panel with the task of the hearing:
- “(i) on the completion of the hearing of submissions, but no later than 50 working days before the expiry of 3 years from the date the Council notifies the proposed plan, the Hearings Panel must make recommendations to the Council on the proposed plan (unless that period is extended by the Minister for the Environment by up to 1 year):
- “(j) the Council must make decisions on the recommendations of the Hearings Panel no later than 20 working days after receiving the recommendations (unless that period is extended by the Minister for the Environment by up to a further 20 working days) and publicly notify the recommendations of the Hearings Panel and the Council’s decisions on the recommendations:
- “(k) the proposed plan is amended in accordance with the Council’s decisions on the recommendations and is deemed, subject to the appeal rights of submitters, to be approved or adopted, as the case may be:
- “(l) submitters on the proposed plan may appeal to the Environment Court on those recommendations of the Hearings Panel that the Council rejects:
- “(m) submitters on the proposed plan may appeal to the High Court, on a point of law only, on those recommendations of the Hearings Panel that the Council accepts:
- “(n) once all appeals are determined, the Council must then publicly notify the operative date of the proposed plan.
- “(2) This section is only a guide to the general scheme and effect of this Part. It does not affect the interpretation or application of the other provisions of the Part.

“**116 Interpretation**

- “(1) In this Part, unless the context requires another meaning,—
- “**Auckland** has the same meaning as in section 4(1) of the Local Government (Auckland Council) Act 2009
- “**Auckland combined plan** means the combined document described by **section 119**

“**Auckland Council or Council**—

“(a) means the local authority established by section 6(1) of the Local Government (Auckland Council) Act 2009; and

“(b) includes a member, delegate, or officer of the Council acting on its behalf 5

“**chairperson** means the chairperson of the Hearings Panel

“**coastal marine area** has the meaning given by section 2(1) of the RMA

“**Hearing** means the overall process undertaken by the Hearings Panel under this Part 10

“**hearing session** means a particular session at which submissions are heard by the Hearings Panel as part of the Hearing

“**Hearings Panel or Panel** means the Hearings Panel established by **section 155** 15

“**Independent Māori Statutory Board** means the board established by Part 7 of the Local Government (Auckland Council) Act 2009

“**member**, in relation to the Hearings Panel, includes the chairperson 20

“**Ministry** means the Ministry for the Environment

“**proposed plan** means the proposed Auckland combined plan prepared by the Auckland Council in accordance with **sections 118 to 122**

“**RMA** means the Resource Management Act 1991 25

“**requiring authority** means—

“(a) a requiring authority within the meaning of section 166 of the RMA; and

“(b) a heritage protection authority within the meaning of section 187 of the RMA 30

“**submission**—

“(a) means a written or electronic submission received by the Auckland Council on the proposed plan; and

“(b) includes a further written or electronic submission on the proposed plan 35

“**submitter** includes a person representing a submitter

“**working day** has the meaning given by section 2(1) of the RMA.

“(2) Unless the context requires another meaning, a term or expression used and not defined in this Part, but defined in the RMA, has the same meaning as in that Act. 5

“**117 Application of this Part**

“(1) This Part applies only to the preparation of the first Auckland combined plan.

“(2) To avoid doubt, once the Auckland combined plan is operative, the plan may be changed only in accordance with the RMA. 10

*“Initial preparation of proposed Auckland combined plan*

“**118 Preparation of first Auckland combined plan**

“(1) The Auckland combined plan, and the documents that make up the plan, must be prepared in accordance with— 15

“(a) this Part; and

“(b) the RMA, except the provisions of the RMA that—

“(i) are excluded from applying by this Part; or

“(ii) correspond to provisions of this Part. 20

“(2) Anything done under a provision of this Part is to be treated as if it were done under any provision of the RMA that corresponds to the provision of this Part.

“(3) In this section, a provision of the RMA **corresponds** to a provision of this Part if the provision of the RMA— 25

“(a) is replaced, with or without modification, by the provision of this Part; or

“(b) otherwise corresponds to the provision of this Part.

“(4) Despite **section 117(1), subsection (2)** continues to apply after the Auckland combined plan has been prepared and becomes operative. 30

**“119 Auckland combined plan to combine regional and district documents**

- “(1) The Auckland Council must prepare, implement, and administer a document (the **Auckland combined plan**) that meets the requirements of all of the following: 5
- “(a) a regional policy statement for Auckland:
  - “(b) a regional plan, including a regional coastal plan, for Auckland:
  - “(c) a district plan for Auckland.
- “(2) The Auckland combined plan must clearly identify— 10
- “(a) the provisions of the document that are the regional policy statement, the regional plan, the regional coastal plan, or the district plan, as the case may be; and
  - “(b) the objectives, policies, and methods set out or described in the document that have the effect of being 15 provisions of the regional policy statement.
- “(3) Once the Auckland combined plan is approved by the Auckland Council, it is deemed, for the purposes of the RMA, to be a plan or regional policy statement separately prepared and approved by the Council for its region or district, as the case 20 may be.

**“120 Initial preparation of Auckland combined plan**

- “(1) A reference in this section to a clause is to a clause of Schedule 1 of the RMA.
- “(2) The Auckland Council must initially prepare the Auckland combined plan in accordance with clauses 1 to 8A, as modified by this section. The other clauses do not apply. 25
- “(3) Clause 5(1) is subject to **section 122** (which relates to an evaluation report prepared under **section 32** of the RMA).
- “(4) Clause 5(1A) and (1C) do not apply (meaning that copies of the public notice about the plan need not be sent to ratepayers or other persons). 30
- “(5) Clause 5(2)(e) is modified so that the notice must state—
- “(a) an address for service for written submissions; and
  - “(b) an email address for service for electronic submissions. 35
- “(6) Clause 5(3)(a) is modified so that its closing date for submissions is 60 working days after public notification.

- “(7) Clause 7(1)(c) is modified so that its closing date for further submissions is 30 working days after the day on which the public notice is given.
- “(8) Clause 1(2), and section 37 of the RMA, do not apply to the closing dates for submissions or further submissions (meaning that the Council cannot extend the dates, or waive a failure to comply with the dates, under those provisions). 5
- “(9) A person who makes an electronic submission under clause 6 or 8 is to be treated as having specified as an address for service the email address from which the submission is received. 10
- “**121 Restriction on amendments or variations to Auckland combined plan**
- “(1) The following provisions of the RMA do not apply to the Auckland combined plan before it is operative:
- “(a) section 55: 15
- “(b) clauses 16 to 16B of Schedule 1:
- “(c) any other provision that would allow an amendment or variation to be made.
- “(2) However, an amendment may be made—
- “(a) under clause 4(10) of Schedule 1 of the RMA; or 20
- “(b) as a result of the Auckland Council’s decisions on the recommendations of the Hearings Panel.
- “(3) **Subsection (1)** is subject to any regulations made under **section 5(4)** of this Act.
- “**122 Audit of evaluation report on proposed Auckland combined plan** 25
- “(1) This section modifies how **sections 32 and 165H** of the RMA apply to the Auckland Council in its initial preparation of the proposed Auckland combined plan.
- “(2) **Subsections (3) to (6)** must be satisfied before the Auckland Council makes available for public inspection the following reports on the relevant parts of the proposed plan: 30
- “(a) the evaluation report prepared under **section 32** of the RMA:
- “(b) any report prepared under **section 165H** of the RMA. 35



- “(3) The Auckland Council must provide the reports to the Ministry as soon as practicable after they are prepared, but no later than 60 working days before the day on which the proposed plan is to be publicly notified.
- “(4) The Ministry must audit the reports, or have the reports audited, against criteria that have been— 5  
 “(a) determined by the Ministry after consultation with the Auckland Council; and  
 “(b) specified in a written notice from the chief executive of the Ministry to the Auckland Council. 10
- “(5) The Ministry must prepare a report, or have a report prepared, of the audit and provide the audit report to the Auckland Council as soon as practicable, but no later than 30 working days after the day on which the Ministry received the reports for auditing. 15
- “(6) After receiving the audit report, the Auckland Council may amend the reports that were audited.
- “(7) The Auckland Council must make those reports (as amended, if applicable), and the audit report, available for public inspection at the same time as, or as soon as practicable after, the proposed plan is publicly notified (as required by **section 32(5)** of the RMA for an evaluation report). 20
- “**123 Auckland Council must provide relevant information to Hearings Panel**
- “(1) The Auckland Council must provide copies of the following to the Hearings Panel: 25  
 “(a) the proposed Auckland combined plan that was publicly notified:  
 “(b) any notices about designations, or notices of requirements for designations or heritage orders, referred to in clause 4(5) of Schedule 1 of the RMA: 30  
 “(c) the information about requirements referred to in clause 4(7) of Schedule 1 of the RMA:  
 “(d) the Council’s evaluation report and the report required by section 165H in the forms provided to the Ministry under **section 122** and, if applicable, in the forms as amended after the audit report relating to those reports was received: 35

- “(e) the audit report:
- “(f) the submissions on the proposed plan received by the closing date for submissions:
- “(g) the Council’s summary of the decisions requested by submitters: 5
- “(h) the further submissions on the proposed plan received by the closing date for further submissions:
- “(i) any submissions or further submissions received after the relevant closing date, along with information about when the submissions were received: 10
- “(j) the planning documents that are recognised by an iwi authority and lodged with the Council:
- “(k) any amendments the Council makes to the proposed plan under clause 4(10) of Schedule 1 of the RMA:
- “(l) any other relevant information held by the Council that is requested by the Hearings Panel. 15
- “(2) The Council must provide the documents or information as soon as is reasonably practicable in each case.
- “Hearings Panel to hold Hearing into submissions on proposed plan”* 20
- “124 Hearing by Hearings Panel**
- “(1) The Hearings Panel must hold a Hearing into submissions on the proposed plan.
- “(2) The Hearings Panel must hold each hearing session in public unless permitted to do otherwise by— 25
- “(a) **section 137** (which relates to the protection of sensitive information); or
- “(b) section 48 of the Local Government Official Information and Meetings Act 1987 (as that Act applies in accordance with **section 163** of this Part). 30
- “125 Who may be heard**
- “(1) Every person who has made a submission and stated that they wished to be heard at the Hearing may speak at a hearing session, either personally or through a representative, and call evidence. 35

- “(2) Despite **subsection (1)**, the Hearings Panel may limit the circumstances in which parties having the same interest in a matter may speak or call evidence, if the Panel considers that there is likely to be excessive repetition.
- “(3) **Subsection (4)** applies if a person who made a submission and stated that they wished to be heard fails to appear, or any representative of the person fails to appear, at the relevant hearing session. 5
- “(4) The Hearings Panel may proceed with the hearing session if it considers it fair and reasonable to do so. 10
- “**126 Notice of hearing sessions**
- The Hearings Panel must give no less than 10 working days notice of the dates, times, and places of the hearing sessions to—
- “(a) every person who made a submission and who requested to be heard (and has not since withdrawn the request); and 15
- “(b) every requiring authority that has a designation or heritage protection order included in the proposed plan.
- “**127 Pre-hearing session meetings** 20
- “(1) Before a hearing session, the Hearings Panel may invite or require the persons listed in **subsection (2)** to attend a meeting for the purpose of—
- “(a) clarifying a matter or issue relating to the proposed plan; or 25
- “(b) facilitating resolution of a matter or issue relating to the proposed plan.
- “(2) The persons are—
- “(a) 1 or more submitters; and
- “(b) the Council; and 30
- “(c) any other persons that the Hearings Panel considers appropriate, including 1 or more experts.
- “(3) A meeting may be chaired by a member of the Hearings Panel or a person appointed by the chairperson of the Panel.
- “(4) The chairperson of the meeting must, after a meeting, prepare a report that— 35

- “(a) sets out any clarification or resolution of a matter or issue agreed between the persons who attended the meeting; and
- “(b) sets out any outstanding matter or issue between them; and 5
- “(c) addresses any matter or issue identified to the chairperson by the Hearings Panel.
- “(5) The chairperson of the meeting must provide the report to the Hearings Panel and the persons who attended the meeting no less than 5 working days before the hearing session to which 10 the meeting relates.
- “(6) A report prepared under **subsection (4)** must not include any material communicated or made available at the meeting on a without prejudice basis.
- “**128 Consequences of submitter not attending pre-hearing session meeting** 15
- “(1) This section applies if a submitter who is required to attend a meeting under **section 127** fails to do so without reasonable excuse.
- “(2) The Hearings Panel may decline to consider the person’s submission. 20
- “(3) If the Hearings Panel acts under **subsection (2)**, the person—
- “(a) has no rights of appeal under **section 149** of this Part; and
- “(b) may not become, under section 274 of the RMA, a party to proceedings as the result of any appeal right exercised by another person under **section 149** of this Part. 25
- “(4) However, the person may object under **section 148** of this Part.
- “**129 Conference of experts** 30
- “(1) The Hearings Panel may, at any time during the Hearing, direct that a conference of experts be held for the purpose of—
- “(a) clarifying a matter or issue relating to the proposed plan; or
- “(b) facilitating resolution of a matter or issue relating to the proposed plan. 35

- “(2) A conference may be facilitated by a member of the Hearings Panel or a person appointed by the Panel.
- “(3) The facilitator of a meeting must, after the meeting, prepare a report on the conference and provide it to—
- “(a) the Hearings Panel; and 5
  - “(b) the persons who attended the conference.
- “(4) A facilitator must act under **subsection (3)(a) or (b)** only if the Hearings Panel requires him or her to do so.
- “(5) A report prepared under **subsection (3)** must not include any material communicated or made available at the conference on a without prejudice basis. 10
- “(6) To avoid doubt, the Council may attend a conference under this section only if authorised to do so by the Hearings Panel.
- “**130 Alternative dispute resolution**
- “(1) The Hearings Panel may, at any time during the Hearing, refer to mediation or any other alternative dispute resolution process the persons listed in **subsection (2)** if— 15
- “(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 proposed plan; and 20
  - “(b) each person has consented (other than the Council, which must participate if referred by the Panel).
- “(2) The persons are:
- “(a) 1 or more submitters; and 25
  - “(b) the Council; and
  - “(c) any other person that the Hearings Panel considers appropriate.
- “(3) The Hearings Panel must appoint the mediator or person facilitating the meeting (the **mediator**). 30
- “(4) The person who conducts the mediation or other process must report the outcome to the Hearings Panel.
- “**131 Late submissions**
- “(1) This section applies to the submissions described in **section 123(1)(i)**. 35

- “(2) The chairperson of the Hearings Panel must decide whether to waive the requirement to comply with **section 120(6) and (7)** in respect of each submission to which this section applies.
- “(3) In making his or her decision, the chairperson must take into account— 5
- “(a) the interests of any person who or that, in the chairperson’s opinion, may be directly affected by the waiver; and
- “(b) the need to ensure there is an adequate assessment of the effects of the proposed plan; and 10
- “(c) the stage of the Hearing at which the Hearings Panel is provided with the submissions.
- “(4) A decision of the chairperson under this section is final and there is no right of objection or appeal against it.
- “Hearing procedure”* 15
- “132 Hearing procedure**
- “(1) At each hearing session, no fewer than 3 members of the Hearings Panel must be present.
- “(2) If the chairperson is not present, he or she must appoint another member as chairperson for the purposes of the hearing session. 20
- “(3) At the hearing session, the Hearings Panel—
- “(a) may permit a party to question any other party or witness; and
- “(b) may permit cross-examination; and
- “(c) must receive evidence written or spoken in Māori, in which case the Māori Language Act 1987 applies as if the hearing session were legal proceedings before a tribunal named in Schedule 1 of that Act. 25
- “(4) Otherwise, the Hearings Panel must establish a procedure for hearing sessions that— 30
- “(a) is appropriate and fair in the circumstances (including in respect of the granting to a person of any waiver of the requirements of the Hearings Panel); and
- “(b) avoids unnecessary formality; and
- “(c) recognises tikanga Māori where appropriate. 35
- “(5) The Hearings Panel must keep a full record of the hearing sessions and any other proceedings.

**“133 Council must attend hearing sessions**

- “(1) The Council must attend the hearing sessions to assist the Hearings Panel in 1 or more of the following ways:
- “(a) to clarify or discuss matters in the proposed plan:
  - “(b) to give evidence: 5
  - “(c) to speak to submissions or address issues raised by them:
  - “(d) to provide any other relevant information as requested by the Hearings Panel.
- “(2) Despite **subsection (1)**, the Hearings Panel may excuse the Council from attending or remaining at any particular hearing session. 10
- “(3) A failure by the Council or the Hearings Panel to comply with this section does not invalidate the Hearing or the hearing session. 15
- “(4) To avoid doubt, this section does not limit or prevent the Council from—
- “(a) making a submission on the proposed plan in accordance with **section 120**; or
  - “(b) being heard on that submission under **section 125**. 20

**“134 Other procedural matters**

- “(1) The following provisions of the Commissions of Inquiry Act 1908 apply to each hearing session as if the Hearings Panel were a Commission, and the Hearing were an inquiry, under that Act: 25
- “(a) section 4 (powers to maintain order):
  - “(b) section 4B (evidence):
  - “(c) section 4D (power to summon witnesses):
  - “(d) section 6 (protection of witnesses and other persons):
  - “(e) section 7 (allowances for witnesses). 30
- “(2) A summons to a witness to appear at a hearing session must be in the prescribed form and be signed by the chairperson.
- “(3) All allowances for a witness must be paid by the party on whose behalf the witness is called.
- “(4) However, if the Hearings Panel calls a witness, the Auckland Council must pay the allowances for that witness. 35

- “(5) The Hearings Panel may request and receive, from a person who is heard by the Panel or who is represented at a hearing session, any information and advice that is relevant and reasonably necessary for the Panel to make its recommendations under **section 139**. 5
- “**135 Directions to provide evidence within time limits**
- “(1) The Hearings Panel may direct a submitter to provide briefs of evidence to the Panel before a hearing session.
- “(2) The Hearings Panel may direct a submitter who is intending to call expert evidence to provide briefs of the evidence to the Hearings Panel before a hearing session. 10
- “(3) The submitter must provide briefs of evidence under this section in the time frame specified by the Hearings Panel.
- “**136 Directions and requests before or at hearing session**
- “(1) Before or at a hearing session, the Hearings Panel may do 1 or more of the following: 15
- “(a) direct the order of business at the hearing session, 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: 20
- “(c) direct a submitter, when presenting a submission or evidence, to present it within a time limit:
- “(d) request a submitter to provide further information.
- “(2) Before or at a hearing session, the Hearings Panel may direct that the whole, or a part of, a submission be struck out if the Panel considers— 25
- “(a) the whole submission, or the part, is frivolous or vexatious; or
- “(b) that the whole submission, or the part, discloses no reasonable or relevant case; or 30
- “(c) that it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.
- “(3) At a hearing session, the Hearings Panel may direct a submitter not to present— 35



- “(a) the whole submission, if all of it is irrelevant or not in dispute; or
- “(b) any part of the submission that is irrelevant or not in dispute; or
- “(c) any part of the submission that does not relate to that part of the proposed plan being addressed at the hearing session. 5
- “(4) The Hearings Panel must make available for inspection, on the Auckland Council’s website and at the offices of the Council, any information it receives under **subsection (1)(d)** that is not given as evidence at a hearings session. 10
- “(5) If the Hearings Panel gives a direction under **subsection (2)**, it must record its reasons for the direction.
- “(6) A person whose submission, in whole or in part, is struck out has a right of objection under **section 148**. 15
- “137 Protection of sensitive information**
- “(1) The Hearings Panel may, on its own motion or on the application of any submitter, make an order described in **subsection (2)** where it is satisfied—
- “(a) that the order is necessary to avoid— 20
- “(i) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or
- “(ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and 25
- “(b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available. 30
- “(2) An order may—
- “(a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded (which order must, for the purposes of section 48(3) to (5) of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section); 35

- “(b) prohibit or restrict the publication or communication of any information supplied to it, or obtained by it, in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement. 5
- “**138 Hearings Panel may commission reports**
- “(1) The Hearings Panel may, at any time during the Hearing, require the Auckland Council, or commission a consultant or any other person, to prepare a report on— 10
- “(a) 1 or more submissions; or
- “(b) any matter arising from a hearing session; or
- “(c) any other matter that the Panel considers necessary for the purposes of the Panel making its recommendations.
- “(2) The report does not need to repeat information included in any submission. 15
- “(3) Instead, the report may—
- “(a) adopt all of the information:
- “(b) adopt any part of the information by referring to the part adopted.
- “(4) The Hearings Panel— 20
- “(a) may consider a report prepared under **subsection (1)** at the hearing session or when making its recommendations or both; and
- “(b) must make the report available for inspection on the Auckland Council’s Internet site and at the offices of the Council. 25
- “(5) The Hearings Panel may request and receive, from a person who makes a report under this section, any information and advice that is relevant and reasonably necessary for the Panel to make its recommendations under **section 139**. 30

*“Recommendations of Hearings Panel*

“**139 Hearings Panel must make recommendations to Council on proposed plan**

- “(1) The Hearings Panel must make recommendations on the proposed plan after it has finished hearing submissions, including any recommended changes to the proposed plan. 35

- “(2) However, the Hearings Panel—
- “(a) is not limited to making recommendations only within the scope of the submissions made on the proposed plan; and
  - “(b) may make recommendations on any other matters relating to the proposed plan identified by the Panel or any other person during the Hearing. 5
- “(3) The Hearings Panel must provide the recommendations, in a report, to the Council.
- “(4) The report must include— 10
- “(a) the Panel’s decisions on the provisions and matters raised in submissions; and
  - “(b) the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to— 15
    - “(i) the provisions of the proposed plan to which they relate; or
    - “(ii) the matters to which they relate.
- “(5) The report may also include—
- “(a) matters relating to any consequential alterations necessary to the proposed plan arising from submissions; and 20
  - “(b) any other matter that the Hearings Panel considers relevant to the proposed plan that arises from submissions or otherwise.
- “(6) To avoid doubt, the Hearings Panel is not required to make recommendations that address each submission individually. 25
- “**140 Matters that affect recommendations**
- “(1) The Hearings Panel, in formulating its recommendations, must—
- “(a) have regard to any reports prepared under **sections 127(4) and 129(3)**; and 30
  - “(b) take account of any reports prepared under **section 130(4)**; and
  - “(c) have regard to the following reports referred to in **section 122**: the evaluation report, the report required by section 165H of the RMA, and the audit report; and 35

- “(d) include in the recommendations a further evaluation of the proposed plan undertaken in accordance with **section 32AA** of the RMA; and
- “(e) if a rule to which section 165H(1) of the RMA applies is to be recommended, include in the recommendations a report prepared under **section 165H(1A)** of the RMA by the Hearings Panel as if it were a regional council; and 5
- “(f) ensure that, were the Auckland Council to accept the recommendations, the following would be complied with: 10
- “(i) sections 43B(3), 61, 62, 66 to 70B, 74 to 77D, 85A, 85B(2), 165F, 165G, 168A(3), 171, and 191 of the RMA:
- “(ii) any other provision of the RMA, or another enactment, that applies to the Council’s preparation of the plan. 15
- “(2) To avoid doubt, the Hearings Panel or the Auckland Council is not required to make the reports referred to in **subsection (1)(d) and (e)** available to the public. 20
- “(3) To avoid doubt, when complying with **subsection (1)(f)** in respect of section 66 of the RMA, the Hearings Panel must ensure that regard has been had to the spatial plan for Auckland prepared and adopted under section 79 of the Local Government (Auckland Council) Act 2009. 25
- “**141 Deadline for recommendations**
- The Hearings Panel must provide its report under **section 139(3)** to the Auckland Council no later than the date that is 50 working days before the expiry of 3 years from the date on which the Council has notified the proposed plan in accordance with **section 120**, unless **section 142** applies. 30
- “**142 Extension of deadline for recommendations**
- “(1) The Hearings Panel or the Auckland Council, or both, may request the Minister for the Environment to extend the deadline under **section 141** (the **original deadline**). 35

- “(2) A request must be made before the original deadline or, if the original deadline has already been extended, before the extended deadline.
- “(3) A request must be in writing and—
- “(a) specify a proposed date for the extended deadline that is no later than 1 year after the original deadline; and
  - “(b) if applicable, include the views of the party not making the request.
- “(4) If the Minister grants a request, the original deadline is extended accordingly. 10
- “(5) Section 37 of the RMA does not apply to the original deadline or to an extended deadline (meaning that the Council cannot extend the deadline, or waive a failure to comply with the deadline, under that provision).
- “Council decisions on recommendations”* 15
- “143 Auckland Council to consider recommendations and notify decisions on them**
- “(1) The Auckland Council must—
- “(a) decide whether to accept or reject each recommendation of the Hearings Panel; and 20
  - “(b) for each rejected recommendation, decide an alternative solution, which—
    - “(i) may or may not include elements of both the proposed plan as notified and the Hearings Panel’s recommendation in respect of that part of the proposed plan; but 25
    - “(ii) must be within the scope of the submissions.
- “(2) The Council is not required to consult any person or consider submissions or other evidence from any person when making decisions under **subsection (1)**. 30
- “(3) To avoid doubt, the Council may accept recommendations of the Hearings Panel that are beyond the scope of the submissions made on the proposed plan.
- “(4) The Council must, no later than 20 working days after it is provided with the report under **section 141**,— 35
- “(a) publicly notify its decisions under **subsection (1)** in a way that sets out the following information:

- “(i) each recommendation of the Hearings Panel that it accepts; and
- “(ii) each recommendation of the Hearings Panel that it rejects and the reasons for doing so; and
- “(iii) the alternative solution for each rejected recommendation; and 5
- “(b) electronically notify each requiring authority affected by the decisions of the Council under **subsection (1)**, the following information: the information referred to in **paragraph (a)** that specifically relates to the decision recommending that the authority confirm, modify, impose conditions on, or withdraw the designation or heritage protection order concerned. 10
- “(5) **Subsection (6)** applies if the Council decides that it wishes to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error. 15
- “(6) The Council may notify the recommendation as accepted, but only if, when complying with **subsection (4)(a)(i)**, it sets out the alterations to the recommendation.
- “(7) A recommendation to which **subsection (5)** applies must, for all purposes, be treated as a recommendation of the Hearings Panel accepted by the Council. 20
- “(8) **Subsection (4)** is subject to **section 144**.
- “144 Extension of deadline for decisions**
- “(1) The Auckland Council may request the Minister for the Environment to extend the deadline under **section 143(4)** (the **original deadline**). 25
- “(2) A request must be made before the original deadline or, if the original deadline has already been extended, before the extended deadline. 30
- “(3) A request must be in writing and specify a proposed date for the extended deadline that is no later than 20 working days after the original deadline.
- “(4) If the Minister grants a request, the original deadline is extended accordingly. 35
- “(5) Section 37 of the RMA does not apply to the original deadline or to an extended deadline (meaning that the Council can-

not extend the deadline, or waive a failure to comply with the deadline, under that provision).

**“145 Auckland Council to release Hearings Panel report**

At the same time as the Auckland Council publicly notifies its decisions under **section 143(4)(a)**, the Council must make the report of the Hearings Panel required under **section 139(3)** available—

- “(a) on the Council’s Internet site; and
- “(b) for inspection during working hours, free of charge, at the offices of the Council and anywhere else that the Council determines is appropriate.

*“Proposed plan deemed approved or adopted*

**“146 Proposed plan deemed approved or adopted on and from certain dates**

- “(1) This section applies to the proposed plan once the Auckland Council publicly notifies its decisions on the recommendations of the Hearings Panel under **section 143(4)(a)**. 15
- “(2) The proposed plan, other than the those parts relating to the coastal marine area, designations, and heritage orders,—
  - “(a) is amended in accordance with the decisions of the Council; and 20
  - “(b) is deemed to have been approved by the Council under clause 17(1) of Schedule 1 of the RMA on and from—
    - “(i) the date on which the appeal period expires, if no appeals are made under **section 149** of this Part: 25
    - “(ii) the date on which all appeals, including further appeals, are determined, if appeals are made under that section.
- “(3) The parts of the proposed plan relating to the coastal marine area— 30
  - “(a) are amended in accordance with the decisions of the Council; and
  - “(b) on and from the following date are deemed to have been adopted by the Council under clause 18(1) of Schedule 1 of the RMA and must be sent by the Council to the 35

Minister of Conservation for his or her approval under clause 18(3) of that schedule:

- “(i) the date on which the appeal period expires, if no appeals are made under **section 149** of this Part; or 5
  - “(ii) the date on which all appeals, including further appeals, are determined, if appeals are made under that section.
- “(4) The parts of the proposed plan relating to designations and heritage orders are amended in accordance with the decisions 10 of the relevant requiring authorities under section 172 of the RMA on and from—
- “(a) the date on which the appeal period expires, if no appeals are made under **section 149** of this Part; or
  - “(b) the date on which all appeals, including further appeals, 15 are determined, if appeals are made under that section.
- “(5) For the purposes of **subsection (4)**, the Council’s decisions on the Hearings Panel recommendations apply as if they were,—
- “(a) for designations, a recommendation by the Council 20 under section 171(2) of the RMA; and
  - “(b) for heritage orders, a recommendation by the Council under section 191(2) of the RMA.

*“RMA provisions relating to legal effect of rules apply 25*

**“147 RMA provisions relating to legal effect of rules apply**

- “(1) Sections 86A to 86G of the RMA apply, with all necessary modifications, to a rule contained in the proposed plan.
- “(2) Without limiting **subsection (1)**, every reference to clause 10(4) of Schedule 1 must be read as a reference to **section 143(4)(a)**. 30

*“Objections, appeals, and judicial review*

**“148 Objection rights**

- “(1) A person who made a submission on the proposed plan has the following rights of objection to the Hearings Panel: 35



- “(a) a decision of the Hearings Panel under **section 128** 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 **section 136(2)**. 5
- “(2) An objection must be made by notice in writing, setting out the reasons for the objection, no later than 15 working days after the decision is notified to the person or any longer time allowed by the Hearings Panel.
- “(3) The Hearings Panel must— 10
- “(a) consider the objection as soon as practicable; and
- “(b) hold a hearing on the objection at which all members are present, having given the objector no less than 5 working days’ notice of the date, time, and place for the hearing. 15
- “(4) After the hearing, the Hearings Panel must—
- “(a) dismiss the objection 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. 20
- “(5) A decision of the Hearings Panel under this section is final and there is no right of appeal against it.
- “**149 Appeal rights**
- “(1) A person who made a submission on the proposed plan has the following rights of appeal: 25
- “(a) the right of appeal to the Environment Court under **section 150**:
- “(b) the right of appeal to the High Court under **section 152**.
- “(2) **Subsection (1)** is subject to **section 151**. 30
- “(3) To avoid doubt, the appeal rights described in **subsection (1)** are the only appeal rights available in respect of the proposed plan.

**“150 Right of appeal to Environment Court**

- “(1) A person who made a submission on the proposed plan may appeal to the Environment Court in respect of a provision or matter relating to the proposed plan—
- “(a) that the person addressed in the submission; and 5
  - “(b) in relation to which the Council rejected a recommendation of the Hearings Panel, which resulted in—
    - “(i) a provision being included in the proposed plan; or
    - “(ii) a matter being excluded from the proposed plan. 10
- “(2) The Environment Court must treat an appeal under this section as if it were a hearing under clause 15 of Schedule 1 of the RMA and, except as otherwise provided in this section, that clause and Parts 11 and 11A of the RMA apply to the appeal (including, to avoid doubt, sections 299 to 308). 15
- “(3) Notice of the appeal must be in the prescribed form and lodged with the Environment Court, and served on the Auckland Council, no later than 20 working days after the Council notifies the matters under **section 143(4)(a)**.
- “(4) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the notice is lodged with the Environment Court. 20

**“151 Right of appeal to Environment Court (designations and heritage orders)**

- “(1) The following persons have a right of appeal to the Environment Court against any aspect of a requiring authority’s decision included in the proposed plan in accordance with **section 146(4)**: 25
- “(a) a person who made a submission on the requirement that referred to that aspect of the decision: 30
  - “(b) the Auckland Council.
- “(2) An appeal must be treated as if it were an appeal under section 174 of the RMA and that section and Parts 11 and 11A of the RMA apply to the appeal (including, to avoid doubt, sections 299 to 308 of that Act). 35

- “(3) Despite **subsection (2)**, notice of an appeal may be lodged under section 174(2)(c) no later than 30 days after the date on which notice of the decision of the requiring authority is given in accordance with section 173.
- “**152 Right of appeal to High Court on question of law** 5
- “(1) A person who made a submission on the proposed plan may appeal to the High Court in respect of a provision or matter relating to the proposed plan—
- “(a) that the person addressed in the submission; and
- “(b) in relation to which the Council accepted a recommendation of the Hearings Panel, which resulted in— 10
- “(i) a provision being included in the proposed plan; or
- “(ii) a matter being excluded from the proposed plan.
- “(2) However, the appeal may only be on a question of law. 15
- “(3) Except as otherwise provided in this section, sections 299(2) and 300 to 307 of the RMA apply, with all necessary modifications, to an appeal under this section.
- “(4) Notice of the appeal must be filed with the High Court, and served on the Auckland Council, no later than 20 working days after the Council notifies the matters under **section 143(4)(a)**. 20
- “(5) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the notice is filed with the High Court. 25
- “**153 Judicial review**
- Nothing in this Part limits or affects any right of judicial review a person may have in respect of any matter to which this Part applies, except as provided in **section 151(2)** (which applies section 296 of the RMA, being in Part 11 of that Act). 30
- “*Auckland Council to notify when plan operative*
- “**154 Auckland Council to notify when plan operative**
- The Auckland Council must notify the date on which the plan, or each part of the plan, as the case may be, will become operative in accordance with clause 20 of Schedule 1 of the RMA. 35

*“Hearings Panel***“155 Minister for Environment and Minister of Conservation to establish Hearings Panel**

- “(1) The Minister for the Environment and the Minister of Conservation must establish a Hearings Panel. 5
- “(2) The Hearings Panel comprises—
- “(a) a chairperson; and
  - “(b) 3 to 7 other members.
- “(3) The chairperson and other members must be appointed jointly by the Ministers after consulting the Auckland Council and the Independent Māori Statutory Board. 10
- “(4) The Ministers must appoint members who collectively have knowledge of, and expertise in relation to, the following:
- “(a) the RMA; and
  - “(b) district plans, regional plans (including regional coastal plans), and regional policy statements or combined regional and district documents; and 15
  - “(c) tikanga Māori, as it applies in Tāmaki Makaurau; and
  - “(d) Tāmaki Makaurau, the manawhenua, and the other people of Tāmaki Makaurau. 20
- “(5) However, a failure to comply with **subsection (4)** does not affect the validity of the appointment of a member once made.
- “(6) A member must be appointed in accordance with **section 156**.
- “(7) To avoid doubt, the Ministers may appoint additional members after the initial appointment of members so long as the total number is no more than 7 members and a chairperson. 25
- “(8) The Ministers may appoint a member to replace a member who ceases to hold office.
- “(9) **Subsections (4) to (6)** apply to the appointment of an additional member or a replacement member. 30
- “(10) As soon as practicable after establishing the Hearings Panel and appointing its initial members,—
- “(a) the Minister for the Environment must notify the Panel’s establishment on the Internet site of the Ministry; and 35
  - “(b) the Council must notify the Panel’s establishment on the Council’s Internet site.

- “156 How members appointed**
- “(1) The Minister for the Environment must give a person appointed as a member of the Hearings Panel a written notice of the appointment that complies with **subsection (2)**.
- “(2) The notice of appointment must— 5
- “(a) state the date on which the appointment takes effect; and
- “(b) state the term of the appointment; and
- “(c) specify the terms of reference for both the Hearings Panel and the member.
- “157 When member ceases to hold office** 10
- “(1) A member of the Hearings Panel remains a member until the earliest of the following:
- “(a) his or her term of office ends; and
- “(b) he or she dies; and
- “(c) he or she resigns by giving 20 working days’ written notice to the Minister for the Environment and the Minister of Conservation; and 15
- “(d) he or she is removed under **subsection (2)**.
- “(2) The Minister for the Environment and the Minister of Conservation may, at any time for just cause, remove a member by written notice to the member (with a copy to the Hearings Panel). 20
- “(3) The notice must state—
- “(a) the date on which the removal takes effect, which must not be earlier than the date on which the notice is received by the member; and 25
- “(b) the reasons for the removal.
- “(4) A member of the Hearings 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. 30
- “(5) In **subsection (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.

**“158 Functions of Hearings Panel**

The Hearings Panel has the following functions and powers for the purposes of holding a Hearing into the submissions on the proposed plan:

- “(a) to hold hearing sessions; and 5
- “(b) for the purposes of **paragraph (a)**,—
  - “(i) to hold or authorise the holding of pre-hearing session meetings, conferences of experts, and alternative dispute resolution processes; and
  - “(ii) to commission reports; and 10
  - “(iii) to hear any objections made in accordance with **section 148**; and
- “(c) to make recommendations to the Auckland Council on the proposed plan; and
- “(d) except as expressly provided by this Part, to regulate its own proceedings in the manner it thinks fit; and 15
- “(e) to carry out or exercise any other functions or powers conferred by this Part or that are incidental and related to, or consequential upon, any of its functions and powers under this Part. 20

**“159 Powers of chairperson**

The chairperson of the Hearings Panel has the following powers:

- “(a) to decide how many, and which, members of the Hearings Panel are to be present at each hearings session: 25
- “(b) to appoint another member to act as chairperson for any hearing sessions at which he or she will not be present:
- “(c) to decide whether to accept any late submissions:
- “(d) to deal with any complaints in respect of the Hearings Panel or any member of the Panel. 30

**“160 Term of Hearings Panel**

The Hearings Panel exists until the Hearings Panel has completed the performance or exercise of its functions and powers in relation to the Hearing, including any appeals in relation to the Hearing that are filed in any court. 35

**“161 Liability of members**

A member is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the Hearings Panel.

**“162 Funding of Hearings Panel and related activities** 5

“(1) The Auckland Council is responsible for all costs incurred by the Hearings Panel, and for the activities related to the performance or exercise of the Panel’s functions and powers, under this Part.

“(2) Without limiting **subsection (1)**, the Council is responsible for— 10

“(a) the remuneration and expenses of the members of the Hearings Panel; and

“(b) the administrative costs of each hearing session, including venue hire and public notices; and 15

“(c) the remuneration of any expert, mediator or other dispute resolution facilitator, or other person whose services are engaged by the Hearings Panel under this Part; and

“(d) the allowances of any witness called by the Hearings Panel. 20

“(3) For the purposes of **subsection (1)**, each member of the Hearings Panel must be paid—

“(a) remuneration by way of salary, fees, or allowances at a rate determined by the Minister for the Environment after consultation with the Council; and 25

“(b) actual and reasonable travelling and other expenses incurred in carrying out his or her office in accordance with the Fees and Travelling Allowances Act 1951, and that Act applies as if the members were members of a statutory Board within the meaning of that Act. 30

**“163 Application of Local Government Official Information and Meetings Act 1987**

The Local Government Official Information and Meetings Act 1987 applies, with any necessary modifications, to the Hearings Panel as if it were a board of inquiry given authority to conduct a hearing under section 149J of the RMA.” 35

**Part 3**  
**Local Government Official Information  
and Meetings Act 1987**

- 126 Principal Act**  
This **Part** amends the Local Government Official Information and Meetings Act 1987 (the **principal Act**). 5
- 127 Section 45 amended (Interpretation)**  
After section 45(1), insert:  
“(1A) Despite subsection (1), **meeting**, in relation to a local authority that is a board of inquiry or special tribunal given authority to conduct hearings under section 149J or 202 of the Resource Management Act 1991, is limited to any hearing that the board or tribunal holds under section 149L or 206 of that Act.” 10
- 128 New section 45A inserted (Application of this Part to certain local authorities)** 15  
After section 45, insert:  
**“45A Application of this Part to certain local authorities**  
The only provisions of this Part that apply to the following local authorities are sections 48 and 53:  
“(a) a board of inquiry given authority to conduct hearings under section 149J of the Resource Management Act 1991; and 20  
“(b) a special tribunal given authority to conduct hearings under section 202 of the Resource Management Act 1991.” 25
- 129 New section 59 inserted (Transitional provisions for amendments made on or after 1 January 2013)**  
After section 58, insert:  
**“59 Transitional provisions for amendments made on or after 1 January 2013** 30  
The transitional provisions set out in **Schedule 6** (which relate to amendments made to this Act on or after 1 January 2013) have effect for the purposes of this Act.”



**130 New Schedule 6 inserted**

After Schedule 5, insert the **Schedule 6** set out in **Schedule 3** of this Act.

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**Schedule 1** **s 121**  
**New Schedule 4 of Resource Management  
Act 1991**

**Schedule 4** **s 88, Schedule 1**  
**Information required in application for  
resource consent** 5

**1 Information required in all applications**

- (1) An application for a resource consent for an activity (the **activity**) must include the following:
- (a) a description of the activity: 10
  - (b) a description of the site at which the activity is to occur:
  - (c) the full name and address of each owner or occupier of the site:
  - (d) a description of any other activities that are part of the proposal to which the application relates: 15
  - (e) a description of any other resource consents required for the proposal to which the application relates:
  - (f) an assessment of the activity against the matters set out in Part 2:
  - (g) an assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b). 20
- (2) The assessment under **subclause (1)(g)** must include an assessment of the activity against—
- (a) any relevant objectives, policies, or rules in a document; and 25
  - (b) any relevant requirements, conditions, or permissions in any rules in a document; and
  - (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations). 30
- (3) An application must also include an assessment of the activity's effects on the environment that—
- (a) includes the information required by **clause 5**; and
  - (b) addresses the matters specified in **clause 6**; and
  - (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment. 35

**2 Additional information required in some applications**

An application must also include any of the following that apply:

- (a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1)): 5
- (b) if the application is affected by section 124 or 165ZH(1)(c) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of section 104(2A)): 10
- (c) if the activity is to occur in an area within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of section 104(2B)). 15 20

**3 Additional information required in application for subdivision consent**

An application for a subdivision consent must also include information that adequately defines the following: 25

- (a) the position of all new boundaries: 25
- (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan:
- (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips: 30
- (d) the locations and areas of any existing esplanade reserves, esplanade strips, and access strips:
- (e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A: 35
- (f) the locations and areas of any land within the coastal marine area (which is to become part of the common marine and coastal area under section 237A):

- (g) the locations and areas of land to be set aside as new roads.

**4 Additional information required in application for reclamation**

An application for a resource consent for reclamation must also include information to show the area to be reclaimed, including the following: 5

- (a) the location of the area:
- (b) if practicable, the position of all new boundaries:
- (c) any part of the area to be set aside as an esplanade reserve or esplanade strip. 10

Assessment of environmental effects

**5 Information required in assessment of environmental effects**

- (1) An assessment of the activity's effects on the environment must include the following information: 15
  - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity: 20
  - (b) an assessment of the actual or potential effect on the environment of the activity:
  - (c) if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use: 25
  - (d) if the activity includes the discharge of any contaminant, a description of—
    - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
    - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment: 30
  - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect: 35

- (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:
- (g) if the scale or significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved: 5
- (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group). 10
- (2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan. 15
- (3) To avoid doubt, **subclause (1)(f)** obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—
- (a) oblige the applicant to consult any person; or 20
- (b) create any ground for expecting that the applicant will consult any person.
- 6 Matters that must be addressed by assessment of environmental effects**
- (1) An assessment of the activity's effects on the environment must address the following matters: 25
- (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:
- (b) any physical effect on the locality, including any landscape and visual effects: 30
- (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:
- (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations: 35

- (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:
    - (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations. 5
  - (2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.
- 7 Information must be specified in sufficient detail** 10
- Any information required by this schedule must be specified in sufficient detail to satisfy the purpose for which it is required.
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	<b>Schedule 2</b>	<b>s 67</b>
	<b>New Schedule 12 of Resource Management Act 1991</b>	
	<b>Schedule 12</b>	<b>s 434</b>
	<b>Transitional provisions for amendments made on or after 1 January 2013</b>	<b>5</b>
<b>1</b>	<b>Interpretation</b>	
	In this schedule, <b>amendment Act</b> means <b>Part 1</b> , which amends this Act.	
<b>2</b>	<b>Existing section 32 applies to some proposed policy statements and plans</b>	<b>10</b>
	If <b>subpart 2</b> of the amendment Act comes into force on or after the date of the last day for making further submissions on a proposed policy statement or plan (as publicly notified in accordance with clause 7(1)(d) of Schedule 1), the further evaluation for that proposed policy statement or plan must be undertaken as if <b>subpart 2</b> had not come into force.	<b>15</b>
<b>3</b>	<b>National policy statements</b>	
	An amendment made by the amendment Act applies to a national policy statement whether the statement was issued before or after the commencement of the amendment.	<b>20</b>
<b>4</b>	<b>Existing rules providing for protection of trees</b>	
(1)	An existing rule or part of a rule in a district plan or proposed district plan that complied with section 76(4A) immediately before its amendment by the amendment Act is revoked, without further authority than this section, on the day that is 24 months after the date on which <b>subpart 1</b> of the amendment Act comes into force.	<b>25</b>
(2)	<b>Subclause (1)</b> applies unless the rule or part of the rule complies with <b>section 76(4A)</b> as amended by the amendment Act.	<b>30</b>

- 5 Certain new rules providing for protection of trees may take effect once plan change notified**
- (1) **Subclause (2)** applies if, before the date referred to in **clause 4(1)**,—
- (a) a territorial authority has made a rule, or amended a rule, so that it complies with **section 76(4A)** as amended by the amendment Act; and 5
- (b) the rule has not yet taken effect; but
- (c) the proposed plan or change containing the rule has been notified. 10
- (2) The rule has legal effect on and from the date referred to in **clause 4(1)**.
- 6 Proposals of national significance**
- (1) **Subclause (2)** relates to the following amendments made by the amendment Act (which relate to proposals of national significance): 15
- (a) the amendments to sections 29, 32A, and 39 and to Part 6AA (sections 140 to 149ZE):
- (b) the amendment that inserts **section 42A(1) and (1AA)**.
- (2) The amendments apply to any matter— 20
- (a) whether it was lodged with a local authority or the EPA, or initiated by a local authority, before or after the commencement of the amendments; and
- (b) whether it was referred to or prepared by a board of inquiry before or after the commencement of the amendments. 25
- (3) However, if a request for the Minister to call in a matter was made before the commencement of the amendment that inserts **section 142(6A)**, the request must be determined as if the amendment had not been made. 30
- 7 Notices of requirement**
- (1) This clause relates to an amendment made by the amendment Act that affects a requirement for a designation or heritage order.



- (2) The requirement must be determined as if the amendment had not been made if, immediately before the commencement of the amendment,—
- (a) 1 or more of the following had occurred:
- (i) a notice of the requirement had been given under section 168(1) or (2) or 189(1): 5
  - (ii) the territorial authority had resolved to publicly notify the requirement under section 168A(1):
  - (iii) the territorial authority had given notice of the requirement under section 189A(1): 10
  - (iv) a requiring authority had given notice of the requirement, and the requirement was for a modified designation, under clause 4 of Schedule 1:
  - (v) the territorial authority had decided to include the requirement in its proposed district plan under clause 4 of Schedule 1; but 15
- (b) the requirement had not proceeded to the stage at which no further appeal was possible.
- (3) **Subclauses (1) and (2)** also apply as if a requirement to alter a designation or heritage order were a requirement for a designation or heritage order. 20
- (4) This clause is subject to **clause 6**.

## 8 Applications and matters

- (1) **Subclause (3)** applies to anything specified in **subclause (2)** that, immediately before the commencement of an amendment made by the amendment Act,— 25
- (a) had been lodged with or initiated by a local authority or a Minister; but
  - (b) had not proceeded to the stage at which no further appeal was possible. 30
- (2) The things referred to 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): 35

- 
- (c) an application for a water conservation order under section 201(1):
- (d) an application to revoke or amend a water conservation order under section 216(2):
- (e) an application or a proposal to vary or cancel an instrument creating an esplanade strip under section 234(1) or (3): 5
- (f) a matter of creating an esplanade strip by agreement under section 235(1).
- (3) The application or matter must be determined as if the amendment had not been made. 10
- (4) This clause is subject to **clauses 6 and 7**.
- (5) This clause does not apply to an amendment made by **subpart 2** of the amendment Act.
- 9 Enforcement proceedings** 15
- (1) This clause relates to the amendment made by the amendment Act to section 318 (which relates to the right to be heard in proceedings for an application for an enforcement order).
- (2) If an application was made for an enforcement order before the commencement of the amendment, the application must be determined as if the amendment had not been made. 20
- 10 Return of property**
- The insertion of section 336 by the amendment Act is to be treated as having commenced on 1 October 2012 and section 336 is to be treated as having had continuous effect despite section 300(6) of the Search and Surveillance Act 2012. 25
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**Schedule 3** **s 130**  
**New Schedule 6 of Local Government  
Official Information and Meetings Act  
1987**

**Schedule 6** **s 59** 5  
**Transitional provisions for amendments  
made on or after 1 January 2013**

**1 Interpretation**

In this schedule, **amendment Act** means **Part 3**, which amends this Act.

10

**2 Application of amendments to boards of inquiry and special tribunals**

The amendments made by the amendment Act apply to a board of inquiry appointed under section 149J of the Resource Management Act 1991, or to a special tribunal appointed under section 202 of that Act, whether appointed before or after the commencement of the amendments.

15