

# **Affordable Housing: Enabling Territorial Authorities Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill enables (but does not require) territorial authorities to assess the level of affordable housing in their districts. Following its assessment, a territorial authority may, if it wishes to, develop an affordable housing policy and implement that policy.

Affordable housing policies will promote the provision of housing affordable to low and moderate income earners and in a manner that takes account of the need for a variety of housing sizes, tenures, and costs.

The Bill provides for full public participation in the development of affordable housing policies, including rights of objection and appeal.

Before a territorial authority can implement an affordable housing policy, it must—

- undertake a housing needs assessment that identifies the level and type of need in its district (affordable home ownership and/or affordable rental stock, as relevant to a particular region); and
- develop, in consultation with its community, an affordable housing policy that sets out—
  - the outcomes and objectives that a territorial authority wants to achieve via its affordable housing policy;
  - the criteria for determining developments to which the affordable housing policy will apply;

- what actions a developer may be required to do to facilitate the provision of affordable housing (there is no limit on the options a territorial authority can consider in this context, but options that must be considered include requiring a proportion of affordable housing in the development or in another development, including a particular kind of housing in the development, or requiring the developer to pay (land or money) to the territorial authority):
- what actions the territorial authority may do to help a developer that is facilitating the provision of affordable housing (there is no limit on the options a territorial authority can consider in this context, but options may include excusing payment of a development contribution, excusing payment of rates under a territorial authority's rates remission policy, providing assistance under a territorial authority's funding or financial policy, or providing a density bonus):
- eligibility criteria for allocation of affordable housing:
- how affordable housing is to be retained:
- the objection and appeals process.

Certain territorial authorities have recognised there is a problem with the lack of affordable housing in their districts and have asked for legislation to assist them to resolve this problem. The Bill provides those territorial authorities with regulatory tools that will assist them to do so.

The Bill also addresses the use of restrictive covenants whose principal purpose is to stop the provision of affordable housing or social housing, such as housing for people on low incomes or housing for people who need supported accommodation. The Bill would prevent the imposition of such discriminatory covenants from the date the Bill comes into force, but would not affect any existing covenants.

## **Regulatory impact statement**

### *Executive summary*

Affordable housing is becoming more difficult for low and moderate income earners to obtain, particularly in Auckland and other high growth areas in New Zealand. Affordable housing is defined as housing for low to moderate income and asset households and priced

so that the household is able to meet its housing and other essential basic living costs.

This Bill enables (but does not require) territorial authorities to increase the supply of affordable housing, in a manner that takes account of the desirability of having a variety of housing sizes, tenures and costs in an individual community. In order to do so, a territorial authority must first conduct an assessment of the local need for affordable housing. If that assessment indicates that there is not enough affordable housing in the district, a territorial authority can develop an affordable housing policy. It must do so in consultation with its community. The transparent public participation process includes rights of objection to the policy and rights of appeal.

Affordable housing policies must include options to facilitate the provision of affordable housing - including options for how developers can be required to facilitate the provision of affordable housing, and must state how territorial authorities might assist those developers that are facilitating the provision of affordable housing (as further expanded upon in the following two paragraphs).

Territorial authorities will be able to, on the grounds of affordable housing need, require developers to facilitate the provision of affordable housing. There is no limit on the options a territorial authority can consider in this context, but options that must be considered in the policy development phase include: requiring a proportion of affordable housing in the development or in another development; including a particular kind of housing in the development; or requiring the developer to pay (land or money) to the territorial authority. Where a developer provides land or money to a territorial authority, that authority must use that land or money to provide affordable housing in the district.

Councils will be able to provide incentives to help off-set costs borne by those developers that are required to make an affordable housing contribution. Possible incentives include reduced development contributions, density bonuses, rates remissions or postponements, or other financial assistance.

Other than any financial relief that may be available to developers via an affordable housing policy, there is no further compensation to developers for limitations on the use of the relevant land. This approach is consistent with the approach under the Resource Management Act, whereby the impacts of district and regional plans

and/or resource consents on a person's interest in land do not translate into a right to compensation.

International and New Zealand evidence demonstrates that the new regulatory tools enabled by this Bill will be important to facilitate the provision of affordable housing. This evidence also indicates that these new tools can effectively complement and optimise other dedicated funding for affordable housing supply.

International evidence and consultation with New Zealand territorial authorities indicates that the use of these new regulatory tools will vary across the country. These new tools can, if properly designed, be effective particularly over the long term, although the timing of uptake of these tools is difficult to predict.

Covenants that have the principal purpose of preventing affordable housing or social housing, and which are entered into from the time this Bill is enacted, will be void.

Analysis of the costs and benefits of using the powers enabled by the Bill would be required by a territorial authority that seeks to use the powers.

### *Adequacy statement*

The Regulatory Impact Assessment Unit has reviewed the revised Regulatory Impact Statement and considers it to be adequate according to the adequacy criteria. The Regulatory Impact Assessment Unit does not consider the proposal meets the consultation requirements for Regulatory Impact Analysis.

### *Status quo and problem*

The current lack of affordable housing is a widespread problem, internationally and in New Zealand. Nationwide, house prices have increased by almost 100 percent in the last six years, outpacing increases in average household incomes. Rapidly escalating property prices have seen the rate of homeownership fall from 74 percent to 67 percent between 1991 and 2006. If current trends continue, the rate of homeownership will fall to about 62 percent by 2016. In addition, developers are increasingly building new houses with large floor areas and modern amenities. Larger more expensive houses mean fewer people on low to median incomes can get on the property ladder. As a result, the "starter-home market" is shrinking.

Regulatory tools currently available to territorial authorities are inadequate in their ability to promote the development of affordable housing. Territorial authorities have asked for legislation that can assist them in responding to affordable housing issues in their districts.

Rental affordability may become more of an issue in the future. For this reason, the Bill is flexible enough to enable territorial authorities to use the tools to address rental affordability, should it be an issue in the relevant district.

The Bill also addresses the growing practice of covenants being placed on properties that prevent the provision of certain types of housing. Covenants that have the principal purpose of preventing affordable housing or social housing, and which are entered into from the time this Bill is enacted, will be void. This works to avoid discriminatory practices targeted at low and moderate income families and those needing supported accommodation.

### *Objective*

The objective of this legislation is to provide those territorial authorities who wish to address problems of housing affordability in their districts with regulatory tools that assist them to do so.

### *Alternative options*

#### **Amend the Resource Management Act 1991 to accommodate affordable housing**

An option could be to amend the Resource Management Act 1991 (RMA) to provide for affordable housing initiatives. Officials have considered this option but concluded that simple additions to the Act would not be possible. To include the proposed affordable housing mechanisms under the RMA would require a change to the purpose of the RMA.

Changing the purpose of the RMA is not the preferred option. The purpose of the RMA is “the promotion of the sustainable management of natural and physical resources”. Adding the promotion of affordable housing to the purpose would be likely to change the original intent of the Act. All territorial authority planning documents would have to be reviewed if the purpose of the RMA were changed. This would have significant impact on compliance costs

for applicants and territorial authorities. No amendments will be made to the RMA as a result of the Bill.

### **Amend the Local Government Act 2002 to accommodate affordable housing**

Territorial authorities can use the general empowerment provisions in the Local Government Act 2002 (LGA) to promote affordable housing (for example, providing housing subsidised by rates revenue). However, the development contributions provisions in the LGA could not be used to require developers to contribute to affordable housing because the development contributions regime requires that a direct causal link is established between an individual development and the need for additional capital expenditure. While major amendment to the LGA is not preferred, a consequential amendment is required to the LGA.

### **Work within existing legislation and provide guidance**

An option considered was whether it would be possible to work within current legislation and develop best practice guidelines for territorial authorities on existing mechanisms available to promote affordable housing. Territorial authorities that have been trying to increase the supply of affordable houses have found that they do not have a clear mandate to do so. They have specifically requested legislation to provide legal certainty to assist them in this aim.

Best practice guidelines will be provided to assist territorial authorities that choose to use the new regulatory tools to implement an affordable housing policy. However, best practice guidance, absent the new regulatory tools, is unlikely to achieve the objective of enabling territorial authorities to increase the supply of affordable housing to meet an identified need.

### **Variation to the preferred option - restrict application of affordable housing policies to residential developments only**

Consideration was given to affordable housing policies applying only to residential developments (not commercial). This option was considered and is not recommended because many commercial developments create a need for affordable housing. For example, in tourist areas where service/hospitality workers who do shift work

and are on low-modest incomes need to live in or near the community where they work. It is desirable that these developments also contribute to affordable housing in the communities in which they are built, especially if the development itself increases the community's need for affordable housing.

In addition, if affordable housing policies applied only to residential developments, this could distort the market by creating an undue incentive to shift investment from residential to commercial development with potentially adverse implications for the supply and location of new residential housing.

#### **Variation to the preferred option - compel territorial authorities to develop affordable housing policies**

Consideration was given to requiring, rather than enabling, territorial authorities to use tools and incentives to increase the supply of affordable housing. This option was rejected by local authorities consulted on the proposal, because compulsion is considered unnecessary. Those councils that have identified affordable housing needs in their district will have the opportunity to use the tools, while those councils that have not identified affordable housing needs will not need to develop an affordable housing policy. Not all regions/districts will have affordable housing needs and it would be inefficient for those councils to be required to undertake regulatory actions when they are not required.

#### **Variation to the preferred option for restrictive covenants - a prohibition on issuing a resource or building consent if such a covenant exists**

Officials considered the option of using the resource consent or the building consent process as the mechanism to prevent the use of covenants on titles that exclude affordable housing or social housing, including housing for those who need supported accommodation. Under this option, a consent would not be able to be issued if a covenant was in place that prevented such housing being provided in the relevant area.

Analysis showed this option would be only partly effective because, even if prohibited at resource or building consent stage, there is no capacity to prevent such a covenant being placed on the title at time of on-sale.

### ***Preferred option - stand-alone affordable housing legislation***

The preferred option is a stand-alone Bill that enables (but does not require) territorial authorities to increase the supply of affordable housing. This option is the most flexible option, and is most likely to increase the supply of affordable housing and promote the development of a variety of housing sizes, tenures and costs. Consequential minor amendments are proposed to the Local Government Act 2002, the Building Act 2004 and the Housing Corporation Act 1974 to aid implementation.

Before using the tools and incentives, territorial authorities will be required to conduct a comprehensive housing needs assessment, and subsequently develop an affordable housing policy in consultation with their communities. This policy will need to include a statement of the objectives and outcomes expected, the type of development to whom the affordable housing policy applies, the type of affordable housing contribution required (houses, land or money), details of how the proportion of affordable houses (land or money) is calculated, eligibility criteria for the affordable housing created, and a mechanism for ensuring a component of affordability is retained into the future.

Although enabling rather than prescriptive, the Bill has safeguards in the form of a transparent method for developing an affordable housing policy and an objection and appeal process.

The preferred option for addressing the growing use of covenants that limit the ability for developments to include affordable, social, and supported housing is to include a provision within the Bill that prevents the imposition of such covenants after the Act has come into force.

The costs and benefits of the preferred option outlined below are based on the analysis contained in the following reports: AHURI, *International Practice in Planning for Affordable Housing: Lessons for Australia*, September 2007 and DTZ *Affordable Housing Analysis*, November 2007.

#### **Costs and benefits of the preferred option**

As noted above, the objective of this legislation is to provide those territorial authorities who wish to address problems of housing affordability in their districts with regulatory tools that assist them to



do so. The anticipated take-up of these tools by territorial authorities is projected to provide about 1000 affordable houses a year. In order for that benefit to be provided, implementing affordable housing policies will have some cost consequences.

*No cost and no benefit in certain circumstances*

Territorial authorities that do not have an affordable housing problem in their districts are unlikely to incur costs - because they are unlikely to decide to undertake a housing needs assessment (in which case there is no cost consequence).

*Cost and benefit where territorial authorities assess housing needs but take no further action*

Territorial authorities that undertake a housing needs assessment but decide not to develop a policy (because no housing need is identified) incur only the additional cost of the assessment. The benefit is local decision making on affordable housing informed by a sound information base.

*Cost and benefit where territorial authorities assess housing needs and develop and implement affordable housing policy*

Territorial authorities that choose to both assess housing needs and implement an affordable housing policy will incur costs of: the housing needs assessment; developing and consulting on the draft policy; the objection and appeal processes; negotiating with developers; providing possible financial incentives to developers; retaining the affordable housing; and monitoring and reviewing the affordable housing policy. Many of these roles, such as monitoring and negotiating roles, are already undertaken by councils to some extent and it is anticipated that minimal additional local government staff resources would be required to develop and implement affordable housing policies. The benefit will be an increase in the availability of affordable housing in certain areas, to meet identified local housing needs.

While there is not universal agreement, most of the economic literature indicates that a reduction in the price of land is the most likely outcome from the use of these tools over the long term.

In the short term, implementing an affordable housing policy is likely to decrease the profit of a development to which the affordable

housing policy applies. The extent of any diminished profit is difficult to estimate and depends on the following variables:

- the strength of the housing market:
- the nature of the policies put in place:
- incentives provided by a territorial authority:
- whether the developer has the ability to pass the cost of any contribution to affordable housing back to the landowner.

The evidence suggests the increase in costs over the short term will be absorbed by decreases in developer profits and/or an increase in the cost of houses across the market. Who bears the cost will vary depending on local market conditions and the relative power of the players.

Analysis was undertaken on model development sites to test the impact of an affordable housing contribution. Depending on the affordable housing policies put in place the impact of the affordable housing contribution can vary between a significant impact on the profitability of the development, to a drop in the profit margin from 17 to 14.3 percent. This analysis used basic assumptions and did not take into account any incentives, the ability of a developer to build affordable housing that is smaller than the rest of the market rate houses or to internally fit out the affordable houses with less modern amenities. These factors would mitigate the impact on developer profitability.

The benefit to the public of an increase in the stock of affordable housing is that some people who may not otherwise get that first step on the property ladder are able to own their own home. Home ownership has significant social and economic benefits. It can promote greater family stability, improve the connections with communities and create continuity of education. Home ownership also provides long-term security and a buffer against poverty before and after retirement. A lack of suitably-located affordable houses has economic and social consequences. People who live further away from work spend more time commuting, at a cost to the environment and families. Without houses with a variety of sizes, costs and tenures within neighbourhoods, people may need to move out of their community if housing needs change. Some people may perceive that there is an adverse impact on their own property values; however, international evidence indicates that this fear is generally unfounded.

Density bonuses are available under some district plans. Some communities may be concerned about the perceived environmental impact of density bonuses. Whether an affordable housing policy will provide density bonuses is a matter that may form part of the consultation process during the development of an affordable housing policy.

The benefits to the local government are an increased supply of affordable housing in areas where that housing is needed, with decisions made locally based on local need.

International and New Zealand evidence demonstrates that the new regulatory tools enabled by this Bill will be important to facilitate the provision of affordable housing. This evidence also indicates that these new tools can effectively complement and optimise other dedicated funding for affordable housing supply.

International evidence and consultation with New Zealand territorial authorities indicates that the use of these new regulatory tools will vary across the country. These new tools are expected to be effective, particularly over the long term, although the timing of uptake of these tools is difficult to predict.

Developers may benefit due to the fact they make a positive contribution to the areas in which they build, and gain the associated reputational advantages. The transparency of the policy development process and policies themselves will provide certainty and a level playing field for developers. Developers may receive financial incentives to off-set any cost of the contribution they make to the provision of affordable housing. Conversely developers may have increased costs due to their participation in the development of affordable housing policies and in complying with those policies. They may also have increased costs arising from the objections and appeals process (should they object and/or appeal).

In the short term, developers may have reduced profits from developments where an affordable housing contribution applies (if the cost off-sets that territorial authorities may provide do not compensate for cost of the affordable housing contribution). In the longer term, land prices may not increase at the same rate that they would otherwise have increased. The difference between the rates of increase would be a cost to certain landowners (those who own land in areas subject to an affordable housing policy) in the future (if overseas trends are replicated here).

In addition the profit that developers make may be diminished by the restriction on covenants that discriminate against people on low incomes or those who need supported accommodation. The benefit will be that those discriminatory practices are no longer permitted. There will be additional costs incurred by Housing New Zealand Corporation in its role as provider of advisory material (Guidelines) for use by territorial authorities.

In addition there may be costs of appeals to the Environment Court (these being potential costs for developers/territorial authorities/members of the public/the Environment Court), although this is difficult to predict.

### **Enabling legislation**

Analysis of the costs and benefits of using the powers enabled by the Bill would be required by a territorial authority that seeks to use the powers (this being a requirement of the LGA).

The LGA states that, when making a decision, a local authority should take account of the likely impact of any decision on the social, economic, environmental, and cultural well-being of communities.

A local authority must, in the course of the decision-making process, seek to identify all reasonably practicable options for the achievement of the objective of a decision and assess those options by considering the benefits and costs of each option and the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option.

### **Risks**

Risks include—

- less than estimated levels of affordable housing are generated (the estimates were conservative; it is also possible that more than the estimated amount might be generated once councils become more accustomed to using the tools over time);
- few councils may use the tools (this was taken into account when the estimates of housing resulting from the use of these tools were prepared);
- developer opposition - overseas experience indicates that developers have generally opposed a new power for local authorities to charge an affordable housing contribution (this

varies depending on the level of the affordable housing contribution required and the extent of the off-setting incentives provided by territorial authorities):

- incentives available may have little impact in off-setting development costs (once available for use in negotiations, the type and effectiveness of incentives will vary on a case by case basis and therefore cannot be forecast; the use of incentives is known to work in overseas jurisdictions):
- could reduce development profitability to a level where the net effect is to slow the rate of development activity, thereby reducing overall housing supply (several decades of experience in overseas jurisdictions indicates that this risk is not borne out in practice).

### **Mitigation of compliance costs**

Territorial authorities will be able to offer incentives to developers to help off-set compliance costs. Compliance costs can be minimised for developers by aligning affordable housing requirements with existing processes. Housing New Zealand Corporation support in the form of advice and information will assist territorial authorities with technical issues around using the tools.

### **Interaction with other legislation**

The new legislation stands alone, but dovetails with other Acts and interacts with existing rules. No rules are being removed as part of the proposal.

### ***Implementation and review***

The Bill requires that an affordable housing policy is reviewed in conjunction with the assessment of community outcomes (required every six years under the LGA). These community outcomes are relevant to the development of the long term community council plan (LTCCP).

It is intended that the Act will be evaluated three years after it is in force.

### ***Consultation***

The preferred policy option of an affordable housing bill was developed by officials from the Department of Internal Affairs,

Department of Building and Housing, Ministry for the Environment, Ministry of Justice, and Housing New Zealand Corporation, with a steering group providing direction and oversight that included officials from the Treasury, Te Puni Kokiri, Department of the Prime Minister and Cabinet, and the Ministries of Social Development and Economic Development, after direction by Cabinet.

Most of the comment received has been able to be incorporated into the policy put forward, but some feedback has not been able to be addressed. The Ministry of Social Development was concerned that the term “mixed communities” is not included in the purpose of the Bill and commented that this may potentially lead to the objective of promoting a mixed community not being attained.

Officials were advised that legislative drafting practice has moved away from aspirational purpose statements (such as “promoting mixed communities”) towards narrower, factual purpose statements that describe what the legislation does. Territorial authorities when using the tools must take into account the desirability of the community having a variety of housing sizes, tenures and costs.

The Ministry of Social Development also wanted territorial authorities to specifically consider how to avoid concentrations of deprivation. Avoiding concentrations of deprivation is an issue related to the placement of social housing, which is better addressed through neighbourhood level interventions rather than through council planning mechanisms.

Cabinet directed officials to consult local authorities on the implementation issues and compliance costs arising from the proposed policy. A workshop was held where participants specifically addressed these matters. Attendees included representatives from (most councils sent more than one, covering both planning and other expertise) Palmerston North City Council, Auckland City Council, Auckland Regional Council, Manukau City Council, Christchurch City Council, Nelson City Council, Waitakere City Council; Local Government New Zealand; and Senior Lecturer Auckland University (consultant to Queenstown Lakes District Council on their affordable housing project). The Ministry for the Environment attended as observers; Housing New Zealand Corporation hosted the workshop, which was facilitated by an independent external consultant. The views expressed were incorporated into the policy development process.

### **Clause by clause analysis**

*Clauses 1 and 2* state the Bill's title and commencement date.

*Clause 3* makes the Act bind the Crown.

*Clause 4* contains defined terms.

*Clause 5* is the purpose provision.

*Clause 6* says what the Bill is about.

*Clauses 7 and 8* provide for housing needs assessments.

*Clauses 9 to 15* detail what an affordable housing policy must have in it.

*Clauses 16 to 23* set out how an affordable housing policy is made and communicated.

*Clauses 24 to 27* describe objection and appeal rights.

*Clauses 28 to 31* enable territorial authorities to implement affordable housing policies.

*Clauses 32 and 33* say how an affordable housing policy is reviewed and amended.

*Clause 34* deals with the relationship between the Bill and the Resource Management Act 1991.

*Clause 35* voids some covenants.

*Clause 36* contains regulation-making powers.

*Clauses 37 to 39* are transitional provisions.

*Clauses 40 to 42* make consequential amendments.

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*Hon Maryan Street*

# **Affordable Housing: Enabling Territorial Authorities Bill**

Government Bill

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

- 1 Title**  
This Act is the Affordable Housing: Enabling Territorial Authorities Act **2007**.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Act binds the Crown**  
This Act binds the Crown.

**Part 1**  
**Meeting housing needs** 10

- 4 Interpretation**
- In this Act, unless the context requires otherwise,—
- affordable housing** means housing that—
- (a) is for persons living in households that—
    - (i) have low to moderate income; and 15
    - (ii) have no, low, or moderate legal or beneficial interests in property; and
  - (b) is priced so that the persons are able to meet—
    - (i) their housing costs; and
    - (ii) their other essential basic living costs 20
- affordable housing policy** means a policy that—
- (a) covers the matters described in **sections 9 to 15**; and
  - (b) is adopted by a territorial authority
- building consent** has the meaning given to it by section 7 of the Building Act 2004 25
- building consent authority** has the meaning given to it by section 7 of the Building Act 2004
- consent authority** has the meaning given to it by section 2 of the Resource Management Act 1991
- council-controlled organisation** has the meaning given to it by section 6 of the Local Government Act 2002 30
- council organisation** has the meaning given to it by section 6 of the Local Government Act 2002
- covenant** includes a contract

<b>development contribution</b> has the meaning given to it by section 197 of the Local Government Act 2002	
<b>district</b> has the meaning given to it by section 5 of the Local Government Act 2002	
<b>district plan</b> has the meaning given to it by section 2 of the Resource Management Act 1991	5
<b>land</b> has the meaning given to it by section 2 of the Land Transfer Act 1952	
<b>public notice</b> has the meaning given to it by section 5 of the Local Government Act 2002	10
<b>resource consent</b> has the meaning given to it by section 2 of the Resource Management Act 1991	
<b>social housing</b> means housing for—	
(a) persons on low incomes:	
(b) persons with special housing needs:	15
(c) persons whose disabilities mean that they need support or supervision in their housing	
<b>special consultative procedure</b> has the meaning given to it by section 5 of the Local Government Act 2002	
<b>territorial authority</b> has the meaning given to it by section 5 of the Local Government Act 2002.	20

**5 Purposes**

The purposes of this Act are to—	
(a) enable a territorial authority, in consultation with its community, to require persons doing developments to facilitate the provision of affordable housing—	25
(i) for the purpose of meeting a need for it that the authority has identified by doing a housing needs assessment:	
(ii) in a manner that takes account of the desirability of the community having a variety of housing sizes, tenures, and costs:	30
(b) void covenants whose principal purpose is to stop the provision of affordable housing or social housing.	

- 6 What this Act does about affordable housing and social housing**
- (1) Territorial authorities that want to find out whether there is enough affordable housing in their districts may do housing needs assessments. **Sections 7 and 8** provide for an assessment. 5
  - (2) If the housing needs assessments show the territorial authorities that there is not enough affordable housing in their districts, they may make affordable housing policies. **Sections 9 to 15** describe the content of a policy.
  - (3) The steps that the territorial authorities must take in making affordable housing policies are in **sections 16 to 23**. The steps are— 10
    - (a) consulting the community on a draft:
    - (b) considering the results of the consultation and other matters that affect the draft: 15
    - (c) adopting the policy:
    - (d) communicating the policy.
  - (4) Persons affected by the policy, or its application in a particular case, may want to object or appeal. **Sections 24 to 27** deal with objection and appeal rights. 20
  - (5) Territorial authorities need powers to implement their affordable housing policies. **Sections 28 to 31** state the powers.
  - (6) Territorial authorities review and amend their affordable housing policies using processes that link into the Local Government Act 2002. **Sections 32 and 33** record this fact. 25
  - (7) Territorial authorities have powers under the Resource Management Act 1991 as well as under this Act. **Section 34** deals with the relationship between the Acts.
  - (8) Covenants whose principal purpose is to stop the provision of affordable housing or social housing are void. **Section 35** provides for this. 30
  - (9) Territorial authorities doing actions referred to in **subsections (1) to (3), (5), and (6)** must observe all the principles in section 14 of the Local Government Act 2002 but must give first priority to the principle in section 14(1)(e). 35

*Territorial authority may assess need for affordable housing*

**7 Decision to assess**

- (1) A territorial authority may decide to assess the need for affordable housing in its district.
- (2) The authority may decide to do the assessment— 5
  - (a) in conjunction with its use of the special consultative procedure under section 93(2) of the Local Government Act 2002 to adopt a long-term council community plan:
  - (b) in conjunction with its use of the special consultative procedure under section 93(5) of the Local Government Act 2002 to amend its long-term council community plan: 10
  - (c) in conjunction with its use of the special consultative procedure under section 102(2) of the Local Government Act 2002 to adopt a funding or financial policy: 15
  - (d) at any other time that suits it.

**8 Method of assessment**

- (1) A territorial authority that decides to assess the need for affordable housing in its district must choose the method by which it does the assessment. 20
- (2) In choosing the method, the authority must have regard to—
  - (a) the significance of the information it will obtain from the assessment:
  - (b) the costs of obtaining the information:
  - (c) the difficulty of obtaining the information: 25
  - (d) the extent of the authority's resources.
- (3) The authority must choose a method that gives the following results for the authority's district:
  - (a) a description of current housing market trends:
  - (b) a description of the key drivers underpinning the housing market trends: 30
  - (c) a description of the current balance between price and affordability in the housing market:
  - (d) a description of the current balance between supply and demand in the housing market generally and, if relevant, in different sectors: 35
  - (e) a description of current housing in terms of size, tenure, and costs:

- (f) the identification of land available for housing development:
  - (g) an estimate of the number of households that currently need affordable housing and the number that are likely to need it in the reasonably foreseeable future: 5
  - (h) an estimate of the number of households that currently have particular housing requirements and the number that are likely to have them in the reasonably foreseeable future:
  - (i) a description of the geographical areas in which a need for affordable housing has arisen and is likely to arise in the reasonably foreseeable future. 10
- (4) The authority must use its best endeavours to make a full and balanced assessment and, for that purpose, may choose a method that gives a result that— 15
- (a) is additional to those listed in **subsection (3)**:
  - (b) is reasonable in the circumstances of the authority.

Compare: 2002 No 84 s 129(1), (3)

*What must be covered in affordable housing policy*

- 9 Outcomes and objectives** 20
- An affordable housing policy must state clearly the outcomes and objectives that the territorial authority wants to achieve by way of the policy.
- 10 Criteria for application of policy to development**
- (1) An affordable housing policy must state the criteria that the territorial authority uses to determine the developments to which it applies the policy. 25
  - (2) The criteria that the authority must consider for inclusion in its affordable housing policy are—
    - (a) the proposed location of the development: 30
    - (b) the kind of development proposed, whether commercial, industrial, or residential, or a sub-group of commercial or industrial:
    - (c) the number of commercial, industrial, or residential sites proposed for the development: 35
    - (d) the proposed residential floor area per dwelling in the development:

- (e) the proposed floor area of a commercial or industrial building in the development:
  - (f) the potential of the development to generate a need for affordable housing:
  - (g) the desirability of the community having a variety of housing sizes, tenures, and costs. 5
- (3) A policy may state a criterion that—
- (a) is not listed in **subsection (2)**:
  - (b) is reasonable in the circumstances of the territorial authority. 10
- (4) The policy must also state whether any kind of development is excluded from the policy.
- (5) The policy must also state how the policy applies to redevelopments.
- (6) The policy must state enough details about each criterion, and the matters referred to in **subsections (4) and (5)**, to give a person doing a development a reasonable idea of whether or not the policy applies to the development. 15
- 11 Actions required of persons doing developments**
- (1) An affordable housing policy must state what the territorial authority requires a person doing a development to which the policy applies to do to facilitate the provision of affordable housing. 20
- (2) Without limiting what the policy may state, things that the authority must consider requiring the person to do are— 25
- (a) including a proportion of affordable housing in the development:
  - (b) including a proportion of affordable housing in another development that the person is doing or is to do:
  - (c) including in the proportion of affordable housing a particular kind of housing: 30
  - (d) giving the territorial authority some land in its district:
  - (e) giving the territorial authority an amount of money.
- (3) If the policy states that the person may be required to do any of the things listed in **subsection (2)(a) to (d)**, the policy must also state the following: 35
- (a) for **subsection (2)(a) and (b)**, details of how the proportion is calculated:

- (b) for **subsection (2)(c)**, details of the particular kinds of housing that may be required:
  - (c) for **subsection (2)(d)**, details of how the amount and location of the land are determined.
- (4) If the policy states that the person may be required to give the territorial authority an amount of money, the policy must also— 5
- (a) state details of how the amount is calculated:
  - (b) state when the amount must be paid, which may be—
    - (i) when a consent authority grants the person a resource consent for a development in the territorial authority’s district: 10
    - (ii) when a building consent authority or the territorial authority grants the person a building consent for a development in the territorial authority’s district: 15
    - (iii) any other time.
- (5) If the policy states that the person may be required to give the territorial authority land or money, it must also state how the authority— 20
- (a) ensures that the land or money is used to provide affordable housing:
  - (b) demonstrates that the land or money is used to provide affordable housing.
- 12 Actions required of territorial authorities** 25
- (1) An affordable housing policy must state what the territorial authority may do to help a person doing a development to which the policy applies to facilitate the provision of affordable housing.
- (2) Without limiting what the policy may state, things that the authority may consider doing are— 30
- (a) excusing the person from paying some or all of the person’s development contribution under its policy on development contributions:
  - (b) giving the person a density bonus: 35
  - (c) giving the person financial assistance under an applicable funding or financial policy:
  - (d) giving the person rates remission under its rates remission policy:



- (e) giving the person rates postponement under its rates postponement policy.
- (3) If the policy states that the authority may do any of the things listed in **subsection (2)**, the policy must also state details of—
  - (a) the nature of the thing: 5
  - (b) the circumstances in which the authority may do the thing:
  - (c) the conditions subject to which the authority may do the thing.
  
- 13 Criteria for allocation** 10
- (1) An affordable housing policy must state the criteria to be applied to decide who is to be allocated affordable housing.
- (2) The policy must state the following criteria:
  - (a) that the income of a person’s household is low to moderate: 15
  - (b) that, if a person were allocated affordable housing, the person’s household would be able to meet—
    - (i) their housing costs:
    - (ii) their other essential basic living costs:
  - (c) that a person does not have a legal or beneficial interest in property of such value as to make it inappropriate for the person to be allocated affordable housing: 20
  - (d) that, if another person in a person’s household has a legal or beneficial interest in property, the combination of the relationship of the persons and the value of the property does not make it inappropriate for the person to be allocated affordable housing. 25
- (3) The policy must also state the method by which the authority determines whether the criteria listed in **subsection (2)** apply to a person. 30
- (4) An affordable housing policy may state a criterion that—
  - (a) is not listed in **subsection (2)**:
  - (b) is reasonable in the circumstances of the authority.
  
- 14 Methods of retention**
- (1) An affordable housing policy must state how affordable housing is to remain affordable in the event of resale or transfer. 35
- (2) Without limiting what the policy referred to in **subsection (1)** may state, things that the policy may state are that—

- (a) the person to whom the housing is allocated must offer it first to the territorial authority or a council-controlled organisation, a council organisation, or a trust if the person decides to sell it:
- (b) the territorial authority or a council-controlled organisation, a council organisation, or a trust owns the housing subject to an occupation right agreement with the person to whom the housing is allocated: 5
- (c) the territorial authority or a council-controlled organisation, a council organisation, or a trust owns the housing jointly with the person to whom the housing is allocated. 10

## 15 Objections and appeals

- (1) An affordable housing policy must state that persons have rights to object and appeal. 15
- (2) The policy must set out **sections 20 to 26** for the information of readers.

### *Territorial authority may prepare draft affordable housing policy*

## 16 Preparation of draft 20

- (1) A territorial authority may prepare a draft affordable housing policy if—
  - (a) it has assessed the need for affordable housing in its district under **sections 7 and 8**; and
  - (b) its assessment shows that there is not enough affordable housing in its district. 25
- (2) The authority must use the information obtained from the assessment to prepare the draft policy.
- (3) The authority must work out the implications of the draft policy for— 30
  - (a) the policies it has adopted under the Local Government Act 2002:
  - (b) its district plan.
- (4) The authority must set out in the draft policy— 35
  - (a) provisions that reflect **sections 9 to 15**:
  - (b) the implications it has worked out under **subsection (3)**.

**17 Consultation on draft**

- (1) A territorial authority that has prepared a draft affordable housing policy must use the special consultative procedure to consult on it.
- (2) The authority may use the special consultative procedure—
  - (a) in conjunction with its use of the special consultative procedure under section 93(2) of the Local Government Act 2002 to adopt a long-term council community plan: 5
  - (b) in conjunction with its use of the special consultative procedure under section 93(5) of the Local Government Act 2002 to amend its long-term council community plan: 10
  - (c) in conjunction with its use of the special consultative procedure under section 102(2) of the Local Government Act 2002 to adopt a funding or financial policy: 15
  - (d) at any other time that suits it.

**18 Consideration of draft**

- (1) A territorial authority that has complied with **section 17** must consider the results of the consultation.
- (2) The authority may alter the draft policy to reflect its consideration of the results. 20

*Territorial authority may adopt affordable housing policy*

**19 Decision on adoption of policy**

- A territorial authority that has applied **section 18** must—
- (a) adopt the affordable housing policy that emerges from applying the section: 25
  - (b) decide not to adopt an affordable housing policy.

*Territorial authority must communicate policy*

**20 Telling public about adoption of policy**

- A territorial authority that adopts an affordable housing policy must give public notice of the adoption of the policy. 30

**21 Telling applicants for consents about policy**

- (1) A territorial authority that adopts an affordable housing policy must ensure that the information described in **subsection (2)** is given to a person applying for— 35

- (a) a building consent:
- (b) a resource consent.
- (2) The information is—
  - (a) where the person can obtain a written or electronic copy of the policy: 5
  - (b) how the person can find out whether the policy applies to the person's development.
  
- 22 Telling affected persons about decision to apply policy**
- (1) This section applies to a territorial authority that decides to apply its affordable housing policy to a development under the provisions of its policy that reflect **section 10**. 10
- (2) The authority must give written or electronic notice to the following persons:
  - (a) the person doing the development:
  - (b) the owner of the land on which the person proposes to do the development: 15
  - (c) the owners of land bordering the land on which the person proposes to do the development.
- (3) The notice must tell the persons about—
  - (a) the decision: 20
  - (b) how the persons can object to the decision.
  
- 23 Telling affected persons about other decisions under policy**
- (1) This section applies to a territorial authority that makes a decision under any of the provisions of its affordable housing policy that reflect **sections 11 to 14**. 25
- (2) The authority must give written or electronic notice to the person to whom the decision applies.
- (3) The notice must tell the person about—
  - (a) the decision: 30
  - (b) how the person can object to the decision.

*Objections and appeals*

- 24 Who may object to what**
- (1) Any person may object to a provision in a territorial authority's affordable housing policy on any ground. 35

- (2) A person to whom notice is given under **section 22(2)(a)** may object to the decision on any ground.
  - (3) A person to whom notice is given under **section 22(2)(b) or (c)** may object to the decision—
    - (a) on the ground that the decision— 5
      - (i) renders the land incapable of reasonable use; and
      - (ii) places an unfair and unreasonable burden on the person:
    - (b) on any other ground.
  - (4) A person to whom notice is given under **section 23** may object to the decision on any ground. 10
  - (5) No person may object under **section 25** to the existence of the policy.
- Compare: 1991 No 69 s 85(2), (3)
- 25 Objections made to territorial authority** 15
- (1) A person objecting under **section 24** makes the objection to the territorial authority.
  - (2) The person must give the territorial authority a statement of the objection that—
    - (a) contains reasons for the objection: 20
    - (b) is written or electronic:
    - (c) is given within the time described in **subsection (3)**.
  - (3) The times are,—
    - (a) for an objection under **section 24(1)**, within 15 working days after the date of the public notice under **section 20** or a longer time that the authority allows: 25
    - (b) for an objection under **section 24(2) or (3)**, within 15 working days after the date of the notice under **section 22** or a longer time that the authority allows:
    - (c) for an objection under **section 24(4)**, within 15 working days after the date of the notice under **section 23** or a longer time that the authority allows. 30
  - (4) An authority that receives an objection must—
    - (a) give at least 5 working days' written or electronic notice to the person of the date, time, and place for the hearing of the objection: 35
    - (b) do 1 of the following within 20 working days after receiving the objection:
      - (i) dismiss it:

- (ii) partly uphold it:
    - (iii) wholly uphold it:
  - (c) give written or electronic notice of its decision and the reasons for it within 15 working days after making it to— 5
    - (i) the person:
    - (ii) any other person the authority considers appropriate.
  
- 26 Appeals made to Environment Court**
- (1) A person who has objected under **section 24(1), (2), or (3)** may appeal to the Environment Court against the territorial authority’s decision under **section 25**. 10
- (2) The person must—
  - (a) lodge a notice of appeal with the Environment Court in form 34 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003: 15
  - (b) lodge the notice within 15 working days after the date of the notice under **section 25(4)(c)** or a longer time that the court allows:
  - (c) serve a copy of the notice on the territorial authority. 20
- (3) The court must—
  - (a) hear the appeal on the merits of the case:
  - (b) have regard to the decision that is the subject of the appeal:
  - (c) do 1 of the following: 25
    - (i) dismiss the objection:
    - (ii) partly uphold the objection:
    - (iii) wholly uphold the objection.
  
- 27 Effect on affordable housing policy of objections and appeals** 30
- (1) This section applies to an objection to a provision in a territorial authority’s affordable housing policy under **section 24(1)**.
- (2) **Subsection (3)** applies if—
  - (a) a territorial authority dismisses or partly upholds an objection; and 35
  - (b) the person who objected does not appeal.
- (3) The territorial authority must,—
  - (a) if it dismissed the objection, keep applying the policy:

- (b) if it partly upheld the objection,—
  - (i) keep applying the policy, but in a way that reflects its decision:
  - (ii) follow sections 102(6), 93(4) and (5), 83, and 84(2) of the Local Government Act 2002 as soon as is practicable to amend the policy to reflect its decision. 5
- (4) **Subsection (5)** applies if—
  - (a) a territorial authority dismisses or partly upholds an objection; and 10
  - (b) the person who objected appeals.
- (5) The territorial authority must,—
  - (a) if the objection and appeal are about part of the policy,—
    - (i) stop applying that part: 15
    - (ii) implement the court’s decision on the appeal:
  - (b) if the objection and appeal are about the whole policy,—
    - (i) stop applying the policy:
    - (ii) implement the court’s decision on the appeal. 20
- (6) **Subsection (7)** applies if a territorial authority wholly upholds an objection.
- (7) The territorial authority must,—
  - (a) if the objection was to part of the policy,—
    - (i) stop applying that part: 25
    - (ii) follow sections 102(6), 93(4) and (5), 83, and 84(2) of the Local Government Act 2002 as soon as is practicable to amend the policy to reflect its decision:
  - (b) if the objection was to the whole policy,—
    - (i) stop applying the policy:
    - (ii) make a decision under **section 7**. 30

Compare: 1991 No 69 s 85(3)

### *Implementing affordable housing policy*

- 28 Binding commitments may be required** 35
- (1) This section applies when—
  - (a) a person—
    - (i) applies for a building consent for a development in a territorial authority’s district:

- (ii) has been granted a resource consent for a development in a territorial authority’s district;
    - (iii) both applies for a building consent and has been granted a resource consent for a development in a territorial authority’s district; and
  - (b) the person is required by the territorial authority to do an action under its affordable housing policy.
- (2) The territorial authority may require the person to make a binding commitment to it that the person will take all practicable steps to ensure that the action is done.
- (3) The territorial authority may require only 1 binding commitment from a person who needs more than 1 consent for a development.
- (4) If the territorial authority requires the person to make a binding commitment to it, the territorial authority must be satisfied that the person is able to keep the binding commitment.
- (5) If the territorial authority requires the person to satisfy it of the person’s ability to keep the binding commitment, the means by which the authority requires the person to satisfy it must be reasonable.
- (6) The territorial authority must notify the building consent authority to which the person applied for a building consent and the consent authority that granted the resource consent of 1 of the following:
  - (a) that the person is not required to make a binding commitment to the territorial authority;
  - (b) that—
    - (i) the person was required to make a binding commitment to the territorial authority; and
    - (ii) the person has done so; and
    - (iii) the territorial authority is satisfied that the person is able to keep the commitment.
- (7) The territorial authority must not notify the building consent authority or the consent authority of **subsection (6)(b)(ii) and (iii)** until—
  - (a) the person has made the binding commitment; and
  - (b) the territorial authority is satisfied that the person is able to keep the commitment.
- (8) The building consent authority must not grant the consent, and the consent authority must prevent the commencement of the



consent under the Resource Management Act 1991, until it receives notification from the territorial authority under **subsection (6)**.

**29 No payment of compensation**

- (1) Land is not taken or injuriously affected only because an affordable housing policy exists. Consequently, the territorial authority is not liable to pay compensation only for that reason. 5
- (2) Land is not taken or injuriously affected only because of a provision in a territorial authority's affordable housing policy. Consequently, the territorial authority is not liable to pay compensation only for that reason. 10
- (3) Land is not taken or injuriously affected only because a territorial authority requires a person doing a development to do an action under the authority's affordable housing policy. Consequently, the territorial authority is not liable to pay compensation only for that reason. 15

Compare: 1991 No 69 s 85 heading; s 85(1)

**30 Use of land and money**

- (1) A territorial authority has the powers in **subsections (3) to (7)**, and no other powers, to deal with land or money given to it under its affordable housing policy by a person doing a development. 20
- (2) The powers in this section apply to all or some of the land or money. 25
- (3) The authority may use the land or money to offset the loss of the development contributions of other persons doing developments to which the policy applies.
- (4) The authority may give the land, or sell it cheaply, to a person who agrees to build affordable housing on it. 30
- (5) The authority may give the land, or sell it cheaply, to a body to use to provide affordable housing.
- (6) The authority may give the money to a body to use to provide affordable housing.
- (7) Territorial authorities may pool the land or money to use it to provide affordable housing in the district or districts of one, some, or all of the authorities. 35

- (8) A territorial authority that owns land or a building to provide affordable housing as part of its social policy may give the land or building, or sell it cheaply, to a body to use to provide affordable housing.

- 31 Policies must be aligned** 5
- (1) This section applies to a territorial authority that wants to use a power described in **section 30**.
- (2) The authority must follow sections 102(6), 93(4) and (5), 83, and 84(2) of the Local Government Act 2002 to amend its policies under section 102(4) or (5) of the Local Government Act 2002 to allow the use of the power. 10
- (3) An authority that wants to use the power in **section 30(8)** must comply with section 97 of the Local Government Act 2002 because section 97(1)(b) applies to a decision to use the power. 15

*Review and amendment of affordable housing policy*

- 32 Review: requirement and process**
- (1) A territorial authority that adopts an affordable housing policy must review it in conjunction with the process it carries out under section 91 of the Local Government Act 2002 to identify community outcomes. 20
- (2) The territorial authority must—
- (a) start the review with a decision under **section 7**;
  - (b) follow the process in **sections 8 and 16 to 23**.

- 33 Amendment: process** 25
- A territorial authority that adopts an affordable housing policy—
- (a) may decide to amend its policy;
  - (b) must implement its decision by following sections 102(6), 93(4) and (5), 83, and 84(2) of the Local Government Act 2002: 30
  - (c) must not amend its policy in such a way as to stop it being an affordable housing policy.

*Relationship with Resource Management Act 1991*

**34 Environment Court to decide**

- (1) This section applies to a person described in **subsection (2)** if the person considers that there is a conflict between—
- (a) a territorial authority's affordable housing policy and its district plan: 5
  - (b) a territorial authority's affordable housing policy and the matters described in section 74 of the Resource Management Act 1991 that affect the preparation or change of its district plan. 10
- (2) The persons are—
- (a) the territorial authority:
  - (b) a person who has made a submission on—
    - (i) the district plan: 15
    - (ii) the preparation or change of the district plan: 15
  - (c) a person representing a relevant aspect of the public interest:
  - (d) a person who has an interest in the conflict that is greater than the interest that the general public has:
  - (e) the Minister for the Environment: 20
  - (f) the Minister of Housing.
- (3) This section also applies to a person described in **subsection (4)** if the person considers that there is a conflict between—
- (a) a territorial authority's affordable housing policy and a resource consent: 25
  - (b) a territorial authority's affordable housing policy and the matters described in section 104 of the Resource Management Act 1991 that affect an application for a resource consent.
- (4) The persons are— 30
- (a) the territorial authority:
  - (b) the person—
    - (i) granted the resource consent:
    - (ii) applying for the resource consent:
  - (c) a person who made a submission on the application for the resource consent: 35
  - (d) a person representing a relevant aspect of the public interest:
  - (e) a person who has an interest in the conflict that is greater than the interest that the general public has: 40

- (f) the Minister for the Environment:
- (g) the Minister of Housing.
- (5) A person to whom this section applies may apply to the Environment Court to resolve the conflict.
- (6) In resolving the conflict, the court must take into account— 5
  - (a) Part 2 (Purpose and principles) of the Resource Management Act 1991:
  - (b) the following sections of the Local Government Act 2002:
    - (i) section 10 (Purpose of local government): 10
    - (ii) section 14 (Principles relating to local authorities):
    - (iii) sections 76 to 81 (which are about decision-making).

*Covenants* 15

- 35 Some are void**
- (1) A covenant over land is void if its principal purpose is to stop the provision of affordable housing or social housing on the land.
  - (2) Without limiting the covenants that are void under **subsection (1)**, covenants to the following effect are void: 20
    - (a) a covenant that the transferee will not directly or indirectly convey the land to Housing New Zealand Corporation or any other central or local government body that may facilitate the occupation of housing on the land by persons selected by the corporation or the body: 25
    - (b) a covenant that the transferee will not directly or indirectly convey the land to Housing New Zealand Corporation or a subsidiary company of Housing New Zealand Corporation or any other body that provides housing to tenants on a subsidised basis: 30
    - (c) a covenant that the transferee will not directly or indirectly convey the land to a central or local government body for the purposes of public or institutional housing.

*Regulations***36 Regulations**

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- (a) prescribing results additional to those in **section 8(3)** that must be given by a method of assessing the need for affordable housing: 5
- (b) prescribing criteria additional to those in **section 13(2)** for the allocation of affordable housing that must be stated in an affordable housing policy: 10
- (c) providing a template that a territorial authority may use or adapt for—
  - (i) a method of assessing the need for affordable housing:
  - (ii) an affordable housing policy: 15
- (d) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

*Transitional provisions***37 Building consents**

20

- (1) This section applies to a building consent that—
  - (a) has been granted:
  - (b) has been applied for.
- (2) The territorial authority referred to in **subsection (3)** is the territorial authority for the district in which the building consent operates or will operate if it is granted. 25
- (3) This Act does not apply to the building consent if the granting or applying was done before—
  - (a) the date on which the territorial authority adopts an affordable housing policy: 30
  - (b) the date on which the territorial authority amends its affordable housing policy in a way that would affect the consent if the amendment were to apply to it.

**38 Resource consents**

35

- (1) This section applies to a resource consent that—
  - (a) has been granted:
  - (b) has been applied for:

- (c) is the subject of a lodged application for review of its conditions.
  - (2) The territorial authority referred to in **subsection (3)** is the territorial authority for the district in which the resource consent operates or will operate if it is granted. 5
  - (3) This Act does not apply to the resource consent if the granting, applying, or lodging was done before—
    - (a) the date on which the territorial authority adopts an affordable housing policy;
    - (b) the date on which the territorial authority amends its affordable housing policy in a way that would affect— 10
      - (i) the consent if the amendment were to apply to it;
      - (ii) the consent’s conditions if the amendment were to apply to them.
- 39 Covenants** 15
- Section 35** applies only to a covenant entered into on or after the day on which this Act commences.

## Part 2

### Amendments to other enactments

- 40 Amendments to Building Act 2004** 20
- (1) This section amends the Building Act 2004.
  - (2) Section 49(2)(b) is amended by adding “; and”.
  - (3) Section 49(2) is amended by adding the following paragraph:
    - “(c) if **section 28** of the Affordable Housing: Enabling Territorial Authorities Act **2007** applies, notification under **section 28(6)** of that Act.” 25
- 41 Amendments to Housing Corporation Act 1974**
- (1) This section amends the Housing Corporation Act 1974.
  - (2) Section 3B(b) is amended by adding “; and”.
  - (3) Section 3B is amended by adding the following paragraph: 30
    - “(c) to arrange for territorial authorities applying the Affordable Housing: Enabling Territorial Authorities Act **2007** to receive appropriate advice and information, of a policy or other nature, about housing and services related to housing.” 35

**42 Amendments to Local Government Act 2002**

- (1) This section amends the Local Government Act 2002.
- (2) Section 102(5) is amended by adding the following paragraph:
  - “(c) an affordable housing policy, under the Affordable Housing: Enabling Territorial Authorities Act **2007**.”

5

