

Waitakere Ranges Heritage Area Bill

Local Bill

Explanatory note

General Policy Statement

Statement of Public Policy Objective

The objective of the bill is to recognise the national, regional and local importance of the Waitakere Ranges, foothills and coastal areas and to promote long-term protection and enhancement of this area and its important heritage features for present and future generations while enabling the area to be lived and worked in.

The bill responds to growing concerns about the adverse cumulative effects that urban growth is having on the natural, rural and coastal landscape and the ecological, historic, and cultural heritage of the area, and the difficulties in managing such effects under the current regulatory framework.

Description of Heritage Area

The Waitakere Ranges Heritage Area (established by the bill) encompasses some 27,720 hectares of public and private land located between metropolitan urban Auckland and the west coast. The Heritage Area extends from the Manukau Harbour in the south to Tirikohua Point in the north, covering parts of the Waitakere City Council district and the Rodney District Council district.

The boundary of the Heritage Area has been carefully chosen to follow the distinctive landform of the Waitakere Ranges to encompass concentrations of natural landscape and cultural heritage resources. It follows property lines and other established boundaries that are easily recognisable by the community. The Heritage Area is

deliberately contiguous and provides a buffer, where necessary, in order to protect the vulnerable features.

The Heritage Area is made up of a combination of unique and fragile landforms, ecosystems, and landscapes and is an area with a distinctive character and heritage that make it outstanding within the Auckland region and nationally. The area has a rich cultural history and is a place where people live, work and play. A range of rural activities contribute to a rural character and landscape in the foothills. Some 17,000 hectares of the Heritage Area constitute the Waitakere Ranges Regional Park, which is valued for its publicly accessible natural recreational areas, and for its dual role as a water catchment and storage area and as a site of water supply systems for metropolitan supply.

Issues Analysis

The Waitakere Ranges Heritage Area has features and qualities that warrant long-term protection. Once the character and values of the Heritage Area are changed or degraded, it will not be possible to undo the damage.

The goal is to put in place measures that will ensure that this important and finite resource is not gradually eroded and undermined with the result that the features that are valued are lost forever.

The features and qualities of the Heritage Area are both fragile and vulnerable. Because the Heritage Area is subject to high rainfall and has heavy clay soils and steep topography, there is a real risk that inappropriate development will result in landscape degradation, loss of rainforest and habitat, erosion and stormwater flooding.

A recent re-survey by the Auckland Regional Council of the landscape values of the region indicates that parts of the Piha area, which 10 years ago were regarded as outstanding natural landscapes, have experienced a level and style of development such that landscape values have been degraded to a level where they are now no longer regarded as “outstanding”.

The Heritage Area is under unprecedented pressure from urban growth and development, largely due to its location immediately adjoining metropolitan Auckland, New Zealand’s largest city. The Auckland metropolitan area is growing rapidly and land values are escalating. This results in unique pressures being placed on peripheral lands, such as the Waitakere Ranges and foothills, for further

subdivision and development. High land values also have the effect of intensifying developments.

The existing regulatory framework does not adequately ensure or allow for this Heritage Area to continue to be a vibrant and changing area where people live and work while protecting and enhancing the natural, rural, coastal and amenity features of the area for future generations.

Through the Resource Management Act 1991, the Auckland Regional Council, the Waitakere City Council and the Rodney District Council have invested considerable time and resources into trying to ensure that the regional policy statement, regional plans and district plans give adequate protection to those nationally, regionally and locally significant features that are important to the people who live in or visit the area.

However, the Resource Management Act has limitations when addressing the unique situation that has developed in the Waitakere Ranges and foothills. A key concern about the Resource Management Act, in practice, is that individual applications for development consent tend to be considered on a site by site basis and the cumulative effects and precedent effects of incremental development are difficult to assess and manage. Most notably, there is a lack of guidance about the thresholds that might trigger the cumulative effects test, and a focus on testing applications for their effects on the present environment rather than the desired future environment (including amenity).

There is also a lack of long-term assurance about resource management standards. At present, notwithstanding robust rules in district plans, there is no certainty that inappropriate activities will not be granted consent and that the district plan's provisions will not be reviewed and undermined through the 10-yearly reviews required under the Resource Management Act or through Council and privately initiated plan changes.

The existing regulatory framework does not adequately manage and protect landscapes, particularly landscapes of rural character. Only outstanding natural landscapes are defined as significant. This has generally been interpreted to mean nationally significant and naturally vegetated, rather than mixed, rural or urban landscapes.

The Waitakere Ranges and foothills area has many qualities that are similar to a national park. However, as an environment that is intensively lived and worked in, and with a resident population in

excess of 21,000, the area is not able to be appropriately protected as a national park.

A special framework for applying and integrating the Resource Management Act, the Local Government Act and other relevant legislation across both public and private land is needed. It is intended that this bill will provide clarity and direction for decision-makers by providing a context for the Resource Management Act provisions within the Waitakere Ranges and foothills area.

The passing of the Local Government Act 2002 resulted in the repeal of the Auckland Centennial Memorial Park Act 1941 and the Local Government Act 1974 provisions under which the Waitakere Ranges Regional Park was managed. This means that at present the Park is currently managed like any other local authority asset. This Bill restores a clear management objective for the Waitakere Ranges Regional Park that aligns it with other nationally significant protected areas.

Summary of key provisions in bill

This local bill creates a distinct statutory identity for the Waitakere Ranges Heritage Area. It creates a framework to recognise its local, regional and national importance, to highlight its key values and to protect these on a long-term basis. The system is intended to operate in a manner that provides for and respects both private property rights and wider regional public land and infrastructure operation. It will provide for a future for the Heritage Area that will continue to provide contrast, choice and respite for the metropolitan urban population.

The bill will complement the Resource Management Act through providing an interpretation of key provisions of that Act for the Heritage Area, and by establishing a policy framework for the sustainable management of the Heritage Area that is less susceptible to pressure for change.

To provide added protection and encourage the enhancement of the Heritage Area, the bill:

- establishes the Waitakere Ranges Heritage Area;
- states the national significance of the Heritage Area, establishes a set of objectives for the Heritage Area and identifies its heritage features;
- identifies a set of heritage features that are individually and collectively valued;

- requires the Auckland Regional Council, Waitakere City Council and Rodney District Council in their key roles under the Resource Management Act, the Local Government Act and other relevant legislation to give effect to the objectives for the Heritage Area and have regard to the bill's purpose and heritage features when preparing and reviewing such documents as plans and policy statements, and when deciding private plan changes and resource consent applications;
- provides for local area management plans to be included in district plans, under the Resource Management Act. The local area management plans are intended to be a tool whereby Councils, in consultation with the community, can clearly identify and provide for the qualities that make up the local area's present and desired future amenity, aesthetic, natural and cultural character. Councils and communities may together prepare and adopt plans to identify the long-term future natural, cultural or physical qualities of their local area within the larger Heritage Area. Such plans may address any of the objectives in the bill including the protection, restoration and enhancement of heritage features and landscapes and the desired provision of economic and social development for the wellbeing of the local community;
- requires monitoring and reporting on: the state of the environment within the Heritage Area; progress made to achieve the objectives; and the funding impact of activities undertaken to give effect to the bill. The findings must be reported every five years;
- specifies a long-term objective and requires a management plan to be prepared for the Waitakere Ranges Regional Park;
- provides a procedure, whereby Councils or the Crown may enter into a deed of acknowledgement to acknowledge any statement of particular historic, traditional, cultural or spiritual relationship of tangata whenua with the public land in the Heritage Area.

Conclusion

The intention of the bill is to create a strategic over-arching framework that will apply consistently to all decisions affecting the Heritage Area. The decisions to be made and the processes for making the decisions under the current statutory framework of the Resource Management Act 1991 and the Local Government Act 2002 will not

change. However, the bill sets down specific matters that must be had regard to or given effect to. The bill particularises and gives a local articulation to the matters of national importance that would normally be taken into account in accordance with Part II of the Resource Management Act 1991. By setting down these matters in legislation, long-term direction and vision for the Heritage Area is established, resulting in additional protection for its much valued heritage features.

Clause by clause analysis

The *Preamble* describes the background to the bill.

Clause 1 relates to the Title of the bill. This bill is the Waitakere Ranges Heritage Area Bill.

Clause 2 relates to commencement. This bill will come into force on the day after it receives the Royal assent.

Clause 3 sets out the purpose of this bill. The purpose is to recognise the national, regional and local importance of the Waitakere Ranges Heritage Area and to promote the protection and enhancement of its heritage features for present and future generations.

To assist in meeting this purpose, the bill:

- establishes the Waitakere Ranges Heritage Area (the Heritage Area);
- states the national significance of the Heritage Area and defines its heritage features;
- specifies the objectives of establishing and maintaining the Heritage Area; and
- provides mechanisms for more certain and effective planning, resource management and decision-making in relation to the Heritage Area.

Clause 4 relates to interpretation. Unless the context otherwise requires, terms and expressions used and not defined in the bill, but defined in the Resource Management Act 1991, have the same meaning as in that Act.

Clause 5 provides that this bill binds the Crown.

Clause 6 establishes the Waitakere Ranges Heritage Area. The location and boundaries of the Heritage Area are shown on the indicative map in Schedule 1. The Waitakere Ranges Heritage Area is described in Schedule 2. If there is an inconsistency between the

map in Schedule 1 and the legal description in Schedule 2, Schedule 2 prevails.

Clause 7 provides for the extension of the boundary of the Heritage Area by Order in Council. The Governor-General may, by Order in Council made on the recommendation of the Minister of Local Government and joint request of the Councils, extend the boundary of the Heritage Area. The Councils must complete a special consultative procedure under the Local Government Act before making any request to extend the boundary. The Minister of Local Government must not make a recommendation to extend the boundary unless he or she is satisfied that the land to be included in the Heritage Area has features that are consistent with the heritage features and that the land is contiguous with the Heritage Area. An Order in Council made under this section may not be amended (except to correct an error) or revoked, and land included in the Heritage Area by an Order in Council may not be excluded from the Heritage Area, except by an Act of Parliament.

Clause 8 states that the Heritage area is of national significance and sets out its heritage features. The heritage features are characteristics, activities and connections that are particularly valued and that individually and in combination contribute to the national, regional and local importance of the Heritage Area. These features include:

- the terrestrial and aquatic ecosystems, the classes of natural landforms and landscapes; the natural functioning of streams;
- the functioning of the area as a visual backdrop to the Auckland metropolitan area; and the functioning of the eastern foothills as a buffer to and transition from metropolitan Auckland;
- the Heritage Area's provision of wilderness experience, recreational, and relaxation opportunities;
- the subservience of the built environment to the natural and rural landscape;
- the historic, traditional and cultural relationships of people, communities and tangata whenua;
- the distinctive local communities;
- the origins of the Waitakere Ranges Regional Park, its accessibility and importance as a public place;
- the operation, maintenance and development of the public water catchment and supply system.

Clause 9 sets out the objectives for the Heritage Area. The objectives include:

- protecting, restoring and enhancing the heritage features and the Heritage Area;
- taking a holistic approach to managing the Waitakere Ranges, foothills and coastal areas;
- adopting a precautionary approach towards decisions that may result in significant adverse effects on the heritage features, including those effects that threaten serious or irreversible damage to the heritage features;
- recognising and avoiding adverse cumulative effects, and potential cumulative effects of activities on the environment (which includes the amenity of the Heritage Area) or its heritage features;
- recognising that the Heritage Area has little capability to absorb further subdivision;
- ensuring that any subdivision, either individually or cumulatively, is of an appropriate character, scale and intensity, does not adversely affect the heritage features and does not contribute to urban sprawl;
- ensuring that any development is of an appropriate character, scale and intensity and does not adversely affect the heritage features;
- maintaining the quality and diversity of landscapes in the Heritage Area by protecting landscapes of significance, restoring and enhancing degraded landscapes, and through the integrated management of change within the landscape;
- managing aquatic and terrestrial systems to protect and enhance indigenous habitat values, landscape values and amenity values;
- recognising that people live and work in the Heritage Area in distinctive communities and enabling them to provide for their social, economic, and cultural wellbeing;
- providing for future rural uses in order to retain a rural character;
- recognising and protecting the role of the Heritage Area as a natural and physical resource for water catchment and supply and providing for the sustainable development of the water catchment and supply system;
- protecting in perpetuity, the natural and historic resources of the Waitakere Ranges Regional Park.

Clause 10 requires that, when preparing a regional policy statement or regional plan that affects the Heritage Area, the Auckland Regional Council must have particular regard to the purpose of this

bill and give effect to the objectives. This requirement is in addition to the matters to be had regard to under the Resource Management Act 1991. When evaluating a proposed policy statement, proposed plan, plan change or variation that affects the Waitakere Ranges Heritage Area, the Auckland Regional Council must similarly examine whether the proposed policy statement, proposed plan, plan change or variation is the most appropriate way to achieve the purpose of the bill and whether it gives effect to the objectives. When reviewing a policy statement or regional plan under section 79 of the Resource Management Act 1991, the Auckland Regional Council must have particular regard to the purpose of this bill and the heritage features and decide whether the existing regional policy statement or regional plan adequately achieves the purpose and gives effect to the objectives in this bill.

Clause 11 requires the Waitakere City Council and Rodney District Council, when preparing a district plan that affects the Heritage Area, in addition to the matters in sections 74 and 75 of the Resource Management Act 1991, to have particular regard to the purpose of the bill and to give effect to its objectives. The Councils must also, when evaluating a proposed district plan, plan change or variation that affects the Heritage Area under section 32 of the Resource Management Act 1991, examine whether the provisions in the proposed plan, plan change or variation are the most appropriate way to achieve the purpose of the bill and whether they give effect to its objectives. The Councils must, when reviewing a district plan under section 79 of the Resource Management Act, have particular regard to the purpose of the bill, the heritage features and give effect to its objectives and decide whether the existing district plan provisions adequately achieve the purpose of the bill, adequately protect the heritage features and give effect to its objectives.

Clause 12 provides that a request made under section 65(4) or section 73(2) of the Resource Management Act to change a regional or district plan that affects the Heritage Area may be rejected, in whole or in part, by a relevant local authority if the request is inconsistent with the purpose of this bill or is inconsistent with the objectives.

Clause 13 requires that a relevant local authority must recognise and provide for the purpose of the bill, objectives, and any local area management plan when considering an application for resource consent for any discretionary or non-complying activity as if they were collectively a matter of national importance under section 6 of the

Resource Management Act. When considering an application for resource consent for a controlled or restricted discretionary activity, the Council must consider the purpose of the bill and the objectives and any local area management plan as if they were matters specified in the district plan over which the Council has reserved its control or restricted its discretion.

Clause 14 requires that a person making a decision under Part 8 of the Resource Management Act 1991 relating to designations and heritage orders must recognise and provide for the purpose and the objectives of this bill, and any local area management plans as if they were collectively a matter of national importance under section 6 of the Resource Management Act 1991.

Clause 15 enables the district councils to include local area management plans to identify and provide for long term objectives relating to the future amenity and character of the local area within the Heritage Area. Any local area management plan must not be inconsistent with the purpose of this bill and must give effect to the objectives and have regard to any Regional Park management plan. Plans may address any or all of the objectives including the protection, restoration and enhancement of the heritage features and local landscapes and the desired provision for services, economic and social development that will contribute to the wellbeing of the local community. Members of the community of the place or locality concerned must be consulted in the preparation of such plans.

Clause 16 requires that a relevant local authority exercising its powers under section 12 of the Local Government Act 2002, in relation to the Heritage Area, must have regard to the purpose and the objectives in the bill.

Clause 17 requires that the Auckland Regional Council must, when amending the Auckland Regional Growth Strategy, ensure that the strategy and amendments are not inconsistent with this bill.

Clause 18 requires that the Councils must jointly monitor: the state of the environment in the Heritage Area; the progress made towards achieving the objectives; and the funding impact arising from activities to be undertaken specifically to give effect to the bill. The Councils must jointly report on the findings every five years.

Clause 19 requires that the Auckland Regional Council must, in consultation with the public, prepare, approve and maintain a management plan for the integrated management of the Waitakere Ranges Regional Park. The management plan must be adopted using

the special consultative procedure under the Local Government Act 2002. A management plan must have particular regard to the purpose of the bill and the objectives and can form part of a comprehensive management plan for all regional park land managed by the Auckland Regional Council.

Clause 20 clarifies that this Act does not limit or affect the responsibilities or powers of Watercare Services Limited in relation to the Heritage Area.

Clause 21 requires that any Council exercising a power or carrying out a function in relation to the Heritage Area under an enactment specified in **Schedule 3** must exercise the power or carry out the function having particular regard to the purpose of the bill and the objectives.

Clause 22 provides for Waitakere Ranges Heritage Area covenants to be entered into with the agreement of land owners and Councils to provide for the management and protection of the land.

Clause 23 clarifies that this bill does not limit or affect the Foreshore and Seabed Act 2004.

Clause 24 provides for the Crown or relevant local authorities to enter into a deed of acknowledgement with tangata whenua in respect of land in the Heritage Area to acknowledge any statement of particular historic, traditional, cultural or spiritual relationship with the land. Deeds of acknowledgement may not relate to any water or to any private land in the Heritage Area.

Clause 25 sets out the purpose of a deed of acknowledgement.

Clause 26 sets out the effect of a deed of acknowledgement.

Clause 27 clarifies the relationship between a deed of acknowledgement under this bill and other deeds of acknowledgement. A deed of acknowledgement under this bill does not prevent the Crown or Council from entering into further deeds of acknowledgement with other tangata whenua.

Clause 28 requires that a notice of any deed of acknowledgement entered into, or an amendment to, or revocation of, a deed of acknowledgement, be notified in the *Gazette*.

Clause 29 clarifies that all existing rights of title or ownership of land or natural resources, and the ability to bring a claim or continue to bring a claim in any Court or Tribunal are preserved.

Clause 30 provides transitional provisions. Any resource consent lodged but not finally determined before the commencement of this

bill must be continued and completed as if this bill had not been enacted. Any plan changes, variations, proposed policy statements, heritage orders or notices of requirement for designation notified but not finally determined before the commencement of this bill must similarly be completed as if this bill had not been enacted. The only exceptions are the plan changes listed in **Schedule 4**, which are affected by the bill from the date of commencement of the bill.

Schedule 1 contains an indicative map that shows the location and boundary of the Heritage Area (established by *clause 6*).

Schedule 2 describes the Heritage Area established by *clause 6*.

Schedule 3 specifies the Acts to which *clause 21* applies.

Schedule 4 specifies the plan changes that are affected by the bill from the date of commencement of the bill (*clause 30*).

Lynne Pillay

Waitakere Ranges Heritage Area Bill

Local Bill

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Schedule 1

Indicative Map of Waitakere Ranges Heritage Area

Schedule 2

Description of Waitakere Ranges Heritage Area

Schedule 3

Acts to which Parts 1 and 2 apply

Schedule 4

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Preamble

- (1) Whakarongo mai e nga iwi, ki ta te korero i mua. He ika tenei whenua. Ko te tangata nana i huti ko Maui. Kei konei tonu ahau, a mate noa.

Listen all of the assembled tribes, to this the talk of olden times, this land is a fish. The person who fished it up was Maui. I will remain here on it, indeed until I die.

5

(Waitakere Chief Te Waatarauhi in his opening speech at the Kohimarama Conference in 1860).

- (2) The Waitakere Ranges and foothills area is an area of some 27,720 hectares of public and private land located between metropolitan urban Auckland and the west coast of the Waitakere City and Rodney Districts. This area is of local, regional, and national importance:

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- (3) The area is outstanding in northern New Zealand for the extensive and intact nature of its lowland and coastal forest ecosystems, and associated dune and wetland systems. It contains distinctive and outstanding plant species and communities, fauna and landscapes: 5
- (4) The Waitakere Ranges form a dramatic visual backdrop to the Auckland metropolitan area. The forested hills and rugged coastal vistas are essential to the identity of Waitakere City and the wider Auckland metropolitan area. The foothills and the coastal area are made up of a combination of rural, urban, and natural landscapes that contrast with the bordering Waitakere Ranges and metropolitan area and create an important transition and buffer zone: 10
- (5) The area has a long and rich human history. It is a distinctive cultural domain for Maori; it lies within the rohe of both Te Kawerau A Maki and Ngati Whatua. European settlement began more than 160 years ago with the first attempts at organised colonial settlement of New Zealand made in Cornwallis in 1841, followed closely by a century of resource exploitation that has left its mark on the whole area: 15 20
- (6) The Waitakere Ranges is a vital water catchment and the site of a series of water storage and supply systems that have sustained Auckland's urban development since 1902. It is important to sustain the potential of the natural and physical resources of the Waitakere Ranges to meet current and future water needs of the community: 25
- (7) The Waitakere Ranges Regional Park area has been formed over 110 years through gifts, grants, purchases and vestings. The area has been protected in various ways at a national, regional, and local level. Over time, parts of it have been classified as reserve, park, and water catchment area. In 1895, the Crown vested the founding reserves in Auckland City Council. In 1941, the Auckland City Council promoted legislation that created the Auckland Centennial Memorial Park to commemorate the centennial of the Metropolitan District of Auckland. These and many other gifts of private land, publicly funded acquisitions, and transfers of land from other public agencies have combined to form parkland of some 17,000 hectares: 30 35

- (8) In 2005, more than 21,000 people lived in the area, outside the Park, in countryside communities, rural and coastal villages, and in forest-dominated suburbs. Farming and rural activities are an important defining aspect of the character of the area. The area is subject to development and urban intensification pressures compounded by its proximity to metropolitan Auckland. The growth pressures are threatening to undermine the unique natural, landscape, cultural, historic, and community values of the area: 5
- (9) In 2003, the Waitakere City Council initiated the Waitakere Ranges and Foothills Protection Project. The goal of the project is, through a partnership of iwi, Waitakere City Council, Auckland Regional Council, Rodney District Council, and local Members of Parliament, and in close consultation with stakeholders, to find and implement ways of achieving better long term protection for the natural, rural, and landscape values of the Waitakere Ranges and foothills: 10 15
- (10) The project members have researched and considered options, and following extensive consultation with stakeholders and the community, concluded that additional regulation is needed to achieve the level of protection required: 20
- (11) The Resource Management Act 1991 and the Local Government Act 2002 enable local authorities to implement a range of mechanisms to manage the resources of the area. It has become apparent however, that these statutes do not sufficiently protect the Waitakere Ranges and foothills, in particular with regard to— 25
- the cumulative effects and precedent effects of development on the landscape, the desired future character and amenity of the area, as well as on the ecological and biological environment; 30
 - the rural character and rural communities in the foothills;
 - the low density urban settings and coastal villages where the built environment is subservient to the natural environment; 35
 - the management of activities adjacent to the Metropolitan Urban Limits to maintain the boundary between urban and rural; and
 - the protection of the heritage features that individually and in combination distinguish the area: 40

- (12) In October 2004, following discussions with the Minister of Local Government and the Associate Minister for the Environment, Cabinet considered the options for legislation and regulation. The Government invited the Auckland Regional Council and Waitakere City Council to prepare a local bill to provide a framework and principles that would increase the protection of the area: 5
- (13) In light of the finite nature of the Waitakere Ranges and foothills area, its importance, and its fragility in the face of rapidly encroaching metropolitan growth, it is desirable to implement regulation to set down long term objectives and vision for the area, to provide more certain outcomes and to protect the heritage of the natural, rural, urban and landscape features of the Waitakere Ranges and foothills: 10
- (14) In May 2005, Auckland Regional Council, Waitakere City Council, and Rodney District Council agreed to promote a local bill. 15

The Parliament of New Zealand therefore enacts as follows:

- 1 Title**
This Act is the Waitakere Ranges Heritage Area Act **2006**. 20
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- Part 1**
Preliminary provisions 25
- 3 Purpose**
The purpose of this Act is to recognise the national, regional, and local importance of the Waitakere Ranges Heritage Area and to promote the protection and enhancement of its heritage features for present and future generations, and to this end the Act— 30
- (a) establishes the Heritage Area; and
- (b) states the national significance of the Heritage Area and defines its heritage features; and
- (c) specifies the objectives of establishing and maintaining the Heritage Area; and 35

- (d) provides mechanisms for more certain and effective planning, resource management, and decision-making in relation to the Heritage Area.

4 Interpretation

- (1) In this Act, unless the context otherwise requires,— 5
- Heritage Area** means the Waitakere Ranges Heritage Area established under **section 6**
- heritage features** means the heritage features described in **section 8**
- objectives** means the objectives specified in **section 9** 10
- precautionary approach** means, following careful consideration of the risks and uncertainties associated with any cause of action and taking into account the best information available, making a decision that endeavours to protect the heritage features 15
- relevant local authority** means the Auckland Regional Council or the Waitakere City Council or the Rodney District Council
- Waitakere Ranges Regional Park** means the Waitakere Ranges Regional Park managed by the Auckland Regional Council. 20
- (2) Unless the context otherwise requires, terms and expressions used and not defined in this Act, but defined in the Resource Management Act 1991, have the same meaning as in that Act.
- 5 **Act binds the Crown** 25
- This Act binds the Crown.

Part 2

Management of Waitakere Ranges Heritage Area

Waitakere Ranges Heritage Area

- 6 **Establishment of Waitakere Ranges Heritage Area** 30
- (1) This section establishes the Waitakere Ranges Heritage Area.
- (2) The general location and boundaries of the Heritage Area are shown on the indicative map in **Schedule 1**.
- (3) The legal description of the boundaries of the Heritage Area is contained in **Schedule 2**. 35

- (4) If there is an inconsistency between the map in **Schedule 1** and the legal description in **Schedule 2**, the legal description in **Schedule 2** prevails.
- 7 Extension of boundary of Heritage Area by Order in Council** 5
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Local Government, alter or substitute **Schedules 1** and **2** to extend the boundary of the Heritage Area.
- (2) The Minister must not make a recommendation under **subsection (1)** unless he or she— 10
- (a) has first received a joint request from the relevant local authorities to do so; and
- (b) is satisfied that the land to be included in the Heritage Area— 15
- (i) has features that are consistent with the heritage features; and
- (ii) is contiguous with the Heritage Area.
- (3) Before making any joint request under **subsection (2)**, the Auckland Regional Council and the territorial authority whose district is affected must adopt and complete the special consultative procedure in accordance with section 83 of the Local Government Act 2002 in respect of a proposal to extend the boundary of the Heritage Area. 20
- (4) An Order in Council made under this section may not be amended (except to correct an error) or revoked, and land included in the Heritage Area by an Order in Council made under this section may not be excluded from the Heritage Area, except by an Act of Parliament. 25
- 8 National significance and heritage features of Heritage Area** 30
- (1) The Heritage Area is of national significance and the heritage features in **subsection (2)** individually and in combination contribute to that significance.
- (2) The heritage features of the Heritage Area are— 35
- (a) the terrestrial and aquatic ecosystems with a prominent indigenous character, dominated by large un-fragmented lowland and coastal rainforest and wetland systems with intact ecological sequences, and which—

- (i) have intrinsic value:
- (ii) provide a diversity of functioning habitats for indigenous species of flora and fauna:
- (iii) provide for the regeneration of areas of significant vegetation, following earlier destruction, and the potential for further regeneration, ecological restoration and reintroduction of species: 5
- (iv) are significant for the collection and storage of high quality water:
- (v) are of cultural, scientific and educational interest; 10
- (vi) have landscape qualities of regional and national significance; and
- (vii) have natural scenic beauty:
- (b) the different classes of natural landforms and landscapes that contrast and connect, and collectively give the Heritage Area its own distinctive character: 15
- (c) the natural dynamic character of the contrasting coasts in the west and south of the Heritage Area, and the appreciation of their variety and vistas:
- (d) the natural functioning of streams that rise in the eastern foothills that contribute positively to downstream urban character, and to stormwater management and flood protection: 20
- (e) the quietness and darkness of the Waitakere Ranges and coastal parts of the Heritage Area: 25
- (f) the dramatic landform which defines the visual backdrop to metropolitan Auckland, and Auckland's western skyline:
- (g) the opportunities for wilderness experience, recreation and relaxation in close proximity to metropolitan Auckland: 30
- (h) the functioning of the eastern foothills as a buffer to and transition from metropolitan Auckland into the forested Waitakere Ranges and coasts:
- (i) the subservience of the built environment to the natural and rural landscape that is achieved by— 35
 - (i) the individual identity and character of the coastal villages and their distinctive scale, containment, intensity and amenity; and
 - (ii) the distinctive harmony, pleasantness and coherence that has been achieved in existing low density residential areas, and urban areas within a 40

- regenerating and increasingly dominant forest setting; and
- (iii) the rural character of the foothills to the east and north, including the intricate pattern of farmland, orchard, vineyard, wildness, indigenous vegetation, and dispersed low density settlement with few urban scale activities: 5
- (j) the historic, traditional, and cultural relationships of people, communities and tangata whenua with the Heritage Area and their exercise of kaitiakitanga and stewardship: 10
- (k) the history and physical evidence of the past activities including those in relation to timber extraction, gum-digging, flax milling, mineral extraction, quarrying, extensive farming and water impoundment and supply: 15
- (l) the distinctive local communities:
- (m) the origins of the Waitakere Ranges Regional Park as a memorial marking Auckland's centennial in 1940, its accessibility and importance as a public place with significant natural, historic, cultural, and recreational resources: 20
- (n) the operation, maintenance and development of the public water catchment and supply system that serves the needs of the people of Auckland.
- 9 Heritage Area objectives** 25
- The objectives of establishing and maintaining the Heritage Area are to—
- (a) protect, restore and enhance the heritage features and the Heritage Area itself:
- (b) take a holistic approach to managing the Waitakere Ranges, foothills and coastal areas: 30
- (c) adopt a precautionary approach towards decisions that may result in significant adverse effects on the heritage features, including those effects that threaten serious or irreversible damage to the heritage features: 35
- (d) recognise and avoid the adverse cumulative effects, and potential cumulative effects of activities on the environment (which includes the amenity of the Heritage Area) or its heritage features:
- (e) recognise that the Heritage Area has little capability to absorb further subdivision: 40

- (f) ensure that any subdivision, either individually or cumulatively—
 - (i) is of an appropriate character, scale and intensity; and
 - (ii) does not adversely affect the heritage features; and
 - (iii) does not contribute to urban sprawl: 5
- (g) ensure that any development is of an appropriate character, scale and intensity and does not adversely affect the heritage features: 10
- (h) maintain the quality and diversity of landscapes in the Heritage Area by—
 - (i) protecting landscapes of local, regional, and national significance; and
 - (ii) restoring and enhancing degraded landscapes; and
 - (iii) managing change within the landscape in an integrated way, including in the rural landscape to retain a rural character: 15
- (i) manage aquatic and terrestrial ecosystems to protect and enhance indigenous habitat values, landscape values, and amenity values: 20
- (j) recognise that people live and work in the Heritage Area in distinctive communities and enable them to provide for their social, economic and cultural wellbeing: 25
- (k) provide for future rural uses in order to retain a rural character:
- (l) recognise and protect the historic, current and future role of the Heritage Area as a natural and physical resource for water catchment and supply and in particular provide for the sustainable development of the water catchment and supply system (including infrastructure and activities) and all its components: 30
- (m) protect in perpetuity, the natural and historic resources of the Waitakere Ranges Regional Park for their intrinsic worth and for the benefit, use, and enjoyment of the people and communities of the Auckland Region and New Zealand. 35

*Additional requirements and matters under Resource
Management Act 1991*

- 10 Regional policy statements and regional plans**
- (1) When preparing a regional policy statement or regional plan that affects the Heritage Area, the Auckland Regional Council must have particular regard to the purpose of this Act and give effect to the objectives. 5
- (2) **Subsection (1)** is in addition to the requirements in sections 61(2) and 66(2) of the Resource Management Act 1991.
- (3) When evaluating a proposed policy statement, proposed plan, plan change or variation that affects the Heritage Area, the Auckland Regional Council must examine whether the provisions of the proposed policy statement, proposed plan, plan change or variation— 10
- (a) are the most appropriate way to achieve the purpose of this Act; and 15
- (b) give effect to the objectives.
- (4) **Subsection (3)** is in addition to the requirements in section 32(2) of the Resource Management Act 1991.
- (5) When reviewing a regional policy statement or regional plan that affects the Heritage Area under section 79 of the Resource Management Act 1991, the Auckland Regional Council must— 20
- (a) have particular regard to the purpose of this Act and the heritage features; and 25
- (b) decide whether the existing regional policy statement or regional plan—
- (i) adequately achieves the purpose of this Act; and
- (ii) adequately protects the heritage features; and
- (iii) gives effect to the objectives. 30
- 11 District plans**
- (1) When preparing a district plan that affects the Heritage Area, the Waitakere City Council and Rodney District Council must have particular regard to the purpose of this Act and give effect to the objectives. 35
- (2) **Subsection (1)** is in addition to the requirements in sections 74 and 75 of the Resource Management Act 1991.
- (3) When evaluating a proposed district plan, plan change or variation that affects the Heritage Area, the Waitakere City

- Council and Rodney District Council must examine whether the provisions of the proposed plan, plan change or variation—
- (a) are the most appropriate way to achieve the purpose of this Act; and 5
 - (b) give effect to the objectives.
- (4) **Subsection (3)** is in addition to the requirements in section 32(2) of the Resource Management Act 1991.
- (5) When reviewing a district plan under section 79 of the Resource Management Act 1991, the Waitakere City Council and Rodney District Council must— 10
- (a) have particular regard to the purpose of this Act and the heritage features; and
 - (b) decide whether the existing district plan— 15
 - (i) adequately achieves the purpose of this Act; and
 - (ii) adequately protects the heritage features; and
 - (iii) gives effect to the objectives.
- 12 Requests for plan change**
- A request made under sections 65(4) or 73(2) of the Resource Management Act 1991 to change a regional or district plan that affects the Heritage Area may be rejected, in whole or in part, by a relevant local authority if the request is inconsistent with— 20
- (a) the purpose of this Act; or
 - (b) the objectives. 25
- 13 Resource consents**
- (1) When considering an application for resource consent for a discretionary or non-complying activity in the Heritage Area, a relevant local authority must recognise and provide for the following matters as if they were collectively a matter of national importance under section 6 of the Resource Management Act 1991: 30
- (a) the purpose of this Act; and
 - (b) the objectives; and
 - (c) any local area management plan in a district plan included in accordance with **section 15**. 35
- (2) When considering an application for resource consent for a controlled activity or restricted discretionary activity in the Heritage Area, a relevant local authority must consider the

following matters as if they were matters specified in the plan or proposed plan over which it has reserved its control or has restricted the exercise of its discretion:

- (a) the purpose of this Act; and
 - (b) the objectives; and 5
 - (c) any local area management plan in a district plan included in accordance with **section 15**.
- (3) If a consent authority grants an application for an activity within the Heritage Area, it may impose conditions under section 108 of the Resource Management Act 1991 for those matters specified in the heritage features and objectives. 10

14 Designations and heritage orders

When making a decision under Part 8 of the Resource Management Act 1991 that affects the Heritage Area, the person making the decision must recognise and provide for the following matters as if they were collectively a matter of national importance under section 6 of the Resource Management Act 1991: 15

- (a) the purpose of this Act; and
- (b) the objectives; and 20
- (c) any local area management plan in a district plan included in accordance with **section 15**.

15 Local area management plan

- (1) Waitakere City Council and Rodney District Council may include one or more local area management plans in their district plans, and the procedures in the First Schedule of the Resource Management Act 1991 for preparation and change of plans apply accordingly. 25
- (2) The purpose of a local area management plan is to identify and provide for long term objectives relating to the future amenity and character of the local area within the Heritage Area. 30
- (3) A local area management plan must—
- (a) identify the distinctive natural, cultural or physical qualities and characteristics of a place or locality that contribute to the pleasantness, aesthetic coherence, and cultural and recreational attributes; and 35

- (b) state objectives, descriptions, rules, or definitions of the environment, amenity, or character identified for the place or locality; and
 - (c) not be inconsistent with the purpose of this Act; and
 - (d) give effect to the objectives; and 5
 - (e) if the plan relates to land adjacent to or including any part of the Waitakere Ranges Regional Park, have regard to any park management plan prepared in accordance with **section 19**.
- (4) For the avoidance of doubt, a local area management plan may address any or all of the objectives, as appropriate, including the— 10
- (a) protection, restoration and enhancement of the heritage features in the local context;
 - (b) protection, restoration and enhancement of the quality and diversity of the local landscapes; and 15
 - (c) desired provision (if any) for future services, economic and social development that will contribute to the well-being of the local community.
- Additional requirements under other Acts* 20
- 16 Additional requirements and matters under Local Government Act 2002**
- In exercising its powers under section 12 of the Local Government Act 2002 in relation to the Heritage Area, a relevant local authority must have regard to the purpose of this Act and its objectives. 25
- 17 Auckland Regional Growth Strategy**
- The Auckland Regional Council must, when amending the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974, ensure that the strategy and any amendments are not inconsistent with this Act. 30
- 18 Relevant local authorities must monitor and report**
- (1) The relevant local authorities must jointly monitor— 35
- (a) the state of the environment in the Heritage Area; and
 - (b) the progress made towards achieving the objectives; and

- (c) the funding impact arising from activities to be undertaken specifically to give effect to this Act.
- (2) The relevant local authorities must jointly produce and each adopt a report on the monitoring undertaken under **subsection (1)**— 5
- (a) within 5 years after the commencement of this Act; and
- (b) after the first report, at intervals of not less than 5 years.
- (3) The relevant local authorities— 10
- (a) must jointly give public notice of having adopted the report by means of a notice published in one or more daily newspapers circulating in the Heritage Area; and
- (b) may give public notice of having adopted the report by any other means that the relevant local authorities think desirable in the circumstances.
- 19 Management of Waitakere Ranges Regional Park** 15
- (1) The Auckland Regional Council must prepare, approve and maintain a management plan for the integrated management of the whole of the Waitakere Ranges Regional Park.
- (2) The Auckland Regional Parks Management Plan 2003 is to be treated as if it had been prepared and adopted under **subsection (1)**. 20
- (3) The Auckland Regional Council must adopt the special consultative procedure in accordance with section 83 of the Local Government Act 2002 in respect of adoption or amendment of a management plan under **subsection (1)**. 25
- (4) For the purposes of the integrated management of the regional park network, a management plan prepared under this section may form part of a comprehensive management plan for all regional parkland managed by the Auckland Regional Council. 30
- (5) When preparing a management plan under **subsection (1)**, the Auckland Regional Council must have particular regard to the purpose of this Act and give effect to the objectives.
- 20 Watercare Services Limited**
- (1) This Act does not limit or affect the responsibilities or powers of Watercare Services Limited in relation to the Heritage Area under the Auckland Metropolitan Drainage Act 1960 or section 707ZZZS of the Local Government Act 1974. 35

(2) This section applies to avoid doubt.

21 Obligation to have particular regard to sections 3 and 9

When exercising a power or carrying out a function in relation to the Heritage Area under an enactment specified in **Schedule 3**, a relevant local authority must exercise the power or carry out the function having particular regard to—

5

- (a) the purpose of this Act; and
- (b) the objectives.

22 Waitakere Ranges Heritage Area Covenants

(1) If an owner of land located within the Heritage Area agrees to manage all or part of that land in a manner that contributes to the purpose of the Act, and if the relevant local authority agrees, the parties may enter into a covenant on such terms and conditions as they may agree to provide for the management and protection of the land.

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(2) A covenant entered into under **subsection (1)** may include conditions specifying contributions to be made to assist with the management of covenanted areas.

(3) A covenant entered into under **subsection (1)** is to be known as a Waitakere Ranges Heritage Area Covenant but in all other respects must be treated as if it were a conservation covenant under the Reserves Act 1977.

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23 Relationship with Foreshore and Seabed Act 2004

This Act does not limit or affect the Foreshore and Seabed Act 2004.

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Deed of acknowledgment

24 Acknowledgment of tangata whenua relationship

(1) The Crown or a relevant local authority may acknowledge any statement of particular historic, traditional, cultural, or spiritual relationship of tangata whenua of the Heritage Area with any land in the Heritage Area by entering into a deed of acknowledgment with tangata whenua in respect of that land.

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(2) A deed of acknowledgment—

- (a) may not relate to any water; and
- (b) may not relate to any private land included in the Heritage Area.

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- (3) A deed of acknowledgment—
- (a) may record the Crown or relevant local authority's acknowledgement referred to in **subsection (1)**; and
 - (b) must identify the area to which the deed of acknowledgment relates; and 5
 - (c) may acknowledge, where appropriate, any statement of relationship by any others who claim tangata whenua status with the area; and
 - (d) without limiting **section 26**, must identify specific opportunities for contribution by tangata whenua to the management of the area by the Crown or relevant local authority. 10
- (4) A deed of acknowledgment may be amended or revoked by agreement between the parties.
- 25 Purpose of deed of acknowledgment** 15
- Without limiting **section 26**, the only purpose of a deed of acknowledgment is to identify opportunities for contribution by tangata whenua to the management of an area by the Crown or a relevant local authority.
- 26 Effect of deed of acknowledgment** 20
- Except as provided in **section 24(3)(d)** and **section 25**, a deed of acknowledgment—
- (a) does not affect the exercise of any power or the carrying out of any function or duty by any person under any Act, regulation, or bylaw; and 25
 - (b) must not be taken into account by any person in the exercise of any power or the carrying out of any function or duty under any Act, regulation, or bylaw by that person; and
 - (c) does not permit any person, when considering any matter or making any decision or recommendation under any Act, regulation, or bylaw, to give any greater or lesser weight to a statement of relationship of tangata whenua with any area, as recorded in a deed of acknowledgment, than that person would give under that Act, regulation, or bylaw if no deed of acknowledgment existed recording that statement; and 30 35
 - (d) does not affect the lawful rights or interests of any person; and

- (e) does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind relating to any area referred to in a deed of acknowledgment.

- 27 Other deeds of acknowledgement** 5
 Where the Crown or relevant local authority has entered into a deed of acknowledgment for an area with tangata whenua, that deed of acknowledgment does not prevent the Crown or local authority from entering into further deeds of acknowledgment for that area with other tangata whenua who may have a historic, traditional, cultural or spiritual relationship with that area. 10
- 28 Notice of deed of acknowledgment**
 When the Crown or relevant local authority enters into a deed of acknowledgment, or is a party to a deed of acknowledgment that is amended or revoked, the Crown or relevant local authority, as the case may be, must, by notice in the *Gazette*, give notice of that deed of acknowledgment or the amendment to, or revocation of, the deed of acknowledgment. 15

Part 3 20

Miscellaneous provisions

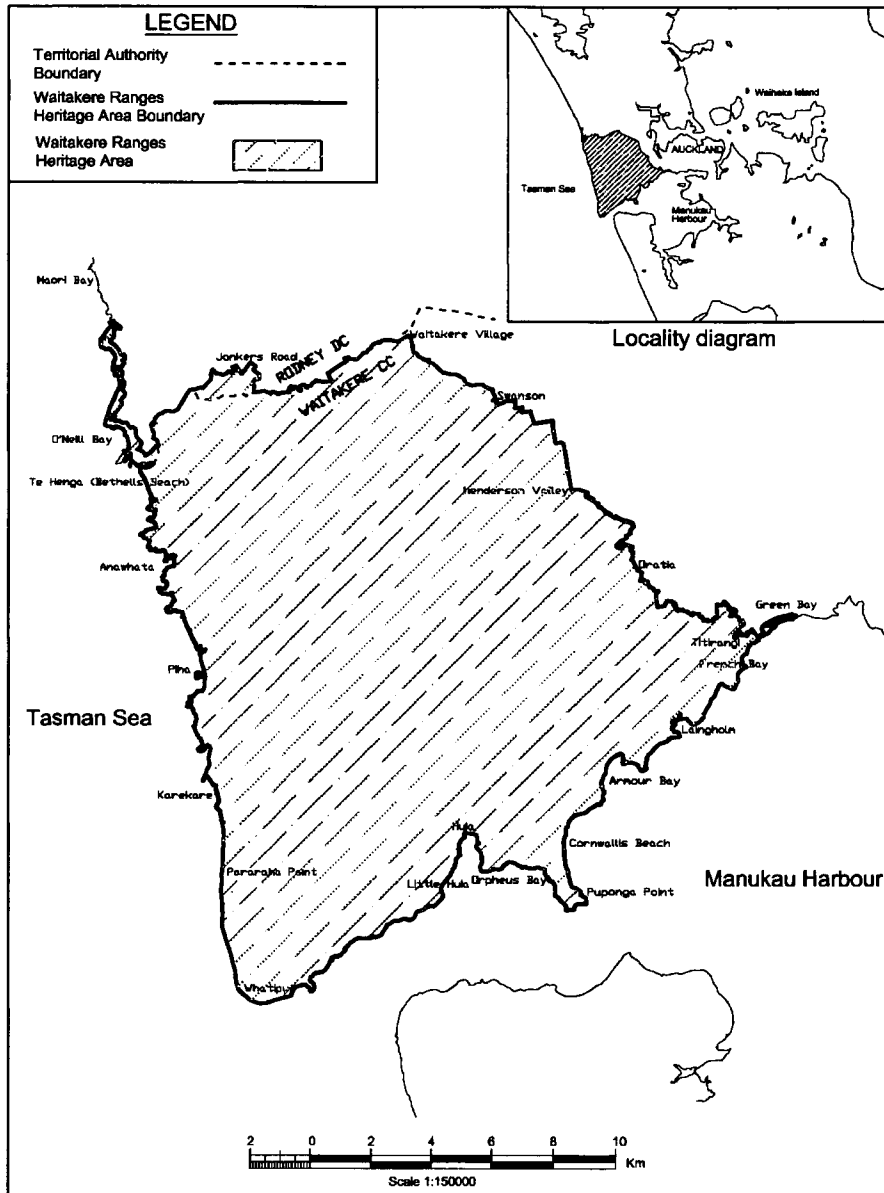
- 29 Preservation of existing rights**
 This Act does not limit or affect—
- (a) any title or right to ownership of the land or natural resources within the Heritage Area, whether that title or right to ownership is conferred by any Act, common law, or in any other manner; or 25
- (b) any statutory acknowledgement included in any Act and listed in Schedule 11 of the Resource Management Act 1991; or 30
- (c) the ability of any person to bring a claim or continue to bring a claim in any court or tribunal relating to the foreshore, seabed, or other land or natural resources of the Heritage Area arising out of the Treaty of Waitangi, or any Act, or at common law, or in any other manner or any remedy associated with such claim. 35

30 Transitional provisions

- (1) Where an application for resource consent for any activity within the Heritage Area has been lodged but not finally determined before the commencement of this Act, the continuation and completion of the application (including rights of appeal) must be in accordance with the Resource Management Act 1991 as if this Act had not been enacted. 5
- (2) Subject to **subsection (3)**, where a plan change, variation, proposed policy statement, heritage order, or a notice of requirement for designation has been notified but not finally determined before the commencement of this Act, the continuation and completion (including rights of appeal) of the plan change, variation, proposed policy statement, heritage order, or a notice of requirement for designation must be in accordance with the Resource Management Act 1991 as if this Act had not been enacted. 10 15
- (3) This Act affects, from the date of commencement, any plan change listed in **Schedule 4**.
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Schedule 1

Indicative Map of Waitakere Ranges Heritage Area



Schedule 2

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Description of Waitakere Ranges Heritage Area

The Waitakere Ranges Heritage Area is all those areas identified as:

North Shore Land District		
Area	Description	
25710 hectares	Area A shown on SO Plan 361780	5
530 hectares	Area B shown on SO Plan 361452	
660 hectares	Area C shown on SO Plan 361452	
820 hectares	Area A shown on SO Plan 64997	

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Schedule 3

Acts to which Parts 1 and 2 apply

Biosecurity Act 1993 (Part 5)

Hauraki Gulf Marine Park Act 2000

Historic Places Act 1993

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Local Government Act 1974

Local Government Act 2002

Reserves Act 1977

Soil Conservation and Rivers Control Act 1941

Schedule 4

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Transitional Commencement Schedule

Auckland Regional Policy Statement Proposed Plan Change 6 <i>Giving Effect to the Regional Growth Concept and Integrating Landuse and Transport</i> - Notified 31 March 2005	5
Auckland Regional Policy Statement Proposed Plan Change 8 <i>Volcanic Features and Landscape</i> - Notified 26 September 2005	
Waitakere City Council District Plan Proposed Plan Change 16 <i>Managing City Growth</i> - Notified 31 March 2005	10