

Waitakere Ranges Heritage Area Bill

Local Bill

As reported from the Local Government and
Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Waitakere Ranges Heritage Area Bill and recommends, by majority, that it be passed with the amendments shown.

Introduction

The Waitakere Ranges Heritage Area Bill is a local bill promoted by Auckland Regional Council, Waitakere City Council, and Rodney District Council. The bill establishes the Waitakere Ranges heritage area, comprising approximately 27,720 hectares of public and private land, and specifies its particular heritage features and qualities.

This bill has originated from the promoters' view that a unique situation has developed in the Auckland area in that a nationally significant area of ecological, historical, and cultural value sits in close proximity to an expanding international city. The bill reflects the promoters' belief that further local statutory guidance is needed to provide sufficient long-term protection to the heritage area from the adverse cumulative effects of urban growth and development. The bill operates within the framework of existing legislation, particularly the Resource Management Act 1991 and the Local Government Act 2002. While there are some unique provisions proposed in the bill, care has been taken to ensure that they do not conflict with the Resource Management Act and other related legislation.

Committee process

We received 221 submissions on the bill, the majority from individuals and groups in the Waitakere area. Submissions were almost equally split between support for and opposition to the bill. The primary arguments in favour of the bill were as follows:

- a long-term policy framework with statutory support is needed to protect the Waitakere Ranges and foothills, which have outstanding natural and landscape qualities
- further protection of the heritage area is needed to address the cumulative effects of subdivision and development and to actively protect the transitional character zone between the urban and parkland environments within it
- the bill will enable simplified and consistent decision-making
- the bill will provide certainty beyond the three-yearly local body electoral cycle
- this bill will require no revision of existing property rights.

Submitters against the bill argued that

- the bill's purpose and objectives can be achieved through existing legislation
- the bill constrains existing private property rights without addressing compensation
- the national significance of the area is debatable
- the bill will set a precedent in approaching local resource management issues
- the bill is vague, open to interpretation, and may lead to more litigation.

Our consideration of the issues has been extensive and most of us recommend substantial changes to the bill as introduced, which have been consulted with the promoters and advisers. Advice from the Ministry for the Environment, the Parliamentary Commissioner for the Environment, the Department of Internal Affairs, the Department of Conservation, and the Parliamentary Counsel Office has helped us to navigate the divergent views on this bill. Most of us believe that the amended bill satisfies the original intent of the bill's promoters, while the redrafting should improve its efficacy and address various concerns expressed by submitters.

This commentary addresses the key issues considered, and explains the substantive amendments recommended. Technical and minor amendments are not discussed.

Terminology

One of our intentions in reviewing the bill was to minimise the potential for uncertainty in decision-making. We believe that the terminology used in the bill should be consistent throughout, and congruous with any principles established in existing legislation that is relevant to the bill.

Most of us endorse clause 4(2) which explicitly states that terms and expressions used but not defined in this bill have the same meaning as they do in the Resource Management Act, if they are defined in that Act, unless the context requires otherwise.

Status of the heritage area

The purpose of the bill is to recognise the national, regional, and local significance of the Waitakere Ranges heritage area, and to protect and enhance its heritage features. The bill as introduced sought to establish that the heritage area has “national significance” and “national importance”. For the purposes of workability and consistency we recommend that only one term be used. Most of us therefore recommend amendments to paragraph 2 of the preamble and clauses 3, 13, and 14 to delete the term “national importance”.

Approach to decision-making

The bill stipulates that when any decisions that threaten a heritage feature in the area are considered, the approach taken should consider the risks and uncertainties associated with any course of action, taking into account the best information available, and endeavour to protect the heritage feature concerned. The bill as introduced referred to a similar approach to decision-making as a “precautionary approach.”

The term “precautionary approach” is not used in the Resource Management Act, nor has Resource Management Act case law clearly established what this concept means. Most of us are concerned that the use of the term “precautionary approach” might cause unintended effects and confusion in the application of the bill, and in the development of Resource Management Act case law generally. We recommend that the term and its definition be deleted from clause 4(1), and the term be deleted from clause 9(c), which

has been redrafted to preserve the original intention of the promoters.

For similar reasons, most of us recommend an amendment to clause 9(b). The bill as introduced calls for a “holistic approach” to be taken in the management of the heritage area. We consider this term unclear and recommend the following alternative wording: “to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it”.

Deletion of clause 5

The bill as introduced contains a clause that would bind the Crown. To the extent that the bill works through the Resource Management Act, the Crown’s position is already set out in section 4 of that Act. The other provisions of the bill that have implications for the Crown (clauses 24 to 28, which relate to deeds of acknowledgement) expressly relate to the Crown. Therefore most of us believe that clause 5 is unnecessary and we recommend that it be deleted.

Boundary of the heritage area

Most of us recommend significant amendment to clause 7. The bill as introduced provides for the heritage area boundary to be extended by Order in Council on the recommendation of the Minister of Local Government. We believe that it is more appropriate for changes to the boundary (whether extension, reduction, or substitution) to be made through legislative amendment.

However, in the exceptional circumstance where a landowner requests that the landowner’s land be included in the heritage area, and that land has a contiguous boundary with the heritage area and possesses at least one of the heritage features established in clause 8, we believe further primary legislation is unnecessary. We recommend amendment to clause 7 to provide for extension of the heritage area by Order in Council only in these narrow circumstances, and are satisfied that the procedure provided is sufficiently robust.

Features of the heritage area

Some submitters expressed concerns about the lack of clarity in the bill and cited provisions in clause 8, which sets down a wide range of heritage features that the promoters seek to protect, restore, and enhance. While certain features in this clause, such as the quietness and darkness of parts of the heritage area (clause 8(2)(e)), are open

to interpretation, we acknowledge the promoters' view that these are the characteristics of the heritage area that they perceive as most important, and that they are confident the provisions can be enforced.

Most of us therefore recommend only minor changes to clause 8.

Matters relating to the Resource Management Act

Some submitters questioned the need for this bill and argued that the Resource Management Act already provides sufficient protection for the heritage area. The bill is consistent with the Resource Management Act's overarching objective of promoting the sustainable management of natural and physical resources; but it goes further by setting down the specific features of the heritage area, detailed objectives for their management, and the level of consideration that is desired for the purpose and objectives of the bill.

The bill's promoters seek this further local statutory guidance to encourage longevity and consistency in planning for and management of the heritage area, and to promote consistent decision-making by the three local authorities under whose jurisdiction the heritage area sits. In particular, promoters are concerned that without such guidance, and in view of the unique character of the area, existing processes could not deal adequately with the cumulative effects of development in the foothills and the Ranges. To this end, enshrining the purpose and objectives of the heritage area in legislation means that they will be addressed in perpetuity, even though planning cycles are relatively short and the councils or council personnel will change.

The Resource Management Act overlaps with a number of clauses in the bill. In most cases—such as clauses 10, 11, and 12, which address the preparation, review and evaluation of regional policy statements, regional plans, and district plans, and requests for plan changes—the provisions sit consistently alongside the established Resource Management Act framework. These clauses require local authorities to give effect to the purpose and objectives of the bill in addition to the considerations already demanded by the Resource Management Act.

However, provisions in clauses 13 (resource consents), 14 (designations and heritage orders), and 23A (local area plans; discussed below) potentially raise issues of interpretation when they are read in conjunction with the Resource Management Act. The majority of

us therefore recommend the insertion of new clause 10AA to address this matter. Clause 10AA(1) makes it clear that, in the event of any conflict between this local bill and the Resource Management Act, the Resource Management Act prevails. Clause 10AA(2) specifies two exceptions to this general position. The bill will prevail in two narrow circumstances. The first arises when a local authority is considering certain factors (in clause 13(1)(b)) for a resource consent for a discretionary or non-complying activity in the heritage area (clause 13(1)), or considering certain factors (in clause 14(2)(b)) in making a decision or recommendation that relates to the heritage area for a designation or a heritage order (clause 14(2)).

In this case the consideration given to a national policy statement or New Zealand coastal policy statement is elevated to the same level as the bill's purpose and objectives.

The second case relates to local area plans, as discussed below.

Local area plans

The bill introduces in clause 23A the new concept of local area plans (LAPs), which are specifically framed around the geography, heritage, and social condition of the heritage area, and the bill's objectives. A LAP is designed to identify and provide for long-term objectives regarding the future amenity and character of a particular local area within the heritage area. LAPs are intended to enable local communities, in conjunction with the local authority concerned, to establish a vision for the community's wellbeing in the area and determine how the area should be managed to realise this vision. A LAP may also offer guidance on the social and economic development of an area.

The bill as introduced calls such plans "local area management plans" (LAMPs). To avoid unintended confusion with other management plans required under existing legislation, most of us recommend that the term be simplified to "local area plan".

Most of us also recommend the insertion of new clause 23B to provide that full and appropriate consultation, consistent with the principles of section 82 of the Local Government Act 2002, must accompany the preparation, amendment, revocation, or replacement of a LAP. If the LAP addresses an area adjacent to or within the Waitakere Ranges Regional Park, the local authority must also have regard to the current management plan for the Park.

New clause 23C establishes the effect of a LAP. While the contents of a LAP are not binding, a territorial authority must adequately explain any decision it reaches that departs significantly from the provisions of a LAP, the reasons for the departure, and any intention to amend the LAP in order to accommodate the decision.

New clause 23D addresses the relationship between a LAP and the Resource Management Act. It clarifies that the provisions in a LAP have no effect on Resource Management Act matters except to the extent that they are incorporated into a territorial authority's district plan through a plan change, or the Resource Management Act authorises the LAP to be taken into account.

Matters relating to Local Government Acts 2002 and 1974

The bill as introduced requires a local authority to have regard to the purpose and objectives of the bill when exercising its powers under section 12 of the Local Government Act 2002 in relation to the heritage area. Section 12 establishes the statutory status of local government and its powers to discharge its functions for the benefit of the district or region in question. The remit of section 12 is broad and has far greater reach than the objectives of this local bill.

Most of us believe that the interaction between this bill and local government legislation should be made clearer and more specific. It would be more appropriate for a local authority to consider the purpose and objectives of this bill only if it proposes to make a decision that relates to the heritage area. In the course of the decision-making process, a local authority is currently required under section 77(1) of the Local Government Act 2002 to identify all practicable options for achieving the objective of the decision, and to assess these options by considering the following:

- the present and future social, economic, and environmental costs and benefits of each option, and the cultural well-being of the district or region
- the extent to which each option would promote or achieve community outcomes
- how each option would impact on the local authority's ability to meet its present and future statutory responsibilities
- any other matters the local authority considers relevant

- if any option involves a significant decision in relation to land or a body of water, its implications for Maori and their cultures and traditions.

Most of us recommend that clause 16 of the bill be amended to require a local authority when complying with the requirements of section 77(1) regarding a decision that relates to the heritage area to also have regard to the purpose and objectives of the Waitakere Ranges Heritage Area Bill in its decision-making process.

Consequently, most of us recommend deleting reference to the Local Government Acts 2002 and 1974 from Schedule 3.

Management of Waitakere Ranges Regional Park

Auckland Regional Council will be required to prepare, adopt, and maintain a plan for the integrated management of the Waitakere Ranges Regional Park that gives effect to the purpose and objectives of this bill. The special consultative procedure set out in section 83 of the Local Government Act 2002 must be used when adopting or amending a plan.

Most of us recommend the insertion of new clause 19A, which provides for the management plan to be reviewed every 10 years.

Preservation of existing rights

A recurring concern of opponents to the bill was that it would infringe the existing rights of property owners. As clause 29 makes explicit, the bill does not limit or affect any title or right to ownership of any land or natural resource within the heritage area. All existing property rights remain, as do the current processes for making changes to the use of a property, such as subdividing land or adding a dwelling.

Were this bill not enacted, a property owner would still need to go through the resource consent process for permission to subdivide or undertake various other activities on the land. The bill adds additional considerations to the decision-making process to ensure that any future development is appropriate in relation to the objectives for the heritage area before it receives consent. The bill could therefore affect some future and potential property rights, because the types and nature of development that receive consent will alter as the heritage area, and what is considered appropriate within it, evolves.

Most of us therefore recommend only minor changes to clause 29.

Conclusion

This bill has been subject to a full and detailed process of consultation. Our consideration has reflected the deeply-held views of the promoters and submitters, and also takes account of expert advice received.

We acknowledge the views of the bill's promoters that the cumulative effects of development create special challenges for the heritage area. We recommend, by majority, that the bill be passed with the amendments shown.

National minority view

National opposes the Waitakere Ranges Heritage Area Bill because it adds to the uncertainty and complexity of the Resource Management Act at a time when reform needs to move in the opposite direction. We do not believe the bill will improve the quality of environmental management. It will simply add to the bureaucracy of existing plans and laws.

There is ample scope under the existing Resource Management Act through district and regional plans for councils to control and manage growth. It is a bad precedent for Parliament to bypass the checks and balances of the plan-making process and the Environment Court by imposing what is in effect an over-riding plan.

The passage of this bill will inevitably lead to calls by other communities facing growth pressures for special legislation. The correct way to deal with problems with the Resource Management Act is to address them through nationwide reforms rather than this piecemeal bill.

This bill adds a mechanism for the development of local area plans (LAPs). These will sit alongside district, regional, and national plans. Councils are also required to have annual plans and Long Term Council Community Plans (LTCCPs). These multiple and complex plan processes add confusion and cost to local government at a time when the public is in revolt over rating increases.

The Select Committee received many submissions from property owners concerned by the impacts on their property rights. These concerns cannot be dismissed as the law is so vague it is impossible to determine the impact it will have on those rights. Property rights are important and need certainty—this bill undermines that certainty.

National does recognise that the Waitakere Ranges are an Auckland and New Zealand icon. A better mechanism to protect the ranges is to consider national park status as provided for under existing law. National believes the Government should refer the area to the New Zealand Conservation Authority for consideration as a new national park.

Appendix

Committee process

The Waitakere Ranges Heritage Area Bill was referred to the committee on 22 February 2006. The closing date for submissions was 21 April 2006. We received and considered 221 submissions from interested groups and individuals, and heard 96 submissions. Hearings were held in Waitakere City and Wellington.

We received advice from the Ministry for the Environment, the Parliamentary Commissioner for the Environment, the Department of Conservation, the Department of Internal Affairs, and the Parliamentary Counsel Office. The Regulations Review Committee reported to the committee on the powers contained in clause 7.

Committee membership

Steve Chadwick (Chairperson)

Mark Blumsky

John Carter (Deputy Chairperson)

Jacqui Dean

Russell Fairbrother

Martin Gallagher

Hon Marian Hobbs

Hon Dr Nick Smith

Mētīria Turei

Jacqui Dean replaced Eric Roy as a permanent member of the committee on 6 December 2006.

Russell Fairbrother replaced Georgina Beyer as a permanent member of the committee on 20 February 2007.

Lynne Pillay

Waitakere Ranges Heritage Area Bill

Local Bill

Contents

	Page
Preamble	2
1 Title	8
2 Commencement	8
Part 1	
Preliminary provisions	
3 Purpose	8
4 Interpretation	9
Part 2	
Heritage area, heritage features, planning requirements, etc	
6 Waitakere Ranges heritage area established	10
7 Boundary extension by Order in Council	11
8 National significance and heritage features of heritage area	12
9 Heritage area objectives	18
<i>Matters relating to Resource Management Act 1991</i>	
10AA Relationship between this Act and Resource Management Act 1991	22
10 Regional policy statements and regional plans	23
11 District plans	24
12 Requests for plan changes	25
13 Resource consents	26
13A Conditions on resource consents	27
14 Designations and heritage orders	27
14A Applications for declarations	28
<i>Matters relating to Local Government Acts 2002 and 1974</i>	
16 Application of section 77 of Local Government Act 2002 to this Act	29
17 Auckland Regional Growth Strategy	30
19 Management plan for Waitakere Ranges Regional Park	32
19A Management plan must be reviewed every 10 years	32
20 Watercare Services Limited	32

	<i>Matters relating to other enactments</i>	
21	Local authority must have particular regard to purpose and objectives of this Act when acting under Schedule 3 enactments	33
22	Waitakere Ranges heritage area covenants	33
23	Relationship between this Act and Foreshore and Seabed Act 2004	34
	<i>Local area plans</i>	
23A	Local area plans	35
23B	Preparation, amendment, revocation, and replacement of LAPs	35
23C	Effect of LAP	36
23D	Relationship between LAP and Resource Management Act 1991	36
	<i>Deeds of acknowledgement</i>	
24	Acknowledgement of tangata whenua relationship	37
25	Purpose and effect of deed of acknowledgement	38
27	May be more than one deed of acknowledgement for same land	40
28	Notice of deed of acknowledgement	40
	Part 3	
	Miscellaneous provisions	
28A	Local authorities must monitor and report on certain matters relating to heritage area	41
29	Preservation of existing rights	41
30	Transitional provisions	43
	Schedule 1	44
	Indicative map of Waitakere Ranges heritage area	
	Schedule 2	45
	Description of Waitakere Ranges heritage area	
	Schedule 3	46
	Enactments to which section 21 applies	

Preamble

Struck out (unanimous)

- (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.

Struck out (unanimous)

- 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:
(Waitakere Chief Te Waatarauhi in his opening speech at the Kohimarama Conference in 1860). 5
- (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: 10
- (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: 15
- (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: 20
- (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: 25
- (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: 30
- 35

Struck out (unanimous)

- (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: 5
- (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: 15
- (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: 25
- (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: 30
- (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 35

Struck out (unanimous)

become apparent however, that these statutes do not sufficiently protect the Waitakere Ranges and foothills, in particular with regard to—

- 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; and 5
 - the rural character and rural communities in the foothills; and
 - the low density urban settings and coastal villages where the built environment is subservient to the natural environment; and 10
 - the management of activities adjacent to the Metropolitan Urban Limits to maintain the boundary between urban and rural; and 15
 - the protection of the heritage features that individually and in combination distinguish the area:
- (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: 20
- (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: 25 30
- (14) In May 2005, Auckland Regional Council, Waitakere City Council, and Rodney District Council agreed to promote a local bill.

New (unanimous)

- | | | |
|-----|---|----------|
| (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:
(Waitakere Chief Te Waatarauihi speaking of his relationship to the area in his opening speech at the Kohimarama Conference in 1860): | 5 |
| (2) | The Waitakere Ranges and its foothills and coasts comprise an area of some 27 720 ha of public and private land located between metropolitan Auckland and the west coast of Waitakere City and Rodney District. The area is of local, regional, and national significance: | 10 |
| (3) | The area is outstanding in northern New Zealand for its terrestrial and aquatic ecosystems, which include large continuous areas of primary and regenerating lowland and coastal rainforest, wetland, and dune systems with intact ecological sequences. The area contains distinctive and outstanding flora, fauna, and landscapes: | 15
20 |
| (4) | The Waitakere Ranges (part of a remnant volcanic landform) are the western visual backdrop to metropolitan Auckland. Their forested hills and coastal vistas are essential to the identity of both Waitakere City and metropolitan Auckland. The foothills and coastal areas are a combination of rural, urban, and natural landscapes that create an important transition and buffer zone to the forested part of the Ranges: | 25 |
| (5) | The area has a long and rich human history. It is a distinctive cultural domain for Maori and lies within the rohe of both Te Kawerau A Maki and Ngati Whatua. European settlement began more than 160 years ago with one of the first attempts at organised colonial settlement of New Zealand made in the south of the area, at Cornwallis in 1841. A century of resource exploitation followed that has left its mark on the whole area: | 30 |
| (6) | The area includes the Waitakere Ranges Regional Park. The Park, protected at local, regional, and national levels, is an area of some 17 000 ha, established over a period of 110 years | 35 |

New (unanimous)

- through gifts, grants, purchases, and vestings (including legislation promoted by Auckland City Council in 1941 to create the Auckland Centennial Memorial Park, commemorating the centenary of the Metropolitan District of Auckland):
- (7) The Waitakere Ranges also contribute to metropolitan Auckland's water supply. They are a water catchment and the location for a series of storage and supply systems that have sustained, and continue to sustain, metropolitan Auckland since 1902: 5
- (8) In 2005, more than 21 000 people lived in the area (outside the Regional Park), mostly in forest-dominated urban, rural, or coastal communities: 10
- (9) The area is subject to development and urban intensification pressures. These pressures are compounded by the area's proximity to metropolitan Auckland, and threaten to undermine the unique natural, landscape, cultural, historic, and community features of the area, including its farming and rural character: 15
- (10) Local statutory guidance is considered desirable to better protect the Waitakere Ranges and their foothills and coasts, in particular in relation to— 20
- (a) managing the cumulative and precedent effects of development on the landscape, the desired future character and amenity of the area, and the ecological and biological environment: 25
- (b) maintaining a rural character for the communities in the foothills:
- (c) maintaining low-density urban areas and coastal villages in which the built environment is subservient to the natural landscape: 30
- (d) managing activities adjacent to the boundary between urban and rural areas (particularly in relation to the Metropolitan Urban Limit boundary):
- (e) protecting heritage features:

The Parliament of New Zealand therefore enacts as follows:

- 1 Title**
This Act is the Waitakere Ranges Heritage Area Act **2006**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1
Preliminary provisions

Struck out (unanimous)

- 3 Purpose** 10
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—
- (a) establishes the Heritage Area; and 15
- (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
- (d) provides mechanisms for more certain and effective planning, resource management, and decision-making in relation to the Heritage Area. 20

New (unanimous)

- 3 Purpose**
- (1) The purpose of this Act is to— 25
- (a) recognise the national, regional, and local significance of the Waitakere Ranges heritage area; and
- (b) promote the protection and enhancement of its heritage features for present and future generations.
- (2) To this end, the Act— 30
- (a) establishes the Waitakere Ranges heritage area; and
- (b) states its national significance; and

New (unanimous)

- (c) defines its heritage features; and
- (d) specifies the objectives of establishing and maintaining the heritage area; and
- (e) provides additional matters for Auckland Regional Council, Rodney District Council, Waitakere City Council, and certain other persons to consider when making a decision, exercising a power, or carrying out a duty that relates to the heritage area.

5

4 Interpretation

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

10

New (unanimous)

ARC means the Auckland Regional Council

deed of acknowledgement means a deed of acknowledgement entered into under **section 24(1)**

(Heritage Area) heritage area or area means the Waitakere Ranges **(Heritage Area) heritage area** established under **section 6**

15

heritage features means the heritage features described in **section 8**

New (unanimous)

LAP means a local area plan prepared and adopted under **section 23A**

20

local authority means ARC or a territorial authority

objectives means the objectives of establishing and maintaining the heritage area as specified in **section 9**

Struck out (unanimous)

precautionary approach means, following careful consideration of the risks and uncertainties associated with any

25

Struck out (unanimous)

cause of action and taking into account the best information available, making a decision that endeavours to protect the heritage features

relevant local authority means the Auckland Regional Council or the Waitakere City Council or the Rodney District Council

5

New (unanimous)

territorial authority means Rodney District Council or Waitakere City Council

Waitakere Ranges Regional Park means the Waitakere Ranges Regional Park managed by *(the Auckland Regional Council) ARC*.

10

- (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.

Struck out (unanimous)

- 5 **Act binds the Crown**
This Act binds the Crown.

15

Part 2

(Management of Waitakere Ranges Heritage Area)
Heritage area, heritage features, planning requirements, etc

20

(Waitakere Ranges Heritage Area)

- 6 ***(Establishment of Waitakere Ranges Heritage Area)***
Waitakere Ranges heritage area established

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

25

- (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.

Struck out (unanimous)

- | | | |
|----------|--|----|
| 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 |

New (unanimous)

- | | | |
|----------|--|----|
| 7 | Boundary extension by Order in Council | 30 |
| (1) | Subsection (2) applies if— | |
| | (a) a person owns land that— | |
| | (i) is located in the district of a territorial authority; and | |

New (unanimous)

- | | |
|--|----|
| (ii) has a contiguous boundary with the heritage area;
and | |
| (iii) has features that are consistent with 1 or more of
the heritage features; and | |
| (b) the person makes a written request to the territorial
authority concerned to include the land in the heritage
area; and | 5 |
| (c) ARC and the territorial authority are satisfied of the
matters in paragraph (a) . | |
| (2) 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 to include any land to which subsection (1)
applies. | 10 |
| (3) The Minister must not make a recommendation under sub-
section (2) unless he or she has first received from ARC and
the territorial authority written notice of the matters in sub-
section (1) . | 15 |
| (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 under this section cannot be
excluded from it except by an Act of Parliament. | 20 |

8 National significance and heritage features of heritage area**Struck out (unanimous)**

- | | |
|---|----|
| (1) The Heritage Area is of national significance and the heritage
features in subsection (2) individually and in combination con-
tribute to that significance. | 25 |
|---|----|

New (unanimous)

- | | |
|--|----|
| (1) The heritage area is of national significance and the heritage
features described in subsection (2) , individually or collectively,
contribute to its significance. | 30 |
|--|----|

- (2) The heritage features of the (*Heritage Area*) heritage area are—

Struck out (unanimous)

- | | | |
|-----|--|----|
| (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— | 5 |
| | (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: | 10 |
| | (iv) are significant for the collection and storage of high quality water: | 15 |
| | (v) are of cultural, scientific and educational interest; | |
| | (vi) have landscape qualities of regional and national significance; and | |
| | (vii) have natural scenic beauty: | |

New (unanimous)

- | | | |
|-----|--|----|
| (a) | its terrestrial and aquatic ecosystems of prominent indigenous character that— | 20 |
| | (i) include large continuous areas of primary and regenerating lowland and coastal rainforest, wetland, and dune systems with intact ecological sequences: | 25 |
| | (ii) have intrinsic value: | |
| | (iii) provide a diversity of habitats for indigenous flora and fauna: | |
| | (iv) collect, store, and produce high quality water: | |
| | (v) provide opportunities for ecological restoration: | 30 |
| | (vi) are of cultural, scientific, or educational interest: | |
| | (vii) have landscape qualities of regional and national significance: | |
| | (viii) have natural scenic beauty: | |

Struck out (unanimous)

- (b) the different classes of natural landforms and landscapes that contrast and connect, and collectively give the Heritage Area its own distinctive character:

New (unanimous)

- (b) the different classes of natural landforms and landscapes within the area that contrast and connect with each other, and which collectively give the area its distinctive character:

5

Struck out (unanimous)

- (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:

10

New (unanimous)

- (c) the coastal areas, which—
- (i) have a natural and dynamic character; and
 - (ii) contribute to the area's vistas; and
 - (iii) differ significantly from each other:

Struck out (unanimous)

- (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:

15

New (unanimous)

- (d) the naturally functioning streams that rise in the eastern foothills and contribute positively to downstream urban character, stormwater management, and flood protection:

- (e) the quietness and darkness of the Waitakere Ranges and the coastal parts of the (*Heritage Area*) area:

5

Struck out (unanimous)

- (f) the dramatic landform which defines the visual backdrop to metropolitan Auckland, and Auckland's western skyline:

New (unanimous)

- (f) the dramatic landform of the Ranges and foothills, which is the visual backdrop to metropolitan Auckland, forming its western skyline:

10

Struck out (unanimous)

- (g) the opportunities for wilderness experience, recreation and relaxation in close proximity to metropolitan Auckland:

15

New (unanimous)

- (g) the opportunities that the area provides for wilderness experiences, recreation, and relaxation in close proximity to metropolitan Auckland:

Struck out (unanimous)

- (h) the functioning of the eastern foothills as a buffer to and transition from metropolitan Auckland into the forested Waitakere Ranges and coasts:

20

New (unanimous)

- (h) the eastern foothills which—
- (i) act as a buffer between metropolitan Auckland and the forested ranges and coasts; and
 - (ii) provide a transition from metropolitan Auckland to the forested ranges and coast:

5

Struck out (unanimous)

- (i) the subservience of the built environment to the natural and rural landscape that is achieved by—
- (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 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:

10

15

20

New (unanimous)

- (i) the subservience of the built environment to the area's natural and rural landscape, which is reflected in—
- (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 of the low-density residential and urban areas that are located in regenerating (and increasingly dominant) forest settings; and

25

New (unanimous)

- (iii) the rural character of the foothills to the east and north and their intricate pattern of farmland, orchards, vineyards, uncultivated areas, indigenous vegetation, and dispersed low-density settlement with few urban-scale activities:

5

Struck out (unanimous)

- (j) the historic, traditional, and cultural relationships of people, communities and tangata whenua with the Heritage Area and their exercise of kaitiakitanga and stewardship:

New (unanimous)

- (j) the historical, traditional, and cultural relationships of people, communities, and tangata whenua with the area and their exercise of kaitiakitanga and stewardship:

10

Struck out (unanimous)

- (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

New (unanimous)

- (k) the evidence of past human activities in the area, including those in relation to timber extraction, gum-digging, flax milling, mineral extraction, quarrying, extensive farming, and water impoundment and supply:

20

- (l) its (*the*) distinctive local communities:

Struck out (unanimous)

- (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:

5

New (unanimous)

- (m) the Waitakere Ranges Regional Park and its importance as an accessible public place with significant natural, historical, cultural, and recreational resources:

Struck out (unanimous)

- (n) the operation, maintenance and development of the public water catchment and supply system that serves the needs of the people of Auckland.

10

New (unanimous)

- (n) the public water catchment and supply system, the operation, maintenance, and development of which serves the people of Auckland.

9 Heritage area objectives

15

The objectives of establishing and maintaining the (*Heritage Area*) heritage area are (*to*)—

Struck out (unanimous)

- (a) protect, restore and enhance the heritage features and the Heritage Area itself:

New (unanimous)

- (a) to protect, restore, and enhance the area and its heritage features:

Struck out (unanimous)

- (b) take a holistic approach to managing the Waitakere Ranges, foothills and coastal areas:

New (unanimous)

- (b) to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it:

5

Struck out (unanimous)

- (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:

10

New (unanimous)

- (c) to adopt the following approach when considering decisions that threaten serious or irreversible damage to a heritage feature:
 - (i) carefully consider the risks and uncertainties associated with any particular course of action; and
 - (ii) take into account the best information available; and
 - (iii) endeavour to protect the heritage feature:

15

20

Struck out (unanimous)

- (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:

New (unanimous)

- (d) to recognise and avoid adverse potential, or adverse cumulative, effects of activities on the area's environment (including its amenity) or its heritage features: 5

- (e) to recognise that, in protecting the heritage features, the (Heritage Area) area has little (capability) capacity to absorb further subdivision: 10

Struck out (unanimous)

- (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: 15
- (g) ensure that any development is of an appropriate character, scale and intensity and does not adversely affect the heritage features: 20

New (unanimous)

- (f) to ensure that any subdivision or development in the area, of itself or in respect of its cumulative effect,—
 (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: 25

- (h) to maintain the quality and diversity of landscapes in the (Heritage Area) area by—

- (i) protecting landscapes of local, regional, (*and*) or national significance; and
- (ii) restoring and enhancing degraded landscapes; and
- (iii) managing change within (*the*) a landscape in an integrated way, including managing change in (*the*) a rural landscape to retain a rural character:
 - (i) to manage aquatic and terrestrial ecosystems in the area to protect and enhance indigenous habitat values, landscape values, and amenity values: 5
 - (j) to recognise that people live and work in the (*Heritage Area*) area in (*distinctive*) distinct communities, and to enable (*them*) those people to provide for their social, economic, environmental, and cultural (*wellbeing*) well-being: 10
 - (k) to provide for future (*rural uses*) uses of rural land in order to retain a rural character in the area: 15

Struck out (unanimous)

- (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: 20

New (unanimous)

- (l) to protect those features of the area that relate to its water catchment and supply functions: 25
- (m) to 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. 30

(Additional requirements and matters under Resource Management Act 1991) Matters relating to Resource Management Act 1991

New (unanimous)

10AA Relationship between this Act and Resource Management Act 1991

5

- (1) If a conflict arises between this Act and the Resource Management Act 1991, the Resource Management Act 1991 prevails.
- (2) **Subsection (1)** does not apply to **section 13(1)(b) or 14(2)(b)**.

Struck out (unanimous)

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. 10
- (2) **Subsection (1)** is in addition to the requirements in sections 61(2) and 66(2) of the Resource Management Act 1991. 15
- (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— 20
 - (a) are the most appropriate way to achieve the purpose of this Act; and
 - (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. 25
- (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— 30
 - (a) have particular regard to the purpose of this Act and the heritage features; and
 - (b) decide whether the existing regional policy statement or regional plan—
 - (i) adequately achieves the purpose of this Act; and

Struck out (unanimous)

- (ii) adequately protects the heritage features; and
- (iii) gives effect to the objectives.

New (unanimous)**10 Regional policy statements and regional plans**

- (1) When preparing or reviewing a regional policy statement or regional plan that affects the heritage area, ARC must give effect to the purpose of this Act and the objectives. 5
- (2) The requirements in **subsection (1)** are in addition to the requirements in sections 61, 66, and 79 of the Resource Management Act 1991.
- (3) When evaluating a proposed policy statement, or proposed plan, change, or variation that affects the heritage area, ARC must also examine whether the statement, plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of this Act). 10
- (4) The requirements in **subsection (3)** are in addition to the requirements in section 32(3) of the Resource Management Act 1991. 15

Struck out (unanimous)**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. 20
- (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— 25
 - (a) are the most appropriate way to achieve the purpose of this Act; and 30

Struck out (unanimous)

- (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— 5
 - (a) have particular regard to the purpose of this Act and the heritage features; and
 - (b) decide whether the existing district plan— 10
 - (I) adequately achieves the purpose of this Act; and
 - (ii) adequately protects the heritage features; and
 - (iii) gives effect to the objectives.

New (unanimous)**11 District plans**

- (1) When preparing or reviewing a district plan that affects the heritage area, a territorial authority must give effect to the purpose of this Act and the objectives. 15
- (2) The requirements in **subsection (1)** are in addition to the requirements in sections 74, 75, and 79 of the Resource Management Act 1991.
- (3) When evaluating a proposed district plan, change, or variation that affects the heritage area, a territorial authority must examine whether the plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of this Act). 20
- (4) The requirements in **subsection (3)** are in addition to the requirements in section 32(3) of the Resource Management Act 1991. 25

Struck out (unanimous)**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 30

Struck out (unanimous)

part, by a relevant local authority if the request is inconsistent with—

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

New (unanimous)**12 Requests for plan changes**

5

(1) A local authority may reject a request, in whole or in part, if the request is inconsistent with the purpose of this Act or the objectives.

(2) To assist the local authority in deciding whether to act under **subsection (1)**, the person making the request must explain how it is consistent with the purpose of this Act and the objectives.

10

(3) For the purposes of this section, an explanation under **subsection (2)** must be—

- (a) treated as if it were information required under clause 22 of Schedule 1 of the Resource Management Act 1991; and
- (b) supplied to the local authority in accordance with that clause.

15

(4) In this section, **request** means a request under section 65(4) or 73(2) of the Resource Management Act 1991—

20

- (a) to change a regional or district plan; and
- (b) that relates to the heritage area or a part of it.

Struck out (unanimous)**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:

25

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

30

Struck out (unanimous)

- (c) any local area management plan in a district plan included in accordance with **section 15**.
- (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: 5
- (a) the purpose of this Act; and
- (b) the objectives; and 10
- (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. 15

New (unanimous)**13 Resource consents**

- (1) When considering an application for resource consent for a discretionary or non-complying activity in the heritage area, a consent authority must have particular regard to— 20
- (a) the purpose of this Act and the objectives; and
- (b) the relevant provisions of any national policy statement or New Zealand coastal policy statement.
- (2) The requirements in **subsection (1)(a)** are in addition to the requirements in the Resource Management Act 1991. 25
- (3) When considering an application for resource consent for a controlled activity or a restricted discretionary activity in the heritage area, a consent authority must consider the purpose of this Act and the objectives as if they were matters specified in the plan or proposed plan over which the local authority has reserved its control or has restricted the exercise of its discretion. 30

New (unanimous)**13A Conditions on resource consents**

If a consent authority grants resource consent for an activity in the heritage area, it may impose conditions on the consent under section 108 of the Resource Management Act 1991 that relate to 1 or more of the heritage features or the objectives.

5

Struck out (unanimous)**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:

10

- (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**.

15

New (unanimous)**14 Designations and heritage orders**

- (1) **Subsection (2)** applies to a person if the person is making a decision or recommendation that relates to the heritage area or a part of it for—

20

- (a) a designation under section 168A, 171, 172, 174, 179, 181, or 182 of the Resource Management Act 1991; or
- (b) a heritage order under sections 189, 189A, 191, 192, 195, and 196 of the Resource Management Act 1991.

- (2) The person, when making the decision or recommendation, must have particular regard to—

25

- (a) the purpose of this Act and the objectives; and
- (b) the relevant provisions of any national policy statement or New Zealand coastal policy statement.

- (3) The requirements in **subsection (2)(a)** are in addition to the requirements in the Resource Management Act 1991.

30

New (unanimous)**14A Applications for declarations**

Sections 309 to 313 of the Resource Management Act 1991 apply as if the following matters were stated in section 310 of that Act as matters that a declaration may declare:

- (a) the application of **section 10AA** of the Waitakere Ranges Heritage Area Act **2006**; or 5
- (b) the existence or extent of any function, power, right, or duty under any of **sections 10 to 14** of the Waitakere Ranges Heritage Area Act **2006**; or
- (c) whether an act or omission, or a proposed act or omission, contravenes or is likely to contravene any of **sections 10 to 14** of the Waitakere Ranges Heritage Area Act **2006**; or 10
- (d) any other issue or matter relating to the interpretation, administration, or enforcement of any of **sections 10 to 14** of the Waitakere Ranges Heritage Area Act **2006**; or 15
- (e) the matters provided for in **section 30** of the Waitakere Ranges Heritage Area Act **2006**.

Struck out (unanimous)**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. 20
- (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. 25
- (3) A local area management plan must— 30
 - (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

Struck out (unanimous)

- (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
 - (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—
- (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
 - (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) Matters relating to Local Government Acts 2002 and 1974

Struck out (unanimous)**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.

New (unanimous)**16 Application of section 77 of Local Government Act 2002 to this Act**

If, in complying with section 76 of the Local Government Act 2002, a local authority identifies an option under section 77 of

New (unanimous)

that Act that involves a decision that relates to the heritage area, the local authority must,—

- (a) in addition to doing the things required by section 77(1) of the Local Government Act 2002, have regard to the purpose of this Act and the objectives in the course of the decision-making process; but
- (b) **paragraph (a)** must be read subject to section 79 of the Local Government Act 2002.

5

Struck out (unanimous)**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.

10

New (unanimous)**17 Auckland Regional Growth Strategy**

- (1) To the extent of any inconsistency, this Act prevails over the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974 (the **strategy**).
- (2) When amending the strategy, ARC must ensure that its provisions are not inconsistent with the purpose of this Act or the objectives.

15

20

Struck out (unanimous)**18 Relevant local authorities must monitor and report**

- (1) The relevant local authorities must jointly monitor—
 - (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.

25

Struck out (unanimous)

- | | | |
|--|--|----|
| (2) | The relevant local authorities must jointly produce and each adopt a report on the monitoring undertaken under subsection (1) — | |
| | (a) within 5 years after the commencement of this Act; and | |
| | (b) after the first report, at intervals of not less than 5 years. | 5 |
| (3) | The relevant local authorities— | |
| | (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. | 10 |
|
 | | |
| 19 Management of Waitakere Ranges Regional Park | | |
| (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. | 15 |
| (2) | The Auckland Regional Parks Management Plan 2003 is to be treated as if it had been prepared and adopted under subsection (1) . | |
| (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) . | 20 |
| (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. | 25 |
| (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. | 30 |

New (unanimous)

- | | |
|---|----|
| 19 Management plan for Waitakere Ranges Regional Park | |
| (1) ARC must prepare, adopt, and maintain a management plan for the integrated management of the Waitakere Ranges Regional Park. | |
| (2) In acting under subsection (1) , ARC must give effect to the purpose of this Act and the objectives. | 5 |
| (3) Before adopting or amending the management plan, ARC must use the special consultative procedure set out in section 83 of the Local Government Act 2002. | |
| (4) The management plan may form part of a comprehensive management plan for all regional park land managed by ARC. | 10 |
| (5) The Regional Parks Management Plan 2003 must be treated as if it were the management plan prepared and adopted under subsection (1) — | |
| (a) for the purposes of this section; and | 15 |
| (b) from the commencement of this Act. | |
| (6) For the avoidance of doubt, any part of the management plan that relates to a reserve (within the meaning of section 2(1) of the Reserves Act 1977) must satisfy the management plan requirements of section 41 of the Reserves Act 1977. | 20 |
| 19A Management plan must be reviewed every 10 years | |
| (1) ARC must review the management plan prepared and adopted under section 19(1) — | |
| (a) not later than 10 years after the date on which the plan was adopted; and | 25 |
| (b) after the first review, at intervals of not more than 10 years. | |
| (2) Subsection (1) does not limit or affect section 19(6) . | |
| 20 Watercare Services Limited | |
| (1) This Act does not limit or affect the responsibilities or powers of Watercare Services Limited (<i>in relation</i>) that relate to the (<i>Heritage Area</i>) <u>heritage area</u> under the Auckland Metropolitan Drainage Act 1960 or section 707ZZZS of the Local Government Act 1974. | 30 |

Struck out (unanimous)

- (2) This section applies to avoid doubt.

New (unanimous)

- (2) **Subsection (1)** is for the avoidance of doubt.

*Matters relating to other enactments***Struck out (unanimous)**

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

5

10

New (unanimous)

- 21** **Local authority must have particular regard to purpose and objectives of this Act when acting under Schedule 3 enactments**
 A local authority must have particular regard to the purpose of this Act and the objectives when exercising a power or carrying out a function—
- (a) under an enactment specified in **Schedule 3**; and
 - (b) in relation to the heritage area.

15

- 22** **Waitakere Ranges (*Heritage Area Covenants*) heritage area covenants**

20

Struck out (unanimous)

- (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 this Act, and if the relevant local authority

Struck out (unanimous)

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.

New (unanimous)

- (1) If an owner of land in the heritage area agrees to manage all or a part of the land in a manner that contributes to achieving the purpose of this Act and the objectives, the local authority concerned may enter into a covenant with the owner (to be known as a Waitakere Ranges heritage area covenant)—
- (a) to provide for the management of the land; and
 - (b) on the terms and conditions as they may agree.

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

Struck out (unanimous)

- (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.

New (unanimous)

- (3) A covenant that has been entered into under this section must be treated as if it were a covenant that had been entered into under section 77 of the Reserves Act 1977, and that Act applies accordingly, with any necessary modifications.

23 Relationship (*with*) between this Act and Foreshore and Seabed Act 2004

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

New (unanimous)*Local area plans***23A Local area plans**

- (1) A territorial authority may prepare and adopt a local area plan for a local area that is within its district and the heritage area.
- (2) The purpose of a LAP is to— 5
- (a) promote the purpose of this Act and the objectives; and
 - (b) provide objectives (particularly long-term objectives) in relation to— 10
 - (i) the future amenity, character, and environment of the local area to which the LAP applies; and
 - (ii) the well-being of the local community within that area (including its economic and social well-being); and
 - (c) inform decision-making processes that relate to the heritage area. 15
- (3) A LAP must— 20
- (a) define the local area to which the LAP applies; and
 - (b) identify the extent and nature of the heritage features existing in the local area; and
 - (c) state how it is intended that the objectives in **section 9** will be promoted in relation to the local area; and
 - (d) identify the distinctive natural, cultural, or physical qualities or characteristics of the local area that contribute to the local area's long-term— 25
 - (i) pleasantness or aesthetic coherence; or
 - (ii) cultural or recreational attributes; and
 - (e) state policies and objectives in relation to the amenity, character, and environment of the local area.
- (4) A LAP may identify issues relating to the provision of future services in the local area to which the LAP applies. 30
- (5) The territorial authority may amend, revoke, or replace a LAP.

23B Preparation, amendment, revocation, and replacement of LAPs

- In preparing, amending, revoking, or replacing a LAP, the territorial authority concerned may decide for itself the process that it uses but, in doing so, it must— 35

New (unanimous)

- | | | |
|-----|---|----|
| (a) | ensure that the process encourages interested or affected persons to participate in and contribute to the LAP's preparation, amendment, revocation, or replacement; and | |
| (b) | comply with the principles of consultation in section 82 of the Local Government Act 2002; and | 5 |
| (c) | if the LAP is for a local area that is adjacent to or includes a part of the Waitakere Ranges Regional Park, have regard to the current management plan for the Park prepared under section 19 . | 10 |

23C Effect of LAP

- | | | |
|-----|---|----|
| (1) | The adoption of a LAP by a territorial authority does not constitute a decision by it to act on any specific matter included in the LAP. | |
| (2) | However, if a decision of the territorial authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, a LAP it has adopted, it must, when making the decision, clearly identify— | 15 |
| (a) | the inconsistency; and | 20 |
| (b) | the reasons for the inconsistency; and | |
| (c) | any intention it has to amend the LAP to accommodate the decision. | |
| (3) | No person is entitled to require a territorial authority or any other person to implement a LAP or any provision of it. | 25 |

23D Relationship between LAP and Resource Management Act 1991

- | | | |
|-----|---|----|
| (1) | A territorial authority may include in its district plan any part of a LAP that relates to managing the use, development, or protection of natural and physical resources. | 30 |
| (2) | For the purposes of subsection (1) , the LAP or the parts of the LAP must be treated as a proposed plan change, and Part 1 of Schedule 1 of the Resource Management Act 1991 applies accordingly, with any necessary modification. | |

New (unanimous)

- (3) For the avoidance of doubt, a LAP or a provision of a LAP has no effect on any decision under the Resource Management Act 1991.
- (4) **Subsection (3)** is subject to **subsections (1) and (2)** and the Resource Management Act 1991.

5

*Deeds of acknowledgement***24 Acknowledgement of tangata whenua relationship**

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

10

Struck out (unanimous)

- (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.

15

New (unanimous)

- (2) The deed of acknowledgement must not—
- (a) relate to—
 - (i) any water; or
 - (ii) land that is held in fee simple by any person, other than the Crown or the local authority; or
 - (b) be inconsistent with any registered interest in land to which it relates.
- (3) **(A)** The deed of acknowledgement—
- (a) may record the (*Crown or relevant local authority's*) acknowledgement referred to in **subsection (1)**; and
 - (b) must identify the (*area*) land to which (*the deed of acknowledgment*) it relates; and

20

25

- (c) may acknowledge, (*where*) if appropriate, any statement of relationship by any others who claim tangata whenua status with the same (*area*) land; and
- (d) without limiting (**section 26**) **section 25**, must identify any specific opportunities for contribution by the tangata whenua to whom the deed relates to the management of the (*area*) land by the Crown or (*relevant*) the local authority concerned. 5
- (4) (A) The deed of acknowledgement may be amended or revoked by agreement between the parties. 10

Struck out (unanimous)

25 Purpose of deed of acknowledgment

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. 15

New (unanimous)

25 Purpose and effect of deed of acknowledgement

- (1) The only purpose of a deed of acknowledgement is to identify opportunities for contribution by tangata whenua to the management of the land concerned by the Crown or the local authority concerned. 20
- (2) A deed of acknowledgement—
- (a) does not affect the exercise of any power or the carrying out of any function or duty by any person under any enactment:
- (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 enactment by the person: 25
- (c) does not permit any person, when considering any matter or making any decision or recommendation under any enactment, to give any greater or lesser weight to the statement of relationship concerned than the person would give under the enactment if the deed did not exist: 30

New (unanimous)

- (d) does not affect the lawful rights or interests of any person:
- (e) does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind in relation to, any land referred to in the deed.

5

Struck out (unanimous)**26 Effect of deed of acknowledgment**

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 10
- (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 15
- (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 20
- (d) does not affect the lawful rights or interests of any person; and 25
- (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 acknowledgment

30

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

Struck out (unanimous)

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.

New (unanimous)**27 May be more than one deed of acknowledgement for same land** 5

A deed of acknowledgement entered into by the Crown or a local authority with tangata whenua does not prevent the Crown or the local authority from entering into further deeds of acknowledgement for the same land with other tangata whenua who have a historical, traditional, cultural, or spiritual relationship with the land. 10

Struck out (unanimous)**28 Notice of deed of acknowledgment** 15

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.

New (unanimous)**28 Notice of deed of acknowledgement** 20

(1) The Crown or a local authority must give notice of the following things:

- (a) the entering into of a deed of acknowledgement:
- (b) the amendment of a deed of acknowledgement to which it is a party: 25
- (c) the revocation of a deed of acknowledgement to which it is a party.

(2) The notice must be published—

New (unanimous)

- | |
|--|
| <ul style="list-style-type: none"> (a) in the <i>Gazette</i>; and (b) as soon as possible after the thing to which it relates. |
|--|

Part 3 Miscellaneous provisions

New (unanimous)

- | | |
|---|--|
| <p>28A Local authorities must monitor and report on certain matters relating to heritage area</p> <p>(1) The local authorities must jointly monitor—</p> <ul style="list-style-type: none"> (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. <p>(2) The local authorities must jointly produce, and each adopt, a report on the monitoring undertaken under subsection (1)—</p> <ul style="list-style-type: none"> (a) not later than 5 years after the commencement of this Act; and (b) after the first report, at intervals of not more than 5 years. <p>(3) The local authorities must give public notice of having adopted a report by publishing a notice in 1 or more daily newspapers circulating in the heritage area.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> |
| <p>29 Preservation of existing rights</p> <p>This Act does not limit or affect—</p> <ul style="list-style-type: none"> (a) any title or right to ownership of <i>(the)</i> <u>any</u> land or natural resources within the <i>(Heritage Area)</i> <u>heritage area</u>, whether the title or right <i>(to ownership)</i> is conferred by <i>(any Act)</i> <u>enactment</u>, <u>at</u> common law, or in any other manner: (b) any statutory acknowledgement included in any <u>enactment</u> <i>(Act)</i> and listed in Schedule 11 of the Resource Management Act 1991: | <p>25</p> <p>30</p> |

Struck out (unanimous)

- (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.

5

New (unanimous)

- (c) the ability of any person to bring a claim (or continue to bring a claim) or seek a remedy in any court or tribunal—
- (i) arising from the Treaty of Waitangi, an Act, the common law, or in any other manner; and
 - (ii) relating to heritage area land or its natural resources.

10

Struck out (unanimous)**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.
- (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.
- (3) This Act affects, from the date of commencement, any plan change listed in **Schedule 4**.

15

20

25

30

New (unanimous)**30 Transitional provisions**

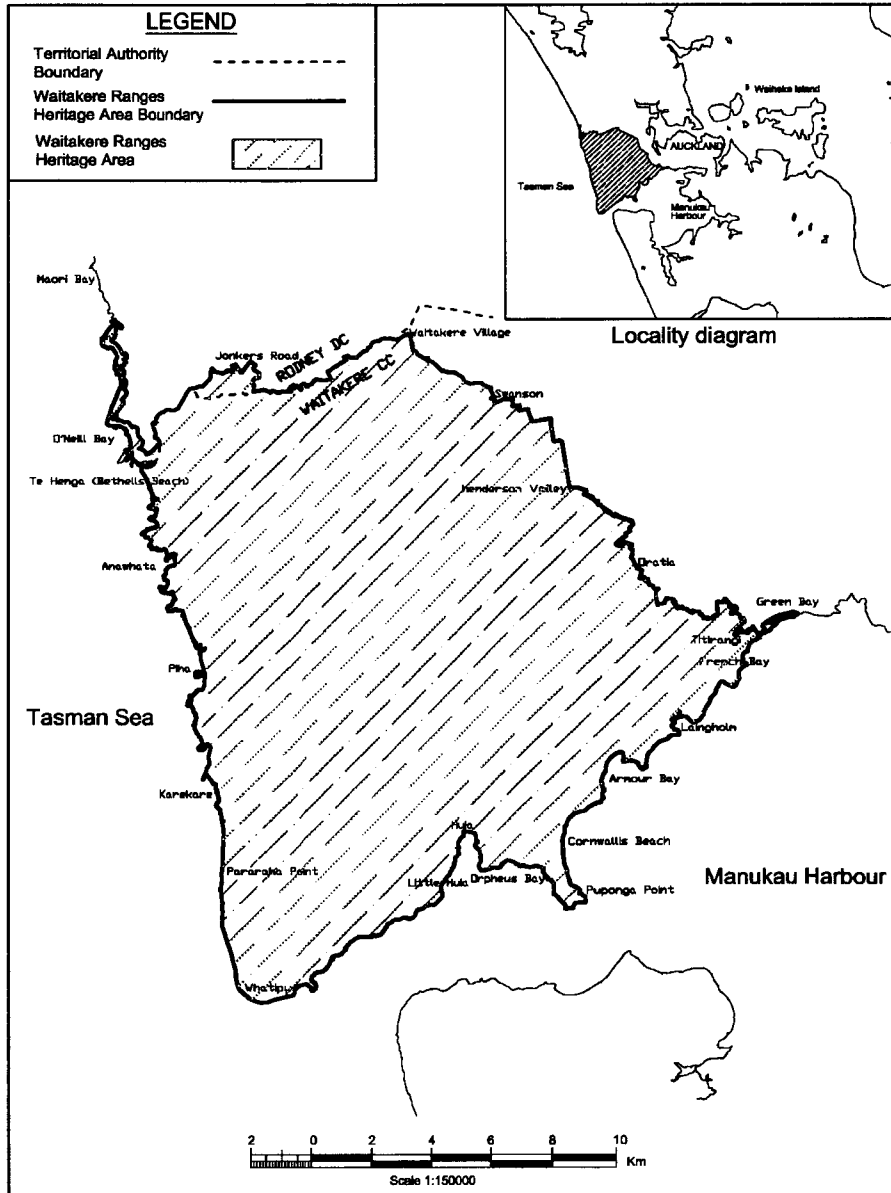
- (1) An application for resource consent for an activity in the heritage area that has been lodged but not finally determined before the commencement of this Act must be completed (including any rights of appeal under the Resource Management Act 1991) as if this Act had not been enacted. 5
- (2) A plan change or variation, proposed policy statement, heritage order, or notice of requirement for a designation that has been notified but not finally determined before the commencement of this Act must be completed (including any rights of appeal under the Resource Management Act 1991) as if this Act had not been enacted. 10

s 6

Schedule 1

Indicative map of Waitakere Ranges (*heritage Area*)

heritage area



Schedule 2

s 6

**Description of Waitakere Ranges (*Heritage Area*)
heritage area**

The Waitakere Ranges (*Heritage Area*) heritage area is all those areas identified as:

5

North Shore Land District

Area	Description	
25710 hectares	Area A shown on SO Plan 361780	
530 hectares	Area B shown on SO Plan 361452	
660 hectares	Area C shown on SO Plan 361452	10
820 hectares	Area A shown on SO Plan 64997	

s 21

Schedule 3**(Acts) Enactments to which (Parts 1 and 2 apply)
section 21 applies**

Biosecurity Act 1993 (Part 5)	
Hauraki Gulf Marine Park Act 2000	5
Historic Places Act 1993	
<i>(Local Government Act 1974)</i>	
<i>(Local Government Act 2002)</i>	
Reserves Act 1977	
Soil Conservation and Rivers Control Act 1941	10

Struck out (unanimous)

Schedule 4
Transitional Commencement Schedule

s 30

Auckland Regional Policy Statement Proposed Plan Change 6 *Giving Effect to the Regional Growth Concept and Integrating Landuse and Transport* - Notified 31 March 2005

5

Auckland Regional Policy Statement Proposed Plan Change 8 *Volcanic Features and Landscape* - Notified 26 September 2005

Waitakere City Council District Plan Proposed Plan Change 16 *Managing City Growth* - Notified 31 March 2005

Legislative history

1 February 2006
22 February 2006

Introduction (Bill 15-1)
First reading and referral to Local Government Environment Committee