

**Reprint  
as at 17 September 2021**



## **Housing Accords and Special Housing Areas Act 2013**

Public Act      2013 No 72  
Date of assent      13 September 2013  
Commencement      see section 2

Housing Accords and Special Housing Areas Act 2013: repealed, on the close of 16 September 2021,  
by section 3(2).

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#### **Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Housing and Urban Development.**

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

**1 Title**

This Act is the Housing Accords and Special Housing Areas Act 2013.

**2 Commencement**

This Act comes into force on 16 September 2013.

## Part 1

### Preliminary provisions, housing accords, and special housing areas

#### Subpart 1—Preliminary provisions

#### 3 Repeal

- (1) Sections 16 and 17 are repealed on the close of 16 September 2019.
- (2) The rest of this Act is repealed on the close of 16 September 2021.

Section 3(1): amended, on 15 September 2016, by section 4(1) of the Housing Legislation Amendment Act 2016 (2016 No 41).

Section 3(2): amended, on 15 September 2016, by section 4(2) of the Housing Legislation Amendment Act 2016 (2016 No 41).

#### 4 Purpose

The purpose of this Act is to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in Schedule 1, identified as having housing supply and affordability issues.

#### 5 Outline

- (1) The general scheme and effect of this Act are set out in the following subsections.
- (2) Subpart 1 of this Part deals with preliminary matters, including specifying the purpose of this Act, repealing certain of its provisions after 3 years, interpretation, and providing for the power to amend Schedule 1.
- (3) Subpart 2 of this Part deals with—
  - (a) matters relating to housing accords (which may be entered into between the Minister and territorial authorities in the regions or districts listed in Schedule 1 and which provide for the Minister and the relevant territorial authority to work together to address housing supply and affordability issues in the district of the territorial authority):
  - (b) matters relating to qualifying developments in special housing areas (to which the powers in Part 2 to grant resource consents, change plans, and vary proposed plans apply), including—
    - (i) the criteria that must be met for a development to be a qualifying development in a special housing area; and
    - (ii) the making of Orders in Council prescribing specified criteria for qualifying developments in special housing areas and parts of special housing areas:
  - (c) matters relating to special housing areas, including—
    - (i) the making of Orders in Council declaring areas to be special housing areas; and

- (ii) requirements that must be met before a special housing area may be established within the district of a territorial authority that is a party to a housing accord.
- (4) Part 2 deals with resource consents and plan changes and variations to proposed plans in relation to qualifying developments in special housing areas, including—
- (a) providing for territorial authorities that have entered into housing accords and, in certain areas where no housing accord is in force, the chief executive of the Ministry responsible for administering this Act to be the agencies authorised to perform functions and exercise powers under the Part; and
  - (b) providing for regional councils to be the agencies authorised to perform functions and exercise powers under the Part where proposed activities require resource consents under the rules of regional plans or proposed regional plans and a territorial authority is not a unitary authority; and
  - (c) empowering authorised agencies to accept and consider resource consent applications for qualifying developments in special housing areas; and
  - (d) providing for requests for plan changes and variations to proposed plans to be made to accord territorial authorities in conjunction with resource consent applications, and providing for processes for dealing with those requests; and
  - (e) the functions and powers of authorised agencies in relation to resource consent applications and requests for plan changes and variations to proposed plans, and the delegation of those powers.
- (5) Schedule 1 lists the regions and districts identified as having housing supply and affordability issues.
- (6) Schedule 3 contains transitional provisions. These set out the arrangements that apply if a special housing area is disestablished or a housing accord is terminated. They also include a power to make regulations prescribing transitional provisions that apply as well as, or instead of, the provisions set out in the schedule.
- (7) This section is a guide only to the general scheme and effect of this Act and does not limit or affect the other provisions of the Act.

## **6 Interpretation**

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

**accord territorial authority** has the meaning set out in section 10(5)

**ATA panel** means a panel appointed by an accord territorial authority under section 89

**authorised agency** has the meaning set out in section 23

**chief executive** means the chief executive of the Ministry

**concurrent application** means an application for a resource consent made under section 25 that is made in conjunction with a request for a plan change or a variation to a proposed plan made under section 61—

- (a) in accordance with a requirement of an accord territorial authority under section 26(1); or
- (b) of the applicant's own volition

**district** has the same meaning as in section 5(1) of the Local Government Act 2002

**dwelling** means a building or part of a building that is suitable for residential purposes and that is intended to be occupied exclusively as the home or residence of not more than 1 household

**housing accord** means an agreement between the Minister and a territorial authority made under section 10 and includes all amendments to that agreement

**infrastructure provider** has the same meaning as network utility operator in section 166 of the Resource Management Act 1991

**maximum calculated height**, in relation to a building, means the vertical distance between the highest point of its roof (excluding spaces located within or on the roof that enclose stairways, lift shafts, or structures such as aerials, chimneys, flagpoles, and vents) and the lowest point where the ground line passes to the exterior face of the building

**Minister** means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**Ministry** means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

**notify** means to serve notice in accordance with section 352 of the Resource Management Act 1991, unless any regulations made under section 91 provide otherwise, and **notification** has a corresponding meaning

**predominantly residential**, in relation to a qualifying development, has the meaning set out in section 14(2)

**proposed Auckland combined plan**—

- (a) means the proposed Auckland combined plan initially prepared by the Auckland Council in accordance with section 123(2) of the Local Government (Auckland Transitional Provisions) Act 2010, on and from the date on which that plan is publicly notified in accordance with clause 5(1)(b) of Schedule 1 of the Resource Management Act 1991; and
- (b) includes, at a given point in time, any amendment that has been made to the plan and any variation that, under section 125(3) of the Local Government (Auckland Transitional Provisions) Act 2010, has been notified



in accordance with clause 5(1)(b) of Schedule 1 of the Resource Management Act 1991

**proposed plan**—

- (a) has the meaning set out in section 43AAC of the Resource Management Act 1991; and
- (b) includes any provision of the proposed Auckland combined plan that has not become operative

**qualifying development** has the meaning set out in section 14(1)

**region** has the same meaning as in section 5(1) of the Local Government Act 2002

**regional council** has the same meaning as in section 5(1) of the Local Government Act 2002

**scheduled region or district** means a region or district named in Schedule 1

**special housing area** means an area declared to be a special housing area under section 16

**storey**, in relation to a building, means the ground-floor level of a building and each floor level above the ground-floor level

**territorial authority** means a city council or district council named in Part 2 of Schedule 2 of the Local Government Act 2002

**unitary authority** has the same meaning as in section 5(1) of the Local Government Act 2002.

- (2) Every reference in this Act to the Resource Management Act 1991 or to regulations made under that Act must be read as a reference to that Act or the regulations made under that Act as in force on 4 September 2013, unless otherwise provided in regulations made under section 91.
- (3) Unless the context requires another meaning, 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 (including, without limitation, consent authority, designation, infrastructure, local authority, plan, public notice, requiring authority, resource consent, subdivision consent, and survey plan).

**7 Act binds the Crown**

This Act binds the Crown.

**8 Application of provisions of Act**

Schedule 3 contains application, savings, and transitional provisions that affect this Act's other provisions as from time to time amended, repealed, and replaced (*see* section 92).

## 9 Power to amend Schedule 1

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 1 by inserting or deleting the name of any region or district.
- (2) Before making a recommendation to insert the name of a region or district in Schedule 1, the Minister must be satisfied that the region or district is experiencing significant housing supply and affordability issues.
- (3) The Minister, in determining whether a region or district is experiencing significant housing supply and affordability issues,—
  - (a) must have regard to whether, according to publicly available data, 1 or both of the following apply to the region or district:
    - (i) the weekly mortgage payment on a median-priced house as a percentage of the median weekly take-home pay for an individual exceeds 50%, based on a 20% deposit:
    - (ii) the median multiple (that is, the median house price divided by the gross annual median household income) is 5.1 or over; and
  - (b) must have regard to whether the land available for residential development in the region or district is likely to meet housing demand, based on predicted population growth; and
  - (c) may have regard to whether any other information indicates that there are significant housing supply and affordability issues in the region or district.
- (4) The Minister must not make a recommendation to delete the name of a region or district from Schedule 1 unless the Minister is satisfied that the region or district is no longer experiencing significant housing supply and affordability issues.
- (5) In determining whether a region or district is no longer experiencing significant housing supply and affordability issues, the Minister must have regard to the matters in subsection (3)(a) and (b) and may have regard to the matter in subsection (3)(c).

### Subpart 2—Provisions relating to housing accords, qualifying developments, and special housing areas

#### *Housing accords*

## 10 Minister and territorial authority may enter housing accord

- (1) The Minister and a territorial authority whose district is within a scheduled region or district may enter into an agreement to work together to address housing supply and affordability issues in the district of the territorial authority (a **housing accord**).

- (2) A housing accord—
  - (a) must comply with the requirements in section 11(1); and
  - (b) may, without limitation, cover the matters referred to in section 11(2).
- (3) Either the Minister or a territorial authority whose district is within a scheduled region or district may initiate the negotiation of a housing accord.
- (4) However, the Minister has no obligation to enter into a housing accord with a territorial authority whose district is within a scheduled region or district.
- (5) While a housing accord is in force, the territorial authority that is a party to that housing accord is an **accord territorial authority**.

## **11 Form and content of housing accord**

- (1) A housing accord must—
  - (a) be in writing; and
  - (b) set out the parties' agreement about how they will work together to achieve the purpose of this Act in the district of the territorial authority; and
  - (c) set out agreed targets for residential development in the district of the territorial authority; and
  - (d) provide for either party to terminate the accord on giving 6 months' notice (or such other period, of not less than 3 months, as may be agreed).
- (2) A housing accord may—
  - (a) provide for the Minister and the territorial authority to work together across a range of housing issues, according to the matters that they may identify as relevant to improving housing supply and affordability in the district of the territorial authority; and
  - (b) provide for such other matters as the Minister and the territorial authority may consider necessary or desirable to address housing supply and affordability issues affecting the district of the territorial authority; and
  - (c) set out the grounds on which, and the mechanism by which, the housing accord may be terminated; and
  - (d) provide for a dispute resolution process that must be followed before the housing accord may be terminated; and
  - (e) provide for any matters that the parties agree, having regard to the matters covered by their agreement,—
    - (i) may be necessary to facilitate or ensure an orderly transition from the legislative regime that applies under this Act while the housing accord remains in force to the legislative regime that applies if the housing accord is terminated; and

- (ii) are not covered by the transitional provisions set out in clauses 1 to 3 of Schedule 3.

## **12 Housing accord to be published**

- (1) The chief executive must ensure that every housing accord that the Minister enters into is published on the Ministry's Internet site.
- (2) Every accord territorial authority must—
  - (a) ensure that a copy of the housing accord is available at all reasonable times, free of charge, on an Internet site maintained by or on behalf of the territorial authority; and
  - (b) make a copy of the housing accord available for purchase in hard copy, at no more than a reasonable cost, from the offices of the territorial authority.

## **13 Intention to terminate housing accord to be publicly notified**

- (1) Before a housing accord may be terminated, the party intending to terminate the accord must give not less than 3 months' public notice of the intention to terminate the housing accord on a specified date.
- (2) The party intending to terminate the accord must, before publishing a notice under subsection (1), consult the other party about the proposed termination date to be specified in the notice for the purpose of ensuring that the date will enable the parties to achieve an orderly transition to the regime applying after the termination.
- (3) The chief executive and the accord territorial authority must each ensure that the notice is published on the relevant Internet site referred to in section 12.
- (4) If this section is inconsistent with any provision in a housing accord, this section prevails.

### *Qualifying developments*

## **14 Meaning of qualifying development**

- (1) In this Act, a **qualifying development** in a special housing area is a development—
  - (a) that will be predominantly residential; and
  - (b) in which the dwellings and other buildings will not be higher than—
    - (i) 6 storeys (or any lesser number prescribed); and
    - (ii) a maximum calculated height of 27 metres (or any lower maximum calculated height prescribed); and
  - (c) that will contain not fewer than the prescribed minimum number of dwellings to be built; and

- (d) that will contain not less than the prescribed percentage (if any) of affordable dwellings.
- (2) For the purposes of subsection (1), a development is **predominantly residential** if—
  - (a) the primary purpose of the development is to supply dwellings; and
  - (b) any non-residential activities provided for are ancillary to quality residential development (such as recreational, mixed use, retail, or town centre land uses).
- (3) In this section, **prescribed**,—
  - (a) in subsection (1)(b) and (c), means prescribed for qualifying developments in special housing areas by an Order in Council made under section 15(1) or, if applicable, prescribed for the special housing area or part of the special housing area—
    - (i) in the Order in Council declaring the special housing area, as provided for in section 15(2)(a); or
    - (ii) by an Order in Council made under section 15(2)(b) at any time after the special housing area is declared; and
  - (b) in subsection (1)(d), means prescribed for the special housing area or part of the special housing area—
    - (i) in the Order in Council declaring the special housing area, as provided for in section 15(2)(a); or
    - (ii) by an Order in Council made under section 15(2)(b) at any time after the special housing area is declared.

## **15 Criteria may be prescribed for qualifying developments**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, prescribe 1 or more of the following as default criteria that apply for qualifying developments in special housing areas if the Order in Council declaring a special housing area does not prescribe those criteria for the special housing area as provided for in subsection (2):
  - (a) for the purposes of section 14(1)(b)(i), the maximum number of storeys, less than 6, that buildings may have:
  - (b) for the purposes of section 14(1)(b)(ii), the maximum calculated height, less than 27 metres, that buildings must not exceed:
  - (c) for the purposes of section 14(1)(c), the minimum number of dwellings to be built.
- (2) The Governor-General may, on the recommendation of the Minister, prescribe 1 or more of the criteria referred to in subsections (1) and (3) that apply for qualifying developments in a special housing area or part of a special housing area—

- (a) in the Order in Council declaring the special housing area under section 16; or
  - (b) by Order in Council made at any time after the special housing area is declared.
- (3) For the purposes of subsection (2), one of the criteria that may be prescribed is the percentage of dwellings that must be affordable dwellings, according to the affordability criteria specified in the Order in Council for the special housing area or part of the special housing area.
- (4) The affordability criteria that may be specified are not limited by section 9(3)(a) but may include, without limitation, criteria defined by reference to median house prices, median household income, individual income, the median multiple (as referred to in section 9(3)(a)(ii)) or any other matter relevant to affordability as it applies to the district in which the special housing area falls, the special housing area, or part of the special housing area.
- (5) Subsection (2) is subject to subsections (6) and (7).
- (6) If no default criterion for the minimum number of dwellings to be built is prescribed under subsection (1)(c), the Minister must recommend that the Order in Council declaring the special housing area prescribes that criterion for qualifying developments in the special housing area.
- (7) If the special housing area or part of the special housing area is in the district of an accord territorial authority, the Minister may only make a recommendation for the purposes of subsection (2) that is in accordance with a recommendation of the accord territorial authority.
- (8) Criteria prescribed in an Order in Council under subsection (2) may (without limitation) be prescribed by reference to the provisions of the relevant plan or proposed plan.

### *Special housing areas*

#### **16 Process for establishing special housing areas**

*[Repealed]*

Section 16: repealed, on the close of 16 September 2019, by section 3(1).

#### **17 Establishing special housing areas in district covered by housing accord**

*[Repealed]*

Section 17: repealed, on the close of 16 September 2019, by section 3(1).

#### **18 Disestablishing special housing areas**

- (1) A special housing area is disestablished,—
- (a) if the Order in Council establishing it was notified in the *Gazette* on or before 15 September 2015, on 16 September 2016; or

- (b) if the Order in Council establishing it was notified in the *Gazette* after 15 September 2015 but before 16 September 2016, on the expiry of 12 months from the date on which that Order was notified; or
  - (c) if the Order in Council establishing it is notified in the *Gazette* on or after 16 September 2016, on 16 September 2019.
- (2) However, the Governor-General may, by Order in Council made on the recommendation of the Minister (a **disestablishment order**), disestablish a special housing area before it is disestablished by subsection (1).
- (3) The Minister must recommend the making of a disestablishment order for a special housing area if—
  - (a) the region or district that the area is in ceases to be a scheduled region or district; or
  - (b) the Minister is satisfied that the area no longer meets the criteria in section 16(3).
- (4) The Minister may recommend the making of a disestablishment order for a special housing area if—
  - (a) 12 months have expired from the date on which the Order in Council establishing the area was notified in the *Gazette*; and
  - (b) no application has been made under Part 2 for a resource consent, plan change, or variation of a proposed plan in relation to the special housing area; and
  - (c) the Minister is satisfied that it is appropriate to do so having regard to the purpose of this Act.
- (5) Before recommending the making of a disestablishment order, the Minister must give public notice of the intention to disestablish the special housing area.
- (6) The notice must be given not less than 3 months before the date on which the disestablishment is proposed to occur.
- (7) The Minister must not recommend the making of a disestablishment order except under subsection (3) or (4).

Section 18: replaced, on 15 September 2016, by section 6 of the Housing Legislation Amendment Act 2016 (2016 No 41).

### **18A Amending special housing areas to excise land if no development progress**

- (1) This section applies in relation to a special housing area if—
  - (a) the Order in Council establishing the area is notified in the *Gazette* on or after 16 September 2016; and
  - (b) 12 months have expired from the date on which that order was notified; and

- (c) in relation to some or all of the land in the special housing area, no application has been made under Part 2 for a resource consent, plan change, or variation of a proposed plan.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister (an **area reduction order**), amend the Order in Council that established the special housing area to change the boundaries of the area so that some or all of the land referred to in subsection (1)(c) is excised from the special housing area.
- (3) The Minister may recommend the making of an area reduction order only if the Minister is satisfied that it is appropriate to do so having regard to the purpose of this Act.
- (4) Section 16(2), (3), and (4A) to (6) applies to an area reduction order as if the references in those subsections to the proposed special housing area were references to the area that will remain in the special housing area after the area reduction order is made.
- (5) Section 16(4) does not apply to an area reduction order.

Section 18A: inserted, on 15 September 2016, by section 6 of the Housing Legislation Amendment Act 2016 (2016 No 41).

## Part 2

### Resource consents, plan changes, and variations to proposed plans relating to qualifying developments in special housing areas

#### Subpart 1—Preliminary provisions

#### 19 Application of Part

- (1) This Part applies to qualifying developments in special housing areas and infrastructure relating to those developments.
- (2) In this Part, unless the context otherwise requires, a reference to a qualifying development includes infrastructure relating to the development.

#### 20 Person may elect to proceed under this Part or Resource Management Act 1991

- (1) A person who wishes to undertake an activity in relation to a qualifying development for which a resource consent is required under the Resource Management Act 1991 may apply for a resource consent—
- under section 88 of the Resource Management Act 1991; or
  - under section 25 of this Act.
- (2) A person may also make an application for a resource consent in respect of a qualifying development under section 25 of this Act where that application could not be made under the Resource Management Act 1991 because of the application of section 87A(6) of that Act (*see* section 25(2) to (4)).



- (3) A person who wishes to undertake an activity in relation to a qualifying development may, if the activity could lawfully be done in the particular location without a resource consent, request a certificate of compliance—
  - (a) under section 139 of the Resource Management Act 1991; or
  - (b) under section 58 of this Act.

## **21 Outline of this Part**

- (1) This Part provides for applications for resource consents that relate to qualifying developments in special housing areas. It also provides for requests for certain plan changes and variations to proposed plans associated with resource consent applications to be made where a special housing area is within the district of an accord territorial authority. This Part has 6 subparts, which are outlined in the following subsections.
- (2) Subpart 1 deals with preliminary matters, including—
  - (a) the relationship between the provisions of the Resource Management Act 1991 and this Part; and
  - (b) who may perform the functions and exercise the powers under this Part.
- (3) Subpart 2—
  - (a) deals with resource consent applications that may be made under this Act, including how an application for a resource consent under this Act must be made and determined and matters concerning resource consents that are granted under it; and
  - (b) provides for an accord territorial authority to require an applicant for a resource consent for certain activities to request a plan change or variation to a proposed plan in conjunction with the resource consent application.
- (4) Subpart 3—
  - (a) gives a person a right to request a plan change or a variation to a proposed plan in conjunction with an application for a resource consent for certain activities where the qualifying development is within the district of an accord territorial authority; and
  - (b) deals with how requests for plan changes and variations to proposed plans must be made and determined.
- (5) Subpart 4 applies other provisions of the Resource Management Act 1991 in respect of applications and requests under subparts 2 and 3.
- (6) Subpart 5 deals with rights of appeal and objection in relation to decisions of an authorised agency, procedures for appeals and objections, and matters relating to hearings and decisions on appeals and objections.
- (7) Subpart 6 contains miscellaneous provisions. These include provisions for the chief executive to delegate the chief executive's functions and powers under

this Part, provisions for an accord territorial authority or a regional council to delegate its functions and powers under this Part, and a provision applying the transitional provisions set out in Schedule 3 for the purposes of the Act.

- (8) This section is a guide only to the scheme and effect of this Part and does not limit or affect the other provisions of the Act.

## **22 Application of Resource Management Act 1991 and regulations made under that Act to applications, requests, decisions, etc, under this Part**

- (1) The Resource Management Act 1991 does not apply to an application, request, decision, or any other matter under this Part, except to the extent that—
- (a) terms used in this Part, unless otherwise defined, must be given the same meaning as in the Resource Management Act 1991 (*see* section 6(3)); and
  - (b) provisions in this Part expressly apply provisions of the Resource Management Act 1991 (as to which, *see* section 6(2)); and
  - (c) transitional provisions in this Act, or regulations made under this Act, apply provisions of the Resource Management Act 1991.
- (2) Where provisions in this Part expressly apply provisions of the Resource Management Act 1991 that refer to regulations made under that Act, the regulations referred to also apply, except to the extent provided in regulations made under section 91 of this Act.
- (3) This Part also affects the application of provisions of the Local Government (Auckland Transitional Provisions) Act 2010 (*see* section 60).

## **23 Functions and powers in this Part to be performed or exercised by authorised agency**

- (1) The functions and powers in this Part may be performed or exercised only by the relevant agency authorised in this section (the **authorised agency**).
- (2) The authorised agency in relation to a qualifying development in a special housing area is,—
- (a) in relation to an application made under subpart 2 of this Part,—
    - (i) the accord territorial authority, if the special housing area is within the district of an accord territorial authority; or
    - (ii) the chief executive, if the special housing area is within the district of a territorial authority that is not a party to a housing accord; or
  - (b) in relation to applications made under subpart 3 of this Part, the accord territorial authority.
- (3) Subsections (1) and (2) are subject to subsection (4), section 33 (joint hearings by 2 or more authorised agencies), and Schedule 3 (transitional provisions).

- (4) The authorised agency in relation to an application for a resource consent under subpart 2 of this Part is the regional council if—
- (a) the territorial authority in whose district the special housing area falls is not a unitary authority; and
  - (b) the resource consent is required by a rule in a regional plan or a proposed regional plan.

**24 Periods excluded from certain time limits specified in this Part**

The table in Schedule 2 provides for time periods that are to be excluded from the calculation of time limits relating to resource consent applications, specified in subpart 2, and requests for plan changes and variations to proposed plans, specified in subpart 3.

**Subpart 2—Resource consents**

*Applications for resource consents*

**25 Applications for resource consents may be made to authorised agency**

- (1) A person may apply to the relevant authorised agency for a resource consent that relates to a qualifying development in a special housing area, including a resource consent referred to in subsection (2).
- (2) A person may apply under this section for a resource consent for—
- (a) an activity that is described in the relevant plan as a prohibited activity but in a proposed plan as—
    - (i) a permitted activity; or
    - (ii) a controlled activity; or
    - (iii) a restricted discretionary activity; or
    - (iv) a discretionary activity; or
    - (v) a non-complying activity; and
  - (b) an activity that is described in the relevant plan as prohibited, where there is no proposed plan; and
  - (c) an activity that is described in the relevant plan as prohibited and in a proposed plan as prohibited; and
  - (d) an activity that is described in the relevant plan as permitted, controlled, restricted discretionary, discretionary, or non-complying and in a proposed plan as prohibited; and
  - (e) an activity for which Part 3 of the Resource Management Act 1991 requires a resource consent, where there is no plan or proposed plan, or no relevant rule in the relevant plan or proposed plan; and

- (f) an activity for which the relevant plan or a proposed plan requires a resource consent, but does not classify the activity as controlled, restricted discretionary, discretionary, or non-complying.
- (3) Subsection (2)(b), (c), and (d) is subject to section 26(3) and (5).
- (4) The authorised agency, when determining an application for a resource consent referred to in the first column of the following table, must treat the activity in the manner set out against that reference in the second column of the table:

<b>Application for a resource consent for an activity referred to in—</b>	<b>Authorised agency must treat the activity—</b>
subsection (2)(a)(i)	as if the proposed plan described the activity as a controlled activity
subsection (2)(a)(ii) to (v)	as if the description in the proposed plan applied
subsection (2)(b) to (f)	as if the activity were a discretionary activity

**26 Accord territorial authority may require applications to be made in conjunction with requests for plan changes or variations to proposed plans**

- (1) If the authorised agency is an accord territorial authority, the authorised agency may, within 10 working days after a resource consent application is lodged, require an applicant for a resource consent referred to in—
- (a) section 25(2)(b) to request a plan change under section 61(1) in conjunction with the resource consent application;
- (b) section 25(2)(c) and (d) to request a variation to a proposed plan under section 61(2) in conjunction with the resource consent application.
- (2) If the authorised agency decides to make a requirement under subsection (1), the authorised agency must immediately return any affected resource consent application to the applicant, with a written notice of the requirement.
- (3) If the person wishes to proceed with a concurrent application, the applicant must—
- (a) request a change to the plan under section 61(1) or a variation to the proposed plan under section 61(2) (as the case may be) that, were it to be approved and to become operative, would make the activity to which the resource consent application relates a controlled, restricted discretionary, discretionary, or non-complying activity; and
- (b) apply for a resource consent under section 25 that,—
- (i) in the case of a resource consent referred to in section 25(2)(b), would be consistent with the plan were the request for the plan change approved; and

- (ii) in the case of a resource consent referred to in section 25(2)(c) or (d), would be consistent with the proposed plan were the request for the variation to the proposed plan approved; and
- (c) apply for the resource consent—
  - (i) at the time of lodging the request for the plan change or variation to the proposed plan if the applicant has obtained prior written approval for the change or variation from the persons referred to in section 29(3); or
  - (ii) either at the time of lodging the request for the plan change or variation to the proposed plan or within 20 working days after the date of notification of the authorised agency’s decision under section 65(5) if the applicant has not obtained the prior written approval referred to in subparagraph (i).
- (4) If an application has been returned in accordance with subsection (2) and the applicant decides to proceed with a concurrent application, the resource consent application lodged in accordance with subsection (3)(b) and (c) must be treated as a new application.
- (5) Nothing in this section prevents a person who wishes to apply for a resource consent referred to in section 25(2)(b), (c), or (d) from lodging a concurrent application of the person’s own volition (in which case, the provisions of this Act concerning concurrent applications apply (*see* section 61)).

## **27 Making applications**

- (1) Sections 88(2) to (5) and 88A of the Resource Management Act 1991 apply in respect of an application for a resource consent made under this Act—
  - (a) as if every reference to the consent authority were a reference to the authorised agency; and
  - (b) as if the reference in section 88(5) of the Resource Management Act 1991 to sections 357 to 358 of that Act were a reference to sections 81(1)(c) and 82 to 84 of this Act; and
  - (c) as if the reference in section 88A(1)(a) of the Resource Management Act 1991 to section 88 or 145 of that Act were a reference to section 25 of this Act; and
  - (d) as if the reference in section 88A(1)(b) of the Resource Management Act 1991 to section 87B of that Act were a reference to section 25(4) of this Act; and
  - (e) as if the reference in section 88A(2) of the Resource Management Act 1991 to section 104(1)(b) of that Act were a reference to section 34 of this Act; and
  - (f) with all other necessary modifications.

- (2) The following provisions apply, in addition to the provisions referred to in subsection (1), if the application for a resource consent is a concurrent application:
- (a) the application must identify the request for a plan change or variation to the proposed plan to which it relates;
  - (b) the application must comply with the requirements in section 26(3)(b);
  - (c) if the application is returned under section 88(3) of the Resource Management Act 1991 (as applied by subsection (1)) as being incomplete, the authorised agency is not required to take any further action on the request for a plan change or variation to the proposed plan unless the application is lodged again within the time specified in paragraph (d);
  - (d) if the application is not lodged again within 20 working days after the date on which the applicant received the returned application, the application and the request for the plan change or variation to the proposed plan lapse.

## **28 Further information**

Sections 92 to 92B of the Resource Management Act 1991 apply in respect of an application for a resource consent accepted under this Act—

- (a) as if every reference to a consent authority were a reference to the authorised agency; and
- (b) as if the references in sections 92A(3) and 92B(2) of that Act to section 104 of that Act were references to section 34 of this Act; and
- (c) with all other necessary modifications.

## **29 Authorised agency may notify application to certain persons only**

- (1) An authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under section 25, except as provided in subsections (3) to (5).
- (2) Subsection (1) applies despite anything to the contrary in any other enactment, rule, national environmental standard, or other document.
- (3) The authorised agency may notify the application to the following persons if, in each case, the person has not given prior written approval to the activity:
  - (a) the owners of the land adjacent to the land subject to the application; and
  - (b) the local authorities in whose district or region the land subject to the application falls; and
  - (c) any infrastructure providers who have assets on, under, or over the land subject to the application or the land adjacent to that land; and
  - (d) if the land subject to the application or land adjacent to that land is subject to a designation, the requiring authority that required the designation.

- (4) The authorised agency must, within 10 working days after the date that the application is first lodged,—
  - (a) decide whether to notify the application to any of the persons referred to in subsection (3); and
  - (b) notify the application to those persons if it decides to do so.
- (5) Despite subsection (3), an authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under this Act if, were that application to be made under the Resource Management Act 1991, that Act, or regulations made under that Act, would direct that the activity that is the subject of the application not be notified.
- (6) A notice under subsection (4) must—
  - (a) state that the recipients may make submissions on the application to the authorised agency within 20 working days from the date of the notice; and
  - (b) state the closing date for submissions and the address for service of the authorised agency; and
  - (c) request that those who make submissions indicate whether they wish to be heard.
- (7) A person may only make a submission if that person is notified under subsection (4).
- (8) The authorised agency must, as soon as is reasonably practicable, send copies of all submissions made on the application to the applicant.
- (9) A submission must be served on the authorised agency on or before the closing date for submissions.
- (10) A submission may state whether it—
  - (a) supports the application; or
  - (b) opposes the application; or
  - (c) is neutral.
- (11) Any submission made after the closing date must not be considered by the authorised agency.
- (12) For concurrent applications, this section and sections 30 to 42 are subject to the notification, hearing, and decision requirements in subpart 3.

### **30 Hearing date and notice**

- (1) The authorised agency must hold a hearing, not later than 20 working days after the closing date for submissions, if any person who has made a submission in accordance with section 29 has indicated that the person wishes to be heard and has not withdrawn that indication.
- (2) The authorised agency must—

- (a) give every person who meets the criteria in subsection (1) and the person who made the application not less than 10 working days' notice of the date, time, and place of the hearing; and
- (b) give all persons referred to in paragraph (a) the opportunity to be heard.

### **31 Time limit for completing hearing**

A hearing must be completed not later than 30 working days after the closing date for submissions on the application.

### **32 Deferral pending application for additional consents**

Section 91 of the Resource Management Act 1991 applies in relation to an application for a resource consent under this Act—

- (a) as if every reference to a consent authority were a reference to the authorised agency; and
- (b) with all other necessary modifications.

### **33 Joint hearings by 2 or more authorised agencies**

- (1) This section applies where, in relation to the same qualifying development, applications for resource consents are made to 2 or more authorised agencies and, in each case, a hearing is to be held.
- (2) The authorised agencies must jointly hear and consider the applications unless—
  - (a) the agencies agree that the applications are sufficiently unrelated that a joint hearing is unnecessary; and
  - (b) the applicant agrees that a joint hearing need not be held.
- (3) When a joint hearing of applications for resource consents is to be held, the authorised agency under section 23(2)(a)(i) or (ii) (or, if there are more than 2 authorised agencies, the authorised agency agreed between them) is responsible for notifying the hearing under section 30, setting the procedure, and providing administrative services.
- (4) After jointly hearing the applications,—
  - (a) the authorised agencies must jointly decide the applications, unless one of them considers, on reasonable grounds, that it is not appropriate to do so; and
  - (b) if a joint decision is made, the authorised agencies must identify in their joint decision—
    - (i) their respective responsibilities for the administration of any consents granted, including monitoring and enforcement; and
    - (ii) the manner in which administrative charges are to be allocated between the authorised agencies; and



- (c) the relevant authorised agency must issue, in accordance with the agencies' joint decision, any resource consents granted.
- (5) When 2 or more authorised agencies separately decide the applications and each agency decides to grant a resource consent, the agencies must ensure that any conditions to be imposed are not inconsistent with each other.
- (6) For the purposes of any appeal against a joint decision under subsection (4), the respondent is the authorised agency whose consent is the subject of the appeal.
- (7) This section applies, with all necessary modifications, in relation to any other matter that 2 or more authorised agencies are empowered under this Act to decide, or recommend on, in relation to the same proposal.
- (8) A joint hearing under this section may include a concurrent application and its associated request for a plan change or variation of a proposed plan. (In these circumstances, this section must be read together with the notification, hearing, and decision requirements in subpart 3.)

*Decisions on applications and commencement of resource consents*

**34 Consideration of applications**

- (1) An authorised agency, when considering an application for a resource consent under this Act and any submissions received on that application, must have regard to the following matters, giving weight to them (greater to lesser) in the order listed:
  - (a) the purpose of this Act;
  - (b) the matters in Part 2 of the Resource Management Act 1991;
  - (c) any relevant proposed plan;
  - (d) the other matters that would arise for consideration under—
    - (i) sections 104 to 104F of the Resource Management Act 1991, were the application being assessed under that Act;
    - (ii) any other relevant enactment (such as the Waitakere Ranges Heritage Area Act 2008);
  - (e) the key urban design qualities expressed in the Ministry for the Environment's *New Zealand Urban Design Protocol (2005)* and any subsequent editions of that document.
- (2) An authorised agency must not grant a resource consent that relates to a qualifying development unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development.
- (3) For the purposes of subsection (2), in order to be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development, the matters that the authorised agency must take into account, without limitation, are—

- (a) compatibility of infrastructure proposed as part of the qualifying development with existing infrastructure; and
  - (b) compliance of the proposed infrastructure with relevant standards for infrastructure published by relevant local authorities and infrastructure companies; and
  - (c) the capacity for the infrastructure proposed as part of the qualifying development and any existing infrastructure to support that development.
- (4) In considering an application for a resource consent under this section, the authorised agency—
- (a) may direct an affected infrastructure provider to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application; and
  - (b) if the authorised agency is the chief executive, may also direct any local authority to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application.
- (5) If an authorised agency makes a direction under subsection (4), the infrastructure provider or local authority must provide the information requested as soon as is reasonably practicable.
- (6) The Ministry must ensure that a copy of the document referred to in subsection (1)(e), or a link to that document, is on the Ministry's Internet site and that members of the public can easily access the document via that site, free of charge, at all reasonable times.

### **35 Determination of applications for certain activities**

Sections 105 to 107 of the Resource Management Act 1991 apply in respect of an application for a resource consent accepted under this Act—

- (a) as if every reference to a consent authority were a reference to an authorised agency; and
- (b) as if the references in section 105 of the Resource Management Act 1991 to section 104(1) of that Act were references to section 34 of this Act; and
- (c) with all other necessary modifications.

### **36 Decision on application**

- (1) An authorised agency may grant or refuse an application for a resource consent made under this Act.
- (2) If an authorised agency grants the application, it may impose conditions under sections 37 and 38.
- (3) Without limiting subsection (1), an authorised agency may—

- (a) grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for;
- (b) refuse an application on the grounds that it has inadequate information to determine the application.

### **37 Conditions of resource consents**

- (1) Sections 108 to 111 of the Resource Management Act 1991 apply in respect of an application for a resource consent accepted under this Act—
  - (a) as if every reference to a consent authority were a reference to the authorised agency; and
  - (b) with all other necessary modifications.
- (2) Without limiting subsection (1), a resource consent may include any condition that is consistent with, and gives effect to, the purpose of this Act.
- (3) If the authorised agency is the chief executive and the authorised agency receives a financial contribution under the provisions referred to in subsection (1), the authorised agency must transfer that financial contribution to the relevant local authority to be used for the purposes specified in the resource consent or in that consent authority's plan or proposed plan.
- (4) Sections 110 and 111 of the Resource Management Act 1991 apply, with all necessary modifications, to the local authority to which the authorised agency has transferred a financial contribution in accordance with subsection (3).

### **38 Conditions of subdivision consents**

Section 220 of the Resource Management Act 1991 applies, with all necessary modifications, in respect of an application for a subdivision consent accepted by an authorised agency as if every reference to the territorial authority were a reference to the authorised agency.

### **39 Decisions on applications to be in writing and include reasons**

Every decision by an authorised agency on an application for a resource consent must be in writing and state the reasons for the decision.

### **40 Notification of decision**

- (1) If the authorised agency is a local authority, the authorised agency must serve a copy of its decision on an application for a resource consent on the applicant and all persons who made a submission.
- (2) If the authorised agency is the chief executive, the authorised agency must serve a copy of its decision on an application for a resource consent on—
  - (a) the applicant; and
  - (b) all persons who made a submission; and

- (c) any relevant territorial authorities.
- (3) If there is a right of appeal under section 79 against the authorised agency's decision, the authorised agency under subsection (1) or (2) (as the case may be) must ensure that, at the same time as the agency serves a copy of its decision on the applicant and each person who made a submission on the application, it also serves a statement of the time within which an appeal against the decision may be lodged under section 79.

#### **41 Time limit for notifying decision**

- (1) Notice of the decision of an authorised agency on an application for a resource consent under this subpart must be given not later than,—
  - (a) if the application was not notified and a hearing is not held, 20 working days after the date on which the application was first lodged with the authorised agency; and
  - (b) if the application was notified and a hearing is not held, 40 working days after the date on which the authorised agency notified the application; and
  - (c) if the application was notified and a hearing is held, 60 working days after the date on which the authorised agency notified the application.
- (2) Schedule 2 provides for time periods that must be excluded from the time limit specified in subsection (1).

#### **42 When resource consent commences**

- (1) A resource consent granted by an authorised agency commences on the date on which the decision on the application is notified under section 40 or, if a later date is specified in the resource consent, on the date stated in the resource consent.
- (2) However, subsection (1) does not apply if there is a right of appeal under section 79 against the decision of the authorised agency on the resource consent application.
- (3) If there is a right of appeal under section 79, the resource consent commences at the following time (whichever applies), unless the resource consent states a later date or a determination of the Environment Court states otherwise:
  - (a) when the time for lodging appeals against the grant of the consent expires and no appeals have been lodged; or
  - (b) when the Environment Court determines the appeals or all appellants withdraw their appeals.

### *Subdivisions*

#### **43 Application of Part 10 of Resource Management Act 1991**

Part 10 of the Resource Management Act 1991 applies to subdivision consents granted and survey plans approved under this Act except to the extent that this Act provides otherwise.

#### **44 Consent notices and completion certificates**

- (1) Sections 221 and 222 of the Resource Management Act 1991 apply to all subdivision consents granted by an authorised agency—
  - (a) as if every reference to a territorial authority were a reference to the authorised agency; and
  - (b) as if the reference in section 221(3A) to sections 88 to 121 and 127(4) to 132 of that Act were replaced with a reference to sections 25, 27 to 42, and 52 to 55 of this Act and any provisions of the Resource Management Act 1991 referred to in those sections (as modified by this Act); and
  - (c) with all other necessary modifications.
- (2) However, an authorised agency may notify or hold a hearing in relation to an application or review referred to in section 221(3) of the Resource Management Act 1991 only if the application for the relevant subdivision consent was notified under section 29(3) and 1 or more submissions were received.

#### **45 Approval of survey plans by authorised agency**

- (1) Section 223(1) to (4), and (6) of the Resource Management Act 1991 applies to all survey plans that relate to a subdivision consent granted, or a certificate of compliance issued, by an authorised agency under this Act—
  - (a) as if every reference to a territorial authority were a reference to the authorised agency; and
  - (b) with all other necessary modifications.
- (2) A certificate under section 223(3) of the Resource Management Act 1991 is conclusive evidence that all roads, private roads, reserves, land vested in the relevant territorial authority in lieu of reserves, and private ways shown on the survey plan have been authorised by the authorised agency and accepted by the relevant territorial authority under this Act, the Local Government Act 1974, and the Resource Management Act 1991.

#### **46 Restrictions on deposit of survey plan**

Section 224 of the Resource Management Act 1991 applies to all survey plans that relate to a subdivision consent granted, or a certificate of compliance issued, by an authorised agency under this Act—

- (a) as if every reference to a territorial authority in paragraphs (c), (f), and (h) of that section were a reference to the authorised agency; and

- (b) with all other necessary modifications.

#### **47 Subdivision by the Crown**

- (1) Section 228 of the Resource Management Act 1991 applies to a survey plan described in subsection (2) that has been approved by an authorised agency under section 45 of this Act—
  - (a) as if every reference to a territorial authority were a reference to the authorised agency; and
  - (b) with all other necessary modifications.
- (2) The survey plan referred to in subsection (1) is a survey plan that relates to a subdivision for a qualifying development, by or on behalf of a Minister of the Crown, of land not subject to the Land Transfer Act 2017.

Section 47(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

#### **48 Other provisions relating to survey plans**

- (1) Sections 225, 226, 231, 232, 236, 237, 237A, and 240 to 243 of the Resource Management Act 1991 apply to the survey plans, covenants, and other matters referred to in subsection (2)—
  - (a) as if every reference to the territorial authority, except the references specified in subsection (3), were a reference to the authorised agency; and
  - (b) with all other necessary modifications.
- (2) The survey plans, covenants, and other matters referred to in subsection (1) are all survey plans, covenants, or other matters that relate to a subdivision consent granted, or certificate of compliance issued, by an authorised agency.
- (3) The references to a territorial authority in sections 231(1)(b), 232(2)(c), and 237A(1)(a) of the Resource Management Act 1991 retain the meaning given in section 2(1) of that Act.

#### *Additional provisions relating to resource consents*

#### **49 Effect of grant of resource consent under this Act**

- (1) Except as provided otherwise in this Act,—
  - (a) a resource consent granted under this Act has full force and effect for its duration and according to its terms and conditions as if it were granted under the Resource Management Act 1991; and
  - (b) any provision of an enactment that refers to a resource consent granted under the Resource Management Act 1991 (including that Act) must be read, with all necessary modifications, as including a resource consent granted under this Act.

- (2) In particular, and without limiting subsection (1), subpart 5 of Part 8 of the Local Government Act 2002 applies, with all necessary modifications, in relation to a resource consent granted under this Act.

**50 Nature and duration of resource consent**

Sections 122 and 123 of the Resource Management Act 1991 apply, with all necessary modifications, to resource consents granted by an authorised agency under this Act.

**51 Lapsing of resource consent**

Section 125 of the Resource Management Act 1991 applies to resource consents granted by an authorised agency under this Act—

- (a) as if—
- (i) every reference to the consent authority were a reference to the authorised agency; and
  - (ii) every reference to the territorial authority were a reference to the authorised agency; and
  - (iii) in section 125(1)(a), the reference to 5 years were a reference to 1 year; and
  - (iv) in section 125(1A)(b), subparagraphs (ii) and (iii) were replaced with the following subparagraph:  
“(ii) the purpose of the Housing Accords and Special Housing Areas Act 2013.”; and
  - (v) in section 125(1B), the reference to sections 357A and 357C to 358 of that Act were a reference to sections 81(1)(e) and 82 to 84 of this Act; and
- (b) with all other necessary modifications.

**52 Change, cancellation, or review of consent condition on application by consent holder**

- (1) Sections 126(1) and (2) and 127 to 129(1) of the Resource Management Act 1991 apply to a resource consent granted under this Act—
- (a) as if every reference to the consent authority were a reference to the authorised agency; and
  - (b) as if the reference in section 127(3) to sections 88 to 121 of that Act were a reference to sections 25 and 27 to 42 of this Act and any provisions of the Resource Management Act 1991 referred to in those sections (as modified by this Act); and
  - (c) as if the reference in section 129(1)(e) to section 36(1)(cb) of that Act were a reference to section 77(1)(e) of this Act; and
  - (d) with all other necessary modifications.

- (2) However, an authorised agency may notify or hold a hearing in relation to an application for a change or cancellation of conditions under section 127(1) of the Resource Management Act 1991 (as applied by subsection (1)), only if the application for the resource consent to which the application relates was notified under section 29(3) and 1 or more submissions were received.

### **53 No public notification, submissions, or hearings on review**

- (1) Section 130 of the Resource Management Act 1991 does not apply to the review of any condition of a resource consent granted under this Act.
- (2) However, an authorised agency may notify the persons listed in section 29(3) and hold a hearing in accordance with sections 30 and 31 if the resource consent to which the review relates was notified under section 29(3) and 1 or more submissions were received.

### **54 Matters to be considered in review**

Section 131 of the Resource Management Act 1991 applies to a resource consent granted under this Act as if—

- (a) every reference to the consent authority were a reference to the authorised agency; and
- (b) in section 131(1)(a), the reference to section 104 of that Act were replaced with a reference to section 34 of this Act; and
- (c) with all other necessary modifications.

### **55 Decision on review of consent conditions**

Section 132 of the Resource Management Act 1991 applies to a resource consent granted under this Act as follows:

- (a) as if every reference to a consent authority were a reference to an authorised agency; and
- (b) section 132(1A) does not apply; and
- (c) in section 132(2),—
- (i) sections 106 to 111 of the Resource Management Act 1991 apply only to the extent that they apply, or apply as modified, under this Act; and
- (ii) sections 120 and 121 of the Resource Management Act 1991 do not apply; and
- (d) sections 39 to 42 of this Act apply instead of sections 112 to 116 of the Resource Management Act 1991; and
- (e) with all other necessary modifications.



**56 Minor corrections of resource consents**

Section 133A of the Resource Management Act 1991 applies to a resource consent granted under this Act as if the reference to a consent authority were a reference to an authorised agency and with all other necessary modifications.

**57 Surrender of consent**

Section 138 of the Resource Management Act 1991 applies to a resource consent under this Act as if every reference to the consent authority were a reference to the authorised agency and with all other necessary modifications.

**58 Certificates of compliance**

(1) Section 139 of the Resource Management Act 1991 applies to an activity associated with a qualifying development that could be done lawfully without a resource consent—

(a) as if every reference to the consent authority and the authority were a reference to the authorised agency, except that,—

(i) in section 139(9), the reference to sections 357A and 357C to 358 of the Resource Management Act 1991 must be read as referring to sections 81(1)(d) and 82 to 84 of this Act; and

(ii) in section 139(12), sections 120 and 121 of the Resource Management Act 1991 do not apply and section 125 of that Act applies as modified by this Act; and

(iii) section 139(13) does not apply; and

(b) with all other necessary modifications.

(2) A certificate of compliance issued under this section—

(a) has full force and effect as if it were issued under the Resource Management Act 1991; and

(b) any provision of an enactment that refers to a certificate of compliance issued under the Resource Management Act 1991 (including that Act) must be read, with all necessary modifications, as including a certificate of compliance issued under this Act.

**Subpart 3—Requests for plan changes and variations to proposed plans**

**59 Application of subpart**

This subpart applies only in relation to—

(a) qualifying developments in special housing areas; and

(b) district plans and proposed district plans (including those plans in respect of the Auckland combined plan).

**60 Subpart overrides restriction on amendments or variations to proposed Auckland combined plan**

Nothing in sections 124 and 125 of the Local Government (Auckland Transitional Provisions) Act 2010 limits or affects the provisions of this subpart.

**61 Requests for changes to plan or variation to proposed plan**

- (1) A person who has applied for or wishes to apply for a resource consent to undertake an activity to which section 25(2)(b) applies may request the authorised agency to change the relevant plan in accordance with sections 62 to 73.
- (2) A person who has applied for or wishes to apply for a resource consent to undertake an activity to which section 25(2)(c) or (d) applies may request the authorised agency to vary the proposed plan in accordance with sections 62 to 73.
- (3) A request to change a plan or vary a proposed plan under this section—
  - (a) must be made at the same time as, or before, an application for a resource consent that relates to the qualifying development as provided in section 26(3)(c); and
  - (b) must—
    - (i) be made in writing; and
    - (ii) comply with the requirements in section 26(3)(a); and
    - (iii) either—
      - (A) identify the concurrent application or applications it relates to, if the request and the concurrent application are made at the same time; or
      - (B) specify that it is intended that 1 or more concurrent applications will be lodged subsequently if the request is accepted; and
    - (iv) explain the purpose of, and reasons for, the requested plan change or variation to the proposed plan; and
    - (v) contain an evaluation in accordance with section 32(3) to (4) of the Resource Management Act 1991 for any objectives, policies, rules, or other methods proposed; and
    - (vi) if environmental effects are anticipated, describe those effects, taking into account the provisions of Schedule 4 of the Resource Management Act 1991, in a degree of detail that corresponds with the scale and significance of the actual or potential environmental effects anticipated from implementation of the change or variation.

- (4) The authorised agency, when considering a request for a plan change or variation to a proposed plan under this section, must have regard to the following matters, giving weight to them (greater to lesser) in the order listed:
- (a) the purpose of this Act;
  - (b) the matters in Part 2 of the Resource Management Act 1991;
  - (c) the matters in section 74(2)(a) of the Resource Management Act 1991;
  - (d) the other matters in sections 74 to 77D of the Resource Management Act 1991, except that—
    - (i) section 74 includes the duty under section 32 of that Act only to the extent provided for in subsection (3)(b)(v); and
    - (ii) section 75(3)(c) and (4)(b) does not apply to the extent that the relevant provisions of a proposed regional policy statement or proposed regional plan are more consistent with the purpose of this Act than a regional policy statement or a regional plan; and
  - (e) any other relevant provision of an enactment (such as the Waitakere Ranges Heritage Area Act 2008).
- (5) If an authorised agency determines under section 32 that 1 or more further consents will be required, the authorised agency is not required to take any further action on the request for the plan change or variation to the proposed plan until the applications for the further consents have been lodged and accepted as complete under section 88 of the Resource Management Act 1991 (as applied by section 27 of this Act).
- (6) Part 3 of Schedule 1 of the Resource Management Act 1991 applies to a plan change or a variation to a proposed plan requested under this subpart.

*Process for request for plan change or variation to proposed plan where adjacent owners give prior approval*

**62 Process for requests where adjacent owners give prior approval**

- (1) This section applies if a person makes a request for a plan change or variation to a proposed plan under section 61 and that person has obtained prior written approval for that change or variation from all persons listed in section 29(3).
- (2) Clauses 23 and 24 of Schedule 1 of the Resource Management Act 1991 apply to the request as if—
- (a) every reference to a request under clause 21 of that schedule were a reference to a request under section 61 of this Act; and
  - (b) every reference to the local authority were a reference to the authorised agency; and
  - (c) in clause 23(1), the words “20 working days” were replaced with the words “10 working days”; and

- (d) in clause 23(2), the words “15 working days” were replaced with the words “10 working days”; and
  - (e) in clause 23(3), the words “20 working days” and the words “15 working days” were each replaced with the words “10 working days”.
- (3) The authorised agency must make a decision on the request for a plan change or variation to a proposed plan and its concurrent application, and give public notice of that decision, within 40 working days after the date of whichever of the following is the latest to have occurred:
- (a) receipt of the request:
  - (b) receipt of all required information or any report requested in accordance with clause 23 of Schedule 1 of the Resource Management Act 1991 (as applied by subsection (2));
  - (c) modification of the request.
- (4) The authorised agency’s decision made in accordance with section 61(4) may be to—
- (a) approve the plan change or variation to a proposed plan; or
  - (b) approve the plan change or variation to a proposed plan with modification; or
  - (c) decline the plan change or variation to a proposed plan.
- (5) The authorised agency must, before giving public notice of the decision on the request and its concurrent application, notify the person who made the request of—
- (a) the decision on the request and its concurrent application; and
  - (b) the reasons for that decision.
- (6) Sections 71 and 73 apply concerning the making of the decision and the effect of public notification.

*Process for request for plan change or variation to proposed plan where adjacent owners do not give prior approval*

### **63 Application of sections 64 to 74**

Sections 64 to 74 apply if a person requests a plan change or variation to a proposed plan under section 61 and that person has not obtained prior written approval for that change or variation from all persons listed in section 29(3).

### **64 Further information may be required and request may be modified**

Clauses 23 and 24 of Schedule 1 of the Resource Management Act 1991 apply to the request as if—

- (a) every reference to a request under clause 21 of that schedule were a reference to a request under section 61 of this Act; and

- (b) every reference to the local authority were a reference to the authorised agency; and
- (c) in clause 23(1), the words “20 working days” were replaced with the words “10 working days”; and
- (d) in clause 23(2), the words “15 working days” were replaced with the words “10 working days”; and
- (e) in clause 23(3), the words “20 working days” and the words “15 working days” were each replaced with the words “10 working days”.

#### **65 Authorised agency to consider request**

- (1) The authorised agency must, within the time specified in subsection (3), decide whether to—
  - (a) adopt the request, or part of the request; or
  - (b) accept the request in whole or in part; or
  - (c) reject the request in accordance with subsection (4).
- (2) If the authorised agency decides to adopt the request, or part of the request, the request must be dealt with in accordance with section 74.
- (3) The authorised agency must make its decision under subsection (1) within 10 working days of whichever of the following is the latest to have occurred:
  - (a) receipt of the request:
  - (b) receipt of all required information or any report requested in accordance with clause 23 of Schedule 1 of the Resource Management Act 1991 (as applied by section 64 of this Act):
  - (c) modification of the request.
- (4) The authorised agency may reject the request in whole or in part, but only on 1 or more of the grounds that the request or part of the request is—
  - (a) frivolous or vexatious:
  - (b) not in accordance with sound resource management practice:
  - (c) inconsistent with the matters in section 61(4).
- (5) The authorised agency must, within 5 working days of making a decision on the request, notify the person who made the request of—
  - (a) the decision on the request; and
  - (b) the reasons for that decision.

#### **66 Effect of decision on concurrent application**

- (1) If the authorised agency rejects the request, any concurrent application lapses.
- (2) If, under section 65(1)(b), an authorised agency accepts the request in part so that the activity that a concurrent application relates to remains a prohibited

activity, the authority must decline the concurrent application as a result of the decision.

- (3) If a request is withdrawn or deemed to be withdrawn under section 75, any concurrent application that relates to the request must be treated as having been withdrawn.
- (4) If the authorised agency accepts the request and the request has been modified under section 64, the person making the request may, within 10 working days after being notified of the agency's decision,—
  - (a) amend a concurrent application; or
  - (b) withdraw a concurrent application and lodge a replacement concurrent application.
- (5) *See* section 26(3)(c) concerning the time for applying for a resource consent if a concurrent application has not been lodged at the time of lodging the request.

#### **67 Preparation of plan change or variation, notification, and submissions**

- (1) If the authorised agency decides to accept the request or part of the request as provided in section 65(1)(b), the relevant local authority, within 30 working days of notification of acceptance of the request or part of the request under section 65(5), must—
  - (a) prepare the change to the plan or variation to the proposed plan in consultation with the person who made the request; and
  - (b) notify the accepted plan change or variation to the proposed plan and its concurrent application to the persons listed in section 29(3).
- (2) The notice under subsection (1)(b) must—
  - (a) state that the recipients may make submissions on the plan change or variation to the proposed plan and its concurrent application to the authorised agency within 20 working days from the date of the notice; and
  - (b) state the closing date for submissions and the address for service of the authorised agency; and
  - (c) request that those who make submissions indicate whether they wish to be heard.
- (3) A person may only make a submission if that person is notified under subsection (2).
- (4) The authorised agency must, as soon as practicable after the closing date for submissions, send copies of all submissions on the proposed change or variation and its concurrent application to the person who made the request.

**68 Submission to expand land covered by request must be notified**

- (1) This section applies if the authorised agency receives a submission that the land to which the request for the plan change or variation to a proposed plan relates should be expanded to relate to other land.
- (2) The authorised agency must, as soon as practicable after receiving the submission, notify—
  - (a) the applicant; and
  - (b) every person who has made a submission on the request; and
  - (c) any of the persons listed in section 29(3) who did not make a submission, and for this purpose section 29(3) applies as if every reference in that provision to the land subject to the application were a reference to the land subject to the application together with the additional land identified in the submission.
- (3) Section 67(2) to (4) applies in relation to notices given under this section, except that, in section 67(2)(a), the reference to 20 working days from the date of the notice must be read as a reference to 10 working days from the date of the notice.

**69 Hearings**

- (1) The authorised agency must hold a hearing, not later than 20 working days after the closing date for submissions (or, if section 68 applies, the closing date for further submissions), if any person who made a submission in accordance with section 67(2) or 68(3) has indicated that the person wishes to be heard and has not withdrawn that indication.
- (2) The authorised agency must—
  - (a) give each person who meets the criteria in subsection (1) and the person who made the request not less than 10 working days' notice of the date, time, and place of the hearing; and
  - (b) give all persons referred to in paragraph (a) the opportunity to be heard.
- (3) The authorised agency must complete the hearing not later than 30 working days after the closing date for submissions on the request (or, if section 68 applies, the closing date for further submissions).
- (4) The authorised agency must hear any submissions on the request for a plan change or variation to a proposed plan and its concurrent application together.

**70 Decision on request**

- (1) The authorised agency must give a decision on the provisions and matters raised in submissions, whether or not a hearing on a request for a plan change or variation to a proposed plan and its concurrent application is held.
- (2) Clause 10(2) and (3) of Schedule 1 of the Resource Management Act 1991 applies, with all necessary modifications, to the authorised agency's decision.

- (3) The authorised agency's decision made in accordance with section 61(4) may be to—
- (a) approve the plan change or variation to a proposed plan; or
  - (b) approve the plan change or variation to a proposed plan with modifications; or
  - (c) decline the plan change or variation to a proposed plan.

## **71 Consideration of plan change request and concurrent application**

- (1) An authorised agency considering a request for a plan change or variation to a proposed plan and its concurrent application must,—
- (a) first, determine matters in relation to the request; and
  - (b) secondly, determine matters in relation to the concurrent application, based on its determination of matters in relation to the request.
- (2) The concurrent application must be considered and determined on the basis that the activities for which the application is made are controlled activities, restricted discretionary activities, discretionary activities, or non-complying activities in accordance with the authorised agency's decision on the request for a plan change or variation to a proposed plan to which the concurrent application relates.
- (3) An authorised agency must decline a concurrent application if, as a result of the agency's determination on the request, the activity that the concurrent application relates to remains a prohibited activity under the relevant plan or proposed plan, as the case may be.

### *Time limit for decision, requirement for public notification, and effect of decision*

## **72 Decision to be given and notified within 130 working days after making of request**

- (1) The authorised agency must, not later than 130 working days after a request is made,—
- (a) give its decision on the request and the concurrent application; and
  - (b) notify the person who made the request of its decision; and
  - (c) give public notice of the decision and, at the same time, serve a copy of the notice on every person who made a submission on the request for a plan change or variation to a proposed plan or the concurrent application.
- (2) Schedule 2 provides for the time periods that must be excluded from the time limit specified in subsection (1).
- (3) Section 113 of the Resource Management Act 1991 applies, with all necessary modifications, to the decision given under subsection (1)(a).



**73 Effect of notifying decision to approve plan change or variation**

If the authorised agency's decision is to approve the plan change or variation to a proposed plan, on and after the date on which public notice is given,—

- (a) the plan or proposed plan (as the case may be) is amended in accordance with the decision; and
- (b) the plan change, or provision of the proposed plan as varied by the decision, is operative, including in terms of clause 20 of Schedule 1 of the Resource Management Act 1991.

*Adoption of request for plan change or variation to proposed plan by authorised agency*

**74 Authorised agency may adopt request for plan change or variation to proposed plan**

- (1) An authorised agency may adopt a request or part of a request for a plan change or variation to a proposed plan made under section 61 if—
  - (a) it wishes to consider the request or part of the request together with 1 or more other requests or parts of other requests made under section 61 in relation to the same special housing area; and
  - (b) the requests meet the criteria in section 61(3)(b).
- (2) Sections 61(4) to (6) and 62 to 73 apply, with all necessary modifications, in relation to a request adopted under this section as if the request had been accepted under section 65(1)(b).

*Concurrent plan change or variation processes*

**75 Interface between concurrent plan change or variation processes under this Act and Resource Management Act 1991**

- (1) This section applies if a request for a plan change or variation to a proposed plan under this subpart (**process A**) relates to an area in a plan or proposed plan that is simultaneously subject to a proposed plan, plan change, or variation process in accordance with Schedule 1 of the Resource Management Act 1991 or Part 4 of the Local Government (Auckland Transitional Provisions) Act 2010 (**process B**).
- (1A) However, this section does not apply if—
  - (a) process B is a proposed plan process—
    - (i) under Schedule 1 of the Resource Management Act 1991 that was commenced under clause 2 of that Schedule; or
    - (ii) under Part 4 of the Local Government (Auckland Transitional Provisions) Act 2010; and
  - (b) process B results in the proposed plan becoming operative in relation to the area before process A is completed.

- (2) From the day after the date on which a plan change or variation to a proposed plan becomes operative in relation to the area in accordance with process A, or a proposed plan, plan change, or variation to a proposed plan becomes operative in relation to the area in accordance with process B, whichever process first results in a proposed plan, plan change, or variation becoming operative (the **deciding process**),—
- (a) any of the following that relate to the other process must, insofar as the matters covered in them were considered and determined by the deciding process or are inconsistent with the decision made in the deciding process, be treated as having been withdrawn by the person who made the request or the submission (the **submitter**) or proposed the plan, plan change, or variation:
- (i) the request for a plan change or variation to the proposed plan or the part of the proposed plan, plan change, or variation that relates to the area in subsection (1); and
- (ii) any submission or part of a submission that related to that area; and
- (b) the local authority, authorised agency, or other person or body responsible for the other process must—
- (i) notify the person who proposed the plan, plan change, or variation, or made the request, and each submitter affected by the operation of paragraph (a) that a proposed plan, plan change, or variation has become operative in accordance with the deciding process and specify the part of the proposed plan, plan change, or variation or the request or submission that is treated as having been withdrawn; and
- (ii) not take further action in relation to the area in subsection (1) under the other process in relation to any matter that was considered and determined as part of the deciding process.
- (3) No compensation is payable by the Crown or an authorised agency to any person for any loss or damage arising from the application of this section.

Section 75(1A): inserted, on 15 September 2016, by section 7 of the Housing Legislation Amendment Act 2016 (2016 No 41).

### Subpart 3A—Applications and requests made during development of new plan

Subpart 3A: inserted, on 15 September 2016, by section 8 of the Housing Legislation Amendment Act 2016 (2016 No 41).

#### 75A Interpretation

- (1) In this subpart, unless the context otherwise requires,—  
**finally decided** has the meaning given in subsection (2)

**originally notified version** of a proposed new plan, means the version of the proposed new plan that was notified under clause 5 of Schedule 1 of the Resource Management Act 1991, or under that clause 5 as applied by section 123 of the Local Government (Auckland Transitional Provisions) Act 2010

**proposed new plan** means—

- (a) the proposed Auckland combined plan; or
- (b) any other new plan proposed by an authorised agency and notified under clause 5 of Schedule 1 of the Resource Management Act 1991 (and does not include a proposed change to an existing plan)

**time-of-application version** of a proposed new plan, in relation to an application for a resource consent, means the originally notified version of the proposed new plan as amended by any amendment made to it before the application was made

**time-of-request version** of a proposed new plan, in relation to a request for a plan change or variation of a proposed plan, means the originally notified version of the proposed new plan as amended by any amendment made to it before the request was made.

- (2) In this subpart, an application or request is **finally decided** if the authorised agency has decided the application or request and 1 of the following applies:
  - (a) there is no right of appeal or objection against the decision:
  - (b) there is a right of appeal or objection against the decision but no appeal or objection is lodged within the time allowed for doing so:
  - (c) if 1 or more appeals or objections are lodged against the decision, all of them (and any subsequent appeals) have been withdrawn or decided.

Section 75A: inserted, on 15 September 2016, by section 8 of the Housing Legislation Amendment Act 2016 (2016 No 41).

## **75B Requests for plan changes and variation of proposed plan and concurrent applications**

- (1) This section applies if—
  - (a) an authorised agency has notified a proposed new plan; and
  - (b) after the proposed new plan was notified, a request was made under section 61 for—
    - (i) a change to a plan that will be replaced by the new plan (if the new plan becomes operative); or
    - (ii) a variation of the proposed new plan; and
  - (c) the proposed new plan (or the part of it that is relevant to the request) becomes operative; and
  - (d) when it becomes operative, the request has not been finally decided.

- (2) However, this section does not apply if the person who made the request notifies the authorised agency in writing that the person does not want this section to apply.
- (3) The request and all concurrent applications for resource consents (and any subsequent appeals or objections) must be dealt with and decided as if—
  - (a) the request were a request for a change to an operative plan; and
  - (b) the applications were applications relating to an operative plan; and
  - (c) the time-of-request version of the proposed new plan were the relevant operative plan.
- (4) However, if the authorised agency's decision is to approve the request, the references in section 73 to the plan or the proposed plan are taken to be references to the plan that is in fact the operative plan at the time the requested plan change or variation becomes operative.

Section 75B: inserted, on 15 September 2016, by section 8 of the Housing Legislation Amendment Act 2016 (2016 No 41).

#### **75C Applications for resource consents (other than concurrent applications)**

- (1) This section applies if—
  - (a) an authorised agency has notified a proposed new plan; and
  - (b) after the proposed new plan was notified, an application for a resource consent was made under section 25; and
  - (c) the application is not a concurrent application made in conjunction with a request to which section 75B applies; and
  - (d) the proposed new plan (or the part of it that is relevant to the application) becomes operative; and
  - (e) when it becomes operative, the application has not been finally decided.
- (2) However, this section does not apply if the applicant for the resource consent notifies the authorised agency in writing that the applicant does not want this section to apply.
- (3) The application (and any subsequent appeals or objections) must be dealt with and determined as if the time-of-application version of the proposed new plan were the relevant operative plan.

Section 75C: inserted, on 15 September 2016, by section 8 of the Housing Legislation Amendment Act 2016 (2016 No 41).

**Subpart 4—Other provisions of Resource Management Act 1991 that apply in relation to applications, etc, under subparts 2 and 3**

**76 Other provisions of Resource Management Act 1991 applying**

- (1) The provisions of the Resource Management Act 1991 listed in subsection (2) apply, with the modifications stated, in respect of an authorised agency's performance and exercise of its functions and powers under this Part,—
  - (a) as if every reference to a local authority in those provisions (unless stated) were a reference to an authorised agency; and
  - (b) as if every reference to the Resource Management Act 1991 were a reference to this Act; and
  - (c) with all other necessary modifications.
- (2) The provisions are—
  - (a) section 21 (avoiding unreasonable delay):
  - (b) section 27 (Minister may require local authorities to supply information), however, the Minister responsible for the administration of this Act may also exercise the power in that section as if that Minister were the Minister for the Environment:
  - (c) section 34 (delegation of functions, etc, by local authorities), but only if the authorised agency is a local authority (including where the local authority is acting under delegation from the chief executive under section 86):
  - (d) section 34A (delegation of powers and functions to employees and other persons), except that section 34A(1)(a) must be read as referring to any functions or powers under subpart 3 (except as provided in section 90(3)):
  - (e) section 36A (no duty under this Act to consult about resource consent applications and notices of requirement):
  - (f) sections 37 (power of waiver and extension of time limits) and 37A (requirements for waivers and extensions):
  - (g) sections 39 to 41A, 41B(1) to (4), 41C, 42, and 42A (concerning powers and duties in relation to hearings and reports to a local authority):
  - (h) section 352 (service of documents):
  - (i) any other provisions of the Resource Management Act 1991 prescribed for the purposes of this section.

**77 Administrative charges**

- (1) An authorised agency may, having regard to the criteria set out in section 36(4) of the Resource Management Act 1991, fix all or any of the following kinds of charges:

- (a) charges payable by persons who request plan changes or variations to proposed plans, for the authorised agency carrying out its functions in relation to such requests and charges associated with an ATA panel or a hearings commissioner if the decision on a request is delegated to either:
  - (b) charges payable by applicants for resource consents for the authorised agency carrying out 1 or more of its functions under this Act in relation to receiving, processing, and granting resource consents, certificates of compliance, and charges associated with an ATA panel or a hearings commissioner if the decision on an application is delegated to either:
  - (c) charges payable by applicants for a change or cancellation of a condition of a resource consent or a variation or cancellation of a condition specified in a consent notice for the authorised agency carrying out 1 or more of its functions under this Act:
  - (d) charges payable by holders of resource consents for the authorised agency carrying out its functions under this Act in relation to the administration, monitoring, and supervision of resource consents (including certificates of compliance):
  - (e) charges payable by holders of resource consents for the authorised agency carrying out 1 or more of its functions under this Act in relation to reviewing consent conditions:
  - (f) charges payable by persons who exercise a right of objection under this Act against a decision made or an action taken, for the authorised agency carrying out its functions in relation to such objections:
  - (g) charges for providing information in respect of plans and resource consents under this Act, which are payable by the person who requests the information:
  - (h) charges for the supply of documents, which are payable by the person who requests the document.
- (2) Section 36(3) to (5) and (7) of the Resource Management Act 1991 applies to charges fixed by the authorised agency under this section,—
- (a) as if the reference in section 36(3) and (7) to subsection (1) of that section were a reference to this section; and
  - (b) with all other necessary modifications.

### Subpart 5—Provisions relating to rights of appeal and objection

#### **78 Limited right of appeal and objection**

There is no right of appeal or objection against a decision made by the authorised agency under this Part, except as provided in sections 79 and 81.

**79 Right of appeal against resource consent decisions relating to qualifying developments of 4 or more storeys**

- (1) One or more of the following persons may appeal to the Environment Court against the whole or any part of the decision of an authorised agency on a resource consent application under section 25 relating to a qualifying development that is 4 or more storeys high:
  - (a) the applicant;
  - (b) any person who made a submission on the application.
- (2) An appeal under subsection (1) must, subject to any regulations made under section 91,—
  - (a) be made in the form prescribed for appeals made under section 120 of the Resource Management Act 1991; and
  - (b) relate to a matter raised in the submission of the person lodging the appeal; and
  - (c) be accompanied by the filing fee prescribed for appeals made under section 120 of the Resource Management Act 1991; and
  - (d) state the reasons for the appeal and the relief sought; and
  - (e) state any matters required by regulations made under the Resource Management Act 1991 for appeals under section 120 of that Act; and
  - (f) be lodged with the Environment Court and served on the authorised agency whose decision is being appealed against within 15 working days of notice of the decision being received in accordance with this Act.
- (3) The appellant must ensure that a copy of the notice of appeal is served on every person referred to in subsection (1) not later than 5 working days after the appeal is lodged with the Environment Court.
- (4) Part 11 of the Resource Management Act 1991 applies to an appeal under this section—
  - (a) as if every reference to a consent authority or a local authority were a reference to an authorised agency; and
  - (b) as if section 274(1)(d), (da), and (f) were repealed and section 274(1)(e) read “a person who made a submission about the subject matter of the proceedings; and”; and
  - (c) with any other necessary modifications.
- (5) This section is in addition to the rights provided for in section 81.

**80 No review of decisions unless right of appeal exercised**

- (1) This section applies if a person has a right of appeal against a decision of an authorised agency under this Act.
- (2) Unless the person has exercised that right of appeal and a decision has been made on the appeal,—

- (a) no application for review under the Judicial Review Procedure Act 2016 may be made; and
- (b) no proceedings seeking a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision, may be heard by the High Court.

Compare: 1991 No 69 s 296

Section 80(2)(a): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

## **81 Rights of objection**

- (1) The following persons have a right of objection to the authorised agency:
  - (a) a person whose application for a resource consent is not granted by the authorised agency, in the circumstances described in subsection (2) if the decision not to grant the consent was made by an employee of the authorised agency under delegation:
  - (b) a person whose submission to an authorised agency is struck out under section 41C(7) of the Resource Management Act 1991, as applied by section 76 of this Act:
  - (c) a person whose application for a resource consent under this Act is determined to be incomplete under section 88(3) of the Resource Management Act 1991, as applied by section 27 of this Act:
  - (d) a person whose application for a certificate of compliance is not granted by an authorised agency under section 58 of this Act:
  - (e) a person who has made an application under any of the following provisions, in respect of the authorised agency's decision on that application:
    - (i) section 51 of this Act (which relates to lapsing of consents); or
    - (ii) section 126(2)(b) of the Resource Management Act 1991, as modified by section 52 of this Act (which relates to the cancellation of consents):
  - (f) in respect of the authorised agency's decision on an application or a review described in subsection (3), an applicant or a consent holder in respect of a consent granted, or a consent notice issued, by the authorised agency:
  - (g) a person required by the authorised agency to pay an additional charge under section 36(3) of the Resource Management Act 1991 as applied by section 77(2) of this Act:
  - (h) a person who made a request for a plan change or variation to a proposed plan, in respect of an authorised agency's decision to—
    - (i) adopt or accept the request in part only under section 65(1):



- (ii) reject the request under clause 23(6) of Schedule 1 of the Resource Management Act 1991 as applied by section 62 or 64 of this Act:
  - (iii) reject the request under section 65(4) in whole or in part.
- (2) For the purposes of subsection (1)(a), the circumstances are—
  - (a) that the application was notified, but no submissions were received on the application or, if any submissions were received, they were withdrawn; or
  - (b) that the application was not notified.
- (3) Subsection (1)(f) applies to—
  - (a) an application made under section 127 of the Resource Management Act 1991, as modified by section 52 of this Act, for a change or cancellation of a condition of the resource consent; and
  - (b) a review of the conditions of a resource consent granted by the authorised agency under sections 128 to 132 of the Resource Management Act 1991, as modified by sections 52 to 55 of this Act; and
  - (c) an application made under section 221 of the Resource Management Act 1991, as modified by section 44 of this Act, to vary or cancel a condition specified in a consent notice issued by the authorised agency.

## **82 Procedure for making and hearing objections**

Section 357C of the Resource Management Act 1991 applies to an objection made under section 81 of this Act as if every reference to sections 357, 357A, and 357B were a reference to section 81 of this Act, and with all other necessary modifications.

## **83 Decisions on objections**

Section 357D(1) and (2) of the Resource Management Act 1991 applies to an objection made under section 81 of this Act as if—

- (a) every reference to sections 357, 357A, and 357B were a reference to section 81 of this Act; and
- (b) the references to sections 357B(a) and 36(3) of the Resource Management Act 1991 were references to sections 81(1)(g) and 77 of this Act; and
- (c) with all other necessary modifications.

## **84 No right to appeal against decisions on objections**

There is no right of appeal against a decision on an objection made under this Act.

## Subpart 6—Miscellaneous

### *Functions and powers of chief executive*

#### **85 Chief executive has powers of consent authority**

Subject to the provisions in this Act, the chief executive is a consent authority under the Resource Management Act 1991 and has all associated powers required to effectively carry out his or her functions for the purposes of this Act.

#### **86 Delegation of functions and powers of chief executive**

- (1) In addition to any delegation under clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, the chief executive may delegate 1 or more of the chief executive's functions or powers as an authorised agency under this Part to—
  - (a) a local authority; or
  - (b) the Environmental Protection Authority.
- (2) A delegation under this section—
  - (a) must be in writing; and
  - (b) may be made subject to any restrictions and conditions that the chief executive thinks fit; and
  - (c) is revocable at any time, by notice in writing.
- (3) An entity to which any functions or powers are delegated under this section may perform or exercise them in the same manner and with the same effect as if they had been conferred on the entity directly by this Act and not by delegation.
- (4) Subsection (3) is subject to any restrictions or conditions imposed by the chief executive.
- (5) A person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.
- (6) No delegation under this section affects or prevents the performance or exercise of any function or power by the chief executive or affects the responsibility of the chief executive for the actions of the entity acting under the delegation.

Section 86(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

#### **87 Transfer of functions and powers of chief executive**

- (1) The chief executive may transfer 1 or more of the chief executive's functions or powers as an authorised agency under this Part to either of the entities specified in section 86(1) or another chief executive of a government department.

- (2) Subsection (1) is subject to any prohibition against accepting a transfer of functions or powers that may be contained in the Act (if any) by or under which the entity is established.
- (3) The entity to which, or the chief executive to whom, functions or powers are to be transferred under this section—
  - (a) must enter into a written agreement in respect of the transfer; and
  - (b) may agree on the terms of the transfer.
- (4) An entity to which, or a chief executive to whom, a function or power is transferred under this section—
  - (a) may perform the function or exercise the power as if the function were imposed, or the power were conferred, on that entity under this Act; and
  - (b) may, unless the agreement in respect of the transfer provides otherwise, at any time, cancel the transfer in accordance with that agreement.
- (5) The chief executive may, at any time, change or revoke the transfer by written notice to the entity or chief executive concerned.

**88 Effect of performance and exercise of functions and powers by chief executive**

- (1) Subsection (2) applies to every document entered into, signed, or issued by the chief executive when performing functions or exercising powers under subpart 2 (for example, a covenant, instrument, certificate, resource consent, or consent notice).
- (2) On and from the date on which the chief executive ceases to be an authorised agency in relation to the special housing area to which the document relates,—
  - (a) any reference in the document to the chief executive must be read as a reference to the territorial authority of the district in which the special housing area falls or fell; and
  - (b) the document has force and may be enforced as if it had been entered into, signed, or issued by or in favour of the territorial authority.
- (3) If a document is the subject of an application, request, or other matter at the date on which the chief executive ceases to be an authorised agency, subsection (2) applies from the date of completion of that matter.
- (4) Subsection (5) applies to any bond given to the chief executive in accordance with section 108A or 222 of the Resource Management Act 1991 (as those sections are applied by sections 37 and 44 of this Act) and any associated security or guarantee.
- (5) The bond and any associated security or guarantee—
  - (a) must, from the date on which the chief executive ceases to be an authorised agency, be read as referring to the territorial authority of the district in which the qualifying development to which the bond relates falls; and

- (b) has force and may be enforced by that territorial authority as if it had been given or issued in favour of the territorial authority.
- (6) Every document referred to in this section (including a bond, security, or guarantee) must state clearly the effect of this section.
- (7) This provision must be read in conjunction with any regulations relating to the process to be followed for the purposes of this section.

#### *ATA panel*

### **89 Accord territorial authority may appoint panel**

- (1) An accord territorial authority may appoint persons to act as members of 1 or more accord territorial authority panels (an **ATA panel**).
- (2) Each ATA panel must comprise no fewer than 3 members,—
  - (a) one of whom is a member of the relevant local authority, community board, or local board; and
  - (b) the remainder of whom are persons who, collectively, have knowledge of and expertise in relation to planning, design, and engineering and appropriate knowledge and experience relating to the Treaty of Waitangi (Te Tiriti o Waitangi) and tikanga Māori (Māori customary values and practices).

### **90 Delegation of functions and powers to ATA panel**

- (1) An accord territorial authority may delegate its functions and powers as an authorised agency under this Act to an ATA panel, including its functions and powers under subpart 3 of this Part.
- (2) An accord territorial authority must not delegate its functions and powers under subpart 3 of this Part, except as provided in subsection (1).
- (3) Subsection (2) does not prevent an accord territorial authority delegating to any person the power to do anything preliminary to a decision on a matter referred to in subpart 3.
- (4) Where a regional council is an authorised agency under section 23(4), it may delegate its powers under subpart 2 of this Part to an ATA panel if the qualifying development to which the resource consent application relates is within the district of an accord territorial authority and section 33 applies.

#### *Regulations*

### **91 Regulations**

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

- (a) prescribing forms, procedures, requirements, and other matters, not inconsistent with this Act, in respect of applications for resource con-

sents and the granting of resource consents under this Act, requests for plan changes and variations to proposed plans, and the making of plan changes and variations to proposed plans under this Act, including—

- (i) requiring applications, requests, or notices under this Act to be made or given in a prescribed manner:
- (ii) providing for the procedure to be followed in connection with any application, request, or notice under this Act or in connection with any proceeding before an authorised agency; and
- (b) prescribing processes for the purposes of section 88(7); and
- (c) prescribing provisions of the Resource Management Act 1991, or regulations made under that Act (as in force at any specified date), that apply or no longer apply, with any necessary modifications, in respect of any application, request made, or other matter under this Act (including, without limitation, provisions referred to in this Act); and
- (d) prescribing fees for lodging of appeals under section 79; and
- (e) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

*Transitional provisions*

**92 Transitional provisions**

The transitional provisions in Schedule 3 have effect for the purposes of this Act.

**Schedule 1**  
**Regions and districts that have significant housing supply and**  
**affordability issues for purposes of Act**

ss 4, 9

**Auckland**

The district of each of the following territorial authorities:

- Christchurch City Council
- Hamilton City Council
- Hutt City Council
- Kapiti Coast District Council
- Nelson City Council
- Porirua City Council
- Queenstown–Lakes District Council
- Rotorua District Council
- Selwyn District Council
- Tasman District Council
- Tauranga City Council
- Upper Hutt City Council
- Waimakariri District Council
- Wellington City Council
- Western Bay of Plenty District Council

Schedule 1: amended, on 25 August 2017, by clause 3 of the Housing Accords and Special Housing Areas (Schedule 1) Order 2017 (LI 2017/257).

Schedule 1: amended, on 8 January 2015, by clause 3 of the Housing Accords and Special Housing Areas (Schedule 1) Order (No 2) 2014 (LI 2014/388).

Schedule 1: amended, on 17 July 2014, by clause 3 of the Housing Accords and Special Housing Areas (Schedule 1) Order 2014 (LI 2014/190).

Schedule 1: amended, on 9 January 2014, by clause 3 of the Housing Accords and Special Housing Areas (Schedule 1) Order 2013 (SR 2013/493).

## Schedule 2

### Periods excluded from time limits specified in Part 2

ss 24, 41(2), 72(2)

In the following table,—

- (a) the first column lists the provisions in subparts 2 and 3 of Part 2 that specify time limits from which the periods in the second column must be excluded; and
- (b) the second column lists the time periods to be excluded, as applicable, from the provisions listed in the first column and the circumstances in which they are to be excluded.

#### Provisions specifying time limits

##### Subpart 2—Resource consent applications

- (1) section 29(4) (which relates to the time limit for notification of a resource consent application)
- (2) section 30(1) (which relates to the time within which, after the closing date for submissions, an authorised agency must hold any hearing)
- (3) section 31 (which relates to the time within which, after the closing date for submissions, an authorised agency must complete any hearing)
- (4) section 41 (which relates to the time within which the authorised agency must notify its decision on an application for a resource consent)

##### Subpart 3—Requests for plan changes and variations to proposed plans

- (5) section 67 (which relates to the time within which an authorised agency must notify a request and its concurrent application)
- (6) section 69(1) (which relates to the time within which, after the closing date for submissions, an authorised agency must hold any hearing)
- (7) section 69(3) (which relates to the time within which, after the closing date for submissions, an authorised agency must complete any hearing)
- (8) section 72(1) (which relates to the time within which, after the date of notice of acceptance or adoption of a request or part of a request, an authorised agency must give and notify its decision).

#### Excluded time periods and circumstances for exclusion

- (a) in the circumstances described in section 88C(1) of the Resource Management Act 1991, the time period referred to in section 88C(2) of that Act (relating to requests for information under section 92 of that Act (as applied by section 28 of this Act))
- (b) in the circumstances described in section 88C(3) or (5) of the Resource Management Act 1991, the applicable time period referred to in section 88C(4) or (6) of that Act (which relates to the commissioning of a report under section 92 of that Act (as applied by section 28 of this Act))
- (c) in the circumstances described in section 88E(1) of the Resource Management Act 1991, the time period referred to in section 88E(2) of that Act (relating to deferring the notification or hearing of a resource consent application pending additional resource consent applications under section 91 of that Act (as applied by section 32 of this Act))
- (d) if a direction is given under section 34(4) of this Act, the time period starting from the date of the direction and ending on the date on which the infrastructure provider or local authority provides the information
- (e) for a concurrent application, the time period between an application being returned under section 27(2)(c) and being lodged again, if the re-lodging is within the time period in section 27(2)(d).

## Schedule 3

### Transitional provisions

s 92

#### 1 Transitional provisions relating to disestablishment of special housing area

- (1) No application or request may be made under section 25 or 61 in relation to a qualifying development in a special housing area after the date that the relevant special housing area is disestablished (the **disestablishment date**).
- (2) However, despite the disestablishment of a special housing area,—
  - (a) Part 2 continues to apply in respect of any existing application, request, or other matter provided for in Part 2 and, for this purpose,—
    - (i) the agency that was authorised to perform a function or exercise a power under Part 2 before the disestablishment date continues to be the authorised agency after that date; and
    - (ii) any criterion prescribed under section 15 for qualifying developments in the special housing area or a part of the special housing area continues to apply; and
  - (b) the authorised agency must continue to accept and process all—
    - (i) applications made under section 52; and
    - (ii) requests made under section 58; and
    - (iii) objections made under section 82.
- (3) Subclause (1) does not prevent the lodging of a concurrent application related to a request that was made under section 61 before the disestablishment date.

#### 2 Transitional provisions relating to termination of housing accord

- (1) This clause applies if—
  - (a) the Minister or an accord territorial authority gives public notice of an intention to terminate a housing accord in accordance with section 13; and
  - (b) a special housing area within the district of the accord territorial authority is not disestablished on or before the date of the public notice (the **public notice date**).
- (2) If a person applies for a resource consent under section 25, the authorised agency for the resource consent application is—
  - (a) the accord territorial authority, if the application is made in the 3-month period starting on the day after the public notice date; and
  - (b) the chief executive, if the application is made after the end of the 3-month period referred to in paragraph (a).



- (3) Despite subclause (2)(b), the accord territorial authority remains the authorised agency for an application for a resource consent made under section 25, if that application is made in conjunction with a request for a plan change or a variation to a proposed plan under section 61 that is made before the date that the housing accord terminates (the **termination date**).
- (4) The accord territorial authority must not accept new applications made under section 25 or requests made under section 61 after the termination date.
- (5) Despite the termination of a housing accord,—
  - (a) the former accord territorial authority must continue to comply with Part 2 in respect of—
    - (i) all resource consent applications (including applications made in conjunction with a request for a plan change or variation of a proposed plan under section 61), requests, objections, and other matters provided for in Part 2 that exist at the public notice date; and
    - (ii) all resource consent applications and requests to which subclauses (2)(a) and (3) apply; and
  - (b) accept and process the following in respect of the resource consent applications referred to in paragraph (a):
    - (i) applications made under section 52; and
    - (ii) requests made under section 58; and
    - (iii) objections made under section 82; and
  - (c) Part 2 continues to apply for the purposes of paragraphs (a) and (b) as if the former accord territorial authority were still an authorised agency.
- (6) Subclause (5)(b)(iii) is subject to clause 3.

### **3 Right to elect who considers objections against decisions, etc, of accord territorial authority after termination of housing accord**

- (1) In this clause **right of objection** means a right of objection under section 81 against a decision made, or other action referred to in that section taken, by the accord territorial authority acting in the capacity of authorised agency.
- (2) A person who, at any time after the housing accord terminates, exercises a right of objection by giving notice in writing in accordance with section 357C of the Resource Management Act 1991 (as applied by section 82 of this Act) (an **objector**) may elect to have the chief executive consider and make a decision on the objection rather than the accord territorial authority.
- (3) An objector who wants the chief executive to consider and make a decision on the objection must state in the notice referred to in subclause (2) that the objector elects to have the objection considered and heard by the chief executive.

- (4) A notice of objection that does not include a statement electing the chief executive must be heard and considered by the accord territorial authority.
- (5) If a person elects to have an objection against a decision or other action of an accord territorial authority considered and decided by the chief executive,—
  - (a) the accord territorial authority must provide the chief executive with all information that it holds in respect of the decision or other action objected to; and
  - (b) the accord territorial authority must, as soon as practicable after the chief executive requires it to do so, provide any further information that the chief executive reasonably considers to be necessary to allow the objection to be considered and decided on and that the accord territorial authority holds.
- (6) For the purposes of sections 77(1)(f), 82, and 83, the chief executive is deemed to be the authorised agency in respect of all objections that persons elect under this clause to have considered and decided by the chief executive.

#### 4 Regulations for transitional purposes

- (1) In this clause, **transition**, in relation to any matter dealt with in this Act means the transition from the relevant law that applies in respect of the matter immediately before this Act is repealed, or any provision relevant to the matter is repealed or no longer applies or has the same effect in respect of the matter, to the law that applies or has an effect after that event.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing transitional or savings provisions that apply (in addition to, or in substitution for, any other transitional provisions in this schedule) for the purpose of facilitating or ensuring an orderly transition.
- (3) Regulations made under this clause may—
  - (a) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions (including definitions) of this Act do not apply, or apply with modifications or additions:
  - (b) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions of this Act or regulations made under this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed or revoked:
  - (c) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions (including definitions) of the Resource Management Act 1991 do not apply, or apply with modifications or additions, to a matter under this Act:
  - (d) provide for any other matter necessary to facilitate or ensure an orderly transition.

- (4) The Minister must not recommend the making of regulations unless the Minister is satisfied that the regulations—
- (a) are reasonably necessary for the purpose of facilitating or ensuring an orderly transition; and
  - (b) are consistent with the purposes of this Act.

## Reprints notes

### 1 *General*

This is a reprint of the Housing Accords and Special Housing Areas Act 2013 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Public Service Act 2020 (2020 No 40): section 135

Housing Accords and Special Housing Areas (Schedule 1) Order 2017 (LI 2017/257)

Land Transfer Act 2017 (2017 No 30): section 250

Judicial Review Procedure Act 2016 (2016 No 50): section 24

Housing Legislation Amendment Act 2016 (2016 No 41): Part 1

Housing Accords and Special Housing Areas (Schedule 1) Order (No 2) 2014 (LI 2014/388)

Housing Accords and Special Housing Areas (Schedule 1) Order 2014 (LI 2014/190)

Housing Accords and Special Housing Areas (Schedule 1) Order 2013 (SR 2013/493)

Housing Accords and Special Housing Areas Act 2013 (2013 No 72): section 3