

# **Fast-track Approvals Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

#### *Purpose of Bill*

The Fast-track Approvals Bill (the **Bill**) is an omnibus Bill introduced in accordance with Standing Order 267(1)(a). The purpose of the Fast-track Approvals Bill is to provide a streamlined decision-making process to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

#### *Approvals covered*

The Bill provides a separate process for the following approvals:

- resource consents, notices of requirement, and certificates of compliance under the Resource Management Act 1991:
- concessions under the Conservation Act 1987:
- authority to do anything otherwise prohibited under the Wildlife Act 1953:
- approvals under the Freshwater Fisheries Regulations 1983:
- concessions and other permissions under the Reserves Act 1977:
- an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014:
- marine consents under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:
- Crown Minerals Act 1991 (section 61 or 61B land access provisions):
- aquaculture activity approvals under the Fisheries Act 1996.

The Bill also makes a change to Environment Court processes under the Public Works Act 1981 for projects dealt with under the Bill.

*Treaty settlements*

The Bill specifies that all persons exercising functions under the Bill must act in a manner that is consistent with the obligations arising under existing Treaty of Waitangi settlements and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

The Bill also contains information, engagement, and other procedural requirements for applicants, Ministers, and the expert panels in relation to particular Māori groups or interests (including Treaty settlement entities and Takutai Moana rights and title holders) at various application and decision-making points in the fast-track process.

*How projects will gain access to fast-track approvals process*

To access the fast-track approvals process (**FTA process**) project owners must apply to joint Ministers. Joint Ministers will then refer the project to an expert panel (**EP**) to assess the details of the project. The EP will then make a recommendation back to joint Ministers who will determine if the approvals should be granted or declined.

Regionally and nationally significant projects will have access to the FTA process. Ministers will have to assess the project against a set of criteria and determine if the project can be “fast-tracked” by referring it to an EP. The criteria are stated in the Bill and include whether the project is regionally or nationally significant. Projects that occur on certain types of land (without approval from the land owner) or in certain areas will be ineligible for the process.

The joint Ministers must seek and consider comments from other Ministers, local government, and relevant Māori groups when making this decision.

The joint Ministers have a broad discretion to decline projects access to the process, including if the joint Ministers consider that it would be more appropriate or efficient to go through the normal approval processes.

*How fast-track approval process will work*

The EP will assess the projects and make a recommendation (back to the joint Ministers) on whether the projects approvals should be granted or declined, and what conditions should be required.

The EP is unable to seek public submissions and is not required to conduct a hearing. An EP will be required to seek and consider comments from other Ministers, local government, Māori groups, landowners, and other groups listed in the Bill.

When making recommendations, the EP is required to consider the purpose of the Bill above the purposes and provisions of the Acts approvals are required under.

Once an EP has provided a recommendation to the joint Ministers, the Ministers must consider the recommendations by the panel and decide whether to grant or decline the approvals. They may also direct an EP to reconsider conditions if new information is made available or direct the applicant to reapply.

### *Appeal rights and judicial review*

The Bill does not limit or affect any right of judicial review. Appeals are available to the High Court on points of law only. No appeal can be made to the Court of Appeal from a High Court determination, but leave may be sought from the Supreme Court to bring an appeal in the Supreme Court against a determination of the High Court. After that, there is a route for an appeal by leave of the Supreme Court to the Court of Appeal. Appeals are limited to specific groups, which include applicants, people who the EP sought comments from, and any person who has an interest greater than that of the general public.

### **Departmental disclosure statement**

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2024&no=31>

### **Supplementary Analysis Report**

The Ministry for the Environment produced a Supplementary Analysis Report on 29 February 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this Supplementary Analysis Report can be found at—

- <https://treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* states the Bill's title.

*Clause 2* provides for the commencement of the Bill on the day after it receives the Royal assent.

## **Part 1**

### **Preliminary provisions**

*Clause 3* sets out the purpose of the Bill. It is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.

*Clause 4* is an interpretation clause. Key novel terms defined include—

- eligible activity, which has the meaning set out in *clause 17*;
- fast-track approvals process, which means the process for granting an approval for an eligible activity that is set out in *Part 2*;

- joint Ministers, which means the Minister for Infrastructure, Minister of Transport, and Minister for Regional Development, acting jointly. (In relation to an approval to do anything otherwise prohibited by the Wildlife Act 1953, includes the Minister of Conservation acting jointly with the Ministers). (In relation to an approval under the Crown Minerals Act 1991, includes the Minister responsible for that Act or the appropriate Minister within the meaning of that Act, acting jointly with those Ministers):
- Minister, which means the Minister for Infrastructure:
- panel, which means an expert panel that is appointed in accordance with, and that complies with, *Schedule 3*:
- Part A listed project, which means a project listed in *Part A of Schedule 2*:
- Part B listed referred project, means a project listed in *Part B of Schedule 2* that is referred to an expert panel.

*Clause 5* provides for transitional, savings, and related provisions, as set out in *Schedule 1*.

*Clause 6* relates to the obligations to uphold existing treaty settlements, and recognised customary rights. *Clause 6* requires every person exercising functions, powers, and duties under the Bill to act in a manner that is consistent with—

- the obligations arising under existing Treaty settlements:
- customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (the **NHNP Act**).

*Clause 7* deals with the status of Te Ture Whaimana (a direction-setting document for the Waikato and Waipa Rivers and activities within their catchments). *Clause 7(1)* states that Te Ture Whaimana is intended to be the primary direction-setting document for the Waikato and Waipa Rivers and activities within their catchments affecting the rivers. *Clause 7(2)* provides, in part, that Te Ture Whaimana prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard.

*Clause 8* provides that the Bill binds the Crown.

*Clause 9* sets out key procedural principles to be applied. The first is that every person performing functions and exercising powers under this Act must take all practicable steps to use timely, efficient, consistent, and cost effective processes that are proportionate to the functions, duties, or powers being exercised. If no time limit is set by the Bill for the performance or exercise of a function, power, duty, or requirement, there is a duty to act promptly.

## Part 2

### Fast-track approval process for eligible projects

*Part 2* sets out the structure of the fast-track procedure for eligible projects.

## Subpart 1—Application of this Part to approval processes in other legislation

*Clause 10* provides that the Bill applies if 1 or more approvals (a broad term encompassing a wide range of things) are required for a proposed listed project or proposed referred project under specified Acts. Those Acts are the Resource Management Act 1991 (the **RMA**), the Wildlife Act 1953, the Conservation Act 1987, the Reserves Act 1977, the Freshwater Fisheries Regulations 1983, the Heritage New Zealand Pouhere Taonga Act 2014, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **EEZ Act**), the Crown Minerals Act 1991, the Public Works Act 1981, and the Fisheries Act 1996.

*Clauses 11 and 12* provide that any person can apply to the joint Ministers for a project to be referred to an expert panel. Part A listed projects do not require a referral application to joint Ministers, but the authorised person must apply to the EPA for referral of the project to a panel and the EPA must refer it to a panel. Part B listed projects (which are considered to have significant regional or national benefits) may be referred by joint Ministers to a panel whether in full or in part. Joint Ministers may also refer any other eligible project or part of a project to an expert panel.

An expert panel is appointed for each project or part of a project.

*Clause 13* requires the joint Ministers, before deciding to refer a project to an expert panel, to obtain and consider a report on the application for referral prepared by the responsible agency. That report must cover 11 topics set out in *clause 13(2)*.

## Subpart 2—Decisions about referral of projects and process of referral

### *Application process*

*Clause 14* provides that any person may apply to the responsible agency if they wish to use the fast-track approval process for an eligible project. The clause goes on to specify the information that must be included in an application for referral (including information about the proposal and its effects, an explanation of how the project meets the criteria for referral set out in *clause 17*, information about persons affected by the project, consultation already undertaken on the project with those persons and in accordance with *clause 16*, information about a large number of other matters specified in *clause 14(3)*, a description of what is needed to complete the project (in terms of the applicant's legal interests in the land on which the project is going to occur, an outline of the types of resource consents and any designations or changes to designations that the applicant considers may be required to commence the project, a description of other legal authorisations that the applicant considers may be required to commence the project, and other matters).

*Clause 15* requires the responsible agency to decide whether the referral application is complete within 10 working days after receiving it. If the application is complete it is then sent to the joint Ministers. If the application is incomplete, it is returned to the applicant with a statement of reasons as to why it is incomplete.

*Clause 16* sets out consultation requirements for approvals under this Act that must be undertaken before an applicant lodges a referral application. The applicant must engage with—

- relevant iwi, hapū, and Treaty settlement entities;
- any relevant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011;
- if relevant, ngā hapū o Ngāti Porou;
- relevant local authorities.

*Clause 17(2)* sets out the eligibility criteria for projects that may be referred to the panel. *Clause 17* requires the joint Ministers to consider—

- whether referring the project is consistent with the purpose of the Bill (*see clause 3*);
- whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes;
- the impact referring the project will have on the efficient operation of the fast-track process;
- whether the project would have significant regional or national benefits;
- whether the application contains sufficient information to inform the referral decision.

*Clause 17(3)* also sets out 10 other matters which joint Ministers may consider in deciding whether to refer the project to an expert panel. *Clause 17* also sets out criteria for determining whether projects would be regionally or nationally significant for the purposes of this clause and states that certain applications relating to aquaculture activities are considered to have significant regional or national benefits. *Clause 17(5)* provides that a project is not ineligible just because the project includes an activity that is a prohibited activity under the RMA.

*Clause 18* lists projects that are ineligible for consideration under the fast-track approval process because they involve specified activities outlined in that clause.

*Joint Ministers to decide whether to refer application to panel*

*Clause 19* provides that unless the joint Ministers decide to decline an application before inviting comments, the Ministers must copy the application to and invite comments from a number of specified persons and entities, and may provide a copy of the application and invite comments from other persons. Anyone who is invited to provide comments under *clause 19* has 10 working days to do so.

*Clause 20* empowers the joint Ministers to require further information about a referral application from the applicant or the relevant local authorities within the time frame specified in the request.

*Clause 21* provides that the joint Ministers must decline an application for referral if referral is inconsistent with the purpose of the Act, does not meet the eligibility cri-

teria, or the project includes an ineligible activity. *Clause 21(2)* sets out criteria that are relevant when deciding whether (in the exercise of their discretion) the joint Ministers should decline an application for referral. A decision to decline an application may be made—

- before or after a report obtained under *clause 13* is obtained; and
- before and after comments on the application are invited; and
- whether or not further information on the application is requested and invited.

*Clause 22* lists matters that the joint Ministers must consider before deciding to accept an application for referral. Those matters include the application, the report obtained under *clause 13*, any consultation required to be undertaken with relevant Maori groups, any comments received within the required time frame, any further information requested and provided under *clause 20* within the required time frame, and the matters that the joint Ministers must consider under *clause 22(2)*. *Clause 22(3)* goes on to provide that if joint Ministers are satisfied that all or part of a project meets the eligibility criteria in *clause 17* the Ministers may—

- refer all or part of the project to an expert panel;
- refer the initial stages of a project to the panel while deferring decisions about the project's remaining stages.

*Clause 23* provides that if the joint Ministers accept all or part of a referral application, they may specify a number of matters in relation to the project.

*Clause 24* requires the responsible agency to give notice of a decision made by the joint Ministers on a referral application, and the reasons for it, to the applicant and anyone invited to comment on the application. If the decision is to accept all or part of a referral application, the responsible agency must also give the notice to a number of other persons or agencies.

*Clause 25* requires the expert panel appointed for the purpose to prepare a report with recommendations on the substantive application referred to it under this Act and provide the report to the joint Ministers. In preparing the report the expert panel must consult the Minister for Maori Development and the Minister for Māori Crown Relations: Te Arawhiti. Before deciding whether to deviate from the panel's recommendation the joint Ministers must undertake an analysis of the panel's recommendations and any proposed conditions. After considering the expert panel's report on a referral application for a project, the joint Ministers must—

- approve the project and grant the relevant approvals subject to the conditions (if any) specified in the approval; or
- decline to approve the project; or
- refer the project back to the panel for reconsideration.

The responsible agency must notify the applicant of the joint Ministers' decision, including (if applicable) the reasons for declining approval.

### Subpart 3—Miscellaneous provisions

#### *Appeals against decisions of joint Ministers*

*Clause 26* provides certain persons with a right to appeal to the High Court against the whole or part of the final decision of joint Ministers, but only on a question of law. There are only very limited further rights of appeal in relation to decisions of the High Court on a question of law.

*Clause 27* deals with procedural issues relating to rights of appeal.

#### *Service of documents*

*Clause 28* deals with the service of documents.

#### *Information sharing*

*Clause 29* permits a responsible agency to share information for the purposes of the Bill.

*Clause 30* provides that the process provisions in *Schedules 4 to 10 and 12* apply in relation to an expert consenting panel's assessment of a project. *Schedule 11* relates to the process under the Public Works Act 1981.

#### *Secondary legislation*

*Clause 31* sets out a general regulation-making power.

*Clause 32* provides that other legislation is amended in the way set out in *Schedule 12*.

*Clause 33* repeals related provisions of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023.

#### *Schedules*

*Schedule 1* sets out transitional, savings, and related provisions.

*Schedule 2* sets out listed projects. *Part A* sets out listed projects that are referred to an expert panel without requiring referral by the joint Ministers. *Part B* sets out listed projects to be considered for referral to an expert panel. Neither *Part A* nor *Part B* are currently populated but it is intended to add the lists at a later Parliamentary stage of the Bill.

*Schedule 3* sets out rules related to the appointment and operation of an expert panel. These include provisions about the purpose and function of each panel, procedural, and administrative matters.

*Schedule 4* deals with the process for approvals under the RMA. *Part 1* deals with applications. *Part 2* deals with the assessment and determination of consent applications and notices of requirement by a panel.



*Schedule 5* sets out the process for obtaining concessions under the Conservation Act 1987 and approvals under the Reserves Act 1977.

*Schedule 6* sets out the process for various approvals under the Wildlife Act 1953.

*Schedule 7* sets out the process for obtaining archaeological authorities under the Heritage New Zealand Pouhere Taonga Act 2014.

*Schedule 8* sets out the process for approvals under the Freshwater Fisheries Regulations 1983 or section 26ZM of the Conservation Act 1987.

*Schedule 9* sets out the process for obtaining marine consents under the EEZ Act.

*Schedule 10* relates to processes for obtaining access arrangements under section 61 or 61B of the Crown Minerals Act 1991.

*Schedule 11* sets out a modification to the Environment Court process under the Public Works Act 1981 where land to be compulsorily acquired under that Act is part of a fast-track approvals process.

*Schedule 12* relates to the process for obtaining marine consents and other approvals for aquaculture activities under the RMA and the Fisheries Act 1996.

*Schedule 13* sets out amendments to other legislation.



*Hon Chris Bishop*

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Government Bill

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

**1 Title**

This Act is the Fast-track Approvals Act **2024**.

**2 Commencement**

This Act comes into force on the day after Royal assent.

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**Part 1**

**Preliminary provisions**

**3 Purpose**

The purpose of this Act is to provide a fast-track decision-making process that facilitates the delivery of infrastructure and development projects with significant regional or national benefits.

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#### 4 Interpretation

- (1) In this Act, unless the context otherwise requires,—
- approval** includes a resource consent, notice of requirement, certificate of compliance, licence, permission, clearance, or other authority
- archaeological authority** means an authority described in section 44(a) or (b) of the Heritage New Zealand Pouhere Taonga Act 2014 5
- authorised person**, in relation to a referral application, means the person identified as such in the application
- customary marine title area** means a customary marine title area as defined in— 10
- (a) section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- (b) section 9 of the NHNP Act
- customary marine title group** means—
- (a) a customary marine title group as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or 15
- (b) a customary marine title hapū as defined in section 9 of the NHNP Act
- eligible activity** has the meaning given by **section 17**
- EPA** means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011 20
- fast-track approvals process** means the process for granting an approval for an eligible activity that is set out in **Part 2**
- identified Māori land** includes—
- (a) Māori freehold land:
- (b) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014): 25
- (c) the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
- (d) general land owned by Māori that was previously Māori freehold land, but ceased to have that status in accordance with— 30
- (i) an order of the Māori Land Court made on or after 1 July 1993; or
- (ii) Part 1 of the Māori Affairs Amendment Act 1967:
- (e) land that, under a Treaty settlement,—
- (i) is owned by the governance entity of a collective group of Māori such as an iwi or a hapū; and 35
- (ii) is managed in accordance with the Conservation Act 1987 or legislation referred to in Schedule 1 of that Act:

- (f) any reserve under the Reserves Act 1977 that, under a Treaty settlement, is managed wholly or jointly by the governance entity of a collective group of Māori such as an iwi or a hapū:
- (g) land vested in the Māori Trustee that—
- (i) is constituted as a Māori reserve by or under the Maori Reserved Land Act 1955; and 5
- (ii) remains subject to that Act:
- (h) other land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over that land 10

**iwi participation legislation** means legislation, including any Treaty settlement Acts, that provides a role for iwi or hapū in processes relevant to this Act

**joint Ministers**—

- (a) means the Minister for Infrastructure, Minister of Transport, and Minister for Regional Development, acting jointly; and 15
- (b) in relation to an approval to do anything otherwise prohibited by the Wildlife Act 1953, includes the Minister of Conservation acting jointly with those other Ministers; and
- (c) in relation to an approval under the Crown Minerals Act 1991, includes the Minister responsible for that Act or the appropriate Minister (within the meaning of that Act) acting jointly with those other Ministers 20

**land returned under a Treaty settlement** includes land vested in or transferred to a Treaty settlement entity under a Treaty settlement

**Minister** means the Minister for Infrastructure

**Ministry** means the department for the time being responsible for the administration of this Act 25

**ngā rohe moana o Ngā Hapū o Ngāti Porou** has the meaning given in section 11 of the NHNP Act

**NHNP Act** means the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

**notice of requirement** means a notice of requirement for, or to alter, a designation 30

**panel** means an expert panel that is appointed in accordance with, and that complies with, **Schedule 3**

**Part A listed project** means a project listed in **Part A of Schedule 2**

**Part B listed referred project** means a project listed in **Part B of Schedule 2** that is referred to an expert panel under **section 22** 35

**permission** includes agreement, authority, licence, permit, and right

**project** includes any part of a project and any related activity

**protected customary rights area** means—

- (a) a protected customary rights area as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- (b) an area in which a protected customary activity, as defined in section 9 of the NHNP Act, is recognised under that Act 5

**protected customary rights group** means—

- (a) a protected customary rights group as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- (b) a protected customary activity hapū as defined in section 9 of the NHNP Act 10

**referral application** means an application under **section 14** to use the fast-track approval process

**responsible agency** means—

- (a) the Ministry for the Environment:
- (b) the Ministry of Business, Innovation, and Employment 15

**Treaty settlement** means—

- (a) a Treaty settlement Act; or
- (b) a Treaty settlement deed

**Treaty settlement Act** means—

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or 20
- (b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act, including—
  - (i) the Maori Commercial Aquaculture Claims Settlement Act 2004: 25
  - (ii) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
  - (iii) the Nga Wai o Maniapoto (Waipa River) Act 2012:
  - (iv) the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010: 30
  - (v) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

**Treaty settlement deed** means a deed or other agreement that—

- (a) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and
- (b) is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; but 35
- (c) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed



- Treaty settlement entity** means any of the following:
- (a) a post-settlement governance entity:
  - (b) a board, trust, committee, authority, or other body, incorporated or unincorporated, that is recognised in or established under any iwi participation legislation: 5
  - (c) an entity or a person that is authorised to act for a natural resource with legal personhood:
  - (d) a mandated iwi organisation (as defined in section 5(1) of the Maori Fisheries Act 2004):
  - (e) an iwi aquaculture organisation (as defined in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004). 10
- (2) Terms used in this Act that are not defined in this Act have the same meanings as they have in the Resource Management Act 1991, if they are defined in that Act.
- (3) Terms used in this Act that are not defined in this Act have the same meanings as they have in the Marine and Coastal Area (Takutai Moana) Act 2011, if they are defined in that Act and not in the Resource Management Act 1991 (but modified as applicable if the NHNP Act applies). 15
- (4) Other terms used in this Act that are not defined in this Act have the same meanings as they have in legislation dealing with the relevant subject matter. 20
- 5 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.
- 6 Obligation relating to Treaty settlements and recognised customary rights**
- All persons exercising functions, powers, and duties under this Act must act in a manner that is consistent with— 25
- (a) the obligations arising under existing Treaty settlements; and
  - (b) customary rights recognised under—
    - (i) the Marine and Coastal Area (Takutai Moana) Act 2011:
    - (ii) the NHNP Act. 30
- 7 Te Ture Whaimana**
- (1) Te Ture Whaimana is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments affecting the rivers (*see* the legislation referred to in **subsection (3)**). 35
- (2) Te Ture Whaimana—

- (a) prevails over any inconsistent provision in a national policy statement, New Zealand coastal policy statement, or national planning standard; and
- (b) in its entirety is deemed to be part of the Waikato regional policy statement; and any regional plan or district plan that affects the Waikato River or the Waipā River or activities within their catchments must give effect to Te Ture Whaimana. 5
- (3) In this section, **Te Ture Whaimana** means the vision and strategy set out in—
- (a) Schedule 2 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and 10
- (b) Schedule 1 of the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010; and
- (c) Schedule 1 of the Nga Wai o Maniapoto (Waipa River) Act 2012.
- Compare: 2023 No 46 s 104
- 8 Act binds the Crown** 15
- This Act binds the Crown.
- 9 Procedural principles**
- (1) Every person performing functions and exercising powers under this Act must take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions, duties, or powers being performed or exercised. 20
- (2) This includes a duty to act promptly in circumstances where no time limit has been set for the performance or exercise of a function, power, duty, or requirement under this Act.
- (3) However, a failure to comply with this section does not of itself invalidate the performance of a function or duty or the exercise of a power under this Act. 25

## Part 2

### Fast-track approval process for eligible projects

Subpart 1—Application of this Part to approval processes in other legislation 30

#### *Application*

- 10 Application of this Part to specified approval processes**
- (1) This Act applies if 1 or more of the following (the **approvals**) are required for a proposed listed project or proposed referred project:
- (a) a resource consent, notice of requirement, or certificate of compliance under the Resource Management Act 1991: 35

- (b) authority to do anything otherwise prohibited under the Wildlife Act 1953:
  - (c) an approval under the Conservation Act 1987 or the Reserves Act 1977:
  - (d) an approval under the Freshwater Fisheries Regulations 1983:
  - (e) an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014: 5
  - (f) a marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012:
  - (g) a coastal permit under the Resource Management Act 1991 that authorises aquaculture activities to be undertaken in the coastal marine area and requires decisions under Part 9A of the Fisheries Act 1996: 10
  - (h) a land access arrangement under section 61 or 61B of the Crown Minerals Act 1991:
  - (i) a proclamation under section 26 of the Public Works Act 1981 to take or deal with land. 15
- (2) An applicant must identify in their referral application all of the consents, authorities, and permissions that are being applied for under the fast-track process.
- (3) The approval (other than a proclamation under section 26 of the Public Works Act 1981) may be granted, issued, or entered into under this Act, instead of under the legislation that establishes or provides for it. 20
- (4) An approval under this Act may be for a single approval or a bundle of all the approvals required for the project.
- (5) An approval under this Act has full effect on its terms for all purposes, and any specific approval referred to in **subsection (1)** that is included in the approval under this Act must be treated as if it were granted, issued, or entered into in accordance with the legislation that establishes or provides for it. 25

*Listed and referred projects*

**11 Panels consider listed projects and referred projects**

- An expert panel must be appointed under **Schedule 3** for— 30
- (a) each project listed in **Part A of Schedule 2** (a **Part A listed project**) that is referred to a panel under **section 12(2)**; and
  - (b) each project or part of a project listed in **Part B of Schedule 2** (a **Part B listed referred project**) that is referred to a panel by the joint Ministers; and 35
  - (c) any other project or part of a project referred to a panel by the joint Ministers (a **referred project**).

**12 Who makes referral decisions**

- (1) Any person may apply to the joint Ministers for a project to be referred to an expert panel.
- (2) However, for a Part A listed project, the authorised person must lodge the application with the EPA (rather than apply to the Ministers) for assessment by an expert panel and the EPA must refer the project to a panel to be assigned by the panel convener. 5
- (3) The Part B listed referred projects are considered to have significant regional or national benefits and may be referred to a panel, whether in full or part, by joint Ministers in accordance with this Act. 10
- (4) The provisions of this Act that apply to referred projects apply with the necessary modifications to Part B listed referred projects, subject to **subsection (3)**.
- (5) Other eligible non-listed projects may be referred to an expert panel by joint Ministers in accordance with this Act. 15

**13 Ministers must consider Treaty settlements and other obligations report**

- (1) Before deciding to refer a project to an expert panel, the joint Ministers must obtain and consider a report from the responsible agency on the application for referral that is prepared in accordance with this section.
- (2) The report must include the following matters: 20
  - (a) who are the relevant iwi authorities and relevant Treaty settlement entities:
  - (b) what Treaty settlements relate to the project area:
  - (c) the relevant principles and provisions in those Treaty settlements, including those that relate to the composition of a decision-making body for the purposes of the Resource Management Act 1991: 25
  - (d) any recognised negotiation mandates for, or current negotiations for, Treaty settlements that relate to the project area:
  - (e) any court orders that recognise, in relation to the project area, protected customary rights or customary marine title, whether the court orders or agreements are granted under the Marine and Coastal Area (Takutai Moana) Act 2011 or another Act: 30
  - (f) any applicant groups under sections of the Marine and Coastal Area (Takutai Moana) Act 2011:
  - (g) any part of the proposed area of the activity that is within Ngā Rohe Moana o Ngā Hapū o Ngāti Porou (and if so, the relevant provisions of the NHNP Act, including those that relate to decisions about resource consents): 35

- (h) the relevant iwi or hapū that are parties to any Mana Whakahono ā Rohe or joint management agreement under the RMA in the proposed area of the activity:
  - (i) the relevant principles and provisions in those Mana Whakahono ā Rohe and joint management agreements: 5
  - (j) any relevant other Māori groups with interests:
  - (k) a summary of comments received by the Ministers following inviting comments from Māori groups, a summary of any further information received by the Ministers from those groups, and the responsible agency's advice on whether the referral application should be accepted. 10
- (3) In preparing the report required by this section, the responsible agency must consult the Minister of Māori Development and the Minister for Māori Crown Relations: Te Arawhiti at the same time as other relevant Ministers are consulted under **section 19**, and those 2 specified Ministers must respond to the responsible agency within 5 working days of receiving the draft report. 15

## Subpart 2—Decisions about referral of projects and process of referral

### *Application process*

#### 14 Referral application

- (1) Any person may apply to the responsible agency if they wish to use the fast-track approval process for an eligible project. 20
- (2) The application—
  - (a) must include the information specified in **subsection (3)** or required by a relevant schedule of this Act; but
  - (b) need only provide a general level of detail about the different approvals required for the project, sufficient to inform the joint Ministers' decision on the application. 25
- (3) The information to be included in the application is as follows:

#### *Proposal and effects*

- (a) a description of the proposed project and the activities it involves:
- (b) the geographical location of the project (which may be included in the form of a map) that is sufficient, for example, to identify whether or not the project would occur on public conservation land: 30
- (c) the anticipated commencement and completion dates for construction activities (where relevant):
- (d) a statement of whether the project is planned to proceed in stages and, if so, an outline of the nature and timing of the staging: 35
- (e) a description of the anticipated and known adverse effects of the project on the environment:

- (f) a general assessment of the project in relation to national policy statements and national environmental standards (as those terms are defined in the Resource Management Act 1991):
- Alignment with criteria*
- (g) an explanation of how the project meets the criteria in **section 17**: 5
- Persons affected*
- (h) a list of the persons the applicant considers are likely to be affected by the project, including relevant local authorities, relevant iwi authorities, and relevant Treaty settlement entities, protected customary rights groups, customary marine title groups, applicant groups under the Marine and Coastal (Takutai Moana) Act 2011, ngā hapū o Ngāti Porou, and any person with a registered interest in land that may need to be acquired under the Public Works Act 1981: 10
- (i) a summary of any consultation already undertaken on the project with the persons referred to in **paragraph (h)** and **section 16**: 15
- (j) a list of any Treaty settlements that apply to the geographical location of the project, and a summary of the relevant principles and provisions in those settlements:
- (k) a list of the protected customary rights groups, customary marine title groups, applicant groups under the Marine and Coastal (Takutai Moana) Act 2011 (MACA), and ngā hapū o Ngāti Porou in the list of likely affected parties: 20
- (l) a description of any processes already undertaken under the Public Works Act 1981 in relation to the land or any part of the land on which the project will occur: 25
- (m) any relevant principles or provisions in the NHNP Act:
- (n) information identifying the parcels of Māori land within the project area, marae, and identified wāhi tapu:
- (o) whether the project is proposed on any land returned under a Treaty settlement or any identified Māori land described in the ineligibility criteria and whether the applicant has secured the relevant landowners' consent: 30
- (p) whether the project is proposed in any customary marine title area, protected customary rights area, or aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement: 35
- (q) an assessment of any effects of the activity on the exercise of a protected customary right:

*What is needed to complete the project*

- (r) a description of the applicant's legal interest (if any) in the land on which the project will occur, including a statement of how that affects the applicant's ability to undertake the work:
- (s) an outline of the types of resource consents and any designations, or changes to designations, that the applicant considers are needed to authorise the project, including any that the applicant considers may be needed by someone other than the applicant: 5
- (t) a description of other legal authorisations (other than contractual) that the applicant considers may be required to commence the project (for example, authorities under the Heritage New Zealand Pouhere Taonga Act 2014 or concessions under the Conservation Act 1987): 10

*Other matters*

- (u) a statement of whether the applicant has already made consent applications or lodged notices of requirement under the Resource Management Act 1991 in respect of the same or a similar project and, if so, details of those applications and notices and any decisions made on them: 15
  - (v) a description of whether and how the project would be affected by climate change and natural hazards:
  - (w) a summary of compliance or enforcement actions (if any) taken against the applicant by a local authority or the EPA under the Resource Management Act 1991, and the outcome of those actions. 20
- (4) The Secretary for the Environment must approve an application form for the purpose of this section and ensure that it is made available on an Internet site maintained by or on behalf of the Ministry. 25
- (5) The application must be made in the approved form.

**15 Responsible agency decides whether referral application is complete**

- (1) The responsible agency must decide whether the referral application is complete within 10 working days after receiving it.
- (2) If the responsible agency decides that the referral application is complete, the responsible agency must provide the application to the joint Ministers. 30
- (3) If the responsible agency decides that the referral application is incomplete, the responsible agency must immediately return the application to the applicant, with written reasons for returning it.
- (4) In this section, **complete**, in relation to a referral application, means that the application— 35
  - (a) complies with **section 14**; and

- (b) describes an activity that the responsible agency considers is an eligible activity based on the description and explanation set out in the application, having regard to **sections 17 and 18**.

## **16 Consultation requirements for applicants for approvals**

- (1) For an application for an approval under this Act, the applicant must undertake engagement with the following groups before lodging a referral application: 5
- (a) relevant iwi, hapū, and Treaty settlement entities:
  - (b) any relevant applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana Act) 2011:
  - (c) if relevant, ngā hapū o Ngāti Porou: 10
  - (d) relevant local authorities.
- (2) An applicant must include in their referral application a record of the engagement and a statement explaining how it has informed the project.

### *Eligibility criteria for projects*

- ## **17 Eligibility criteria for projects that may be referred to panel** 15
- (1) An application to use the fast-track approval process in this Act must be considered by the joint Ministers after being forwarded by the responsible agency.
- (2) The joint Ministers must consider the following criteria:
- (a) whether referring the project is consistent with the purpose of this Act:
  - (b) whether access to the fast-track process will enable the project to be processed in a more timely and cost-efficient way than under normal processes: 20
  - (c) the impact referring this project will have on the efficient operation of the fast-track process:
  - (d) whether the project would have significant regional or national benefits: 25
  - (e) whether the application contains sufficient information to inform the referral decision.
- (3) In considering under **subsection (2)(d)** whether the project would have significant regional or national benefits, the joint Ministers may consider whether the project— 30
- (a) has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy) or central government infrastructure priority list:
  - (b) will deliver regionally or nationally significant infrastructure: 35



- (c) will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):
  - (d) will deliver significant economic benefits:
  - (e) will support primary industries, including aquaculture: 5
  - (f) will support development of natural resources, including minerals and petroleum:
  - (g) will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:
  - (h) will support adaptation, resilience, and recovery from natural hazards: 10
  - (i) will address significant environmental issues:
  - (j) is consistent with local or regional planning documents, including spatial strategies.
- (4) A project is considered to have significant regional or national benefits for the purpose of **subsection (2)(d)** if it involves a resource consent application for an aquaculture activity within— 15
- (a) an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 where the applicant holds the relevant authorisation; or
  - (b) an area identified within an individual iwi settlement as being reserved for aquaculture activities. 20
- (5) A project is not ineligible just because the project includes an activity that is a prohibited activity under the Resource Management Act 1991.

## 18 Ineligible projects

- A project must not include any of the following activities: 25
- (a) an activity that—
    - (i) would occur on land returned under a Treaty settlement or on identified Māori land; and
    - (ii) has not been agreed to in writing by the relevant landowner:
  - (b) an activity that would occur on any of the following classes of Māori land: 30
    - (i) Māori customary land:
    - (ii) land set apart as Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993:
  - (c) an activity that— 35
    - (i) would occur in a customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011; and

- 
- (ii) has not been agreed to in writing by the holder of the relevant customary marine title order issued under that Act:
  - (d) an activity that—
    - (i) would occur in a protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011 and have a more than 5 minor adverse effect on the exercise of the protected customary right; and
    - (ii) has not been agreed to in writing by the holder of a relevant protected customary rights order issued under that Act:
  - (e) an aquaculture activity or other incompatible activity that would occur 10 within an aquaculture settlement area declared under section 12 of the Maori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement, unless the applicant holds the relevant authorisation under that Act or the relevant Treaty settlement Act: 15
  - (f) an activity that would require an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 for an area for which a permit cannot be granted under that Act:
  - (g) an activity that would be prevented under section 165J, 165M, 165Q, 165ZC, or 165ZDB of the Resource Management Act 1991: 20
  - (h) an activity (other than an activity that would require an access arrangement under the Crown Minerals Act 1991) that would occur on land that is listed in items 1 to 11 or 14 of Schedule 4 of that Act:
  - (i) an activity on a national reserve held under the Reserves Act 1977 that requires approval under that Act: 25
  - (j) a prohibited activity under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or regulations made under that Act:
  - (k) decommissioning-related activities within the meaning of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012: 30
  - (l) offshore renewable energy projects (whether under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991) that begin before separate offshore renewable energy permitting legislation comes into force. 35

*Joint Ministers to decide whether to refer application to panel***19 Process after joint Ministers receive application**

- (1) Unless the joint Ministers decide to decline the application before inviting comments, the Ministers must copy the application to, and invite written comments from,— 5
- (a) the relevant local authorities; and
  - (b) the relevant portfolio Ministers; and
  - (c) the relevant iwi authorities; and
  - (d) the relevant Treaty settlement entities; and
  - (e) the relevant Takutai Moana rights holders and applicants; and 10
  - (f) ngā hapū o Ngāti Porou (if the proposed activity is in or adjacent to ngā rohe moana o ngā hapū o Ngāti Porou); and
  - (g) the iwi and hapū parties to Mana Whakahono ā Rohe and joint management agreements (where relevant to the proposed activity); and
  - (h) in respect of any Māori land in the proposed area of activity,— 15
    - (i) any Māori land administering entity (trusts under Part 12 of Te Ture Whenua Maori Act and Māori incorporations); and
    - (ii) agents appointed by the Māori Land Court for the owners of a Māori land block that doesn't have an administering entity.
- (2) The joint Ministers must consult the relevant iwi authorities, Treaty settlement or related entities, hapū, ngā hapū o Ngāti Porou (if the project relates to ngā rohe moana o ngā hapū o Ngāti Porou), and other appropriate parties identified in the report obtained under **section 13**. 20
- (3) If the application includes an activity that would occur on land within a World Heritage Area, the Minister of Conservation is a relevant portfolio Minister under **subsection (1)(b)**. 25
- (4) The joint Ministers may also copy the application to, and invite written comments from, any other person.
- (5) Anyone who is invited to provide written comments under this section has 10 working days from the receipt of the copy of the application to do so. 30
- (6) The joint Ministers are not required to consider any comments received after that time, but may do so, in their absolute discretion, as long as the Ministers have not already made decisions on the application.
- (7) In **subsection (3)**,— 35
- World Heritage Area** means a property included in the World Heritage List under paragraph 2 of Article 11 of the World Heritage Convention, as amended from time to time

**World Heritage Convention** means the United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage, done at Paris on 16 November 1972.

## **20 Ministers may request information**

- (1) The joint Ministers may request further information about a referral application from the applicant or the relevant local authorities, to be provided within the time frame specified in the request. 5
- (2) The Ministers are not required to consider any information provided after that time, but may do so, in their absolute discretion, as long as the Ministers have not already made their referral decisions on the application. 10
- (3) A request may be made at any time before a decision on the application is made.

## **21 Decision to decline application for referral**

- (1) The joint Ministers must decline an application for referral if the Ministers are satisfied that— 15
  - (a) referral of the project to a panel is inconsistent with the purpose of this Act; or
  - (b) the project does not meet the criteria in **section 17**; or
  - (c) the project includes and ineligible activity.
- (2) The Ministers may decline an application, even if they are satisfied that it meets the eligibility criteria, if the Ministers consider that— 20
  - (a) the project, or any part of it, is inconsistent with a relevant Treaty settlement, the NHNP Act, the Marine and Coastal Area (Takutai Moana) Act 2011, a Mana Whakahono ā Rohe, or a joint management agreement; or
  - (b) it is more appropriate to deal with the application under another Act; or 25
  - (c) the project may have significant adverse effects on the environment; or
  - (d) the applicant has a poor compliance history under the relevant legislation; or
  - (e) the project involves an activity that would occur on land that the Minister for Treaty of Waitangi Negotiations considers necessary for Treaty settlement purposes; or 30
  - (f) the project includes an activity that is a prohibited activity under the Resource Management Act 1991; or
  - (g) the application should be declined for any other relevant reason.
- (3) A decision to decline an application may be made— 35
  - (a) before or after a report on the application is obtained under **section 13**; and
  - (b) before or after comments on the application are invited; and

- (c) whether or not further information on the application is requested and provided.
- (4) However, if a report has been obtained, or if comments or further information have been sought and provided within the required time frame, the Ministers must consider those things, along with the application and any consultation required to be undertaken with relevant Māori groups, before deciding to decline the application. 5
- (5) A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the Ministers may decline some parts of an application and accept others. 10
- (6) Even if a project or part of a project meets all the eligibility criteria, the Ministers may decide not to refer it to an expert panel.
- 22 Decision to accept application for referral**
- (1) Before deciding to accept an application for referral, the joint Ministers must consider— 15
- (a) the application; and
- (b) the report obtained under **section 13**; and
- (c) any consultation required to be undertaken with relevant Māori groups; and
- (d) any comments received within the required time frame; and 20
- (e) any further information requested and provided under **section 20** within the required time frame.
- (2) In considering the referral application, the joint Ministers must,—
- (a) if a Treaty settlement or related arrangement provides for the consideration of any document, arrangement, or other matter (including any statutory planning document amended as a result of that Treaty settlement or related arrangement), give that document, arrangement, or other matter the same or equivalent effect through the joint Ministers' process and decision making as it would have under the relevant legislation (if relevant); and 25
- (b) if a Treaty settlement or related arrangement provides for procedural matters, comply with those requirements (if applicable) and direct the expert panel to comply with those matters (if relevant). 30
- (3) If the joint Ministers are satisfied that all or part of a project meets the eligibility criteria in **section 17**, the Ministers may decide— 35
- (a) to refer all or part of a project to a panel:
- (b) to refer the initial stages of a project to the panel while deferring decisions about the project's remaining stages.

- (4) A decision under this section may be made in respect of all or part of the project that is the subject of an application for referral, and the joint Ministers may accept some parts of an application and decline others.

### **23 Minister may specify matters for accepted referral application**

- (1) If the joint Ministers accept all or part of a referral application, the Ministers may specify any or all of the following: 5
- (a) the persons who are authorised to lodge applications or notices for approval for all or part of the activity:
  - (b) restrictions that apply to the activity (for example, on its geographical location, its duration, or the aspects of the activity that may be carried out): 10
  - (c) information that must be submitted to the panel with the applications or notices:
  - (d) persons or groups from whom the panel must invite submissions:
  - (e) time frames for the panel to process the applications or notices, which may differ from the time frames that would otherwise apply to the panel under this Part. 15
- (2) The Ministers may also set a deadline by which persons must lodge the applications or notices.

### **24 Notice of joint Ministers' decision on referral application** 20

- (1) The responsible agency must give notice of a decision made by the joint Ministers on a referral application, and the reasons for it, to—
- (a) the applicant; and
  - (b) anyone invited to comment on the application.
- (2) If the decision is to accept all or part of a referral application, the responsible agency must also give notice to— 25
- (a) the panel convener; and
  - (b) the Māori land trusts, incorporations, or agents appointed under Te Ture Whenua Maori Act 1993 whose land is affected by the project; and
  - (c) the relevant iwi authorities, Treaty settlement entities, protected customary rights groups, customary marine title groups, and applicant groups under the Marine and Coastal (Takutai Moana) Act 2011 identified in the report obtained under **section 13**; and 30
  - (d) any other iwi authorities or Treaty settlement entities that the Ministers consider have an interest in the matter; and 35
  - (e) any group that is a party to a joint management agreement or Mana Whakahono ā Rohe that relates to the area of the activity; and
  - (f) the EPA.

- (3) If the decision is to accept all or part of a referral application, the notice must—
- (a) describe the application and state that it has been accepted; and
  - (b) state the Ministers' reasons for accepting the application; and
  - (c) set out the matters specified by the Ministers; and
  - (d) specify the deadline for lodging any approval for all or part of the activity, which must be—
    - (i) the deadline set by the Ministers; or
    - (ii) if no deadline is set, the date that is 2 years after the notice is given to the applicant.
- (4) The Minister must provide all the information received by the Minister that relates to the matter to the responsible agency and to the panel convener, with all the information received by the Minister that relates to the matter, including—
- (a) the report obtained under **section 13**; and
  - (b) any comments received under **section 19(4)**.
- 25 Panel to report and joint Ministers to decide whether to approve project**
- (1) The panel must prepare a report with recommendations on the substantive application referred to it under this Act and provide the report to the joint Ministers.
- (2) In preparing the report, the panel must consult the Minister for Māori Crown Relations: Te Arawhiti and the Minister for Māori Development.
- (3) Those Ministers must be allowed 5 working days to comment on the draft report, its assessment of the project in relation to the relevant Treaty settlement, and any conditions relevant to that assessment, before the report is provided to the joint Ministers for their final decision.
- (4) Joint Ministers must not decide to deviate from a Panel's recommendations unless they have undertaken analysis of the recommendations and any conditions included in accordance with the relevant assessment criteria.
- (5) In determining a substantive application, the joint Ministers may refer a part or the whole of the panel's recommendations back to the panel to reconsider, and give the panel any directions the Ministers think appropriate as to the reconsideration of a part or the whole of the recommendations.
- (6) The Ministers may—
- (a) seek clarification from the panel on any recommendation;
  - (b) commission additional advice;
  - (c) seek further comments from any affected parties.
- (7) After considering the expert panel's report on a referral application for a project, the joint Ministers must—

- (a) approve the project and grant the relevant approvals subject to the conditions (if any) specified in the approval; or
  - (b) decline to approve the project.
- (8) The responsible agency must notify the applicant of the joint Ministers' decision, including (if applicable) the reasons for declining approval. 5
- (9) An applicant whose application for approval is declined may reapply to the Ministers by lodging a fresh referral application with the responsible agency.

### Subpart 3—Miscellaneous provisions

#### *Appeals against decisions of joint Ministers*

- 26 Appeal against decisions only on question of law** 10
- (1) Any of the following persons may appeal to the High Court against the whole or a part of the final decision of joint Ministers to grant or decline to grant an approval under this Act, but only on a question of law:
- (a) either,—
    - (i) for a resource consent, notice of requirement, or certificate of compliance under the Resource Management Act 1991, the consent applicant or requiring authority (as the case requires): 15
    - (ii) for an approval under another Act specified in **section 10**, the person who lodged the application that was the subject of the decision: 20
  - (b) any relevant local authority:
  - (c) the Attorney-General:
  - (d) any person or group that provided comments in response to an invitation given under this Act:
  - (e) any person who has an interest in the decision appealed against that is greater than that of the general public. 25
- (2) No appeal may be made to the Court of Appeal against a determination of the High Court under this section.
- (3) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 73 to 76 of the Senior Courts Act 2016 apply with any necessary modifications. 30
- (4) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 75 of the Senior Courts Act 2016), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal. 35



- (5) No appeal may be made against any appeal determined by the Court of Appeal in accordance with **subsection (4)**.
- (6) Despite any legislation to the contrary,—
- (a) an application for leave for the purposes of **subsection (3)** must be filed no later than 10 working days after the determination of the High Court; and 5
- (b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this section applies, as a matter of priority and urgency. 10
- Compare: 1991 No 69 s 149V 10

## 27 Procedural matters

### *Notice of appeal*

- (1) A person entitled, and intending, to appeal against a decision of the joint Ministers (the **appellant**) must file a notice of appeal no later than 15 working days after the date on which the person was notified of that decision. 15
- (2) The notice of appeal must specify—
- (a) the decision or the part of the decision appealed against; and
- (b) the error of law alleged by the appellant; and
- (c) the grounds of appeal, with sufficient particularity for the court and other parties to understand them; and 20
- (d) the relief sought.

### *Service of notice of appeal*

- (3) No later than the time specified for filing a notice of appeal under **subsection (1)**, the appellant must serve a copy of the notice of appeal on the EPA on behalf of the Ministers whose decision is subject to the appeal. 25
- (4) No later than 5 working days after the notice of appeal is filed in the High Court, the appellant must serve a copy of the notice of appeal on—
- (a) the consent applicant or requiring authority, as the case requires (if the appellant is not the consent applicant or requiring authority); and
- (b) every person or group invited to provide comments to the panel. 30

### *Copy of decision appealed against*

- (5) The appellant must provide a copy of the whole decision appealed against to the Registrar of the High Court immediately after it becomes available.

### *Notice of intention to appear*

- (6) If a person served with a notice of appeal under **subsection (4)** wishes to appear at the appeal, the person must serve a notice of intention to appear on— 35
- (a) the appellant; and
- (b) the Registrar of the High Court; and

- (c) the responsible agency.
- (7) A notice of intention to appear must be served no later than 10 working days after the day on which the person was served with the notice of appeal under **subsection (4)**.  
*Parties to appeal* 5
- (8) The parties to an appeal under this section are—  
(a) the appellant; and  
(b) any person who gives a notice of intention to appear.
- (9) The High Court Rules 2016 apply if a procedural matter is not provided for by this section. 10

### *Service of documents*

## **28 Service of documents**

- (1) If a notice or other document is to be served on a person for the purposes of this Act,—  
(a) if the person has specified an electronic address as an address for service for the matter to which the document relates, and has not requested a method of service listed in **paragraph (b)**, the document must be served by sending it to the electronic address: 15  
(b) if the person has not specified an electronic or other address as an address for service or if the person has requested any of the following methods of service, the document may be served by the requested method or any of the following methods: 20  
(i) delivering it to the person:  
(ii) leaving it at the person's usual or last known place of residence or business or at the address specified by the person in any notice, application, or other document given under this Act: 25  
(iii) sending it by post to the person's usual or last known place of residence or business or to the address specified by the person in any notice, application, or other document given under this Act:  
(iv) complying with a means of service prescribed in regulations made under **section 31**. 30
- (2) However, if the document is to be served on a person to commence, or in the course of, court proceedings, **subsection (1)** does not apply if the court, whether expressly or in its rules or practices, requires a different method of service. 35
- (3) Nothing in **subsection (1)** overrides the provisions of the Electronic Courts and Tribunals Act 2016.

- (4) If a notice or other document is to be served on a Minister of the Crown for the purposes of this Act, service on the chief executive of the appropriate department of the public service in accordance with **subsection (1)** is to be treated as service on the Minister.
- (5) If a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with **subsection (1)** is to be treated as service on the body. 5
- (6) If a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with **subsections (1) and (4)** is to be treated as service on the partnership. 10
- (7) However, in relation to any partnership that is a firm under the Partnership Law Act 2019, section 30 of that Act applies in relation to service of notices under this section.
- (8) Despite **subsection (1)**, if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served— 15
- (a) by delivering it at the organisation’s head office or principal place of business; or
- (b) by sending it to the electronic address that the organisation has specified for its head office or principal place of business; or 20
- (c) by a method agreed between the organisation and the person serving the notice or document.
- (9) If a notice or other document is sent by post to a person in accordance with this section, it is to be treated, in the absence of proof to the contrary, as having been received by the person at the time when the letter would have been delivered in the ordinary course of the post. 25
- Compare: 1986 No 5 s 102(1); 1991 No 69 s 352

### *Information sharing*

#### **29 Responsible agency may provide information for purposes of this Act**

- (1) A responsible agency may provide to a recipient specified in **subsection (2)** any information or a copy of any document that it believes would assist the recipient in the performance or exercise of the recipient’s functions, duties, or powers under this Act. 30
- (2) The recipients are—
- (a) any of the joint Ministers: 35
- (b) an appropriate other Minister:
- (c) the chief executive of any regulatory agency that has functions, duties, or powers under this Act:
- (d) an enforcement officer.

- (3) A responsible agency may provide to any regulatory agency any information or a copy of any document that it believes would assist that other agency in the performance or exercise of its functions, duties, or powers under a specified Act that relate to activities under or associated with an approval under this Act.
- (4) A person or an agency that receives information provided under this section must not disclose the information to any other person or organisation unless— 5
- (a) the disclosure is made for the purposes of, or in connection with, the performance or exercise of any function, power, or duty conferred or imposed by this Act or a specified Act on the person or agency; or
  - (b) the information is publicly available; or 10
  - (c) the disclosure is made with the consent of the person to whom the information relates or to whom the information is confidential; or
  - (d) the disclosure is made in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other legislation; or 15
  - (e) the disclosure is required by another legislation; or
  - (f) the disclosure is required by a court of competent jurisdiction.

### 30 Process provisions for projects

- (1) **Schedules 4 to 10 and 12** set out process provisions that apply in relation to a panel's assessment of a project. 20
- (2) **Schedule 11** sets out a modification that applies to the process under the Public Works Act 1981.

### *Secondary legislation*

### 31 Regulations

The Governor-General may, by Order in Council made on the recommendation of the joint Ministers, make regulations for 1 or more of the following purposes: 25

- (a) providing for procedural and administrative matters for the purpose of the fast-track approval process:
- (b) specifying requirements for a referral application (including the form or manner in which the application must be made): 30
- (c) providing for anything this Act says may or must be provided for by regulations:
- (d) providing for anything incidental that is necessary for any carrying out, or giving full effect to, this Act. 35

### 32 Amendments to other legislation

Amend the legislation specified in **Schedule 13** as set out in that schedule.

**33 Repeal**

Clauses 4 to 9 of Schedule 1 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 are repealed.

## Schedule 1

### Transitional, savings, and related provisions

s 5

#### Part 1

#### Provisions relating to this Act as enacted 5

#### 1 Interpretation

In this Part,—

**commencement** means the day on which this Act comes into force

**repealed Act** means the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023. 10

#### 2 Existing fast-track applications

- (1) This clause applies to an application made under the fast-track consenting process continued by clause 8 of Schedule 1 of the repealed Act that was made or lodged, but not finally determined, before commencement. 15
- (2) If the application has not been withdrawn before that date, the application must continue to be processed and determined under the repealed Act as if that Act had not been repealed.
- (3) The repealed Act remains in force for the purpose of completing any matter commenced under the Act before its repeal. 20
- (4) The matters referred to in **subclause (3)** include, without limitation,—
  - (a) the functions, duties, and powers of the Minister for the Environment, the Minister of Conservation (for a referral application that relates to an activity within the coastal marine area), the EPA, expert consenting panels, the Chief Environment Court Judge, and courts, that relate to the application: 25
  - (b) rights of appeal against decisions made in respect of the application under the repealed Act:
  - (c) court proceedings (including judicial review proceedings) that relate to a decision made in respect of the application under the repealed Act, whether pending or filed after commencement: 30
  - (d) the recovery of costs of the processes under Part 2 of Schedule 10 of the Natural and Built Environment Act 2023, as provided for in clause 94 of that schedule, and as applied by clause 8 of Schedule 1 of the repealed Act. 35

- 
- (5) The obligation in clause 4 of Schedule 1 of the repealed Act to uphold Treaty settlements, the NHNP Act, and other arrangements remains in force in relation to the application.

**3 Withdrawal of applications**

- (1) An applicant may withdraw their application continued by clause 8 of Schedule 1 of the repealed Act by giving notice in writing to the EPA. 5
- (2) The EPA must return an application if no information or responses are received from the applicant within 12 months after commencement.
- (3) An application returned under **subclause (2)** must be treated as having been withdrawn. 10

**Schedule 2**  
**Listed projects**

**ss 11, 13**

**Part A**

**Projects listed for direct referral to expert panel** 5

No projects are listed in this Part.

**Part B**

**Projects listed for joint Ministers to consider referring to expert panel**

No projects are listed in this Part. 10



## Schedule 3

### Expert panel

**ss 4, 11**

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	<i>Purpose and functions of panel</i>	
<b>1</b>	<b>Function of expert panel</b>	<b>5</b>
(1)	An expert panel must, in accordance with this schedule and <b>section 30</b> , consider each listed project and referred project assigned to it by the panel convener.	
(2)	In assessing proposed approvals, the panel must generally take into account, giving weight to them (greater or lesser) in the order listed,—	10
	(a) the purpose of this Act; and	
	(b) considerations under other relevant legislation.	
(3)	The panel may recommend that an approval be declined if any mandatory requirements that relate to the activity concerned are not able to be met.	
(4)	After considering a project in accordance with this Act, an expert panel—	15

- (a) must give the joint Ministers a written report that sets out its recommendations; and
- (b) its recommendations must—
- (i) include a recommendation that the joint Ministers either approve, or decline approval of, all or part of the project; and 5
- (ii) include any conditions that the panel considers should be imposed if the project is approved.
- 2 Appointment of panel convener**
- (1) The Minister must, after consulting the other relevant portfolio Ministers, appoint a former (including retired) Environment Judge or High Court Judge to be the panel convener for the purposes of this Act for a term determined by the Minister. 10
- (2) The Minister may at any time remove the panel convener for just cause (within the meaning of **clause 9(3)**), and **clause 9(2)** applies with any necessary modifications. 15
- (3) The panel convener may resign their office at any time by notice in writing to the Minister.
- (4) The panel convener, unless they earlier resign or are removed from office under **subclause (2)**, continues in office until their successor is appointed by the Minister. 20
- (5) The function of the panel convener is, to appoint in consultation with the Minister, the members of panels (for a term of office set by the panel convener)—
- (a) to make recommendations to joint Ministers about consent applications or notices of requirement for a listed project or a referred project; and
- (b) to make recommendations to joint Ministers about the issue of certificates of compliance for a listed project or a referred project. 25
- 3 Membership of panels**
- (1) Up to 4 persons may be appointed to be members of a panel set up to consider and report on a listed project, listed referred project, or referred project.
- (2) The membership of a panel must include— 30
- (a) 1 person nominated by the relevant local authorities; and
- (b) 1 person nominated by the relevant iwi authorities.
- (3) The person nominated by a local authority may, but need not, be an elected member of the local authority.
- (4) If either the relevant local authorities or the relevant iwi authorities nominate more than 1 person for appointment as a panel member, the panel convener must decide which one of those nominees is to be appointed as a panel member. 35

- (5) If a local authority or an iwi authority does not make a nomination under **subclause (2)**, the panel convener must appoint a person with the appropriate skills and experience to be a member of the panel (*see clause 7(1)*).
- (6) Despite the limit specified on the membership by **subclause (1)**, that number may be exceeded (including by the appointment of more than 1 person nominated under **subclause (2)(a) or (b)**), at the discretion of the panel convener, if warranted by, or required to accommodate,—
- (a) the circumstances unique to a particular district or region; or
  - (b) the number of applications that have to be considered in that particular district or region; or
  - (c) the nature and scale of the application under consideration; or
  - (d) matters unique to any relevant iwi participation legislation; or
  - (e) the collective knowledge and experience needed under **clause 7(1)**.
- (7) This clause is subject to **clause 7** (which imposes requirements regarding the qualifications of individual panel members and the collective knowledge and experience of the panel).
- 4 Chairperson of panel**
- (1) The panel convener, in consultation with the Minister, must appoint, as one of the members appointed under **clause 3** a suitably qualified lawyer or planner with experience in relevant law to be the chairperson of a panel.
- (2) However, the panel convener may, in consultation with the Minister, act as the chairperson of a panel instead of appointing another person as chairperson of the panel.
- (3) Despite **subclauses (1) and (2)**, the panel convener may, if the circumstances require it, in consultation with the Minister, appoint a person who is accredited under section 39A of the Resource Management Act 1991 to be the chairperson of a panel.
- (4) In the event of an equality of votes, the chairperson of the panel has a casting vote.
- (5) A panel has a quorum of 3 members.
- (6) The panel may, in consultation with the Minister, modify the requirements in **subclauses (4) and (5)** to provide for—
- (a) different requirements under relevant iwi participation legislation:
  - (b) any increase in the number of panel members.
- 5 Conduct of hearings and other procedural matters in context of Treaty settlements**
- (1) This clause applies if any Treaty settlement Act, iwi participation legislation (within the meaning of section 2(1) of the Resource Management Act 1991),

- Mana Whakahono a Rohe, or joint management agreement includes procedural arrangements relating to the appointment of a decision-making body for hearings and other procedural matters, such as the following:
- (a) a requirement for iwi or hapū to participate in the appointment of hearing commissioners to determine resource consent applications or notice of requirement lodged under the Resource Management Act 1991: 5
  - (b) a requirement that notice be given to any person or specified class of person of any steps in a resource management process:
  - (c) any consultation requirements with iwi or hapū:
  - (d) any other matter of procedure for determining resource consent applications or notices of requirement lodged under the Resource Management Act 1991. 10
- (2) The panel convener or panel must—
- (a) comply with the arrangements in the Treaty settlement Act, iwi participation legislation, or agreements referred to in **subclause (1)** as if they were a relevant decision maker (such as a local authority, government department, Crown entity, or board of inquiry); or 15
  - (b) obtain the agreement of the relevant Treaty settlement entity or iwi authority to adopt a modified arrangement that is consistent with achieving the purpose of this Act, the Treaty settlement Act, iwi participation legislation, and any agreements referred to in **subclause (1)**. 20
- (3) The relevant Treaty settlement entity or iwi authority may not unreasonably withhold their agreement to a modified arrangement (as described in **subclause (2)(b)**).
- (4) If the panel convener or panel are unable to obtain agreement under **subclause (2)(b)** (in circumstances where that agreement is not unreasonably withheld) they must stop processing the application and must return the application to the applicant immediately. 25
- 6 Appointment of replacement panel member**
- The panel convener may, at any time and in consultation with the Minister, appoint a new member to replace a member removed under **clause 9** or who resigns or dies. 30
- 7 Skills and experience of members of panel**
- (1) The members of a panel must, collectively, have—
- (a) the knowledge, skills, and expertise relevant to the purpose of this Act; and 35
  - (b) the knowledge and skills required for matters specific to the project, including the technical expertise relevant to the project; and

- (c) an understanding of te Tiriti o Waitangi/the Treaty of Waitangi and its principles; and
  - (d) an understanding of tikanga Māori and mātauranga Māori; and
  - (e) if appropriate, conservation expertise.
- (2) A person is not ineligible for appointment as a panel member by reason only that the person is a member of a particular iwi or hapū (including an iwi or hapū that is represented by an iwi authority that must be invited by the panel to comment on the application). 5

## 8 Remuneration of panel convener and panel members

- (1) The panel convener and members of the panel are entitled— 10
- (a) to receive remuneration not within **paragraph (b)** for services as the panel convener or a member at a rate and of a kind determined by the Minister in accordance with the fees framework; and
  - (b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out their office as the panel convener or as a panel member as if the convener and members were members of a statutory board for the purposes of the Fees and Travelling Allowances Act 1951. 15
- (2) For the purposes of **subclause (1)**, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest. 20

## 9 Removal and resignation of panel members

- (1) The panel convener may remove any person appointed to a panel under this schedule for just cause.
- (2) The person may be removed with as little formality and technicality, and as much expedition, as is permitted by— 25
- (a) the principles of natural justice; and
  - (b) a proper consideration of the matter.
- (3) In this clause, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of duty (depending on the seriousness of the breach). 30
- (4) A member of the panel may resign at any time as a member by notice in writing to the panel convener.

Compare: 2004 No 115 ss 40, 41

*Procedural and administrative matters*

- 10 Procedures of panel**
- (1) A panel must regulate its own procedure as it thinks appropriate, without procedural formality, and in a manner that best promotes the just and timely determination of an application. 5
- (2) **Subclause (1)** applies subject to any other provision in this Act relevant to the procedures of a panel.
- (3) A panel may appoint a special adviser to assist the panel with an application in relation to any matters the panel may determine.
- (4) A panel may, at any time, appoint technical advisers, including from a department of State, Crown entity, or relevant local authority, as it thinks appropriate. 10
- (5) A panel may use or allow any remote access facility that will assist in the determination of an application.
- (6) A panel must keep a full record of its proceedings.
- 11 Protection of sensitive information** 15
- When a panel is assessing a proposed approval under the Resource Management Act 1991, section 42 of that Act applies with any necessary modifications, as if the panel were a board of inquiry given authority to conduct a hearing under section 149J of that Act.
- 12 Support and advice available to panels** 20
- (1) The EPA must provide advice and secretariat support to—
- (a) the person convening the panel and appointing the panel chair; and
- (b) members of the panel when carrying out their functions and duties under this Act; and
- (c) the panel in its role of deciding any matters before it. 25
- (2) A relevant local authority must assist the panel by providing advice within the knowledge of the authority, if requested by the panel.
- 13 Liability of members**
- The panel convener and members appointed to a panel are not liable for anything that the panel convener or a member does or omits to do in good faith in performing or exercising the functions, duties, or powers of the panel. 30
- 14 Costs of processes under this Act recoverable**
- (1) A local authority must recover from an applicant the actual and reasonable costs incurred by the local authority in complying with this schedule and **Schedule 4.** 35

- (2) The EPA and each responsible agency must recover from the applicant the actual and reasonable costs incurred by the EPA or the agency in providing assistance to the person before a matter or application is lodged with the EPA (whether or not the matter or application is subsequently lodged).
- (3) For a proposed approval under the Resource Management Act 1991, the EPA must recover from the applicant the actual and reasonable costs incurred by the EPA in exercising its functions and powers under this schedule and **Schedule 4** (including the costs in respect of secretarial and support services provided to a panel by the EPA). 5
- (4) Each other agency that has functions, duties, or powers under this Act must recover from the applicant the actual and reasonable costs incurred in exercising or performing those functions, duties, or powers. 10
- (5) The Minister must recover from the applicant the actual and reasonable costs incurred in relation to the Minister or a panel in performing or exercising the Minister or panel's functions, powers, and duties under this Act. 15
- (6) The Minister, the EPA, and any local authority, responsible agency, or other agency must, on request by an applicant, provide an estimate of the costs likely to be recoverable under this clause.
- (7) The Minister, the EPA, and any local authority, responsible agency, or other agency may require estimated costs (in full or in part) to be paid in advance of exercising the relevant function or power. 20
- (8) When recovering costs under this clause, the Minister, the EPA, and any local authority, responsible agency, other agency must have regard to the following considerations:
- (a) the sole purpose is to recover the reasonable costs incurred in respect of the matter or application to which the costs relate: 25
- (b) whether it is administratively efficient to allocate to, and recover costs from, the relevant person.
- (9) For a proposed approval under the Resource Management Act 1991, an applicant may object under section 357B of that Act to a requirement to pay costs under any of **subclauses (1) to (4)**, and that Act applies accordingly and with any necessary modifications. 30
- (10) For a proposed approval under the Resource Management Act 1991, section 149ZF of that Act also applies, with any necessary modifications, to the recovery of costs under this Act. 35

### 15 Delegation of cost-recovery function by Minister

- (1) The Minister may, in writing, delegate to the EPA the Minister's functions, powers, and duties under **clause 14** in relation to cost recovery.
- (2) A delegation under this clause—

- (a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the EPA; and
- (b) does not prevent the Minister from performing or exercising the functions, duties, or powers concerned.

**16 Application of Local Government Official Information and Meetings Act 1987** 5

Part 1 and sections 48 and 53 of the Local Government Official Information and Meetings Act 1987 apply, with any necessary modifications, as if a panel were a board of inquiry given authority to conduct a hearing under section 149J of the Resource Management Act 1991. 10



## Schedule 4

### Process for approvals under Resource Management Act 1991

s 30(1)

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*Preliminary matters***1 Scope of this schedule**

This schedule sets out—

- (a) the requirements to be met when lodging an application for any approval under this Act that would otherwise have been an application for a resource consent under the Resource Management Act 1991; and 5
- (b) the requirements a panel must comply with when considering a resource consent application or notice of requirement.

**2 Relationship between this Act and Resource Management Act 1991**

- (1) This clause applies except as otherwise provided in, or required by the context of, this Act. 10
- (2) If an application for a resource consent for an activity is made under this Act,—
  - (a) the process for obtaining an approval under this schedule applies instead of the process for obtaining a consent under the Resource Management Act 1991; and 15
  - (b) a resource consent granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under the Resource Management Act 1991.
- (3) A person— 20
  - (a) may apply under this Act for a change or cancellation of a condition of an existing resource consent, but only if the application accompanies a new listed or referred project and the change or cancellation of a condition in the existing consent is material to the implementation of the new project: 25

- (b) may lodge a notice of requirement under this Act for a designation or to alter an existing designation.
- (4) If a notice of requirement is lodged under this Act,—
- (a) the process for confirming or modifying a designation under this schedule applies instead of the process for confirming or modifying a designation under the Resource Management Act 1991; and 5
- (b) a designation confirmed or modified under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were confirmed or modified under the Resource Management Act 1991. 10
- (5) A certificate of compliance issued by a panel has the same force and effect as if it were issued by a consent authority under section 139 of the Resource Management Act 1991.

## Part 1 Applications, etc 15

### *Consent applications and notices of requirement*

- 3 Lodging consent applications and notices of requirement**
- (1) An applicant in a referral application may, in respect of a listed project or a referred project, apply for a consent that would otherwise be applied for under the relevant Act listed in **section 10**. 20
- (2) An applicant that is a requiring authority may, in respect of a listed project or a referred project, lodge—
- (a) a notice of requirement for a designation;
- (b) a notice of requirement to alter a designation.
- (3) A consent application or a notice of requirement must— 25
- (a) be lodged with the EPA; and
- (b) be made in the approved form and manner; and
- (c) comply with any restrictions or obligations, such as any information requirements included in—
- (i) **Schedule 2**, in the case of a listed project: 30
- (ii) **Schedule 3** and the referral order, in the case of a referred project.
- (4) The EPA must approve an application form for the purposes of this clause and ensure that it is made available on an Internet site maintained by the EPA.
- (5) The provisions of this schedule apply to a notice of requirement to alter a designation as if it were a notice of requirement for a new designation. 35

Compare: 2020 No 35 Schedule 6 cl 2

#### 4 Applications for approvals while existing consents continue in force

A person who holds a resource consent under the Resource Management Act 1991 may—

- (a) apply for an approval under this Act for the activity for which the resource consent applies; and 5
- (b) continue to operate under the existing resource consent,—
  - (i) in the case of Category A listed projects, until an approval is granted under this Act, as long as an application under this Act is made within 6 months of the commencement of this Act or not less than 3 months before the resource consent expires under the Resource Management Act 1991, whichever date is the later: 10
  - (ii) in the case of Category B listed and referred projects, so long as an application for referral is made within 6 months of the commencement of this Act or not less than 3 months before the holder's existing resource consent expires, whichever date is the later. 15

#### *Role of EPA in consenting process*

#### 5 EPA to refer consent applications and notices of requirement to panel

- (1) Within 5 working days of receiving a consent application or notice of requirement, the EPA must determine whether the application or notice—
  - (a) relates solely to 1 or more of the listed projects or referred projects; and 20
  - (b) does not breach **clause 3(3)(c)**; and
  - (c) contains all the information required under **clauses 12 to 16**.
- (2) If the EPA is satisfied that a consent application or notice of requirement complies with the matters listed in **subclause (1)**, the EPA must provide the application or notice to the panel appointed to determine that application or notice. 25

#### 6 When EPA must return consent applications or notices of requirement

- (1) If the EPA determines that a consent application or notice of requirement does not comply with the requirements of **clause 5(1)**, it must return the application or notice immediately to the person who lodged it, with written reasons for the EPA's determination. 30
- (2) If a consent application or notice of requirement is lodged again with the EPA after the EPA has returned the application or notice to the person who lodged it,—
  - (a) that application or notice must be treated as a new application or notice; and 35
  - (b) the time period specified in **clause 5(1)** begins again for the EPA.

## 7 Withdrawal of consent application or notice of requirement

- (1) At any time before a determination is given on a consent application or notice of requirement lodged under **clause 3**, the consent applicant or requiring authority may withdraw that application or notice by giving written notice—
- (a) to the EPA; and 5
  - (b) in relation to a consent application for a coastal permit to undertake an aquaculture activity, to the Director-General of the Ministry for Primary Industries; and
  - (c) if the withdrawal occurs after persons or groups have been invited to provide written comments under **clause 20(2)**, to those persons or groups. 10
- (2) As soon as practicable after receiving a notice under **subclause (1)(a)**, the EPA must advise the panel that the relevant consent application or notice of requirement has been withdrawn. 15
- Compare: 2020 No 35 Schedule 6 cl 5

## 8 When processing of consent applications or notices of requirement may be suspended

- (1) Processing of a consent application or notice of requirement lodged with the EPA may be suspended in the following circumstances:
- (a) by direction of the EPA under **subclause (2)** (for non-payment of costs recoverable): 20
  - (b) by direction to the panel—
    - (i) under **clause 25** (Minister may direct delay):
    - (ii) under **clause 26** (request by consent applicant or requiring authority for suspension of processing). 25
- (2) If a consent applicant or requiring authority has not paid the costs recoverable by the EPA, the EPA may suspend the processing of the consent application or notice of requirement and must give notice of the suspension—
- (a) to the applicant or requiring authority; and
  - (b) if the suspension occurs after persons or groups have been invited to provide comments under **clause 20(2)**, to those persons or groups. 30
- (3) If the applicant or requiring authority subsequently pays the costs recoverable by the EPA, the EPA must resume processing the consent application or notice of requirement and must give notice of the resumption to the persons notified of the suspension. 35
- Compare: 2020 No 35 Schedule 6 cl 6

## 9 Information sharing between EPA and relevant local authorities

- (1) This clause applies if the EPA considers that information held by a local authority in respect of a listed project or a referred project is necessary and

relevant to a current or an anticipated consent application or notice of requirement.

- (2) The EPA, at any time before or after it receives a consent application or notice of requirement under **clause 3**, may request the relevant local authority to provide the information and set a date by which the information must be made available. 5
- (3) The local authority concerned must,—
- (a) within the time specified by the EPA, provide the information requested; or
  - (b) advise the EPA that the information will be available, but not within the time specified by the EPA; or 10
  - (c) advise the EPA that the local authority does not hold the information and, if the local authority knows where the information is held, advise the EPA accordingly.
- (4) If a local authority is unable to provide the information requested under **sub-clause (2)** within the time specified under that subclause, the local authority must provide the information as soon as practicable. 15
- (5) The local authority is entitled to set, and recover from the EPA, a reasonable charge for the supply of information requested by the EPA under this clause. 20
- Compare: 2020 No 35 Schedule 6 cl 7

## 10 Confidential information

Despite **clause 9**, if information sensitive to an iwi or hapū is held by a local authority under an agreement of confidentiality, the local authority must—

- (a) maintain that confidentiality; and
- (b) before the information is disclosed under **clause 9**, discuss with the relevant iwi or hapū whether that information or any part of may be disclosed, and if so, how it may be disclosed and to whom. 25

## 11 EPA powers to make certain decisions

- (1) The EPA—
- (a) may make administrative decisions that are incidental or ancillary to the conduct of the panel; but 30
  - (b) must not make administrative decisions that would be inconsistent with, or preclude, compliance with, **clause 5 or Schedule 3** (Treaty settlement arrangements).
- (2) The EPA must publish, free of charge to the public on an Internet site it maintains, every written notice or other document that this Act requires to be— 35
- (a) received by the EPA or a panel from any person; or
  - (b) sent by the EPA or a panel to any person.

- (3) In performing and exercising its functions, duties, and powers under this schedule, the EPA must, as far as is reasonably practicable, minimise costs and avoid delay.

Compare: 2020 No 35 Schedule 6 cl 8

*Information required for consent applications for listed projects and referred projects* 5

**12 Information required in consent applications**

- (1) Every consent application for a listed or a referred project made under **clause 3** must include the following information:
- (a) a description of the proposed activity; and 10
  - (b) a description and map of the site at which the activity is to occur, including whether the site is within or adjacent to a statutory area (as defined in the relevant Treaty settlement Act); and
  - (c) confirmation that the consent application complies with **clause 5(1)**; and 15
  - (d) the full name and address of—
    - (i) each owner of the site and of land adjacent to the site; and
    - (ii) each occupier of the site and of land adjacent to the site who, after reasonable inquiry, is able to be identified by the consent applicant; and 20
  - (e) a description of any other activities that are part of the proposal to which the consent application relates; and
  - (f) a description of any other resource consents, notices of requirement for designations, or alterations to designations required for the proposal to which the consent application relates; and 25
  - (g) an assessment of the activity against—
    - (i) sections 5, 6, and 7 of the Resource Management Act 1991; and
    - (ii) the purpose of this Act; and
    - (iii) the matters set out in **section 21** (whether project helps to achieve purpose of Act); and 30
  - (h) an assessment of the activity against any relevant provisions in any of the documents listed in **subclause (2)**; and
  - (i) information about any Treaty settlements that apply in the project area, including—
    - (i) the identification of the relevant provisions in those Treaty settlements; and 35



- 
- (ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and
- (j) a statement as to whether the site is within or adjacent to a statutory area (as defined in a relevant Treaty settlement Act); and 5
- (k) the conditions that the applicant proposes for the resource consent.
- (2) The documents referred to in **subclause (1)(h)** are the following:
- (a) a national environmental standard:
- (b) other regulations made under the Resource Management Act 1991:
- (c) a national policy statement: 10
- (d) a New Zealand coastal policy statement:
- (e) a regional policy statement or proposed regional policy statement:
- (f) a plan or proposed plan:
- (g) a planning document recognised by a relevant iwi authority and lodged with a local authority. 15
- (3) An assessment under **subclause (1)(h)** must include an assessment of the activity against—
- (a) any relevant objectives, policies, or rules in a document listed in **subclause (2)**; and
- (b) any requirement, condition, or permission in any rules in any of those documents; and 20
- (c) any other requirements in any of those documents.
- (4) A consent application must include an assessment of the activity's effects on the environment that—
- (a) includes the information required by **clause 13**; and 25
- (b) covers the matters specified in **clause 14**.
- (5) A consent application must also include the following information:
- (a) if a permitted activity is part of the proposal to which the consent application relates, a description that demonstrates that the activity complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1) of the Resource Management Act 1991); and 30
- (b) if the activity is to occur in an area that is within the scope of a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, an assessment of the activity against any resource management matters set out in that planning document (for the purposes of **clause 33(3)**); and 35

- (c) in the case of a referred project, all the additional information required by the relevant referral order.
- (6) If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site, because the land is Māori land in multiple ownership, the applicant must include a statement to that effect. 5
- 13 Information required to assess environmental effects**
- (1) An assessment of an activity's effects on the environment under **clause 12(4)** must include the following information:
- (a) an assessment of the actual or potential effects on the environment: 10
- (b) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use:
- (c) if the activity includes the discharge of any contaminant, a description of—
- (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and 15
- (ii) any possible alternative methods of discharge, including discharge into any other receiving environment:
- (d) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect of the activity: 20
- (e) identification of persons who may be affected by the activity and any response to the views of any persons consulted, including the views of iwi or hapū that have been consulted in relation to the proposal:
- (f) if iwi or hapū elect not to respond when consulted on the proposal, any reasons that they have specified for that decision: 25
- (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how the effects will be monitored and by whom, if the activity is approved:
- (h) an assessment of any effects of the activity on the exercise of a protected customary right. 30
- (2) A consent application need not include any additional information specified in a relevant policy statement or plan that would be required in an assessment of environmental effects under clause 6(2) or 7(2) of Schedule 4 of the Resource Management Act 1991. 35

Compare: 2020 No 35 Schedule 6 cl 10

**14 Matters to be covered in assessment of environmental effects**

The assessment of an activity's effects on the environment under **clause 12(4)** must cover the following matters:

- (a) any effect on the people in the neighbourhood and, if relevant, the wider community, including any social, economic, or cultural effects:
- (b) any physical effect on the locality, including landscape and visual effects:
- (c) any effect on ecosystems, including effects on plants or animals and physical disturbance of habitats in the vicinity: 5
- (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
- (e) any discharge of contaminants into the environment and options for the treatment and disposal of contaminants: 10
- (f) the unreasonable emission of noise:
- (g) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.

Compare: 2020 No 35 Schedule 6 cl 11 15

## 15 Information required in applications for subdivision or reclamation

### *Information required for subdivision consents*

- (1) In addition to the information required in a consent application under **clause 12**, a consent application for a subdivision in a project area must include information that adequately defines the following: 20
  - (a) the position of all new boundaries; and
  - (b) the areas of all new allotments, unless the subdivision involves a cross lease, company lease, or unit plan; and
  - (c) the locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips; and 25
  - (d) the locations and areas of existing esplanade reserves, esplanade strips, and access strips; and
  - (e) the locations and areas of any part of the bed of a river or lake to be vested in a territorial authority under section 237A of the Resource Management Act 1991; and 30
  - (f) the locations and areas of any land within the coastal marine area that is to become part of the common marine and coastal area under section 237A of the Resource Management Act 1991; and
  - (g) the locations and areas of land to be set aside as new roads.

### *Information required for reclamation consents* 35

- (2) In addition to the information required for a consent application by **clause 12**, a consent application for a reclamation must include information to show the area to be reclaimed, including the following:

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

Compare: 2020 No 35 Schedule 6 cl 12

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*Information required in notices of requirement for listed projects and referred projects*

**16 Information required in notices of requirement**

- (1) A notice of requirement for a listed project or in a referred project must include the following information: 10
  - (a) a description of the site to which the notice of requirement applies, including whether the site is within or adjacent to a statutory area (as defined in a relevant Treaty settlement Act); and
  - (b) information on the effects of the proposed project or work on the environment, together with a description of how any adverse effects will be mitigated; and 15
  - (c) confirmation that the notice of requirement complies with **clause 5(1)**; and
  - (d) an assessment of the project or work against—
    - (i) sections 5, 6, and 7 of the Resource Management Act 1991 and the purpose of this Act; and 20
    - (ii) any relevant provisions in any of the documents listed in **sub-clause (4)**; and
  - (e) information about any Treaty settlements that apply in the project area, including— 25
    - (i) the identification of the relevant provisions in those Treaty settlements; and
    - (ii) a summary of any redress provided by those settlements that affects natural and physical resources relevant to the project or project area; and 30
  - (f) the full name and address of—
    - (i) each owner of the land to which the notice of requirement relates and of the land adjacent to that land; and
    - (ii) each person who, after reasonable inquiry, is known by the requiring authority to be an occupier of the land to which the notice relates and of the land adjacent to that land; and 35

- (g) an assessment of whether the project or work and the designation sought are reasonably necessary for achieving the objectives of the requiring authority; and
- (h) any consideration of alternative sites, routes, or methods of undertaking the project or work; and 5
- (i) a list of the resource consents needed for the project or work and whether these have been applied for; and
- (j) a description of any consultation undertaken with parties likely to be affected by the project or work and the designation; and
- (k) any conditions that the requiring authority proposes for the designation. 10
- (2) In the case of a referred project, a notice of requirement must also include all the additional information required by the relevant referral order.
- (3) The documents referred to in **subclause (1)(d)(ii)** are the following:
- (a) a national policy statement:
- (b) a New Zealand coastal policy statement: 15
- (c) a regional policy statement or proposed regional policy statement:
- (d) a plan or proposed plan:
- (e) a planning document recognised by a relevant iwi authority and lodged with a local authority.
- (4) If the applicant is not able to supply the name and address of the owner and each occupier of the site and of land adjacent to the site, because the land is Māori land in multiple ownership, the applicant must include a statement to that effect. 20

Compare: 2020 No 35 Schedule 6 cl 13

*General requirement* 25

**17 Scope of information required**

- (1) The information required by **clauses 12 to 16** must be provided in sufficient detail to correspond to the scale and significance of the effects that the activity is anticipated to have on the environment.
- (2) **Subclause (1)** applies, taking into account any proposal by a consent applicant or requiring authority to manage the adverse effects of an activity through conditions, including conditions requiring the preparation of a management plan. 30

*Applications relating to activities in coastal marine area*

**18 Applications for coastal permits** 35

If a consent application is made under this schedule for a coastal permit to undertake an aquaculture activity, or includes such an application, a copy of the

application must be included for the Director-General of the Ministry for Primary Industries.

### 19 Applications relating to land in coastal marine area

- (1) If a consent application is made to subdivide land that, in whole or in part, is in the coastal marine area, a panel must decide the application as if the whole of the land to be subdivided were part of the abutting district. 5
- (2) **Subclause (3)** applies if a consent application is made for an activity that the applicant intends to undertake once the proposed location of the activity has been reclaimed, but on the date on which the application is lodged, the proposed location of the new activity is still within the coastal marine area. 10
- (3) The panel may decide the application as if—
  - (a) the application related to an activity within the abutting district; and
  - (b) the district plan applying in the abutting district applied to the proposed location of the activity.

### *Processing of consent applications and notices of requirement* 15

### 20 Public and limited notification not permitted

- (1) A panel must not give public or limited notification of a consent application or notice of requirement.
- (2) However, not later than 5 working days after the responsible agency has determined that the application meets the requirements of **section 17** and has referred the consent application or notice of requirement to a panel under that clause, the panel must invite written comments on the application or notice of requirement before it from the persons or groups listed in **subclauses (3) to (6)**. 20

### *Persons that must or may be invited to comment on listed project* 25

- (3) For a listed project, a panel must invite comments on a consent application or notice of requirement before it from the following:
  - (a) the relevant local authorities; and
  - (b) the relevant iwi authorities; and
  - (c) a Treaty settlement entity relevant to the listed project, including— 30
    - (i) an entity that has an interest under a Treaty settlement in an area where a listed project is to occur; and
    - (ii) an entity that has an interest under the NHNP Act; and
    - (iii) any iwi or hapū that is party to a relevant Mana Whakahono ā Rohe or joint management agreement under the Resource Management Act 1991; and 35
  - (d) if a consent application relates to an activity in a customary marine title area, the relevant customary marine title group; and

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- (e) if a consent application relates to an activity in a protected customary rights area, the relevant protected customary rights group; and
- (f) the owners of the land on which the project is to be undertaken and the land adjacent to that land; and
- (g) the occupiers of the land on which the project is to be undertaken and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified; and 5
- (h) Ministers of the Crown responsible for the following portfolios:
- (i) Arts, Culture and Heritage; and
  - (ii) Climate Change; and 10
  - (iii) Conservation; and
  - (iv) Defence; and
  - (v) Education; and
  - (vi) Housing; and
  - (vii) Energy and Resources; and 15
  - (viii) Infrastructure; and
  - (ix) Land Information; and
  - (x) Local Government; and
  - (xi) Māori Crown Relations: Te Arawhiti; and
  - (xii) Transport; and 20
  - (xiii) Treaty of Waitangi Negotiations; and
  - (xiv) Urban Development; and
- (i) the Director-General of Conservation; and
- (j) any requiring authority that has a designation on land on which the project is to be undertaken, or on land that is adjacent to the land on which the project is to be undertaken. 25
- (4) A panel may invite written comments from any other person the panel considers appropriate.
- Persons who must or may be invited to comment on referred project*
- (5) For a referred project, a panel must invite comments on a consent application or notice of requirement before it from the following: 30
- (a) the relevant local authorities; and
  - (b) the relevant iwi authorities, including those identified in the report obtained under **section 13**; and
  - (c) a Treaty settlement entity relevant to the referred project, including— 35
    - (i) an entity that has an interest under a Treaty settlement in an area where a referred project is to occur; and

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- (ii) an entity that has an interest under the NHNP Act; and
  - (iii) an entity identified in the report obtained under **section 13**; and
  - (iv) an entity with a role under any iwi participation legislation other than a Treaty settlement Act; and
  - (v) an entity operating in a collective arrangement; and 5
- (d) if a consent application relates to an activity in a customary marine title area, the relevant customary marine title group (including any relevant customary marine title group identified in the report obtained under **section 13**); and
- (e) if a consent application relates to an activity in a protected customary rights area, the relevant protected customary rights group (including any relevant protected customary rights group identified in the report obtained under **section 13**); and 10
- (f) any applicant group under the Marine and Coastal Area (Takutai Moana) Act 2011 identified in the report obtained under **section 13**; and 15
- (g) the owners of the land on which the project is to be undertaken and the land adjacent to that land; and
- (h) the occupiers of the land on which the project is to be undertaken and the land adjacent to that land unless, after reasonable inquiry, an occupier cannot be identified; and 20
- (i) Ministers of the Crown responsible for the portfolios listed in **subclause (3)(h)**; and
- (j) the Director-General of Conservation; and
- (k) any requiring authority that has a designation on land on which the project is to be undertaken, or on land that is adjacent to that land; and 25
- (l) Heritage New Zealand Pouhere Taonga and the New Zealand Infrastructure Commission/Te Waihanga.
- (6) A panel may invite comments from any other person the panel considers appropriate.
- (7) If a panel has not been appointed by the date provided for under **subclause (2)**, the panel convener must, without undue delay, appoint a panel which must, without undue delay, comply with the requirements of that clause. 30
- Compare: 2020 No 35 Schedule 6 cl 17
- 21 General provisions relating to invitations given under clause 20(2)**
- (1) A panel must specify in its invitation that written comments on a consent application or notice of requirement must be received by the EPA on behalf of the panel on a specified date (which must be 10 working days after the date on which the invitation is given under **clause 20(2)**). 35



- (2) The invitation must include notice of the consent application or notice of requirement, with details as to how to access the consent application or notice of requirement.
- (3) An iwi authority invited to provide comments under **clause 20(2)** may—
- (a) share the consent application or notice of requirement with hapū whose rohe is in the project area proposed in the application or notice; and
  - (b) choose to include comments from that hapū with the comments provided to the panel by the iwi authority.
- (4) Written comments may be returned to the EPA by electronic means.
- (5) The EPA must forward copies of any comments received under this clause to the consent applicant or requiring authority. 10
- (6) The panel is not required to consider any comments received after the time specified in the invitation, but may do so, in its discretion, as long as the panel has not issued its decision.
- (7) There is no right for any person to seek a waiver of the time limit for written comments to be received by the EPA. 15

Compare: 2020 No 35 Schedule 6 cl 18

## 22 Response on comments provided under clause 21

The consent applicant or requiring authority, if it makes a response to comments provided under **clause 21** on a consent application or notice of requirement, must provide that response to the EPA not later than 5 working days after the date by which those comments provided under **clause 21** had to be received by the EPA in accordance with that clause. 20

Compare: 2020 No 35 Schedule 6 cl 19

## 23 Hearing not required 25

There is no requirement for a panel to hold a hearing in respect of a consent application or notice of requirement and no person has a right to be heard by a panel.

Compare: 2020 No 35 Schedule 6 cl 20

## 24 Procedure if hearing is held 30

*Who may appear and be heard*

- (1) If, in its discretion, a panel considers it is appropriate to hold a hearing, it may hear from—
- (a) the applicant; and
  - (b) any person commissioned by the panel to write a report on the relevant consent application or notice of requirement; and 35
  - (c) any person or group that provided comments in response to an invitation given under **clause 20(2)**.

- (2) If a person or group that provided comments is heard, a panel must give the consent applicant or requiring authority the opportunity to be heard.
- Notices and timing requirements*
- (3) If a panel decides to hold a hearing, the EPA, at the direction of the panel, must issue a notice of hearing to persons or groups referred to in **subclause (1)**, fixing the date, time, and place of the hearing. 5
- (4) The notice must give no less than 5 working days' notice of the hearing, and must advise the persons notified—
- (a) that they may appear and be heard, be represented, and call evidence in relation to the consent application or notice of requirement; and 10
- (b) that they must, within 3 working days after the notice of hearing is given, advise the EPA whether they will attend the hearing.
- (5) If a person or group advises a panel under **subclause (4)(b)** that they will attend a hearing but fails to appear, the panel may proceed with the hearing.
- (6) A panel must complete any hearing within the time frame allowed under **clause 39(2)** for the panel to issue its final recommendation. 15
- Other provisions as to conduct of hearing*
- (7) If a hearing is held, a panel must—
- (a) avoid unnecessary formality; and
- (b) recognise tikanga Māori where appropriate; and 20
- (c) receive evidence, written or spoken, in Māori (and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies accordingly); and
- (d) not permit any person other than the chairperson or members of a panel to question a party or witness; but
- (e) if the chairperson of a panel gives leave, permit cross-examination. 25
- (8) Section 4 of the Commissions of Inquiry Act 1908 (which gives powers to maintain order) applies to any hearing conducted by a panel under this Act.
- (9) A panel may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with a consent application or notice of requirement, whether or not it would be admissible in a court of law. 30
- (10) A panel may, in its discretion, make an order that prohibits or restricts the publication or other means of communication of information supplied to the panel or obtained by it in the course of a hearing.
- (11) **Subclause (10)** applies whether or not the information is material to determining a consent application or notice of requirement if there would be good reason to withhold the information under section 6 or 7 of the Local Government Official Information and Meetings Act 1987. 35

- (12) A panel may, if it considers that there is likely to be excessive repetition, limit the circumstances in which persons with the same interests may speak or call evidence.
- Remote access hearing*
- (13) A panel may direct that a hearing or part of a hearing be held using 1 or more remote access facilities— 5
- (a) on the initiative of the panel; or
  - (b) at the request of the applicant or requiring authority; or
  - (c) at the request of a person or a representative of a group of persons referred to in **subclause (1)**. 10
- (14) If a hearing is held using a remote access facility, a panel must,—
- (a) if it is reasonably practicable to do so, enable access to the hearing by making it available live and free of charge to the public, for example, on an Internet site; or
  - (b) as soon as practicable after the hearing closes, make available, free of charge on an Internet site,— 15
    - (i) an audio or a video recording of the hearing; or
    - (ii) a written transcript of the hearing.
- (15) **Subclause (14)** is subject to section 48 of the Local Government Official Information and Meetings Act 1987 (right of local authorities to exclude public). 20
- Compare: 2020 No 35 Schedule 6 cl 21
- 25 Minister may direct delay in processing consent application or notice of requirement**
- (1) The Minister may, at any time after a consent application or notice of requirement has been provided to a panel, give a written direction, with reasons, to the EPA that the panel must suspend processing, or further processing, of the application or notice. 25
- (2) If the EPA receives a direction from the Minister under **subclause (1)**, the EPA must, within 5 working days of receiving the direction, give written notice of it, and the Minister's reasons, to— 30
- (a) the members of the panel; and
  - (b) the relevant local authorities; and
  - (c) the applicant or requiring authority; and
  - (d) any person or group invited to provide comments under **clause 20(2)**. 35
- (3) The Minister may exercise the discretion under **subclause (1)** if the Minister considers that—

- (a) resource consents, or further resource consents, are required in respect of the proposal to which the consent application or notice of requirement relates; and
- (b) the nature of the proposal will be better understood if a consent application is made for those resource consents before the panel proceeds further. 5
- (4) The Minister may, at any time, by notice in writing with reasons, withdraw the direction given to the EPA under **subclause (1)**.
- (5) A copy of the Minister's direction given under **subclause (1)** must be given to the persons and groups listed in **subclause (2)**. 10
- (6) **Subclause (7)** applies if the Minister's direction given under **subclause (1)** is withdrawn under **subclause (4)** before any consent applications for further resource consents are lodged.
- (7) If this subclause applies, the panel must resume processing the original consent application or notice of requirement from the date on which the Minister's direction is withdrawn. 15
- (8) **Subclause (9)** applies if consent applications for further resource consents are lodged with the EPA before the Minister's direction given under **subclause (1)** is withdrawn.
- (9) If this subclause applies, the panel must— 20
- (a) resume processing the original consent application or notice of requirement; and
- (b) observe the time frames set out in this schedule that apply to the further consent applications, instead of the time frames that would have applied to the original consent application or notice of requirement. 25
- 26 Consent applicant or requiring authority may request suspension, etc, of processing**
- (1) A consent applicant or a requiring authority may make a written request to the EPA that a panel suspend processing a consent application or notice of requirement. 30
- (2) A request may be made only in the period between—
- (a) the time when the EPA provides the consent application or notice of requirement to a panel under **clause 5**; and
- (b) the time when a panel issues its final recommendation on an application or notice under **clause 39**. 35
- (3) The EPA must provide a copy of the request received under **subclause (1)**—
- (a) to the relevant local authority; and
- (b) to any person or group invited to provide comments under **clause 20(2)**.

- (4) A panel, at its discretion,—
- (a) may suspend the processing of a consent application or notice of requirement when a request is made under **subclause (1)**; but
  - (b) if it does grant a suspension, must give the consent applicant or requiring authority written advice of the date on and after which the panel ceased to process the application or notice. 5
- (5) Despite **subclause (4)**, a panel must grant a request to suspend the processing of a consent application that relates to an aquaculture activity, if the consent applicant advises that the suspension is necessary for the purpose of negotiating a pre-request aquaculture agreement under section 186ZM of the Fisheries Act 1996. 10
- (6) A consent applicant or requiring authority granted a suspension under **subclause (4) or (5)** may request in writing that the processing of the application or notice be resumed.
- (7) If a panel receives a request under **subclause (6)**, it must, as soon as is reasonably practicable, resume processing the consent application or notice of requirement. 15
- (8) If a panel does not receive a request under **subclause (6)**, it may decide under **clause 27(2)(b)** to continue to process the consent application or notice of requirement. 20
- (9) If processing of a consent application or notice of requirement is resumed or continued under **subclause (7) or (8)**, the EPA must give written notice of that fact, specifying the date on which processing was resumed or continued,—
- (a) to the consent applicant or requiring authority; and
  - (b) to the relevant local authority; and 25
  - (c) to any person or group invited to provide comments under **clause 20(2)**.
- 27 Return of consent application or notice of requirement**
- (1) This clause applies if 50 working days have elapsed since the processing of a consent application or notice of requirement was suspended under **clause 26(4)(a) or (5)**. 30
- (2) A panel must decide whether—
- (a) to return the consent application or notice of requirement to the applicant or requiring authority; or
  - (b) to continue to process the application or notice. 35
- (3) The decision of a panel under this clause must be notified in writing to—
- (a) the applicant or requiring authority; and
  - (b) the relevant local authority; and

- (c) in relation to a consent application for a coastal permit to undertake an aquaculture activity, the Director-General of the Ministry for Primary Industries; and
- (d) any person or group invited to provide comments under **clause 20(2)**.
- (4) If a panel decides to return the consent application or notice of requirement, it must be returned together with written reasons for its return. 5
- (5) If a consent application or notice of requirement that has been returned is lodged again with the EPA, the application or notice must be treated as a new application or notice.
- (6) If a consent application or notice of requirement is suspended more than once, the total number of days over which processing may be suspended must not be more than 50 working days. 10
- 28 Further information**
- (1) At any time before a panel issues its final recommendation on a consent application or notice of requirement under **clause 39**, the panel may direct the EPA— 15
- (a) to request further information on a proposal from any of the following:
- (i) a consent applicant or requiring authority;
- (ii) a relevant local authority;
- (iii) any person or group invited to provide comments under **clause 20(2)**: 20
- (b) to prepare or commission a report (including a report from a relevant local authority) on an issue relevant to the consent application or notice of requirement.
- (2) If further information is requested under **subclause (1)(a)**, the person or body requested to provide the information must— 25
- (a) provide electronic copies of the information or report requested; or
- (b) advise the EPA, with reasons, that it declines to provide the information or report requested.
- (3) **Subclause (2)** must be complied with by the date directed by the panel, which must not be later than 10 working days after the direction is given. 30
- (4) As soon as is reasonably practicable after the date on which any information or report is received by the EPA from any person or body requested or commissioned under **subclause (1)(a) or (b)**, the EPA must provide electronic copies of the information or report— 35
- (a) to the members of the panel; and
- (b) to the consent applicant or requiring authority; and
- (c) to every person or group that provided comments under **clause 20(2)**.

- (5) The persons and groups that receive the information or report under **sub-clause (4)(c)** may not make further comments unless requested by the panel.
- (6) If information requested under **subclause (1)** is not received by the panel in accordance with **subclauses (2) and (3)**, the panel must proceed as if the request for further information had been declined. 5
- 29 Further requirements in relation to aquaculture**
- Section 107F of the Resource Management Act 1991 applies to a panel with the necessary modifications, including the following:
- (a) the reference to a consent authority must be read as a reference to a panel: 10
- (b) the references to submissions must be read as references to comments provided under **clause 21**:
- (c) the reference to section 88(3A) of the Resource Management Act 1991 must be read as a reference to **clause 6(1)** of this schedule:
- (d) the references to sections 41C, 42A, 92, and 149 of the Resource Management Act 1991 must be read as references to **clause 28** of this schedule. 15

*Certificate of compliance*

- 30 Application for certificate of compliance**
- (1) A consent applicant or requiring authority may lodge an application for a certificate of compliance with the EPA, but only if the application is lodged at the same time as, and as part of, a consent application or notice of requirement. 20
- (2) A panel must consider the application and may issue a certificate of compliance by applying section 139 of the Resource Management Act 1991 with the necessary modifications. 25
- (3) Nothing in this schedule prevents a consent applicant or requiring authority from applying to a local authority under the Resource Management Act 1991 for a certificate of compliance in relation to any activity to which this Act applies.

*Resource Management Act 1991 processes may be used for listed projects and referred projects* 30

- 31 Use of Resource Management Act 1991 processes for listed projects and referred projects**
- (1) This clause applies to a person who is authorised under this Act to apply to a panel for a resource consent or designation for— 35
- (a) a listed project; or
- (b) a referred project.

- (2) This Act does not prevent that person from lodging, in relation to a listed project or a referred project,—
- (a) an application for a resource consent under the Resource Management Act 1991; or
  - (b) a notice of requirement under the Resource Management Act 1991. 5
- (3) However, a person who has lodged an application for a resource consent or a notice of requirement under the Resource Management Act 1991 in relation to a listed project or a referred project must withdraw that application or notice of requirement before lodging a consent application or notice of requirement under this Act for the same, or substantially the same, activity. 10

## Part 2

### Assessment of consent applications and notices of requirement by panel

- 32 Panel considers applications and notices of requirement for listed and referred projects** 15
- (1) The expert panel must assess an application or notice of requirement for a listed or referred project, and any written comments received on the application or notice, giving weight to the following matters, if relevant, in the order listed (greater to lesser):
- (a) the purpose of this Act; and 20
  - (b) the purpose of the Resource Management Act 1991 set out in section 5 of that Act; and
  - (c) the matters for consideration in section 6 of the Resource Management Act 1991; and
  - (d) the matters for consideration in section 7 of the Resource Management Act 1991; and 25
  - (e) the provisions of any of the following, if relevant, made under the Resource Management Act 1991:
    - (i) any national direction:
    - (ii) operative and proposed policy statements and plans: 30
    - (iii) iwi management plans:
    - (iv) Mana Whakahono ā Rohe:
    - (v) joint management agreements; and
  - (f) the relevant provisions of the Resource Management Act 1991 or any other legislation that direct decision making under the Resource Management Act 1991 (*see*, for example, sections 104 to 107 of that Act and the provisions referred to in **clauses 31 to 35**). 35



- (2) The panel must also, in assessing listed and referred projects under this clause, consider the extent to which any relevant Treaty settlement and the Crown's commitments under the Marine and Coastal Area (Takutai Moana) Act 2011, the NHNP Act, and any relevant Mana Whakahono ā Rohe and joint management agreements would be met if the application were approved. 5
- (3) If a Treaty settlement imposes an obligation on a local authority or other decision maker when determining an application for a resource consent, a panel must comply with that obligation as if it were imposed by the local authority or other decision maker. 10
- Example** 10
- Compliance with obligations imposed by Treaty settlement*
- Under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the consent authority must, when making decisions relating to the river, have particular regard to the vision and strategy set out in that Act.
- A panel determining a relevant consent application or notice of requirement under this Act must comply with that obligation in addition to the obligations imposed by this Act. 15
- (4) **Subclause (3)** is subject to **clause 5 of Schedule 3** (conduct of hearings and other procedural matters in context of Treaty settlements). 20
- Compare: 2020 No 35 Schedule 6 cl 29
- 33 Further matters relevant to consent applications and notices of requirement for listed and referred projects**
- (1) If a consent application or notice of requirement for a listed or referred project relates to an activity in an area where a planning document applies that is prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a panel must have regard to any resource management matters in that document until all obligations under section 93 of that Act have been met by the relevant local authority. 25
- (2) After considering the report of an expert panel on a listed or referred project, the joint Ministers, before deciding to approve or decline the project, must consider whether the proposed decision would be consistent with a relevant Treaty settlement or commitment of the Crown to iwi and hapū under the Marine and Coastal Area (Takutai Moana) Act 2011, the NHNP Act, or a Mana Whakahono ā Rohe or joint management agreement. 30
- (3) In considering whether a decision made under **subclause (1)** would be consistent with the commitments referred to in that subclause, the joint Ministers must apply the decision-making criteria set out in **clause 32(2)**. 35
- (4) If a consent application or notice of requirement relates to an area where an environment covenant applies prepared by Ngā Hapū o Ngāti Porou under the

Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, a panel must have regard to any resource management matters in that document.

Compare: 2020 No 35 Schedule 6 cl 30(3)

*Resource consents and notices of requirement for listed or referred projects*

- 34 Consideration of consent applications and notices of requirement for listed and referred projects** 5
- Matters which panel may or must disregard*
- (1) When forming an opinion for the purposes of determining the actual and potential effects on the environment of allowing an activity, a panel may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. 10
- (2) A panel must not,—
- (a) when considering a consent application or notice of requirement, have regard to—
- (i) trade competition or the effects of trade competition; or 15
- (ii) any effect on a person who has given written approval to the application (unless that approval is withdrawn before the application is decided):
- (b) when considering a consent application relating to housing, have regard to any adverse effect, real or perceived, arising from the kind of housing intended (whether for rental housing, for people with disability needs, or for people who are beneficiaries). 20
- (3) A panel considering a consent application or notice of requirement must disregard **subclause (2)(a)(ii)** if the person withdraws the approval in a written notice received by the panel before the date of the hearing (if any) or, if there is no hearing, before the application is determined. 25
- Other matters relevant to decisions*
- (4) A panel may recommend in its report that a consent application or notice of requirement—
- (a) be granted on the ground that the activity concerned is a controlled, restricted discretionary, discretionary, non-complying, or prohibited activity, regardless of what type of activity the application was expressed to be for: 30
- (b) be declined on the ground that the information provided by the applicant is inadequate to make any recommendation. 35
- (5) In making an assessment on the adequacy of the information, a panel must have regard to whether any request made to an applicant for further informa-

tion or reports resulted in further information or any report being made available.

Compare: 2020 No 35 Schedule 6 cl 31(4)–(6)

- 35 Further matters relevant to considering consent applications for referred projects** 5
- (1) Sections 104A to 104C, 105 to 107, and 138A(1), (2), (5), and (6) of the Resource Management Act 1991 apply to a panel’s consideration of a consent application for a referred project.
  - (2) The provisions referred to in **subclause (1)** apply with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel. 10
  - (3) If a consent application for a listed or referred project relates to an activity in an area where a planning document applies that is prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011, a panel must have regard to any resource management matters in that document until all obligations under section 93 of that Act have been met by the relevant local authority. 15
  - (4) In considering whether a decision made under **subclause (3)** would be consistent with the commitments referred to in that subclause, the joint Ministers must apply the decision-making criteria set out in **clause 32(2)**. 20
  - (5) To avoid doubt, section 104D of the Resource Management Act 1991 does not apply to a panel’s consideration of a resource consent for a referred project.

*Requirements for designations for listed projects and referred projects*

- 36 Consideration of notices of requirement for listed projects and referred projects** 25
- (1) When considering a notice of requirement and any comments received in response to an invitation given under **clause 20(2)**, a panel must, subject to **clause 32(1)**, consider the effects on the environment of allowing the requirement, having particular regard to—
    - (a) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—
      - (i) the requiring authority does not have an interest in the land sufficient to undertake the work; or
      - (ii) it is likely that the work will have a significant adverse effect on the environment; and 35
    - (b) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority seeking the designation; and
    - (c) any other matter the panel considers reasonably necessary in order to make a decision on the requirement.

- (2) The effects that are to be considered under **subclause (1)** may include positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the designation, but only if those effects result from measures proposed or agreed by the requiring authority. 5
- (3) If a panel recommends a requirement,—
- (a) it may waive the requirement for an outline plan as required by section 176A of the Resource Management Act 1991; but
- (b) if it does not waive the requirement under that section, the outline plan must be submitted to the territorial authority in accordance with that section. 10
- (4) If a Treaty settlement imposes an obligation on a territorial authority or other decision maker when determining, or making a recommendation on, a notice of requirement, a panel must comply with that obligation as if it were the territorial authority or other decision maker (*see* the example relating to **clause 32**). 15

### *Conditions*

#### **37 Conditions applying to resource consents**

- (1) This clause applies to consent applications in respect of both listed projects and referred projects.
- (2) A panel may recommend that an application be subject to the conditions it considers appropriate, including conditions required to ensure that any aspect of a Treaty settlement or other arrangement with 1 or more iwi or hapū is recognised or protected. 20
- (3) Without limiting **subclause (2)**, a panel may recommend conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011, the NHNP Act, a Mana Whakahono ā Rohe, or joint management agreement, or to protect iwi and hapū interests. 25
- (4) Sections 108, 108A to 112, and 220 of the Resource Management Act 1991 apply to conditions imposed under **subclause (2)**, subject to all necessary modifications, including the following: 30
- (a) a reference to a consent authority must be read as a reference to a panel; and
- (b) a reference to services or works must be read as a reference to any activities related to the project that is the subject of the consent application. 35

#### **38 Panel to provide copies of draft conditions**

- (1) Before a panel recommends that a resource consent or notice of requirement be approved, the panel must provide a copy of its draft conditions to the following, inviting comments on the draft conditions:

- (a) the consent applicant or requiring authority; and
  - (b) every person or group that provided comments in response to an invitation given under **clause 20(2)**.
- (2) A panel must set a date by which any comments on the draft conditions must be received by the EPA. 5
- (3) The EPA must, as soon as practicable after receiving comments under **subclause (1)**, provide electronic copies of those comments to—
- (a) the members of the panel; and
  - (b) the consent applicant or requiring authority; and
  - (c) every person or group that provided comments in response to an invitation given under **clause 20(2)**. 10
- (4) Sections 123 and 123A of the Resource Management Act 1991 apply to the duration of any resource consent or notice of requirement recommended by a panel.
- (5) Before making a recommendation on a consent application or notice of requirement, a panel must have regard to all comments received under **subclause (1)**. 15

### *Recommendation of panel*

#### **39 Panel to make recommendation**

##### *Report on recommendation* 20

- (1) As soon as practicable after a panel has completed its consideration of a consent application or notice of requirement, the panel must—
- (a) make its recommendation; and
  - (b) produce a written report of that recommendation (the **recommendation**).
- (2) In preparing the report on its recommendation for the joint ministers, the panel must— 25
- (a) consider any relevant Treaty settlements, the NHNP Act if relevant, and any relevant Mana Whakahono ā Rohe and joint management agreements; and
  - (b) consult the Minister of Māori Development and the Minister for Māori Crown Relations: Te Arawhiti on a draft of the report, who must respond to the panel within 5 working days of receiving the draft report. 30
- (3) The panel must issue its recommendation,—
- (a) in the case of a listed project, no later than 25 working days after the date specified for receiving comments under **clause 21**; or 35
  - (b) in the case of a referred project, no later than—

- (i) 25 working days after the date specified for receiving comments under **clause 21**, if the referral order is silent on the matter; or
- (ii) any other number of working days after the date specified for receiving comments under **clause 21**, as may be provided for in the referral order. 5
- (4) However, if the scale or nature of the proposal that is the subject of a consent application or notice of requirement is such that the panel is unable to make a final recommendation within the time specified in **subclause (2)**, the panel may extend the period for issuing its recommendation,—
- (a) in the case of a listed project, by up to a further 25 working days; or 10
- (b) in the case of a referred project,—
- (i) by up to a further 25 working days, if the referral order is silent on the matter; or
- (ii) by any other number of working days, as may be provided for in the referral order. 15
- (5) The period allowed under **subclause (3) or (4)** does not include any time that a consent application or notice of requirement was suspended—
- (a) at the direction of the Minister under **clause 25**; or
- (b) by a decision of a panel under **clause 26**.
- (6) If the panel extends the time under **subclause (4)**, the EPA must give written notice of the extended time to— 20
- (a) the consent applicant or requiring authority, as the case requires; and
- (b) any person or group invited to provide comments under **clause 20(2)**.
- Contents of recommendation report*
- (7) The written report of the panel's recommendation must— 25
- (a) state the panel's recommendation; and
- (b) state the panel's reasons for that recommendation; and
- (c) include a statement of the principal issues that were in contention; and
- (d) include the main findings of the panel on those issues.
- (8) The recommendation must also specify the date on which a resource consent or designation lapses unless it is given effect to by that specified date. 30
- (9) The date specified under **subclause (8)** must not be later than 2 years—
- (a) from the date of commencement, in the case of a resource consent; or
- (b) from the date on which a designation is included in a district plan.

**40 Ministerial decision**

- (1) After considering the recommendation of the panel issued in accordance with **clause 39**, the joint Ministers must make a final decision in accordance with **section 25** of this Act.
- (2) A resource consent granted under this Act commences on the day after the date on which— 5
- (a) all appeal rights under this Act have been exhausted or have expired; or
  - (b) all appeals under this Act are determined.
- (3) Sections 123 and 123A of the Resource Management Act 1991 apply to the duration of any resource consent granted under this Act. 10

**41 Service and publication of decision**

- (1) Notice of the joint Ministers' decision must be served—
- (a) on the applicant or requiring authority, as the case requires; and
  - (b) on any person or group invited to provide comments under **clause 20(2)**; and 15
  - (c) on the relevant local authority; and
  - (d) on other persons and authorities that the panel considers appropriate.
- (2) The notice served under **subclause (1)** must include advice as to the time within which an appeal may be lodged.
- (3) A decision must be published on an Internet site maintained by the responsible agency and be free of charge to the public. 20
- (4) Section 114(4) of the Resource Management Act 1991 applies to a panel, with the necessary modifications.

**42 Decisions may be issued in stages**

- (1) A panel considering a consent application or notice of requirement that includes multiple activities may issue a series of decisions in stages to enable activities to be started while the panel considers and determines later stages of the project that is the subject of the same application or notice. 25
- (2) **Subclause (1)** does not provide an exception to the time frames that apply under **clause 39**. 30

**43 Minor corrections**

- (1) At any time during its term of appointment, a panel may issue an amendment to a decision of the panel or an amended direction, correcting minor omissions, errors, or other defects in a decision of the panel.
- (2) A panel may, within 20 working days of granting a resource consent, correct a resource consent as if it were a consent authority acting under section 133A of the Resource Management Act 1991. 35

- (3) A panel may correct a requirement for a designation before the earlier of the following:
- (a) the day on which the territorial authority includes the designation in its district plan and any proposed district plan under **clause 44**; and
  - (b) the day that is 40 working days after the day on which any appeals relating to the requirement have been determined or all rights of appeal under this Act have been exhausted or have expired. 5
- 44 Designations to be included in district plans**
- (1) This clause applies as soon as is reasonably practicable—
- (a) after a panel determining a notice of requirement confirms or modifies a designation (with or without modification); and 10
  - (b) after any right of appeal under **clause 47** is exhausted or has expired.
- (2) As soon as practicable after any right of appeal is exhausted or has expired, the territorial authority must, without using Schedule 1 of the Resource Management Act 1991,— 15
- (a) include the designation in its district plan and any proposed district plan, as if it were a rule in the plan or proposed plan; and
  - (b) state in the plan and any proposed plan the name of the requiring authority that has the benefit of the designation.
- 45 Role of local authorities in relation to resource consents granted or designations confirmed or modified under this Act** 20
- (1) This clause applies to—
- (a) a resource consent that is granted by a panel; and
  - (b) a designation that is confirmed or modified by a panel and included in a district plan. 25
- (2) The local authority that, but for this Act, would have had responsibility—
- (a) for granting a resource consent under the Resource Management Act 1991 has all the functions, powers, and duties in relation to a resource consent granted under this Act, as if it had granted the resource consent itself; and 30
  - (b) for recommending, under the Resource Management Act 1991, that a designation be confirmed or modified, has all the functions, powers, and duties in relation to the designation as if it had dealt with the matter itself.
- (3) Unless otherwise specified in this Act,— 35
- (a) a resource consent granted, or a designation confirmed or modified and included in a district plan, 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, or a designation confirmed or modified and included in a district plan, under the Resource Management Act 1991 (including any such provision in that Act) must be read, with any necessary modifications, as including a resource consent granted, or a designation confirmed and included in a district plan, under this Act. 5
- (4) Section 116A of the Resource Management Act 1991 (when coastal permit for aquaculture may commence) applies to the commencement of any coastal permit to undertake aquaculture activities in the coastal marine area, subject to a reference to a consent authority being read as a reference to the regional council that, but for this Act, would have had responsibility for the coastal permit. 10
- (5) To avoid doubt, the functions, powers, and duties referred to in **subclause (2)** include— 15
- (a) determining any application to extend the period for which a consent may lapse under section 125(1A) or 184 of the Resource Management Act 1991; and
- (b) the determination of any application for a change or cancellation of a condition of a resource consent under section 127 of the Resource Management Act 1991. 20
- 46 Interim effect of designations**
- Section 178(2) to (6) of the Resource Management Act 1991 applies, with the necessary modifications, to a notice of requirement lodged with the EPA under **clause 3**. 25

**Schedule 5**  
**Process relating to Conservation Act 1987 and Reserves Act 1977**

**ss 10, 30(1)**

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## Part 1

### Process relating to concessions under Conservation Act 1987 and approvals under Reserves Act 1977

#### 1 Interpretation

- (1) In this Part,— 5
- fast-track concession** means a concession under Part 3B of the Conservation Act 1987 or a Reserves Act approval—
- (a) that is required for a listed project or referred project; and
- (b) to which this Act applies
- reserve** has the meaning given in section 2(1) of the Reserves Act 1977 10
- Reserves Act approval** means an authorisation, licence, or right to do something under the Reserves Act 1977 on a reserve.
- (2) A term used in this Part that is defined in the Conservation Act 1987, but not in this Act, has the meaning given in the Conservation Act 1987.
- (3) To avoid doubt, a Reserves Act approval is to be treated as if it were a concession, regardless of the nature of that approval. 15

#### 2 Relationship between this Act, Conservation Act 1987, and Reserves Act 1977

- (1) If an application for a fast-track concession is made under this Act,—
- (a) this Part and the fast-track approval process (as modified by Part 2 of this schedule) apply instead of the process for obtaining a concession under the Conservation Act 1987 or a Reserves Act approval (as the case may be); and 20
- (b) a fast-track concession granted under this Act has the same force and effect for its duration, and according to its terms and conditions, as if it were granted under the Conservation Act 1987. 25
- (2) Remaining provisions of the Conservation Act 1987 that are not modified by this schedule otherwise apply to a fast-track concession, to the extent that they are relevant and with any necessary modifications.
- (3) However, if a Reserves Act approval relates to land that is not owned by a local authority, the approval is only to be treated as a fast-track concession with the written consent of the owner, trustee, or controlling authority of the land. 30

#### 3 Minister of Conservation to make decisions on fast-track concessions

In relation to a fast-track concession,—

- (a) the Minister of Conservation has the functions, duties, and powers of the joint Ministers in relation to the fast-track process for the concession, instead of those ministers; and
- (b) references to the joint Ministers in this Act must be read as references to the Minister of Conservation in relation to the fast-track process for the concession. 5

#### 4 Sections of Conservation Act 1987 disappplied

The following provisions of the Conservation Act 1987 do not apply to a fast-track concession:

- (a) section 17SA: 10
- (b) section 17SB:
- (c) section 17SC:
- (d) section 17SD:
- (e) section 17SE:
- (f) section 17T, except that the Minister of Conservation must consider an application for a concession if the application complies with section 17R(2): 15
- (g) section 17U(3):
- (h) section 17U(4):
- (i) section 17W. 20

#### 5 Matters panel must consider

In assessing a proposed application that involves a fast-track concession and in its report on the substantive application referred by the Minister of Conservation, the expert panel must include consideration of—

- (a) whether an activity that involves a fast-track concession in relation to a conservation area could reasonably be undertaken in another location that— 25
  - (i) is outside the conservation area; or
  - (ii) is in another conservation area or another part of the conservation area, where the potential adverse effects would be significantly less; and 30
- (b) the legal and financial liabilities associated with decisions on leases, licences to occupy land, and easements; and
- (c) any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity. 35

- 6 Matters Minister must consider in deciding whether to grant fast-track concession**
- (1) In deciding whether to grant a fast-track concession, the Minister of Conservation must—
- (a) have regard to the purpose of this Act; and 5
  - (b) have regard to any conservation management strategies or conservation management plans that have been co-authored, authored, or approved by a Treaty settlement entity, and seek the views of the entity on the proposed fast-track concession; and
  - (c) consider the purposes for which the land concerned is held; and 10
  - (d) consider the status, ownership, and administration of the land that would be subject to a fast-track concession; and
  - (e) consider whether the land is subject to any existing arrangements that create obligations in relation to the land; and
  - (f) consider the legal and financial liabilities associated with decisions on leases, licences to occupy land, and easements; and 15
  - (g) obtain and consider a report on the application for referral that is prepared in accordance with this clause.
- (2) The report must be prepared by the Department of Conservation and must contain information about any existing arrangements that create obligations in relation to the land. 20
- (3) In preparing the report, the Department of Conservation must consult with every person that is an owner or administrator of the land (except for an owner or administrator that is the Crown).
- 7 Variation of concession conditions** 25
- If a fast-track concession is granted, and a concessionaire applies to the Minister of Conservation for a variation or extension to the concession, this Part applies to the variation as if it were an application for a fast-track concession.
- 8 Compensation must benefit conservation land**
- (1) The Department of Conservation must ensure that compensation in relation to a fast-track concession for land administered by the Department of Conservation is used to ensure positive effects on land administered by the Department of Conservation (and not other land). 30
- (2) In this clause, **compensation** means any measure—
- (a) proposed or agreed to by the applicant for a fast-track concession to ensure positive effects on the environment to offset or compensate for any adverse effects that will or may result from allowing an activity; or 35
  - (b) imposed by the Minister of Conservation under section 17X(d) of the Conservation Act 1987.

## Part 2

### Modifications to fast-track approvals process for concessions

- 9 Section 14 of this Act modified** 5
- Section 14(3)** must be read as if the following paragraphs were inserted after **section 14(3)(f)**:
- (fa) a general assessment of the project in relation to conservation planning documents, including a statement of general policy, a conservation management strategy, a conservation management plan (as those terms are used or defined in the Conservation Act 1987) or a management plan (as that term is defined in the Reserves Act 1977): 10
- Information required by Conservation Act 1987*
- (fb) if the project includes an application for a concession under Part 3B of the Conservation Act 1987, the information that is required by section 17S of that Act:
- 10 Section 16 of this Act modified** 15
- Section 16(1)** must be read as if the following paragraph were inserted after **section 16(1)(d)**:
- (e) statutory and other bodies and departments that administer legislation under which approvals are sought.
- 11 Section 19 of this Act modified** 20
- Section 19(1)** must be read as if the following paragraph were inserted after **section 19(1)(b)**:
- (ba) the relevant statutory and other bodies that administer legislation under which approvals are sought; and
- 12 Section 20 of this Act modified** 25
- Section 20(1)** must be read as if, after “relevant local authorities”, the following words were inserted: “or the relevant statutory and other bodies and departments that administer legislation under which approvals are sought”.
- 13 Section 23 of this Act modified** 30
- Section 23(1)** must be read as if the following paragraph were inserted after **section 23(1)(c)**:
- (ca) what approvals are able to be considered by the expert panel:
- 14 Section 24 of this Act modified** 35
- Section 24(2)** must be read as if the following paragraph were inserted after **section 24(2)(b)**:

(ba) the relevant statutory and other bodies and departments that administer legislation under which approvals are sought; and

### 15 Schedule 3 of this Act modified

- (1) In **Schedule 3, clauses 2(5) and 6** must be read as if, after “the Minister”, the following words were inserted: “and relevant portfolio Ministers”. 5
- (2) In **Schedule 3, clause 4(3)** must be read as if, after “accredited under section 39A of the Resource Management Act 1991”, the following words were inserted: “, or who has an equivalent relevant environmental qualification,”.

## Part 3

### Land exchanges 10

#### 16 Application of this Part

This Part applies if an applicant requests, in relation to a project that is referred to an expert panel, the exchange of one of the following for land specified by the applicant:

- (a) a conservation area or part of a conservation area: 15
- (b) a Crown-owned reserve or part of a Crown-owned reserve.

#### 17 Interpretation

In this Part,—

**conservation area** has the meaning given in section 2(1) of the Conservation Act 1987, but excludes land listed in Schedule 4 of the Crown Minerals Act 1991 20

**Crown-owned reserve** means land that is—

- (a) vested in the Crown; and
- (b) either— 25
- (i) classified under the Reserves Act 1977 as a scenic reserve, recreation reserve, historic reserve, government purpose reserve, or local purpose reserve; or
- (ii) declared under section 14A of the Wildlife Act 1953 to be a wildlife management reserve.

#### 18 Exchanges of conservation areas and Crown-owned reserves 30

- (1) If this Part applies, the Minister of Conservation may, in accordance with this clause, authorise by notice in the *Gazette* the exchange of the following land for land specified by the applicant (a **land exchange**):
- (a) a conservation area or part of a conservation area:
- (b) a Crown-owned reserve or part of a Crown-owned reserve. 35

- 
- (2) In considering whether to authorise a land exchange, the Minister of Conservation must—
- (a) consider statements of general policy approved under section 17B or section 17C of the Conservation Act 1987; and
  - (b) be satisfied that the land exchange (including any money that may be received under **subclause (5)**) will enhance the conservation values of land managed by the Department of Conservation; and 5
  - (c) obtain and consider a report on the land exchange that is prepared in accordance with this clause.
- (3) The report must be prepared by the Department of Conservation and must assess— 10
- (a) the conservation values of the land concerned, including how threatened or abundant they are, and a comparative assessment of the values that relate to each area of land concerned; and
  - (b) the financial implications for the Crown of the land exchange; and 15
  - (c) whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve.
- (4) All land acquired by the Crown under this clause must be held for any conservation purposes that the Minister of Conservation may specify in respect of that land by notice in the *Gazette*. 20
- (5) Alongside a land exchange under this clause, the Minister of Conservation may authorise the receipt by the Crown of money that must be used on improvements to the land acquired by the Crown that are necessary to satisfy the Minister of Conservation that the land exchange will enhance the conservation values of that land. 25
- (6) The Minister of Conservation or the Director-General may, on behalf of the Crown, do anything that may be necessary to effect the land exchange.
- (7) When the land exchange is effected, the land concerned is no longer subject to the Conservation Act 1987 or the Reserves Act 1977. 30
- (8) To the extent of any inconsistency, this schedule applies to a land exchange under this clause instead of the Conservation Act 1987 or the Reserves Act 1977.
- (9) If, in relation to land, a declaration has been made under the Conservation Act 1987— 35
- (a) the declaration does not prevent the land from being subject to a land exchange in accordance with this clause; and
  - (b) a revocation under section 18(7) of that Act is not required to effect that land exchange. 40



- (10) In **subclause (9)**, a **declaration** means—
- (a) a declaration under section 18 of the Conservation Act 1987; or
  - (b) the classification of land under section 61 or 62 of that Act as land deemed to be held for specified purposes under those sections.
- 19 Sections of Conservation Act 1987 disappplied** 5
- The following provisions of the Conservation Act 1987 do not apply to land that is subject to a land exchange under **clause 18**:
- (a) section 24:
  - (b) section 24E(2) to (4):
  - (c) section 24F: 10
  - (d) section 62.
- 20 Section 40 of Public Works Act 1981 disappplied**
- Nothing in section 40 of the Public Works Act 1981 applies to land that is subject to a land exchange under **clause 18**.
- 21 Land exchange deemed to be disposal under Conservation Act 1987 for purposes of Treaty settlement Acts** 15
- For the purposes of a Treaty settlement Act, a land exchange under **clause 18** is deemed to be a disposal under section 16A of the Conservation Act 1987.
- Part 4**
- Conservation covenants** 20
- 22 Application of this Part**
- (1) This Part applies if an applicant requests the amendment or revocation of a conservation covenant in relation to a project that is referred to an expert panel.
  - (2) In this Part, **conservation covenant** means a covenant in force under section 27 of the Conservation Act 1987 or section 77 of the Reserves Act 1977. 25
- 23 Revocation and amendment of conservation covenants**
- (1) If this Part applies, the Minister of Conservation may amend or revoke a conservation covenant in accordance with this clause.
  - (2) The Minister of Conservation may only amend or revoke the covenant with the written consent of the owner of land that would be affected by the referred project. 30
  - (3) In considering whether to amend or revoke a conservation covenant, the Minister of Conservation must—
    - (a) have regard to the purpose of this Act; and

- (b) have regard to the purpose of the covenant and the conservation values of the land concerned; and
  - (c) take into account whether the amendment or revocation will compromise values of regional, national, or international significance.
- (4) The Minister of Conservation must give effect to the amendment or revocation by— 5
  - (a) applying in writing to the Registrar-General of Land to remove any registration or notation of the conservation covenant from the record of title for the land, or to amend the registration or notation; and
  - (b) doing anything else necessary to amend or revoke the conservation covenant. 10

## Schedule 6

### Process for approvals under Wildlife Act 1953

s 30(1)

- 1 Authority to do anything otherwise prohibited under Wildlife Act 1953**
- (1) This clause applies if an application for a project seeks authority to do anything otherwise prohibited by the Wildlife Act 1953. 5
- (2) The joint Ministers or a panel (as the case may be), in considering whether such authority should be included in an approval under this Act, must—
- (a) take into account the purpose of the Wildlife Act 1953 when assessing wildlife effects of a project; and 10
- (b) have particular regard to any report by the Director-General of Conservation on the risks to wildlife; and
- (c) take into account impacts on threatened, data deficient, and at-risk wildlife species (as defined in the New Zealand Threat Classification System); and 15
- (d) include conditions considered necessary to ensure that best practice standards are met; and
- (e) in setting any condition, consider whether—
- (i) the condition would minimise any impacts on protected wildlife, through avoidance, mitigation, or offsetting; or 20
- (ii) compensation should be provided for when impacts cannot be mitigated.
- (3) The panel must request the Director-General of Conservation to provide a report on the risks and impacts mentioned in **subclause (2)**.
- 2 Effect of authority** 25
- (1) Authority provided for in the Wildlife Act 1953 that is included in an approval under this Act is lawful authority to do anything in respect of wildlife that is specified in the consent.
- (2) That lawful authority has full effect on its terms and may be enforced under the Wildlife Act 1953 as if the authority were granted under that Act. 30
- 3 Section 71 of Wildlife Act 1953 disapplied**
- Section 71 of the Wildlife Act 1953 (which requires joint ministerial consent in certain cases) does not apply if an approval under this Act includes any authority provided for in that Act.

**Schedule 7**  
**Application process for archaeological authority under Heritage**  
**New Zealand Pouhere Taonga Act 2014**

s 30(1)

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15	Right of appeal	89
<b>1</b>	<b>Application of this schedule</b>	<b>5</b>
(1)	This schedule sets out the process that must be followed if an applicant applies for an authority described in section 44(a) or (b) of the HNZPT Act (an <b>archaeological authority</b> ).	
(2)	However, this schedule applies only if—	
(a)	the applicant also applies for a resource consent or lodges a notice of requirement under the Resource Management Act 1991, in accordance with <b>Schedule 4</b> ; and	10
(b)	the archaeological authority is required for the purpose of a proposed listed project or proposed referred project.	
<b>2</b>	<b>Interpretation</b>	<b>15</b>
(1)	In this schedule,—	
	<b>HNZPT Act</b> means the Heritage New Zealand Pouhere Taonga Act 2014	

- Māori Heritage Council** has the meaning given in section 6 of the HNZPT Act.
- (2) A term used in this schedule that is defined in the HNZPT Act, but not in this Act, has the meaning given in the HNZPT Act.
- 3 Application for archaeological authority** 5
- (1) If an applicant requires an archaeological authority for a proposed listed project or a proposed referred project,—
- (a) the process set out in this Act applies subject to—
- (i) the modifications set out in **clause 4**; and
- (ii) **clauses 5, 14, and 15**; and 10
- (b) except as required for the purposes of **clauses 4, 5, 14, and 15**, the process set out in the HNZPT Act does not apply.
- (2) For the purposes of the HNZPT Act, an archaeological authority granted under this schedule must be treated as an authority granted under that Act.
- 4 Modifications to process** 15
- (1) The modifications are as follows:
- (a) before deciding whether to refer the application to a panel and in addition to complying with the requirements set out in this Act, the joint Ministers must consult the following parties to determine whether the information provided with the application is sufficient: 20
- (i) Heritage New Zealand Pouhere Taonga; and
- (ii) the Minister who, with the authority of the Prime Minister, is for the time being responsible for the administration of the HNZPT Act:
- (b) before a panel gives the joint Ministers a written report that sets out its recommendations (*see* **clause 1(5) of Schedule 3**), the panel must— 25
- (i) refer the application to Heritage New Zealand Pouhere Taonga and the Māori Heritage Council; and
- (ii) consider any recommendations made by either or both of those parties; and 30
- (iii) consider the purpose of this Act (*see* **section 3**) and also consider the purpose of the HNZPT Act (*see* section 3 of that Act) as a secondary purpose; and
- (iv) consider the principles of the HNZPT Act (*see* section 4 of that Act): 35
- (c) when making a recommendation or decision in relation to an archaeological authority, the panel or the joint Ministers (as the case may be)

- must take into account a relevant statement of general policy confirmed or adopted under the HNZPT Act:
- (d) a recommendation from Heritage New Zealand Pouhere Taonga or the Māori Heritage Council may recommend that the joint Ministers grant an archaeological authority with conditions, including any conditions imposed under **clause 13**: 5
  - (e) when making a recommendation to the joint Ministers, a panel may recommend the commencement date and duration of an archaeological authority.
- (2) To avoid doubt,— 10
- (a) the modifications in **subclause (1)** apply in addition to the requirements set out in **Part 2** of this Act; and
  - (b) nothing in this Act affects a power under the HNZPT Act for Heritage New Zealand Pouhere Taonga to recover costs (for example, under section 57(2)(c) of that Act). 15
- 5 Certain provisions of HNZPT Act to apply**
- If the joint Ministers grant an archaeological authority, the following sections of the HNZPT Act apply with all necessary modifications:
- (a) section 54 (which relates to the commencement and duration of an archaeological authority): 20
  - (b) section 55 (which relates to the effect of an archaeological authority).
- 6 Application must be made to joint Ministers**
- (1) At any time before an activity in relation to an archaeological site is carried out under an archaeological authority, the person applying for the archaeological authority (or the holder of an archaeological authority) must apply to the joint Ministers for approval of any person nominated to undertake the activity under an authority. 25
- (2) Heritage New Zealand Pouhere Taonga must not recommend that a person be approved to carry out an activity under **subclause (1)** unless satisfied that the person— 30
- (a) has sufficient skill and competency, is fully capable of ensuring that the proposed activity is carried out to the satisfaction of Heritage New Zealand Pouhere Taonga, and has access to appropriate institutional and professional support and resources; and
  - (b) in the case of a site of interest to Māori,— 35
    - (i) has the requisite competencies for recognising and respecting Māori values; and
    - (ii) has access to appropriate cultural support.

- (3) If it is necessary at any time, and for any reason, to replace the person approved to carry out an activity under an archaeological authority, the holder of the archaeological authority must, by written application to the joint Ministers, seek approval for another nominated person to carry out that activity.  
Compare: 2014 No 26 s 45(1)–(3) 5
- 7 Information that must be provided with application for archaeological authority**
- (1) Every application for an archaeological authority made under this schedule must be made in writing to the joint Ministers in the form and manner prescribed by regulations made under this Act or as may be approved for the purpose by the responsible agency. 10
- (2) An application must include the following information:
- (a) a legal description of the land or, if one is not available, a description that is sufficient to identify the land to which the application relates; and
  - (b) the name of the owner of the relevant land, if the applicant is not the owner of the land; and 15
  - (c) proof of consent, if the owner has consented to the proposed activity; and
  - (d) a description of each archaeological site to which the application relates and the location of each site; and 20
  - (e) a description of the activity for which the authority is sought; and
  - (f) a description of how the proposed activity will modify or destroy each archaeological site; and
  - (g) except in the case of an application described in section 44(b) of the HNZPT Act, an assessment of— 25
    - (i) the archaeological, Māori, and other relevant values of the archaeological site in the detail that is appropriate to the scale and significance of the proposed activity and the proposed modification or destruction of the archaeological site; and
    - (ii) the effect of the proposed activity on those values; and 30
  - (h) a statement as to whether consultation with tangata whenua, the owner of the relevant land (if the applicant is not the owner), or any other person likely to be affected—
    - (i) has taken place, with details of the consultation, including the names of the parties and the tenor of the views expressed; or 35
    - (ii) has not taken place, with the reasons why consultation has not occurred.
- (3) The application may (but need not) include an application under **clause 6**.

- (4) An applicant who provides the information required under **subclause (2)** for the purposes of a resource consent application or notice of requirement for a designation under the Resource Management Act 1991 (the planning application)—
- (a) may provide the joint Ministers with the same information as that provided for the planning application under the Resource Management Act 1991; but 5
- (b) must ensure that all of the information required by **subclause (2)** is also provided. 10
- Compare: 2014 No 26 s 46(1)–(3), (5) 10
- 8 Processing of applications for archaeological authorities**
- (1) Not later than 5 working days after receiving an application for an archaeological authority described in section 44(a) or (b) of the HNZPT Act, the joint Ministers must, if satisfied that the application includes all of the information required by **clause 7**,— 15
- (a) determine,—
- (i) in the case of an application for an archaeological authority described in section 44(a) of the HNZPT Act, whether the assessment required by **clause 7(2)(g)** is adequate:
- (ii) in the case of an application for an archaeological authority described in section 44(b) of the HNZPT Act, whether the effects of the proposed activity are, or are likely to be, no more than minor, assessed in accordance with **subclause (5)**; and 20
- (b) if the joint Ministers are satisfied that the application meets the relevant requirements under this subclause, they must— 25
- (i) accept the application; and
- (ii) advise the applicant of the latest date by which, in accordance with **section 25(7)**, the joint Ministers will give notice of the decision on the application. 30
- (2) In the case of an application to which **subclause (1)(a)(ii)** applies, the joint Ministers must ensure that an assessment required by **clause 7(2)(g)** is undertaken by or on behalf of Heritage New Zealand Pouhere Taonga in relation to the archaeological site. 30
- (3) If the joint Ministers determine that an application does not meet the relevant requirements under **subclause (1)**, they must, within the time specified in that subclause,— 35
- (a) return the application to the applicant, giving written reasons why the application has been returned; and
- (b) advise the applicant by notice of what further information is required before the application can be accepted. 40



- (4) For the purposes of making a decision under this clause, an application that is returned under **subclause (3)** and resubmitted with further information must be treated by the joint Ministers as a new application.
- (5) In the case of an application for an archaeological authority described in section 44(b) of the HNZPT Act, without limiting the matters that the joint Ministers may have regard to for the purpose of determining whether an application meets the requirements of **subclause (1)(a)(ii)**, they must have regard to— 5
- (a) the significance of a site or sites in relation to evidence of the historical and cultural heritage of New Zealand; and
- (b) the extent to which the proposed activity will modify or destroy the site or sites. 10

Compare: 2014 No 26 s 47

## 9 Determination

- (1) In determining an application for an archaeological authority, the joint Ministers may— 15
- (a) grant an archaeological authority, in whole or in part, subject to any conditions they see fit, including conditions that may be imposed under **clause 13**; or
- (b) refuse to grant an authority.
- (2) The joint Ministers must make their determination in accordance with the requirements of **clauses 10 to 13**. 20

Compare: 2014 No 26 s 48

## 10 Factors relevant to making determination

- (1) Before determining an application under **clause 9** that relates to a customary marine title area in respect of which a planning document has been lodged with Heritage New Zealand Pouhere Taonga under section 86(1)(b) of the Marine and Coastal Area (Takutai Moana) Act 2011, the joint Ministers must comply with section 89(a) of that Act, to the extent it is relevant to the application being considered. 25
- (2) In making a determination, the joint Ministers must have regard to the matters set out in section 59(1)(a) of the HNZPT Act (the matters to which the Environment Court must have regard when determining an appeal). 30

Compare: 2014 No 26 s 49(1), (2)

## 11 Time within which applications must be determined

The joint Ministers must make a determination under this schedule, and give notice of the determination, in accordance with the time limits specified in this Act. 35

**12 Notification of determination**

- (1) After determining an application under this schedule, the joint Ministers must give notice of their decision to—
- (a) the applicant; and
  - (b) the owner of the relevant land, if the applicant is not the owner; and 5
  - (c) the local authorities that have jurisdiction in the relevant area, except a local authority that is the applicant; and
  - (d) in the case of a site of interest to Māori, the appropriate iwi or hapū; and
  - (e) the chief executive or the nearest public museum; and
  - (f) any other person with a right of appeal under this Act. 10
- (2) In this section, **public museum** has the meaning given in section 2(1) of the Protected Objects Act 1975.

Compare: 2014 No 26 s 51

*Conditions***13 Imposition of conditions on archaeological authorities**

15

- (1) An archaeological authority granted under this schedule may include any conditions, including conditions that—
- (a) the consent of the land owner and the holder of any specified registered interest must be obtained before the holder of an archaeological authority may enter the relevant site or undertake any activity under that authority; and 20
  - (b) the site must be returned as nearly as possible to its former state (unless otherwise agreed between the owner of the land on which the site is located and the joint Ministers); and
  - (c) any activity undertaken at the site under the archaeological authority must conform to accepted archaeological practice; and 25
  - (d) Heritage New Zealand Pouhere Taonga, or the person approved under this schedule to carry out an activity, must provide a report as soon as practicable after its completion to—
    - (i) the holder of the authority; and 30
    - (ii) the owner of the archaeological site concerned, if different from the holder of the authority; and
    - (iii) Heritage New Zealand Pouhere Taonga, unless Heritage New Zealand Pouhere Taonga prepared the report.
- (2) The joint Ministers may impose a condition requiring an investigation, but only if they are satisfied on reasonable grounds that the investigation is likely to 35

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provide significant information in relation to the historical and cultural heritage of New Zealand.

Compare: 2014 No 26 s 52

**14 Review of conditions of archaeological authority**

Section 53 of the HNZPT Act applies, with all necessary modifications, at any time while an archaeological authority that is subject to conditions imposed under **clause 13** is current. 5

*Appeals*

**15 Right of appeal**

The appeal rights set out in **section 26** of this Act apply, with all necessary modifications, under this schedule. 10

**Schedule 8**  
**Process for approval under Freshwater Fisheries Regulations 1983**  
**or section 26ZM of Conservation Act 1987**

s 30(1)

- |          |  |    |
|----------|--|----|
| <b>1</b> | <b>Application of fast-track approval process</b>  | 5  |
| (1)      | This clause applies to—  |    |
|          | (a) the approval of culverts and other structures to which the NIWA Guidelines apply (which would otherwise be regulated by regulations 42 and 43 of the Freshwater Fisheries Regulations 1983):   |    |
|          | (b) fish rescue activities where fish are to be moved within the same water-body:  | 10 |
|          | (c) temporary works for infrastructure projects that would affect fish passage or local habitat:   |    |
|          | (d) possessing and killing noxious fish as specified in Schedule 3 of the Freshwater Fisheries Regulations 1983 that are encountered during fish rescue or other operations:   | 15 |
|          | (e) the transfer or release of live aquatic life into any freshwater under section 26ZM of the Conservation Act 1987.  |    |
| (2)      | An approval under this Act may include approval to undertake any of the activities specified in <b>subclause (1)</b> .   | 20 |
| (3)      | An approval under this Act must not include approval under section 26ZM(2)(a) of the Conservation Act 1987 (which relates to the movement of live aquatic life).   |    |
| (4)      | A panel must recommend any conditions that it considers necessary for the purpose of managing the specified activities.  | 25 |
| (5)      | Any approval for an activity specified in <b>subclause (1)(a) to (d)</b> may be included in a resource consent that is included in an approval under this Act.   |    |
| <b>2</b> | <b>Application of Freshwater Fisheries Regulations 1983 to specified activities</b>  |    |
|          | The Freshwater Fisheries Regulations 1983 do not apply to any activity specified in <b>clause 1(1)(a) to (d)</b> that is included in a consent under this Act if the applicant complies with the conditions specified in the consent in relation to that activity. | 30 |

**Schedule 9**  
**Process for marine consents under Exclusive Economic Zone and  
 Continental Shelf (Environmental Effects) Act 2012**

**ss 10, 30(1)**

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14	EPA may recover costs from applicants and consent holders	94
<b>1</b>	<b>Application of this schedule</b>	<b>5</b>
	This schedule applies if a marine consent is required under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the <b>EEZ Act</b> ) for a proposed listed project or proposed referred project.	
<b>2</b>	<b>Exclusion of this Act</b>	
	Despite <b>clause 1</b> , nothing in this Act authorises a marine consent to be granted—	10
	(a) for a prohibited activity (as defined in section 4(1) of the EEZ Act or the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Discharge and Dumping) Regulations 2015):	
	(b) for any activity relating to decommissioning under that Act.	15
<b>3</b>	<b>Competition for space in respect of different activities</b>	
(1)	<b>Subclause (2)</b> applies if the joint Ministers consider there is likely to be competition for space to undertake any activities regulated under any of the Acts specified in <b>section 11</b> in areas of New Zealand’s continental shelf or exclusive economic zone.	20

- (2) In addition to the matters that the joint Ministers may consider under **section 18(4)**, they may also consider—
- (a) the economic benefits and strategic importance of the proposed project; and
  - (b) the likely impact of the proposed project on current and proposed marine management regimes; and 5
  - (c) the environmental impacts of the competing activities.
- 4 Additional information required to be included in referral application**
- If an applicant for approval to use the fast-track approval process for a project requires a marine consent under the EEZ Act, the applicant must include the information required by **section 15** with the following modifications: 10
- (a) whether the Minister of Conservation is an affected person:
  - (b) additional information about whether the applicant has already made an application for a consent under the EEZ Act in relation to that project, and, if so,— 15
    - (i) details of any application made; and
    - (ii) the decisions made on that application; and
    - (iii) information about the matters that the joint Ministers may consider under **clause 3(2)**:
  - (c) additional information (in a summary form) about compliance or enforcement action taken against the applicant by the EPA under the EEZ Act. 20
- 5 Consultation by joint Ministers when considering referral**
- When considering whether to refer an application for fast-track approval that includes an application for a marine consent under the EEZ Act, the joint Ministers must, in addition to complying with the other applicable consultation requirements, consult— 25
- (a) the Minister for the Environment; and
  - (b) if relevant, the Minister of Conservation.
- 6 Combination of applications under EEZ Act and RMA** 30
- (1) **Subclause (2)** applies if there is an application for fast-track approval and there are related applications for a marine consent under the EEZ Act and a consent under the RMA for a cross boundary activity (within the meaning of section 88 of the EEZ Act).
  - (2) The impact assessment under the EEZ Act and the assessment of environmental effects under the Resource Management Act 1991 must be combined. 35

- 7 Applicable Act to be applied by panel**
- In deciding whether to recommend the granting of a marine consent under the EEZ Act in respect of a project that is referred to a panel, the applicable Act to be applied by the panel is the EEZ Act, irrespective of whether the panel is considering— 5
- (a) only an application for a marine consent under the EEZ Act; or
  - (b) such an application and 1 or more applications for different consents under 2 or more Acts specified in **section 10**.
- 8 Panel convener must consult EPA in certain circumstances**
- (1) A panel convener must, when a panel is to be appointed to consider applications affecting New Zealand’s economic zone, consult the EPA about the membership of the panel, before the panel is appointed. 10
  - (2) In recommending members to be appointed to that panel and in making those appointments, the EPA or the panel convener, as the case requires, must consider the need for members who collectively have— 15
    - (a) knowledge, skill, and experience related to the EEZ Act; and
    - (b) knowledge, skill, and experience related to the activities or matters in respect of which consent is sought; and
    - (c) knowledge, skill, and experience relating to tikanga, the Treaty of Waitangi, the law generally, and relevant technical matters. 20
- 9 Procedures of panel**
- (1) The procedures to be followed by a panel when considering an application for a marine consent under the EEZ Act, are those set out in **Schedule 4**, but with the following modifications:
    - (a) when a panel considers an application, it must, in addition to the other matters it is required to consider, consider (giving greater or lesser weight) in order to— 25
      - (i) the purposes of this Act:
      - (ii) the purposes and principles of the EEZ Act set out in subpart 2 of Part 1 of that Act: 30
      - (iii) any relevant policy statements issued under the EEZ Act:
      - (iv) any relevant provisions of the EEZ Act relating to assessments and the provision of information (*see* sections 59 to 64):
    - (b) when a panel considers an application it must not consider sections 6 and 7 of the RMA, or any national policy statements under that Act: 35
    - (c) a panel must invite comments from persons provided with copies of applications for activities publicly notified under section 46 of the EEZ Act:

- (d) section 63 of the EEZ Act (relating to the grant of conditions) must be applied in a way that gives effect to the purposes of this Act:
- (e) a panel must consult the EPA on the conditions to be recommended to apply to a marine consent.
- (2) In taking the matters referred to in **subclause (1)(a)(i) to (iv)** into account, the panel must give weight to them in that order (from greater to lesser). 5
- 10 Information requirements**
- The information requirements that apply to applicants for a marine consent for an aquaculture activity which are considered by a panel are those set out in section 38 of the EEZ Act. 10
- 11 Powers of panel**
- The panel may request information, and commission or seek advice from the parties, and sections 54 to 56 of the EEZ Act apply with any necessary modifications.
- 12 Marine consents deemed to be issued under EEZ Act** 15
- A marine consent granted in accordance with the procedures in this schedule is to be treated and enforced in the same way as every other marine consent granted under the EEZ Act (for example, the EPA is responsible for compliance, monitoring, and enforcement of the consent and its conditions).
- 13 Variations to conditions of marine consents** 20
- (1) An application for a variation of conditions of a marine consent is determined—
- (a) in accordance with the EEZ Act; and
- (b) not in accordance with the procedures set out in this Act.
- (2) However, if the marine consent was granted in accordance with the procedures in this schedule, an application for a variation of the conditions of the consent must be determined under the EEZ Act, which is to be applied with regard to the purposes of this Act. 25
- 14 EPA may recover costs from applicants and consent holders**
- (1) The EPA may recover the costs associated with determining applications for marine consents in accordance with the processes set out in this schedule. 30
- (2) If a marine consent is granted in accordance with the processes set out in this schedule, the EPA may recover from the consent holder the costs of compliance, monitoring, and enforcement activities relating to that consent or the conditions of that consent. 35



## Schedule 10

### Process under Crown Minerals Act 1991

**ss 10, 30(1)**

- 1 Application of this schedule**
- This schedule applies if an application is made under section 61 or 61B of the Crown Minerals Act 1991 for an access arrangement in relation to a—
- (a) proposed listed project; or
  - (b) proposed referred project.
- 2 Interpretation**
- In this schedule, unless the context other requires,—
- appropriate Minister** has the same meaning as in section 2A of the Crown Minerals Act 1991
- Minister** has the same meaning as in section 2(1).
- 3 Exclusion of this Act**
- Despite **clause 1**, nothing in this Act applies in respect of an application for an access arrangement for any land or offshore area for which a permit cannot be granted under the Crown Minerals Act 1991.
- 4 Section 61(2) of Crown Minerals Act 1991 disapplied**
- (1) Section 61(2) of the Crown Minerals Act 1991 does not apply and **subclause (2)** applies instead.
  - (2) In considering whether to agree to an access arrangement or a variation to an access arrangement in respect of Crown land, the appropriate Minister (in the case of section 61(1) of the Crown Minerals Act 1991) and the Minister and the appropriate Minister (in the case of section 61(1AA) of that Act)—
    - (a) must have regard to the objectives of any Act under which the land is administered; and
    - (b) must have regard to any purpose for which the land is held by the Crown; and
    - (c) may consider any policy statement or management plan of the Crown in relation to the land; and
    - (d) must have regard to any safeguards against potential adverse effects of carrying out the proposed programme of work; and
    - (e) must have regard to the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and
    - (f) must have regard to any other matters that the Minister or the appropriate Minister or both (as the case requires) considers relevant.

- 5 Section 61B(2) of Crown Minerals Act 1991 disapplied**
- (1) Section 61B(2) of the Crown Minerals Act 1991 does not apply and **sub-clause (2)** applies instead.
- (2) In considering whether to agree to an access arrangement in respect of Crown land for the purpose described in section 61B(1) of the Crown Minerals Act 1991, the appropriate Minister—
- (a) must have regard to the objectives of any Act under which the land is administered; and
  - (b) must have regard to any purpose for which the land is held by the Crown; and
  - (c) may consider any policy statement or management plan of the Crown in relation to the land; and
  - (d) must have regard to any safeguards against potential adverse effects of carrying out the proposed programme of work; and
  - (e) must have regard to the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and
  - (f) must have regard to any other matters that the Minister or the appropriate Minister or both (as the case requires) considers relevant.
- 6 No public notification required**
- (1) No public notification of an application under section 61 or 61B of the Crown Minerals Act 1991 is required and section 61C of that Act does not apply.
- (2) For the purposes of this schedule the Minister responsible for Energy and Resources is a joint Minister.
- 7 Avoidance of duplication of work**
- A responsible agency is not required to undertake any activity for the purpose of enabling the Minister or the appropriate Minister or both (as the case requires) to decide whether to agree to an access arrangement under section 61 or 61B of the Crown Minerals Act 1991 in relation to a proposed listed project or a proposed referred project, if it or another responsible agency has undertaken the same or substantially the same activity in relation to a different consent or authority sought under this Act for the same project.
- 8 Powers of Minister and appropriate Minister may be exercised by joint Ministers**
- If an application to which this schedule applies is included in an application under **section 14** the powers ordinarily exercisable under this Act by the Minister or appropriate Minister may instead be exercised by the joint Ministers or (to the extent applicable) a panel, within the meaning of this Act.

**Schedule 11**  
**Modifications to process under Public Works Act 1981 to take or deal with land**

**ss 15, 30(2)**

- |          |   |    |
|----------|---|----|
| <b>1</b> | <b>Interpretation</b>   | 5  |
|          | <p>In this schedule,—</p> <p><b>court</b> means the Environment Court</p> <p><b>land</b> has the meaning given to it in section 2 of the Public Works Act 1981.</p>   |    |
| <b>2</b> | <b>Application of this schedule</b>   | 10 |
|          | <p>This schedule applies if—</p> <p>(a) a process is being conducted under the Public Works Act 1981 to acquire land that is part of a project being dealt with using the fast-track approvals process; and</p> <p>(b) the project has been referred to a panel; and</p> <p>(c) a person has objected to the taking of the land to the court under section 23 of the Public Works Act 1981.</p> | 15 |
| <b>3</b> | <b>Court may accept determination of Ministers about consideration of alternative sites, etc</b>  |    |
| (1)      | The court may, whether or not the parties consent, accept any determination of joint Ministers under <b>section 25</b> that relates to the matters in <b>clause 36(1)(a) of Schedule 4</b> .  | 20 |
| (2)      | Without limiting <b>subclause (1)</b> , the court may consider any material new evidence relating to the matter described in <b>clause 36(1)(a) of Schedule 4</b> that is provided to the court.  |    |

## Schedule 12

### Process under Fisheries Act 1996

**ss 10, 30(1)**

#### Contents

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<b>1</b>	<b>Application</b>	
	This schedule applies if an application under <b>section 14</b> to use a fast-track consenting process—	5
	(a) indicates that an application is required under the RMA for a coastal permit (or any associated notice of requirement) to undertake aquaculture activities; and	
	(b) an application is made under <b>clause 2 of Schedule 4</b> ; and	10
	(c) <b>clause 26 of Schedule 4</b> applies.	
<b>2</b>	<b>Obligations of the panel</b>	
(1)	The panel must within 3 working days of receiving the application, and at least 2 working days before inviting written comments, request the chief executive of Ministry for Primary Industries (the <b>chief executive</b> ) to make a recommendation on the aquaculture decision to be made.	15

- (2) If the panel sends 2 or more requests to the chief executive at the same time, the panel must indicate to the chief executive, the time at which the respective applications were received.
- (3) The panel must, before it makes a request under **subclause (1)**, lodge an aquaculture agreement that is relevant to the application in question with the chief executive. 5
- 3 Applicant may request suspension of processes**
- (1) The applicant for a coastal permit to undertake aquaculture activities may request the EPA in writing to ask the panel to suspend processing the application for consent (or any associated notice of requirement) for the purposes of negotiating an aquaculture agreement. 10
- (2) Any request under **subclause (1)** must be made to the EPA, before the panel makes a request to the chief executive under **clause 2(1)**.
- 4 Section 186C and subpart 1 of Part 9A of Fisheries Act to apply**
- Section 186C and subpart 1 of Part 9A of the Fisheries Act 1996 apply to an application to which this schedule applies (including an application under **clause 3(1)**), with any modifications necessary to give effect to— 15
- (a) the obligations of the panel under this schedule:
- (b) the obligations of the chief executive under this schedule to make a recommendation or updated recommendation on the aquaculture decision in question. 20
- 5 Consultation and seeking information by chief executive**
- If the chief executive, under section 186D of the Fisheries Act 1996, seeks information or consults certain persons for the purpose of making a recommendation on an aquaculture decision to be made under this Act,— 25
- (a) the chief executive must do so at the same time that the panel seeks written comments on the application; and
- (b) the information must be provided to the chief executive within 10 working days of the chief executive's request.
- 6 Priority of requests** 30
- The chief executive must give higher priority to processing a request made by a panel under **clause 2(1)**, than a request made as a consequence of consents granted under the RMA but not as a result of a fast-track approvals process.
- 7 Panel's recommendations to joint Ministers**
- When the panel makes a recommendation to joint Ministers on whether to grant or decline to grant a marine consent in respect of aquaculture activities, it must (irrespective of whether it follows the recommendations of the chief executive) include with the panel's recommendations— 35

- (a) the recommendation of the chief executive; and
- (b) any comments that the panel has on that recommendation.

## **8 Changes to scope of application during panel consideration process**

- (1) This clause applies if, during the panel's consideration of the application, the proposed area for the aquaculture activities or the proposed physical structures used for those activities materially alter. 5
- (2) If this clause applies the panel may request the chief executive to provide an updated recommendation on whether the application for a marine consent should be granted.
- (3) If the panel makes a request under **subclause (2)**, the chief executive must provide the panel with an updated recommendation within 5 working days. 10

## **9 Responsibilities of joint Ministers**

- (1) If the joint Ministers decide to grant a marine consent for an aquaculture activity, the joint Ministers must also make any further decisions required to be made under the Fisheries Act 1996 in respect of that activity. 15
- (2) The joint Ministers may make different decisions than the decision recommended by either—
  - (a) the panel; or
  - (b) the chief executive.

## **10 Changes to scope of application during consideration by joint Ministers** 20

- (1) This clause applies if, during the panel's consideration of the application, the proposed area for the aquaculture activities or the proposed physical structures for those activities materially alters.
- (2) If this clause applies the joint Ministers may request the chief executive to provide an updated recommendation on whether the application for a marine consent should be granted. 25
- (3) If the joint Ministers make a request under **subclause (2)**, the chief executive must provide the joint Ministers with an updated recommendation within 5 working days.

## **11 Subpart 4 of Part 9A of Fisheries Act applies with necessary modifications** 30

Subpart 4 of Part 9A of the Fisheries Act 1996 applies in relation to the decision-making process by joint Ministers in respect of applications to which this schedule applies with any necessary modifications.

- 
- 12 Fisheries (Aquaculture Compensation Methodology) Regulations 2012 apply with necessary modifications**
- The Fisheries (Aquaculture Compensation Methodology) Regulations 2012 apply in relation to decisions by joint Ministers in respect of applications to which this schedule applies, with any necessary modifications. 5
- 13 Section 116A of Fisheries Act 1996 applies in respect of commencement of marine consents**
- Section 116A of the Fisheries Act 1996 applies in respect of the commencement of marine consents for aquaculture activities granted by joint Ministers in response to applications to which this schedule applies, with any necessary modifications. 10
- 14 Recovery of costs**
- The chief executive may recover from applicants for marine consents for aquaculture activities to which this schedule applies, the costs incurred by their department and any other agency in providing recommendations in response to requests from the panel or joint Ministers. 15

## Schedule 13

### Amendments to other legislation

**ss 30(1), 32**

#### **Environmental Protection Authority Act 2011 (2011 No 14)**

In section 5, definition of **environmental Act**, replace paragraph (ca) with: 5

(ca) the Fast-track Approvals Act **2024**:

#### **Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26)**

Replace section 5(2)(e) with:

- (e) continues to prohibit the modification or destruction of an archaeological site unless an authority for the modification or destruction is obtained— 10
- (i) from Heritage New Zealand Pouhere Taonga under this Act; or
  - (ii) from the joint Ministers under the Fast-track Approvals Act **2024**; and

In section 6, replace the definition of **authority** with:

- authority** means an authority to undertake an activity that will or may modify or destroy 1 or more archaeological sites granted by— 15
- (a) Heritage New Zealand Pouhere Taonga under section 48, 56, or 62; or
  - (b) the joint Ministers under the Fast-track Approvals Act **2024**

In section 6, insert in its appropriate alphabetical order:

**joint Ministers** has the meaning given in **section 4(1)** of the Fast-track Approvals Act **2024** 20

In section 23, replace “or the Crown Entities Act 2004” with “, the Crown Entities Act 2004, or the Fast-track Approvals Act **2024**”.

Replace section 42(1) with:

- (1) No person may modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site if that person knows, or ought reasonably to have suspected, that the site is an archaeological site. 25
- (1A) **Subsection (1)** does not apply if—
- (a) an authority is granted under section 48, 56(1)(b), or 62 in respect of the archaeological site; or 30
  - (b) an authority is granted under the Fast-track Approvals Act **2024** in respect of the archaeological site.

#### **Ngāti Rangi Claims Settlement Act 2019 (2019 No 40)**

In Schedule 5, after clause 1(b), insert:

(ba) Fast-track Approvals Act **2024**: 35



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**Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato Reiver Act 2010 (2010 No 119)**

After section 18(4)(b), insert:

(ba) Fast-track Approvals Act **2024**:

**Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7)** 5

In Schedule 2, after clause 1(b), insert:

(ba) Fast-track Approvals Act **2024**:

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)**

After section 17(4)(a), insert:

(aa) Fast-track Approvals Act **2024**:

10