

Housing Accords and Special Housing Areas Bill

Government Bill

Explanatory note

General policy statement

The purpose of this Bill is to enhance housing affordability by facilitating an increase in land and housing supply in regions or districts with significant housing supply or affordability issues. It provides a mechanism for central government to work together with territorial authorities to address housing supply and affordability issues, through the negotiation of housing accords. The Bill contains 6 main concepts as outlined below.

Scheduled regions and districts

The Bill provides for the Government to identify regions or districts with significant housing supply and affordability issues in a schedule of the Act. The Auckland region has been identified in the Bill. The Government may add further regions or districts by Order in Council according to certain criteria.

Housing accords

A housing accord is an agreement between a territorial authority and the Government to work collaboratively to address housing supply and affordability. A housing accord may only be entered into with a

territorial authority in relation to scheduled regions or districts, and can be initiated by either party. A territorial authority that enters into a housing accord is an **accord territorial authority**.

Housing accords will allow territorial authorities to operate under the new regulatory powers provided in this Bill (but may also include non-regulatory initiatives) and will set out agreed targets for residential development. Housing accords may be terminated by either party with six months' notice, or another time frame of more than 3 months as specified in the relevant accord.

Special housing areas

Special housing areas are specific geographical areas within scheduled regions or districts that have the potential to deliver increased land and housing supply. Special housing areas will be established by Order in Council on the recommendation of the Minister of Housing. However, where a housing accord is in place, the Minister will only recommend the establishment of a special housing area on the recommendation of the accord territorial authority. Within special housing areas, resource consent and plan change powers will be made more permissive to provide for increased housing supply (*see below*).

Qualifying developments

The criteria for qualifying developments establish the types of developments to which the more permissive resource consent and planning powers may apply. Where a housing accord is not in place, the Bill identifies that qualifying developments will—

- (a) be predominantly residential;
- (b) meet prescribed height requirements of up to, and including, 6 storeys;
- (c) meet prescribed density requirements.

Where a housing accord is in place, these criteria will apply, but an accord territorial authority will be able to recommend a variation to the prescribed criteria referred to in paragraphs (b) and (c). These variations will be made by Order in Council on the recommendation of the Minister of Housing.

More permissive resource consent powers

The Bill provides for resource consent applications for qualifying developments to be considered according to more permissive resource consent powers. Where a housing accord is in place, the accord territorial authority will be able to exercise these powers. If the Government is unable to reach a housing accord after endeavouring to negotiate in good faith or if a housing accord is terminated, then the Government will have the power to exercise the more permissive resource consent powers. Whichever agency is exercising the more permissive powers is known as an authorised agency.

In considering an application for a resource consent under this Act, the authorised agency must reach a decision that is consistent with, and gives effect to, the purpose of the Act. The agency must also be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development and take into account the matters set out in Part 2 and sections 104 to 104E of the Resource Management Act 1991 and the Ministry for the Environment's *New Zealand Urban Design Protocol* (2005).

In general, resource consents considered under this Act must be processed within 60 working days and will not be notified. A limited notification process may apply if the authorised agency identifies an adjoining landowner (or, in some circumstances, the New Zealand Transport Agency) for whom the effect of the proposed activity would be more than minor. Where a plan change is being sought alongside a resource consent, the 60-working-day time frame may be extended to 130 working days.

Use of proposed plans, plan changes, and plan variations

The Bill provides for the following situations, in terms of the way in which council plans will be considered in relation to special housing areas:

- if a proposed plan describes an activity as prohibited, the activity will be treated as if it were a discretionary activity:
- if a plan states that an activity is prohibited, but a proposed plan classifies it as controlled, restricted discretionary, discretionary, or non-complying, the proposed plan will apply:
- if the activity is prohibited in the relevant operative plan, and the proposed plan anticipates that the land to which the request

applies will be available in the future for a qualifying development, but is silent as to the rules that apply to that development, an applicant may request a variation to a proposed plan:

- an applicant may also request a plan change if the activity the applicant is seeking to undertake is prohibited in the relevant plan, and a proposed plan continues to describe the activity as prohibited or there is no provision for qualifying developments in a proposed plan.

Where an applicant requests a plan change or variation, the Bill provides for a faster process than is currently the case. Unless the adjoining owners give their approval, such requests will go through a limited notification process and will be completed within 130 working days.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 15 April 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/about-us/publications/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 provides for the Bill's title.

Clause 2 provides for commencement. The Bill comes into force on the day after Royal assent.

Part 1

Preliminary provisions, housing accords, and special housing areas

Subpart 1—Preliminary provisions

Subpart 1 of Part 1 (clauses 3 to 9) provides for preliminary matters, including—

- the repeal of *clauses 16 and 17* on 30 June **2016** and the repeal of the rest of the Bill on 30 June **2017**. The effect of the first repeal is that after 30 June **2016** no new special housing areas can be established in regions or districts already named in *Schedule 1*. The effect of the second repeal is that all functions and powers under the Bill concerning resource consents and plan changes and variations to proposed plans end on 30 June **2017** (*clause 3*):
- the purpose of the Bill, which is to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in *Schedule 1*, identified as having housing supply and affordability issues (*clause 4*):
- definitions of terms used in the Bill (*clause 6*). This clause also provides for terms that are not defined in the Bill but are defined in the Resource Management Act 1991 to be given the same meaning as they have in that Act (*clause 6(2)*). Terms used in the Bill to which this applies include, for example, infrastructure, local authority, plan, proposed plan, public notice, resource consent, subdivision consent, and survey plan:
- a power to amend *Schedule 1* of the Bill (*clause 9*). An Order in Council adding the name of a region or district to the schedule can be made on the recommendation of the Minister for the time being responsible for the Bill (the **Minister**). The Minister can make that recommendation if the Minister is satisfied that the region or district is experiencing significant housing supply and affordability issues. *Clause 9* provides that it is sufficient for the Minister to be satisfied of this if, according to publicly available data, a region or district meets one of the 2 threshold measures set out in the clause and the chief executive of the Ministry confirms that this information is consistent with other information analysed by the Ministry. The name of a region or district can be deleted from *Schedule 1* if the Min-

ister is satisfied that the criteria referred to no longer apply to that region or district.

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

Subpart 2 of Part 1 (clauses 10 to 19) provides for the framework for operation of the functions and powers set out in *Part 2* of the Bill. This comprises 3 main elements: housing accords, qualifying developments, and special housing areas.

Housing accords

Clauses 10 to 13 provide for the Minister and a territorial authority whose district is within one of the regions or districts named in *Schedule 1* (a **scheduled region or district**) to enter into an agreement (a **housing accord**) setting out how the parties will work together to achieve the purpose of the Bill, and matters relating to the form, content, and publication of a housing accord.

Whether there is a housing accord between the Minister and a territorial authority whose district is within a scheduled region or district affects how other provisions of the Bill apply as follows:

- if a territorial authority is a party to a housing accord (an **accord territorial authority**), an Order in Council declaring an area within its district to be a special housing area cannot be made unless the accord territorial authority recommends this to the Minister (*clause 16(4)*);
- if an accord territorial authority does recommend that an area be declared a special housing area, the authority may recommend that the Order in Council declaring the special housing area also declare that 1 or both criteria that a development must ordinarily meet in order to qualify for application of the resource consent and associated processes in *Part 2* (that is, to be a **qualifying development** under the Bill) be replaced with varied criteria for developments in that special housing area. There is no power to vary the criteria for qualifying developments in an order that declares an area to be a special housing area where that area is in the district of a territorial authority that is not a party to a housing accord (however, criteria for

qualifying developments in those special housing areas may be varied subsequently: *see* below concerning qualifying developments):

- where a special housing area is within the district of an accord territorial authority, a person applying under the Bill for a resource consent in relation to a qualifying development may, before or at the same time, request a change to a plan or a variation to a proposed plan under the Bill if that change or variation is necessary to facilitate consideration of the resource consent application:
- an accord territorial authority is the agency authorised to perform the functions and exercise the powers in *Part 2* of the Bill that concern resource consents and requests for plan changes and variations to proposed plans for qualifying developments in a special housing area in its district (the **authorised agency**). If an area in a scheduled region or district is declared a special housing area but there is no housing accord between the Minister and the territorial authority with jurisdiction over that area, the chief executive of the Ministry is the authorised agency for the purpose of resource consent applications (*clause 23*).

Qualifying developments

Clauses 14 and 15 provide for qualifying developments. *Clauses 17(3) to (5) and 18*, which provide for criteria for qualifying developments to be varied, are also relevant. Broadly summarised, these clauses have the following effect:

- to be a qualifying development under the Bill, a development must be predominantly residential and must meet prescribed criteria relating, first, to the height or number of storeys or floors (not exceeding 6) that houses or other buildings in the development may have and, secondly, to the minimum number of houses to be built as part of the development (*clause 15(1)*):
- the Minister, within 30 days after the Royal assent, is required to recommend the making of an Order in Council prescribing the criteria for qualifying developments (*clause 15(2)*):
- the prescribed criteria may be varied for special housing areas within the district of an accord territorial authority, as part

of the Order in Council establishing the special housing area (*clause 17(2) to (5)*):

- the criteria may also be varied, for any special housing area, after the special housing area is established (*clause 18*).

Special housing areas

Clauses 16 to 19 provide for—

- an area within the district of a scheduled region or district to be declared a special housing area by Order in Council if the Minister is satisfied that the area, with appropriate infrastructure, could be used for qualifying developments, that there will be demand for residential housing in the area, and that there is evidence of demand to create qualifying developments in specific areas of the scheduled region or district (*clause 16(3)*):
- variation of the criteria for qualifying developments prescribed under *clause 15(1)* if a special housing area is in the district of an accord territorial authority (*see* the previous analysis on qualifying developments concerning *clause 17*):
- disestablishment of all special housing areas on 30 June 2016. A special housing area may be disestablished before that date if the name of the scheduled region or district in which that special housing area is located is deleted from *Schedule 1* or if the Minister is satisfied that the area no longer meets the criteria for special housing areas previously referred to (*clause 19*).

Part 2

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

Part 2 applies to qualifying developments in special housing areas and provides a regime, outside the Resource Management Act 1991, under which persons can be granted resource consents for those developments. Requests for plan changes and variations to proposed plans may also be made and decided under that Part, where this is necessary to facilitate consideration of a resource consent application.

However, this is only possible where the qualifying development is in the district of an accord territorial authority.

The Bill provides for certain applications to be made that could not be made under the Resource Management Act 1991, for example, applications relating to certain activities described in the operative district plan as prohibited activities. However, to the extent that an application that could be made under the Bill could also be made under the Resource Management Act 1991, there is no compulsion for a person wanting to make that application to proceed under the Bill. The person may elect which regime to proceed under.

Subpart 1—Preliminary matters

Subpart 1 of Part 2 (clauses 20 to 23) deals with preliminary matters.

Clause 22 excludes the application of the Resource Management Act 1991 in relation to matters provided for in *Part 2*, except to the extent that the Bill expressly requires provisions of that Act to be applied.

Clause 23 provides for the functions and powers in *Part 2* to be performed and exercised by authorised agencies only. If a special housing area is in the district of an accord territorial authority, the authorised agency for all applications relating to qualifying developments is the accord territorial authority. Otherwise, the authorised agency is the chief executive of the Ministry, for the purpose of resource consent applications only.

Subpart 2—Resource consents

Subpart 2 of Part 2 (clauses 24 to 59) provides for applications for resource consents to be made under the Bill, how those applications must be made and determined, and matters relating to resource consents that are granted.

Clauses 24 to 26 provide for a person to apply to the relevant authorised agency for a resource consent relating to a qualifying development in a special housing area, including a consent for an activity that is described in an operative plan or a proposed plan as prohibited. Under *clauses 25 and 26*,—

- if the activity is described in the operative plan as prohibited, but is described in a proposed plan as a controlled, restricted discretionary, discretionary, or non-complying activity, the au-

thorised agency must treat the activity as if the description in the proposed plan applied:

- if the activity is described in a proposed plan as prohibited, the authorised agency must treat the activity as if it were a discretionary activity.

For special housing areas in the district of an accord territorial authority, the provisions in *subpart 3 of Part 2* enable a person to apply for a plan change or a variation relating to a prohibited activity (*see below*).

Clause 29 precludes an authorised agency from notifying or holding a hearing in relation to an application for a resource consent made under *subpart 2 of Part 2*, except if the agency identifies that the proposed activity's adverse effects on the owners of adjoining land or, if the relevant land adjoins a State highway or designated State highway, the New Zealand Transport Agency, are more than minor. In these circumstances, the authorised agency may notify the application to those owners and, if applicable, the New Zealand Transport Agency and hold hearings, unless the Resource Management Act 1991 or regulations made under that Act direct that the activity not be notified.

Under *clauses 29(4) to 31*, if an application is notified,—

- persons notified have 20 working days from the date of the notice to make submissions (*clause 29(4)*):
- if any person notified indicates that the person wants to be heard and does not withdraw that indication, the authorised agency is required to—
 - hold a hearing not later than 20 working days after the closing date for submissions:
 - give 10 working days' notice of the hearing to the applicant and persons who want to be heard and give all those persons the opportunity to be heard:
 - complete the hearing not later than 30 working days after the closing date for submissions on the application.

Clause 32 sets out how an authorised agency is to consider an application for a resource consent (including the matters it must have regard to or take into account, and the weight to be given to those) and requires the agency to reach a decision on a basis that is consistent with, and gives effect to, the purpose of the Bill. Matters to be

taken into account include the matters under Part 2 of the Resource Management Act 1991, the factors outlined in sections 104 to 104E of that Act, and key urban design qualities expressed in the Ministry for the Environment's *New Zealand Urban Design Protocol* (2005). The clause also requires the authorised agency to be satisfied that there will be sufficient and appropriate infrastructure to support the development, provides for matters that must be taken into account in making this assessment, and empowers the authorised agency to direct infrastructure providers and local authorities to provide information that the agency considers relevant to its consideration of the application.

The effect of *clause 33*, which applies sections 105 to 107 of the Resource Management Act 1991, is that in determining certain types of applications, or applications involving particular factors, the same rules apply to the authorised agency considering the application as would apply to a consent authority considering the application under that Act. This is relevant to, for example, applications for discharge permits, coastal permits, consents for reclamations, and consents for subdivisions where certain circumstances apply (such as the likelihood of subsidence, issues with access, etc).

Similarly, an authorised agency, like a consent authority under the Resource Management Act 1991, may refuse an application for a resource consent (including on the grounds that it has inadequate information to determine the application), grant a consent, or grant a consent on conditions (including, in the case of a subdivision, the same conditions as could be imposed under section 220 of the Resource Management Act 1991). The Bill provides for a resource consent to include any condition that is consistent with and gives effect to the Act (*clauses 34 to 36*). If a condition of a consent requires a financial or land contribution and the authorised agency is the chief executive of the Ministry, the contribution must be transferred to the relevant consent authority to be used for the purpose stated in the resource consent or in the consent authority's plan or proposed plan (*clause 35*).

Under *clause 39*, an authorised agency is required to give its decision on a resource consent application not later than 60 working days after the application was first lodged with the agency (although in calculating this period, certain time periods have to be excluded). However, if the application is lodged in conjunction with a request for a plan

change or a variation to a proposed plan under *subpart 3 of Part 2*, this time limit is extended to 130 working days.

Further provisions in *subpart 2 of Part 2* provide for—

- the authorised agency’s powers in relation to subdivisions, including its powers to approve survey plans and issue consent notices and completion certificates (*clauses 41 to 48*);
- matters relating to the nature, duration, and lapsing of resource consents (*clauses 49 and 50*);
- the authorised agency’s powers to change, cancel, or review resource consent conditions (*clauses 51 to 54*). There is no public notification of a review and no submissions or hearings on a review under the Bill (*clause 52*);
- the authorised agency’s power to correct minor mistakes or defects in a consent within a specified time of granting the consent (*clause 55*);
- a consent holder’s ability to surrender a consent (*clause 56*);
- the authorised agency’s power to grant certificates of compliance for activities that are part of a qualifying development and that could be undertaken without a resource consent (*clause 57*);
- the authorised agency’s obligation to monitor the exercise of the resource consents it grants and certify that infrastructure works carried out by a consent holder comply with the relevant standards (*clauses 58 and 59*).

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

Subpart 3 of Part 2 (clauses 60 to 72) applies only to qualifying developments in special housing areas that are within the district of an accord territorial authority.

The subpart provides for a person who wants to undertake an activity in relation to a qualifying development to request a change to the operative plan if—

- the operative plan does not provide for any residential development in the special housing area; and
- either the proposed plan does not provide for activities relating to qualifying developments in the special housing area or the

proposed plan continues to describe the activity as a prohibited activity.

Subpart 3 of Part 2 also provides for a person who wants to undertake an activity in relation to a qualifying development to request a variation to a proposed plan if—

- the operative plan does not provide for any residential development in the special housing area; and
- the proposed plan anticipates that the land to which the request applies will be available in future for a qualifying development; but
- the proposed plan is silent as to the rules that apply to that development.

The request may relate only to a change or variation that is necessary to facilitate consideration of a resource consent application for 1 or more qualifying developments and may be made before, or at the same time as, the resource consent application is made.

The process for dealing with the request depends on whether the applicant has obtained the prior written approval of the adjoining land owners and, if the land adjoins a State highway or designated State highway, the New Zealand Transport Agency. The request is only notified if prior written approval has not been obtained. In that event, the adjoining owners and, if applicable, the New Zealand Transport Agency must be notified. If any of those persons make submissions on the request and indicate that they want to be heard, a hearing must be held. The accord territorial authority must give its decision on the request within 130 working days of receiving the request if the request is notified (*clauses 60 to 70*).

Clause 71 provides for the authorised agency to adopt a request for a plan change or variation to a proposed plan in certain circumstances. The same processes then apply.

Clause 72 deals with how the limited notification process for plan changes or variations to proposed plans interacts with any process that is, at the same time, in train under the Resource Management Act 1991. The effect of the provision is that the first process to make a plan operative causes the other process to stop. Rights of standing under that other process are automatically extinguished and the person or body responsible for the process must not take any further

action in relation to any matter considered and determined as part of the first process.

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

Subpart 4 of Part 2 provides for a number of provisions of the Resource Management Act 1991 to apply in respect of applications for resource consents made under *subpart 2 of Part 2* and requests for changes to plans and variations to proposed plans made under *subpart 3 of Part 2*. These include provisions concerning avoiding unreasonable delay, powers of delegation, the power to waive and extend time limits, and powers and duties in relation to hearings.

Subpart 5—Provisions relating to rights of appeal and objection

Subpart 5 of Part 2 (clauses 75 to 81) deals with rights of appeal and objection against decisions made by an authorised agency under *Part 2*, procedures for appeals and objections, and decisions on objections. There is no right of appeal against any decision of an authorised agency on an application or request under *Part 2* except a decision on a resource consent application relating to a qualifying development that is 4 or more storeys high. *Clause 76* gives the applicant in that case, and any person who made a submission on the application, a right to appeal to the Environment Court. Under *clause 77*, the applicant is precluded from bringing any proceedings in the nature of review against the authorised agency before exercising this right of appeal and receiving the Environment Court's decision on the appeal. *Clause 78* provides rights for a number of persons to object to an authorised agency in relation to the decision made by it, including a person who is not granted a resource consent on an application under *subpart 2 of Part 2* and a person who is refused a request for a plan change or a variation to a proposed plan under *subpart 3 of Part 2*. However, there is no right to appeal against the authorised agency's decision on an objection (*clause 81*).

Subpart 6—Miscellaneous

Subpart 6 of Part 2 (clauses 82 to 89) deals with miscellaneous matters including—

- providing for the powers necessary for the chief executive to effectively carry out that person's functions under the Bill:
- providing powers for the chief executive to—
 - delegate or transfer to a local authority, the Environmental Protection Agency, or a government department that person's functions and powers as an authorised agency:
 - contract out work relating to the chief executive's functions and powers (such as monitoring the conditions of resource consents), but not any decision-making powers relating to a resource consent for a qualifying development:
- providing for an accord territorial authority to appoint persons to act as members of accord territorial authority panels (an **ATA panel**), the constitution of those panels (including a requirement for members of the panel to collectively have knowledge and expertise in relation to planning, design, and engineering), and the delegation to an ATA panel of the accord territorial authority's powers as an authorised agency. An ATA panel is the only entity to which an accord territorial authority may delegate its powers under *subpart 3 of Part 2 (clause 87)*:
- providing a power to make regulations prescribing provisions that concern processes and that apply other provisions of the Resource Management Act 1991 or regulations made under that Act (*clause 88*):
- providing for the arrangements that are to apply when a special housing area is disestablished or a housing accord is terminated. These are set out in *Schedule 2*. Broadly summarised, they involve a 3-month notice period from the point at which a decision to terminate a housing accord or disestablish a special housing area is made public to the point at which authorised agencies can no longer accept new applications under the Bill. However, after that point, the authorised agency can still continue to process existing applications under the Bill in accordance with *Part 2* and can continue to hear objections and

make variations to consents that have been granted under the Bill.

Clause 4 of Schedule 2 is a power to make regulations prescribing transitional provisions that apply as well as, or instead of, the provisions set out in that schedule for the purpose of facilitating or ensuring an orderly transition.

Hon Dr Nick Smith

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Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Housing Accords and Special Housing Areas Act **2013**.

- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions, housing accords, and special housing areas

Subpart 1—Preliminary provisions

- 3 Repeal** 5
- (1) **Sections 16 and 17** are repealed on the close of **30 June 2016**.
- (2) The rest of this Act is repealed on the close of **30 June 2017**.
- 4 Purpose** 10
- The purpose of this Act is to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts, listed in **Schedule 1**, identified as having housing supply and affordability issues.
- 5 Outline** 15
- (1) The general scheme and effect of this Act is set out in the following subsections.
- (2) **Subpart 1** of this Part deals with preliminary matters, including specifying the purpose of this Act, repealing certain of its provisions on the close of **30 June 2016**, interpretation, and providing for the power to amend **Schedule 1**. 20
- (3) **Subpart 2** of this Part deals with—
- (a) matters relating to housing accords (which may be entered into between the Minister and territorial authorities in the regions or districts listed in **Schedule 1** and which provide for the Minister and the relevant territorial authority to work together to address housing supply and affordability issues in the district of the territorial authority): 25
- (b) matters relating to qualifying developments (to which, in special housing areas, the powers in **Part 2** to grant resource consents, change plans, and vary proposed plans apply), including— 30
- (i) the criteria that must be met for a development to be a qualifying development in a special housing area; and 35

- (ii) the making of Orders in Council prescribing specified criteria for qualifying developments:
 - (c) matters relating to special housing areas, including—
 - (i) the making of Orders in Council declaring areas to be special housing areas; and 5
 - (ii) requirements that must be met before a special housing area may be established within the district of a territorial authority that is a party to a housing accord; and
 - (iii) varying criteria for qualifying developments in special housing areas. 10
- (4) **Part 2** deals with resource consents and plan changes and variations in relation to qualifying developments in special housing areas, including—
 - (a) providing for territorial authorities that have entered into housing accords and, in certain areas where no housing accord is in force, the chief executive of the Ministry responsible for administering this Act to be the agencies authorised to exercise functions and powers under the Part; and 15 20
 - (b) empowering authorised agencies to accept and consider resource consent applications for qualifying developments in special housing areas; and
 - (c) providing for requests for plan changes and variations to be made in relation to special housing areas, and providing for processes for dealing with those requests; and 25
 - (d) the functions and powers of authorised agencies in relation to resource consent applications and requests for plan changes and variations to proposed plans, and the delegation of those powers. 30
- (5) **Schedule 1** lists the regions and districts identified as having housing supply and affordability issues.
- (6) **Schedule 2** contains transitional provisions. These set out the arrangements that apply if a special housing area is disestablished or a housing accord is terminated. They also include a power to make regulations for the purpose of facilitating an orderly transition, in the circumstances referred to, when the Act comes into force, and when the Act or its provisions are repealed. 35

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

6 Interpretation

(1) In this Act, unless the context otherwise requires,— 5

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

ATA panel means a panel appointed by an accord territorial authority under **section 86**

authorised agency has the meaning set out in **section 23** 10

chief executive means the chief executive of the Ministry

consent authority means a consent authority under the Resource Management Act 1991

district has the same meaning as in section 5(1) of the Local Government Act 2002 15

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

housing accord means an agreement between the Minister and a territorial authority made under **section 10** and includes all amendments to that agreement 20

infrastructure provider has the same meaning as network utility operator in section 166 of the Resource Management Act 1991 25

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

Ministry means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act 30

qualifying development has the meaning set out in **section 14**

region has the same meaning as in section 5(1) of the Local Government Act 2002 35

- scheduled region or district** means a region or district named in **Schedule 1**
- special housing area** means an area declared to be a special housing area under **section 16**
- State highway** has the same meaning as in section 5(1) of the Land Transport Management Act 2003 5
- territorial authority** means a city council or district council named in Part 2 of Schedule 2 of the Local Government Act 2002.
- (2) Unless the context otherwise requires, a term that is defined in the Resource Management Act 1991 and used, but not defined, in this Act or regulations made under this Act has the same meaning as in section 2(1) of the Resource Management Act 1991. 10
- 7 **Act binds the Crown** 15
This Act binds the Crown.
- 8 **Application of provisions of Act**
Schedule 2 contains application, savings, and transitional provisions that affect this Act's other provisions as from time to time amended, repealed, and replaced (*see section 88*). 20
- 9 **Power to amend Schedule 1**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 1** by inserting or deleting the name of any region or district.
- (2) Before making a recommendation to add the name of a region or district to **Schedule 1**, the Minister must be satisfied that the region or district is experiencing significant housing supply and affordability issues. 25
- (3) It is sufficient for the Minister to be satisfied in accordance with **subsection (2)** if,— 30
- (a) according to publicly available data, one or both of the following apply to the region or district:
- (i) the weekly mortgage payment on a median-priced house as a percentage of the median

- weekly take-home pay for an individual exceeds 50%, based on a 20% deposit:
- (ii) the median multiple (that is, the median house price divided by the gross annual median household income) is 5.1 or over; and 5
 - (b) after consulting with the chief executive, the Minister is satisfied that the information contained in that publicly available data is consistent with other information analysed by the Ministry concerning housing supply and affordability in the region or district. 10
 - (4) The Minister must not make a recommendation to delete the name of a region or district from **Schedule 1** unless the Minister is satisfied that the region or district is no longer experiencing significant housing supply and affordability issues according to the criteria in **subsection (3)**. 15

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

Housing accords

- 10 Minister and territorial authority may enter housing accord** 20
- (1) The Minister and a territorial authority whose district is within a scheduled region or district may enter into an agreement to work together to address housing supply and affordability issues in the district of the territorial authority (a **housing accord**). 25
 - (2) A housing accord—
 - (a) must comply with the requirements in **section 11(1)**; and
 - (b) may, without limitation, cover the matters referred to in **section 11(2)**. 30
 - (3) Either the Minister or a territorial authority whose district is within a scheduled region or district may initiate the negotiation of a housing accord.
 - (4) However, the Minister has no obligation to enter into a housing accord with a territorial authority whose district is within a scheduled region or district. 35

- (5) While a housing accord is in force, the territorial authority that is a party to that housing accord is an **accord territorial authority**.

11 Form and content of housing accord

- (1) A housing accord must— 5
- (a) be in writing; and
 - (b) set out the parties’ agreement about how they will work together to achieve the purpose of this Act in the district of the territorial authority; and
 - (c) set out agreed targets for residential development in the district of the territorial authority; and 10
 - (d) provide for either party to terminate the accord on giving 6 months’ notice (or such other period, of not less than 3 months, as may be agreed).
- (2) A housing accord may— 15
- (a) provide for the Minister and the territorial authority to work together across a range of housing issues, according to the matters that they may identify as relevant to improving housing supply and affordability in the district of the territorial authority; and 20
 - (b) provide for such other matters as the Minister and the territorial authority may consider necessary or desirable to address housing supply and affordability issues affecting the district of the territorial authority; and
 - (c) set out the grounds on which, and the mechanism by which, the accord may be terminated; and 25
 - (d) provide for any matters that the parties agree, having regard to the matters covered by their agreement,—
 - (i) may be necessary to facilitate or ensure an orderly transition from the legislative regime that applies under this Act while the housing accord remains in force to the legislative regime that applies if the housing accord is terminated; and 30
 - (ii) are not covered by the transitional provisions set out in **clauses 1 to 3 of Schedule 2**. 35

12 Housing accord to be published

- (1) The chief executive must ensure that every housing accord that the Minister enters into is published on the Ministry's Internet site.
- (2) Every accord territorial authority must— 5
- (a) ensure that a copy of the housing accord is available at all reasonable times, free of charge, on an Internet site maintained by or on behalf of the territorial authority; and
- (b) make a copy of the housing accord available for purchase in hard copy, at no more than a reasonable cost, from the offices of the territorial authority. 10

13 Intention to terminate housing accord to be publicly notified

- (1) Before a housing accord may be terminated, the party intending to terminate the accord must give not less than 3 months' public notice of the intention to terminate the housing accord on a specified date. 15
- (2) The party intending to terminate the accord must, before publishing a notice under **subsection (1)**, consult the other party about the proposed termination date to be specified in the notice for the purpose of ensuring that the date will enable the parties to achieve an orderly transition to the regime applying after the termination. 20
- (3) The chief executive and the accord territorial authority must each ensure that the notice is published on the relevant Internet site referred to in **section 12**. 25
- (4) If this section is inconsistent with any provision in a housing accord, this section prevails.

Qualifying developments 30**14 Meaning of qualifying development**

- In this Act, a **qualifying development** is a development that—
- (a) is predominantly residential; and
- (b) meets the criteria (as they may be varied from time to time by Order in Council made under **section 18**)— 35

- (i) concerning maximum height, as prescribed under **section 15(1)(a)** or declared by Order in Council under **section 17(3)**; and
- (ii) concerning the minimum number of dwellings to be built, as prescribed under **section 15(1)(b)** or declared by Order in Council under **section 17(3)**. 5

15 Criteria for qualifying developments

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, prescribe the following criteria that a development must meet (in addition to the criterion that the development be predominantly residential) in order to be a qualifying development in a scheduled region or district: 10
 - (a) the maximum height that houses and other buildings forming part of the development may be, or the number of storeys or floors (not exceeding 6) that they may have: 15
 - (b) the minimum number of dwellings to be built as part of the development.
- (2) The Minister must make a recommendation under **subsection (1)** not later than 30 days after the date on which this Act receives the Royal assent. 20

Special housing areas

16 Process for establishing special housing areas

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, declare an area within a scheduled region or district to be a special housing area for the purposes of this Act. 25
- (2) Before making a recommendation under this section, the Minister must have regard to existing geographic boundaries, the relevant district plan, and any relevant proposed district plan to ensure that the boundaries of the proposed special housing area are clearly defined in the Order in Council and easily identifiable in practice. 30

- (3) The Minister must not recommend the making of an Order in Council under this section unless the Minister is satisfied that,—
- (a) with the appropriate infrastructure, the proposed special housing area could be used for qualifying developments; and 5
 - (b) there is evidence of demand to create qualifying developments in specific areas of the scheduled region or district; and
 - (c) there will be demand for residential housing in the proposed special housing area. 10
- (4) Despite a proposed special housing area being within a scheduled region or district, the Minister must not recommend the making of an Order in Council under this section where—
- (a) the area is within the district of an accord territorial authority, unless— 15
 - (i) the Minister’s recommendation is made on the recommendation of the accord territorial authority under **section 17**; or
 - (ii) public notice of the intention to terminate the housing accord has been given in accordance with **section 13**; or 20
 - (b) there is no housing accord between the Minister and the territorial authority for the district in which the area is situated, unless— 25
 - (i) the territorial authority and the Minister have been parties to a housing accord and the accord has been terminated; or
 - (ii) the Minister, after endeavouring to negotiate in good faith with the territorial authority in an attempt to conclude a housing accord, has been unable to reach an agreement with that territorial authority. 30
- (5) The Minister has no obligation to recommend the making of an Order in Council under this section, even if the Minister is satisfied that all criteria for making a recommendation are met. 35

17 Establishing special housing areas in district covered by housing accord

- (1) An accord territorial authority may, at any time, recommend to the Minister that 1 or more areas within the district of the accord territorial authority be established as special housing areas. 5
- (2) An accord territorial authority, when recommending to the Minister that a special housing area be established, may also recommend that 1 or both of the criteria prescribed in accordance with **section 15(1)** be varied for qualifying developments in the special housing area. 10
- (3) An Order in Council made under **section 16**, declaring an area within the district of an accord territorial authority to be a special housing area, may also declare the varied criteria that apply, in substitution for the criteria prescribed under **section 15(1)**, for qualifying developments in that area if— 15
- (a) the Minister’s recommendation to make the Order in Council includes a recommendation that the Order in Council include a declaration to that effect; and
- (b) the Minister’s recommendation is in accordance with a recommendation of the accord territorial authority made under **subsection (2)**. 20
- (4) Criteria declared in substitution for the criteria prescribed under **section 15(1)** may (without limitation) include the height or capacity prescribed in a plan or proposed plan applying to the special housing area or some other height or capacity fixed by reference to the height or capacity prescribed in such a plan or proposed plan. 25
- (5) However, no criterion that would enable houses and other buildings to have more than 6 floors may be declared to apply in substitution for the criterion prescribed under **section 15(1)(a)**. 30

18 Varying criteria for qualifying developments after special housing area established

- (1) At any time after the Governor-General declares an area to be a special housing area under **section 16**, the Governor-General may, by Order in Council made on the recommendation of the Minister, declare varied criteria that apply, in substitution 35

for any of the criteria prescribed in accordance with **section 15(1) or 17(3)**, for qualifying developments in the special housing area.

- (2) If the special housing area is within the district of an accord territorial authority, the Minister may recommend that an Order in Council be made under **subsection (1)** only if that recommendation is in accordance with a recommendation of the accord territorial authority. 5

19 Disestablishing special housing areas

- (1) Every Order in Council made under **section 16** is revoked on the close of 30 June 2016, unless earlier revoked, and the special housing area declared by that order is disestablished at the same time that each order is revoked. 10
- (2) An Order in Council revoking an order made under **section 16** may only be made on the recommendation of the Minister. 15
- (3) The Minister must not recommend the making of a revocation order under **subsection (2)** unless—
- (a) 1 or both of the following apply:
- (i) the Minister is satisfied that the special housing area no longer meets the criteria in **section 16(3)**: 20
- (ii) the region or district that the special housing area is in ceases to be a scheduled region or district; and
- (b) the Minister, not less than 3 months before the date on which the revocation order is to come into force, has given public notice that the special housing area is intended to be disestablished on that date. 25

Part 2

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

5

Subpart 1—Preliminary provisions

**20 This Part applies to qualifying developments in special
housing areas**

This Part applies to qualifying developments in special housing areas.

10

21 Outline of this Part

(1) This Part provides for applications for resource consents that relate to qualifying developments in special housing areas. It also provides for requests for certain plan changes and variations to proposed plans associated with resource consent applications to be made where a special housing area is within the district of an accord territorial authority. This Part has 6 subparts, which are outlined in the following subsections.

15

(2) **Subpart 1** deals with preliminary matters, including—

(a) the relationship between the provisions of the Resource Management Act 1991 and this Part; and

20

(b) who may perform the functions and exercise the powers under this Part.

(3) **Subpart 2** gives a person who wants to obtain a resource consent in relation to a qualifying development in a special housing area (person A) a right to apply for the resource consent under this Act. However, if A also has a right to apply for the resource consent under the Resource Management Act 1991, A may elect whether to—

25

(a) apply for the resource consent under this Act and have the application determined in accordance with its provisions; or

30

(b) apply for the resource consent under the Resource Management Act 1991 and have the application determined in accordance with the provisions of that Act.

35

- (4) **Subpart 2** also deals with how an application for a resource consent under this Act must be made and determined, and matters concerning resource consents that are granted under it.
- (5) **Subpart 3**—
- (a) gives a person a right to request a plan change or a variation to a proposed plan at the same time as, or before, the person makes an application for a resource consent relating to a qualifying development where the plan change or variation is necessary to facilitate consideration of the resource consent application and— 5
 - (i) the person wants to undertake an activity in relation to a qualifying development that, under the plan, is a prohibited activity; and 10
 - (ii) the qualifying development is in a special housing area within the district of an accord territorial authority; and 15
 - (b) deals with how requests for plan changes and variations must be made and determined.
- (6) **Subpart 4** applies other provisions of the Resource Management Act 1991 in respect of applications and requests under **subparts 2 and 3**. 20
- (7) **Subpart 5** provides for rights of objection against decisions of an authorised agency, the procedure for objections, and matters relating to hearings and decisions on objections.
- (8) **Subpart 6** contains miscellaneous provisions. These include provisions for the chief executive to delegate the chief executive's functions and powers under this Part, provisions for an accord territorial authority to delegate its functions and powers under this Part, and a provision applying the transitional provisions set out in **Schedule 2** for the purposes of the Act. 25 30
- (9) This section is a guide only to the scheme and effect of this Act and does not limit or affect the other provisions of the Act.
- 22 Application of Resource Management Act 1991 to applications, requests, etc, under this Part**
- The Resource Management Act 1991 does not apply to an application, request, or any other matter under this Part, except to the extent that— 35

- (a) terms used in this Part, unless otherwise defined, must be given the same meaning as in the Resource Management Act 1991 (*see* **section 6(2)**); and
- (b) the provisions in **subpart 4** and other provisions in this Part expressly apply provisions of the Resource Management Act 1991; and 5
- (c) transitional provisions in this Act, or regulations made under this Act, apply provisions of the Resource Management Act 1991.

23 Functions and powers in this Part to be performed or exercised by authorised agency 10

- (1) The functions and powers in this Part may be performed or exercised only by the agency authorised in **subsection (2)** (the **authorised agency**).
- (2) The authorised agency in relation to a qualifying development in a special housing area is,— 15
 - (a) in relation to an application made under **subpart 2 of this Part**,—
 - (i) the accord territorial authority, if the special housing area is within the district of an accord territorial authority; or 20
 - (ii) the chief executive, if the special housing area is within the district of a territorial authority that is not a party to a housing accord; and
 - (b) in relation to applications made under **subpart 3 of this Part**, the accord territorial authority. 25

Subpart 2—Resource consents

Applications for resource consents

24 Applications for resource consent may be made to authorised agency 30

A person may apply to the relevant authorised agency for a resource consent that relates to a qualifying development in a special housing area.

- 25 Applications relating to activities prohibited in plan but not proposed plan**
- (1) A person may apply to the authorised agency for a resource consent for an activity that—
- (a) is described in the relevant plan as a prohibited activity; 5
but
 - (b) is described in a proposed plan as a controlled, restricted discretionary, discretionary, or non-complying activity.
- (2) The authorised agency, when determining an application made under this section, must treat the activity as if the description 10
in the proposed plan applied.
- 26 Applications relating to activities prohibited in proposed plan**
- (1) A person may apply to the authorised agency for a resource consent for an activity that is described in a proposed plan as 15
a prohibited activity.
- (2) The authorised agency, when determining an application made under this section, must treat the activity as if the activity were a discretionary activity.
- 27 Making applications** 20
- Sections 88 and 88A of the Resource Management Act 1991 apply in respect of an application for a resource consent made under this Act—
- (a) as if every reference to the consent authority were a reference to the authorised agency; and 25
 - (b) as if the reference to sections 357 to 358 of the Resource Management Act 1991 were a reference to **sections 78 to 80** of this Act; and
 - (c) with all other necessary modifications.
- 28 Further information** 30
- (1) Sections 92 to 92B of the Resource Management Act 1991 apply in respect of an application for a resource consent accepted under this Act—
- (a) as if every reference to a consent authority were a reference to the authorised agency; and 35
 - (b) with all other necessary modifications.

- (2) If the chief executive is the authorised agency, the authorised agency may request information under section 92 of the Resource Management Act 1991 from the applicant and any relevant local authority.
- (3) If a request is made to a local authority under **subsection (2)**, that local authority must provide the information requested as soon as is reasonably practicable. 5
- 29 No requirement to notify application or hold hearing**
- (1) An authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under **sections 24 to 26**, except as provided in **subsections (2) and (3)**. 10
- (2) The authorised agency may notify the application to the following persons if it identifies that the activity's adverse effects on any of those persons are more than minor: 15
- (a) the owners of the land adjoining the land subject to the application; and
- (b) if the land subject to the application adjoins a State highway or a designated State highway, the New Zealand Transport Agency. 20
- (3) Despite **subsection (2)**, an authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under **section 24** if, were that application to be made under the Resource Management Act 1991, that Act, or regulations made under that Act, would direct that the activity that is the subject of the application not be notified. 25
- (4) A notice under **subsection (2)** must—
- (a) state that the recipients and the relevant local authority may make submissions on the application to the authorised agency within 20 working days from the date of the notice; and 30
- (b) state the closing date for submissions and the address for service of the authorised agency; and
- (c) request that those who make submissions indicate whether they wish to be heard. 35

- (5) The authorised agency must, as soon as is reasonably practicable, send copies of all submissions on the application to the applicant.
- (6) A submission must be served on the authorised agency on or before the closing date for submissions. 5
- (7) A submission may state whether it—
 - (a) supports the application; or
 - (b) opposes the application; or
 - (c) is neutral.
- (8) Any submission made after the closing date must not be considered by the authorised agency. 10

30 Hearing date and notice

- (1) The authorised agency must hold a hearing, not later than 20 working days after the closing date for submissions, if any person who has made a submission in accordance with **section 29** has indicated that the person wishes to be heard and has not withdrawn that indication. 15
- (2) The authorised agency must—
 - (a) give every person who meets the criteria in **subsection (1)** and the person who made the application not less than 10 working days’ notice of the date, time, and place of the hearing; and 20
 - (b) give all persons referred to in **paragraph (a)** the opportunity to be heard.

31 Time limit for completing hearing 25

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

*Decisions on applications and commencement
of resource consents*

32 Process and requirements for decisions on applications 30

- (1) The authorised agency, following consideration of an application for a resource consent in accordance with **subsection (2)**, must reach a decision whether to grant the consent and, if so, whether to do so subject to any conditions, on a basis that is consistent with, and gives effect to, the purposes of this Act. 35

- (2) An authorised agency, when considering an application for a resource consent under this Act, must—
- (a) have regard to, and give the most weight to, the purpose of this Act; and
 - (b) take into account the following matters, giving weight to them in the order listed:
 - (i) the matters that would arise for consideration under Part 2 and sections 104 to 104E of the Resource Management Act 1991 were the application being assessed under that Act, except that if, in the authorised agency’s opinion, any relevant provisions of a proposed plan or proposed regional policy statement give better effect to the purpose of this Act than the provisions of a plan or regional policy statement, the authorised agency may disregard any provisions of the plan or regional policy statement that are inconsistent with the provisions of the proposed plan or proposed regional policy statement;
 - (ii) the key urban design qualities expressed in the Ministry for the Environment’s *New Zealand Urban Design Protocol* (2005) and any subsequent editions of that document.
- (3) An authorised agency must not grant a resource consent that relates to a qualifying development unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development.
- (4) For the purposes of **subsection (3)**, in order to be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development, the matters that the authorised agency must take into account, without limitation, are—
- (a) compatibility of infrastructure proposed as part of the qualifying development with existing infrastructure; and
 - (b) compliance of the proposed infrastructure with relevant standards for infrastructure published by relevant local authorities and infrastructure companies; and

- (c) the capacity for the infrastructure proposed as part of the qualifying development and any existing infrastructure to support that development.
- (5) In considering an application for a resource consent under this section, the authorised agency— 5
- (a) may direct an affected infrastructure provider to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application; and
- (b) if the authorised agency is the chief executive, the authorised agency may also direct any local authority to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application. 10
- (6) The Ministry must ensure that a copy of the document referred to in **subsection (2)(b)(ii)**, or a link to that document, is on the Ministry’s Internet site and that members of the public can easily access the document via that site, free of charge, at all reasonable times. 15
- 33 Determination of applications for certain activities** 20
- Sections 105 to 107 of the Resource Management Act 1991 apply in respect of an application for a resource consent accepted under this Act—
- (a) as if every reference to a consent authority were a reference to an authorised agency; and 25
- (b) with all other necessary modifications.
- 34 Decision on application**
- (1) An authorised agency may grant or refuse an application for a resource consent accepted under this Act.
- (2) If an authorised agency grants the application, it may impose conditions under **sections 35 and 36**. 30
- (3) Without limiting **subsection (1)**, an authorised agency may refuse an application on the grounds that it has inadequate information to determine the application.

35 Conditions of resource consents

- (1) Sections 108 to 111 of the Resource Management Act 1991 apply in respect of an application for a resource consent accepted under this Act—
- (a) as if every reference to a consent authority were a reference to the authorised agency; and
 - (b) with all other necessary modifications.
- (2) Without limiting **subsection (1)**, a resource consent may include any condition that is consistent with and gives effect to the purpose of this Act. 5
- (3) If the authorised agency is the chief executive and the authorised agency receives a cash contribution or land under the provisions referred to in **subsection (1)**, the authorised agency must transfer that contribution to the relevant consent authority to be used for the purposes specified in the resource consent or in that consent authority’s plan. 10
- (4) Section 110 of the Resource Management Act 1991 applies to the consent authority to which the authorised agency has transferred a cash contribution in accordance with **subsection (3)**. 15

36 Conditions of subdivision consents

Section 220 of the Resource Management Act 1991 applies, with all necessary modifications, in respect of an application for a subdivision consent accepted by an authorised agency as if every reference to the territorial authority were a reference to the authorised agency. 20

25

37 Decisions on applications to be in writing and include reasons

Every decision by an authorised agency on an application for a resource consent must be in writing and state the reasons for the decision. 30

38 Notification of decision

- (1) If the authorised agency is a territorial authority, the authorised agency must serve a copy of its decision on an application for a resource consent on the applicant and all persons who made a submission. 35

- (2) If the authorised agency is the chief executive, the authorised agency must serve a copy of its decision on an application for a resource consent on—
- (a) the applicant; and
 - (b) all persons who made a submission; and 5
 - (c) the relevant territorial authority.
- 39 Time limit for notifying decision**
- (1) Notice of the decision of an authorised agency under this Part must be given not later than 60 working days after the date on which the application was first lodged with the authorised agency. 10
- (2) **Subsection (3)** provides for the time periods that must be excluded from the time limit for notification in **subsection (1)**.
- (3) The time periods are those described in section 88C of the Resource Management Act 1991. That section applies, with all necessary modifications, to applications received under this Part as if— 15
- (a) every reference to—
 - (i) an authority were a reference to the authorised agency: 20
 - (ii) section 92, 92A, or 92B were a reference to that section as modified by **section 28** of this Act:
 - (iii) the applicant were a reference to the applicant or a local authority; and 25
 - (b) in section 88C(2), (4), and (6), the words “The period that must be excluded from every applicable provision listed in section 88B(2)” were replaced with the words “The period that must be excluded from the time limit for notification of a decision under **section 39(1)** of the Housing Accords and Special Housing Areas Act **2013**”. 30
- (4) However, if a resource consent application is lodged in conjunction with a request under **subpart 3** of this Part for a plan change or a variation to a proposed plan, the reference in **subsection (1)** to “60 working days” must be read as a reference to “130 working days”. 35

40 When resource consent commences

- (1) A resource consent granted by the authorised agency commences on the date on which the decision on the application is notified under **section 38** or, if a later date is stated in the resource consent, on the date stated in the resource consent. 5
- (2) If an objection has been made under **section 78**,—
- (a) **subsection (1)** does not apply; and
 - (b) the resource consent commences on the day after the date on which the objection has been decided or withdrawn. 10

Subdivisions

41 Application of Part 10 of Resource Management Act 1991

Part 10 of the Resource Management Act 1991 applies to subdivision consents granted and survey plans approved under this Act except to the extent that this Act provides otherwise. 15

42 Consent notices and completion certificates

- (1) Sections 221 and 222 of the Resource Management Act 1991 apply, with all necessary modifications, to all subdivision consents granted by an authorised agency—
- (a) as if every reference to a territorial authority were a reference to the authorised agency; and 20
 - (b) subject to the qualification that, for the purposes of section 221 of the Resource Management Act 1991, the sections of that Act listed in **subsection (2)** apply only to the extent that they apply, or apply as modified, under this Act. 25
- (2) The sections for the purposes of **subsection (1)** are sections 88 to 121 and 127(4) to 132 of the Resource Management Act 1991.

43 Approval of survey plans by authorised agency 30

- (1) Section 223(1) to (4), and (6) of the Resource Management Act 1991 apply to all survey plans that relate to a subdivision consent granted, or a certificate of compliance issued, by an authorised agency under this Act—

- (a) as if every reference to a territorial authority were a reference to the authorised agency; and
- (b) with all necessary modifications.
- (2) A certificate under section 223(3) of the Resource Management Act 1991 is conclusive evidence that all roads, private roads, reserves, land vested in the relevant territorial authority in lieu of reserves, and private ways shown on the survey plan have been authorised by the authorised agency and accepted by the relevant territorial authority under this Act and the Resource Management Act 1991. 5 10
- 44 Restrictions on deposit of survey plan**
- Section 224 of the Resource Management Act 1991 applies to all survey plans that relate to a subdivision consent granted, or a certificate of compliance issued, by an authorised agency under this Act— 15
- (a) as if every reference to a territorial authority in paragraphs (c), (f), and (h) were a reference to the authorised agency; and
- (b) with all necessary modifications.
- 45 Subdivision by the Crown** 20
- (1) Section 228 of the Resource Management Act 1991 applies to a survey plan described in **subsection (2)** that has been approved by an authorised agency under **section 43** of this Act—
- (a) as if every reference to a territorial authority were a reference to the authorised agency; and 25
- (b) with all other necessary modifications.
- (2) The survey plan referred to in **subsection (1)** is a survey plan that relates to a subdivision for a qualifying development, by or on behalf of a Minister of the Crown, of land not subject to the Land Transfer Act 1952. 30
- 46 Other provisions relating to survey plans**
- (1) Sections 231, 236, 237, and 237A of the Resource Management Act 1991 apply to the survey plans referred to in **subsection (2)**— 35

- (a) as if every reference to the territorial authority, except the references referred to in **subsection (3)**, were a reference to the authorised agency; and
- (b) with all other necessary modifications.
- (2) The survey plans referred to in **subsection (1)** are all survey plans that relate to a subdivision consent granted, or certificate of compliance issued, by an authorised agency. 5
- (3) The references to a territorial authority in sections 231(1)(b) and 237A(1)(a) of the Resource Management Act 1991 retain the meaning given in section 2(1) of that Act. 10
- 47 Covenant against transfer of allotments**
Section 240 of the Resource Management Act 1991 applies to all survey plans that relate to a subdivision consent granted by an authorised agency—
- (a) as if— 15
- (i) the second reference to the territorial authority in section 240(1) were a reference to the authorised agency; and
- (ii) every other reference to a territorial authority were a reference to the relevant territorial authority; and 20
- (b) with all other necessary modifications.
- 48 Survey plan approved subject to grant or reservation of easements**
Section 243 of the Resource Management Act 1991 applies to all survey plans that relate to a subdivision consent granted under this Act as if every reference to the territorial authority were a reference to the authorised agency and with all other necessary modifications. 25
- Additional provisions relating to resource consents* 30
- 49 Nature and duration of resource consent**
Sections 122 and 123 of the Resource Management Act 1991 apply, with all necessary modifications, to resource consents granted by the authorised agency under this Act. 35

- 50 Lapsing of resource consent**
Section 125 of the Resource Management Act 1991 applies to resource consents granted by an authorised agency under this Act—
- (a) as if— 5
 - (i) every reference to the consent authority were a reference to the authorised agency; and
 - (ii) every reference to the territorial authority were a reference to the authorised agency; and
 - (iii) in section 125(1A)(b), subparagraphs (ii) and (iii) 10
were replaced with the following subparagraph:
“(ii) the purpose of the Housing Accords and
Special Housing Areas Act~~2013~~.”; and
 - (b) with all other necessary modifications.
- 51 Change, cancellation, or review of consent condition on application by consent holder** 15
Sections 126 to 129 of the Resource Management Act 1991 apply to a resource consent granted by the authorised agency under this Act—
- (a) as if every reference to the consent authority were a reference to the authorised agency, subject to the qualification that, for the purposes of section 127(3) of the Resource Management Act 1991, sections 88 to 121 of that Act apply only to the extent that they apply, or apply as modified, under this Act; and 20
25
 - (b) with all other necessary modifications.
- 52 No public notification, submissions, or hearings on review**
Section 130 of the Resource Management Act 1991 does not apply to the review of any condition of a resource consent granted under this Act. 30
- 53 Matters to be considered in review**
Section 131 of the Resource Management Act 1991 applies to a resource consent under this Act—
- (a) as if—
 - (i) every reference to the consent authority were a reference to the authorised agency; and 35

- (ii) in section 131(1)(a), the words “in section 104” were replaced with the words “in **section 32** of the Housing Accords and Special Housing Areas **Act 2013**”; and
 - (b) with all other necessary modifications. 5
- 54 Decision on review of consent conditions**
Section 132 of the Resource Management Act 1991 applies to a resource consent granted under this Act as if every reference to the consent authority were a reference to the authorised agency, except that— 10
 - (a) section 132(1A) does not apply; and
 - (b) in section 132(2),—
 - (i) sections 106 to 116 of the Resource Management Act 1991 apply only to the extent that they apply, or apply as modified, under this Act; and 15
 - (ii) sections 120 and 121 of the Resource Management Act 1991 do not apply; and
 - (c) all other necessary modifications must be made to the section.
- 55 Minor corrections of resource consents** 20
Section 133A of the Resource Management Act 1991 applies to a resource consent under this Act as if the reference to a consent authority were a reference to an authorised agency and with all other necessary modifications.
- 56 Surrender of consent** 25
Section 138 of the Resource Management Act 1991 applies to a resource consent under this Act as if every reference to the consent authority were a reference to the authorised agency and with all necessary modifications.
- 57 Certificates of compliance** 30
Section 139 of the Resource Management Act 1991 applies to an activity associated with a qualifying development that could be done lawfully without a resource consent—

- (a) as if every reference to the consent authority and the authority were a reference to the authorised agency, except that,—
- (i) in section 139(12), the only sections in Part 6 of that Act that apply are sections 122 and 125, to the extent that those sections apply, or apply as modified, under this Act; and 5
- (ii) section 139(13) does not apply; and
- (b) with all other necessary modifications.
- 58 Certification of infrastructure** 10
- On the completion of all infrastructure works carried out by the consent holder, the authorised agency must inspect those works and, where applicable, certify that the infrastructure complies with the standards of the relevant local authority.
- 59 Monitoring of resource consents** 15
- The authorised agency must monitor the exercise of the resource consents it grants and take appropriate action, having regard to the methods available under the Resource Management Act 1991.
- Subpart 3—Requests for plan changes and variations to proposed plans** 20
- 60 Application of subpart**
- This subpart applies only in relation to qualifying developments in special housing areas that are within the district of an accord territorial authority. 25
- 61 Requests for changes to plan or variation to proposed plan**
- (1) A person who wants to undertake an activity relating to a qualifying development may request the authorised agency to change the plan in accordance with **sections 62 to 70** if the relevant district plan does not provide for any residential development in the relevant special housing area and— 30
- (a) there is no provision for activities relating to qualifying developments in a proposed plan; or

- (b) a proposed plan describes the activity as a prohibited activity.
- (2) A person who wants to undertake an activity relating to a qualifying development may request the authorised agency to vary the proposed plan in accordance with **sections 62 to 70** if the plan does not provide for any residential development in the relevant special housing area and—
 - (a) a proposed plan anticipates that the land to which the request applies will be available in future for residential development; but
 - (b) the proposed plan does not provide any rules that will apply to that development.
- (3) A request to change or vary a plan under this section—
 - (a) may be made at the same time as, or before, an application for a resource consent that relates to the qualifying development; and
 - (b) must—
 - (i) be made in writing; and
 - (ii) relate only to changes or variations necessary to facilitate the consideration of a resource consent application for 1 or more qualifying developments; and
 - (iii) explain the purpose of, and reasons for, the requested plan change or variation; and
 - (iv) contain an evaluation in accordance with section 32(3) to (5) of the Resource Management Act 1991 for any objectives, policies, rules, or other methods proposed; and
 - (v) if environmental effects are anticipated, describe those effects, taking into account the provisions of Schedule 4 of the Resource Management Act 1991, in a degree of detail that corresponds with the scale and significance of the actual or potential environmental effects anticipated from implementation of the change or variation.
- (4) The authorised agency, when considering a request for a plan change or variation under this section, must—
 - (a) give effect to the purpose of this Act; and
 - (b) have regard to—

- (i) Part 2 of the Resource Management Act 1991; and
 - (ii) the matters in section 74 of the Resource Management Act 1991, except that, for the purposes of section 74(2), the authorised agency must only give effect to those parts of the regional policy statement that are consistent with the purpose of this Act. 5
- (5) Part 3 of Schedule 1 of the Resource Management Act 1991 applies to a plan change or a variation to a proposed plan requested under this subpart. 10

*Process for plan change or variation requests
where adjoining owners give prior approval*

- 62 Process for requests where adjoining owners give prior approval** 15
- (1) This section applies if a person makes a request for a plan change or variation under **section 61** and that person has obtained prior written approval for that change or variation from—
 - (a) the owners of the land adjoining the land subject to the request; and 20
 - (b) if the land subject to the request adjoins a State highway or designated State highway, the New Zealand Transport Agency.
 - (2) Clauses 23 and 24 of Schedule 1 of the Resource Management Act 1991 apply to the request as if every reference to a request under clause 21 of that Schedule were a reference to a request under **section 61** and,—
 - (a) in clause 23(1), the words “20 working days” were replaced with the words “10 working days”; and 30
 - (b) in clause 23(2), the words “15 working days” were replaced with the words “10 working days”; and
 - (c) in clause 23(3), the words “20 working days” and the words “15 working days” were each replaced with the words “10 working days”. 35
 - (3) The authorised agency must make a decision on the request for a plan change or variation, and give public notice of that

decision, within 40 working days after the date of whichever of the following is the latest to have occurred:

- (a) receipt of the request;
 - (b) receipt of all required information or any report requested in accordance with clause 23 of Schedule 1 of the Resource Management Act 1991: 5
 - (c) modification of the request.
- (4) The authorised agency’s decision made in accordance with **section 61(4)** may be to— 10
- (a) approve the plan change or variation; or
 - (b) approve the plan change or variation with modification; or
 - (c) decline the plan change or variation.
- (5) The authorised agency must, within 5 working days of making a decision on the request, notify the person who made the request of— 15
- (a) the decision on the request; and
 - (b) the reasons for that decision.
- (6) **Section 70** applies concerning public notification of the decision and the effect of public notification. 20

*Process for plan change or variation requests
where adjoining owners do not give prior
approval*

- 63 Application of sections 64 to 71** 25
- Sections 64 to 71** apply if a person requests a plan change or variation under **section 61** and that person has not obtained prior written approval for that change or variation from—
- (a) the owners of the land adjoining the land subject to the request; and
 - (b) if the land subject to the request adjoins a State highway or designated State highway, the New Zealand Transport Agency. 30
- 64 Further information may be required and request may be modified** 35
- Clauses 23 and 24 of Schedule 1 of the Resource Management Act 1991 apply to the request as if every reference to a request

under clause 21 of that Schedule were a reference to a request under **section 61** of this Act and—

- (a) in clause 23(1), the words “20 working days” were replaced with the words “10 working days”; and
- (b) in clause 23(2), the words “15 working days” were replaced with the “the words 10 working days”; and
- (c) in clause 23(3), the words “20 working days” and the words “15 working days” were each replaced with the words “10 working days”.

65 Authorised agency to consider request 10

- (1) The authorised agency must, within the time specified in **subsection (2)**, decide whether to—
 - (a) adopt the request, or part of the request; or
 - (b) accept the request in whole or in part; or
 - (c) reject the request. 15
- (2) If the authorised agency decides to adopt the request, or part of the request, the request must be dealt with in accordance with **section 71**.
- (3) The authorised agency must make its decision under **subsection (1)** within 10 working days of whichever of the following is the latest to have occurred:
 - (a) receipt of the request;
 - (b) receipt all required information or any report requested in accordance with clause 23 of Schedule 1 of the Resource Management Act 1991: 20
 - (c) modification of the request. 25

66 Preparation of plan change or variation, notification, and submissions

If the authorised agency decides to accept the request or part of the request as provided in **section 65(1)(a)**, the relevant local authority, within 30 working days of the receipt of the request or receipt of all required information or any report requested in accordance with clause 23 of Schedule 1 of the Resource Management Act 1991 (whichever is the latest), must—

- (a) prepare the change to the plan or variation to the proposed plan in consultation with the person who made the request; and 35

- (b) notify the change or variation to—
 - (i) each owner of land adjoining the land subject to the request; and
 - (ii) if the land subject to the request adjoins a State highway or designated State highway, the New Zealand Transport Agency. 5
- (c) The notice under **paragraph (b)** must—
 - (i) state that the recipients and the relevant local authority may make submissions on the plan change or variation to the authorised agency within 20 working days from the date of the notice; and 10
 - (ii) state the closing date for submissions and the address for service of the authorised agency; and
 - (iii) request that those who make submissions indicate whether they wish to be heard. 15
- (d) The authorised agency must, as soon as practicable after the closing date for submissions, send copies of all submissions on the proposed change or variation to the person who made the request. 20

67 Hearings

- (1) The authorised agency must hold a hearing, not later than 20 working days after the closing date for submissions, if any person who made a submission in accordance with **section 66** has indicated that the person wishes to be heard and has not withdrawn that indication. 25
- (2) The authorised agency must—
 - (a) give each person who meets the criteria in **subsection (1)** and the person who made the request not less than 10 working days' notice of the date, time, and place of the hearing; and 30
 - (b) give all persons referred to in **paragraph (a)** the opportunity to be heard.
- (3) The authorised agency must complete the hearing not later than 30 working days after the closing date for submissions on the request. 35

68 Decision and notice to applicant

- (1) The authorised agency must give a decision on the provisions and matters raised in submissions whether or not a hearing on a plan change or variation is held.
- (2) Clause 10(2) and (3) of Schedule 1 of the Resource Management Act 1991 apply, with all necessary modifications, to the authorised agency's decision. 5
- (3) The authorised agency's decision made in accordance with **section 61(4)** may be to— 10
- (a) approve the plan change or variation; or
 - (b) approve the plan change or variation with modifications; or
 - (c) decline the plan change or variation.
- (4) The authorised agency must, within 5 working days of making a decision on the request, notify the person who made the request of— 15
- (a) the decision on the request; and
 - (b) the reasons for that decision.

Time limit for decision, requirement for public notification, and effect of decision 20

69 Decision to be given and notified within 130 working days after application

The authorised agency must, not later than 130 working days after it receives the request under **section 61**,—

- (a) give its decision on the request; and 25
- (b) give public notice of the decision and, at the same time, serve a copy of the notice on every person who made a submission on the plan change or variation.

70 Effect of notifying decision to approve plan change or variation 30

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

- (a) the plan or proposed plan (as the case may be) is amended in accordance with the decision; and 35

- (b) the plan change, or provision of the proposed plan as varied by the decision, is operative, including in terms of clause 20 of Schedule 1 of the Resource Management Act 1991.

*Adoption of request for plan change or variation
by authorised agency* 5

71 Authorised agency may adopt request for plan change or variation

- (1) An authorised agency may adopt a request for a plan change or variation made under **section 61**— 10
 - (a) if it wishes to deal with the request as part of a larger proposal for a plan change or variation incorporating requests from other persons in relation to the special housing area to which the request relates; and
 - (b) the larger proposal or plan change or variation that the authorised agency has prepared meets the criteria in section **61(3)(b)**. 15
- (2) **Sections 62 to 70** apply as if the plan change or variation adopted by the local authority were a request for a plan change or variation by a person wanting to undertake an activity in relation to a qualifying development that involves a prohibited activity, with any other necessary modifications. 20

Concurrent plan change or variation processes

72 Interface between concurrent plan change or variation processes under this Act and Resource Management Act 1991 25

- (1) This section applies if a request for a plan change or a variation to a proposed plan under this subpart (**process A**) relates to a matter in a plan or proposed plan that is simultaneously subject to a plan change or variation process in accordance with Schedule 1 of the Resource Management Act 1991 (**process B**). 30
- (2) From the day after the date on which a plan change or variation to a proposed plan becomes operative in accordance with process A or a plan change or variation to a proposed plan becomes operative in accordance with process B, whichever 35

process results in an operative plan change or variation first (the **deciding process**),—

- (a) any submission or part of a submission made under the other process in respect of a matter that is determined by the deciding process must be treated for all purposes as having been withdrawn by the person who made the submission (the **submitter**); and 5
- (b) the local authority, authorised agency, or other person or body responsible for the other process must—
 - (i) notify the person who made the request and each submitter affected by the operation of **paragraph (a)** that a plan change or variation has become operative in accordance with the deciding process and specify the submission or part of the submission that is treated as having been withdrawn; and 10 15
 - (ii) not take further action under the other process in relation to any matter that was considered and determined as part of the deciding process.

Subpart 4—Other provisions of Resource Management Act 1991 that apply in relation to applications, etc, under subparts 2 and 3 20

73 Other provisions of Resource Management Act 1991 applying

- (1) The provisions of the Resource Management Act 1991 listed in **subsection (2)**, with the modifications stated and all other necessary modifications, apply— 25
 - (a) in respect of an application for a resource consent made under **subpart 2** of this Part, including the authorised agency’s functions and powers under that subpart: 30
 - (b) in respect of a request for a plan change or variation under **subpart 3** of this Part, including the authorised agency’s exercise of its functions and powers under that subpart, except the provisions referred to in **subsection (2)(c), (d), and (f)**. 35
- (2) The provisions are—
 - (a) section 21 (avoiding unreasonable delay):

- (b) section 27 (Minister may require local authorities to supply information), however, the Minister of Housing may also exercise the power in that section as if that Minister were the Minister for the Environment:
- (c) section 34 (delegation of functions, etc, by local authorities): 5
- (d) section 34A (delegation of powers and functions to employees and other persons):
- (e) section 36AA (local authority policy on discounting administrative charges): 10
- (f) section 36A (no duty under this Act to consult about resource consent applications and notices of requirement):
- (g) sections 37 (power of waiver and extension of time limits) and 37A (requirements for waivers and extensions), if the authorised agency is satisfied that exceptional circumstances justify applying the provisions: 15
- (h) sections 39 to 41A, 41B(1) to (4), 41C, 42, and 42A (concerning powers and duties in relation to hearings):
- (i) section 352 (service of documents): 20
- (j) any other provisions of the Resource Management Act 1991 prescribed for the purposes of this section.

74 Administrative charges

Section 36(3) to (5) and (7) of the Resource Management Act 1991 apply, as if the reference in section 36(3) and (7) to subsection (1) were a reference to this section and with all other necessary modifications, to the following charges fixed by the authorised agency in those provisions: 25

- (a) charges payable by applicants for the preparation or change of a plan, or the preparation or variation to a proposed plan, for a local authority carrying out its functions in relation to such applications: 30
- (b) charges payable by applicants for resource consents for the authorised agency carrying out 1 or more of its functions under this Act in relation to receiving, processing, and granting resource consents (including certificates of compliance): 35

-
- (c) charges payable by holders of resource consents for the authorised agency carrying out its functions under this Act in relation to the administration, monitoring, and supervision of resource consents (including certificates of compliance): 5
- (d) charges payable by holders of resource consents for the authorised agency carrying out 1 or more of its functions under this Act in relation to reviewing consent conditions:
- (e) charges for providing information in respect of plans and resource consents under this Act, which are payable by the person who requests the information: 10
- (f) charges for the supply of documents, which are payable by the person who requests the document.
- Subpart 5—Provisions relating to rights of appeal and objection 15
- 75 Limited right of appeal and objection**
There is no right of appeal or objection against a decision made by the authorised agency under this Part, except as provided in **sections 76 and 78.** 20
- 76 Right of appeal against resource consent decisions relating to qualifying developments of 4 or more storeys**
- (1) One or more of the following persons may appeal to the Environment Court against the whole or any part of the decision of an authorised agency on a resource consent application under **section 24** relating to a qualifying development that is 4 or more storeys high: 25
- (a) the applicant;
- (b) any person who made a submission on the application.
- (2) An appeal under **subsection (1)** must be made in the form prescribed for appeals made under section 120 of the Resource Management Act 1991 and must— 30
- (a) state the reasons for the appeal and the relief sought; and

- (b) state any matters required by regulations made under the Resource Management Act 1991 for appeals under section 120 of that Act; and
 - (c) be lodged with the Environment Court and served on the authorised agency whose decision is being appealed against within 15 working days of notice of the decision being received in accordance with this Act. 5
- (3) The appellant must ensure that a copy of the notice of appeal is served on every person referred to in **subsection (1)** not later than 5 working days after the appeal is lodged with the Environment Court. 10
- (4) Part 11 of the Resource Management Act 1991 applies to an appeal under this section—
 - (a) as if every reference to a consent authority or a local authority were a reference to an authorised agency, except that in sections 292 and 293 each reference to a local authority must be read as a reference to an authorised agency and a local authority; and 15
 - (b) with any other necessary modifications.
- (5) This section is in addition to the rights provided for in **section 78**. 20

77 No review of decisions unless right of appeal exercised

- (1) This section applies if a person has a right of appeal against a decision of an authorised agency under this Act.
- (2) Unless the person has exercised that right of appeal and a decision has been made on the appeal,—
 - (a) no application for review under Part 1 of the Judicature Amendment Act 1972 may be made; and
 - (b) no proceedings seeking a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision, may be heard by the High Court. 25 30

78 Rights of objection

- (1) The following persons have a right of objection to the authorised agency: 35

- (a) a person whose application for a resource consent is not granted by the authorised agency:
 - (b) a person whose submission to an authorised agency is struck out under section 41C(7) of the Resource Management Act 1991, as applied by this Act: 5
 - (c) a person whose application for a resource consent under this Act is determined to be incomplete under section 88(3) of the Resource Management Act 1991, as it applies under this Act:
 - (d) a person whose application for a certificate of compliance is not granted by an authorised agency under **section 57** of this Act: 10
 - (e) a person who has made an application under any of the following provisions, in respect of the agency's decision on that application: 15
 - (i) section 125(1A)(b) of the Resource Management Act 1991, as modified by **section 50** of this Act, (which relates to lapsing of consents); or
 - (ii) section 126(2)(b) of the Resource Management Act 1991, as modified by **section 51** of this Act (which relates to the cancellation of consents): 20
 - (f) in respect of the authorised agency's decision on an application or a review described in **subsection (2)**, an applicant or a consent holder in respect of an application for a resource consent accepted, or a resource consent granted, by the authorised agency: 25
 - (g) a person required by the authorised agency to pay an additional charge under **section 74** of this Act and section 36(3) of the Resource Management Act 1991:
 - (h) a person whose request for a plan change or variation is not granted by the authorised agency under **subpart 3** of this Part. 30
- (2) **Subsection (1)(f)** applies to—
- (a) an application made under section 127 of the Resource Management Act 1991, as modified by **section 51** of this Act, for a change or cancellation of a condition of a resource consent granted by the authorised agency; and 35
 - (b) an application made under sections 128 to 132 of the Resource Management Act 1991, as modified by **sec-**

- tions 51 to 54** of this Act, to review the conditions of a resource consent granted by the authorised agency; and
- (c) an application made under section 221 of the Resource Management Act 1991, as modified by **section 42** of this Act, to vary or cancel a condition specified in a consent notice issued by the authorised agency. 5

79 Procedure for making and hearing objections

Section 357C of the Resource Management Act 1991 applies to an objection made under **section 78** of this Act as if every reference to sections 357, 357A, and 357B were a reference to **section 78** of this Act, and with all other necessary modifications. 10

80 Decisions on objections

Section 357D(1) and (2) of the Resource Management Act 1991 apply to an objection made under **section 78** of this Act as if— 15

- (a) every reference to sections 357, 357A, and 357B were a reference to **section 78** of this Act; and
- (b) a reference to section 357B(a) or 36(3) were a reference to **sections 78(1)(f) and 74** of this Act; and 20
- (c) with all other necessary modifications.

81 No right to appeal against decisions on objections

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

Subpart 6—Miscellaneous 25

Functions and powers of chief executive

82 Chief executive has powers of consent authority

Subject to the provisions in this Act, the chief executive is a consent authority under the Resource Management Act 1991 and has all associated powers required to effectively carry out his or her functions for the purposes of this Act. 30

83 Delegation of functions and powers of chief executive

- (1) In addition to any delegation under section 41 of the State Sector Act 1988, the chief executive may delegate 1 or more of the chief executive's functions or powers as an authorised agency under this Part to any of the following: 5
- (a) a local authority;
 - (b) the Environmental Protection Authority;
 - (c) a government department.
- (2) A delegation under this section— 10
- (a) must be in writing; and
 - (b) may be made subject to any restrictions and conditions that the chief executive thinks fit; and
 - (c) is revocable at any time, by notice in writing.
- (3) An entity to which any functions or powers are delegated under this section may exercise them in the same manner and with the same effect as if they had been conferred on the entity directly by this Act and not by delegation. 15
- (4) **Subsection (3)** is subject to any restrictions or conditions imposed by the chief executive.
- (5) A person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of evidence to the contrary. 20
- (6) No delegation under this section affects or prevents the exercise of any function or power by the chief executive or affects the responsibility of the chief executive for the actions of the entity acting under the delegation. 25

84 Transfer of functions and powers of chief executive

- (1) The chief executive may transfer 1 or more of the chief executive's functions or powers as an authorised agency under this Part to any of the entities named in **section 83(1)**. 30
- (2) **Subsection (1)** is subject to any prohibition against accepting a transfer of functions or powers that may be contained in the Act (if any) by or under which the entity is established.
- (3) The chief executive and the entity to which functions or powers are to be transferred under this section— 35
- (a) must enter into a written agreement in respect of the transfer; and

- (b) may agree on the terms of the transfer.
- (4) An entity to which a function or power is transferred under this section—
 - (a) may perform the function or exercise the power as if the function were imposed, or the power were conferred, on that entity under this Act; and 5
 - (b) may, unless the agreement in respect of the transfer provides otherwise, at any time, cancel the transfer in accordance with that agreement.
- (5) The chief executive may, at any time, change or revoke the transfer by written notice to the entity concerned. 10

85 Power to contract out

The chief executive may contract out work relating to the chief executive's functions and powers under this Part (such as monitoring the conditions of resource consents) to any local authority, private organisation, or person, provided that the delegation does not include any decision-making power relating to an application for a resource consent for a qualifying development. 15

ATA panel 20

86 Accord territorial authority may appoint panel

- (1) An accord territorial authority may appoint persons to act as members of 1 or more accord territorial authority panels (an **ATA panel**).
- (2) Each ATA panel must comprise no fewer than 3 members,— 25
 - (a) one of whom is a member of the relevant local authority, community board, or local board; and
 - (b) the remainder of whom are persons who, collectively, have knowledge of and expertise in relation to planning, design, and engineering. 30

87 Delegation of functions and powers to ATA panel

- (1) An accord territorial authority may delegate its functions and powers as an authorised agency under this Act to an ATA panel, including its functions and powers under **subpart 3** of this Part. 35

- (2) An accord territorial authority must not delegate its functions and powers under **subpart 3** of this Part, except as provided in **subsection (1)**.

Regulations

- 88 Regulations** 5
- The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) prescribing procedures, requirements, and other matters, not inconsistent with this Act, in respect of applications for resource consents and the granting of resource consents under this Act, requests for plan changes and variations to proposed plans, and the making of plan changes and variations to proposed plans under this Act, including— 10
- (i) requiring applications, requests, or notices under this Act to be made or given in a prescribed manner: 15
- (ii) providing for the procedure to be followed in connection with any application, request, or notice under this Act or in connection with any proceeding before an authorised agency, and for authorising the rectification of irregularities in procedure; and 20
- (b) prescribing other provisions of the Resource Management Act 1991, or regulations made under that Act, that apply in respect any application, request made, or other matter under this Act; and 25
- (c) providing for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 30

Transitional provisions

- 89 Transitional provisions** 35
- The transitional provisions in **Schedule 2** have effect for the purposes of this Act.
-

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

s 4

Auckland

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Schedule 2

s 89

Transitional provisions

- 1 Transitional provision relating to disestablishment of special housing area**
- (1) **Sections 25 to 27 and 61** do not apply after the date that a special housing area is disestablished (the **disestablishment date**). 5
- (2) The authorised agency must,—
- (a) in accordance with Part 2, continue to process all applications and requests made under the provisions referred to in **subclause (1)** before the disestablishment date; and 10
- (b) accept and process all—
- (i) applications under **section 51**; and
- (ii) requests made under **section 57**; and 15
- (iii) objections made under **section 79**.
- 2 Transitional provisions relating to termination of housing accord**
- (1) This clause applies if—
- (a) the Minister or an accord territorial authority gives public notice of an intention to terminate a housing accord in accordance with **section 13**; and 20
- (b) a special housing area within the district of the accord territorial authority is not disestablished on or before the date of the public notice (the **public notice date**). 25
- (2) If a person applies for a resource consent under any of **sections 25 to 27** without requesting a plan change or a variation to a proposed plan under **section 61** with that application, the authorised agency for the resource consent application is—
- (a) the accord territorial authority, if the application is made in the 3-month period starting on the day after the public notice date; and 30
- (b) the chief executive, if the application is made during the 3-month period starting on the day after end of the 3-month period referred to in **paragraph (a)**. 35
- (3) The accord territorial authority remains the authorised agency for an application for a resource consent made under any of

sections 25 to 27 between the public notice date and date that the housing accord terminates (the **termination date**) if that application is made with a request for a plan change or a variation to a proposed plan under **section 61**.

- (4) The accord territorial authority must not accept new applications or requests made under any of **sections 25 to 27 and 61** after the termination date. 5

3 Right to elect who considers objections against decisions, etc, of accord territorial authority after termination of housing accord 10

- (1) In this clause,—

right of objection means a right of objection under **section 78** against a decision made, or other action referred to in that section taken, by the accord territorial authority acting in the capacity of agency (whether under **Part 2** or under **clause 2(2)(a)**) 15

election period means the period starting on the close of the day before the termination date and ending 6 months later.

- (2) A person who, at any time during the election period, exercises a right of objection by giving notice in writing in accordance with section 357C of the Resource Management Act 1991 (an **objector**) may elect to have the chief executive consider and make a decision on the application rather than the accord territorial authority. 20
- (3) An objector who wants the chief executive to consider and make a decision on the objection must state in the notice referred to in **subclause (2)** that the objector elects to have the objection considered and heard by the chief executive. 25
- (4) A notice of objection that does not include a statement of electing the chief executive must be heard and considered by the accord territorial authority. 30

4 Regulations for transitional purposes

- (1) In this clause, **transition**, in relation to any matter dealt with in this Act, or any matter dealt with under another Act the operation of which is affected by the operation of this Act (for 35

example, existing applications under the Resource Management Act 1991), means—

- (a) the transition from the relevant law that applies in respect of the matter immediately before this clause comes into force to the relevant law that applies after this clause comes into force; and 5
 - (b) the transition from the relevant law that applies in respect of the matter immediately before this Act is repealed, or any provision relevant to the matter is repealed or no longer applies or has the same effect in respect of the matter, to the law that applies or has an effect after that event. 10
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing transitional or savings provisions that apply (in addition to, or in substitution for, any other transitional provisions in this schedule) for the purpose of facilitating or ensuring an orderly transition. 15
- (3) Regulations made under this clause may—
- (a) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions (including definitions) of this Act do not apply, or apply with modifications or additions: 20
 - (b) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions repealed by Order in Council or by the provisions of this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed: 25
 - (c) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions (including definitions) of the Resource Management Act 1991 do not apply, or apply with modifications or additions, to an application made under this Act: 30
 - (d) provide for any other matter necessary to facilitate or ensure an orderly transition. 35
- (4) The Minister must not recommend the making of regulations unless the Minister is satisfied that the regulations—
- (a) are reasonably necessary for the purpose of facilitating or ensuring an orderly transition; and

- (b) are consistent with the purposes of this Act.