Housing Accords and Special Housing Areas Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Housing Accords and Special Housing Areas Bill and recommends by majority that it be passed with the amendments shown.

Structure of the commentary

This commentary covers the policy aims of the bill as introduced and the main amendments that we recommend. The Regulations Review Committee provided substantial feedback about the regulation-making powers contained in the bill. These comments have been addressed in the relevant sections of the report. A number of drafting improvements and minor technical amendments have also been recommended, but these are not detailed in the commentary. The commentary includes the minority views of the New Zealand Labour Party, the Green Party, and New Zealand First.

Introduction

The Housing Accords and Special Housing Areas Bill aims to provide a rapid and short-term legislative means, among other legislative changes under way, for improving housing affordability by facilitating an increase in land and housing supply in areas with housing supply and affordability issues. It would provide a mechanism for central government and territorial authorities to negotiate housing accords and for special housing areas to be declared.

A housing accord would set out how central and local government would work together to address housing supply and affordability issues. Special housing areas could be specified within regions or districts with housing affordability problems. This would allow a territorial authority, if there were a housing accord in place, or the Government, if there were no housing accord in place, to exercise new consenting and planning powers in the area.

The types of development to which such powers would apply must be predominantly residential, have a height of no more than six storeys, and have a minimum number of dwellings to be constructed.

Repeal dates

We recommend amending clause 3 to provide sufficient time to implement the bill and operate its provisions. The amendment to subclause (1) would change the date for the repeal of clauses 16 and 17, which would provide for the establishment of special housing areas, from 30 June 2016 to 3 years after the date on which the bill receives the Royal assent, and the amendment to subclause (2) would change the date by which the repeal of the remainder of the provisions would take effect from 30 June 2017 to 5 years after the date on which the bill receives the Royal assent.

We also recommend amending clause 19(1) to ensure that any Order in Council made under clause 16 is revoked on the repeal of that clause.

Definitions

We propose a number of amendments to clause 6(1) to provide greater clarity around terms used within the bill.

We recommend inserting definitions for the terms "maximum calculated height" and "storey". The building code contains a definition of the term "building height", but does not include a definition of the term "storey". Varying definitions for "storey" are used by territorial authorities. The insertion of these proposed definitions aims to provide greater clarity around the height restrictions that would apply for qualifying developments. The bill maintains a six-storey limit, but also proposes an appropriate corresponding maximum building height referred to in clause 14.

We recommend inserting a definition for the term "predominantly residential", with the detail set out in clause 14(2). Without definition, the term could be ambiguous and difficult to apply. We accept that this term would be difficult to define because the policy intent will differ depending on the circumstances of each development. We note that the Regulations Review Committee raised the issue that the content of regulations made under this bill would likely be informed by the interpretation of this term. We have therefore sought to clarify that a development that is "predominantly residential" would be one for which the primary purpose is the supply of dwellings. Such developments might also include some non-residential activities ancillary to quality residential development, such as recreational, mixed use, retail, or town-centre land uses. We recommend inserting definitions for the terms "proposed combined plan for Auckland" and "proposed plan". This would clarify that the proposed Auckland combined plan (which includes the regional policy statement, regional plan (including the regional coastal plan), and district plan for Auckland) is covered as a "proposed plan" for the purposes of the bill.

Override provisions

We recommend amending clause 11(2), to provide for a housing accord to contain a dispute resolution process that must be followed before a housing accord may be terminated. Most of us consider that, as the purpose of the bill is to enhance housing affordability by facilitating an increase in land and housing supply, it is desirable for the Government to be able to intervene if necessary to hasten housing development. Our view is that the inclusion of a disputes resolution process in an accord could allay concerns. Others among us remain unconvinced. We have addressed this issue in our minority views.

A major concern expressed was the ability of the responsible Minister to override a territorial authority by declaring or continuing a special housing area where an accord has been terminated or agreement has not been reached with the territorial authority to conclude a housing accord. The chief executive of the Ministry of Business, Innovation and Employment would then be able to exercise the special consenting powers in the bill.

This override power was viewed by some as contradicting the principles of trust and partnership needed for central and local government to work closely together, and being inconsistent with one objective of the bill: to facilitate the establishment of an accord. It was viewed as overriding local democracy by being inconsistent with existing plans, which were a product of community engagement and consultation.

Qualifying developments

We recommend amending clauses 14 to 17 and removing clause 18 to clarify the meaning of "qualifying development" (the types of developments to which the more permissive resource consenting and planning powers might apply) and the parameters of the criteria that might be prescribed for a qualifying development.

The Regulations Review Committee noted that a large part of the definition of qualifying development was left to be defined by Order in Council. They noted that clause 15(1) appears to empower an Order in Council to specify a maximum height or the number of storeys a qualifying development might have so long as it was less than six. Regulations could then specify a maximum height that exceeded six storeys.

It is not intended that a building over six storeys could be consented under this bill. Our recommended amendments to clauses 14 to 17 and the removal of clause 18 clarify this intention.

Power to amend Schedule 1

Schedule 1 lists regions or districts in which significant housing supply and affordability issues have been identified. Special housing areas could then be designated within regions or districts listed in the Schedule.

Clause 9 specifies criteria under which the Governor-General may add or remove regions or districts from Schedule 1 on the recommendation of the Minister. The criteria make reference to the terms "weekly mortgage payment" and "weekly take-home pay", which are not otherwise defined in the bill.

We considered defining these terms, but decided not to because they reflect publicly available data sets. However, we do recommend amending clause 9(3), to expand the criteria that must be considered by the Minister when determining whether a region or district should be added to Schedule 1. To balance the Minister's consideration of publicly available data sets, the proposed amendments would require the Minister to have regard to whether the land available for residential development was likely to meet housing demand based on projected population growth. It would also allow the Minister to consider any other information pertinent to housing supply and affordability issues before recommending the addition of a region or district to the Schedule.

Infrastructure

We recommend amending clause 16(3)(a) to require that before designating a special housing area the Minister must be satisfied that adequate infrastructure to service qualifying developments in the proposed area either exists or is likely to exist. To achieve the bill's purpose, it is important that qualifying developments can be serviced by adequate infrastructure, such as sewerage systems and electricity. This should be more clearly specified in the bill, and is particularly important given the possibility that special housing areas could be established in the absence of a housing accord.

Resource consent process

Decisions on resource consent applications

We recommend amending clause 32(2) to require an authorised agency when considering a resource consent application to have regard to the listed matters, giving weight in the order listed. In particular, we recommend the inclusion of the Waitakere Ranges Heritage Area Act 2008 as an example of other relevant enactments that should be considered.

Addition of regional councils as authorising agencies

We recommend amending clause 23. The bill needs to provide for the situation where a resource consent from a regional council is necessary, for example, for earthworks, stormwater discharge, contaminated sites, river crossings, or culverts. The amendment provides that a regional council can also be an authorised agency, which determines the consents on such matters.

Infrastructure consents

We recommend amending clause 20 to include reference to related infrastructure. It is important that qualifying developments in special housing areas are not delayed by the resource consent process for associated infrastructure. This amendment would provide explicitly for applications for resource consent for such infrastructure to be included in the streamlined process provided for in this bill.

Notification

We also recommend amending clause 29(2) to expand the notification requirements so that infrastructure providers that had assets on, under, or over a potential qualifying development would be notified in relation to applications, and to specify that notification need not be carried out to those who have already provided written approval for resource consents.

We also recommend inserting clause 66A to require notification of additional adjacent landowners where a submission to expand land area subject to a plan change or variation to a proposed plan was made. If a person who owned land adjacent to land proposed for rezoning requested that their land be included in the proposal, new land areas would potentially become adjacent. This insertion would ensure that the owners of such land would be notified and included in the process.

Prohibited activities

We recommend removing clauses 25 and 26, and including the matters raised there in amendments to clause 24. Clause 25 provides for a person to apply for a resource consent where a proposed plan would allow an activity prohibited under an operative plan, and clause 26 provides for treatment of an activity prohibited in a proposed plan

as a discretionary activity. Clause 26 is primarily intended to allow development in Auckland's Future Urban Zone.

The amendments would clarify how activities described as prohibited in an operative plan or a proposed plan must be treated by the authorised agency for the purposes of the bill.

We recommend inserting new clause 24B to allow an authorised agency that is also an accord territorial authority to require an application for a prohibited activity to be preceded or accompanied by an application for a change to a plan or a variation of a proposed plan. A person could also submit their own request for a plan change or variation to a proposed plan with a concurrent application for a resource consent.

Process for plan changes and variations to proposed plans

We recommend amending clause 61(4) so that an authorised agency would be required to have regard to the matters listed and to give weight to them in that order. This is intended to allay concern that the process provided for in clause 61 would have the effect of nullifying resource planning instruments such as regional policy statements, which might restrict the land available for residential development for valid reasons, such as natural hazards.

We recommend amending clause 65 by inserting subclause (4) to set out the grounds for rejection of a request to change a plan or vary a proposed plan. These provisions, with the necessary modifications, would mirror those in the Resource Management Act. We also recommend inserting new clause 65A to specify what would happen to a concurrent application when a request to change a plan or vary a proposed plan in relation to a prohibited activity is rejected, accepted in part, accepted with modifications, or withdrawn.

We also recommend inserting clause 27(2) and clause 68B to clarify the process to be followed when a resource consent application is made concurrently with a request for a plan change or a variation to a proposed plan.

We recommend amending clause 72 to specify that no compensation is payable by the Crown or an authorised agency for any loss or damage resulting from a proposed plan, a plan change, or a variation to a proposed plan process being stopped. Under clause 72, a plan change or variation to a proposed plan could be sought under provisions in

this bill while an existing Resource Management Act process was being undertaken, but when a plan change became operative under one instrument, the process under the other would be stopped. This insertion makes it clear that compensation would not be paid to those affected by the operation of this provision.

Deferral pending application for additional consents

We recommend inserting new clause 31A to allow an authorised agency to defer consideration of a resource consent if it considers other consents will also be required. It was always intended that the bill would reflect similar provisions in the Resource Management Act.

Joint hearings by two or more agencies

We recommend inserting new clause 31B to set out the process to be followed when, in relation to the same qualifying development, applications for resource consent are made to two or more authorised agencies and a hearing is to be held. This amendment would allow a joint hearing process, where both territorial authority and regional council consents were notified, and with the necessary modifications would be similar to that provided in section 102 of the Resource Management Act.

Lapsing of consents

We recommend amending clause 50 to provide a one-year default period for the lapsing of resource consents if no date is specified in the consent. Because the bill is intended to be a short-term legislative tool, the normal five-year default period for a consent to lapse is not appropriate.

Relationship to other Acts

We have recommended amendments to ensure that the relationship between the Resource Management Act, the Local Government Act 2002, and this bill (particularly the status of resource consents granted under the bill) is clear.

We recommend inserting new clause 48A to specify that resource consents granted under the provisions of this bill must be treated the

same as those granted under the Resource Management Act. This would clarify, for example, that a local authority could recover development contributions for the development under the Local Government Act.

We also recommend inserting new clause 20A to clarify that where resource consent for a qualifying development was required under the Resource Management Act an application could be made under that Act or in accordance with the provisions of this bill. For activities that do not require resource consent, an application for a certificate of compliance could be made under the provisions of this bill or the Resource Management Act.

Administrative charges

We recommend amending clause 74 to cover administrative charging arrangements. The bill as drafted does not adequately reflect similar provisions in the Resource Management Act. We recommend amending the bill to specify that authorised agencies can set charges for administrative functions, including costs for an accord territorial authority panel and hearings commissioners.

Regulation-making powers

We recommend amending clause 88(a)(ii) by removing the phrase "and for authorising the rectification of irregularities in procedure".

The Regulations Review Committee queried whether this provision is demonstrably essential, or if its purpose could be achieved through other means, such as by being prescribed in the bill. Of greatest concern was that the regulations made under this provision would be wide-ranging and uncertain, undermining openness and transparency, and could be argued to have retrospective effect.

We acknowledge the concerns being raised. The provision is intended to address potential conflict between the bill and the Resource Management Act. However, we consider that this could be achieved by reference to the relevant process in the Resource Management Act or its regulations without the need to provide for rectification in process. We therefore recommend the removal of this phrase.

We also recommend amending Schedule 2, clause 4, to more closely target regulation-making powers to scenarios that may arise when the bill's operative provisions are repealed.

The Regulations Review Committee considers that clause 4(2) and (3) would create wide-ranging "Henry VIII" powers because Orders in Council made under subclause (2) could be authorised to repeal, amend, or reinstate provisions of this bill, and of other primary legislation. Its view is that clause 4(1), which gives much of the breadth and scope to these provisions, is unclear and open-ended.

We agree that the drafting of clause 4 is wider than is necessary. Our proposed amendments would confine the breadth and scope of the regulation-making power to deal more specifically with how unfinished processes would be dealt with following the bill's repeal.

We recommend amending clause 19 to require the Minister to recommend the making of an Order in Council revoking a special housing area if the Minister is satisfied that the area no longer meets the criteria set out in the bill (clause 16(3)). It is not intended that a special housing area continue to exist where there is no longer a housing supply or affordability issue. The bill as drafted empowers the Minister to revoke a special housing area if it no longer meets the criteria, but we consider it appropriate that the Minister should be required to do so.

New Zealand Labour Party minority view

The Labour Party wants to see bold action to address the housing affordability crisis. Labour members support the idea of a short-term mechanism to stimulate the building of affordable housing through accords with councils and special housing areas with fast-tracked consenting.

Labour members voted for this bill at first reading in the Budget debate because the severity of the crisis demands action, and because we thought any agreement reached by the Government and Auckland Council deserved proper scrutiny at select committee. However, we do not support this bill because we believe it is flawed in its design and will not achieve its stated aim of more affordable housing.

In our view the bill's chief defect is that it will not lead to the building of any affordable housing. Furthermore, it is unlikely to make housing any more affordable.

Its premise is that the speedy introduction of more land for housing developments and fast-tracked consenting will lead to an increase in

the supply of housing, and that this in turn will lower the price of housing.

We doubt this for three reasons. First, the bill contains no mechanism to ensure that if any new houses are built in special housing areas some portion of these are affordable to low–middle income earners. Second, there are such powerful forces driving up the price of housing that even if the bill and associated accords with councils do result in the hoped-for increase in supply of new homes, we doubt this will be sufficient to effect a lowering of prices overall, or even a slowing of their increase. Third, all the market incentives encourage developers and builders to build homes for the premium end of the market. We think that increasing the supply of land on its own will, in current market conditions, simply result in more homes being built that are unaffordable to most people. Nationally only five percent of new residential construction is affordable.

The fundamental problem with the bill in our view is that it picks out only a couple of the factors underlying the crisis (land supply and planning regulations) while ignoring others (poor productivity and lack of scale in the building industry, lack of competition in the supply of building materials, developers' uncertain access to capital, prohibitive cost of preparing raw land for development, and tax treatment that encourages speculative investment in rental property).

We would prefer to see a more comprehensive approach that tackles all the drivers of housing unaffordability and actually guarantees the building of housing affordable for low– to middle–income earners. While this is our main objection to the bill, we do have other concerns.

We believe the provisions that allow the Government to override a council and its plans are draconian, damaging to local democracy, and risk poor decision-making. As the Human Rights Commission said, "there has been a trend of removing the voice of those affected from the decision-making process." It is a nonsense, in our view, to expect a council to negotiate an accord with central government in good faith when it knows the Government can get its own way by invoking the override powers.

When those powers are used, they give wide latitude to the Minister of Housing to direct the detail of developments in special housing areas with only very weak requirements to take into account the Resource Management Act, or local or regional plans. We fear this will

result in low-quality developments and could incur considerable risk for councils if special housing areas are set up without reference to a local authority's planned or resourced investment in needed infrastructure.

While the need to respond to the housing crisis is urgent, we do not believe it justifies a period of only two weeks for public submissions on the bill. In addition, the concerns raised by Parliament's Regulations Review Committee that the bill contains excessive regulation-making powers reflect a poor legislative approach. Finally, the amended bill weakens the protection for special places like the Waitakere Ranges Heritage Area, which under current law has primacy over local or regional plans. Whereas the Waitakere Ranges Heritage Area Act provides for a binding set of management objectives for the area, the current bill dilutes this language by providing for the decision makers to "have regard" to those objectives.

Green Party of New Zealand/Aotearoa minority view

The Green Party remains strongly opposed to the passage of this legislation. We do not consider that it will achieve the primary objective—to increase the supply of affordable housing—and we are profoundly uncomfortable with the provisions that override the autonomy of territorial authorities and limit consultation and appeal rights under the Resource Management Act.

Increasing the supply of affordable housing

In his first-reading speech, the Minister of Housing said that this bill is "a core part of the Government's work to improve housing affordability", yet after hearing from officials and submitters on the substance of this bill we do not believe it will do anything to increase the supply of affordable housing or improve housing affordability across the board.

This bill seeks to solve a problem of lack of supply of affordable housing with measures to increase land supply. The two are not synonymous. Indeed, the problem with prescribing a land supply solution to a housing supply problem is highlighted by the fact that the factors the Minister must consider when deciding whether to pursue a special housing area are housing affordability factors, yet the mechanism he or she can put in place under this bill to address that problem

is designed to increase land supply. The insertion of an additional criterion by the committee does not alter the fundamental point, as was pointed out by numerous submitters, that with the possible exception of Auckland, many of the regions of New Zealand displaying high rates of housing unaffordability do not in fact have a problem with land supply.

Furthermore, increasing land supply through the creation of special housing areas and fast-tracking consent processes may facilitate new property developments, but without specifying that these must contain a certain percentage of affordable and social housing, it is unlikely that any new affordable homes will be built as a result. Indeed, a number of submitters, including numerous territorial authorities and Property Council New Zealand indicated to the committee that they did not expect the bill to result in the creation of any more affordable housing. Instead, the assumption is that if larger, more expensive homes are built in new developments as a result of this bill, first-home buyers will be able to purchase the more affordable homes that are freed up as a result. This is a flawed assumption and a very indirect way to tackle the problem of a lack of affordable housing. We also consider that by encouraging and fast-tracking greenfields developments on the urban fringes, as this bill does, problems of urban sprawl including high transport and infrastructure costs, which are major contributors to the housing affordability crisis, are likely to be exacerbated.

At the very least, we consider that qualifying developments under this legislation should be required to include a minimum percentage of affordable housing, a point that was made by a number of submitters. More fundamentally, we are sceptical of the approach taken by the Government that a focus on freeing up land supply will do anything to improve affordability for the average first-home buyer, and consider that the time and energy of the House and this committee would have been better spent on legislation to tackle that problem directly.

Overriding local democracy

A common concern from submitters, including numerous territorial authorities, has been the inclusion of "override" provisions, which would allow the Government to establish special housing areas, appoint commissioners, and grant consents without buy-in from the

relevant territorial authority, if a housing accord was unable to be negotiated with that authority.

In our view, these provisions are an unacceptable curtailment of local democracy. The select committee amendment inserted to make it clear that the parties may engage in a disputes resolution process if negotiations towards a housing accord between central and local government break down does nothing to improve the situation.

It will be impossible for councils to enter into such negotiations "in good faith" and on a level footing when they know from the outset that if they fail to agree to the Government's demands, their authority can be overridden, special housing areas created, and consents issued without their participation. Any such negotiations will be stacked in the Government's favour from the start, and councils are likely to feel pressured into agreeing to the terms of a housing accord in order to stay "at the table", even if they have fundamental concerns with it. As far as we were able to ascertain from officials, there is no provision that would allow a territorial authority to refuse the creation of a special housing area within their jurisdiction if the Government was intent on it.

Much of the concern from territorial authorities, in addition to discomfort at the override provisions, relates to the curtailment of appeal and consultation rights under the Resource Management Act. This was a concern shared by many submitters especially members of the public. Housing is vital infrastructure that has profound impacts on the lives and well-being of all New Zealanders. It is crucial that decisions about the provision of new housing are made appropriately, with full awareness of potential environmental and social impacts, and with the participation of those affected. We remain opposed to the curtailment of rights to appeal and consultation under this bill, and share the concerns of many submitters that this may result in poor decisions being made.

Appropriate regulation-making power

We heard from a number of submitters and received advice from the Regulations Review Committee, that in addition to the unpopular override provisions the bill delegates a high level of regulation-making power to Ministers, which may not be justified. We share these concerns, and while we are pleased to note that the committee took

the concerns of the Regulations Review Committee seriously and has recommended amendments to the bill to moderate these powers where practical, we remain concerned that this bill concentrates a high degree of local decision-making power in central government that has only been seen in recent years in emergency legislation. While New Zealand is experiencing a housing crisis, it is not (yet) a national emergency and does not warrant this level of ministerial intervention.

Instead, we think a more considered national plan to tackle housing affordability is what is currently required. Such a plan would treat housing as core national infrastructure, focus on increasing the supply of affordable housing, and need to be developed in true partnership with relevant territorial authorities. The Housing Accords and Special Housing Areas Bill is no such plan and the Green Party will continue to oppose it.

New Zealand First Party minority view

New Zealand First acknowledges the Government's effort to address the housing crisis we currently face in New Zealand. However, this bill is a reactive and rather unbalanced approach to housing in New Zealand. It lacks a long-term plan required to address the needs of all New Zealanders.

We oppose the non-notification approach where there is a blatant undemocratic approach to social housing. Developers under the bill are given the powers to develop without any concern for quality housing. Property speculators are the major contributors to the housing problems. At the moment we have a problem with our immigration policy that allows migrants to arrive under the first tier of the parent category, with the financial means to buy up land and housing in areas such as Auckland, thus leaving no opportunity for New Zealanders to own a piece of this country they call home. Currently we have a government creating obstacles for young people with financial hurdles for those seeking to buy their first home. There is nothing in the Government's proposal to support these first home buyers, and low-income earners who wish to buy into the housing market in New Zealand are given no hope of being able to do so.

We do not support the width of proposals relating to plan changes. We feel that these plans are likely to compromise district planning,

and the proposal needs to be somewhat more limited and more consistent or in line with plan objectives. In Christchurch, for example, there are developments for housing that are in inappropriate areas—on areas well known to be subject to liquefaction in an earthquake, rising sea levels, and flooding. This is why proposals for special housing areas should be consistent with district plans so that we are not compromising the progress that has been made and do not repeat mistakes and further complicate things for more New Zealanders.

What we need right now is a comprehensive housing strategy addressing affordability and availability. We also need to ensure that a warrant of fitness on these homes is mandatory along with insurance. These homes need to be long-lasting and weather-resistant so that New Zealanders are not indirectly affected by things that are beyond their control and left to fend for themselves. This would also mean that many would not remain on a long waiting list for social housing.

New Zealand First has comprehensive plans that would allow all New Zealanders to attain a home. We believe the Government needs to consider a land-bank approach where land is purchased by the Government and made available where appropriate; targeting smaller more affordable homes on smaller sections. People in New Zealand should be able to buy a section without having to front up with the full capital cost and be given the means to build a home on these sections.

We believe the Government's approach is a one-sided approach. It lacks any real solution to the problem of housing affordability; supply alone will not resolve this issue. In its current state, we cannot support the bill's intentions. The disingenuous approach to the crisis currently faced is not something we can support. There is an overwhelming air of apathy from this Government when it comes to addressing the over-inflated housing market.

New Zealand First, however, supports the intention to build social residential housing, for there is a need to address shortages of houses in key areas, especially in Auckland.

Appendix

Committee process

The Housing Accords and Special Housing Areas Bill was referred to the committee on 16 May 2013. The closing date for submissions was 30 May 2013. We received and considered 64 submissions from interested groups and individuals. We heard 40 submissions, holding hearings in Auckland and Wellington.

We received advice from the Ministry of Business, Innovation and Employment, and the Regulations Review Committee, who provided advice on the regulation-making powers contained in clauses 9, 15 to 19, and 88, and clause 4 of Schedule 2.

Committee membership

Peseta Sam Lotu-Iiga (Chairperson)
Jacinda Ardern
Hon Phil Heatley
Melissa Lee
Jan Logie
Le'aufa'amulia Asenati Lole-Taylor
Alfred Ngaro
Dr Rajen Prasad
Mike Sabin
Phil Twyford
Hon Michael Woodhouse
Holly Walker replaced Jan Logie for this item of business.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Dr Nick Smith

Housing Accords and Special Housing Areas Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

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

2 Commencement

This Act comes into force on 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

(1) **Sections 16 and 17** are repealed on the close of ~~**30 June 2016**~~ the day that is 3 years after the date on which this Act receives the Royal assent.

(2) The rest of this Act is repealed on the close of ~~**30 June 2017**~~ the day that is 5 years after the date on which this Act receives the Royal assent.

4 Purpose

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

5 Outline

(1) The general scheme and effect of this Act ~~is~~ are set out in the following subsections.

(2) **Subpart 1** of this Part deals with preliminary matters, including specifying the purpose of this Act, repealing certain of its provisions ~~on the close of~~ ~~**30 June 2016**~~, interpretation, and providing for the power to amend **Schedule 1**.

(3) **Subpart 2** of this Part deals with—

(a) matters relating to housing accords (which may be entered into between the Minister and territorial authorities in the regions or districts listed in **Schedule 1** and which provide for the Minister and the relevant territorial authority to work together to address housing supply and affordability issues in the district of the territorial authority):

(b) matters relating to qualifying developments ~~(to which,~~ in special housing areas~~,~~ (to which the powers in **Part 2** to grant resource consents, change plans, and vary proposed plans apply), including—

(i) the criteria that must be met for a development to be a qualifying development in a special housing area; and

(ii) the making of Orders in Council prescribing specified criteria for qualifying developments in special housing areas and parts of special housing areas:

(c) matters relating to special housing areas, including—

(i) the making of Orders in Council declaring areas to be special housing areas; and

(ii) requirements that must be met before a special housing area may be established within the district of a territorial authority that is a party to a housing accord~~; and~~.

~~(iii) varying criteria for qualifying developments in special housing areas.~~

(4) **Part 2** deals with resource consents and plan changes and variations to proposed plans in relation to qualifying developments in special housing areas, including—

(a) providing for territorial authorities that have entered into housing accords and, in certain areas where no housing accord is in force, the chief executive of the Ministry responsible for administering this Act to be the agencies authorised to ~~exercise~~ perform functions and exercise powers under the Part; and

(ab) providing for regional councils to be the agencies authorised to perform functions and exercise powers under the Part where proposed activities require resource consents under the rules of regional plans or proposed regional plans and a territorial authority is not a unitary authority; and

(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 proposed plans to be made in ~~relation to special housing areas~~ conjunction with resource consent applications, and providing for processes for dealing with those requests; and

(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.

(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~~ prescribing transitional provisions that apply as well as, or instead of, the provisions set out in the schedule.

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

6 Interpretation

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

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

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

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

chief executive means the chief executive of the Ministry

concurrent application means an application for a resource consent made under **section 24** that is made in conjunction with a request for a plan change or a variation to a proposed plan made under **section 61**—

(a) in accordance with a requirement of an accord territorial authority under **section 24B(1)**; or

(b) of the applicant's own volition

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

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

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

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

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

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

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

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

proposed combined plan for Auckland means a plan combining the regional policy statement, regional plan (including regional coastal plan), and district plan for Auckland that has been publicly notified in accordance with clause 5 of Schedule 1 of the Resource Management Act 1991 but has not become operative

proposed plan—

(a) has the meaning set out in section 43AAC of the Resource Management Act 1991; and

(b) in respect of a proposed combined plan for Auckland, includes—

(i) the provisions of the regional policy statement; and

(ii) the objectives, policies, and methods set out or described in the document comprising the proposed combined plan that have the effect of being provisions of the regional policy statement

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

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

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

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

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

~~**State highway** has the same meaning as in section 5(1) of the Land Transport Management Act 2003~~

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

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

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

~~(2) 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.~~

(2) Unless the context requires another meaning, terms and expressions used and not defined in this Act, but defined in the Resource Management Act 1991, have the same meaning as in that Act (including, without limitation, designation, infrastructure, local authority, plan, public notice, requiring authority, resource consent, subdivision consent, and survey plan).

7 Act binds the Crown

This Act binds the Crown.

8 Application of provisions of Act

Schedule 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~~ 89**).

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~~ insert the name of a region or district ~~to~~ in **Schedule 1**, the Minister must be satisfied that the region or district is experiencing significant housing supply and affordability issues.

~~(3) It is sufficient for the Minister to be satisfied in accordance with **subsection (2)** if,—~~

~~(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~~

~~(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.~~

(3) The Minister, in determining whether a region or district is experiencing significant housing supply and affordability issues,—

(a) must have regard to whether, according to publicly available data, 1 or both of the following apply to the region or district:

(i) the weekly mortgage payment on a median-priced house as a percentage of the median weekly take-home pay for an individual exceeds 50%, based on a 20% deposit:

(ii) the median multiple (that is, the median house price divided by the gross annual median household income) is 5.1 or over; and

(b) must have regard to whether the land available for residential development in the region or district is likely to meet housing demand, based on predicted population growth; and

(c) may have regard to whether any other information indicates that there are significant housing supply and affordability issues in the region or district.

(4) The Minister must not make a recommendation to delete the name of a region or district from **Schedule 1** unless the Minister is satisfied that the region or district is no longer experiencing significant housing supply and affordability issues ~~according to the criteria in **subsection (3)**~~.

(5) In determining whether a region or district is no longer experiencing significant housing supply and affordability issues, the Minister must have regard to the matters in **subsection (3)(a) and (b)** and may have regard to the matter in **subsection (3)(c)**.

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

Housing accords

10 Minister and territorial authority may enter housing accord

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

(2) A housing accord—

(a) must comply with the requirements in **section 11(1)**; and

(b) may, without limitation, cover the matters referred to in **section 11(2)**.

(3) Either the Minister or a territorial authority whose district is within a scheduled region or district may initiate the negotiation of a housing accord.

(4) However, the Minister has no obligation to enter into a housing accord with a territorial authority whose district is within a scheduled region or district.

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

11 Form and content of housing accord

(1) A housing accord must—

(a) be in writing; and

(b) set out the parties' agreement about how they will work together to achieve the purpose of this Act in the district of the territorial authority; and

(c) set out agreed targets for residential development in the district of the territorial authority; and

(d) provide for either party to terminate the accord on giving 6 months' notice (or such other period, of not less than 3 months, as may be agreed).

(2) A housing accord may—

(a) provide for the Minister and the territorial authority to work together across a range of housing issues, according to the matters that they may identify as relevant to improving housing supply and affordability in the district of the territorial authority; and

(b) provide for such other matters as the Minister and the territorial authority may consider necessary or desirable to address housing supply and affordability issues affecting the district of the territorial authority; and

(c) set out the grounds on which, and the mechanism by which, the housing accord may be terminated; and

(ca) provide for a dispute resolution process that must be followed before the housing accord may be terminated; and

(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

(ii) are not covered by the transitional provisions set out in **clauses 1 to 3** of **Schedule 2**.

12 Housing accord to be published

(1) The chief executive must ensure that every housing accord that the Minister enters into is published on the Ministry's Internet site.

(2) Every accord territorial authority must—

(a) ensure that a copy of the housing accord is available at all reasonable times, free of charge, on an Internet site maintained by or on behalf of the territorial authority; and

(b) make a copy of the housing accord available for purchase in hard copy, at no more than a reasonable cost, from the offices of the territorial authority.

13 Intention to terminate housing accord to be publicly notified

(1) Before a housing accord may be terminated, the party intending to terminate the accord must give not less than 3 months' public notice of the intention to terminate the housing accord on a specified date.

(2) The party intending to terminate the accord must, before publishing a notice under **subsection (1)**, consult the other party about the proposed termination date to be specified in the notice for the purpose of ensuring that the date will enable the parties to achieve an orderly transition to the regime applying after the termination.

(3) The chief executive and the accord territorial authority must each ensure that the notice is published on the relevant Internet site referred to in **section 12**.

(4) If this section is inconsistent with any provision in a housing accord, this section prevails.

Qualifying developments

~~**14 Meaning of qualifying development**~~

~~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**)—~~

~~(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)**.~~

~~**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:~~

~~(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:~~

~~(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.~~

14 Meaning of qualifying development

(1) In this Act, a **qualifying development** in a special housing area is a development—

(a) that is predominantly residential; and

(b) in which dwellings and other buildings are not higher than—

(i) 6 storeys (or any lesser number prescribed); and

(ii) a maximum calculated height of 27 metres (or any lower maximum calculated height prescribed); and

(c) that contains not fewer than the prescribed minimum number of dwellings to be built.

(2) For the purposes of **subsection (1)**,—

(a) a development is **predominantly residential** if—

(i) the primary purpose of the development is to supply dwellings; and

(ii) any non-residential activities provided for are ancillary to quality residential development (such as recreational, mixed use, retail, or town centre land uses):

(b) **prescribed** means prescribed for qualifying developments in special housing areas by an Order in Council made under **section 15(1)** or, if applicable, prescribed for the special housing area or part of the special housing area—

(i) in the Order in Council declaring the special housing area, as provided for in **section 15(2)(a)**; or

(ii) by an Order in Council made under **section 15(2)(b)** at any time after the special housing area is declared.

15 Criteria may be prescribed for qualifying developments

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, prescribe 1 or more of the following as default criteria that apply for qualifying developments in special housing areas if the Order in Council declaring a special housing area does not prescribe those criteria for the special housing area as provided for in **subsection (2)**:

(a) for the purposes of **section 14(1)(b)(i)**, the maximum number of storeys, less than 6, that buildings may have:

(b) for the purposes of **section 14(1)(b)(ii)**, the maximum calculated height, less than 27 metres, that buildings must not exceed:

(c) for the purposes of **section 14(1)(c)**, the minimum number of dwellings to be built.

(2) The Governor-General may, on the recommendation of the Minister, prescribe 1 or more of the criteria referred to in **subsection (1)** that apply for qualifying developments in a special housing area or part of a special housing area—

(a) in the Order in Council declaring the special housing area under **section 16**; or

(b) by Order in Council made at any time after the special housing area is declared.

(3) However,—

(a) if the special housing area or part of the special housing area is in the district of an accord territorial authority, the Minister may only make a recommendation for the purposes of **subsection (2)** if that recommendation is in accordance with a recommendation of the accord territorial authority; and

(b) subject to **paragraph (a)**, the Minister must recommend that the Order in Council declaring a special housing area prescribes the criterion referred to in **subsection (1)(c)** that applies for qualifying developments in the special housing area if no default has been prescribed for that criterion under **subsection (1)**.

(4) Criteria prescribed in an Order in Council referred to in **subsection (2)** may be prescribed by reference to the provisions of the relevant plan or proposed plan.

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.

(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.

(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~~

(a) adequate infrastructure to service qualifying developments in the proposed special housing area either exists or is likely to exist, having regard to relevant local planning documents, strategies, and policies, and any other relevant information; and

(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.

(4) ~~Despite a proposed special housing area being within a scheduled region or district, the~~ The Minister must not recommend the making of an Order in Council under this section where—

(a) the proposed special housing area ~~is~~ will fall within the district of an accord territorial authority, unless—

(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

(b) there is no housing accord between the Minister and the territorial authority for the district in which the proposed special housing area ~~is situated~~ will fall, unless—

(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.

(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.

(6) The chief executive must, as soon as practicable after an Order in Council is made under this section, notify each local authority in whose district or region the special housing area falls of the making of the Order in Council.

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.

(2) An accord territorial authority, when recommending to the Minister that a special housing area be established, may ~~also recommend that~~ ~~1~~ ~~or both~~ recommend that the Order in Council declaring the special housing area prescribe 1 or more of the ~~criteria prescribed in accordance with~~ criteria referred to in **section 15(1)** ~~be varied~~ for qualifying developments in the special housing area or a part of the special housing area (*see* **section 15(3)(a)**).

~~(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—~~

~~(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)**.~~

~~(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.~~

~~(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)**.~~

~~**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 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.~~

19 Disestablishing special housing areas

(1) Every Order in Council made under **section 16** is revoked on the close of ~~30 June 2016~~ the day that is 3 years after the date on which this Act receives the Royal assent, unless earlier revoked, and the special housing area declared by that order is disestablished at the same time that each order is revoked.

(2) An Order in Council revoking an order made under **section 16** may only be made on the recommendation of the Minister.

(3) The Minister must ~~not~~, and may only, recommend the making of a revocation order under **subsection (2)** ~~unless~~ if—

(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)**:

(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.

Part 2
Resource consents, plan changes, and variations to proposed plans relating to qualifying developments in special housing areas

Subpart 1—Preliminary provisions

20 ~~This Part applies to qualifying developments in special housing areas~~Application of Part

(1) This Part applies to qualifying developments in special housing areas and infrastructure relating to those developments.

(2) In this Part, unless the context otherwise requires, a reference to a qualifying development includes infrastructure relating to the development.

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

(1) A person who wishes to undertake an activity in relation to a qualifying development for which a resource consent is required under the Resource Management Act 1991 may apply for a resource consent—

(a) under section 88 of the Resource Management Act 1991; or

(b) under **section 24** of this Act.

(2) A person may also make an application for a resource consent in respect of a qualifying development under **section 24** of this Act where that application could not be made under the Resource Management Act 1991 because of the application of section 87A(6) of that Act (*see* **section 24(2) to (4)**).

(3) A person who wishes to undertake an activity associated with a qualifying development that could lawfully be undertaken without a resource consent may apply for a certificate of compliance—

(a) under section 139 of the Resource Management Act 1991; or

(b) under **section 57** of this Act.

21 Outline of this Part

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

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

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

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

~~(3) **Subpart 2** 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—~~

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

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

(4) **Subpart 2** ~~also~~ deals with resource consent applications that may be made under this Act, including how an application for a resource consent under this Act must be made and determined~~,~~ and matters concerning resource consents that are granted under it.

(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~~ in conjunction with an application for a resource consent for certain activities where the qualifying development is within the district of an accord territorial authority; and ~~relating to a qualifying develop-~~

~~ment where the plan change or variation is necessary to facilitate consideration of the resource consent application and—~~

~~(i) the person wants to undertake an activity in relation to a qualifying development that, under the plan, is a prohibited activity; and~~

~~(ii) the qualifying development is in a special housing area within the district of an accord territorial authority; and~~

(b) deals with how requests for plan changes and variations to proposed plans must be made and determined.

(6) **Subpart 4** applies other provisions of the Resource Management Act 1991 in respect of applications and requests under **subparts 2 and 3**.

(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 or a regional council 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.

(9) This section is a guide only to the scheme and effect of this ~~Act~~ Part 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—

(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

(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

(1) The functions and powers in this Part may be performed or exercised only by the relevant agency authorised in ~~**subsection (2)**~~ this section (the **authorised agency**).

(2) The authorised agency in relation to a qualifying development in a special housing area is,—

(a) in relation to an application made under **subpart 2 of this Part**,—

(i) the accord territorial authority, if the special housing area is within the district of an accord territorial authority; or

(ii) the chief executive, if the special housing area is within the district of a territorial authority that is not a party to a housing accord; ~~and~~ or

(b) in relation to applications made under **subpart 3 of this Part**, the accord territorial authority.

(2A) **Subsections (1) and (2)** are subject to **subsection (3) and section 31B** (joint hearings by 2 or more authorised agencies).

(3) The authorised agency in relation to an application for a resource consent under **subpart 2 of this Part** is the regional council if—

(a) the territorial authority in whose district the special housing area falls is not a unitary authority; and

(b) the resource consent is required by a rule in a regional plan or a proposed regional plan.

Subpart 2—Resource consents

Applications for resource consents

24 Applications for resource consents may be made to authorised agency

(1) A person may apply to the relevant authorised agency for a resource consent that relates to a qualifying development in a

special housing area, including a resource consent referred to in **subsection (2)**.

(2) A person may apply under this section for a resource consent for—

(a) an activity that is described in the relevant plan as a prohibited activity but in a proposed plan as—

(i) a permitted activity; or

(ii) a controlled activity; or

(iii) a restricted discretionary activity; or

(iv) a discretionary activity; or

(v) a non-complying activity; and

(b) an activity that is described in the relevant plan as prohibited, where there is no proposed plan; and

(c) an activity that is described in the relevant plan as prohibited and in a proposed plan as prohibited; and

(d) an activity that is described in the relevant plan as permitted, controlled, restricted discretionary, discretionary, or non-complying and in a proposed plan as prohibited; and

(e) an activity for which Part 3 of the Resource Management Act 1991 requires a resource consent, where there is no plan or proposed plan, or no rule in the relevant plan or proposed plan; and

(f) an activity for which the relevant plan or a proposed plan requires a resource consent, but does not classify the activity as controlled, restricted discretionary, discretionary, or non-complying.

(3) **Subsection (2)(b), (c), and (d)** is subject to **section 24B(2) and (3)**.

(4) The authorised agency, when determining an application for a resource consent referred to in the first column of the following table, must treat the activity in the manner set out against that reference in the second column of the table:

Application for a resource consent for an activity referred to in—	Authorised agency must treat the activity—
subsection (2)(a)(i)	as if the proposed plan described the activity as a controlled activity

subsection (2)(a)(ii) to (v)	as if the description in the proposed plan applied
subsection (2)(b) to (f)	as if the activity were a discretionary activity

24B Accord territorial authority may require applications to be made in conjunction with requests for plan changes or variations to proposed plans

(1) If the authorised agency is an accord territorial authority, the authorised agency may require an applicant for a resource consent referred to in—

(a) **section 24(2)(b)** to request a plan change under **section 61(1)** in conjunction with the resource consent application:

(b) **section 24(2)(c) and (d)** to request a variation to a proposed plan under **section 61(2)** in conjunction with the resource consent application.

(2) Without limiting **subsection (1)**, if the authorised agency makes a requirement under **subsection (1)**, and the applicant wishes to proceed with the application, the applicant for a resource consent must—

(a) request a change to the plan under **section 61(1)** or a variation to the proposed plan under **section 61(2)** (as the case may be) that, were it to be approved and to become operative, would make the activity to which the resource consent application relates a controlled, restricted discretionary, discretionary, or non-complying activity; and

(b) apply for a resource consent under **section 24** that,—

(i) in the case of a resource consent referred to in **section 24(2)(b)**, would be consistent with the plan were the request for the plan change accepted or adopted and approved; and

(ii) in the case of a resource consent referred to in **section 24(2)(c) and (d)**, would be consistent with the proposed plan were the request for the variation to the proposed plan accepted or adopted and approved; and

(c) apply for the resource consent—

(i) at the time of lodging the request for the plan change or variation to the proposed plan if the applicant has obtained prior written approval for the change or variation from the persons referred to in **section 29(2)**; or

(ii) either at the time of lodging the request for the plan change or variation to the proposed plan or within 20 working days after receiving notification of the authorised agency's decision under **section 65(5)** if the applicant has not obtained the prior written approval referred to in **subparagraph (i)**.

(3) Nothing in this section prevents a person who wishes to apply for a resource consent referred to in **section 24(2)(b), (c), or (d)** from lodging a concurrent application of the person's own volition (in which case, the provisions of this Act concerning concurrent applications apply (*see* **section 61**)).

~~**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; 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 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 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

(1) Sections 88(2) to (5) and 88A of the Resource Management Act 1991 apply in respect of an application for a resource consent made under this Act—

(a) as if every reference to the consent authority were a reference to the authorised agency; and

(b) as if the reference 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.

(2) The following provisions apply, in addition to the provisions referred to in **subsection (1)**, if the application for a resource consent is a concurrent application:

(a) the application must identify the request for a plan change or variation to the proposed plan to which it relates:

(b) if the application is returned under section 88(3) of the Resource Management Act 1991 (as applied by **subsection (1)**) as being incomplete, the authorised agency is not required to take any further action on the request for a plan change or variation to the proposed plan unless the application is lodged again within the time specified in **paragraph (c)**:

(c) if the application is not lodged again within 20 working days after the date on which the applicant received the returned application, the application and the request for the plan change or variation to the proposed plan lapse.

28 Further information

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

(a) as if every reference to a consent authority were a reference to the authorised agency; and

(b) 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.~~

29 ~~No requirement to notify application or hold hearing~~Authorised agency may notify application to certain persons only

(1) An authorised agency must not notify, or hold a hearing in relation to, an application for a resource consent made under **~~sections 24 to 26~~ section 24**, except as provided in **subsections (2) and (3)**.

(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~~ if, in each case, the person has not given prior written approval for the resource consent:

(a) the owners of the land ~~adjoining~~ adjacent to the land subject to the application; and

(ab) the local authorities in whose district or region the land subject to the application falls; and

(ac) any infrastructure providers who have assets on, under, or over the land subject to the application or the land adjacent to that land; and

~~(b) if the land subject to the application adjoins a State highway or a designated State highway, the New Zealand Transport Agency.~~

(b) if the land subject to the application or land adjacent to that land is subject to a designation, the requiring authority that required the designation.

(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~~** this Act if, were that application to be made under the Resource Management Act 1991, that Act, or regulations made under that Act, would direct that the activity that is the subject of the application not be notified.

(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 author-

ised agency within 20 working days from the date of the notice; and

(b) state the closing date for submissions and the address for service of the authorised agency; and

(c) request that those who make submissions indicate whether they wish to be heard.

(5) The authorised agency must, as soon as is reasonably practicable, send copies of all submissions made on the application to the applicant.

(6) A submission must be served on the authorised agency on or before the closing date for submissions.

(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.

(9) For concurrent applications, this section and **sections 30 to 40** are subject to the notification and hearing requirements in **subpart 3 of this Part**.

30 Hearing date and notice

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

(2) The authorised agency must—

(a) give every person who meets the criteria in **subsection (1)** and the person who made the application not less than 10 working days' notice of the date, time, and place of the hearing; and

(b) give all persons referred to in **paragraph (a)** the opportunity to be heard.

31 Time limit for completing hearing

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

31A Deferral pending application for additional consents

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

(a) as if every reference to a consent authority were a reference to the authorised agency; and

(b) with all other necessary modifications.

31B Joint hearings by 2 or more authorised agencies

(1) This section applies where, in relation to the same qualifying development, applications for resource consents are made to 2 or more authorised agencies and, in each case, a hearing is to be held.

(2) The authorised agencies must jointly hear and consider the applications unless—

(a) the agencies agree that the applications are sufficiently unrelated that a joint hearing is unnecessary; and

(b) the applicant agrees that a joint hearing need not be held.

(3) When a joint hearing of applications for resource consents is to be held, the authorised agency under **section 23(2)(a)(i) or (ii)** (or, if there are more than 2 authorised agencies, the authorised agency agreed between them) is responsible for notifying the hearing, setting the procedure, and providing administrative services.

(4) After jointly hearing the applications,—

(a) the authorised agencies must jointly decide the applications, unless one of them considers, on reasonable grounds, that it is not appropriate to do so; and

(b) if a joint decision is made, the authorised agencies must identify in their joint decision—

(i) their respective responsibilities for the administration of any consents granted, including monitoring and enforcement; and

(ii) the manner in which administrative charges are to be allocated between the authorised agencies; and

(c) the relevant authorised agency must issue, in accordance with the agencies' joint decision, any resource consents granted.

(5) When 2 or more authorised agencies separately decide the applications and each agency decides to grant a resource consent, the agencies must ensure that any conditions to be imposed are not inconsistent with each other.

(6) For the purposes of any appeal against a joint decision under **subsection (4)**, the respondent is the authorised agency whose consent is the subject of the appeal.

(7) This section applies, with all necessary modifications, in relation to any other matter that 2 or more authorised agencies are empowered under this Act to decide, or recommend on, in relation to the same proposal.

Decisions on applications and commencement of resource consents

32 Process and requirements for decisions on applications

(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.

~~(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.~~

(2) An authorised agency, when considering an application for a resource consent under this Act, must have regard to the following matters, giving weight to them (greater to lesser) in the order listed:

(a) the purpose of this Act:

(b) the matters in Part 2 of the Resource Management Act 1991:

(c) any relevant proposed plan:

(d) the other matters that would arise for consideration under—

(i) sections 104 to 104E of the Resource Management Act 1991, were the application being assessed under that Act:

(ii) any other relevant enactment (such as the Waitakere Ranges Heritage Area Act 2008):

(e) the key urban design qualities expressed in the Ministry for the Environment's *New Zealand Urban Design Protocol (2005)* and any subsequent editions of that document.

(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—

(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.

(5A) If an authorised agency makes a direction under **subsection (5)**, the infrastructure provider or local authority must provide the information requested as soon as is reasonably practicable.

(6) The Ministry must ensure that a copy of the document referred to in **subsection (2)~~(b)(ii)~~(e)**, or a link to that document, is on the Ministry's Internet site and that members of the public can easily access the document via that site, free of charge, at all reasonable times.

33 Determination of applications for certain activities

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

(a) as if every reference to a consent authority were a reference to an authorised agency; and

(b) 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**.

(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.

(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 or proposed plan.

(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)**.

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.

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.

38 Notification of decision

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

(2) If the authorised agency is the chief executive, the authorised agency must serve a copy of its decision on an application for a resource consent on—

(a) the applicant; and

(b) all persons who made a submission; and

(c) ~~the~~ any relevant territorial ~~authority~~ authorities.

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.

(2) **Subsections (3) and 3A** provide~~s~~ 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—

(a) every reference to—

(i) an authority were a reference to the authorised agency:

(ii) section 92, 92A, or 92B were a reference to that section as modified by **section 28** of this Act~~:~~, and

~~(iii) the applicant were a reference to the applicant or a local authority; and~~

(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**".

(3A) In addition, the period starting on the date of a direction under **section 32(5)** and ending with the date on which the infrastructure provider or local authority provides the information, must also be excluded from the time limit for notification under **subsection (1)**.

(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.

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.

(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.

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.

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

(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.

(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

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

(a) as if every reference to a territorial authority were a reference to the authorised agency; and

(b) with all other necessary modifications.

(2) A certificate under section 223(3) of the Resource Management Act 1991 is conclusive evidence that all roads, private roads, reserves, land vested in the relevant territorial authority in lieu of reserves, and private ways shown on the survey plan have been authorised by the authorised agency and accepted by the relevant territorial authority under this Act, the Local Government Act 1974, and the Resource Management Act 1991.

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—

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

(b) with all other necessary modifications.

45 Subdivision by the Crown

(1) Section 228 of the Resource Management Act 1991 applies to a survey plan described in **subsection (2)** that has been approved by an authorised agency under **section 43** of this Act—

(a) as if every reference to a territorial authority were a reference to the authorised agency; and

(b) with all other necessary modifications.

(2) The survey plan referred to in **subsection (1)** is a survey plan that relates to a subdivision for a qualifying development, by or on behalf of a Minister of the Crown, of land not subject to the Land Transfer Act 1952.

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)**—

(a) as if every reference to the territorial authority, except the references ~~referred to~~ specified 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.

(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.

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—

(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

(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.

48A Effect of grant of resource consent under this Act

(1) Except as provided otherwise in this Act,—

(a) a resource consent granted under this Act has full force and effect for its duration and according to its terms and conditions as if it were granted under the Resource Management Act 1991; and

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

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

Additional provisions relating to resource consents

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~~ an authorised agency under this Act.

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—

(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

(iia) in section 125(1)(a), the reference to 5 years were a reference to 1 year; and

(iii) in section 125(1A)(b), subparagraphs (ii) and (iii) were replaced with the following subparagraph:

"(ii) the purpose of the Housing Accords and Special Housing Areas Act **2013**."; and

(b) with all other necessary modifications.

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

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

(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.

53 Matters to be considered in review

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

(a) as if—

(i) every reference to the consent authority were a reference to the authorised agency; and

(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.

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~~ a consent authority were a reference to ~~the~~ an authorised agency, except that—

(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

(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

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

56 Surrender of consent

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

57 Certificates of compliance

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

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

(i) in section 139(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

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

(b) with all other necessary modifications.

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

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

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

~~**58 Certification of infrastructure**~~

~~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

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

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.~~ —

(a) qualifying developments in special housing areas; and

(b) district plans and proposed district plans.

61 Requests for changes to plan or variation to proposed plan

(1) A person who ~~wants~~ has applied for or wishes to apply for a resource consent to undertake an activity ~~relating to a qualifying development~~ to which **section 24(2)(b)** applies may request the authorised agency to change the relevant 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—~~.

~~(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~~ has applied for or wishes to apply for a resource consent to undertake an activity ~~relating to a qualifying development~~ to which **section 24(2)(c) or (d)** applies 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 a plan or vary a proposed 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

(ia) comply with the requirements in **section 24B(2)**; and

(ib) either—

(A) identify the concurrent application it relates to, if the request and the concurrent application are made at the same time; or

(B) specify that it is intended that a concurrent application will be lodged subsequently if the request is accepted; 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 to the proposed plan; 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~~ variation to a proposed plan under this section, must~~—~~ have regard to the following matters, giving weight to them (greater to lesser) in the order listed:

(a) ~~give effect to~~ the purpose of this Act~~; and~~:

(b) the matters in section 74(2)(a) of the Resource Management Act 1991:

(~~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.~~

(c) the other matters in sections 74 to 77D of the Resource Management Act 1991, except that section 75(3)(c) and (4)(b) does not apply to the extent that the relevant provisions of a proposed regional policy statement or proposed regional plan are more consistent with the purpose of this Act than a regional policy statement or a regional plan:

(d) any other relevant provision of an enactment (such as the Waitakere Ranges Heritage Area Act 2008).

(4A) If an authorised agency determines under **section 31A** that 1 or more further consents will be required, the authorised agency is not required to take any further action on the request for the plan change or variation to the proposed plan until the applications for the further consents have been lodged and accepted as complete under section 88 of the Resource Management Act 1991 (as applied by **section 27** of this Act).

(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.

Process for request for plan change or variation ~~requests~~ to proposed plan where ~~adjoining~~ adjacent owners give prior approval

62 Process for requests where ~~adjoining~~ adjacent owners give prior approval

(1) This section applies if a person makes a request for a plan change or variation to a proposed plan under **section 61** and that person has obtained prior written approval for that change or variation from— the persons listed in **section 29(2)**.

~~(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.~~

(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** 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 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".

(3) The authorised agency must make a decision on the request for a plan change or variation to a proposed plan, 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:

(c) modification of the request.

(4) The authorised agency's decision made in accordance with **section 61(4)** may be to—

(a) approve the plan change or variation to a proposed plan; or

(b) approve the plan change or variation to a proposed plan with modification; or

(c) decline the plan change or variation to a proposed plan.

(5) The authorised agency must, within 5 working days of making a decision on the request, notify the person who made the request of—

(a) the decision on the request; and

(b) the reasons for that decision.

(6) ~~**Section**~~ **Sections 69 and 70** ~~applies~~ apply concerning public notification of the decision and the effect of public notification.

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

63 Application of sections 64 to 71

Sections 64 to 71 apply if a person requests a plan change or variation to a proposed plan under **section 61** and that person has not obtained prior written approval for that change or variation from~~—~~ the persons listed in **section 29(2)**.

~~(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.~~

64 Further information may be required and request may be modified

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

(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 in accordance with **subsection (4)**.

(2) If the authorised agency decides to adopt the request, or part of the request, the request must be dealt with in accordance with **section 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 of all required information or any report requested in accordance with clause 23 of Schedule 1 of the Resource Management Act 1991:

(c) modification of the request.

(4) The authorised agency may reject the request in whole or in part, but only on 1 or more of the grounds that the request or part of the request is—

(a) frivolous or vexatious:

(b) not in accordance with sound resource management practice:

(c) inconsistent with the matters in **section 61(4)**.

(5) The authorised agency must, within 5 working days of making a decision on the request, notify the person who made the request of—

(a) the decision on the request; and

(b) the reasons for that decision.

65A Effect of decision on concurrent application

(1) If the authorised agency rejects the request, then the concurrent application lapses.

(2) If, under **section 65(1)(b)**, an authorised agency accepts the request in part so that the activity that a concurrent application relates to remains a prohibited activity, then the authority must decline the concurrent application as a result of the decision made under **section 65(4)**.

(3) If a request is withdrawn or deemed to be withdrawn under **section 72**, then the concurrent application that relates to the request must be treated as having been withdrawn.

(4) If the authorised agency accepts the request and the request has been modified under **section 64**, then the person making the request may, within 10 working days after being notified of the agency's decision,—

(a) amend the concurrent application; or

(b) withdraw the concurrent application and lodge a replacement concurrent application.

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

(1) If the authorised agency decides to accept the request or part of the request as provided in **section 65(1)~~(a)~~(b)**, 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

~~(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.~~

~~(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~~

~~(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.~~

~~(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.~~

(b) notify the accepted plan change or variation to the proposed plan and its concurrent application to the persons listed in **section 29(2)**.

(2) The notice under **subsection (1)(b)** must—

(a) state that the recipients and the relevant local authority may make submissions on the plan change or variation to the proposed plan and its concurrent application to the authorised agency within 20 working days from the date of the notice; and

(b) state the closing date for submissions and the address for service of the authorised agency; and

(c) request that those who make submissions indicate whether they wish to be heard.

(3) The authorised agency must, as soon as practicable after the closing date for submissions, send copies of all submissions on the proposed change or variation and its concurrent application to the person who made the request.

66A Submission to expand land covered by request must be notified

(1) This section applies if the authorised agency receives a submission that the land to which the request for the plan change or variation to a proposed plan relates should be expanded to relate to other land.

(2) The authorised agency must, as soon as is practicable after receiving the submission, notify—

(a) the applicant; and

(b) every person who has made a submission on the request; and

(c) the persons listed in **section 29(2)**, as if every reference in that provision to the land subject to the application were a reference to the land subject to the application together with the additional land identified in the submission.

(3) **Section 66(2)** applies to the notice under this section, except that, in **section 66(2)(a)**, the reference to 20 working days from the date of the notice must be read as a reference to 10 working days from the date of the notice.

67 Hearings

(1) The authorised agency must hold a hearing, not later than 20 working days after the closing date for submissions (or, if **section 66A** applies, the closing date for further submissions), if any person who made a submission in accordance with **section 66(2) or 66A(3)** has indicated that the person wishes to be heard and has not withdrawn that indication.

(2) The authorised agency must—

(a) give each person who meets the criteria in **subsection (1)** and the person who made the request not less than 10 working days' notice of the date, time, and place of the hearing; and

(b) give all persons referred to in **paragraph (a)** the opportunity to be heard.

(3) The authorised agency must complete the hearing not later than 30 working days after the closing date for submissions on the request (or, if **section 66A** applies, the closing date for further submissions).

(4) The authorised agency must hear any submissions on the request for a plan change or variation to a proposed plan and its concurrent application together.

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 request for a plan change or variation to a proposed plan and its concurrent application is held.

(2) Clause 10(2) and (3) of Schedule 1 of the Resource Management Act 1991 ~~apply~~ applies, with all necessary modifications, to the authorised agency's decision.

(3) The authorised agency's decision made in accordance with **section 61(4)** may be to—

(a) approve the plan change or variation to a proposed plan; or

(b) approve the plan change or variation to a proposed plan with modifications; or

(c) decline the plan change or variation to a proposed plan.

(4) The authorised agency must, within 5 working days of making a decision on the request, notify the person who made the request of—

(a) the decision on the request; and

(b) the reasons for that decision.

68B Consideration of plan change request and concurrent application

(1) An authorised agency considering a request for a plan change or variation to a proposed plan and its concurrent application must,—

(a) first, determine matters in relation to the request; and

(b) secondly, determine matters in relation to the concurrent application, based on its determination of matters in relation to the request.

(2) The concurrent application must be considered and determined on the basis that the activities for which the application is made are controlled activities, restricted discretionary activities, discretionary activities, or non-complying activities

in accordance with the authorised agency's decision on the request for a plan change or variation to a proposed plan to which the concurrent application relates.

(3) An authorised agency must decline a concurrent application if, as a result of the agency's determination on the request, the activity that the concurrent application relates to remains a prohibited activity under the relevant plan or proposed plan, as the case may be.

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

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

(1) The authorised agency must, not later than 130 working days after it receives the request and concurrent application under **section 61**,—

(a) give its decision on the request and the concurrent application; and

(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 request for a plan change or variation to a proposed plan and the concurrent application.

(2) Section 113 of the Resource Management Act 1991 applies, with all necessary modifications, to the decision given under **subsection (1)(a)**.

70 Effect of notifying decision to approve plan change or variation

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

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

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

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

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

(1) An authorised agency may adopt a request for a plan change or variation to a proposed plan made under **section 61** if—

(a) ~~if~~ it wishes to deal with the request as part of a larger proposal for a plan change or variation to a proposed plan 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 to a proposed plan that the authorised agency has prepared meets the criteria in section **61(3)(b)**.

(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~~, with all necessary modifications, in relation to a request adopted under this section.

Concurrent plan change or variation processes

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

(1) This section applies if a request for a plan change or ~~a~~ variation to a proposed plan under this subpart (**process A**) relates to ~~a matter~~ an area in a plan or proposed plan that is simultaneously subject to a proposed plan, plan change, or variation process in accordance with Schedule 1 of the Resource Management Act 1991 (**process B**).

(2) From the day after the date on which a plan change or variation to a proposed plan becomes operative in relation to the area in accordance with process A, or a proposed plan, plan change, or variation to a proposed plan becomes operative in relation to the area in accordance with process B, whichever process first

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

(a) ~~any submission or part of a submission made under~~ any of the following that relate to the other process must, insofar as the matters covered in them were considered and determined ~~in respect of a matter that is determined~~ by the deciding process ~~must~~ or are inconsistent with the decision made in the deciding process, be treated ~~for all purposes~~ as having been withdrawn by the person who made the request or the submission (the **submitter**)~~; and~~ or proposed the plan:

(i) the request for a plan change or variation to the proposed plan or the part of the proposed plan that relates to the area in **subsection (1)**; and

(ii) any submission or part of a submission that related to that area; and

(b) the local authority, authorised agency, or other person or body responsible for the other process must—

(i) notify the person who proposed the plan or made the request and each submitter affected by the operation of **paragraph (a)** that a proposed plan, plan change, or variation has become operative in accordance with the deciding process and specify the part of the proposed plan or the request or submission ~~or part of the submission~~ that is treated as having been withdrawn; and

(ii) not take further action in relation to the area in **subsection (1)** under the other process in relation to any matter that was considered and determined as part of the deciding process.

(3) No compensation is payable by the Crown or an authorised agency to any person for any loss or damage arising from the application of this section.

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

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—

(a) in respect of an application for a resource consent made under **subpart 2** of this Part, including the authorised agency's performance and exercise of its functions and powers under that subpart:

(b) in respect of a request for a plan change or variation to a proposed plan under **subpart 3** of this Part, including the authorised agency's performance and exercise of its functions and powers under that subpart, except the provisions referred to in **subsection (2)(c), (d), and (f)**.

(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~~ responsible for the administration of this Act may also exercise the power in that section as if that Minister were the Minister for the Environment:

(c) section 34 (delegation of functions, etc, by local authorities):

(d) section 34A (delegation of powers and functions to employees and other persons):

(e) section 36AA (local authority policy on discounting administrative charges):

(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:

(h) sections 39 to 41A, 41B(1) to (4), 41C, 42, and 42A (concerning powers and duties in relation to hearings and reports to a local authority):

(i) section 352 (service of documents):

(j) any other provisions of the Resource Management Act 1991 prescribed for the purposes of this section.

74 Administrative charges

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

~~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:~~

(a) charges payable by persons who request plan changes or ~~applicants for the preparation or change of a plan, or the preparation or~~ variations to ~~a~~ proposed plans, for ~~a local authority~~ the authorised agency carrying out its functions in relation to such ~~applications~~ requests and charges associated with an ATA panel or a hearings commissioner if the decision on a request is delegated to either:

(b) charges payable by applicants for resource consents for the authorised agency carrying out 1 or more of its functions under this Act in relation to receiving, processing, and granting resource consents, ~~(including~~ certificates of compliance~~)~~, and charges associated with an ATA panel or a hearings commissioner if the decision on an application is delegated to either:

(c) charges payable by 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):

(d) charges payable by holders of resource consents for the authorised agency carrying out 1 or more of its func-

tions under this Act in relation to reviewing consent conditions:

(da) charges payable by persons who exercise a right of objection under this Act against a decision made or an action taken, for the authorised agency carrying out its functions in relation to such objections:

(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:

(f) charges for the supply of documents, which are payable by the person who requests the document.

(2) Section 36(3) to (5) and (7) of the Resource Management Act 1991 applies to charges fixed by the authorised agency under this section,—

(a) as if the reference in section 36(3) and (7) to subsection (1) of that section were a reference to this section; and

(b) with all other necessary modifications.

Subpart 5—Provisions relating to rights of appeal and objection

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**.

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:

(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~~—

(aaa) be made in the form prescribed for appeals made under section 120 of the Resource Management Act 1991; and

(aa) relate to a matter raised in the submission of the person lodging the appeal; and

(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.

(3) The appellant must ensure that a copy of the notice of appeal is served on every person referred to in **subsection (1)** not later than 5 working days after the appeal is lodged with the Environment Court.

(4) Part 11 of the Resource Management Act 1991 applies to an appeal under this section—

(a) as if every reference to a consent authority or a local authority were a reference to an authorised agency~~; 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—

(ab) as if section 274(1)(d) and (f) were repealed and section 274(1)(e) read "a person who made a submission about the subject matter of the proceedings; and"; and

(b) with any other necessary modifications.

(5) This section is in addition to the rights provided for in **section 78**.

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.

Compare: 1991 No 69 s 296

78 Rights of objection

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

(a) a person whose application for a resource consent is not granted by the authorised agency:

(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:

(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:

(e) a person who has made an application under any of the following provisions, in respect of the authorised agency's decision on that application:

(i) ~~section 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):

(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:

(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 to a proposed plan is not ~~granted~~ approved by the authorised agency under **subpart 3** of this Part.

(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

(b) an application made under sections 128 to 132 of the Resource Management Act 1991, as modified by **sections 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.

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.

80 Decisions on objections

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

(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

(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

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.

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:~~—

(a) a local authority~~:~~; or

(b) the Environmental Protection Authority~~:~~.

~~(c) a government department.~~

(2) A delegation under this section—

(a) must be in writing; and

(b) may be made subject to any restrictions and conditions that the chief executive thinks fit; and

(c) is revocable at any time, by notice in writing.

(3) An entity to which any functions or powers are delegated under this section may perform or exercise them in the same manner and with the same effect as if they had been conferred on the entity directly by this Act and not by delegation.

(4) **Subsection (3)** is subject to any restrictions or conditions imposed by the chief executive.

(5) A person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

(6) No delegation under this section affects or prevents the performance or exercise of any function or power by the chief executive or affects the responsibility of the chief executive for the actions of the entity acting under the delegation.

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~~ either of the entities ~~named~~ specified in **section 83(1)** or another chief executive of a government department.

(2) **Subsection (1)** is subject to any prohibition against accepting a transfer of functions or powers that may be contained in the Act (if any) by or under which the entity is established.

(3) The ~~chief executive and the~~ entity to which, or the chief executive to whom, functions or powers are to be transferred under this section—

(a) must enter into a written agreement in respect of the transfer; and

(b) may agree on the terms of the transfer.

(4) An entity to which, or a chief executive to whom, a function or power is transferred under this section—

(a) may perform the function or exercise the power as if the function were imposed, or the power were conferred, on that entity under this Act; and

(b) may, unless the agreement in respect of the transfer provides otherwise, at any time, cancel the transfer in accordance with that agreement.

(5) The chief executive may, at any time, change or revoke the transfer by written notice to the entity or chief executive concerned.

~~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.~~

ATA panel

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,—

(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.

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.

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

(3) A regional council may delegate its functions and powers as an authorised agency under **section 23(3), subpart 2 of Part 2**, or both, to an ATA panel if the qualifying development to which the resource consent application relates is within the district of an accord territorial authority and **section 31B** applies.

Regulations

88 Regulations

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

(a) prescribing 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—

(i) requiring applications, requests, or notices under this Act to be made or given in a prescribed manner:

(ii) providing for the procedure to be followed in connection with any application, request, or no-

tice under this Act or in connection with any proceeding before an authorised agency~~; and for authorising the rectification of irregularities in procedure~~; and

(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 with any necessary modifications; and

(c) providing for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Transitional provisions

89 Transitional provisions

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

Schedule 1

s 4

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

Auckland

Schedule 2 s 89
Transitional provisions

1 Transitional provisions relating to disestablishment of special housing area

(1) ~~**Sections 25 to 27 and 61** do not apply~~ No application or request may be made under **section 24 or 61** in relation to a qualifying development in a special housing area after the date that ~~a~~ the relevant special housing area is disestablished (the **disestablishment date**).

(2) ~~The authorised agency must,—~~ However, despite the disestablishment of a special housing area,—

~~(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~~

(a) **Part 2** continues to apply in respect of any existing application, request, or other matter provided for in **Part 2** and, for this purpose,—

(i) the agency that was authorised to perform a function or exercise a power under **Part 2** before the disestablishment date continues to be the authorised agency after that date; and

(ii) any criterion prescribed under **section 15** for qualifying developments in the special housing area or a part of the special housing area continues to apply; and

(b) ~~accept and process all—~~the authorised agency must continue to accept and process all—

(i) applications made under **section 51**; and

(ii) requests made under **section 57**; and

(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

(b) a special housing area within the district of the accord territorial authority is not disestablished on or before the date of the public notice (the **public notice date**).

(2) If a person applies for a resource consent under ~~any of sections 25 to 27 without requesting a plan change or a variation to a proposed plan under section 61 with that application~~ **section 24**, the authorised agency for the resource consent application is—

(a) the accord territorial authority, if the application is made in the 3-month period starting on the day after the public notice date; and

(b) the chief executive, if the application is made ~~during the 3-month period starting on the day~~ after the end of the 3-month period referred to in **paragraph (a)**.

(3) ~~The~~ Despite **subclause (2)(b)**, the accord territorial authority remains the authorised agency for an application for a resource consent made under ~~any of sections 25 to 27~~ **section 24** between the public notice date and the date that the housing accord terminates (the **termination date**), if that application is made in conjunction 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~~ made under **section 24** or requests made under **section 61** after the termination date.

(5) Despite the termination of a housing accord,—

(a) the former accord territorial authority must continue to comply with **Part 2** in respect of—

(i) all resource consent applications (including applications made in conjunction with a request for a plan change or variation of a proposed plan under **section 61**), requests, objections, and other matters provided for in **Part 2** that exist at the public notice date; and

(ii) all resource consent applications and requests to which **subclauses (2)(a) and (3)** apply; and

(b) accept and process the following in respect of the resource consent applications referred to in **paragraph (a)**:

(i) applications made under **section 51**; and
(ii) requests made under **section 57**; and
(iii) objections made under **section 79**; and

(c) **Part 2** continues to apply for the purposes of **paragraphs (a) and (b)** as if the former accord territorial authority were still an authorised agency.

(6) **Subclause (5)(b)(iii)** is subject to **clause 3**.

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

(1) In this clause, ~~—~~ **right of objection** means a right of objection under **section 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)**)~~ authorised agency.

~~**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~~ after the housing accord terminates, exercises a right of objection by giving notice in writing in accordance with section 357C of the Resource Management Act 1991 (an **objector**) may elect to have the chief executive consider and make a decision on the ~~application~~ objection rather than the accord territorial authority.

(3) An objector who wants the chief executive to consider and make a decision on the objection must state in the notice referred to in **subclause (2)** that the objector elects to have the objection considered and heard by the chief executive.

(4) A notice of objection that does not include a statement ~~of~~ electing the chief executive must be heard and considered by the accord territorial authority.

(5) If a person elects to have an objection against a decision or other action of an accord territorial authority considered and decided by the chief executive,—

(a) the accord territorial authority must provide the chief executive with all information that it holds in respect of the decision or other action objected to; and

(b) the accord territorial authority must, as soon as practicable after the chief executive requires it to do so, provide any further information that the chief executive reasonably considers to be necessary to allow the objection to be considered and decided on and that the accord territorial authority holds.

(6) For the purposes of **sections 74(1)(da), 79, and 80**, the chief executive is deemed to be the authorised agency in respect of all objections that persons elect under this clause to have considered and decided by the chief executive.

4 Regulations for transitional purposes

(1) In this clause, **transition**, in relation to any matter dealt with in this Act~~; or any matter dealt with under another Act the operation of which is affected by the operation of this Act (for example, existing applications under the Resource Management Act 1991)~~, means— the transition from the relevant law that applies in respect of the matter immediately before this Act is repealed, or any provision relevant to the matter is repealed or no longer applies or has the same effect in respect of the matter, to the law that applies or has an effect after that event.

~~(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~~

~~(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.~~

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing transitional or savings provisions that apply (in addition to, or in substitution for, any other transitional provisions in this schedule) for the purpose of facilitating or ensuring an orderly transition.

(3) Regulations made under this clause may—

(a) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions (including definitions) of this Act do not apply, or apply with modifications or additions:

(b) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions ~~repealed by Order in Council or by the provisions~~ of this Act or regulations made under this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed or revoked:

(c) provide that, subject to such conditions as may be specified in the regulations, 1 or more provisions (including definitions) of the Resource Management Act 1991 do not apply, or apply with modifications or additions, to ~~an application made~~ a matter under this Act:

(d) provide for any other matter necessary to facilitate or ensure an orderly transition.

(4) The Minister must not recommend the making of regulations unless the Minister is satisfied that the regulations—

(a) are reasonably necessary for the purpose of facilitating or ensuring an orderly transition; and

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

Legislative history

16 May 2013 Introduction (Bill 117–1), first reading and referral to Social Services Committee

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