Reprint
as at 1 July 2021

Urban Development Act 2020

Public Act	2020 No 42
Date of assent	6 August 2020
Commencement	see section 2

Contents

		Page
1	Title	14
2	Commencement	14
	Part 1 **Preliminary provisions**	
	Subpart 1—Purpose and principles	
3	Purpose of this Act	14
4	Treaty of Waitangi	15
	Specified development projects	
5	Principles for specified development projects	15
	Subpart 2—Overview of this Act	
6	Overview of this Act	15
7	Overview of provisions about specified development projects	16
8	Overview of provisions about urban development by Kāinga Ora generally	16

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

Subpart 3—Interpretation and application

Interpretation

9 Interpretation 17
10 Meaning of urban development, urban development project, and specified development project 27
11 Examples do not limit provisions 28

Application

12 Transitional, savings, and related provisions 28
13 Act binds the Crown 28

Other enactments

14 Application of other enactments 28
15 Treaty settlement obligations prevail 29

Subpart 4—Restrictions on developing certain land

16 Application of sections 17 to 19 29
17 Protected land 29
18 Former Māori land 31
19 RFR land 32
20 When protected land, former Māori land, and RFR land may be included in project area and development plan 33
21 Land that may be needed for settlement of Treaty of Waitangi claims 33

Subpart 5—Miscellaneous

Engagement

22 Engagement requirements 33

General duties

23 Duty to co-operate 34
24 Duty to avoid unreasonable delay 34

Judicial review

25 Judicial review rights 34

Part 2
Specified development projects

Subpart 1—How specified development projects are established

General provisions

26 Key features of specified development projects 35
27 Project objectives 35
28 Criteria for establishing specified development project 36

Project selection

29 Kāinga Ora or joint Ministers select project 37

30 Status of ministerial direction 37

Project assessment

31 Kāinga Ora assesses project 37
32 Kāinga Ora identifies constraints and opportunities 37
33 Kāinga Ora engages with Māori and key stakeholders 39
34 Project areas that include specified conservation-related area 40
35 Kāinga Ora gives public notice of proposed key features and invites feedback 40
36 Changes to proposed key features 41

Project assessment report

37 Kāinga Ora prepares project assessment report 41
38 Contents of report: recommendation to establish specified development project 41
39 Contents of report: recommendation not to establish 43
40 Territorial authorities invited to indicate support 43
41 Territorial authorities must respond to invitation 44
42 Territorial authority not required to consult before responding 44

Joint Ministers' decision

43 Joint Ministers make decision on report 44
44 Decision to establish specified development project 45
45 Decision to refer back report 45
46 Decision not to establish project as specified development project 46

Project established as specified development project

47 Orders in Council establishing specified development projects 46
48 Effect of establishment order 46
49 Kāinga Ora must notify relevant local authorities of establishment order 47
50 Kāinga Ora must publish details of specified development projects on Internet site 47

Hearings commissioners

51 Appointment of hearings commissioners 48

Amendments, transfer, and disestablishment

52 Amendments to key features of specified development projects 48
53 Orders in Council amending establishment orders 49
54 Transfer and disestablishment 49

Subpart 2—Preparation of development plans

55 Application of this subpart 49
56 Development plan required for every specified development project 49

57 Functions of Kāinga Ora in preparing, amending, or reviewing development plan 50
58 Relevance of certain national instruments 50
59 In preparing development plan, Kāinga Ora to be sufficiently informed 51

Requirements for development plan

60 Contents of development plan 51
61 Further contents of development plan: infrastructure 52
62 Further contents of development plan: funding 53
63 Further contents of development plan: targeted rates 54
64 Provisions that modify planning instruments 55

Inclusion of designations in draft development plan

65 Existing designations for nationally significant infrastructure 56
66 Existing designations that are not for nationally significant infrastructure 56
67 New designations may be included before notification of draft development plan 57

Preparation of development plan

68 Documents and other matters relevant to preparation of development plan 58

Documents to support contents of development plan

69 Evaluation report: general matters 59
70 Evaluation report: environmental matters 60
71 Evaluation report: infrastructure statement 60

Process for notifying draft development plan

72 Preconditions to be met before draft development plan notified 61
73 Public notice 64
74 Public submissions 64
75 Kāinga Ora must consider, and make recommendations on, submissions 64

Establishment and role of IHP

76 Establishment of IHP 65
77 Purpose and role of IHP 65
78 Considerations relevant to IHP's recommendations 66
79 IHP recommendations 66

Minister's decision on draft development plan

80 Kāinga Ora must advise responsible Minister on IHP recommendations 67
81 Minister's determination on draft development plan 68
82 Matters Minister must consider 68

Final approval and notification of development plan

83 Approval and notification of development plan as operative 69
84 Notice to Māori entities 69

Appeals

85 Appeal rights in relation to development plan 70

Effect of development plan

86 Effect of development plan becoming operative 70
87 Continuing application of planning instruments in project area 71
88 When development plan and planning instruments may be inconsistent 71
89 Status and relevance of iwi planning documents 71

Review and amendment of development plans

90 Review of development plan by Kāinga Ora 72
91 Amendment of development plan by Kāinga Ora 72

Private plan change to development plan

92 Requests for private changes to development plans 73
93 Process for requesting private change to development plan 73

Part 3
Effect of specified development projects

Subpart 1—Transitional period and general

94 Overview of this subpart 74

Planning and consenting: general

95 Continuing application of planning instruments and role of local authorities in project area 74
96 Local authorities must include map of project area, etc, in planning instruments 74
97 Local authority may transfer consenting functions to Kāinga Ora 75

Regional or district plan changes in transitional period

98 Local authority preparing or changing plan must have regard to certain additional matters 75
99 Relevant local authority must notify Kāinga Ora before final consideration of plan change 75
100 Power to decline plan change in project area by notice 76
101 Appeal rights in relation to exercise of section 100 power 77

Decisions on resource consents in transitional period

102 Meaning of relevant application 77
103 What consent authority must do with relevant applications 77
104 Power to decline relevant applications or impose or modify conditions 78

105 Right of objection in relation to exercise of section 104 power 78
106 Appeal rights in relation to exercise of section 104 power 79

Assistance, information, advice, and record-keeping: project duration

107 Kāinga Ora and territorial authorities must assist persons seeking to determine who does what 79
108 Information, advice, and record-keeping obligations from establishment 79

Subpart 2—Resource consenting and designations for specified development project

Role of Kāinga Ora as consent authority

109 Role of Kāinga Ora in relation to resource consent applications 80
110 Monitoring and enforcement of subdivision consents 81
111 Governance principle applying to Kāinga Ora acting as consent authority 81
112 Certain obligations to post-settlement governance entities continue under this Act 81

Basis of decision making in relation to resource consent applications under this Part

113 Resource consents: decision-making framework 81

Application of provisions of Resource Management Act 1991

114 Resource consents required for activities relating to specified development project 82

Resource consent processes

115 Applications for resource consents 82
116 Processing of applications 83
117 Deferral and suspension 84
118 Further information may be requested at any time 84
119 Notification 84

Processing applications

120 Time limits for giving notice of decisions 85

Notified applications: submissions

121 Submission process for notified applications 85

Hearings

122 Receipt and consideration of submissions 86
123 Hearings 86
124 Alternate appointments to hear and determine consent applications 86

Conditions of resource consents

125 Conditions and other obligations 87

Decision to be in writing and served on specified persons

126 Form and service of decision 87

When resource consents commence

127 Commencement of resource consents 87

Rights of objection and appeal

128 Rights of objection under this Act 88
129 Appeal rights in relation to resource consents in project area 88
130 Right of appeal against direction given under section 85 of Resource Management Act 1991 88

Designations

131 Kāinga Ora is requiring authority 89
132 Notices of requirements for designations 89
133 Further modifications to Part 8 of Resource Management Act 1991 90
134 Approval of Kāinga Ora to lodge notice of requirement for new designations 91
135 Notice of requirement for proposals of national significance 92
136 Process applying to new or modified designations after development plan becomes operative 92

Subpart 3—Reserves and conservation interests

137 Kāinga Ora may request that reserve status or conservation interest be revoked 93
138 Minister must give effect to development plan following request under section 137 93
139 Creation, classification, and vesting of reserves 94

Subpart 4—Infrastructure

Preliminary provisions

140 Application of this subpart 95
141 Overview of this subpart 95
142 Interpretation for this subpart 96

Roads

143 Meaning of roading powers 97
144 Kāinga Ora has roading powers if stated in development plan 97
145 Additional functions if Kāinga Ora has roading powers 98
146 Kāinga Ora has jurisdiction over roads for which it has roading powers 99
147 Limitations on Kāinga Ora exercising roading powers 99
148 Relevant territorial authority prohibited from performing functions and exercising powers that Kāinga Ora has under section 144(2) 99
149 Jurisdiction in respect of roads defined more widely than in Local Government Act 1974 100

Water-related infrastructure

150 Meaning of water-related infrastructure powers 100
151 Kāinga Ora has water-related infrastructure powers when development plan becomes operative 100
152 Construction of new water-related infrastructure on, under, or over roads 101
153 Limitations on power to construct new water-related infrastructure 101
154 Requirements before constructing new water-related infrastructure without land owner's consent 101
155 When owner and occupier can be treated as having consented 102
156 What happens if owner or occupier objects 103
157 Right of appeal against determination of hearings commissioner 103
158 Construction authorised by development plan 104
159 Prohibition on others constructing new water-related infrastructure without consent of Kāinga Ora 104
160 Kāinga Ora responsible for costs of construction 104
161 Limitations on power to alter water-related infrastructure Kāinga Ora does not control 105
162 Controlling authority responsible for costs of operating and maintaining water-related infrastructure 106
163 Requirement to transfer water-related infrastructure once connected 106
164 Ongoing application of section 181(4) of Local Government Act 2002 to transferred water-related infrastructure 106

Nationally significant infrastructure

165 Duty of Kāinga Ora relating to works likely to affect nationally significant infrastructure 106

Bylaw changes

166 Meaning of bylaw change 106
167 Power of Kāinga Ora to propose bylaw change 106
168 Requirements before proposing bylaw change 107
169 Kāinga Ora publicly notifies proposed bylaw change and invites views, etc 107
170 Minor adjustments to proposed bylaw change 108
171 Kāinga Ora may request or require bylaw change 109
172 Notice requesting bylaw change 109
173 Refusal to make requested change does not prevent future requests 109
174 Circumstances where Kāinga Ora may require bylaw change 109
175 Notice requiring bylaw change 110
176 Bylaw-making authority must make bylaw changes required by development plan 110
177 Requirements under other Acts satisfied for making of bylaw changes 110

178 Bylaw-making authority must preserve bylaw changes made in accordance with this subpart 110
179 Bylaw-making authorities must consult Kāinga Ora on certain proposals 111
180 Review of bylaws by Kāinga Ora and bylaw-making authorities 111

Part 4
Funding of specified development projects

Subpart 1—Preliminary provisions

181 Purpose of this Part 111
182 Interpretation for this Part 112

Subpart 2—Targeted rates

183 General modifications to Local Government (Rating) Act 2002 when applied 113
184 What is rateable? 113
185 Who must pay rates? 113

How are rates authorised?

186 Order in Council may authorise Kāinga Ora to set rates 114
187 Content of targeted rates order 115
188 Rates required for unforeseen and urgent circumstances 115

How are rates set?

189 Procedure for setting rates 115
190 Kāinga Ora may set rates again within same financial year 116
191 Procedural requirements for rates resolution 117
192 Due date or dates for payment 117

How are rates spent?

193 How rates may be spent 118
194 When excess rates are refunded to ratepayers 118

Territorial authorities to collect rates for Kāinga Ora

195 Kāinga Ora to notify rates resolution to relevant territorial authority 119
196 Relevant territorial authority to collect rates 119
197 Relevant territorial authority to pay rates revenue to Kāinga Ora 119
198 Relevant territorial authority may retain some rates revenue to cover costs 119
199 Relevant territorial authority to retain and refund rates revenue if maximum is exceeded 120

Process for calculation, payment, and recovery of rates

200 Rates must be calculated in accordance with values and factors 120
201 Notice of rates assessment 120
202 Contents of rates assessment 121

203 Rates invoice 121
204 Penalties on unpaid rates 122
205 When Kāinga Ora may recover unpaid rates 122
206 Application of Local Government (Rating) Act 2002: calculation, payment, and recovery 123

Remission and postponement of rates

207 Remission of rates 124
208 Recording remitted rates 124
209 Postponement of requirement to pay rates 125
210 Application of Local Government (Rating) Act 2002: postponed rates 125

Write-off of rates

210A When Kāinga Ora may write off targeted rates 125

Rating of Māori freehold land

211 Application of Local Government (Rating) Act 2002: rating of Māori freehold land 126

Rating information database and rates records

212 Rating information database to include information on targeted rates 127
213 Rates records to include information on targeted rates 127
214 Kāinga Ora and relevant territorial authority to share rating information 127
215 Application of Local Government (Rating) Act 2002: rating information database and rates records 128

Other matters

216 Kāinga Ora may assume functions of relevant territorial authority 128
217 Relevant territorial authority may delegate to its chief executive, etc 128
218 Application of local government Acts: other matters 129

Subpart 3—Development contributions

219 Principles for development contributions 129
220 Meaning of development 129
221 Kāinga Ora may require development contributions 129
222 Determining amount of development contributions 130
223 Manner in which development contributions may be required 130
224 Limits on power to require development contributions 131

Reconsiderations and objections

225 Right to reconsideration of requirement for development contributions 132
226 Objection to development contributions 132

227 Procedure for objection to development contributions 133
228 Costs of development contributions objections 133

Use of development contributions

229 Use of development contributions by Kāinga Ora 134
230 Use of development contributions for reserves 134
231 Alternative uses of development contributions for reserves 135

Other matters

232 Consequences if development contributions unpaid 136
233 Refund of development contributions if developments do not proceed 136
234 Refund of development contributions if not used for reserves purposes 137
235 Development agreements 137
236 Review of development contributions policy 138
237 Transfer of previous development contributions to Kāinga Ora 138

Subpart 4—Betterment payments

238 Betterment arising from forming or widening road 139
239 Betterment arising from public transport infrastructure 139
240 Betterment revenue must be used for roads or public transport infrastructure 140

Subpart 5—Charges for infrastructure, services, and administration

Infrastructure and service charges

241 Kāinga Ora may fix infrastructure and service charges 140

Administrative charges

242 Kāinga Ora may fix administrative charges 140
243 Considerations when fixing or imposing administrative charges 141
244 Kinds of administrative charges 141

All charges under this subpart

245 Application of sections 246 to 249 143
246 Waiver or remission of charges 143
247 No action until charges are paid 143
248 Publication of charges 143
249 Adjustment of charges 143

Part 5
General land acquisition powers

Subpart 1—Preliminary provisions

250 Overview of this Part 144
251 Interpretation for this Part 145
252 Meaning of specified work 146

Subpart 2—Transfer and acquisition of land

253 Kāinga Ora may request that Minister for Land Information transfer or acquire land 147
254 Existing public work 148
255 Crown land and common marine and coastal area 148
256 Private and other land 148

Procedure in certain cases

257 Procedure for transfer of Crown-owned land 149
258 Crown agent's right of objection limited 150

Compensation and other matters

259 Compensation may be claimed 150
260 Alternative compensation may be agreed 150
261 Crown may recover costs from Kāinga Ora 151
262 Registrar-General must note that land held for specified work 151

Subpart 3—Dealing with land acquired under this Part

Leases, easements, etc

263 Kāinga Ora may grant leases, easements, etc 151

Transfer of land to developer

264 Kāinga Ora may transfer land to developer 152
265 Preconditions for transfer of land to developer 152
266 Right of resumption 153
267 Registrar-General of Land must note right of resumption 153
268 Removal of notation recording right of resumption 153
269 When right of resumption may be exercised 154
270 How right of resumption is exercised 154

Subpart 4—Disposal and setting apart of land acquired under this Part

271 Restrictions on disposal of land under this subpart: Māori interests 154
272 Restrictions on disposal or setting apart of land under this subpart: conservation matters 155
273 Disposal of land if certain specified work completed 155
274 Disposal of land no longer required for specified work 156
275 Disposal of land for public work 157
276 Setting apart of land for different specified work 157

Subpart 5—Transfer or disposal of former Māori land

277 Rules for transferring or disposing of former Māori land 157
278 Offer back of former Māori land 158

Part 6
Powers of entry, governance, and delegation

Subpart 1—Powers of entry

279 Meaning of authorised person 158
280 Power to enter land and buildings 158
281 Limits on powers of entry: timing and excluded properties 159
282 Notice of entry 159
283 Other requirements when exercising power of entry 160
284 Appointment of authorised persons 160
285 Offence to obstruct authorised person 161

Subpart 2—Project governance

286 Meaning of committee 161
287 Application of sections 288 and 289 161
288 Factors relevant to decisions on governance of urban development projects 161
289 Types of project governance bodies 161

Specified development projects: certain types of project governance bodies

290 Supporting territorial authorities 162

Administrative

291 Kāinga Ora must publish appointments of project governance bodies 163
292 Provision applying if period where no project governance body appointed for specified development project 163

Subpart 3—Delegations

293 Kāinga Ora must have policy on delegating functions and powers 163
294 Duty of Kāinga Ora relating to delegated functions and powers 164
295 Functions and powers that may not be delegated outside Kāinga Ora 164
296 Development plan for specified development project may approve delegations 164
297 Certain delegations subject to relevant territorial authority approval 165

Subpart 4—Amendments

298 Section 117 of this Act amended 165
299 Amendments to Kāinga Ora–Homes and Communities Act 2019 165
300 Amendments to other Acts 165

Schedule 1 166
Transitional, savings, and related provisions

Schedule 2 167
Transfer and disestablishment

Schedule 3 173
Independent hearings panel
Schedule 4 184
Amendments to other Acts

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Urban Development Act 2020.

2 Commencement

(1) This Act comes into force on the day after the date on which it receives the Royal assent.

(2) However,—

(a) section 298 comes into force on the day after the date on which this Act receives the Royal assent or 30 September 2020, whichever is later; and

(b) section 299(2) comes into force on the day that is 6 months after the date of Royal assent; and

(c) section 299(3) is treated as coming into force on 1 October 2019.

Part 1
Preliminary provisions

Subpart 1—Purpose and principles

3 Purpose of this Act

(1) The purpose of this Act is to facilitate urban development that contributes to sustainable, inclusive, and thriving communities.

(2) To that end, this Act—

(a) provides a mechanism to streamline and consolidate processes for selected urban development projects initiated, facilitated, or undertaken by Kāinga Ora–Homes and Communities (referred to in this Act as **Kāinga Ora**); and

(b) provides powers for the acquisition, development, and disposal of land used for the purpose of Kāinga Ora performing its urban development functions; and

(c) provides additional powers, rights, and duties for the purpose of Kāinga Ora performing its urban development functions.

4 Treaty of Waitangi

In achieving the purpose of this Act, all persons performing functions or exercising powers under it must take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Specified development projects

5 Principles for specified development projects

(1) In achieving the purpose of this Act, all persons performing functions or exercising powers under it in relation to specified development projects, or urban development projects selected or assessed as potential specified development projects, must—

(a) have particular regard to providing, or enabling,—

(i) integrated and effective use of land and buildings; and

(ii) quality infrastructure and amenities that support community needs; and

(iii) efficient, effective, and safe transport systems; and

(iv) access to open space for public use and enjoyment; and

(v) low-emission urban environments; and

(b) promote the sustainable management of natural and physical resources and, in doing so,—

(i) recognise and provide for the matters in section 6 of the Resource Management Act 1991; and

(ii) have particular regard to the matters in section 7 of that Act; but

(iii) recognise that amenity values may change.

(2) In this section, **sustainable management** has the same meaning as in section 5(2) of the Resource Management Act 1991.

Subpart 2—Overview of this Act

6 Overview of this Act

(1) This Act is related to the Kāinga Ora–Homes and Communities Act 2019, which, among other things,—

(a) establishes Kāinga Ora; and

(b) gives it functions that include initiating, facilitating, and undertaking urban development.

(2) This Act sets out functions, powers, rights, and duties that relate to that urban development function. The functions, powers, rights, and duties fall into 2 categories, as follows:

(a) those that apply only to projects that are established as specified development projects (*see* Parts 2 to 4); and

(b) those that apply both to specified development projects and to other urban development that is initiated, facilitated, or undertaken by Kāinga Ora (*see* Parts 5 and 6).

(3) This subpart, and any other provision of this Act referred to as an overview, is intended as a guide to the overall scheme and effect of the provisions referred to in it.

7 Overview of provisions about specified development projects

(1) Part 2 provides for—

(a) how an urban development project is established as a specified development project (*see* subpart 1 of Part 2 and, for the definition of urban development project, section 10(3)); and

(b) once the project is established, the project's development plan to be prepared and approved (*see* subpart 2 of Part 2).

(2) Most of the functions, powers, rights, and duties set out in Parts 3 and 4 are available to Kāinga Ora only after a project's development plan becomes operative. Broadly, they relate to—

(a) resource consenting and designations under the Resource Management Act 1991 (*see* subpart 2 of Part 3):

(b) the use and reconfiguration of reserves, and the use of land that is subject to conservation interests (*see* subpart 3 of Part 3):

(c) certain infrastructure (roads, water supply, wastewater, and drainage) and the changing of related bylaws (*see* subpart 4 of Part 3):

(d) rating and other funding powers (*see* Part 4).

(3) Most of subpart 1 of Part 3 deals with the period that starts on the establishment date for a specified development project and ends when the project's development plan becomes operative (referred to in this Act as the **transitional period**).

(4) *See also*—

(a) section 48(1) for an overview of the effect of a specified development project being established; and

(b) section 86 as to the effect of a development plan becoming operative.

8 Overview of provisions about urban development by Kāinga Ora generally

(1) Parts 5 and 6 apply to urban development initiated, facilitated, or undertaken by Kāinga Ora (including specified development projects).

(2) The functions, powers, rights, and duties set out in those Parts broadly relate to—

(a) the acquisition of land (including by compulsion) (*see* Part 5):

(b) powers to enter land and buildings (*see* subpart 1 of Part 6):

(c) the governance of projects (*see* subpart 2 of Part 6):

(d) the delegation of functions and powers of Kāinga Ora (*see* subpart 3 of Part 6).

Subpart 3—Interpretation and application

Interpretation

9 Interpretation

In this Act, unless the context otherwise requires,—

acquired by Kāinga Ora is defined in section 251 for the purposes of Part 5

administrative charge means a charge that may be fixed or imposed under section 242

alter is defined in section 150(2) for the purposes of water-related infrastructure powers

amenity values has the same meaning as in section 2(1) of the Resource Management Act 1991

Auckland Transport means the entity established by section 38 of the Local Government (Auckland Council) Act 2009

authorised person is defined in section 279 for the purposes of subpart 1 of Part 6

building consent has the same meaning as in section 7 of the Building Act 2004

building consent authority has the same meaning as in section 7 of the Building Act 2004

bylaw change has the meaning set out in section 166

bylaw-making authority has the meaning set out in section 142(1)

chief executive under the Public Works Act 1981 means the chief executive referred to in section 40(1) of the Public Works Act 1981

claimant group, in relation to the definitions of **post-settlement governance entity**, **Treaty settlement Act**, and **Treaty settlement deed**, means a group of Māori with Treaty of Waitangi claims against the Crown, whether or not those claims have been lodged with, or heard by, the Waitangi Tribunal under the Treaty of Waitangi Act 1975

coastal marine area has the same meaning as in section 2(1) of the Resource Management Act 1991

combined planning instrument means a document of the kind described in section 80 of the Resource Management Act 1991

committee is defined in section 286 for the purposes of subpart 2 of Part 6

common marine and coastal area has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

community facility means a facility for—

(a) the use of community members or the public generally for educational, recreational, sporting, cultural, safety, health, welfare, or worship purposes; and

(b) any activity ancillary to a use described in paragraph (a)

conservation interest means—

(a) an interest of the kind described in paragraph (b) of the definition of conservation area in section 2(1) of the Conservation Act 1987:

(b) a declaration under section 76 of the Reserves Act 1977 that land is protected private land:

(c) a covenant under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:

(d) a Ngā Whenua Rāhui kawenata under section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987:

(e) a caveat under section 138 of the Land Transfer Act 2017 for which the caveator is the Crown and the purpose is to protect conservation values

control, in relation to the definition of **Crown body** in section 17(5) and the definition of **post-settlement governance entity** in this section, means,—

(a) for a company, control of the composition of its board of directors; and

(b) for any other body or entity, control of the composition of the group that would be its board of directors if the body or entity were a company

controlling authority is defined in section 142(1) for the purposes of subpart 4 of Part 3

corridor manager has the same meaning as in section 4 of the Utilities Access Act 2010

Crown agent has the same meaning as in section 10(1) of the Crown Entities Act 2004

Crown entity subsidiary has the same meaning as in section 10(1) of the Crown Entities Act 2004

Crown land is defined in section 251 for the purposes of Part 5

Crown protected area has the same meaning as in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008

customary marine title and **customary marine title group** have the same meanings as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

deed of recognition means the redress of that name included in certain Treaty settlement Acts

designation—

(a) has the same meaning as in section 166 of the Resource Management Act 1991; and

(b) if the context requires, also includes a designation included in a development plan under this Act

development is defined in section 220 for the purposes of subpart 3 of Part 4

development contribution means a contribution comprising money or land (or both), where land—

(a) includes a specified reserve or esplanade reserve (other than in relation to a subdivision consent within the meaning of section 87(b) of the Resource Management Act 1991); and

(b) excludes protected land described in section 17(2)

development plan means an operative development plan gazetted under section 83(5)

disestablishment order means an Order in Council made under clause 7 of Schedule 2 that disestablishes a specified development project

district plan has the same meaning as in section 43AA of the Resource Management Act 1991

draft development plan means a development plan that is in the process of being prepared before its approval and notification under section 83

dwelling house has the same meaning as dwellinghouse in section 2(1) of the Resource Management Act 1991

establishment date, in relation to a specified development project, means the commencement date of its establishment order

establishment order means an Order in Council made under section 47 that establishes an urban development project as a specified development project

financial year, in relation to a targeted rate, has the same meaning as in section 5 of the Local Government (Rating) Act 2002

Fire and Emergency New Zealand means the Crown entity continued under section 8 of the Fire and Emergency New Zealand Act 2017

former Māori land means land that—

(a) is held—

(i) for a specified work by Kāinga Ora; or

(ii) for a public work by the Crown or a local authority; and

(b) was, immediately before it was acquired or taken for a specified work or a public work (whether or not the work for which the land is held, or the person who holds the land, has changed since the land's acquisition),—

(i) Māori land; or

(ii) General land owned by Māori that ceased to be Māori land under Part 1 of the Maori Affairs Amendment Act 1967

former owners, in relation to former Māori land, means the 1 or more persons who, in accordance with section 278, are entitled—

(a) to receive an offer to buy the land; or

(b) to have the land vested in them

General land owned by Māori has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

hearings commissioner means a hearings commissioner appointed in accordance with section 51

Heritage New Zealand Pouhere Taonga means the Crown entity established by section 9 of the Heritage New Zealand Pouhere Taonga Act 2014

historic heritage has the same meaning as in section 2(1) of the Resource Management Act 1991

holder, in relation to a right of first refusal or a right of second refusal, means the 1 or more post-settlement governance entities that have the right of first refusal or the right of second refusal in relation to the RFR land

housing is defined in section 251 for the purposes of Part 5

IHP means an independent hearing panel established in accordance with Schedule 3

infrastructure has the same meaning as in section 2(1) of the Resource Management Act 1991

infrastructure and service charge means a charge that may be fixed under section 241

infrastructure operator means an operator of infrastructure and includes a network utility operator

interest, in relation to a Māori entity, means—

(a) any right or interest held by, or granted to, a Māori entity under a Treaty settlement deed, Treaty settlement Act, or other iwi participation legislation:

(b) an ownership interest in land:

(c) a customary or other interest in land that is recognised under an enactment or a judgment or an order of a court of competent jurisdiction:

(d) a customary marine title or a protected customary right

iwi authority has the same meaning as in section 2(1) of the Resource Management Act 1991

iwi participation legislation has the same meaning as in section 58L of the Resource Management Act 1991

iwi planning document means a plan, including a management plan or a strategy, prepared in whole or in part by a Māori entity under legislation, including under—

(a) the Resource Management Act 1991; or

(b) a Treaty settlement Act or other iwi participation legislation; or

(c) a Treaty settlement deed; or

(d) the Marine and Coastal Area (Takutai Moana) Act 2011

joint Ministers means the responsible Minister and the Minister of Finance, acting jointly

Kāinga Ora means Kāinga Ora–Homes and Communities established under section 8 of the Kāinga Ora–Homes and Communities Act 2019

key features is defined in section 26(4) for the purposes of subpart 1 of Part 2

key stakeholders, in relation to a specified development project (or a project being assessed as a potential specified development project), means the persons listed in section 33(4)

land,—

(a) except in Parts 4 and 5, has the same meaning as in section 2(1) of the Resource Management Act 1991:

(b) is defined in section 182(1) for the purposes of Part 4:

(c) is defined in section 251 for the purposes of Part 5

limited notification is the form of notification described in section 95B of the Resource Management Act 1991

local authority,—

(a) except in Part 5, has the same meaning as in section 5(1) of the Local Government Act 2002:

(b) is defined in section 251 for the purposes of Part 5

local government rate is defined in section 182(1) for the purposes of Part 4

Māori association has the same meaning as in section 2 of the Maori Community Development Act 1962

Māori entity means any of the following persons or entities:

(a) a post-settlement governance entity:

(b) an iwi authority:

(c) a hapū:

(d) an urban Māori authority:

(e) a Māori Trust Board:

(f) a Māori association:

(g) the Māori Trustee:

(h) a board, committee, authority, or other body, incorporated or unincorporated, recognised in, or established under, iwi participation legislation:

(i) a body corporate, the trustees of a trust, or any other entity or persons who have an ownership interest in Māori land:

(j) a body corporate or the trustees of a trust appointed to administer a Māori reservation:

(k) a customary marine title group or protected customary rights group:

(l) the entity that is authorised to act for a natural resource with legal personhood

Māori freehold land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Māori land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

Māori Trust Board has the same meaning as in the Maori Trust Boards Act 1955

marine and coastal area has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Minister for Land Information means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Public Works Act 1981

nationally significant infrastructure means any of the following:

(a) State highways:

(b) the national grid electricity transmission network:

(c) renewable electricity generation facilities that connect directly to the national grid electricity transmission network:

(d) the high-pressure gas transmission pipeline network operating in the North Island:

(e) the refinery pipeline between Marsden Point and Wiri:

(f) the New Zealand rail network (including light rail):

(g) land and airspace designated for defence purposes under the Resource Management Act 1991:

(h) airports used for regular air transport services by aeroplanes capable of carrying more than 30 passengers:

(i) the port companies referred to in item 6 of Part A of Schedule 1 of the Civil Defence Emergency Management Act 2002

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

New Zealand Transport Agency means the Agency established by section 93 of the Land Transport Management Act 2003

owner is defined, in relation to land that is a road and the exercise of water-related infrastructure powers, in section 142(1) for the purposes of subpart 4 of Part 3

park—

(a) means land—

(i) owned by a relevant local authority; and

(ii) acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes; but

(b) does not include land that is held as a reserve, or part of a reserve, under the Reserves Act 1977

participation arrangement means an arrangement entered into under a Treaty settlement Act, Treaty settlement deed, or other enactment such as the Resource Management Act 1991 or the Local Government Act 2002 that provides a right for a Māori entity to participate in processes, including a right—

(a) to produce, or participate in producing, a planning instrument, iwi planning document, strategy, or management plan that relates to a project area:

(b) to appoint members to a standing committee of a territorial authority under the Local Government Act 2002 that operates in a project area:

(c) to appoint persons to hear and determine resource consent applications for activities within the project area

planning instrument means a regional or district plan, a combined planning instrument, or a regional policy statement

post-settlement governance entity—

(a) means a body corporate or the trustees of a trust established, for the purpose of receiving redress in the settlement of the Treaty of Waitangi claims of a claimant group,—

(i) by that group; or

(ii) by or under an enactment or order of a court; and

(b) includes—

(i) an entity established to represent a collective or combination of claimant groups; and

(ii) an entity controlled by an entity referred to in paragraph (a); and

(iii) an entity controlled by a hapū to which redress has been transferred by an entity referred to in paragraph (a)

private plan change means a private plan change to a development plan under sections 92 and 93

project area means the area or areas of land identified as the project area in an establishment order for a specified development project

project objectives means the project objectives set out in an establishment order for a specified development project

proposed project area means a project area that Kāinga Ora is considering in relation to a project that is being assessed under subpart 1 of Part 2

protected customary right and **protected customary rights group** have the same meanings as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected land means the land described in section 17(2) and (4)

public housing has the same meaning as in section 5(1) of the Kāinga Ora–Homes and Communities Act 2019

public notice has the same meaning as in section 2AB of the Resource Management Act 1991

public transport infrastructure is defined in section 182(1) for the purposes of Part 4

public work has the same meaning as in section 2 of the Public Works Act 1981

ratepayer is defined in section 182(1) for the purposes of Part 4

rating unit means a rating unit within the meaning of sections 5B and 5C of the Rating Valuations Act 1998

record of title has the same meaning as in section 5(1) of the Land Transfer Act 2017

redress means redress provided for, by, or under a Treaty settlement Act or Treaty settlement deed, including redress provided by or under—

(a) a statutory acknowledgment and the associated statement of association:

(b) a deed of recognition:

(c) an overlay classification and the associated protection principles:

(d) an advisory board or committee set up to provide advice in relation to the management of a reserve or natural resource

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

regional park has the same meaning as in section 139(1) of the Local Government Act 2002

regional plan has the same meaning as in section 43AA of the Resource Management Act 1991

regional policy statement has the same meaning as in section 43AA of the Resource Management Act 1991

register of land has the same meaning as register in section 5(1) of the Land Transfer Act 2017

Registrar-General of Land has the same meaning as Registrar in section 5(1) of the Land Transfer Act 2017

relevant, in relation to a policy that relates to a targeted rate or development contribution, is defined in section 182(1) for the purposes of Part 4

relevant local authority, in relation to a specified development project (or a project being assessed as a potential specified development project), means—

(a) every regional council whose region includes land in the project area (or proposed project area); and

(b) every relevant territorial authority for the project

relevant territorial authority,—

(a) in relation to a specified development project (or a project being assessed as a potential specified development project), means every territorial authority whose district includes land in the project area (or proposed project area):

(b) for the purposes of subpart 4 of Part 3, is defined in section 142(1) as including, in Auckland, Auckland Transport

requiring authority has the same meaning as in section 166 of the Resource Management Act 1991 and includes Kāinga Ora, subject to section 131(2) and (3)

reserve has the same meaning as in section 2(1) of the Reserves Act 1977

resource consent has the same meaning as in section 2(1) of the Resource Management Act 1991

responsible Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

retirement village is defined in section 251 for the purposes of Part 5

RFR land means land that is subject to a right of first refusal or a right of second refusal

right of first refusal means a right of 1 or more post-settlement governance entities that—

(a) is a right to be offered the transfer, vesting, or lease of land before the landowner may dispose of it to others; and

(b) is currently enforceable; and

(c) is provided for in a Treaty settlement Act or Treaty settlement deed

right of resumption is defined in section 251 for the purposes of Part 5

right of second refusal means a right of 1 or more post-settlement governance entities that—

(a) is a right to be offered the transfer, vesting, or lease of RFR land after the holder of the right of first refusal and before the landowner may dispose of the land to others; and

(b) is currently enforceable; and

(c) is provided for in a Treaty settlement Act or Treaty settlement deed

roading powers has the meaning set out in section 143

service connection is defined in section 182(1) for the purposes of Part 4

specified conservation-related area has the meaning set out in section 28(d)

specified development project has the meaning set out in section 10(4)

specified reserve means land classified as any of the following under the Reserves Act 1977:

(a) a recreation reserve:

(b) a historic reserve:

(c) a scenic reserve:

(d) a government purpose reserve:

(e) a local purpose reserve

specified work has the meaning set out in section 252

statutory acknowledgment means redress of that name included in certain Treaty settlement Acts

supporting documents means the documents required by sections 69 to 71

targeted rate has the meaning set out in section 182(1)

targeted rates order is defined in section 182(1) for the purposes of Part 4

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

three waters services includes services associated with drinking water, wastewater, and stormwater

transfer order means an order made under clause 4 of Schedule 2

transitional period has the meaning set out in section 94(2)

Treaty of Waitangi claim means a claim within the meaning of section 6 of the Treaty of Waitangi Act 1975, whether that claim was submitted or not to the Waitangi Tribunal

Treaty settlement Act means—

(a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; and

(b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act

Treaty settlement deed means a deed or other agreement—

(a) that is signed for and on behalf of the Crown by 1 or more Ministers of the Crown and by representatives of a claimant group; and

(b) that is in settlement of the Treaty of Waitangi claims of the members of that group, or in express anticipation, or on account, of that settlement

Treaty settlement obligations means obligations under any of the following:

(a) Treaty settlement Acts:

(b) Treaty settlement deeds

urban development has the meaning set out in section 10(1)

urban development project has the meaning set out in section 10(3)

urban renewal is defined in section 251 for the purposes of Part 5

Utilities Access Code means the Code approved under the Utilities Access Act 2010

utility operator has the same meaning as in section 4 of the Utilities Access Act 2010

wastewater services has the same meaning as in section 124 of the Local Government Act 2002

water-related infrastructure has the meaning set out in section 142(1)

water-related infrastructure powers has the meaning set out in section 150(1)

working day has the same meaning as in section 2(1) of the Resource Management Act 1991.

10 Meaning of urban development, urban development project, and specified development project

Urban development

(1) In this Act, **urban development** includes—

(a) development of housing, including public housing and community housing, affordable housing, homes for first-home buyers, and market housing:

(b) development and renewal of urban environments, whether or not this includes housing development:

(c) development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services, or works.

(2) *See also* section 13(1)(f) of the Kāinga Ora–Homes and Communities Act 2019.

Urban development project

(3) In this Act, **urban development project** means a project for urban development, but does not include a project that is only to develop or redevelop public housing on land owned by Kāinga Ora.

Specified development project

(4) In this Act, **specified development project** means an urban development project that is established as a specified development project by an establishment order (*see* section 47).

11 Examples do not limit provisions

(1) An example used in this Act does not limit the provisions to which it relates.

(2) If an example and a provision to which it relates are inconsistent, the provision prevails.

Application

12 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

13 Act binds the Crown

This Act binds the Crown.

Other enactments

14 Application of other enactments

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

(a) all persons performing functions or exercising powers under this Act must comply with any provisions of any other enactment that apply to that function or power; and

(b) the provisions of the Resource Management Act 1991 continue to apply in relation to a project area.

(2) Nothing in this Act limits or otherwise affects the following enactments:

(a) the Heritage New Zealand Pouhere Taonga Act 2014:

(b) the Housing Act 1955:

(c) the Marine and Coastal Area (Takutai Moana) Act 2011:

(d) Te Ture Whenua Maori Act 1993.

(3) Neither of the following actions, of itself, precludes an applicant group from establishing, under the Marine and Coastal Area (Takutai Moana) Act 2011, the existence of a protected customary rights area or a customary marine title:

(a) the establishment of a specified development project under section 47 of this Act on land abutting all or part of the marine and coastal area specified by the applicant group:

(b) the setting apart of a part of the marine and coastal area under section 255 of this Act for a specified work.

(4) In this section, **applicant group** has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011.

15 Treaty settlement obligations prevail

If a provision of this Act is inconsistent with a Treaty settlement obligation, the Treaty settlement obligation prevails.

Subpart 4—Restrictions on developing certain land

16 Application of sections 17 to 19

(1) The restrictions set out in section 17 in relation to protected land apply only to the use of powers in this Act.

(2) The restrictions set out in sections 18 and 19 in relation to former Māori land and RFR land apply to Kāinga Ora whether it is acting under this Act or any other Act (except the Housing Act 1955—*see* section 14(2)(b)).

17 Protected land

(1) The land described in subsections (2) and (4) is referred to in this Act as **protected land**.

Land absolutely protected from acquisition and development

(2) No power in this Act may be used in relation to the following land:

Reserves, national parks, etc

(a) land classified as a nature reserve or a scientific reserve under the Reserves Act 1977:

(b) land constituted as a national park under the National Parks Act 1980:

(c) land described in paragraph (a) of the definition of conservation area in section 2(1) of the Conservation Act 1987:

(d) land that is a wildlife sanctuary, wildlife refuge, or wildlife management reserve as defined in section 2(1) of the Wildlife Act 1953:

Māori customary land and Māori reservations

(e) Māori customary land:

(f) land vested in the Māori Trustee that—

(i) is constituted as a Māori reserve by or under the Maori Reserved Land Act 1955; and

(ii) remains subject to that Act:

(g) land set apart as a Māori reservation under Part 17 of Te Ture Whenua Maori Act 1993:

Common marine and coastal area where rights recognised

(h) any part of the common marine and coastal area in which customary marine title has, or protected customary rights have, been recognised under the Marine and Coastal Area (Takutai Moana) Act 2011:

Other significant land

(i) land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of Te Urewera Act 2014):

(j) the maunga listed in section 10 of Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

Land protected from use of certain powers without agreement

(3) The following restrictions apply to the land described in subsection (4):

(a) Kāinga Ora may not exercise the power under section 151 to construct new water-related infrastructure on, under, or over the land without the written consent of the owner of the land:

(b) the Minister for Land Information may not acquire the land under section 256 except in accordance with section 17 of the Public Works Act 1981 (acquisition by agreement).

(4) The land referred to in subsection (3) is—

(a) Māori freehold land:

(b) General land owned by Māori that was previously Māori freehold land, but ceased to have that status under—

(i) an order of the Māori Land Court made on or after 1 July 1993; or

(ii) Part 1 of the Maori Affairs Amendment Act 1967:

(c) land held by a post-settlement governance entity if the land was acquired—

(i) as redress for the settlement of Treaty of Waitangi claims; or

(ii) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed:

(d) land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land.

(5) In this section,—

Crown body means—

(a) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004; and

(b) a State enterprise, as defined in section 2 of the State-Owned Enterprises Act 1986; and

(c) the New Zealand Railways Corporation; and

(d) a company or body that is wholly owned or controlled by 1 or more of the following:

(i) the Crown:

(ii) a Crown entity:

(iii) a State enterprise:

(iv) the New Zealand Railways Corporation; and

(e) a subsidiary or related company of a company or body referred to in paragraph (d)

land held by a post-settlement governance entity includes land that is, in accordance with a Treaty settlement Act, held in the name of a person such as a tipuna of the claimant group (rather than the entity itself)

mana whenua has the same meaning as in section 2(1) of the Resource Management Act 1991

Māori customary land has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993

related company has the same meaning as in section 2(3) of the Companies Act 1993

subsidiary has the same meaning as in section 5(1) of the Companies Act 1993.

18 Former Māori land

(1) This section applies to an urban development project if—

(a) the project is on former Māori land; and

(b) the land is intended to be transferred to someone other than the Crown, a local authority, or Kāinga Ora while the project is underway or after the project is completed.

(2) Kāinga Ora may not initiate, facilitate, or undertake the urban development project unless—

(a) Kāinga Ora engages with the persons who Kāinga Ora considers are likely to be the land's former owners, and the hapū associated with the land, in order to understand—

(i) their aspirations for the land; and

(ii) how those aspirations may be taken into account in the way the land is developed; and

(b) the land has been offered back to its former owners in accordance with section 278.

(3) The following persons must make the offer under subsection (2)(b) at the request of Kāinga Ora:

(a) the chief executive under the Public Works Act 1981, if the land is owned by Kāinga Ora or the Crown:

(b) the local authority, if the land is owned by a local authority.

19 RFR land

(1) Kāinga Ora may not initiate, facilitate, or undertake an urban development project on RFR land unless Kāinga Ora—

(a) offers the holder of the right of first refusal the opportunity to undertake the development on specified terms; and

(b) obtains the agreement of the holder of that right to—

(i) the development being undertaken by the holder of that right (whether on the terms offered or on other terms); or

(ii) the development being undertaken by Kāinga Ora or another person.

(2) An agreement under subsection (1)(b)(ii) may include any conditions agreed by the holder of the right of first refusal and Kāinga Ora.

(3) If there is more than 1 holder of the right of first refusal, subsection (1)(b) is not complied with unless all of the holders of that right agree.

(4) If there is a right of second refusal over the RFR land, subsections (1) to (3) also apply in relation to the holder of that right (as if it were the holder of the right of first refusal) if the holder of the right of first refusal—

(a) has agreed to the development going ahead without agreeing to undertake the development; and

(b) has agreed to waive its right of first refusal.

(5) If the RFR land is also former Māori land, this section applies only if the land's former owners do not accept the offer under section 18(2)(b).

(6) To avoid doubt,—

(a) an agreement under subsection (1) does not end or limit the right of first refusal or the right of second refusal (unless the holder of that right agrees otherwise); and

(b) nothing in this section affects any authority that enables the Crown or any person other than Kāinga Ora to initiate, facilitate, or undertake a development on the RFR land in a manner that is consistent with the right of first refusal.

20 When protected land, former Māori land, and RFR land may be included in project area and development plan

(1) Sections 17 to 19 do not—

(a) prevent the land referred to in those sections from being included in a project area; or

(b) affect the ability to prepare a draft development plan for that project area.

(2) However, the responsible Minister may not approve a draft development plan under section 83 unless the Minister is satisfied that—

(a) the plan is consistent with section 17; and

(b) if the plan provides for the development of former Māori land, Kāinga Ora has complied with section 18; and

(c) if the plan provides for the development of RFR land, Kāinga Ora has complied with section 19.

21 Land that may be needed for settlement of Treaty of Waitangi claims

The following provisions require the Minister for Treaty of Waitangi Negotiations to be consulted for the purpose of considering the Crown's obligation to provide redress for any future settlements of Treaty of Waitangi claims:

(a) section 72(4)(b) (which relates to the preconditions for notifying a draft development plan):

(b) section 253(2)(a) (which relates to the acquisition of land by Kāinga Ora for a specified work):

(c) section 265(6)(a) (which relates to the transfer to a developer of land acquired by Kāinga Ora for a specified work):

(d) section 271(2) (which relates to other disposals and the setting apart of land acquired by Kāinga Ora for a specified work).

Subpart 5—Miscellaneous

Engagement

22 Engagement requirements

(1) This section applies to engagement that Kāinga Ora undertakes in accordance with a provision of this Act.

(2) Engagement requires that Kāinga Ora do either or both of the following before deciding on a matter:

(a) consult on a proposal:

(b) seek input during the formulation of a proposal, or feedback on a proposal, on an iterative basis.

(3) Input or feedback may be sought via hui or meetings, social media, or any other forums that Kāinga Ora thinks appropriate.

(4) In undertaking an approach to engagement on a matter, Kāinga Ora—

(a) must consider the purpose of the engagement; and

(b) must—

(i) consider the needs of the particular person or persons with whom Kāinga Ora is engaging; and

(ii) allow adequate time for responses and for engagement to occur, taking into account, as relevant,—

(A) that persons with whom Kāinga Ora is engaging may have obligations under other legislation, trust deeds, and other governance documents; and

(B) tikanga Māori; and

(c) may consider the relevance and sufficiency of any earlier engagement.

General duties

23 Duty to co-operate

(1) This section applies to—

(a) Kāinga Ora; and

(b) relevant local authorities; and

(c) infrastructure operators within any project area or proposed project area.

(2) It is the duty of each of the entities listed in subsection (1) to give reasonable assistance to each other to enable each to perform and exercise their respective functions, powers, rights, and duties under this Act in relation to specified development projects (and projects being assessed as potential specified development projects).

Compare: 2003 No 118 s 38AA(1)

24 Duty to avoid unreasonable delay

Every person who performs or exercises functions, powers, rights, or duties, or is required to do anything, under this Act for which no time limits are prescribed must do so as promptly as is reasonable in the circumstances.

Compare: 1991 No 69 s 21

Judicial review

25 Judicial review rights

(1) Nothing in this Act limits or affects a right of judicial review that a person may have in respect of the matters to which this Act applies, except as provided in sections 106, 129, 130, and 132.

(2) However, a person must not apply for judicial review of a decision on a development plan under subpart 2 of Part 2 and appeal to the High Court under section 85 in respect of the same decision unless the applications are made together.

(3) If applications for judicial review and appeal are made together, the High Court must try to hear both proceedings together, unless the court considers it impracticable to do so in the circumstances.

Compare: 2010 No 37 s 159

Part 2
Specified development projects

Subpart 1—How specified development projects are established

General provisions

26 Key features of specified development projects

(1) Every specified development project must have the following, recommended by Kāinga Ora and accepted by the joint Ministers in accordance with this subpart:

(a) project objectives; and

(b) a project area, defined by geographical boundaries; and

(c) a project governance body.

(2) The project governance body may be recommended and accepted by type of entity.

(3) The area or areas of land within the project area do not need to be contiguous.

(4) In this subpart, the project objectives, project area, and identity or type of project governance body for a specified development project (or a project being assessed as a potential specified development project) are referred to as the project's **key features**.

27 Project objectives

(1) The project objectives for a specified development project must set out the key outcomes and outputs that the project aims to deliver.

(2) Project objectives—

(a) may be specific about areas or features that the project must protect or exclude from urban development in connection with the project:

(b) may provide for different weight to be given to them (as against other project objectives) when decisions are made under, or in accordance with, this Act.

28 Criteria for establishing specified development project

The criteria for accepting a recommendation of Kāinga Ora, in accordance with this subpart, that an urban development project be established as a specified development project are that the joint Ministers—

Specified development project mechanism

(a) consider that it is appropriate for the project to be established as a specified development project with the key features recommended by Kāinga Ora; and

Project objectives

(b) are satisfied that the project objectives are consistent with—

(i) subpart 1 of Part 1; and

(ii) existing national directions under the Resource Management Act 1991; and

Project area

(c) are satisfied that the project area contains only land that is in an urban area or that the joint Ministers consider is generally suitable—

(i) for urban use; or

(ii) to protect or exclude from urban development in connection with the broader project; and

(d) if the project area contains any of the following (a **specified conservation-related area**), are satisfied that the Minister of Conservation has approved the matters set out in section 34(2):

(i) all or any part of a specified reserve:

(ii) land that is subject to a conservation interest:

(iii) any part of the coastal marine area; and

(e) are satisfied that the boundaries of the project area are clearly defined and easily identifiable in practice; and

Project governance body

(f) if the project governance body is an identified entity (other than Kāinga Ora), are satisfied that the entity has agreed to the appointment; and

Engagement

(g) consider that, having regard to the project's likely effects on communities, Māori, and other persons, the engagement undertaken on the project was appropriate; and

Territorial authority support or national interest

(h) either—

(i) are satisfied that there is overall support from the relevant territorial authorities for the project being established as a specified development project; or

(ii) consider that the project is in the national interest.

Project selection

29 Kāinga Ora or joint Ministers select project

A potential urban development project, or an urban development project that is already being carried out, may be selected for assessment as a potential specified development project in 1 of 2 ways:

(a) Kāinga Ora selects the project for assessment; or

(b) the joint Ministers direct Kāinga Ora, in writing, to assess the project as a potential specified development project.

30 Status of ministerial direction

A direction for the purposes of section 29(b) is not—

(a) a direction for the purposes of Part 3 of the Crown Entities Act 2004; or

(b) a legislative instrument for the purposes of the Legislation Act 2012; or

(c) a disallowable instrument for the purposes of the Legislation Act 2012.

Project assessment

31 Kāinga Ora assesses project

Kāinga Ora must assess a project selected in accordance with section 29 by—

(a) identifying, in general terms, constraints and opportunities that arise for the project from the matters listed in section 32(1); and

(b) engaging as required by section 33; and

(c) considering the identified constraints and opportunities, feedback from its engagement, and anything else that Kāinga Ora considers relevant, and refining (if necessary) the key features that it is considering for the project; and

(d) publicly notifying the assessment of the project as required by section 35, and considering the feedback received; and

(e) determining whether to recommend that the project be established as a specified development project and, if so, determining the key features to recommend to the joint Ministers for a decision under this subpart.

32 Kāinga Ora identifies constraints and opportunities

(1) For the purposes of section 31(a), the matters are—

(a) each of the following, to the extent that it is within or otherwise relevant to the project area that Kāinga Ora is considering (the **proposed project area**):

(i) protected land:

(ii) nationally significant infrastructure:

(iii) land that is subject to a conservation interest:

(iv) any part of the coastal marine area:

(v) any area or feature of land protected, or to which special rules apply, under a local Act (for example, the Waitakere Ranges heritage area under the Waitakere Ranges Heritage Area Act 2008); and

(b) each of the following, to the extent that it is within the proposed project area:

(i) any reserve, by location and purpose:

(ii) any park or regional park, by location:

(iii) land that is owned by the Crown:

(iv) former Māori land:

(v) RFR land; and

(c) Treaty settlement obligations and participation arrangements that apply to the proposed project area; and

(d) the information that the relevant local authorities hold on the following:

(i) natural hazards within or otherwise relevant to the proposed project area:

(ii) contaminated land within the proposed project area; and

(e) the Māori cultural, archaeological, and historic heritage values of land within the proposed project area; and

(f) the extent to which the project (including any infrastructure requirements identified), in general terms, aligns with any documents that are published by a relevant local authority and that set out its plans (whether alone or with other local authorities or entities) for urban growth; and

(g) potential funding options for any infrastructure requirements identified.

(2) Kāinga Ora must also identify—

(a) the existing planning instruments and iwi planning documents that apply to the proposed project area; and

(b) any publicly available reports on climate change matters, prepared in accordance with the Climate Change Response Act 2002 or New Zealand's obligations under an international treaty, that are relevant to the proposed project area.

33 Kāinga Ora engages with Māori and key stakeholders

(1) This section sets out,—

(a) for the purposes of section 31(b), the engagement required by Kāinga Ora as part of the project assessment; and

(b) the expressions of interest that Kāinga Ora must seek.

(2) The purpose of the engagement is—

(a) to enable Kāinga Ora to undertake an informed assessment of the project; and

(b) to enable Māori interests to be identified; and

(c) to seek the views of Māori and key stakeholders, and the recommendations described in subsection (5).

(3) Māori with whom engagement must be sought are—

(a) Māori entities with an interest in the proposed project area or in land adjoining the proposed project area; and

(b) the hapū associated with any former Māori land within the proposed project area.

(4) Key stakeholders with whom engagement must be sought are—

(a) relevant local authorities; and

(b) the chief executive of the Ministry responsible for the administration of this Act; and

(c) Heritage New Zealand Pouhere Taonga; and

(d) the New Zealand Police; and

(e) Fire and Emergency New Zealand; and

(f) the requiring authorities of any land or airspace designated for defence purposes under the Resource Management Act 1991, and the operators of any other nationally significant infrastructure, that is in or adjacent to the proposed project area; and

(g) the operators of any other infrastructure that will be, or is likely to be, affected by the project; and

(h) if any specified conservation-related area is in or adjacent to the proposed project area, the Minister of Conservation.

(5) In engaging with Heritage New Zealand Pouhere Taonga, Kāinga Ora must seek recommendations on the protection or enhancement of historic heritage values within the proposed project area.

(6) Kāinga Ora must also seek, from Māori entities, expressions of interest in developing, as part of the project, any land within the proposed project area (other than protected land described in section 17(2)) in which they have an interest.

(7) In seeking those expressions of interest, Kāinga Ora must allow adequate time for responses, taking into account—

(a) that Māori entities have obligations under other legislation, trust deeds, and other governance documents; and

(b) tikanga Māori.

34 Project areas that include specified conservation-related area

(1) This section applies if the proposed project area for a project includes any specified conservation-related area.

(2) The Minister of Conservation must approve—

(a) the specified conservation-related area being included within the proposed project area; and

(b) the proposed project objectives, to the extent that they relate to or affect the specified conservation-related area.

(3) On receipt of written request for approval from Kāinga Ora, the Minister of Conservation—

(a) must consider the proposed project area and the proposed project objectives; and

(b) may require changes to the proposed project area, or to how the proposed project objectives relate to or affect the specified conservation-related area, as a condition of giving approval; but

(c) must make a decision on giving approval, and give written notice of the decision to Kāinga Ora, not later than 20 working days after receipt of the written request.

(4) In making a decision under subsection (3), the Minister of Conservation must have regard to the purposes for which the specified conservation-related area is presently held.

(5) Kāinga Ora must not give the public notice referred to in section 35 before obtaining the Minister of Conservation's approval under this section.

35 Kāinga Ora gives public notice of proposed key features and invites feedback

(1) The public notice required by section 31(d) as part of a project assessment must include the following statements:

(a) a statement of the key features that Kāinga Ora is considering for the project; and

(b) a statement that the project is being assessed as a potential specified development project under this Act; and

(c) a statement of the reasons why the project is being assessed.

(2) If the proposed project area includes any specified conservation-related area, the public notice must identify that area by type and location.

(3) The public notice must—

(a) invite the public to give feedback on the proposed key features and the other matters stated in the notice; and

(b) state the date by which feedback must be received, which must be at least 20 working days after the date on which public notice is given.

(4) Kāinga Ora may accept any late feedback.

36 Changes to proposed key features

(1) This section applies if, during a project assessment, Kāinga Ora makes a change to the key features that it is considering for a project.

(2) However, this section does not apply if Kāinga Ora is satisfied that any change (the **new content**) is technical or of minor effect.

(3) Before Kāinga Ora completes its assessment of the project, it must—

(a) consider which, if any, part of the process described in sections 31 to 35 needs repeating given the new content; and

(b) repeat that part in relation to—

(i) the new content; and

(ii) anything else that Kāinga Ora considers relevant to understanding the new content in the context of the broader project.

Project assessment report

37 Kāinga Ora prepares project assessment report

(1) After completing a project assessment, or earlier (in any case where section 39 applies), Kāinga Ora must—

(a) prepare a project assessment report for the project; and

(b) comply with section 40 (which relates to seeking territorial authority support) unless this subpart does not require it; and

(c) give that report, once finalised, to the joint Ministers.

(2) The report must be in writing.

38 Contents of report: recommendation to establish specified development project

(1) This section applies if a project assessment report prepared by Kāinga Ora recommends that the project be established as a specified development project.

(2) The assessment report must include all of the following things:

(a) a summary of the project assessment carried out by Kāinga Ora, including—

(i) the proposed key features of the project, and reasons stated by Kāinga Ora, that were publicly notified in accordance with section 35; and

(ii) a summary of feedback received on the public notice; and

(iii) a summary of engagement undertaken with key stakeholders in accordance with section 33, and of feedback received; and

(iv) a summary of engagement undertaken with Māori and of feedback received, including a summary of how feedback received from Māori entities has informed any of the recommendations in the report; and

(v) a summary of expressions of interest received in accordance with section 33(6); and

(vi) whether other engagement with Māori or key stakeholders has informed the project assessment (for example, engagement undertaken before the project was selected for assessment as a specified development project) and, if so, a summary of that engagement (including when it was undertaken); and

(vii) if any Māori or key stakeholders have not engaged with Kāinga Ora, a summary of the attempts that Kāinga Ora made to engage with them; and

(viii) any recommendations made by Heritage New Zealand Pouhere Taonga on the protection or enhancement of historic heritage values, and how these have been considered; and

(ix) constraints and opportunities identified in accordance with section 31(a); and

(b) the recommendation of Kāinga Ora that the project be established as a specified development project, along with the recommended key features; and

(c) a concept plan that shows, generally, the layout of the land within the recommended project area after the project is delivered; and

(d) if the recommended project area contains any specified conservation-related area, confirmation that the Minister of Conservation has approved—

(i) the specified conservation-related area being included within the recommended project area; and

(ii) the recommended project objectives, to the extent that they relate to or affect the specified conservation-related area; and

(e) if the recommended project governance body is an identified entity (other than Kāinga Ora), confirmation that the entity has agreed to be appointed; and

(f) the responses received from each relevant territorial authority under section 41.

(3) The report may include anything else that Kāinga Ora considers relevant.

39 Contents of report: recommendation not to establish

(1) This section applies if, during or on completion of an assessment,—

(a) Kāinga Ora decides to recommend that a project not be established as a specified development project; and

(b) either or both of the following apply:

(i) the project has been publicly notified as a potential specified development project:

(ii) the joint Ministers selected the project, and their direction has not been withdrawn.

(2) Kāinga Ora must still give the joint Ministers a report for the project that, broadly, describes and assesses the project, but—

(a) the report does not have to include all of the things in section 38(2); and

(b) Kāinga Ora does not have to comply with section 40.

(3) Kāinga Ora must set out in the report the reasons why Kāinga Ora decided to recommend that the project not be established as a specified development project.

40 Territorial authorities invited to indicate support

(1) When a project assessment report is sufficiently advanced, Kāinga Ora must—

(a) give a copy of it, in draft, to each relevant territorial authority; and

(b) invite the relevant territorial authorities to indicate, in writing, whether they support—

(i) the recommendation that the project be established as a specified development project; and

(ii) the key features recommended in the draft report; and

(c) invite the relevant territorial authorities to—

(i) state any conditions associated with their support; and

(ii) give reasons for any recommendation (including any key feature) that they do not support, and state any changes that would enable them to support that recommendation.

(2) An invitation by Kāinga Ora must—

(a) be in writing; and

(b) give the relevant territorial authority at least 20 working days to respond.

41 Territorial authorities must respond to invitation

(1) This section applies to every relevant territorial authority that receives an invitation and a draft project assessment report under section 40.

(2) The relevant territorial authority must respond to Kāinga Ora as follows:

(a) stating whether it supports—

(i) the recommendation that the project be established as a specified development project; and

(ii) the key features recommended in the draft report; and

(b) stating any conditions associated with its support (if relevant); and

(c) if it does not support any recommendation (including any key feature), stating the reasons why and any changes that would enable it to support that recommendation.

(3) Every response must be—

(a) in writing; and

(b) given to Kāinga Ora by the date or within the time frame for response set out in the invitation.

42 Territorial authority not required to consult before responding

(1) A territorial authority is not required to consult anyone before responding to Kāinga Ora in accordance with section 41.

(2) This section applies despite anything to the contrary in the Local Government Act 2002.

Joint Ministers' decision

43 Joint Ministers make decision on report

(1) This section applies whenever the joint Ministers receive a project assessment report from Kāinga Ora.

(2) If the report recommends that the project be established as a specified development project, the joint Ministers must decide to do 1 of the following:

(a) accept the recommendation in accordance with section 44:

(b) refer the report back to Kāinga Ora for further consideration:

(c) reject the recommendation.

(3) If the report recommends that the project not be established as a specified development project, the joint Ministers must decide to either—

(a) accept the recommendation; or

(b) refer the report back to Kāinga Ora for further consideration.

(4) The joint Ministers must give written notice to Kāinga Ora of their decision under this section.

(5) If the joint Ministers refer the report back to Kāinga Ora,—

(a) their notice to Kāinga Ora must state—

(i) that the report is being referred back to Kāinga Ora for further consideration; and

(ii) the joint Ministers' reasons for referring back the report; and

(b) they may refer the report back with or without—

(i) any recommended changes to the key features that Kāinga Ora recommended in the report:

(ii) a recommendation to engage further on the project.

44 Decision to establish specified development project

(1) The joint Ministers may only accept a recommendation in a project assessment report to establish a project as a specified development project if the criteria in section 28 are met.

(2) However, the joint Ministers have no obligation to accept the recommendation, even if the joint Ministers are satisfied that all criteria are met.

(3) In considering whether to accept the recommendation, the joint Ministers may alter a key feature recommended by Kāinga Ora in the report, but only to the extent that the joint Ministers are satisfied that the alteration is of minor effect or corrects a minor error.

(4) If the joint Ministers accept the recommendation, the joint Ministers must recommend the making of an establishment order under section 47 in respect of the project.

45 Decision to refer back report

(1) If the joint Ministers refer a project assessment report back to Kāinga Ora for further consideration, Kāinga Ora must—

(a) review the report and all relevant information (including any recommendations from the joint Ministers); and

(b) provide a revised assessment report for the project to the joint Ministers for a decision under section 43.

(2) Subsection (3) applies to a review by Kāinga Ora in circumstances where Kāinga Ora is considering—

(a) changing its recommendation on whether to establish a project as a specified development project; or

(b) any changes to the key features recommended by Kāinga Ora, other than changes that Kāinga Ora is satisfied are technical or of minor effect.

(3) In those circumstances,—

(a) the process in this subpart, as relevant, applies to a review by, and revised report of, Kāinga Ora; and

(b) despite section 39(2)(b) (if it applies), if the relevant territorial authorities were given the earlier report, Kāinga Ora must comply with section 40 in relation to the revised report.

46 Decision not to establish project as specified development project

(1) This section applies if the joint Ministers decide to—

(a) accept a recommendation that a project not be established as a specified development project; or

(b) reject a recommendation that a project be established as a specified development project.

(2) If the project was publicly notified as a potential specified development project, Kāinga Ora must publicly notify the joint Ministers' decision as soon as practicable after Kāinga Ora receives that decision.

(3) If the project was not publicly notified as a potential specified development project, Kāinga Ora must, as soon as practicable after receiving the joint Ministers' decision, notify that decision to—

(a) Māori who were engaged with as part of the project assessment; and

(b) the key stakeholders.

Project established as specified development project

47 Orders in Council establishing specified development projects

(1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers in accordance with section 44(4), declare that a specified development project is established.

(2) The order must set out the key features of the specified development project.

(3) The order may specify a period for the purposes of clause 5 of Schedule 2 (which relates to disestablishment by expiry of time limit).

(4) For the purpose of setting out the boundaries of the project area, the order may incorporate by reference a map, plan, or similar document prepared or issued by any person or body.

(5) Sections 52 to 55 of the Legislation Act 2012 apply in relation to material incorporated by reference under subsection (4) as if it were incorporated under section 49 of that Act.

48 Effect of establishment order

Overview

(1) Broadly, the effect of an establishment order is that—

(a) subpart 2 (which relates to preparation and approval of a development plan) applies in relation to the project:

(b) for a transitional period (*see* section 94(2)), the following become subject to the powers and process changes set out in subpart 1 of Part 3:

(i) plan changes applying in the project area:

(ii) resource consent applications in the project area:

(iii) changes or cancellations of conditions of resource consents in the project area:

(c) a consent authority may transfer its consenting functions in the project area to Kāinga Ora as if Kāinga Ora were a public authority under section 33 of the Resource Management Act 1991:

(d) various other powers, rights, and duties under this Act apply to Kāinga Ora, for example,—

(i) duties relating to assistance, information, and advice (*see* sections 107 and 108):

(ii) powers to enter land for purposes related to preparing the development plan (*see* section 280(1)(b)):

(iii) rights to be consulted on certain bylaw changes proposed by bylaw-making authorities (*see* section 179).

(2) *See also* section 86 (which relates to the effect of the project's development plan becoming operative).

Appointment of identified project governance body

(3) If an establishment order identifies an entity as the project governance body for a project, that entity is appointed as the project governance body for the project on the commencement of the establishment order.

49 Kāinga Ora must notify relevant local authorities of establishment order

Kāinga Ora must notify the relevant local authorities as soon as practicable after an establishment order is made.

50 Kāinga Ora must publish details of specified development projects on Internet site

(1) Kāinga Ora must publish on its Internet site—

(a) a list of specified development projects; and

(b) links to establishment orders; and

(c) any maps, plans, or similar documents incorporated by reference in any establishment order for the purpose of setting out the boundaries of a project area.

(2) *See also* section 291 (relating to appointments of project governance bodies).

Hearings commissioners

51 Appointment of hearings commissioners

(1) Kāinga Ora may appoint 1 or more hearings commissioners—

(a) to exercise a delegated power under this Act; and

(b) to hear resource consent applications, objections, and other matters as provided for in this Act.

(2) Kāinga Ora may only appoint a person as a hearings commissioner if the person is accredited (within the meaning of section 2(1) of the Resource Management Act 1991).

(3) Kāinga Ora must establish processes for managing any conflicts of interest of hearings commissioners in relation to particular matters.

(4) Persons who are members of any iwi or hapū or other group of Māori with an interest in a project area or in land adjoining a project area are not, by virtue only of that fact, disqualified from appointment as hearings commissioners.

Compare: 1991 No 69 s 39B

Amendments, transfer, and disestablishment

52 Amendments to key features of specified development projects

(1) Kāinga Ora may, in accordance with this section, recommend an amendment to a key feature of a specified development project set out in the project's establishment order.

(2) Kāinga Ora must follow the process set out in this subpart for establishing a project, with the necessary modifications, including that the contents required for the project assessment report are limited to matters associated with the recommended amendment.

(3) The joint Ministers may accept the recommendation in the report if, and only if,—

(a) the joint Ministers—

(i) consider that, having regard to the amendment's likely effects in the context of the project, the engagement undertaken on the amendment was appropriate; and

(ii) are satisfied that Kāinga Ora has undertaken engagement on the amendment in accordance with section 33; and

(b) the joint Ministers—

(i) are satisfied that there is overall support from the relevant territorial authorities for the amendment; or

(ii) consider that the project is in the national interest; and

(c) the joint Ministers are satisfied that, if the amendment—

(i) is to the project objectives, the criterion in section 28(b) is met:

(ii) is to the project area, the criteria in section 28(c) and (e) and, if relevant, (d) are met:

(iii) identifies a new entity as the project governance body, the criterion in section 28(f) is met.

(4) Section 44(2) and (3) applies in respect of the joint Ministers' decision under subsection (3).

(5) Despite subsections (2) and (3),—

(a) Kāinga Ora may recommend a technical or minor amendment without following the process referred to in subsection (2); and

(b) the joint Ministers may accept the recommendation, but only if they are satisfied that the recommendation is of that nature.

(6) The joint Ministers must recommend the making of an Order in Council under section 53 in respect of an amendment recommended and accepted in accordance with this section.

53 Orders in Council amending establishment orders

(1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers in accordance with section 52(6), amend an establishment order.

(2) Section 49 applies to the amendment order as if it were an establishment order.

54 Transfer and disestablishment

Schedule 2 provides for Kāinga Ora—

(a) to transfer any assets of a specified development project; or

(b) to disestablish a specified development project.

Subpart 2—Preparation of development plans

55 Application of this subpart

(1) This subpart provides for the process for preparing and approving a development plan for a specified development project.

(2) This subpart applies—

(a) after an establishment order is made under section 47 that establishes a specified development project; and

(b) if it is proposed to prepare, approve, vary, or change a development plan.

56 Development plan required for every specified development project

(1) After the establishment of a specified development project, Kāinga Ora must prepare a development plan for the project in accordance with this subpart.

(2) Until a development plan becomes operative for a specified development project under section 83, the transitional arrangements set out in subpart 1 of Part 3 apply.

(3) A development plan must—

(a) enable the project objectives to be achieved; and

(b) provide for any Treaty settlement obligations applying in the project area.

(4) As part of the preparation of a development plan, Kāinga Ora must also prepare any applicable supporting documents in accordance with this subpart.

57 Functions of Kāinga Ora in preparing, amending, or reviewing development plan

Kāinga Ora has the following functions for the purpose of preparing, amending, or reviewing a development plan for a specified development project:

(a) establishing, implementing, and reviewing the objectives of any planning instrument, and the policies, rules, and methods relevant to resource management, to achieve the project objectives:

(b) controlling the actual or potential effects of the use, development, and protection of land—

(i) to achieve the project objectives:

(ii) to ensure, as far as is reasonably practicable, that, as a contribution to district and regional capacity, there is sufficient land for residential and business development to meet the expected demand in the project area:

(iii) to avoid or mitigate risks from natural hazards:

(iv) to develop (or provide for the development of) infrastructure and its integration with land use.

(c) ensuring that there are rules—

(i) to control the emission, and mitigate the effects, of noise:

(ii) about any actual or potential effects of activities in relation to the surface of water in rivers and lakes:

(iii) to control subdivision.

58 Relevance of certain national instruments

A development plan must not be inconsistent with—

(a) the following instruments made under the Resource Management Act 1991:

(i) national policy statements:

(ii) a New Zealand Coastal Policy Statement:

(iii) national environmental standards and other regulations (other than a national environmental standard):

(iv) all applicable provisions of national planning standards approved under section 58E of the Resource Management Act 1991, including as they relate to—

(A) matters of structure, format, definitions, and metrics; and

(B) the requirements for electronic functionality and accessibility; and

(C) regional and district spatial layers standards (*see* National Planning Standard clauses 11 and 12); or

(b) any national land transport policy.

59 In preparing development plan, Kāinga Ora to be sufficiently informed

(1) When preparing a draft development plan, Kāinga Ora must take the steps that it considers necessary to enable Kāinga Ora—

(a) to be sufficiently informed on the matters relevant to achieving the project objectives; and

(b) to proceed to develop a plan suitable to be publicly notified under section 73.

(2) Kāinga Ora must undertake the requirements described in subsection (1) by engaging with Māori and the key stakeholders who were identified in the course of the project assessment process (*see* section 33).

Requirements for development plan

60 Contents of development plan

(1) A development plan must include the matters set out in this section and in sections 61 to 64.

Structure plan

(2) The purpose of a structure plan is to describe in general terms the development proposals for a specified development project.

(3) A structure plan must set out—

(a) the proposed land use and the indicative development densities proposed for the specified development project; and

(b) the location of nationally significant infrastructure in or adjacent to the project area; and

(c) the location of existing infrastructure for the three waters services; and

(d) what infrastructure will be needed and, broadly, where it will be located; and

(e) the general location and a description of new infrastructure proposed for the special development project, if it is to be connected with, or integrated into, any existing infrastructure, whether within or outside the project area; and

(f) what community facilities will be required, and, broadly, where they will be located; and

(g) any land within the project area proposed to be set apart as a reserve or created as a park or regional park; and

(h) any likely staging of the project, including any requirements as to the progress or completion of a stage.

Conditions

(4) A development plan must include the following, if applicable or relevant to the project area:

(a) conditions, if any, imposed by the Minister of Conservation on—

(i) the use of any part of a specified reserve or coastal marine area:

(ii) the acquisition of land subject to a conservation interest:

(iii) the use of any part of other land in the project area that is integral to the conditions stipulated in subparagraphs (i) and (ii); and

(b) if Kāinga Ora adopts any participation arrangement or other measure provided by or under any iwi participation legislation to protect the interests of an iwi, hapū, or other group of Māori, a description of the arrangement or other measure.

Modification of planning instruments

(5) A development plan must set out the following:

(a) any modifications to be made to objectives, policies, methods, and rules in planning instruments to enable the project objectives to be achieved; and

(b) if any iwi participation legislation requires a local authority to include a statement of every resource management issue of significance to a Māori entity within the district or region, that statement must be included; and

(c) the rules for public notification of a controlled or restricted discretionary activity, unless the evaluation report justifies not doing so; and

(d) any designations that apply, wholly or in part, in the project area.

61 Further contents of development plan: infrastructure

(1) The development plan must state—

(a) whether Kāinga Ora has, or does not have, the roading powers in relation to the specified development project; and

(b) if Kāinga Ora does have the roading powers in relation to the specified development project, the date (or a process for determining the date) on and from which Kāinga Ora has the roading powers; and

(c) if Kāinga Ora seeks the consent of land owners and occupiers to the construction of water-related infrastructure on their land, the location, nature, and extent of work required to construct the water-related infrastructure on that land.

(2) The section of the development plan on infrastructure—

(a) may propose 1 or more bylaw changes that Kāinga Ora requires to be made (*see* section 176); and

(b) if it does propose 1 or more bylaw changes, must, for each proposed bylaw change, set out the matters in section 169(2)(a) to (f).

(3) Sections 167 and 168 apply to a bylaw change proposed in a development plan (with the necessary modifications).

(4) Kāinga Ora may not propose, as part of an amendment to a plan, any bylaw change that is substantially the same as one that Kāinga Ora requested in relation to the specified development project but was refused under section 172(b).

62 Further contents of development plan: funding

(1) If the sources of funding include a development contribution, the development plan must include a development contributions policy prepared in accordance with sections 106 and 201 to 202A of the Local Government Act 2002.

(2) If a targeted rate is to be a source of funding, the development plan must include the following matters:

(a) for each rate, the matters set out in section 63; and

(b) a rates remission policy and rates postponement policy prepared in accordance with sections 109 and 110 of the Local Government Act 2002; and

(c) if the project area includes Māori freehold land, a policy on the remission and postponement of rates on Māori freehold land prepared in accordance with section 108 of the Local Government Act 2002.

(3) If the sources of funding include—

(a) a targeted rate or development contributions, the development plan must identify the maximum amount of funding that will be derived from that source and applied to fund infrastructure (expressed as a percentage of the total cost of that work for the project):

(b) infrastructure and service charges or administrative charges, the development plan must—

(i) prescribe the charges in a schedule; and

(ii) provide for a regular review of the charges.

(4) For the purposes of subsections (1) and (2), the Local Government Act 2002 applies, with all necessary modifications, as if Kāinga Ora were a local authority.

63 Further contents of development plan: targeted rates

(1) The matters required in relation to each targeted rate are as follows:

Key matters

(a) the activity or group of activities to be funded by the rate, which must not be for any activity other than—

(i) infrastructure:

(ii) reserves:

(iii) community facilities; and

(b) the financial years for which the rate may be set; and

(c) the maximum amount of revenue that may be recovered from that rate in each financial year or how that amount must be calculated; and

(d) the factor or factors that must be used to calculate the rate; and

Whether rate may apply to all or only some land

(e) whether the rate may apply to all land within a project area or to only some of the land; and

(f) if the rate may apply to only some of the land, the category or categories of land to which the rate may apply; and

Whether rate may be set differentially

(g) whether the rate may be set—

(i) on a uniform basis for all of the land to which it applies; or

(ii) differentially for different categories of the land; and

(h) if the rate may be set differentially, the maximum amount of revenue that may be recovered from each category of land in each financial year or how that amount must be calculated.

Factors for calculating rates

(2) A factor specified under subsection (1)(d) may be—

(a) a fixed charge per rating unit; or

(b) any of the factors listed in Schedule 3 of the Local Government (Rating) Act 2002 (other than the factor listed in clause 1).

(3) Different factors may be specified for different categories of land if a rate may be set differentially.

Categories of land

(4) For the purposes of subsection (1)(f) to (h), categories of land must be defined in terms of 1 or more of the matters listed in Schedule 2 of the Local Government (Rating) Act 2002 (other than the matters listed in clauses 3 and 7).

(5) For the purposes of subsections (2) and (4), the Local Government (Rating) Act 2002 applies, with all necessary modifications, as if—

(a) a reference to an operative district plan included a development plan:

(b) a reference to a local authority were a reference to Kāinga Ora.

64 Provisions that modify planning instruments

(1) A development plan may incorporate material by reference, applying the provisions of Part 3 of Schedule 1 of the Resource Management Act 1991 with all necessary modifications, as if—

(a) a reference to a plan or proposed plan included a development plan:

(b) a reference to a local authority were a reference to Kāinga Ora:

(c) a reference to the Minister were a reference to the responsible Minister under this Act.

(2) Any objectives, policies, methods, or rules of a development plan that override, add to, or suspend any provisions of a regional policy statement or a plan made under the Resource Management Act 1991 must—

(a) not go beyond the scope provided for plans or regional policy statements prepared under the Resource Management Act 1991; and

(b) provide for classes of activities to be specified that are consistent with those set out in section 87A of the Resource Management Act 1991; and

(c) be clearly identified in the development plan; and

(d) if relevant, enable the provision of all necessary infrastructure for a specified development project.

(3) A development plan may include rules that—

(a) apply to the whole of a project area or a part of a project area:

(b) apply differently to different parts of a project area:

(c) apply to different effects or classes of effects arising from an activity:

(d) apply all of the time or for stated periods or seasons:

(e) may be specific or general in their application:

(f) manage activities that are not anticipated by the development plan.

Inclusion of designations in draft development plan

65 Existing designations for nationally significant infrastructure

(1) If an existing designation within a project area is for nationally significant infrastructure, Kāinga Ora must—

(a) notify the requiring authority in writing that the designation is to be included in the draft development plan for the relevant area unless the requiring authority specifies otherwise in writing; and

(b) include the designation in the draft development plan without modifying it unless the requiring authority specifies otherwise or withdraws the designation.

(2) Kāinga Ora must specify a date (which must be at least 30 working days later than the date of the notice) by which the requiring authority must respond to Kāinga Ora if the requiring authority does not wish the designation to be included without modification.

(3) If a requiring authority advises that a designation is to be included in the draft development plan with modifications, the requiring authority must include in its written notice the nature of the modifications and the reasons for them.

(4) Neither Kāinga Ora nor an IHP may remove or modify a designation that is included without modification in a draft development plan.

66 Existing designations that are not for nationally significant infrastructure

(1) This section applies if a requiring authority has an existing designation within a project area that is not for nationally significant infrastructure.

(2) Before Kāinga Ora publicly notifies a draft development plan under section 73, it must give notice to any requiring authority with a designation, advising—

(a) whether Kāinga Ora intends to include the designation, with or without modifying it, in the draft development plan for the relevant project area or exclude it; and

(b) if the designation is to be included with modifications in the draft development plan, of the proposed modifications and reasons for them; and

(c) if the designation is not to be included in the draft development plan, the reasons for not doing so.

(3) A requiring authority notified under subsection (2) may, within 30 working days of receiving the notice, request that its existing designation be included in the draft development plan, with or without any modification that the requiring authority may identify.

(4) Kāinga Ora may modify a designation in response to a request made under subsection (3).

(5) If the requiring authority does not make a request to Kāinga Ora under subsection (3), Kāinga Ora may—

(a) include the designation in the draft development plan; or

(b) exclude the designation from the draft development plan; or

(c) include the designation with modification.

(6) If Kāinga Ora does not include the designation in the draft development plan, or includes it with modification, Kāinga Ora may provide an amended or replacement designation that enables the purposes of the designation to be achieved.

(7) If an existing designation is for a network utility operation that is not nationally significant, and Kāinga Ora modifies it or does not include it in the development plan, Kāinga Ora must provide a designation that enables the objectives of the designation to be achieved, unless the requiring authority agrees otherwise.

(8) A requiring authority whose designation is replaced, modified, or declined by Kāinga Ora under this section may make a submission under section 74—

(a) seeking modification of its designation that Kāinga Ora did not agree to:

(b) setting out its support for, or objection to, a decision of Kāinga Ora under this section.

(9) The IHP must consider Kāinga Ora's decision and the requiring authority's submission before making a recommendation on the matter to the responsible Minister prior to the Minister finally approving or declining to approve the development plan under section 83.

(10) An existing designation not included in a draft development plan continues to apply in the project area, but only until the draft development plan becomes operative.

(11) To avoid doubt, this section does not—

(a) apply if Kāinga Ora publicly notifies a change to the development plan; or

(b) limit the right of a requiring authority to make a submission under section 74.

67 New designations may be included before notification of draft development plan

(1) Before notifying a draft development plan under section 73, Kāinga Ora may include in the plan a requirement for a designation for which Kāinga Ora has responsibility, whether within or outside the project area.

(2) Kāinga Ora must make available for public inspection all information about a requirement set out in a draft development plan under this section, including who the designation is to be transferred to.

Preparation of development plan

68 Documents and other matters relevant to preparation of development plan

(1) In preparing a development plan, Kāinga Ora—

(a) may have regard to any matter it considers relevant to the specified development project; but

(b) must have regard to each of the following documents, to the extent that they are relevant to the specified development project to which the plan relates:

(i) regional policy statements, regional plans, and district plans made under the Resource Management Act 1991:

(ii) regional land transport plans and regional public transport plans made under the Land Transport Management Act 2003, and in the case of Auckland, made under the Local Government (Auckland Council) Act 2009:

(iii) the long-term plans of relevant local authorities made under the Local Government Act 2002, and in the case of Auckland, made under the Local Government (Auckland Council) Act 2009:

(iv) any spatial plans prepared under the Local Government (Auckland Council) Act 2009:

(v) the key urban design qualities set out in the Ministry for the Environment's New Zealand Urban Design Protocol (2005) and any subsequent editions or replacements of that document:

(vi) any relevant planning document recognised by an iwi authority or hapū and lodged with any relevant local authority, to the extent that it has a bearing on the resource management issues within the project area:

(vii) any emissions reduction plan or national adaptation plan applying in a project area, in accordance with the Climate Change Response Act 2002.

(2) In addition, Kāinga Ora must, in relation to a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011,—

(a) recognise and provide for the matters in that document, to the extent that they relate to a customary marine title area within the project area; and

(b) take into account the matters in that document, to the extent that they relate to a part of the common marine and coastal area within the project area but outside the customary marine title area of the relevant group.

(3) Kāinga Ora must also take into account the matters set out in section 101(3)(a) and (b) of the Local Government Act 2002 if it is considering using any of the funding sources provided for in Part 4.

Documents to support contents of development plan

69 Evaluation report: general matters

(1) Kāinga Ora must prepare an evaluation report on the provisions of the draft development plan, with particular attention to any proposal that would change the planning instruments otherwise applying in the project area.

(2) An evaluation report prepared under this section must be notified under section 73 at the same time, and in the same manner, as the draft development plan is notified.

(3) The evaluation report is not subject to the public submission or IHP processes provided for under this subpart.

(4) The report must—

(a) examine whether the proposals in the draft development plan are the most appropriate way to achieve the project objectives by—

(i) identifying other reasonably practicable options for achieving the project objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in the draft development plan in achieving the project objectives; and

(iii) providing the reasons for preferring those provisions over the other options examined; and

(b) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from implementing the provisions of the draft development plan, including the economic growth or reduction of growth that is anticipated from implementation of the development plan; and

(c) assess the risk of acting or not acting if the information on the relevant matters is insufficient or uncertain; and

(d) identify how the draft development plan or a proposed amendment to a development plan, as the case may be,—

(i) is consistent with a relevant national environmental standard; and

(ii) takes into account any applicable iwi participation arrangements; and

(e) summarise the recommendations and comments received on the draft development plan from Māori entities and the response, including any provisions that give effect to the recommendations or comments received; and

(f) in relation to land within the project area, provide information on—

(i) how Kāinga Ora intends to use any RFR land or land that is subject to other relevant redress under a Treaty settlement Act; and

(ii) how undertakings or agreements between the Crown and a Māori entity for the future ownership, use, or management of the identified land are being upheld; and

(iii) Māori interests in the project area and how these will be protected; and

(iv) whether the development plan is consistent with the iwi planning documents applying in the relevant project area (*see* section 89).

(5) If practicable, the benefits and costs referred to in subsection (4)(b) should be quantified.

(6) The detail provided in an evaluation report must correspond to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from implementing the provisions of the development plan.

70 Evaluation report: environmental matters

(1) In addition to the matters required under section 69, an evaluation report must also include the following matters:

(a) how environmental constraints and opportunities associated with a specified development project will be managed; and

(b) if relevant, a statement as to how the following matters have been provided for in the draft development plan:

(i) the Māori cultural, archaeological, and historic heritage values identified in accordance with section 32(1)(e) as part of the project assessment under subpart 1:

(ii) the recommendations of Heritage New Zealand Pouhere Taonga received as part of that assessment; and

(c) a broad assessment of the likely effects on the environment of the matters reported on in paragraphs (a) and (b) and any recommendations of Heritage New Zealand Pouhere Taonga; and

(d) how Kāinga Ora has had regard to—

(i) any advice it has received from an entity responsible for the management of a natural resource within the project area; and

(ii) any emissions reduction plan or national adaptation plan (as provided for in Parts 1B and 1C of the Climate Change Response Act 2002 that applies within the project area).

(2) Section 69(5) and (6) applies in relation to the matters that must be included in an evaluation report under this section.

71 Evaluation report: infrastructure statement

As part of its evaluation report, Kāinga Ora must prepare an infrastructure statement that—

(a) describes the infrastructure proposed to be constructed in the project area; and

(b) assesses the effect of the proposed infrastructure on existing infrastructure, both within and outside the project area; and

(c) states whether Kāinga Ora has entered into any binding agreements with any infrastructure provider; and

(d) discloses whether Kāinga Ora proposes to construct new infrastructure on land not controlled by Kāinga Ora and whether it has obtained the consent of the owner of that land; and

(e) states where further information will be available about the progress of the construction of the proposed infrastructure during the course of the specified development project; and

(f) identifies any technical design standards or codes that have been adopted in the development plan; and

(g) identifies the expected total costs of construction of the proposed infrastructure for the specified development project; and

(h) includes details of the estimated operating costs associated with the proposed infrastructure.

Process for notifying draft development plan

72 Preconditions to be met before draft development plan notified

Application of this section

(1) This section applies before Kāinga Ora may publicly notify a draft development plan under section 73.

(2) Kāinga Ora must be satisfied that the requirements of sections 60 to 71 have been met.

Obligations in relation to Māori interests

(3) Kāinga Ora must advise the responsible Minister, the Minister for the Environment, the Minister for Māori Development, the Minister for Māori Crown Relations—Te Arawhiti, and the Minister for Treaty of Waitangi Negotiations in writing on the content of the draft development plan.

(4) The Minister for Māori Crown Relations—Te Arawhiti, after consulting the Minister for the Environment and the Minister for Treaty of Waitangi Negotiations, must confirm in writing that the Minister is satisfied that—

(a) any participation arrangement or redress having effect in all or part of the project area has been identified in the draft development plan; and

(b) the draft development plan provides adequately for those matters and adequately takes into account the Crown's obligation to provide redress for any future settlements of Treaty of Waitangi claims in the project area.

(5) If any Māori land is included in a project area, the Minister for Māori Development must confirm in writing before the draft development plan is publicly notified that the plan is consistent with the principles set out in the Preamble to Te Ture Whenua Maori Act 1993.

(6) Subsection (7) applies if the draft development plan provides for a specified reserve within the project area to be set apart for the purposes of the specified development project.

(7) Kāinga Ora must—

(a) obtain the written consent of a post-settlement governance entity to the setting apart if—

(i) the land comprising the reserve has, under a Treaty settlement Act, been vested in or transferred to the post-settlement governance entity; and

(ii) the land is still held by the post-settlement governance entity or has been transferred to (and is still held by) the Crown or a local authority:

(b) obtain and have regard to the views of a post-settlement governance entity on the setting apart if—

(i) the reserve is held by a local authority; and

(ii) the local authority has, under a Treaty settlement Act, entered into an agreement with the entity that provides a role for the entity, or a group represented by the entity, in the management of the reserve.

Approvals by Minister of Conservation

(8) Kāinga Ora must—

(a) submit to the Minister of Conservation for approval any provisions in a draft development plan that override, add to, or suspend provisions in a regional coastal plan; and

(b) if the draft development plan provides for the revocation or cancellation of a conservation interest in land that is not owned by Kāinga Ora, obtain the land owner's agreement to the revocation or cancellation, subject to any conditions that the Minister of Conservation may impose on the use of the land.

(9) If a specified development project is within, or includes any part of, the coastal marine area, a specified reserve, or land subject to any conservation interest, the following approvals of the Minister of Conservation are required for the development of the land under a specified development project before a draft development plan is publicly notified:

(a) approval of any conditions applying to a proposal—

(i) to set apart, classify, or vest an existing specified reserve or a proposed reserve:

(ii) that relates to a covenant over land; and

(b) approval of any provisions of the draft development plan that override, add to, or suspend the provisions of a regional coastal plan.

(10) In approving the matters specified in subsections (8) and (9), the Minister of Conservation must—

(a) have regard to the classification of the reserve and the purpose of the classification under the relevant provisions of the Reserves Act 1977; and

(b) have regard to the values and significance of the coastal marine area, specified reserve, or land that is subject to a conservation interest; and

(c) be satisfied that approval will not compromise values of regional, national, or international significance; and

(d) in the case of scenic reserves, be satisfied that any loss of scenic values will be appropriately mitigated by—

(i) implementing measures to improve any remaining part of the reserve:

(ii) offsetting the loss of all or part of the reserve by providing new reserve land in reasonable proximity to the community served by the original reserve and with the same purpose and values as the original reserve; and

(e) in the case of historic reserves, be satisfied that adequate provision will be made for public visual appreciation of, and appropriate public access to, the historic heritage values of the reserve; and

(f) in the case of esplanade reserves and esplanade strips, be satisfied that approval will not compromise the purposes of esplanade reserves and esplanade strips, as set out in section 229 of the Resource Management Act 1991; and

(g) in the case of a proposed reserve that is to become a Crown protected area, be satisfied that the proposed reserve name complies with any rules, standards, or guidelines developed under section 12(b) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008 for naming Crown protected areas.

Approvals by local authority

(11) If Kāinga Ora proposes, in a draft development plan, provisions relating to the use, modification, or disposal of a park or regional park, Kāinga Ora must—

(a) advise the relevant local authority of the proposal; and

(b) obtain the relevant local authority's approval for the proposal.

Approvals relating to common marine and coastal area

(12) If Kāinga Ora proposes, in a draft development plan, to set apart a part of the common marine and coastal area for a specified work, Kāinga Ora must obtain approval to set apart the area for that purpose from the Minister of Transport or the Minister of Conservation, as the case requires.

Approvals by Responsible Minister

(13) Kāinga Ora must obtain approval in writing from the responsible Minister before giving public notice of the draft development plan.

73 Public notice

(1) Kāinga Ora must give public notice of the draft development plan and supporting documents for a specified development project.

(2) The notice must state—

(a) that the draft development plan is subject to public submissions; and

(b) where the draft development plan and evaluation report may be accessed; and

(c) the date by which submissions must be received, which must be at least 20 working days after the date on which public notice is given; and

(d) that submitters must clearly identify—

(i) what, if any, changes they seek to make to the draft development plan; and

(ii) whether the submitter wishes to be heard.

74 Public submissions

(1) Any person may make a submission to Kāinga Ora on the draft development plan.

(2) Submissions must—

(a) be received by Kāinga Ora by the date given in the public notice; and

(b) say whether the submitter wishes to be heard by the IHP; and

(c) give an electronic address for service.

(3) If a late submission is lodged, Kāinga Ora may recommend to the IHP whether it should accept or reject the late submission.

75 Kāinga Ora must consider, and make recommendations on, submissions

(1) Once the submission period has closed, Kāinga Ora must—

(a) consider all the submissions received under section 74; and

(b) note its recommendations on the draft development plan or on matters raised in the submissions, with the reasons for accepting or rejecting the submissions; and

(c) provide advice to the Minister of Conservation on any submissions received that relate to—

(i) any conditions that the Minister of Conservation included in the development plan under section 72(9)(a); and

(ii) any approvals given by the Minister of Conservation under section 72(8) or (9); and

(iii) any changes to a condition or approval recommended by Kāinga Ora under paragraph (b); and

(d) invite the Minister of Conservation to amend any changes proposed by Kāinga Ora under paragraph (c)(iii).

(2) In preparing its recommendations on submissions, Kāinga Ora may—

(a) group submissions according to topics or to the relevant provisions of the draft development plan rather than comment on each submission individually; and

(b) propose changes to the draft development plan.

(3) Kāinga Ora must provide the IHP with copies of any recommendations noted under subsection (1)(b).

Establishment and role of IHP

76 Establishment of IHP

(1) The responsible Minister must appoint an IHP to carry out the role described in section 77.

(2) The appointment of an IHP may be made at any time during the preparation of a draft development plan, but must be made not later than the last day on which submissions on the draft development plan will be received, as specified in the notice required by section 73(2).

(3) Provisions on the establishment, membership, functions, powers, and procedure of an IHP are set out in Schedule 3.

77 Purpose and role of IHP

(1) The purpose of establishing an IHP for a specified development project is to ensure that a draft development plan is subject to a process of independent consideration.

(2) The role of the IHP is—

(a) to consider the draft development plan, and submissions provided to it by Kāinga Ora; and

(b) to consider the recommendations of Kāinga Ora on the submissions; and

(c) to provide to the responsible Minister, for the Minister's determination under section 81, its recommendations on the draft development plan.

(3) Kāinga Ora must provide the following to the IHP:

(a) the draft development plan and supporting documents; and

(b) the submissions (if any) received under section 74; and

(c) any other information the IHP has requested for the purpose of considering the submissions provided to the IHP; and

(d) Kāinga Ora's recommendations and advice given under section 75(1)(b) and (c).

(4) The IHP—

(a) must consider, and hold hearings as required on, the submissions; and

(b) may make any recommendations it considers appropriate in respect of the draft development plan.

78 Considerations relevant to IHP's recommendations

(1) In preparing its recommendations on a draft development plan, an IHP must have regard to—

(a) all the information provided by Kāinga Ora; and

(b) any information obtained by the IHP under subsection (2)(a); and

(c) any relevant matters in the instruments referred to in section 58 and the documents referred to in section 68(1) and (2); and

(d) the project objectives.

(2) An IHP may, at any time in its proceedings,—

(a) request further information from Kāinga Ora or from any submitter or independent expert that is relevant and necessary for the IHP to make its recommendations:

(b) make recommendations in respect of a particular topic after it has finished hearing submissions on that topic but is not required to make recommendations on each submission individually.

79 IHP recommendations

(1) Not later that 9 months after the closing date for submissions notified under section 73, the IHP must provide a report to the responsible Minister and Kāinga Ora in accordance with this section.

Mandatory matters

(2) The report provided by the IHP must include the IHP's recommendations (if any)—

(a) on the draft development plan; and

(b) any recommendations for amending that plan, together with the IHP's reasons for the proposed amendments; and

(c) on matters raised in submissions made in respect of the topic or topics covered by the report.

Discretionary matters

(3) An IHP may recommend that the draft development plan—

(a) be approved in full; or

(b) be approved subject to specified amendments; or

(c) be rejected in full.

(4) A report may also include recommendations on the use of any powers under this Act relating to infrastructure that are granted to Kāinga Ora.

Prohibited matters

(5) An IHP must not make a recommendation—

(a) on any existing designation that is included in the draft development plan without modification and on which no submissions are received; or

(b) to remove or amend a provision to set up a participation arrangement having effect in the project area or that would result in a participation arrangement ceasing to have effect; or

(c) that is inconsistent with any agreement reached by mediation (*see* clause 12 of Schedule 3).

Changes recommended by IHP

(6) Subsection (7) applies if an IHP recommends that changes be made to a draft development plan that would override, add to, or suspend any of the following:

(a) any conditions of the Minister of Conservation included in the draft development plan under section 72(9)(a):

(b) any approvals given by the Minister of Conservation under section 72(8) or (9).

(7) The IHP must—

(a) consult the Minister of Conservation on any proposed recommendations of the IHP; and

(b) submit the changes agreed in the course of that consultation to the Minister of Conservation for the Minister's approval.

Minister's decision on draft development plan

80 Kāinga Ora must advise responsible Minister on IHP recommendations

(1) After Kāinga Ora has received the recommendations of the IHP, Kāinga Ora must provide advice to the responsible Minister on those recommendations.

(2) If the advice shows that 1 or more of the IHP's recommendations would limit the ability of decision makers under the development plan to achieve the project objectives,—

(a) the responsible Minister may refer those recommendations back to the IHP for further consideration and revision, with reasons in writing for doing so; and

(b) the IHP must reconsider the draft development plan and its recommendations, applying the requirements of sections 76 to 78, as relevant.

81 Minister's determination on draft development plan

(1) If the responsible Minister receives a report from an IHP with recommendations for changes to the draft development plan, the Minister may,—

(a) subject to subsection (4), approve the plan with the changes recommended by the IHP; or

(b) approve a recommendation of the IHP that the draft development plan be declined; or

(c) refer any or all of the recommendations of the IHP back to the IHP for its further consideration.

(2) However, if the IHP has recommended changes to the draft development plan, the responsible Minister must consult the Minister for Māori Crown Relations—Te Arawhiti and the Minister for Māori Development before the responsible Minister makes a determination under subsection (1).

(3) If the responsible Minister refers some or all of the recommendations of the IHP back to the IHP, the Minister may, by written notice,—

(a) identify the recommendations being referred back to the IHP for further consideration, with details of what must be reconsidered and why; or

(b) refer the recommendations back to the IHP with or without any recommended changes.

(4) The responsible Minister may alter the recommendations of the IHP, but only to the extent that an alteration is of minor effect or corrects a minor error.

(5) If the responsible Minister refers a recommendation back to the IHP under subsection (3),—

(a) the IHP must review its recommendations and all relevant information; and

(b) the IHP may—

(i) provide revised recommendations to the responsible Minister; or

(ii) may decline to change its recommendations.

82 Matters Minister must consider

In making a decision under section 81, the responsible Minister must—

(a) have regard to the relevant matters in the instruments listed in section 58 and the considerations referred to in section 68(3); and

(b) give reasons in writing for the decision.

Final approval and notification of development plan

83 Approval and notification of development plan as operative

(1) If the IHP makes no recommendations in its report made under section 79(1) to change the draft development plan, the responsible Minister may approve the draft development plan as the operative development plan with effect on and from the date given in the notice required by subsection (5).

(2) If the responsible Minister approves the recommendations of the IHP, the draft development plan becomes the operative development plan on the day specified in the notice given under subsection (5).

(3) If the responsible Minister approves a recommendation of the IHP to decline the draft development plan, notice of that must be given under subsection (5).

(4) A decision of the responsible Minister under subsection (1) or (2) includes the approval of any provisions in the plan that override, add to, or suspend provisions in a regional coastal plan.

(5) After the responsible Minister has given approval under this section, Kāinga Ora must notify the draft development plan in the *Gazette*, stating—

(a) the date on which the development plan becomes operative, which (subject to any appeals under section 85) must not be earlier than 25 working days after the date on which notice is given under this subsection; and

(b) that the development plan is available free of charge on the Kāinga Ora Internet site.

(6) *See* section 20(2) (when protected land, former Māori land, and RFR land may be included in project area and development plan).

(7) To avoid doubt,—

(a) the following are confirmed or cancelled when the development plan becomes operative:

(i) every notice of requirement, designation, or modification included by Kāinga Ora in a draft development plan; and

(ii) all notices of requirement lodged by other requiring authorities for a designation or modifications of a designation included in a draft development plan:

(b) the draft development plan does not become operative until all appeal rights under section 85 are disposed of or have expired.

84 Notice to Māori entities

Kāinga Ora must provide any relevant Māori entity with a copy of the statement of Kāinga Ora that the development plan is consistent with the iwi planning documents applying in the project area.

Appeals

85 Appeal rights in relation to development plan

(1) Any person who made a written submission under section 74 in relation to a draft development plan may appeal to the High Court on a question of law in respect of a matter that the person raised in a submission on the draft development plan relating to the responsible Minister's approval of the draft development plan.

(2) This section provides for the only right of appeal in respect of any aspect of a draft development plan, including in respect of the confirmation or cancellation of a notice of requirement, designation, or modification.

(3) An appeal under subsection (1) may not be made later than 20 working days after the draft development plan is gazetted in accordance with section 83(5).

(4) The High Court Rules 2016 apply if a procedural matter is not dealt with in this section.

(5) An appeal against a decision of the High Court may be made to the Court of Appeal, but that appeal is a final appeal.

Effect of development plan

86 Effect of development plan becoming operative

On and from the date on which a development plan is notified under section 83(5)(a) as taking effect, and until the specified development project is disestablished,—

(a) Kāinga Ora is the consent authority for resource consent applications to the territorial authority for the project area, as defined in the development plan (*see* section 109(1)):

(b) a designation in a district plan within a project area ceases to apply in the project area, and only designations included in the development plan have effect in the project area (*see* section 87(2)):

(c) Kāinga Ora is a territorial authority for the purpose of considering notices of requirement lodged by requiring authorities other than Kāinga Ora for designations in the project area:

(d) under subpart 3 of Part 3 and in accordance with the development plan,—

(i) reserves may be set apart and new reserves may be created for the purposes of the specified development project (*see* section 138(1)); and

(ii) conservation interests may be revoked or cancelled for the purposes of the specified development project (*see* section 138(4)):

(e) an approval given under section 72(11) of a provision associated with the use, modification, or disposal of a park or regional park, and the responsible Minister's determination on the draft development plan under section 81, are deemed to comply with any consultation process that would otherwise have applied under the Local Government Act 2002:

(f) Kāinga Ora may exercise the infrastructure powers set out in subpart 4 of Part 3 in accordance with the development plan (*see* section 140(1)):

(g) Kāinga Ora may use the various funding mechanisms provided for in Part 4 in accordance with the development plan.

87 Continuing application of planning instruments in project area

(1) The planning instruments that apply in a project area continue to apply in the project area unless overridden by, added to, or suspended by a development plan.

(2) Despite subsection (1), the provisions of a designation included in a district plan will not apply within a project area on and from the date of the development plan becoming operative (*see* section 83(5)(a)).

(3) However, if there is any inconsistency, the development plan prevails over any relevant planning instrument.

88 When development plan and planning instruments may be inconsistent

(1) Subject to section 58, a development plan may, for the duration of the specified development project, override, add to, or suspend the whole or part of any planning instrument that applies to the project area.

(2) However, subsection (1) does not apply to any objective, policy, rule, or other method relating to historic heritage included in a planning instrument, unless the change imposes more stringent management or protection for historic heritage.

89 Status and relevance of iwi planning documents

(1) If an enactment specifies that an iwi planning document is to be treated as part of a planning instrument, a development plan does not override or have any effect on the iwi planning document, which continues to apply in the relevant project area.

(2) Subsection (1) has effect as if a reference in that enactment—

(a) to a local authority were a reference to Kāinga Ora; and

(b) to a planning instrument were a reference to a development plan made under this Act.

(3) Kāinga Ora is not bound by a Mana Whakahono a Rohe (*see* subpart 2 of Part 5 of the Resource Management Act 1991).

Review and amendment of development plans

90 Review of development plan by Kāinga Ora

(1) Kāinga Ora—

(a) may at any time review a development plan; but

(b) must review a development plan not later than 10 years after its notification under section 83(5), unless the development plan specifies a different review period.

(2) A review of a development plan must be publicly notified as if it were an amendment to that plan.

(3) If under any iwi participation legislation, a local authority—

(a) is required to review a planning instrument, the requirement applies to Kāinga Ora when it reviews the development plan:

(b) is required to prepare or change a planning instrument, the requirement applies to Kāinga Ora when it starts to prepare or change the development plan:

(c) must notify a planning instrument, the requirement applies to Kāinga Ora when it notifies the draft development plan for public consultation (*see* section 73).

91 Amendment of development plan by Kāinga Ora

(1) Kāinga Ora must not amend a development plan unless—

(a) the process under this subpart is followed; and

(b) any amendments are required to achieve the project objectives.

(2) However, Kāinga Ora may amend a development plan without following the process required by sections 73 and 74 if the amendments are required—

(a) to maintain consistency with—

(i) the planning instruments applying in the project area before any change was made, if an instrument is changed; or

(ii) any relevant new or amended national direction applying to the specified development project or in the project area; or

(b) to make technical or incidental minor changes, and the responsible Minister has approved the changes.

(3) Kāinga Ora may amend a development plan otherwise than as provided for by subsection (1) or (2), but must follow the processes set out in sections 73 and 74.

(4) When a development plan is amended, an evaluation report must be prepared in relation to the new content proposed for the development plan.

Private plan change to development plan

92 Requests for private changes to development plans

(1) Any person may request a change to the way in which a planning instrument is modified by a development plan, as long as—

(a) the change is not requested within 2 years of the development plan becoming operative; and

(b) Kāinga Ora has not notified a draft development plan that proposes changes to the development plan for the same project area; and

(c) the requested change applies only to a part, and not the whole, of a project area.

(2) Kāinga Ora may—

(a) accept a request for a private plan change, with or without conditions; or

(b) reject the request, but only on the grounds that the change requested—

(i) is inconsistent with the project objectives; or

(ii) applies to the whole of the project area; or

(iii) relates to the same area, provisions, or matters of a specified development project in relation to which Kāinga Ora has already notified an amendment to the development plan; or

(iv) is inconsistent with the purpose of this Act; or

(v) is inconsistent with good resource management practice; or

(vi) is frivolous or vexatious.

93 Process for requesting private change to development plan

(1) A request for a change to a development plan must be made in writing to Kāinga Ora—

(a) stating the purpose of, and reasons for, the proposed change; and

(b) providing an evaluation report on the proposed change, prepared in accordance with sections 69 and 70 (which apply with the necessary modifications).

(2) The provisions of Part 2 of Schedule 1 of the Resource Management Act 1991 apply with the necessary modifications and as relevant to a request made under section 92.

Part 3
Effect of specified development projects

Subpart 1—Transitional period and general

94 Overview of this subpart

(1) This subpart contains provisions applying, once a specified development project is established, in relation to—

(a) planning and consenting in the project area; and

(b) assistance, advice, information, and record-keeping.

(2) Most of the planning and consenting provisions apply for, or relate to, only the period that starts on the establishment date of the relevant project and ends when the project's development plan becomes operative (the **transitional period**).

(3) However, where indicated, a provision applies for a different period (for example, for the duration of the specified development project).

(4) *See also* subpart 2.

(5) Sections 107 and 108 generally apply for (or in relation to things occurring within) the duration of the relevant project.

Planning and consenting: general

95 Continuing application of planning instruments and role of local authorities in project area

In the transitional period for a specified development project, except as modified by this subpart,—

(a) the planning instruments that apply in a project area continue to apply in the project area; and

(b) the relevant local authorities retain all of their functions, powers, and duties under the Resource Management Act 1991 in relation to the project area.

96 Local authorities must include map of project area, etc, in planning instruments

(1) Without using the processes required for a plan change under Schedule 1 of the Resource Management Act 1991, every local authority must include in the electronic versions of its planning instruments—

(a) a map showing the area of any project area within their district or region; and

(b) advice on where to access the relevant development plan or draft development plan.

(2) The obligations under subsection (1) are obligations that apply—

(a) as soon as practicable after any specified development project is established; and

(b) for the duration of that project.

97 Local authority may transfer consenting functions to Kāinga Ora

(1) In the transitional period for a specified development project, a local authority may transfer to Kāinga Ora any 1 or more of the local authority's functions, powers, or duties as a consent authority under the Resource Management Act 1991 for resource consent applications in the project area.

(2) Section 33 of the Resource Management Act 1991 applies in relation to the transfer as if Kāinga Ora were a public authority under section 33(2) of that Act.

(3) Section 111 (which contains a governance principle) applies with the necessary modifications to Kāinga Ora performing the transferred functions and powers.

(4) On expiration of the transitional period, this section continues to apply in respect of any resource consent applications in the project area in respect of which a local authority is the consent authority (*see* section 109).

Regional or district plan changes in transitional period

98 Local authority preparing or changing plan must have regard to certain additional matters

(1) This section applies if, in a transitional period, a local authority is preparing or changing a district or regional plan that applies (or would apply) in the relevant project area.

(2) The local authority must have regard to the project area and the relevant project objectives, to the extent that their content has a bearing on resource management issues in the district or region (as relevant).

99 Relevant local authority must notify Kāinga Ora before final consideration of plan change

(1) This section applies if a change to a district or regional plan applying in a project area will, if approved, become operative in the project's transitional period.

(2) The relevant local authority must notify Kāinga Ora of that fact, in writing, at least 20 working days before whichever of the following is relevant to the plan change:

(a) the date on which the relevant local authority considers whether to approve or adopt the plan change under clause 17 or 18 of Schedule 1 of the Resource Management Act 1991:

(b) the date on which the relevant local authority submits the information required by clause 83(1) of Schedule 1 of the Resource Management Act 1991 to the Minister described in that clause.

100 Power to decline plan change in project area by notice

Decision

(1) Kāinga Ora may, within 15 working days of receiving a notice under section 99 (or of otherwise becoming aware of an approval, adoption, or submission of information under clause 17, 18, or 83(1) of Schedule 1 of the Resource Management Act 1991 for which it should have received that notice),—

(a) decide that the plan change, or a part of the plan change, will not apply in the project area; and

(b) give written notice to the relevant local authority of its decision.

(2) However, Kāinga Ora may only make and give notice of its decision under subsection (1) if Kāinga Ora considers that, in order to achieve the project objectives for the relevant specified development project, it is reasonably necessary to make that decision.

Effects depend on written notice within time

(3) A decision of Kāinga Ora under subsection (1)—

(a) has the effects set out in subsection (5) only if the written notice is given to the relevant local authority within the time frame in subsection (1); and

(b) otherwise, has no effects.

(4) If a decision relates to only part of a plan change, the notice by Kāinga Ora must clearly specify which part will not apply in the project area.

Effects

(5) The effects are that the plan change, or the specified part of the plan change, as relevant,—

(a) does not become operative in respect of the project area; and

(b) is declined to the extent that it would have applied to the project area.

(6) The notice has no effect on any of the following:

(a) the plan change being approved and becoming operative in respect of areas outside the project area:

(b) in the case of a notice that relates to a specified part of the plan change, the rest of the plan change being approved and becoming operative in respect of the project area.

(7) This section applies despite anything to the contrary in this Act or the Resource Management Act 1991.

101 Appeal rights in relation to exercise of section 100 power

(1) Any 1 or more of the following persons may appeal to the High Court on a question of law in respect of a decision made by Kāinga Ora under section 100(1):

(a) the applicant for the plan change (if any):

(b) the relevant local authority:

(c) any person who made a submission under the Resource Management Act 1991 on the plan change.

(2) A person who has a right of appeal under subsection (1)(c) may appeal only in respect of a matter raised in the person's submission.

Decisions on resource consents in transitional period

102 Meaning of relevant application

(1) Sections 103 to 106 apply to the following applications that are relevant (as defined in this section):

(a) an application for a resource consent for an activity wholly or partly within a project area:

(b) an application for a change or cancellation of a condition of an existing resource consent applying in a project area.

(2) An application described in subsection (1)(a) or (b) is **relevant** if—

(a) it was received by the local authority before the date on which the specified development project was established but is not decided by the local authority before that date; or

(b) it is received by the local authority in the transitional period.

(3) However, an application described in subsection (1)(a) or (b) is **not relevant** if—

(a) Kāinga Ora is the applicant; or

(b) Kāinga Ora has given its written approval to the application; or

(c) the application is not complete.

(4) In this section, **local authority** means the local authority as consent authority under the Resource Management Act 1991.

103 What consent authority must do with relevant applications

(1) This section applies, despite anything to the contrary in the Resource Management Act 1991, to a relevant application (as defined in section 102).

(2) Before the consent authority may grant the resource consent or change or cancel the condition, it must give to Kāinga Ora a copy of the relevant application, along with a copy of the following, in order that Kāinga Ora may make a decision under section 104(1):

(a) the consent authority's draft decision; and

(b) any conditions that the consent authority would impose on the resource consent.

(3) If, within 10 working days of the date on which the consent authority gives Kāinga Ora all of the information required by subsection (2), the consent authority receives written notice of a decision of Kāinga Ora under section 104(1), the consent authority must not grant the consent, or the change or cancellation of the condition, on conditions that are inconsistent with that decision of Kāinga Ora.

(4) Subsection (5) applies to the time period between—

(a) the date on which the consent authority gives Kāinga Ora the documentation under subsection (2) (**date A**); and

(b) the earlier of—

(i) the date that is 10 working days after date A:

(ii) the date on which the consent authority receives written notice of a decision of Kāinga Ora under section 104.

(5) That time period is excluded from any time limits under the Resource Management Act 1991 relating to the relevant application.

104 Power to decline relevant applications or impose or modify conditions

(1) Kāinga Ora may, within 10 working days of receiving documentation under section 103(2),—

(a) decide to decline all or part of the relevant application, to impose conditions on the resource consent, or to modify any conditions that the consent authority would impose on the resource consent; and

(b) give written notice to the consent authority of its decision, with reasons.

(2) However, Kāinga Ora may only make and give notice of a decision under subsection (1) if Kāinga Ora considers that, in order to achieve the project objectives for the relevant project, it is reasonably necessary to make that decision.

(3) When exercising a power under subsection (1), sections 104 to 111 of the Resource Management Act 1991 apply to Kāinga Ora as if it were the consent authority, but with the modification that references, in those sections, to Part 2 of that Act are treated as references to subpart 1 of Part 1 of this Act.

105 Right of objection in relation to exercise of section 104 power

(1) The applicant or the consent holder has a right of objection in relation to a decision of Kāinga Ora under section 104(1).

(2) The objection must be heard by a hearings commissioner.

(3) Sections 357C to 358 of the Resource Management Act 1991 apply, with the necessary modifications, as if the objection was made under section 357A(1)(f) or (g) of that Act.

106 Appeal rights in relation to exercise of section 104 power

Section 129 applies in relation to the whole or any part of a decision of Kāinga Ora under section 104(1), with the modifications that—

(a) a reference, in section 129, to a decision of a consent authority includes a reference to a decision of Kāinga Ora under section 104(1); and

(b) the consent authority is treated as if it were listed in section 129(1) as a person who may appeal against a decision of Kāinga Ora under section 104(1).

Assistance, information, advice, and record-keeping: project duration

107 Kāinga Ora and territorial authorities must assist persons seeking to determine who does what

Kāinga Ora and every relevant territorial authority for a project area (the **agencies**) must give reasonable and timely assistance to a person seeking to determine which of the agencies is responsible for, or capable of performing, particular work or activities in a project area or a part of it.

108 Information, advice, and record-keeping obligations from establishment

(1) Subsection (2) applies if a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation applying in a project area requires a local authority—

(a) to keep and maintain records under section 35A of the Resource Management Act 1991:

(b) to provide certain information or advice at the request of a Māori entity.

(2) Kāinga Ora must—

(a) comply with the requirement in subsection (1)(a) as if it were the local authority; and

(b) comply with a request from a relevant Māori entity for information or advice as if it were the local authority, to the extent that Kāinga Ora holds the information or can provide the advice.

(3) If an advisory board, committee, or authority has been established under a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation to provide advice on the management of a natural resource within a project area, Kāinga Ora must, in the manner required by that Act, deed, or other legislation—

(a) respond to the advice given:

(b) seek, and have regard to, any advice if Kāinga Ora—

(i) is preparing, changing, or reviewing a development plan:

(ii) publishes a draft development plan for public consultation.

Subpart 2—Resource consenting and designations for specified development project

Role of Kāinga Ora as consent authority

109 Role of Kāinga Ora in relation to resource consent applications

(1) On and from the date on which a development plan for a specified development project becomes operative in accordance with section 83, Kāinga Ora—

(a) is the consent authority under the Resource Management Act 1991 for all resource consent applications in the project area, if the territorial authority would otherwise be the consent authority for the purposes of that Act; but

(b) is not the consent authority if a regional council, the Minister for the Environment, or the Environmental Protection Authority would be the consent authority under the Resource Management Act 1991.

(2) Kāinga Ora must also perform the functions of monitoring, enforcing, and promoting compliance in a project area for—

(a) resource consents granted by Kāinga Ora; and

(b) activities specified as permitted activities in the district plan as amended by the development plan; and

(c) activities not permitted under the district plan as amended by the development plan and for which a resource consent has not been granted.

(3) For the purposes of carrying out its functions under subsection (2), Kāinga Ora may, as if it were a local authority, authorise enforcement officers under section 38 of the Resource Management Act 1991.

(4) Enforcement undertaken under this subpart in respect of activities that are not permitted under the development plan or by a resource consent must comply with the requirements for entry onto private property under sections 332, 334, and 335 of the Resource Management Act 1991.

(5) If a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation that applies in a project area has provisions for a local authority and a Māori entity to discuss and agree matters of the kind described in subsection (6), those provisions apply as if Kāinga Ora were the local authority.

(6) The matters referred to in subsection (5) are—

(a) priorities and methods for monitoring, and the extent of, and responses to, that monitoring; and

(b) the role of the Māori entity in monitoring and enforcement.

110 Monitoring and enforcement of subdivision consents

(1) In relation to subdivision consents within a project area, the functions of a territorial authority in respect of monitoring and enforcement under Part 10 of the Resource Management Act 1991 become the functions of Kāinga Ora under this subpart.

(2) Part 10 of the Resource Management Act 1991 applies to subdivision consents granted under this subpart as if Kāinga Ora were the territorial authority.

111 Governance principle applying to Kāinga Ora acting as consent authority

When Kāinga Ora is performing the functions or exercising the powers of a consent authority under this subpart, it must ensure that, so far as is practicable, the responsibility and processes relevant to its regulatory responsibilities are separated from the responsibility and processes for non-regulatory decision making.

112 Certain obligations to post-settlement governance entities continue under this Act

(1) This section applies if Kāinga Ora is the consent authority for a project area that includes land subject to a statutory acknowledgement, deed of recognition, or overlay classification under a Treaty settlement Act.

(2) The consent authority is subject to the same obligations as apply to the consent authority or other party under the relevant Treaty settlement Act.

(3) In this section, the terms **statutory acknowledgement, deed of recognition**, and **overlay classification** have the meanings given to those terms in the relevant Treaty settlement Act.

Basis of decision making in relation to resource consent applications under this Part

113 Resource consents: decision-making framework

(1) Every person exercising a power in relation to a resource consent application under this subpart must have regard to the following matters, giving them weight in the order listed, from greater to lesser:

(a) the project objectives; and

(b) the matters that arise for consideration under sections 104 to 107 of the Resource Management Act 1991, modified in accordance with subsection (2).

(2) The modifications referred to in subsection (1)(b) are:

(a) a reference to Part 2 of the Resource Management Act 1991 is to be read as a reference to subpart 1 of Part 1 of this Act:

(b) a reference to a plan or proposed plan is to be read as a reference to a plan as overridden by, added to, or suspended by a development plan.

(3) Subsection (4) applies if a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation applying in a project area—

(a) provides for a Māori entity to prepare, or contribute to, an iwi planning document for a district that is, or overlaps with, a project area and requires the relevant local authority to have regard to that planning document when determining resource consent applications under the district plan:

(b) provides an obligation for the local authority and a Māori entity jointly to develop criteria to assist local authority decision making in relation to resource consent applications.

(4) When Kāinga Ora is acting as a consent authority in a project area, Kāinga Ora has the obligations described in subsection (3) as if it were the local authority and the development plan were a district plan.

Application of provisions of Resource Management Act 1991

114 Resource consents required for activities relating to specified development project

(1) The restrictions applying to activities under sections 9 to 15 of the Resource Management Act 1991 apply, with any necessary modifications, to activities undertaken in a project area under this Act.

(2) Sections 87AA to 87D of the Resource Management Act 1991 apply, to the extent that they are relevant, to a specified development project, modified as follows:

(a) a reference to a plan or proposed plan means a plan as overridden by, added to, or suspended by a development plan; and

(b) a reference to a consent authority includes a reference to Kāinga Ora.

(3) The following provisions of the Resource Management Act 1991 apply with the following modifications:

(a) section 87E (except subsection (6A)):

(b) section 87F (but subsection (5) is to be read as including Kāinga Ora, unless Kāinga Ora is acting as the consent authority):

(c) section 87G(6) and (7) must be read as requiring the Court to apply the decision-making framework set out in section 113 of this Act if the Environment Court is determining a new consent application or an application for a change to, or cancellation of, a resource consent.

Resource consent processes

115 Applications for resource consents

(1) Any person may apply to the consent authority for a resource consent for an activity to be undertaken within a project area.

(2) An application must be made in the form and manner prescribed under section 88(2) of the Resource Management Act 1991 (with the necessary modifications) and must include—

(a) information relating to the activity, including information specified by the development plan; and

(b) an assessment of environmental effects that complies, to the extent that is relevant, with Schedule 4 of that Act (modified to replace a reference to Part 2 of that Act with a reference to subpart 1 of Part 1 of this Act).

Complete applications

(3) An application is complete if it—

(a) includes the information required for the assessment of environmental effects (*see* subsection (2)(b)); and

(b) provides the additional information (if any) required by the development plan.

(4) A consent authority must—

(a) assess and determine whether an application is complete—

(i) for any application for a controlled or restricted discretionary activity, within 5 working days of receiving the application:

(ii) for an application for a discretionary or non-complying activity within the jurisdiction of a territorial authority, within 10 working days of receiving the application; and

(b) return an incomplete application to the applicant without delay, giving its reasons in writing for determining that the application is incomplete.

(5) If the applicant lodges the returned application again, it is to be treated as a new application.

(6) Except as expressly applied in this section, section 88 of the Resource Management Act 1991 does not apply to applications for resource consents made under this section.

116 Processing of applications

(1) If an application is accepted as complete in accordance with section 115(4), the consent authority must, from the date of that decision, track the processing time of the application.

(2) Sections 88A to 88E, 89, and 89A of the Resource Management Act 1991 apply to the processing of any resource consent applications in a project area.

(3) Section 91 of the Resource Management Act 1991 (deferral pending application for additional consents) applies, modified by reading the reference to additional consents under the Resource Management Act 1991 as a reference to additional consents under a development plan or under the Resource Management Act 1991 (*see* section 91(1)(a) of that Act).

117 Deferral and suspension

Sections 91A to 91F of the Resource Management Act 1991 apply to applications made under this subpart or under the Resource Management Act 1991 for further consents in relation to a project area.

Section 117: amended, on 30 September 2020, by section 298(2).

118 Further information may be requested at any time

(1) A consent authority may at any time, in accordance with section 92 of the Resource Management Act 1991, request further information before hearing an application under this subpart.

(2) Sections 92A and 92B of the Resource Management Act 1991 apply if a request is made under subsection (1).

119 Notification

(1) A consent authority must notify applications for resource consents if—

(a) a provision in the relevant development plan specifies that notification is required; or

(b) the consent authority determines that notification is required, and the nature of that notification, in accordance with subsection (3).

(2) However, subsection (1) does not apply if a rule in the development plan, or in a plan as modified by the development plan, precludes notification.

(3) For activities other than those required to be notified by rules in a development plan, district plan, or regional plan, the consent authority may determine whether to notify an application for a resource consent, applying the relevant provisions of sections 95 to 95G of the Resource Management Act 1991, modified by reading—

(a) a reference to a district plan as including a reference to a development plan; and

(b) a reference to a rule as including a reference to a rule in a development plan; and

(c) the time limits required under subsection (4) instead of those provided for in section 95(2) of the Resource Management Act 1991.

(4) The consent authority must,—

(a) for controlled and restricted discretionary activities for land use or subdivision, decide whether to notify within 10 working days after the application is first lodged:

(b) for all other activities, decide whether to notify within 20 working days after the application is first lodged.

(5) The consent authority must make its decisions under subsection (3) in accordance with sections 95A and 95B of the Resource Management Act 1991.

(6) A rule for notification in a district or regional plan under the Resource Management Act 1991 continues to apply if it is not displaced by a provision in the relevant development plan.

Processing applications

120 Time limits for giving notice of decisions

(1) For resource consent applications lodged under the development plan but not notified under section 119, a consent authority must give notice of its decision on the application within the following time limits:

(a) for applications for controlled or restricted discretionary land use or subdivision activities, within 10 working days of the application being first lodged:

(b) for all other applications, within 20 working days of the application first being lodged.

(2) A consent authority must issue its decision on an application notified under this subpart within the following time limits:

(a) if a hearing is held, not later than 15 working days after the last day of the hearing:

(b) if no hearing is held, not later than 20 working days after the closing date for submissions on the application.

(3) This section applies instead of section 115 of the Resource Management Act 1991.

Notified applications: submissions

121 Submission process for notified applications

(1) If an application is given public or limited notification, sections 96 to 99A and 100A of the Resource Management Act 1991 apply, with the necessary modifications, as to—

(a) who may make a submission:

(b) service of submissions:

(c) time limits for serving submissions.

(2) A consent authority may, at its own discretion, extend the time for making submissions.

(3) In applying section 100A(2) and (4), if Kāinga Ora has delegated its consenting functions to a local authority, an applicant or submitters are not permitted to request a hearing by a hearings commissioner.

Hearings

122 Receipt and consideration of submissions

(1) A consent authority must receive and formally consider all submissions lodged in accordance with this subpart.

(2) A public hearing may be held if the applicant or 1 or more submitters request to be heard (so long as subsection (3) does not apply).

(3) A request under subsection (2) may include a request that Kāinga Ora delegate its functions, powers, and duties relating to a hearing to a hearings commissioner or the local authority, but such a request must be made not later than 5 working days after the closing date for submissions to be received on a notified application.

(4) Even if no request is made for a hearing, the consent authority may hold a hearing if it considers that a hearing is necessary.

(5) Despite subsections (2) to (4), there is no right to a hearing in respect of applications for resource consents for land use or subdivision activities that are controlled or restricted discretionary activities under the district plan as that plan is modified by the development plan.

(6) However, this section applies subject to section 41D of the Resource Management Act 1991.

123 Hearings

Sections 101 to 103B of the Resource Management Act 1991 apply to the conduct of a hearing by a consent authority, but with the following modifications:

(a) in section 101(3) of that Act, notice must also be given to Kāinga Ora, if Kāinga Ora has delegated or transferred its role as a consent authority:

(b) in section 102(2) of that Act, the reference to the regional council is to be read as a reference to Kāinga Ora, unless the consent authorities with responsibilities for an application agree that another authority should be responsible for notification:

(c) in section 103B(2)(a) of that Act, the reference to a report prepared under section 42A(1) is to be read as a reference to a report required under this Act.

124 Alternate appointments to hear and determine consent applications

If a right is granted under a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation to a Māori entity to appoint persons to hear and determine resource consent applications, that right continues to apply under this Act to applications that relate to all or part of a project area as if—

(a) the persons appointed under that Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation were appointed under this Act; and

(b) the development plan were the regional or district plan.

Conditions of resource consents

125 Conditions and other obligations

Sections 108 to 111 of the Resource Management Act 1991 apply to resource consents granted under this subpart by a consent authority, but with the following modifications:

(a) in section 108(10)(a) of that Act, the reference to a plan means a plan as overridden by, added to, or suspended by a development plan:

(b) in section 108AA(1)(b)(ii) of that Act, the reference to an applicable district or regional rule includes a reference to an applicable rule in the relevant development plan:

(c) in section 109(3) of that Act, replace the reference to section 171 of the Local Government Act 2002 with a reference to section 280 of this Act.

Decision to be in writing and served on specified persons

126 Form and service of decision

(1) Sections 113 and 114(1) to (3) of the Resource Management Act 1991 apply, as far as they are relevant, to decisions made on resource consent applications under this subpart, but with the following modifications:

(a) in section 113(1)(a) of that Act, the reference to relevant statutory provisions includes a reference to the relevant provisions in this Act:

(b) in section 113(1)(ab) of that Act, a reference to a regional policy statement or a plan is a reference to a regional policy statement or plan, as the case requires, overridden by, added to, or suspended by a development plan:

(c) section 114(2) of that Act includes service on Kāinga Ora if it is not the consent authority.

(2) Kāinga Ora must serve a copy of its decision on the relevant local authority.

When resource consents commence

127 Commencement of resource consents

Sections 116 to 119A of the Resource Management Act 1991 (which relate to the commencement of resource consents) apply, as far as relevant, to consents granted under this subpart, including an application subject to the grant of an application to exchange reserve land under the Reserves Act 1977).

Rights of objection and appeal

128 Rights of objection under this Act

(1) Sections 357 to 358 of the Resource Management Act 1991 (rights of objection and rights of appeal) apply to all rights of objection under this Act as if those sections referred to Kāinga Ora instead of to a territorial authority or requiring authority.

(2) Any objection must be heard by a hearings commissioner.

129 Appeal rights in relation to resource consents in project area

(1) The following persons may appeal to the Environment Court against a decision of a consent authority:

(a) the applicant or consent holder:

(b) any person who made a submission on the application, but only in relation to matters raised in the submission:

(c) in relation to a coastal permit for a restricted coastal activity, the Minister of Conservation.

(2) Kāinga Ora may be a party to any appeal on a resource consent decision that relates to a project area.

(3) An appeal under subsection (1) is to be treated as if it were an appeal under section 120 of the Resource Management Act 1991.

(4) Section 121 of the Resource Management Act 1991 applies to an appeal under this section, except that the reference in section 121(1)(c) to the consent authority must be read as including Kāinga Ora if Kāinga Ora is not the consent authority.

(5) An appeal may be made to the High Court against a decision of the Environment Court, but the appeal may be made only on points of law.

(6) The High Court is the final court of appeal on matters to which this section applies.

130 Right of appeal against direction given under section 85 of Resource Management Act 1991

Nothing in this Act limits or affects a right of appeal to the High Court on points of law under section 299 of the Resource Management Act 1991 that a person may have against a direction given under section 85 of that Act (which relates to the reasonable use of land that is subject to controls).

Designations

131 Kāinga Ora is requiring authority

(1) Kāinga Ora is to be treated as being approved as a network utility operator and a requiring authority under section 167 of the Resource Management Act 1991 for the purpose of carrying out—

(a) certain activities within a project area, in accordance with the requirements of subsection (2); and

(b) certain activities outside a project area, in accordance with the requirements of subsection (3).

Activities within project area

(2) If an activity is reasonably necessary for achieving the project objectives of a specified development project, Kāinga Ora may exercise its discretion to be the requiring authority within the project area for the following activities:

(a) infrastructure:

(b) community facilities:

(c) any designation that is to be transferred to a Minister of the Crown.

Activities outside a project area

(3) Kāinga Ora may exercise its discretion to be the requiring authority outside a project area for the activities listed in subsection (4), if the activities are—

(a) intended to connect to, or support, the development of a specified development project; and

(b) reasonably necessary for achieving the project objectives for a specified development project.

(4) The activities referred to in subsection (3) are:

(a) three waters services; and

(b) land transport within the meaning of the Land Transport Management Act 2003; and

(c) public transport services within the meaning of the Land Transport Management Act 2003.

132 Notices of requirements for designations

(1) This section applies only to designations for which Kāinga Ora is not the requiring authority.

(2) This section and section 134 specify how a designation—

(a) is incorporated into the development plan for a project area; and

(b) is altered after its incorporation into a development plan.

(3) Sections 168 to 186 (but not section 168A or 170) of the Resource Management Act 1991 apply, with the following necessary modifications, as if—

(a) a reference to Part 2 of the Resource Management Act 1991 were a reference to subpart 1 of Part 1 of this Act; and

(b) a reference to the territorial authority were a reference to Kāinga Ora, as the context may require; and

(c) a reference to a rule in section 169 of the Resource Management Act 1991, and in sections 149ZCB, 149ZCC, 149ZCD, 149ZCE, and 149ZCF of that Act (as applied by section 169(1) of that Act) included a rule in a development plan; and

(d) a reference to a district plan were a reference to a development plan; and

(e) references to both a district and regional plan were references to a plan as modified by a development plan (*see* sections 171(1)(a)(iv) and 176(2) of the Resource Management Act 1991); and

(f) the reference to section 170 in section 169(2) of the Resource Management Act 1991 were a reference to section 134(4) of this Act; and

(g) the reference to a proposed plan in section 178(3)(e) of the Resource Management Act 1991 were a reference to the draft development plan; and

(h) a reference to a recommendation of a territorial authority were a reference to a decision of Kāinga Ora; and

(i) a reference to the process under Schedule 1 of the Resource Management Act 1991 were a reference to the process for preparing a development plan under subpart 2 of Part 2 of this Act; and

(j) a reference to clause 4 of Schedule 1 of the Resource Management Act 1991 were a reference to this section.

(4) References to a proposed district plan in sections 175, 176, 177, and 181 of the Resource Management Act 1991 do not apply to designations within the meaning of this subpart.

(5) Section 180 of the Resource Management Act 1991 applies, subject to Kāinga Ora, the responsible Minister, and the relevant territorial authority being advised of a transfer, as well as the Minister for the Environment.

(6) Section 186 of the Resource Management Act 1991 has no application to land that is protected land under this Act.

133 Further modifications to Part 8 of Resource Management Act 1991

(1) Despite section 176(1) of the Resource Management Act 1991, Kāinga Ora need not obtain the written permission of another requiring authority to do anything in accordance with a designation held by Kāinga Ora.

(2) However, the other requiring authority must obtain the permission of Kāinga Ora under section 176(1)(b) of the Resource Management Act 1991 before it does anything in accordance with its designation.

(3) In applying section 177 of the Resource Management Act 1991, a designation for which Kāinga Ora is the requiring authority—

(a) must be treated as the earliest designation that applies in the project area; but

(b) must not be treated as having been introduced earlier than an existing heritage order recorded in the district plan that applies in the project area.

(4) Subsections (1), (2), and (3) do not apply to designations for nationally significant infrastructure.

(5) Section 171(1) of the Resource Management Act 1991 must be applied as if, for the purpose of applying Part 8 of that Act to this subpart, the requiring authority (whether Kāinga Ora or the territorial authority) must have particular regard to—

(a) all the matters set out in that subsection; and

(b) the relevant project objectives; and

(c) whether the work and designation are reasonably necessary for achieving those project objectives.

(6) Section 178(2) to (6) of the Resource Management Act 1991 (interim effect of requirements for designations) applies, with the necessary modifications,—

(a) on and from the day on which a notice of requirement is lodged, if a requiring authority gives notice of the requirement for a designation in a project area:

(b) when the draft development plan for a project area is notified under section 73, if Kāinga Ora includes a notice of requirement for a designation in the draft development plan.

134 Approval of Kāinga Ora to lodge notice of requirement for new designations

(1) This section applies if a local authority or a requiring authority (other than Kāinga Ora) intends to issue a notice of requirement—

(a) for a designation within a project area; or

(b) to alter an existing designation in a development plan.

(2) Before a requiring authority may lodge a notice of requirement, the requiring authority must obtain the approval of Kāinga Ora.

(3) Kāinga Ora has discretion to grant or decline approval, after taking into account—

(a) the relevant project objectives; and

(b) the objectives of the requiring authority for the designation.

(4) Kāinga Ora must include the requirement in the draft development plan if—

(a) the preconditions in section 72 for the draft development plan to be notified have been met; and

(b) the draft development plan is ready to be publicly notified; and

(c) Kāinga Ora intends to give public notice within 40 working days of receiving notice of a requirement.

(5) If Kāinga Ora does not approve a notice of requirement lodged by a requiring authority under this subpart, the requiring authority may exercise a right of objection to a hearings commissioner under section 128.

(6) This section does not apply to a notice of requirement for a designation, or alteration to a designation,—

(a) issued by a Minister of the Crown; or

(b) for nationally significant infrastructure.

135 Notice of requirement for proposals of national significance

(1) This section applies to a notice of requirement for a designation or to alter a designation that would be wholly or partly within a project area.

(2) A requiring authority must not lodge a requirement with the Environmental Protection Authority under section 145 of the Resource Management Act 1991 for a designation or to alter a designation unless the designation relates to nationally significant infrastructure.

136 Process applying to new or modified designations after development plan becomes operative

(1) This section applies if, after the development plan for a specified development project becomes operative under section 83, Kāinga Ora decides—

(a) to establish a new designation within or outside a project area; or

(b) to alter an existing designation held by Kāinga Ora that applies within or outside a project area.

(2) In either case, Kāinga Ora must lodge a notice of requirement with the relevant territorial authority in accordance with section 168 of the Resource Management Act 1991.

(3) Kāinga Ora must state in the notice of requirement to whom the designation is to be transferred.

(4) Sections 169 to 185 (but not section 175) of the Resource Management Act 1991 apply, with the necessary modifications, to a notice of requirement or designation, as the case may be.

(5) The modifications to the Resource Management Act 1991 provided in section 132(3)(a), (c), and (g), (4), (5), and (6) apply to a notice of requirement or designation, as the case requires.

(6) A designation applying wholly within a project area must be included in the development plan that applies in the project area.

(7) A designation applying wholly outside a project area must be included in the relevant district plan, as required by section 175 of the Resource Management Act 1991.

(8) If a designation is partly within and partly outside a project area,—

(a) the part of the designation within the project area must be included in the development plan; but

(b) the part of the designation outside the project area must be included in the district plan.

(9) A designation referred to in subsection (6), (7), or (8) must be included in a development plan or district plan, as the case requires, without applying section 91 of this Act or Schedule 1 of the Resource Management Act 1991.

Subpart 3—Reserves and conservation interests

137 Kāinga Ora may request that reserve status or conservation interest be revoked

(1) Kāinga Ora may request that—

(a) the Minister for Land Information give effect to provisions in a development plan that provide for a specified reserve within the project area to be set apart for the purposes of the specified development project; or

(b) the Minister of Conservation give effect to provisions in a development plan that provide for a conservation interest in land within the project area to be revoked or cancelled.

(2) The request must—

(a) describe the land to which it relates and include any relevant survey plans; and

(b) identify the provisions in the development plan that provide for the setting apart or revocation or cancellation; and

(c) include any other information reasonably required by the Minister for Land Information or the Minister of Conservation.

138 Minister must give effect to development plan following request under section 137

Setting apart of reserve

(1) The Minister for Land Information must, in accordance with a request under section 137(1)(a), give effect to the development plan by giving notice in the *Gazette* that the specified reserve has been set apart for the purposes of the specified development project.

(2) Section 82 of the Reserves Act 1977 (application of proceeds of land where reservation revoked) applies to the specified reserve as if its reservation were revoked under section 24 of that Act.

(3) To the extent that the specified reserve is subject to another enactment that provides for the land's status as a reserve or relates to the land in its status as a reserve, that enactment ceases to apply to the land when the reserve is set apart.

Revocation or cancellation of conservation interest

(4) The Minister of Conservation must, in accordance with a request under section 137(1)(b), give effect to the development plan by—

(a) applying in writing to the Registrar-General of Land to remove any registration or notation of the conservation interest from the record of title for the land; and

(b) doing anything else necessary to revoke or cancel the conservation interest.

(5) The Registrar-General of Land must remove a registration or notation of a conservation interest in accordance with an application under subsection (4)(a).

139 Creation, classification, and vesting of reserves

(1) Kāinga Ora may request that the Minister of Conservation give effect to provisions in a development plan that provide for 1 or more of the following to occur within the project area:

(a) land to be set apart as a reserve:

(b) a reserve to be classified according to its principal or primary purpose (as defined in sections 17 to 23 of the Reserves Act 1977):

(c) a reserve to be vested in any 1 or more persons specified in the development plan.

(2) The request must—

(a) describe the land to which it relates and include any relevant survey plans; and

(b) identify the provisions in the development plan that provide for the setting apart, classification, or vesting; and

(c) include any other information reasonably required by the Minister of Conservation.

(3) The Minister of Conservation must, in accordance with the request, give effect to the provisions of the development plan—

(a) by notice in the *Gazette*, if the land is to be set apart as a reserve:

(b) by notice under section 16(1) of the Reserves Act 1977, if the reserve is to be classified as anything other than a nature reserve or a scientific reserve:

(c) by making a recommendation under section 16A(2) of that Act, if the reserve is to be classified as a nature reserve or a scientific reserve:

(d) by notice under section 26(1) of that Act, if the reserve is to be vested.

(4) For the purposes of subsection (3), the Reserves Act 1977 applies with all necessary modifications, including that—

(a) sections 16(4), 16A(4), and 26(3) of that Act, and any other preconditions in that Act for the taking of an action described in subsection (3), do not apply; and

(b) section 26(1) of that Act must be read as enabling a reserve to be vested in any 1 or more persons specified in a development plan.

(5) If a reserve that is, or is to be, a Crown protected area is to be classified under subsection (3)(b) or (c),—

(a) the Minister of Conservation must, before giving the notice or making the recommendation, refer the proposed name of the reserve, with supporting documentation, to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa for review under section 27(3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008; and

(b) subpart 3 of Part 2 of that Act applies accordingly.

Subpart 4—Infrastructure

Preliminary provisions

140 Application of this subpart

(1) This subpart applies in relation to a specified development project once the project's development plan becomes operative.

(2) However, section 179 applies on and from the project's establishment date.

(3) Section 164 continues to apply after the specified development project is disestablished.

141 Overview of this subpart

(1) Broadly, this subpart provides for Kāinga Ora to have—

(a) functions and powers in relation to roads (the **roading powers**) if the project's development plan provides for Kāinga Ora to have the roading powers; and

(b) powers in relation to water-related infrastructure (the **water-related infrastructure powers**).

(2) This subpart also contains provisions for bylaw changes related to infrastructure.

Roading powers

(3) If Kāinga Ora has the roading powers for a specified development project, Kāinga Ora has all of the roading powers.

(4) The roading powers relate only to roads within project areas.

Water-related infrastructure powers

(5) Broadly, the water-related infrastructure powers relate to constructing and altering, but not operating, water supply, wastewater, and drainage infrastructure.

(6) The water-related infrastructure powers relate to land and water-related infrastructure within project areas and, to a degree, outside project areas (*see* section 151(1)(b)).

Bylaw changes

(7) Under this subpart, Kāinga Ora has no power to amend, revoke, or make bylaws. However, it may—

(a) require bylaw changes by way of including them in a development plan; and

(b) request, and, in some circumstances (*see* section 174), require bylaw changes after the development plan is operative.

142 Interpretation for this subpart

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

bylaw-making authority, in relation to a bylaw change, means the relevant local authority, road controlling authority, or other statutory authority with the power to make the bylaw change under a specified enactment

controlling authority, in relation to water-related infrastructure, means the territorial authority or other agency responsible for the operation and maintenance of that water-related infrastructure

owner, in relation to land that is a road and the exercise of water-related infrastructure powers, means the person that has jurisdiction over the road (and, if Kāinga Ora has the roading powers in relation to the road, means Kāinga Ora)

relevant territorial authority, in Auckland, includes Auckland Transport

water-related infrastructure means infrastructure associated with, or necessary for, any of the following:

(a) the supply of reticulated drinking water:

(b) wastewater services:

(c) the supply of water through water races:

(d) land drainage and rivers clearance.

(2) A reference to alter or construct includes a reference to—

(a) carrying out preliminary work associated with those works (for example, design); and

(b) carrying out work subsequent to those works for the purpose of ensuring operability of those works (for example, testing).

(3) A reference to something being done on, under, or over any land (including any road) includes a reference to something being done on, under, or over a building on that land.

Roads

143 Meaning of roading powers

In this Act, **roading powers** means all of the following functions and powers:

(a) the functions and powers of a local authority and an enforcement authority under the Land Transport Act 1998 for the purposes of prosecuting stationary vehicle offences:

(b) the functions and powers of a council under Part 21 of the Local Government Act 1974, except—

(i) the power to name or alter the name of a road under section 319(1)(j) of that Act; and

(ii) the functions and powers under sections 316(2), 319A, 319B, and 347 to 352 of that Act; and

(iii) any power to make a bylaw under a provision of that Act or an authorisation gazetted under section 360 of that Act:

(c) the powers of a council under section 591 of the Local Government Act 1974 (except the power conferred by section 591(1)(a) of that Act):

(d) the functions and powers of a local authority, a territorial authority, and a controlling authority under Part 4 of the Government Roading Powers Act 1989 (except any power to make a bylaw under a delegation under section 62(1) of that Act, which relates to State highways):

(e) the functions and powers of a road controlling authority and a local authority under the Land Transport Act 1998 and any regulations or rules made under that Act (except the functions and powers to make bylaws and resolutions under section 22AB of that Act):

(f) the functions and powers of a public road controlling authority under Part 2 of the Land Transport Management Act 2003 in relation to road tolling schemes.

Compare: 2009 No 32 s 46(1)(a)–(e), (g), (i), (4)

144 Kāinga Ora has roading powers if stated in development plan

(1) This section applies only if a development plan for a specified development project states—

(a) that Kāinga Ora has the roading powers; and

(b) the date (or a process for determining the date) on and from which Kāinga Ora has the roading powers.

(2) On and from that date, Kāinga Ora has all of the roading powers in relation to roads within the project area other than roads under the control of the New Zealand Transport Agency.

(3) The enactments in section 143 under which Kāinga Ora has roading powers apply, for the purposes of this section,—

(a) as if references in those enactments to a council or other statutory body included references to Kāinga Ora; and

(b) as if references in those enactments to a district included references to the project area; and

(c) as if references in those enactments to a scheme plan, an operative district scheme, or a district plan included references to the development plan; and

(d) with all other necessary modifications.

(4) Part 4 of the Government Roading Powers Act 1989 applies as if works done or to be done by Kāinga Ora, acting with the roading powers, are local works.

(5) Section 326 of the Local Government Act 1974 (which relates to betterment arising from creation or widening of a road) applies as set out in subpart 4 of Part 4.

(6) Nothing in this section vests ownership of any road, land, or other property in Kāinga Ora or affects the operation of section 316(1) of the Local Government Act 1974.

(7) Subsection (2) is subject to section 147.

145 Additional functions if Kāinga Ora has roading powers

If Kāinga Ora has the roading powers for roads within a project area, the following are additional functions of Kāinga Ora in relation to the project area:

(a) to undertake or exercise any transport functions or powers that a relevant territorial authority lawfully delegates to it (for example, management of off-street parking facilities), but not including the functions and powers of a regional council under Part 5 of the Land Transport Management Act 2003 in relation to public transport planning and regulation; and

(b) without limiting paragraph (a), to undertake or exercise any transport functions or powers expressly conferred on a relevant territorial authority by any enactment (for example, under a local Act) that the relevant territorial authority lawfully delegates to it; and

(c) to undertake or exercise any functions, powers, and duties in respect of State highways that the New Zealand Transport Agency lawfully delegates to it.

Compare: 2009 No 32 s 45(d)–(f)

146 Kāinga Ora has jurisdiction over roads for which it has roading powers

If Kāinga Ora has the roading powers for roads within a project area,—

(a) Kāinga Ora has jurisdiction over those roads for the purposes of any enactment; and

(b) Kāinga Ora is the corridor manager for those roads for the purposes of the Utilities Access Code (which applies to Kāinga Ora with all necessary modifications).

147 Limitations on Kāinga Ora exercising roading powers

Powers of entry

(1) If, in accordance with a roading power that Kāinga Ora has for a project that provides for a power of entry, Kāinga Ora decides to enter land or a building, subpart 1 of Part 6 applies in relation to the entry.

(2) Anything in the roading power that is inconsistent with subpart 1 of Part 6 does not apply in relation to the entry.

Disposal of land

(3) If Kāinga Ora has the roading powers for roads in a project area and decides, under section 345 of the Local Government Act 1974, to dispose of land not required for a road,—

(a) Kāinga Ora must inform the relevant territorial authority, in writing, of its decision; and

(b) the relevant territorial authority must dispose of the land in accordance with the requirements of the Local Government Act 1974; and

(c) if requested by the relevant territorial authority, Kāinga Ora must reimburse the relevant territorial authority for its administrative costs incurred in undertaking the disposal.

(4) Unless Kāinga Ora owns the land, nothing in subsection (3) entitles Kāinga Ora to any proceeds from the sale or other disposition of the land not required for a road (and *see* section 144(6)).

Compare: 2009 No 32 s 48(1), (2)

148 Relevant territorial authority prohibited from performing functions and exercising powers that Kāinga Ora has under section 144(2)

(1) The relevant territorial authority (or other statutory body) must not perform any function or exercise any power that Kāinga Ora has in accordance with section 144(2).

(2) Subsection (1) applies unless the board of Kāinga Ora delegates the performance of the function or the exercise of power to the relevant territorial authority in accordance with any power it has to do so.

Compare: 2009 No 32 s 50(1), (3)

149 Jurisdiction in respect of roads defined more widely than in Local Government Act 1974

(1) Nothing in this subpart—

(a) limits or affects a relevant territorial authority's jurisdiction in respect of roads within the meaning of section 2(1) of the Land Transport Act 1998 that are not roads within the meaning of section 315 of the Local Government Act 1974:

(b) confers jurisdiction on Kāinga Ora in respect of roads within the meaning of section 2(1) of the Land Transport Act 1998 that are not roads within the meaning of section 315 of the Local Government Act 1974.

(2) This section is to avoid doubt.

Compare: 2009 No 32 ss 52, 56

Water-related infrastructure

150 Meaning of water-related infrastructure powers

(1) In this Act, **water-related infrastructure powers** means the following powers:

(a) the power to construct any new water-related infrastructure on, under, or over any land (including any road):

(b) the power to alter any water-related infrastructure that Kāinga Ora does not control.

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

(a) extend, upgrade, replace, connect to, or move:

(b) disconnect from, demolish, remove, or dispose of (in each case, with or without replacement).

151 Kāinga Ora has water-related infrastructure powers when development plan becomes operative

(1) On and from the date on which a project's development plan becomes operative, Kāinga Ora has the water-related infrastructure powers in relation to existing, and new, water-related infrastructure—

(a) within the project area; and

(b) outside the project area, but only to the extent that existing, or new, water-related infrastructure connects to or services (or will connect to or service) the project area.

(2) In the case of private land, the exercise of the water-related infrastructure powers is subject to the Public Works Act 1981 as to compensation for injurious affection to land.

(3) Subsection (1) is subject to sections 153 to 161.

(4) *See also* section 17(2) (which prohibits the use of powers in this Act in relation to protected land described in that subsection).

(5) *See* subpart 1 of Part 6 for related powers of entry.

152 Construction of new water-related infrastructure on, under, or over roads

(1) This section applies if Kāinga Ora proposes to exercise a water-related infrastructure power to construct new water-related infrastructure on, under, or over any road.

(2) The Utilities Access Act 2010 and the Utilities Access Code apply (with any necessary modifications), as if Kāinga Ora were the utility operator of that infrastructure and that infrastructure were water or wastewater infrastructure for the purposes of that Act and Code.

(3) However, despite anything in the Utilities Access Code, no corridor manager or utility operator may impose conditions that would, or would likely, prevent or unreasonably delay delivery of the project or the project objectives being achieved.

153 Limitations on power to construct new water-related infrastructure

(1) Where section 152 does not apply, Kāinga Ora must not exercise a water-related infrastructure power to construct any new water-related infrastructure on, under, or over any land unless—

(a) it has written consent to the works from the owner of the land; or

(b) it has complied with the requirements in section 154 and—

(i) the owner and the occupier are treated under section 155 as having consented to the works; or

(ii) a determination of a hearings commissioner made under section 156 authorises Kāinga Ora to proceed with the works; or

(c) it is authorised to construct the new water-related infrastructure in accordance with section 158 (which relates to works described in the development plan).

(2) This section is subject to subpart 4 of Part 1.

(3) Subsection (1)(b)(ii) is subject to sections 156(5) and 157.

154 Requirements before constructing new water-related infrastructure without land owner's consent

(1) The requirements referred to in section 153(1)(b) are as follows:

(a) Kāinga Ora must deposit the following for public inspection at a place within the district in which the works are to be constructed:

(i) a description of the location and nature of the proposed new water-related infrastructure and the extent of the works required to construct it (including, in the case of works that will affect any land or building, a plan showing how the land or building will be affected); and

(ii) any proposed conditions relating to the works; and

(b) Kāinga Ora must give notice in writing of its intention to construct the works—

(i) to the occupier of the land or building unless there is no occupier or, after all reasonable steps have been taken, the occupier cannot be found; and

(ii) to the owner of the land, if known; and

(c) Kāinga Ora must include in the notice—

(i) a description of the works, and a statement of what documents referred to in paragraph (a) have been deposited for public inspection, and where those documents are available for public inspection; and

(ii) how the owner or occupier may object to the proposed works or the proposed conditions; and

(d) Kāinga Ora must publish on its Internet site a description of the location and nature of the proposed new water-related infrastructure and a statement of where the documents referred to in paragraph (a) are available for public inspection.

(2) For the purposes of this section and section 153(1)(b), if, after complying with subsection (1)(b)(i) of this section, there is a change of occupier, it is not a requirement to give notice to any subsequent occupier.

Compare: 2002 No 84 Schedule 12 cl 1(a)–(c)

155 When owner and occupier can be treated as having consented

(1) This section applies if, within 20 working days of giving notice as required by section 154(1)(b) and (c), Kāinga Ora has not received from the occupier or the owner any written notice of objection to the proposed works or the proposed conditions.

(2) For the purposes of section 153(1)(b)(i), the owner and the occupier are treated as having consented to the works on the conditions that were deposited for public inspection.

156 What happens if owner or occupier objects

(1) This section applies if, within 20 working days of receipt of the notice under section 154(1)(b) and (c), the occupier or the owner (the **objector**) gives to Kāinga Ora a written notice—

(a) of objection to the proposed works; or

(b) that proposes different conditions to apply to the works.

(2) Kāinga Ora must, if it decides to proceed with the works,—

(a) appoint a hearings commissioner to first hear the objection or the proposed conditions; and

(b) give the objector reasonable notice of the day, time, and place of the hearing (which may be held in person or by electronic means).

(3) The hearings commissioner must conduct the hearing and must, in accordance with subsection (4), make a determination—

(a) authorising Kāinga Ora to proceed with the works as described in the notice and subject to the conditions that were deposited for public inspection; or

(b) authorising Kāinga Ora to proceed with the works, but subject to any conditions that the hearings commissioner determines (whether or not those conditions were proposed); or

(c) that the works must not proceed.

(4) If the hearings commissioner is satisfied that failure to proceed with the works would, or would likely, prevent or unreasonably delay delivery of the project or achieving the project objectives, the hearings commissioner must make a determination under subsection (3)(a) or (b).

(5) Kāinga Ora must not proceed with the works pending the expiry of the time frame for appealing against the decision (*see* section 157(1)).

Compare: 2002 No 84 Schedule 12 cl 1(d)–(e)

157 Right of appeal against determination of hearings commissioner

(1) A person (including Kāinga Ora) who is aggrieved by a determination of a hearings commissioner under section 156(3) may appeal to the District Court against the determination within 10 working days of the date of the determination.

(2) Pending the decision of the court on the appeal, Kāinga Ora must not proceed with the works.

(3) On the hearing of the appeal, the court, whose decision is final, may, subject to subsection (4), confirm, amend, or set aside the determination of the hearings commissioner.

(4) Section 156(4) applies, with the necessary modifications, to the court in deciding the appeal.

Compare: 2002 No 84 Schedule 12 cls 2–4

158 Construction authorised by development plan

(1) For the purposes of section 153(1)(c), Kāinga Ora is authorised to construct the new water-related infrastructure for a project if—

(a) the draft development plan that was notified under section 73 for the project included the information referred to in section 154(1)(a) in respect of the new water-related infrastructure; and

(b) Kāinga Ora gave notice in writing of its intention (subject to approval of the development plan) to construct the new water-related infrastructure—

(i) to the occupier of the land or building unless there was no occupier or, after all reasonable steps were taken, the occupier could not be found; and

(ii) to the owner of the land, if known; and

(c) Kāinga Ora included in its notice to the occupier and to the owner a copy of the draft development plan and a description of how that person may make submissions on that plan; and

(d) the development plan describes the following in respect of the new water-related infrastructure (regardless of whether the details differ from what was included in the draft development plan):

(i) the location and nature of the proposed new water-related infrastructure; and

(ii) a description of the extent of the works required to construct it.

(2) The authorisation under subsection (1) is an authorisation to construct the works in accordance with the development plan.

159 Prohibition on others constructing new water-related infrastructure without consent of Kāinga Ora

Once the development plan for a specified development project becomes operative, no person other than Kāinga Ora may construct any new water-related infrastructure on, under, or over land within the project area without the prior written consent of Kāinga Ora.

160 Kāinga Ora responsible for costs of construction

(1) Kāinga Ora is liable for the cost of the works of any new water-related infrastructure that it constructs in relation to specified development projects.

(2) Subsection (1) applies subject to—

(a) any agreement to the contrary with the relevant territorial authority or any other person:

(b) any other enactment.

161 Limitations on power to alter water-related infrastructure Kāinga Ora does not control

(1) Except where section 152 applies, or unless otherwise agreed with the controlling authority, before Kāinga Ora exercises a water-related infrastructure power to alter any water-related infrastructure that it does not control, it must give not less than 30 working days' written notice to the controlling authority.

(2) The controlling authority may, by notice in writing to Kāinga Ora at least 10 working days before the works are proposed to start, set any reasonable conditions relating to the works.

(3) For the purposes of this section, a condition is **reasonable** only if it is necessary to ensure—

(a) that the alterations do not interfere with the operation of the water-related infrastructure or the system of which that infrastructure forms part, or any interference is minimised; or

(b) the integrity of that system, for its expected lifetime, is not compromised; or

(c) that the controlling authority does not breach a requirement of the Utilities Access Code that relates to another utility operator, or an agreement under that Code with another utility operator; or

(d) that the alterations will not be contrary to an obligation of the controlling authority that relates to the quality of services and is imposed by—

(i) any enactment; or

(ii) the existing conditions of any resource consent; or

(iii) any drinking-water standards (within the meaning of section 69G of the Health Act 1956).

(4) However, despite subsection (3), a condition is not reasonable in circumstances where—

(a) the location, nature, and extent of works required for the alterations are described in the development plan; and

(b) the condition would, or would likely, prevent or unreasonably delay delivery of the project or achieving the project objectives.

(5) If Kāinga Ora and the controlling authority dispute whether a condition is reasonable or Kāinga Ora otherwise objects to a condition, the matter must be referred to the District Court, and the decision of the court is final.

162 Controlling authority responsible for costs of operating and maintaining water-related infrastructure

(1) A controlling authority is liable for the cost of operating and maintaining its water-related infrastructure within a project area.

(2) Subsection (1) applies subject to—

(a) any agreement to the contrary with Kāinga Ora or any other person:

(b) any other enactment.

163 Requirement to transfer water-related infrastructure once connected

As soon as practicable after any water-related infrastructure constructed by Kāinga Ora is connected to a system operated by a controlling authority, the ownership of that infrastructure must be transferred to the controlling authority in accordance with the provisions set out in Schedule 2.

164 Ongoing application of section 181(4) of Local Government Act 2002 to transferred water-related infrastructure

(1) Subsection (2) applies in relation to water-related infrastructure that Kāinga Ora constructs, in accordance with this subpart, on or under private land (or under a building on private land).

(2) Section 181(4) of the Local Government Act 2002 applies as if that infrastructure was work constructed under section 181 of that Act.

Nationally significant infrastructure

165 Duty of Kāinga Ora relating to works likely to affect nationally significant infrastructure

Before doing any work relating to a specified development project that will, or is likely to, affect nationally significant infrastructure, Kāinga Ora must consult the operator of that infrastructure and obtain its written consent.

Bylaw changes

166 Meaning of bylaw change

In this Act, **bylaw change** means any of the following:

(a) an amendment to a bylaw:

(b) the revocation of a bylaw:

(c) the making of a bylaw.

167 Power of Kāinga Ora to propose bylaw change

(1) Once the development plan for a specified development project becomes operative, Kāinga Ora may propose a bylaw change that relates to—

(a) roads, or junctions with roads, that are within the project area; or

(b) water-related infrastructure that is within the project area, or that connects to or services (or will connect to or service) water-related infrastructure within the project area.

(2) A bylaw change may be proposed only if—

(a) Kāinga Ora is satisfied that, in order to achieve the project objectives, it is reasonably necessary to make the bylaw change; and

(b) the bylaw change is able to be made under a specified enactment.

(3) *See also* section 180 (which relates to reviews).

168 Requirements before proposing bylaw change

(1) Before Kāinga Ora proposes a bylaw change, Kāinga Ora must—

(a) determine whether a bylaw change is the most appropriate way of addressing the perceived problem; and

(b) if Kāinga Ora determines that a bylaw change is the most appropriate way of addressing the perceived problem,—

(i) determine whether the proposed bylaw change is the most appropriate form of bylaw change; and

(ii) determine that the proposed bylaw change is not inconsistent with the New Zealand Bill of Rights Act 1990; and

(c) engage with the bylaw-making authority on the proposed bylaw change.

(2) The purposes of the engagement required by subsection (1)(c) are—

(a) to ensure that the bylaw-making authority is aware that a bylaw change may be proposed; and

(b) to inform the proposal and assist Kāinga Ora in determining whether it wishes to proceed with the proposal.

Compare: 2002 No 84 s 155

169 Kāinga Ora publicly notifies proposed bylaw change and invites views, etc

(1) After complying with section 168, Kāinga Ora must give public notice of a proposed bylaw change that it decides to proceed with.

(2) The public notice must include all of the following:

(a) as relevant,—

(i) a draft of the bylaw as proposed to be made or amended; or

(ii) a statement identifying the bylaw to be revoked; and

(b) the geographical boundaries of the area where the bylaw change is proposed to apply; and

(c) a description of when the bylaw change is proposed to come into effect and, if it will be temporary, when it will cease to apply; and

(d) the reasons for the bylaw change; and

(e) a statement of the determinations made by Kāinga Ora under section 168(1)(a) and (b); and

(f) a statement specifying the enactment under which the bylaw change is able to be made; and

(g) a statement of whether the bylaw change will be requested or required; and

(h) a description of how Kāinga Ora will provide persons interested in the bylaw change with an opportunity to present their views to Kāinga Ora; and

(i) a statement of the period within which views on the bylaw change may be provided to Kāinga Ora (which must be not less than 20 working days from the date of publication of the notice).

(3) Kāinga Ora must,—

(a) if the bylaw change will be made under section 22AB of the Land Transport Act 1998, consult with the people listed in section 22AD(2) of that Act; and

(b) notify any agency that has, or may have, an interest in the bylaw change (for example, network utility operators or regional councils) and invite their comment; and

(c) provide an opportunity for persons to present their views to Kāinga Ora in a manner that enables spoken (or New Zealand sign language) interaction between the person and Kāinga Ora, including by way of audio link or audiovisual link; and

(d) ensure that any person who wishes to present their views to Kāinga Ora—

(i) is given a reasonable opportunity to do so; and

(ii) is informed about how and when they may take up that opportunity.

(4) This section does not prevent Kāinga Ora from requesting or considering, before making a decision on the bylaw change, comment or advice from the bylaw-making authority or any other person in respect of the bylaw change or any comment or views on the bylaw change, or both.

170 Minor adjustments to proposed bylaw change

Kāinga Ora may adjust a proposed bylaw change that has been publicly notified without being required to comply with sections 168 and 169 in respect of the adjusted proposal, but only if Kāinga Ora is satisfied that the adjustment is technical or of minor effect.

171 Kāinga Ora may request or require bylaw change

(1) Kāinga Ora may, after considering comments and views received in accordance with section 169, by notice in writing—

(a) request the bylaw-making authority to make the bylaw change:

(b) in the circumstances described in section 174, require the bylaw-making authority to make the bylaw change.

(2) The notice must include all of the following:

(a) a draft of the bylaw to be made or amended, or a statement identifying the bylaw to be revoked; and

(b) the geographical boundaries of the area where the bylaw change will apply; and

(c) a description of when the bylaw change should come into effect and, if it will be temporary, when it should cease to apply; and

(d) a statement specifying the enactment under which the bylaw change is able to be made; and

(e) a statement as to whether the notice is a request or a requirement; and

(f) the date by which Kāinga Ora requests or requires that the bylaw change be made (which must be at least 20 working days after the date on which the notice is given).

172 Notice requesting bylaw change

If a bylaw-making authority receives a notice under section 171 requesting a bylaw change, it must, by the date specified in the notice,—

(a) make the requested change; or

(b) advise Kāinga Ora, in writing, that it will not make the requested change and of the reasons why.

173 Refusal to make requested change does not prevent future requests

A decision by a bylaw-making authority to not make a requested bylaw change does not prevent Kāinga Ora issuing another notice to the bylaw-making authority relating to the same proposed change.

174 Circumstances where Kāinga Ora may require bylaw change

The circumstances in which Kāinga Ora may require a bylaw change are where—

(a) Kāinga Ora has the roading powers in relation to roads within the relevant project area; and

(b) the bylaw change relates to the safe and effective operation of roads within or at the boundary of the project area; and

(c) the public notice of the bylaw change stated, as a reason for the bylaw change, that the proposal relates to the safe and effective operation of roads within or at the boundary of the project area.

175 Notice requiring bylaw change

(1) A bylaw-making authority who receives a notice under section 171 requiring a bylaw change must make the bylaw change by the date specified in the notice.

(2) Subsection (1) does not apply if the bylaw-making authority determines that the bylaw change cannot be made under the specified enactment (in which case the bylaw-making authority must instead notify Kāinga Ora of that determination by that date).

176 Bylaw-making authority must make bylaw changes required by development plan

If a project's development plan sets out a bylaw change to be made by a bylaw-making authority, the bylaw-making authority must make the bylaw change as soon as practicable after the plan becomes operative (or as otherwise provided for by the plan).

177 Requirements under other Acts satisfied for making of bylaw changes

(1) Subsection (2) applies, despite any other enactment, to a bylaw-making authority who is making or considering a bylaw change under this subpart.

(2) The bylaw-making authority is not required to—

(a) consult before making the change or (in the case of section 172) refusing to make it; or

(b) consider the views or preferences of people likely to be affected by, or interested in, the bylaw change.

(3) If a bylaw-making authority makes a bylaw change in accordance with this subpart, any process or consultation requirements that would have applied, under any other enactment, if the bylaw-making authority had initiated the bylaw change are treated as satisfied in respect of the bylaw change (for example, requirements under sections 78, 155(1) and (2), and 156 of the Local Government Act 2002 and section 22AD of the Land Transport Act 1998).

178 Bylaw-making authority must preserve bylaw changes made in accordance with this subpart

A bylaw-making authority must not do any of the following without the prior written consent of Kāinga Ora or as required by law:

(a) amend or revoke a bylaw change that was made in accordance with this subpart:

(b) make a bylaw that would have the effect of defeating a bylaw change made in accordance with this subpart.

179 Bylaw-making authorities must consult Kāinga Ora on certain proposals

On and from the establishment date for a specified development project, a bylaw-making authority must consult with Kāinga Ora on any proposed bylaw change that would affect roads or water-related infrastructure, or the construction of new roads or new water-related infrastructure, within or at the boundary of the project area.

180 Review of bylaws by Kāinga Ora and bylaw-making authorities

(1) This section applies in relation to bylaws made or amended in accordance with section 172, 175, or 176.

(2) To the extent the bylaw relates to the project area,—

(a) the bylaw-making authority is not required to review the bylaw; and

(b) Kāinga Ora may at any time review the bylaw, by—

(i) determining whether the bylaw or amendment remains reasonably necessary in order to achieve the project objectives; and

(ii) if so, making the determinations required by section 168(1)(a) and (b); and

(c) Kāinga Ora must review the bylaw as part of any review of the relevant development plan (*see* section 90).

(3) The powers and duties to review bylaws that the bylaw-making authority has under other enactments continue to apply to the bylaw-making authority, with any necessary modifications (and subject to section 178), to the extent that the bylaw does not relate to the project area.

(4) If, after or as part of a bylaw review, Kāinga Ora considers that the bylaw or amendment is no longer reasonably necessary in order to achieve the project objectives, Kāinga Ora must propose that the bylaw or amendment be revoked.

(5) This subpart and (if the bylaw or amendment forms part of the development plan or a review of the development plan) subpart 2 of Part 2 apply, with all necessary modifications, to a proposed bylaw change under subsection (4).

(6) Subsections (2) and (3) apply despite any other enactment.

Part 4
Funding of specified development projects

Subpart 1—Preliminary provisions

181 Purpose of this Part

(1) The purpose of this Part is to provide Kāinga Ora with—

(a) a range of powers to fairly, equitably, and proportionately fund development activities that are carried out to achieve project objectives; and

(b) the power to recover its actual and reasonable costs incurred in performing or exercising its functions, powers, or duties under subpart 2 of Part 3.

(2) The powers referred to in subsection (1)(a) are the powers to—

(a) set targeted rates (*see* subpart 2):

(b) require development contributions (*see* subpart 3):

(c) require betterment payments (*see* subpart 4):

(d) fix infrastructure and service charges (*see* subpart 5).

(3) The power referred to in subsection (1)(b) is the power to fix administrative charges (*see* subpart 5).

182 Interpretation for this Part

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

functions, in relation to the functions of Kāinga Ora or a relevant territorial authority under subpart 2, includes the duties and powers of Kāinga Ora or the authority under that subpart

land has the same meaning as in section 5 of the Local Government (Rating) Act 2002

local government rate means a rate set under the Local Government (Rating) Act 2002

public transport infrastructure means 1 or more of the following:

(a) bus ways and rail lines (including light rail):

(b) cycle ways, pedestrian ways, and shared-access ways:

(c) facilities for infrastructure described in paragraph (a) or (b)

ratepayer means a person described in section 10 of the Local Government (Rating) Act 2002

relevant, in relation to a policy that relates to a targeted rate or development contribution, means the policy set out in the development plan for the specified development project for which—

(a) the targeted rate is or may be set; or

(b) the development contribution is or may be required

service connection means a physical connection to a service provided by, or on behalf of, Kāinga Ora, a Crown entity subsidiary of Kāinga Ora, or another person undertaking the development

subpart, in relation to subpart 2 of this Part, includes the provisions of the Local Government (Rating) Act 2002 to the extent they are applied by that subpart to targeted rates

targeted rate means a rate set under section 189

targeted rates order means an Order in Council made under section 186.

(2) Unless the context otherwise requires, a term used in this Part has the same meaning as in section 5 of the Local Government (Rating) Act 2002 if the term—

(a) is defined in that section; and

(b) is not defined in this Part or in another provision of this Act that applies to this Part.

Subpart 2—Targeted rates

183 General modifications to Local Government (Rating) Act 2002 when applied

When a section in this subpart applies 1 or more provisions of the Local Government (Rating) Act 2002 to targeted rates under this Act, the specified provisions of that Act apply with all necessary modifications, including the following:

(a) a reference to a rate must be read as a reference to a targeted rate under this Act:

(b) a reference to a local authority must be read as a reference to a relevant territorial authority:

(c) any particular modifications specified in the section that applies the provisions of that Act.

184 What is rateable?

Land in a project area is rateable for targeted rates under this Act to the extent that it is rateable under sections 7 to 9 of the Local Government (Rating) Act 2002.

185 Who must pay rates?

(1) The ratepayer for a rating unit or separate rating area is liable to pay any targeted rates that are due on the rating unit or separate rating area.

(2) However, a person other than the ratepayer may become liable to pay the rates in the circumstances set out in section 61, 62, 62A, or 96 of the Local Government (Rating) Act 2002 (*see* sections 206 and 211).

Compare: 2002 No 6 s 12

Section 185(1): amended, on 1 July 2021, by section 85(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 185(2): amended, on 1 July 2021, by section 85(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

How are rates authorised?

186 Order in Council may authorise Kāinga Ora to set rates

(1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, authorise Kāinga Ora to set targeted rates for a project area.

(2) The Minister must not recommend the making of an order unless satisfied that—

(a) the specified development project has a development plan that provides for Kāinga Ora to set targeted rates; and

(b) the matters specified in the order in accordance with section 187 are not materially different from those in the development plan; and

(c) the order authorises targeted rates to fund activities or groups of activities only to the extent that they are not already funded by local government rates or another levy.

Examples

Example 1

A local authority has set a targeted rate to fund roading in a part of its district that is outside a project area.

The order may authorise Kāinga Ora to set a targeted rate to fund roading within the project area. That rate may apply to rating units within the project area regardless of whether they are also subject to the local authority's targeted rate.

Example 2

A portion of the general rate set by a local authority is used to fund a wastewater system that serves the authority's entire district.

A specified development project will upgrade the part of the system that serves the project area.

The order may authorise Kāinga Ora to set a targeted rate that is sufficient only to fund the upgrade. The general rate continues to fund the general maintenance and operation of the wastewater system in the project area.

(3) Despite subsection (2)(b), the Minister may recommend that a targeted rates order—

(a) specify a rate that is not provided for in the development plan if that is permitted by section 188:

(b) specify matters that are different from those in the development plan if that is needed to comply with subsection (2)(c) (for example, by specifying a lower maximum amount of revenue that may be recovered from a rate).

(4) In this section, **levy**—

(a) means a requirement imposed by or under an enactment on 1 or more persons, or classes of person, to pay money for the purpose of funding matters that are specified in or under an enactment; and

(b) does not include a requirement to pay a fee to fund the cost of providing a good or service to the person paying the fee.

187 Content of targeted rates order

A targeted rates order must specify—

(a) the project area to which the order applies; and

(b) the financial years to which the order applies; and

(c) for each targeted rate, the matters set out in section 63(1).

188 Rates required for unforeseen and urgent circumstances

(1) A targeted rates order may specify a targeted rate that is not provided for in a development plan if—

(a) the responsible Minister is satisfied that the rate is required to meet an unforeseen and urgent need for revenue that cannot reasonably be met by any other means, having regard to the manner in which Kāinga Ora has, in the development plan, allocated the costs of the activities or groups of activities to which the need for revenue relates; and

(b) the responsible Minister has had regard to the extent to which it will be reasonably practicable for each relevant territorial authority to carry out its functions under this subpart in relation to the rate; and

(c) Kāinga Ora has given at least 14 days' public notice of the proposed rate.

(2) A notice under subsection (1)(c) must include—

(a) the information in relation to the rate that would otherwise have been required to be included in the development plan; and

(b) a statement of the nature of the unforeseen and urgent need for revenue and the reasons why that need cannot reasonably be met by any other means, having regard to the manner in which Kāinga Ora has, in the development plan, allocated the costs of the activities or groups of activities to which the need for revenue relates.

Compare: 2002 No 6 s 23(3), (4)

How are rates set?

189 Procedure for setting rates

(1) Kāinga Ora may, by written resolution, set a targeted rate in accordance with the terms of a targeted rates order.

(2) Each rate must—

(a) relate to a financial year or part of a financial year; and

(b) be consistent with—

(i) the development plan for the specified development project; and

(ii) the project's annual budget for the financial year.

(3) However, subsection (2)(b) does not apply if the rate is set under a targeted rates order that is made in reliance on section 188.

(4) In setting each rate, Kāinga Ora—

(a) must seek the views of each relevant territorial authority on the costs that the authority is likely to incur in carrying out its functions under this subpart in relation to the rate; and

(b) may set the rate at an amount that Kāinga Ora considers will allow for each relevant territorial authority to recover those costs (*see* section 198).

Application of local government Acts to setting of targeted rates

(5) The following provisions apply for the purposes of setting a rate under subsection (1):

(a) sections 20 (rating units in common ownership), 20A (rating units of Māori freehold land used as a single unit), and 22 (defence land) of the Local Government (Rating) Act 2002:

(b) section 73 of the Local Government (Auckland Council) Act 2009 (rating of land and assets owned by Auckland water organisation).

(6) For the purposes of subsection (5)(a), section 22 of the Local Government (Rating) Act 2002 applies as if—

(a) a targeted rate set under this section were set under section 16 of that Act; and

(b) the project area were a district.

(7) For the purposes of subsection (5)(b), section 73 of the Local Government (Auckland Council) Act 2009 applies as if a targeted rate set under this section were set under section 16 of the Local Government (Rating) Act 2002.

Section 189(5)(a): replaced, on 1 July 2021, by section 86 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

190 Kāinga Ora may set rates again within same financial year

(1) Kāinga Ora may set a targeted rate under section 189 again in the financial year in which the rate was set if—

(a) Kāinga Ora determines that it is desirable to set the rate again because of—

(i) an irregularity in setting the rate; or

(ii) a mistake in calculating the rate; or

(iii) a relevant change in circumstances; and

(b) setting the rate again will not increase the amount of rates calculated for any rating unit or separate rating area; and

(c) Kāinga Ora has had regard to the extent to which it will be reasonably practicable, if the rate is set again, for each relevant territorial authority to carry out its functions under this subpart in relation to the rate.

(2) Kāinga Ora may set a rate again only if it has given 14 days' public notice of its intention to set the rate again.

(3) The notice must include a statement of the reason why Kāinga Ora has determined that it is desirable to set the rate again.

(4) If setting the rate again results in a change to the amount of rates to be calculated for any rating unit or separate rating area,—

(a) the relevant territorial authority must correct the rates record for the rating unit or separate rating area as soon as practicable; and

(b) section 41 of the Local Government (Rating) Act 2002 applies.

Compare: 2002 No 6 s 119

Section 190(1)(b): amended, on 1 July 2021, by section 87(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 190(4): amended, on 1 July 2021, by section 87(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 190(4)(a): amended, on 1 July 2021, by section 87(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

191 Procedural requirements for rates resolution

(1) A resolution under section 189 must be—

(a) notified in the *Gazette*; and

(b) published on the Kāinga Ora Internet site.

(2) A resolution is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

192 Due date or dates for payment

The date or dates for payment of targeted rates under this Act on a rating unit or separate rating area are the same as the date or dates for payment of the local government rates owed to the relevant territorial authority whose district includes that unit or area.

Section 192: amended, on 1 July 2021, by section 88(a) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 192: amended, on 1 July 2021, by section 88(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

How are rates spent?

193 How rates may be spent

(1) Kāinga Ora may spend the revenue it receives from a targeted rate only for the purpose of the activity or group of activities specified for the targeted rate in the targeted rates order.

(2) The spending authorised by subsection (1) includes using the revenue to do either or both of the following, in relation to the activity or group of activities:

(a) pay costs incurred by another person for the purpose of constructing works or providing goods or services, if Kāinga Ora is contractually liable to fund or reimburse those costs:

(b) meet either or both of the following financing costs of Kāinga Ora:

(i) the costs of meeting the commitments of Kāinga Ora under a loan or obligations under an incidental arrangement:

(ii) the costs of refinancing.

(3) In this section, **incidental arrangement** and **loan** have the same meanings as in section 112 of the Local Government Act 2002 (and those definitions apply as if Kāinga Ora were a local authority).

194 When excess rates are refunded to ratepayers

(1) This section applies if, at the end of the period for which a targeted rate is payable,—

(a) Kāinga Ora holds an amount of revenue from the rate that exceeds the costs incurred by Kāinga Ora, or a person referred to in section 193(2)(a), in relation to the activity or group of activities specified for the rate in the targeted rates order; or

(b) a relevant territorial authority holds an amount of revenue from the rate that it has retained in accordance with section 199.

(2) If subsection (1)(a) applies, Kāinga Ora must pay the excess revenue to the relevant territorial authority.

(3) The relevant territorial authority must—

(a) credit to the rates records of affected rating units or separate rating areas the excess revenue that the authority receives from Kāinga Ora or that it has retained; and

(b) in apportioning the excess revenue between each affected rating unit or separate rating area, apply the same method as was most recently used to assess ratepayers' liability for the targeted rate.

(4) However, the relevant territorial authority may retain an amount of the excess revenue to cover the reasonable costs of the authority incurred in complying with subsection (3).

Section 194(3)(a): amended, on 1 July 2021, by section 89(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 194(3)(b): amended, on 1 July 2021, by section 89(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Territorial authorities to collect rates for Kāinga Ora

195 Kāinga Ora to notify rates resolution to relevant territorial authority

(1) Kāinga Ora must provide written notice of a resolution under section 189 to each relevant territorial authority no later than—

(a) the 10 May that precedes the start of the financial year for which the targeted rates set by the resolution are payable; or

(b) a date agreed between Kāinga Ora and the relevant territorial authority.

(2) However, Kāinga Ora must provide written notice of the resolution to each relevant territorial authority as soon as is practicable after the resolution is made if—

(a) the rate is set under a targeted rates order that is made in reliance on section 188; or

(b) the rate is set in reliance on section 190.

196 Relevant territorial authority to collect rates

After receiving notice of a resolution in accordance with section 195, a relevant territorial authority must calculate, collect, and recover the targeted rates set by the resolution for its district in accordance with this subpart.

197 Relevant territorial authority to pay rates revenue to Kāinga Ora

(1) Each relevant territorial authority must pay to Kāinga Ora the revenue that it collects or recovers from a targeted rate under this Act.

(2) This section is subject to sections 198 and 199.

198 Relevant territorial authority may retain some rates revenue to cover costs

(1) A relevant territorial authority may, in accordance with this section, retain an amount of revenue that it collects or recovers from a targeted rate under this Act.

(2) The amount that the relevant territorial authority may retain is the amount needed to cover the actual and reasonable costs incurred by the authority in carrying out its functions under this subpart in relation to the rate.

(3) An amount of revenue that a relevant territorial authority retains under this section still counts towards the maximum amount of revenue that may be recovered from the rate (either generally or from a category of land) in a financial year.

199 Relevant territorial authority to retain and refund rates revenue if maximum is exceeded

A relevant territorial authority must—

(a) retain any amount of revenue from a targeted rate under this Act that it collects or recovers in excess of the maximum amount of revenue that may be recovered from the rate (either generally or from a category of land) in a financial year; and

(b) refund that amount in accordance with section 194.

Process for calculation, payment, and recovery of rates

200 Rates must be calculated in accordance with values and factors

(1) Targeted rates must be calculated in accordance with—

(a) a rating unit and the rateable values (as applicable to targeted rates under this Act) set out in the rating information database; or

(b) the factors (as applicable to targeted rates under this Act) relevant to a rating unit that are set out in the rating information database.

(2) For the purposes of subsection (1), the relevant rating unit, values, or factors are those that have been corrected as at the end of the financial year immediately before the financial year for which the rates are set.

(3) The rates are not affected by a change in the rateable value or factors of a rating unit during the financial year in which the rates are set.

(4) *See* section 212 (which relates to information that a relevant territorial authority must record in its rating information database).

Compare: 2002 No 6 s 43

201 Notice of rates assessment

(1) If a rating unit or separate rating area is subject to targeted rates under this Act, the relevant territorial authority must deliver a rates assessment to the ratepayer to give notice of the ratepayer's liability for the targeted rates on the rating unit or separate rating area.

(2) The authority may deliver the rates assessment for the targeted rates—

(a) by delivering it as a separate document; or

(b) by including it in a rates assessment for local government rates that is delivered under section 44 of the Local Government (Rating) Act 2002.

(3) A ratepayer is liable for the targeted rates on a rating unit or separate rating area when the relevant territorial authority delivers the rates assessment for the targeted rates to the ratepayer.

Section 201(1): amended, on 1 July 2021, by section 90 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 201(3): amended, on 1 July 2021, by section 90 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

202 Contents of rates assessment

(1) A rates assessment delivered in accordance with section 201 must clearly identify the following:

- (a) the amount of each targeted rate:
- (b) the activity or group of activities that will be funded from each rate:
- (c) if applicable, the relevant matters that are required to determine the category to which the rating unit or separate rating area belongs for the purposes of setting a targeted rate differentially:
- (d) information on the factors used to calculate the amount of the liability of a rating unit or separate rating area for each targeted rate:
- (e) a brief description of the criteria for rates relief under—
  - (i) the relevant rates remission policy and the relevant rates postponement policy; and
  - (ii) if there is one, the relevant policy on the remission and postponement of rates on Māori freehold land.

(2) If the rates assessment is delivered as a separate document,—

- (a) the assessment must also, in relation to the targeted rate, clearly identify the information described in section 45(1)(a) to (e), (j), (k), and (m) to (p) of the Local Government (Rating) Act 2002; and
- (b) section 45(2) to (4) of that Act applies to the assessment.

(3) If the rates assessment is included in a rates assessment for local government rates, the assessment may present a combined total of the ratepayer's liability for targeted rates under this Act and local government rates, but must also clearly set out the ratepayer's liability for each of those rates.

Section 202(1)(c): amended, on 1 July 2021, by section 91 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 202(1)(d): amended, on 1 July 2021, by section 91 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

203 Rates invoice

(1) If payment of targeted rates under this Act for a rating unit or separate rating area is due for a particular period, the relevant territorial authority must deliver to the ratepayer a rates invoice for the targeted rates on the rating unit or separate rating area for that period.

(2) The authority may deliver the invoice for the targeted rates—

- (a) by delivering it as a separate document; or

(b) by including it in an invoice for local government rates that is delivered under section 46 of the Local Government (Rating) Act 2002.

(3) The invoice for the targeted rates must clearly identify the amount of—

(a) targeted rates payable for the financial year for the rating unit or separate rating area; and

(b) targeted rates that have been paid to date for the financial year; and

(c) targeted rates payable on the current rates invoice; and

(d) any unpaid targeted rates owing from a previous financial year for the rating unit or separate rating area.

(4) If the invoice is delivered as a separate document,—

(a) the invoice must also, in relation to the targeted rate, clearly identify the information described in section 46(2)(a) to (c) and (g) to (i) of the Local Government (Rating) Act 2002; and

(b) section 46(3) of that Act applies to the assessment.

(5) If the invoice is included in an invoice for local government rates, the invoice may present a combined total of the ratepayer's liability for targeted rates under this Act and local government rates, but must also clearly set out the ratepayer's liability for each of those rates.

Section 203(1): amended, on 1 July 2021, by section 92(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 203(3)(a): amended, on 1 July 2021, by section 92(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 203(3)(d): amended, on 1 July 2021, by section 92(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

204 Penalties on unpaid rates

(1) If a relevant territorial authority authorises penalties to be added to unpaid local government rates, the authority may add the same penalties to any unpaid targeted rates under this Act that it is required to collect.

(2) Kāinga Ora and the relevant territorial authority may agree to the authority retaining a portion of the penalties collected on the unpaid targeted rates.

205 When Kāinga Ora may recover unpaid rates

(1) This section applies if—

(a) there is an amount of targeted rates under this Act that is unpaid for a rating unit or separate rating area; and

(b) the local government rates for the rating unit or separate rating area have been paid.

(2) The relevant territorial authority—

(a) may notify Kāinga Ora that the authority will not recover the unpaid targeted rate; and

(b) on notifying Kāinga Ora under paragraph (a), is not required to recover the unpaid targeted rate.

(3) On receiving the notice, Kāinga Ora may recover the unpaid targeted rate in accordance with the provisions of the Local Government (Rating) Act 2002 that are applied by—

(a) section 206(1)(i) to (n); or

(b) if the rating unit or separate rating area is Māori freehold land, section 211.

Section 205(1)(a): amended, on 1 July 2021, by section 93(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 205(1)(b): amended, on 1 July 2021, by section 93(2) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 205(3)(b): amended, on 1 July 2021, by section 93(1) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

206 Application of Local Government (Rating) Act 2002: calculation, payment, and recovery

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

Calculation and invoicing of rates

(a) section 47 (issue of amended rates invoice):

(b) section 48 (delivery of rates assessment and rates invoice):

(c) section 49 (late delivery of rates invoice):

(d) section 50 (rates invoice based on previous year's rates):

(e) section 51 (combined rates assessment and rates invoice):

Collection of rates

(f) section 52 (payment of rates):

(g) section 53 (one or more local authorities may appoint collector):

(h) section 54 (power not to collect small amounts):

Recovery of unpaid rates

(i) sections 59 and 60 (recovery of unpaid rates):

(j) sections 61 to 62A (recovery from persons other than owner):

(k) sections 63 to 66 (legal proceedings to recover rates):

(l) sections 67 to 76 (rating sales and leases):

(m) sections 77 to 83 (abandoned land):

(n) section 84 (Crown land held on lease or licence).

Section 50 of Local Government (Rating) Act 2002

(2) A relevant territorial authority may, under section 50 of that Act, deliver a rates invoice for targeted rates under this Act only if the authority is also delivering an invoice for local government rates for the same period.

(3) In applying section 50 of that Act, a reference to a resolution under section 23 of that Act must be read as a reference to a resolution under section 189 of this Act.

Policy under section 55 or 56 of Local Government (Rating) Act 2002

(4) A policy adopted by a responsible territorial authority under section 55 or 56 of that Act (policy for early payment of rates in current or for subsequent financial year) applies to targeted rates under this Act, with all necessary modifications, as if they were local government rates.

Section 75 of Local Government (Rating) Act 2002

(5) In applying section 75 of that Act, the reference to the district must be read as a reference to the project area.

Section 206(1)(j): amended, on 13 April 2021, by section 94 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Remission and postponement of rates

207 Remission of rates

(1) A relevant territorial authority must remit all or part of the targeted rates under this Act on a rating unit or separate rating area in its district if the authority is satisfied that the conditions and criteria in the relevant rates remission policy are met.

(2) The relevant territorial authority must give notice to an affected ratepayer identifying any remitted targeted rates.

(3) In this section, a reference to targeted rates includes any penalties on targeted rates.

Compare: 2002 No 6 s 85

Section 207(1): amended, on 1 July 2021, by section 95 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

208 Recording remitted rates

A relevant territorial authority must record targeted rates that are remitted under section 207—

(a) on the rates record for the rating unit or separate rating area as paid on the due date; and

(b) in accounting documents as paid by Kāinga Ora on behalf of the ratepayer in accordance with the relevant rates remission policy.

Compare: 2002 No 6 s 86

Section 208(a): amended, on 1 July 2021, by section 96 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

209 Postponement of requirement to pay rates

(1) A relevant territorial authority must postpone the requirement to pay all or part of the targeted rates under this Act on a rating unit or separate rating area in its district if—

(a) the ratepayer has applied in writing for a postponement; and

(b) the authority is satisfied that the conditions and criteria in the relevant rates postponement policy are met.

(2) The relevant territorial authority must give notice to an affected ratepayer—

(a) identifying any postponed targeted rates; and

(b) stating when, or in which circumstances, the rates will become payable.

(3) In this section, a reference to targeted rates includes any penalties on targeted rates.

Compare: 2002 No 6 s 87

Section 209(1): amended, on 1 July 2021, by section 97 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

210 Application of Local Government (Rating) Act 2002: postponed rates

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

(a) section 88 (postponement fee may be added to postponed rates):

(b) section 89 (recording postponed rates):

(c) section 90 (postponed rates may be registered as charge on rating unit).

(2) In applying the provisions listed in subsection (1), a reference to a local authority's rates postponement policy must be read as a reference to the relevant rates postponement policy.

Write-off of rates

Heading: inserted, on 1 July 2021, by section 98 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

210A When Kāinga Ora may write off targeted rates

(1) This section applies if—

(a) there is an amount of targeted rates under this Act that is unpaid for a rating unit or separate rating area; and

(b) the chief executive of the relevant territorial authority intends to write off rates in respect of that unit under section 90A or 90B of the Local Government (Rating) Act 2002.

(2) The relevant territorial authority must notify Kāinga Ora—

(a) that the chief executive will write off the rates; and

(b) whether the chief executive is doing so on an application under section 90A(2)(b) of the Local Government (Rating) Act 2002.

(3) On receiving the notice, Kāinga Ora may write off any unpaid targeted rates—

(a) that Kāinga Ora considers cannot reasonably be recovered; or

(b) to which section 90B(1)(a) and (b) of the Local Government (Rating) Act 2002 applies.

(4) Kāinga Ora must—

(a) notify a ratepayer of any write-off of the ratepayer's targeted rates under this section; and

(b) within 30 days of receiving a notice under subsection (2)(b) that the chief executive will write off rates on the application of a ratepayer under section 90A(2)(b), provide written reasons to the ratepayer for the decision to write off, or not to write off, the ratepayer's targeted rates.

Section 210A: inserted, on 1 July 2021, by section 98 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Rating of Māori freehold land

211 Application of Local Government (Rating) Act 2002: rating of Māori freehold land

Part 4 of Local Government (Rating) Act 2002

(1) Part 4 of the Local Government (Rating) Act 2002 applies to targeted rates under this Act.

(2) In applying Part 4 of that Act, a reference to a local authority's policy on the remission and postponement of rates on Māori freehold land must be read as a reference to the relevant policy on the remission and postponement of rates on Māori freehold land.

(2A) A relevant territorial authority may remit targeted rates under section 114A of the Local Government (Rating) Act 2002 only with the consent of Kāinga Ora.

Order exempting Māori freehold land from rates

(3) An Order in Council under section 116 of the Local Government (Rating) Act 2002—

(a) applies to land within a project area if the order is made—

(i) before the specified development project is established; or

(ii) with the consent of Kāinga Ora, if the order is made after the specified development project is established; and

(b) applies to targeted rates under this Act as if they were local government rates, unless the order expressly provides otherwise.

(4) In determining whether to consent to an order under subsection (3)(a)(ii), Kāinga Ora must consider—

(a) the relevant policy on the remission and postponement of rates on Māori freehold land; and

(b) the objectives set out in Schedule 11 of the Local Government Act 2002.

Section 211(2A): inserted, on 13 April 2021, by section 99 of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Rating information database and rates records

212 Rating information database to include information on targeted rates

A relevant territorial authority must record in its rating information database, in relation to each rating unit or separate rating area in its district that is subject to targeted rates under this Act, all information that relates to the rating unit or separate rating area that is required to—

(a) determine the category (if any) to which the rating unit or separate rating area belongs for the purposes of setting targeted rates in accordance with section 189; and

(b) calculate the amount of liability for targeted rates in accordance with section 200.

Section 212: amended, on 1 July 2021, by section 100(a) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 212: amended, on 1 July 2021, by section 100(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 212(a): amended, on 1 July 2021, by section 100(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

213 Rates records to include information on targeted rates

A relevant territorial authority must record in its rates record for a rating unit or separate rating area in its district the amount of the ratepayer's liability, in respect of the rating unit or separate rating area, for targeted rates under this Act.

Section 213: amended, on 1 July 2021, by section 101(a) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

Section 213: amended, on 1 July 2021, by section 101(b) of the Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12).

214 Kāinga Ora and relevant territorial authority to share rating information

(1) If land within a project area is subject to targeted rates under this Act, Kāinga Ora must provide each relevant territorial authority with—

(a) the information referred to in sections 190(4), 212, and 213; and

(b) any other information held by Kāinga Ora that the authority needs to comply with this subpart.

(2) Each relevant territorial authority must provide Kāinga Ora with the information contained in the authority's rating information database that Kāinga Ora needs to perform its functions under this subpart.

(3) Kāinga Ora may use the information only to perform those functions.

(4) A relevant territorial authority may not charge a fee for providing the information to Kāinga Ora (but the costs of carrying out the duty imposed by subsection (2) may be recovered by the authority in accordance with section 198).

215 Application of Local Government (Rating) Act 2002: rating information database and rates records

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

(a) sections 27 to 29 (other than section 28D) (rating information database):

(b) sections 30 to 36 (notification of change in circumstances):

(c) sections 37 to 42 (rates records).

Section 27 of Local Government (Rating) Act 2002

(2) In applying section 27 of that Act,—

(a) the reference to information in section 27(4)(b) of that Act must be read as including the information referred to in section 212 of this Act; and

(b) the reference to different categories in section 27(5)(a) of that Act must be read as including the categories referred to in section 212(a) of this Act; and

(c) the reference to policies in section 27(5)(c) of that Act must be read as including the relevant policies set out in the development plan.

Section 37 of Local Government (Rating) Act 2002

(3) In applying section 37(3) of that Act, the reference to section 27(4) of that Act must be read as a reference to section 212 of this Act.

Other matters

216 Kāinga Ora may assume functions of relevant territorial authority

Kāinga Ora may, by notice to a relevant territorial authority, assume any of the authority's functions under this subpart.

217 Relevant territorial authority may delegate to its chief executive, etc

(1) A relevant territorial authority may delegate its functions under this subpart to—

(a) its chief executive; or

(b) any other specified officer of the authority.

(2) A relevant territorial authority must not delegate the power to delegate.

Compare: 2002 No 6 s 132

218 Application of local government Acts: other matters

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

(a) section 134 (Judge, etc, not interested merely by being ratepayer):

(b) section 135 (evidence of certain matters).

(2) Section 115 (rates as security) of the Local Government Act 2002 applies to targeted rates under this Act with all necessary modifications.

Subpart 3—Development contributions

219 Principles for development contributions

Section 197AB of the Local Government Act 2002 (which sets out the principles relating to development contributions under that Act) applies to this subpart, with all necessary modifications, as if Kāinga Ora were a territorial authority.

220 Meaning of development

In this subpart, **development**—

(a) means any subdivision, building (within the meaning of section 8 of the Building Act 2004), land use, or work that generates a demand for reserves, infrastructure, or community facilities; but

(b) does not include—

(i) the pipes or lines of a network utility operator; or

(ii) nationally significant infrastructure.

Compare: 2002 No 84 s 197(1)

221 Kāinga Ora may require development contributions

(1) Kāinga Ora may require a development contribution from the person undertaking a development if—

(a) the development plan for the project authorises Kāinga Ora to require development contributions; and

(b) the effect of the development is to require new or additional assets or assets of increased capacity—

(i) in a project area; or

(ii) outside a project area if the assets directly benefit, or are required for, a development in the project area; and

(c) as a consequence, Kāinga Ora—

(i) incurs capital expenditure to provide appropriately for reserves, infrastructure, or community facilities; or

(ii) is liable to pay a development contribution to a relevant territorial authority.

(2) This section does not prevent Kāinga Ora from requiring a development contribution that is to be used to pay, in full or in part, for capital expenditure already incurred by Kāinga Ora in anticipation of the development.

(3) In subsection (1), **effect** includes the cumulative effects that a development may have in combination with other developments.

Compare: 2002 No 84 s 199

222 Determining amount of development contributions

Kāinga Ora must determine the amount of a development contribution in accordance with—

(a) the relevant development contributions policy; and

(b) the methodology for calculating development contributions set out in clause 1 of Schedule 13 of the Local Government Act 2002 (which applies, with all necessary modifications, as if Kāinga Ora were a territorial authority).

Compare: 2002 No 84 s 197(2)

223 Manner in which development contributions may be required

(1) Kāinga Ora may require a development contribution to be made to Kāinga Ora—

(a) on the date that a resource consent is granted under this Act or the Resource Management Act 1991 for a development within a project area; or

(b) on the date that a building consent is granted under the Building Act 2004 for building work situated within a project area; or

(c) on the date that an authorisation is granted for a service connection within a project area; or

(d) on the date or dates agreed in writing between Kāinga Ora and the developer.

(2) Kāinga Ora may require a development contribution only where it is consistent with the relevant development contributions policy in force at the time the application for a resource consent, building consent, or service connection was submitted.

(3) If the relevant development contributions policy provides for a development contribution under subsection (1)(b), Kāinga Ora may require that development contribution to be made when a certificate of acceptance is granted under section 98 of the Building Act 2004 if a development contribution would have

been required had a building consent been granted for the relevant building work.

(4) A relevant territorial authority or a building consent authority may, as appropriate and by agreement with Kāinga Ora, exercise the powers under subsections (1) and (3) on Kāinga Ora's behalf.

(5) Section 198(3) and (4) of the Local Government Act 2002 applies in relation to a requirement for a development contribution under subsection (1)(a) or (b).

Compare: 2002 No 84 s 198

224 Limits on power to require development contributions

(1) Kāinga Ora must not require a development contribution—

(a) to the extent that Kāinga Ora or a relevant territorial authority has imposed a condition on a resource consent in relation to the same development for the same purpose; or

(b) to the extent that another person has funded or provided, or undertaken to fund or provide, the reserve, infrastructure, or community facilities to which the contribution relates; or

(c) to the extent that a development contribution has been, or will be, paid to a relevant territorial authority by a person other than Kāinga Ora for the same purpose.

(2) Despite subsection (1), Kāinga Ora is not prevented from—

(a) accepting from a person, with the person's agreement, an additional contribution for a reserve, infrastructure, or community facilities; or

(b) requiring a development contribution where—

(i) income from any other source is being used, or will be used, to meet a proportion of the capital costs of a reserve, infrastructure, or community facilities for which the development contribution will be used; or

(ii) a person required to make the development contribution is also a ratepayer in a relevant territorial authority's district or has paid or will pay fees or charges in respect of a reserve, infrastructure, or community facilities; or

(iii) a further development contribution is required to be made for the same purpose if the further development contribution is required to reflect an increase in the scale or intensity of the development since a previous development contribution was required by either Kāinga Ora or a relevant territorial authority.

Compare: 2002 No 84 s 200(1)–(4)

Reconsiderations and objections

225 Right to reconsideration of requirement for development contributions

Grounds and process for reconsideration

(1) A person who is required by Kāinga Ora to make a development contribution may request that Kāinga Ora reconsider the requirement if the person has grounds to believe that—

(a) the development contribution was incorrectly calculated or assessed under the relevant development contributions policy; or

(b) Kāinga Ora incorrectly applied the relevant development contributions policy; or

(c) either or both of the following was incomplete or contained errors:

(i) the information used to assess the person's development against the relevant development contributions policy:

(ii) the way Kāinga Ora recorded or used the information when requiring the development contribution.

(2) A request for a reconsideration must be made to Kāinga Ora—

(a) in accordance with the relevant development contributions policy; and

(b) within 10 working days after the date on which the person received notice of the requirement.

(3) Kāinga Ora must reconsider the requirement in accordance with the relevant development contributions policy.

(4) A person may not request a reconsideration if the person has already lodged an objection under section 226.

Notifying outcome of reconsideration

(5) Kāinga Ora must notify the person who lodged the request of the outcome of its reconsideration no later than 15 working days after the request is lodged.

(6) The person may object to the outcome of the reconsideration in accordance with section 226.

Compare: 2002 No 84 ss 199A, 199B

226 Objection to development contributions

(1) A person required by Kāinga Ora to make a development contribution may, on any 1 or more of the specified grounds, object to the assessed amount of the development contribution.

(2) The specified grounds are as follows:

(a) that Kāinga Ora failed to properly take into account features of the objector's development that, on their own or cumulatively with those of other developments, would substantially reduce the impact of the devel-

opment on requirements for reserves, infrastructure, or community facilities in the project area or parts of the area:

(b) that Kāinga Ora required a development contribution for reserves, infrastructure, or community facilities not required by, or related to, the objector's development, whether on its own or cumulatively with other developments:

(c) that Kāinga Ora required a development contribution in breach of this Act (including those provisions of the Local Government Act 2002 applied by this Act):

(d) that Kāinga Ora incorrectly applied the relevant development contributions policy to the objector's development.

(3) A person has a right of objection under this section irrespective of whether they request a reconsideration under section 225.

Compare: 2002 No 84 ss 199C, 199D

227 Procedure for objection to development contributions

An objection to a development contribution must be lodged with Kāinga Ora in accordance with sections 199H to 199P and Schedule 13A of the Local Government Act 2002, which apply with all necessary modifications, including the following:

(a) a reference to a territorial authority must be read as a reference to Kāinga Ora (other than in section 199H(1) of that Act):

(b) a reference to a district must be read as a reference to a project area:

(c) a reference to a development contributions policy must be read as a reference to the relevant development contributions policy:

(d) a reference to section 150A of that Act must be read as a reference to section 228 of this Act:

(e) a reference to section 199B of that Act must be read as a reference to section 225(5) of this Act:

(f) a reference to section 199C of that Act must be read as a reference to section 226 of this Act:

(g) a reference to section 208 of that Act must be read as a reference to section 232 of this Act.

228 Costs of development contributions objections

(1) Kāinga Ora may recover from a person who lodges an objection its actual and reasonable costs incurred in respect of—

(a) the selection, engagement, and employment of the development contributions commissioners; and

(b) the secretarial and administrative support of the objection process; and

(c) preparing for, organising, and holding the hearing.

(2) Kāinga Ora may, in any particular case and in its absolute discretion, waive or remit the whole or any part of any costs that would otherwise be payable under this section.

(3) Money payable under this section is recoverable by Kāinga Ora as a debt.

Compare: 2002 No 84 ss 150A, 252

Use of development contributions

229 Use of development contributions by Kāinga Ora

(1) If a development contribution is required by Kāinga Ora under section 221(1)(c)(i), the contribution—

(a) must be used for, or towards, the capital expenditure on the reserves, infrastructure, or community facilities for which the contribution was required, which may also include the development of the reserves, infrastructure, or community facilities; but

(b) must not be used for the maintenance of the reserves, infrastructure, or community facilities.

(2) If a development contribution is required by Kāinga Ora under section 221(1)(c)(ii), the contribution must be used for, or towards, the payment of the development contribution for which it was required.

(3) Subsection (1) is subject to section 230.

Compare: 2002 No 84 s 204

230 Use of development contributions for reserves

(1) Kāinga Ora must use a development contribution required for reserves purposes for developing or purchasing land for reserves within or adjacent to the relevant project area, which may include any 1 or more of the following:

(a) the development of community facilities associated with the use of a reserve:

(b) the provision or improvement of community facilities at a school established or about to be established under subpart 6 of Part 3 of the Education and Training Act 2020, if—

(i) a licence has been granted under section 6A of the Education Lands Act 1949 in relation to the use or occupation of the community facilities; and

(ii) the Minister for Sport and Recreation has notified Kāinga Ora in writing that he or she is satisfied that the licence provides for the reasonable use of the community facilities by members of the public:

(c) the purchase of land that is, or will be, subject to a covenant under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:

(d) payment, on terms and conditions Kāinga Ora thinks fit, to—

(i) a local authority or public body in which land is vested to enlarge, enhance, or develop the land for public recreation purposes:

(ii) the administering body of a reserve held under the Reserves Act 1977 to enlarge, enhance, or develop the reserve:

(iii) the trustees or body corporate in whom is vested a Māori reservation to which section 340 of Te Ture Whenua Maori Act 1993 applies, to enhance the reservation for cultural or other purposes:

(iv) any person, to secure an appropriate interest in perpetuity in land for conservation purposes.

(2) This section is subject to section 231.

Compare: 2002 No 84 s 205

231 Alternative uses of development contributions for reserves

(1) This section applies if Kāinga Ora considers that, in a project area or areas adjacent to it,—

(a) there are adequate reserves; or

(b) it is impracticable to set apart, develop, or purchase land for reserves.

(2) Kāinga Ora may, if it considers it will benefit the residents in the project area, use a development contribution required for reserves purposes—

(a) to purchase or develop, for public recreation purposes, any land that is, or will be,—

(i) vested in, or controlled by, Kāinga Ora, a relevant territorial authority, or the Crown; or

(ii) developed in partnership with a relevant territorial authority or a third party:

(b) to make payments or advance money to a relevant territorial authority or a public body for public recreational purposes.

(3) Kāinga Ora may make a payment under subsection (2)(b) only—

(a) with the consent of the joint Ministers; and

(b) on the terms and conditions that the joint Ministers think fit.

Compare: 2002 No 84 s 206

Other matters

232 Consequences if development contributions unpaid

(1) Until a development contribution required by Kāinga Ora has been paid, Kāinga Ora may,—

(a) in the case of a development contribution required when a resource consent is granted,—

(i) withhold a certificate under section 224(c) of the Resource Management Act 1991; or

(ii) prevent the commencement of a resource consent under the Resource Management Act 1991; or

(b) in the case of a development contribution required when a building consent is granted, require that a code compliance certificate under section 95 of the Building Act 2004 be withheld; or

(c) in the case of a development contribution required in accordance with section 223(3), require that a certificate of acceptance under section 99 of the Building Act 2004 be withheld; or

(d) in the case of a development contribution required when an authorisation for a service connection is granted, withhold a service connection to the development.

(2) In any case where the development contribution is unpaid, Kāinga Ora may register the development contribution under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on the title of the land in respect of which the development contribution was required.

(3) A relevant territorial authority or a building consent authority may, as appropriate and by agreement with Kāinga Ora, exercise the powers under subsection (1) on Kāinga Ora's behalf.

(4) Section 99AA of the Building Act 2004 applies if a certificate of acceptance is withheld under subsection (1)(c).

Compare: 2002 No 84 s 208

233 Refund of development contributions if developments do not proceed

(1) Kāinga Ora must refund or return a development contribution paid or otherwise given to Kāinga Ora if—

(a) the relevant resource consent lapses or is surrendered; or

(b) the building consent lapses under section 52 of the Building Act 2004; or

(c) the development or building in respect of which the resource consent or building consent was granted does not proceed; or

(d) Kāinga Ora does not provide, or ensure the provision of, the reserve, infrastructure, or community facility for which the development contribution was required within 10 years after receiving the contribution.

(2) However, Kāinga Ora may retain a portion of the development contribution equivalent to the costs incurred by Kāinga Ora in relation to the development and its discontinuance.

Compare: 2002 No 84 s 209

234 Refund of development contributions if not used for reserves purposes

(1) If a development contribution has been required for reserves purposes, Kāinga Ora must—

(a) refund money received under the contribution, if the money is not applied for a purpose set out in section 230 or 231 within the period specified in the relevant development contributions policy (or within 10 years after Kāinga Ora receives the money, if no period is specified); or

(b) return land acquired under the contribution, if the land is not used for a purpose set out in section 230 or 231 within the period agreed between Kāinga Ora and the person who made the contribution (or within 10 years after Kāinga Ora acquires the land, if no agreement is made).

(2) However, Kāinga Ora may retain a portion of the development contribution equivalent to the costs incurred by Kāinga Ora in refunding the money or returning the land.

Compare: 2002 No 84 s 210

235 Development agreements

(1) Kāinga Ora may enter into a development agreement instead of, or in addition to, requiring a development contribution.

(2) The development agreement must include—

(a) a description of the land to which the agreement relates, including its legal description; and

(b) details of the reserves, infrastructure, or community facilities that each party will pay for or provide.

(3) The development agreement is a legally enforceable contract once it is signed by all parties who will be bound by the agreement.

(4) The development agreement must not require a person to—

(a) grant a resource consent; or

(b) issue a building consent under the Building Act 2004; or

(c) issue a code of compliance under the Building Act 2004; or

(d) grant a certificate under section 244 of the Resource Management Act 1991; or

(e) issue an authorisation for a service connection.

(5) A person may not refuse to grant or issue anything referred to in subsection (4) on the basis that a development agreement has not been entered into under this section.

(6) *See* section 224 (limits on power to require development contribution) if a development agreement is entered into in addition to requiring a development contribution.

236 Review of development contributions policy

(1) Kāinga Ora must review a development contributions policy at least once every 3 years after the development plan that contains the policy becomes operative under section 83(5).

(2) The review must use a consultation process that gives effect to the requirements of section 82 of the Local Government Act 2002 (which applies, with all necessary modifications, as if Kāinga Ora were a local authority).

(3) Section 90 does not apply to the review of a development contributions policy under this section.

237 Transfer of previous development contributions to Kāinga Ora

(1) This section applies if—

(a) a relevant territorial authority has received or is owed a development contribution under the Local Government Act 2002; and

(b) Kāinga Ora becomes responsible for capital expenditure on the asset for which the contribution was required.

(2) Despite section 204 of the Local Government Act 2002, the relevant territorial authority may transfer either or both of the following to Kāinga Ora:

(a) any amount of the development contribution that has been paid to the authority:

(b) the right to be paid any amount of the development contribution that is yet to be paid to the authority.

(3) Any amount of a development contribution that is transferred to Kāinga Ora, or that Kāinga Ora receives under a right to be paid, must be treated as if it were part of a development contribution that was required by Kāinga Ora under this subpart.

(4) For the purposes of subsection (3), this subpart applies, with all necessary modifications, as if the asset for which the development contribution was required were a reserve, infrastructure, or a community facility within the meaning of this Act.

(5) In this section, **asset** means a reserve, network infrastructure, or community infrastructure within the meaning of the Local Government Act 2002.

Subpart 4—Betterment payments

238 Betterment arising from forming or widening road

(1) Section 326 of the Local Government Act 1974 applies to the forming or widening of a road by Kāinga Ora in a project area.

(2) That section applies with all necessary modifications, including the following:

(a) a reference to the council must be read as a reference to Kāinga Ora:

(b) a reference to the district must be read as a reference to the project area:

(c) a reference to acquiring or taking land under the Public Works Act 1981 must be read as acquiring or taking land under section 256:

(d) a reference to an amount being payable or ascertained in accordance with the Public Works Act 1981 must be read as a reference to an amount being payable or ascertained in accordance with—

(i) section 259; and

(ii) subsection (3), if the payment is to be made in respect of Māori land:

(e) section 326(11) of that Act does not apply.

(3) If this subsection applies, the amount to be paid to Kāinga Ora must take into account the restrictions on alienating Māori land under Te Ture Whenua Maori Act 1993 and the effect they have on the market for Māori land.

239 Betterment arising from public transport infrastructure

(1) This section applies if—

(a) Kāinga Ora acquires or takes a part of any land under section 256 for the purposes of developing public transport infrastructure in a project area; and

(b) the part of the land that remains with the land owner will have access or frontage to the public transport infrastructure; and

(c) by reason of the development, the value of the remaining part of the land is increased by an amount that exceeds the amount of compensation payable for the acquisition or taking under section 259.

(2) Kāinga Ora may require the land owner to pay to it the amount of the excess in accordance with section 326(3) to (10) of the Local Government Act 1974, which applies with the following modifications:

(a) the reference in section 326(3) of that Act to subsection (1) or (2) must be read as a reference to this section:

(b) the modifications set out in section 238(2).

240 Betterment revenue must be used for roads or public transport infrastructure

Kāinga Ora must use any money received under section 238 or 239 for the purpose of acquiring land for, or developing, roads that are, or public transport infrastructure that is,—

(a) within the project area from which the revenue was received; or

(b) outside the project area, so long as the roads directly benefit, or the public transport infrastructure directly benefits, all or a part of the project area.

Subpart 5—Charges for infrastructure, services, and administration

Infrastructure and service charges

241 Kāinga Ora may fix infrastructure and service charges

(1) Kāinga Ora may, by public notice, fix a charge for a connection to infrastructure or for a service provided by Kāinga Ora if—

(a) the infrastructure or service is part of a specified development project; and

(b) the charge is prescribed in the project's development plan.

(2) A charge fixed under this section may only—

(a) apply to connections or services provided by Kāinga Ora to the extent that they are not funded by targeted rates or development contributions; and

(b) be payable by a person who—

(i) uses the connection or service; or

(ii) benefits directly from it; and

(c) recover the actual and reasonable costs incurred by Kāinga Ora in providing for the person's use of, or benefit from, the connection or service.

(3) A connection referred to in subsection (1)—

(a) includes a connection relating to three waters services; but

(b) excludes a connection relating to roads or public transport infrastructure.

Administrative charges

242 Kāinga Ora may fix administrative charges

(1) Kāinga Ora may, by public notice, fix an administrative charge for the purposes of a specified development project if the charge is prescribed in the project's development plan.

(2) Kāinga Ora may, to the extent authorised by the development plan, fix different charges—

(a) in relation to different areas or different classes of applicant, consent holder, or requiring authority; or

(b) where an activity undertaken by the persons liable to pay a charge reduces the cost to Kāinga Ora of exercising its powers or carrying out its functions or duties.

(3) Kāinga Ora may, in a particular case, impose an additional administrative charge to that fixed under this section if the fixed charge is inadequate for Kāinga Ora to recover its actual and reasonable costs.

243 Considerations when fixing or imposing administrative charges

(1) Kāinga Ora must have regard to the matters set out in this section when fixing or imposing an administrative charge.

(2) The sole purpose of a charge is to recover actual and reasonable costs incurred by Kāinga Ora in exercising or carrying out its functions, powers, or duties under subpart 2 of Part 3.

(3) A person should not be required to pay a charge except to the extent that 1 or more of the following apply:

(a) the person, as distinct from the community in the project area, obtains a benefit from the actions of Kāinga Ora to which the charge relates:

(b) the need for the actions of Kāinga Ora results from the actions of the person:

(c) if the charge is in respect of the monitoring functions of Kāinga Ora under section 109(2),—

(i) the monitoring relates to the likely effects on the environment of the person's activities; or

(ii) the likely benefit to the person of the monitoring exceeds the likely benefit of the monitoring to the community in the project area.

Compare: 1991 No 69 s 36AAA

244 Kinds of administrative charges

(1) Kāinga Ora may fix 1 or more of the following kinds of administrative charges:

(a) charges payable by the applicant for a resource consent for Kāinga Ora to carry out its functions in relation to receiving, processing, and granting the resource consent (including a certificate of compliance or existing use certificate):

(b) charges payable by a person who requests a private plan change, for Kāinga Ora to carry out its functions in relation to the request:

(c) charges payable by a requiring authority for Kāinga Ora to carry out its functions in relation to designations:

(d) charges, for the cost of a hearing and decision (or recommendation) by 1 or more hearings commissioners, payable by the person who requests the hearings commissioners if the person is—

(i) an applicant for a resource consent; or

(ii) a person who requests a private plan change; or

(iii) a requiring authority that gives notice of a requirement for a designation:

(e) charges payable, as follows, if a person referred to in paragraph (d)(i) to (iii) does not request hearings commissioners but 1 or more submitters on the matter do make that request:

(i) charges payable by the relevant person under paragraph (d)(i) to (iii) for the amount that Kāinga Ora estimates would be the cost of hearing and deciding (or making a recommendation on) the matter had the request not been made; and

(ii) charges payable by the submitters who made the request for equal shares of any amount by which the cost of hearing and deciding (or making a recommendation on) the matter exceeds the amount payable under subparagraph (i):

(f) charges payable by a holder of a resource consent for the carrying out by Kāinga Ora of its functions in relation to the administration, monitoring, and supervision of the resource consent (including a certificate of compliance or existing use certificate):

(g) charges payable by a holder of a resource consent for the carrying out by Kāinga Ora of its functions in relation to reviewing consent conditions if the review is carried out—

(i) at the request of the consent holder; or

(ii) under section 128(1)(a) or (c) of the Resource Management Act 1991; or

(iii) in accordance with section 128(2) of the Resource Management Act 1991:

(h) charges payable by a person who carries out a permitted activity in a project area, for the monitoring of the activity, if a local authority is empowered to charge for the monitoring in accordance with section 43A(8) of the Resource Management Act 1991:

(i) charges for providing information or documents, payable by the person requesting the information or documents:

(j) any kind of charge that—

(i) is authorised by regulations made for the purposes of section 36 of the Resource Management Act 1991 (*see* section 36(1)(g) of that Act); and

(ii) relates to functions, powers, or duties of a local authority that correspond with those of Kāinga Ora under subpart 2 of Part 3 of this Act.

(2) Kāinga Ora may also fix administrative charges to recover its costs in relation to any request to exchange recreation reserve land under section 15AA of the Reserves Act 1977 that is made jointly with—

(a) an application for a resource consent; or

(b) a request for a private plan change.

(3) In subsection (1), a reference to a requiring authority does not include Kāinga Ora.

Compare: 1991 No 69 s 36

All charges under this subpart

245 Application of sections 246 to 249

Sections 246 to 249 apply to—

(a) infrastructure and service charges; and

(b) administrative charges.

246 Waiver or remission of charges

Kāinga Ora may, in any particular case, exercise its discretion to waive or remit the whole or a part of any charge that would otherwise be payable.

Compare: 1991 No 69 s 36AAB(1)

247 No action until charges are paid

(1) If a charge is payable to Kāinga Ora, Kāinga Ora need not perform the action to which the charge relates until the charge has been paid to Kāinga Ora in full.

(2) However, subsection (1) does not apply to a charge of a kind described in section 244(1)(e)(ii) or (g)(iii) (which relates to hearings commissioners requested by submitters or reviews required by a court order).

Compare: 1991 No 69 s 36AAB(2), (3)

248 Publication of charges

Kāinga Ora must publish on its Internet site an up-to-date list of charges—

(a) that have been fixed under section 241 or 242; or

(b) adjusted under section 249.

Compare: 1991 No 69 s 36AAB(4)

249 Adjustment of charges

(1) The amount of a charge prescribed in a development plan may be adjusted only by way of—

(a) a formula set out in the development plan that takes account of cost movements and adjusts the charges accordingly; or

(b) a regular review, as prescribed in the development plan, when charges may be adjusted to reflect the changing costs of Kāinga Ora.

(2) If Kāinga Ora proposes to adjust the amount of a charge as a result of the review, it must—

(a) consult on the proposed adjustment in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002; and

(b) give public notice of the new amount as soon as practicable after the adjustment is made; and

(c) update the development plan to reflect the new amount.

(3) For the purposes of subsection (2)(a), the Local Government Act 2002 applies with all necessary modifications, including that—

(a) a reference to a local authority must be read as a reference to Kāinga Ora; and

(b) sections 82 to 87 (other than sections 82A and 86) of that Act apply; and

(c) for the purposes of section 87(3)(b) of that Act, Kāinga Ora must prepare an analysis of reasonably practicable options in accordance with section 77(1) of that Act.

(4) Section 90 does not apply to the review of charges referred to in subsection (1)(b).

(5) Section 91 does not apply to the updating of a development plan under subsection (2)(c).

Part 5
General land acquisition powers

Subpart 1—Preliminary provisions

250 Overview of this Part

(1) This Part gives special powers for the acquisition of land for specified works that Kāinga Ora initiates, facilitates, or undertakes. A specified work may be part of a specified development project, but that is not required.

(2) Section 252 defines the term specified work.

(3) Subpart 2 provides for the Minister for Land Information to, for the purposes of a specified work,—

(a) transfer a public work to Kāinga Ora:

(b) set apart Crown land or a part of the common marine and coastal area:

(c) transfer to Kāinga Ora former reserve land that has been set apart under section 138(1):

(d) acquire or take other land for Kāinga Ora using a modified version of the process under the Public Works Act 1981.

(4) Subpart 3 provides for land that is acquired by Kāinga Ora to be transferred to a developer undertaking the specified work.

(5) Subpart 4 provides for the disposal of land acquired by Kāinga Ora once the specified work is completed, the land is no longer required, or the land is required for another specified work or a public work.

(6) Subpart 5 sets out rules for the transfer or disposal of former Māori land on which a specified work is initiated, facilitated, or undertaken by Kāinga Ora. The subpart applies if the land is held by the Crown or a local authority for a public work, as well as if the land is held by Kāinga Ora for a specified work (*see* the definition of former Māori land in section 9).

251 Interpretation for this Part

In this Part, unless the context otherwise requires,—

acquired by Kāinga Ora, in relation to land, means land that is transferred to, or acquired or taken for, Kāinga Ora

Crown land has the same meaning as in section 2 of the Public Works Act 1981

development agreement means an agreement entered into under section 265(2)

housing—

(a) means 1 or more residences; and

(b) includes—

(i) a dwelling house:

(ii) a retirement village:

(iii) a facility that is intended to provide health or social care in a residential setting, including a rest home (within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001):

(iv) papakāinga:

(v) temporary accommodation in the nature of a night shelter, wet house, boarding house, hostel, or accommodation provided to persons on bail or parole:

(vi) any structure that is ancillary to housing

land has the same meaning as in section 2 of the Public Works Act 1981

local authority has the same meaning as in section 2 of the Public Works Act 1981

retirement village—

(a) means the part of any land or building that contains 2 or more residential units that provide, or are intended to provide, residential accommodation predominantly for persons in their retirement; and

(b) includes land or a building of the kind described in paragraph (a) regardless of whether the accommodation is also provided, or intended to be provided,—

(i) to the spouses or partners of persons in their retirement; or

(ii) together with health or other services or facilities

right of resumption means the right of resumption under section 266

specified work has the meaning set out in section 252

urban renewal, in relation to a work, means a work associated with the demolition, repair, replacement, reconfiguration, or repurposing of a work that is wholly or partly within an urban area.

252 Meaning of specified work

(1) In this Part, **specified work**—

(a) means a work for the purpose of urban development; and

(b) includes, to the extent the work is for the purpose of urban development,—

(i) a work for the purpose of 1 or more of the following:

(A) housing:

(B) urban renewal:

(C) a transport network (including an aviation and a maritime transport network):

(D) water, energy, or telecommunications infrastructure:

(E) a community facility:

(F) a facility for emergency services:

(G) a waste disposal or recycling facility:

(H) a reserve or other public space:

(I) a crematorium or cemetery (which, to avoid doubt, includes an urupā):

(ii) a work to avoid, remedy, or mitigate the effects of natural hazards or climate change:

(iii) the reinstatement elsewhere of a work located on land that is set apart, acquired, or taken under this Part:

(iv) any other work that is a public work within the meaning of section 2 of the Public Works Act 1981.

(2) However, a work that is to be used for a commercial or industrial purpose is a specified work only if 1 or more of the following apply:

(a) the work is a community facility:

(b) the work supports the development of housing:

(c) the work involves urban renewal.

Subpart 2—Transfer and acquisition of land

253 Kāinga Ora may request that Minister for Land Information transfer or acquire land

(1) Kāinga Ora may request that the Minister for Land Information do 1 or more of the following for the purpose of a specified work that is (or is to be) initiated, facilitated, or undertaken by Kāinga Ora:

(a) transfer an existing public work to Kāinga Ora (*see* section 254):

(b) set apart Crown land or a part of the common marine and coastal area (*see* section 255):

(c) transfer to Kāinga Ora former reserve land that has been set apart under section 138(1) (*see* section 257):

(d) acquire or take any other land for Kāinga Ora (*see* section 256).

(2) Before Kāinga Ora may make a request under subsection (1)(b), the responsible Minister must—

(a) consult the Minister for Treaty of Waitangi Negotiations, if the land is potentially needed for any future settlements of Treaty of Waitangi claims; and

(b) obtain the consent of the Minister of Transport or the Minister of Conservation (whichever is appropriate), if the request is to set apart a part of the common marine and coastal area.

(3) Kāinga Ora may make a request—

(a) under subsection (1) whether or not it intends to undertake the development itself or to transfer the land for the purposes of the development:

(b) under subsection (1)(a) whether or not the specified work is of the same kind as the existing public work.

(4) Subsection (2)(b) does not apply if a development plan provides for the setting apart.

(5) To avoid doubt, nothing in this subpart affects any other authority that enables Kāinga Ora or the Minister for Land Information to purchase, take, or otherwise acquire land for any purpose.

254 Existing public work

(1) The Minister for Land Information may, in accordance with the request under section 253(1)(a),—

(a) transfer an existing public work to Kāinga Ora; and

(b) transfer to, or acquire or take for, Kāinga Ora the land on which the public work is located.

(2) The Minister must,—

(a) if the land is owned by the Crown, transfer the land in accordance with section 257; or

(b) if the land is owned by a local authority, acquire or take the land in accordance with section 256.

(3) Land that is transferred, acquired, or taken under this section becomes held for a specified work (instead of a public work) and this Part applies accordingly.

(4) To avoid doubt, land may be transferred, acquired, or taken in accordance with this section despite sections 40 to 42 of the Public Works Act 1981.

255 Crown land and common marine and coastal area

(1) The Minister for Land Information may, in accordance with a request under section 253(1)(b), declare that—

(a) Crown land is set apart for a specified work:

(b) a part of the marine and coastal area is set apart for a specified work.

(2) The Minister must make the declaration by notice in the *Gazette*.

(3) If Crown land is set apart under this section, the Minister must transfer the land to Kāinga Ora in accordance with section 257.

256 Private and other land

(1) The Minister for Land Information may acquire or take land under this section for a specified work—

(a) in accordance with a request under section 253(1)(d); or

(b) if the Minister is required to acquire or take the land by section 254(2)(b).

(2) The acquisition or taking must be carried out in accordance with Part 2 of the Public Works Act 1981, which applies with all necessary modifications, including the following:

(a) that Part applies as if the specified work were a government work:

(b) section 21 of that Act applies as if Kāinga Ora were a notifying authority:

(c) section 23(1A) of that Act does not apply:

(d) section 26(3) of that Act applies, but—

(i) the land vests in fee simple in Kāinga Ora (rather than in the Crown); and

(ii) the following (if any) continue to apply:

(A) a heritage covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014:

(B) an open space covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977:

(C) a conservation interest:

(e) section 27 of that Act does not apply:

(f) under section 30 of that Act, the licence, permit, right, privilege, or authority vests in Kāinga Ora (rather than in the Crown):

(g) if the land is owned by a Crown agent, the Crown agent's right to object under Part 2 of that Act is limited as set out in section 258 of this Act.

(3) *See* section 17(3) (which provides that the Minister may not acquire protected land described in section 17(4) under this section except in accordance with section 17 of the Public Works Act 1981 (acquisition by agreement)).

Procedure in certain cases

257 Procedure for transfer of Crown-owned land

(1) This section applies if the Minister for Land Information—

(a) receives a request under section 253(1)(c); or

(b) is required to transfer land to Kāinga Ora by section 254(2)(a) or 255(3).

(2) The Minister for Land Information may transfer the land to Kāinga Ora—

(a) only in accordance with the terms and conditions, including the price (if any), agreed between—

(i) the Minister for Land Information; and

(ii) the joint Ministers; and

(iii) the Minister or Ministers who oversee, or are responsible for, the land; and

(b) if the Tāmaki Makaurau Protocol applies to the land, only after—

(i) the Crown has complied with the protocol; or

(ii) the Limited Partnership (within the meaning of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014) has waived its rights under the protocol.

(3) The Minister for Land Information must make the transfer by declaration under section 20 of the Public Works Act 1981, except that title to the land must be transferred to Kāinga Ora.

(4) In this section, **Tāmaki Makaurau Protocol** means the Department of Building and Housing Protocol set out in Part 7 of the Property Redress Schedule to the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed signed on 5 December 2012.

258 Crown agent's right of objection limited

(1) This section applies if land being acquired or taken under section 256 is owned by a Crown agent.

(2) The Crown agent may not object to the taking of the land to the Environment Court.

(3) Instead, the Crown agent may object to the Minister for Land Information and the Crown agent's responsible Minister.

(4) If an objection is received, the following Ministers must jointly determine whether the acquisition may proceed:

(a) the joint Ministers:

(b) the Minister for Land Information:

(c) the Crown agent's responsible Minister.

Compensation and other matters

259 Compensation may be claimed

(1) If land is acquired or taken under section 256, Parts 5 and 6 of the Public Works Act 1981 apply in relation to the acquisition or taking with all necessary modifications, including the following:

(a) those Parts apply as if the specified work were a government work:

(b) any reference to land acquired or taken under that Act includes land acquired or taken under section 256:

(c) section 61 of that Act does not apply:

(d) in section 72A(1)(b)(i) of that Act, the reference to the Minister includes Kāinga Ora:

(e) section 105(1)(c) of that Act applies as if Kāinga Ora were a notifying authority.

(2) For the purposes of section 83 of that Act, the Minister is the respondent.

(3) This section is subject to section 260.

260 Alternative compensation may be agreed

(1) Instead of receiving compensation under section 259, a person who is entitled to compensation under that section may receive compensation of any amount, and in any form, agreed in writing with Kāinga Ora.

(2) If a person agrees to receive compensation under this section, the person is not entitled to compensation under section 259.

(3) Kāinga Ora must advise the person of the effect of subsection (2) before entering into the agreement.

261 Crown may recover costs from Kāinga Ora

The actual and reasonable costs and expenses incurred by the Minister for Land Information in transferring, acquiring, or taking land in accordance with a request under section 253, including the cost of any compensation paid under section 259 or 260, are a debt due by Kāinga Ora to the Crown.

262 Registrar-General must note that land held for specified work

(1) Kāinga Ora must advise the Registrar-General of Land in writing of any transfer of land to, or vesting of land in, Kāinga Ora under this Part.

(2) On receiving the advice, the Registrar-General of Land must, on completion of any surveys that may be necessary,—

(a) issue a record of title for the land in the name of Kāinga Ora; and

(b) note on the record of title the specified work for which the land is held.

Compare: 1981 No 35 s 47

Subpart 3—Dealing with land acquired under this Part

Leases, easements, etc

263 Kāinga Ora may grant leases, easements, etc

(1) Kāinga Ora may do 1 or more of the following with land acquired by Kāinga Ora under this Part:

(a) grant a lease or tenancy of the land:

(b) grant a licence to occupy the land:

(c) grant to a person an easement in, through, over, or under the land.

(2) Kāinga Ora may grant the lease, tenancy, licence, or easement on the terms and conditions (including rent) that Kāinga Ora thinks fit.

(3) For an easement, those terms and conditions include, except where otherwise specifically agreed, the right to revoke the easement without compensation on 3 months' written notice.

(4) Kāinga Ora may at any time accept the surrender of a lease, a tenancy, a licence, or an easement that is granted under this section.

(5) Kāinga Ora may grant a lease, a tenancy, a licence, or an easement under this section in respect of, together with or separately from the surface of the land,—

(a) the whole or any portion of the air space above the land:

(b) the whole or any portion of the subsoil of the land.

(6) All rents and profits derived from land under this section must be paid into the bank account of Kāinga Ora.

Compare: 1981 No 35 ss 45, 48, 49

Transfer of land to developer

264 Kāinga Ora may transfer land to developer

(1) Kāinga Ora may transfer the ownership of the land acquired by Kāinga Ora under this Part to 1 or more developers so that they may undertake 1 or more specified works on the land.

(2) The transfer must be made in accordance with section 265.

265 Preconditions for transfer of land to developer

(1) This section sets out conditions that Kāinga Ora must meet before it may transfer land under section 264.

Development agreement

(2) Kāinga Ora must enter into a development agreement with the 1 or more transferees that includes—

- (a) a description of the land to which the agreement relates, including its legal description; and
- (b) a description of the 1 or more specified works to be developed; and
- (c) the date by which each specified work is to be completed; and
- (d) how compensation will be determined if the land is resumed under the Crown's right of resumption; and
- (e) whether the transferee is, or transferees are, to dispose of the land to Kāinga Ora or to another person (who need not be identified in the agreement) in accordance with section 273; and
- (f) if the land is to be disposed of to Kāinga Ora, when, or the circumstances in which, that is to occur; and
- (g) how disputes between the parties will be resolved.

(3) The development agreement is a legally enforceable contract once it is signed by all parties who will be bound by the agreement.

(4) The development agreement must not require a person to—

- (a) grant a resource consent; or
- (b) issue a building consent under the Building Act 2004; or
- (c) issue a code of compliance under the Building Act 2004; or
- (d) grant a certificate under section 224 of the Resource Management Act 1991; or
- (e) issue an authorisation for a service connection.

(5) A person may not refuse to grant or issue anything referred to in subsection (4) on the basis that a development agreement has not been entered into under this section.

Māori interests

(6) Kāinga Ora must—

(a) consult the Minister for Treaty of Waitangi Negotiations, if the land is potentially needed for any future settlements of Treaty of Waitangi claims; and

(b) comply with section 277, if the land is former Māori land; and

(c) to avoid doubt, comply with the right of first refusal and the right of second refusal (if any), if the land is RFR land.

Minister of Conservation's conditions

(7) If the land is subject to conditions approved by the Minister of Conservation under section 72(9)(a), Kāinga Ora must request and receive from the Minister written confirmation—

(a) that the transfer is permitted by the conditions; or

(b) that the conditions have been satisfied or are no longer necessary.

266 Right of resumption

(1) The Crown has the right to resume title to land transferred under section 264.

(2) The right of resumption must be exercised in accordance with sections 269 and 270.

(3) The right of resumption ceases to apply if the land is disposed of in accordance with the development agreement.

(4) The right of resumption overrides any provision that is included in a development agreement for the purposes of section 265(2)(e) or (f).

267 Registrar-General of Land must note right of resumption

(1) Kāinga Ora must advise the Registrar-General of Land in writing of the transfer of any land under section 264.

(2) The Registrar-General of Land must note the right of resumption on the record of title.

(3) The right of resumption has priority over any other interest registered on the title (for example, a mortgage).

268 Removal of notation recording right of resumption

(1) Kāinga Ora must request that the Registrar-General of Land remove the notation recording the right of resumption if the right of resumption ceases to apply under section 266(3).

(2) The Registrar-General of Land must remove the notation recording the right of resumption if requested to do so in accordance with this section.

(3) A request under this section must be in writing.

269 When right of resumption may be exercised

(1) The Minister for Land Information—

(a) may exercise the right of resumption if Kāinga Ora considers it is reasonably necessary to enable 1 or more specified works to be completed; and

(b) must exercise the right of resumption if the Minister receives a recommendation under section 274(4).

(2) This section does not limit the ability of Kāinga Ora under section 253 to request that the land be acquired or taken for a specified work.

270 How right of resumption is exercised

(1) The Minister for Land Information must exercise the right of resumption in accordance with Part 2 of the Public Works Act 1981, which applies with all necessary modifications, including the following:

(a) section 18 of that Act does not apply:

(b) section 23(3) of that Act does not apply:

(c) section 26(3) of that Act applies, but—

(i) the land vests in fee simple in Kāinga Ora (rather than in the Crown); and

(ii) the following (if any) continue to apply:

(A) a heritage covenant under section 39 of the Heritage New Zealand Pouhere Taonga Act 2014:

(B) an open space covenant under section 22 of the Queen Elizabeth the Second National Trust Act 1977:

(C) a conservation interest:

(d) under section 30 of that Act, the licence, permit, right, privilege, or authority vests in Kāinga Ora (rather than the Crown).

(2) This section does not limit the Minister's power under Part 2 of the Public Works Act 1981 to acquire or take the land for a government work.

Subpart 4—Disposal and setting apart of land acquired under this Part

271 Restrictions on disposal of land under this subpart: Māori interests

(1) This section applies to the disposal under sections 273 to 275 of land that has been acquired by Kāinga Ora under this Part.

(2) If the land is potentially needed for any future settlements of Treaty of Waitangi claims, Kāinga Ora must consult the Minister for Treaty of Waitangi Negotiations before the land is disposed of—

(a) under section 273, if the land is to be disposed of by Kāinga Ora; or

(b) under section 274, if the land is to be disposed of in accordance with section 42 of the Public Works Act 1981; or

(c) under section 275, if the land is to be disposed of to a local authority.

(3) If the land is former Māori land, it may be disposed of only in accordance with section 277.

(4) To avoid doubt, if the land is RFR land, it may be disposed of only in accordance with the right of first refusal and the right of second refusal (if any).

272 Restrictions on disposal or setting apart of land under this subpart: conservation matters

(1) This section applies if land that has been acquired by Kāinga Ora under this Part is subject to conditions included in a development plan by the Minister of Conservation under section 72(9)(a).

(2) The land may be disposed of or set apart under this subpart only if—

(a) Kāinga Ora has requested and received written confirmation from the Minister of Conservation that the conditions have been satisfied or are no longer necessary; and

(b) in a case where the land is to be disposed of or set apart—

(i) under section 274, the chief executive under the Public Works Act 1981 is satisfied that the Minister of Conservation has given that confirmation; or

(ii) under section 275 or 276, the Minister for Land Information is satisfied that the Minister of Conservation has given that confirmation.

273 Disposal of land if certain specified work completed

(1) This section applies if the only works completed on land acquired by Kāinga Ora under this Part are 1 or more of the specified works described in the following provisions:

(a) section 252(1)(b)(i)(A) (housing):

(b) section 252(1)(b)(i)(B) (urban renewal):

(c) section 252(1)(b)(iii) (reinstatement of a work):

(d) section 252(2) (a work with a commercial or industrial purpose).

(2) Kāinga Ora or any transferee under section 264 may dispose of the land without complying with section 274.

(3) For the purposes of this section, a specified work is **completed** when the work is completed—

(a) in accordance with the development agreement, if the land is owned by a transferee under section 264; or

(b) otherwise to the satisfaction of Kāinga Ora, if—

(i) the land is owned by Kāinga Ora; or

(ii) the land is owned by a transferee under section 264 and the work has not been completed in accordance with the development agreement.

274 Disposal of land no longer required for specified work

(1) This section applies to land acquired by Kāinga Ora under this Part if the land—

(a) is no longer required for a specified work; and

(b) is not subject to section 273 or 275.

(2) If the land is owned by Kāinga Ora, the chief executive under the Public Works Act 1981 must, at the request of Kāinga Ora, dispose of the land in accordance with sections 40 and 42 of that Act.

(3) For the purposes of subsection (2), the Public Works Act 1981 applies with all necessary modifications, including that—

(a) the land must be treated as if it were owned by the Crown and held for a public work; and

(b) a disposal under section 42 of that Act is subject to the consultation (if any) required by section 271(2)(b) of this Act.

(4) If the land is owned by a transferee under section 264,—

(a) Kāinga Ora must recommend that the Minister for Land Information exercise the right of resumption; and

(b) once the land is acquired by Kāinga Ora, it must be disposed of in accordance with subsection (2).

(5) In this section, **no longer required for a specified work** means,—

(a) if the land is owned by Kāinga Ora, that Kāinga Ora has determined that it is no longer required for a specified work; or

(b) if the land has been transferred under section 264,—

(i) the landowner has advised Kāinga Ora that they no longer intend to complete the specified work agreed in the development agreement; or

(ii) the landowner has completed something other than the specified work agreed in the development agreement.

275 Disposal of land for public work

(1) This section applies to land that has been acquired by Kāinga Ora under this Part and is currently held by Kāinga Ora.

(2) The land (and any specified work on the land) may be disposed of to the Crown or a local authority for a public work in accordance with section 50 of the Public Works Act 1981.

(3) For the purposes of subsection (2), that Act applies, with all necessary modifications, as if a specified work were a public work and Kāinga Ora were a local authority.

276 Setting apart of land for different specified work

(1) This section applies to land that has been acquired by Kāinga Ora under this Part and is currently held by Kāinga Ora.

(2) The Minister for Land Information may declare the land to be set apart for another specified work that is initiated, facilitated, or undertaken by Kāinga Ora.

(3) The Minister must make the declaration in accordance with section 52 of the Public Works Act 1981 (which applies, with all necessary modifications, as if a specified work were a government work).

(4) No consent referred to in section 52(2) or (3) of that Act is required if a development plan provides for the setting apart.

Subpart 5—Transfer or disposal of former Māori land

277 Rules for transferring or disposing of former Māori land

(1) Former Māori land on which a specified work is initiated, facilitated, or undertaken by Kāinga Ora may be transferred or disposed of—

(a) only to Kāinga Ora, the Crown, or a local authority in accordance with this Act or the Public Works Act 1981; or

(b) to another person, but only if the land has first been offered back to its former owners in accordance with section 278.

(2) The offer under subsection (1)(b) must be made by—

(a) the chief executive under the Public Works Act 1981, if the land is owned by Kāinga Ora or the Crown; or

(b) the local authority, if the land is owned by a local authority.

(3) The chief executive under the Public Works Act 1981 must make the offer at the request of Kāinga Ora if the land is owned by Kāinga Ora.

(4) The land does not need to be offered to its former owners under subsection (1)(b) if the land has already been offered to them under section 18(2)(b).

(5) To avoid doubt, if the land is also RFR land,—

(a) an offer must be made under subsection (1)(b) before the land is offered to the holder of the right of first refusal or the right of second refusal (if any); and

(b) the landowner may transfer or dispose of the land in any other way only after complying with the right of first refusal and the right of second refusal (if any).

278 Offer back of former Māori land

(1) This section applies to the offer back of former Māori land under section 18(2)(b) or 277(1)(b).

(2) The chief executive under the Public Works Act 1981 or the local authority that is required to make the offer must,—

(a) in accordance with section 40(2)(c) and (d) of the Public Works Act 1981, offer to sell the land by private contract to the person from whom it was acquired or to the successor of that person; or

(b) in accordance with section 41(1)(e) of that Act, apply to the Māori Land Court for the district in which the land is situated for an order under section 134 of Te Ture Whenua Maori Act 1993.

(3) For the purposes of subsection (2),—

(a) section 40(2A), (3), and (5) of the Public Works Act 1981 applies with all necessary modifications; and

(b) sections 40(1), (2)(a) and (b), and (4), and 41(1)(a) to (d) of that Act do not apply.

Part 6
Powers of entry, governance, and delegation

Subpart 1—Powers of entry

279 Meaning of authorised person

In this subpart, **authorised person**—

(a) means a person appointed under section 284; and

(b) to avoid doubt, does not include an authorised person who is acting in another capacity (for example, as an enforcement officer appointed under section 109(3)).

280 Power to enter land and buildings

(1) An authorised person may enter any land or building for any purpose connected with 1 or more of the following:

(a) the assessment of a potential specified development project under subpart 1 of Part 2:

(b) the preparation, change, or review of a draft development plan under subpart 2 of Part 2:

(c) the exercise of—

(i) roading powers that Kāinga Ora has and that provide for a power of entry:

(ii) water-related infrastructure powers that Kāinga Ora has:

(d) the assessment of land for acquisition under Part 5.

(2) In exercising the power under subsection (1), an authorised person may—

(a) carry out surveys, investigations, tests, or measurements; and

(b) take samples of any water, air, soil, or vegetation; and

(c) enter the land or building with—

(i) any person who is reasonably required for the purpose for which the entry is made; and

(ii) any vehicle, appliance, machinery, or other equipment that is reasonably required for that purpose.

(3) In this section, **acquisition** includes transfer, setting apart, and taking.

281 Limits on powers of entry: timing and excluded properties

The powers of entry that an authorised person has under this subpart—

(a) may be used only to enter land or a building at reasonable times during ordinary business hours; and

(b) must not be used to enter a dwelling house, marae, or building associated with a marae.

282 Notice of entry

(1) Before entering land or a building under this subpart, Kāinga Ora must give at least 10 working days' written notice of the proposed entry to the owner and the occupier of the land or building.

(2) The notice must state—

(a) that the entry is authorised under this subpart; and

(b) the reason for the entry; and

(c) how, when, and by whom the entry is proposed to be made.

(3) The owner or occupier may apply to the District Court for an order under subsection (4) if the owner or occupier—

(a) applies within 10 working days after receiving the notice; and

(b) before making the application, gives notice to Kāinga Ora of their intention to do so.

(4) If it appears to the court that the proposed entry is unreasonable or unnecessary, the court may order that the proposed entry—

(a) must not be undertaken or must not be undertaken in the manner proposed; or

(b) may be undertaken, but only in compliance with any conditions that the court thinks fit.

283 Other requirements when exercising power of entry

(1) An authorised person who is exercising a power of entry under this subpart must carry and produce when asked to do so by the owner or occupier of the land or building—

(a) evidence of their authorisation to enter the land or building; and

(b) evidence of their identity.

(2) If land or a building is unoccupied when an authorised person enters it under a power of entry, the authorised person must attach, in a prominent place, a written notice advising of—

(a) the date and time of the entry; and

(b) the reason for the entry; and

(c) the authorised person's name and phone number; and

(d) an address at which inquiries may be made.

(3) Every person accompanying an authorised person exercising a power of entry is subject to the control of the authorised person.

284 Appointment of authorised persons

(1) Kāinga Ora may, by notice in writing, appoint any of the following persons as authorised persons to exercise 1 or more of the powers of entry under this subpart:

(a) an individual who is—

(i) a Kāinga Ora employee or working for Kāinga Ora as a contractor or secondee; or

(ii) an employee of, or working as a contractor or secondee for, a wholly-owned Crown entity subsidiary of Kāinga Ora:

(b) any other person who Kāinga Ora is satisfied—

(i) is suitably qualified and trained to exercise the powers of entry for which they are appointed; or

(ii) belongs to a class of persons who Kāinga Ora is satisfied is suitably qualified and trained to exercise the powers of entry for which they are appointed.

(2) An authorised person's powers of entry are subject to any conditions or limitations set out in their notice of authorisation.

285 Offence to obstruct authorised person

(1) A person commits an offence if they intentionally obstruct or impede an authorised person, or a person assisting an authorised person, in the exercise of a power under section 280.

(2) The person is liable on conviction to a fine not exceeding $1,500.

Subpart 2—Project governance

286 Meaning of committee

In this subpart, **committee** has the same meaning as in section 10(1) of the Crown Entities Act 2004.

287 Application of sections 288 and 289

Sections 288 and 289 apply as required in relation to the following types of urban development projects:

(a) projects that are being assessed as potential specified development projects:

(b) specified development projects:

(c) other urban development projects, if they are undertaken by Kāinga Ora.

288 Factors relevant to decisions on governance of urban development projects

(1) When Kāinga Ora is considering the governance arrangements for an urban development project, it must have regard to—

(a) the desirability of collaboration and effective partnerships with communities, relevant territorial authorities, and Māori; and

(b) the capability needed to effectively govern the project; and

(c) the capability needed to engage with and understand the perspectives of Māori in the area where the project is being, or is proposed to be, carried out.

(2) Kāinga Ora may also have regard to any other factors that it considers are relevant.

289 Types of project governance bodies

(1) The project governance body for an urban development project may be Kāinga Ora, or may be an entity of any type (regardless of whether Kāinga Ora has an interest in that entity) including—

(a) a Crown entity subsidiary of Kāinga Ora; or

(b) a committee appointed by the board of Kāinga Ora; or

(c) a company, partnership, joint venture, or trust.

(2) If the establishment order for a specified development project identifies a project governance body by type of entity, Kāinga Ora must appoint for that project a project governance body that is consistent with that type.

Specified development projects: certain types of project governance bodies

290 Supporting territorial authorities

(1) Subsection (2) applies if, in relation to a specified development project,—

(a) the project governance body is, or will be,—

(i) a wholly-owned Crown entity subsidiary of Kāinga Ora; or

(ii) a committee appointed by the board of Kāinga Ora; and

(b) there are 1 or more supporting territorial authorities.

(2) Every supporting territorial authority is entitled to have, at all times, 1 person whom the supporting territorial authority has nominated holding an appointment as a governing officer of the project governance body.

(3) Subsection (2) does not require, or permit, Kāinga Ora or its board to appoint any person as a governing officer of a project governance body unless Kāinga Ora or its board, as relevant, is satisfied that—

(a) the person is suitable for the appointment; and

(b) the appointment can be validly made.

(4) Subsection (5) applies in relation to a supporting territorial authority at any time when there is only 1 person whom the supporting territorial authority nominated who holds an appointment as a governing officer of a project governance body described in subsection (1).

(5) Despite subsection (2), Kāinga Ora or its board (as relevant) may, after consulting the supporting territorial authority, remove the person—

(a) for just cause; and

(b) with as little formality and technicality, and as much expedition, as is permitted by—

(i) the principles of natural justice; and

(ii) a proper consideration of the matter.

(6) A supporting territorial authority may agree to waive its entitlement under subsection (2) (for example, for a period of time) and, if so, subsection (2) applies subject to that agreement.

(7) In this section,—

governing officer,—

(a) if the project governance body is, or will be, a wholly-owned Crown entity subsidiary of Kāinga Ora, means a director of the board of that subsidiary:

(b) if the project governance body is, or will be, a committee appointed by the board of Kāinga Ora, means a member of that committee

just cause includes misconduct, inability to perform the functions of office, neglect of duty, and breach of duty (depending on the seriousness of the breach)

supporting territorial authority, in relation to a specified development project, means a relevant territorial authority that, before the project's establishment date, responded in writing to Kāinga Ora to support the recommendation of Kāinga Ora to establish the project as a specified development project.

Compare: 2004 No 115 ss 40, 41

Administrative

291 Kāinga Ora must publish appointments of project governance bodies

(1) Kāinga Ora must publish on its Internet site—

(a) details of appointments of project governance bodies; and

(b) for each project governance body, a copy of any written notice of delegation to that body.

(2) Kāinga Ora must also publish on its Internet site details of the appointment of any person as a director, member, or other governing officer of a project governance body.

(3) For specified development projects, the information that this section requires to be published must be published alongside the information published for the project under section 50.

(4) In this section, **delegation**—

(a) means a delegation of functions or powers of Kāinga Ora or its board; and

(b) includes any power of subdelegation.

292 Provision applying if period where no project governance body appointed for specified development project

Despite anything to the contrary in this Act, if at any time there is no project governance body appointed for a specified development project, Kāinga Ora is the project governance body.

Subpart 3—Delegations

293 Kāinga Ora must have policy on delegating functions and powers

Kāinga Ora must have a policy that is designed to assist Kāinga Ora—

(a) to consider, in the course of performing its functions and exercising its powers to undertake urban development projects, whether it could most

efficiently and effectively do that by means of its own operations, or by delegating to appropriate persons; and

(b) to monitor, at appropriate times, decisions it has made on matters covered by the policy.

294 Duty of Kāinga Ora relating to delegated functions and powers

(1) This section applies in relation to any delegation, by or authorised by the board of Kāinga Ora, of 1 or more of the functions or powers of Kāinga Ora under this Act.

(2) Kāinga Ora must ensure that the person who is delegated the function or power has the capability and capacity, as relevant,—

(a) to act in accordance with subpart 1 of Part 1; and

(b) to understand and apply Te Ture Whenua Maori Act 1993; and

(c) to engage with Māori and understand perspectives of Māori.

295 Functions and powers that may not be delegated outside Kāinga Ora

(1) Subsection (2) lists functions and powers of Kāinga Ora that its board may delegate only to the following person or persons:

(a) a member or members:

(b) the chief executive or any other employee or employees, or office holder or holders, of Kāinga Ora:

(c) a committee appointed by the board of Kāinga Ora:

(d) any class of persons comprising any of the persons listed in paragraphs (a) to (c):

(e) a Crown entity subsidiary of Kāinga Ora.

(2) The functions and powers are—

(a) any functions and powers in Part 5:

(b) the powers in Part 4 to set a targeted rate.

(3) This section applies despite section 73(1)(d) of the Crown Entities Act 2004.

296 Development plan for specified development project may approve delegations

(1) This section applies if the development plan for a specified development project identifies a proposed delegation, to a specified person, of specified functions and powers relating to the project.

(2) In respect of the proposed delegation to the person, the development plan satisfies the requirement for approval by the responsible Minister for Kāinga Ora under section 73(1)(d) of the Crown Entities Act 2004.

(3) This section does not limit section 295.

297 Certain delegations subject to relevant territorial authority approval

(1) This section applies if, in relation to a specified development project, the board of Kāinga Ora delegates any of its functions and powers to—

(a) a local authority; or

(b) in Auckland, Auckland Transport.

(2) In addition to the approval required under section 73(1)(d) of the Crown Entities Act 2004, the delegate must first be approved by the relevant territorial authority.

Subpart 4—Amendments

298 Section 117 of this Act amended

(1) This section amends this Act.

(2) In section 117, replace "91C" with "91F".

299 Amendments to Kāinga Ora–Homes and Communities Act 2019

(1) This section amends the Kāinga Ora–Homes and Communities Act 2019.

(2) In section 10(1), replace "not fewer than 6, and not more than 8, members" with "not fewer than 8, and not more than 10, members".

(3) In Schedule 1, after clause 3(2), insert:

(2A) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), the Corporation and Kāinga Ora–Homes and Communities are treated as the same person.

300 Amendments to other Acts

Amend the enactments specified in Schedule 4 as set out in that schedule.

Schedule 1
Transitional, savings, and related provisions

s 12

Part 1
Provision relating to this Act as enacted

Restrictions on development of former Māori land and RFR land

1 Sections 18 and 19 do not apply to existing urban development projects

(1) Sections 18 and 19 do not apply to an urban development project if, before those sections commence, any of the following has been done for the purposes of the project:

(a) a development agreement or construction contract has been entered into:

(b) an application for a resource consent or a building consent has been made.

(2) In this clause,—

construction contract has the same meaning as in section 5 of the Construction Contracts Act 2002

development agreement means a contract made between Kāinga Ora and 1 or more developers for the provision, supply, or exchange of infrastructure, land, or money to provide reserves, infrastructure, community facilities, or specified works.

Schedule 2
Transfer and disestablishment

ss 9, 47(3), 54, 163

Contents

Page

Preliminary provisions

1 Application 167
2 Interpretation 167

Transfer

3 Transfer by agreement 168

Transfer order

4 Transfer by transfer order 168

Disestablishment

5 Disestablishment by expiry of time limit 169
6 Disestablishment proposal 169
7 Governor-General may make disestablishment order 170
8 Contents of disestablishment order 170
9 Effect of disestablishment order 171
10 Arrangements following disestablishment of specified development project 171

Preliminary provisions

1 Application

This schedule applies to a specified development project—

(a) if Kāinga Ora considers it is appropriate or desirable to transfer certain assets within the ownership or control (or both) of Kāinga Ora to another agency; or

(b) if Kāinga Ora and the joint Ministers consider it is appropriate or desirable to disestablish a specified development project—

(i) because the project objectives have been achieved; or

(ii) for any other reason.

2 Interpretation

In this schedule, unless the context otherwise requires,—

assets includes—

(a) land, buildings, and infrastructure within the project area that are owned or controlled (or both) by Kāinga Ora; and

(b) permits operated by Kāinga Ora that relate to the specified development project and the project area, such as resource consents and designations; and

(c) the financial assets and instruments relevant to the specified development project

revenue means the revenue derived from rating and other funding sources approved for a specified development project in an operative development plan

transferee means the person named in the transfer order or disestablishment order who is to receive any asset of Kāinga Ora, including—

(a) 1 or more relevant local authorities:

(b) 1 or more government agencies:

(c) a network utility operator:

(d) any person who agrees to the transfer in accordance with clause 3.

Transfer

3 Transfer by agreement

(1) If Kāinga Ora and a transferee agree to transfer an asset in accordance with a written proposal and on agreed terms, the transfer may be made in accordance with the relevant law.

(2) Kāinga Ora must give notice of the agreement to make the transfer on its Internet site, with details of—

(a) the identity of the transferee; and

(b) the asset to be transferred and, if applicable, any revenue associated with the asset.

(3) On the date that an asset is transferred to the transferee, any ongoing operations and maintenance of the asset become the responsibility of the transferee.

Transfer order

4 Transfer by transfer order

(1) This clause applies if—

(a) agreement with the transferee cannot be reached under clause 3 on the proposed transfer, or on the terms of the transfer; or

(b) a recommendation is made under subclause (3) that a transfer order is necessary or desirable to effect a transfer.

(2) The Governor-General, by Order in Council made on the recommendation of the joint Ministers, may make an order transferring the ownership or control of an asset from the ownership or control of Kāinga Ora to a transferee.

(3) The joint Ministers may recommend the making of an order, where applicable, if Kāinga Ora has provided a report to those Ministers that sets out, in sufficient detail to enable those Ministers to make a recommendation, the following:

(a) the name and contact details of the proposed transferee; and

(b) the asset to be transferred and, if applicable, any revenue associated with the asset; and

(c) the terms and conditions of any transfer; and

(d) the reasons for making the transfer; and

(e) the reasons why the proposed transferee did not agree to the transfer.

(4) A transfer order must not transfer monetary debts of Kāinga Ora to a transferee without the transferee's prior consent.

Disestablishment

5 Disestablishment by expiry of time limit

A specified development project lapses and is disestablished if a draft development plan is not notified under section 73—

(a) within 5 years of the commencement date of the establishment order; or

(b) within a different period specified in the establishment order.

6 Disestablishment proposal

(1) Kāinga Ora must prepare a disestablishment proposal if it considers it is appropriate that the whole or a part of a specified development project be disestablished.

(2) The joint Ministers must recommend to Kāinga Ora that a disestablishment proposal be prepared for a specified development project if the joint Ministers are satisfied that it is appropriate to disestablish the specified development project.

(3) When preparing a disestablishment proposal, Kāinga Ora must take the steps that it considers necessary to enable Kāinga Ora—

(a) to be sufficiently informed on the matters relevant to the disestablishment proposal; and

(b) to proceed to develop a disestablishment proposal for the joint Ministers' consideration.

(4) A disestablishment proposal must set out the information relevant to the specified development project and its disestablishment, including—

(a) the extent to which the project objectives have been achieved; and

(b) the reasons for proposing the disestablishment; and

(c) the date on which disestablishment is proposed to come into force; and

(d) the 1 or more proposed transferees; and

(e) the consultation undertaken with the 1 or more proposed transferees, and their views on the proposal; and

(f) the views of each local authority with responsibilities in the project area; and

(g) the views of any persons (other than the proposed transferee), if they are likely to be affected by the proposed disestablishment, including—

(i) former owners in relation to former Māori land:

(ii) a hapū:

(iii) RFR holders; and

(h) to the extent that Kāinga Ora continues to own or control them, the assets relating to the specified development project that are to be transferred by or under the disestablishment order; and

(i) why a disestablishment order is considered appropriate; and

(j) any other matters that Kāinga Ora considers appropriate or that the joint Ministers request.

(5) The joint Ministers may refer a disestablishment proposal back to Kāinga Ora for amendment before making a recommendation under clause 7.

7 Governor-General may make disestablishment order

(1) If the joint Ministers accept the disestablishment proposal, those Ministers may recommend to the Governor-General that a disestablishment order be made in respect of the specified development project.

(2) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers, disestablish a specified development project.

8 Contents of disestablishment order

(1) A disestablishment order must include the following:

(a) the reason for the order being made; and

(b) the date on which the disestablishment order comes into force; and

(c) the assets identified in the disestablishment proposal to be transferred from Kāinga Ora by the disestablishment order; and

(d) any designations that must be transferred to the district plan; and

(e) the 1 or more transferees of those assets; and

(f) the arrangements made for debts in relation to the assets being transferred.

(2) A disestablishment order may provide for assets to be transferred in stages.

(3) If a specified development project is being disestablished in part, the disestablishment order must also state—

(a) which part is to be disestablished; and

(b) which part is to be modified; and

(c) the powers provided under this Act that will no longer apply to that part of the project area.

(4) A disestablishment order must not transfer monetary debts of Kāinga Ora to a transferee, unless the transferee has given prior consent to the transfer.

9 Effect of disestablishment order

(1) On the day on which a disestablishment order for a whole development project comes into force,—

(a) the specified development project ends; and

(b) the assets identified in the disestablishment order transfer to the 1 or more transferees identified in the order.

(2) Unless the disestablishment order provides otherwise, all powers, functions, rights, and duties of Kāinga Ora in relation to the specified development project cease to apply.

10 Arrangements following disestablishment of specified development project

(1) An activity lawfully established under a development plan for a specified development project continues to be lawful after the disestablishment of the project.

(2) Subclause (1) applies to an activity—

(a) as if the operative date of the rule were the date on which the disestablishment order came into force; but

(b) only to the extent permitted for an existing activity by section 10, 10A, 10B, or 20A(2) of the Resource Management Act 1991, as the case may require.

(3) After a disestablishment order comes into force, the relevant local authorities, without using the processes in Schedule 1 of the Resource Management Act 1991,—

(a) may adopt any of the resource management objectives, policies, rules, or methods from a development plan; and

(b) must update the district plans to include the designations that were in the development plan; and

(c) must remove the project area from the planning instruments.

(4) Subclause (3) applies only in relation to the area of a district that is defined as the project area in the establishment order made under section 47.

(5) Any resource management objectives, policies, rules, or methods from a development plan must be adopted within 40 working days of the disestablishment order coming into force.

(6) The modifications to the planning instruments are to be treated as being operative from the date the disestablishment order comes into force.

Schedule 3
Independent hearings panel

ss 76(3), 79(5)(c)

Contents

Page

Establishment of independent hearings panel

1 Composition of IHP 173
2 How members are appointed 174
3 When member ceases to be member of IHP 175
4 Protection from liability 175

Powers

5 Powers and duties of IHP 176

Support for, and funding of, IHP

6 Support for IHP 176
7 Funding of IHP 177

Administrative matters relating to hearings

8 Hearings 177
9 Who may be heard 177
10 Notice of hearings 178
11 Conference of experts 178
12 Mediation 178
13 Consequence of submitter not attending mediation 179
14 Late submissions 179

Procedural matters relating to hearings

15 Hearing procedure 180
16 Kāinga Ora must attend hearings 180
17 Other procedural matters 181
18 Directions as to providing briefs of evidence 181
19 Directions and requests at or before hearing 181
20 Protection of sensitive information 182
21 IHP may commission reports 183
22 Evidence and reports must be made available 183

Establishment of independent hearings panel

1 Composition of IHP

(1) An IHP must comprise not fewer than 3 members, 1 of whom must be an Environment Judge or alternate Environment Judge, or a former Environment

Judge or former alternate Environment Judge, to act as the chairperson of the IHP.

(2) At least 1 member of an IHP who is an accredited person in accordance with section 39A of the Resource Management Act 1991 must be given hearing authority under section 39B of that Act, but more than 1 member who is accredited may be given hearing authority.

(3) Before making appointments to an IHP, the responsible Minister must—

(a) seek advice on, and nominations for, appointments to the IHP, including advice on the appropriate size of the IHP, from the chief executive of the department responsible for the administration of this Act; and

(b) consult the Attorney-General, the Minister for the Environment, the Minister of Conservation, and the Minister for Māori Crown Relations—Te Arawhiti; and

(c) seek nominations from the relevant local authorities and iwi or hapū representatives from within the project area.

(4) The members of the IHP, collectively, must have knowledge of—

(a) the various communities within the project area, including mana whenua groups; and

(b) economic matters that affect property development; and

(c) the Treaty of Waitangi and its principles; and

(d) tikanga Māori as it applies in the project area; and

(e) any iwi participation legislation that applies in the project area; and

(f) the Māori land tenure system under Te Ture Whenua Maori Act 1993, if there is Māori land within the project area.

(5) Members must be appointed in accordance with clause 2, but a failure to comply with that provision does not affect the validity of the appointment of a member once made.

(6) The affiliation of a person to a hapū or iwi with mana whenua interests in the project area does not of itself disqualify that person from appointment to an IHP.

(7) As soon as practicable after the Minister has appointed the members of an IHP, Kāinga Ora must give notice on its Internet site—

(a) that an IHP has been established for the relevant specified development project; and

(b) of the names of its members.

2 How members are appointed

(1) Members must be appointed to the IHP by notice in writing from the responsible Minister.

(2) The notice of appointment must—

(a) state the date on which the appointment takes effect; and

(b) state the term of the appointment; and

(c) set out a time frame for the completion of the processes of the IHP; and

(d) specify the terms of reference for the IHP.

(3) However, despite the term of appointment in subclause (2)(b), if the Minister requires an IHP to reconsider any matters in the draft development plan, the Minister may give notice in writing to extend the term of appointment of the members of an IHP to the extent that the Minister considers necessary.

3 When member ceases to be member of IHP

(1) A member of an IHP remains a member until the earliest of the following:

(a) the specified development project is disestablished; or

(b) the term of appointment of that member ends; or

(c) the member dies; or

(d) the member resigns by giving 20 working days' written notice to the responsible Minister; or

(e) the member is removed because the responsible Minister gives written notice removing the member for just cause.

(2) A notice given to the responsible Minister under subclause (1)(d) must—

(a) state the date on which the removal takes effect (which must be not earlier than the date on which the notice is received by the member) and the reasons for the removal; and

(b) be copied to the chairperson of the IHP.

(3) A member removed from office under this section is not entitled to compensation or other payment or benefit as a consequence of, or relating to, the member's ceasing to hold office.

(4) In subclause (1)(e), **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the IHP or of the individual duties of the member.

4 Protection from liability

(1) A member of an IHP is not liable to any person or body in respect of an act or omission done in good faith in the performance or exercise, or intended performance or exercise, of the member's functions, powers, and duties under this Act.

(2) No action may be brought against a member of an IHP for any loss or damage resulting from any act done or omitted by a member of an IHP in good faith in the performance or exercise, or intended performance or exercise, of the member's functions, powers, and duties under this Act.

Powers

5 Powers and duties of IHP

(1) For the purposes of considering the submissions made on a draft development plan under section 74, an IHP may,—

(a) subject to clause 8(1), hold hearings on submissions; and

(b) for the purposes of paragraph (a),—

(i) hold or authorise pre-hearing meetings, conferences of experts, and alternative dispute resolution processes; and

(ii) commission reports; and

(iii) request information and evidence from Kāinga Ora; and

(iv) hear any objections made in accordance with section 128; and

(c) perform any other function or exercise any other power or duty conferred or imposed by this Act, or that is incidental and related to, or a consequence of, any of its functions, powers, and duties under this Act.

(2) An IHP must provide recommendations to the responsible Minister on the draft development plan.

(3) An IHP may regulate its own procedure as it thinks fit, except as expressly provided otherwise by this schedule.

Support for, and funding of, IHP

6 Support for IHP

(1) Kāinga Ora must ensure that an IHP is provided with administrative support, provided—

(a) by a relevant local authority or the Environmental Protection Authority (with the agreement of the local authority or Environmental Protection Authority) on the basis that its costs are recovered from Kāinga Ora; or

(b) by any person who has hearing authority under section 39B of the Resource Management Act 1991 or is otherwise suitably skilled to undertake the role, as long as the person is not involved in the preparation of the draft development plan or its supporting documents.

(2) All persons appointed by Kāinga Ora to provide administrative support to an IHP are entitled to recover their reasonable costs from Kāinga Ora.

(3) The level of support provided is at the sole discretion of Kāinga Ora.

(4) Kāinga Ora may only contract with another person or body to provide administrative support to an IHP if Kāinga Ora is satisfied that the person or body is capable of working effectively with Māori entities.

7 Funding of IHP

(1) Kāinga Ora is responsible for the costs incurred by the IHP and for its activities under this schedule.

(2) An IHP may fix administrative charges to recover its actual and reasonable costs in considering and reporting on a draft development plan.

(3) For the purposes of subclause (1), each member of an IHP must be paid—

(a) remuneration by way of salary, fees, or allowances at a rate determined by the responsible Minister after consultation with Kāinga Ora; and

(b) actual and reasonable travelling and other expenses incurred in carrying out the office of a member in accordance with the Fees and Travelling Allowances Act 1951, which applies as if the members were members of a statutory board within the meaning of that Act.

(4) Without limiting subclause (1), Kāinga Ora has responsibility for—

(a) the remuneration and expenses of the members of an IHP; and

(b) the administrative costs of each hearing, including the costs of the venue and public notices; and

(c) the remuneration of any expert witness, mediator or other dispute resolution facilitator, or other person engaged by the IHP under this schedule; and

(d) the expenses of any expert witness engaged by the IHP.

Administrative matters relating to hearings

8 Hearings

(1) The IHP must hold a hearing of submissions on a draft development plan if a submitter requests to be heard.

(2) For the purposes of subclause (1), the Local Government Official Information and Meetings Act 1987 applies, with any necessary modifications, to an IHP as if the IHP were a board of inquiry with authority to conduct a hearing under section 149J of the Resource Management Act 1991.

(3) A hearing must be held in public unless otherwise permitted under—

(a) clause 20:

(b) section 48 of the Local Government Official Information and Meetings Act 1987 (which empowers local authorities to exclude the public from hearings), as that Act applies under this Act.

9 Who may be heard

(1) Every person who has made a submission and stated that they wish to be heard may speak at a hearing session and call evidence, either personally or through a representative.

(2) Subclause (3) applies if a person who has filed a submission and indicated that they wish to be heard fails to appear, or the person's representative fails to appear, at the relevant hearing session.

(3) The IHP may proceed with the hearing if it considers it fair and reasonable to do so.

10 Notice of hearings

The IHP must give not less than 10 working days' notice of the dates, times, and places of the hearings to—

(a) every person who made a submission and requested to be heard (and has not withdrawn the request); and

(b) any requiring authority that has a designation in the draft development plan.

11 Conference of experts

(1) An IHP may, at any time during a hearing, direct that a conference of experts be held for the purpose of—

(a) clarifying a matter or issue relating to the draft development plan:

(b) facilitating resolution of a matter or issue relating to that plan.

(2) The conference may be facilitated by a member of the IHP or by a person appointed by the IHP (the **facilitator**).

(3) If the IHP requires it, the facilitator must prepare a report on the conference and provide it in writing to—

(a) the IHP; and

(b) the persons attending the conference.

(4) A report prepared under subclause (3) must not, without the person's consent, include any material that the person communicated or made available at the meeting on a without-prejudice basis.

12 Mediation

(1) An IHP may, on its own motion or on request, at any time during a hearing, refer to mediation the persons referred to in subclause (2) if the IHP considers that it is appropriate to do so and likely to resolve issues between the parties in relation to the draft development plan.

(2) The persons who may be referred to mediation are—

(a) any of the submitters:

(b) any other person that the IHP considers appropriate.

(3) The IHP must appoint the mediator.

(4) Each person participating in the mediation must—

(a) be present in person; or

(b) have at least 1 representative present with authority to make decisions on behalf of the person represented on any matters that may reasonably be expected to arise in the mediation process.

(5) A person referred to mediation may apply to the IHP for leave not to participate in the mediation process.

(6) The IHP may grant leave if it considers it is not appropriate for the person to participate in the mediation.

(7) The mediator must report the outcome of the mediation to the IHP in writing.

(8) A report prepared under subclause (7) must not, without the person's consent, include any material that the person communicated or made available at the mediation on a without-prejudice basis.

(9) In this clause, **mediation** includes any other alternative dispute resolution process.

13 Consequence of submitter not attending mediation

(1) If a submitter is required to attend mediation but fails to attend without reasonable excuse, the IHP may decline to consider the submitter's submissions.

(2) If the IHP acts under subclause (1), the person—

(a) has no right of appeal under section 85; and

(b) is not eligible to be a party to the proceeding as a result of another party exercising an appeal right under that section.

(3) However, the person may object under section 128.

14 Late submissions

(1) This clause applies to submissions received after the closing date for those submissions (**late submissions**).

(2) The chairperson of an IHP must decide for each late submission whether to waive the requirement that submissions must be provided before the closing date.

(3) The chairperson must take into account—

(a) the interests of persons who may be directly affected by the waiver; and

(b) the need to ensure an adequate assessment of the effects of the draft development plan; and

(c) the stage of the hearing when the submissions became available to the IHP.

(4) A decision of the chairperson under this clause is final and there is no right of appeal or objection.

Procedural matters relating to hearings

15 Hearing procedure

(1) At each hearing on a draft development plan, at least 2 members of the IHP must be present throughout the hearing.

(2) If the chairperson is not present, the chairperson must appoint another member of the IHP to act as chairperson for the duration of the chairperson's absence.

(3) At a hearing, the IHP—

(a) may permit a party to question another party or witness; and

(b) may permit cross-examination; and

(c) must receive evidence written or spoken in Māori, subject to subclause (4); and

(d) must permit the use of New Zealand sign language, subject to subclause (5).

(4) If evidence is given in Māori, Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies as if the hearing under this Act were legal proceedings before a tribunal named in Schedule 2 of that Act.

(5) If evidence is given using New Zealand sign language, the New Zealand Sign Language Act 2006 applies as if the hearing were legal proceedings before a court or tribunal named in the Schedule of that Act.

(6) Except as provided in subclauses (4) and (5), the IHP must establish a procedure for the hearing that—

(a) is appropriate and fair in the circumstances (including in respect of granting any waiver of the requirements of the IHP); and

(b) avoids unnecessary formality; and

(c) recognises tikanga Māori where appropriate.

(7) An IHP must keep a record of the hearing and any related proceedings.

(8) This clause does not prevent or limit—

(a) Kāinga Ora making a recommendation on a matter raised in a submission in accordance with section 75; or

(b) an IHP requesting further information from Kāinga Ora under section 77(3).

(9) A failure by an IHP or Kāinga Ora to comply with this clause does not invalidate a hearing.

16 Kāinga Ora must attend hearings

(1) Kāinga Ora must attend hearings so that it is available to assist an IHP in any of the following ways:

(a) to clarify or discuss issues raised in the hearing, including in the submissions:

(b) to give evidence:

(c) to provide any other relevant information requested by the IHP.

(2) However, an IHP may excuse Kāinga Ora from attending or remaining at a hearing.

17 Other procedural matters

(1) The following provisions of the Inquiries Act 2013 apply as if an IHP were a public inquiry and the hearing were a hearing of an inquiry under that Act:

(a) section 14 (powers to maintain order):

(b) section 19 (evidence):

(c) section 23 (power to summon witnesses):

(d) section 25 (expenses of witnesses and other participants):

(e) section 27 (protection of witnesses and other persons).

(2) A summons to a witness must comply with section 23(2) of the Inquiries Act 2013.

(3) The expenses of a witness must be paid by the party on whose behalf the witness was called, but if the witness was called by an IHP, Kāinga Ora must pay the expenses of that witness.

(4) An IHP may request, and receive, from a person who is heard by the IHP or represented at a hearing, any information or advice that is relevant and reasonably necessary for the IHP to make its recommendations under section 79.

18 Directions as to providing briefs of evidence

(1) An IHP may direct a submitter or Kāinga Ora to provide briefs of evidence to the IHP in writing before the commencement of a hearing.

(2) A submitter or Kāinga Ora must comply with a direction given under subclause (1).

(3) An IHP must give notice electronically to any relevant submitters of briefs of evidence made available under this clause or provided under clause 16(1)(b).

19 Directions and requests at or before hearing

(1) Before or at a hearing, an IHP may—

(a) direct the order of business at the hearing, including the order in which submissions and evidence are presented:

(b) direct that submissions and evidence be recorded, taken as read, or limited to matters in dispute:

(c) direct a submitter to present a submission or evidence within a time limit:

(d) request a submitter to provide further information.

(2) Before or at a hearing, an IHP may direct that the whole or part of a submission be struck out if the IHP considers that—

(a) the whole or part of the submission is frivolous or vexatious; or

(b) the whole or part of the submission discloses no reasonable or relevant case; or

(c) it would otherwise be an abuse of the hearing process to allow the whole submission or a part of it to be taken further.

(3) At a hearing, an IHP may direct a submitter not to present—

(a) the whole of a submission, if the whole submission is irrelevant or about matters not in dispute; or

(b) any part of the submission that is irrelevant or about matters not in dispute; or

(c) any part of the submission that does not relate to the part of the draft development plan under consideration at the hearing.

(4) If an IHP gives a direction under subclause (2) or (3), it must record its reasons for the direction.

(5) A person whose submission is struck out under subclause (2) has a right of objection under section 128, which must be heard by the full IHP.

20 Protection of sensitive information

(1) An IHP may, on its own motion or on the application of a submitter, make an order described in subclause (2) if it is satisfied—

(a) that the order is necessary to avoid—

(i) serious offence to tikanga Māori; or

(ii) the disclosure of the location of wāhi tapu; or

(iii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and

(b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.

(2) An order may—

(a) require that the whole or part of a hearing or hearings at which the information is likely to be referred to must be held with the public excluded:

(b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the IHP in the course of any proceedings, whether or not the information may be material to any aspect of the draft development plan.

(3) An order described in subclause (2)(a) must be deemed, for the purposes of section 48(3) to (5) of the Local Government Official Information and Meetings Act 1987, to be a resolution passed under those provisions.

(4) An IHP must require Kāinga Ora to make any orders made under this clause available for inspection on its Internet site and at its offices.

(5) A party to a hearing may apply to the Environment Court for an order cancelling or varying an order made by the IHP under this clause.

(6) If an application is made under subclause (5), an Environment Judge sitting alone may, having regard to the matters set out in this clause and other matters that the Judge thinks fit,—

(a) make an order cancelling or varying an order made by the IHP under this clause on the terms that the Judge thinks fit; or

(b) decline to make an order.

21 IHP may commission reports

An IHP may, at any time during a hearing, require Kāinga Ora to commission, or itself commission, a consultant or other person to prepare a report on—

(a) any submissions:

(b) any matter arising from a hearing:

(c) any other matter that the IHP considers necessary for the purposes of the IHP making its recommendations.

22 Evidence and reports must be made available

(1) An IHP must require Kāinga Ora to make available for inspection on its Internet site and at its offices—

(a) any written evidence and further information received by the IHP during the hearing; and

(b) any written report provided to the IHP under clause 11 or 12.

(2) However, this clause does not apply to any evidence or part of a report that an IHP considers it is not reasonable to make available for inspection.

Schedule 4
Amendments to other Acts

s 300

Electricity Act 1992 (1992 No 122)

After section 24A(4), insert:

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the Urban Development Act 2020.

Environmental Protection Authority Act 2011 (2011 No 14)

After section 13(c)(iia), insert:

(iib) to provide support services to an IHP established under Schedule 3 of the Urban Development Act 2020:

Gas Act 1992 (1992 No 124)

After section 25A(4), insert:

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the Urban Development Act 2020.

Kāinga Ora–Homes and Communities Act 2019 (2019 No 50)

In section 5(1), replace the definition of **development** with:

development—

(a) includes all or any of the following:

(i) acquiring land for development:

(ii) delivering a development project:

(iii) selling, leasing, disposing of, managing, or otherwise dealing with land and improvements:

(b) does not include maintaining or upgrading Kāinga Ora housing within the meaning of section 2(1) of the Public and Community Housing Management Act 1992

In section 5(1), replace the definition of **Kāinga Ora–Homes and Communities** with:

Kāinga Ora–Homes and Communities—

(a) means Kāinga Ora–Homes and Communities established by section 8; and

(b) for the purposes of the definition of **public housing**, includes a Crown entity subsidiary of Kāinga Ora–Homes and Communities

In section 5(1), insert in its appropriate alphabetical order:

Kāinga Ora–Homes and Communities Act 2019 (2019 No 50)—*continued*

public housing—

(a) includes any premises (whether owned by the Crown, Kāinga Ora–Homes and Communities, or any other person) that—

(i) are let by or on behalf of Kāinga Ora–Homes and Communities under a residential tenancy that was granted before 14 April 2014; or

(ii) are, or are intended to be, let by or on behalf of Kāinga Ora–Homes and Communities under a residential tenancy to a tenant who is assessed under the Public and Community Housing Management Act 1992 as eligible for social housing within the meaning of section 2(1) of that Act; or

(iii) are, or are intended to be, let by the Crown or Kāinga Ora–Homes and Communities to a community organisation or other provider for use as—

(A) transitional or emergency accommodation for people in need while they seek, or are assisted in finding, more permanent accommodation:

(B) supported housing (for example, housing for people who experience disability or mental illness):

(b) includes any premises that are located together with public housing for the purpose of providing support services to the people who live or stay in the housing.

In section 10(2)(a), after "public housing", insert "and community housing".

In section 13(1)(f)(i), after "public housing", insert "and community housing".

In section 14(1)(f), replace "(with public, affordable, and market housing)" with "(with public housing or community housing, affordable housing, and market housing)".

In section 14(1)(l)(i), delete "housing and".

In section 20, insert as subsection (2):

(2) Kāinga Ora–Homes and Communities and Housing New Zealand Limited may not use the exception in section 11(1)(c)(i) of the Waikato Raupatu Claims Settlement Act 1995.

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), insert in their appropriate alphabetical order:

Kāinga Ora–Homes and Communities means the Crown entity established under section 8 of the Kāinga Ora–Homes and Communities Act 2019

specified development project has the same meaning as in section 9 of the Urban Development Act 2020

Land Transport Management Act 2003 (2003 No 118)—*continued*

After section 23(4), insert:

(5) Kāinga Ora–Homes and Communities is deemed to be an approved public organisation under this section in relation to its activities related to specified development projects.

Replace section 103(8) with:

(8) Before making a declaration under subsection (1) or varying or revoking a declaration under subsection (4), the Agency must consult any regional council or territorial authority that may be affected by the proposed declaration, variation, or revocation and,—

(a) if the road concerned is within Auckland, the Agency must also consult Auckland Transport and the Auckland Council; and

(b) if the road concerned is within a project area for a specified development project, the Agency must also consult Kāinga Ora–Homes and Communities.

After section 115(2), insert:

(3) In this section, **territorial authority** includes Kāinga Ora–Homes and Communities if there are any specified development projects in the region.

After section 121(1)(c)(i)(E), insert:

(EA) if there are any specified development projects in the region, Kāinga Ora–Homes and Communities:

After section 125(1)(g), insert:

(h) if there are any specified development projects in the region, Kāinga Ora–Homes and Communities.

Local Government Act 2002 (2002 No 84)

After section 198(4A), insert:

(4B) Subsection (4C) applies if Kāinga Ora–Homes and Communities is responsible for granting the consent, authorisation, or certificate referred to in subsection (1) or (4A).

(4C) Kāinga Ora–Homes and Communities may, as appropriate and by agreement with the local authority, exercise the power under the relevant subsection on the local authority's behalf.

In section 208, insert as subsections (2) and (3):

(2) Subsection (3) applies if Kāinga Ora–Homes and Communities is responsible for granting the consent, authorisation, or certificate to which an action described in any of paragraphs (a) to (c) of subsection (1) relates.

(3) Kāinga Ora–Homes and Communities may, as appropriate and by agreement with the local authority, exercise the power under the relevant paragraph on the local authority's behalf.

Local Government Official Information and Meetings Act 1987 (1987 No 174)

Before section 44A(2)(d), insert:

(cb) if the land concerned is located in a project area that is subject to a targeted rates order under the Urban Development Act 2020, information about—

(i) the financial years to which the order applies; and

(ii) how liability for targeted rates under that Act on the land is calculated; and

(iii) amounts of any unpaid targeted rates under that Act:

Local Government (Rating) Act 2002 (2002 No 6)

After section 19, insert:

19A Rates not to overlap with targeted rates under Urban Development Act 2020

(1) This section applies if an Order in Council under section 186 of the Urban Development Act 2020 authorises Kāinga Ora–Homes and Communities (**Kāinga Ora**) to set targeted rates under that Act for a project area within a local authority's district.

(2) The local authority may set a rate to fund activities or groups of activities only to the extent that the order does not authorise Kāinga Ora to set targeted rates to fund those activities or groups of activities.

Examples

Example 1

The order authorises Kāinga Ora to set a targeted rate to fund roading within a project area.

The local authority for the district in which the project area is located may set its own targeted rate to fund roading in a part of its district that is outside the project area.

Example 2

A wastewater system serves the entire district of a local authority.

The order authorises Kāinga Ora to set a targeted rate to fund the upgrade of the part of the wastewater system that serves the project area.

The local authority may set its general rate at a level that enables it to fund the general maintenance and operation of the wastewater system across its entire district, including the part of the system that serves the project area.

(3) If an example in this section is inconsistent with subsection (2), subsection (2) prevails.

After section 27(4)(c), insert:

(d) if the unit is subject to targeted rates under the Urban Development Act 2020, the information required under section 212 of that Act.

Local Government (Rating) Act 2002 (2002 No 6)—*continued*

After section 37(1)(b), insert:

(c) if the unit is subject to targeted rates under the Urban Development Act 2020, the information required under section 213 of that Act.

After section 44(2), insert:

(3) *See* section 201 of the Urban Development Act 2020 if the rating unit is also subject to targeted rates under that Act.

After section 45(4), insert:

(5) *See* section 202 of the Urban Development Act 2020 if a rating unit is also subject to targeted rates under that Act.

After section 46(5), insert:

(6) *See* section 203 of the Urban Development Act 2020 if a rating unit is also subject to targeted rates under that Act.

Public Works Act 1981 (1981 No 35)

After section 23(1), insert:

(1A) If the land to be taken is within a project area under the Urban Development Act 2020, the Minister or local authority must not do anything described in subsection (1) without the consent of the responsible Minister within the meaning of section 9 of that Act.

In section 41, insert as subsection (2):

(2) This section is subject to subpart 5 of Part 5 of the Urban Development Act 2020 (transfer or disposal of former Māori land).

Resource Management Act 1991 (1991 No 69)

In section 66(2)(c), above "to the extent that their content", insert:

(v) relevant project area and project objectives (as those terms are defined in section 9 of the Urban Development Act 2020), if section 98 of that Act applies,—

After section 74(2)(b)(iii), insert:

(iv) relevant project area and project objectives (as those terms are defined in section 9 of the Urban Development Act 2020), if section 98 of that Act applies,—

In section 88B, insert as the last subsection:

(4) *See also* section 103(4) and (5) of the Urban Development Act 2020.

Before section 89, insert:

Resource Management Act 1991 (1991 No 69)—*continued*

88I Excluded time periods under Urban Development Act 2020

The period described in section 103(4) of the Urban Development Act 2020 is excluded from any time limits under this Act relating to a consent application received by a local authority.

After section 104(3), insert:

(3A) *See also* section 103(3) of the Urban Development Act 2020 (which relates to resource consents in project areas in transitional periods for specified development projects (as those terms are defined in section 9 of that Act)).

In Schedule 1, after clause 17(3), insert:

(4) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before approval, to Kāinga Ora–Homes and Communities, in certain circumstances).

In Schedule 1, after clause 18(4), insert:

(5) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before adopting them, to Kāinga Ora–Homes and Communities, in certain circumstances).

In Schedule 1, after clause 83(2), insert:

(2A) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before submitting, to Kāinga Ora–Homes and Communities, in certain circumstances).

Te Ture Whenua Maori Act 1993 (1993 No 4)

In section 4, insert in their appropriate alphabetical order:

Kāinga Ora–Homes and Communities means the Crown entity established under section 8 of the Kāinga Ora–Homes and Communities Act 2019

roading powers, in relation to a specified development project (or a road within one), has the same meaning as in section 9 of the Urban Development Act 2020

specified development project has the same meaning as in section 9 of the Urban Development Act 2020

After section 317(7), insert:

(8) In subsection (6), **territorial authority** means Kāinga Ora–Homes and Communities to the extent that the connection is to a public road in a project area for a specified development project and Kāinga Ora–Homes and Communities has roading powers in relation to that project.

After section 320(6), insert:

(7) In subsection (4), **territorial authority for the district** means Kāinga Ora–Homes and Communities to the extent that the land, road, or proposed road is

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

situated in a project area for a specified development project and Kāinga Ora–Homes and Communities has roading powers in relation to that project.

After section 325(5), insert:

(6) In subsection (1), **territorial authority having control of the road at the time of closure** means Kāinga Ora–Homes and Communities to the extent that Kāinga Ora had roading powers in relation to the road at the time of closure.

Telecommunications Act 2001 (2001 No 103)

In section 117(2), after "Resource Management Act 1991", insert "or a development plan under the Urban Development Act 2020".

After section 119(4), insert:

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the Urban Development Act 2020.

Reprints notes

1 General

This is a reprint of the Urban Development Act 2020 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 Legal status

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

3 Editorial and format changes

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

4 Amendments incorporated in this reprint

Local Government (Rating of Whenua Māori) Amendment Act 2021 (2021 No 12): sections 85–101

Urban Development Act 2020 (2020 No 42): section 298

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2021