

Aotearoa New Zealand's Climate Change Adaptation Act:  
Building a Durable Future

# CURRENT LEGISLATIVE AND POLICY FRAMEWORK FOR MANAGED RELOCATION

Appendix to Working Paper 2:  
Relevant Provisions in Legislation and Policy

Raewyn Peart and Benjamin D Tombs

May 2023

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## Building Act 2004

### **3 Purposes**

This Act has the following purposes:

- (a) to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—
  - (i) people who use buildings can do so safely and without endangering their health; and
  - (ii) buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and
  - (iii) people who use a building can escape from the building if it is on fire; and
  - (iv) buildings are designed, constructed, and able to be used in ways that promote sustainable development:
- (b) to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.

### **12 Role of building consent authority and territorial authority**

- (1) Under this Act, a building consent authority—
  - (a) issues building consents, but not if a building consent is required to be subject to a waiver or modification of the building code; and
  - (b) inspects building work for which it has granted a building consent; and
  - (c) issues notices to fix; and
  - (d) issues code compliance certificates; and
  - (e) issues compliance schedules

### **40 Building work not to be carried out without consent**

- (1) A person must not carry out any building work except in accordance with a building consent.
- (2) A person commits an offence if the person fails to comply with this section.
- ...

### **67 Territorial authority may grant building consent subject to waivers or modifications of building code**

- (1) A building consent authority that is a territorial authority may grant an application for a building consent subject to a waiver or modification of the building code.
- (2) A waiver or modification of the building code under subsection (1) may be subject to any conditions that the territorial authority considers appropriate.

### **71 Building on land subject to natural hazards**

- (1) A building consent authority must refuse to grant a building consent for construction of a building, or major alterations to a building, if—
  - (a) the land on which the building work is to be carried out is subject or is likely to be subject to 1 or more natural hazards; or

- (b) the building work is likely to accelerate, worsen, or result in a natural hazard on that land or any other property.
- (2) Subsection (1) does not apply if the building consent authority is satisfied that adequate provision has been or will be made to—
  - (a) protect the land, building work, or other property referred to in that subsection from the natural hazard or hazards; or
  - (b) restore any damage to that land or other property as a result of the building work.
- (3) In this section and sections 72 to 74, natural hazard means any of the following:
  - (a) erosion (including coastal erosion, bank erosion, and sheet erosion):
  - (b) falling debris (including soil, rock, snow, and ice):
  - (c) subsidence:
  - (d) inundation (including flooding, overland flow, storm surge, tidal effects, and ponding):
  - (e) slippage.

**72 Building consent for building on land subject to natural hazards must be granted in certain cases**

Despite section 71, a building consent authority that is a territorial authority must grant a building consent if the building consent authority considers that—

- (a) the building work to which an application for a building consent relates will not accelerate, worsen, or result in a natural hazard on the land on which the building work is to be carried out or any other property; and
- (b) the land is subject or is likely to be subject to 1 or more natural hazards; and
- (c) it is reasonable to grant a waiver or modification of the building code in respect of the natural hazard concerned.

**73 Conditions on building consents granted under section 72**

- (1) A building consent authority that is a territorial authority that grants a building consent under section 72 must include, as a condition of the consent, that the building consent authority will, on issuing the consent, notify the consent to,—
  - (a) in the case of an application made by, or on behalf of, the Crown, the appropriate Minister and the Surveyor-General; and
  - (b) in the case of an application made by, or on behalf of, the owners of Māori land, the Registrar of the Maori Land Court; and
  - (c) in any other case, the Registrar-General of Land.
- (2) The notification under subsection (1)(a) or (b) must be accompanied by a copy of any project information memorandum that has been issued and that relates to the building consent in question.
- (3) The notification under subsection (1)(c) must identify the natural hazard concerned.

**113 Buildings with specified intended lives**

- (1) This section applies if a proposed building, or an existing building proposed to be altered, is intended to have a life of less than 50 years.

- (2) A territorial authority may grant a building consent only if the consent is subject to—
  - (a) the condition that the building must be altered, removed, or demolished on or before the end of the specified intended life; and
  - (b) any other conditions that the territorial authority considers necessary.
- (3) In subsection (2), specified intended life, in relation to a building, means the period of time, as stated in an application for a building consent or in the consent itself, for which the building is proposed to be used for its intended use.

**124 Dangerous, affected, or insanitary buildings: powers of territorial authority**

- (1) This section applies if a territorial authority is satisfied that a building in its district is a dangerous, affected, or insanitary building.
- (2) In a case to which this section applies, the territorial authority may do any or all of the following:
  - (a) put up a hoarding or fence to prevent people from approaching the building nearer than is safe:
  - (b) attach in a prominent place on, or adjacent to, the building a notice that warns people not to approach the building:
  - (c) except in the case of an affected building, issue a notice that complies with section 125(1) requiring work to be carried out on the building to—
    - (i) reduce or remove the danger; or
    - (ii) prevent the building from remaining insanitary:
  - (d) issue a notice that complies with section 125(1A) restricting entry to the building for particular purposes or restricting entry to particular persons or groups of persons.

...

**127 Building work includes demolition of building**

Any work required or authorised to be done under section 124(2)(c) or section 126 may include the demolition of all or part of a building.

**131 Territorial authority must adopt policy on dangerous and insanitary buildings**

- (1) A territorial authority must, within 18 months after the commencement of this section, adopt a policy on dangerous and insanitary buildings within its district.
- (2) The policy must state—
  - (a) the approach that the territorial authority will take in performing its functions under this Part; and
  - (b) the territorial authority’s priorities in performing those functions; and
  - (c) how the policy will apply to heritage buildings.

### **133BT Notices and signs on buildings**

- (1) A responsible person may place 1 or more signs or notices on or near a building in a designated area prohibiting or restricting the use of the building if—
  - (a) the responsible person believes that it is reasonably necessary to remove or reduce risks of injury or death; or
  - (b) an evacuation of the building has been directed under section 133BR.
- (2) A responsible person may place signs or notices on or near a building informing members of the public of the risks posed by the building.
- (3) A sign or notice under this section must—
  - (a) be in writing and in the form (if any) approved by the chief executive; and
  - (b) state—
    - (i) the nature and extent of any damage to the building; and
    - (ii) in the case of a sign or notice under subsection (1), whether, how, and to what extent the building can safely be used; and
  - (c) be visible to people approaching the building.
- (4) A person must not—
  - (a) intentionally occupy or use a building otherwise than in accordance with a sign or notice placed under subsection (1); or
  - (b) permit another person to do so.
- (5) A person who contravenes subsection (4)—
  - (a) commits an offence; and
  - (b) is liable on conviction to a fine not exceeding \$200,000.

...

### **133BV Urgent works to remove or reduce risks**

- (1) This section applies if a responsible person believes that works in relation to a building in a designated area—
  - (a) are reasonably necessary to remove or reduce risks posed by the building; and
  - (b) must be carried out without delay in order to remove or reduce those risks.
- (2) The responsible person may carry out those works.
- (3) The responsible person (if not the Minister) must obtain the approval of the Minister before carrying out works that involve the demolition of the whole or a part of a heritage building that is—
  - (a) identified as Category 1 or wāhi tūpuna in the list referred to in paragraph (a)(i) of the definition of heritage building in section 7; or
  - (b) referred to in paragraph (a)(ii) of that definition.
- (4) A responsible person who requests the approval of the Minister under subsection (3) must at the same time notify Heritage New Zealand Pouhere Taonga of the request.
- (5) The Minister must consult the Minister responsible for the administration of the Heritage New Zealand Pouhere Taonga Act 2014 at least 24 hours before—
  - (a) giving an approval under subsection (3); or

- (b) carrying out the works under subsection (1) (if the Minister is the responsible person).
- (6) The responsible person (if not the Minister) must consult Heritage New Zealand Pouhere Taonga at least 24 hours before carrying out any other works in relation to a heritage building.
- (7) If works are carried out under this section,—
  - (a) the owner of the building is liable for the costs of the works; and
  - (b) the responsible person may recover those costs from the owner; and
  - (c) the amount recoverable becomes a charge on the land on which the building is situated.
- (8) Section 130 applies—
  - (a) as if the responsible person’s decision to carry out works under this section were a warrant issued under section 129(2); and
  - (b) as if a reference in section 129(2) to the territorial authority were a reference to the responsible person; and
  - (c) with any other necessary modifications.
- (9) A failure by the Minister or the responsible person to consult or notify in accordance with subsection (4), (5), or (6) does not invalidate the Minister’s approval or the responsible person’s decision to carry out works.
- (10) In this section, risk means a risk to—
  - (a) persons, of injury or death; or
  - (b) critical infrastructure, of damage or disruption to its operation or use.

**177 Application for determination**

- (1) A party may apply to the chief executive for a determination in relation to either or both of the following:
  - (a) whether particular matters comply with the building code:
  - (b) the exercise, failure or refusal to exercise, or proposed or purported exercise by an authority in subsection (2), (3), (4), or (4A) of a power of decision to which this paragraph applies by virtue of that subsection.
- (2) Subsection (1)(b) applies to any power of decision of a building consent authority in respect of all or any of the following:
  - (a) a building consent:
  - (b) an extension under section 52(b) of the period during which building work must be commenced before a building consent lapses:
  - (c) an extension under section 93(2)(b)(ii) of the period during which the authority must decide whether to issue a code compliance certificate:
  - (d) a code compliance certificate:
  - (e) a compliance schedule:
  - (f) a notice to fix.
- (3) Subsection (1)(b) applies to any power of decision of a territorial authority in respect of, or under, all or any of the following:
  - (a) any waiver or modification of the building code under section 67:
  - (b) a certificate of acceptance under section 96:



- (c) an exemption from building consent requirements under clause 2 of Schedule 1:
  - (d) an amendment to a compliance schedule under section 106, 107, or 109:
  - (e) a notice to fix:
  - (f) sections 112, 113, 115, and 116 (which relate to alterations to, or changes in the use of, a building) and 124 and 129 (which relate to dangerous, affected, and insanitary buildings):
  - (fa) any power of decision of a territorial authority under subpart 6A of Part 2, other than a power of decision under section 133AS (territorial authority may carry out seismic work):
  - (g) a certificate for public use under section 363A:
  - (h) a certificate under section 224(f) of the Resource Management Act 1991.
- (4) Subsection (1)(b) applies to any power of decision under this Act of a regional authority in respect of a dam.
- (4A) Subsection (1)(b) applies to any power of decision of a responsible person under—
- (a) section 133BS (measures to keep people at safe distance and protect building); or
  - (b) section 133BT (notices and signs on buildings); or
  - (c) section 133BW (works to remove or reduce other risks); or
  - (d) section 133BX (works for long-term use or occupation of building).
- (5) Nothing in this section limits or affects section 70(4) or 446(1)(c).
- (6) In subsection (4A), responsible person does not include—
- (a) the Minister acting as **responsible person** under section 133BJ(2)(c)(i); or
  - (b) a territorial authority acting on direction by the Minister under section 133BJ(2)(c)(ii); or
  - (c) a territorial authority complying with a direction given by the Minister under section 133BJ(4).

### **393 Limitation defences**

- (1) The Limitation Act 2010 applies to civil proceedings against any person if those proceedings arise from—
- (a) building work associated with the design, construction, alteration, demolition, or removal of any building or the manufacture of a modular component manufactured by a registered MCM who is certified to manufacture it; or
  - (b) the performance of a function under this Act or a previous enactment relating to the construction, alteration, demolition, or removal of the building or the modular component.
- (2) However, no relief may be granted in respect of civil proceedings relating to building work if those proceedings are brought against a person after 10 years or more from the date of the act or omission on which the proceedings are based.
- (3) For the purposes of subsection (2), the date of the act or omission is,—
- (a) in the case of civil proceedings that are brought against a territorial authority, a building consent authority, a regional authority, or the chief executive in relation to the issue of a

- building consent or a code compliance certificate under Part 2 or a determination under Part 3, the date of issue of the consent, certificate, or determination, as the case may be; and
- (b) in the case of civil proceedings that are brought against a person in relation to the issue of an energy work certificate, the date of the issue of the certificate.

## Christchurch Earthquake Recovery Act 2011

Note: Canterbury Earthquake Recovery Act 2011: repealed, on 19 April 2016, by section 146(1) of the Greater Christchurch Regeneration Act 2016 (2016 No 14).

### 3 Purposes

The purposes of this Act are—

- (a) to provide appropriate measures to ensure that greater Christchurch and the councils and their communities respond to, and recover from, the impacts of the Canterbury earthquakes:
- (b) to enable community participation in the planning of the recovery of affected communities without impeding a focused, timely, and expedited recovery:
- (c) to provide for the Minister and CERA to ensure that recovery:
- (d) to enable a focused, timely, and expedited recovery:
- (e) to enable information to be gathered about any land, structure, or infrastructure affected by the Canterbury earthquakes:
- (f) to facilitate, co-ordinate, and direct the planning, rebuilding, and recovery of affected communities, including the repair and rebuilding of land, infrastructure, and other property:
- (g) to restore the social, economic, cultural, and environmental well-being of greater Christchurch communities:
- (h) to provide adequate statutory power for the purposes stated in paragraphs (a) to (g):

...

### 53 Acquiring or disposing of property

- (1) The chief executive may, in the name of the Crown, purchase or otherwise acquire, hold, sell, exchange, mortgage, lease, and dispose of land and personal property.
- (2) Subsection (3) applies if land acquired by the chief executive is no longer required for that purpose and is available for disposal.
- (3) To avoid doubt, nothing in sections 40 to 42 of the Public Works Act 1981 applies to the disposal of land to which this subsection applies, whether by sale, exchange, or otherwise, except as provided in section 58.
- (4) The Minister may, by notice in the Gazette, declare land held under this Act to be set apart for a Government work in terms of the Public Works Act 1981.
- (5) The Minister may, by notice in the Gazette, declare land held for a public work in terms of the Public Works Act 1981 to be held under this Act.
- (6) To avoid doubt, any requirements to offer land back under the Public Works Act 1981 continue to apply to any land declared under subsection (5) to be held under this Act.

#### **54 Notice of intention to take land**

- (1) The Minister may acquire land compulsorily by causing a notice of intention to take land in the name of the Crown to be published in the *Gazette* and twice publicly notified, which notice must give—
  - (a) a general description of the land required to be taken (including the name of and number in the road or some other readily identifiable description of the place where the land is situated); and
  - (b) a description of the purpose for which the land is to be used.
- (2) The Minister must serve on the owner of, and persons with a registered interest in, the land a notice of the intention to take the land in the form set out in Schedule 1, unless it is impracticable to do so.
- (3) The Minister must lodge a copy of the relevant notice in the *Gazette* under subsection (1) with the Registrar-General of Land, who must register it without fee against the computer register affected.
- (4) Any notice under this section may be withdrawn by the Minister, and, if it is withdrawn, a notice to that effect must be lodged with the Registrar-General of Land, who must register it without fee against the computer register to the land.
- (5) To avoid doubt, there is no right of objection to a notice of intention to take land.
- (6) A notice of intention to take land under this section ceases to have effect on the expiration of 3 years after the date of the publication of the relevant notice in the *Gazette* unless, on or before the expiration of that period,—
  - (a) a Proclamation taking the land has been published in the *Gazette*, or
  - (b) the Minister has, by further notice in writing served on the owner of the land intended to be taken, and persons with a registered interest in the land, confirmed the intention of taking the land.
- (7) If the Minister has confirmed the intention of taking the land, the notice of intention so confirmed ceases to have effect unless, on or before the expiration of 2 years after the date of that confirmation, a Proclamation taking the land has been published in the *Gazette*.

#### **55 Proclamation**

- (1) If the Minister considers that land should be taken in the name of the Crown, the land intended to be taken may be taken in accordance with this section.
- (2) If necessary, a cadastral survey dataset showing accurately the position and extent of the land to be taken must be prepared and be lodged with the chief executive of Land Information New Zealand for the purposes of the Cadastral Survey Act 2002.
- (3) So long as the relevant notice in the *Gazette* has been registered in accordance with section 54(3), the Minister may recommend that the Governor-General issue a Proclamation taking the land.
- (4) The Governor-General may, on the recommendation of the Minister, by Proclamation declare that the land described in it is taken in the name of the Crown.
- (5) Every Proclamation under this section must be published in the *Gazette* and publicly notified within 1 month after the date of its

making, and every such public notification must contain some readily identifiable description of the land taken, but a Proclamation is not invalidated by any error, defect, or delay in its gazetting or public notification.

- (6) Unless otherwise provided in the Proclamation or in this Act or in any other Act, the land specified in a Proclamation under this section becomes absolutely vested in fee simple in the Crown and freed and discharged from all mortgages, charges, claims, estates, or interests of whatever kind, on the 14th day after the day on which the Proclamation is published in the *Gazette*.
- (7) If land is compulsorily acquired under this section, the Crown succeeds to all rights, entitlements, and benefits that the owner has or may have against—
  - (a) the insurer of the land; or
  - (b) the insurer of any building or other property on the land.

#### **64 Minister determines compensation**

- (1) The Minister must determine—
  - (a) whether compensation is payable; and
  - (b) the amount of compensation to be paid.
- (2) Compensation is determined,—
  - (a) in the case of the compulsory acquisition of land, as at the date of the compulsory acquisition; and
  - (b) in any other case, as at the date of the notice of demolition or the date of the loss or damage, as the case may be.
- (3) For compensation for the compulsory acquisition of land, the Minister must determine compensation having regard to its current market value as determined by a valuation carried out by a registered valuer; and so far as practicable, the Minister must determine compensation in accordance with the relevant provisions of Part 5 of the Public Works Act 1981.
- (4) Before making a final determination under subsection (1), the Minister must give a claimant a reasonable opportunity to appear before the Minister or the Minister's delegate to make representations as to the nature of the claim and the amount of compensation payable.
- (5) A claimant may make representations under subsection (4) personally or through a representative (including a lawyer, accountant, or other expert).

## Civil Defence and Emergency Management Act 2003

### **4 Interpretation**

...

**emergency** means a situation that—

- (a) is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and
- (b) causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand; and

- (c) cannot be dealt with by emergency services, or otherwise requires a significant and co-ordinated response under this Act

...

#### **86 Evacuation of premises and places**

If a state of emergency is in force and, in the opinion of a Controller or any constable, the action authorised by this section is necessary for the preservation of human life, that person or a person authorised by him or her may direct, within the area or district in which the emergency is in force,—

- (a) the evacuation of any premises or place, including any public place; or
- (b) the exclusion of persons or vehicles from any premises or place, including any public place.

## Climate Change Response Act 2002

### **5B Purposes of Commission**

The purposes of the Commission are—

- (a) to provide independent, expert advice to the Government on mitigating climate change (including through reducing emissions of greenhouse gases) and adapting to the effects of climate change; and
- (b) to monitor and review the Government's progress towards its emissions reduction and adaptation goals.

### **5ZP National climate change risk assessment**

(1) A national climate change risk assessment must—

- (a) assess the risk to New Zealand's economy, society, environment, and ecology from the current and future effects of climate change; and
- (b) identify the most significant risk to New Zealand, based on the nature of the risk, their severity, and the need for co-ordinated steps to respond to those risk in the next 6-year period.

### **5ZQ Preparation of national climate change risk assessment**

...

(3) In preparing a national climate change risk assessment, the Commission must take into account the following:

- (a) economic, social, health, environmental, ecological, and cultural effects of climate change;
- (b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors:

### **5ZS National adaptation plan**

(1) In response to each national climate change risk assessment, the Minister must prepare a national adaptation plan.

(2) A national adaptation plan must set out—

- (a) the Government's objectives for adapting to the effects of climate change; and
- (b) the Government's strategies, policies, and proposals for meeting those objectives; and

- (c) the time frames for implementing the strategies, policies, and proposals; and
  - (d) how the matters in paragraphs (a) to (c) address the most significant risks identified in the most recent national climate change risk assessment; and
  - (e) the measures and indicators that will enable regular monitoring of and reporting on the implementation of the strategies, policies, and proposals.
- (3) A national adaptation plan may include any other matter that the Minister considers relevant.
  - (4) In preparing a national adaptation plan, the Minister must take into account the following:
    - (a) economic, social, health, environmental, ecological, and cultural effects of climate change, including effects on iwi and Māori:
    - (b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors

## Conservation Act 1987

### **7 Land may be acquired and held for conservation purposes**

- (1) The Minister, and the Minister responsible for an agency or department of State that has control of any land, may jointly, by notice in the *Gazette* describing it, declare that the land is held for conservation purposes; and, subject to this Act, it shall thereafter be so held.
- (1A) Notwithstanding subsection (1), in the case of any land to which section 61 or section 62 applies, the Minister may, by notice in the *Gazette* describing it, declare that the land is held for conservation purposes; and, subject to this Act, it shall thereafter be so held.
- (1B) In the case of land that is foreshore within the common marine and coastal area, the Minister may declare, by notice in the *Gazette* describing the land, that the land is held for conservation purposes.
- (2) The Minister may, by agreement, acquire any interest in land for conservation purposes; and, subject to this Act, it shall thereafter be held for those purposes.
- (3) Nothing in subsections (1) and (2) applies in respect of land that is Crown forest land within the meaning of section 2 of the Crown Forest Assets Act 1989.
- (4) For the purposes of subsection (1), the Minister of Forestry shall be deemed to be the Minister responsible for a department of State that has control of State forest land that is not Crown forest land within the meaning of section 2 of the Crown Forest Assets Act 1989.

### **8 Conservation area may become reserve, national park, etc**

- (1) Nothing in this Act shall prevent any conservation area's becoming a reserve, sanctuary, refuge, or national park under any enactment other than this Act administered by the Department.
- (1A) The Minister may from time to time, by notice in the *Gazette*, declare any conservation area to be a reserve under the Reserves Act 1977 and to have a classification under that Act, or to be included in any existing reserve under that Act, and may in like manner amend or revoke any such notice; and every such declaration shall have effect as a reservation under that Act for the purposes specified in the notice.

- (1B) Subsection (1A) is subject to subsection (4).
- (2) Upon becoming a reserve, sanctuary, refuge, or national park, a conservation area shall cease to be a conservation area, notwithstanding that there has been no compliance with section 16 or section 26.
- (3) Upon the revocation of any notice given under subsection (1A), the land to which that notice related shall become a conservation area and have the same status as it had immediately before the commencement of that notice.
- (4) The Minister must not act under subsection (1A) to declare a conservation area—
  - (a) to be a nature reserve or a scientific reserve under the Reserves Act 1977; or
  - (b) to be included in an existing nature reserve or scientific reserve under that Act.

## **17 Access to conservation areas**

- (1) Except as provided by or under this section, Part 3B, or section 38(1), the entry to and use of conservation areas by the public shall be free of charge.
- (2) The Minister may impose a reasonable charge for the use of facilities (other than paths and tracks) that are provided by the Minister in or in respect of any conservation area.
- (3) A concessionaire of any part of a conservation area may, to the extent that the relevant concession document so provides, impose a reasonable charge for the use of any facilities in or in respect of that part of the area that are provided by the Minister or the concessionaire.
- (4) Any person who, in accordance with any concession or other consent of the Minister or Director-General,—
  - (a) has erected any structure or facility in any conservation area; or
  - (b) uses any part of any conservation area for camping sites or for parking places for vehicles; or
  - (c) carries on any activity in any conservation area,—
    - may, subject to the conservation management strategy or conservation management plan (if any) relating to the area and to the terms and conditions (if any) of the relevant concession document, impose a reasonable charge in respect of access to or use of any such structure, site, or place, or the carrying on or products of the activity concerned.
- (5) Nothing in this section authorises any person to do anything on or in respect of any private land.

## Health Act 1956

### **23 General powers and duties of local authorities in respect of public health**

Subject to the provisions of this Act, it shall be the duty of every local authority to improve, promote, and protect public health within its district, and for that purpose every local authority is hereby empowered and directed—

- (a) to appoint all such environmental health officers and other officers and servants as in its opinion are necessary for the proper discharge of its duties under this Act:

- (b) to cause inspection of its district to be regularly made for the purpose of ascertaining if any nuisances, or any conditions likely to be injurious to health or offensive, exist in the district:
- (c) if satisfied that any nuisance, or any condition likely to be injurious to health or offensive, exists in the district, to cause all proper steps to be taken to secure the abatement of the nuisance or the removal of the condition:
- (d) subject to the direction of the Director-General, to enforce within its district the provisions of all regulations under this Act for the time being in force in that district:
- (e) to make bylaws under and for the purposes of this Act or any other Act authorising the making of bylaws for the protection of public health:
- (f) to furnish from time to time to the medical officer of health such reports as to diseases and sanitary conditions within its district as the Director-General or the medical officer of health may require

**29 Nuisances defined for purposes of this Act**

- ...
- (o) where any street, road, right of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health:
- ...

**33 Proceedings in respect of nuisances**

- ...
- (3) If the court is of opinion that by reason of the nuisance any dwelling or other building is unfit for human occupation, it may, by the same or any subsequent order, prohibit the use thereof for that purpose until the nuisance has been effectively abated to its satisfaction, or until provision has been made to its satisfaction to prevent the recurrence of the nuisance.
  - (4) Any order made under subsection (3) may be rescinded by the court when it is satisfied that the nuisance has been effectively abated, or, as the case may be, that due provision has been made to prevent its recurrence; but until the order is rescinded it shall not be lawful to let or occupy the house or building to which the order relates.
  - (5) Every person commits an offence against this Act who makes default in duly complying with any order made under the foregoing provisions of this section.
  - (6) If the default consists of not doing the works necessary in order to abate the nuisance effectively, or to prevent its recurrence, the local authority, or the medical officer of health on behalf of the local authority, shall cause the works to be done at the expense in all things of the owner and the occupier, who shall be jointly and severally liable for the cost of the works.
  - (7) If there is no known owner or occupier of the land or premises on which any such nuisance as aforesaid exists, or if the owner or occupier cannot be found, the court may by order direct that the nuisance be abated by the local authority or medical officer of health at the expense of the local authority.



- (8) All expenses incurred by or on behalf of the local authority under this section, together with reasonable costs in respect of the services of the local authority, shall be recoverable from the owner or the occupier of the premises in respect of which they are incurred as a debt due to the local authority, and until paid they shall by virtue of this Act be deemed to be a charge on the land on which the premises are situated.

...

**39 Requirements of dwellinghouses as to supply of water and sanitary conveniences**

- (1) It shall not be lawful for any person to erect or rebuild any building intended for use as a dwellinghouse, or for any person to sell, or let, or sublet, or permit to be occupied as a dwellinghouse, any building or part of a building, unless in every such case sufficient provision is made in accordance with the building code and the Building Act 2004 for the following matters, that is to say:
- (a) an adequate and convenient supply of water that is potable (as defined in section 69G), available for the inmates of the dwelling;
  - (b) suitable appliances for the disposal of refuse water in a sanitary manner;
  - (c) sufficient sanitary conveniences available for the inmates of the dwelling.
- (2) Every person commits an offence and is liable on conviction to a fine not exceeding \$500 who contravenes or fails to comply in any respect with any of the provisions of this section.
- (3) Where any building intended for use as a dwellinghouse is erected or rebuilt in contravention of this section, or where any building or part of a building is let or sublet as a dwellinghouse in contravention of this section, the owner of the building, or, in the case of any such subletting as aforesaid, the person for the time being entitled to receive the rent payable in respect of the subletting, shall be liable, in addition to any penalty under the last preceding subsection, to a fine not exceeding \$50 for every day during which the building so erected or rebuilt or any part thereof, or, as the case may be, the building or part thereof so let or sublet, is inhabited while not in conformity with the requirements of this section

**42 Local authority may require repairs and issue closing order**

- (1) This section shall apply in any case where the medical officer of health, or the engineer of any local authority, or any other officer of a local authority duly authorised in that behalf, gives to the local authority a certificate to the effect—

...

- (b) that any dwellinghouse within that district is, by reason of its situation or insanitary condition, likely to cause injury to the health of any persons therein, or otherwise unfit for human habitation; or

...

- (e) that any dwellinghouse within that district does not comply with any regulations made under section 120C.

- (2) In any case to which this section applies, the local authority may, and shall if so required by the Director-General, cause to be served on the owner of the premises, or his agent, a notice in writing requiring the owner to carry out any repairs, alterations, or works specified in the notice (hereinafter referred to as a repair notice) within a time to be specified in the notice, and stating that if the notice is not complied with an offence is committed and a closing order may be issued under this section. If the owner is not the occupier of the premises a copy of the notice shall be served on the occupier (if any). A copy of the notice shall also be served on every person having a registered interest in the land under any mortgage or other encumbrance.
- (3) Where any such notice is not complied with to the satisfaction of the local authority, the local authority may, and shall if so required by the Director-General, issue an order (hereinafter referred to as a closing order) prohibiting the use of the premises for human habitation or occupation from a time to be specified in the order (being not less than 21 days after the issue of the order) until such repairs, alterations, or works as may be specified in the closing order have been carried out to the satisfaction of the local authority. The closing order shall be served forthwith on the occupier of the premises; and if the occupier is not the owner a copy shall be served on the owner or his agent. If the premises are unoccupied, the closing order shall be served on the owner or his agent. A copy of the closing order shall also be served on every person having a registered interest in the land under any mortgage or other encumbrance.
- (4) Notwithstanding anything in subsection (2) or subsection (3), the Director-General may in any case to which this section applies, if in his opinion a closing order should be issued immediately, direct the local authority to issue a closing order under the said subsection (3) without first giving notice under the said subsection (2); and thereupon the local authority shall issue and serve a closing order accordingly.
- (5) If the owner of any premises to which this section applies cannot be found, or is out of New Zealand and has no known agent in New Zealand, the occupier (if any) of the premises shall be deemed for the purposes of this section to be the agent of the owner.
- (6) Without limiting anything in subsections (3) and (4), every owner commits an offence against this Act who fails without reasonable excuse to comply with a repair notice served on the owner under subsection (2).

#### **43 Appeal against closing order**

- (1) The owner or occupier of any premises in respect of which a closing order is issued, or any person having a registered interest in the land under any mortgage or other encumbrance, may appeal against the closing order by applying to the District Court, within 14 days after the service on him of the closing order, or, as the case may be, the copy of the closing order, for an order cancelling or modifying the closing order.
- (2) Pending the determination of any such application the closing order shall be deemed to be suspended.
- (3) On the hearing of the application the court, whose decision shall be final, may cancel the closing order, or may confirm it either absolutely or subject to such modifications and conditions as the court thinks fit.

- (4) Every application to the court under this section shall be made and dealt with by way of originating application, on notice, under the rules of procedure for the time being in force under the District Court Act 2016, and the provisions of those rules shall apply accordingly.

**44 Issue of closing order by medical officer of health**

- (1) Where a local authority fails to issue a repair notice or a closing order when required or directed to do so under section 42, the medical officer of health, when authorised to do so by the Director-General, may issue a repair notice or, as the case may require, a closing order, which shall be served in the same manner and shall have the same effect, and, in the case of a closing order, shall be subject to appeal in the same manner, as if it were a repair notice or a closing order issued by the local authority, and the provisions of this Act relating thereto, so far as they are applicable and with the necessary modifications, shall apply accordingly.
- (2) All costs incurred by or against the medical officer of health on any appeal under this section shall be recoverable from the local authority as a debt due to the Crown or may be deducted from any money payable by the Crown to the local authority.

**45 Determination of closing order**

- (1) As soon as the repairs, alterations, or works specified in a closing order have been carried out to the satisfaction of the Engineer or other authorised officer of the local authority or, as the case may require, the medical officer of health, the local authority or medical officer of health shall cancel the closing order, which shall then cease to have any force or effect.
- (2) Every person aggrieved by any refusal or failure of the local authority or medical officer of health to cancel a closing order under this section may appeal against that refusal or failure by applying to the District Court for an order cancelling the closing order.
- (3) Every such application to the court shall be made and dealt with in the same manner as if it were an appeal against the issue of a closing order.
- (4) On the hearing of any such application the court, whose decision shall be final, may make such order as it thinks fit.

**47 Failure to comply with closing order**

Every person commits an offence against this Act who, being the owner or occupier of any premises in respect of which a closing order is in force—

- (a) inhabits or occupies the premises or any part thereof; or
- (b) permits or suffers any other person to inhabit or occupy the premises or any part thereof

**120C Regulations as to housing improvement and overcrowding**

- (1) Subject to the **Building Act 2004**, for the purpose of prescribing standards of fitness with which any dwellinghouse, whether erected before or after the commencement of this section, must comply, regulations made under this Act may make provision for or with respect to—

- (a) the construction, condition, and situation of dwellinghouses, and the space about dwellinghouses:
- (b) the drainage, sanitation, ventilation, lighting, and cleanliness of dwellinghouses and of the land on which dwellinghouses are situated:
- (c) the repair of dwellinghouses:
- (d) the provision in respect of dwellinghouses of a proper supply of potable water and hot water, of bathing, laundry, cooking, and food storage facilities, and of sanitary conveniences:

...

#### **128A Building Act 2004**

- (1) Where any person making an inspection in accordance with section 128 believes that any building or sitework does not comply with the Building Act 2004, that person shall by notice in writing give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.

## Heritage New Zealand Puhere Taonga Act 2014

### **3 Purpose**

The purpose of this Act is to promote the identification, protection, preservation, and conservation of the historical and cultural heritage of New Zealand.

### **4 Principles**

All persons performing functions and exercising powers under this Act must recognise—

- (a) the principle that historic places have lasting value in their own right and provide evidence of the origins of New Zealand's distinct society; and
- (b) the principle that the identification, protection, preservation, and conservation of New Zealand's historical and cultural heritage should—
  - (i) take account of all relevant cultural values, knowledge, and disciplines; and
  - (ii) take account of material of cultural heritage value and involve the least possible alteration or loss of it; and
  - (iii) safeguard the options of present and future generations; and
  - (iv) be fully researched, documented, and recorded, where culturally appropriate; and
- (c) the principle that there is value in central government agencies, local authorities, corporations, societies, tangata whenua, and individuals working collaboratively in respect of New Zealand's historical and cultural heritage; and
- (d) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tūpuna, wāhi tapu, and other taonga.

## International Covenant on Civil and Political Rights

### Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. ...
3. The above mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

## International Covenant on Social, Economic and Cultural Rights

### Article 12

1. The state parties agree to the present Covenant to everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) ...
  - (b) The improvement of all aspects of environmental and industrial hygiene;

## Land Act 1948

### **40 Purchase of private land or interest in Crown land**

- (1) The Board, on behalf of Her Majesty, may, with the approval of the Minister, purchase any private land, or the interest of any lessee or licensee in any Crown land or Maori land, for the purposes of settlement as farming, urban, commercial or industrial, or pastoral land under this Act, or for any government purpose, or for use in conjunction with land which is already used, or intended to be used, or any of these purposes.

### **41A State housing land may be declared to be Crown land or set apart as reserves**

The Minister of Lands may from time to time, by notice in the Gazette, declare any land set apart for the purposes of Part 1 of the Housing Act 1955 to be Crown land subject to this Act as from a date to be specified in the notice, which date may be the date of the notice or any date before or after the date of the notice, and as from the date so specified the land shall be deemed to be Crown land subject to this Act.

### **44 Preparing Crown land for settlement**

- (1) For the purpose of preparing any Crown land for settlement, the Board, with the approval of the Minister, may undertake and carry out such development works as it thinks fit, including, but without limiting the generality of the foregoing provisions, the survey, roading, subdivision, draining, reclamation, fencing, clearing, and grassing of the land, the erection of buildings, the provision of electric power and water, and any

other works calculated to improve the quality or condition of the land or to make it fit for settlement under this Act.

- (2) For the purposes mentioned in the last preceding subsection, the Board may from time to time purchase or otherwise acquire all such livestock, chattels, machinery, equipment, manures, seeds, fencing material, stores, and other materials or things as may in its opinion be required for the proper development of the land.
- (3) The Board may from time to time as it thinks fit sell any of the livestock or other things purchased or acquired pursuant to the last preceding subsection, or any livestock, crops, produce, or other things produced on or from the said land.
- (4) The Board may carry on all usual farming activities on land developed or being developed under this section until the time is appropriate in the opinion of the Board for the disposal of the land on permanent tenure under this Act; and to this end, in addition to the powers set forth in the last 3 preceding subsections, may employ such managers, sharemilkers, and workmen, let any grazing, and generally enter into such contracts and do such things as in the opinion of the Board are necessary for the proper farming of the land.
- (5) Where the Board, in the exercise of its powers under this section, has carried out any soil conservation work on Crown land without any grant or loan made by the Minister for the Environment pursuant to the provisions of section 30 of the Soil Conservation and Rivers Control Act 1941, then, notwithstanding any provision of this Act or any other Act, the Board may, as a condition of alienation of the land, require any purchaser, lessee, or licensee to enter into a land improvement agreement, as if the soil conservation work had been carried out by a grant or loan by the Minister for the Environment under the said section 30, with the Catchment Board or Catchment Commission constituted under the Soil Conservation and Rivers Control Act 1941 for the district or area, as the case may be, wherein the land is situated, or with the Waikato Catchment Board constituted under the Waikato Valley Authority Act 1956 where the land is situated in the Waikato Valley as defined under that Act, for the future maintenance of that soil conservation work in such manner and upon such terms and conditions as the Board may require. All the provisions of section 30A of the Soil Conservation and Rivers Control Act 1941 relating to the form of registration and the effect of land improvement agreements, as far as they are applicable and with any necessary modifications, shall apply to any land improvement agreement entered into in accordance with the provisions of this subsection.

#### **45 Joint preparation of land for settlement**

The Board may, with the approval of the Minister, construct or join with any person or local authority or department of State in constructing roads, bridges, drainage works, river protection works, and other works upon or in respect of Crown land for the purpose of preparing it for settlement as provided in subsection (1) of the last preceding section, or for its protection from injury from floods, river encroachment, or otherwise; or may arrange for the work to be undertaken by that person or local authority or department of State upon such terms and conditions as may be agreed upon.

**167 Land may be set apart as reserves**

- (1) The Minister of Conservation may from time to time, with the prior consent in writing of the Minister of Lands, by notice in the Gazette, set apart as a reserve any Crown land for any purpose which in his or her opinion is desirable in the public interest. Every such notice shall take effect from the date thereof or from such later date as is specified in the notice.
- (1A) On the recommendation of the Minister of Housing, any land held for State housing purposes under the Housing Act 1955 may be set apart as a reserve under subsection (1) as if it were Crown land subject to this Act.
- (2) Upon the notice aforesaid being published in the Gazette, the land described therein shall be and be deemed to be dedicated to the purpose for which it was reserved, and may at any time thereafter be granted for that purpose in fee simple, subject to the condition that it shall be held in trust for that purpose unless and until that purpose is lawfully changed.
- (3) Crown land may be set apart as a reserve under this section notwithstanding that it is subject to a pastoral lease or a pastoral occupation licence granted under this Act.
- (4) Where any Crown land is set apart as a reserve under this section for any public purpose that is a Government work within the meaning of the Public Works Act 1981, the land so set apart shall be deemed to be subject to that Act, save that section 35 of that Act, other than the second and third provisos to that section, shall have no application thereto.
- (5) For the purposes of this section, the balance of the lands described in Schedules 3 and 4 of the Westland and Nelson Coalfields Administration Act 1877, as amended by the Westland and Nelson Coalfields Administration Act 1901, and by section 7 of the Reserves and other Lands Disposal Act 1932, remaining vested in the Crown, and which has not been set apart for any public purpose, shall be deemed to be Crown land:  
provided that no part of the said lands shall be set apart as a reserve without the approval of the Minister of Transport.
- (6) A copy of any notice by the Minister of Conservation under subsection (1) and published in the Gazette may be forwarded to the Registrar-General of Land or the Registrar of Deeds, as the case may require, who shall thereupon, without payment of any fee, record the copy of the notice and register it against the appropriate title (if any).

## Land Transport Act 1998

**21 Enforcement officers to ameliorate hazards**

If an enforcement officer,<sup>1</sup> acting in the course of his or her official duties, becomes aware of the existence on a road of a hazard to the safety of traffic (whether arising from the nature or condition of a road or otherwise), the officer must—

- (a) take such steps as may be reasonably practicable to eliminate or reduce the hazard; and

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<sup>1</sup> Under the Land Transport Act 1998, “enforcement officer” will most commonly be interpreted as police.

- (b) if it is not reasonably practicable for the officer to eliminate the hazard, as soon as practicable report the existence of the hazard to the road controlling authority with a view to eliminating the hazard

## Land Transport Management Act 2003

### **16 Form and content of regional land transport plans**

- (1) A regional land transport plan must set out the region's land transport objectives, policies, and measures for at least 10 financial years from the start of the regional land transport plan.
- (2) A regional land transport plan must include—
  - (a) a statement of transport priorities for the region for the 10 financial years from the start of the regional land transport plan; and
  - (b) a financial forecast of anticipated revenue and expenditure on activities for the 10 financial years from the start of the regional land transport plan; and
  - (c) all regionally significant expenditure on land transport activities to be funded from sources other than the national land transport fund during the 6 financial years from the start of the regional land transport plan; and
  - (d) an identification of those activities (if any) that have inter-regional significance.
- (3) For the purpose of seeking payment from the national land transport fund, a regional land transport plan must contain, for the first 6 financial years to which the plan relates,—
  - (a) for regions other than Auckland, activities proposed by approved organisations in the region relating to local road maintenance, local road renewals, local road minor capital works, and existing public transport services; and

### **96 Operating principles**

- (1) In meeting its objective and undertaking its functions, the Agency must—
  - (a) exhibit a sense of social and environmental responsibility; and
  - (b) use its revenue in a manner that seeks value for money, and,—
    - (i) if the revenue is part of the national land transport fund, in accordance with section 10(3); and
    - (ii) in all other cases, for the purpose for which it is collected; and
  - (c) ensure that its revenue and expenditure are accounted for in a transparent manner; and
  - (d) ensure that—
    - (i) it acts in a transparent manner in its decision making under this Act; and
    - (ii) it gives, when making decisions in respect of land transport planning and funding under subpart 1 of Part 2, the same level of scrutiny to its own proposed activities and combinations of activities as it would give to those proposed by approved organisations.



## Local Government Act 1974

### **319 General powers of councils in respect of roads**

- (1) The council shall have power in respect of roads to do the following things:
  - (a) to construct, upgrade, and repair all roads with such materials and in such manner as the council thinks fit:
  - (b) [Repealed]
  - (c) to lay out new roads:
  - (d) to divert or alter the course of any road:
  - (e) to increase or diminish the width of any road subject to and in accordance with the provisions of the district plan, if any, and to this Act and any other Act:
  - (f) to determine what part of a road shall be a carriageway, and what part a footpath or cycle track only:
  - (g) to alter the level of any road or any part of any road:
  - (h) to stop or close any road or part thereof in the manner and upon the conditions set out in section 342 and Schedule 10:
  - (i) to make and use a temporary road upon any unoccupied land while any road adjacent thereto is being constructed or repaired:
  - (j) to name and to alter the name of any road and to place on any building or erection on or abutting on any road a plate bearing the name of the road:
  - (k) to sell the surplus spoil of roads:
  - (l) for the purpose of providing access from one road to another, or from one part of a road to another part of the same road, to construct on any road, or on land adjacent to any road, elevators, moving platforms, machinery, and overhead bridges for passengers or other traffic, and such subways, tunnels, shafts, and approaches as are required in connection therewith.
- (2) Before exercising a power under this section to do anything that will or is likely to interfere with any pipe, line, or other work associated with wastewater or the supply of water, electricity, gas, or telecommunications, the council must give not less than 10 working days' notice in writing of the proposed interference to the owner of the pipe, line, or other work, except in the case of any emergency or danger.

### **342 Stopping and closing of roads**

- (1) The council may, in the manner provided in Schedule 10,—
  - (a) stop any road or part thereof in the district:  
provided that the council shall not proceed to stop any road or part thereof in a rural area unless the prior consent of the Minister of Lands has been obtained; or
  - (b) close any road to traffic or any specified type of traffic (including pedestrian traffic) on a temporary basis in accordance with that schedule and impose or permit the imposition of charges as provided for in that schedule.

## Local Government Act 2002

### **10 Purpose of local government**

- (1) The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

## **12 Status and powers**

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has—
  - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
  - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not—
  - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
  - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
  - (c) restrict the activities of a council-controlled organisation; or
  - (d) prevent a local authority from making a donation (whether of money, resources, or otherwise) to another local authority or to a person or organisation outside its district or region or outside New Zealand—
    - (i) if the local authority considers, on reasonable grounds, that the donation will benefit its district or region, or the communities within its district or region; or
    - (ii) if the local authority considers, on reasonable grounds, that a benefit will be conferred on the local government sector as a whole; or
    - (iii) for emergency relief; or
  - (e) prevent a local authority from making a donation (whether of money, resources, or otherwise) to a local government body outside New Zealand to enable it to share its experience and expertise with that body.

## **14 Principles relating to local authorities**

- ...
- (h) in taking a sustainable development approach, a local authority should take into account—
  - (i) the social, economic, and cultural well-being of people and communities; and
  - (ii) the need to maintain and enhance the quality of the environment; and
  - (iii) the reasonably foreseeable needs of future generations.

**77 Requirements in relation to decisions**

- (1) A local authority must, in the course of the decision-making process,—
- (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - (b) assess the options in terms of their advantages and disadvantages; and
  - (c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.

...

**78 Community views in relation to decisions**

- (1) A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.

...

- (3) A local authority is not required by this section alone to undertake any consultation process or procedure.

**81 Contributions to decision-making processes by Māori**

- (1) A local authority must—
- (a) establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and
  - (b) consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and
  - (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).
- (2) A local authority, in exercising its responsibility to make judgments about the manner in which subsection (1) is to be complied with, must have regard to—
- (a) the role of the local authority, as set out in section 11; and
  - (b) such other matters as the local authority considers on reasonable grounds to be relevant to those judgments

**82 Principles of consultation**

- (1) Consultation that a local authority undertakes in relation to any decision or other matter must be undertaken, subject to subsections (3) to (5), in accordance with the following principles:
- (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:
  - (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority:

- (c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented:
  - (d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:
  - (e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:
  - (f) that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made.
- (2) A local authority must ensure that it has in place processes for consulting with Māori in accordance with subsection (1).
  - (3) The principles set out in subsection (1) are, subject to subsections (4) and (5), to be observed by a local authority in such manner as the local authority considers, in its discretion, to be appropriate in any particular instance.
  - (4) A local authority must, in exercising its discretion under subsection (3), have regard to—
    - (a) the requirements of section 78; and
    - (b) the extent to which the current views and preferences of persons who will or may be affected by, or have an interest in, the decision or matter are known to the local authority; and
    - (c) the nature and significance of the decision or matter, including its likely impact from the perspective of the persons who will or may be affected by, or have an interest in, the decision or matter; and
    - (d) the provisions of Part 1 of the Local Government Official Information and Meetings Act 1987 (which Part, among other things, sets out the circumstances in which there is good reason for withholding local authority information); and
    - (e) the costs and benefits of any consultation process or procedure.

...

### **93 Long-term plan**

...

- (6) The purpose of a long-term plan is to—
  - (a) describe the activities of the local authority; and
  - (b) describe the community outcomes of the local authority’s district or region; and
  - (c) provide integrated decision-making and co-ordination of the resources of the local authority; and
  - (d) provide a long-term focus for the decisions and activities of the local authority; and

- (e) provide a basis for accountability of the local authority to the community.

...

**97 Certain decisions to be taken only if provided for in long-term plan**

- (1) This section applies to the following decisions of a local authority:
  - (a) a decision to alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the local authority, including a decision to commence or cease any such activity;
  - (b) a decision to transfer the ownership or control of a strategic asset to or from the local authority.
- ...
- (2) A local authority must not make a decision to which this section relates unless—
  - (a) the decision is explicitly provided for in its long-term plan; and
  - (b) the proposal to provide for the decision was included in a consultation document in accordance with section 93E.

...

**101A Financial strategy**

- (1) A local authority must, as part of its long-term plan, prepare and adopt a financial strategy for all of the consecutive financial years covered by the long-term plan.
- (2) The purpose of the financial strategy is to—
  - (a) facilitate prudent financial management by the local authority by providing a guide for the local authority to consider proposals for funding and expenditure against; and
  - (b) provide a context for consultation on the local authority’s proposals for funding and expenditure by making transparent the overall effects of those proposals on the local authority’s services, rates, debt, and investments.
- (3) The financial strategy must—
  - (a) include a statement of the factors that are expected to have a significant impact on the local authority during the consecutive financial years covered by the strategy, including—
    - (i) the expected changes in population and the use of land in the district or region, and the capital and operating costs of providing for those changes; and
    - (ii) the expected capital expenditure on network infrastructure, flood protection, and flood control works that is required to maintain existing levels of service currently provided by the local authority; and
    - (iii) other significant factors affecting the local authority’s ability to maintain existing levels of service and to meet additional demands for services; and
  - (b) include a statement of the local authority’s—
    - (i) quantified limits on rate increases and borrowing; and
    - (ii) assessment of its ability to provide and maintain existing levels of service and to meet additional demands for services within those limits; and

- (c) specify the local authority's policy on the giving of securities for its borrowing; and
- (d) specify the local authority's objectives for holding and managing financial investments and equity securities and its quantified targets for returns on those investments and equity securities.

**101B Infrastructure strategy**

- (1) A local authority must, as part of its long-term plan, prepare and adopt an infrastructure strategy for a period of at least 30 consecutive financial years.
- (2) The purpose of the infrastructure strategy is to—
  - (a) identify significant infrastructure issues for the local authority over the period covered by the strategy; and
  - (b) identify the principal options for managing those issues and the implications of those options.
- (3) The infrastructure strategy must outline how the local authority intends to manage its infrastructure assets, taking into account the need to—
  - (a) renew or replace existing assets; and
  - (b) respond to growth or decline in the demand for services reliant on those assets; and
  - (c) allow for planned increases or decreases in levels of service provided through those assets; and
  - (d) maintain or improve public health and environmental outcomes or mitigate adverse effects on them; and
  - (e) provide for the resilience of infrastructure assets by identifying and managing risks relating to natural hazards and by making appropriate financial provision for those risks.
- (4) The infrastructure strategy must outline the most likely scenario for the management of the local authority's infrastructure assets over the period of the strategy and, in that context, must—
  - (a) show indicative estimates of the projected capital and operating expenditure associated with the management of those assets—
    - (i) in each of the first 10 years covered by the strategy; and
    - (ii) in each subsequent period of 5 years covered by the strategy; and
  - (b) identify—
    - (i) the significant decisions about capital expenditure the local authority expects it will be required to make; and
    - (ii) when the local authority expects those decisions will be required; and
    - (iii) for each decision, the principal options the local authority expects to have to consider; and
    - (iv) the approximate scale or extent of the costs associated with each decision; and
  - (c) include the following assumptions on which the scenario is based:
    - (i) the assumptions of the local authority about the life cycle of significant infrastructure assets;
    - (ii) the assumptions of the local authority about growth or decline in the demand for relevant services;
    - (iii) the assumptions of the local authority about increases or decreases in relevant levels of service; and

- (d) if assumptions referred to in paragraph (c) involve a high level of uncertainty,—
  - (i) identify the nature of that uncertainty; and
  - (ii) include an outline of the potential effects of that uncertainty.
- (4A) A local authority must, for a long-term plan for or after 2027–2037, identify and explain, in the infrastructure strategy, any significant connections with, or interdependencies between,—
  - (a) the matters included in that infrastructure strategy; and
  - (b) the matters that are—
    - (i) included in an infrastructure strategy prepared and adopted by a water services entity under section 157 (and *see also* clause 16 of Schedule 1) of the Water Services Entities Act 2022; and
    - (ii) relevant to the local authority’s district or region.
- (5) A local authority may meet the requirements of section 101A and this section by adopting a single financial and infrastructure strategy document as part of its long-term plan.
- (6) In this section, infrastructure assets includes—
  - (a) existing or proposed assets to be used to provide services by or on behalf of the local authority in relation to the following groups of activities:
    - (i) water supply;
    - (ii) sewerage and the treatment and disposal of sewage;
    - (iii) stormwater drainage;
    - (iv) flood protection and control works;
    - (v) the provision of roads and footpaths; and
  - (b) any other assets that the local authority, in its discretion, wishes to include in the strategy.

**130 Obligation to maintain water services**

- (1) This subpart applies to a local government organisation that provides water services to communities within its district or region—
  - (a) at the commencement of this section;
  - (b) at any time after the commencement of this section.
- (2) A local government organisation to which this section applies must continue to provide water services and maintain its capacity to meet its obligations under this subpart.
- (3) In order to fulfil the obligations under this subpart, a local government organisation must—
  - (a) not use assets of its water services as security for any purpose;
  - (b) not divest its ownership or other interest in a water service except to another local government organisation;
  - (c) not lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its region or district, unless, in doing so, it retains its capacity to meet its obligations;
  - (d) not, in relation to a property to which it supplies water,—
    - (i) restrict the water supply unless section 193 applies; or
    - (ii) stop the water supply unless section 25 of the Water Services Act 2021 applies.

...

**131 Power to close down or transfer small water services**

- (1) Despite section 130(2), a local government organisation may, in relation to a water service that it is no longer appropriate to maintain,—
- (a) close down the water service; or
  - (b) transfer the water service to an entity representative of the community for which the service is operated.
- (2) A local government organisation must not close down or transfer a water service unless—
- (a) there are 200 or fewer persons to whom the water service is delivered and who are ordinarily resident in the district, region, or other subdivision; and
  - (b) it has consulted on the proposal with the Medical Officer of Health for the district or Taumata Arowai; and
  - (c) it has made publicly available in a balanced and timely manner—
    - (i) the views of the Medical Officer of Health or Taumata Arowai; and
    - (ii) the information it has received in the course of—
      - (A) undertaking a review, assessment, and comparison under section 134(a) and (b); or
      - (B) preparing a management plan and making assessments under section 135(a), (b), and (c); and
  - (d) the proposal is supported, in a binding referendum conducted under section 9 of the Local Electoral Act 2001 using the First Past the Post electoral system,—
    - (i) in the case of a proposal to close down a water service, by 75% or more of the votes cast in accordance with subsection (3); and
    - (ii) in the case of a proposal to transfer a water service, by more than 50% of the votes cast in accordance with section 132.
- (3) For the purpose of subsection (2)(a), a certificate signed by the chief executive of the local government organisation as to the number of persons to whom the water service is delivered in the district, region, or other subdivision at any date is conclusive evidence of that number.

**134 Criteria for closure of water service**

- A local government organisation may only close down a water service under section 131(1)(a) if it has first—
- (a) reviewed the likely effect of the closure on—
    - (i) the public health of the community that would be affected by the closure; and
    - (ii) the environment in the district of that community; and
  - (b) assessed, in relation to each property that receives the water service, the likely capital cost and annual operating costs of providing an appropriate alternative service if the water service is closed down; and
  - (c) compared the quality and adequacy of the existing water service with the likely quality and adequacy of the alternative service referred to in paragraph (b).



## Local Government Official Information and Meetings Act 1987

### 44A Land information memorandum

- (1) A person may apply to a territorial authority for the issue, within 10 working days, of a land information memorandum in relation to matters affecting any land in the district of the authority.
- (2) The matters which shall be included in that memorandum are—
  - (a) information identifying each (if any) special feature or characteristic of the land concerned, including but not limited to potential erosion, avulsion, falling debris, subsidence, slippage, alluvion, or inundation, or likely presence of hazardous contaminants, being a feature or characteristic that—
    - (i) is known to the territorial authority; but
    - (ii) is not apparent from the district scheme under the Town and Country Planning Act 1977 or a district plan under the Resource Management Act 1991:
  - (b) information on private and public stormwater and sewerage drains as shown in the territorial authority's records:
  - (ba) [Repealed]
  - (bb) information on—
    - (i) whether the land is supplied with drinking water and if so, whether the supplier is the owner of the land or a drinking water supplier:
    - (ii) if the land is supplied with drinking water by a drinking water supplier, any conditions that are applicable to that supply:
    - (iii) if the land is supplied with water by the owner of the land, any information the territorial authority has about the supply:
    - (iv) any exemption that has been notified by Taumata Arowai to the territorial authority under section 57 of the Water Services Act 2021:
  - (c) information relating to any rates owing in relation to the land:
    - (ca) if the land concerned is located in a levy area that is subject to a levy order under the Infrastructure Funding and Financing Act 2020, information about—
      - (i) the levy period:
      - (ii) how liability for a levy on the land is assessed:
      - (iii) amounts of any unpaid levy:
    - (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:
  - (d) information concerning any consent, certificate, notice, order, or requisition affecting the land or any building on the land previously issued by the territorial authority (whether under the Building Act 1991, the Building Act 2004, or any other Act):
    - (da) the information required to be provided to a territorial authority under section 362T(2) of the Building Act 2004:

- (e) information concerning any certificate issued by a building certifier pursuant to the Building Act 1991 or the Building Act 2004:
  - (ea) information notified to the territorial authority under section 124 of the Weathertight Homes Resolution Services Act 2006:
  - (f) information relating to the use to which that land may be put and conditions attached to that use:
  - (g) information which, in terms of any other Act, has been notified to the territorial authority by any statutory organisation having the power to classify land or buildings for any purpose:
  - (h) any information which has been notified to the territorial authority by any network utility operator pursuant to the Building Act 1991 or the Building Act 2004.
- (3) In addition to the information provided for under subsection (2), a territorial authority may provide in the memorandum such other information concerning the land as the authority considers, at its discretion, to be relevant.
- (4) An application for a land information memorandum shall be in writing and shall be accompanied by any charge fixed by the territorial authority in relation thereto.
- (5) In the absence of proof to the contrary, a land information memorandum shall be sufficient evidence of the correctness, as at the date of its issue, of any information included in it pursuant to subsection (2).
- (6) Notwithstanding anything to the contrary in this Act, there shall be no grounds for the territorial authority to withhold information specified in terms of subsection (2) or to refuse to provide a land information memorandum where this has been requested.

## Local Government Official Information and Meetings

### Amendment Bill 2022

#### **44B Natural hazard information to be included in land information memoranda**

- (1) The purpose of this section is to ensure that land information memoranda contain understandable information about the following in relation to land:
- (a) natural hazards:
  - (b) impacts of climate change that exacerbate natural hazards.
- (2) A land information memorandum must include—
- (a) the following information, to the extent that it is known to the territorial authority:
    - (i) information about each hazard or impact that affects the land concerned:
    - (ii) information about each potential hazard or impact, to the extent that the authority is satisfied that there is a reasonable possibility that the hazard or impact may affect the land concerned (whether now or in the future):
    - (iii) information about the cumulative or combined effects of those hazards or impacts on the land concerned; and
  - (b) any further information required by the regulations to make the information provided under paragraph (a) more understandable.

- (3) The information must be summarised and presented in the land information memorandum in the form required by the regulations (if any).

**44C Regional council must provide territorial authority with natural hazard information**

- (1) A regional council must, as soon as is reasonably practicable in the circumstances, provide to each territorial authority within or partly within its region—
- (a) the following information, to the extent that it is known to the council, about natural hazards and impacts of climate change that exacerbate natural hazards:
    - (i) information about each hazard or impact that affects land in the region:
    - (ii) information about each potential hazard or impact, to the extent that the council is satisfied that there is a reasonable possibility that the hazard or impact may affect land in the region (whether now or in the future):
    - (iii) information about the cumulative or combined effects of those hazards or impacts on land in the region; and
  - (b) any further information required by the regulations to make the information provided under paragraph (a) more understandable.
- (2) The information must be summarised and presented in the form required by the regulations (if any).

**44D Territorial authority and regional council protected against certain actions when providing information in good faith**

A territorial authority or regional council is not liable in civil or criminal proceedings for making available in good faith,—

- (a) in the case of a territorial authority, information in a land information memorandum under section 44A(2)(a); or
- (b) in the case of a regional council, information to a territorial authority under section 44C

## Marine and Coastal Area (Takutai Moana) Act 2011

**14 Roads located in marine and coastal area**

- (1) Any road, whether formed or unformed, that is in the marine and coastal area on the commencement of this Act is not part of the common marine and coastal area.

## Natural and Built Environment Bill 2022

**5 System outcomes**

To assist in achieving the purpose of this Act, the national planning framework and all plans must provide for the following system outcomes:

- (a) the protection or, if degraded, restoration, of—
  - (i) the ecological integrity, mana, and mauri of—
    - (A) air, water, and soils; and
    - (B) the coastal environment, wetlands, estuaries, and lakes and rivers and their margins; and
    - (C) indigenous biodiversity:

- (ii) outstanding natural features and outstanding natural landscapes:
- (iii) the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins:
- (b) in relation to climate change and natural hazards, achieving—
  - (i) the reduction of greenhouse gas emissions:
  - (ii) the removal of greenhouse gases from the atmosphere:
  - (iii) the reduction of risks arising from, and better resilience of the environment to, natural hazards and the effects of climate change:
- (c) well functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes—
  - (i) the use and development of land for a variety of activities, including for housing, business use, and primary production; and
  - (ii) the ample supply of land for development, to avoid inflated urban land prices; and
  - (iii) housing choice and affordability; and
  - (iv) an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities; and
- (d) the availability of highly productive land for land-based primary production:
- (e) the recognition of, and making provision for, the relationship of iwi and hapū and the exercise of their kawa, tikanga (including kaitiakitanga), and mātauranga in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga:
- (f) the protection of protected customary rights and recognition of any relevant statutory acknowledgement:
- (g) the conservation of cultural heritage:
- (h) enhanced public access to and along the coastal marine area, lakes, and rivers:
- (i) the ongoing and timely provision of infrastructure services to support the well-being of people and communities.

**26 Certain existing uses protected in relation to land**

- (1) A person may use land in a way that contravenes a plan rule within the jurisdiction of a territorial authority if—
  - (a) the use was lawfully established before the rule became operative or the proposed plan was notified; and
  - (b) the effects of the use—
    - (i) are the same or similar in character, intensity, and scale to those that existed before the rule became operative or the proposed plan was notified; or
    - (ii) any change in effects is limited to reducing the adverse effects on the environment or otherwise enhances the environment.
- (2) Despite **subsection (1)**, an existing use of land must comply with the plan rules that give effect to the national planning framework as it

relates to each of the following, as far as they are relevant, but only if the national planning [sic] framework or a plan expressly provides that this subsection applies:

- (a) the natural environment; and
  - (b) the reduction or mitigation of, or adaptation to, the risks associated with—
    - (i) natural hazards;
    - (ii) climate change;
    - (iii) contaminated land.
- (3) **Subsection (2)(a)** applies only if the national planning framework expressly states that it applies.
- (4) **Subsection (2)(b)** applies—
- (a) whether or not the rules give effect to provisions of the national planning framework; but
  - (b) only if the national planning framework or a plan expressly state that it applies.

### 27 **When existing use rights may be lost**

- (1) **Section 26** does not apply if a use of land that contravenes a plan rule within the jurisdiction of a territorial authority is discontinued for a continuous period of 6 months (or any longer period specified in a plan rule) after the rule becomes operative or the proposed plan is notified.
- (2) However, **section 26** does apply if—
- (a) an application for an extension of the existing use is made to the territorial authority within 2 years of the activity first being discontinued; and
  - (b) an extension is granted because—
    - (i) the effect of the extension will not be contrary to the objectives and policies of the applicable plan; and
    - (ii) the applicant has obtained approval from every person who may be adversely affected by the granting of an extension (unless the territorial authority considers that it would be unreasonable in the circumstances to require the applicant to obtain every approval).
- (3) **Section 26** does not apply if, as a result of reconstructing, altering, or extending a building to which that section would otherwise apply, the change to the use of building increases the degree of non-compliance of the use with the relevant rule.

...

### 33 **Purpose of national planning framework**

The purpose of the national planning framework is to further the purpose of this Act by—

- (a) providing directions on the integrated management of the environment in relation to—
  - (i) matters of national significance; and
  - (ii) matters for which national consistency is desirable; and
  - (iii) matters for which consistency is desirable in some, but not all, parts of New Zealand; and
- (b) helping to resolve conflicts about environmental matters, including those between or among system outcomes; and

- (c) setting environmental limits and strategic directions.

**57 National planning framework must provide direction on system outcomes**

- (1) The national planning framework must include content that provides direction—
  - (a) for each system outcome; and
  - (b) for the resolution of conflicts about environmental matters, including those between or among the system outcomes.
- (2) Direction provided under **subsection (1)** need only be in such detail as is appropriate to the particular system outcome or outcomes.

**60 Contents of national planning framework**

- (1) The national planning framework may—
  - (a) state outcomes (framework outcomes) and policies—
  - (b) state rules (framework rules) and methods (other than rules) for implementing framework outcomes and policies:
  - (c) set substantive or procedural requirements for regional spatial strategies and plans, including:
    - (i) matters that regional planning committees must consider in preparing regional spatial strategies and plans:
    - (ii) matters that regional planning committees are required to achieve or provide for in regional spatial strategies or plans:
    - (iii) constraints or restrictions on the content of regional spatial strategies and plans:
    - (iv) requirements relating to the structure and form of regional spatial strategies and plans:
    - (v) requirements for definitions in regional spatial strategies and plans:
  - (d) direct regional planning committees to insert specific provisions in their regional spatial strategies and plans:
  - (e) direct regional planning committees to choose from a number of specific provisions to be included in their regional spatial strategies and plans:
  - (f) direct regional planning committees and local authorities to collect or publish specified information in order to achieve the provisions of the national planning framework:
  - (g) include any other matter relevant to the purpose or implementation of the national planning framework.

**102 What plans must include**

- (1) A plan must have strategic content that reflects the major policy issues of a region and its constituent districts.
- (2) A plan must—
  - (a) manage the resources of the natural and built environment; and
  - (b) manage the effects of using and developing the environment, including cumulative effects; and
  - ...
  - (g) identify land, the coastal marine area, or any natural resource in the region for which protection, or a particular use or development, is a priority;

- 104 Plans must be consistent with regional spatial strategies**  
Every plan must be consistent with the relevant regional spatial strategy, unless and to that extent that,—
- (a) new information becomes available that supersedes the information used to determine the content of the regional spatial strategy; and
  - (b) there is a significant change in circumstances or in the physical environment since the regional spatial strategy was developed (for example, a major environmental or economic event).
- 106 Te Oranga o te Taiao statement**
- (1) An iwi or hapū may, at any time, provide a statement on te Oranga o te Taiao to the relevant regional planning committee.
  - (2) A statement by an iwi or hapu on te Oranga o te Taiao may relate to allocation matters.
- 107 Considerations relevant to preparing and changing plans**  
*Matters to which regional planning committee must have particular regard*
- (1) In addition to the matters to be included in plans under **sections 102, 103, and 105**, a regional planning committee must have particular regard to—
    - (a) a statement of community outcomes prepared by a territorial authority or unitary authority; and
    - (b) a statement of regional environmental outcomes prepared by a regional council; and
    - (c) any relevant planning document recognised by an iwi authority or 1 or more groups that represent hapū.
  - (2) **Subsection (1)** applies only as far as the matters set out in **subsection (1)(a) to (c)** are relevant to the matters dealt with in the plan.  
*Matters to which committee must have regard*
  - (2) A regional planning committee must have regard to—
    - (a) relevant entries on the New Zealand Heritage List/ Rārangī Kōrero made under the Heritage New Zealand Pouhere Taonga Act 2014; and
    - (b) the extent to which a plan under this Act must be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.
  - (3) A regional planning committee may incorporate documents by reference in its plan, as provided for by **Schedule 12**.
- 139 Land subject to controls**
- (1) An interest in land must be treated as not being taken or injuriously affected because of a provision in a plan, unless the contrary is expressly provided for in this Act.
  - (2) If a person with an interest in land considers that a provision in a plan or proposed plan applying to that person's interest makes, or would make, the interest in the land incapable of reasonable use, that person may challenge the provision or proposed provision.
  - (3) The person may do so by—

- (a) making a submission under **Schedule 7** in respect of the provision or proposed provision; or
- (b) applying to change the plan under **clause 69 of Schedule 7**.
- (4) A reference in this section and **section 140** to a provision in a plan or proposed plan does not include a designation, heritage protection order, or a requirement for a designation or heritage protection order.
- (5) In this section and **section 140, reasonable use**, in relation to land, includes the use or potential use of the land for any activity if the actual or potential effects of the activity would not be significant on the natural and built environment or on any person other than the applicant.

**140 Jurisdiction of Environment Court over land subject to controls**

- (1) This section applies if—
  - (a) an application is made to the Environment Court to change a plan under **clause 69 of Schedule 7**;
  - (b) an appeal is made to that court concerning a provision in a proposed plan or a change to a plan.
- (2) The grounds that must be satisfied by the applicant or appellant are that the provision or proposed provision of a plan—
  - (a) makes the relevant land incapable of reasonable use; and
  - (b) places an unfair and unreasonable burden on any person with an interest in that land.
- (3) In determining whether the grounds set out in **subsection (2)** are met, the court may assess and take into account the risks or future risks (if any) identified as relevant to the land in question.
- (4) **Section 141** applies if the court is satisfied that the grounds in **subsection (2)**, as assessed under **subsection (3)** (if relevant), are met.

**141 Court's determination**

- (1) In determining an application provided for in **section 140(1)**, the Environment Court may direct the relevant regional planning committee to do whichever of the following the committee considers appropriate:
  - (a) modify, delete, or replace the provision in the plan or proposed plan in the manner that the court directs; or
  - (b) notify the relevant local authority that it is required to offer to acquire all or part of the estate or interest in the land under the Public Works Act 1981, as long as—
    - (i) the person with the estate or interest agrees to that course of action; and
    - (ii) the requirements of **subsection (3)** are met.
- (2) Before the court gives a direction or report under **subsection (1)**, it must have regard to **Part 2**, including the effect of **section 17(2)** (use of land).
- (3) The court must not give a direction under **subsection (1)(b)** unless the person with the estate or interest in the land concerned or part of it (or that person's spouse, civil union partner, or de facto partner)—



- (a) had acquired the estate or interest in the land or part of it before the date on which the provision or proposed provision was first notified or included in the relevant plan or proposed plan; and
  - (b) the provision or proposed provision remained in substantially the same form.
- (4) If an offer to acquire the relevant estate or interest in the land or part of it is made under **subsection (1)(b)**—
- (a) is accepted, the local authority is responsible for implementing the acquisition under the Public Works Act 1981, including meeting the costs of the acquisition:
  - (b) is not accepted, the provisions in the plan remains in force unaffected or, if not already in force, comes into force without modification.
- (5) A direction given under **subsection (1)** has effect as if it were given under **clause 136 of Schedule 7**.
- (6) This section does not limit the powers of the Environment Court.

**142 Power to acquire land**

- (1) A local authority may, by agreement under the Public Works Act 1981, acquire land or an interest in land in its region or district if, under the operative plan, the local authority considers that the acquisition is necessary or necessary for 1 or both of the following purposes:
- (a) to terminate or prevent a prohibited activity in relation to the land:
  - (b) to facilitate activity in relation to the land that is in accordance with the outcomes and policies specified in the plan.
- (2) A plan must not oblige a local authority to acquire land, except as provided in **section 141(1)(b)** or **524**.
- (3) A person whose estate or interest in land is taken for a purpose authorised by **subsection (1)** is entitled to the compensation that the person would have been entitled to if the land had been acquired for a public work under the Public Works Act 1981.

**660 Purpose of National Māori Entity**

The purpose for establishing the National Māori Entity is to provide independent monitoring of decisions taken under this Act or the Spatial Planning Act 2022, in order to inform and support positive progress at the national, regional or local level, as relevant, in managing the environment in light of the obligation set out in section 4.

**644 Matters for which regional councils and unitary authorities responsible**

As far as they are relevant to a region, the regional council or unitary authority has responsibility for the following matters:

*Use of land*

- (a) the use of land for the purpose of—
- ...
- (v) mitigating or reducing the risks arising from natural hazards

*Coastal marine area*

- (b) in relation to the coastal marine area in the region, management of (in conjunction with the Minister of Conservation)—
- ...
- (iv) any actual or potential effects of the use, development, or protection of land, including mitigating or reducing the risks arising from natural hazards:

**682 Contents of Mana Whakahono ā Rohe**

- (1) A Mana Whakahono ā Rohe must—
  - (a) be recorded in writing; and
  - (b) identify the participating authorities; and
  - (c) record the agreement of the participating authorities about—
    - (i) how to implement the requirements of iwi and hapū participation legislation in the area of interest under the Mana Whakahono ā Rohe; and
    - (ii) how the participating authorities may undertake engagement and provide for technical input and funding to participate in planning processes under this Act and in the strategy processes under the Spatial Planning Act 2022; and
    - (iii) how the participating authorities may work together to develop and agree on methods for monitoring under this Act and under the Spatial Planning Act 2022; and
    - (iv) how the participating authorities may work together on matters relating to climate change adaptation and natural hazards relevant to the areas of interest of the participating authorities; and
    - (v) how opportunities will be created for the transfer of powers under **section 650** and the establishment of joint management agreements under **section 656**; and
    - (vi) how the participating authorities will provide support for particular regard to be taken of iwi and hapū management plans; and
    - (vii) how members of iwi authorities and groups that represent hapū can access opportunities for training as commissioners; and
    - (viii) how participating authorities may enable relationships to be created with council-controlled organisations that operate within the areas of interest of the participating authorities; and
    - (ix) how the participating authorities may provide for mutual capability- and capacity-building for local authorities and regional planning committees in relation to cultural connections and mātauranga that are specific to the areas of interest of the participating authorities; and
    - (x) how opportunities may be provided for iwi authorities and groups that represent hapū jointly to manage a local authority's powers as a heritage protection authority; and
    - (xi) how the participating authorities may support the application and implementation of the national planning framework; and

- (xii) the protocols and processes that apply to support the sharing of information among the participating authorities; and
  - (xiii) a process for identifying and managing conflicts of interest; and
  - (xiv) the process that the parties will use for resolving disputes about the implementation of the Mana Whakahono ā Rohe, including the matters described in **section 683**; and
  - (xv) the time frames for implementing matters that are agreed in any Mana Whakahono ā Rohe arrangement; and
  - (xvi) the time frame and method applying to a regular review of the effectiveness of a Mana Whakahono ā Rohe, as required by **section 688**.
- (2) If the participating authorities agree, they may discuss and agree on any other matters relevant to their functions, duties, and powers under this Act or any other Act.
- (3) The agreement recorded under **subsection (1)** may record an agreement to take no action on a matter.

...

## New Zealand Bill of Rights Act 1990

### **8 Right not to be deprived of life**

No one shall be deprived of life except on such grounds as are established by law and are consistent with principles of fundamental justice.

### **9 Right not to be subjected to torture or cruel treatment**

Everyone has the right to not be subjected to torture or to cruel, degrading, or disproportionately severe treatment or punishment.

### **27 Right to Justice**

- (1) Every person has the right to the observance of the principles of natural justice by any tribunal or other public authority which has the power to make a determination in respect of that person's rights, obligations, or interests protected or recognised by law.
- (2) Every person whose rights, obligations, or interests protected or recognised by law have been affected by a determination of any tribunal or other public authority has the right to apply, in accordance with law, for judicial review of that determination.
- (3) Every person has the right to bring civil proceedings against, and to defend civil proceedings brought by, the Crown, and to have those proceedings heard, according to law, in the same way as civil proceedings between individuals.

## New Zealand Coastal Policy Statement 2010

### **Objective 4**

To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:

- recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;

- maintaining and enhancing public walking access to and along the coastal marine area without charge, and where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and
- recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.

### **Objective 5**

To ensure that coastal hazard risks taking account of climate change, are managed by:

- locating new development away from areas prone to such risks;
- considering responses, including managed retreat, for existing development in this situation; and
- protecting or restoring natural defences to coastal hazards

### **Policy 3 Precautionary approach**

- (1) Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse.
- (2) In particular, adopt a precautionary approach to use and management of coastal resources potentially vulnerable to effects from climate change, so that:
  - (a) avoidable social and economic loss and harm to communities does not occur;
  - (b) natural adjustments for coastal processes, natural defences, ecosystems, habitat and species are allowed to occur; and
  - (c) the natural character, public access, amenity and other values of the coastal environment meet the needs of future generations.

### **Policy 4 Integration**

Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:

- ...
  - (c) particular consideration of situations where:
    - ...
      - (iii) development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change; or
      - (iv) land use activities affect, or are likely to affect, water quality in the coastal environment and marine ecosystems through increasing sedimentation; or
      - (v) significant adverse cumulative effects are occurring, or can be anticipated.

### **Policy 6 Activities in the Coastal Environment**

- ...
  - (c) consider where and how built development on land should be controlled so that it does not compromise activities of national or

regional importance that have a functional need to locate and operate in the coastal marine area

### **Policy 7 Strategic planning**

- (1) In preparing regional policy statements, and plans:
  - (a) consider where, how and when to provide for future residential, rural residential, settlement, urban development and other activities in the coastal environment at a regional and district level, and:
  - (b) identify areas of the coastal environment where particular activities and forms of subdivision, use and development:
    - (i) are inappropriate; and
    - (ii) may be inappropriate without the consideration of effects through a resource consent application, notice of requirement for designation or Schedule 1 of the Act process; and provide protection from inappropriate subdivision, use, and development in these areas through objectives, policies and rules.
- (2) Identify in regional policy statements, and plans, coastal processes, resources or values that are under threat or at significant risk from adverse cumulative effects. Include provisions in plans to manage these effects. Where practicable, in plans, set thresholds (including zones, standards or targets), or specify acceptable limits to change, to assist in determining when activities causing adverse cumulative effects are to be avoided.

### **Policy 24 Identification of coastal hazards**

- (1) Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunamis), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are to be assessed having regard to:
  - (a) physical drivers and processes that cause coastal change including sea level rise;
  - (b) short-term and long-term natural dynamic fluctuations of erosion and accretion;
  - (c) geomorphological character;
  - (d) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;
  - (e) cumulative effects of sea level rise, storm surge and wave height under storm conditions;
  - (f) influences that humans have had or are having on the coast;
  - (g) the extent and permanence of built development; and
  - (h) the effects of climate change on:
    - (i) matters (a) to (g) above;
    - (ii) storm frequency, intensity and surges; and
    - (iii) coastal sediment dynamics; taking into account national guidance and the best available information on the likely effects of climate change on the region or district.

## **Policy 25 Subdivision, use, and development in areas of coastal hazard risk**

In areas potentially affected by coastal hazards over at least the next 100 years:

- (a) avoid increasing the risk<sup>10</sup> of social, environmental and economic harm from coastal hazards;
- (b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;
- (c) encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;
- (d) encourage the location of infrastructure away from areas of hazard risk where practicable;
- (e) discourage hard protection structures and promote the use of alternatives to them, including natural defences; and
- (f) consider the potential effects of tsunami and how to avoid or mitigate them.

## **Public Works Act 1981**

### **16 Empowering acquisition of land**

- (1) The Minister is hereby empowered to acquire under this Act any land required for a Government work.
- (2) Every local authority is hereby empowered to acquire under this Act any land required for a local work for which it has financial responsibility.
- (3) In addition, a local authority is empowered to acquire under this Act any land required for a local SPV work for which it is the responsible infrastructure authority.

### **17 Acquisition by agreement**

- (1) The Minister or a local authority may enter into an agreement to purchase any land for any public work for which the Crown or local authority, as the case may be, is responsible.
- (2) Any agreement to sell land to the Crown or a local authority for public work under this section may be implemented by a declaration under section 20 or by a transfer instrument under the Land Transfer Act 2017 for the stated public work.
- (3) [Repealed]
- (4) If the land sought is—
  - (a) Maori freehold land as defined in section 2 of Te Ture Whenua Maori Act 1993; and
  - (b) beneficially owned by more than 4 persons; and
  - (c) not vested in any trustee or trustees—

the Minister, or any person authorised generally or particularly in writing by him, or the local authority, as the case may be, may apply to the Maori Land Court for the district in which the land is situated for an order under the provisions of Part 9 of the Maori

Affairs Amendment Act 1974. The Maori Land Court shall deal with the application as if a notice under an enactment had been issued to the owners.

- (5) If an agent is appointed by the Maori Land Court, he shall, subject to the terms of the appointment, be deemed to be the owner of the land for the purposes of entering into an agreement under this section and of executing any transfer or conveyance.
- (6) Where Public Trust is authorised by virtue of an order under section 81 to represent the owner, Public Trust may agree to so represent the owner for the purposes of this section and may execute any transfer or conveyance.
- (7) Any agreement to sell the land to the Crown or to a local authority under this section may—
  - (a) specify the method of acquiring title to the land; and
  - ...

### **23 Notice of intention to take land**

- (1) When land (other than land owned by the Crown) is required to be taken for any public work, the Minister in the case of a Government work, and the local authority in the case of a local work, shall—
  - (a) cause a survey to be made and a plan to be prepared, and lodged with the Chief Surveyor, showing the land required to be taken and the names of the owners of the land so far as they can be ascertained; and
  - (b) cause a notice to be published in the *Gazette* and twice publicly notified giving—
    - (i) a general description of the land required to be taken (including the name of and number in the road or some other readily identifiable description of the place where the land is situated); and
    - (ii) a description of the purpose for which the land is to be used; and
    - (iii) the reasons why the taking of the land is considered reasonably necessary; and
    - (iv) a period within which objections, other than objections by persons who are served with a copy of the notice under subsection (1)(c), may be made; and
  - (c) serve a notice on the owner of, and persons with a registered interest in, the land of the intention to take the land in the form set out in Schedule 1.
- (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.
- (1) The provisions of this section requiring the names of the owners of the land to be shown on the plan of the land shall have no application in respect of any Maori land unless title to the land is registered under the Land Transfer Act 2017, but instead the plan shall be endorsed with the advice that the names of the owners may be obtained at the appropriate Maori Land Court.

- (2A) For the purposes of subsection (2), land that is registered with a qualified record of title is not land that is registered under the Land Transfer Act 2017.
- (2) Every person having any estate or interest in the land intended to be taken may object to the taking of the land to the Environment Court in accordance with the provisions of the notice.

...

**24 Objection to be heard by Environment Court**

- (1) On receiving a written objection under section 23, the Environment Court shall, as soon as practicable, send a copy of the objection to the Minister or local authority, as the case may require.
- (2) Within 1 month after receiving a copy of the objection or within such further period as the Environment Court may allow, the Minister or local authority, as the case may require, shall send to the Environment Court and serve on the objector a reply to the objection containing the following information:
  - (a) the statutory or other authority under which it is proposed to take the land; and
  - (b) the nature of the work to be constructed or the purpose for which the land is required; and
  - (c) such other matters as may be appropriate having regard to the objections made and to any practice directions issued by the Environment Court.
- (3) The Environment Court shall inquire into the objection and the intended taking and for that purpose shall conduct a hearing at such time and place as it may appoint.
- (4) Not less than 15 working days' notice of the time and place so appointed shall be given to the objector and to the Minister or local authority, as the case may require.
- (5) Every such hearing shall be held in public unless the objector gives written notice to the Environment Court before the date of the hearing that he requires the hearing to be held in private.
- (6) At every such hearing the Minister or the local authority may be represented by counsel or by an officer of the Minister's department or local authority, as the case may require, and the objector may appear and act personally or by counsel or any duly authorised representative.
- (6A) The Environment Court may, whether or not the parties consent,—
  - (a) accept evidence that was presented at a hearing described in section 39(1) of the Resource Management Act 1991, or at a related inquiry or appeal heard by the court; and
  - (b) direct how evidence is to be given to the court.
- (7) The Environment Court shall—
  - (a) ascertain the objectives of the Minister or local authority, as the case may require;
  - (b) enquire into the adequacy of the consideration given to alternative sites, routes, or other methods of achieving those objectives;
  - (c) in its discretion, send the matter back to the Minister or local authority for further consideration in the light of any directions given by the court:



- (d) decide whether, in its opinion, it would be fair, sound, and reasonably necessary for achieving the objectives of the Minister or local authority, as the case may require, for the land of the objector to be taken:
- (e) prepare a written report on the objection and on the court's findings:
- (f) submit its report and findings to the Minister or local authority, as the case may require.

...

**40 Disposal to former owner of land not required for public work**

- (1) Where any land held under this or any other Act or in any other manner for any public work—
  - (a) is no longer required for that public work; and
  - (b) is not required for any other public work; and
  - (c) is not required for any exchange under section 105—
    - the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority, as the case may be, shall endeavour to sell the land in accordance with subsection (2), if that subsection is applicable to that land.
- (2) Except as provided in subsection (4), the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority, unless—
  - (a) he or it considers that it would be impracticable, unreasonable, or unfair to do so; or
  - (b) there has been a significant change in the character of the land for the purposes of, or in connection with, the public work for which it was acquired or is held—
    - shall offer to sell the land by private contract to the person from whom it was acquired or to the successor of that person—
  - (c) at the current market value of the land as determined by a valuation carried out by a registered valuer; or
  - (d) if the chief executive of the department within the meaning of section 2 of the Survey Act 1986 or local authority considers it reasonable to do so, at any lesser price.

...

**60 Basic entitlement to compensation**

- (1) Where under this Act any land—
  - (a) is acquired or taken for any public work; or
  - (b) suffers any injurious affection resulting from the acquisition or taking of any other land of the owner for any public work; or
  - (c) suffers any damage from the exercise (whether proper or improper and whether normal or excessive) of—
    - (i) any power under this Act; or
    - (ii) any power which relates to a public work and is contained in any other Act—

and no other provision is made under this or any other Act for compensation for that acquisition, taking, injurious affection, or damage, the owner of that land shall be entitled to full compensation from

the Crown (acting through the Minister) or local authority, as the case may be, for such acquisition, taking, injurious affection, or damage.

## **62 Assessment of compensation**

- (1) The amount of compensation payable under this Act, whether for land taken, land injuriously affected, or otherwise, shall be assessed in accordance with the following provisions:
- (a) subject to the provisions of sections 72 to 76, no allowance shall be made on account of the taking of any land being compulsory:
  - (b) the value of land shall, except as otherwise provided, be taken to be that amount which the land if sold in the open market by a willing seller to a willing buyer on the specified date might be expected to realise, unless—
    - (i) the assessment of compensation relates to any matter which is not directly based on the value of land and in respect of which a right to compensation is conferred under this or any other Act; or
    - (ii) only part of the land of an owner is taken or acquired under this Act and that part is of a size, shape, or nature for which there is no general demand or market, in which case the compensation for such land and the injurious affection caused by such taking or acquisition may be assessed by determining the market value of the whole of the owner's land and deducting from it the market value of the balance of the owner's land after the taking or acquisition:
  - (c) where the value of the land taken for any public work has, on or before the specified date, been increased or reduced by the work or the prospect of the work, the amount of that increase or reduction shall not be taken into account:
  - (d) the special suitability or adaptability of the land, or of any natural material acquired or taken under section 27, for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only pursuant to statutory powers, or a purpose for which there is no market apart from the special needs of a particular purchaser or the requirements of any government department or of any local authority:
  - (e) the Tribunal shall take into account by way of deduction from that part of the total amount of compensation that would otherwise be awarded on any claim in respect of a public work that comprises the market value of the land taken and any injurious affection to land arising out of the taking, any increase in the value of any land of the claimant that is injuriously affected, or in the value of any other land in which the claimant has an interest, caused before the specified date or likely to be caused after that date by the work or the prospect of the work:
  - (f) the Tribunal shall take into account, by way of deduction from the total amount of compensation that would otherwise be awarded, any increase in the value of the parcel of land in respect of which compensation is claimed that has occurred as a result of

the exercise by the New Zealand Transport Agency of any power under section 91 of the Government Roading Powers Act 1989.

- (2) In this section, the term specified date means—
- (a) in the case of any claim in respect of land of the claimant which has been taken pursuant to section 26, the date on which the land became vested in the Crown or in the local authority, as the case may be:
  - (b) where compensation is claimed under section 80 and the Minister or the local authority has (before the issue of the Proclamation) notified the Tribunal what land he or it proposes to take—
    - (i) the date of that notification; or
    - (ii) the date of the first entry upon the land for construction purposes; or
    - (iii) the date on which the land is first injuriously affected by the work; or
    - (iv) the date of any agreement made under section 80(1)(c) or any date specified in such an agreement—  
whichever is the earliest:
  - (c) in the case of any other claim in respect of land of the claimant which has been or is proposed to be taken for any work, the date on which the land became by Proclamation or declaration vested in the Crown or in the local authority, as the case may be, or the date on which the land was first entered upon for the purpose of the construction or the carrying out of the work, whichever is the earliest:
  - (d) in the case of any claim in respect of any work for which no land of the claimant has been taken and no land of the claimant is proposed to be taken, the date of the commencement of the execution of the portion of the work that causes damage to or injuriously affects the land of the claimant:  
...
- (3) Where any lessor's or lessee's estate or interest in any land is taken or acquired under this Act, such estate or interest may, if required by its owner, for the purpose of assessing compensation under this Act, be valued separately from the freehold.

### **63 Compensation for injurious affection where no land taken**

- (1) Where—
- (a) substantial injurious affection to a person's land is caused by the construction (but not the maintenance or operation) of a public work; and
  - (b) the injurious affection is not caused by changes of traffic flows arising out of the opening of any new road or motorway or the widening, upgrading, or deviation of an existing road; and
  - (c) there would exist a right of action at common law in respect of the injurious affection by the owner of the land against the Crown or the local authority, as the case may require,—
- the Crown (acting through the Minister) or local authority shall compensate that person to such extent as the injurious affection warrants.

- (2) In determining the existence of any right of action for the purposes of subsection (1)(c), the existence of any statutory authority or immunity that may be available to the Crown or local authority shall be disregarded.
- (3) The provisions of this section shall not apply where construction of that part of the public work which causes the injurious affection has been commenced before the claimant acquired the land that is injuriously affected.

## Reserves Act 1977

### **3 General purpose of this Act**

- (1) It is hereby declared that, subject to the control of the Minister, this Act shall be administered in the Department of Conservation for the purpose of—
  - (a) providing, for the preservation and management for the benefit and enjoyment of the public, areas of New Zealand possessing—
    - (i) recreational use or potential, whether active or passive; or
    - (ii) wildlife; or
    - (iii) indigenous flora or fauna; or
    - (iv) environmental and landscape amenity or interest; or
    - (v) natural, scenic, historic, cultural, archaeological, biological, geological, scientific, educational, community, or other special features or value:
  - (b) ensuring, as far as possible, the survival of all indigenous species of flora and fauna, both rare and commonplace, in their natural communities and habitats, and the preservation of representative samples of all classes of natural ecosystems and landscape which in the aggregate originally gave New Zealand its own recognisable character:
  - (c) ensuring, as far as possible, the preservation of access for the public to and along the sea coast, its bays and inlets and offshore islands, lakeshores, and riverbanks, and fostering and promoting the preservation of the natural character of the coastal environment and of the margins of lakes and rivers and the protection of them from unnecessary subdivision and development.
- (2) In the exercise of its administration of this Act, the Department may take any action approved or directed from time to time by the Minister so far as it is consistent with this Act or is provided for in any other Act and is not inconsistent with this Act.

## Resource Management Act 1991

### **6 Matters of national importance**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
- (d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:
- (g) the protection of protected customary rights:
- (h) the management of significant risks from natural hazards.

## 7 **Other matters**

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
  - (aa) the ethic of stewardship:
  - (b) the efficient use and development of natural and physical resources:
    - (ba) the efficiency of the end use of energy:
    - (c) the maintenance and enhancement of amenity values:
    - (d) intrinsic values of ecosystems:
    - (e) [Repealed]
    - (f) maintenance and enhancement of the quality of the environment:
    - (g) any finite characteristics of natural and physical resources:
    - (h) the protection of the habitat of trout and salmon:
    - (i) the effects of climate change:
    - (j) the benefits to be derived from the use and development of renewable energy.

## 10 **Certain existing uses in relation to land protected**

- (1) Land may be used in a manner that contravenes a rule in a district plan or proposed district plan if—
  - (a) either—
    - (i) the use was lawfully established before the rule became operative or the proposed plan was notified; and
    - (ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified:
  - (b) or—
    - (i) the use was lawfully established by way of a designation; and
    - (ii) the effects of the use are the same or similar in character, intensity, and scale to those which existed before the designation was removed.
- (2) Subject to sections 357 to 358, this section does not apply when a use of land that contravenes a rule in a district plan or a proposed district plan has been discontinued for a continuous period of more than 12 months

after the rule in the plan became operative or the proposed plan was notified unless—

- (a) an application has been made to the territorial authority within 2 years of the activity first being discontinued; and
  - (b) the territorial authority has granted an extension upon being satisfied that—
    - (i) the effect of the extension will not be contrary to the objectives and policies of the district plan; and
    - (ii) the applicant has obtained approval from every person who may be adversely affected by the granting of the extension, unless in the authority's opinion it is unreasonable in all the circumstances to require the obtaining of every such approval.
- (3) This section does not apply if reconstruction or alteration of, or extension to, any building to which this section applies increases the degree to which the building fails to comply with any rule in a district plan or proposed district plan.
- (4) For the avoidance of doubt, this section does not apply to any use of land that is—
- (a) controlled under section 30(1)(c) (regional control of certain land uses); or
  - (b) restricted under section 12 (coastal marine area); or
  - (c) restricted under section 13 (certain river and lake bed controls).
- (5) Nothing in this section limits section 20A (certain existing lawful activities allowed).

## **26 Minister may make grants and loans**

- (1) The Minister for the Environment may make grants and loans on such conditions as he or she thinks fit to any person to assist in achieving the purpose of this Act.
- (2) All money spent or advanced by the Minister under this section shall be paid out of money appropriated by Parliament for the purpose.
- (3) All money received by the Minister under this Act shall be paid into a Crown Bank Account or such other account as may be approved by the Minister of Finance.

## **30 Functions of regional councils under this Act**

- (1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:
  - (c) the control of the use of land for the purpose of—  
...
  - (iv) the avoidance or mitigation of natural hazards:  
...

## **31 Functions of territorial authorities under this Act**

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
  - (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—

- (i) the avoidance or mitigation of natural hazards;
- ...

### **32 Requirements for preparing and publishing evaluation reports**

- (1) An evaluation report required under this Act must—
  - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
  - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
    - (i) identifying other reasonably practicable options for achieving the objectives; and
    - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
    - (iii) summarising the reasons for deciding on the provisions; and
  - (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
- (2) An assessment under subsection (1)(b)(ii) must—
  - (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
    - (i) economic growth that are anticipated to be provided or reduced; and
    - (ii) employment that are anticipated to be provided or reduced; and
  - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
  - (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.
- ...

### **35 Duty to gather information, monitor, and keep records**

- (1) Every local authority shall gather such information, and undertake or commission such research, as is necessary to carry out effectively its functions under this Act or regulations under this Act.
- (2) Every local authority shall monitor—
  - (a) the state of the whole or any part of the environment of its region or district—
    - (i) to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and
    - (ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations; and

- (b) the efficiency and effectiveness of policies, rules, or other methods in its policy statement or its plan; and
- (c) the exercise of any functions, powers, or duties delegated or transferred by it; and
- (ca) the efficiency and effectiveness of processes used by the local authority in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness, cost, and the overall satisfaction of those persons or bodies in respect of whom the powers, functions, or duties are exercised or performed; and
- (d) the exercise of the resource consents that have effect in its region or district, as the case may be; and
- (e) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011—  
and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.

...

#### **58M Matters Commission must consider**

In performing its functions and duties and exercising its powers under this Act, the Commission must consider, where relevant,—

- (a) current available scientific knowledge; and
- (b) existing technology and anticipated technological developments, including the costs and benefits of early adoption of these in New Zealand; and
- (c) the likely economic effects; and
- (d) social, cultural, environmental, and ecological circumstances, including differences between sectors and regions; and
- (e) the distribution of benefits, costs, and risks between generations; and
- (f) the Crown-Māori relationship, te ao Māori (as defined in section 5H(2)), and specific effects on iwi and Māori; and
- (g) responses to climate change taken or planned by parties to the Paris Agreement or to the Convention.

#### **62 Contents of regional policy statements**

(1) A regional policy statement must state—

- (a) the significant resource management issues for the region; and
- (b) the resource management issues of significance to iwi authorities in the region; and
- (c) the objectives sought to be achieved by the statement; and
- (d) the policies for those issues and objectives and an explanation of those policies; and
- (e) the methods (excluding rules) used, or to be used, to implement the policies; and
- (f) the principal reasons for adopting the objectives, policies, and methods of implementation set out in the statement; and
- (g) the environmental results anticipated from implementation of those policies and methods; and



- (h) the processes to be used to deal with issues that cross local authority boundaries, and issues between territorial authorities or between regions; and
  - (i) the local authority responsible in the whole or any part of the region for specifying the objectives, policies, and methods for the control of the use of land—
    - (i) to avoid or mitigate natural hazards or any group of hazards; an
    - (ii) [Repealed]
    - (iii) to maintain indigenous biological diversity; and
  - (j) the procedures used to monitor the efficiency and effectiveness of the policies or methods contained in the statement; and
  - (k) any other information required for the purpose of the regional council's functions, powers, and duties under this Act.
- (2) If no responsibilities are specified in the regional policy statement for functions described in subsection (1)(i)(i) or (ii), the regional council retains primary responsibility for the function in subsection (1)(i)(i) and the territorial authorities of the region retain primary responsibility for the function in subsection (1)(i)(ii).
- (3) A regional policy statement must not be inconsistent with any water conservation order and must give effect to a national policy statement, a New Zealand coastal policy statement, or a national planning standard.

**65 Preparation and change of other regional plans**

- (1) A regional council may prepare a regional plan for the whole or part of its region for any function specified in section 30(1)(c), (ca), (e), (f), (fa), (fb), (g), or (ga).
- (1A) A regional council given a direction under section 25A(1) must—
- (a) prepare a regional plan that implements the direction; or
  - (b) prepare a change to its regional plan in a way that implements the direction; or
  - (c) prepare a variation to its regional plan in a way that implements the direction.
- (2) A plan must be prepared in accordance with Schedule 1.
- (3) Without limiting the power of a regional council to prepare a regional plan at any time, a regional council shall consider the desirability of preparing a regional plan whenever any of the following circumstances or considerations arise or are likely to arise:
- (a) any significant conflict between the use, development, or protection of natural and physical resources or the avoidance or mitigation of such conflict:
  - (b) any significant need or demand for the protection of natural and physical resources or of any site, feature, place, or area of regional significance:
  - (c) any risks from natural hazards:
  - (d) any foreseeable demand for or on natural and physical resources:
  - (e) any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources:
  - (f) the restoration or enhancement of any natural and physical resources in a deteriorated state or the avoidance or mitigation of any such deterioration:

- (g) the implementation of a national policy statement or New Zealand coastal policy statement:
- (h) any use of land or water that has actual or potential adverse effects on soil conservation or air quality or water quality:
- (i) any other significant issue relating to any function of the regional council under this Act.

**66 Matters to be considered by regional council (plans)**

- (1) A regional council must prepare and change any regional plan in accordance with—
  - (a) its functions under section 30; and
  - (b) the provisions of Part 2; and
  - (c) a direction given under section 25A(1); and
  - (d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and
  - (e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and
  - (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and
  - (f) any regulations.
- (2) In addition to the requirements of section 67(3) and (4), when preparing or changing any regional plan, the regional council shall have regard to—
  - (a) any proposed regional policy statement in respect of the region; and
  - (b) the Crown’s interests in the coastal marine area; and
  - (c) any—
    - (i) management plans and strategies prepared under other Acts; and
    - ...
    - (iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and
    - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and
    - ...
    - (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,—
      - to the extent that their content has a bearing on resource management issues of the region; and
  - (d) the extent to which the regional plan needs to be consistent with the regional policy statements and plans, or proposed regional policy statements and proposed plans, of adjacent regional councils; and
  - (e) to the extent to which the regional plan needs to be consistent with regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and

- (f) any emissions reduction plan made in accordance with section 5ZI of the Climate Change Response Act 2002; and
- (g) any national adaptation plan made in accordance with section 5ZS of the Climate Change Response Act 2002.

...

#### **68 Regional rules**

- (1) A regional council may, for the purpose of—
  - (a) carrying out its functions under this Act (other than those described in paragraphs (a) and (b) of section 30(1)); and
  - (b) achieving the objectives and policies of the plan,—
    - include rules in a regional plan.
- (2) Every such rule shall have the force and effect of a regulation in force under this Act but, to the extent that any such rule is inconsistent with any such regulation, the regulation shall prevail.
- (2A) Rules may be made under this section for the protection of other property (as defined in section 7 of the Building Act 2004) from the effects of surface water, which require persons undertaking building work to achieve performance criteria additional to, or more restrictive than, those specified in the building code as defined in section 7 of the Building Act 2004.
- (3) In making a rule, the regional council shall have regard to the actual or potential effect on the environment of activities, including, in particular, any adverse effect.

...

- (4) A rule may specify an activity as a restricted coastal activity only if the rule is in a regional coastal plan and the Minister of Conservation has required the activity to be so specified on the grounds that the activity—
  - (a) has or is likely to have significant or irreversible adverse effects on a coastal marine area; or
  - (b) occurs or is likely to occur in an area having significant conservation value.
- (5) A rule may—
  - (a) apply throughout the region or a part of the region:
  - (b) make different provision for—
    - (i) different parts of the region; or
    - (ii) different classes of effects arising from an activity:
  - (c) apply all the time or for stated periods or seasons:
  - (d) be specific or general in its application:
  - (e) require a resource consent to be obtained for an activity causing, or likely to cause, adverse effects not covered by the plan.

...

#### **74 Matters to be considered by territorial authority**

- (1) A territorial authority must prepare and change its district plan in accordance with—
  - (a) its functions under section 31; and
  - (b) the provisions of Part 2; and
  - (c) a direction given under section 25A(2); and
  - (d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and

- (e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and
  - (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and
  - (f) any regulations.
- (2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—
- (a) any—
    - (i) proposed regional policy statement; or
    - (ii) proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and
  - (b) any—
    - (i) management plans and strategies prepared under other Acts; and
    - ...
    - (iia) relevant entry on the New Zealand Heritage List/Rārangī Kōrero required by the Heritage New Zealand Pouhere Taonga Act 2014; and
    - (iii) regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing); and
    - (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,—  
to the extent that their content has a bearing on resource management issues of the district; and
  - (c) the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities; and
  - (d) any emissions reduction plan made in accordance with section 5ZI of the Climate Change Response Act 2002; and
  - (e) any national adaptation plan made in accordance with section 5ZS of the Climate Change Response Act 2002

**85 Environment Court may give directions in respect of land subject to controls**

- (3) An interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act.
- (2) Notwithstanding subsection (1), any person having an interest in land to which any provision or proposed provision of a plan or proposed plan applies, and who considers that the provision or proposed provision would render that interest in land incapable of reasonable use, may challenge that provision or proposed provision on those grounds—
  - (a) in a submission made under Schedule 1 in respect of a proposed plan or change to a plan; or
  - (b) in an application to change a plan made under clause 21 of Schedule 1.

**87 Types of resource consents**

In this Act, the term **resource consent** means any of the following:

- (a) a consent to do something that otherwise would contravene section 9 or section 13 (in this Act called a land use consent):
- (b) a consent to do something that otherwise would contravene section 11 (in this Act called a subdivision consent):
- (c) a consent to do something in a coastal marine area that otherwise would contravene any of sections 12, 14, 15, 15A, and 15B (in this Act called a coastal permit):
- (d) a consent to do something (other than in a coastal marine area) that otherwise would contravene section 14 (in this Act called a water permit):
- (e) a consent to do something (other than in a coastal marine area) that otherwise would contravene section 15 (in this Act called a discharge permit).

**106 Consent authority may refuse subdivision consent in certain circumstances**

- (1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—
  - (a) there is a significant risk from natural hazards; or
  - ...
  - (c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
- (1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—
  - (a) the likelihood of natural hazards occurring (whether individually or in combination); and
  - (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
  - (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).
- (2) Conditions under subsection (1) must be—
  - (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and
  - (b) of a type that could be imposed under section 108.

**139A Consent authorities to issue existing use certificates**

- (1) A person may request the consent authority to issue a certificate that—
  - (a) describes a use of land in a particular location; and
  - (b) states that the use of the land was a use of land allowed by section 10 on the date on which the authority issues the certificate; and
  - (c) specifies the character, intensity, and scale of the use on the date on which the authority issues the certificate.

...

## Spatial Planning Bill 2022

### **16 General contents and form of regional spatial strategies**

- (1) A regional spatial strategy must—
  - (a) set out a vision and objectives for the region’s development and change over the period covered by the strategy; and
  - (b) set out the actions that must be taken as a matter of priority to achieve that vision and those objectives (the **priority actions**); and
  - (c) provide strategic direction on the following, to the extent that the regional planning committee considers they are of strategic importance to the region:
    - (i) the key matters listed in **section 17**; and
    - (ii) any other matters that the regional planning committee considers are of sufficient significance in terms of **section 18**.
- (2) A regional spatial strategy must be in the form prescribed by the national planning framework and the regulations.

### **17 Contents of regional spatial strategies: key matters**

- (1) The key matters referred to in section 16(1)(c)(i) are as follows:
  - (a) areas that may require protection, restoration, or enhancement:
  - (b) areas of cultural heritage and areas with resources that are of significance to Māori:
  - (c) areas that are appropriate for urban development and change, including existing, planned, or potential urban centres of scale:
  - (d) areas that are appropriate for developing, using, or extracting natural resources, including generating power:
  - (e) areas that are appropriate to be reserved for rural use or where there is expected to be significant change in the type of rural use:
  - (f) areas of the coastal marine area that are appropriate for development or significant change in use:
  - (g) major existing, planned, or potential infrastructure or major infrastructure corridors, networks, or sites (including existing designations) that are required to meet current and future needs:
  - (h) other infrastructure matters, including—
    - (i) opportunities to make better use of existing infrastructure; and
    - (ii) the need for other small-to-medium-sized infrastructure required to meet future needs or enable development:
  - (i) areas that are vulnerable to significant risks arising from natural hazards, and measures for reducing those risks and increasing resilience:
  - (j) areas that are vulnerable to the effects of climate change both now and in the future, and measures for addressing those effects and increasing resilience in the region, including indicative locations for—
    - (i) major new infrastructure that would help to address the effects of climate change in the region; and

- (ii) areas that are suitable for land use changes that would promote climate change mitigation and adaptation:
  - (k) areas where any development or significant change in use needs to be carefully managed because the areas are subject to constraints (other than those described in paragraphs (i) and (j)):
  - (l) the indicative location of planned or potential business and residential activities and the likely general scale and intensity of those activities, if that information is necessary to inform the consideration of any other matters listed in this subsection.
- (2) In this section, urban centre of scale means an urban area that is used mainly for a range of commercial, community, recreational, and residential activities that service a region, district, city, town, or a group of suburbs or neighbourhoods.

**18 Contents of regional spatial strategies: other matters of sufficient significance**

- (1) A matter is of sufficient significance for the purposes of section 16(1)(c)(ii) if the regional planning committee considers that the matter meets 1 or more of the following criteria:
- (a) the matter is likely to do either or both of the following at a level of regional significance:
    - (i) increase or reduce the use of land or water, or change the way that it is used:
    - (ii) increase, reduce, or change transport patterns (being patterns relating to location, frequency, or modes of travel):
  - (b) the matter relates to environmental effects that are best managed at a regional level (such as effects on water catchments or effects caused by greenhouse gas emissions):
  - (c) the matter is of a scale or significance that requires planning for, or investment in, infrastructure to be done or arranged at a regional level:
  - (d) the matter is critical to the development or functioning of the region or any of its cities:
  - (e) the matter is critical to the national or regional economy:
  - (f) the matter relates to a nationally significant feature or activity:
  - (g) the matter requires collaboration—
    - (i) between 2 or more infrastructure providers; or
    - (ii) between 2 or more local authorities; or
    - (iii) between 1 or more local authorities and the central government.
- (2) For the purposes of subsection (1), something may be of regional or national significance regardless of whether it directly affects the entire region or country.

## Soil Conservation and Rivers Control Act 1941

**10 Objects of Act**

The objects of this Act are—

- (a) the promotion of soil conservation:
- (b) the prevention and mitigation of soil erosion:
- (c) the prevention of damage by floods:

- (d) the utilisation of lands in such a manner as will tend towards the attainment of the said objects.

**147 Board may purchase land injuriously affected**

Any Board may purchase or otherwise acquire (but not by compulsory taking) any land which is in danger of being or is injuriously affected by any works or operations undertaken or intended to be undertaken by the Board, and the Board may dispose of or otherwise deal with that land or any part thereof as it thinks fit.

**148 Liability for damages arising from neglect**

- (1) No Board shall be liable for injury to any land or other property caused without negligence of the Board by the accidental overflowing of any watercourse, or by the sudden breaking of any bank, dam, sluice, or reservoir made or maintained by the Board.
- (2) If the owner or occupier of any land or other property gives notice in writing to any Board warning it that any dam, sluice, or reservoir made or maintained by the Board is weak, and requiring it to strengthen or repair the same, and the Board within a reasonable time after the delivery of the notice fails to take proper and reasonable precautions efficiently to strengthen or repair the dam, sluice, or reservoir, then the amount of any damages sustained through that failure shall be made good by the Board.

## Te Ture Whenua Maori Act 2017

**17 General objectives**

- (1) In exercising its jurisdiction and powers under this Act, the primary objective of the court shall be to promote and assist in—
  - (a) the retention of Maori land and General land owned by Maori in the hands of the owners; and
  - (b) the effective use, management, and development, by or on behalf of the owners, of Maori land and General land owned by Maori.
- (2) In applying subsection (1), the court shall seek to achieve the following further objectives:
  - (a) to ascertain and give effect to the wishes of the owners of any land to which the proceedings relate:
  - (b) to provide a means whereby the owners may be kept informed of any proposals relating to any land, and a forum in which the owners might discuss any such proposal:
  - (c) to determine or facilitate the settlement of disputes and other matters among the owners of any land:
  - (d) to protect minority interests in any land against an oppressive majority, and to protect majority interests in the land against an unreasonable minority:
  - (e) to ensure fairness in dealings with the owners of any land in multiple ownership:
  - (f) to promote practical solutions to problems arising in the use or management of any land.



**129 All land to have particular status for purposes of Act**

- (1) For the purposes of this Act, all land in New Zealand shall have one of the following statuses:
- (a) Maori customary land:
  - (b) Maori freehold land:
  - (c) General land owned by Maori:
  - (d) General land:
  - (e) Crown land:
  - (f) Crown land reserved for Maori.
- (2) For the purposes of this Act,—
- (a) land that is held by Maori in accordance with tikanga Maori shall have the status of Maori customary land:
  - (b) land, the beneficial ownership of which has been determined by the Maori Land Court by freehold order, shall have the status of Maori freehold land:
  - (c) land (other than Maori freehold land) that has been alienated from the Crown for a subsisting estate in fee simple shall, while that estate is beneficially owned by a Maori or by a group of persons of whom a majority are Maori, have the status of General land owned by Maori:
  - (d) land (other than Maori freehold land and General land owned by Maori) that has been alienated from the Crown for a subsisting estate in fee simple shall have the status of General land:
  - (e) land (other than Maori customary land and Crown land reserved for Maori) that has not been alienated from the Crown for a subsisting estate in fee simple shall have the status of Crown land
- ...

**145 Maori customary land cannot be alienated**

- (1) Maori customary land or an interest in that land cannot be—
- (a) alienated; or
  - (b) disposed of by will; or
  - (c) vested or acquired under an Act.
- (2) However, this section does not prevent—
- (a) any change in the owners who, in accordance with tikanga Maori, hold a parcel of Maori customary land, as long as the change is made in accordance with tikanga Maori:
  - (b) the reservation of Maori customary land as a Maori reservation, the exclusion of land from the reservation, the cancellation of the reservation, any vesting related to the reservation, exclusion, or cancellation, or the grant or assignment of any lease or occupation licence over the reservation:
  - (c) the change in status of Maori customary land to Maori freehold land:
  - (d) the creation, cancellation, or variation of an easement, or laying out of a roadway, over Maori customary land.

**338 Maori reservations for communal purposes**

- (1) The court may make an order to set apart as Maori reservation any Maori freehold land or any General land—

- (a) for the purposes of a village site, marae, meeting place, recreation ground, sports ground, bathing place, church site, building site, burial ground, landing place, fishing ground, spring, well, timber reserve, catchment area or other source of water supply, or place of cultural, historical, or scenic interest, or for any other specified purpose; or
  - (b) that is a wahi tapu, being a place of special significance according to tikanga Maori.
- (2) The court may make an order to declare any other Maori freehold land or General land to be included in any Maori reservation, and thereupon the land shall form part of that reservation accordingly.
  - (3) Except as provided in section 340, every Maori reservation under this section shall be held for the common use or benefit of the owners or of Maori of the class or classes specified in the order.
  - (4) Land may be so set apart as or included in a Maori reservation although it is vested in an incorporated body of owners or in the Māori Trustee or in any other trustees, and notwithstanding any provisions of this Act or any other Act as to the disposition or administration of that land.<sup>2</sup>

## Urban Development Act 2020

### **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.

### **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

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<sup>2</sup> Te Ture Whenua Maori Act 1993, s 338

- (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.
- (4) In this section, **sustainable management** has the same meaning as in section 5(2) 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).

## 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

## 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.

## 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.

**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:
  - ...

**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.

## **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.

## **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).

**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:
- ...

**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.

**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)).

**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;

**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.

**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.

**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.

**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).

**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.

## Water Services Entities Act 2022

**158 Content of infrastructure strategy**

- (1) An infrastructure strategy must identify—
- (a) significant infrastructure issues for the water services entity over the period covered by the strategy; and
  - (b) the main options for managing those issues and the implications of those options.

- (2) An infrastructure strategy must also, for the period to which it relates, outline how the water services entity intends to operate, maintain, and renew its existing infrastructure assets and provide for new infrastructure over the period covered by the strategy.
- (3) An infrastructure strategy must also set out any actions the entity intends to take in a particular geographic area (consistent with its statement of intent) in response to advice provided (to the entity's regional representative group) by a regional advisory panel.
- (4) An infrastructure strategy must outline how the water services entity intends to manage its infrastructure assets, taking into account the need to—
  - (a) renew or replace existing assets; and
  - (b) respond to growth or decline in the demand for services reliant on those assets; and
  - (c) allow for planned increases or decreases in levels of service provided through those assets; and
  - (d) maintain or improve public health and environmental outcomes, or mitigate adverse effects on them; and
  - (e) provide for the resilience of infrastructure assets by identifying and managing risks relating to natural hazards and by making appropriate financial provision for those risks.
- (5) An infrastructure strategy must outline the most likely scenario for the management of the water services entity's infrastructure assets over the period of the strategy and, in that context, must—
  - (a) show indicative estimates of the projected capital expenditure and operating expenditure associated with the management of those assets—
    - (i) in each of the first 10 years covered by the strategy; and
    - (ii) in each later period of 5 years covered by the strategy; and
  - (b) identify—
    - (i) the significant decisions about capital expenditure the entity expects it will be required to make; and
    - (ii) when the entity expects those decisions will be required; and
  - (c) include the following assumptions on which the scenario is based:
    - (i) the entity's assumptions about the life cycle of significant infrastructure assets;
    - (ii) the entity's assumptions about growth or decline in the demand for relevant services;
    - (iii) the entity's assumptions about increases or decreases in relevant levels of service; and
  - (d) if assumptions referred to in paragraph (c) involve a high level of uncertainty,—
    - (i) identify the nature of that uncertainty; and
    - (ii) include an outline of the potential effects of that uncertainty.
- (6) An infrastructure strategy must also, for the period to which it relates, outline how the water services entity intends (consistent with, and without limiting, section 4(1)(b)) to give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to the entity's duties, functions, and powers.

- (7) An infrastructure strategy must also contain a report from the Auditor-General on—
  - (a) whether the strategy gives effect to its purpose stated in section 157; and
  - (b) the quality of the information and assumptions underlying the forecast information provided in the strategy.
- (8) An infrastructure strategy for a water services entity must also identify and explain any significant connections with, or interdependencies between, the matters included in—
  - (a) that infrastructure strategy; and
  - (b) the infrastructure strategies prepared and adopted (under section 101B of the Local Government Act 2002) by local authorities in the entity's service area.