

## HAURAKI GULF MARINE PARK BILL

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### EXPLANATORY NOTE

#### *General Policy Statement*

The Hauraki Gulf, which includes the Firth of Thames and the east coast of the Coromandel Peninsula, is an area of coast and sea with a distinctive character, significant aesthetic ecological and cultural values, and considerable biological diversity. The islands of the Gulf comprise a number of protected reserves, including nature reserves. There is a wetland of international importance notified under the RAMSAR Convention.

The area has been inhabited since early times by Maori and a number of iwi can claim tangata whenua status with the area. In European times there has been continuous settlement in the area, which includes New Zealand's largest city, Auckland.

The Hauraki Gulf, together with the Firth of Thames and the east coast of the Coromandel,—

- provide opportunities for commercial fishing and marine farming;
- provide opportunities for recreational use of the waters;
- maintain commercial activity through one of the largest ports in New Zealand.

In addition, there are traditional, historic, spiritual, and cultural associations with the Gulf for tangata whenua and other people and communities living within the Gulf. In an area in New Zealand where there are no national parks, the Gulf and its islands provide a large area of public space available to the people of the Auckland and Waikato regions. The Gulf is served by a large catchment and activities in that catchment have an effect, often an adverse effect, on the quality of the Gulf's waters, seabed, and fisheries.

Regulatory and planning functions for the Gulf are exercised by 2 regional councils, 9 district councils, and at least 3 government departments.

Since the 1980s, and especially since the disestablishment of the Hauraki Gulf Maritime Park in 1990, the people of the Gulf and its islands have wanted to ensure that—

- the Gulf is managed in an integrated fashion;
- a proper balance between economic, recreational, social, cultural, traditional, and historic relationships is maintained;
- the unique ecosystems of the Gulf are maintained and enhanced:

- the high degree of protection appropriate for some of the islands and coastal areas is recognised.

The Bill provides a purpose and objectives for the management of the Hauraki gulf which provide for—

- the recognition of the relationship of tangata whenua to the Gulf:
- the protection of the ecosystems:
- the protection of the cultural, spiritual, historic, and traditional associations of all people living in the Gulf:
- the maintenance and continuation of an appropriate balance between commercial and non-commercial interests of the people and communities living around the Gulf.

The Bill provides for—

- the integrated management of the Gulf:
- the establishment of a Forum consisting of members representing central Government and local authority regulatory authorities and tangata whenua:
- the establishment of a park over those areas of public land which are held for protection.

#### *Clause by Clause Analysis*

*Clause 1* relates to the Short Title and commencement. The Bill is to come into force on the date it receives the Royal assent.

*Clause 2* defines terms in the Bill. Many terms are defined by cross-reference to other Acts. The terms “coastal marine area” and “foreshore” are defined in this Bill. The definition of “coastal marine area” is substantially the same as the definition in the Resource Management Act 1991 and the definition of “foreshore” is the same as the definition in the Foreshore and Seabed Endowment Revesting Act 1991. Important new definitions are the definitions of “coastal area” and “Hauraki Gulf”. The definition of “coastal area” is used to define the location of land that can be included in the Hauraki Gulf Marine Park while the definition of “Hauraki Gulf” establishes the area to which the Act applies.

*Clause 3* provides that the Act is to bind the Crown.

*Clause 4* sets out provisions relating to the Treaty of Waitangi.

### PART 1

#### MANAGEMENT OF HAURAKI GULF

*Clause 5* recognises the national importance of the Hauraki Gulf.

*Clause 6* sets out the management objectives for the Hauraki Gulf.

*Clause 7* sets out the relationship between this Act and the Resource Management Act 1991.

*Clause 8* sets out the effect of *clauses 5 and 6* in relation to the enactments specified in that clause. *Clauses 5 and 6* take effect as a statement of general policy.

*Clause 9* amends the Fisheries Act 1996 to require *clauses 5 and 6* to be taken into account under that Act when setting the sustainability measures for fish stocks.

*Clause 10* establishes a general obligation for all persons exercising powers and functions under any Acts specified in *Schedule 1* to have particular regard to the provisions of *clauses 5 and 6* in addition to any other requirement specified in that Act. *Subclauses (2) and (3)* clarify the relationship between the general obligation and the provisions of *clauses 5 and 6*.

*Clause 11* provides that nothing in this Bill limits or affects the Crown's right to ownership of the foreshore, seabed, or other land or natural resources of the Gulf or limits or affects the ability of the iwi who claim tangata whenua status to bring a claim or continue a claim in respect of those matters.

## PART 2

### HAURAKI GULF FORUM

*Clause 12* sets out the purposes of the Hauraki Gulf Forum. The Forum is to integrate the management and, where appropriate, to conserve and manage in a sustainable manner the natural, historic, and physical resources of the Gulf for the benefit and enjoyment of people and communities of the Hauraki Gulf and New Zealand. The Forum is also to facilitate communication, co-operation, and co-ordination on matters relating to the statutory functions of the constituent parties in relation to the Hauraki Gulf, its islands, and catchments, and recognise the historical, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf, its islands, and, where appropriate, its catchments.

*Clause 13* establishes the Forum sets out the membership of the Forum. The Forum has, 16 representatives of local authorities and the Ministers, and 3 representatives of those iwi who claim tangata whenua status in the Gulf appointed by the Minister of Conservation, after consultation with the Minister of Maori Affairs. The clause also provides for other local authorities to become constituent parties.

*Clause 14* sets out the functions of the Forum. The Forum is to list strategic issues; facilitate co-ordinated financial planning; obtain, share, and monitor information; receive reports on various matters; publish a triennial report; promote and advocate integrated management; encourage, share, co-ordinate, and disseminate educational material; and liaise with persons and groups having an interest in the Hauraki Gulf.

*Clause 15* provides that, when carrying out its functions under this Act, the Forum must have regard to the principles of the Treaty of Waitangi.

*Clause 16* provides that the Forum has the powers necessary to carry out its functions but does not have the power to appear before any court or tribunal or to participate in any statutory decision-making process. *Subclause (3)* lists specific powers of the Forum, including the power to undertake such activities as are necessary to achieve its purpose. *Subclause (5)* states that the Forum must not undertake activities if the constituent parties (other than the tangata whenua representatives) are unable to agree to apportion the costs.

*Clause 17* provides that the Forum is to be a joint special committee of the constituent local authorities and, unless otherwise agreed, is to follow the standing orders of the Auckland Regional Council.

*Clause 18* provides that representatives serve on the Forum for the period of time determined by the constituent party appointing the representative. The Minister determines the period of time served by a tangata whenua representative.

*Clause 19* provides that the chairperson of the Forum is to be appointed from amongst the representatives.

*Clause 20* sets out the powers and obligations of constituent parties (other than the tangata whenua representatives) in relation to the Forum. The Forum is not a body corporate and the constituent parties are jointly and severally liable for actions done or omitted by the Forum.

*Clause 21* allows the Minister to pay tangata whenua representatives out of an appropriation by Parliament for that purpose.

*Clause 22* provides that representatives on the Forum are not personally liable for any liability of the Forum or for acts done or omitted by the Forum or a representative in good faith.

*Clause 23* requires the Forum to report annually to the Minister.

### PART 3

#### HAURAKI GULF MARINE PARK

*Clause 24* sets out the purposes of the Hauraki Gulf Marine Park. The purposes of the Park are to recognise and protect in perpetuity the international and national significance of the land, the natural, historical, and physical resources within the Park; to protect in perpetuity those resources for their intrinsic worth and for the benefit, use, and enjoyment of the people and communities of the Gulf and New Zealand; to recognise and have particular regard to the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf, its islands, and the natural, historical, and physical resources of the Park; and to sustain the life-supporting capacity of the Park.

*Clause 25* establishes the Park and sets out the areas of land, foreshore, seabed, and fisheries that are included, or are able to be included, in the Park.

*Clause 26* enables public land other than public land owned by the Crown to be included in the Park.

*Clause 27* enables private land subject to a covenant or within a wetland of international importance to be included in the Park with the consent of the owner of the land.

*Clause 28* enables taiapure-local fisheries or mataitai reserves to be included in the Park.

*Clause 29* sets out the effect of the Park. Any person holding or administering land in the Park must recognise and give effect to the purposes of the Park. Nothing in *Part 3* affects any land in the Hauraki Gulf that is not expressly included in the Park, or limits the ability of the Minister or an administering body to acquire conservation areas, reserves, wildlife refuges, wildlife sanctuaries, or marine reserves within the Gulf or Park, or changes the ownership or management of areas of land, foreshore, seabed, or the waters of the Gulf.

*Clause 30* sets out the methods of removing land, marine reserves, and fisheries from the Park. Private land and fisheries can be removed from the Park at the request of a person or persons whose consent was necessary to include that land or fishery in the Park.

*Clause 31* sets out the requirement for the District Land Registrars to make entries in registers for the Park.

*Clause 32* sets out the requirement for the Chief Surveyor to show the Park on plans.

#### *Deeds of Recognition*

*Clause 33* enables the Minister or a local authority to acknowledge a statement of the relationship of tangata whenua with any land, foreshore, or seabed in the Park by entering into a Deed of Recognition in respect of that land, foreshore, or seabed.

*Clause 34* sets out the purpose of a Deed of Recognition. Its only purpose is to identify opportunities for contribution by the tangata whenua to the management of an area by the Minister or local authority.

*Clause 35* sets out the effect of a Deed of Recognition.

*Clause 36* provides that a Deed of Recognition does not prevent a person from entering into other deeds of recognition recognising statements of relationship by other iwi who claim tangata whenua status with the same area.

*Clause 37* requires the Minister or local authority to publish a notice in the *Gazette* when that Minister or local authority has entered into a Deed of Recognition.

#### PART 4

##### MISCELLANEOUS

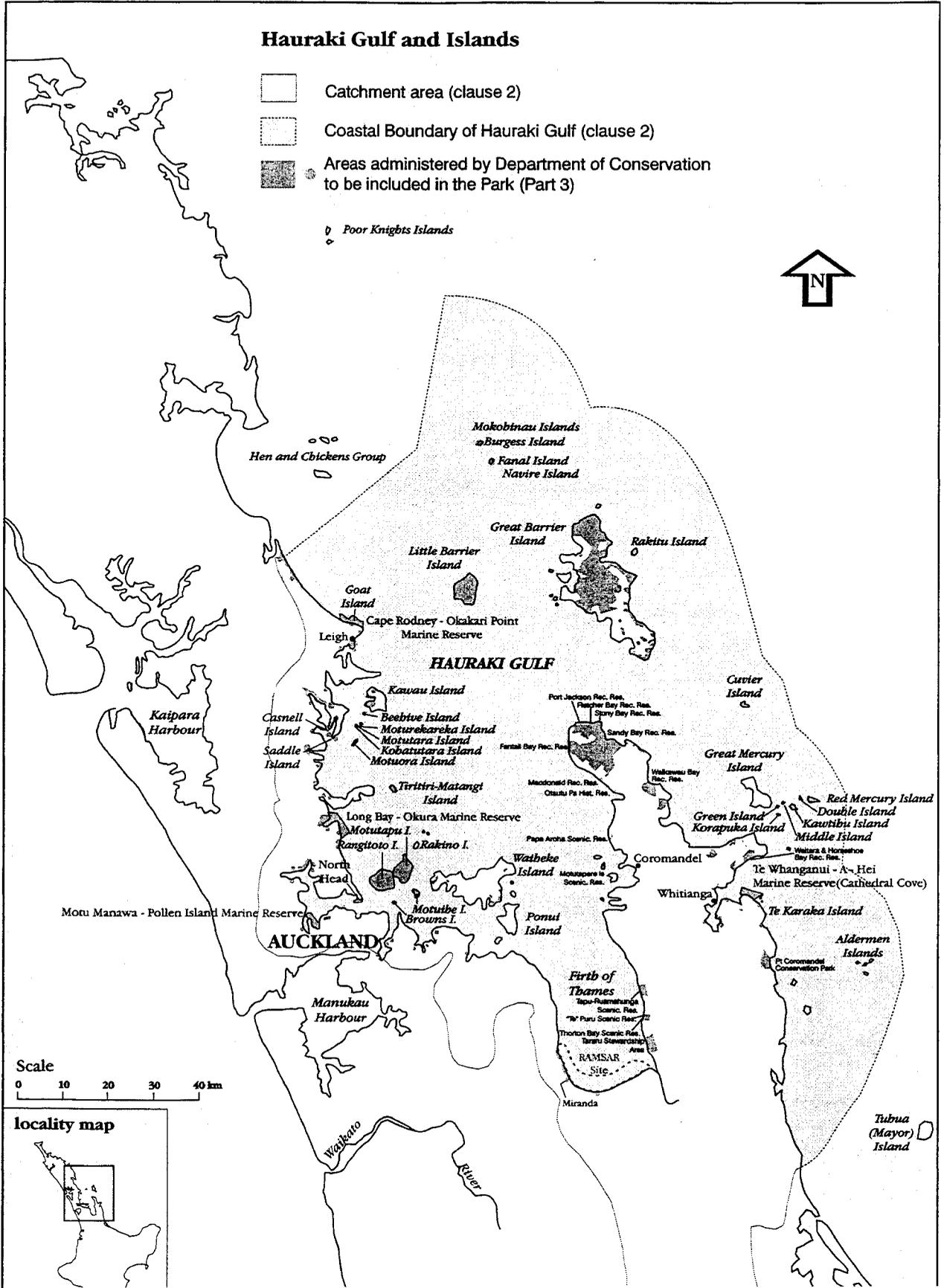
*Clause 38* makes consequential amendments to the Acts specified in *Schedule 2*. *Schedule 1* sets out the enactments affected by this Bill.

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### Hauraki Gulf and Islands

-  Catchment area (clause 2)
-  Coastal Boundary of Hauraki Gulf (clause 2)
-  Areas administered by Department of Conservation to be included in the Park (Part 3)

 Poor Knights Islands



*Hon Dr Nick Smith*

## HAURAKI GULF MARINE PARK

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### ANALYSIS

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2. Interpretation	HAURAKI GULF MARINE PARK
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7. Relationship of Act with Resource Management Act 1991	31. Entries in register
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10. Obligation to have particular regard to sections 5 and 6	<i>Deed of Recognition</i>
11. Preservation of existing rights	33. Recognition of tangata whenua statement of association
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12. Purposes of Forum	37. Notice of Deed of Recognition
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15. Forum to have regard to Treaty of Waitangi	MISCELLANEOUS
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19. Appointment of chairperson	SCHEDULES
20. Powers and obligations of constituent parties	Schedule 1
21. Payment of tangata whenua	Acts to Which Part 1 Applies
22. Liability of representatives	Schedule 2
	Enactment Amended

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## A BILL INTITULED

## An Act to—

- (a) Integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands and catchments: 5
- (b) Establish the Hauraki Gulf Marine Park:
- (c) Establish objectives for the management of the Hauraki Gulf, its islands, and catchments:
- (d) Recognise the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf and its islands: 10
- (e) Establish the Hauraki Gulf Forum

## WHEREAS—

A. The Hauraki Gulf has a quality and diversity of biology and landscape that makes it outstanding within New Zealand. The islands of the Gulf are valued as the habitats of plants and animals, once common, now rare, and are often the only places in the world where these species exist naturally: 15

B. On some islands natural ecosystems remain intact while other islands have ecosystems that are evolving rapidly or are islands that provide opportunities for habitat restoration. A diverse marine environment extends from the deep ocean to bays, inlets, and harbours off the coastline and the shallow sea and broad intertidal flats of the Firth of Thames: 20

C. The Gulf has a rich history of human settlement and use. The Gulf is one of the earliest places of human settlement in New Zealand and for generations supported and was home to tangata whenua. Auckland, the first seat of government, is also on its shore. Along the shores of the Gulf the changing culture and technologies can be traced through places like the pa, kainga, and garden sites of antiquity on every island, driving dams, copper and gold mines, whaling stations, timber mills, industrial sites, and grand and ordinary homes: 25 30

D. The Treaty of Waitangi was signed by tangata whenua of the Hauraki Gulf both at Waitangi and on the shores of the Gulf. The Treaty provides guarantees to both the Crown and tangata whenua and forms a basis for the protection, use, and management of the Gulf, its islands, and catchments. The Treaty continues to underpin the relationship between the Crown and tangata whenua. The assembled tribes of the Hauraki Gulf reaffirmed its importance to them in a statement from a hui at Motutapu island 14–15 November 1992 (“The Motutapu Accord”): 35 40

E. The hinterland of the Gulf is intensively developed and settled. Its shores contain New Zealand's largest metropolitan area and extensive tracts of productive farm land. The coastal waters are of great importance to commerce in New Zealand.

5 The Gulf contains the Port of Auckland, many smaller ports, and marinas. The Gulf is lived in and worked in, and is used for marine commerce, commercial fishing, and harbour and gulf transport. The Gulf is economically important:

F. People use the Gulf for recreation and for the sustenance of human health, well-being, and spirit. The natural amenity of the Gulf provides a sense of belonging for many New Zealanders and for them it is an essential touchstone with nature, the natural world, and the marine environment of an island nation:

G. The Gulf, its islands, and catchments have complex interrelationships that need to be well understood and managed. Many improvements have been made in the administration of statutory jurisdictions in the Gulf, the exercise of individual and collective responsibility, and stewardship of the Gulf. But the need for co-operation, and the need for integrated management, recognised in the establishment by local authorities of the Hauraki Gulf Forum, by Auckland City of "Vision Hauraki", by tangata whenua in the Motutapu Accord, and by the Government in establishing

20 in 1967 the Hauraki Gulf Maritime Park, still remains. The Gulf must be managed in a manner that crosses territorial jurisdictions, crosses land and water boundaries, and crosses cultures and that respects both conservation and development needs:

30 BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Hauraki Gulf Marine Park Act 1998.

(2) This Act comes into force on the date on which this Act

35 receives the Royal assent.

**2. Interpretation**—In this Act, unless the context otherwise requires,—

"Administering body" has the same meaning as in section 2 of the Reserves Act 1977:

40 "Catchment" means any area of land where the surface water drains into the Hauraki Gulf:

- “Coastal area” means those areas of land (other than islands) that contribute to the distinctive character of the coast, including, but not limited to,—
- (a) Land providing access to coastal waters; or
  - (b) Land containing an uninterrupted ecological sequence of habitats and vegetation; or
  - (c) Land with historical features related to the coast:
- “Coastal marine area” means the foreshore, seabed, and coastal water, and the air space above the water,—
- (a) Of which the seaward boundary is the outer limits of the territorial sea:
  - (b) Of which the landward boundary is the line of mean high water springs, except that, where that line crosses a river, the landward boundary at that point is the lesser of—
    - (i) One kilometre upstream from the mouth of the river; or
    - (ii) The point upstream that is calculated by multiplying the width of the river mouth by 5:
- “Coastal waters” means the waters within the coastal marine area:
- “Conservation area” means any land or foreshore that is—
- (a) Land or foreshore for the time being held under the Conservation Act 1987 for conservation purposes; or
  - (b) Land in respect of which an interest is held under the Conservation Act 1987 for conservation purposes:
- “Conservation Board” means a Conservation Board established under section 6L of the Conservation Act 1987:
- “Constituent party” means any Minister or local authority who has the power under **section 13 (1)** to appoint 1 or more representatives to the Forum; and includes the tangata whenua representative appointed under **section 13 (3)**:
- “Deed of Recognition” means a deed entered into in accordance with **section 33**:
- “Foreshore” means such parts of the bed, shore, or banks of the sea or a river as are covered and uncovered by the flow and ebb of the tide at mean spring tides:

“Hauraki Gulf” or “Gulf”—

(a) Means the coastal marine area on the east coast of—

5 (i) The Auckland Region, as constituted by the Local Government (Auckland Region) Reorganisation Order 1989, *Gazette* 1989, Vol. III, p. 2247; and

10 (ii) The Waikato Region, as constituted by the Local Government (Waikato Region) Reorganisation Order 1989, *Gazette* 1989, Vol. III, p. 2460; and

(b) Includes any tidal rivers, tidal creeks and estuaries on the east coast of the Auckland Region and the east coast of the Waikato Region:

15 “Hauraki Gulf Forum” or “Forum” means the body established under **section 13**:

“Hauraki Gulf Marine Park” or “Park” means the Park established under **section 25**:

20 “Local authority” has the same meaning as in the Local Government Act 1974:

“Maori land” and “Maori customary land” have the same meaning as in Te Ture Whenua Maori Act 1993:

“Marine reserve” has the same meaning as in the Marine Reserves Act 1971:

25 “Mataitai reserve” means a mataitai reserve declared by notice in the *Gazette* in accordance with the Fisheries Act 1996 and regulations made under that Act:

“Minister” means the Minister of Conservation:

30 “Regional council” has the same meaning as in the Local Government Act 1974:

“Regional park” means a regional park created under the Local Government Act 1974:

35 “Reserve” has the same meaning as in the Reserves Act 1977 or in any corresponding former Act; and includes any reserve established by any other Act:

“Standing orders” means the standing orders referred to in section 114M of the Local Government Act 1974:

“Taiapure-local fishery” means a taiapure-local fishery established under Part IX of the Fisheries Act 1996:

40 “Territorial authority” has the same meaning as in the Local Government Act 1974:

“Wildlife refuge” has the same meaning as in the Wildlife Act 1953:

45 “Wildlife sanctuary” has the same meaning as in the Wildlife Act 1953.

**3. Act to bind the Crown**—This Act binds the Crown.

**4. Treaty of Waitangi (Te Tiriti o Waitangi)**—Except as provided in **section 15**, nothing in this Act is intended to affect the obligations of any persons under any Act in respect of the principles of the Treaty of Waitangi.

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## PART 1

## MANAGEMENT OF HAURAKI GULF

**5. Recognition of national importance of Hauraki Gulf**—(1) The interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national importance.

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(2) The life-supporting capacity of the environment of the Gulf and its islands provides for—

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- (a) The historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands:
- (b) The use of the resources of the Gulf by the people and communities of the Gulf for economic activities, marine commerce, and recreation:
- (c) The social, economic, recreational, and cultural well-being of its people and communities through the natural, traditional, and cultural values of the Gulf.

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**6. Management of Hauraki Gulf**—To recognise the national importance of the Hauraki Gulf, its islands, and catchments, the objectives of the management of the Hauraki Gulf, its islands, and catchments are—

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- (a) The protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:
- (b) The protection and, where appropriate, the enhancement of the natural, historical, and physical resources of the Hauraki Gulf, its islands, and catchments:
- (c) The protection and, where appropriate, the enhancement of those natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
- (d) The protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:

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5 (e) The maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:

10 (f) The maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

**7. Relationship of Act with Resource Management Act**

15 **1991**—(1) For the purposes of the Resource Management Act 1991, for the Hauraki Gulf, its islands, and catchments,—

20 (a) When preparing or changing a regional policy statement, a regional council must, in addition to the matters contained in section 61 (2) of the Resource Management Act 1991, ensure that the policy statement is not inconsistent with **sections 5 and 6** of this Act:

25 (b) When preparing or changing a regional plan, a regional council must, in addition to the matters in section 66 (2) of the Resource Management Act 1991, ensure that the plan is not inconsistent with **sections 5 and 6** of this Act:

30 (c) When preparing or changing a district plan, a territorial authority must, in addition to the matters contained in section 74 (2) of the Resource Management Act 1991, ensure that the plan is not inconsistent with **sections 5 and 6** of this Act:

35 (d) When considering an application for a resource consent, a consent authority must, in addition to the matters contained in section 104 of the Resource Management Act 1991, have regard to **sections 5 and 6** of this Act.

40 (2) A regional council or a territorial authority is not required to take the action required by **subsection (1) (b)** or **subsection (1) (c)** for a plan proposed in accordance with the Resource Management Act 1991 at the date of commencement of this Act.

(3) For the purposes of the Resource Management Act 1991 in relation to the coastal environment of the Hauraki Gulf, **sections 5 and 6** of this Act have the same effect as a New Zealand

coastal policy statement issued under section 57 of the Resource Management Act 1991.

(4) For the Hauraki Gulf, if there is a conflict between **sections 5 and 6** of this Act and the provisions of any New Zealand coastal policy statement issued under the Resource Management Act 1991, the New Zealand coastal policy statement prevails. 5

(5) Where a New Zealand coastal policy statement created by this section applies to the exercise of a power or the carrying out of a function under the Resource Management Act 1991, the provisions of section 55 of that Act prevail, except that the local authority is not required to take the action required by section 55 on the commencement of this Act but must take that action for the Hauraki Gulf when next preparing or changing— 10 15

(a) A regional policy statement in accordance with section 60 of the Resource Management Act 1991; or

(b) A regional plan in accordance with section 64 of the Resource Management Act 1991; or

(c) A district plan in accordance with section 73 of the Resource Management Act 1991. 20

(6) For the purposes of this section, a reference to a plan in section 55 of the Resource Management Act 1991 includes a proposed plan.

**8. Statements of general policy under Conservation Act 1987 and Acts in First Schedule of that Act**—(1) For the purposes of each of the following Acts for the Hauraki Gulf, **sections 5 and 6** have the same effect as a statement of general policy approved under the following specified sections: 25

(a) The Wildlife Act 1953, section 14C: 30

(b) The Marine Reserves Act 1971, section 6:

(c) The Reserves Act 1977, section 15A:

(d) The Wild Animal Control Act 1977, section 5:

(e) The Marine Mammals Protection Act 1978, section 3B:

(f) The National Parks Act 1980, section 44: 35

(g) The Conservation Act 1987, section 17B:

(h) The New Zealand Walkways Act 1990, section 6.

(2) Where a statement of general policy is created by this section and the Act to which that statement of general policy applies contains a provision stating that the general policy must not derogate from the provisions of that Act, the requirement in **subsection (1)** may be implemented for the Hauraki Gulf only to the extent that implementation does not derogate from the provisions of that Act. 40

5 (3) Where a conservation management strategy or a conservation management plan made under an Act listed in this section derogates from a statement of general policy created by this section, the requirement that the strategy or plan must not derogate from a statement of general policy does not take effect for any statement of general policy made under this section until the date that the strategy or plan is next amended or reviewed.

10 **9. Amendment to Fisheries Act 1996**—Section 11 (2) (b) of the Fisheries Act 1996 is amended by adding the expression “; and”, and by adding the following paragraph:

“(c) **Sections 5 and 6** of the Hauraki Gulf Marine Park Act 1998 (for the Hauraki Gulf as defined in that Act)—”.

15 **10. Obligation to have particular regard to sections 5 and 6**—Except as provided in **sections 7, 8, and 9**, in order to achieve the purpose of this Act, all persons exercising powers or carrying out functions for the Hauraki Gulf under any Act specified in **Schedule 1** must, in addition to any other requirement specified in those Acts for the exercise of that power or the carrying out of that function, have particular regard to the provisions of **sections 5 and 6** of this Act.

25 **11. Preservation of existing rights**—(1) Nothing in this Act limits or affects the Crown’s title or right to ownership of the foreshore, seabed, or other land or natural resources of the Hauraki Gulf, its islands, and catchments, whether that title or right to ownership is conferred by Act, common law, or in any other manner.

30 (2) Nothing in this Act limits or affects the ability of any person to bring a claim or to continue any existing claim in any court or tribunal relating to the foreshore, seabed, or other land or natural resources of the Hauraki Gulf, its islands, and catchments arising out of the application of the Treaty of Waitangi, or any Act, or at common law, or in any other manner.

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## PART 2

### HAURAKI GULF FORUM

**12. Purposes of Forum**—The Forum has the following purposes:

40 (a) To integrate the management of and, where appropriate, to promote the conservation and management in a sustainable manner the natural, historic, and physical

resources of the Hauraki Gulf for the benefit and enjoyment of the people and communities of the Hauraki Gulf and New Zealand:

- (b) To facilitate communication, co-operation, and co-ordination on matters relating to the statutory functions of the constituent parties in relation to the Hauraki Gulf, its islands, and catchments, and the Forum: 5
- (c) To recognise the historical, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf, its islands, and, where appropriate, its catchments. 10

**13. Establishment of Forum**—(1) A body called the Hauraki Gulf Forum is established.

(2) The Forum consists of the following representatives: 15

- (a) One representative appointed by the Minister:
- (b) One representative appointed by the Minister of Fisheries:
- (c) One representative appointed by the Minister of Maori Affairs:
- (d) Three representatives appointed by the Auckland Regional Council: 20
- (e) One representative appointed by each of the following local authorities:
  - (i) Waikato Regional Council:
  - (ii) Rodney District Council: 25
  - (iii) Auckland City Council:
  - (iv) Waitakere City Council:
  - (v) North Shore City Council:
  - (vi) Manukau City Council:
  - (vii) Franklin District Council: 30
  - (viii) Waikato District Council:
  - (ix) Hauraki District Council:
  - (x) Thames/Coromandel District Council.

(3) Four representatives of tangata whenua of the Hauraki Gulf and its islands may be appointed to the Forum by the Minister after consultation with the Minister of Maori Affairs. 35

(4) If two-thirds or more of the constituent parties agree, a local authority whose powers and functions may have an effect on the Hauraki Gulf, its islands, and catchments, and whose inclusion in the Forum as a constituent party will further the interests of the Forum and of the Hauraki Gulf, may join the Forum as a constituent party and appoint a representative to the Forum. 40

**14. Functions of Forum**—(1) To promote **sections 5 and 6**, the Forum has the following functions in relation to the Hauraki Gulf, its islands, and catchments:

- 5 (a) To prepare a list of strategic issues, determine a priority for action on each issue, and regularly review that list:
- (b) To facilitate and encourage co-ordinated financial planning, where possible, by the constituent parties:
- (c) To obtain, share, and monitor information on the state of the natural and physical resources:
- 10 (d) To receive reports on the completion and implementation of deeds of recognition:
- (e) To require and receive reports from constituent parties on the development of policies and strategies to address the issues identified under **paragraph (a)**:
- 15 (f) To receive reports from tangata whenua of the Hauraki Gulf on the development and implementation of iwi management or development plans:
- (g) To prepare and publish, once every 3 years, a report on the state of the environment in the Hauraki Gulf, including information on progress towards integrated management and responses to the issues identified in accordance with **paragraph (a)**:
- 20 (h) To promote and advocate the integrated management and, where appropriate, the sustainable management of the Hauraki Gulf, its islands, and catchments:
- 25 (i) To encourage, share, co-ordinate where appropriate, and disseminate educational and promotional material:
- (j) To liaise with persons and groups having an interest in the Hauraki Gulf and business and community interests to promote an interest in the purposes of the Forum.
- 30

35 (2) When carrying out its functions under **subsection (1)**, the Forum must have particular regard to the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the natural, historical, and physical resources of the Hauraki Gulf, its islands, and catchments.

**15. Forum to have regard to Treaty of Waitangi**—When carrying out its functions under this Part, the Forum must have regard to the principles of the Treaty of Waitangi.

40 **16. Powers of Forum**—(1) The Forum has those powers that are reasonably necessary to enable it to carry out its functions.

(2) The Forum does not have the power to appear before any court or tribunal or to participate in any statutory decision-making process.

(3) Without limiting **subsection (1)**, the Forum may—

(a) Consider issues related to its purpose: 5

(b) Receive reports from constituent parties and tangata whenua:

(c) Make recommendations to constituent parties:

(d) After apportioning the costs of the activities between the constituent parties (other than the tangata whenua representatives), commission or undertake such activities as are necessary to achieve its purpose. 10

(4) The Forum must present a copy of each report prepared in accordance with **section 14** to the Minister.

(5) If the costs of any activity to be carried out in accordance with **subsection (3)(d)** are not apportioned by agreement, the Forum must not proceed with the activity. 15

**17. Committee to be joint special committee**—(1) For the purposes of the administration of the Forum and subject to the provisions of this Act, the Forum is a joint special committee, appointed under section 114s of the Local Government Act 1974, of the constituent local authorities. 20

(2) Unless three-quarters of the representatives present at a meeting of the Forum agree otherwise, at its meetings the Forum must follow the standing orders adopted under section 114M of the Local Government Act 1974 by the Auckland Regional Council. 25

(3) Any alternatives to the standing orders agreed by the Forum under **subsection (2)** of this section must not contravene any provisions of the Local Government Act 1974, or of the Local Government Official Information and Meetings Act 1987, or of any other Act. 30

**18. Term of representatives**—(1) Each representative appointed by a constituent party (other than the tangata whenua representatives) may serve on the Forum for the period of time determined by the constituent party that appointed the representative. 35

(2) A tangata whenua representative may serve on the Forum for the period of time determined by the Minister at the time of the appointment. 40

**19. Appointment of chairperson**—The Forum may from time to time appoint 1 of the representatives to act as

chairperson and that chairperson holds office for the period agreed by the Forum at the time of that chairperson's appointment.

**20. Powers and obligations of constituent parties—**

- 5 (1) The Forum is not a body corporate and each constituent party is jointly and severally liable for all actions done or omitted by the Forum.
- (2) Each constituent party—
- 10 (a) May acquire, hold, and dispose of real or personal property for the use of the Forum; and
- (b) Must pay such a proportion of the administrative and servicing costs of the Forum as agreed from time to time by the constituent parties or, if there is no agreement, 1 share of the costs when the costs are
- 15 divided equally between the constituent parties; and
- (c) May remunerate its representative or representatives for the costs of the representatives' participation in the Forum; and
- (d) Must provide to the Forum such information or reports as
- 20 may be required by the Forum.
- (3) This section does not apply to constituent parties who are tangata whenua representatives.

**21. Payment of tangata whenua—**The Minister may pay tangata whenua representatives on the Forum, from any

25 appropriation by Parliament for this purpose, remuneration by way of allowances and travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act apply accordingly.

30 **22. Liability of representatives—**No representative on the Forum is personally liable for any liability of the Forum, or for any act done or omitted by the Forum, or by a representative in good faith in the exercise of the functions, duties, or powers of the Forum.

35 **23. Annual report—**(1) The Forum must, on or before 31 August each year, report to the Minister on the exercise of its powers and the carrying out of its functions during the preceding year ending on 30 June.

40 (2) The report must identify the progress made by the Forum towards achieving the purposes of the Forum set out in **section 12.**

(3) A copy of the annual report must be presented to the House of Representatives by the Minister.

### PART 3

#### HAURAKI GULF MARINE PARK

- 24. Purposes of Hauraki Gulf Marine Park**—The 5  
purposes of the Hauraki Gulf Marine Park are—
- (a) To recognise and protect in perpetuity, the international and national significance of the land and the natural, historical, and physical resources within the Park:
  - (b) To protect in perpetuity, the natural, historical, and physical resources of the Park for their intrinsic worth and for the benefit, use, and enjoyment of the people and communities of the Gulf and New Zealand: 10
  - (c) To recognise and have particular regard to the historic, traditional, cultural, and spiritual relationship of tangata whenua with the Hauraki Gulf and its islands and the natural, historical, and physical resources of the Park: 15
  - (d) To sustain the life-supporting capacity of the Park.
- 25. Establishment of Hauraki Gulf Marine Park**— 20
- (1) The Hauraki Gulf Marine Park is established.
  - (2) The Hauraki Gulf Marine Park consists of—
    - (a) All conservation areas, wildlife refuges, wildlife sanctuaries, reserves, and marine reserves held, managed, or administered by the Crown from time to time in accordance with the Conservation Act 1987 or any Act in the First Schedule of that Act within the Hauraki Gulf, its islands, and coastal area: 25
    - (b) Any reserve controlled or managed from time to time by an administering body (whether or not that administering body is a local authority) under an appointment to control or manage made in accordance with the Reserves Act 1977 or any corresponding former Act, within the Hauraki Gulf, its islands, and coastal area: 30
    - (c) All foreshore and seabed that is land owned by the Crown within the Hauraki Gulf other than foreshore or seabed held for defence purposes as set out in section 5 of the Defence Act 1990: 35
    - (d) All land of the Crown in the Hauraki Gulf, within a wetland approved by the Minister of Foreign Affairs and notified to the Bureau of the Convention on 40

Wetlands of International Importance done at Ramsar on 2 February 1971:

- (e) All land included in the Park in accordance with **section 26 or section 27**:
- 5 (f) All mataitai reserves and taiapure-local fisheries included in the Park in accordance with **section 28**.

**26. Inclusion of other public land in Park**—If, in the opinion of the Minister, the inclusion of the land in the Hauraki Gulf Marine Park is in accordance with the purpose of the Park,  
10 the following land may be included in the Park:

- 15 (a) With the consent of the owner and the administering body, any reserve within the Hauraki Gulf, its islands, or coastal area, that is owned by or vested in an administering body (whether or not that administering body is a local authority):
- (b) With the consent of the local authority, any reserve within the Hauraki Gulf, its islands, or coastal area that is owned by that local authority:
- 20 (c) With the consent of the local authority, any regional park, or other open space or building owned by a local authority and managed to protect its natural or historic values, within the Hauraki Gulf, its islands or coastal area.

**27. Inclusion of land in private ownership in Park**—If,  
25 in the opinion of the Minister, the inclusion of land in the Hauraki Gulf Marine Park is in accordance with the purpose of the Park, the Minister may, by notice in the *Gazette*, and after consulting the Forum and the Conservation Board for the area where the land is located and obtaining the agreement of the  
30 owner of the land, include any of the following land in the Hauraki Gulf, its islands, or coastal area in the Park:

- (a) Land subject to a conservation covenant entered into under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:
- 35 (b) Land subject to a Nga Whenua Rahui kawenata entered into under section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987:
- (c) Land subject to a heritage covenant entered into under section 6 of the Historic Places Act 1993:
- 40 (d) Land subject to an open space covenant entered into under section 22 of the Queen Elizabeth the Second National Trust Act 1977:

- (e) Any land in the Hauraki Gulf other than land owned by the Crown, whether or not it is subject to a covenant referred to in **paragraphs (a) to (d)**, within a wetland approved by the Minister of Foreign Affairs and notified to the Bureau of the Convention on Wetlands of International Importance done at Ramsar on 2 February 1971. 5

**28. Inclusion of certain fisheries in Park**—If, in the opinion of the Minister, the inclusion of a taiapure-local fishery or mataitai reserve in the Hauraki Gulf Marine Park is in accordance with the purpose of the Park, that taiapure-local fishery or mataitai reserve may, with the consent of the Minister of Fisheries and the committee of management or the tangata whenua, as the case may be, be included in the Park. 10

**29. Effect of Park**—(1) Any person holding or administering land, foreshore, seabed, marine reserve, or a fishery in the Hauraki Gulf Marine Park must recognise and give effect to the purpose of the Park. 15

(2) Nothing in this Part—

(a) Affects any land in the Hauraki Gulf, its islands, or coastal area, that is not expressly included in the Park in accordance with this Part: 20

(b) Limits the ability of the Minister or an administering body to acquire conservation areas, reserves, wildlife refuges, wildlife sanctuaries, or marine reserves within the Gulf or the Park: 25

(c) Changes the ownership or management of areas of land, foreshore, seabed, or the waters of the Gulf.

(3) Despite **subsection (1)**, land included in the Park continues to be held, managed, or administered in accordance with the Conservation Act 1987, or any Act in the First Schedule of that Act, if any of those Acts apply to that land. 30

**30. Change of status or disposal of land, foreshore, seabed, waters, or fisheries in Park**—(1) Despite the purpose of this Act, the following parts of the Park may be removed from the Park by the Minister by notice in the *Gazette*: 35

(a) The parts referred to in **section 27**:

(b) The parts referred to in **section 28**:

(2) The Minister—

(a) Must give notice in the *Gazette* in accordance with **subsection (1)** within 20 working days (as defined in the Conservation Act 1987), if the person or persons 40

whose consent was necessary for the inclusion of that part in the Park gives notice in writing to the Minister that the person requires the removal of that part of the Park from the Park:

- 5 (b) May give notice in the *Gazette* in accordance with **subsection (1)**, if the Minister considers that the inclusion of that part in the Park is no longer serving the purpose of the Park.

- 10 (3) A local authority or the administering body of a reserve must, before requesting the revocation of a reserve under section 24 of the Reserves Act 1977, consider the purpose of the Park.

- 15 (4) The Minister must, in addition to any requirements of the specified Act, consider the purpose of the Park and be satisfied that the land or marine reserve no longer serves the purpose of the Park before carrying out any of the following actions in relation to land or to a marine reserve in the Hauraki Gulf Marine Park:

- 20 (a) The exchange of a conservation area under section 16A of the Conservation Act 1987:  
(b) The disposal of a conservation area under section 26 of the Conservation Act 1987:  
(c) The exchange of a reserve under section 16 of the Reserves Act 1977:  
25 (d) The revocation of a reserve under section 25 of the Reserves Act 1977:  
(e) The revocation of a marine reserve:  
(f) The revocation or disposal of a wildlife refuge or a wildlife sanctuary.

- 30 (5) If any action referred to in **subsection (4) (a) to (f)** is taken in relation to any land, the land is removed from the Park, and the notice, Order in Council, or other instrument which carries out that action must state that the land or marine reserve has been removed from the Park.

- 35 (6) The Minister may, by notice in the *Gazette*, and after considering the purpose of the Park,—

- (a) Remove any foreshore or seabed from the Park; or  
(b) Remove any land of the Crown within a wetland from the Park; or  
40 (c) With the consent of the local authority, remove any open space or building owned by a local authority and managed to protect its natural or historic values from the Park.

**31. Entries in register**—Upon lodgement of a *Gazette* notice made in accordance with **section 31** or **section 34** with a District Land Registrar, that Registrar is authorised and directed to make such entry in the register and to do such other things as may be necessary to show the inclusion of land within the Park or the removal of land from the Park. 5

**32. Notation on survey office plans**—The Chief Surveyor is authorised and directed to do such things as may be necessary to show on the survey office plans the inclusion of land within the Park or the removal of land from the Park. 10

*Deed of Recognition*

**33. Recognition of tangata whenua statement of association**—(1) The Crown or a local authority may acknowledge any statement of particular historic, traditional, cultural, and spiritual relationship of tangata whenua status of the Hauraki Gulf with any land, foreshore, or seabed in the Hauraki Gulf Marine Park by entering into a Deed of Recognition with an iwi in respect of that land, foreshore, or seabed. 15

(2) A Deed of Recognition— 20

(a) May not relate to any water:

(b) May not relate to any land included in the Park in accordance with **section 27**.

(3) The Minister or a local authority may acknowledge, in a Deed of Recognition with an iwi, a statement of relationship of an hapu or whanau with any land, foreshore, or seabed in the Hauraki Gulf. 25

(4) A Deed of Recognition—

(a) May record the Minister's or local authority's acknowledgement referred to in **subsection (1)**; and 30

(b) Must identify the area to which the Deed of Recognition relates; and

(c) May acknowledge, where appropriate, any statement of relationship by any other iwi who claim tangata whenua status with the area; and 35

(d) Without limiting **section 35**, must identify specific opportunities for contribution by tangata whenua to the management of the area by the Minister or a local authority.

(5) A Deed of Recognition may be amended or revoked by agreement between the parties. 40

5 **34. Purpose of Deed of Recognition**—Without limiting section 35, the only purpose of a Deed of Recognition is to identify opportunities for contribution by tangata whenua to the management of an area by the Minister or a local authority.

**35. Effect of Deed of Recognition**—Except as provided in section 33 (4) (d) and section 34, a Deed of Recognition—

- 10 (a) Does not affect the exercise of any power or the carrying out of any function or duty by any person under any Act, regulation, or bylaw; and
- (b) Must not be taken into account by any person in the exercise of any power or the carrying out of any function or duty under any Act, regulation, or bylaw by that person; and
- 15 (c) Does not permit any person, when considering any matter or making any decision or recommendation under any Act, regulation, or bylaw, to give any greater or lesser weight to a statement of relationship of tangata whenua with any area, as recorded in a
- 20 Deed of Recognition, than that person would give under that Act, regulation, or bylaw if no Deed of Recognition existed recording that statement; and
- (d) Does not affect the lawful rights or interests of any person; and
- 25 (e) Does not have the effect of granting, creating, or providing evidence of any estate or interest in or any rights of any kind whatever relating to any area referred to in a Deed of Recognition.

30 **36. Other Deeds of Recognition**—Where a person has entered into a Deed of Recognition of a statement of relationship between an iwi who claims tangata whenua status in a specified area, that Deed of Recognition does not prevent that person from entering into further Deeds of Recognition recognising statements of relationship with that area made by

35 other iwi who claim tangata whenua status and who may have an historic, traditional, cultural, and spiritual relationship with that area.

40 **37. Notice of Deed of Recognition**—When the Minister or local authority enters into a Deed of Recognition, or is a party to a Deed of Recognition that is amended or revoked, the Minister or local authority, as the case may be, must, by notice

in the *Gazette*, give notice of that Deed of Recognition or the amendment to, or revocation of, a Deed of Recognition.

PART 4

MISCELLANEOUS

**38. Consequential amendment**—The enactment specified in **Schedule 2** is amended in the manner indicated in that schedule. 5

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**SCHEDULES**

**SCHEDULE 1**

**ACTS TO WHICH PART 1 APPLIES**

**Section 10**

Native Plants Protection Act 1934  
Soil Conservation and Rivers Control Act 1941  
Wildlife Act 1953  
Marine Reserves Act 1971  
Marine Farming Act 1971  
Local Government Act 1974  
Reserves Act 1977  
Queen Elizabeth the Second National Trust Act 1977  
Wild Animal Control Act 1977  
Marine Mammals Protection Act 1978  
National Parks Act 1980  
Fisheries Act 1983  
Conservation Act 1987  
Trade in Endangered Species Act 1989  
New Zealand Walkways Act 1990  
Foreshore and Seabed Endowment Revesting Act 1991  
Harbour Boards Dry Land Endowment Revesting Act 1991  
Resource Management Act 1991  
Biosecurity Act 1993 (Part V)  
Historic Places Act 1993  
Fisheries Act 1996

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**SCHEDULE 2**

**Section 38**

**ENACTMENT AMENDED**

Enactment	Amendment
1987, No. 174—Local Government Official Information and Meetings Act 1987 (R.S. Vol. 35, p. 347)	By inserting in Part II of the First Schedule, after the item “The Greytown Trust Lands Trustees”, the item “Hauraki Gulf Forum”.