Urban Development Bill

Government Bill

Explanatory note

General policy statement

What Bill seeks to achieve and why

This Bill is an omnibus Bill introduced under Standing Order 263(a) because the amendments deal with an inter-related topic that can be regarded as implementing a single broad policy. That policy is to provide for functions, powers, rights, and duties of the Crown entity Kāinga Ora–Homes and Communities (**Kāinga Ora**) to enable it to undertake its urban development functions.

Current legislative framework for urban development not meeting needs of New Zealanders

New Zealand's urban areas are facing unprecedented pressure and are not delivering the improvements in living standards that New Zealanders expect. While our urban areas are growing, we are experiencing unaffordable housing (both rental and owner occupation), rising urban land prices, increasing homelessness, pressure on the public housing register, increasing greenhouse gas emissions, lack of transport choice, and flattening productivity.

We need to change the ways we develop our urban areas so that our cities can make room for growth and thrive. This must happen at a scale and pace so everyone in New Zealand can live in healthy and safe homes in sustainable communities and have opportunities to achieve success. This calls for transformational urban development projects that integrate a wide range of public good objectives across economic development, local employment, affordable and public housing, public transport and infrastructure provision.

The current New Zealand urban development system does not effectively facilitate the delivery of complex or strategically important projects the market would not otherwise deliver, particularly those revitalising urban areas. Our system does not

provide the tools, certainty, and co-ordination required to do comprehensive, large-scale, timely, and transformational urban development.

Objective of Bill is to better co-ordinate use of land, infrastructure, and public assets to maximise public benefit from complex urban development projects

This Bill tackles these long-term challenges by providing Kāinga Ora with a tool-kit of powers and a new, streamlined process that will enable complex, transformational development that will improve the social and economic performance of New Zealand's urban areas. It is not designed to address wider issues in the urban development and planning system.

By providing an upfront consultation and approval process—for funding, planning, infrastructure, and land assembly—this Bill will reduce the risks and costs associated with complex developments and provide more certainty for developers and investors.

The Bill will address a range of barriers to transformational development, including planning constraints, fragmented land parcels, limited funding, and poor infrastructure. This will reduce the risk of complex developments and create opportunities for the private market, councils, and Māori developers. It will ensure that there is aligned land use and transport planning, an increase in the supply of public and affordable housing where it is most needed, and the effective use of land and buildings, including through the consolidation and subdivision of land. The opportunity to undertake such projects will expand the possibilities for urban development and regeneration in New Zealand—supporting central and local government, the private sector, and communities to find new ways to meet the aspirations of New Zealanders for their cities.

The Bill has a range of safeguards in place to ensure that the benefits of urban development are balanced by a range of other considerations, including environmental, cultural, and heritage values. Early engagement is required with Māori and key stakeholders, so their local needs and aspirations can be ascertained, and full public consultation is required on the development plan for the project.

The Bill recognises the aspirations that Māori have in housing and urban development, as potential development partners, as people significantly impacted by historic and current pressures in housing, and through their connections with the land and other natural resources. This Bill establishes protections for land in which Māori have interests and a strong expectation that Kāinga Ora will identify and support Māori aspirations for urban development in specified development project areas, including through the opportunity to participate in development.

The Bill recognises the essential role of territorial authorities in realising transformational urban development and provides for their partnership with Kāinga Ora.

Specific features of Bill

Establishing a specified development project to bring together existing powers to provide certainty to developers and the wider community

This Bill establishes a specified development project process (the **SDP process**), a streamlined process for complex urban development projects. These are the kind of projects that struggle in the current environment due to the need to co-ordinate the activities of multiple central and local government agencies and private sector participants and work across the national, regional, and local planning systems.

The SDP process brings together multiple legislative processes and decision points that are currently disconnected to provide certainty, simplicity, and more effective and co-ordinated access to a tool-kit of development powers. Outlining and gaining the appropriate approvals for all the planning and consenting permissions, infrastructure, and funding for a project at the start of a project will allow more efficient delivery.

The process is intended to reduce the risk of undertaking complex development projects by bringing together multiple interdependent regulatory processes, without losing the important checks and balances when exercising these powers.

Establishing a specified development project

The Bill sets out a comprehensive establishment process that specified development projects (**SDPs**) must go through before they can access the development powers. The process is as follows:

- Kāinga Ora will carry out an initial assessment to evaluate feasibility and define the proposed project area and project objectives. The objectives will need to be project specific and identify what the project is expected to achieve. They can also identify any features or areas within a project area that must be protected or enhanced as part of the development. Engaging and working together with key partners, including iwi, local Māori, and territorial authorities, will be an important element of this step. The views of territorial authorities must be sought and provided in the assessment report:
- if Kāinga Ora recommends that the project be established as an SDP, it will seek endorsement from the joint Ministers (the Minister of Finance and the Minister responsible for the administration of the Act):
- if the joint Ministers agree, an Order in Council will be sought to establish the SDP. The Order in Council will confirm and publicise the boundaries of the project area, the project objectives, and the name or type of project governance body. The objectives will then guide decision making within a project area. When establishing a project governance body, relevant territorial authorities who support the SDP will be invited to nominate a representative:
- Kāinga Ora will then prepare a draft development plan and supporting documents that outline the development powers and funding arrangements that will be used, as well as protections for Māori interests, the environment, and historic heritage sites. When preparing the draft development plan, Kāinga Ora

will engage with Ministers who are responsible for particular interests in the project area:

- Kāinga Ora will publicly notify the draft development plan for consultation. The draft development plan will be widely consulted on, with submissions being heard and considered by an independent hearing panel (an **IHP**):
- after the IHP has completed the hearing process, it will provide the Minister responsible for this legislation with a report on the draft development plan and the submissions it received, with recommendations (if any) for amendments to be made to the development plan:
- the Minister responsible for this legislation will approve or decline the development plan based on recommendations from the IHP. If the recommendations from the IHP are approved by the Minister, the development plan will be finalised and publicly notified by way of a *Gazette* notice.

Public's views will be heard before responsible Ministers make decisions on draft development plan

The development plan is the core document that will provide an outline of how development will be undertaken within a project area. There will be public consultation on the contents of the draft development plan. The plan will include—

- detail of the development's design, including a structure plan; and
- any necessary changes to normal Resource Management Act 1991 (the **RMA**) planning instruments or process; and
- identification of any areas to be protected or excluded from development (if relevant); and
- high-level information on what development powers Kāinga Ora and its partners will have access to and how they will be exercised; and
- high-level information and certain details on funding sources; and
- time frames and phasing of development.

Providing access to tool-kit of development powers

Where approved by the development plan, Kāinga Ora and its partners will have access to a tool-kit of powers that currently exist through numerous separate pieces of legislation. Ordinarily these powers are spread across central and local government and must be accessed through separate approval processes. The SDP process will ensure these powers are used for a project in a co-ordinated way, in line with the project objectives, so that complex development can occur.

Each power is designed to address a specific barrier to development, such as planning constraints, old and aging infrastructure, and limited funding for development activities. Used together, they enable multiple aspects of the urban environment to be changed with greater certainty, integration, and speed.

Powers include the ability to—

- override, add to, or suspend provisions in RMA plans or policy statements in the development plan that applies to the project area:
- act as a consent authority (city/district level) and requiring authority under the RMA:
- use funding tools for infrastructure and development activities:
- levy targeted rates and development contributions:
- build and change infrastructure:
- reconfigure reserves.

Kāinga Ora will also be able to veto or amend resource consent applications and exclude plan changes from applying in a project area before the development plan is operative, following the Order in Council.

Kāinga Ora will be able, with Ministerial approval, to delegate some of the development powers to its partners under the Crown Entities Act 2004. In those cases, the partners of Kāinga Ora will be able exercise the powers, but Kāinga Ora will remain accountable for their use. The powers to acquire land and to levy targeted rates are not able to be delegated outside Kāinga Ora, other than to a subsidiary.

Bill to ensure appropriate safeguards in place

The Bill has a range of safeguards in place to ensure key interests are adequately protected and managed through the SDP process and when using the development powers.

Bill to ensure Kāinga Ora will protect Māori interests and actively support advancement of Māori aspirations

The Kāinga Ora–Homes and Communities Act 2019 provides a broad framework for how Kāinga Ora must consider Māori interests. This includes an expectation that Kāinga Ora will engage early and meaningfully with Māori when undertaking urban development. The Bill complements this by setting out in more detail the agency's obligations to Māori in urban development.

As part of the SDP process, Kāinga Ora will engage with Māori entities (including post-settlement governance entities, iwi and hapū authorities, and urban Māori authorities) and the former owners of, and the hapū associated with, any former Māori land[1] within a proposed project area when assessing a proposal to establish an SDP. This includes seeking expressions of interest from Māori entities to develop, as part of the project, any land within the project area in which they have an interest. It also provides an opportunity for Māori to shape the project area and project objectives sought from the SDP.

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[1] "Former Māori land" is land that was taken for a public work by the Crown (or a specified work by Kāinga Ora), and was, immediately before it was taken, Māori land, or Māori land that became general land under the Māori Affairs Amendment Act 1967.

No powers in the Bill can be used in respect of Māori customary land, Māori reserves and reservations, or any parts of the common marine and coastal area in which customary marine title or protected customary rights have been recognised. Other categories of land are protected from compulsory acquisition but may be developed using powers under the Bill if the owners of the land provide their prior consent. These include Māori freehold land, certain types of general land held by Māori, land held by a post-settlement governance entity, and land held by or on behalf of an iwi or hapū if the land was transferred with the intention of returning the land to the holders of mana whenua.

The Bill must be read subject to anything in a Treaty settlement Act or deed, Te Ture Whenua Māori Act 1993, and the Marine and Coastal Area (Takutai Moana) Act 2011. It ensures that the Crown is still able to meet its obligations under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

Environmental and heritage protections

This Bill recognises the importance of protecting the environment and ensuring good access to open spaces. It provides for the protection of significant environmental interests and environmental bottom lines as well as protecting heritage sites and values.

There are multiple points at which environmental concerns can be raised and protected during an SDP, as follows:

- project objectives and the setting of the project area can identify and seek to protect specific areas or features so that they are excluded from the development. The project area does not need to be 1 contiguous piece of land to enable land to be excluded from development:
- project objectives are required to be consistent with the national policy statements, national environmental standards, and other national directions under the RMA:
- the development plan can apply any existing RMA protections or include new provisions to protect specific areas or features:
- The Minister of Conservation must be engaged during the initial assessment of an SDP if reserve land, land subject to a conservation interest, or any part of the coastal marine area is within or adjacent to the proposed project area. Approval from the Minister of Conservation will be required to use any of this land as part of the development project:
- if a development plan includes changes to any existing reserves, approval from the Minister of Conservation must be obtained before an SDP can be progressed:
- the evaluation report for a draft development plan must set out how environmental constraints and opportunities associated with an SDP will be managed, together with a broad assessment of the likely effects on the environment.

There is a safeguard for the protection of historic heritage values. Kāinga Ora is required to seek recommendations from Heritage New Zealand Pouhere Taonga on the protection of heritage values for a proposed project area. The development plan cannot override planning rules and other provisions protecting historic heritage in a way that would make them more permissive to development.

There are specific protections for infrastructure. Nationally significant infrastructure providers must be engaged during the initial assessment stage of the SDP process. This is done to ensure that the operation of the infrastructure can continue during construction and upon completion of the proposed development. The protections for nationally significant infrastructure are also extended to a defence area, and the Chief of the Defence Force must be engaged with if a proposed project area is in or adjacent to a defence area.

Kāinga Ora will have land acquisition and transfer powers when undertaking any urban development

The Bill also provides Kāinga Ora with a set of powers to acquire (either through agreement or compulsory acquisition) and transfer land when it initiates, facilitates, or undertakes any work for the purpose of urban development. This will enable Kāinga Ora to use these powers when undertaking both SDPs and other urban development projects. This power can be used for the purpose of acquiring land in future development areas prior to any uplift in land values following an urban development project's announcement.

The Bill has safeguards in place to ensure that the use of land acquisition powers strikes an appropriate balance between the need to meet urban development outcomes and the need to maintain certainty of property rights. These safeguards are broadly the same as those currently in the Public Works Act 1981. However, Kāinga Ora may dispose of land without being required to offer it back to the former owner if certain housing or urban renewal works have been completed on the land.

The exception is where the land is former Māori land that may pass out of public ownership through development. There, Kāinga Ora must engage with the land's former owners and the relevant hapū associated with the land before undertaking development on the land. The engagement is to understand their aspirations for the land and how these aspirations may be taken into account in the way the land is developed. Furthermore, Kāinga Ora must offer the land back under the Public Works Act 1981 before it can proceed with development.

Rights of first refusal

The Bill sets out a new approach to rights of first refusal (**RFR**), designed to support Māori aspirations in urban development and enable them to participate in development opportunities. Where Kāinga Ora wishes to initiate, facilitate, or undertake an urban development project on RFR land it holds or controls, it must engage with the RFR holder and offer it the opportunity to undertake the development on specified terms. The development may not proceed unless the RFR holder agrees to participate in the development on those or other terms or to the development going ahead with-

out its involvement. In such a case, the RFR will continue to apply, meaning the RFR holder will (subject to any offer back requirements) be offered the first opportunity to purchase the land and improvements if they are sold.

Departmental disclosure statement

The Ministry of Housing and Urban Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=197

Regulatory impact statement

The Ministry of Housing and Urban Development produced a regulatory impact statement on 30 November 2018 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- https://www.hud.govt.nz/urban-development/kainga-ora-homes-and-communities/related-documents/
- http://www.treasury.govt.nz/publications/informationreleases/ris

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause, providing that the Bill, other than *clause 294*, comes into force on the day after the date on which it receives the Royal assent. *Clause 294*, which amends the Kāinga Ora–Homes and Communities Act 2019, is treated as coming into force on 1 October 2019, the commencement date of that Act.

Part 1
Preliminary provisions

Subpart 1—Purpose and principles

In *subpart 1, clauses 3 and 4* set out—

- the purpose of the Bill:
- the requirement that persons performing functions or exercising powers under the Act must take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Clause 5 relates to specified development projects, which are a category of urban development projects initiated, facilitated, or undertaken by the Crown entity Kāinga Ora–Homes and Communities (**Kāinga Ora**). Later Parts of this Bill describe what a

specified development project is and how one is established. *Clause 5* sets out principles that relate to how urban development projects are selected and assessed as potential specified development projects, and how specified development projects (once established) are carried out. Persons performing functions or exercising powers under the Bill in relation to these projects must have particular regard to certain urban development-related matters as well as promoting the sustainable management of natural and physical resources (and, in doing so, giving the weight required by *clause 5* to the matters in sections 6 and 7 of the Resource Management Act 1991). There is a recognition, in the *clause 5* principles, that amenity values—defined in the Resource Management Act 1991 as meaning those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes—may change as a result of a specified development project.

Subpart 2—Overview of this Act

Clauses 6 to 8 provide overviews of the Bill as a whole, and of the provisions about specified development projects and other types of urban development by Kāinga Ora.

Subpart 3—Interpretation and application

Clauses 9 to 11 provide for the meanings of key terms used in the Bill and how examples are to be interpreted.

Clauses 12 and 13 give effect to a transitional provision set out in *Schedule 1* and provide that the Bill will bind the Crown. *Clauses 14 to 18* clarify how certain general Acts are to apply. *Clause 19* states that if there is an inconsistency between a provision of the Bill and a Treaty settlement obligation, the Treaty settlement obligation prevails.

Subpart 4—Restrictions on developing certain land

Clause 20(2) prohibits any power in the Bill from being used on protected land described in that clause. The rest of *clauses 20 to 24* set out preconditions for acquiring or developing, depending on the type of land,—

- other protected land (*see clause 20(3) and (4)*):
- former Māori land (*see clauses 9 and 21*):
- RFR land (*see clause 22*):
- land that may be needed for future settlements of historical claims (*see clause 24*).

Subpart 5—Miscellaneous

Clauses 25 and 26 state certain general duties that apply under this Bill, namely—

- a duty to co-operate:
- a duty to avoid unreasonable delay.

Clause 27 confirms the right to take judicial review proceedings in respect of matters arising under the Bill, once certain statutory appeal rights have expired.

Part 2
Specified development projects

Subpart 1—How specified development projects are established

A specified development project is an urban development project, established by Order in Council after an assessment process set out in this subpart, over a project area (which need not be a contiguous area) and with the project objectives and a project governance body determined as part of that assessment process.

General provisions and project selection

Clauses 28 to 30 set out the following general provisions relating to specified development projects:

- *clause 28* describes key features of a specified development project: the project objectives, project area, and project governance body:
- *clause 29* gives more detail about project objectives:
- *clause 30* sets out the criteria for establishing a specified development project.

Clauses 31 and 32 relate to how an urban development project is selected to be assessed as a potential specified development project. Either Kāinga Ora on its own initiative, or the responsible Minister and the Minister of Finance (by joint direction to Kāinga Ora), select an urban development project for consideration by Kāinga Ora under this subpart.

Project assessment and project assessment report

Clauses 33 to 42 set out the requirements for an assessment of a potential specified development project and for Kāinga Ora to provide a project assessment report. Requirements for assessment include identifying certain constraints and opportunities for the project, seeking to engage with Māori and key stakeholders, public notification of the proposed key features of the project, and considering feedback. The assessment process is intended to assist Kāinga Ora in deciding whether to proceed to recommend that the project be established as a specified development project.

Clauses 43 to 45 relate to the requirement for Kāinga Ora to seek the views of the relevant territorial authorities on its project assessment report and a decision to recommend, to the joint Ministers, that the project be established as a specified development project. This is in addition to the obligation of Kāinga Ora to seek engagement with relevant territorial authorities (as key stakeholders) earlier in the project assessment stage. *Clause 44* requires territorial authorities to respond and, if they do not agree with any recommendations of Kāinga Ora (for example, if they do not agree with the proposed project area, the proposed project objectives, or even with the recommendation to establish the project as a specified development project), to state

why or to state any changes that would enable them to support those recommendations.

Joint Ministers' decision

Clauses 46 to 49 describe how the joint Ministers make a decision on a project assessment report, with reference back to the criteria, in *clause 30*, for establishing a specified development project.

Specified development project established

Clauses 50 to 53 relate to the making of an Order in Council establishing a project as a specified development project (an **establishment order**), outline the general effect of an establishment order, and set out notification and publication requirements.

Hearings commissioners

Clause 54 empowers Kāinga Ora to appoint hearings commissioners. Under this Bill, hearings commissioners have (or may have) a number of roles, for example, to—

- decide certain resource consent applications in the project area, in circumstances where Kāinga Ora is required to delegate those functions and powers (for example, because Kāinga Ora is the applicant—*see clause 117(1)*) and does so to a hearings commissioner:
- hear objections under the Act (for example, objections by owners or occupiers to the proposed construction of non-roading infrastructure on, under, or over their land—*see clauses 158 and 161*—or objections by requiring authorities if Kāinga Ora does not approve a notice of requirement—*see clause 140*).

Amendments, transfers, and disestablishment

Clauses 55 and 56 provide for amendments to an establishment order by an amending Order in Council, and *clause 57* enables Kāinga Ora to transfer an asset of, or disestablish, a specified development project, as set out in *Schedule 2*.

Subpart 2—Preparation of development plans

Clauses 58 to 60 set out some general provisions applying to the preparation, amendment, or review of a development plan. *Clause 61* provides that Kāinga Ora must prepare a development plan for every specified development project.

Contents of draft development plan

Clauses 62 to 65 set out the contents required in a draft development plan. *Clauses 66 to 68* deal with the modifications necessary to apply the relevant provisions of the Resource Management Act 1991, and with the treatment of existing designations.

Preparation of development plan

Clauses 69 to 74 set out how certain planning instruments are relevant to the preparation of a draft development plan, the consultation required at this stage, and what

supporting documents are also required (though these do not form part of a development plan).

Process for finalising draft development plan

Clause 75 describes the matters that must be satisfied before the required steps can be taken to finalise a draft development plan as an operative development plan. Those steps are set out in *clauses 76 to 78*, which cover giving public notice, a submissions process, and the consideration by Kāinga Ora of submissions received.

Establishment and role of IHP

Clauses 79 to 82 cover establishment of an IHP and the role of the IHP and the responsible Minister in determining whether the draft development plan will proceed in the form consulted on, or is amended, or rejected.

Minister's decision on draft development plan

Clauses 83 to 85 describe the role of the responsible Minister in making a final determination on the draft development plan, including the matters that the Minister must have regard to.

Final approval and notification of development plan

Clause 86 covers the steps required to approve a draft development plan as operative, including its notification in the *Gazette*. *Clause 87* requires relevant Māori entities to be advised in writing that the development plan is consistent with the iwi planning documents applying in the project area.

Appeals

Clause 88 provides a limited right of appeal.

Effect of development plan

Clauses 89 to 92 set out the effect of a draft development plan becoming operative, and *clauses 93 and 94* provide for the review and amendment of a development plan.

Private changes to development plans

Clauses 95 and 96 provide for private requests to change a development plan.

Part 3
Effect of specified development projects

Subpart 1—Transitional period and general

As described in the subpart overview in *clause 97*, this subpart contains provisions that apply in the transitional period for a specified development project, that is, the period that starts on the date on which the project's establishment order comes into force and ends when the project's development plan becomes operative. It also con-

tains some other powers and duties that apply for the duration of the project, for example, relating to information, advice, and assistance.

Clauses 98 and 100 relate to planning and consenting functions in a project area, in the project's transitional period. (*See subpart 2* in relation to these functions once the project's development plan becomes operative.)

Clause 99 obliges local authorities to include in the electronic versions of their planning instruments a map showing the area of any project area within their district or region, and advice on where to access the relevant development plan.

Regional or district plan changes in transitional period

Although, in a project's transitional period, local authorities retain their roles under the Resource Management Act 1991 in relation to plan changes and resource consent decisions in a project area, *clauses 101 to 108* adjust those roles and provide for a role for Kāinga Ora. Under *clause 103*, if a plan change affecting a project area would become operative in the project's transitional period, Kāinga Ora has a power to disallow that change from applying to the project area. *Clause 106* confers a comparable power on Kāinga Ora in relation to resource consent applications received by territorial authorities in a project area in the transitional period. There is an appeal right (*clause 104*) in respect of the power exercisable under *clause 103* and a right of objection and an appeal right against a decision of Kāinga Ora under *clause 106* (*see clauses 107 and 108*).

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

Clauses 109 and 110 set out the responsibility of both Kāinga Ora and territorial authorities to give assistance, and certain responsibilities of Kāinga Ora in relation to information, advice, and record-keeping. *Clauses 111 to 115* give Kāinga Ora the power to obtain information from various entities, including local authorities, for the purposes of its functions to prepare, amend, or review a development plan, and set out the circumstances where this power may be resisted.

Subpart 2—Resource consenting and designations for specified development project

Role of Kāinga Ora as consent authority

Clauses 116 to 118 provide for the role of Kāinga Ora as the consent authority for resource consents within a project area, if the territorial authority would otherwise be the consent authority under the Resource Management Act 1991. That role includes authorising enforcement officers as if it were a local authority, and applies on and from the date when a development plan becomes operative under *clause 86(5)*. However, Kāinga Ora does not take over the role of a regional council, the Minister for the Environment, or the Environmental Protection Authority, if a resource consent application relates to matters within their jurisdiction. Kāinga Ora must delegate its role if it is an applicant for a consent, or has a significant relationship with an applicant.

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

Clause 119 sets out the decision-making framework under which resource consent applications are decided.

Application of provisions of Resource Management Act 1991

Clauses 120 to 125 set out the application process, and *clauses 126 and 127* provide for dealing with non-notified and notified applications.

Hearings

The hearings process is described in *clauses 128 to 130*, conditions are provided for in *clause 131*, *clause 132* provides for the form and service of a decision, and *clause 133* covers the commencement of a resource consent. These clauses all apply the relevant provisions of the Resource Management Act 1991, with the necessary modifications.

Rights of objection and appeal

Clauses 134 to 136 set out the right of objection to a hearings commissioner and rights of appeal to the Environment Court, with a final right of appeal to the High Court. The right of appeal to the High Court in relation to a direction given under section 85 of the Resource Management Act 1991 (which relates to the reasonable use of land) is retained.

Designations

Clauses 137 to 141 set out the approach to designations under the Bill, adopting the provisions of the Resource Management Act 1991, with the necessary modifications. Kāinga Ora is recognised as a requiring authority within a project area, as if it were a network utility operator, subject to the conditions in *clause 137(3)* being met. It may also operate as a requiring authority outside the project area if the conditions in *clause 137(4)* are met. *Clauses 138 and 140* specify how a designation is incorporated into a draft development plan and may be altered later, applying the relevant provisions of Part 8 of the Resource Management Act 1991, with the necessary modifications (*see also clause 139* for further modifications).

Clause 141 does not allow Kāinga Ora to lodge a notice of requirement with the Environmental Protection Authority other than in relation to nationally significant infrastructure.

Subpart 3—Reserves and conservation interests

Clauses 142 to 144 provide for—

- reservations under the Reserves Act 1977 and certain conservation interests to be revoked so that the relevant land may be used in a specified development project; and

- reserves under that Act to be established or vested, or their classification changed, for the purposes of a specified development project.

The powers in *clauses 142 to 144* may be used only if that is provided for in a development plan. The powers may not be used to revoke the status of a nature reserve or a scientific reserve.

Subpart 4—Infrastructure

Preliminary provisions

Clauses 145 to 147 set out how this subpart applies, and provide an overview of, and definitions applying in, this subpart. The subpart provides the powers required for 2 major forms of infrastructure: roads and non-roading infrastructure (generally, water supply, wastewater, and drainage infrastructure). *Clause 147(1)* defines relevant territorial authority, for the purposes of this subpart, as including, in Auckland, Auckland Transport.

Roads

Clause 148 defines the roading powers and *clause 149* provides that Kāinga Ora has the roading powers in relation to all roads in a project area (other than roads under the control of the New Zealand Transport Agency) if the project's development plan provides for Kāinga Ora to have those powers. The roading powers are functions and powers that are ordinarily functions and powers of territorial authorities and other statutory bodies under other enactments. For example, the roading powers include most of the functions and powers of a council under Part 21 of the Local Government Act 1974 (*see clause 148(b)*). *Clause 150* sets out additional transport-related functions and powers of Kāinga Ora in a project area if it has the roading powers for roads in that project area.

Clause 151(a) provides that, if Kāinga Ora has roading powers for roads within a project area, it has jurisdiction over those roads for the purposes of other enactments. Among other things, this has the effect of making Kāinga Ora the corridor manager for those roads under the Utilities Access Act 2010; *clause 151(b)* provides for the Code approved under that Act to apply to Kāinga Ora.

Clause 152 sets out limits applying to Kāinga Ora in exercising the roading powers (if it has them for a project), including in relation to powers of entry.

The effect of *clause 153(1)* is that, where Kāinga Ora has roading powers in relation to roads in the project area under this Bill, the relevant territorial authority (including, in Auckland, Auckland Transport) or other statutory body that would otherwise have had those functions and powers cannot perform or exercise them in relation to those roads. However, this does not apply if the board of Kāinga Ora delegates those functions or powers to the relevant territorial authority, etc (*see clause 153(2)*).

Clause 154 relates to the differences in the definition of roads in various Acts. Even where Kāinga Ora has roading powers for roads in project areas, a relevant territorial authority retains jurisdiction over roads within the meaning of section 2(1) of the

Land Transport Act 1998 that are not roads within the meaning of section 315 of the Local Government Act 1974.

Non-roading infrastructure

Clauses 155 to 169 relate to all other (non-roading) infrastructure, as defined in *clause 147*. *Clause 155* defines the non-roading powers, which are powers to construct non-roading infrastructure on, over, or under any land (including roads and buildings) and powers to alter (including connect to) non-roading infrastructure that Kāinga Ora does not control. The powers apply within and, to a degree, outside project areas (*see clause 156*). Where infrastructure impacts on private land, it is subject to the Public Works Act 1981; construction of water and wastewater infrastructure on, under, or over roads is subject to the Utilities Access Act 2010 and related Code. No one other than Kāinga Ora has the powers to construct non-roading infrastructure within a project area without the consent of Kāinga Ora, once the development plan becomes operative (*see clause 164*). Limitations apply to the powers conferred, including, in the case of construction of new non-roading infrastructure (unless the owner of the land consents or the work is authorised by the development plan), requirements for public notice, an objection process, and rights of appeal. Limitations also apply to the alteration of existing non-roading infrastructure that Kāinga Ora does not control, including where Kāinga Ora connects to that infrastructure—*clause 166* sets out the circumstances where a controlling authority may place conditions on those works and the types of conditions permitted.

Kāinga Ora is responsible for the costs of constructing new non-roading infrastructure (*clause 165*). Operating and maintenance costs for non-roading infrastructure are the responsibility of the controlling authority concerned (for example, the territorial authority) (*clause 167*). Once construction of non-roading infrastructure is complete and connected to the infrastructure of a controlling authority (*see* definition in *clause 147*), the infrastructure must be transferred to the controlling authority as provided for by *Schedule 2* (which sets out provisions for transferring assets of the specified development project or disestablishing the project). *Clause 169* is a technical provision ensuring that local authorities that end up controlling the non-roading infrastructure constructed by Kāinga Ora can, in the future, access land in order to maintain that infrastructure in the same way as local authorities can to maintain infrastructure that they construct.

Nationally significant infrastructure

In relation to nationally significant infrastructure (for example, State highways), Kāinga Ora must consult the operator of that infrastructure before doing anything that would or would be likely to affect it (*clause 170*).

Bylaw changes

Clauses 171 to 183 provide for Kāinga Ora to propose bylaw changes relating to the infrastructure within, or that will connect into, a project area. These provisions set out the process Kāinga Ora must complete, which includes public notification of what is

proposed, and hearing the views of persons on the proposal. Although this subpart does not give Kāinga Ora any power to make infrastructure-related bylaws, in certain circumstances (*see clause 179*), Kāinga Ora may require bylaw changes to be made by the relevant bylaw-making authority once Kāinga Ora has been through the required process. Bylaw changes can also be proposed and approved through the development planning process (*see clauses 63 and 181*).

Clause 184 provides that, once a specified development project is established, a bylaw-making authority operating in the project area must consult Kāinga Ora in relation to any proposed changes to bylaws affecting roads or non-roading infrastructure within the project area.

Part 4
Funding of specified development projects

Subpart 1—Preliminary provisions

Clauses 185 and 186 provide an overview of the Part and definitions of terms used in the Part. The defined terms include the term targeted rate, which is used to refer to targeted rates set under the Bill, as opposed to targeted rates set under the Local Government (Rating) Act 2002.

Subpart 2—Targeted rates

Clause 187 sets out general modifications that must be read into provisions of the Local Government (Rating) Act 2002 when they are applied by clauses in this subpart.

Liability for rates

Clauses 188 and 189 set out the extent to which land is rateable for targeted rates under the Bill and who must pay the rates.

Authorisation, setting, and spending of rates

Clauses 190 to 192 provide for the making of an Order in Council authorising Kāinga Ora to set targeted rates for a project area, within the limits set by the development plan.

Clauses 193 to 196 deal with how targeted rates are set by Kāinga Ora.

Clause 197 states that targeted rates on a rating unit are due on the same date or dates as the general rates on the unit.

Clause 198 sets out how Kāinga Ora must spend its rates revenue.

Calculation and collection of rates

Clauses 199 to 205 relate to how targeted rates are calculated and collected. The territorial authority whose district includes part or all of the project area is to collect targeted rates under the Bill when it collects its rates.

Other matters

Clauses 206 to 209 provide for the remission or postponement of targeted rates.

Clause 210 sets out how the provisions of the Local Government (Rating) Act 2002 apply to the rating of Māori freehold land under the Bill.

Clauses 211 to 214 set out administrative requirements relating to the recording of rating information.

Clauses 215 to 217 provide for Kāinga Ora to take over the calculation and collection of targeted rates from a territorial authority, enable delegation by a territorial authority, and set out certain other provisions in local government Acts that apply to targeted rates under the Bill.

Subpart 3—Development contributions

Clause 218 applies the principles for development contributions under the Local Government Act 2002 to the development contributions that may be required under the Bill. *Clause 219* defines the developments in respect of which development contributions may be required.

Clause 220 gives Kāinga Ora the power to require development contributions, as long as it is authorised by the development plan.

Clauses 221 to 223 provide for how contributions may be required, the amount of those contributions, and the limits on the power to require them.

Clauses 224 to 227 set out a right to seek reconsideration of, or object to, a requirement for a development contribution.

The rest of the subpart—

- provides for the use of development contributions for reserves and for alternative uses (*clauses 228 and 229*):
- deals with the consequences of unpaid contributions and the circumstances when contributions may be refunded (*clauses 230 to 232*):
- provides for Kāinga Ora to enter into a development agreement instead of, or as well as, requiring a development contribution (*clause 233*):
- requires Kāinga Ora to review its development contributions policy for a development project at least every 3 years (*clause 234*).

Subpart 4—Betterment payments

Clauses 235 and 236 give Kāinga Ora the power to require betterment payments in relation to roads and public transport infrastructure. *Clause 237* requires Kāinga Ora to spend the money it receives on land transport infrastructure.

Subpart 5—Infrastructure and service charges

Clauses 238 and 239 give Kāinga Ora the power to fix charges for connections to infrastructure and services provided by Kāinga Ora. The charges must be for the pur-

pose of cost recovery and must be prescribed in a development plan, although Kāinga Ora may adjust their amount through the creation of a bylaw, and after following a consultation process.

Subpart 6—Administrative charges

Clauses 240 to 246 provide for Kāinga Ora to fix charges for carrying out its resource management-related functions under *subpart 2 of Part 3*. The charges must be for the purpose of cost recovery and must be prescribed in a development plan, although Kāinga Ora may adjust their amount in accordance with a formula set out in the development plan or following a consultation process.

Part 5
General land acquisition powers

Subpart 1—Preliminary provisions

Clauses 247 to 249 provide an overview of the Part and definitions of terms used in the Part, including the term specified work.

Subpart 2—Transfer and acquisition of land

Under *clause 250*, Kāinga Ora may request that the Minister for Land Information do any of the following for the purposes of a specified work:

- transfer an existing public work to Kāinga Ora (*see clause 251*):
- set apart Crown land or part of the common marine and coastal area (*see clause 252*):
- acquire or take private or other land for Kāinga Ora using a modified version of the process under the Public Works Act 1981 (*see clause 253*).

Clauses 254 and 255 provide the procedures that must be followed if the land being transferred, acquired, or taken is owned by the Crown or a Crown agent under the Crown Entities Act 2004. *Clauses 256 to 258* provide for compensation and cost recovery. *Clause 259* sets out administrative requirements relating to the record of title for land that is acquired under this Part.

Subpart 3—Transfer of land to developer

Clause 260 empowers Kāinga Ora to transfer land it acquires under this Part to a developer for the purpose of developing a specified work. Any transfer is subject to preconditions relating to a development agreement, consultation requirements, and compliance with particular requirements if the land is former Māori land or RFR land (*clause 261*).

Under *clause 262*, the Crown has a right to resume title to the land. *Clauses 263 and 264* deal with the noting of the right of resumption on the land's record of title. *Clauses 265 and 266* set out when and how the right is exercised.

Subpart 4—Disposal of land no longer under development

Clauses 267 to 270 provide for the disposal of land acquired by Kāinga Ora under this Part 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. Generally, this subpart applies the rules under the Public Works Act 1981. However, *section 267* allows land to be transferred without being offered back to its original owners if the specified work completed on the land is limited to certain types, including housing and works for urban renewal.

Subpart 5—Transfer or disposal of former Māori land

Clause 271 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 clause 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*). *Clause 271* applies the rules under the Public Works Act 1981, but the modifications set out in *clause 272* expand the circumstances in which the land must be offered back to its original owners.

Part 6
Powers of entry, governance, and delegation

Subpart 1—Powers of entry

Kāinga Ora is able to appoint persons to exercise a power to enter land and buildings for the purposes specified in *clause 274*. *Clauses 275 to 277* set certain limits and requirements for those exercising the power of entry, including that the power may not be used to enter a house, marae, or marae building. *Clause 279* provides that it is an offence, with a maximum fine of $1,500 on conviction, to obstruct a person who is legitimately exercising the power of entry.

Subpart 2—Project governance

This subpart contains provisions relating to the establishment, by Kāinga Ora, of a governance body for a specified development project, potential specified development project, or other urban development project undertaken by Kāinga Ora. In considering governance arrangements for such projects, Kāinga Ora must turn its mind to the factors spelled out in *clause 282*. Kāinga Ora may undertake the project governance body role itself (*see clause 283*).

In the case of a specified development project with a governance body that is a wholly-owned Crown entity subsidiary of Kāinga Ora or a committee appointed by its board, territorial authorities operating within the project area that have offered their support for the specified development project may each nominate an appointee to the governance body (*clause 284*). Those nominees must, if suitable, be appointed (*clause 285*). *Clause 286* provides for the removal of appointees. Kāinga Ora must publish details of the appointments to a project governance body, including dele-

gations, along with the information that is required by *clause 53* to be published in relation to the specified development project.

Subpart 3—Delegations

Clause 289 requires Kāinga Ora to have a policy to assist it in deciding whether it should delegate functions and powers and in monitoring decisions made under the policy. The considerations relevant to any delegation of functions and powers under the Bill are set out in *clause 290*. *Clause 291* lists functions and powers that, despite powers of delegation under the Crown Entities Act 2004 that would otherwise apply, may only be delegated to persons or classes of persons stated within that clause (generally persons "within", or related to, Kāinga Ora). The development plan may approve certain delegations, and some delegations are subject to territorial authority approval (*see clauses 292 and 293*).

Clause 294 amends the Kāinga Ora–Homes and Communities Act 2019 to provide that the Housing New Zealand Corporation and Kāinga Ora are, for the purposes of the Inland Revenue Acts, to be treated as the same person.

Clause 295 amends other Acts as set out in *Schedule 4*.

Schedules

There are 4 schedules.

Schedule 1 contains a transitional provision relating to the application of *clauses 21 and 22* to an existing urban development project.

Schedule 2 (*see clauses 3 and 4*) provides for the transfer of an asset by Kāinga Ora to another agency, either by agreement between the parties concerned, or by transfer order if agreement cannot be reached and a transfer is necessary or desirable, at the initiative of Kāinga Ora and on the recommendation of the responsible Minister. Monetary debts must not be transferred.

Clauses 5 to 9 provide for a specified development project to be disestablished by order made by the Governor-General—

- if a draft development plan has not been notified under *clause 76* within 5 years of the commencement of the project's establishment order; or
- if Kāinga Ora considers it appropriate to disestablish the project.

Schedule 3 sets out the procedures for appointing members, and provides for the functions, of an IHP for each specified development project. The purpose of establishing IHPs is to ensure that, in relation to each draft development plan, there is an independent public submissions process, an independent review, and independent recommendations to the responsible Minister.

Schedule 4 sets out amendments to other Acts.

Hon Phil Twyford

Urban Development Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Urban Development Act **2019**.

2 Commencement

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

(2) However, **section 294** is treated as coming into force on 1 October 2019.

Part 1
Preliminary provisions

Subpart 1—Purpose and principles

3 Purpose of this Act

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

(2) To that end, this Act—

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

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

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

4 Treaty of Waitangi

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

Specified development projects

5 Principles for specified development projects

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

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

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

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

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

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

(v) low-emission urban environments; and

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

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

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

(iii) recognise that amenity values may change.

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

Subpart 2—Overview of this Act

6 Overview of this Act

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

(a) establishes Kāinga Ora; and

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

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

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

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

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

7 Overview of provisions about specified development projects

(1) **Part 2** provides for—

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

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

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

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

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

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

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

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

(4) *See also*—

(a) **section 51(1)** for an overview of the effect of a specified development project being established; and

(b) **section 89** as to the effect of a development plan becoming operative.

8 Overview of provisions about urban development by Kāinga Ora generally

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

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

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

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

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

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

Subpart 3—Interpretation and application

Interpretation

9 Interpretation

In this Act, unless the context otherwise requires,—

acquired by Kāinga Ora is defined in **section 248** for the purposes of **Part 5**

administrative charge means a charge that may be fixed or imposed under **section 240**

alter is defined in **section 147(1)** for the purposes of **subpart 4 of Part 3**

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

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

authorised person is defined in **section 273** for the purposes of **subpart 1 of Part 6**

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

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

bylaw change has the meaning set out in **section 171**

bylaw-making authority has the meaning set out in **section 147(1)**

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

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

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

committee is defined in **section 280** for the purposes of **subpart 2 of Part 6**

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

community facility means a facility for—

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

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

conservation interest means—

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

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

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

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

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

controlling authority is defined in **section 147(1)** for the purposes of **subpart 4 of Part 3**

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

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

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

Crown land is defined in **section 248** for the purposes of **Part 5**

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

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

defence area has the same meaning as in section 2(1) of the Defence Act 1990

designation—

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

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

development is defined in **section 219** for the purposes of **subpart 3 of Part 4**

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

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

(b) excludes protected land described in **section 20(2)**

development plan means an operative development plan gazetted under **section 86**; and

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

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

draft development plan means a development plan that is in the process of being prepared for gazettal in accordance with **subpart 2 of Part 2**, until the plan is declined or made operative under **section 86**

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

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

establishment order means an Order in Council made under **section 50** that establishes an urban development project as a specified development project

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

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

former Māori land means land that—

(a) is held—

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

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

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

  (i) Māori land; or

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

former owners, in relation to former Māori land,—

(a) means the 1 or more persons who owned the land immediately before it was acquired or taken for a specified work or a public work; and

(b) includes any successors of the persons referred to in **paragraph (a)**

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

hapū authority has the same meaning as iwi authority in section 2(1) of the Resource Management Act 1991, subject to the necessary modifications

hearings commissioner means a hearings commissioner appointed in accordance with **section 54**

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

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

historical claim means a claim made by a group of Māori and that arises from, or relates to, acts or omissions before 21 September 1992 by or on behalf of the Crown, and founded on a right arising—

(a) from the Treaty of Waitangi or its principles; or

(b) by or under legislation; or

(c) at common law (including aboriginal title or customary law); or

(d) from a fiduciary duty; or

(e) otherwise

housing is defined in **section 248** for the purposes of **Part 5**

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

infrastructure and service charge means a charge that may be fixed under **section 238**

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

infrastructure powers means the roading powers and the non-roading powers

infrastructure statement means the supporting document required by **section 71(1)(b)**

interest, for the purpose of the definition of **Māori entity**, includes—

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

(b) an ownership interest in land; and

(c) a customary or other interest in land that is recognised under an enactment

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

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

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

(a) the Resource Management Act 1991; or

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

(c) a Treaty settlement deed; or

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

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

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

key features is defined in **section 28(4)** for the purposes of **subpart 1 of Part 2**

key stakeholders, in relation to a specified development project (or a project being assessed as a potential specified development project), means the persons listed in **section 35(3)**

land,—

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

(b) is defined in **section 186(1)** for the purposes of **Part 4**:

(c) is defined in **section 248** for the purposes of **Part 5**

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

local authority,—

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

(b) is defined in **section 248** for the purposes of **Part 5**

local government rate is defined in **section 186(1)** for the purposes of **Part 4**

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

Māori entity means any of the following persons or entities—

(a) that have an interest in a project area or a proposed project area:

(i) a post-settlement governance entity:

(ii) an iwi or hapū authority:

(iii) an urban Māori authority:

(iv) a Māori Trust Board:

(v) the Māori Trustee:

(vi) a Māori association:

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

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

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

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

(b) a customary marine title group or protected customary rights group with an interest in a project area or a proposed project area or adjoining a project area or proposed project area

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

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

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

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

nationally significant infrastructure means any of the following:

(a) State highways:

(b) the national grid electricity transmission network:

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

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

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

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

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

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

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

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

non-roading infrastructure has the meaning set out in **section 147(1)**

non-roading powers has the meaning set out in **section 155**

owner is defined, in relation to land that is a road and the exercise of non-roading powers, in **section 147(1)** for the purposes of **subpart 4 of Part 3**

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

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

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

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

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

post-settlement governance entity—

(a) means a body corporate or the trustees of a trust established by a claimant group for the purposes of receiving redress in the settlement of the historical claims of that group; and

(b) includes an entity established to represent a collective or combination of claimant groups

private plan change means a private plan change to a development plan under **sections 95 and 96**

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

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

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

protected customary rights group has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected land means the land described in **section 20(2) and (4)**

public notice has the same meaning as in section 2AB of the Resource Management Act 2001

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

ratepayer is defined in **section 186(1)** for the purposes of **Part 4**

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

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

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

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

(b) a deed of recognition:

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

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

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

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

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

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

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

relevant, in relation to a policy that relates to a targeted rate or development contribution, is defined in **section 186(1)** for the purposes of **Part 4**

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

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

(b) every relevant territorial authority for the project

relevant territorial authority,—

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

(b) for the purposes of **subpart 4 of Part 3**, is defined in **section 147(1)** as including, in Auckland, Auckland Transport

requiring authority has the same meaning as in section 166 of the Resource Management Act 1991

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

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

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

RFR means a currently enforceable right of 1 or more post-settlement governance entities to be offered the transfer, vesting, or lease of land before the owner may dispose of it to others, as provided for in a Treaty settlement Act or Treaty settlement deed

RFR holder means the 1 or more post-settlement governance entities that have the RFR in relation to RFR land

RFR land means land that is subject to an RFR or RSR

right of resumption is defined in **section 248** for the purposes of **Part 5**

roading powers has the meaning set out in **section 148**

RSR means a currently enforceable right of 1 or more post-settlement governance entities to be offered the transfer, vesting, or lease of RFR land after the RFR holder, and before the owner may dispose of the land to others, as provided for in a Treaty settlement Act or Treaty settlement deed

RSR holder means the 1 or more post-settlement governance entities that have the RSR (if any) in relation to RFR land

service connection is defined in **section 186(1)** for the purposes of **Part 4**

specified conservation-related area has the meaning set out in **section 30(d)**

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

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

(a) a recreation reserve:

(b) a historic reserve:

(c) a scenic reserve:

(d) a government purpose reserve:

(e) a local purpose reserve

specified work has the meaning set out in **section 249**

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

supporting documents means the documents required by **section 71**

targeted rate has the meaning set out in **section 186(1)**

targeted rates order is defined in **section 186(1)** for the purposes of **Part 4**

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

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

transitional period has the meaning set out in **section 97(2)**

Treaty settlement Act means—

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

(b) any Act that provides collective redress or participation arrangements to claimant groups whose claims are, or are to be, settled by another Act

Treaty settlement deed means a deed or other agreement entered into by the Crown and a group of Māori claimants in settlement of the historical claims of that group, or that provides redress associated with such a settlement

Treaty settlement obligations means obligations under any of the following:

(a) Treaty settlement Acts:

(b) Treaty settlement deeds

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

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

urban renewal is defined in **section 248** for the purposes of **Part 5**

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

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

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, 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** 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 50**).

11 Examples do not limit provisions

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

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

Application

12 Transitional, savings, and related provisions

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

13 Act binds the Crown

This Act binds the Crown.

14 Application of Resource Management Act 1991 to project areas

Except as otherwise specified in this Act, the provisions of the Resource Management Act 1991 continue to apply in relation to project areas.

15 Housing Act 1955 not limited

Nothing in this Act (including anything in **subpart 4 of this Part**) limits or affects the Housing Act 1955.

16 Heritage New Zealand Pouhere Taonga Act 2014 prevails

If a provision of this Act is inconsistent with a provision in the Heritage New Zealand Pouhere Taonga Act 2014, the provision in the Heritage New Zealand Pouhere Taonga Act 2014 prevails.

17 Te Ture Whenua Maori Act 1993 prevails

If a provision of this Act is inconsistent with a provision in Te Ture Whenua Maori Act 1993, the provision in Te Ture Whenua Maori Act 1993 prevails.

18 Marine and Coastal Area (Takutai Moana) Act 2011 prevails

If a provision of this Act is inconsistent with a provision in the Marine and Coastal Area (Takutai Moana) Act 2011, the provision in the Marine and Coastal Area (Takutai Moana) Act 2011 prevails.

19 Treaty settlement obligations prevail

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

Subpart 4—Restrictions on developing certain land

20 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 156** to construct new non-roading 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 253** 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 historical 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,—

control means,—

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

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

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 (as defined in section 5 of the Companies Act 1993) or related company of a company or body referred to in **paragraph (d)**

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

post-settlement governance entity includes—

(a) a hapū authority that is established by a post-settlement governance entity; and

(b) an entity that is controlled by a post-settlement governance entity.

21 Former Māori land

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

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

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

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

(a) Kāinga Ora makes reasonable efforts to engage with the land's former owners and the hapū associated with the land in order to understand—

(i) their aspirations for the land; and

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

(b) the land is offered to its former owners in accordance with sections 40 and 41 of the Public Works Act 1981 (as modified by **section 272**).

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

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

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

22 RFR land

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

(a) Kāinga Ora offers the RFR holder the opportunity to undertake the development on specified terms; and

(b) the RFR holder agrees with Kāinga Ora—

(i) to undertake the development (whether on the terms offered or on other terms); or

(ii) to the development going ahead on other terms.

(2) If there is more than 1 RFR holder, **subsection (1)(b)** is not complied with unless all of the RFR holders agree.

(3) If there is an RSR, **subsections (1) and (2)** also apply in relation to the RSR holder (as if it were the RFR holder) if the RFR holder—

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

(b) has agreed to waive its RFR.

(4) If the RFR land is also former Māori land, this section applies only if the land's former owners do not accept the offer under **section 21(2)(b)**.

(5) To avoid doubt,—

(a) an agreement under **subsection (1)** does not end or limit the RFR or RSR (unless the RFR holder or RSR holder agrees otherwise); and

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

23 Protected land, former Māori land, and RFR land may be included in project area

Sections 20 to 22 do not prevent the land referred to in those sections from being included in a project area.

24 Land that may be needed for settlement of historical claims

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

(a) **section 75(4)(b)** (which relates to the preconditions for notifying a draft development plan):

(b) **section 250(2)(a)** (which relates to the acquisition of land by Kāinga Ora for a specified work):

(c) **section 261(6)(a)** (which relates to the transfer to a developer of land acquired by Kāinga Ora for a specified work):

(d) **section 267(3)(a)** (which relates to the disposal of land on which certain specified works are completed):

(e) **section 268(4)** (which relates to the disposal of land that is no longer required for a specified work):

(f) **section 270(3)** (which relates to the disposal of land to a local authority for a public work).

Subpart 5—Miscellaneous

General duties

25 Duty to co-operate

(1) This section applies to—

(a) Kāinga Ora; and

(b) relevant local authorities; and

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

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

Compare: 2003 No 118 s 38AA(1)

26 Duty to avoid unreasonable delay

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

Compare: 1991 No 69 s 21

Judicial review

27 Judicial review rights

(1) Nothing in this Act limits or affects a right of judicial review that a person may have in respect of the matters to which this Act applies, except as provided in **sections 108, 135, 136, and 138**.

(2) However, a person must not apply for judicial review of a decision on a development plan under **subpart 2 of Part 2** and appeal to the High Court under **section 88** in respect of the same decision unless the applications are made together.

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

Compare: 2010 No 37 s 159

Part 2
Specified development projects

Subpart 1—How specified development projects are established

General provisions

28 Key features of specified development projects

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

(a) project objectives; and

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

(c) a project governance body.

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

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

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

29 Project objectives

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

(2) Project objectives—

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

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

30 Criteria for establishing specified development project

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

Specified development project mechanism

(a) having regard to **subpart 1 of Part 1**, consider that it is appropriate for the project to be established as a specified development project with the key features recommended by Kāinga Ora; and

Project objectives

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

(i) **subpart 1 of Part 1**; and

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

Project area

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

(i) for urban use; or

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

(d) if the project area contains any of the following (a **specified conservation-related area**), are satisfied that the Minister of Conservation has approved the matters set out in **section 37(2)**:

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

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

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

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

Project governance body

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

Engagement

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

Territorial authority support or national interest

(h) either—

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

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

Project selection

31 Kāinga Ora or joint Ministers select project

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

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

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

32 Status of ministerial direction

A direction for the purposes of **section 31(b)** is not—

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

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

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

Project assessment

33 Kāinga Ora assesses project

Kāinga Ora must assess a project selected in accordance with **section 31** by—

(a) identifying, at a high level, constraints and opportunities that arise for the project from the matters listed in **section 34(1)**; and

(b) seeking to engage as required by **section 35**; and

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

(d) publicly notifying the assessment of the project as required by **section 38**, and considering the feedback received; and

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

34 Kāinga Ora identifies constraints and opportunities

(1) For the purposes of **section 33(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 defence area:

(vi) any area or feature of land protected under a local Act (for example, under the Waitakere Ranges Heritage Area Act 2008); and

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

(i) any reserve, by location and purpose:

(ii) land that is owned by the Crown:

(iii) former Māori land:

(iv) 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 archaeological and historical heritage values of land within the proposed project area; and

(f) at a high level, the extent to which the project (including any infrastructure requirements identified) 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.

35 Kāinga Ora seeks engagement, etc, with Māori and key stakeholders

(1) For the purposes of **section 33(b)**, the engagement that must be sought is engagement with Māori and key stakeholders on matters relating to the project that affect, or are likely to affect, that person or in which that person has an interest.

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

(a) Māori entities; and

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

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

(a) relevant local authorities; and

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

(c) Heritage New Zealand Pouhere Taonga; and

(d) the New Zealand Police; and

(e) Fire and Emergency New Zealand; and

(f) the owners and operators of any nationally significant infrastructure that will be, or is likely to be, affected by the project; and

(g) if Kāinga Ora identifies any other infrastructure as infrastructure that may be affected by the project, the relevant infrastructure operator; and

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

(i) if all, or part of, a defence area is in or adjacent to the proposed project area, the Chief of Defence Force.

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

(5) Kāinga Ora must also seek, from Māori entities, expressions of interest in developing, as part of the project, any land within the proposed project area (other than protected land described in **section 20(2)**) in which they have an interest (*see* the definition of **interest** in **section 9**).

(6) In seeking engagement with Māori and key stakeholders, and expressions of interest from Māori entities, Kāinga Ora must allow adequate time for responses and for that engagement to occur, taking into account, as relevant,—

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

(b) tikanga Māori.

(7) This section is subject to **section 36**.

36 Early engagement may satisfy obligation to engage

(1) Kāinga Ora may treat early engagement with a person on matters that are relevant to a project that Kāinga Ora is assessing under this subpart as satisfying the obligations of Kāinga Ora, under **sections 33(b) and 35**, to seek to engage with that person on those matters.

(2) In this section, **early engagement** means engagement—

(a) between Kāinga Ora and a person on matters that affect, or are likely to affect a person, if an urban development project proceeds as a specified development project; and

(b) that was undertaken—

(i) before a project is selected to be assessed as a potential specified development project; or

(ii) as part of an earlier assessment of a project under this subpart.

37 Project areas that include specified conservation-related area

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

(2) The Minister of Conservation must approve—

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

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

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

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

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

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

(4) In making their decision under **subsection (3)**, the Minister of Conservation must have regard to—

(a) the purposes for which the specified conservation-related area is presently held; and

(b) the matters in **subpart 1 of Part 1**.

(5) Kāinga Ora must not give the public notice referred to in **section 38** before obtaining the Minister of Conservation's approval under this section.

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

(1) The public notice required by **section 33(d)** as part of a project assessment must include the following statements:

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

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

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

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

(3) The public notice must—

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

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

(4) Kāinga Ora may accept any late feedback.

39 Changes to proposed key features

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

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

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

(a) consider which, if any, part of the process described in **sections 33 to 38** needs repeating given the new content; and

(b) repeat that part in relation to—

(i) the new content; and

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

Project assessment report

40 Kāinga Ora prepares project assessment report

(1) After completing a project assessment, or earlier (in any case where **section 42** applies), Kāinga Ora must—

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

(b) comply with **section 43** (which relates to seeking territorial authority support) unless this subpart does not require it; and

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

(2) The report must be in writing.

41 Contents of report: recommendation to establish specified development project

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

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

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

(i) the proposed key features of the project, and reasons stated by Kāinga Ora, that were publicly notified in accordance with **section 38**; and

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

(iii) a summary of engagement undertaken with Māori and key stakeholders in accordance with **section 35**, and of feedback received; and

(iv) a summary of expressions of interest received in accordance with **section 35(5)**; and

(v) whether Kāinga Ora has relied on any early engagement (as defined in **section 36(2)**) and, if so, a summary of that engagement (including when it was undertaken); and

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

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

(viii) constraints and opportunities identified in accordance with **section 33(a)**; and

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

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

(d) if the recommended project area contains any specified conservation-related area, confirmation that the Minister of Conservation has approved the matters in **section 37(2)**; and

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

(f) the responses received from each relevant territorial authority under **section 44**.

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

42 Contents of report: recommendation not to establish

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

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

(b) either or both of the following apply:

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

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

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

(a) the report does not have to include all of the things in **section 41(2)**; and

(b) Kāinga Ora does not have to comply with **section 43**.

43 Territorial authorities invited to indicate support

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

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

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

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

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

(c) invite the relevant territorial authorities to—

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

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

(2) An invitation by Kāinga Ora must—

(a) be in writing; and

(b) give the relevant territorial authority at least 10 working days to respond.

44 Territorial authorities must respond to invitation

(1) This section applies to every relevant territorial authority that receives an invitation and a draft project assessment report under **section 43**.

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

(a) stating whether it supports—

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

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

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

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

(3) Every response must be—

(a) in writing; and

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

45 Territorial authority not required to consult before responding

(1) A territorial authority is not required to consult anyone before responding to Kāinga Ora in accordance with **section 44**.

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

Joint Ministers' decision

46 Joint Ministers make decision on report

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

(2) If the report recommends that the project be established as a specified development project, the joint Ministers must decide to either—

(a) accept the recommendation in accordance with **section 47**; or

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

(c) reject the recommendation.

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

(a) accept the recommendation; or

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

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

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

(a) their notice to Kāinga Ora must state—

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

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

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

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

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

47 Decision to establish specified development project

(1) The joint Ministers may only accept a recommendation in a project assessment report to establish a project as a specified development project if the criteria in **section 30** are met.

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

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

(4) If the joint Ministers accept the recommendation, the joint Ministers must recommend the making of an establishment order under **section 50** in respect of the project.

48 Decision to refer back report

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

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

(b) provide a revised assessment report for the project to the joint Ministers for a decision under **section 46**.

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

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

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

(3) In those circumstances,—

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

(b) despite **section 42(2)(b)** (if it applies), if the relevant territorial authorities were given the earlier report, Kāinga Ora must comply with **section 43** in relation to the revised report.

49 Decision not to establish project as specified development project

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

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

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

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

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

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

(b) the key stakeholders.

Project established as specified development project

50 Orders in Council establishing specified development projects

(1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers in accordance with **subsection 47(4)**, declare that a specified development project is established.

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

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

(4) Sections 52 to 55 of the Legislation Act 2012 apply in relation to material incorporated by reference under **subsection (3)** as if it were incorporated under section 49 of that Act.

51 Effect of establishment order

Overview

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

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

(b) for a transitional period (*see* **section 97(2)**), the following become subject to the powers and process changes set out in **subpart 1 of Part 3**:

(i) plan changes applying in the project area:

(ii) new resource consent applications in the project area:

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

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

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

(i) duties relating to assistance, information, and advice (*see* **sections 109 and 110**):

(ii) powers to obtain information, and enter land, for purposes related to preparing the development plan (*see* **sections 111 and 274(1)(b)**):

(iii) rights to be consulted on certain bylaw changes proposed by bylaw-making authorities (*see* **section 184**).

(2) *See also* **section 89** (which relates to the effect of the project's development plan becoming operative).

Appointment of identified project governance body

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

52 Kāinga Ora must notify relevant local authorities of establishment order

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

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

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

(a) a list of specified development projects; and

(b) links to establishment orders; and

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

(2) *See also* **section 287** (relating to appointments of project governance bodies).

Hearings commissioners

54 Appointment of hearings commissioners

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

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

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

(2) In appointing a hearings commissioner, Kāinga Ora must—

(a) comply with section 39B(2) of the Resource Management Act 1991 as if it were a local authority; and

(b) establish a process for managing any conflicts of interest of a hearings commissioner in relation to a particular matter.

Amendments, transfer, and disestablishment

55 Amendments to key features of specified development projects

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

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

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

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

(b) the joint Ministers—

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

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

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

(i) is to the project objectives, the criterion in **section 30(b)** is met:

(ii) is to the project area, the criteria in **section 30(c) and (e)** and, if relevant, **(d)** are met:

(iii) identifies a new entity as the project governance body, the criterion in **section 30(f)** is met.

(4) **Section 47(2) and (3)** applies in respect of the joint Ministers' decision under this section.

(5) The joint Ministers must recommend the making of an Order in Council under **section 56** in respect of an amendment recommended and accepted in accordance with this section.

56 Orders in Council amending establishment orders

(1) The Governor-General may, by Order in Council made on the recommendation of the joint Ministers in accordance with **section 55(5)**, amend an establishment order.

(2) **Section 52** applies to the amendment order as if it were an establishment order.

57 Transfer and disestablishment

Kāinga Ora may transfer certain assets related to a specified development project or disestablish a specified development project in accordance with the provisions set out in **Schedule 2**.

Subpart 2—Preparation of development plans

58 Application of this subpart

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

(2) This subpart applies—

(a) after an establishment order is made under **section 50** that establishes a specified development project; and

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

59 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 of noise and mitigating 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.

60 Relevance of certain national instruments

A development plan must not be inconsistent with—

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

(i) national policy statements:

(ii) a New Zealand Coastal Policy Statement:

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

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

(A) the structure, format, definitions, and of metrics and the requirements for electronic functionality and accessibility:

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

(b) any national land transport policy.

61 Development plan required for every specified development project

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

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

(3) A development plan must—

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

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

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

Contents of development plan

62 Contents of draft development plan

(1) A draft development plan must include the matters set out in this section and in **sections 63 to 66**.

Structure plan

(2) A structure plan must be included that sets out—

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

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

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

(d) any land within the project area proposed to be set apart as a reserve; and

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

Conditions

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

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

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

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

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

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

Modification of planning instruments

(4) A draft development plan must set out the following:

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

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

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

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

63 Further contents of development plan: infrastructure

(1) The draft development plan must state—

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

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

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

(2) The section on infrastructure—

(a) may propose 1 or more bylaw changes that Kāinga Ora requires to be made (*see* **section 181**); and

(b) if it does propose 1 or more bylaw changes, must, for each proposed bylaw change, set out the matters in **section 174(2)(a) to (f)**.

(3) **Sections 172 and 173** apply to a bylaw change proposed in a draft development plan (with the necessary modifications).

(4) Kāinga Ora may not propose, as part of an amendment to a plan, any bylaw change that is substantially the same as one that Kāinga Ora requested in relation to the specified development project but was refused under **section 177(1)(b)**.

64 Further contents of development plan: funding

Sources of funding

(1) If the sources of funding include a development contribution, the proposed development contribution policy for the project must be included in the draft development plan.

(2) If a targeted rate is to be a source of funding, the draft development plan must include the following matters, except that the Local Government Act 2002 applies as if Kāinga Ora were a local authority and with all other necessary modifications:

(a) for each rate, the matters set out in **section 65**; and

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

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

(3) If the sources of funding include—

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

(b) infrastructure and service charges, the draft development plan must prescribe the charges in a schedule.

Administrative charges

(4) If the sources of funding include administrative charges, the draft development plan must, in a schedule,—

(a) prescribe charges of a kind specified in **section 242**; and

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

65 Further contents of development plan: targeted rates

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

Key matters

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

(i) infrastructure:

(ii) reserves:

(iii) community facilities; and

(b) the maximum amount of revenue that may be recovered from that rate in each financial year in which Kāinga Ora intends to set rates or how that amount must be calculated; and

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

Whether rate may apply to all or only some land

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

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

Whether rate may be set differentially

(f) whether the rate may be set—

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

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

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

Factors for calculating rates

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

(a) a fixed charge per rating unit; or

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

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

Categories of land

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

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

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

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

66 Provisions that modify planning instruments

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

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

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

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

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

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

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

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

(d) if relevant, enable the provision of all necessary infrastructure for a specified development project, both within and outside the project area.

(3) In order to enable the project objectives to be achieved, a development plan may include rules that, in order to give effect to the project objectives,—

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

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

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

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

(e) are specific or general in their application:

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

67 Existing designations for nationally significant infrastructure and defence areas

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

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

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

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

(3) Neither Kāinga Ora nor an IHP may alter a designation, or remove it from a development plan, without the written consent of the requiring authority.

68 Existing designations for infrastructure that is not nationally significant or defence area

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

(2) Before Kāinga Ora publicly notifies a draft development plan under **section 76**, it must give notice to any requiring authority with a current designation, advising—

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

(b) if the designation is to be included, with changes, in the draft development plan, identifying the proposed changed and reasons for those changes; and

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

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

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

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

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

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

(b) decline to include the designation in the draft development plan; or,

(c) include the designation with alterations; or

(d) replace the designation with one that achieves the purpose of the designation.

(7) If Kāinga Ora declines to include the designation in the draft development plan, or includes it with alterations, Kāinga Ora may provide an amended or replacement designation that enables the purposes of the designation to be achieved.

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

(9) A requiring authority whose designation is replaced, altered, or declined by Kāinga Ora under this section may make a submission under **section 77**—

(a) seeking an alteration to its designation that Kāinga Ora did not agree to:

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

(10) The IHP must consider Kāinga Ora's decision and the requiring authority's submission before making a recommendation on the matter to the responsible Minister prior to the Minister finally approving or declining to approve the development plan under **section 86**.

(11) To avoid doubt, this section does not apply if Kāinga Ora publicly notifies a change to the development plan.

Preparation of development plan

69 Relevant considerations

(1) In preparing a development plan, Kāinga Ora must have regard to each of the following documents, to the extent that they are relevant to the specified development project to which the plan relates:

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

(b) regional land transport plans made under the Local Government Act 2002 and regional public transport plans made under the Land Transport Management Act 2003:

(c) the long-term plans of relevant local authorities made under the Local Government Act 2002:

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

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

(f) any emissions reduction plan or national adaptation plan applying in a project area, in accordance with sections 5ZI and 5ZS of the Climate Change Response Act 2002.

(2) Kāinga Ora must also take into account the matters set out in section 101(3)(a) and (b) of the Local Government Act 2002 if it is considering including, as a funding source,—

(a) a development contribution:

(b) a targeted rate:

(c) an administrative charge.

70 Consultation

(1) When preparing a draft development plan, Kāinga Ora must consult—

(a) owners and occupiers of land within the project area; and

(b) Māori and key stakeholders referred to in **section 35(2) and (3)**; and

(c) representatives of any organisation that administers a reserve in the project area, or that administered it, before its transfer to Kāinga Ora for the specified development project; and

(d) any persons appointed under iwi participation legislation to be members of a standing committee of a local authority that has jurisdiction over the whole or part of a project area; and

(e) any Minister of the Crown who is affected by the specified development project.

(2) Kāinga Ora must have particular regard to any recommendations or comment given by the persons appointed as members of a standing committee (*see* **subsection (1)(d)**.

(3) Kāinga Ora may, at its discretion, consult any person, group, or community representative with an interest during the preparation of a draft development plan.

Documents to support contents of development plan

71 Supporting documents

(1) The following supporting documents, if applicable, must be notified under **section 76** at the same time, and in the same manner, as the draft development plan:

(a) an evaluation report prepared under **sections 72 and 73**; and

(b) an infrastructure statement (*see* **section 74**).

(2) The supporting documents are not subject to the public submission or IHP processes under this subpart.

72 Evaluation report: general matters

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

(2) The report must—

(a) examine whether the proposals in the draft development plan are the most appropriate way to achieve the project objectives, having regard to **subpart 1 of Part 1**, by—

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

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

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

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

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

(d) identify how the draft development plan or a proposed amendment to a development plan, as the case may be, is consistent with a relevant national environmental standard; and

(e) summarise the responses received from key stakeholders (*see* **section 35(3)**); and

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

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

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

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

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

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

(3) If practicable, the benefits and costs referred to in **subsection (2)(b)** should be quantified.

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

73 Evaluation report: environmental matters

(1) An evaluation report must also include the following matters:

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

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

(i) heritage values identified in an archaeological and heritage assessment undertaken under **section 34(1)(e)**:

(ii) the recommendations of Heritage New Zealand Pouhere Taonga on the assessment; and

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

(2) **Section 72(3) and (4)** applies in relation to the matters that must be included in an evaluation report under this section.

74 Infrastructure statement

Kāinga Ora must prepare an infrastructure statement that—

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

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

(c) states whether Kāinga Ora has entered into any binding agreements with any infrastructure provider; and

(d) discloses whether Kāinga Ora proposes to construct new infrastructure on land not controlled by Kāinga Ora and whether it has obtained the consent of the owner of that land; and

(e) states where further information will be available about the progress of the construction of the proposed infrastructure during the course of the specified development project; and

(f) identifies the expected total costs of construction of the proposed infrastructure for the specified development project.

Process for finalising draft development plan

75 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 76**.

(2) Kāinga Ora must be satisfied that the requirements of **sections 62 to 74** 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 historical 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.

Approvals by Minister of Conservation

(6) 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.

(7) If a specified development project is within, or includes any part of, the coastal marine area, a 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 setting apart, future classification, or vesting of—

(i) a specified reserve:

(ii) a proposed reserve:

(iii) a proposed covenant; and

(b) approval of any provisions of the draft development plan that override, add to, or suspend the provisions of a regional coastal plan.

(8) In approving the matters specified in **subsections (6) and (7)**, 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 a specified reserve; 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.

(9) Kāinga Ora must obtain approval in writing from the responsible Minister before giving public notice of the draft development plan.

76 Public notice

(1) Kāinga Ora must give public notice of the draft development plan and supporting documents for a specified development project.

(2) The notice must state—

(a) that the draft development plan is subject to public submissions; and

(b) where the draft development plan and supporting documents may be accessed; and

(c) the date by which submissions must be received, which must be at least 20 working days after the date on which public notice is given; and

(d) that submitters must clearly identify—

(i) what, if any, changes they seek to make to the draft development plan; and

(ii) whether the submitter wishes to be heard.

77 Public submissions

(1) Any person may make a submission to Kāinga Ora on the draft development plan.

(2) Submissions must—

(a) be received by Kāinga Ora by the date given in the public notice; and

(b) say whether the submitter wishes to be heard by the IHP; and

(c) give an electronic address for service.

(3) Kāinga Ora may accept any late submission.

78 Kāinga Ora must consider, and make recommendations on, submissions

(1) Once the submission period has closed, Kāinga Ora must—

(a) consider all the submissions received under that section; and

(b) note its recommendations on the draft development plan or on matters raised in the submissions, with the reasons for accepting or rejecting the submissions; and

(c) provide advice to the Minister of Conservation on any submissions received that relate to—

(i) any conditions that the Minister of Conservation included in the development plan under **section 75(7)(a)**; and

(ii) any approvals given by the Minister of Conservation under **section 75(6) or (7)**; and

(iii) any changes to a condition or approval recommended by Kāinga Ora under **subsection (1)(b)**; and

(d) invite the Minister of Conservation to amend any changes proposed by Kāinga Ora under **paragraph (c)(iii)**.

(2) In preparing its recommendations on submissions, Kāinga Ora may—

(a) group submissions according to topics or to the relevant provisions of the draft development plan rather than comment on each submission individually; and

(b) propose changes to the draft development plan.

(3) Kāinga Ora must provide the IHP with copies of any recommendations noted under **subsection (1)(b)**.

Establishment and role of IHP

79 Establishment of IHP

(1) Once a draft development plan has been publicly notified under **section 76**, the responsible Minister must appoint an independent hearings panel (**IHP**) to carry out the role prescribed in **section 80**.

(2) Provisions on the establishment, membership, functions, powers, and procedure of an IHP are set out in **Schedule 3**.

80 Role of IHP

(1) The role of the IHP is—

(a) to consider the draft development plan, and submissions provided to it by Kāinga Ora; and

(b) to consider the recommendations of Kāinga Ora on the submissions; and

(c) to provide to the responsible Minister, for the Minister's determination under **section 84**, its recommendations on the draft development plan.

(2) Kāinga Ora must provide the following to the IHP:

(a) the draft development plan and supporting documents; and

(b) the submissions (if any) received under **section 77**; and

(c) any other information the IHP has requested for the purpose of considering the submissions by the IHP; and

(d) Kāinga Ora's recommendations and advice given under **section 78(1)(b) and (c)**.

(3) The IHP—

(a) must consider, and hold hearings as required on, the submissions; and

(b) may make any recommendations it considers appropriate in respect of the draft development plan.

81 Considerations relevant to IHP's recommendations

(1) In preparing its recommendations on a draft development plan, an IHP must have regard to—

(a) all the information provided by Kāinga Ora; and

(b) any information obtained by the IHP under **subsection (2)(a)**; and

(c) **subpart 1 of Part 1**; and

(d) any relevant matters in the instruments referred to in **section 60** and the documents referred to in **section 69(1)**; and

(e) the project objectives.

(2) An IHP may, at any time in its proceedings,—

(a) request further information from Kāinga Ora or from any submitter or independent expert that is relevant and necessary for the IHP to make its recommendations:

(b) make recommendations in respect of a particular topic after it has finished hearing submissions on that topic but is not required to make recommendations on each submission individually.

82 IHP recommendations

(1) Not later that 9 months after the closing date for submissions notified under **section 76**, the IHP must provide a report to the responsible Minister and Kāinga Ora in accordance with this section.

Mandatory matters

(2) The report provided by the IHP must include the IHP's recommendations (if any)—

(a) on the draft development plan; and

(b) any recommendations for amending that plan; and

(c) on matters raised in submissions made in respect of the topic or topics covered by the report.

Discretionary matters

(3) An IHP may recommend that the draft development plan—

(a) be approved in full; or

(b) be approved subject to specified amendments; or

(c) be rejected in full.

(4) A report may also include recommendations on the use of any additional infrastructure powers granted by this Act in order to achieve the project objectives.

Prohibited matters

(5) An IHP must not make a recommendation—

(a) on any existing designation that is included in the draft development plan without modification and on which no submissions are received; or

(b) to remove or amend a provision to set up a participation arrangement having effect in the project area or that would result in a participation arrangement ceasing to have effect; or

(c) that is inconsistent with any agreement reached by mediation (*see* **clause 13 of Schedule 3**).

Changes recommended by IHP

(6) **Subsection (7)** applies if an IHP recommends that changes be made to a draft development plan that would override, add to, or suspend any of the following:

(a) any conditions of the Minister of Conservation included in the draft development plan under **section 75(7)(a)**:

(b) any approvals given by the Minister of Conservation under **section 75(6) or (7)**.

(7) The IHP must—

(a) consult the Minister of Conservation on any proposed recommendations of the IHP; and

(b) submit the agreed changes to the Minister of Conservation for the Minister's approval

Minister's decision on draft development plan

83 Kāinga Ora must advise responsible Minister on IHP recommendations

(1) After Kāinga Ora has received the recommendations of the IHP, Kāinga Ora must provide advice to the responsible Minister on those recommendations.

(2) If the advice shows that the IHP's recommendations would limit the ability of decision makers under the development plan to achieve the project objectives,—

(a) the responsible Minister may refer the recommendations back to the IHP for further consideration and revision, with reasons in writing for doing so; and

(b) the IHP must reconsider the draft development plan and its recommendations, applying the requirements of **sections 79 to 81**, as relevant.

84 Minister's determination on draft development plan

(1) If the responsible Minister receives a report from an IHP with recommendations for changes to the draft development plan, the Minister may,—

(a) subject to **subsection (4)**, approve the plan with the changes recommended by the IHP; or

(b) approve a recommendation of the IHP that the draft development plan be declined; or

(c) refer any or all of the recommendations of the IHP back to the IHP for its further consideration.

(2) However, if the IHP has recommended changes to the draft development plan, the responsible Minister must consult the Minister for Māori Crown Rela-

tions—Te Arawhiti and the Minister for Māori Development before the responsible Minister makes a determination under **subsection (1)**.

(3) If the responsible Minister refers some or all of the recommendations of the IHP back to the IHP, the Minister may—

(a) give written notice to the IHP that identifies the recommendations being referred back to the IHP for further consideration, with details of what must be reconsidered and why; or

(b) refer the recommendations back with or without any recommended changes.

(4) The responsible Minister may alter the recommendations of the IHP, but only to the extent that an alteration is of minor effect or corrects a minor error.

(5) If an IHP receives a notice under **subsection (3)(a)**,—

(a) the IHP must review its recommendations and all relevant information; and

(b) the IHP may—

(i) provide revised recommendations to the responsible Minister; or

(ii) may decline to change its recommendations.

85 Matters Minister must consider

In making a decision under **section 84**, the responsible Minister must—

(a) have regard to the relevant matters in the instruments listed in **section 60** and the documents referred to in **section 69(2)**; and

(b) give reasons in writing for the decision.

Final approval and notification of development plan

86 Approval and notification of development plan as operative

(1) If the IHP makes no recommendations for change to the draft development plan, the responsible Minister may approve the draft development plan as the operative development plan with effect from the date given in the notice required by **subsection (5)**.

(2) If the responsible Minister approves the recommendations of the IHP set out in its report made under **section 82(1)**, the draft development plan becomes the operative development plan on the day specified in the notice given under **subsection (5)**.

(3) If the responsible Minister accepts a recommendation of the IHP to decline the draft development plan, notice of that must be given under **subsection (5)**.

(4) A decision of the responsible Minister under **subsection (1) or (2)** includes the approval of any provisions in the plan that override, add to, or suspend provisions in a regional coastal plan.

(5) After the responsible Minister has given approval under this section, Kāinga Ora must notify the operative development plan in the *Gazette*, stating—

(a) the date on which the development plan takes effect, which must not be earlier than 25 working days after the date notification is given (unless an appeal is lodged in accordance with **section 88**); and

(b) that the development plan is available free of charge on the Kāinga Ora Internet site.

87 Notice to Māori entities

Kāinga Ora must provide any relevant Māori entity with a copy of the statement of Kāinga Ora that the development plan is consistent with the iwi planning documents applying in the project area.

Appeals

88 Appeal rights in relation to development plan

(1) Any person who made a written submission under **section 77** in relation to a draft development plan may appeal to the High Court on a question of law in respect of a matter that the person raised in a submission on the draft development plan relating to the responsible Minister's approval of the draft development plan.

(2) An appeal under **subsection (1)** may not be made later than 20 working days after notification of the development plan as operative under **section 86(5)**.

(3) An appeal against a decision of the High Court may be made to the Court of Appeal, but that appeal is a final appeal.

Effect of development plan

89 Effect of development plan becoming operative

From the date on which a development plan is notified under **section 86(5)(a)** as taking effect, and until the specified development project is disestablished,—

(a) Kāinga Ora is the consent authority for resource consent applications to the territorial authority for the project area, as defined in the development plan (*see* **section 116(1)**):

(b) a designation in a district plan within a project area ceases to apply in the project area, and only designations included in the development plan have effect in the project area (*see* **section 68(5)**):

(c) Kāinga Ora is a territorial authority for the purpose of considering notices of requirement for designations in the project area:

(d) under **subpart 3 of Part 3** and in accordance with the development plan,—

(i) reserves may be set apart and new reserves may be created for the purposes of the specified development project (*see* **section 143(1)**); and

(ii) conservation interests may be revoked or cancelled for the purposes of the specified development project (*see* **section 143(4)**):

(e) Kāinga Ora may exercise the infrastructure powers set out in **subpart 4 of Part 3** in accordance with the development plan (*see* **section 145(1)**):

(f) Kāinga Ora may use the various funding mechanisms provided for in **Part 4** in accordance with the development plan.

90 Continuing application of planning instruments in project area

(1) The planning instruments that apply in a project area continue to apply in the project area unless overridden by, added to, or suspended by a development plan.

(2) Despite **subsection (1)**, the provisions of a designation included in a district plan will not apply within a project area on and from the date of the development plan becoming operative (*see* **section 86(5)(a)**).

(3) However, if there is any inconsistency, the development plan prevails over any relevant planning instrument.

91 When development plan and planning instruments may be inconsistent

(1) Subject to **section 60**, a development plan may, for the duration of the specified development project, override, add to, or suspend the whole or part of any planning instrument that applies to the project area.

(2) However, **subsection (1)** does not—

(a) apply to any objective, policy, rule, or other method relating to historic heritage included in a planning instrument, unless the change imposes more stringent management or protection for historic heritage:

(b) override **section 63(1)**.

92 Status and relevance of iwi planning documents

(1) If an enactment specifies that an iwi planning document is to be treated as part of a planning instrument, a development plan does not override or have any effect on the iwi planning document, which continues to apply in the relevant project area.

(2) **Subsection (1)** has effect as if a reference in that enactment—

(a) to a local authority were a reference to Kāinga Ora; and

(b) to a planning instrument were a reference to a development plan made under this Act.

(3) Kāinga Ora is not bound by a Mana Whakahono a Rohe (*see* subpart 2 of Part 5 of the Resource Management Act 1991).

Review and amendment of development plans

93 Review of development plan by Kāinga Ora

(1) Kāinga Ora—

(a) may at any time review a development plan; but

(b) must review a development plan not later than 10 years after its notification under **section 86(5)**, unless the development plan specifies a different review period.

(2) A review of a development plan must be publicly notified as if it were an amendment to that plan.

(3) If under any iwi participation legislation, a local authority—

(a) is required to review a planning instrument, the requirement applies to Kāinga Ora when it reviews the development plan:

(b) is required to prepare or change a planning instrument, the requirement applies to Kāinga Ora when it starts to prepare or change the development plan:

(c) must notify a planning instrument, the requirement applies to Kāinga Ora when it notifies the draft development plan for public consultation (*see* **section 76**).

94 Amendment of development plan by Kāinga Ora

(1) Kāinga Ora must not amend a development plan unless—

(a) the process under this subpart is followed; and

(b) any amendments are required to achieve the project objectives.

(2) However, Kāinga Ora may amend a development plan without following the process required by **sections 76 and 77** if the amendments are required—

(a) to maintain consistency with—

(i) the planning instruments applying in the project area before any change was made, if an instrument is changed; or

(ii) any relevant new national direction applying to the specified development project or in the project area; or

(b) to make technical or incidental minor changes, and the responsible Minister has approved the changes.

(3) Kāinga Ora may amend a development plan otherwise than as provided for by **subsection (1) or (2)**, but must follow the processes set out in **sections 76 and 77**.

(4) When a development plan is amended, the following, to the extent that they are relevant, are required in relation to the new content proposed for the development plan:

(a) an evaluation report (*see* **sections 72 and 73**); and

(b) an infrastructure statement (*see* **section 74**).

Private plan change to development plan

95 Requests for private changes to development plans

(1) Any person may request a change to the way in which a planning instrument is modified by a development plan, as long as—

(a) the change is not requested within 2 years of the development plan becoming operative; and

(b) Kāinga Ora has not notified a draft development plan that proposes changes to the development plan for the same project area; and

(c) the requested change applies only to a part, and not the whole, of a project area.

(2) Kāinga Ora may—

(a) accept a request for a private plan change, with or without conditions; or

(b) reject the request, but only on the grounds that the change requested—

(i) is inconsistent with the project objectives; or

(ii) applies to the whole of the project area; or

(iii) relates to the same area, provisions, or matters of a specified development project in relation to which Kāinga Ora has already notified an amendment to the development plan; or

(iv) is not within the scope of this Act; or

(v) is inconsistent with good resource management practice; or

(vi) is frivolous or vexatious.

96 Process for requesting private change to development plan

(1) A request for a change to a development plan must be made in writing to Kāinga Ora—

(a) stating the purpose of, and reasons for the proposed change; and

(b) providing an evaluation report on the proposed change, prepared in accordance with **sections 72 and 73**.

(2) The provisions of Part 2 of Schedule 1 of the Resource Management Act 1991 apply with the necessary modifications and as relevant to a request made under **section 95**.

Part 3
Effect of specified development projects

Subpart 1—Transitional period and general

97 Overview of this subpart

(1) This subpart contains provisions applying, once a specified development project is established, in relation to—

(a) planning and consenting in the project area; and

(b) assistance, advice, information, and record-keeping.

(2) Most of the planning and consenting provisions apply for, or relate to, only the period that starts on the establishment date of the relevant project and ends when the project's development plan becomes operative (the **transitional period**).

(3) However, where indicated, a provision applies for a different period (for example, for the duration of the specified development project).

(4) *See also* **subpart 2**.

(5) **Sections 109 to 115** generally apply for (or in relation to things occurring within) the duration of the relevant project.

Planning and consenting: general

98 Continuing application of planning instruments and role of local authorities as consent authorities

In the transitional period for a specified development project, except as modified by this subpart,—

(a) the planning instruments that apply in a project area continue to apply in the project area; and

(b) a local authority that has functions in respect of activities to be undertaken in a project area continues to be the consent authority.

99 Local authorities must include map of project area, etc, in planning instruments

(1) Without using the processes required for a plan change under Schedule 1 of the Resource Management Act 1991, every local authority must include in the electronic versions of its planning instruments—

(a) a map showing the area of any project area within their district or region; and

(b) advice on where to access the relevant development plan.

(2) The obligations under **subsection (1)** are obligations that apply—

(a) as soon as practicable after any specified development project is established; and

(b) for the duration of that project.

100 Local authority may transfer consenting functions to Kāinga Ora

(1) In the transitional period for a specified development project, a local authority may transfer, to Kāinga Ora, any 1 or more of the local authority's functions, powers, or duties as a consent authority under the Resource Management Act 1991—

(a) for resource consent applications in the project area; but

(b) excluding resource consent applications described in **section 117(1)** of this Act.

(2) Section 33 of the Resource Management Act 1991 applies in relation to the transfer as if Kāinga Ora were a public authority under section 33(2) of that Act.

(3) On expiration of the transitional period, this section continues to apply in respect of any resource consent applications described in **subsection (1)(a)** (and not excluded by **subsection (1)(b)**) in respect of which a local authority remains the consent authority (*see* **section 116**).

Regional or district plan changes in transitional period

101 Local authority preparing or changing plan must have regard to certain additional matters

(1) This section applies if, in a transitional period, a local authority is preparing or changing a district or regional plan that applies (or would apply) in the relevant project area.

(2) The local authority must have regard to the project area and the relevant project objectives, to the extent that their content has a bearing on resource management issues in the district or region (as relevant).

102 Relevant local authority must notify Kāinga Ora before final consideration of plan change

(1) This section applies if a change to a district or regional plan applying in a project area will, if approved, become operative in the project's transitional period.

(2) The relevant local authority must notify Kāinga Ora of that fact, in writing, at least 20 working days before whichever of the following is relevant to the plan change:

(a) the date on which the relevant local authority considers whether to approve or adopt the plan change under clause 17 or 18 of Schedule 1 of the Resource Management Act 1991:

(b) the date on which the relevant local authority submits the information required by clause 83(1) of Schedule 1 of the Resource Management Act 1991 to the Minister described in that clause.

103 Power to decline plan change in project area by notice

Decision

(1) Kāinga Ora may, within 15 working days of receiving a notice under **section 102** (or of otherwise becoming aware of an approval, adoption, or submission of information under clause 17, 18, or 83(1) of Schedule 1 of the Resource Management Act 1991 for which it should have received that notice),—

(a) decide that the plan change, or a part of the plan change, will not apply in the project area; and

(b) give written notice to the relevant local authority of its decision.

(2) However, Kāinga Ora may only make and give notice of its decision under **subsection (1)** if Kāinga Ora considers that, in order to achieve the project objectives for the relevant specified development project, it is reasonably necessary to make that decision.

Effects depend on written notice within time

(3) A decision of Kāinga Ora under **subsection (1)**—

(a) has the effects set out in **subsection (5)** only if the written notice is given to the relevant local authority within the time frame in **subsection (1)**; and

(b) otherwise, has no effects.

(4) If a decision relates to only part of a plan change, the notice by Kāinga Ora must clearly specify which part will not apply in the project area.

Effects

(5) The effects are that the plan change, or the specified part of the plan change, as relevant,—

(a) does not become operative in respect of the project area; and

(b) is declined to the extent that it would have applied to the project area.

(6) The notice has no effect on any of the following:

(a) the plan change being approved and becoming operative in respect of areas outside the project area:

(b) in the case of a notice that relates to a specified part of the plan change, the rest of the plan change being approved and becoming operative in respect of the project area.

(7) This section applies despite anything to the contrary in this Act or the Resource Management Act 1991.

104 Appeal rights in relation to exercise of section 103 power

(1) Any 1 or more of the following persons may appeal to the High Court on a question of law in respect of a decision made by Kāinga Ora under **section 103(1)**:

(a) the applicant for the plan change (if any):

(b) the relevant local authority:

(c) any person who made a submission under the Resource Management Act 1991 on the plan change.

(2) A person who has a right of appeal under **subsection (1)(c)** may appeal only in respect of a matter raised in the person's submission.

Resource consent applications, etc, in transitional period

105 Resource consent applications, etc, received by local authority as consent authority

(1) This section applies as follows:

(a) it applies if a local authority, as consent authority under the Resource Management Act 1991, receives, in the transitional period, a complete application for—

(i) a resource consent for an activity wholly or partly within a project area; or

(ii) a change or cancellation of a condition of an existing resource consent applying in a project area:

(b) it applies despite anything to the contrary in the Resource Management Act 1991:

(c) it does not apply if Kāinga Ora is the applicant or has given its written approval to the application.

(2) Before the consent authority may grant the resource consent or change or cancel the condition, it must give to Kāinga Ora a copy of the application, along with a copy of the following, in order that Kāinga Ora may make a decision under **section 106(1)**:

(a) the consent authority's draft determination; and

(b) any conditions that the consent authority would impose on the grant.

(3) If, within 10 working days of the date on which the consent authority gives Kāinga Ora all of the information required by **subsection (2)**, the consent authority receives written notice of a decision of Kāinga Ora under **section 106(1)**, the consent authority must not grant the consent, or the change or cancellation of the condition, on conditions that are inconsistent with that decision of Kāinga Ora.

(4) **Subsection (5)** applies to the time period between—

(a) the date on which the consent authority gives Kāinga Ora the documentation under **subsection (2)** (**date A**); and

(b) the earlier of—

(i) the date that is 10 working days after date A:

(ii) the date on which the consent authority receives written notice of a decision of Kāinga Ora under **section 106**.

(5) That time period is excluded from any time limits under the Resource Management Act 1991 relating to the application.

106 Power to decline applications or impose or modify conditions on grants

(1) Kāinga Ora may, within 10 working days of receiving documentation under **section 105(2)**,—

(a) decide to decline all or part of the consent or application, to impose conditions on the grant, or to modify any conditions that the consent authority would impose on the grant; and

(b) give written notice to the consent authority of its decision, with reasons.

(2) However, Kāinga Ora may only make and give notice of a decision under **subsection (1)** if Kāinga Ora considers that, in order to achieve the project objectives for the relevant project, it is reasonably necessary to make that decision.

(3) When exercising a power under **subsection (1)**, sections 104 to 111 of the Resource Management Act 1991 apply to Kāinga Ora as if it were the consent authority, but with the modification that references, in those sections, to Part 2 of that Act are treated as references to **subpart 1 of Part 1** of this Act.

107 Right of objection in relation to exercise of section 106 power

(1) The applicant or the consent holder has a right of objection in relation to a decision of Kāinga Ora under **section 106(1)**.

(2) The objection must be heard by a hearings commissioner.

(3) Section 357C to 358 of the Resource Management Act 1991 apply, with the necessary modifications, as if the objection was made under section 357A(1)(f) or (g) of that Act.

108 Appeal rights in relation to exercise of section 106 power

Section 135 applies in relation to the whole or any part of a decision of Kāinga Ora under **section 106(1)**, with the modifications that—

(a) a reference, in **section 135**, to a decision of a consent authority includes a reference to a decision of Kāinga Ora under **section 106(1)**; and

(b) the consent authority is treated as if it were listed in **section 135(1)** as a person who may appeal against a decision of Kāinga Ora under **section 106(1)**.

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

109 Kāinga Ora and territorial authorities must assist persons seeking to determine who does what

Kāinga Ora and every relevant territorial authority for a project area (the **agencies**) must give reasonable and timely assistance to a person seeking to determine which of the agencies is responsible for, or capable of performing, particular work or activities in a project area or a part of it.

110 Information, advice, and record-keeping obligations from establishment

(1) **Subsection (2)** applies if a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation applying in a project area requires a local authority—

(a) to keep and maintain records under section 35A of the Resource Management Act 1991:

(b) to provide certain information or advice at the request of a Māori entity.

(2) Kāinga Ora must—

(a) comply with the requirement in **subsection (1)(a)** as if it were the local authority; and

(b) comply with a request from a relevant Māori entity for information or advice as if it were the local authority, to the extent that Kāinga Ora holds the information or can provide the advice.

(3) If an advisory board, committee, or authority has been established under a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation to provide advice on the management of a natural resource within a project area, Kāinga Ora must, in the manner required by that Act, deed, or other legislation—

(a) respond to the advice given:

(b) seek, and have regard to, any advice if Kāinga Ora—

(i) is preparing, changing, or reviewing a development plan:

(ii) publishes a draft development plan for public consultation.

111 Powers of Kāinga Ora to obtain information

(1) Kāinga Ora may, for the purposes of performing its functions in preparing, amending, or reviewing the development plan for a specified development project, request an entity specified in **subsection (4)** to supply to Kāinga Ora any of the following information:

(a) any information in the possession of the entity:

(b) information that is the entity's written assessment of—

(i) the likely impact of the project on the services that the entity provides; and

(ii) how best to manage that impact, including the likely cost and timing implications of making changes to the entity's services.

(2) However, before making the request, Kāinga Ora must have the joint Ministers' approval, in writing, to make a request.

(3) A request made under this section—

(a) must be in writing; and

(b) must be signed by the chief executive of Kāinga Ora; and

(c) must state the date by which, and the manner in which, the information requested must be provided.

(4) A request may be made to any of the following entities with which Kāinga Ora engaged while assessing the project under **subpart 1 of Part 2**:

(a) a department named in Schedule 1 of the State Sector Act 1988, other than—

(i) the Government Communications Security Bureau; and

(ii) the New Zealand Security Intelligence Service:

(b) a departmental agency named in Schedule 1A of the State Sector Act 1988:

(c) a statutory entity named in Schedule 1 of the Crown Entities Act 2004:

(d) the New Zealand Defence Force:

(e) a relevant local authority.

(5) In **subsection (1)**, **information** does not include—

(a) personal information as defined in section 2(1) of the Privacy Act 1993; or

(b) information held by the Government Statistician that was collected under the Statistics Act 1975; or

(c) information that a revenue officer must keep confidential under section 18(1) of the Tax Administration Act 1994.

Compare: 2019 No 51 s 23

112 Entity must respond to request under section 111

(1) Subject to **subsection (2)**, an entity to which a request under **section 111** is made must comply with the request—

(a) within 30 working days from the date on which the request was received; or

(b) by a later date stated in the request or agreed to by Kāinga Ora.

(2) The requirement to comply with the request is subject to **sections 113 and 114** (which set out reasons for refusing a request for information).

(3) Information cannot be withheld other than for the reasons in **sections 113 and 114**, and cannot be withheld at all if it could not properly be withheld under the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, as the case may be.

(4) The entity may not charge Kāinga Ora for its costs associated with responding to the request.

Compare: 2019 No 51 s 23(4), (5)

113 Reasons for refusing to supply requested information

A request for information under **section 111** may be refused if—

(a) withholding the information is necessary to protect the privacy of a person (whether or not the person is a natural person or a deceased person); or

(b) withholding the information is necessary to maintain legal professional privilege; or

(c) the supply of the information would limit the ability of the entity, or of any of its employees, members, or office holders, to act judicially, or to carry out the statutorily independent functions of the entity, in relation to a particular matter; or

(d) the supply of the information would be likely to result in any of the outcomes described in section 6(a) to (d) of the Official Information Act 1982.

Compare: 2019 No 51 s 24

114 Additional reasons for refusal by relevant local authorities

(1) In addition to the reasons set out in **section 113**, a relevant local authority may refuse a request for information under **section 111** if—

(a) the withholding of the information is necessary to protect information where the making available of the information—

(i) would disclose a trade secret; or

(ii) would be likely unreasonably to prejudice the commercial position of the entity, or the person who supplied the information, or the person who is the subject of the information; or

(b) the information requested cannot be made available without substantial research.

(2) If a request is likely to be refused under **subsection (1)(b)**, the relevant local authority must, before that request is refused, consider whether consulting with

Kāinga Ora would assist Kāinga Ora to make the request in a form that would remove the reason for the refusal.

Compare: 2019 No 51 s 25

115 What happens if entity does not respond within required time frame

(1) This section applies if an entity does not respond to a request made under **section 111** within the time frame for responding under **section 112(1)**.

(2) Kāinga Ora may commission a suitably qualified person to supply the information required.

(3) The entity must reimburse Kāinga Ora for the costs of that commission.

Subpart 2—Resource consenting and designations for specified development project

Role of Kāinga Ora as consent authority

116 Role of Kāinga Ora in relation to resource consent applications

(1) On and from the date on which a development plan for a specified development project is notified under **section 86(5)(a)** as taking effect, Kāinga Ora—

(a) is the consent authority under the Resource Management Act 1991 for all resource consent applications in the project area, if the territorial authority would otherwise be the consent authority for the purposes of that Act; but

(b) is not the consent authorty if a regional council, the Minister for the Environment, or the Environmental Protection Authority would be the consent authority under the Resource Management Act 1991.

(2) Kāinga Ora must also perform the functions of monitoring, enforcing, and promoting compliance in a project area for—

(a) resource consents granted by Kāinga Ora; and

(b) activities specified as permitted activities in the district plan or the development plan.

(3) For the purposes of carrying out its functions under **subsection (2)**, Kāinga Ora may, as if it were a local authority, authorise enforcement officers under section 38 of the Resource Management Act 1991.

(4) If a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation that applies in a project area has provisions for a local authority and a Māori entity to discuss and agree matters of the kind described in **subsection (5)**, those provisions apply as if Kāinga Ora were the local authority.

(5) The matters referred to in **subsection (4)** are—

(a) priorities and methods for monitoring, and the extent of, and responses to, that monitoring; and

(b) the role of the Māori entity in monitoring and enforcement.

117 When delegation required

(1) Kāinga Ora must not exercise the powers or perform the functions of a consent authority in relation to a resource consent application under **section 116** if Kāinga Ora is—

(a) the sole applicant; or

(b) an applicant in a partnership; or

(c) is in a significant contractual relationship with an applicant in a project area.

(2) If **subsection (1)** applies, Kāinga Ora must delegate its powers and functions as a consent authority to—

(a) a local authority; or

(b) 1 or more hearings commissioners.

(3) This section—

(a) does not limit **section 289 or 291**; but

(b) is not subject to **section 285**.

(4) In **subsection (1)**, **significant contractual relationship** means, for example, a relationship with a lead developer in a project in which Kāinga Ora has a direct financial interest in the overall outcome.

118 Certain obligations to post-settlement governance entities continue under this Act

(1) If Kāinga Ora is the consent authority for a project area that includes land subject to a statutory acknowledgement, deed of recognition, or overlay classification granted by a Treaty settlement, that consent authority is subject to the same obligations as apply to the consent authority or other party under the Treaty settlement.

(2) In this section, the terms **statutory acknowledgement, deed of recognition**, and **overlay classification** have the meanings given to those terms in the relevant Treaty settlement Act.

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

119 Resource consents: decision-making framework

(1) Every person exercising a power in relation to a resource consent application under this subpart must have regard to the following matters, giving them weight in the order listed, from greater to lesser:

(a) the project objectives; and

(b) the matters that arise for consideration under sections 104 to 107 of the Resource Management Act 1991, modified in accordance with **subsection (2)**.

(2) The modifications referred to in **subsection (1)(b)** are:

(a) a reference to Part 2 of the Resource Management Act 1991 is to be read as a reference to **subpart 1 of Part 1**:

(b) a reference to a plan or proposed plan is to be read as a reference to a plan as overridden by, added to, or suspended by a development plan:

(c) a reference to other regulations includes regulations made under this Act.

(3) **Subsection (4)** applies if a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation applying in a project area—

(a) provides for a Māori entity to prepare, or contribute to, an iwi planning document for a district that is, or overlaps with, a project area and requires the relevant local authority to have regard to that planning document when determining resource consent applications under the district plan:

(b) provides an obligation for the local authority and a Māori entity jointly to develop criteria to assist local authority decision making in relation to resource consent applications.

(4) When Kāinga Ora is acting as a consent authority in a project area, Kāinga Ora has the obligations described in **subsection (3)** as if it were the local authority and the development plan were a district plan.

Application of provisions of Resource Management Act 1991

120 Resource consents required for activities relating to specified development project

(1) The restrictions applying to activities under sections 9 to 15 of the Resource Management Act 1991 apply, with any necessary modifications, to activities undertaken in a project area under this Act.

(2) Sections 87AA to 87D of the Resource Management Act 1991 apply, to the extent that they are relevant, to a specified development project, modified as follows:

(a) a reference to a plan or proposed plan means a plan as overridden by, added to, or suspended by, a development plan; and

(b) a reference to a consent authority includes a reference to Kāinga Ora.

(3) The following provisions of the Resource Management Act 1991 apply with the following modifications:

(a) section 87E (except subsection (6A)):

(b) section 87F (but subsection (5) is to be read as including Kāinga Ora, unless Kāinga Ora is acting as the consent authority):

(c) section 87G(6) and (7) must be read as requiring the Court to apply the decision-making framework set out in **section 119** of this Act if the Environment Court is determining a new consent application or an application for a change to, or cancellation of, a resource consent.

Resource consent processes

121 Applications for resource consents

(1) Any person may apply to the consent authority for a resource consent for an activity to be undertaken within a project area.

(2) An application must be made in the form and manner prescribed under section 88(2) of the Resource Management Act 1991 (with the necessary modifications) and must include—

(a) information relating to the activity, including information specified by the development plan; and

(b) an assessment of environmental effects that complies, to the extent that is relevant, with Schedule 4 of that Act (modified to replace a reference to Part 2 of that Act with a reference to **subpart 1 of Part 1** of this Act).

Complete applications

(3) An application is complete if it—

(a) includes the information required for the assessment of environmental effects (*see* **subsection (2)(b)**); or

(b) provides the additional information (if any) required by the development plan.

(4) A consent authority must—

(a) assess and determine whether an application is complete—

(i) for any application for a controlled or restricted discretionary activity, within 5 working days of receiving the application:

(ii) for an application for a discretionary or non-complying activity within the jurisdiction of a territorial authority, within 10 working days of receiving the application; and

(b) return an incomplete application to the applicant without delay, giving its reasons in writing for determining that the application is incomplete.

(5) If the applicant lodges the returned application again, it is to be treated as a new application.

(6) Except as expressly applied in this section, section 88 of the Resource Management Act 1991 does not apply to applications for resource consents made under this section.

122 Processing of applications

(1) If an application is accepted as complete in accordance with **section 121(4)**, the consent authority must, from the date of that decision, track the processing time of the application.

(2) Sections 88A to 88E, 89, and 89A of the Resource Management Act 1991 apply to the processing of any resource consent applications in a project area.

(3) Section 91 of the Resource Management Act 1991 (deferral pending application for additional consents) applies, modified by reading the reference to additional consents under the Resource Management Act 1991 as a reference to additional consents under a development plan or under the Resource Management Act 1991 (*see* section 91(1)(a) of that Act).

123 Deferral and suspension

Sections 91A to 91C of the Resource Management Act 1991 apply to applications made under this subpart or under the Resource Management Act 1991 for further consents in relation to a project area.

124 Further information may be requested at any time

(1) A consent authority may at any time, in accordance with section 92 of the Resource Management Act 1991, request further information before hearing an application under this subpart.

(2) Sections 92A and 92B of the Resource Management Act 1991 apply if a request is made under **subsection (1)**.

125 Notification

(1) A consent authority must notify applications for resource consents if—

(a) a provision in the relevant development plan specifies that notification is required; or

(b) the consent authority determines that notification is required, and the nature of that notification, in accordance with **subsection (3)**.

(2) However, **subsection (1)** does not apply if a rule in the development plan, or in a plan as modified by the development plan, precludes notification.

(3) For activities other than those required to be notified by rules in a development plan, district plan, or regional plan, the consent authority may determine whether to publicly notify an application for a resource consent, applying the relevant provisions of sections 95 to 95G of the Resource Management Act 1991, modified by reading—

(a) a reference to a district plan as including a reference to a development plan; and

(b) a reference to a rule as including a reference to a rule in a development plan; and

(c) the time limits required under **subsection (4)** instead of those provided for in section 95(2) of the Resource Management Act 1991.

(4) The consent authority must,—

(a) for controlled and restricted discretionary activities for land use or subdivision, decide whether to notify within 10 working days after the application is first lodged:

(b) for all other activities, decide whether to notify within 20 working days after the application is first lodged.

(5) The consent authority must make its decisions under **subsection (3)** in accordance with sections 95A and 95B of the Resource Management Act 1991.

(6) A rule for notification in a district or regional plan under the Resource Management Act 1991 continues to apply if it is not displaced by a provision in the relevant development plan.

Processing non-notified applications

126 Time limits for giving notice of decisions

(1) For resource consent applications lodged under the development plan but not notified under **section 125**, a consent authority must give notice of its decision on the application within the following time limits:

(a) for applications for controlled or restricted discretionary land use or subdivision activities, within 10 working days of the application being first lodged:

(b) for all other applications, within 20 working days of the application first being lodged.

(2) A consent authority must issue its decision on an application notified under this subpart within the following time limits:

(a) if a hearing is held, not later than 15 working days after the last day of the hearing:

(b) if no hearing is held, not later than 20 working days after the closing date for submissions on the application.

(3) This section applies instead of section 115 of the Resource Management Act 1991.

Notified applications: submissions

127 Submission process for notified applications

(1) If an application is given public or limited notification, sections 96 to 99A and 100A of the Resource Management Act 1991 apply, with the necessary modifications, as to—

(a) who may make a submission:

(b) service of submissions:

(c) time limits for serving submissions.

(2) A consent authority may, at its own discretion, extend the time for making submissions.

(3) In applying section 100A(2) and (4), if Kāinga Ora has delegated its consenting functions to a local authority, an applicant or submitters are not permitted to request a hearing by a hearings commissioner.

Hearings

128 Receipt and consideration of submissions

(1) A consent authority must receive and formally consider all submissions lodged in accordance with this Part.

(2) A public hearing may be held if the applicant or 1 or more submitters request to be heard (so long as **subsection (3)** does not apply).

(3) A request under **subsection (2)** may include a request that Kāinga Ora delegate its functions, powers, and duties relating to a hearing to a hearings commissioner or the local authority, but such a request must be made not later than 5 working days after the closing date for submissions to be received on a notified application.

(4) Even if no request is made for a hearing, the consent authority may hold a hearing if it considers that a hearing is necessary.

(5) However, this section applies subject to section 41D of the Resource Management Act 1991.

129 Hearings

(1) Sections 101 to 103B of the Resource Management Act 1991 apply to the conduct of a hearing by a consent authority, but with the following modifications:

(a) in section 101(3) of that Act, notice must also be given to Kāinga Ora, if Kāinga Ora has delegated or transferred its role as a consent authority:

(b) in section 102(2) of that Act, the reference to the regional council is to be read as a reference to Kāinga Ora, unless the consent authorities with responsibilities for an application agree that another authority should be responsible for notification:

(c) in section 103B(2)(a) of that Act, the reference to a report prepared under section 42A(1) is to be read as a reference to a report required under this Act.

(2) Despite anything in **section 128**, there is no right to a hearing in respect of applications for resource consents for land use and subdivision activities that are controlled or restricted discretionary activities under the district plan or the development plan.

130 Alternate appointments to hear and determine consent applications

If a right is granted under a Treaty settlement Act, Treaty settlement deed, or other iwi participation legislation to a Māori entity to appoint persons to hear and determine resource consent applications, that right continues to apply under this Act to applications that relate to all or part of a project area as if—

(a) the persons appointed under that Treaty settlement Act, Treaty settlement or deed, or other iwi participation legislation were appointed under this Act; and

(b) the development plan were the regional or district plan.

Conditions of resource consents

131 Conditions and other obligations

Sections 108 to 111 of the Resource Management Act 1991 apply to resource consents granted under this subpart by a consent authority, but with the following modifications:

(a) in section 108(10)(a) of that Act, the reference to a plan means a plan as overridden by, added to, or suspended by a development plan:

(b) in section 108AA(1)(b)(ii) of that Act, the reference to an applicable district or regional rule includes a reference to an applicable rule in the relevant development plan:

(c) in section 109(3) of that Act, replace the reference to section 171 of the Local Government Act 2002 with a reference to **section 274** of this Act.

Decision to be in writing and served on specified persons

132 Form and service of decision

(1) Sections 113 and 114(1) to (3) of the Resource Management Act 1991 apply, as far as they are relevant, to decisions made on resource consent applications under this subpart, but with the following modifications:

(a) in section 113(1)(a) of that Act, the reference to relevant statutory provisions includes a reference to the relevant provisions in this Act:

(b) in section 113(1)(ab) of that Act, a reference to a regional policy statement or a plan is a reference to a regional policy statement or plan, as the case requires, overridden by, added to, or suspended by a development plan:

(c) section 114(2) of that Act includes service on Kāinga Ora if it is not the consent authority.

(2) Kāinga Ora must serve a copy of its decision on the relevant local authority.

When resource consents commence

133 Commencement of resource consents

Sections 116 to 119A of the Resource Management Act 1991 (which relate to the commencement of resource consents) apply, as far as relevant, to consents granted under this subpart, including an application subject to the grant of an application to exchange reserve land under the Reserves Act 1977).

Rights of objection and appeal

134 Rights of objection under this Act

(1) Sections 357 to 358 of the Resource Management Act 1991 (rights of objection and rights of appeal) apply to all rights of objection under this Act as if those sections referred to Kāinga Ora instead of to a territorial authority or requiring authority.

(2) Any objection must be heard by a hearings commissioner.

135 Appeal rights in relation to resource consents in project area

(1) The following persons may appeal to the Environment Court against a decision of a consent authority:

(a) the applicant or consent holder:

(b) any person who made a submission on the application, but only in relation to matters raised in the submission:

(c) in relation to a coastal permit for a restricted coastal activity, the Minister of Conservation.

(2) Kāinga Ora may be a party to any appeal on a resource consent decision that relates to a project area.

(3) An appeal under **subsection (1)** is to be treated as if it were an appeal under section 120 of the Resource Management Act 1991.

(4) Section 121 of the Resource Management Act 1991 applies to an appeal under this section, except that the reference in section 121(1)(c) to the consent authority must be read as including Kāinga Ora if Kāinga Ora is not the consent authority.

(5) An appeal may be made to the High Court against a decision of the Environment Court, but the appeal may be made only on points of law.

(6) The High Court is the final court of appeal on matters to which this section applies.

136 Right of appeal against direction given under section 85 of Resource Management Act 1991

Nothing in this Act limits or affects a right of appeal to the High Court on points of law under section 299 of the Resource Management Act 1991 that a person may have against a direction given under section 85 of that Act (which relates to the reasonable use of land that is subject to controls).

Designations

137 Kāinga Ora is requiring authority

(1) Kāinga Ora is to be treated as being approved as a network utility operator and a requiring authority under section 167 of the Resource Management Act 1991 for the purposes set out in **subsection (2)**.

(2) The purposes are—

(a) to carry out any activity or proposed activity within a project area, if the conditions set out in **subsection (3)** are satisfied; and

(b) to undertake any activity or proposed activity outside a project area, if the conditions set out in **subsection (4)** are satisfied.

(3) The conditions applying to activities to which **subsection (2)(a)** applies are that the activity—

(a) is necessary for, or related to, the project objectives for a specified development project; and

(b) is an activity in which Kāinga Ora—

(i) is in a significant contractual relationship with the developer, operator, or service provider; and

(ii) has a direct financial interest in the outcome.

(4) The conditions applying to activities to which **subsection (2)(b)** applies are that the activity—

(a) is one that—

(i) distributes water for supply, including irrigation; or

(ii) operates a drainage or sewerage system; or

(iii) constructs or operates a road or a railway line; and

(b) is intended to connect to, or support, the development of a specified development project; and

(c) is necessary for, or related to, achieving the project objectives for a specified development project; and

(d) is a work in which Kāinga Ora—

(i) is in a significant contractual relationship with the developer, operator, or service provider; and

(ii) has a direct financial interest in the outcome.

(5) Despite **subsection (1)**, Part 8 of the Resource Management Act 1991 applies with all necessary modifications.

138 Notices of requirements for designations

(1) This section and **section 140** specify how a designation—

(a) is incorporated into the development plan for a project area; and

(b) is altered after its incorporation into a development plan.

(2) Sections 168 to 186 (but not section 170) of the Resource Management Act 1991 apply, with the following necessary modifications, as if—

(a) a reference to Part 2 of the Resource Management Act 1991 were a reference to **subpart 1 of Part 1** of this Act; and

(b) a reference to the territorial authority were a reference to Kāinga Ora, as the context may require; and

(c) a reference to a rule in sections 168A and 169 of the Resource Management Act 1991, and in 149ZCC, 149ZCD, 149ZCE, or 149ZCF of that Act (as applied by sections 168A(1A) and 169(1) of that Act) included a rule in a development plan; and

(d) a reference to a district plan were a reference to a development plan; and

(e) references to both a district and regional plan were references to a plan as overridden by, amended by, or suspended by a development plan (*see* section 168A(3)(a)(iv), 171(1)(a)(iv), and 176(2) of the Resource Management Act 1991); and

(f) the reference to a proposed plan in section 178(3)(e) of the Resource Management Act 1991 were a reference to the draft development plan; and

(g) a reference to a resolution of a territorial authority were a reference to a decision of Kāinga Ora; and

(h) a reference to the process under Schedule 1 of the Resource Management Act 1991 were a reference to the process for preparing a development plan under **subpart 2 of Part 2** of this Act; and

(i) a reference to clause 4 of Schedule 1 of the Resource Management Act 1991 were a reference to this section; and

(j) sections 168A(3)(c) and 171(1)(c) of the Resource Management Act 1991 were replaced by the following paragraph:

"(c) the relevant project objectives, including whether the work and designation are reasonably necessary for achieving those project objectives; and".

(3) References to a proposed district plan in sections 175, 176, 177, and 181 of the Resource Management Act 1991 do not apply to designations within the meaning of this subpart.

(4) Section 168A(1) of the Resource Management Act does not apply, but subsections (1A) to (5) of that section must be applied if Kāinga Ora issues a notice of requirement for a designation within a project area.

(5) Section 180 of the Resource Management Act 1991 applies subject to Kāinga Ora and the responsible Minister being advised of a transfer, as well as the Minister for the Environment.

(6) Section 186 of the Resource Management Act 1991 has no application to land that is protected land under this Act.

139 Further modifications to Part 8 of Resource Management Act 1991

(1) Despite section 176(1) of the Resource Management Act 1991, Kāinga Ora need not obtain the written permission of another requirement authority to do anything in accordance with a designation held by Kāinga Ora.

(2) However, the other requiring authority must obtain the permission of Kāinga Ora under section 176(1)(b) of the Resource Management Act 1991 before it does anything in accordance with its designation.

(3) **Subsection (1)** does not apply if the designation is for nationally significant infrastructure or a defence area.

(4) In applying section 177 of the Resource Management Act 1991, a designation for which Kāinga Ora is the requiring authority—

(a) must be treated as the earliest designation that applies in the project area; but

(b) must not be treated as having been introduced earlier than an existing heritage order recorded in the district plan that applies in the project area.

(5) Section 178(2) to (6) of the Resource Management Act 1991 applies with the necessary modifications if—

(a) a requiring authority gives notice of a requirement for a modified designation in a project area; or

(b) Kāinga Ora includes a designation in the draft development plan for the project area.

140 Approval of Kāinga Ora to lodge notice of requirement for new designations

(1) This section applies if a local authority or a requiring authority (other than Kāinga Ora) intends to issue a notice of requirement—

(a) for a designation in a development plan; or

(b) to alter an existing designation in a development plan.

(2) Before a requiring authority may lodge a notice of requirement, the requiring authority must obtain the approval of Kāinga Ora.

(3) Kāinga Ora has discretion to grant or decline approval, after taking into account—

(a) **subpart 1 of Part 1** and the relevant project objectives; and

(b) the objectives of the requiring authority for the designation.

(4) Kāinga Ora must include the requirement in the draft development plan, if—

(a) the requirements of **section 76** for the draft development plan to be notified have been met; and

(b) the draft development plan is ready to be publicly notified; and

(c) Kāinga Ora intends to give public notice within 40 working days of receiving notice of a requirement

(5) If Kāinga Ora does not approve a notice of requirement lodged by a requiring authority under this subpart, the requiring authority may exercise a right of objection to a hearings commissioner under **section 134**.

(6) This section does not apply to a notice of requirement for a designation, or alteration to a designation,—

(a) issued by a Minister of the Crown; or

(b) for nationally significant infrastructure.

141 Notice of requirement for proposals of national significance

A requiring authority must not lodge a notice of requirement for a designation or to alter a designation with the Environmental Protection Authority under section 145 of the Resource Management Act 1991, unless the notice of requirement relates to nationally significant infrastructure.

Subpart 3—Reserves and conservation interests

142 Kāinga Ora may request that reserve status or conservation interest be revoked

(1) Kāinga Ora may request that—

(a) the Minister for Land Information give effect to provisions in a development plan that provide for a specified reserve within the project area to be set apart for the purposes of the specified development project; or

(b) the Minister of Conservation give effect to provisions in a development plan that provide for a conservation interest in land within the project area to be revoked or cancelled.

(2) The request must—

(a) describe the land to which it relates and include any relevant survey plans; and

(b) identify the provisions in the development plan that provide for the setting apart or revocation or cancellation; and

(c) include any other information reasonably required by the Minister for Land Information or the Minister of Conservation.

Preconditions if reserve subject of Treaty settlement Act

(3) Before making a request under **subsection (1)(a)**, Kāinga Ora must—

(a) obtain the written consent of a post-settlement governance entity if—

(i) the land comprising the specified 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 if—

(i) the specified reserve is held by a local authority; and

(ii) the local authority has, under a Treaty settlement Act, entered into a joint management agreement with the post-settlement governance entity in relation to the reserve.

(4) In this section, **joint management agreement** means an agreement that provides for the role of a post-settlement governance entity, or a group represented by the entity, in the management of a reserve.

143 Minister must give effect to development plan following request under section 142

Setting apart of reserve

(1) The Minister for Land Information must, in accordance with a request under **section 142(1)(a)**, give effect to the development plan by giving notice in the *Gazette* that the specified reserve has been set apart for the purposes of the specified development project.

(2) Section 82 of the Reserves Act 1977 (application of proceeds of land where reservation revoked) applies to the specified reserve as if its reservation were revoked under section 24 of that Act.

(3) To the extent that the specified reserve is subject to another enactment that provides for the land's status as a reserve or relates to the land in its status as a reserve, that enactment ceases to apply to the land when the reserve is set apart.

Revocation or cancellation of conservation interest

(4) The Minister of Conservation must, in accordance with a request under **section 142(1)(b)**, give effect to the development plan by—

(a) applying in writing to the Registrar-General of Land to remove any registration or notation of the conservation interest from the record of title for the land; and

(b) doing anything else necessary to revoke or cancel the conservation interest.

(5) The Registrar-General of Land must remove a registration or notation of a conservation interest in accordance with an application under **subsection (4)(a)**.

144 Creation, classification, and vesting of reserves

(1) Kāinga Ora may request that the Minister of Conservation give effect to provisions in a development plan that provide for 1 or more of the following to occur within the project area:

(a) land to be set apart as a reserve and classified according to its principal or primary purpose (as defined in sections 17 to 23 of the Reserves Act 1977):

(b) the classification of a reserve to be changed:

(c) a reserve to be vested in—

(i) a local authority; or

(ii) Kāinga Ora; or

(iii) any trustees empowered, by or under an Act or any other lawful authority, to hold and administer the land and spend money on it for the purpose for which the reserve is classified.

(2) The request must—

(a) describe the land to which it relates and include any relevant survey plans; and

(b) identify the provisions in the development plan that provide for the setting apart, classification, or vesting; and

(c) include any other information reasonably required by the Minister of Conservation.

(3) The Minister of Conservation must, in accordance with the request, give effect to the provisions of the development plan by publishing 1 or more notices in the *Gazette*.

(4) The Reserves Act 1977 applies, with all necessary modifications, to a vesting under this section as if—

(a) the reserve were vested under section 26(1) of that Act; and

(b) a notice under **subsection (3)** were a notice under section 26(1) of that Act.

Subpart 4—Infrastructure

Preliminary provisions

145 Application of this subpart

(1) This subpart applies in relation to a specified development project once the project's development plan becomes operative.

(2) However, **section 184** applies on and from the project's establishment date.

(3) **Section 169** continues to apply after the specified development project is disestablished.

146 Overview of this subpart

(1) Broadly, this subpart provides for Kāinga Ora to have—

(a) functions and powers in relation to roads (the **roading powers**) if the project's development plan provides for Kāinga Ora to have the roading powers; and

(b) powers in relation to non-roading infrastructure (the **non-roading powers**).

(2) This subpart also contains provisions for bylaw changes related to infrastructure.

Roading powers

(3) If Kāinga Ora has the roading powers for a specified development project, Kāinga Ora has all of the roading powers (and not just some of them).

(4) The roading powers relate only to roads within project areas.

Non-roading powers

(5) Broadly, the non-roading powers relate to constructing and altering, but not operating, water supply, wastewater, and drainage infrastructure.

(6) The non-roading powers relate to land and non-roading infrastructure within project areas and, to a degree, outside project areas (*see* **section 156(1)(b)**).

Bylaw changes

(7) Under this subpart, Kāinga Ora has no power to amend, revoke, or make bylaws. However, it may—

(a) require bylaw changes by way of including them in a development plan; and

(b) request, and, in some circumstances (*see* **section 179**), require bylaw changes after the development plan is operative.

147 Interpretation for this subpart

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

alter includes—

(a) extend, upgrade, replace, connect to, or move:

(b) disconnect from, demolish, remove, or dispose of (in each case, with or without replacement)

bylaw-making authority, in relation to a bylaw change, means the relevant local authority, road controlling authority, or other statutory authority with the power to make the bylaw change under a specified enactment

controlling authority, in relation to non-roading infrastructure, means the territorial authority or other agency responsible for the operation and maintenance of that non-roading infrastructure

non-roading infrastructure means infrastructure associated with, or necessary for, any of the following:

(a) the supply of reticulated drinking water:

(b) sewage and wastewater removal, or treatment, or both:

(c) stormwater drainage:

(d) supply of water through water races:

(e) trade wastes disposal:

(f) land drainage and rivers clearance

owner, in relation to land that is a road and the exercise of non-roading powers, means the person that has jurisdiction over the road (and, if Kāinga Ora has the roading powers in relation to the road, means Kāinga Ora)

relevant territorial authority, in Auckland, includes Auckland Transport.

(2) A reference to alter or construct includes a reference to—

(a) carrying out preliminary work associated with those works (for example, design); and

(b) carrying out work subsequent to those works for the purpose of ensuring operability of those works (for example, testing).

(3) A reference to something being done on, under, or over any land (including any road) includes a reference to something being done on, under, or over a building on that land.

Roads

148 Meaning of roading powers

In this Act, **roading powers** means all of the following functions and powers:

(a) the functions and powers of a local authority and an enforcement authority under the Land Transport Act 1998 for the purposes of prosecuting stationary vehicle offences:

(b) the functions and powers of a council under Part 21 of the Local Government Act 1974, except—

(i) the power to name or alter the name of a road under section 319(1)(j) of that Act; and

(ii) the functions and powers under sections 316(2), 319A, 319B, and 347 to 352 of that Act; and

(iii) any power to make a bylaw under a provision of that Act or an authorisation gazetted under section 360 of that Act:

(c) the powers of a council under section 591 of the Local Government Act 1974 (except the power conferred by section 591(1)(a) of that Act):

(d) the functions and powers of a local authority, a territorial authority, and a controlling authority under Part 4 of the Government Roading Powers Act 1989 (except any power to make a bylaw under a delegation under section 62(1) of that Act, which relates to State highways):

(e) the functions and powers of a road controlling authority and a local authority under the Land Transport Act 1998 and any regulations or rules made under that Act (except the functions and powers to make bylaws and resolutions under section 22AB of that Act):

(f) the functions and powers of a public road controlling authority under Part 2 of the Land Transport Management Act 2003 in relation to road tolling schemes.

Compare: 2009 No 32 s 46(1)(a)-(e), (g), (i), and (4)

149 Kāinga Ora has roading powers if stated in development plan

(1) This section applies only if a development plan for a specified development project states—

(a) that Kāinga Ora has the roading powers; and

(b) the date (or a process for determining the date) on and from which Kāinga Ora has the roading powers.

(2) On and from that date, Kāinga Ora has all of the roading powers in relation to roads within the project area other than roads under the control of the New Zealand Transport Agency.

(3) The enactments in **section 148** under which Kāinga Ora has roading powers apply, for the purposes of this section,—

(a) as if references in those enactments to a council or other statutory body included references to Kāinga Ora; and

(b) as if references in those enactments to a district included references to the project area; and

(c) as if references in those enactments to a scheme plan, an operative district scheme, or a district plan included references to the development plan; and

(d) with all other necessary modifications.

(4) Part 4 of the Government Roading Powers Act 1989 applies as if works done or to be done by Kāinga Ora, acting with the roading powers, are local works.

(5) Section 326 of the Local Government Act 1974 (which relates to betterment arising from creation or widening of a road) applies as set out in **section 235**.

(6) Nothing in this section vests ownership of any road, land, or other property in Kāinga Ora or affects the operation of section 316(1) of the Local Government Act 1974.

(7) **Subsection (2)** is subject to **section 152**.

150 Additional functions if Kāinga Ora has roading powers

If Kāinga Ora has the roading powers for roads within a project area, the following are additional functions of Kāinga Ora in relation to the project area:

(a) to undertake or exercise any transport functions or powers that a relevant territorial authority lawfully delegates to it (for example, management of off-street parking facilities), but not including the functions and powers of a regional council under Part 5 of the Land Transport Management Act 2003 in relation to public transport planning and regulation; and

(b) without limiting **paragraph (a)**, to undertake or exercise any transport functions or powers expressly conferred on a relevant territorial authority by any enactment (for example, under a local Act) that the relevant territorial authority lawfully delegates to it; and

(c) to undertake or exercise any functions, powers, and duties in respect of State highways that the New Zealand Transport Agency lawfully delegates to it.

Compare: 2009 No 32 s 45(d)-(f)

151 Kāinga Ora has jurisdiction over roads for which it has roading powers

If Kāinga Ora has the roading powers for roads within a project area,—

(a) Kāinga Ora has jurisdiction over those roads for the purposes of any enactment; and

(b) Kāinga Ora is the corridor manager for those roads for the purposes of the Utilities Access Code (which applies to Kāinga Ora with all necessary modifications).

152 Limitations on Kāinga Ora exercising roading powers

Powers of entry

(1) If, in accordance with a roading power that Kāinga Ora has for a project that provides for a power of entry, Kāinga Ora decides to enter land or a building, **subpart 1 of Part 6** applies in relation to the entry.

(2) Anything in the roading power that is inconsistent with **subpart 1 of Part 6** does not apply in relation to the entry.

Disposal of land

(3) If Kāinga Ora has the roading powers for roads in a project area and decides, under section 345 of the Local Government Act 1974, to dispose of land not required for a road,—

(a) Kāinga Ora must inform the relevant territorial authority, in writing, of its decision; and

(b) the relevant territorial authority must dispose of the land in accordance with the requirements of the Local Government Act 1974.

Compare: 2009 No 32 s48(1), (2)

153 Relevant territorial authority prohibited from performing functions and exercising powers that Kāinga Ora has under section 149(2)

(1) The relevant territorial authority (or other statutory body) must not perform any function or exercise any power that Kāinga Ora has in accordance with **section 149(2)**.

(2) **Subsection (1)** applies unless the board of Kāinga Ora delegates the performance of the function or the exercise of power to the relevant territorial authority in accordance with any power it has to do so.

Compare: 2009 No 32 s 50(1), (3)

154 Jurisdiction in respect of roads defined more widely than in Local Government Act 1974

(1) Nothing in this subpart—

(a) limits or affects a relevant territorial authority's jurisdiction in respect of roads within the meaning of section 2(1) of the Land Transport Act 1998 that are not roads within the meaning of section 315 of the Local Government Act 1974:

(b) confers jurisdiction on Kāinga Ora in respect of roads within the meaning of section 2(1) of the Land Transport Act 1998 that are not roads within the meaning of section 315 of the Local Government Act 1974.

(2) This section is to avoid doubt.

Compare: 2009 No 32 ss 52, 56

Non-roading infrastructure

155 Meaning of non-roading powers

In this Act, **non-roading powers** means the following powers:

(a) the power to construct any new non-roading infrastructure on, under, or over any land (including any road):

(b) the power to alter (including to connect to) any non-roading infrastructure that Kāinga Ora does not control.

156 Kāinga Ora has non-roading powers when development plan becomes operative

(1) On and from the date on which a project's development plan becomes operative, Kāinga Ora has the non-roading powers in relation to existing, and new, non-roading infrastructure—

(a) within the project area; and

(b) outside the project area, but only to the extent that existing, or new, non-roading infrastructure connects to or services (or will connect to or service) the project area.

(2) In the case of private land, the exercise of the non-roading powers is subject to the Public Works Act 1981 as to compensation for injurious affection to land.

(3) **Subsection (1)** is subject to **sections 158 to 166**.

(4) *See also* **section 20(2)** (which prohibits the use of powers in this Act in relation to protected land described in that subsection).

(5) *See* **subpart 1 of Part 6** for related powers of entry.

157 Construction of new water or wastewater infrastructure on, under, or over roads

(1) This section applies if Kāinga Ora proposes to exercise a non-roading power to construct new water or wastewater infrastructure on, under, or over any road.

(2) The Utilities Access Act 2010 and the Utilities Access Code apply (with any necessary modifications), as if Kāinga Ora were the utility operator of that infrastructure.

(3) However, despite anything in the Utilities Access Code, no corridor manager or utility operator may impose conditions that would, or would likely, prevent or unreasonably delay delivery of the project or the project objectives being achieved.

158 Limitations on power to construct new non-roading infrastructure

(1) Where **section 157** does not apply, Kāinga Ora must not exercise a non-roading power to construct any new non-roading infrastructure on, under, or over any land unless—

(a) it has written consent to the works from the owner of the land; or

(b) it has complied with the requirements in **section 159** and—

(i) the owner and the occupier are treated under **section 160** as having consented to the works; or

(ii) a determination of a hearings commissioner made under **section 161** authorises Kāinga Ora to proceed with the works; or

(c) it is authorised to construct the new non-roading infrastructure in accordance with **section 163** (which relates to works described in the development plan).

(2) This section is subject to **subpart 4 of Part 1**.

(3) **Subsection (1)(b)(ii)** is subject to **sections 161(5) and 162**.

159 Requirements before constructing new non-roading infrastructure without land owner's consent

(1) The requirements referred to in **section 158(1)(b)** are as follows:

(a) Kāinga Ora must give public notice of—

(i) the location and nature of the proposed new non-roading infrastructure (including a plan); and

(ii) a description of the extent of the works required to construct it; and

(iii) any proposed conditions relating to the works; and

(b) Kāinga Ora must give notice in writing of its intention to construct the works and a copy of the public notice referred to in **paragraph (a)**—

(i) to the occupier of the land or building unless there is no occupier or, after all reasonable steps have been taken, the occupier cannot be found; and

(ii) to the owner of the land, if known; and

(c) Kāinga Ora must include in the notice to the occupier and to the owner a description of how that person may object to the proposed works or the proposed conditions.

(2) For the purposes of this section and **section 158(1)(b)**, if, after complying with **subsection (1)(b)(i)** of this section, there is a change of occupier, it is not a requirement to give notice to any subsequent occupier.

Compare: 2002 No 84 Schedule 12 cl 1(a)–(c)

160 When owner and occupier can be treated as having consented

(1) This section applies if, within 20 working days of giving notice as required by **section 159(1)(b) and (c)**, Kāinga Ora has not received from the occupier or the owner any written notice of objection to the proposed works or the proposed conditions.

(2) For the purposes of **section 158(1)(b)(i)**, the owner and the occupier are treated as having consented to the works on the conditions set out in the notice.

161 What happens if owner or occupier objects

(1) This section applies if, within 20 working days of receipt of the notice under **section 159(1)(b) and (c)**, the occupier or the owner (the **objector**) gives to Kāinga Ora a written notice—

(a) of objection to the proposed works; or

(b) that proposes different conditions to apply to the works.

(2) Kāinga Ora must, if it decides to proceed with the works,—

(a) appoint a hearings commissioner to first hear the objection or the proposed conditions; and

(b) give the objector reasonable notice of the day, time, and place of the hearing (which may be held in person or by electronic means).

(3) The hearings commissioner must conduct the hearing and must, in accordance with **subsection (4)**, make a determination—

(a) authorising Kāinga Ora to proceed with the works as described in the notice and subject to the conditions in it; or

(b) authorising Kāinga Ora to proceed with the works, but subject to any conditions that the hearings commissioner determines (whether or not those conditions were proposed); or

(c) that the works must not proceed.

(4) If the hearings commissioner is satisfied that failure to proceed with the works would, or would likely, prevent or unreasonably delay delivery of the project or achieving the project objectives, the hearings commissioner must make a determination under **subsection (3)(a) or (b)**.

(5) Kāinga Ora must not proceed with the works pending the expiry of the time frame for appealing against the decision (*see* **section 162(1)**).

Compare: 2002 No 84 Schedule 12 cl 1(d)–(e)

162 Right of appeal against determination of hearings commissioner

(1) A person (including Kāinga Ora) who is aggrieved by a determination of a hearings commissioner under **section 161(3)** may appeal to the District Court against the determination within 10 working days of the date of the determination.

(2) Pending the decision of the court on the appeal, Kāinga Ora must not proceed with the works.

(3) On the hearing of the appeal, the court, whose decision is final, may, in accordance with **subsection (4)**, confirm, amend, or set aside the determination of the hearings commissioner.

(4) **Section 161(4)** applies, with the necessary modifications, to the court in deciding the appeal.

Compare: 2002 No 84 Schedule 12 cl 2–4

163 Construction authorised by development plan

(1) For the purposes of **section 158(1)(c)**, Kāinga Ora is authorised to construct the new non-roading infrastructure for a project if—

(a) the draft development plan that was notified under **section 76** for the project included the information referred to in **section 159(1)(a)** in respect of the new non-roading infrastructure; and

(b) Kāinga Ora gave notice in writing of its intention (subject to approval of the development plan) to construct the new non-roading infrastructure—

(i) to the occupier of the land or building unless there was no occupier or, after all reasonable steps were taken, the occupier could not be found; and

(ii) to the owner of the land, if known; and

(c) Kāinga Ora included in its notice to the occupier and to the owner a copy of the draft development plan and a description of how that person may make submissions on that plan; and

(d) the development plan describes the following in respect of the new non-roading infrastructure (regardless of whether the details differ from what was included in the draft development plan):

(i) the location and nature of the proposed new non-roading infrastructure; and

(ii) a description of the extent of the works required to construct it.

(2) The authorisation under **subsection (1)** is an authorisation to construct the works in accordance with the development plan.

(3) This section does not limit **section 158(2)**.

164 Prohibition on others constructing new non-roading infrastructure without consent of Kāinga Ora

Once the development plan for a specified development project becomes operative, no person other than Kāinga Ora may construct any new non-roading infrastructure on, under, or over land within the project area without the prior written consent of Kāinga Ora.

165 Kāinga Ora responsible for costs of construction

(1) Kāinga Ora is liable for the cost of the works of any new non-roading infrastructure that it constructs in relation to specified development projects.

(2) **Subsection (1)** applies subject to—

(a) any agreement to the contrary with the relevant territorial authority or any other person:

(b) any other enactment.

166 Limitations on power to alter non-roading infrastructure Kāinga Ora does not control

(1) Except where **section 157** applies, or unless otherwise agreed with the controlling authority, before Kāinga Ora exercises a non-roading power to alter any non-roading infrastructure that it does not control, it must give not less than 20 working days' written notice to the controlling authority.

(2) The controlling authority may, by notice in writing to Kāinga Ora at least 5 working days before the works are proposed to start, set any reasonable conditions relating to the works.

(3) For the purposes of this section, a condition is **reasonable** only if it is necessary to ensure—

(a) that the alterations do not interfere with the operation of the non-roading infrastructure or the system of which that infrastructure forms part, or any interference is minimised; or

(b) the integrity of that system, for its expected lifetime, is not compromised; or

(c) that the controlling authority does not breach a requirement of the Utilities Access Code that relates to another utility operator, or an agreement under that Code with another utility operator.

(4) However, despite **subsection (3)**, a condition is not reasonable in circumstances where—

(a) the location, nature, and extent of works required for the alterations are described in the development plan; and

(b) the condition would, or would likely, prevent or unreasonably delay delivery of the project or achieving the project objectives.

(5) If Kāinga Ora and the controlling authority dispute whether a condition is reasonable or Kāinga Ora otherwise objects to a condition, the matter must be referred to the District Court, and the decision of the court is final.

167 Controlling authority responsible for costs of operating and maintaining non-roading infrastructure

(1) A controlling authority is liable for the cost of operating and maintaining its non-roading infrastructure within a project area.

(2) **Subsection (1)** applies subject to—

(a) any agreement to the contrary with Kāinga Ora or any other person:

(b) any other enactment.

168 Requirement to transfer non-roading infrastructure once connected

As soon as practicable after any non-roading infrastructure constructed by Kāinga Ora is connected to a system operated by a controlling authority, the ownership of that infrastructure must be transferred to the controlling authority in accordance with the provisions set out in **Schedule 2**.

169 Ongoing application of section 181(4) of Local Government Act 2002 to transferred non-roading infrastructure

Section 181(4) of the Local Government Act 2002 applies in relation to non-roading infrastructure that Kāinga Ora constructs in accordance with this subpart as if that work were constructed under section 181 of that Act.

Nationally significant infrastructure

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

Before doing any work relating to a specified development project that will, or is likely to, affect nationally significant infrastructure, Kāinga Ora must consult the operator of that infrastructure and obtain its written consent.

Bylaw changes

171 Meaning of bylaw change

In this Act, **bylaw change** means any of the following:

(a) an amendment to an existing bylaw:

(b) the revocation of an existing bylaw:

(c) the making of a new bylaw.

172 Power of Kāinga Ora to propose bylaw change

(1) Once the development plan for a specified development project becomes operative, Kāinga Ora may propose a bylaw change that relates to—

(a) roads, or junctions with roads, that are within the project area; or

(b) non-roading infrastructure that is within the project area, or that connects to or services (or will connect to or service) non-roading infrastructure within the project area.

(2) A bylaw change may be proposed only if—

(a) Kāinga Ora is satisfied that, in order to achieve the project objectives, it is reasonably necessary to make the bylaw change; and

(b) the bylaw change is able to be made under a specified enactment.

173 Requirements before proposing bylaw change

Before Kāinga Ora proposes a bylaw change, Kāinga Ora must—

(a) make the determinations required by section 155(1) and (2) of the Local Government Act 2002, as if Kāinga Ora were a local authority; and

(b) engage with the bylaw-making authority on the proposed bylaw change.

174 Kāinga Ora publicly notifies proposed bylaw change and invites views, etc

(1) After complying with **section 173**, Kāinga Ora must give public notice of a proposed bylaw change that it decides to proceed with.

(2) The public notice must include all of the following:

(a) as relevant,—

(i) a draft of the bylaw as proposed to be made or amended; or

(ii) a statement identifying the bylaw to be revoked; and

(b) the geographical boundaries of the area where the bylaw change is proposed to apply; and

(c) a description of when the bylaw change is proposed to come into effect and, if it will be temporary, when it will cease to apply; and

(d) the reasons for the bylaw change; and

(e) a statement of the determinations made by Kāinga Ora under **section 173(a)**; and

(f) a statement specifying the enactment under which the bylaw change is able to be made; and

(g) a statement of whether the bylaw change will be requested or required; and

(h) a description of how Kāinga Ora will provide persons interested in the bylaw change with an opportunity to present their views to Kāinga Ora; and

(i) a statement of the period within which views on the bylaw change may be provided to Kāinga Ora (which must be not less than 20 working days from the date of publication of the notice).

(3) Kāinga Ora must,—

(a) if the bylaw change will be made under section 22AB of the Land Transport Act 1998, consult with the people listed in section 22AD(2) of that Act; and

(b) notify any agency that has, or may have, an interest in the bylaw change (for example, network utility operators or regional councils) and invite their comment; and

(c) provide an opportunity for persons to present their views to Kāinga Ora in a manner that enables spoken (or New Zealand sign language) interaction between the person and Kāinga Ora, including by way of audio link or audiovisual link; and

(d) ensure that any person who wishes to present their views to Kāinga Ora—

(i) is given a reasonable opportunity to do so; and

(ii) is informed about how and when they may take up that opportunity.

(4) This section does not prevent Kāinga Ora from requesting or considering, before making a decision on the bylaw change, comment or advice from the bylaw-making authority or any other person in respect of the bylaw change or any comment or views on the bylaw change, or both.

175 Minor adjustments to proposed bylaw change

Kāinga Ora may adjust a proposed bylaw change that has been publicly notified without being required to comply with **sections 173 and 174** in respect of the adjusted proposal, but only if Kāinga Ora is satisfied that the adjustment is technical or of minor effect.

176 Kāinga Ora may request or require bylaw change

(1) Kāinga Ora may, after considering comments and views received in accordance with **section 174**, by notice in writing—

(a) request the bylaw-making authority to make the bylaw change:

(b) in the circumstances described in **section 179**, require the bylaw-making authority to make the bylaw change.

(2) The notice must include all of the following:

(a) a draft of the bylaw to be made or amended, or a statement identifying the bylaw to be revoked; and

(b) the geographical boundaries of the area where the bylaw change will apply; and

(c) a description of when the bylaw change should come into effect and, if it will be temporary, when it should cease to apply; and

(d) a statement as to whether the notice is a request or a requirement.

177 Notice requesting bylaw change

(1) If a bylaw-making authority receives a notice under **section 176** requesting a bylaw change, it must, within 20 working days of receipt of the notice,—

(a) make the requested change; or

(b) advise Kāinga Ora, in writing, that it will not make the requested change and of the reasons why.

(2) The bylaw-making authority is not required to consult before making the bylaw change or refusing to make it.

(3) This section applies despite anything to the contrary in any other enactment.

178 Refusal to make requested change does not prevent future requests

A decision by a bylaw-making authority to not make a requested bylaw change does not prevent Kāinga Ora issuing another notice to the bylaw-making authority relating to the same proposed change.

179 Circumstances where Kāinga Ora may require bylaw change

The circumstances in which Kāinga Ora may require a bylaw change are where—

(a) Kāinga Ora has the roading powers in relation to roads within the relevant project area; and

(b) the bylaw change relates to the safe and effective operation of roads within or at the boundary of the project area; and

(c) the public notice of the bylaw change stated, as a reason for the bylaw change, that the proposal relates to the safe and effective operation of roads within or at the boundary of the project area.

180 Notice requiring bylaw change

A bylaw-making authority who receives a notice under **section 176** requiring a bylaw change must make the bylaw change within 20 working days of receipt of the notice.

181 Bylaw-making authority must make bylaw changes required by development plan

If a project's development plan sets out a bylaw change to be made by a bylaw-making authority, the bylaw-making authority must make the bylaw change as soon as practicable after the plan becomes operative (or as otherwise provided for by the plan).

182 Requirements under other Acts satisfied for making of bylaw changes

If a bylaw-making authority makes a bylaw change in accordance with this subpart, any process or consultation requirements that would have applied, under any other enactment, if the bylaw-making authority had initiated the bylaw change are treated as satisfied in respect of the bylaw change.

183 Bylaw-making authority must preserve bylaw changes made in accordance with this subpart

A bylaw-making authority must not do any of the following without the prior written consent of Kāinga Ora or as required by law:

(a) amend or revoke a bylaw change that was made in accordance with this subpart:

(b) make a new bylaw that would have the effect of defeating a bylaw change made in accordance with this subpart.

184 Bylaw-making authorities must consult Kāinga Ora on certain proposals

On and from the establishment date for a specified development project, a bylaw-making authority must consult with Kāinga Ora on any proposed bylaw change that would affect roads or non-roading infrastructure, or the construction of new roads or new non-roading infrastructure, within the project area.

Part 4
Funding of specified development projects

Subpart 1—Preliminary provisions

185 Purpose of this Part

(1) The purpose of this Part is to provide Kāinga Ora with—

(a) a range of powers to fairly, equitably, and proportionately fund development activities that are carried out to achieve project objectives; and

(b) the power to recover its actual and reasonable costs incurred in performing or exercising its functions, powers, or duties under **subpart 2 of Part 3**.

(2) The powers referred to **subsection (1)(a)** are the powers to—

(a) set targeted rates (*see* **subpart 2**):

(b) require development contributions (*see* **subpart 3**):

(c) require betterment payments (*see* **subpart 4**):

(d) fix infrastructure and service charges (*see* **subpart 5**).

(3) The power referred to in **subsection (1)(b)** is the power to fix administrative charges (*see* **subpart 6**).

186 Interpretation for this Part

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

land has the same meaning as in section 5 of the Local Government (Rating) Act 2002

land transport infrastructure means infrastructure to facilitate transport on land by any means

local government rate means a rate set under the Local Government (Rating) Act 2002

ratepayer means a person described in section 10 of the Local Government (Rating) Act 2002

relevant, in relation to a policy that relates to a targeted rate or development contribution, means the policy set out in the development plan for the specified development project for which—

(a) the targeted rate is or may be set; or

(b) the development contribution is or may be required

service connection means a physical connection to a service provided by, or on behalf of, Kāinga Ora, its subsidiary, or another person undertaking the development

targeted rate means a rate set under **section 193**

targeted rates order means an Order in Council made under **section 190**.

(2) A term used in this Part has the same meaning as in section 5 of the Local Government (Rating) Act 2002 if the term—

(a) is defined in that section; and

(b) is not defined in this Part or in another provision of this Act that applies to this Part.

Subpart 2—Targeted rates

187 Application of Local Government (Rating) Act 2002: modifications

When a section in this subpart applies 1 or more provisions of the Local Government (Rating) Act 2002 to targeted rates under this Act, the specified provisions of that Act apply with all necessary modifications, including the following:

(a) a reference to a rate must be read as a reference to a targeted rate under this Act:

(b) a reference to a local authority must be read as a reference to a relevant territorial authority:

(c) any particular modifications specified in the section that applies the provisions of that Act.

188 What is rateable?

Land in a project area is rateable for targeted rates under this Act to the extent that it is rateable under sections 7 and 8 of the Local Government (Rating) Act 2002.

189 Who must pay rates?

(1) The ratepayer for a rating unit is liable to pay any targeted rates that are due on the rating unit.

(2) However, a person other than the ratepayer may become liable to pay the rates in the circumstances set out in section 61, 62, or 96 of the Local Government (Rating) Act 2002 (*see* **sections 205 and 210**).

Compare: 2002 No 6 s 12

How are rates authorised?

190 Order in Council may authorise Kāinga Ora to set rates

(1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, authorise Kāinga Ora to set targeted rates for a project area.

(2) The Minister must not recommend the making of an order unless satisfied that—

(a) the specified development project has a development plan that provides for Kāinga Ora to set targeted rates; and

(b) the matters specified in the order in accordance with **section 191** are not materially different from those in the development plan; and

(c) the order authorises targeted rates to fund activities or groups of activities only to the extent that they are not already funded by local government rates.

Examples

Example 1

A local authority has set a targeted rate to fund roading in a part of its district that is outside a project area.

The order may authorise Kāinga Ora to set a targeted rate to fund roading within the project area. That rate may apply to rating units within the project area regardless of whether they are also subject to the local authority's targeted rate.

Example 2

A portion of the general rate set by a local authority is used to fund a wastewater system that serves the authority's entire district.

A specified development project will upgrade the part of the system that serves the project area.

The order may authorise Kāinga Ora to set a targeted rate that is sufficient only to fund the upgrade. The general rate continues to fund the general maintenance and operation of the wastewater system in the project area.

(3) Despite **subsection (2)(b)**, the Minister may recommend that a targeted rates order—

(a) specify a rate that is not provided for in the development plan if that is permitted by **section 192**:

(b) specify matters that are different from those in the development plan if that is needed to comply with **subsection (2)(c)** (for example, by specifying a lower maximum amount of revenue that may be recovered from a rate).

191 Content of targeted rates order

A targeted rates order must specify—

(a) the project area to which the order applies; and

(b) the financial years to which the order applies; and

(c) for each targeted rate, the matters set out in **section 65(1)**.

192 Rates required for unforeseen or urgent circumstances

(1) A targeted rates order may specify a targeted rate that is not provided for in a development plan if—

(a) Kāinga Ora is satisfied that the rate is required to meet an unforeseen and urgent need for revenue that cannot reasonably be met by any other means, having regard to the manner in which Kāinga Ora has, in the development plan, allocated the costs of the activities or groups of activities to which the need for revenue relates; and

(b) Kāinga Ora has given at least 14 days' public notice of its intention to set the rate.

(2) A notice under **subsection (1)(b)** must include—

(a) the information in relation to the rate that would otherwise have been required to be included in the development plan; and

(b) a statement of the nature of the unforeseen and urgent need for revenue and the reasons why that need cannot reasonably be met by any other means, having regard to the manner in which Kāinga Ora has, in the development plan, allocated the costs of the activities or groups of activities to which the need for revenue relates.

Compare: 2002 No 6 s 23(3), (4)

How are rates set?

193 Kāinga Ora may set rates for financial year

(1) Kāinga Ora may, by written resolution, set a targeted rate in accordance with the terms of a targeted rates order.

(2) Each rate must—

(a) relate to a financial year; and

(b) be consistent with—

(i) the development plan for the specified development project; and

(ii) the project's annual budget for the financial year.

(3) The following provisions of the Local Government (Rating) Act 2002 apply for the purposes of setting a rate under **subsection (1)**:

(a) section 20 (rating units in common ownership):

(b) section 22 (defence land).

(4) In applying section 22 of that Act,—

(a) the reference to section 13(2) or section 16 of that Act must be read as a reference to this section; and

(b) the reference to the district must be read as a reference to the project area.

194 Kāinga Ora may set rates again within same financial year

(1) Kāinga Ora may set a targeted rate under **section 193** again in the financial year in which the rate was set if—

(a) Kāinga Ora determines that it is desirable to set the rate again because of—

(i) an irregularity in setting the rate; or

(ii) a mistake in calculating the rate; or

(iii) a relevant change in circumstances; and

(b) setting the rate again will not increase the amount of rates calculated for any rating unit.

(2) Kāinga Ora may set a rate again only if it has given 14 days' public notice of its intention to set the rate again.

(3) The notice must include a statement of the reason why Kāinga Ora has determined that it is desirable to set the rate again.

(4) If setting the rate again results in a change to the amount of rates to be calculated for any rating unit,—

(a) the relevant territorial authority must correct the rates record for the rating unit as soon as practicable; and

(b) section 41 of the Local Government (Rating) Act 2002 applies.

Compare: 2002 No 6 s 119

195 Rates may cover costs of collection and recovery

(1) Kāinga Ora may set targeted rates at an amount that allows for the recovery of the reasonable costs of each relevant territorial authority for calculating, collecting, and recovering the rates.

(2) The amount referred to in **subsection (1)** is in addition to the maximum amount of revenue permitted by the targeted rates order.

196 Procedural requirements for rates resolution

(1) A resolution under **section 193** must be—

(a) notified in the *Gazette*; and

(b) published on the Kāinga Ora Internet site.

(2) A resolution is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

197 Due date or dates for payment

The date or dates for payment of targeted rates under this Act on a rating unit are the same as the date or dates for payment of the general rate owed to the relevant territorial authority whose district includes that unit.

How are rates spent?

198 How rates may be spent

Kāinga Ora may only—

(a) spend revenue from a targeted rate on the activity or group of activities specified for the rate in the targeted rates order; or

(b) transfer the revenue to a person who is required by a contract with Kāinga Ora to spend the revenue on carrying out the activity or group of activities.

Calculation, payment, and recovery of rates

199 Relevant territorial authority to collect rates

(1) As soon as practicable after a resolution is made under **section 193**, Kāinga Ora must provide written notice of the resolution to each relevant territorial authority.

(2) A relevant territorial authority must calculate, collect, and recover the targeted rates set by the order for its district in accordance with—

(a) this subpart; and

(b) the provisions of the Local Government (Rating) Act 2002 that are applied by this subpart.

200 Rates must be calculated in accordance with values and factors

(1) Targeted rates must be calculated in accordance with—

(a) a rating unit and the rateable values (as applicable to targeted rates under this Act) set out in the rating information database; or

(b) the factors (as applicable to targeted rates under this Act) relevant to a rating unit that are set out in the rating information database.

(2) For the purposes of **subsection (1)**, the relevant rating unit, values, or factors are those that have been corrected as at the end of the financial year immediately before the financial year for which the rates are set.

(3) The rates are not affected by a change in the rateable value or factors of a rating unit during the financial year in which the rates are set.

(4) *See* **section 211** (which relates to information that a relevant territorial authority must record in its rating information database).

Compare: 2002 No 6 s 43

201 Notice of rates assessment

(1) A rates assessment delivered under section 44 of the Local Government (Rating) Act 2002 must give notice of the ratepayer's liability for any targeted rates under this Act on the rating unit.

(2) The notice is in addition to the notice referred to in section 44(1) of the Local Government (Rating) Act 2002.

(3) A ratepayer is liable for the targeted rates when the relevant territorial authority delivers the rates assessment for the rating unit to the ratepayer.

202 Contents of rates assessment

(1) If a ratepayer is liable for targeted rates under this Act, a rates assessment delivered under section 44 of the Local Government (Rating) Act 2002 must clearly identify the following:

- (a) the amount of each targeted rate:
- (b) the activity or group of activities that will be funded from each rate:
- (c) if applicable, the relevant matters that are required to determine the category to which the rating unit belongs for the purposes of setting a targeted rate differentially:
- (d) information on the factors used to calculate the amount of the liability of a rating unit for each targeted rate:
- (e) a brief description of the criteria for rates relief under—
  - (i) the relevant rates remission policy and the relevant rates postponement policy; and
  - (ii) if there is one, the relevant policy on the remission and postponement of rates on Māori freehold land.

(2) The rates assessment may present a combined total of the ratepayer's liability for targeted rates under this Act and local government rates, but must also clearly set out the ratepayer's liability for each of those rates.

203 Rates invoice

(1) If payment of targeted rates under this Act for a rating unit is due for a particular period, a rates invoice delivered under section 46 of the Local Government (Rating) Act 2002 for the unit for the period must clearly identify the amount of—

- (a) targeted rates payable for the financial year for the rating unit; and
- (b) targeted rates that have been paid to date for the financial year; and
- (c) targeted rates payable on the current rates invoice; and

(d) any unpaid targeted rates owing from a previous financial year for the rating unit.

(2) The invoice may present a combined total of the ratepayer's liability for targeted rates under this Act and local government rates, but must also clearly set out the ratepayer's liability for each of those rates.

204 Penalties on unpaid rates

If a relevant territorial authority authorises penalties to be added to unpaid local government rates, the authority may add the same penalties to any unpaid targeted rates under this Act that it is required to collect.

205 Application of Local Government (Rating) Act 2002: calculation, payment, and recovery

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

Rates assessments and rates invoices

(a) section 47 (issue of amended rates invoice):

(b) section 48 (delivery of rates assessment and rates invoice):

(c) section 49 (late delivery of rates invoice):

(d) section 50 (rates invoice based on previous year's rates):

(e) section 51 (combined rates assessment and rates invoice):

Collection of rates

(f) section 52 (payment of rates):

(g) section 53 (one or more local authorities may appoint collector):

(h) section 54 (power not to collect small amounts):

Recovery of unpaid rates

(i) sections 59 and 60 (recovery of unpaid rates):

(j) sections 61 and 62 (recovery from persons other than owner):

(k) sections 63 to 66 (legal proceedings to recover rates):

(l) sections 67 to 76 (rating sales and leases):

(m) sections 77 to 83 (abandoned land):

(n) section 84 (Crown land held on lease or licence).

Section 50 of Local Government (Rating) Act 2002

(2) A relevant territorial authority may, under section 50 of that Act, deliver a rates invoice for targeted rates under this Act only if the rates invoice is also for local government rates.

(3) In applying section 50 of that Act, a reference to a resolution under section 23 of that Act must be read as a reference to a resolution under **section 193** of this Act.

Policy under section 55 or 56 of Local Government (Rating) Act 2002

(4) A policy adopted by a responsible territorial authority under section 55 or 56 of that Act (policy for early payment of rates in current or for subsequent financial year) applies to targeted rates under this Act, with all necessary modifications, as if they were local government rates.

Section 75 of Local Government (Rating) Act 2002

(5) In applying section 75 of that Act, the reference to the district must be read as a reference to the project area.

Remission and postponement of rates

206 Remission of rates

(1) A relevant territorial authority must remit all or part of the targeted rates under this Act on a rating unit in its district if the authority is satisfied that the conditions and criteria in the relevant rates remission policy are met.

(2) The relevant territorial authority must give notice to an affected ratepayer identifying any remitted targeted rates.

(3) In this section, a reference to targeted rates includes any penalties on targeted rates.

Compare: 2002 No 6 s 85

207 Recording remitted rates

A relevant territorial authority must record targeted rates that are remitted under **section 206**—

(a) on the rates record for the rating unit as paid on the due date; and

(b) in accounting documents as paid by Kāinga Ora on behalf of the ratepayer in accordance with the relevant rates remission policy.

Compare: 2002 No 6 s 86

208 Postponement of requirement to pay rates

(1) A relevant territorial authority must postpone the requirement to pay all or part of the targeted rates under this Act on a rating unit in its district if—

(a) the ratepayer has applied in writing for a postponement; and

(b) the authority is satisfied that the conditions and criteria in the relevant rates postponement policy are met.

(2) The relevant territorial authority must give notice to an affected ratepayer—

(a) identifying any postponed targeted rates; and

(b) stating when, or in which circumstances, the rates will become payable.

(3) In this section, a reference to targeted rates includes any penalties on targeted rates.

Compare: 2002 No 6 s 87

209 Application of Local Government (Rating) Act 2002: postponed rates

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

(a) section 88 (postponement fee may be added to postponed rates):

(b) section 89 (recording postponed rates):

(c) section 90 (postponed rates may be registered as charge on rating unit).

(2) In applying the provisions listed in **subsection (1)**, a reference to a local authority's rates postponement policy must be read as a reference to the relevant rates postponement policy.

Rating of Māori freehold land

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

Part 4 of Local Government (Rating) Act 2002

(1) Part 4 of the Local Government (Rating) Act 2002 applies to targeted rates under this Act.

(2) In applying Part 4 of that Act, a reference to a local authority's policy on the remission and postponement of rates on Māori freehold land must be read as a reference to the relevant policy on the remission and postponement of rates on Māori freehold land.

Order exempting Māori freehold land from rates

(3) An Order in Council under section 116 of the Local Government (Rating) Act 2002—

(a) applies to land within a project area if the order is made—

(i) before the specified development project is established; or

(ii) with the consent of Kāinga Ora, if the order is made after the specified development project is established; and

(b) applies to targeted rates under this Act as if they were local government rates, unless the order expressly provides otherwise.

(4) In determining whether to consent to an order under **subsection (3)(a)(ii)**, Kāinga Ora must consider—

(a) the relevant policy on the remission and postponement of rates on Māori freehold land; and

(b) the objectives set out in Schedule 11 of the Local Government Act 2002.

Rating information database and rates records

211 Rating information database to include information on targeted rates

A relevant territorial authority must record in its rating information database, in relation to each rating unit in its district that is subject to targeted rates under this Act, all information that relates to the unit that is required to—

(a) determine the category (if any) to which the unit belongs for the purposes of setting targeted rates in accordance with **section 193**; and

(b) calculate the amount of liability for targeted rates in accordance with **section 200**.

212 Rates records to include information on targeted rates

A relevant territorial authority must record in its rates record for a rating unit in its district the amount of the ratepayer's liability, in respect of that unit, for targeted rates under this Act.

213 Kāinga Ora and relevant territorial authority to share rating information

(1) If land within a project area is subject to targeted rates under this Act, Kāinga Ora must provide each relevant territorial authority with—

(a) the information referred to in **sections 194(4), 211, and 212**; and

(b) any other information held by Kāinga Ora that the authority needs to comply with—

(i) this subpart; or

(ii) the provisions of the Local Government (Rating) Act 2002 that are applied by this subpart.

(2) Each relevant territorial authority must provide Kāinga Ora with access to the authority's rating information database.

(3) Kāinga Ora may use the rating information database only to perform or exercise its functions, powers, or duties under this subpart.

214 Application of Local Government (Rating) Act 2002: rating information database and rates records

The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

(a) section 38 (inspection of rates records):

(b) section 39 (objection to rates records):

(c) section 40 (local authority may correct errors in rating information database and rates records):

(d) section 41 (amended assessment if error in rating information database or rates record is corrected):

(e) section 41A (amended assessment to give effect to objection to valuation under Rating Valuations Act 1998):

(f) section 42 (recovery of additional rates in certain cases).

Other matters

215 Kāinga Ora may assume functions, etc, of relevant territorial authority

Kāinga Ora may, by notice to a relevant territorial authority, assume any of the authority's functions, powers, or duties under this subpart.

216 Relevant territorial authority may delegate to its chief executive, etc

(1) A relevant territorial authority may delegate its functions, powers, or duties under this subpart to—

(a) its chief executive; or

(b) any other specified officer of the authority.

(2) A relevant territorial authority must not delegate the power to delegate.

Compare: 2002 No 6 s 132

217 Application of local government Acts: other matters

(1) The following sections of the Local Government (Rating) Act 2002 apply to targeted rates under this Act:

(a) section 134 (Judge, etc, not interested merely by being ratepayer):

(b) section 135 (evidence of certain matters).

(2) Section 115 (rates as security) of the Local Government Act 2002 applies to targeted rates under this Act with all necessary modifications.

Subpart 3—Development contributions

218 Principles for development contributions

Section 197AB of the Local Government Act 2002 (which sets out the principles relating to development contributions under that Act) applies to this subpart, with all necessary modifications, as if Kāinga Ora were a territorial authority.

219 Meaning of development

In this subpart, **development**—

(a) means any subdivision, building (within the meaning of section 8 of the Building Act 2004), land use, or work that generates a demand for reserves, roading or non-roading infrastructure, or community facilities; but

(b) does not include—

(i) the pipes or lines of a network utility operator; or

(ii) nationally significant infrastructure.

Compare: 2002 No 84 s 197(1)

220 Kāinga Ora may require development contributions

(1) Kāinga Ora may require a development contribution from the person undertaking a development if—

(a) the development plan for the project authorises Kāinga Ora to require development contributions; and

(b) the effect of the development is to require new or additional assets or assets of increased capacity—

(i) in a project area; or

(ii) outside a project area if the assets directly benefit, or are required for, a development in the project area; and

(c) as a consequence, Kāinga Ora—

(i) incurs capital expenditure to provide appropriately for reserves, roading or non-roading infrastructure, or community facilities; or

(ii) is liable to pay a development contribution to a relevant territorial authority.

(2) This section does not prevent Kāinga Ora from requiring a development contribution that is to be used to pay, in full or in part, for capital expenditure already incurred by Kāinga Ora in anticipation of the development.

(3) In **subsection (1)**, **effect** includes the cumulative effects that a development may have in combination with other developments.

Compare: 2002 No 84 s 199

221 Determining amount of development contributions

Kāinga Ora must determine the amount of a development contribution in accordance with—

(a) the relevant development contributions policy; and

(b) the methodology for calculating development contributions set out in clause 1 of Schedule 13 of the Local Government Act 2002 (which applies, with all necessary modifications, as if Kāinga Ora were a territorial authority).

Compare: 2002 No 84 s 197(2)

222 Manner in which development contributions may be required

(1) Kāinga Ora may require a development contribution to be made to Kāinga Ora—

(a) on the date that a resource consent is granted under this Act or the Resource Management Act 1991 for a development within a project area; or

(b) on the date that a building consent is granted under the Building Act 2004 for building work situated within a project area; or

(c) on the date that an authorisation is granted for a service connection within a project area; or

(d) on the date or dates agreed in writing between Kāinga Ora and the developer.

(2) Kāinga Ora may require a development contribution only where it is consistent with the relevant development contributions policy in force at the time the application for a resource consent, building consent, or service connection was submitted.

(3) If the relevant development contributions policy provides for a development contribution under **subsection (1)(b)**, Kāinga Ora may require that development contribution to be made when a certificate of acceptance is granted under section 98 of the Building Act 2004 if a development contribution would have been required had a building consent been granted for the relevant building work.

(4) A relevant territorial authority or a building consent authority may, as appropriate and by agreement with Kāinga Ora, exercise the powers under **subsections (1) and (3)** on Kāinga Ora's behalf.

(5) Section 198(3) and (4) of the Local Government Act 2002 applies in relation to a requirement for a development contribution under **subsection (1)(a) or (b)**.

Compare: 2002 No 84 s 198

223 Limits on power to require development contributions

(1) Kāinga Ora must not require a development contribution—

(a) to the extent that Kāinga Ora or a relevant territorial authority has imposed a condition on a resource consent in relation to the same development for the same purpose; or

(b) to the extent that another person has funded or provided, or undertaken to fund or provide, the reserve, roading or non-roading infrastructure, or community facilities to which the contribution relates; or

(c) to the extent that a development contribution has been, or will be, paid to a relevant territorial authority by a person other than Kāinga Ora for the same purpose; or

(d) for the provision of any reserve—

(i) if the development is non-residential in nature; or

(ii) for the non-residential component of a development that has both a residential component and a non-residential component.

(2) Despite **subsection (1)**, Kāinga Ora is not prevented from—

(a) accepting from a person, with the person's agreement, an additional contribution for a reserve, roading or non-roading infrastructure, or community facilities; or

(b) requiring a development contribution where—

(i) income from any other source is being used, or will be used, to meet a proportion of the capital costs of a reserve, roading or non-roading infrastructure, or community facilities for which the development contribution will be used; or

(ii) a person required to make the development contribution is also a ratepayer in a relevant territorial authority's district or has paid or will pay fees or charges in respect of a reserve, roading or non-roading infrastructure, or community facilities; or

(iii) a further development contribution is required to be made for the same purpose if the further development contribution is required to reflect an increase in the scale or intensity of the development since a previous development contribution was required by either Kāinga Ora or a relevant territorial authority.

(3) In **subsection (1)(d)**,—

reserve does not include land that forms or is to form part of any road or is used or is to be used for stormwater management purposes

residential, in relation to a development or a component of a development, includes the provision of units or camp sites for the purposes of overnight, temporary, or rental accommodation.

Compare: 2002 No 84 s 200(1)–(4)

Reconsiderations and objections

224 Right to reconsideration of requirement for development contributions

Grounds and process for reconsideration

(1) A person who is required by Kāinga Ora to make a development contribution may request that Kāinga Ora reconsider the requirement if the person has grounds to believe that—

(a) the development contribution was incorrectly calculated or assessed under the relevant development contributions policy; or

(b) Kāinga Ora incorrectly applied the relevant development contributions policy; or

(c) either or both of the following was incomplete or contained errors:

(i) the information used to assess the person's development against the relevant development contributions policy:

(ii) the way Kāinga Ora recorded or used the information when requiring the development contribution.

(2) A request for a reconsideration must be made to Kāinga Ora—

(a) in accordance with the relevant development contributions policy; and

(b) within 10 working days after the date on which the person received notice of the requirement.

(3) Kāinga Ora must reconsider the requirement in accordance with its development contributions policy.

(4) A person may not request a reconsideration if the person has already lodged an objection under **section 225**.

Notifying outcome of reconsideration

(5) Kāinga Ora must notify the person who lodged the request of the outcome of its reconsideration no later than 15 working days after the request is lodged.

(6) The person may object to the outcome of the reconsideration in accordance with **section 225**.

Compare: 2002 No 84 ss 199A, 199B

225 Objection to development contributions

(1) A person required by Kāinga Ora to make a development contribution may, on any 1 or more of the specified grounds, object to the assessed amount of the development contribution.

(2) The specified grounds are as follows:

(a) that Kāinga Ora failed to properly take into account features of the objector's development that, on their own or cumulatively with those of other developments, would substantially reduce the impact of the development on requirements for reserves, roading or non-roading infrastructure, or community facilities in the project area or parts of the area:

(b) that Kāinga Ora required a development contribution for reserves, roading or non-roading infrastructure, or community facilities not required by, or related to, the objector's development, whether on its own or cumulatively with other developments:

(c) that Kāinga Ora required a development contribution in breach of this Act (including those provisions of the Local Government Act 2002 applied by this Act):

(d) that Kāinga Ora incorrectly applied the relevant development contributions policy to the objector's development.

(3) A person has a right of objection under this section irrespective of whether they request a reconsideration under **section 224**.

Compare: 2002 No 84 ss 199C, 199D

226 Procedure for objection to development contributions

An objection to a development contribution must be lodged with Kāinga Ora in accordance with sections 199H to 199P and Schedule 13A of the Local Gov-

ernment Act 2002, which apply with all necessary modifications, including the following:

(a) a reference to a territorial authority must be read as a reference to Kāinga Ora (other than in section 199H(1) of that Act):

(b) a reference to a district must be read as a reference to a project area:

(c) a reference to a development contributions policy must be read as a reference to the relevant development contributions policy:

(d) a reference to section 150A of that Act must be read as a reference to **section 227** of this Act:

(e) a reference to section 199B of that Act must be read as a reference to **section 224(5)** of this Act:

(f) a reference to section 199C of that Act must be read as a reference to **section 225** of this Act:

(g) a reference to section 208 of that Act must be read as a reference to **section 230** of this Act.

227 Costs of development contributions objections

(1) Kāinga Ora may recover from a person who lodges an objection its actual and reasonable costs incurred in respect of—

(a) the selection, engagement, and employment of the development contributions commissioners; and

(b) the secretarial and administrative support of the objection process; and

(c) preparing for, organising, and holding the hearing.

(2) Kāinga Ora may, in any particular case and in its absolute discretion, waive or remit the whole or any part of any costs that would otherwise be payable under this section.

(3) Money payable under this section is recoverable by Kāinga Ora as a debt.

Compare: 2002 No 84 ss 150A, 252

Other matters

228 Use of development contributions for reserves

(1) Kāinga Ora must use a development contribution required for reserves purposes for developing or purchasing land for reserves within or adjacent to the relevant project area, which may include any 1 or more of the following:

(a) the development of community facilities associated with the use of a reserve:

(b) the provision or improvement of community facilities at a school established or about to be established under Part 12 of the Education Act 1989, if—

(i) a licence has been granted under section 6A of the Education Lands Act 1949 or section 70B of the Education Act 1989 in relation to the use or occupation of the community facilities; and

(ii) the Minister for Sport and Recreation has notified Kāinga Ora in writing that he or she is satisfied that the licence provides for the reasonable use of the community facilities by members of the public:

(c) the purchase of land that is, or will be, subject to a covenant under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:

(d) payment, on terms and conditions Kāinga Ora thinks fit, to—

(i) a local authority or public body in which land is vested to enlarge, enhance, or develop the land for public recreation purposes:

(ii) the administering body of a reserve held under the Reserves Act 1977 to enlarge, enhance, or develop the reserve:

(iii) the trustees or body corporate in whom is vested a Māori reservation to which section 340 of Te Ture Whenua Maori Act 1993 applies, to enhance the reservation for cultural or other purposes:

(iv) any person, to secure an appropriate interest in perpetuity in land for conservation purposes.

(2) This section is subject to **section 229**.

Compare: 2002 No 84 s 205

229 Alternative uses of development contributions for reserves

(1) This section applies if Kāinga Ora considers that, in a project area or areas adjacent to it,—

(a) there are adequate reserves; or

(b) it is impracticable to set apart, develop, or purchase land for reserves.

(2) Kāinga Ora may, if it considers it will benefit the residents in the project area, use a development contribution required for reserves purposes—

(a) to purchase or develop, for public recreation purposes, any land that is, or will be,—

(i) vested in, or controlled by, Kāinga Ora, a relevant territorial authority, or the Crown; or

(ii) developed in partnership with a relevant territorial authority or a third party:

(b) to make payments or advance money to a relevant territorial authority or a public body for public recreational purposes.

(3) Kāinga Ora may make a payment under **subsection (2)(b)** only—

(a) with the consent of the joint Ministers; and

(b) on the terms and conditions that the joint Ministers think fit.

Compare: 2002 No 84 s 206

230 Consequences if development contributions unpaid

(1) Until a development contribution required by Kāinga Ora has been paid, Kāinga Ora may,—

(a) in the case of a development contribution required when a resource consent is granted,—

(i) withhold a certificate under section 224(c) of the Resource Management Act 1991; or

(ii) prevent the commencement of a resource consent under the Resource Management Act 1991; or

(b) in the case of a development contribution required when a building consent is granted, require that a code compliance certificate under section 95 of the Building Act 2004 be withheld; or

(c) in the case of a development contribution required in accordance with **section 222(3)**, require that a certificate of acceptance under section 99 of the Building Act 2004 be withheld; or

(d) in the case of a development contribution required when an authorisation for a service connection is granted, withhold a service connection to the development.

(2) In any case where the development contribution is unpaid, Kāinga Ora may register the development contribution under subpart 5 of Part 3 of the Land Transfer Act 2017 as a charge on the title of the land in respect of which the development contribution was required.

(3) A relevant territorial authority or a building consent authority may, as appropriate and by agreement with Kāinga Ora, exercise the powers under **subsection (1)** on Kāinga Ora's behalf.

(4) Section 99AA of the Building Act 2004 applies if a certificate of acceptance is withheld under **subsection (1)(c)**.

Compare: 2002 No 84 s 208

231 Refund of development contributions if developments do not proceed

(1) Kāinga Ora must refund or return a development contribution paid or otherwise given to Kāinga Ora if—

(a) the relevant resource consent lapses or is surrendered; or

(b) the building consent lapses under section 52 of the Building Act 2004; or

(c) the development or building in respect of which the resource consent or building consent was granted does not proceed; or

(d) Kāinga Ora does not provide, or ensure the provision of, the reserve, roading or non-roading infrastructure, or community facility for which the development contribution was required within 10 years after receiving the contribution.

(2) However, Kāinga Ora may retain a portion of the development contribution equivalent to the costs incurred by Kāinga Ora in relation to the development and its discontinuance.

Compare: 2002 No 84 s 209

232 Refund of development contributions if not used for reserve purposes

(1) If a development contribution has been required for reserves purposes, Kāinga Ora must—

(a) refund money received under the contribution, if the money is not applied for a purpose set out in **section 228 or 229** within the period specified in the relevant development contributions policy (or within 10 years after Kāinga Ora receives the money, if no period is specified); or

(b) return land acquired under the contribution, if the land is not used for a purpose set out in **section 228 or 229** within the period agreed between Kāinga Ora and the person who made the contribution (or within 10 years after Kāinga Ora acquires the land, if no agreement is made).

(2) However, Kāinga Ora may retain a portion of the development contribution equivalent to the costs incurred by Kāinga Ora in refunding the money or returning the land.

Compare: 2002 No 84 s 210

233 Development agreements

(1) Kāinga Ora may enter into a development agreement instead of, or in addition to, requiring a development contribution.

(2) The development agreement must include—

(a) a description of the land to which the agreement relates, including its legal description; and

(b) details of the reserves, roading or non-roading infrastructure, or community facilities that each party will pay for or provide.

(3) The development agreement is a legally enforceable contract once it is signed by all parties who will be bound by the agreement.

(4) The development agreement must not require a person to—

(a) grant a resource consent; or

(b) issue a building consent under the Building Act 2004; or

(c) issue a code of compliance under the Building Act 2004; or

(d) grant a certificate under section 244 of the Resource Management Act 1991; or

(e) issue an authorisation for a service connection.

(5) A person may not refuse to grant or issue anything referred to in **subsection (4)** on the basis that a development agreement has not been entered into under this section.

(6) *See* **section 223** (limits on power to require development contribution) if a development agreement is entered into in addition to requiring a development contribution.

234 Review of development contributions policy

(1) Kāinga Ora must review a development contributions policy at least once every 3 years after the development plan that contains the policy becomes operative under **section 86(5)**.

(2) The review must use a consultation process that gives effect to the requirements of section 82 of the Local Government Act 2002 (which applies, with all necessary modifications, as if Kāinga Ora were a local authority).

(3) **Section 93** does not apply to the review of a development contributions policy under this section.

Subpart 4—Betterment payments

235 Betterment arising from forming or widening road

(1) Section 326 of the Local Government Act 1974 applies to the forming or widening of a road by Kāinga Ora in a project area.

(2) That section applies with all necessary modifications, including the following:

(a) a reference to the council must be read as a reference to Kāinga Ora:

(b) a reference to the district must be read as a reference to the project area:

(c) a reference to acquiring or taking land under the Public Works Act 1981 must be read as acquiring or taking land under **section 253**:

(d) a reference to an amount being payable or ascertained in accordance with the Public Works Act 1981 must be read as a reference to an amount being payable or ascertained in accordance with—

(i) **section 256**; and

(ii) **subsection (3)**, if the payment is to be made in respect of Māori land:

(e) section 326(11) of that Act does not apply.

(3) If this subsection applies, the amount to be paid to Kāinga Ora must take into account the restrictions on alienating Māori land under Te Ture Whenua Maori Act 1993 and the effect they have on the market for Māori land.

236 Betterment arising from public transport infrastructure

(1) This section applies if—

(a) Kāinga Ora acquires or takes a part of any land under **section 253** for the purposes of developing public transport infrastructure in a project area; and

(b) the part of the land that remains with the land owner will have access or frontage to the infrastructure; and

(c) by reason of the development, the value of the remaining part of the land is increased by an amount that exceeds the amount of compensation payable for the acquisition or taking under **section 256**.

(2) Kāinga Ora may require the land owner to pay to it the amount of the excess in accordance with section 326(3) to (10) of the Local Government Act 1974, which applies with the following modifications:

(a) the reference in section 326(3) of that Act to subsection (1) or (2) must be read as a reference to this section:

(b) the modifications set out in **section 235(2)**.

(3) In this section, **public transport infrastructure** means 1 or more of the following:

(a) bus ways and rail lines:

(b) cycle ways, pedestrian ways, and shared-access ways:

(c) facilities for infrastructure described in **paragraph (a) or (b)**.

237 Betterment revenue must be used for land transport infrastructure

Kāinga Ora must use any money received under **section 235 or 236** for the purpose of acquiring land for, or developing, land transport infrastructure that is—

(a) within the project area from which the revenue was received; or

(b) outside the project area, so long as the land transport infrastructure directly benefits all or a part of the project area.

Subpart 5—Infrastructure and service charges

238 Kāinga Ora may fix infrastructure and service charges

(1) Kāinga Ora may fix a charge for a connection to infrastructure or a service provided by Kāinga Ora if—

(a) the infrastructure or service is part of a specified development project; and

(b) the charge is prescribed in the project's development plan.

(2) A charge fixed under this section may only—

(a) apply to infrastructure or services provided by Kāinga Ora that are not otherwise funded by targeted rates, development contributions, or betterment payments; and

(b) be payable by a person who—

(i) uses the infrastructure or service; or

(ii) benefits directly from it; and

(c) recover the actual and reasonable costs incurred by Kāinga Ora in providing for the person's use or benefit from the connection or service.

(3) Kāinga Ora may, in any particular case, exercise its discretion to waive or remit the whole or a part of any charge that would otherwise be payable.

(4) A connection referred to in **subsection (1)**—

(a) includes a connection relating to drinking water, wastewater, or stormwater; but

(b) excludes a connection relating to land transport infrastructure.

239 Adjustment of infrastructure and service charges

(1) Kāinga Ora may make a bylaw that adjusts the amount of a charge prescribed in a project's development plan for a connection to infrastructure or a service provided by Kāinga Ora.

(2) Before making the bylaw, Kāinga Ora must consult on the proposed adjustment using a process that gives effect to the requirements of section 82 of the Local Government Act 2002 (which applies, with all necessary modifications, as if Kāinga Ora were a local authority).

Subpart 6—Administrative charges

240 Kāinga Ora may fix administrative charges

(1) Kāinga Ora may fix an administrative charge for the purposes of a specified development project if the charge is prescribed in the project's development plan.

(2) Kāinga Ora may, to the extent authorised by the development plan, fix different charges—

(a) in relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or

(b) where an activity undertaken by the persons liable to pay a charge reduces the cost to Kāinga Ora of exercising its powers or carrying out its functions or duties.

(3) Kāinga Ora may, in a particular case, impose an additional administrative charge to that fixed under this section if the fixed charge is inadequate for Kāinga Ora to recover its actual and reasonable costs.

241 Considerations when fixing or imposing administrative charges

(1) Kāinga Ora must have regard to the matters set out in this section when fixing or imposing an administrative charge.

(2) The sole purpose of a charge is to recover actual and reasonable costs incurred by Kāinga Ora in exercising or carrying out its functions, powers, or duties under **subpart 2 of Part 3**.

(3) A person should not be required to pay a charge except to the extent that 1 or more of the following apply:

(a) the person, as distinct from the community in the project area, obtains a benefit from the actions of Kāinga Ora to which the charge relates:

(b) the need for the actions of Kāinga Ora results from the actions of the person:

(c) if the charge is in respect of the monitoring functions of Kāinga Ora under **section 116(2)**,—

(i) the monitoring relates to the likely effects on the environment of the person's activities; or

(ii) the likely benefit to the person of the monitoring exceeds the likely benefit of the monitoring to the community in the project area.

Compare: 1991 No 69 s 36AAA

242 Kinds of administrative charges

(1) Kāinga Ora may fix 1 or more of the following kinds of administrative charges:

(a) charges payable by the applicant for a resource consent for Kāinga Ora to carry out its functions in relation to receiving, processing, and granting the resource consent (including a certificate of compliance or existing use certificate):

(b) charges payable by a person who requests a private plan change, for Kāinga Ora to carry out its functions in relation to the request:

(c) charges payable by a requiring authority or heritage protection authority for Kāinga Ora to carry out its functions in relation to designations or heritage orders:

(d) charges, for the cost of a hearing and decision (or recommendation) by 1 or more hearings commissioners, payable by the person who requests the hearings commissioners if the person is—

(i) an applicant for a resource consent; or

(ii) a person who requests a private plan change; or

(iii) a requiring authority that gives notice of a requirement for a designation; or

(iv) a heritage protection authority that gives notice of a requirement for a heritage order:

(e) charges payable, as follows, if a person referred to in **paragraph (d)(i) to (iv)** does not request hearings commissioners but 1 or more submitters on the matter do make that request:

(i) charges payable by the relevant person under **paragraph (d)(i) to (iv)** for the amount that Kāinga Ora estimates would be the cost of hearing and deciding (or making a recommendation on) the matter had the request not been made; and

(ii) charges payable by the submitters who made the request for equal shares of any amount by which the cost of hearing and deciding (or making a recommendation on) the matter exceeds the amount payable under **subparagraph (i)**:

(f) charges payable by a holder of a resource consent for the carrying out by Kāinga Ora of its functions in relation to the administration, monitoring, and supervision of the resource consent (including a certificate of compliance or existing use certificate):

(g) charges payable by a holder of a resource consent for the carrying out by Kāinga Ora of its functions in relation to reviewing consent conditions if the review is carried out—

(i) at the request of the consent holder; or

(ii) under section 128(1)(a) or (c) of the Resource Management Act 1991; or

(iii) in accordance with section 128(2) of the Resource Management Act 1991:

(h) charges payable by a person who carries out a permitted activity in a project area, for the monitoring of the activity, if a local authority is empowered to charge for the monitoring in accordance with section 43A(8) of the Resource Management Act 1991:

(i) charges for providing information or documents, payable by the person requesting the information or documents:

(j) any kind of charge that—

(i) relates to the functions, powers, or duties of Kāinga Ora under **subpart 2 of Part 3**; and

(ii) is authorised for the purposes of this section by regulations.

(2) Kāinga Ora may also fix administrative charges to recover its costs in relation to any request to exchange recreation reserve land under section 15AA of the Reserves Act 1977 that is made jointly with—

(a) an application for a resource consent; or

(b) a request for a private plan change.

(3) In **subsection (1)**, a reference to a requiring authority or heritage protection authority does not include Kāinga Ora.

Compare: 1991 No 69 s 36

243 Waiver or remission of administrative charges

Kāinga Ora may, in any particular case, exercise its discretion to waive or remit the whole or a part of any administrative charge that would otherwise be payable.

Compare: 1991 No 69 s 36AAB(1)

244 No action until administrative charges are paid

(1) If an administrative charge is payable to Kāinga Ora, Kāinga Ora need not perform the action to which the charge relates until the charge has been paid to Kāinga Ora in full.

(2) However, **subsection (1)** does not apply to a charge of a kind described in **section 242(1)(e)(ii) or (g)(iii)** (which relates to hearings commissioners requested by submitters or reviews required by a court order).

Compare: 1991 No 69 s 36AAB(2), (3)

245 Publication of administrative charges

Kāinga Ora must publish on its Internet site an up-to-date list of administrative charges that have been fixed under **section 240**.

Compare: 1991 No 69 s 36AAB(4)

246 Adjustment of administrative charges

(1) The amount of administrative charges prescribed in a development plan may be adjusted only by way of—

(a) a formula set out in the development plan that takes account of cost movements and adjusts the charges accordingly; or

(b) a regular review, as prescribed in the development plan, when charges may be adjusted to reflect the changing costs of Kāinga Ora.

(2) If Kāinga Ora proposes to adjust the amount of a charge as a result of the review, it must—

(a) consult on the proposed adjustment using a process that gives effect to the requirements of section 82 of the Local Government Act 2002 (which applies, with all necessary modifications, as if Kāinga Ora were a local authority); and

(b) give public notice of the new amount as soon as practicable after the adjustment is made; and

(c) update the development plan to reflect the new amount.

(3) **Section 93** does not apply to the review of administrative charges referred to in **subsection (1)(b)**.

(4) **Section 94** does not apply to the updating of a development plan under **subsection (2)(c)**.

Part 5
General land acquisition powers

Subpart 1—Preliminary provisions

247 Overview of this Part

(1) This Part empowers 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 249** 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) 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**).

248 Interpretation for this Part

In this Part, unless the context otherwise requires,—

acquired by Kāinga Ora, in relation to land, means land that is transferred to, or acquired or taken for, Kāinga Ora

Crown land has the same meaning as in section 2 of the Public Works Act 1981

development agreement means an agreement entered into under **section 261(2)**

housing—

(a) means 1 or more residences; and

(b) includes—

(i) a dwelling house:

(ii) a retirement village (within the meaning of section 6 of the Retirement Villages Act 2003):

(iii) a facility that is intended to provide health or social care in a residential setting, including a rest home (within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001):

(iv) papakāinga:

(v) temporary accommodation in the nature of a night shelter, wet house, boarding house, hostel, or accommodation provided to persons on bail or parole:

(vi) any structure that is ancillary to housing

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

local authority has the same meaning as in section 2 of the Public Works Act 1981

right of resumption means the right of resumption under **section 262**

specified work has the meaning set out in **section 249**

urban renewal, in relation to a work, means a work associated with the demolition, repair, replacement, reconfiguration, or repurposing of a work that is wholly or partly within an urban area.

249 Meaning of specified work

(1) In this Part, **specified work**—

(a) means a work for the purpose of urban development; and

(b) includes, to the extent the work is for the purpose of urban development,—

(i) a work for the purpose of 1 or more of the following:

(A) housing:

(B) urban renewal:

(C) a transport network (including an aviation and a maritime transport network):

(D) water, energy, or telecommunications infrastructure:

(E) a community facility:

(F) a facility for emergency services:

(G) a waste disposal or recycling facility:

(H) a reserve or other public space:

(I) a crematorium or cemetery (which, to avoid doubt, includes an urupā):

(ii) a work to avoid, remedy, or mitigate the effects of natural hazards or climate change:

(iii) the reinstatement elsewhere of a work located on land that is set apart, acquired, or taken under this Part:

(iv) any other work that is a public work within the meaning of section 2 of the Public Works Act 1981.

(2) However, a work that is to be used for a commercial or industrial purpose is a specified work only if 1 or more of the following apply:

(a) the work is a community facility:

(b) the work supports the development of housing:

(c) the work involves urban renewal.

Subpart 2—Transfer and acquisition of land

250 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 251**):

(b) set apart Crown land or a part of the common marine and coastal area (*see* **section 252**):

(c) acquire or take any other land for Kāinga Ora (*see* **section 253**).

(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 historical 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.

251 Existing public work

(1) The Minister for Land Information may, in accordance with the request under **section 250(1)(a)**,—

(a) transfer an existing public work to Kāinga Ora; and

(b) transfer to, or acquire or take for, Kāinga Ora the land on which the public work is located.

(2) The Minister must,—

(a) if the land is owned by the Crown, transfer the land in accordance with **section 254**; or

(b) if the land is owned by a local authority, acquire or take the land in accordance with **section 253**.

(3) Land that is transferred, acquired, or taken under this section becomes held for a specified work (instead of a public work) and this Part applies accordingly.

252 Crown land and common marine and coastal area

(1) The Minister for Land Information may, in accordance with a request under **section 250(1)(b)**, declare that—

(a) Crown land is set apart for a specified work:

(b) a part of the marine and coastal area is set apart for a specified work.

(2) The Minister must make the declaration by notice in the *Gazette*.

(3) If Crown land is set apart under this section, the Minister must transfer the land to Kāinga Ora in accordance with **section 254**.

253 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 250(1)(c)**; or

(b) if the Minister is required to acquire or take the land by **section 251(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) despite section 26(3) of that Act,—

(i) the land vests in fee simple in Kāinga Ora (rather than in the Crown); and

(ii) any heritage covenant registered in respect of the land under section 41 of the Heritage New Zealand Pouhere Taonga Act 2014 continues to apply:

(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 255** of this Act.

(3) *See* **section 20(3)** (which provides that the Minister may not acquire protected land described in **section 20(4)** under this section except in accordance with section 17 of the Public Works Act 1981 (acquisition by agreement)).

Procedure in certain cases

254 Procedure for transfer of Crown-owned land

(1) This section applies if the Minister for Land information is required to transfer land to Kāinga Ora by **section 251(2)(a) or 252(3)**.

(2) The Minister for Land Information may transfer the land—

(a) only in accordance with the terms and conditions, including the price (if any), agreed between—

(i) the Minister for Land Information; and

(ii) the joint Ministers; and

(iii) the Minister or Ministers who oversee, or are responsible for, the land; and

(b) if the Tāmaki Makaurau Protocol applies to the land, only after—

(i) the Crown has complied with the protocol; or

(ii) the Limited Partnership (within the meaning of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014) has waived its rights under the protocol.

(3) The Minister for Land Information must make the transfer by declaration under section 20 of the Public Works Act 1981, except that title to the land must be transferred to Kāinga Ora.

(4) In this section, **Tāmaki Makaurau Protocol** means the Department of Building and Housing Protocol set out in Part 7 of the Property Redress Schedule to the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed signed on 5 December 2012.

255 Crown agent's right of objection limited if taking is for specified development project

(1) This section applies if land being acquired or taken under **section 253** is owned by a Crown agent.

(2) The Crown agent may not object to the taking of the land to the Environment Court if the land is—

(a) within a project area; or

(b) outside a project area but required for infrastructure to support the specified development project.

(3) Instead, the Crown agent may object to the Minister for Land Information and the Crown agent's responsible Minister.

(4) If an objection is received, the following Ministers must jointly determine whether the acquisition may proceed:

(a) the joint Ministers:

(b) the Minister for Land Information:

(c) the Crown agent's responsible Minister.

Compensation and other matters

256 Compensation may be claimed

(1) If land is acquired or taken under **section 253**, Part 5 of the Public Works Act 1981 applies in relation to the acquisition or taking with all necessary modifications, including the following:

(a) that Part applies 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 253**:

(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.

(2) For the purposes of section 83 of that Act, the Minister is the respondent.

(3) This section is subject to **section 257**.

257 Alternative compensation may be agreed

(1) Instead of receiving compensation under **section 256**, 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 256**.

(3) Kāinga Ora must advise the person of the effect of **subsection (2)** before entering into the agreement.

258 Crown may recover costs from Kāinga Ora

The actual and reasonable costs and expenses incurred by the Minister for Land Information in transferring, acquiring, or taking land in accordance with a

request under **section 250**, including the cost of any compensation paid under **section 256 or 257**, are a debt due by Kāinga Ora to the Crown.

259 Registrar-General must note that land held for specified work

(1) Kāinga Ora must advise the Registrar-General of Land in writing of any transfer of land to, or vesting of land in, Kāinga Ora under this Part.

(2) On receiving the advice, the Registrar-General of Land must, on completion of any surveys that may be necessary,—

(a) issue a record of title for the land in the name of Kāinga Ora; and

(b) note on the record of title the specified work for which the land is held.

Compare: 1981 No 35 s 47

Subpart 3—Transfer of land to developer

260 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 other persons so that they may develop 1 or more specified works on the land.

(2) The transfer must be made in accordance with **section 261**.

261 Preconditions for transfer of land to developer

(1) This section sets out conditions that Kāinga Ora must meet before it may transfer land under **section 260**.

Development agreement

(2) Kāinga Ora must enter into a development agreement with the 1 or more transferees that includes—

(a) a description of the land to which the agreement relates, including its legal description; and

(b) a description of the 1 or more specified works to be developed; and

(c) the date by which each specified work is to be completed; and

(d) how compensation will be determined if the land is resumed under the Crown's right of resumption; and

(e) how disputes between the parties will be resolved.

(3) The development agreement is a legally enforceable contract once it is signed by all parties who will be bound by the agreement.

(4) The development agreement must not require a person to—

(a) grant a resource consent; or

(b) issue a building consent under the Building Act 2004; or

(c) issue a code of compliance under the Building Act 2004; or

(d) grant a certificate under section 224 of the Resource Management Act 1991; or

(e) issue an authorisation for a service connection.

(5) A person may not refuse to grant or issue anything referred to in **subsection (4)** on the basis that a development agreement has not been entered into under this section.

Other preconditions

(6) Kāinga Ora must—

(a) consult the Minister for Treaty of Waitangi Negotiations, if the land is potentially needed for any future settlements of historical claims; and

(b) comply with **section 271**, if the land is former Māori land; and

(c) to avoid doubt, comply with the RFR and RSR (if any), if the land is RFR land.

262 Right of resumption

(1) The Crown has the right to resume title to land transferred under **section 260**.

(2) The right of resumption must be exercised in accordance with **sections 265 and 266**.

(3) The right of resumption ceases to apply if—

(a) the landowner completes the specified work or works in accordance with the development agreement; or

(b) the notation recording the right of resumption is removed from the land's record of title in accordance with a request under **section 264(2)**.

263 Registrar-General of Land must note right of resumption

(1) Kāinga Ora must advise the Registrar-General of Land in writing of the transfer of any land under **section 260**.

(2) The Registrar-General of Land must note the right of resumption on the record of title.

(3) The right of resumption takes precedence over any other interest registered on the title (for example, a mortgage).

264 Removal of notation recording right of resumption

(1) Kāinga Ora must request that the Registrar-General of Land remove the notation recording the right of resumption if the landowner completes the specified work or works in accordance with the development agreement.

(2) Kāinga Ora may request that the Registrar-General of Land remove the notation at any earlier time if Kāinga Ora thinks it appropriate.

(3) The Registrar-General of Land must remove the notation recording the right of resumption if requested to do so in accordance with this section.

(4) A request under this section must be in writing.

265 When right of resumption may be exercised

(1) The Minister for Land Information—

(a) may exercise the right of resumption if Kāinga Ora considers it is reasonably necessary to enable 1 or more specified works to be completed; and

(b) must exercise the right of resumption if the Minister receives a recommendation under **section 268(3)**.

(2) This section does not limit the ability of Kāinga Ora under **section 250** to request that the land be acquired or taken for a specified work.

266 How right of resumption is exercised

(1) The Minister for Land Information must exercise the right of resumption in accordance with Part 2 of the Public Works Act 1981, which applies with all necessary modifications, including the following:

(a) section 18 of that Act does not apply:

(b) section 23(3) of that Act does not apply:

(c) the acquired or taken land vests in fee simple in Kāinga Ora (rather than vesting in the Crown under section 26(3) of that Act):

(d) under section 30 of that Act, the licence, permit, right, privilege, or authority vests in Kāinga Ora (rather than the Crown).

(2) This section does not limit the Minister's power under Part 2 of the Public Works Act 1981 to acquire or take the land for a government work.

Subpart 4—Disposal of land no longer under development

267 Disposal of land if certain specified work completed

(1) This section applies if the only works completed on land acquired by Kāinga Ora under this Part are 1 or more of the specified works described in the following sections:

(a) **section 249(1)(b)(i)(A)** (housing):

(b) **section 249(1)(b)(i)(B)** (urban renewal):

(c) **section 249(1)(b)(iii)** (reinstatement of a work):

(d) **section 249(2)** (a work with a commercial or industrial purpose).

(2) Kāinga Ora or any transferee under **section 260** may transfer the land without complying with **section 268**.

(3) However,—

(a) Kāinga Ora must consult the Minister for Treaty of Waitangi Negotiations before it transfers land under this section if the land is potentially needed for any future settlements of historical claims; and

(b) former Māori land must be transferred in accordance with **section 271**.

(4) For the purposes of this section, a specified work is **completed** when the work is completed—

(a) in accordance with the development agreement, if the land is owned by a transferee under **section 260**; or

(b) otherwise to the satisfaction of Kāinga Ora, if—

(i) the land is owned by Kāinga Ora; or

(ii) the land is owned by a transferee under **section 260** and the work has not been completed in accordance with the development agreement.

(5) To avoid doubt, if the land is RFR land, Kāinga Ora must comply with the RFR and RSR (if any) before transferring the land under this section.

268 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 267 or 270**.

(2) If the land is owned by Kāinga Ora,—

(a) 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 (which apply, with all necessary modifications, as if the land were owned by the Crown and held for a public work); or

(b) the land must be disposed of in accordance with **section 271(1)(b)**, if the land is former Māori land.

(3) If the land is owned by a transferee under **section 260**,—

(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)**.

(4) Kāinga Ora must consult the Minister for Treaty of Waitangi Negotiations if the land—

(a) is to be disposed of under **subsection (2)(a)** in accordance with section 42 of the Public Works Act 1981; and

(b) is potentially needed for any future settlements of historical claims.

(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 260**,—

(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.

(6) To avoid doubt, if the land is RFR land, Kāinga Ora must comply with the RFR and RSR (if any) before the land is disposed of in accordance with section 40(4) or 42 of the Public Works Act 1981.

269 Land may be set apart for different specified work

(1) The Minister for Land Information may declare land acquired by Kāinga Ora under this Part to be set apart for another specified work that is initiated, facilitated, or undertaken by Kāinga Ora.

(2) The Minister must make the declaration in accordance with section 52 of the Public Works Act 1981 (which applies, with all necessary modifications, as if a specified work were a government work).

(3) No consent referred to in section 52(2) or (3) of that Act is required if a development plan provides for the setting apart.

270 Land may be disposed of for public work

(1) Land acquired by Kāinga Ora under this Part (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.

(2) For the purposes of **subsection (1)**, that Act applies, with all necessary modifications, as if a specified work were a public work and Kāinga Ora were a local authority.

(3) Kāinga Ora must consult the Minister for Treaty of Waitangi Negotiations before disposing of land to a local authority under **subsection (1)** if the land is potentially needed for any future settlements of historical claims.

Subpart 5—Transfer or disposal of former Māori land

271 Rules for transferring or disposing of former Māori land

(1) Former Māori land on which a specified work is initiated, facilitated, or undertaken by Kāinga Ora may be—

(a) transferred only to Kāinga Ora, the Crown, or a local authority in accordance with this Act or the Public Works Act 1981; or

(b) transferred or disposed of to another person only if the land is first offered to the land's former owners in accordance with sections 40 and 41 of the Public Works Act 1981 (as modified by **section 272**).

(2) The offer under **subsection (1)(b)** must be made by—

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

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

(3) The chief executive under the Public Works Act 1981 must make the offer at the request of Kāinga Ora if the land is owned by Kāinga Ora.

(4) The land does not need to be offered to its former owners under **subsection (1)(b)** if the land has already been offered to them under **section 21(2)(b)**.

(5) To avoid doubt, if the land is also RFR land, the landowner—

(a) must offer the land to its former owners under **subsection (1)(b)** before offering it to the RFR holder or RSR holder (if any); and

(b) may transfer or dispose of the land in any other way only after complying with the RFR and RSR (if any).

272 Modifications to Public Works Act 1981 for offer back of former Māori land

For the purposes of **section 271(1)(b)**, sections 40 and 41 of the Public Works Act 1981 apply with all necessary modifications, including the following:

(a) a reference to a public work must be read as including a specified work:

(b) land owned by Kāinga Ora must be treated as if it were owned by the Crown:

(c) the chief executive under the Public Works Act 1981 must, regardless of sections 40(1), (2)(a) and (b), and (4) and 41(b) and (c) of that Act (which do not apply),—

(i) comply with section 40(2)(c) and (d) of that Act; or

(ii) in accordance with section 41(e) of that Act, apply for an order under section 134 of Te Ture Whenua Maori Act 1993.

Part 6
Powers of entry, governance, and delegation

Subpart 1—Powers of entry

273 Meaning of authorised person

In this subpart, **authorised person** means a person appointed under **section 278**.

274 Power to enter land and buildings

(1) An authorised person may enter any land or building for any purpose connected with 1 or more of the following:

(a) the assessment of a potential specified development project under **subpart 1 of Part 2**:

(b) the preparation, change, or review of a draft development plan under **subpart 2 of Part 2**:

(c) the exercise of—

(i) roading powers that Kāinga Ora has and that provide for a power of entry:

(ii) non-roading powers that Kāinga Ora has:

(d) the assessment of land for acquisition under **Part 5**.

(2) In exercising the power under **subsection (1)**, an authorised person may—

(a) carry out surveys, investigations, tests, or measurements; and

(b) take samples of any water, air, soil, or vegetation; and

(c) enter the land or building with—

(i) any person who is reasonably required for the purpose for which the entry is made; and

(ii) any vehicle, appliance, machinery, or other equipment that is reasonably required for that purpose.

(3) In this section, **acquisition** includes transfer, setting apart, and taking.

275 Limits on powers of entry: timing and excluded properties

The powers of entry that an authorised person has under this subpart—

(a) may be used only to enter land or a building at reasonable times during ordinary business hours; and

(b) must not be used to enter a dwelling house, marae, or building associated with a marae.

276 Notice of entry

(1) Before entering land or a building under this subpart, Kāinga Ora must give at least 10 working days' written notice of the proposed entry to the owner and the occupier of the land or building.

(2) The notice must state—

(a) that the entry is authorised under this subpart; and

(b) the reason for the entry; and

(c) how, when, and by whom the entry is proposed to be made.

(3) The owner or occupier may apply to the District Court for an order under **subsection (4)** if the owner or occupier—

(a) applies within 10 working days after receiving the notice; and

(b) before making the application, gives notice to Kāinga Ora of their intention to do so.

(4) If it appears to the court that the proposed entry is unreasonable or unnecessary, the court may order that the proposed entry—

(a) must not be undertaken or must not be undertaken in the manner proposed; or

(b) may be undertaken, but only in compliance with any conditions that the court thinks fit.

277 Other requirements when exercising power of entry

(1) An authorised person who is exercising a power of entry under this subpart must carry and produce when asked to do so by the owner or occupier of the land or building—

(a) evidence of their authorisation to enter the land or building; and

(b) evidence of their identity.

(2) If land or a building is unoccupied when an authorised person enters it under a power of entry, the authorised person must attach, in a prominent place, a written notice advising of—

(a) the date and time of the entry; and

(b) the reason for the entry; and

(c) the authorised person's name and phone number; and

(d) an address at which inquiries may be made.

(3) Every person accompanying an authorised person exercising a power of entry is subject to the control of the authorised person.

278 Appointment of authorised persons

(1) Kāinga Ora may, by notice in writing, appoint any of the following persons as authorised persons to exercise 1 or more of the powers of entry under this subpart:

(a) an individual who is—

(i) a Kāinga Ora employee or working for Kāinga Ora as a contractor or secondee; or

(ii) an employee of, or working as a contractor or secondee for, a wholly-owned Crown entity subsidiary of Kāinga Ora:

(b) any other person who Kāinga Ora is satisfied—

(i) is suitably qualified and trained to exercise the powers of entry for which they are appointed; or

(ii) belongs to a class of persons who Kāinga Ora is satisfied is suitably qualified and trained to exercise the powers of entry for which they are appointed.

(2) An authorised person's powers of entry are subject to any conditions or limitations set out in their notice of authorisation.

279 Offence to obstruct authorised person

(1) A person commits an offence if they intentionally obstruct or impede an authorised person, or a person assisting an authorised person, in the exercise of a power under **section 274**.

(2) The person is liable on conviction to a fine not exceeding $1,500.

Subpart 2—Project governance

280 Interpretation for this subpart

In this subpart, **committee** has the same meaning as in section 10(1) of the Crown Entities Act 2004.

281 Application of sections 282 and 283

Sections 282 and 283 apply as required in relation to the following types of urban development projects:

(a) projects that are being assessed as potential specified development projects:

(b) specified development projects:

(c) other urban development projects, if they are undertaken by Kāinga Ora.

282 Factors relevant to decisions on governance of urban development projects

When Kāinga Ora is considering the governance arrangements for urban development projects, it must have regard to the following factors:

(a) the desirability of collaboration and effective partnerships with communities, relevant territorial authorities, and Māori; and

(b) the capability needed to effectively govern projects; and

(c) all other relevant factors.

283 Types of project governance bodies

(1) The project governance body for an urban development project may be Kāinga Ora, or may be an entity of any type (regardless of whether Kāinga Ora has an interest in that entity) including—

(a) a Crown entity subsidiary of Kāinga Ora; or

(b) a committee appointed by the board of Kāinga Ora; or

(c) a company, partnership, joint venture, or trust.

(2) If the establishment order for a specified development project identifies a project governance body by type of entity, Kāinga Ora must appoint for that project a project governance body that is consistent with that type.

Specified development projects with support of territorial authorities from outset

284 Supporting territorial authorities may nominate for appointment to certain committees and boards

(1) This section applies in circumstances where—

(a) a project is a specified development project; and

(b) its project governance body is, or will be,—

(i) a wholly-owned Crown entity subsidiary of Kāinga Ora; or

(ii) a committee appointed by the board of Kāinga Ora; and

(c) 1 or more relevant territorial authorities, before the project's establishment date, responded in writing to Kāinga Ora to support the recommendation of Kāinga Ora to establish the project as a specified development project (the **supporting territorial authorities**).

(2) Every supporting territorial authority—

(a) may nominate 1 person to be appointed as a director of the Crown entity subsidiary's board or a member of the committee (as relevant); and

(b) if that person resigns or is removed from office, may nominate a replacement person.

285 What Kāinga Ora or its board must do with nominations

Kāinga Ora or its board (as relevant) must appoint every person nominated, in accordance with **section 284**, as a director of the Crown entity subsidiary or a member of the committee (as relevant) if satisfied that—

(a) the person nominated is suitable for appointment; and

(b) their appointment can be validly made.

286 Removal of nominated persons

(1) Kāinga Ora or its board (as relevant) may, after consulting the territorial authority who made the nomination, remove any person appointed in accordance with **section 285** for just cause.

(2) The person may be removed with as little formality and technicality, and as much expedition, as is permitted by—

(a) the principles of natural justice; and

(b) a proper consideration of the matter.

(3) In this section, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of duty (depending on the seriousness of the breach).

Compare: 2004 No 115 ss 40, 41

Administrative

287 Kāinga Ora must publish appointments of project governance bodies

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

(a) details of appointments of project governance bodies; and

(b) for each project governance body, a copy of any written notice of delegation to that body.

(2) For specified development projects, the information that this section requires to be published must be published alongside the information published for the project under **section 53**.

(3) In this section, **delegation**—

(a) means a delegation of functions or powers of Kāinga Ora or its board; and

(b) includes any power of subdelegation.

288 Provision applying if period where no project governance body appointed for specified development project

Despite anything to the contrary in this Act, if at any time there is no project governance body appointed for a specified development project, Kāinga Ora is the project governance body.

Subpart 3—Delegations

289 Kāinga Ora must have policy on delegating functions and powers

Kāinga Ora must have a policy that is designed to assist Kāinga Ora—

(a) to consider, in the course of performing its functions and exercising its powers to undertake urban development projects, whether it could most efficiently and effectively do that by means of its own operations, or by delegating to appropriate persons; and

(b) to monitor, at appropriate times, decisions it has made on matters covered by the policy.

290 Duty of Kāinga Ora relating to delegated functions and powers

(1) This section applies in relation to any delegation, by or authorised by the board of Kāinga Ora, of 1 or more of the functions or powers of Kāinga Ora under this Act.

(2) Kāinga Ora must ensure that the person who is delegated the function or power has the capability and capacity, as relevant,—

(a) to act in accordance with **subpart 1 of Part 1**; and

(b) to understand and apply Te Ture Whenua Maori Act 1993; and

(c) to engage with Māori and understand perspectives of Māori.

291 Functions and powers that may not be delegated outside Kāinga Ora

(1) **Subsection (2)** lists functions and powers of Kāinga Ora that its board may delegate only to the following person or persons:

(a) a member or members:

(b) the chief executive or any other employee or employees, or office holder or holders, of Kāinga Ora:

(c) a committee appointed by the board of Kāinga Ora:

(d) any class of persons comprising any of the persons listed in **paragraphs (a) to (c)**:

(e) a Crown entity subsidiary of Kāinga Ora.

(2) The functions and powers are—

(a) any functions and powers in **Part 5**:

(b) the powers in **Part 4** to set a targeted rate.

(3) This section applies despite section 73(1)(d) of the Crown Entities Act 2004.

292 Development plan for specified development project may approve delegations

(1) This section applies if the development plan for a specified development project identifies a proposed delegation, to a specified person, of specified functions and powers relating to the project.

(2) In respect of the proposed delegation to the person, the development plan satisfies the requirement for approval by the responsible Minister for Kāinga Ora under section 73(1)(d) of the Crown Entities Act 2004.

(3) This section does not limit **section 291**.

293 Certain delegations subject to relevant territorial authority approval

(1) This section applies if, in relation to a specified development project, the board of Kāinga Ora delegates any of its functions and powers to—

(a) a local authority; or

(b) in Auckland, Auckland Transport.

(2) In addition to the approval required under section 73(1)(d) of the Crown Entities Act 2004, the delegate must first be approved by the relevant territorial authority.

294 Amendment to Kāinga Ora–Homes and Communities Act 2019

(1) This section amends the Kāinga Ora–Homes and Communities Act 2019.

(2) In Schedule 1, after clause 3(2), insert:

(2A) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), the Corporation and Kāinga Ora–Homes and Communities are treated as the same person.

295 Amendments to other Acts

Amend the enactments specified in **Schedule 4** as set out in that schedule.

Schedule 1
Transitional, savings, and related provisions

s 12

Part 1
Provisions relating to this Act as enacted

Restrictions on development of former Māori land and RFR land

1 Sections 21 and 22 do not apply to existing urban development projects

Sections 21 and 22 do not apply to an urban development project if, before those sections commence, any of the following has been done for the purposes of the project:

(a) a development agreement or construction contract has been entered into:

(b) an application for a resource consent or a building consent has been made.

Schedule 2
Transfer and disestablishment

s 57

Contents

Preliminary provisions

1 Application

This schedule applies to a specified development project if Kāinga Ora considers it is appropriate or desirable—

(a) to transfer certain assets within the ownership or control (or both) of Kāinga Ora from Kāinga Ora to another agency; or

(b) to disestablish a specified development project because—

(i) Kāinga Ora is satisfied that the project objectives have been achieved; or

(ii) for any other reason.

2 Interpretation

In this schedule, unless the context otherwise requires,—

assets includes—

(a) land, buildings, and infrastructure within the project area that are owned or controlled (or both) by Kāinga Ora; and

(b) permits operated by Kāinga Ora that relate to the specified development project and the project area, such as resource consents and designations; and

(c) the financial assets and instruments relevant to the specified development project

revenue means the revenue derived from rating and other funding sources approved for a specified development project in an operative development plan

transferee means the agency named in the transfer order or disestablishment order as the agency to receive any asset of Kāinga Ora, including—

(a) 1 or more relevant local authorities:

(b) 1 or more government agencies:

(c) a network utility operator:

(d) any parties who agree to the transfer in accordance with **clause 3**.

Transfer

3 Transfer by agreement

(1) If Kāinga Ora and a transferee agree to transfer an asset in accordance with a written proposal and on agreed terms, the transfer may be made in accordance with the relevant law.

(2) Kāinga Ora must give notice of the agreement to make the transfer on its Internet site, with details of—

(a) the identity of the transferee; and

(b) the asset to be transferred and, if applicable, any revenue associated with the asset.

(3) On the date that an asset is transferred to the transferee, any ongoing operations and maintenance of the asset become the responsibility of the transferee.

Transfer order

4 Transfer by transfer order

(1) This clause applies if—

(a) agreement with the transferee cannot be reached under **clause 3** on the proposed transfer, or on the terms of the transfer; or

(b) a transfer order is necessary or desirable to effect a transfer.

(2) The Governor-General, by Order in Council made on the recommendation of the responsible Minister, may make an order transferring the ownership or control of an asset from the ownership or control of Kāinga Ora to a transferee.

(3) The responsible Minister may recommend the making of an order if Kāinga Ora has provided a report to that Minister that sets out, in sufficient detail to enable that Minister to make a recommendation, the following:

(a) the name and contact details of the proposed transferee; and

(b) the asset to be transferred and, if applicable, any revenue associated with the asset; and

(c) the terms and conditions of any transfer; and

(d) the reasons for making the transfer; and

(e) the reasons why the proposed transferee did not agree to the transfer.

(4) A transfer order must not transfer monetary debts of Kāinga Ora to a transferee without the transferee's prior consent.

Disestablishment

5 Disestablishment by expiry of time limit

A specified development project lapses and is disestablished if a draft development plan is not notified under **section 76**—

(a) within 5 years of the commencement date of the establishment order; or

(b) within a different period specified in the establishment order.

6 Disestablishment proposal

(1) Kāinga Ora must prepare a disestablishment proposal if it considers it is appropriate that the whole or a part of a specified development project be disestablished.

(2) The joint Ministers must recommend to Kāinga Ora that a disestablishment proposal be prepared for a specified development project if the joint Ministers are satisfied that it is appropriate to disestablish the specified development project, having regard to **subpart 1 of Part 1**.

(3) Before preparing a disestablishment proposal under this section, Kāinga Ora must engage with the local authorities with responsibility in the project area and any potential transferee who may receive the assets of a specified development project under a disestablishment order.

(4) A disestablishment proposal must set out the information relevant to the specified development project and its disestablishment, including—

(a) the extent to which the project objectives have been achieved; and

(b) the reasons for proposing the disestablishment; and

(c) the date on which disestablishment is proposed to come into force; and

(d) the 1 or more proposed transferees; and

(e) the consultation undertaken with the 1 or more proposed transferees, and their views on the proposal; and

(f) any key stakeholders affected by the proposed disestablishment; and

(g) to the extent that Kāinga Ora continues to own or control them, the assets relating to the specified development project that are to be transferred by or under the disestablishment order; and

(h) why a disestablishment order is considered appropriate; and

(i) any other matters that Kāinga Ora considers appropriate or that the Minister requests.

(5) The responsible Minister may refer a disestablishment proposal back to Kāinga Ora for amendment before making a recommendation under **clause 7**.

7 Governor-General may make disestablishment order

(1) If the responsible Minister accepts the disestablishment proposal, that Minister may recommend to the Governor-General that a disestablishment order be made in respect of the specified development project.

(2) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, disestablish a specified development project.

8 Contents of disestablishment order

(1) A disestablishment order must include the following:

(a) the reason for the order being made; and

(b) the date on which the disestablishment order comes into force; and

(c) the assets identified in the disestablishment proposal to be transferred from Kāinga Ora by the disestablishment order; and

(d) any designations that must be transferred to the district plan; and

(e) the 1 or more transferees of those assets; and

(f) the arrangements made for debts in relation to the assets being transferred.

(2) A disestablishment order may provide for assets to be transferred in stages.

(3) If a specified development project is being disestablished in part, the disestablishment order must also state—

(a) which part is to be disestablished; and

(b) which part is to be modified; and

(c) the powers provided under this Act that will no longer apply to that part of the project area.

(4) A disestablishment order must not transfer monetary debts of Kāinga Ora to a transferee, unless the transferee has given prior consent to the transfer.

9 Effect of disestablishment order

(1) On the day on which a disestablishment order for a whole development project comes into force,—

(a) the specified development project ends; and

(b) the assets identified in the disestablishment order transfer to the 1 or more transferees identified in the order.

(2) Unless the disestablishment order provides otherwise, all powers, functions, rights, and duties of Kāinga Ora in relation to the specified development project cease to apply.

10 Arrangements following disestablishment of specified development project

(1) Despite the disestablishment of a specified development project under this Part, an activity lawfully established by or under a development plan continues to be lawful after the disestablishment of the project—

(a) as if it had been authorised under the Resource Management Act 1991; but

(b) only to the extent permitted for an existing activity by section 10, 10A, 10B, or 20A of the Resource Management Act 1991, as the case requires.

(2) After a disestablishment order comes into force, the relevant local authorities, without using the processes in Schedule 1 of the Resource Management Act 1991,—

(a) may adopt any of the resource management objectives, policies, rules, or methods from a development plan; and

(b) must update the district plans to include the designations that were in the development plan; and

(c) must remove the project area from the planning instruments.

(3) **Subclause (2)** applies only in relation to the area of a district that is defined as the project area in the establishment order made under **section 50**.

(4) Any resource management objectives, policies, rules, or methods from a development plan must be adopted within 40 working days of the disestablishment order coming into force.

(5) The modifications to the planning instruments are to be treated as being operative from the date the disestablishment order comes into force.

Schedule 3
Independent hearings panel

s 79(2)

Contents

Establishment of independent hearings panel

1 Purpose of IHP

The purpose of establishing an IHP under this schedule for a specified development project is to ensure that a draft development plan is subject to—

(a) an independent public submission process; and

(b) an independent review; and

(c) independent recommendations to the responsible Minister before the Minister approves the development plan and it becomes operative.

2 Composition of IHP

(1) An IHP must comprise not fewer than 3 members, 1 of whom must be an Environment Judge or alternate Environment Judge, or a former Environment Judge or former alternate Environment Judge, to act as the chairperson of the IHP.

(2) At least 1 member of an IHP who is an accredited person in accordance with section 39A of the Resource Management Act 1991 must be given hearing authority under section 39B of that Act, but more than 1 member who is accredited may be given hearing authority.

(3) Before making appointments to an IHP, the responsible Minister must—

(a) seek advice on, and nominations for, appointments to the IHP, including advice on the appropriate size of the IHP, from the chief executive of the department responsible for the administration of this Act; and

(b) consult the Attorney-General, the Minister for the Environment, the Minister of Conservation, and the Minister for Māori Crown Relations—Te Arawhiti; and

(c) seek nominations from the relevant local authorities and iwi or hapū representatives from within the project area.

(4) The members of the IHP, collectively, must have knowledge of—

(a) the various communities within the project area, including mana whenua groups; and

(b) economic matters that affect property development; and

(c) the Treaty of Waitangi and its principles; and

(d) tikanga Māori as it applies in the project area; and

(e) any iwi participation legislation that applies in the project area; and

(f) the Māori land tenure system under Te Ture Whenua Maori Act 1993, if there is Māori land within the project area.

(5) Members must be appointed in accordance with **clause 3**, but a failure to comply with that provision does not affect the validity of the appointment of a member once made.

(6) The affiliation of a person to a hapū or iwi with mana whenua interests in the project area does not of itself disqualify that person from appointment to an IHP.

(7) As soon as practicable after the Minister has apponted the members of an IHP, Kāinga Ora must give notice on its Internet site—

(a) that an IHP has been established for the relevant specified development project; and

(b) of the names of its members.

3 How members are appointed

(1) Members must be appointed to the IHP by notice in writing from the responsible Minister.

(2) The notice of appointment must—

(a) state the date on which the appointment takes effect; and

(b) state the term of the appointment; and

(c) set out a time frame for the completion of the processes of the IHP; and

(d) specify the terms of reference for the IHP.

(3) However, despite the term of appointment in **subclause (2)(b)**, if the Minister requires an IHP to reconsider any matters in the draft development plan, the Minister may give notice in writing to extend the term of appointment of the members of an IHP to the extent that the Minister considers necessary.

4 When member ceases to be member of IHP

(1) A member of an IHP remains a member until the earliest of the following:

(a) the specified development project is disestablished; or

(b) the term of appointment of that member ends; or

(c) the member dies; or

(d) the member resigns by giving 20 working days' written notice to the responsible Minister; or

(e) the member is removed because the responsible Minister gives written notice removing the member for just cause.

(2) A notice given to the responsible Minister under **subclause (1)(d)** must—

(a) state the date on which the removal takes effect (which must be not earlier that the date on which the notice is received by the member) and the reasons for the removal; and

(b) be copied to the chairperson of the IHP.

(3) A member removed from office under this section is not entitled to compensation or other payment or benefit as a consequence of, or relating to, the member's ceasing to hold office.

(4) In **subclause (1)(e)**, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the IHP or of the individual duties of the member.

5 Protection from liability

(1) A member of an IHP is not liable to any person or body in respect of an act or omission done in good faith in the exercise or performance, or intended exercise or performance, of the member's powers, functions, and duties under this Act.

(2) No action may be brought against a member of an IHP for any loss or damage resulting from any act done or omitted by a member of an IHP in good faith in the exercise or performance, or intended exercise or performance, of the member's powers, functions, and duties under this Act.

Powers

6 Powers and duties of IHP

(1) For the purposes of considering the submissions made on a draft development plan under **section 77**, an IHP may,—

(a) subject to **clause 9(1)**, hold hearings on submissions; and

(b) for the purposes of **paragraph (a)**,—

(i) hold or authorise pre-hearing meetings, conferences of experts, and alternative dispute resolution processes; and

(ii) commission reports; and

(iii) request information and evidence from Kāinga Ora; and

(iv) hear any objections made in accordance with **section 134**; and

(c) exercise or perform any other power, function, or duty conferred or imposed by this Act, or that is incidental and related to, or a consequence of, any of its powers, functions, and duties under this Act.

(2) An IHP must provide recommendations to the responsible Minister on the draft development plan.

(3) An IHP may regulate its own procedure as it thinks fit, except as expressly provided otherwise by this schedule.

Support for, and funding of, IHP

7 Support for IHP

(1) Kāinga Ora must ensure that an IHP is provided with administrative support, provided—

(a) directly by Kāinga Ora to an IHP; or

(b) by a relevant local authority or the Environmental Protection Authority (with the agreement of the local authority or Environmental Protection Authority) on the basis that its costs are recovered from Kāinga Ora; or

(c) by any person who has hearing authority under section 39B of the Resource Management Act 1991 or is otherwise suitably skilled to

undertake the role, as long as the person is not involved in the preparation of the draft development plan or its supporting documents.

(2) The level of support provided is at the sole discretion of Kāinga Ora.

(3) Kāinga Ora may only contract with another person or body to provide administrative support to an IHP if Kāinga Ora is satisfied that the person or body is capable of working effectively with Māori entities.

8 Funding of IHP

(1) Kāinga Ora is responsible for the costs incurred by the IHP and for its activities under this schedule.

(2) An IHP may fix administrative charges to recover its actual and reasonable costs in considering and reporting on a draft development plan.

(3) For the purposes of **subclause (1)**, each member of an IHP must be paid—

(a) remuneration by way of salary, fees, or allowances at a rate determined by the responsible Minister after consultation with Kāinga Ora; and

(b) actual and reasonable travelling and other expenses incurred in carrying out the office of a member in accordance with the Fees and Travelling Allowances Act 1951, which applies as if the members were members of a statutory board within the meaning of that Act.

(4) Without limiting **subclause (1)**, Kāinga Ora has responsibility for—

(a) the remuneration and expenses of the members of an IHP; and

(b) the administrative costs of each hearing, including the costs of the venue and public notices; and

(c) the remuneration of any expert witness, mediator or other dispute resolution facilitator, or other person engaged by the IHP under this subpart; and

(d) the expenses of any expert witness engaged by the IHP.

Administrative matters relating to hearings

9 Hearings

(1) The IHP must hold a hearing of submissions on a draft development plan if a submitter requests to be heard.

(2) For the purposes of **subclause (1)**, the Local Government Official Information and Meetings Act 1987 applies, with any necessary modifications, to an IHP as if the IHP were a board of inquiry with authority to conduct a hearing under section 149J of the Resource Management Act 1991.

(3) A hearing must be held in public unless otherwise permitted under—

(a) **clause 21**:

(b) section 48 of the Local Government Official Information and Meetings Act 1987 (which empowers local authorities to exclude the public from hearings), as that Act applies under this Act.

10 Who may be heard

(1) Every person who has made a submission and stated that they wish to be heard may speak at a hearing session and call evidence, either personally or through a representative.

(2) **Subclause (3)** applies if a person who has filed a submission and indicated that they wish to be heard fails to appear, or the person's representative fails to appear, at the relevant hearing session.

(3) The IHP may proceed with the hearing if it considers it fair and reasonable to do so.

11 Notice of hearings

The IHP must give not less than 10 working days' notice of the dates, times, and places of the hearings to—

(a) every person who made a submission and requested to be heard (and has not withdrawn the request); and

(b) any requiring authority that has a designation in the draft development plan.

12 Conference of experts

(1) An IHP may, at any time during a hearing, direct that a conference of experts be held for the purpose of—

(a) clarifying a matter or issue relating to the draft development plan:

(b) facilitating resolution of a matter or issue relating to that plan.

(2) The conference may be facilitated by a member of the IHP or by a person appointed by the IHP (the **facilitator**).

(3) If the IHP requires it, the facilitator must prepare a report on the conference and provide it in writing to—

(a) the IHP; and

(b) the persons attending the conference.

(4) A report prepared under **subclause (3)** must not, without the person's consent, include any material that the person communicated or made available at the meeting on a without-prejudice basis.

13 Mediation

(1) An IHP may, on its own motion or on request, at any time during a hearing, refer to mediation the persons referred to in **subclause (2)** if the IHP con-

siders that it is appropriate to do so and likely to resolve issues between the parties in relation to the draft development plan.

(2) The persons who may be referred to mediation are—

(a) any of the submitters:

(b) any other person that the IHP considers appropriate.

(3) The IHP must appoint the mediator.

(4) Each person participating in the mediation must—

(a) be present in person; or

(b) have at least 1 representative present with authority to make decisions on behalf of the person represented on any matters that may reasonably be expected to arise in the mediation process.

(5) A person referred to mediation may apply to the IHP for leave not to participate in the mediation process.

(6) The IHP may grant leave if it considers it is not appropriate for the person to participate in the mediation.

(7) The mediator must report the outcome of the mediation to the IHP in writing.

(8) A report prepared under **subclause (7)** must not, without the person's consent, include any material that the person communicated or made available at the mediation on a without-prejudice basis.

(9) In this section, **mediation** includes any other alternative dispute resolution process.

14 Consequence of submitter not attending mediation

(1) If a submitter is required to attend mediation but fails to attend without reasonable excuse, the IHP may decline to consider the submitter's submissions.

(2) If the IHP acts under **subclause (1)**, the person—

(a) has no right of appeal under **section 88**; and

(b) is not eligible to be a party to the proceeding as a result of another party exercising an appeal right under that section.

(3) However, the person may object under **section 134**.

15 Late submissions

(1) This section applies to submissions received after the closing date for those submissions (**late submssions**).

(2) The chairperson of an IHP must decide for each late submission whether to waive the requirement that submissions must be provided before the closing date.

(3) The chairperson must take into account—

(a) the interests of persons who may be directly affected by the waiver; and

(b) the need to ensure an adequate assessment of the effects of the draft development plan; and

(c) the stage of the hearing when the submissions became available to the IHP.

(4) A decision of the chairperson under this section is final and there is no right of appeal or objection.

Procedural matters relating to hearings

16 Hearing procedure

(1) At each hearing on a draft development plan, at least 2 members of the IHP must be present throughout the hearing.

(2) If the chairperson is not present, the chairperson must appoint another member of the IHP to act as chairperson for the duration of the chairperson's absence.

(3) At a hearing, the IHP—

(a) may permit a party to question another party or witness; and

(b) may permit cross-examination; and

(c) must receive evidence written or spoken in Māori, subject to **subclause (4)**; and

(d) must permit the use of New Zealand sign language, subject to **subclause (5)**.

(4) If evidence is given in Māori, Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies as if the hearing under this Act were legal proceedings before a tribunal named in Schedule 2 of that Act.

(5) If evidence is given using New Zealand sign language, the New Zealand Sign Language Act 2006 applies as if the hearing were legal proceedings before a court or tribunal named in the Schedule of that Act.

(6) Except as provided in **subclauses (4) and (5)**, the IHP must establish a procedure for the hearing that—

(a) is appropriate and fair in the circumstances (including in respect of granting any waiver of the requirements of the IHP); and

(b) avoids unnecessary formality; and

(c) recognises tikanga Māori where appropriate.

(7) An IHP must keep a record of the hearing and any related proceedings.

(8) This section does not prevent or limit—

(a) Kāinga Ora making a recommendation on a matter raised in a submission in accordance with **section 78**; or

(b) an IHP requesting further information from Kāinga Ora under **section 80(2)**.

(9) A failure by an IHP or Kāinga Ora to comply with this section does not invalidate a hearing.

17 Kāinga Ora must attend hearings

(1) Kāinga Ora must attend hearings so that it is available to assist an IHP in any of the following ways:

(a) to clarify or discuss issues raised in the hearing, including in the submssions:

(b) to give evidence:

(c) to provide any other relevant information requested by the IHP.

(2) However, an IHP may excuse Kāinga Ora from attending or remaining at a hearing.

18 Other procedural matters

(1) The following provisions of the Inquiries Act 2013 apply as if an IHP were a public inquiry and the hearing were a hearing of an inquiry under that Act:

(a) section 14 (powers to maintain order):

(b) section 19 (evidence):

(c) section 23 (power to summon witnesses):

(d) section 25 (expenses of witnesses and other participants):

(e) section 27 (protection of witnesses and other persons).

(2) A summons to a witness must comply with section 23(2) of the Inquiries Act 2013.

(3) The expenses of a witness must be paid by the party on whose behalf the witness was called, but if the witness was called by an IHP, Kāinga Ora must pay the expenses of that witness.

(4) A IHP may request, and receive, from a person who is heard by the IHP or represented at a hearing, any information or advice that is relevant and reasonably necessary for the IHP to make its recommendations under **section 82**.

19 Directions as to providing briefs of evidence

(1) A IHP may direct a submitter or Kāinga Ora to provide briefs of evidence to the IHP in writing before the commencement of a hearing.

(2) A submitter or Kāinga Ora must comply with a direction given under **subclause (1)**.

(3) An IHP must give notice electronically to any relevant submitters of briefs of evidence made available under this clause or provided under **clause 17(1)(c)**.

20 Directions and requests at or before hearing

(1) Before or at a hearing, an IHP may—

(a) direct the order of business at the hearing, including the order in which submissions and evidence are presented:

(b) direct that submissions and evidence be recorded, taken as read, or limited to matters in dispute:

(c) direct a submitter to present a submission or evidence within a time limit:

(d) request a submitter to provide further information.

(2) Before or at a hearing, an IHP may direct that the whole or part of a submission be struck out if the IHP considers that—

(a) the whole or part of the submission is frivolous or vexatious; or

(b) the whole or part of the submission discloses no reasonable or relevant case; or

(c) it would otherwise be an abuse of the hearing process to allow the whole submission or a part of it to be taken further.

(3) At a hearing, an IHP may direct a submitter not to present—

(a) the whole of a submission, if the whole submission is irrelevant or about matters not in dispute; or

(b) any part of the submission that is irrelevant or about matters not in dispute; or

(c) any part of the submission that does not relate to the part of the draft development plan under consideration at the hearing.

(4) If an IHP gives a direction under **subclause (2) or (3)**, it must record its reasons for the direction.

(5) A person whose submission is struck out under **subclause (2)** has a right of objection under **section 134**, which must be heard by the full IHP.

21 Protection of sensitive information

(1) An IHP may, on its own motion or on the application of a submitter, make an order described in **subclause (2)**if it is satisfied—

(a) that the order is necessary to avoid—

(i) serious offence to tikanga Māori; or

(ii) the disclosure of the location of wāhi tapu; or

(iii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and

(b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available.

(2) An order may—

(a) require that the whole or part of a hearing or hearings at which the information is likely to be referred to must be held with the public excluded:

(b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the IHP in the course of any proceedings, whether or not the information may be material to any aspect of the draft development plan.

(3) An order descibed in **subclause (2)(a)** must be deemed, for the purposes of section 48(3) to (5) of the Local Government Official Information and Meetings Act 1987, to be a resolution passed under those provisions.

(4) An IHP must require Kāinga Ora to make any orders made under this clause available for inspection on its Internet site and at its offices.

(5) A party to a hearing may apply to the Environment Court for an order cancelling or varying an order made by the IHP under this clause.

(6) If an application is made under **subclause (5)**, an Environment Judge sitting alone may, having regard to the matters set out in this clause and other matters that the Judge thinks fit,—

(a) make an order cancelling or varying an order made by the IHP under this section on the terms that the Judge thnks fit; or

(b) decline to make an order.

22 IHP may commission reports

An IHP may, at any time during a hearing, require Kāinga Ora to commission, or itself commission, a consultant or other person to prepare a report on—

(a) any submissions:

(b) any matter arising from a hearing:

(c) any other matter that the IHP considers necessary for the purposes of the IHP making its recommendations.

23 Evidence and reports must be made available

(1) An IHP must require Kāinga Ora to make available for inspection on its Internet site and at its offices—

(a) any written evidence and further information received by the IHP during the hearing; and

(b) any written report provided to the IHP under **clause 12 or 13**.

(2) However, this clause does not apply to any evidence or part of a report that an IHP considers it is not reasonable to make available for inspection.

Schedule 4
Amendments to other Acts

s 295

Electricity Act 1992 (1992 No 122)

After section 24A(4), insert:

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the **Urban Development Act 2019**.

Environmental Protection Authority Act 2011 (2011 No 14)

After section 13(c)(iia), insert:

(iib) to provide support services to an IHP established under **Schedule 3** of the **Urban Development Act 2019**:

Gas Act 1992 (1992 No 124)

After section 25A(4), insert:

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the **Urban Development Act 2019**.

Kāinga Ora–Homes and Communities Act 2019 (2019 No 50)

In section 20, insert as subsection (2):

(2) Kāinga Ora–Homes and Communities and Housing New Zealand Limited may not use the exception in section 11(1)(c)(i) of the Waikato Raupatu Claims Settlement Act 1995.

Land Transport Management Act 2003 (2003 No 118)

In section 5(1), insert in their appropriate alphabetical order:

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

specified development project has the same meaning as in **section 9** of the **Urban Development Act 2019**

After section 23(4), insert:

(5) Kāinga Ora–Homes and Communities is deemed to be an approved public organisation under this section in relation to its activities that are part of delivering specified development projects.

Replace section 103(8) with:

(8) Before making a declaration under subsection (1) or varying or revoking a declaration under subsection (4), the Agency must consult any regional council or territorial authority that may be affected by the proposed declaration, variation, or revocation and,—

Land Transport Management Act 2003 (2003 No 118)—*continued*

(a) if the road concerned is within Auckland, the Agency must also consult Auckland Transport and the Auckland Council; and

(b) if the road concerned is within a project area for a specified development project, the Agency must also consult Kāinga Ora–Homes and Communities.

After section 115(2), insert:

(3) In this section, **territorial authority** includes Kāinga Ora–Homes and Communities if there are any specified development projects in the region.

After section 121(1)(c)(i)(E), insert:

(EA) if there are any specified development projects in the region, Kāinga Ora–Homes and Communities:

After section 125(1)(g), insert:

(h) if there are any specified development projects in the region, Kāinga Ora–Homes and Communities.

Local Government (Rating) Act 2002 (2002 No 6)

After section 20, insert:

20A Rates not to overlap with targeted rates under Urban Development Act 2019

(1) This section applies if an Order in Council under **section 190 of the Urban Development Act 2019** authorises Kāinga Ora—Homes and Communities (**Kāinga Ora**) to set targeted rates under that Act for a project area within a local authority's district.

(2) The local authority may set a rate to fund activities or groups of activities only to the extent that the order does not authorise Kāinga Ora to set targeted rates to fund those activities or groups of activities.

Examples

Example 1

The order authorises Kāinga Ora to set a targeted rate to fund roading within a project area.

The local authority for the district in which the project area is located may set its own targeted rate to fund roading in a part of its district that is outside the project area.

Example 2

A wastewater system serves the entire district of a local authority.

The order authorises Kāinga Ora to set a targeted rate to fund the upgrade of the part of the wastewater system that serves the project area.

Local Government (Rating) Act 2002 (2002 No 6)—*continued*

The local authority may set its general rate at a level that enables it to fund the general maintenance and operation of the wastewater system across its entire district, including the part of the system that serves the project area.

(3) If an example in this section is inconsistent with **subsection (2)**, **subsection (2)** prevails.

After section 27(4)(c), insert:

(d) if the unit is subject to targeted rates under the **Urban Development Act 2019**, the information required under **section 211** of that Act.

After section 37(1)(b), insert:

(c) if the unit is subject to targeted rates under the **Urban Development Act 2019**, the information required under **section 212** of that Act.

After section 44(2), insert:

(3) If a ratepayer is liable for targeted rates under the **Urban Development Act 2019**, a rates assessment delivered under this section must also give the notice required by **section 201(1)** of that Act.

After section 45(1A), insert:

(1B) If the ratepayer is liable for targeted rates under the **Urban Development Act 2019**, the rates assessment must also identify the matters required by **section 202(1)** of that Act.

After section 46(2), insert:

(2A) If the ratepayer is liable for targeted rates under the **Urban Development Act 2019**, the rates invoice must also identify the matters required by **section 203(1)** of that Act.

Public Works Act 1981 (1981 No 35)

After section 23(1), insert:

(1A) If the land to be taken is within a project area under the **Urban Development Act 2019**, the Minister or local authority must not do anything described in subsection (1) without the consent of the responsible Minister within the meaning of **section 9** of that Act.

In section 41, insert as subsection (2):

(2) This section is subject to **subpart 5 of Part 5** of the **Urban Development Act 2019** (transfer or disposal of former Māori land).

Resource Management Act 1991 (1991 No 69)

In section 66(2)(c), above "to the extent that their content", insert:

(v) relevant project area and project objectives (as those terms are defined in **section 9** of the **Urban Development Act 2019**), if **section 101** of that Act applies,—

Resource Management Act 1991 (1991 No 69)—*continued*

After section 74(2)(b)(iii), insert:

(iv) relevant project area and project objectives (as those terms are defined in **section 9** of the **Urban Development Act 2019**), if **section 101** of that Act applies,—

After section 88B(3), insert:

(4) *See also* **section 105(4) and (5)** of the **Urban Development Act 2019**.

After section 88F, insert:

88G Excluded time periods under Urban Development Act 2019

The period described in **section 105(4) of the Urban Development Act 2019** is excluded from any time limits under this Act relating to a consent application received by a local authority.

After section 104(3), insert:

(3A) *And see* **section 105(3)** of the **Urban Development Act 2019** (which relates to resource consents in project areas in transitional periods for specified development projects (as those terms are defined in **section 9** of that Act)).

In Schedule 1, after clause 17(3), insert:

(4) *And see* **section 102** of the **Urban Development Act 2019** (which requires notice of plan changes, at least 20 working days before approval, to Kāinga Ora–Homes and Communities, in certain circumstances).

In Schedule 1, after clause 18(4), insert:

(5) *And see* **section 102** of the **Urban Development Act 2019** (which requires notice of plan changes, at least 20 working days before adopting them, to Kāinga Ora–Homes and Communities, in certain circumstances).

In Schedule 1, after clause 83(2), insert:

(2A) *And see* **section 102** of the **Urban Development Act 2019** (which requires notice of plan changes, at least 20 working days before submitting, to Kāinga Ora–Homes and Communities, in certain circumstances).

Te Ture Whenua Maori Act 1993 (1993 No 4)

In section 4, insert in their appropriate alphabetical order:

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

roading powers, in relation to a specified development project (or a road within one), has the same meaning as in **section 9** of the **Urban Development Act 2019**

specified development project has the same meaning as in **section 9** of the **Urban Development Act 2019**

After section 317(7), insert:

Te Ture Whenua Maori Act 1993 (1993 No 4)—*continued*

(8) In subsection (6), **territorial authority** means Kāinga–Ora Homes and Communities to the extent that the connection is to a public road in a project area for a specified development project and Kāinga Ora–Homes and Communities has roading powers in relation to that project.

After section 320(6), insert:

(7) In subsection (4), **territorial authority for the district** means Kāinga–Ora Homes and Communities to the extent that the land, road, or proposed road is situated in a project area for a specified development project and Kāinga Ora–Homes and Communities has roading powers in relation to that project.

After section 325(5), insert:

(6) In subsection (1), **territorial authority having control of the road at the time of closure** means Kāinga–Ora Homes and Communities to the extent that Kāinga Ora had roading powers in relation to the road at the time of closure.

Telecommunications Act 2001 (2001 No 103)

In section 117(2), after "Resource Management Act 1991", insert "or a development plan under the **Urban Development Act 2019**".

After section 119(4), insert:

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the **Urban Development Act 2019**.

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