



Local Government (Auckland Transitional Provisions) Amendment Act 2013

Public Act 2013 No 64
Date of assent 3 September 2013
Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Local Government (Auckland Transitional Provisions) Amendment Act 2013.

2 Commencement

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

3 Principal Act

This Act amends the Local Government (Auckland Transitional Provisions) Act 2010 (the **principal Act**).

4 Section 3 amended (Purpose of this Act)

(1) In section 3(2)(c), after “enactments”, insert “; and”.

(2) After section 3(2)(c), insert:

“(d) provides a process for the development of the first combined planning document for Auckland Council under the Resource Management Act 1991.”

5 Section 5 amended (Transitional regulations)

(1) In section 5(1)(d), after “under”, insert “Part 1 or 2 of”.

(2) In section 5(2), replace “This section” with “Subsection (1)”.

(3) In section 5(3), replace “this section” with “subsection (1)”.

(4) After section 5(3), insert:

“(4) The Governor-General may, by Order in Council made on the recommendation of the Minister for the Environment, make regulations to—

“(a) prescribe matters in respect of the preparation of the first Auckland combined plan that may be in addition to or in place of the provisions of Part 4:

“(b) provide that, subject to any conditions specified in the regulations, during a specified period or in specified circumstances, specified provisions of Part 4, or of the Resource Management Act 1991, do not apply, or apply with modifications, to the preparation of the first Auckland combined plan:

- “(c) make provision for a situation in respect of the preparation of the first Auckland combined plan for which no or insufficient provision is made by Part 4.
- “(5) The Minister for the Environment must not recommend the making of regulations under subsection (4) unless he or she is satisfied that the regulations—
- “(a) are necessary or desirable for the efficient and orderly development of the first Auckland combined plan; and
- “(b) address unforeseen situations or unforeseen issues arising in the preparation of that plan; and
- “(c) are consistent with the purposes of this Act.
- “(6) In addition, the Minister for the Environment must not recommend the making of regulations under subsection (4) unless he or she has first consulted the Auckland Council and the Hearings Panel (if it exists then) on the proposed regulations.
- “(7) Subsection (4) is repealed at the close of the following, and any regulations made under that subsection that are in force at that time are revoked and have no further legal effect:
- “(a) 1 July 2017, if no extension to the deadline referred to in section 146 is granted under section 147:
- “(b) 1 July 2018, if 1 or more extensions to the deadline referred to in section 146 are granted under section 147.”

6 New Part 4 inserted

After section 114, insert:

“Part 4

“Process for development of first combined plan for Auckland Council

“115 Overview of this Part

- “(1) This Part sets out the following process for the preparation of the first Auckland combined plan:
- “(a) the Auckland Council prepares a proposed plan for Auckland that meets the requirements of a regional policy statement, a regional plan, including a regional coastal plan, and a district plan:
- “(b) the plan is prepared in accordance with this Part and, to the extent provided for by this Part, the RMA:

- “(c) the plan is not required to include district plan provisions in relation to the Hauraki Gulf Islands (the district plan provisions of the former Auckland City Council in relation to those islands will become operative as part of an existing separate process):
- “(d) the Council prepares its reports on the proposed plan under sections 32 and 165H(1A) of the RMA and makes them available for public inspection, and provides the reports to the Ministry for the Environment for audit:
- “(e) the Council notifies the proposed plan and calls for submissions:
- “(f) the Council notifies a summary of submissions and calls for further submissions:
- “(g) the Council then forwards all relevant information obtained up to this point to a specialist Hearings Panel appointed by the Minister for the Environment and the Minister of Conservation:
- “(h) the Hearings Panel holds a Hearing into submissions on the proposed plan by means of hearing sessions conducted in accordance with the procedural and other requirements of this Part:
- “(i) the Council must attend the hearing sessions and otherwise assist the Hearings Panel with the task of the Hearing:
- “(j) on the completion of the hearing of submissions, but no later than 50 working days before the expiry of 3 years from the date the Council notifies the proposed plan, the Hearings Panel must make recommendations to the Council on the proposed plan (unless that period is extended by the Minister for the Environment by up to 1 year):
- “(k) the Council must make decisions on the recommendations of the Hearings Panel no later than 20 working days after receiving the recommendations (unless that period is extended by the Minister for the Environment by up to a further 20 working days) and publicly notify the recommendations of the Hearings Panel and the Council’s decisions on the recommendations:

- “(l) the proposed plan is amended in accordance with the Council’s decisions on the recommendations and is deemed, subject to the appeal rights of submitters, to be approved or adopted, as the case may be:
 - “(m) submitters on the proposed plan may appeal to the Environment Court on those recommendations of the Hearings Panel that the Council rejects:
 - “(n) submitters on the proposed plan may appeal to the High Court, on a point of law only, on those recommendations of the Hearings Panel that the Council accepts:
 - “(o) once all appeals are determined, the Council must then publicly notify the operative date of the proposed plan.
- “(2) This section is only a guide to the general scheme and effect of this Part. It does not affect the interpretation or application of the other provisions of the Part.

“116 Interpretation

- “(1) In this Part, unless the context requires another meaning,—
- “**Auckland** has the same meaning as in section 4(1) of the Local Government (Auckland Council) Act 2009
 - “**Auckland combined plan** means the combined document described by section 122
 - “**Auckland Council or Council**—
 - “(a) means the local authority established by section 6(1) of the Local Government (Auckland Council) Act 2009; and
 - “(b) includes a member, delegate, or officer of the Council acting on its behalf
 - “**chairperson** means the chairperson of the Hearings Panel
 - “**coastal marine area** has the meaning given by section 2(1) of the RMA
 - “**Hearing** means the overall process undertaken by the Hearings Panel under this Part
 - “**hearing session** means a particular session at which submissions are heard by the Hearings Panel as part of the Hearing
 - “**Hearings Panel or Panel** means the Hearings Panel established by section 161

“**Independent Māori Statutory Board** means the board established by Part 7 of the Local Government (Auckland Council) Act 2009

“**member**, in relation to the Hearings Panel, includes the chairperson

“**Ministry** means the Ministry for the Environment

“**proposed plan** means the proposed Auckland combined plan prepared by the Auckland Council in accordance with sections 121 to 126

“**requiring authority** means—

“(a) a requiring authority within the meaning of section 166 of the RMA; and

“(b) a heritage protection authority within the meaning of section 187 of the RMA

“**RMA** means the Resource Management Act 1991

“**submission**—

“(a) means a written or an electronic submission received by the Auckland Council on the proposed plan; and

“(b) includes a further written or electronic submission on the proposed plan

“**submitter** includes a person representing a submitter

“**working day** has the meaning given by section 2(1) of the RMA.

“(2) Unless the context requires another meaning, references in this Part, whether express or implied, to a district plan for Auckland mean the plan for the district excluding the geographic area to which the Hauraki Gulf Islands section of the district plan of the former Auckland City Council applies (which, as a proposed plan, was notified on 18 September 2006 and amended by decisions notified on 4 May 2009).

“(3) Unless the context requires another meaning, a term or expression used and not defined in this Part, but defined in the RMA, has the same meaning as in that Act.

“117 Application of this Part

“(1) This Part applies only to the preparation of the first Auckland combined plan.

“(2) To avoid doubt, once the Auckland combined plan is operative, the plan may be changed only in accordance with the RMA.

“118 Certain early actions permitted

“(1) This section applies to any actions relating to preparation of the Auckland combined plan that—

“(a) were performed by the Auckland Council or another person before the commencement of this Part; and

“(b) would have complied with the provisions listed in subsection (2) had they been performed after the commencement of this Part.

“(2) The provisions are as follows:

“(a) clauses 1 to 4 of Schedule 1 of the RMA, as applied by section 123 (which relate to some initial preparation of the proposed plan):

“(b) section 126(3)(a) and (b) (which relate to criteria for an audit of the evaluation report and a related report on the proposed plan).

“(3) The actions must be treated as actions performed under this Part.

“119 Regulations relating to preparation of Auckland combined plan

“(1) This section provides for regulations to be made that specifically relate to the preparation of the Auckland combined plan.

“(2) Regulations may be made under section 360(1) of the RMA for the purposes of the preparation of that plan and as if references to the RMA in that subsection include references to this Part.

“120 Components of district plan for Auckland

“(1) This section describes, to avoid doubt, the components of the district plan for Auckland once—

“(a) the Auckland combined plan is operative; and

“(b) the Hauraki Gulf Islands section referred to in section 116(2) is operative.

“(2) The district plan for Auckland will comprise—

- “(a) the provisions of the Hauraki Gulf Islands section, in respect of the geographic area to which that section applies; and
- “(b) the district plan provisions of the Auckland combined plan, in respect of the geographic area of the rest of Auckland.

“Initial preparation of proposed Auckland combined plan

“121 Preparation of first Auckland combined plan

- “(1) The Auckland combined plan, and the documents that make up the plan, must be prepared in accordance with—
 - “(a) this Part; and
 - “(b) the RMA, except the provisions of the RMA that—
 - “(i) are excluded from applying by this Part; or
 - “(ii) correspond to provisions of this Part.
- “(2) Anything done under a provision of this Part is to be treated as if it were done under any provision of the RMA that corresponds to the provision of this Part.
- “(3) In this section, a provision of the RMA **corresponds** to a provision of this Part if the provision of the RMA—
 - “(a) is replaced, with or without modification, by the provision of this Part; or
 - “(b) otherwise corresponds to the provision of this Part.
- “(4) Despite section 117(1), subsection (2) continues to apply after the Auckland combined plan has been prepared and becomes operative.

“122 Auckland combined plan to combine regional and district documents

- “(1) The Auckland Council must prepare, implement, and administer a document (the **Auckland combined plan**) that meets the requirements of all of the following:
 - “(a) a regional policy statement for Auckland;
 - “(b) a regional plan, including a regional coastal plan, for Auckland;
 - “(c) a district plan for Auckland.
- “(2) The Auckland combined plan must clearly identify—

- “(a) the provisions of the document that are the regional policy statement, the regional plan, the regional coastal plan, or the district plan, as the case may be; and
 - “(b) the objectives, policies, and methods set out or described in the document that have the effect of being provisions of the regional policy statement.
- “(3) Once the Auckland combined plan is approved by the Auckland Council, it is deemed, for the purposes of the RMA, to be a plan or regional policy statement separately prepared and approved by the Council for its region or district, as the case may be.

“123 Initial preparation of Auckland combined plan

- “(1) A reference in this section to a clause is to a clause of Schedule 1 of the RMA.
- “(2) The Auckland Council must initially prepare the Auckland combined plan in accordance with clauses 1 to 8A, as modified by this section.
- “(3) The Auckland Council must comply with section 126 after preparing the evaluation report under section 32 of the RMA (referred to in clause 5(1)(a)) and the report under section 165H(1A) of the RMA.
- “(4) Clause 5(1A) and (1C) do not apply (meaning that copies of the public notice about the plan need not be sent to ratepayers or other persons).
- “(5) Clause 5(1B) is modified so that notice must be given only to owners and occupiers of land to which the designation or heritage order applies.
- “(6) Clause 5(2)(e) is modified so that the public notice must state—
- “(a) an address for service for written submissions; and
 - “(b) an email address for service for electronic submissions.
- “(7) Clause 5(3)(a) is modified so that its closing date for submissions is 60 working days after public notification.
- “(8) Clause 7(1)(c) is modified so that its closing date for further submissions is 30 working days after the day on which the public notice is given.

- “(9) Clause 1(2), and section 37 of the RMA, do not apply to the closing dates for submissions or further submissions (meaning that the Council cannot extend the dates, or waive a failure to comply with the dates, under those provisions).
- “(10) A person who makes an electronic submission under clause 6 or 8 is to be treated as having specified as an address for service the email address from which the submission is received.
- “**124 Restriction on amendments or variations to Auckland combined plan**
- “(1) This section and section 125 specify the only ways in which the Auckland combined plan may be amended or varied before the Auckland Council publicly notifies its decisions on the recommendations of the Hearings Panel under section 148(4)(a).
- “(2) The Auckland Council may amend the proposed plan—
- “(a) under any provision of the RMA or another enactment that provides for amendments to be made to a proposed regional policy statement or proposed plan without using the process in Schedule 1 of the RMA; or
 - “(b) as a result of the Council’s decisions on the recommendations of the Hearings Panel.
- “(3) If the Auckland Council amends the proposed plan under a provision described in subsection (2)(a), the Council must—
- “(a) give notice of the amendments to the Hearings Panel; and
 - “(b) make the amendments available for inspection on its Internet site and at its offices; and
 - “(c) if the provision requires public notice of the amendment, give public notice in accordance with the provision.
- “(4) The Auckland Council may vary the proposed plan in accordance with a direction of the Hearings Panel.
- “(5) The Hearings Panel may direct the Auckland Council to vary the proposed plan if the Panel is satisfied that—
- “(a) the variation is required—
 - “(i) to give effect to a provision in a national policy statement, or New Zealand coastal policy statement, that affects the proposed plan; or

- “(ii) to give effect, in the provisions of the proposed plan comprising the regional plan or district plan, to the provisions of the proposed plan comprising the regional policy statement; or
 - “(iii) to correct a substantial error in the proposed plan; and
 - “(b) the Panel is able to deal with the variation as provided in subsection (7) before the deadline for providing its report under section 146 or 147.
- “(6) The Auckland Council must deal with the variation under section 125.
- “(7) The Hearings Panel must deal with the variation under sections 128 to 145 as if the variation were the proposed plan, except that in section 145(1)(d) the proposed plan includes the variation.
- “(8) Clause 16B(1) and (2) of Schedule 1 of the RMA apply to the variation, and the variation must be merged in and become part of the proposed plan in time for the Hearings Panel’s report under section 144(5) to provide recommendations on the proposed plan as varied.
- “(9) In sections 148 to 159, references to the proposed plan include references to the variation.

“125 Variation to Auckland combined plan

- “(1) This section specifies the initial process for a variation to the Auckland combined plan that is permitted by section 124(4).
- “(2) A reference in this section to a clause is to a clause of Schedule 1 of the RMA.
- “(3) The Auckland Council must deal with the variation in accordance with clauses 1 to 8A and 16A(2), as modified by this section.
- “(4) Section 126 does not apply to the evaluation report prepared under section 32 of the RMA (referred to in clause 5(1)(a)), or any report prepared under section 165H(1A) of the RMA, in relation to the variation.
- “(5) Clause 5(1A) and (1C) do not apply (meaning that copies of the public notice about the proposed variation need not be sent to ratepayers or other persons).

- “(6) Clause 5(2)(e) is modified so that the public notice must state—
- “(a) an address for service for written submissions; and
 - “(b) an email address for service for electronic submissions.
- “(7) Clause 1(2), and section 37 of the RMA, do not apply to the closing dates for submissions or further submissions (meaning that the Council cannot extend the dates, or waive a failure to comply with the dates, under those provisions).
- “(8) A person who makes an electronic submission under clause 6 or 8 is to be treated as having specified as an address for service the email address from which the submission is received.

“**126 Audit of evaluation report on proposed Auckland combined plan**

- “(1) This section applies to the following reports of the Auckland Council on the relevant parts of the proposed plan:
- “(a) the evaluation report prepared under section 32 of the RMA;
 - “(b) the report prepared under section 165H(1A) of the RMA.
- “(2) The Auckland Council must electronically provide the reports to the Ministry as soon as practicable after they are prepared, but no later than the day on which the proposed plan is publicly notified.
- “(3) The Ministry must audit the reports, or have the reports audited, against criteria that have been—
- “(a) determined by the Ministry after consultation with the Auckland Council; and
 - “(b) specified in a written notice from the chief executive of the Ministry to the Auckland Council.
- “(4) The Ministry must prepare a report, or have a report prepared, of the audit and electronically provide the audit report to the Auckland Council as soon as practicable, but no later than 30 working days after the day on which the Ministry received the reports for auditing.
- “(5) The Auckland Council must make the audit report available for public inspection as soon as practicable after receiving it.

“127 Auckland Council must provide relevant information to Hearings Panel

- “(1) The Auckland Council must provide copies of the following to the Hearings Panel:
- “(a) the proposed Auckland combined plan that was publicly notified:
 - “(b) any notices about designations, or notices of requirements for designations or heritage orders, referred to in clause 4(5) of Schedule 1 of the RMA:
 - “(c) the information about requirements referred to in clause 4(7) of Schedule 1 of the RMA:
 - “(d) the Council’s evaluation report prepared under section 32 of the RMA, and the report prepared under section 165H(1A) of the RMA, in relation to the proposed plan:
 - “(e) the audit report provided to the Council under section 126(4):
 - “(f) the submissions on the proposed plan received by the closing date for submissions:
 - “(g) the Council’s summary of the decisions requested by submitters:
 - “(h) the further submissions on the proposed plan received by the closing date for further submissions:
 - “(i) any submissions or further submissions received after the relevant closing date, along with information about when the submissions were received:
 - “(j) the planning documents that are recognised by an iwi authority and lodged with the Council:
 - “(k) any amendments the Council makes to the proposed plan under section 124(2)(a):
 - “(l) any other relevant information held by the Council that is requested by the Hearings Panel.
- “(2) If the Council makes a variation under section 125, it must also provide copies of the following to the Hearings Panel:
- “(a) the variation that was publicly notified:
 - “(b) the Council’s evaluation report prepared under section 32 of the RMA, and any report prepared under section 165H(1A) of the RMA, in relation to the variation:
 - “(c) the submissions on the variation received by the closing date for submissions:

- “(d) the Council’s summary of the decisions requested by submitters:
 - “(e) the further submissions on the variation received by the closing date for further submissions:
 - “(f) any submissions or further submissions received after the relevant closing date, along with information about when the submissions were received.
- “(3) The Council must provide the documents or information electronically and as soon as is reasonably practicable in each case.

*“Hearings Panel to hold Hearing into
submissions on proposed plan*

“128 Hearing by Hearings Panel

- “(1) The Hearings Panel must hold a Hearing into submissions on the proposed plan.
- “(2) The Hearings Panel must hold each hearing session in public unless permitted to do otherwise by—
- “(a) section 141 (which relates to the protection of sensitive information); or
 - “(b) section 48 of the Local Government Official Information and Meetings Act 1987 (as that Act applies in accordance with section 169 of this Part).

“129 Who may be heard

- “(1) Every person who has made a submission and stated that they wish to be heard at the Hearing may speak at a hearing session, either personally or through a representative, and call evidence.
- “(2) Despite subsection (1), the Hearings Panel may limit the circumstances in which parties having the same interest in a matter may speak or call evidence, if the Panel considers that there is likely to be excessive repetition.
- “(3) Subsection (4) applies if a person who has made a submission and stated that they wish to be heard fails to appear, or any representative of the person fails to appear, at the relevant hearing session.
- “(4) The Hearings Panel may proceed with the hearing session if it considers it fair and reasonable to do so.

“130 Notice of hearing sessions

The Hearings Panel must give no less than 10 working days’ notice of the dates, times, and places of the hearing sessions to—

- “(a) every person who made a submission and who requested to be heard (and has not since withdrawn the request); and
- “(b) every requiring authority that has a designation or heritage protection order included in the proposed plan.

“131 Pre-hearing session meetings

“(1) Before a hearing session, the Hearings Panel may invite or require the persons listed in subsection (2) to attend a meeting for the purpose of—

- “(a) clarifying a matter or an issue relating to the proposed plan; or
- “(b) facilitating resolution of a matter or an issue relating to the proposed plan.

“(2) The persons are—

- “(a) 1 or more submitters; and
- “(b) the Council; and
- “(c) any other persons that the Hearings Panel considers appropriate, including 1 or more experts.

“(3) A meeting may be chaired by a member of the Hearings Panel or a person appointed by the chairperson of the Panel.

“(4) The chairperson of the meeting must, after a meeting, prepare a report that—

- “(a) sets out any clarification or resolution of a matter or an issue agreed between the persons who attended the meeting; and
- “(b) sets out any outstanding matter or issue between them; and
- “(c) addresses any matter or issue identified to the chairperson by the Hearings Panel.

“(5) The chairperson of the meeting must provide the report in writing or electronically to the Hearings Panel and the persons who attended the meeting no less than 5 working days before the hearing session to which the meeting relates.

“(6) A report prepared under subsection (4) must not, without a person’s consent, include any material that the person communicated or made available at the meeting on a without-prejudice basis.

“**132 Consequences of submitter not attending pre-hearing session meeting**

“(1) This section applies if a submitter who is required to attend a meeting under section 131 fails to do so without reasonable excuse.

“(2) The Hearings Panel may decline to consider the person’s submission.

“(3) If the Hearings Panel acts under subsection (2), the person—
“(a) has no rights of appeal under section 155 of this Part; and

“(b) may not become, under section 274 of the RMA, a party to proceedings as the result of any appeal right exercised by another person under section 155 of this Part.

“(4) However, the person may object under section 154 of this Part.

“**133 Conference of experts**

“(1) The Hearings Panel may, at any time during the Hearing, direct that a conference of experts be held for the purpose of—

“(a) clarifying a matter or an issue relating to the proposed plan; or

“(b) facilitating resolution of a matter or an issue relating to the proposed plan.

“(2) A conference may be facilitated by a member of the Hearings Panel or a person appointed by the Panel.

“(3) The facilitator of a conference must, after the conference, prepare a report on the conference and provide it in writing or electronically to—

“(a) the Hearings Panel; and

“(b) the persons who attended the conference.

“(4) A facilitator must act under subsection (3)(a) or (b) only if the Hearings Panel requires him or her to do so.

“(5) A report prepared under subsection (3) must not, without a person’s consent, include any material that the person communi-

cated or made available at the conference on a without-prejudice basis.

“(6) To avoid doubt, the Council may attend a conference under this section only if authorised to do so by the Hearings Panel.

“**134 Alternative dispute resolution**

“(1) The Hearings Panel may, at any time during the Hearing, refer to mediation or any other alternative dispute resolution process the persons listed in subsection (2) if—

“(a) the Panel considers that it is—

“(i) appropriate to do so; and

“(ii) likely to resolve issues between the parties that relate to the proposed plan; and

“(b) each person has consented (other than the Council, which must participate if referred by the Panel).

“(2) The persons are—

“(a) 1 or more submitters; and

“(b) the Council; and

“(c) any other person that the Hearings Panel considers appropriate.

“(3) The Hearings Panel must appoint the mediator or person facilitating the mediation or other process (the **mediator**).

“(4) The person who conducts the mediation or other process must report the outcome to the Hearings Panel.

“(5) In reporting the outcome under subsection (4), material must not be included, without a person’s consent, if the material was communicated or made available by the person at the mediation or other process on a without-prejudice basis.

“**135 Late submissions**

“(1) This section applies to submissions or further submissions received after the closing date for those submissions.

“(2) The chairperson of the Hearings Panel must decide whether to waive the requirement to provide the submissions before that closing date in respect of each submission to which this section applies.

“(3) In making his or her decision, the chairperson must take into account—

- “(a) the interests of any person who or that, in the chairperson’s opinion, may be directly affected by the waiver; and
 - “(b) the need to ensure there is an adequate assessment of the effects of the proposed plan; and
 - “(c) the stage of the Hearing at which the Hearings Panel is provided with the submissions.
- “(4) A decision of the chairperson under this section is final and there is no right of objection or appeal against it.

“Hearing procedure

“136 Hearing procedure

- “(1) At each hearing session, no fewer than 3 members of the Hearings Panel must be present.
- “(2) If the chairperson is not present, he or she must appoint another member as chairperson for the purposes of the hearing session.
- “(3) At the hearing session, the Hearings Panel—
- “(a) may permit a party to question any other party or witness; and
 - “(b) may permit cross-examination; and
 - “(c) must receive evidence written or spoken in Māori, in which case the Māori Language Act 1987 applies as if the hearing session were legal proceedings before a tribunal named in Schedule 1 of that Act.
- “(4) Otherwise, the Hearings Panel must establish a procedure for hearing sessions that—
- “(a) is appropriate and fair in the circumstances (including in respect of the granting to a person of any waiver of the requirements of the Hearings Panel); and
 - “(b) avoids unnecessary formality; and
 - “(c) recognises tikanga Māori where appropriate.
- “(5) The Hearings Panel must keep a full record of the hearing sessions and any other proceedings.

“137 Council must attend hearing sessions

- “(1) The Council must attend the hearing sessions to assist the Hearings Panel in 1 or more of the following ways:
- “(a) to clarify or discuss matters in the proposed plan:

- “(b) to give evidence:
 - “(c) to speak to submissions or address issues raised by them:
 - “(d) to provide any other relevant information as requested by the Hearings Panel.
- “(2) Despite subsection (1), the Hearings Panel may excuse the Council from attending or remaining at any particular hearing session.
- “(3) A failure by the Council or the Hearings Panel to comply with this section does not invalidate the Hearing or the hearing sessions.
- “(4) To avoid doubt, this section does not limit or prevent the Council from—
- “(a) making a submission on the proposed plan in accordance with section 123 or 125; or
 - “(b) being heard on that submission under section 129.

“138 Other procedural matters

- “(1) The following provisions of the Commissions of Inquiry Act 1908 apply to each hearing session as if the Hearings Panel were a Commission, and the Hearing were an inquiry, under that Act:
- “(a) section 4 (powers to maintain order):
 - “(b) section 4B (evidence):
 - “(c) section 4D (power to summon witnesses):
 - “(d) section 6 (protection of witnesses and other persons):
 - “(e) section 7 (allowances for witnesses).
- “(2) A summons to a witness to appear at a hearing session must be in the prescribed form and be signed by the chairperson.
- “(3) All allowances for a witness must be paid by the party on whose behalf the witness is called.
- “(4) However, if the Hearings Panel calls a witness, the Auckland Council must pay the allowances for that witness.
- “(5) The Hearings Panel may request and receive, from a person who is heard by the Panel or who is represented at a hearing session, any information and advice that is relevant and reasonably necessary for the Panel to make its recommendations under section 144.

“139 Directions to provide evidence within time limits

- “(1) The Hearings Panel may direct a submitter or the Auckland Council to provide briefs of evidence in writing or electronically to the Panel before a hearing session.
- “(2) The Hearings Panel may direct a submitter or the Auckland Council, if the submitter or the Council is intending to call expert evidence, to provide briefs of the evidence in writing or electronically to the Hearings Panel before a hearing session.
- “(3) The submitter or the Auckland Council must provide briefs of evidence under this section in the time frame specified by the Hearings Panel.
- “(4) The Hearings Panel must give electronic notice to any relevant submitters of briefs of evidence that are made available under section 143.

“140 Directions and requests before or at hearing session

- “(1) Before or at a hearing session, the Hearings Panel may do 1 or more of the following:
 - “(a) direct the order of business at the hearing session, 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, when presenting a submission or evidence, to present it within a time limit;
 - “(d) request a submitter to provide further information.
- “(2) Before or at a hearing session, the Hearings Panel may direct that the whole, or a part of, a submission be struck out if the Panel considers—
 - “(a) the whole submission, or the part, is frivolous or vexatious; or
 - “(b) that the whole submission, or the part, discloses no reasonable or relevant case; or
 - “(c) that it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.
- “(3) At a hearing session, the Hearings Panel may direct a submitter not to present—

- “(a) the whole submission, if all of it is irrelevant or not in dispute; or
 - “(b) any part of the submission that is irrelevant or not in dispute; or
 - “(c) any part of the submission that does not relate to that part of the proposed plan being addressed at the hearing session.
- “(4) If the Hearings Panel gives a direction under subsection (2), it must record its reasons for the direction.
- “(5) A person whose submission, in whole or in part, is struck out has a right of objection under section 154.

“141 Protection of sensitive information

- “(1) The Hearings Panel may, on its own motion or on the application of any submitter, make an order described in subsection (2) where it is satisfied—
- “(a) that the order is necessary to avoid—
 - “(i) serious offence to tikanga Māori or to avoid the disclosure of the location of wāhi tapu; or
 - “(ii) 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 session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded (which order must, for the purposes of section 48(3) to (5) of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section);
 - “(b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the Hearings Panel in the course of any proceedings, whether

or not the information may be material to any proposal, application, or requirement.

- “(3) The Hearings Panel must require the Auckland Council to make available for inspection, on its Internet site and at its offices, any orders the Panel makes under this section.
- “(4) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the Hearings Panel under this section.
- “(5) On an application made under subsection (4), an Environment Judge sitting alone may, having regard to the matters set out in this section and to such other matters as the Environment Judge thinks fit,—
 - “(a) make an order cancelling or varying any order made by the Hearings Panel under this section on such terms as the Judge thinks fit; or
 - “(b) decline to make an order.

“142 Hearings Panel may commission reports

- “(1) The Hearings Panel may, at any time during the Hearing, require the Auckland Council, or commission a consultant or any other person, to prepare a report on—
 - “(a) 1 or more submissions; or
 - “(b) any matter arising from a hearing session; or
 - “(c) any other matter that the Panel considers necessary for the purposes of the Panel making its recommendations.
- “(2) The report does not need to repeat information included in any submission.
- “(3) Instead, the report may—
 - “(a) adopt all of the information; or
 - “(b) adopt any part of the information by referring to the part adopted.
- “(4) The Hearings Panel—
 - “(a) may consider a report prepared under subsection (1) at the hearing session or when making its recommendations, or both; and

- “(b) must require the Auckland Council to make the report available for inspection on its Internet site and at its offices.
- “(5) The Hearings Panel may request and receive, from a person who makes a report under this section, any information and advice that is relevant and reasonably necessary for the Panel to make its recommendations under section 144.
- “**143 Evidence and reports must be made available**
- “(1) The Hearings Panel must require the Auckland Council to make available for inspection, on its Internet site and at its offices,—
- “(a) any written or electronic evidence, including further information provided under section 140(1)(d), received by the Panel during the Hearing; and
- “(b) any written or electronic report provided to the Panel under section 131, 133, or 134.
- “(2) However, this section does not apply to any evidence or part of a report that the Hearings Panel considers it is not reasonable to make available for inspection.

“Recommendations of Hearings Panel

- “**144 Hearings Panel must make recommendations to Council on proposed plan**
- “(1) The Hearings Panel must make recommendations on the proposed plan after it has finished hearing submissions, including any recommended changes to the proposed plan.
- “(2) The recommendations must include recommendations on any provision included in the proposed plan under clause 4(5) or (6) of Schedule 1 of the RMA, as applied by section 123 of this Part (which relate to designations and heritage orders).
- “(3) However, the Hearings Panel—
- “(a) is not limited to making recommendations only within the scope of the submissions made on the proposed plan; and
- “(b) may make recommendations on any other matters relating to the proposed plan identified by the Panel or any other person during the Hearing.

- “(4) The Hearings Panel must not make a recommendation on any existing designations or heritage orders that are included in the proposed plan without modification and on which no submissions are received.
- “(5) The Hearings Panel must provide the recommendations, in a report, to the Council.
- “(6) The report must include—
- “(a) the Panel’s recommendations, and identify any recommendations that are beyond the scope of the submissions made on the proposed plan; and
 - “(b) the Panel’s decisions on the provisions and matters raised in submissions; and
 - “(c) the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—
 - “(i) the provisions of the proposed plan to which they relate; or
 - “(ii) the matters to which they relate.
- “(7) The report may also include—
- “(a) matters relating to any consequential alterations necessary to the proposed plan arising from submissions; and
 - “(b) any other matter that the Hearings Panel considers relevant to the proposed plan that arises from submissions or otherwise.
- “(8) To avoid doubt, the Hearings Panel is not required to make recommendations that address each submission individually.

“145 Matters that affect recommendations

- “(1) The Hearings Panel, in formulating its recommendations, must—
- “(a) have regard to any reports prepared under sections 131(4) and 133(3); and
 - “(b) take account of any outcomes reported under section 134(4); and
 - “(c) have regard to the evaluation report and the report required by section 165H of the RMA in relation to the proposed plan and any variation and to the audit report referred to in section 126; and

- “(d) include in the recommendations a further evaluation of the proposed plan undertaken in accordance with section 32AA of the RMA; and
 - “(e) if a rule to which section 165H(1) of the RMA applies is to be recommended, include in the recommendations a report prepared under section 165H(1A) of the RMA by the Hearings Panel as if it were a regional council; and
 - “(f) ensure that, were the Auckland Council to accept the recommendations, the following would be complied with:
 - “(i) sections 43B(3), 61, 62, 66 to 70B, 74 to 77D, 85A, 85B(2), 165F, 165G, 168A(3), 171, 189A(10), and 191 of the RMA:
 - “(ii) any other provision of the RMA, or another enactment, that applies to the Council’s preparation of the plan.
- “(2) To avoid doubt, when complying with subsection (1)(f) in respect of section 66 of the RMA, the Hearings Panel must ensure that regard has been had to the spatial plan for Auckland prepared and adopted under section 79 of the Local Government (Auckland Council) Act 2009.

“**146 Deadline for recommendations**

The Hearings Panel must provide its report under section 144(5) to the Auckland Council no later than the date that is 50 working days before the expiry of 3 years from the date on which the Council has notified the proposed plan in accordance with section 123, unless section 147 applies.

“**147 Extension of deadline for recommendations**

- “(1) The Hearings Panel or the Auckland Council, or both, may request the Minister for the Environment to extend the deadline referred to in section 146 (the **original deadline**).
- “(2) A request must be made before the original deadline or, if the original deadline has already been extended, before the extended deadline.
- “(3) A request must be in writing and—

- “(a) specify a proposed date for the extended deadline that is no later than 1 year after the original deadline; and
 - “(b) if applicable, include the views of the party not making the request.
- “(4) If the Minister grants a request, the original deadline is extended accordingly.
- “(5) Section 37 of the RMA does not apply to the original deadline or to an extended deadline (meaning that the Council cannot extend the deadline, or waive a failure to comply with the deadline, under that provision).

“Council decisions on recommendations

“148 Auckland Council to consider recommendations and notify decisions on them

- “(1) The Auckland Council must—
- “(a) decide whether to accept or reject each recommendation of the Hearings Panel; and
 - “(b) for each rejected recommendation, decide an alternative solution, which—
 - “(i) may or may not include elements of both the proposed plan as notified and the Hearings Panel’s recommendation in respect of that part of the proposed plan; but
 - “(ii) must be within the scope of the submissions.
- “(2) When making decisions under subsection (1),—
- “(a) the Council is not required to consult any person or consider submissions or other evidence from any person; and
 - “(b) the Council must not consider any submission or other evidence that was not made available to the Hearings Panel.
- “(3) To avoid doubt, the Council may accept recommendations of the Hearings Panel that are beyond the scope of the submissions made on the proposed plan.
- “(4) The Council must, no later than 20 working days after it is provided with the report under section 146,—
- “(a) publicly notify its decisions under subsection (1) in a way that sets out the following information:

- “(i) each recommendation of the Hearings Panel that it accepts; and
 - “(ii) each recommendation of the Hearings Panel that it rejects and the reasons for doing so; and
 - “(iii) the alternative solution for each rejected recommendation; and
- “(b) electronically notify each requiring authority affected by the decisions of the Council under subsection (1) of the information referred to in paragraph (a) that specifically relates to the decision recommending that the authority confirm, modify, impose conditions on, or withdraw the designation or heritage protection order concerned.
- “(5) Subsection (6) applies if the Council decides that it wishes to accept a recommendation but alter the recommendation in a way that has a minor effect or to correct a minor error.
- “(6) The Council may notify the recommendation as accepted, but only if, when complying with subsection (4)(a)(i), it sets out the alterations to the recommendation.
- “(7) A recommendation to which subsection (5) applies must, for all purposes, be treated as a recommendation of the Hearings Panel accepted by the Council.
- “(8) Subsection (4) is subject to section 149.
- “149 Extension of deadline for decisions**
- “(1) The Auckland Council may request the Minister for the Environment to extend the deadline referred to in section 148(4) (the **original deadline**).
- “(2) A request must be made before the original deadline or, if the original deadline has already been extended, before the extended deadline.
- “(3) A request must be in writing and specify a proposed date for the extended deadline that is no later than 20 working days after the original deadline.
- “(4) If the Minister grants a request, the original deadline is extended accordingly.
- “(5) Section 37 of the RMA does not apply to the original deadline or to an extended deadline (meaning that the Council can-

not extend the deadline, or waive a failure to comply with the deadline, under that provision).

“150 Auckland Council to release Hearings Panel report

At the same time as the Auckland Council publicly notifies its decisions under section 148(4)(a), the Council must make the report of the Hearings Panel required under section 144(5) available—

- “(a) on the Council’s Internet site; and
- “(b) for inspection during working hours, free of charge, at the offices of the Council and anywhere else that the Council determines is appropriate.

“Designations and heritage orders of requiring authorities other than Auckland Council

“151 Designations and heritage orders of requiring authorities other than Auckland Council

- “(1) A decision of the Auckland Council that is notified to a requiring authority under section 148(4)(b) must be treated as if it were a recommendation notified under clause 9(1) of Schedule 1 of the RMA.
- “(2) The requiring authority must notify the Auckland Council as to whether it accepts or rejects the recommendation in whole or in part within 30 working days after the day on which it receives the recommendation.
- “(3) The requiring authority may modify the requirement only if the modification is recommended by the Auckland Council or is not inconsistent with the requirement as notified.
- “(4) If the requiring authority rejects the recommendation in whole or in part, or modifies the requirement, it must give reasons for its decision.
- “(5) The Auckland Council must ensure that, within 15 working days after it receives the decision, a notice of decision and a statement of the time within which an appeal against the decision may be lodged is served on—
 - “(a) persons who made a submission on the requirement; and

- “(b) owners and occupiers of land to which the designation or heritage order applies.
- “(6) If the Auckland Council gives a notice of a decision, it must—
 - “(a) make a copy of the decision available for inspection on its Internet site and at its offices; and
 - “(b) include with the notice a statement of the places where a copy of the decision is available; and
 - “(c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

“Proposed plan deemed approved or adopted

- “152 Proposed plan deemed approved or adopted on and from certain dates**
- “(1) This section applies to the proposed plan once the Auckland Council publicly notifies its decisions on the recommendations of the Hearings Panel under section 148(4)(a).
 - “(2) Each part of the proposed plan, other than the parts relating to the coastal marine area, designations, and heritage orders,—
 - “(a) is amended in accordance with the decisions of the Council; and
 - “(b) is deemed to have been approved by the Council under clause 17(1) of Schedule 1 of the RMA on and from—
 - “(i) the date on which the appeal period expires, if no appeals relating to that part of the proposed plan are made under section 155 of this Part:
 - “(ii) the date on which all appeals, including further appeals, relating to that part of the proposed plan are determined, if appeals are made under that section.
 - “(3) Each part of the proposed plan relating to the coastal marine area—
 - “(a) is amended in accordance with the decisions of the Council; and
 - “(b) on and from the following date is deemed to have been adopted by the Council under clause 18(1) of Schedule 1 of the RMA and must be sent by the Council to the Minister of Conservation for his or her approval under clause 18(3) of that schedule:

- “(i) the date on which the appeal period expires, if no appeals relating to that part of the proposed plan are made under section 155 of this Part; or
 - “(ii) the date on which all appeals, including further appeals, relating to that part of the proposed plan are determined, if appeals are made under that section.
- “(4) The part of the proposed plan relating to a designation or heritage order—
 - “(a) is amended in accordance with the decision about the designation or heritage order—
 - “(i) notified by the requiring authority under section 151(2), for a designation or heritage order of a requiring authority other than the Auckland Council; or
 - “(ii) notified by the Council under section 148(4)(a), for a designation or heritage order of the Council; and
 - “(b) is deemed to have been approved by the Council under clause 17(1) of Schedule 1 of the RMA on and from—
 - “(i) the date on which the appeal period expires, if no appeals relating to the designation or heritage order are made under section 157 of this Part; or
 - “(ii) the date on which all appeals, including further appeals, relating to the designation or heritage order are determined, if appeals are made under that section.
- “(5) However, the parts of the proposed plan relating to any existing designations or heritage orders that were included in the proposed plan without modification, and on which no submissions were received, are deemed to have been approved by the Council under clause 17(1) of Schedule 1 of the RMA on and from the date on which the Auckland Council publicly notifies its decisions under section 148(4)(a).

*“RMA provisions relating to legal effect of rules
apply*

“153 RMA provisions relating to legal effect of rules apply

- “(1) Sections 86A to 86G of the RMA apply, with all necessary modifications, to a rule contained in the proposed plan.
- “(2) Without limiting subsection (1), every reference to clause 10(4) of Schedule 1 must be read as a reference to section 148(4)(a).

“Objections, appeals, and judicial review

“154 Objection rights

- “(1) A person who made a submission on the proposed plan has the following rights of objection to the Hearings Panel:
- “(a) a decision of the Hearings Panel under section 132 to decline to consider the person’s submission:
- “(b) a decision of the Hearings Panel to strike out the whole or a part of the person’s submission under section 140(2).
- “(2) An objection must be made by notice in writing, setting out the reasons for the objection, no later than 15 working days after the decision is notified to the person or any longer time allowed by the Hearings Panel.
- “(3) The Hearings Panel must—
- “(a) consider the objection as soon as practicable; and
- “(b) hold a hearing on the objection at which all members are present, having given the objector no less than 5 working days’ notice of the date, time, and place for the hearing.
- “(4) After the hearing, the Hearings Panel must—
- “(a) dismiss the objection or uphold the objection in whole or in part; and
- “(b) inform the objector in writing of the Panel’s decision and the reasons for it.
- “(5) A decision of the Hearings Panel under this section is final and there is no right of appeal against it.

“155 Appeal rights

The only appeal rights available in respect of the proposed plan are as follows:

- “(a) the right of appeal to the Environment Court under section 156 or 157:
- “(b) the right of appeal to the High Court under section 158.

“156 Right of appeal to Environment Court

- “(1) A person who made a submission on the proposed plan may appeal to the Environment Court in respect of a provision or matter relating to the proposed plan—
 - “(a) that the person addressed in the submission; and
 - “(b) in relation to which the Council rejected a recommendation of the Hearings Panel and decided an alternative solution, which resulted in—
 - “(i) a provision being included in the proposed plan; or
 - “(ii) a matter being excluded from the proposed plan.
- “(2) However, if the Council’s alternative solution included elements of the Hearings Panel’s recommendation, the right of appeal is limited to the effect of the differences between the alternative solution and the recommendation.
- “(3) A person may appeal to the Environment Court in respect of a provision or matter relating to the proposed plan if—
 - “(a) the Council’s acceptance of a recommendation of the Hearings Panel resulted in—
 - “(i) the provision being included in the proposed plan; or
 - “(ii) the matter being excluded from the proposed plan; and
 - “(b) the Hearings Panel had identified the recommendation as being beyond the scope of the submissions made on the proposed plan; and
 - “(c) the person is, was, or will be unduly prejudiced by the inclusion of the provision or exclusion of the matter.
- “(4) The Environment Court must treat an appeal under this section as if it were a hearing under clause 15 of Schedule 1 of the RMA and, except as otherwise provided in this section, clauses 14(5) and 15 of Schedule 1 of the RMA and Parts 11 and 11A

of the RMA apply to the appeal (including, to avoid doubt, sections 299 to 308).

- “(5) Notice of the appeal must be in the prescribed form and lodged with the Environment Court, and served on the Auckland Council, no later than 20 working days after the Council notifies the matters under section 148(4)(a).
- “(6) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the notice is lodged with the Environment Court.

“157 Right of appeal to Environment Court (designations and heritage orders)

- “(1) A person has a right of appeal to the Environment Court against any aspect of a decision referred to in section 152(4)(a) of a requiring authority or the Auckland Council if—
- “(a) the person is an owner or occupier of land to which the designation or heritage order applies; and
 - “(b) the person made a submission on the requirement that referred to that aspect of the decision.
- “(2) A person has a right of appeal to the Environment Court against any aspect of a decision referred to in section 152(4)(a) of a requiring authority other than the Auckland Council if—
- “(a) the person is not an owner or occupier of land to which the designation or heritage order applies; and
 - “(b) the person made a submission on the requirement that referred to that aspect of the decision; and
 - “(c) in that aspect of the decision, the requiring authority rejected the Auckland Council’s recommendation on the matter.
- “(3) The Auckland Council has a right of appeal to the Environment Court against any aspect of a decision referred to in section 152(4)(a) of a requiring authority other than the Auckland Council.
- “(4) A person has a right of appeal to the Environment Court against any aspect of a decision referred to in section 152(4)(a) of the Auckland Council if—

- “(a) the person is not an owner or occupier of land to which the designation or heritage order applies; and
 - “(b) the person made a submission on the requirement that referred to that aspect of the decision; and
 - “(c) in that aspect of the decision, the Council rejected the Hearings Panel’s recommendation on the matter.
- “(5) An appeal must be treated as if it were an appeal under section 174 of the RMA, and that section and Parts 11 and 11A of the RMA apply to the appeal (including, to avoid doubt, sections 299 to 308).
- “(6) Despite subsection (5), notice of an appeal may be lodged and served under section 174(2)(c) of the RMA no later than 30 working days after the date on which the Auckland Council gives notice of the decision about the requirement under—
- “(a) section 151(5), for a designation or heritage order of a requiring authority other than the Council; or
 - “(b) section 148(4)(a), for a designation or heritage order of the Council.
- “158 Right of appeal to High Court on question of law**
- “(1) A person who made a submission on the proposed plan may appeal to the High Court in respect of a provision or matter relating to the proposed plan—
- “(a) that the person addressed in the submission; and
 - “(b) in relation to which the Council accepted a recommendation of the Hearings Panel, which resulted in—
 - “(i) a provision being included in the proposed plan; or
 - “(ii) a matter being excluded from the proposed plan.
- “(2) A person may appeal to the High Court against any aspect of a decision referred to in section 152(4)(a) of a requiring authority other than the Auckland Council if—
- “(a) the person is not an owner or occupier of land to which the designation or heritage order applies; and
 - “(b) the person made a submission on the requirement that referred to that aspect of the decision; and
 - “(c) in that aspect of the decision, the requiring authority accepted the Auckland Council’s recommendation on the matter.

- “(3) A person may appeal to the High Court against any aspect of a decision referred to in section 152(4)(a) of the Auckland Council if—
- “(a) the person is not an owner or occupier of land to which the designation or heritage order applies; and
 - “(b) the person made a submission on the requirement that referred to that aspect of the decision; and
 - “(c) in that aspect of the decision, the Council accepted the Hearings Panel’s recommendation on the matter.
- “(4) However, an appeal under this section may only be on a question of law.
- “(5) Except as otherwise provided in this section, sections 299(2) and 300 to 307 of the RMA apply, with all necessary modifications, to an appeal under this section.
- “(6) Notice of the appeal must be filed with the High Court, and served on the Auckland Council, no later than 20 working days after the Council notifies the matters under section 148(4)(a).
- “(7) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of Conservation no later than 5 working days after the notice is filed with the High Court.

“**159 Judicial review**

- “(1) Nothing in this Part limits or affects any right of judicial review a person may have in respect of any matter to which this Part applies, except as provided in sections 156(4) and 157(5) (which apply section 296 of the RMA, that section being in Part 11 of that Act).
- “(2) However, a person must not both apply for judicial review of a decision made under this Part and appeal to the High Court under section 158 in respect of the decision unless the person lodges the applications for judicial review and appeal together.
- “(3) If applications for judicial review and appeal are lodged together, the High Court must try to hear the judicial review and appeal proceedings together, but need not if the court considers it impracticable to do so in the circumstances of the particular case.

“Auckland Council to notify when plan operative

“160 Auckland Council to notify when plan operative

The Auckland Council must notify the date on which the plan, or each part of the plan, as the case may be, will become operative in accordance with clause 20 of Schedule 1 of the RMA.

“Hearings Panel

“161 Minister for Environment and Minister of Conservation to establish Hearings Panel

- “(1) The Minister for the Environment and the Minister of Conservation must establish a Hearings Panel.
- “(2) The Hearings Panel comprises—
- “(a) a chairperson; and
 - “(b) 3 to 7 other members.
- “(3) The chairperson and other members must be appointed jointly by the Ministers after consulting the Auckland Council and the Independent Māori Statutory Board.
- “(4) The Ministers must appoint members who collectively have knowledge of, and expertise in relation to, the following:
- “(a) the RMA; and
 - “(b) district plans, regional plans (including regional coastal plans), and regional policy statements or combined regional and district documents; and
 - “(c) tikanga Māori, as it applies in Tāmaki Makaurau; and
 - “(d) Auckland and the mana whenua groups and other people of Auckland; and
 - “(e) the management of legal proceedings, including cross-examination.
- “(5) However, a failure to comply with subsection (4) does not affect the validity of the appointment of a member once made.
- “(6) A member must be appointed in accordance with section 162.
- “(7) To avoid doubt, the Ministers may appoint additional members after the initial appointment of members so long as the total number is no more than 7 members and a chairperson.
- “(8) The Ministers may appoint a member to replace a member who ceases to hold office.

- “(9) Subsections (4) to (6) apply to the appointment of an additional member or a replacement member.
- “(10) As soon as practicable after establishing the Hearings Panel and appointing its initial members,—
- “(a) the Minister for the Environment must notify the Panel’s establishment on the Internet site of the Ministry; and
 - “(b) the Council must notify the Panel’s establishment on the Council’s Internet site.

“162 How members appointed

- “(1) The Minister for the Environment must give a person appointed as a member of the Hearings Panel a written notice of the appointment that complies with subsection (2).
- “(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) specify the terms of reference for both the Hearings Panel and the member.

“163 When member ceases to hold office

- “(1) A member of the Hearings Panel remains a member until the earliest of the following:
- “(a) his or her term of office ends;
 - “(b) he or she dies;
 - “(c) he or she resigns by giving 20 working days’ written notice to the Minister for the Environment and the Minister of Conservation;
 - “(d) he or she is removed under subsection (2);
 - “(e) the Hearings Panel ceases to exist.
- “(2) The Minister for the Environment and the Minister of Conservation may, at any time for just cause, remove a member by written notice to the member (with a copy to the Hearings Panel).
- “(3) The notice must state—
- “(a) the date on which the removal takes effect, which must not be earlier than the date on which the notice is received by the member; and

- “(b) the reasons for the removal.
- “(4) A member of the Hearings Panel is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member.
- “(5) In subsection (2), **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the Hearings Panel or the individual duties of members.

“164 Functions of Hearings Panel

The Hearings Panel has the following functions and powers for the purposes of holding a Hearing into the submissions on the proposed plan and any variation permitted by section 124(4):

- “(a) to hold hearing sessions; and
- “(b) for the purposes of paragraph (a),—
 - “(i) to hold or authorise the holding of pre-hearing session meetings, conferences of experts, and alternative dispute resolution processes; and
 - “(ii) to commission reports; and
 - “(iii) to hear any objections made in accordance with section 154; and
- “(c) to make recommendations to the Auckland Council on the proposed plan and any variation; and
- “(d) except as expressly provided by this Part, to regulate its own proceedings in the manner it thinks fit; and
- “(e) to carry out or exercise any other functions or powers conferred by this Part or that are incidental and related to, or consequential upon, any of its functions and powers under this Part.

“165 Powers of chairperson

The chairperson of the Hearings Panel has the following powers:

- “(a) to decide how many, and which, members of the Hearings Panel are to be present at each hearing session;
- “(b) to appoint another member to act as chairperson for any hearing sessions at which he or she will not be present;
- “(c) to decide whether to accept any late submissions:

“(d) to deal with any complaints in respect of the Hearings Panel or any member of the Panel.

“166 Term of Hearings Panel

The Hearings Panel exists until it has completed the performance or exercise of its functions and powers in relation to the Hearing, including any appeals in relation to the Hearing that are filed in any court.

“167 Liability of members

A member is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the Hearings Panel.

“168 Funding of Hearings Panel and related activities

“(1) The Auckland Council is responsible for all costs incurred by the Hearings Panel, and for the activities related to the performance or exercise of the Panel’s functions and powers, under this Part.

“(2) Without limiting subsection (1), the Council is responsible for—

“(a) the remuneration and expenses of the members of the Hearings Panel; and

“(b) the administrative costs of each hearing session, including venue hire and public notices; and

“(c) the remuneration of any expert, mediator or other dispute resolution facilitator, or other person whose services are engaged by the Hearings Panel under this Part; and

“(d) the allowances of any witness called by the Hearings Panel.

“(3) For the purposes of subsection (1), each member of the Hearings Panel must be paid—

“(a) remuneration by way of salary, fees, or allowances at a rate determined by the Minister for the Environment after consultation with the Council; and

“(b) actual and reasonable travelling and other expenses incurred in carrying out his or her office in accordance with the Fees and Travelling Allowances Act 1951, and

that Act applies as if the members were members of a statutory Board within the meaning of that Act.

“169 Application of Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 applies, with any necessary modifications, to the Hearings Panel as if it were a board of inquiry given authority to conduct a hearing under section 149J of the RMA.”

Legislative history

27 August 2013	Divided from Resource Management Reform Bill (Bill 93–2) by committee of the whole House, third reading
3 September 2013	Royal assent

This Act is administered by the Department of Internal Affairs.
