

Wednesday, 5 June 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council
Hearings Committee Meeting

Kaupapataka
Agenda

Plan Change 6 - Category 3 Landowner Subdivision Provisions
(Memo Setting out Details of the Streamlined Planning Process)

Te Rā Hui:
Meeting date: **Wednesday, 5 June 2024**

Te Wā:
Time: **9.30am**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Te Hoapā:
Contact: **Democracy and Governance Services
P: 06 871 5000 | E: democracy@hdc.govt.nz**

Te Āpiha Matua:
Responsible Officer: **Group Manager: Planning & Regulatory Services - John O'Shaughnessy**

Hearings Committee – Terms of Reference

Fields of Activity

The Hearings Committee is established to assist the Council by hearing and determining matters where a formal hearing is required in respect of a planning or regulatory function of the Council, including under the provisions of the:

- Resource Management Act 1991
- Building Act 2004
- Health Act 1956
- Dog Control Act 1996
- Litter Act 1979
- Hastings District Council Bylaws
- Local Government Act 1974
- Local Government Act 2002; and
- Hastings District Council Class 4 Gambling Venue Policy.

Membership - Up to 10 Hearings Commissioners (comprising up to 7 elected members of Council and at least 3 external appointed Independent Hearings Commissioners)

- Chair appointed by Council from the membership including external appointed members.
- Deputy Chair appointed by the Council from the membership including external appointed members.
- Under s. 39B of the Resource Management Act, the Chair must be accredited, and unless there are exceptional circumstances, appointees on hearings panels must have accreditation to make decisions on;
 - Applications for Resource Consents.
 - Notice of Requirements given under s. 168 or 189 of the Resource Management Act.
 - Requests under clause 21(1) of Schedule 1 of the Resource Management Act for a change to be made to a Plan.
 - Reviews of Resource Consents.
 - Applications to change or cancel Resource Consent Conditions.
 - Proposed Policy Statements and plans that have been notified.
 - Any hearing of an objection under s. 357C of the Resource Management Act.

Quorum

- a) For Hearings other than Council Initiated Plan Change hearings, a maximum of three members including the Chair (or Deputy Chair, in the Chair's absence) to meet for any one hearing.
- b) For Council Initiated Plan Change hearings, all members may attend and take part in the decision-making process unless the Chair exercises the power of delegation to assign any function, power or duty of the Hearings Panel to any one or more Commissioners.
- c) That on a one-off basis, for the Council Initiated Plan Change 6 hearing - Category 3 Landowner Lifestyle Subdivision Provisions, being addressed under the Severe Weather Emergency Recovery (Resource Management – Streamlined Planning Process) Order 2023, the following provisions shall apply:
 - a. The panel composition shall comprise two Independent Commissioners to consider submissions and provide the required summary reports to the Minister for the Environment.
 - b. The two Independent Commissioners on the Hearing Panel shall be the current Chair of the Council's Hearings Committee, Mr George Lyons, acting as the Chair for this hearing and Mr Kitt Littlejohn.

- c. The quorum for this Hearing Panel shall be two members.
- d) For Hearings other than Council Initiated Plan Change hearings the quorum shall be two members.
- e) For Council Initiated Plan Change Hearings, the quorum shall be three members.
- f) Members to sit on any hearing other than a Council Initiated Plan Change Hearing shall be selected by agreement between the Chair (or Deputy Chair, in the Chair's absence) and the Group Manager: Planning and Regulatory Services.
- g) For the purpose of hearing any objection in respect of the matters detailed under the Dog Control Act 1996 the Hearings Committee will consist of any three members selected by the Chair.

Kaupapataka

Agenda

Ngā mema o te Komiti

Committee Members:

Hearing Panel Members:

Chair: George Lyons (Commissioner Chair - External appointee)

Kitt Littlejohn (External appointee)

Apiha Matua

Officer Responsible:

Group Manager: Planning and Regulatory Services - John

O'Shaughnessy

Reporting Planner

Environmental Policy Manager – (Rowan Wallis)

Te Rōpū Manapori me te

Kāwanatanga

Democracy

Governance Services

Christine Hilton (Ext 5633)

Te Rārangi Take **Order of Business**

1.0 *Apologies & Leave of Absence – Ngā Whakapāhatanga me te Wehenga ā-Hui*

2.0 **Plan Change 6 - Category 3 Landowner Subdivision Provisions** **DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS ONE DOCUMENT**

<u>Document 1</u>	The covering administrative report	Pg 1
Attachment 1	Memo for Plan Change 6 Hearings Panel outlining streamlined planning process requirements	Pg 3

Wednesday, 5 June 2024

Item 2

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council: Hearings Committee Meeting

Te Rārangi Take

Report to Hearings Committee

Nā:
From: **Christine Hilton, Democracy and Governance Advisor**

Te Take:
Subject: **Plan Change 6 - Category 3 Landowner Subdivision Provisions**


1.0 Purpose and summary - Te Kaupapa Me Te Whakarāpopototanga

- 1.1 This is a covering report relating to the Proposed Hastings District Plan hearing – Plan Change 6 – Category 3 Landowner Subdivision Provisions.
- 1.2 The attachment (**Attachment 1**) to this report comprises a covering memo from Council’s Legal Counsel and an attached document which sets out the details of the Streamlined Planning Process that this hearing is being held under – Process under Severe Weather Recovery Legislation under an Order in Council.
- 1.3 Using this covering report is a means to put this report onto the website.

2.0 Recommendations - Ngā Tūtohunga

That the covering report titled Plan Change 6 - Category 3 Landowner Subdivision Provisions, the hearings report and associated attachments, dated 5 June 2024, be received.

Attachments:

- | | | |
|---|---|---------------|
|  1 | Memo for Plan Change 6 Hearings Panel outlining streamlined planning process requirements | CG-17-8-00065 |
|---|---|---------------|



memo

TO: George Lyons / Kitt Littlejohn

DATE: 30 May 2024

SUBJECT: Proposed Plan Change 6 to Partly Operative Hastings District Plan (PC6) – Process under Severe Weather Recovery Legislation (Resource Management – Streamlined Planning Process) Order 2023 (SPP Order)

1. PC6 has been advanced using the process set out in the SPP Order, attached as **Appendix A**. The SPP Order alters the usual RMA requirements for a hearing of a plan change as summarised below. The key matters for the Hearings Panel are at cl 16(3) and (4) SPP Order.
2. In addition to convening the hearing, these subclauses effectively require the Panel to produce four documents:
 - (a) **A decision on submissions¹** - The Panel must give a decision on the provisions and matters raised in submissions under cl 10(1)-(3) First Schedule, which includes the reasons for accepting or rejecting submissions (which can be on a grouped basis).
 - (b) **A section 32AA evaluation²** - The decision must include a further evaluation in accordance with s 32AA RMA. Sections 32 and 32AA are varied by the SPP Order as set out in **Appendix B**.³ The Council officer has prepared an evaluation under s32AA as amended by the SPP Order to support changes recommended in the s 42A report;
 - (c) **A report⁴** - The Panel must also prepare a report showing how it has considered submissions and any modifications made to PC6 in light of submissions. That report must have regard to any s 32AA evaluation;
 - (d) **A summary document⁵** – The Panel must finally prepare a summary document showing how PC6 complies with the requirements of any relevant national direction, the RMA, any regulations, and “*how the criteria set out in section 80C(2) of the Act ...are satisfied*”. Those criteria, as relevant to PC6 are, in summary form:⁶

¹ SPP Order, cl 16(3)(b)

² SPP Order, cl 16(3)(d)

³ SPP Order, cls 6 and 7

⁴ SPP Order, cl 16(3)(c)

⁵ SPP Order, cl 16(3)(f)

⁶ Section 80C(2) RMA as amended by SPP Order, cl 17.

- (i) PC6 is only for the purpose of enabling the development of housing the Hastings district that is necessary or desirable to provide permanent housing for people displaced by Cyclone Gabrielle; and
 - (ii) PC6 will support the recovery of affected communities and persons from the impact of Cyclone Gabrielle; and
 - (iii) the scale of development authorised by PC6 will support the aspirations of the Council for recovery in the district.
- 3. Those documents must be provided to the Council as soon as practicable after they are finalised.⁷ The Council then submits the documents to the Minister as part of a package for their consideration.
- 4. Attached to this memo as **Appendix B** is a track change version of relevant sections of the RMA which has been prepared for the Commissioners’ convenience. This is not an official document and has simply been prepared as an aid to interpretation.
- 5. The Council are happy to provide any further material to assist the Hearings Panel.

Asher Davidson
Counsel for Hastings District Council

⁷ SPP Order, cl 16(3)(e) and (f).

Appendix A

2023/251



Severe Weather Emergency Recovery (Resource
Management—Streamlined Planning Process) Order
2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 18th day of September 2023

Present:

Her Excellency the Governor-General in Council

This order is made under section 7 of the Severe Weather Emergency Recovery
Legislation Act 2023—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 8(1) and (2) of that Act.

Contents

	Page
1 Title	2
Part 1	
Preliminary provisions	
2 Commencement	2
3 Revocation	2
4 Interpretation	3
5 Application of order	3

cl 1	Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023	2023/251
	Part 2	
	Modifications to Part 4 of Act	
6	Modification of section 32 (Requirements for preparing and publishing evaluation reports)	4
7	Modification of section 32AA (Requirements for undertaking and publishing further evaluations)	4
	Part 3	
	Modifications to Part 5 of Act	
8	Modification of section 80A (Freshwater planning process)	5
9	Modification of section 80B (Purpose, scope, application of Schedule 1, and definitions)	5
10	Modification of section 80C (Application to responsible Minister for direction)	6
	Part 4	
	Modifications to Schedule 1 of Act	
11	Modification of clause 3C of Schedule 1	7
12	Modification of clause 25 of Schedule 1	7
13	Modification of clause 26 of Schedule 1	7
14	Modification of clauses 75 to 78, 80 to 82, and 89 of Schedule 1	7
15	Contents of notice to use SWER streamlined planning process	7
16	SWER streamlined planning process	8
17	Modification of clause 83 of Schedule 1	10
18	Modification of clause 84 of Schedule 1	10
19	Modification of clause 86 of Schedule 1	10
20	Modification of clause 88 of Schedule 1	10

	Order	
1	Title	
	This order is the Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023.	

	Part 1	
	Preliminary provisions	
2	Commencement	
	This order comes into force on 20 September 2023.	
3	Revocation	
	This order is revoked on the close of 20 September 2026.	

4 Interpretation

- (1) In this order, unless the context otherwise requires,—
- Act** means the Resource Management Act 1991
- local authority** has the meaning set out in clause 5(3)
- papakāinga** means any papakāinga on any land regardless of the land’s status under Te Ture Whenua Maori Act 1993
- post-settlement governance entity** has the same meaning as in section 9 of the Urban Development Act 2020
- responsible Minister** means the Minister for the Environment
- Schedule 1** means Schedule 1 of the Act
- SWER streamlined planning process** means the streamlined planning process provided for by subpart 5 of Part 5 of the Act and Part 5 of Schedule 1 as modified by this order.
- (2) The modification of legislation by this order does not affect the text of the legislation, but requires it to be read to the extent required by clause 5 as if it had been amended in the manner indicated in this order.

5 Application of order

- (1) This order applies to a local authority in respect of a planning process to enable development of housing or papakāinga in its region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event.
- (2) However, this order applies in the situation set out in subclause (1) only if a local authority considers it is appropriate, in the circumstances, to use the SWER streamlined planning process.
- (3) In this order, **local authority** means any of the following:
- (a) Central Hawke’s Bay District Council:
 - (b) Far North District Council:
 - (c) Gisborne District Council:
 - (d) Hastings District Council:
 - (e) Hawke’s Bay Regional Council:
 - (f) Kaipara District Council:
 - (g) Napier City Council:
 - (h) Northland Regional Council:
 - (i) Wairoa District Council:
 - (j) Whangarei District Council.

Severe Weather Emergency Recovery (Resource
Management—Streamlined Planning Process) Order
2023

Part 2 cl 6

2023/251

Part 2
Modifications to Part 4 of Act

6 Modification of section 32 (Requirements for preparing and publishing evaluation reports)

- (1) This clause modifies section 32 of the Act.
- (2) Section 32(1)(b)(ii), (2), and (3) do not apply.
- (3) Section 32(1) applies as if paragraph (c) were replaced by the following:
 - (c) contain a level of detail that is reasonable in the circumstances having regard to—
 - (i) the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal; and
 - (ii) the urgent need to provide permanent housing for people displaced by a severe weather event.
- (4) In addition to the matters in section 32(1), the evaluation report must set out how the criteria set out in section 80C(2)(a) to (d) of the Act and, if applicable, clause 8(2)(b) of this order are satisfied.
- (5) Section 32(6) applies as if the definition of **objectives** were omitted and the following definitions were inserted in their appropriate alphabetical order:

objectives means the purpose of enabling the development of housing or papa-kāinga in the relevant local authority's region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event

severe weather event has the same meaning as in section 4(1) of the Severe Weather Emergency Recovery Legislation Act 2023

7 Modification of section 32AA (Requirements for undertaking and publishing further evaluations)

- (1) This clause modifies section 32AA of the Act.
- (2) Section 32AA(1) applies as if paragraphs (b) and (c) were replaced by the following:
 - (b) must be undertaken in accordance with section 32(1)(a), (b)(i) and (iii), and (4); and
 - (c) must, despite paragraph (b), be undertaken at a level of detail that is reasonable in the circumstances having regard to—
 - (i) the scale and significance of the changes; and
 - (ii) the urgent need to provide permanent housing for people displaced by a severe weather event; and

- (3) Section 32AA applies as if the following subsection were inserted after subsection (3):
- (4) In this section, **severe weather event** has the same meaning as in section 4(1) of the Severe Weather Emergency Recovery Legislation Act 2023.

Part 3
Modifications to Part 5 of Act

- 8 Modification of section 80A (Freshwater planning process)
- (1) This clause modifies section 80A of the Act.
 - (2) Despite anything to the contrary in section 80A, a regional council may prepare, in accordance with the SWER streamlined planning process, a change or variation to a proposed regional plan or regional policy statement referred to in section 80A(2) if—
 - (a) the regional council is a local authority specified in clause 5(3) of this order; and
 - (b) the regional council is satisfied that, in addition to meeting the criteria under section 80C(2), the change or variation is necessary or desirable for the avoidance or mitigation of natural hazards (*see* section 30(1)(c)(iv) of the Act).
- 9 Modification of section 80B (Purpose, scope, application of Schedule 1, and definitions)
- (1) This clause modifies section 80B of the Act.
 - (2) Section 80B applies as if subsection (1) were replaced by the following:
 - (1) This subpart and Part 5 of Schedule 1 provide a process for the preparation of a planning instrument in order to achieve an expeditious planning process that enables the development of housing or papakāinga that is necessary or desirable to provide permanent housing for people displaced by a severe weather event.
 - (3) Despite section 80B(2)(a) and (b), clauses 4, 6A, 9, and 13 of Schedule 1 do not apply to the SWER streamlined planning process.
 - (4) In addition to the clauses listed in section 80B(2)(a) and (b), clause 8AA of Schedule 1 applies to the SWER streamlined planning process.
 - (5) Despite section 80B(2)(b), clauses 25(2)(a)(i) and 26(1)(b) of Schedule 1 apply to the SWER streamlined planning process.
 - (6) In section 80B(2)(c)(iii), “a direction given under clause 78 of Schedule 1” is to be read as “the SWER streamlined planning process”.
 - (7) Section 80B(3) applies as if the definition of **responsible Minister** were omitted and the following definitions were inserted in their appropriate alphabetical order:

Part 3 cl 10

2023/251

severe weather event has the same meaning as in section 4(1) of the Severe Weather Emergency Recovery Legislation Act 2023

SWER streamlined planning process has the same meaning as in clause 4(1) of the Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023

- (1) This clause modifies section 80C of the Act.
- (2) The heading to section 80C is to be read as “**Notice to responsible Minister**”.
- (3) Section 80C applies as if subsections (1) and (2) were replaced by the following:

- (1) If a local authority determines that, in the circumstances, it would be appropriate to use the SWER streamlined planning process to prepare a planning instrument, it may give notice to the responsible Minister in accordance with clause 15 of the Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023 that it intends to use the SWER streamlined planning process.
- (2) However, a local authority may give notice of an intention to use the SWER streamlined planning process only if the local authority is satisfied that—
 - (a) the proposed planning instrument is only for the purpose of enabling the development of housing or papakāinga in the local authority’s region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event; and
 - (b) the proposed planning instrument will support the recovery of affected communities and persons from the impact of a severe weather event; and
 - (c) the scale of development authorised by the proposed planning instrument will support the aspirations of the local authority or a relevant iwi authority (or both) for recovery in the region, district, or rohe; and
 - (d) if the proposed planning instrument is for the purpose of enabling the development of papakāinga, the relevant iwi authorities have agreed that papakāinga may be established in the proposed location.
- (4) In section 80C(3), “applies for a direction under this section” is to be read as “gives notice that it intends to use the SWER streamlined planning process”.
- (5) Section 80C applies as if subsection (4) were replaced by the following:
 - (4) The notice must be given to the responsible Minister no later than the close of 20 September 2024 and before the local authority gives notice—
 - (a) under clause 5 of Schedule 1, in relation to a proposed planning instrument; or

2023/251 Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023 Part 4 cl 15

- (b) under clauses 25(2)(a)(i) and 26(1)(b) of Schedule 1, in relation to a request for a private plan change.

Part 4 Modifications to Schedule 1 of Act

11 Modification of clause 3C of Schedule 1

- (1) This clause modifies clause 3C of Schedule 1.
- (2) Clause 3C applies as if it were replaced with the following:

3C Previous consultation

A local authority is not required to comply with clause 3 to the extent that any matter in a proposed planning instrument has been the subject of consultation with the same person, group of persons, or their representative or agent under any other process within the 18 months preceding public notification of the proposed planning instrument that the matter relates to, so long as that consultation related to the housing and papakāinga proposed to be enabled by the planning instrument.

12 Modification of clause 25 of Schedule 1

- (1) This clause modifies clause 25 of Schedule 1.
- (2) Clause 25(2)(a)(i) applies as if “or 5A” were deleted.
- (3) Clause 25(2AA) does not apply.

13 Modification of clause 26 of Schedule 1

- (1) This clause modifies clause 26 of Schedule 1.
- (2) Clause 26(2) does not apply.

14 Modification of clauses 75 to 78, 80 to 82, and 89 of Schedule 1

- (1) This clause modifies clauses 75 to 78, 80 to 82, and 89 of Schedule 1.
- (2) Clauses 75 to 78, 80 to 82, and 89 do not apply.

15 Contents of notice to use SWER streamlined planning process

Instead of the requirements in clause 75 of Schedule 1, a notice to the responsible Minister that a local authority intends to use the SWER streamlined planning process must—

- (a) be in writing; and
- (b) set out a brief explanation of how the criteria set out in section 80C(2) of the Act and, if applicable, clause 8(2)(b) of this order are satisfied; and
- (c) specify the area the proposed planning instrument applies to; and

- (d) specify when the proposed planning instrument is expected to be publicly notified under clause 5 of Schedule 1.

16 SWER streamlined planning process

- (1) Instead of the requirements in clauses 78 and 82 of Schedule 1, a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process must, at a minimum,—
 - (a) in addition to the requirements in clauses 1A to 3C of Schedule 1, consult on the proposed planning instrument—
 - (i) with any affected post-settlement governance entities (if not already undertaken); and
 - (ii) with any group that, for the purposes of the Act, represents any affected hapū (if not already undertaken); and
 - (b) in accordance with clause 5 of Schedule 1,—
 - (i) prepare an evaluation report on the proposed planning instrument under section 32 of the Act; and
 - (ii) in addition to the matters in section 32(4A) of the Act, summarise the following in the evaluation report:
 - (A) all advice concerning the proposal that is received, under the relevant provisions of this order, from the entities or groups referred to in paragraph (a)(i) or (ii):
 - (B) the response to the advice, including any provisions of the proposal that are intended to give effect to the advice; and
 - (iii) publicly notify the proposed planning instrument; and
 - (c) comply with all other requirements in clause 5 of Schedule 1 (other than clause 5(1)(b)(ii)); and
 - (d) in addition to the requirement in clause 5(4) of Schedule 1, provide a copy of the proposed planning instrument without charge to each entity or group referred to in paragraph (a)(i) or (ii) (if any); and
 - (e) provide an opportunity for written submissions in accordance with clause 6 of Schedule 1; and
 - (f) make copies of the written submissions that the local authority has received publicly available on an Internet site maintained by, or on behalf of, the local authority; and
 - (g) appoint, in accordance with subclause (2), an independent panel (the **panel**); and
 - (h) take reasonable steps to ensure that the panel follows the process set out in subclauses (3) and (4); and

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| 2023/251 | Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order
2023 | Part 4 cl 16 |
|----------|--|--------------|
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- (i) submit the information and documentation specified in clause 83(1) of Schedule 1 to the responsible Minister no later than the close of 20 May 2026.
 - (2) The local authority must take reasonable steps to ensure that the panel—
 - (a) is made up of 1 or more commissioners; and
 - (b) includes at least 1 commissioner with knowledge of tikanga Māori; and
 - (c) is commensurate to the size and nature of the proposed planning instrument.
 - (3) For the purposes of subclause (1)(h), the process is as follows:
 - (a) the panel must hold a hearing under clause 8B of Schedule 1 unless, under clause 8C of Schedule 1, a hearing is not needed (where clauses 8B and 8C apply with all necessary modifications as if the panel were the local authority); and
 - (b) the panel must comply with clause 10(1) to (3) of Schedule 1 (which applies with all necessary modifications as if the panel were the local authority); and
 - (c) the panel must prepare a report showing—
 - (i) how it has considered submissions; and
 - (ii) any modifications it has made to the proposed planning instrument in light of the submissions; and
 - (d) in preparing the report, the panel must have particular regard to the further evaluation undertaken in accordance with section 32AA of the Act (if any); and
 - (e) the panel must give the report to the local authority as soon as practicable after it is finalised; and
 - (f) the panel must prepare the summary document specified in clause 83(1)(f) of Schedule 1 and give the document to the local authority as soon as practicable after it is finalised.
 - (4) The panel must, to the extent reasonably practicable, perform its functions under subclause (3) in the same manner, subject to the same restrictions, and with the same effect as if the panel were the local authority for the purposes of the Act.
 - (5) For the purposes of subclause (1)(i), the report that would otherwise be submitted under clause 83(1)(c) of Schedule 1 must be the report given to the local authority under subclause (3)(e) (instead of a report prepared by the local authority).
 - (6) For the purposes of subclause (1)(i), the document that would otherwise be submitted under clause 83(1)(f) of Schedule 1 must be the document given to the local authority under subclause (3)(f) (instead of a document prepared by the local authority).

**Severe Weather Emergency Recovery (Resource
Management—Streamlined Planning Process) Order
2023**

Part 4 cl 17

2023/251

17 Modification of clause 83 of Schedule 1

- (1) This clause modifies clause 83 of Schedule 1.
- (2) In clause 83(1), “A local authority that is subject to a direction under clause 78” is to be read as “A local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process”.
- (3) In clause 83(1), “the time required by the direction” is to be read as “the time required by the SWER streamlined planning process”.
- (4) Clause 83(1)(e) and (g) does not apply.
- (5) In addition to the information and documentation specified in clause 83(1) that the local authority must submit to the responsible Minister, the local authority must, at the same time, submit a summary document showing how the criteria set out in section 80C(2) of the Act and, if applicable, clause 8(2)(b) of this order are satisfied, including confirming that the local authority is satisfied that relevant iwi authorities have agreed as referred to in section 80C(2)(d).

18 Modification of clause 84 of Schedule 1

- (1) This clause modifies clause 84 of Schedule 1.
- (2) In clause 84(2)(a), “the direction” is to be read as “the SWER streamlined planning process”.
- (3) Clause 84(2)(b)(i) does not apply.
- (4) In clause 84(2), “local authority” includes the independent panel referred to in clause 16 of this order.
- (5) In clause 84(3)(a), “the streamlined planning process” is to be read as “the SWER streamlined planning process”.

19 Modification of clause 86 of Schedule 1

- (1) This clause modifies clause 86 of Schedule 1.
- (2) Clause 86(2) does not apply.

20 Modification of clause 88 of Schedule 1

- (1) This clause modifies clause 88 of Schedule 1.
- (2) In clause 88(1), “a local authority that is subject to a direction under clause 78” is to be read as “a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process”.
- (3) Clause 88(1) applies as if “set out in the direction” were deleted.
- (4) Clause 88(4) does not apply.

Rachel Hayward,
Clerk of the Executive Council.

Severe Weather Emergency Recovery (Resource
Management—Streamlined Planning Process) Order
2023

2023/251

Explanatory note

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order is made under section 7 of the Severe Weather Emergency Recovery Legislation Act 2023 (the **Act**) and its effect is temporary. It comes into force on 20 September 2023 and is revoked on the close of 20 September 2026.

This order applies only to certain local authorities in respect of a planning process to enable development of housing or papakāinga in their region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event (as defined in section 4(1) of the Act).

The local authorities are the Central Hawke's Bay District Council, the Far North District Council, the Gisborne District Council, the Hastings District Council, the Hawke's Bay Regional Council, the Kaipara District Council, the Napier City Council, the Northland Regional Council, the Wairoa District Council, and the Whangarei District Council.

This order modifies the streamlined planning process provided for in subpart 5 of Part 5 and Part 5 of Schedule 1 of the Resource Management Act 1991 (the **RMA**). The modified process is called the **SWER streamlined planning process**. The main modifications are as follows:

- a local authority does not need to apply to the responsible Minister for a direction to use the process. Instead, the local authority must satisfy itself of certain criteria before giving to the responsible Minister a notice of intention to use the process (*see clause 10*);
- the Minister's direction would normally set out minimum process requirements. Instead, the minimum process requirements are set out in the order (*see clause 16*). In addition to consultation with iwi authorities, the order requires the local authority to consult with affected post-settlement governance entities and groups that represent affected hapū;
- instead of the local authority holding a hearing into submissions on its proposed planning instrument, the local authority must appoint an independent panel to hold the hearing, prepare a report on submissions, and make modifications to the proposed planning instrument in light of submissions (*see clause 16*). Clause 91 of Schedule 1 of the RMA, which limits the right to appeal against decisions or actions of persons under Part 5 of Schedule 1, applies to the independent panel in addition to the local authority and responsible Minister;
- an evaluation report or further evaluation under section 32 or 32AA of the RMA is not required to assess the efficiency and effectiveness of the provisions in the proposal in achieving the purpose of the proposal (*see clauses 6 and 7*). Instead, the evaluation report must set out how the relevant criteria for using the SWER streamlined planning process are satisfied:

	Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023	2023/251
Explanatory note		

- this order permits a change or variation involving freshwater to be prepared using the SWER streamlined planning process (*see clause 8*).

Statement of reasons

This statement of the Minister’s reasons for recommending the making of this order is published in accordance with section 10 of the Act.

The Minister for the Environment (the **relevant Minister**) is satisfied that the order is—

- necessary or desirable for 1 or more purposes of the Act; and
- appropriate.

Order is necessary or desirable for 1 or more purposes of Act

In relation to section 8(1)(a)(i) of the Act, the order will assist communities and local authorities to provide for the planning, rebuilding, and recovery of affected communities and persons, including—

- the development, building, or rebuilding of land, infrastructure, or other property or access to resources or services in areas not affected by the severe weather events; and
- facilitating co-ordinated efforts and processes for short-term, medium-term, and long-term recovery; and
- supporting the operation of other legislation, or enabling it to be relaxed or operate more flexibly, to take account of actions taken to respond to, or recover from, the severe weather events.

The severe weather events have damaged housing, marae, and papakāinga. People will need to rebuild them or move to areas at less risk from natural hazards, including future severe weather events. The planning rules in local plans made under the RMA manage where new housing can be developed. Some changes are required to the local plans to enable new permanent housing, marae, and papakāinga to be established (such as rezoning additional areas so they can be developed for housing and papakāinga). An efficient plan change process is needed to enable the rezoning of those areas so new housing or papakāinga can be quickly established to urgently provide housing for people who have been permanently displaced by the severe weather events.

Clause 8 provides that if any changes are required to a regional plan or regional policy statement to enable natural hazard mitigation measures to be undertaken before housing or papakāinga is developed, the change may use the SWER streamlined planning process. This ensures that, despite the change addressing the management of risk from a body of fresh water, the freshwater planning process is not required to be followed. In some locations it is important that mitigation of the ongoing flood risk occurs before the new housing and papakāinga are established. A freshwater planning process will take much longer than a plan change through the SWER streamlined planning process and it is desirable that these are able to occur concurrently.

	Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order	
2023/251	2023	Explanatory note

Clause 10 modifies section 80C of the RMA to allow a local authority to notify the relevant Minister that it intends to use the SWER streamlined planning process, rather than having to apply to that Minister to use the process. This saves time for the local authorities, enabling new housing more quickly to support recovery from the severe weather events. It also gives certainty to local authorities that they will be able to use the SWER streamlined planning process if they are satisfied they have met the criteria outlined in that clause. They include the following criteria:

- the proposed plan change is only for the purpose of enabling the development of housing or papakāinga in the local authority’s region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event; and
- the proposed plan change will support the recovery of affected communities and persons from the impact of a severe weather event.

Clause 16 outlines the process local authorities must follow as part of the SWER streamlined planning process. This replaces the direction the relevant Minister usually makes on approval of the use of the streamlined planning process. The process outlined in that clause has been streamlined to ensure that the process is as quick as possible, while also retaining the appropriate checks and balances.

Order not broader than reasonably necessary

The relevant Minister is satisfied that the order is not broader than is reasonably necessary for the following reasons.

Clause 3 revokes the order 3 years after its commencement. This ensures that plan changes are focused on areas for development that can be immediately identified and acted upon early to support the long-term recovery from the severe weather events.

Clause 5 ensures that the order applies only to those local authorities that were most affected. Those areas also had the worst damage to their housing stock, compared with damage to roading and other infrastructure.

Clause 8 ensures that it is possible for changes necessary to enable the mitigation of flood risk to be undertaken in a timely manner before any new housing is established. The criteria in the order limit the application of that clause to plan changes that are necessary or desirable for the avoidance or mitigation of natural hazards. This will enable the natural hazard mitigation works required to support the establishment of new housing and papakāinga.

Clause 10 outlines the criteria local authorities must be satisfied they meet to give notice to the relevant Minister that they intend to use the SWER streamlined planning process. They include the following criteria, which require that the local authority is satisfied that—

- the proposed plan change is only for the purpose of enabling the development of housing or papakāinga in the local authority’s region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event; and

Explanatory note	Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023	2023/251
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- the proposed plan change will support the recovery of affected communities and persons from the impact of a severe weather event.

If facilities or amenities are necessary to enable housing or papakāinga (for example, infrastructure, open space, marae, etc) then they may be included within the proposed plan change. Any plan change using the SWER streamlined planning process will still need to comply with national direction requirements.

Other preconditions satisfied

The following preconditions for recommending the making of an order have also been satisfied:

- the draft order has been reviewed by the Severe Weather Events Recovery Review Panel:
- the draft order has been provided to the Regulations Review Committee:
- the relevant Minister has had regard to the recommendations and comments provided by those bodies, and the order and this statement of reasons have been amended to address those recommendations and comments:
- the engagement process under section 9 of the Act has been complied with:
- the relevant Minister has considered—
 - the effects on the environment that could occur as a result of the order; and
 - whether any adverse effects can be avoided, remedied, or mitigated.

The order does not have any direct effect on the environment. The order is providing for a different process rather than a different outcome. Any plan change process in accordance with the order will still need to consider and manage all relevant effects on the environment and comply with national direction requirements.

The ability to use this process rather than the freshwater planning process is narrowly constrained to only include the ability to enable natural hazard mitigation measures that relate to the development of housing and papakāinga. Those plan changes will still need to fulfil any relevant requirements of the National Policy Statement for Freshwater Management.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 19 September 2023.
This order is administered by the Ministry for the Environment.

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2023

Appendix B

Resource Management Act 1991

SPP Order Amendments

Note – additional requirement from SPP Order not involving amendments to RMA shown as highlighted text

32 Requirements for preparing and publishing evaluation reports

- (1) An evaluation report required under this Act must—
 - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
 - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
 - (i) identifying other reasonably practicable options for achieving the objectives; and
 - ~~(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and¹~~
 - (iii) summarising the reasons for deciding on the provisions; and
 - (c) contain a level of detail that is reasonable in the circumstances having regard to –
 - (i) ~~corresponds to~~ the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal; and
 - (ii) the urgent need to provide permanent housing for people displaced by a severe weather event.²
- ~~(2) An assessment under subsection (1)(b)(ii) must –³~~
 - ~~(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for –~~
 - ~~(i) economic growth that are anticipated to be provided or reduced; and~~
 - ~~(ii) employment that are anticipated to be provided or reduced; and~~
 - ~~(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and~~
 - ~~(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.~~
- ~~(3) If the proposal (an **amending proposal**) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to –⁴~~

¹ SPP Order, cl6(2)

² SPP Order, cl6(3)

³ SPP Order, cl6(2)

⁴ SPP Order, cl6(2)

- 1 Resource Management Act 1991
- ~~(a) the provisions and objectives of the amending proposal; and~~
~~(b) the objectives of the existing proposal to the extent that those objectives—~~
~~(i) are relevant to the objectives of the amending proposal; and~~
~~(ii) would remain if the amending proposal were to take effect.~~
- (4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.
- (4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—
- (a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and
- (b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.
- (5) The person who must have particular regard to the evaluation report must make the report available for public inspection—
- (a) as soon as practicable after the proposal is made (in the case of a standard, regulation, national policy statement, or New Zealand coastal policy statement); or
- (b) at the same time as the proposal is notified.
- (6) In this section,—
- objectives** means the purpose of enabling the development of housing or papakāinga in the relevant local authority's region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event⁵
- ~~(a) for a proposal that contains or states objectives, those objectives;~~⁶
~~(b) for all other proposals, the purpose of the proposal~~
- proposal** means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act
- provisions** means,—
- (a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change;
- (b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.
- severe weather event** has the same meaning as in section 4(1) of the Severe

⁵ SPP Order, cl6(5)

⁶ SPP Order, cl6(5)

Resource Management Act 1991

Weather Emergency Recovery Legislation Act 2023⁷

In addition to the matters in section 32(1), the evaluation report must set out how the criteria set out in section 80C(2)(a) to (d) of the Act...are satisfied.⁸

32AA Requirements for undertaking and publishing further evaluations

- (1) A further evaluation required under this Act—
 - (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and
 - ~~(b) must be undertaken in accordance with section 32(1) to (4); and⁹~~
 - ~~(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes;¹⁰ and~~
 - ~~(b) must be undertaken in accordance with section 32(1)(a), (b)(i) and (iii), and (4); and¹¹~~
 - ~~(c) must, despite paragraph (b), be undertaken at a level of detail that is reasonable in the circumstances having regard to— (i) the scale and significance of the changes; and (ii) the urgent need to provide permanent housing for people displaced by a severe weather event; and¹²~~
 - (d) must—
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.
- (2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).
- (3) In this section, **proposal** means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.
- (4) In this section, severe weather event has the same meaning as in section 4(1) of

⁷ SPP Order, cl6(5)

⁸ SPP Order, cl6(4)

⁹ SPP Order, cl 7(2)

¹⁰ SPP Order, cl 7(2)

¹¹ SPP Order, cl 7(2)

¹² SPP Order, cl 7(2)

¹ Resource Management Act 1991
the Severe Weather Emergency Recovery Legislation Act 2023.¹³

Subpart 5—Streamlined planning process

Subpart 5: inserted, on 19 April 2017, by section 66 of the Resource Legislation Amendment Act 2017 (2017 No 15).

80B Purpose, scope, application of Schedule 1, and definitions

- (1) ~~This subpart and Part 5 of Schedule 1 provide a process, through a direction of the responsible Minister, for the preparation of a planning instrument in order to achieve an expeditious planning process that is proportionate to the complexity and significance of the planning issues being considered.~~¹⁴
- (1) This subpart and Part 5 of Schedule 1 provide a process for the preparation of a planning instrument in order to achieve an expeditious planning process that enables the development of housing or papakāinga that is necessary or desirable to provide permanent housing for people displaced by a severe weather event.¹⁵
- (2) Under this subpart, Schedule 1 applies as follows:
- (a) clauses 1A to 3C, 6, ~~6A~~, 8AA¹⁶, 16, and 20A apply; and¹⁷
 - (b) clauses ~~4, 9, 13~~, 21 to 27 (other than clauses 25(2)(a)(i) ~~and (ii)~~ ~~and 26(b)~~), and 28(2) to (6) apply; but¹⁸
 - (c) the rest of Part 1 does not apply unless it is expressly applied by—
 - (i) this subpart; or
 - (ii) Part 5 of Schedule 1; or
 - (iii) The SWER streamlined planning process a direction given under clause 78 of Schedule 1.¹⁹
- (3) In this subpart and Part 5 of Schedule 1,—
- national direction** means a direction made by—
- (a) a national planning standard; or
 - (b) a national environmental standard; or
 - (c) regulations made under section 360; or
 - (d) a national policy statement

planning instrument—

¹³ SPP Order, cl 7(4)

¹⁴ SPP Order, cl 9(2)

¹⁵ SPP Order, cl 9(2)

¹⁶ SPP Order, cl 9(5)

¹⁷ SPP Order, cl 9(3)

¹⁸ SPP Order, cl 9(5)

¹⁹ SPP Order, cl 9(6)

Resource Management Act 1991

- (a) means a policy statement or plan; and
- (b) includes a change or variation to a policy statement or plan

responsible Minister means the Minister for the Environment ~~Minister or Ministers who give a direction in accordance with this subpart and Part 5 of Schedule 1, namely,—~~

- ~~(a) the Minister of Conservation, in the case of a regional coastal plan;~~
- ~~(b) both the Minister and the Minister of Conservation, in the case of a proposed planning instrument that is to encompass matters within the jurisdiction of both those Ministers;~~
- ~~(c) the Minister, in every other case.²⁰~~

severe weather event has the same meaning as in section 4(1) of the Severe Weather Emergency Recovery Legislation Act 2023²¹

SWER streamlined planning process has the same meaning as in clause 4(1) of the Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023²²

80C ~~Application to responsible~~ Notice to responsible Minister for direction²³

- (1) If a local authority determines that, in the circumstances, it would be appropriate to use the SWER streamlined planning process to prepare a planning instrument, it may ~~give notice to apply in writing to~~ the responsible Minister in accordance with clause 15 of the Severe Weather Emergency Recovery (Resource Management— Streamlined Planning Process) Order 2023 that it ~~intends to use the SWER streamlined planning process~~ 75 of Schedule 1 for a direction to proceed under this subpart.²⁴
- (2) However, a local authority may ~~give notice of an intention to use the SWER streamlined planning process only if apply for a direction only if the planning instrument or proposed planning instrument is not a freshwater planning instrument and the local authority is satisfied that the application satisfies at least 1 of the following criteria:~~²⁵
 - (a) the proposed planning instrument is only for the purpose of enabling the development of housing or papakāinga in the local authority's region or district that is necessary or desirable to provide permanent housing for people displaced by a severe weather event; and
 - (b) the proposed planning instrument will support the recovery of affected communities and persons from the impact of a severe weather event; and
 - (c) the scale of development authorised by the proposed planning instru-

²⁰ SPP Order, cl 9(7)

²¹ SPP Order, cl 9(7)

²² SPP Order, cl 9(7)

²³ SPP Order, cl 10(2)

²⁴ SPP Order, cl 10(3)

²⁵ SPP Order, cl 10(3)

- 1 Resource Management Act 1991
- ment will support the aspirations of the local authority or a relevant iwi authority (or both) for recovery in the region, district, or rohe; and
- (d) if the proposed planning instrument is for the purpose of enabling the development of papakāinga, the relevant iwi authorities have agreed that papakāinga may be established in the proposed location.
- (a) ~~the proposed planning instrument will implement a national direction:~~
- (b) ~~as a matter of public policy, the preparation of a planning instrument is urgent:~~
- (c) ~~the proposed planning instrument is required to meet a significant community need:~~
- (d) ~~a plan or policy statement raises an issue that has resulted in unintended consequences:~~
- (e) ~~the proposed planning instrument will combine several policy statements or plans to develop a combined document prepared under section 80:~~
- (f) ~~the expeditious preparation of a planning instrument is required in any circumstance comparable to, or relevant to, those set out in paragraphs (a) to (e).~~
- (3) In relation to a private plan change accepted under clause 25(2)(b) of Schedule 1, a local authority must obtain the agreement of the person requesting the change before the local authority applies for a direction under this section gives notice that it intends to use the SWER streamlined planning process.²⁶
- (4) The notice must be given to the responsible Minister no later than the close of 20 September 2024 and before the local authority gives notice—6 (b) under clauses 25(2)(a)(i) and 26(1)(b) of Schedule 1, in relation to a request for a private plan change. If an application is made under this section, it must be submitted to the responsible Minister before the local authority gives notice—²⁷
- (a) under clause 5 or 5A of Schedule 1, in relation to a proposed planning instrument; or
- (b) ~~[Repealed]~~
- (c) under clauses 25(2)(a)(i) and 26(b) of Schedule 1, in relation to a request for a private plan change.

Schedule 1 Preparation, change, and review of policy statements and plans

ss 60, 64, 65, 73

²⁶ SPP Order, cl 10(4)

²⁷ SPP Order, cl 10(5)

Resource Management Act 1991

Part 1

Preparation and change of policy statements and plans by local
authorities

~~1 Time limits²⁸~~

~~(1) [Repealed]~~

~~(2) Where any time limit is set in this schedule, a local authority may extend it under section 37.~~

~~(3) Where no time limit is set, section 21 (obligation to avoid unreasonable delay) applies.~~

~~(4) Where, under this schedule, a request for a plan change is to be heard and an application for a resource consent or a requirement for a designation or heritage order has been made in relation to the same proposal, section 102 (joint hearings) and section 103 (combined hearings) may apply.~~

[See cl 16(1)(a) SPP Order:

... a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process must, at a minimum,—

(a) in addition to the requirements in clauses 1A to 3C of Schedule 1, consult on the proposed planning instrument—

(i) with any affected post-settlement governance entities (if not already undertaken); and

(ii) with any group that, for the purposes of the Act, represents any affected hapū (if not already undertaken)

1A Mana Whakahono a Rohe to be complied with²⁹

(1) A proposed policy statement or plan must be prepared in accordance with any applicable Mana Whakahono a Rohe.

(2) A local authority may comply with clause 3(1)(d) in any particular case by consulting relevant iwi authorities about a proposed policy statement or plan in accordance with a Mana Whakahono a Rohe.

1B Relationship with iwi participation legislation³⁰

Nothing in this schedule limits any relevant iwi participation legislation or agreement under that legislation.

2 Preparation of proposed policy statement or plan³¹

(1) The preparation of a policy statement or plan shall be commenced by the prep-

²⁸ RMA, s 80B(2)(c)

²⁹ RMA, s 80B(2)(a)

³⁰ RMA, s 80B(2)(a)

³¹ RMA, s 80B(2)(a)

- 1 **Resource Management Act 1991**
- aration by the local authority concerned, of a proposed policy statement or plan.
- (2) A proposed regional coastal plan must be prepared by the regional council concerned in consultation with—
- (a) the Minister of Conservation; and
 - (b) iwi authorities of the region; and
 - (c) any customary marine title group in the region.
- 3 Consultation³²**
- (1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—
- (a) the Minister for the Environment; and
 - (b) those other Ministers of the Crown who may be affected by the policy statement or plan; and
- (c) local authorities who may be so affected; and
- (d) the tangata whenua of the area who may be so affected, through iwi authorities; and
 - (e) any customary marine title group in the area.
- (2) A local authority may consult anyone else during the preparation of a proposed policy statement or plan.
- (3) Without limiting subclauses (1) and (2), a regional council which is preparing a regional coastal plan shall consult—
- (a) the Minister of Conservation generally as to the content of the plan, and with particular respect to those activities to be described as restricted coastal activities in the proposed plan; and
 - (b) the Minister of Transport in relation to matters to do with navigation and the Minister's functions under Parts 18 to 27 of the Maritime Transport Act 1994; and
 - (c) the Minister of Fisheries in relation to fisheries management, and the management of aquaculture activities.
- (4) In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.
- 3A Consultation in relation to policy statements³³**
- (1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of—
- (a) preparing a proposed policy statement or a variation to a proposed policy statement; and

³² RMA, s 80B(2)(a)

³³ RMA, s 80B(2)(a)

Resource Management Act 1991

-
- (b) preparing a change to a policy statement; and
 - (c) reviewing a policy statement.
 - (2) If an agreement on the consultation process required by subclause (1) is not reached by the date prescribed in section 15(1) of the Local Government Act 2002,—
 - (a) subclause (1) ceases to apply to that triennial agreement; and
 - (b) 1 or more of the affected local authorities—
 - (i) must advise the Minister and every affected local authority as soon as is reasonably practicable after the date prescribed in section 15(1) of the Local Government Act 2002; and
 - (ii) may submit the matter to mediation.
 - (3) If subclause (2) applies, the parts of the triennial agreement other than the part relating to the consultative process referred to in subclause (1) may be confirmed before—
 - (a) an agreement on the consultative process is reached under subclauses (4) and (5)(a); or
 - (b) the Minister makes a binding determination under subclause (5)(b).
 - (4) Mediation must be by a mediator or a mediation process agreed to by the affected local authorities.
 - (5) If the matter is not submitted to mediation or if mediation is unsuccessful, the Minister may either—
 - (a) make an appointment under section 25 for the purpose of determining a consultation process to be used in the course of preparing a proposed policy statement or reviewing a policy statement; or
 - (b) make a binding determination as to the consultation process that must be used.
 - (6) The consultative process must form part of the triennial agreement, whether or not the other parts of the triennial agreement have been confirmed, in the event that—
 - (a) an agreement is reached under subclause (4) or subclause (5)(a) as to a consultative process, as required by subclause (1); or
 - (b) the Minister makes a binding determination under subclause (5)(b).
 - (7) In this clause, **affected local authorities** means—
 - (a) the regional council of a region; and
 - (b) every territorial authority whose district is wholly or partly in the region of the regional council.

3B Consultation with iwi authorities³⁴

For the purposes of clause 3(1)(d), a local authority is to be treated as having

³⁴ RMA, s 80B(2)(a)

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Resource Management Act 1991

consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and
- (b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and
- (c) consults with those iwi authorities; and
- (d) enables those iwi authorities to identify resource management issues of concern to them; and
- (e) indicates how those issues have been or are to be addressed.

3C Previous consultation under other enactments³⁵

A local authority is not required to comply with clause 3 to the extent that any matter in a proposed planning instrument has been the subject of consultation with the same person, group of persons, or their representative or agent under any other process within the 18 months preceding public notification of the proposed planning instrument that the matter relates to, so long as that consultation related to the housing and papakāinga proposed to be enabled by the planning instrument.³⁶

~~A local authority is not required to comply with clause 3 to the extent that any matter in a proposed policy statement or plan has been the subject of consultation with the same person, group of persons, or their representative or agent under another enactment within the 36 months preceding public notification of the proposed policy statement or plan that the matter relates to, so long as that person, group of persons, or their representative or agent were advised that the information obtained from that consultation was also to apply in relation to matters under this Act.~~

~~4 Requirements to be inserted prior to notification of proposed district plans³⁷~~

- ~~(1) This clause applies to a new district plan or review of a district plan under section 79(1).~~
- ~~(1A) The territorial authority must give written notice to any requiring authority that has a designation that has not lapsed in the relevant part of the district plan.~~
- ~~(1B) The purpose of the notice is to invite those requiring authorities to give written notice to the territorial authority stating whether the requiring authority requires the designation to be included, with or without modification, in the proposed plan.~~
- ~~(1C) Subclause (1A) applies before the territorial authority—~~
 - ~~(a) notifies the district plan, change, or variation under clause 5; or~~

³⁵ RMA, s 80B(2)(a)

³⁶ SPP Order, cl6(3)

³⁷ RMA, s 80B(2)(b)

Resource Management Act 1991

- (b) ~~[Repealed]~~
- (c) ~~applies to the Minister for a direction under section 80C to enter the streamlined planning process.~~
- (1D) ~~The written notice must—~~
- (a) ~~give the requiring authority at least 30 working days to respond; and~~
- (b) ~~state which planning process under this schedule it proposes to use or request; and~~
- (c) ~~specify the final date for the requiring authority to provide its written notice.~~
- (d) ~~[Repealed]~~
- (2) ~~[Repealed]~~
- (2A) ~~[Repealed]~~
- (2B) ~~[Repealed]~~
- (3) ~~Where the requiring authority states that a designation is to be included in the proposed plan, with modifications, the requiring authority shall include in its written notice the nature of the modifications, and the reasons for the modifications.~~
- (4) ~~If the requiring authority fails to notify the territorial authority in accordance with subclause (1), no provision for the designation shall be included in the proposed plan.~~
- (5) ~~A territorial authority shall include in its proposed plan provision for any designation it receives notice of under this clause, any existing heritage orders, and any requirements for designations and heritage orders to which sections 170 and 192 apply or any requirement to which clause 42 applies.~~
- (6) ~~A territorial authority may include in its proposed district plan—~~
- (a) ~~any requirement for a designation or heritage order which the territorial authority has responsibility for within its district; and~~
- (b) ~~any existing designations or heritage orders, with or without modifications, which the territorial authority has responsibility for within its own district.~~
- (7) ~~If a territorial authority includes a requirement, or modification of a requirement, in its proposed district plan under subclause (6), it must make available for public inspection all information about the requirement that is required by the prescribed form for the notice of that requirement.~~
- (8) ~~[Repealed]~~
- (9) ~~A requiring authority may withdraw a requirement for a designation in accordance with section 168(4) and a heritage protection authority may withdraw a requirement for a heritage order in accordance with section 189(4).~~
- (10) ~~If a territorial authority receives notice from a requiring authority that a requirement has been withdrawn, the territorial authority must, as soon as reasonably practicable and without using the process in this schedule, amend~~

1 Resource Management Act 1991

~~its proposed district plan accordingly.~~

~~4A Further pre-notification requirements concerning iwi authorities³⁸~~

- ~~(1) Before notifying a proposed policy statement or plan, a local authority must—~~
- ~~(a) provide a copy of the relevant draft proposed policy statement or plan to the iwi authorities consulted under clause 3(1)(d); and~~
 - ~~(b) have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.~~
- ~~(2) When a local authority provides a copy of the relevant draft proposed policy statement or plan in accordance with subclause (1), it must allow adequate time and opportunity for the iwi authorities to consider the draft and provide advice on it.~~

5 Public notice and provision of document to public bodies³⁹

- (1) A local authority that has prepared a proposed policy statement or plan must—
- (a) prepare an evaluation report for the proposed policy statement or plan in accordance with section 32 and have particular regard to that report when deciding whether to proceed with the statement or plan; and
 - (b) if the local authority decides to proceed with the proposed policy statement or plan, do one of the following, as appropriate:
 - (i) publicly notify the proposed policy statement or plan;
 - ~~(ii) give limited notification, as provided for in clause 5A.~~
- (1A) A territorial authority shall, not earlier than 60 working days before public notification or later than 10 working days after public notification of its plan, either—
- (a) send a copy of the public notice, and such further information as the territorial authority thinks fit relating to the proposed plan, to every ratepayer for the area of the territorial authority where that person, in the territorial authority's opinion, is likely to be directly affected by the proposed plan; or
 - (b) include the public notice, and such further information as the territorial authority thinks fit relating to the proposed plan, in any publication or circular which is issued or sent to all residential properties and Post Office box addresses located in the affected area—
- and shall send a copy of the public notice to any other person who, in the territorial authority's opinion, is directly affected by the plan.
- (1B) Notwithstanding subclause (1A), a territorial authority shall ensure that notice is given of any requirement or modification of a designation or heritage order under clause 4 to land owners and occupiers who, in the territorial authority's

³⁸ RMA, s 80B(2)(c)

³⁹ RMA, s 80B(2)(c)(iii)

Resource Management Act 1991

- opinion, are likely to be directly affected.
- (1C) A regional council shall, not earlier than 60 working days before public notification or later than 10 working days after public notification, send a copy of the public notice and such further information as the regional council thinks fit relating to the proposed policy statement or plan to any person who, in the regional council's opinion, is likely to be directly affected by the proposed policy statement or plan.
- (2) Public notice under subclause (1) shall state—
- (a) where the proposed policy statement or plan may be inspected; and
 - (b) that any person may make a submission on the proposed policy statement or plan; and
 - (c) the process for public participation in the consideration of the proposed policy statement or plan; and
 - (d) the closing date for submissions; and
 - (e) the address for service of the local authority.
- (2A) If the proposed policy statement or plan is a freshwater planning instrument, the public notice under subclause (1) must also—
- (a) state whether all or part of the instrument is subject to the freshwater planning process; and
 - (b) if applicable, state—
 - (i) which part will undergo the freshwater planning process and the reasons why; and
 - (ii) which part will undergo the processes in Part 1 of this schedule and the reasons why.
- (3) The closing date for submissions—
- (a) shall, in the case of a proposed policy statement or plan, be at least 40 working days after public notification; and
 - (b) shall, in the case of a proposed change or variation to a policy statement or plan, be at least 20 working days after public notification.
- (4) A local authority shall provide 1 copy of its proposed policy statement or plan without charge to—
- (a) the Minister for the Environment; and
 - (b) *[Repealed]*
 - (c) in the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and
 - (d) in the case of a district plan, the regional council and adjacent local authorities; and
 - (e) in the case of a policy statement or regional plan, constituent territorial authorities, and adjacent regional councils; and
 - (f) the tangata whenua of the area, through iwi authorities.

13

Item 2

Attachment 1

1 Resource Management Act 1991

(g) *[Repealed]*

- (5) A local authority shall make any proposed policy statement or plan prepared by it available in every public library in its area and in every other place in its area that it considers appropriate.
- (6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).

See cl 16(1) SPP Order:

... a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process must, at a minimum,—

- (b) in accordance with clause 5 of Schedule 1,—
 - (i) prepare an evaluation report on the proposed planning instrument under section 32 of the Act; and
 - (ii) in addition to the matters in section 32(4A) of the Act, summarise the following in the evaluation report:
 - (A) all advice concerning the proposal that is received, under the relevant provisions of this order, from the entities or groups referred to in paragraph (a)(i) or (ii):
 - (B) the response to the advice, including any provisions of the proposal that are intended to give effect to the advice; and (iii) publicly notify the proposed planning instrument; and
- (c) comply with all other requirements in clause 5 of Schedule 1 (other than clause 5(1)(b)(ii)); and
- (d) in addition to the requirement in clause 5(4) of Schedule 1, provide a copy of the proposed planning instrument without charge to each entity or group referred to in paragraph (a)(i) or (ii) (if any); and

5A ~~Option to give limited notification of proposed change or variation~~⁴⁰

- ~~(1) This clause applies to a proposed change or variation.~~
- ~~(2) The local authority may give limited notification, but only if it is able to identify all the persons directly affected by the proposed change or a variation of a proposed policy statement or plan.~~
- ~~(3) The local authority must serve limited notification on all persons identified as~~

⁴⁰ RMA, s 80B(2)(c)

Resource Management Act 1991

~~being directly affected by the proposed change or variation.~~

- ~~(4) A notice given under this clause must state —~~
- ~~(a) where the proposed change or variation may be inspected; and~~
 - ~~(b) that only the persons given limited notification under this clause may make a submission on the proposed change or variation; and~~
 - ~~(c) the process for participating in the consideration of the proposed change or variation; and~~
 - ~~(d) the closing date for submissions; and~~
 - ~~(e) the address for service of the local authority.~~
- ~~(5) The local authority may provide any further information relating to a proposed change or variation that it thinks fit.~~
- ~~(6) The closing date for submissions must be at least 20 working days after limited notification is given under this clause.~~
- ~~(7) If limited notification is given, the local authority may adopt, as an earlier closing date, the last day on which the local authority receives, from all the directly affected persons, a submission, or written notice that no submission is to be made.~~
- ~~(8) The local authority must provide a copy of the proposed change or variation, without charge, to —~~
- ~~(a) the Minister for the Environment; and~~
 - ~~(b) for a change to, or variation of, a regional coastal plan, the Minister of Conservation and the Director General of Conservation; and~~
 - ~~(c) for a change to, or variation of, a district plan, the regional council and adjacent local authorities; and~~
 - ~~(d) for a change to, or variation of, a policy statement or regional plan, the constituent territorial authorities and adjacent regional councils; and~~
 - ~~(e) tangata whenua of the area, through iwi authorities.~~
- ~~(9) If limited notification is given in relation to a proposed change under this clause, the local authority must make the change or variation publicly available in the central public library of the relevant district or region, and may also make it available in any other place that it considers appropriate.~~
- ~~(10) The obligations on the local authority under subclause (4) are in addition to those under section 35 (which relates to the keeping of records).~~

6 Making of submissions under clause 5⁴¹

- (1) Once a proposed policy statement or plan is publicly notified under clause 5, the persons described in subclauses (2) to (4) may make a submission on it to the relevant local authority.
- (2) The local authority in its own area may make a submission.
- (3) Any other person may make a submission but, if the person could gain an

⁴¹ RMA, s 80B(2)(c)(iii)

1

Resource Management Act 1991

advantage in trade competition through the submission, the person's right to make a submission is limited by subclause (4).

- (4) A person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that—
- (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.
- (5) A submission must be in the prescribed form.

See cl 16(1) SPP Order:

... a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process must, at a minimum,—

- (e) provide an opportunity for written submissions in accordance with clause 6 of Schedule 1; and,—
- (f) make copies of the written submissions that the local authority has received publicly available on an Internet site maintained by, or on behalf of, the local authority;

6A Making of submissions under clause 5A⁴²

- (1) ~~If limited notification is given under clause 5A on a proposed change to a policy statement or plan, the only persons who may make submissions or further submissions on the proposed change are—~~
- ~~(a) the persons given limited notification under clause 5A(3); and~~
 - ~~(b) the persons provided with a copy of the proposed change under clause 5A(8).~~
- (2) ~~However, if a person with a right to make a submission could gain an advantage in trade competition through making a submission, that person may make a submission only if directly affected by an effect of the proposed change that—~~
- ~~(a) adversely affects the environment; and~~
 - ~~(b) does not relate to trade competition or the effects of trade competition.~~
- (3) ~~The local authority in its own area may make a submission.~~
- (4) ~~Submissions must be made in the prescribed form.~~

7 Public notice of submissions⁴³

- (1) ~~A local authority must give public notice of—~~
- ~~(a) the availability of a summary of decisions requested by persons making~~

⁴² RMA, s 80B(2)(c)

⁴³ RMA, s 80B(2)(c)

Resource Management Act 1991

- ~~submissions on a proposed policy statement or plan; and~~
- ~~(b) where the summary of decisions and the submissions can be inspected; and~~
- ~~(c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in clause 8(1) may make a further submission on the proposed policy statement or plan; and~~
- ~~(d) the date of the last day for making further submissions (as calculated under paragraph (c)); and~~
- ~~(e) the limitations on the content and form of a further submission.~~
- ~~(2) The local authority must serve a copy of the public notice on all persons who made submissions.~~
- ~~(3) However, in the case of a submission on a proposed change to a policy statement or plan, if a local authority has given limited notification under clause 5A, it must give notice of the matters listed in subclause (1), as relevant, instead of giving public notice, to —~~
- ~~(a) the persons given limited notification under clause 5A(3); and~~
- ~~(b) the persons provided with a copy of the proposed change under clause 5A(8).~~

~~8 Certain persons may make further submissions⁴⁴~~

- ~~(1) The following persons may make a further submission, in the prescribed form, on a proposed policy statement or plan to the relevant local authority:~~
- ~~(a) any person representing a relevant aspect of the public interest; and~~
- ~~(b) any person that has an interest in the proposed policy statement or plan greater than the interest that the general public has; and~~
- ~~(c) the local authority itself.~~
- ~~(1A) However, in the case of submissions on a proposed change to a policy statement or plan for which limited notification has been given under clause 5A, the only persons (in addition to the relevant local authority) who may make a further submission are —~~
- ~~(a) the persons given limited notification under clause 5A(3); and~~
- ~~(b) the persons given a copy of the proposed change under clause 5A(8).~~
- ~~(2) A further submission given under subclause (1) or (1A) must be limited to a matter in support of or in opposition to the relevant submission made under clause 6 or 6A.~~

~~8A Service of further submissions⁴⁵~~

- ~~(1) A person who makes a further submission under clause 8(1) or (1A) must serve a copy of it on —~~

⁴⁴ RMA, s 80B(2)(c)

⁴⁵ RMA, s 80B(2)(c)

- 1 Resource Management Act 1991
- ~~(a) the relevant local authority; and~~
- ~~(b) the person who made the submission under clause 6 or 6A to which the further submission relates.~~
- ~~(2) The further submission must be served on the person referred to in subclause (1)(b) not later than 5 working days after the day on which the person provides the relevant local authority with the further submission.~~

8AA Resolution of disputes⁴⁶

- (1) For the purpose of clarifying or facilitating the resolution of any matter relating to a proposed policy statement or plan, a local authority may, if requested or on its own initiative, invite anyone who has made a submission on the proposed policy statement or plan to meet with the local authority or such other person as the local authority thinks appropriate.
- (2) A member of the local authority who attends a meeting under subclause (1) is not disqualified from participating in a decision made under clause 10.
- (3) The local authority may, with the consent of the parties, refer to mediation the issues raised by persons who have made submissions on the proposed plan or policy statement.
- (4) Mediation under subclause (3) must be conducted by an independent mediator.
- (5) The chairperson of the meeting must, as soon as practicable after the end of the meeting, prepare a report that—
 - (a) must identify the matters that are agreed between the local authority and the submitters and those that are not; and
 - (b) may identify—
 - (i) the nature of the evidence that must be called at the hearing by the persons who made submissions;
 - (ii) the order in which that evidence is to be heard;
 - (iii) a proposed timetable for the hearing; but
 - (c) does not include evidence that was presented at the meeting on a without prejudice basis.
- (6) The person who prepared the report must give the report to those persons who attended the meeting and the local authority not later than 5 working days before the hearing.
- (7) The local authority must have regard to the report in making its decision under clause 10.

8B Hearing by local authority⁴⁷

A local authority shall hold a hearing into submissions on its proposed policy

⁴⁶ RMA, s80B(2)(a), SPP Order, cl 9(4)

⁴⁷ RMA, s 80B(2)(c)(iii)

Resource Management Act 1991

statement or plan, and any requirements notified under clause 4, and give at least 10 working days notice of the dates, times, and place of the hearings to—

- (a) every person who made a submission or further submission, and who requested to be heard (and has not since withdrawn that request); and
- (b) in the case of a district plan, every authority which made a requirement under clause 4.

8C Hearing not needed⁴⁸

Where submissions are made but no person indicates they wish to be heard, or the request to be heard is withdrawn, the local authority shall consider the submissions along with the other relevant matters, but shall not be required to hold a hearing.

See cl 16(3) SPP Order:

... the process is as follows:

- (a) the panel must hold a hearing under clause 8B of Schedule 1 unless, under clause 8C of Schedule 1, a hearing is not needed (where clauses 8B and 8C apply with all necessary modifications as if the panel were the local authority),—

8D ~~Withdrawal of proposed policy statements and plans⁴⁹~~

- ~~(1) Where a local authority has initiated the preparation of a policy statement or plan, the local authority may withdraw its proposal to prepare, change, or vary the policy statement or plan at any time—~~
 - ~~(a) if an appeal has not been made to the Environment Court under clause 14, or the appeal has been withdrawn, before the policy statement or plan is approved by the local authority; or~~
 - ~~(b) if an appeal has been made to the Environment Court, before the Environment Court hearing commences.~~
- ~~(2) The local authority shall give public notice of any withdrawal under subclause (1), including the reasons for the withdrawal.~~

9 ~~Recommendations and decisions on requirements⁵⁰~~

- ~~(1) The territorial authority shall make and notify its recommendation in respect of any provision included in the proposed district plan under clause 4(5) to the appropriate authority in accordance with section 171 or section 191.~~
- ~~(2) The territorial authority shall make its decision on provisions included in the proposed district plan under clause 4(6) in accordance with section 168A(3) or section 189A(3), as the case may be.~~

⁴⁸ RMA, s 80B(2)(c)(iii)

⁴⁹ RMA, s 80B(2)(c)(iii)

⁵⁰ RMA, s 80B(2)(c)

1

Resource Management Act 1991

- ~~(3) Nothing in this clause shall allow the territorial authority to make a recommendation or decision in respect of any existing designations or heritage orders that are included without modification and on which no submissions are received.~~

10 Decisions on provisions and matters raised in submissions⁵¹

- (1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.
- (2) The decision—
- (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—
 - (i) the provisions of the proposed statement or plan to which they relate; or
 - (ii) the matters to which they relate; and
 - (ab) must include a further evaluation of the proposed policy statement or plan undertaken in accordance with section 32AA; and
 - (b) may include—
 - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and
 - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.
- (3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.
- ~~(4) The local authority must—~~
- ~~(aaa) have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and~~
 - ~~(a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and~~
 - ~~(b) publicly notify the decision within the same time.~~
- ~~(5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.~~

See cl 16(3) SPP Order:

... the process is as follows:

- (b) the panel must comply with clause 10(1) to (3) of Schedule 1 (which applies with all necessary modifications as if the panel were the local authority);

⁵¹ RMA, s 80B(2)(c)(iii)

Resource Management Act 1991

- (c) the panel must prepare a report showing—
 - (i) how it has considered submissions; and
 - (ii) any modifications it has made to the proposed planning instrument in light of the submissions; and
- (d) in preparing the report, the panel must have particular regard to the further evaluation undertaken in accordance with section 32AA of the Act (if any); and
- (e) the panel must give the report to the local authority as soon as practicable after it is finalised; and
- (f) the panel must prepare the summary document specified in clause 83(1)(f) of Schedule 1 and give the document to the local authority as soon as practicable after it is finalised.

10A Application to Minister for extension of time⁵²

- ~~(1) A local authority must, before the time for making its decision under clause 10, apply to the Minister for an extension of the time for giving a decision under that clause if the local authority is unable, or is likely to be unable, to meet the requirement of clause 10(4)(a) (under which decisions must be given within 2 years of notification of a proposed policy statement or plan).~~
- ~~(2) An application under subclause (1) must be in writing, and must set out—
 - (a) the reasons for the request for an extension; and
 - (b) the duration of the extension required.~~
- ~~(3) Before applying for an extension, a local authority must take into account—
 - (a) the interests of any person who, in its opinion, may be directly affected by an extension; and
 - (b) the interests of the community in achieving adequate assessment of the effects of the proposed policy statement or plan or change to a policy statement or plan; and
 - (c) its duty under section 21 to avoid unreasonable delay.~~
- ~~(4) The Minister—
 - (a) may decline or agree to an extension applied for under subclause (1); but
 - (b) in the case of a regional coastal plan, must consider the views of the Minister of Conservation before granting an extension.~~
- ~~(5) The Minister must serve notice of his or her decision on the local authority.~~
- ~~(6) If the Minister grants an extension, the local authority must give public notice of that extension.~~
- ~~(7) This clause applies instead of section 37 if the time limit prescribed by clause 10(4)(a) is to be extended.~~

⁵² RMA, s 80B(2)(c)

1 Resource Management Act 1991

11 Notification of decision⁵³

- (1) ~~At the same time as a local authority publicly notifies a decision under clause 10(4)(b), it must serve, on every person who made a submission on the proposed policy statement or plan concerned, —~~
- ~~(a) a copy of the public notice; and~~
 - ~~(b) a statement of the time within which an appeal may be lodged by the person.~~
- (2) ~~Where a decision has been made under clause 9(2), the territorial authority, at the same time as it publicly notifies a decision under clause 10(4)(b), must serve a copy of the public notice on landowners and occupiers who, in the territorial authority's opinion, are directly affected by the decision.~~
- (3) ~~If the local authority serves or provides a copy of the public notice under sub-clause (1) or (2), it must —~~
- ~~(a) make a copy of the decision available (whether physically or by electronic means) at all its offices, and all public libraries in the district (if it relates to a district plan) or region (in all other cases); 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.~~

12 Record of effect of decisions on provisions other than requirements

~~[Repealed]~~

13 Decision of requiring authority or heritage protection authority⁵⁴

- (1) ~~A requiring authority or heritage protection authority shall notify the territorial authority whether it accepts or rejects its recommendation in whole or in part within 30 working days after the day on which the territorial authority notifies its recommendation under clause 9.~~
- (2) ~~A requiring authority and a heritage protection authority may modify a requirement if, and only if, that modification is recommended by the territorial authority, or it is not inconsistent with the requirement as notified.~~
- (3) ~~The territorial authority shall alter the proposed district plan to show the modification or delete the requirement in accordance with the requiring authority's or heritage protection authority's notice.~~
- (4) ~~The territorial authority shall ensure a notice of decision by the requiring authority or heritage protection authority and a statement of the time within which an appeal may be lodged is served on every person who made a submission on the requirement, and on the land owners and occupiers who are directly affected by the decision, within 15 working days of the territorial authority~~

⁵³ RMA, s 80B(2)(c)

⁵⁴ RMA, s 80B(2)(c)

Resource Management Act 1991

~~receiving the decision.~~

~~(5) [Repealed]~~

~~(6) If a notice summarising a decision is served, the territorial authority must—~~

- ~~(a) make a copy of the decision available (whether physically or by electronic means) at all its offices, and all public libraries in the district; 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.~~

14 Appeals to Environment Court⁵⁵

~~(1) A person who made a submission on a proposed policy statement or plan may appeal to the Environment Court in respect of—~~

- ~~(a) a provision included in the proposed policy statement or plan; or~~
- ~~(b) a provision that the decision on submissions proposes to include in the policy statement or plan; or~~
- ~~(c) a matter excluded from the proposed policy statement or plan; or~~
- ~~(d) a provision that the decision on submissions proposes to exclude from the policy statement or plan.~~

~~(2) However, a person may appeal under subclause (1) only if—~~

- ~~(a) the person referred to the provision or the matter in the person's submission on the proposed policy statement or plan; and~~
- ~~(b) the appeal does not seek the withdrawal of the proposed policy statement or plan as a whole.~~

~~(2A) For the purposes of subclause (2)(b), **proposed plan** does not include a variation or a change.~~

~~(3) The following persons may appeal to the Environment Court against any aspect of a requiring authority's or heritage protection authority's decision:~~

- ~~(a) any person who made a submission on the requirement that referred to that matter;~~
- ~~(b) the territorial authority.~~

~~(4) Any appeal to the Environment Court under this clause must be in the prescribed form and lodged with the Environment Court within 30 working days of service of the notice of decision of the local authority under clause 11 or service of the notice of decision of the requiring authority or heritage protection authority under clause 13, as the case may be.~~

~~(5) The appellant must serve a copy of the notice in the prescribed manner.~~

15 Hearing by the Environment Court⁵⁶

⁵⁵ RMA, s 80B(2)(c)

⁵⁶ RMA, s 80B(2)(c)

- 1 Resource Management Act 1991
- (1) ~~The Environment Court shall hold a public hearing into any provision or matter referred to it.~~
- (2) ~~If the Environment Court, in a hearing into any provision of a proposed policy statement or plan (other than a proposed regional coastal plan), directs a local authority under section 293(1), the local authority must comply with the court's directions.~~
- (3) ~~Where the court hears an appeal against a provision of a proposed regional coastal plan, that appeal is an inquiry and the court —~~
- ~~(a) shall report its findings to the appellant, the local authority concerned, and the Minister of Conservation; and~~
- ~~(b) may include a direction given under section 293(1) to the regional council to make modifications to, deletions from, or additions to, the proposed regional coastal plan.~~

16 Amendment of proposed policy statement or plan⁵⁷

- (1) A local authority must, without using the process in this schedule, make an amendment to its proposed policy statement or plan that is required by section 55(2) or by a direction of the Environment Court under section 293.
- (2) A local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.
- (3) *[Repealed]*

~~16A Variation of proposed policy statement or plan⁵⁸~~

- ~~(1) A local authority may initiate variations (being alterations other than those under clause 16) to a proposed policy statement or plan, or to a change, at any time before the approval of the policy statement or plan.~~
- ~~(2) The provisions of this schedule, with all necessary modifications, shall apply to every variation as if it were a change.~~

~~16B Merger with proposed policy statement or plan⁵⁹~~

- ~~(1) Every variation initiated under clause 16A shall be merged in and become part of the proposed policy statement or plan as soon as the variation and the proposed policy statement or plan are both at the same procedural stage; but where the variation includes a provision to be substituted for a provision in the proposed policy statement or plan against which a submission or an appeal has been lodged, that submission or appeal shall be deemed to be a submission or appeal against the variation.~~
- ~~(2) From the date of notification of a variation, the proposed policy statement or proposed plan shall have effect as if it had been so varied.~~

⁵⁷ RMA, s 80B(2)(a)

⁵⁸ RMA, s 80B(2)(c)

⁵⁹ RMA, s 80B(2)(c)

Resource Management Act 1991

- (3) ~~Subclause (2) does not apply to a proposed policy statement or plan approved under clause 17(1A).~~

17 ~~Final consideration of policy statements and plans other than regional coastal plans~~⁶⁰

- (1) ~~A local authority shall approve a proposed policy statement or plan (other than a regional coastal plan) once it has made amendments under clause 16 or variations under clause 16A (if any).~~
- (1A) ~~However, a local authority may approve a proposed policy statement or plan (other than a regional coastal plan) in respect of which it has initiated a variation.~~
- (1B) ~~A variation to a proposed policy statement or plan approved under subclause (1A) must be treated as if it were a change to the policy statement or plan unless the variation has merged in and become part of the proposed policy statement or plan under clause 16B(1).~~
- (2) ~~A local authority may approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.~~
- (3) ~~Every approval under this clause shall be effected by affixing the seal of the local authority to the proposed policy statement or plan.~~
- (4) ~~See also section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before approval, to Kāinga Ora - Homes and Communities, in certain circumstances).~~

18 ~~Consideration of a regional coastal plan by regional council~~⁶¹

- (1) ~~A regional council shall adopt a proposed regional coastal plan for reference to the Minister of Conservation once it has made amendments under clause 16 or variations under clause 16A (if any).~~
- (2) ~~Every adoption of a proposed regional coastal plan under this clause shall be effected by affixing the seal of the regional council to the proposed regional coastal plan.~~
- (3) ~~As soon as practicable after a regional council adopts a proposed regional coastal plan it shall send the plan to the Minister of Conservation for his or her approval.~~
- (4) ~~A regional council may adopt part of a proposed regional coastal plan if all submissions or inquiries relating to that part have been disposed of.~~
- (5) ~~See also section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before adopting them, to Kāinga Ora - Homes and Communities, in certain circumstances).~~

19 ~~Ministerial approval of regional coastal plan~~⁶²

⁶⁰ RMA, s 80B(2)(c)

⁶¹ RMA, s 80B(2)(c)

1

Resource Management Act 1991

- ~~(1) Prior to his or her approval of a regional coastal plan, the Minister of Conservation may require the regional council to make any amendments to the plan specified by that Minister.~~
- ~~(2) The Minister of Conservation may not require a regional council to make an amendment to a regional coastal plan that is in conflict or inconsistent with any direction of the Environment Court, unless the Minister made a submission on the provision concerned when the provision was referred to the court.~~
- ~~(3) When the Minister of Conservation requires a regional council to make changes under subclause (1), the Minister shall give reasons.~~
- ~~(3A) If all submissions or inquiries relating to part of a regional coastal plan have been disposed of, the Minister of Conservation may approve that part.~~
- ~~(4) Every approval of a regional coastal plan under this clause shall be effected by the Minister of Conservation signing the regional coastal plan.~~

20—Operative date⁶²

- ~~(1) Subject to subclause (2), an approved policy statement or plan shall become an operative policy statement or plan on a date which is to be publicly notified.~~
- ~~(2) The local authority shall publicly notify the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.~~
- ~~(3) [Repealed]~~
- ~~(4) The local authority shall provide 1 copy of its operative policy statement or plan without charge to—~~
 - ~~(a) the Minister for the Environment; and~~
 - ~~(b) [Repealed]~~
 - ~~(c) in the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and~~
 - ~~(d) in the case of a district plan, the regional council and adjacent territorial authorities; and~~
 - ~~(e) in the case of a policy statement or regional plan, constituent territorial authorities and adjacent regional councils; and~~
 - ~~(f) the tangata whenua of the area, through iwi authorities.~~
 - ~~(g) [Repealed]~~
- ~~(5) The local authority shall provide 1 copy of its operative policy statement or plan to every public library in its area.~~
- ~~(6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).~~

⁶² RMA, s 80B(2)(c)

⁶³ RMA, s 80B(2)(c)

Resource Management Act 1991

20A Correction of operative policy statement or plan⁶⁴

A local authority may amend, without using the process in this schedule, an operative policy statement or plan to correct any minor errors.

**Part 5
Streamlined planning process**

75 Contents of application for directions⁶⁵

~~An application to a Minister for a direction under section 80C to use the streamlined planning process must—~~

- ~~a. be in writing; and~~
- ~~b. set out the following matters:~~
 - ~~i. a description of the planning issue (including any requirement, designation, or heritage order) for which a planning instrument is required, with an explanation as to how the proposal meets any of the criteria set out in section 80C(2); and~~
 - ~~ii. an explanation of why use of the streamlined planning process is appropriate as an alternative to using the process under Part 1 of this schedule; and~~
 - ~~iii. a description of the process that the local authority wishes to use and the time frames that it proposes for the steps in that process, having regard to the relevant criteria under section 80C(2); and~~
 - ~~iv. the persons that the local authority considers are likely to be affected by the proposed planning instrument; and~~
 - ~~v. a summary of any consultation undertaken on the proposed planning instrument by the local authority, or intended to be undertaken, including consultation with iwi authorities under clauses 1A to 3C; and~~
 - ~~vi. the implications of using the process that the local authority wishes to use for any relevant iwi participation legislation or Mana Whakahono a Rohe entered into under subpart 2 of Part 5 of this Act.~~

[See cl 15 SPP Order;

Contents of notice to use SWER streamlined planning process⁶⁶

Instead of the requirements in clause 75 of Schedule 1, a notice to the responsible Minister that a local authority intends to use the SWER streamlined planning process must—

- (a) be in writing; and

⁶⁴ RMA, s 80B(2)(a)

⁶⁵ SPP Order, cl 14(2)

⁶⁶ SPP Order, cl 15

1

Resource Management Act 1991

- (b) set out a brief explanation of how the criteria set out in section 80C(2) of the Act and, if applicable, clause 8(2)(b) of this order are satisfied; and
- (c) specify the area the proposed planning instrument applies to; and 2023/251 Severe Weather Emergency Recovery (Resource Management—Streamlined Planning Process) Order 2023 Part 4 cl 15 7
- (d) specify when the proposed planning instrument is expected to be publicly notified under clause 5 of Schedule 1.

~~76—How responsible Minister considers request⁶⁷~~

- ~~(1) The requirements of this clause apply to a local authority's request to use the streamlined planning process.~~
- ~~(2) The responsible Minister must have regard to—~~
 - ~~(a) the local authority's written request; and~~
 - ~~(b) whether the local authority has, in the Minister's opinion, provided sufficient information in support of its request; and~~
 - ~~(c) any relevant obligations set out in any iwi participation legislation or Mana Whakahono a Rohe; and~~
 - ~~(d) any other matters that the Minister considers relevant; and~~
 - ~~(e) the purpose of the streamlined planning process, as stated in section 80B(1).~~
- ~~(3) The responsible Minister may require the local authority to provide any further information in support of its request that he or she may reasonably specify in writing.~~
- ~~(4) In relation to the streamlined planning process that he or she is proposing to implement by way of a direction under clause 78, the responsible Minister must consult—~~
 - ~~(a) the local authority; and~~
 - ~~(b) any other relevant Ministers of the Crown; and~~
 - ~~(c) any person who has requested a private plan change that is accepted under clause 25(2)(b); and~~
 - ~~(d) any requiring authority that has consented under section 170 to include a requirement.~~
- ~~(5) The responsible Minister may consult any other person about the content of the streamlined planning process that the Minister is proposing.~~
- ~~(6) The responsible Minister must ensure that the streamlined planning process to be implemented by a direction given under clause 78 is not inconsistent with obligations under any relevant iwi participation legislation or Mana Whakahono a Rohe.~~

⁶⁷ SPP Order, cl 14(2)

Resource Management Act 1991

~~77 Responsible Minister's decision⁶⁸~~

- ~~(1) The responsible Minister may decide a local authority's application for a direction to enter the streamlined planning process by—~~
- ~~(a) giving a direction under clause 78 that the local authority use the streamlined process set by the Minister in that direction; or~~
 - ~~(b) declining the local authority's request.~~
- ~~(2) The responsible Minister's decision (and direction, if issued) must be—~~
- ~~(a) given in writing with reasons; and~~
 - ~~(b) served by the Minister on the relevant local authority; and~~
 - ~~(c) served by the local authority,—~~
 - ~~(i) in the case of a notice of requirement, designation, or heritage order, on the relevant requiring authority or heritage protection authority; and~~
 - ~~(ii) in the case of a private plan change, on the person who requested the change.~~

~~78 Direction and its content⁶⁹~~

- ~~(1) A direction applied for under section 80C is given under this clause.~~
- ~~(2) In deciding the content of the direction, the responsible Minister must have regard to—~~
- ~~(a) the purpose of the proposed streamlined planning process, the local authority's request, and any supplementary information provided by the local authority; and~~
 - ~~(b) the views of persons and bodies consulted under clause 76(4) or (5).~~
- ~~(3) The direction—~~
- ~~(a) must provide for the matters set out in subclause (4); and~~
 - ~~(b) must include the Minister's statement of expectations for the local authority; and~~
 - ~~(c) may include any matters provided for in subclause (5).~~
- ~~(4) The streamlined planning process set out in the direction must, at a minimum, provide for—~~
- ~~(a) consultation with affected parties on the proposed planning instrument, including with the responsible Minister and iwi authorities (if not already undertaken); and~~
 - ~~(b) public notification of the proposed planning instrument in accordance with clause 5 (other than clause 5(3)), or limited notification under clause 5A (other than clause 5A(6)); and~~
 - ~~(c) an opportunity for written submissions under clause 6 or 6A; and~~

⁶⁸ SPP Order, cl 14(2)

⁶⁹ SPP Order, cl 14(2)

- 1 Resource Management Act 1991
- ~~(d) a report showing how submissions have been considered and the changes (if any) made to the proposed planning instrument; and~~
 - ~~(e) the preparation of an evaluation report on the proposed planning instrument under section 32 or 32AA, as may be relevant; and~~
 - ~~(f) decision makers to give particular regard to the report prepared under paragraph (e); and~~
 - ~~(g) the time period within which the streamlined planning process must be completed.~~
 - ~~(5) The responsible Minister may also include in the streamlined planning process any other procedural requirements and time frames not provided for under sub-clause (4)(g) that the Minister considers appropriate, including—~~
 - ~~(a) any reporting requirements; and~~
 - ~~(b) any relevant planning process requirements set out in this schedule or elsewhere in this Act.~~
 - ~~(6) If a direction includes a requirement for a hearing, the restrictions of section 39(2)(c) and (d) (which relates to questioning and cross examination in a hearing) do not apply.~~
 - ~~(7) A direction under this clause is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).~~
 - ~~Legislation Act 2019 requirements for secondary legislation made under this clause~~
 - ~~Publication The maker must: LA19 ss 73, 74(1)(a),~~
 - ~~• publish it in the Gazette~~
 - ~~• ensure that it is published on an Internet site maintained by, or on behalf of, the relevant local authority from which the public can access or download it~~
 - ~~Presentation The Minister must present it to the House of Representatives~~ Sch 1 cl 14
- ~~LA19 ss 114, Sch 1 cl 32(1)(a)~~
- ~~Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116~~
- ~~This note is not part of the Act.~~

[See cl 16 SPP Order:

SWER streamlined planning process

- (1) Instead of the requirements in clauses 78 and 82 of Schedule 1, a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process must, at a minimum,—
 - (a) in addition to the requirements in clauses 1A to 3C of Schedule 1, consult on the proposed planning instrument—
 - (i) with any affected post-settlement governance entities (if not

Resource Management Act 1991

- already undertaken); and
- (ii) with any group that, for the purposes of the Act, represents any affected hapū (if not already undertaken); and
- (b) in accordance with clause 5 of Schedule 1,—
- (i) prepare an evaluation report on the proposed planning instrument under section 32 of the Act; and
- (ii) in addition to the matters in section 32(4A) of the Act, summarise the following in the evaluation report:
- (A) all advice concerning the proposal that is received, under the relevant provisions of this order, from the entities or groups referred to in paragraph (a)(i) or (ii):
- (B) the response to the advice, including any provisions of the proposal that are intended to give effect to the advice; and (iii) publicly notify the proposed planning instrument; and
- (c) comply with all other requirements in clause 5 of Schedule 1 (other than clause 5(1)(b)(ii)); and
- (d) in addition to the requirement in clause 5(4) of Schedule 1, provide a copy of the proposed planning instrument without charge to each entity or group referred to in paragraph (a)(i) or (ii) (if any); and
- (e) provide an opportunity for written submissions in accordance with clause 6 of Schedule 1; and
- (f) make copies of the written submissions that the local authority has received publicly available on an Internet site maintained by, or on behalf of, the local authority; and
- (g) appoint, in accordance with subclause (2), an independent panel (the panel); and
- (h) take reasonable steps to ensure that the panel follows the process set out in subclauses (3) and (4); and (i) submit the information and documentation specified in clause 83(1) of Schedule 1 to the responsible Minister no later than the close of 20 May 2026.
- (2) The local authority must take reasonable steps to ensure that the panel—
- (a) is made up of 1 or more commissioners; and
- (b) includes at least 1 commissioner with knowledge of tikanga Māori; and (c) is commensurate to the size and nature of the proposed planning instrument.

1

Resource Management Act 1991

- (3) For the purposes of subclause (1)(h), the process is as follows:
- (a) the panel must hold a hearing under clause 8B of Schedule 1 unless, under clause 8C of Schedule 1, a hearing is not needed (where clauses 8B and 8C apply with all necessary modifications as if the panel were the local authority); and
 - (b) the panel must comply with clause 10(1) to (3) of Schedule 1 (which applies with all necessary modifications as if the panel were the local authority); and
 - (c) the panel must prepare a report showing—
 - (i) how it has considered submissions; and
 - (ii) any modifications it has made to the proposed planning instrument in light of the submissions; and
 - (d) in preparing the report, the panel must have particular regard to the further evaluation undertaken in accordance with section 32AA of the Act (if any); and
 - (e) the panel must give the report to the local authority as soon as practicable after it is finalised; and
 - (f) the panel must prepare the summary document specified in clause 83(1)(f) of Schedule 1 and give the document to the local authority as soon as practicable after it is finalised.
- (4) The panel must, to the extent reasonably practicable, perform its functions under subclause (3) in the same manner, subject to the same restrictions, and with the same effect as if the panel were the local authority for the purposes of the Act.
- (5) For the purposes of subclause (1)(i), the report that would otherwise be submitted under clause 83(1)(c) of Schedule 1 must be the report given to the local authority under subclause (3)(e) (instead of a report prepared by the local authority).
- (6) For the purposes of subclause (1)(i), the document that would otherwise be submitted under clause 83(1)(f) of Schedule 1 must be the document given to the local authority under subclause (3)(f) (instead of a document prepared by the local authority).

79 Form and status of directions under Legislation Act 2012

[Repealed]

~~80 Amendment of direction~~⁷⁰

- ~~(1) The responsible Minister may initiate an amendment of a direction.~~

⁷⁰ SPP Order, cl 14(2)

Resource Management Act 1991

- (2) ~~A local authority may request in writing that the responsible Minister amend a direction that applies to that local authority, setting out the reasons for the request.~~
- (3) ~~The responsible Minister may amend his or her direction as the Minister thinks appropriate.~~
- (4) ~~Unless an amendment made under this clause has no more than a minor effect or is made to correct a technical error, clauses 76(2) to (6), 77(2), 78(3), and 79 apply.~~

Other matters relevant to direction

81 — Time limits⁷¹

- (1) ~~A local authority may apply in writing to request that the responsible Minister approve an extension to any time frames that apply to the local authority under the Minister's direction.~~
- (2) ~~The Minister must consider and determine the application.~~
- (3) ~~If a time limit is set in a direction, —~~
 - (a) ~~section 37 does not apply to permit a time period set in a direction to be extended; but~~
 - (b) ~~section 37 applies to permit a local authority to waive a failure of a person to comply with the time or method of serving a document, but not to waive a failure of the local authority to comply with the direction.~~

82 — Local authority must comply with direction⁷²

- (1) ~~A local authority —~~
 - (a) ~~must comply with the terms of a direction given under clause 78 (other than in respect of the Minister's statement of expectations included in the direction); but~~
 - (b) ~~must have regard to that statement.~~
- (2) ~~The direction applies as from time to time amended in accordance with clause 80 and subject to any extension of time allowed under clause 81.~~

Process for approval of proposed planning instrument

83 Local authority must submit proposed planning instrument to responsible Minister

- (1) A local authority that has given notice that is subject to a direction under clause 78 must submit to the responsible Minister that it intends to use the SWER streamlined planning process,⁷³ within the time required by the direction SWER streamlined planning process,⁷⁴ —

⁷¹ SPP Order, cl 14(2)

⁷² SPP Order, cl 14(2)

⁷³ SPP Order, cl 17(2)

⁷⁴ SPP Order, cl 17(3)

- 1 **Resource Management Act 1991**
- (a) the proposed planning instrument, including any recommendations it contains in respect of requirements, designations, or heritage orders; and
 - (b) a summary report of the written submissions; and
 - (c) a report showing how submissions have been considered and any modifications made to the proposed planning instrument in light of the submissions; and
 - (d) the evaluation reports required by sections 32 and 32AA; and
 - ~~(e) a summary document showing how the local authority has had regard to the statement of expectations; and⁷⁵~~
 - (f) a summary document showing how the proposed planning instrument complies with the requirements of—
 - (i) any relevant national direction; and
 - (ii) this Act or regulations made under it; and
 - ~~(g) any other information and documentation that is specified in the direction.⁷⁶~~
- (2) However, the territorial authority must consult the relevant requiring authority or heritage protection authority on the recommendations before it submits to the Minister information required by subclause (1)(a) that relates to a requirement, designation, or heritage order.
- (2A) *See also* section 99 of the Urban Development Act 2020 (which requires notice of plan changes, at least 20 working days before submitting, to Kāinga Ora—Homes and Communities, in certain circumstances).
- (3) The local authority may provide any further information in addition to the requirements of subclause (1).

See cl 17(5) SPP Order:

In addition to the information and documentation specified in clause 83(1) that the local authority must submit to the responsible Minister, the local authority must, at the same time, submit a summary document showing how the criteria set out in section 80C(2) of the Act and, if applicable, clause 8(2)(b) of this order are satisfied, including confirming that the local authority is satisfied that relevant iwi authorities have agreed as referred to in section 80C(2)(d).

84 Responsible Minister to consider proposed planning instrument

- (1) The responsible Minister may—
 - (a) refer the proposed planning instrument submitted under clause 83(1)(a) back to the local authority—
 - (i) with his or her approval; or
 - (ii) for further consideration, with or without specific recommendations for changes to the proposed planning instrument; or

⁷⁵ SPP Order, cl 17(4)

⁷⁶ SPP Order, cl 17(4)

Resource Management Act 1991

- (b) decline to approve the proposed planning instrument.
- (2) In deciding which action to take under subclause (1), the responsible Minister must have regard to—
- (a) whether the local authority [including the independent panel referred to in cl 16 SPP Order]⁷⁷ has complied with the procedural requirements, including time frames, required by the ~~direction~~ SWER streamlined planning process;⁷⁸ and
- (b) whether, and if so, how the local authority [including the independent panel referred to in cl 16 SPP Order]—
- (i) ~~has had regard to the statement of expectations; and~~⁷⁹
- (ii) has met the requirements of this Act, regulations made under it, and any relevant national direction.
- (3) In making his or her decision on a proposed planning instrument, the responsible Minister may have regard to—
- (a) the purpose of the SWER streamlined planning process; and⁸⁰
- (b) any other matter relevant to the Minister's decision.
- (4) The responsible Minister's decision on a proposed planning instrument must be in writing with reasons and be served on the local authority.

Schedule 1 clause 84: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

85 Proposed planning instrument approved or declined

- (1) This clause applies if the responsible Minister approves or declines, under clause 84(1)(a)(i) or (b), a local authority's proposed planning instrument that includes a requirement, designation, or heritage order.
- (2) If the responsible Minister approves the proposed planning instrument under clause 84(1)(a)(i), any recommendation of the territorial authority included in the instrument on a requirement, designation, or heritage order becomes an approved recommendation.
- (3) If the responsible Minister declines to approve the proposed planning instrument under clause 84(1)(b), any recommendation of the territorial authority approved by the Minister on a requirement, designation, or heritage order, must be treated,—
- (a) in the case of a requirement, as a recommendation to withdraw the requirement;
- (b) in the case of an existing designation or heritage order, as a recommendation to confirm the designation or heritage order without change.
- (4) The local authority must serve the approved recommendations on the relevant

⁷⁷ SPP Order, cl 18(4)

⁷⁸ SPP Order, cl 18(2)

⁷⁹ SPP Order, cl 18(3)

⁸⁰ SPP Order, cl 18(5)

- 1 Resource Management Act 1991
- requiring authority or heritage protection authority, and clauses 9, 11(2) and (3), and 13 apply, as the case requires.
- (5) See clause 90 for notification requirements.
- 86 Responsible Minister may refer proposed planning instrument back to local authority**
- (1) This clause applies if the responsible Minister refers a local authority's proposed planning instrument back to the local authority for further consideration under clause 84(1)(a)(ii), with or without any recommended changes.
- ~~(2) The responsible Minister may extend any time frame in the relevant direction as may be required for the purposes of this clause to ensure that the local authority can comply with the direction.⁸¹~~
- (3) The local authority must—
- (a) reconsider the proposed planning instrument in light of the responsible Minister's stated reasons and any recommended changes; and
 - (b) make any changes that the local authority considers appropriate; and
 - (c) consult the requiring authority or heritage protection authority if the local authority has reconsidered a recommendation relating to the inclusion of a requirement, designation, or heritage order in the proposed planning instrument; and
 - (d) resubmit the revised proposed planning instrument to the responsible Minister.
- (4) The responsible Minister may reconsider the local authority's revised proposed planning instrument and approve it once he or she is satisfied that it meets the requirements for approval in clause 84.
- 87 Decision to decline to approve proposed planning instrument**
- (1) If the responsible Minister declines to approve a local authority's proposed planning instrument under clause 84(1)(b), the local authority must notify the Minister's decision under clause 90, giving the Minister's reasons for the decision.
- (2) The local authority must not proceed further with the proposed planning instrument under this subpart.
- (3) However, this clause does not apply to recommendations on any provisions of the instrument that relate to a requirement, designation, or heritage order (see clause 85).
- 88 Power to withdraw**
- (1) If a local authority that has given notice to the responsible Minister that it intends to use the SWER streamlined planning process⁸² ~~that is subject to a~~

⁸¹ SPP Order, cl 19

⁸² SPP Order, cl 20(2)

Resource Management Act 1991

~~direction under clause 78~~ has initiated the preparation of a policy statement or plan, the local authority may withdraw the proposed planning instrument ~~set out in the direction~~⁸³ at any time before the responsible Minister's decision is made under clause 84.

- (2) A person who has requested a private plan change may withdraw the request at any time before the Minister makes a decision under clause 84.
- (3) The local authority must give public notice of a withdrawal under subclause (1) or (2), including the reasons for the withdrawal.
- ~~(4) The direction given under clause 78 ceases to have effect and is revoked when the withdrawal under subclause (1) or (2) is publicly notified.~~⁸⁴

~~89 Responsible Minister may revoke direction~~⁸⁵

- ~~(1) If the responsible Minister wishes to revoke, in whole or in part, a direction given under clause 78, the Minister—~~
 - ~~(a) must consult the relevant local authority about the proposal to revoke the direction; and~~
 - ~~(b) must give public notice, with adequate time and opportunity for the public to comment on the proposal; and~~
 - ~~(c) must give notice of the revocation in the Gazette; but~~
 - ~~(d) may otherwise make the revocation without further consultation.~~
- ~~(2) If a direction is revoked, the proposed planning instrument is withdrawn.~~
- ~~(3) The relevant local authority must give public notice if the proposed planning instrument is withdrawn.~~

Notification and operation of planning instrument

90 Notification of responsible Minister's decision

- (1) This clause applies when the responsible Minister has made a decision on a proposed planning instrument under clause 84(1)(a)(i) or (b).
- (2) The local authority concerned must give public notice of the responsible Minister's decision on the proposed planning instrument as follows:
 - (a) if the Minister approves the instrument,—
 - (i) the Minister's decision must be publicly notified; and
 - (ii) the planning instrument becomes operative in accordance with clause 20 and the provisions of that clause apply:
 - (b) if the Minister does not approve the proposed planning instrument, the Minister must—
 - (i) give public notice of the decision; and

⁸³ SPP Order, cl 20(3)

⁸⁴ SPP Order, cl 20(4)

⁸⁵ SPP Order, cl 14(2)

- 1 **Resource Management Act 1991**
- (ii) state in that notice that the proposed planning instrument has no further effect.
- (3) Not later than 5 working days after the Minister's decision is publicly notified, the local authority must serve the public notice on—
- (a) all submitters; and
 - (b) if relevant, the person who requested a private plan change to be included in the planning instrument; and
 - (c) if relevant, the requiring authority or heritage protection authority whose requirement, designation, or heritage order is included in the planning instrument; and
 - (d) in the case of a territorial authority's own requirement, designation, or heritage order, the landowners and occupiers who, in the opinion of the territorial authority, are directly affected by the decision.
- (4) The local authority must also—
- (a) make a copy of the public notice and the reports prepared under clause 83(1) publicly available (whether physically or by electronic means) at all of its offices, and all public libraries in the district (if it relates to a district plan) or region (in all other cases); 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.

Effect of decisions under this Part

91 Scope of appeal rights

- (1) There is no right of appeal under this Act against any decision or action of the responsible Minister, a local authority, or any other person under this Part, except as provided under clauses 92 and 93.
- (2) Parts 11 and 11A of this Act apply to appeals under clauses 92 and 93.

92 Appeals in relation to requirements, designations, and heritage orders

- (1) An appeal may be made to the Environment Court against any aspect of a decision of a requiring authority or heritage protection authority that rejects the recommendation referred to in clause 85(2) or (3), but only in relation to those aspects of the recommendation that have been rejected.
- (2) An appeal under this clause may be made by—
 - (a) the territorial authority with responsibility for the relevant planning instrument;
 - (b) any person who made a submission on the designation or heritage order that referred to the matter under appeal.

93 Appeals on questions of law in relation to requirements, designations, and

Resource Management Act 1991

heritage orders

- (1) An appeal may be made to the High Court against any aspect of a decision of a requiring authority or heritage protection authority that accepts the recommendation referred to in clause 85(2) or (3) on a designation or heritage order.
- (2) An appeal may be made by—
 - (a) the territorial authority with responsibility for the relevant planning instrument;
 - (b) any person who made a submission on the requirement, designation, or heritage order that referred to the matter under appeal.
- (3) An appeal under this clause is an appeal on a question of law only.

94 Procedural matters

- (1) A notice of appeal under clause 92 or 93 must—

1

Resource Management Act 1991

- (a) be lodged in accordance with subclause (2) in the appropriate registry of the Environment Court or the High Court, as the case requires, in the prescribed form (if any); and
- (b) be served,—
 - (i) on the territorial authority with responsibility for the relevant planning instrument at the same time as the appeal is lodged;
 - (ii) if the planning instrument includes a designation or heritage order, on the relevant requiring authority or heritage protection authority at the same time as the appeal is lodged;
 - (iii) on any person who made a submission on the requirement, designation, or heritage order that referred to the matter under appeal not later than 5 working days after the appeal is lodged.
- (2) A notice of appeal must be lodged, as the case requires, not later than 30 working days—
 - (a) after the decision of the local authority is given under clause 11(2); or
 - (b) after the decision of the requiring authority or heritage protection authority is served under clause 13(4).

Item 2

Attachment 1