

**Local Government (Auckland) Amendment Act Appeals to Plan Changes 13 to 18.**

ENV Court #	WCC #	Appellants To WCC Plan Changes	Section 274 Parties	Appeals						
				PC 13	PC 14	PC 15	PC 16	PC 17	PC 18	
Env-2007-AKL-000565 PC 13	201	Auckland Regional Council		✓						
Env-2007-AKL-000568 PC 14	201	Auckland Regional Council	Ockleston Family Trust		✓					
Env-2007-AKL-000566 PC 15	201	Auckland Regional Council				✓				
Env-2007-AKL-000567 PC 16	201	Auckland Regional Council					✓			
Env-2007-AKL-000680 PC 16	202	AMP Capital Investors (NZ) Ltd					✓			
Env-2007-AKL-000680 PC 17	202	AMP Capital Investors (NZ) Ltd						✓		
Env-2007-AKL-000680 PC 18	202	AMP Capital Investors (NZ) Ltd							✓	
Env-2007-AKL-000556 PC 16	203	CSR, Huhtamaki (NZ), and others					✓			
Env-2007-AKL-000556 PC 17	203	CSR, Huhtamaki (NZ), and others	Vusich, Borich, Bhana & others					✓		
Env-2007-AKL-000556 PC 18	203	CSR, Huhtamaki (NZ), and others							✓	
Env-2007-AKL-000648	204	Gareja Brothers Strawberry Gardens				✓				
Env-2007-AKL-000629	205	Gary Harfield					✓			
Env-2007-AKL-000678	206	Henry Norcross				✓				
Env-2007-AKL-000609 PC 14	207	IMF NZ Ltd	Ockleston Family Trust		✓					
Env-2007-AKL-000616 PC 15	207	IMF NZ Ltd								
Env-2007-AKL-000614 PC 18	207	IMF NZ Ltd								✓
Env-2007-AKL-000537	208	Ivan and Milka Selak					✓			
Env-2007-AKL-000626	209	John Calvert						✓		
Env-2007-AKL-000522	210	Land Transport NZ	Progressive Enterprises Ltd			✓				
Env-2007-AKL-000542	211	Maycey's Confectionary								✓
Env-2007-AKL-000623	212	Midgley, IB+GA, IE				✓				
Env-2007-AKL-000658	213	Neil Construction Ltd					✓			
Env-2007-AKL-000533	214	Neon Ltd and Boron Ltd	Westfield (NZ) Ltd					✓		

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ENV Court #	WCC #	Appellants To WCC Plan Changes	Section 274 Parties	Appeals						
				PC 13	PC 14	PC 15	PC 16	PC 17	PC 18	
Env-2007-AKL-000552	215	North Shore CC		✓						
Env-2007-AKL-000543	216	Ockleston Family Trust			✓					
Env-2007-AKL-000585 PC 13	217	Progressive Enterprises Ltd		✓						
Env-2007-AKL-000597 PC 14	217	Progressive Enterprises Ltd			✓					
Env-2007-AKL-000594 PC 15	217	Progressive Enterprises Ltd				✓				
Env-2007-AKL-000591 PC 16	217	Progressive Enterprises Ltd					✓			
Env-2007-AKL-000581 PC 17	217	Progressive Enterprises Ltd						✓		
Env-2007-AKL-000596 PC 18	217	Progressive Enterprises Ltd							✓	
Env-2007-AKL-000589	218	Titan Hunter Trust Formerly Rexford Family Trust				✓				
Env-2007-AKL-000540	219	Roy Wigg					✓			
Env-2007-AKL-000538	220	Steve Nuich					✓			
Env-2007-AKL-000564 PC 13	221	The National Trading Company (NZ) Ltd		✓						
Env-2007-AKL-000563 PC 14	221	The National Trading Company (NZ) Ltd	Ockleston Family Trust		✓					
Env-2007-AKL-000561 PC 15	221	The National Trading Company (NZ) Ltd				✓				
Env-2007-AKL-000560 PC 16	221	The National Trading Company (NZ) Ltd					✓			
Env-2007-AKL-000558 PC 17	221	The National Trading Company (NZ) Ltd						✓		
Env-2007-AKL-000555 PC 18	221	The National Trading Company (NZ) Ltd							✓	
Env-2007-AKL-000641 PC 16	222	The Warehouse Ltd					✓			
Env-2007-AKL-000646 PC 17	222	The Warehouse Ltd						✓		
Env-2007-AKL-000664 PC 18	222	The Warehouse Ltd							✓	
Env-2007-AKL-000613 PC 14	223	Transit NZ	Ockleston Family Trust		✓					
Env-2007-AKL-000613 PC 15	223	Transit NZ				✓				

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Env-2007-AKL-000613 PC 16	223	Transit NZ	Section 274 Parties	Appeals					
ENV Court #	WCC #	Appellants To WCC Plan Changes	Section 274 Parties	PC 13	PC 14	PC 15	PC 16	PC 17	PC 18
Env-2007-AKL-000545	224	Vusich, Borich, Bhana & others						✓	
Env-2007-AKL-000530	225	Waikare Ranges Protection Society					✓		
Env-2007-AKL-000636 PC 16	226	Warehouse Stationary Ltd					✓		
Env-2007-AKL-000639 PC 17	226	Warehouse Stationary Ltd						✓	
Env-2007-AKL-000642 PC 18	226	Warehouse Stationary Ltd							✓
ENV-2007-AKL-000711 PC15	227	Westfield (NZ) Ltd				✓			
Env-2007-AKL-000595 PC16	227	Westfield (NZ) Ltd					✓		
Env-2007-AKL-000618	228	Westgate Properties Ltd				✓			

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**WAITAKERE CITY COUNCIL SUBMISSION TO PROPOSED  
NEW ZEALAND COASTAL POLICY STATEMENT 2008 (NZCPS)  
UNDER SECTION 49 OF THE  
RESOURCE MANAGEMENT ACT 1991**

To: Board of Enquiry – Proposed NZCPS  
c/- Department of Conservation  
PO Box 10 420  
**WELLINGTON 6143**

From: Waitakere City Council  
Private Bag 93109  
Henderson  
**WAITAKERE CITY 0612**

**Waitakere City Council (WCC makes the following submission in conditional support for the 2008 Proposed New Zealand Coastal Policy Statement (NZCPS).**

**1 - General comments on the NZCPS**

The purpose of the New Zealand Coastal Policy Statement (NZCPS) is to set out policies relating to the coastal environment in order to achieve the purpose and principles of the Resource Management Act (1991). All Councils are required to 'give effect' to the NZCPS through its planning documents, and to have regard to the policies in the NZCPS in considering land use consents (s104).

Waitakere City Council is in general support for the more prescriptive approach to the integrated management of the coastal environment as proposed. However as the proposed NZCPS becomes more directive there is a need to ensure the 'one sized fits all' approach recognises regional and local characteristics. To this end the Council seeks greater guidance so that the NZCPS can be consistently implemented as well as greater recognition of regional and local differences.

**Statutory Linkages**

Hauraki Gulf Marine Park Act

The NZPS should include a section referencing the Hauraki Gulf Marine Park Act 2000 (HGMPA). Section 7 indicates that the Hauraki Gulf is of national significance. Section 10 identifies that sections 7 and 8 must be treated as an

NZCPS and highlights that where there is conflict between any NZCPS and the HGMPA, the NZCPS prevails. Reference to sections 7 and 8 of the HGMPA in the NZCPS would help highlight the need for consideration of the HGMPA and address any confusion as to which document prevails.

#### Waitakere Ranges Heritage Area Act 2008

Most of the coastal environment in Waitakere City is within the Waitakere Ranges Heritage Area (WRHA). In this area the NZCPS has an elevated status with respect to considering an application for resource consent for a discretionary or non-complying activity. A consent authority must have **particular** regard to the relevant provisions of any NZCPS (WRHAA s13(1)(a)(ii). Accordingly, it is important that the NZCPS appropriately reflects the purpose and objectives of the Waitakere Ranges Heritage Area Act in recognition of the dominant statute. A copy of the WRHA Act is attached for the Board of enquiry's convenience. Like the HGMPA the WRHAA should be referenced and specific clauses added as outlined below.

## 2 – Analysis by Section

### OBJECTIVES

The NZCPS lists 10 objectives which are wide-ranging in their relevance. These are generally supported by WCC but specific comments are provided as follows on those which have raised concern.

***Objective 2 - Subdivision, use, and development in the coastal environment are managed to ensure they occur in places, in forms and within limits consistent with sustainable management.***

The intention behind this objective is supported but it is considered that some subsequent policies conflict with it. It is acknowledged, however, that the 1994 NZCPS contained no specifics about subdivision and how it should be managed in the coastal environment. Subdivision *per se* raised the most controversy during S.32 consultation and gave rise to more specific objective/policies on subdivision which ostensibly are meant to offer more 'guidance' for councils but in effect may be raising more questions and making process more cumbersome by not providing enough clarity about how to identify the most crucial areas for consideration (refer policy 14-16).

***Objective 7 – Water quality in the coastal environment is maintained, or improved over time where it has deteriorated from its natural state.***

Submissions raised as part of the NZCPS Review Issues and Options paper identified a need for greater provision in policy for water quality. While the objective and subsequent policies under the proposed NZCPS better address the issue, a concern is raised over the use of "natural state" in the latter part of Objective 7. It is considered that "natural state" is a terminology which is awkward and indefinable given the changing nature of the coastal

environment. How "natural state" would be defined or achieved is problematic and we feel the objective should be re-worded.

***Objective 8 - Coastal hazard risks are managed increasingly by locating or relocating development away from risk areas, protecting or restoring natural defences and discouraging recourse to hard protection structures.***

This is a very wide-ranging objective with potential significant implications for Councils, particularly in relation to sea level rise and monitoring requirements. Although the s.32 analysis identifies and describes the need to strengthen and improve the policies for management of coastal hazard risk, further clarification is needed as to the repercussions of this objective and related policies as a whole for Councils, particularly in light of predicted sea-level rise.

## POLICIES

### **GENERAL**

#### ***Policy 1 – The Coastal Environment***

The Council supports the inclusion of further guidance in defining what is meant by the 'coastal environment'. It is however suggested that an additional criteria could be added to include the area to the significant ridgeline beyond the coast.

#### ***Policy 8 – Areas proposed for statutory protection***

We assume that 'statutory protection' would include marine reserves and so-forth. It is not clear whether the HGMPA would be included within the scope of statutory protection or whether this is the intention. The Act protects in perpetuity all the sea bed and foreshore and all the sea water on the east coast of the Auckland and Waikato regions (ss32 and 33). A definition of 'statutory protection' or a clearer statement of policy intent would be welcomed to better-define this policy.

#### ***Policy 11 – Monitoring of the NZ Coastal Policy Statement***

#### ***Policy 12 – Local authority monitoring***

Both these policies require coastal environment monitoring to be aligned at local, regional, and national levels. The HGMPA and the WRHAA also require state of the environment monitoring, as does the RMA generally. It would be efficient if this monitoring is collectively aligned so that monitoring data can be jointly utilised and duplication is minimised.

#### ***Policy 13 – Amendment of policy statements and plans***

We have seen the submission by Auckland Regional Council on this particular policy and are in agreement with their findings, namely that a five-year timeframe may be appropriate to implement some policies, but others (such as coastal hazards) may require up to 10 years. Therefore we would suggest an amendment to this policy which recognises the need for flexibility in this regard, and also see that the policy allow local authorities to work together to resolve the most appropriate timing for implementation of the NZCPS policies.

### ***SUBDIVISION, USE AND DEVELOPMENT***

It is considered that there is inconsistency between these policies and others contained within the NZCPS. Even though the numbering of objectives and policies is for convenience only, there is concern that the built environment is favoured over the natural and that this will lead to lack of certainty for local authorities when giving effect to the NZCPS.

#### ***Policy 14 – Location of subdivision and development***

Overall, it is considered that the policy may go beyond the mandate of the NZCPS in its prescriptive treatment of development and subdivision within the coastal environment. Although subdivision and development issues were included in the 1994 NZCPS, the proposed policies are more wide-ranging and directive with outcomes that are uncertain.

In particular, clauses (c) to (h) are very specific and considered to be onerous in that they prescribe a 'one size fits all' approach when in reality this is not appropriate. Encouraging mixed land-use along the coast would be suitable in some locations but not in others and may conflict with existing or proposed policies, such as the Waitakere Ranges Heritage Act.

Whilst the principle of contained urban development is generally supported, this may have a perverse impact as several areas within the Waitakere Ranges Heritage Act area are within "Urban Areas" as defined in the Auckland Regional Policy Statement. The result could be that urban development is concentrated in places such as Piha, Karekare, Bethells, Titirangi/Laingholm.

Clause (d) states that subdivision, use or development should be 'set back from the coastal marine area [to] protect the open space character of the coast...' It is unclear what is meant by 'set back' and, again, the most appropriate 'setback' cannot be applied to the coastal marine area per se. The same argument could apply to the use of the word 'buffer' in clause (h).

Similarly clause (f) states that ribbon development along transport corridors should be avoided but this element of the policy strays into transport objectives and the overall intention is unclear.

Further, the issue of climate change should be a point of consideration when deciding upon the location of subdivision and development.

Furthermore, Policy 33 establishes a link between subdivision use and development and the need to preserve natural character of the coastal environment as a matter of national importance. This link should be re-emphasised in Policy 14 and 15 so that these policies are not read in isolation.

Accordingly, in addition to further clarification of issues raised above, we seek the following amendments:

Amend wording of Policy 14 to:

In identifying these areas, while giving effect to this policy statement as a whole, local authorities shall...

- (i) ensure that the natural character of the coastal environment is preserved
- (j) take into account the potential impacts of climate change
- (k) avoid subdivision and development that would adversely impact on the heritage features in the Waitakere Ranges Heritage Act Area

#### ***Policy 15 – Form of subdivision and development***

Similar concerns are raised as noted above. The intention behind clauses (a) and (b) in particular appears to favour the intensification of development and it is considered that this sets up an expectation which would be inappropriate for many coastal areas. Clause (e) favours development that maintains the character of the built environment. This is rather narrow and should be expanded to environment generally so that where appropriate the built environment remains subservient to the natural environment.

Additional clauses are also required as noted above in relation to policy 14 so that once a location is generally deemed suitable for subdivision and development consideration as to the appropriate form is tempered by potential impacts on natural character, climate change, and the WRHA Act.

It is considered that the wording of Policy 15 should be consistent with that proposed in Policy 14 and read as follows:

Within areas identified under Policy 14 (a) local authorities shall, **while giving effect to this policy Statement as a whole**, promote appropriate forms of subdivision and development, including by:.....

- (e) Identifying where development that maintains the ~~character~~ amenity of the existing ~~built~~ environment should be encouraged, and where development resulting in a change in ~~character~~ amenity would be acceptable
- (f) ensuring that the natural character of the coastal environment is preserved
- (g) taking into account the potential impacts of climate change

- (h) avoiding subdivision and development that would adversely impact on the heritage features in the Waitakere Ranges Heritage Act Area

### **Policy 19 – Amenity Values**

The RMA definition of amenity is broader than recognising people's recreational needs.

*"Amenity values means those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its aesthetic coherence, and cultural and recreational attributes"*

Accordingly clause (a) should be amended to broaden the scope as follows:

- (a) preserving or enhancing the natural character of the coastal environment

### **Policy 24 (and Schedule2) – Coastal occupation charging**

It is considered that there is limited guidance under this policy in terms of no clear definition of 'coastal occupation charging' and that the principle of coastal charging cannot be implemented without effective legislative change to the RMA. A consistent approach is sought in terms of how the RMA deals with this issue and how the NZCPS will subsequently give effect to it.

The coastal charging policy process does not require any territorial authority (TA) consultation which is necessary where a TA owns the land and/or have public assets in the Coastal marine area. The s 32 analysis is lacking in detail in that it does not address this issue which was put to the review team 2006. The charging process (set out in Schedule 2) should be amended to require that TA consultation is undertaken prior to setting the charge where any TA owns the land or has assets on or in the land which is classified as coastal marine area. TAs have a wider interest in coastal areas and need to be fully involved in the process.

It is also unclear whether the coastal charging regime would apply to freehold seabed titles. Further guidance is requested in relation to this issue.

12 months is considered to be an insufficient timeframe and we would seek a more appropriate timeframe for consultation. Perhaps an alignment with the five year timeframe outlined in policy 13 may be more appropriate.

### **Policy 43 – Restrictions on access**

We consider that clause (i) is too broad and could be open to abuse and should be narrowed to focus on matters of national security rather than general security. For example a resource consent may be granted for a resort style development where the owners are claiming that it is a matter of security to the patrons that general public access is limited.

## **COASTAL HAZARDS**

### ***Policy 51 – Identification of hazard risks***

The issue of coastal hazards is now much more prescriptive for Councils.

The issue of hazard identification and risks should be dealt with via Regional Councils and implemented through district plans as hazards are considered a regional issue. It is not feasible for local authorities to give effect to this policy *per se*. This approach should be more clearly outlined in this policy.

**Waitakere City Council does wish to be heard in support of this submission.**



Signed for and on behalf of the  
**WAITAKERE CITY COUNCIL**

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Vijaya Vaidyanath  
Chief Executive Officer

Dated 5<sup>th</sup> day of May 2008

Address for contact:

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Private Bag 93109  
Henderson  
**WAITAKERE CITY 0612**

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*Examined and certified:*

*Clerk of the House of Representatives*

*In the name and on behalf of Her Majesty Queen Elizabeth  
the Second I hereby assent to this Act this 8th day  
of April 2008*

*Governor-General.*

## **Waitakere Ranges Heritage Area Act 2008**

Local Act 2008 No 1

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**Preamble**

- (1) Whakarongo mai e nga iwi, ki ta te korero i mua. He ika tenei whenua. Ko te tangata nana i huti ko Maui. Kei konei tonu ahau, a mate noa:  
 Listen all of the assembled tribes, to this the talk of olden times, this land is a fish. The person who fished it up was Maui. I will remain here on it, indeed until I die:  
 (Waitakere Chief Te Waatarauhi speaking of his relationship to the area in his opening speech at the Kohimarama Conference in 1860):
- (2) The Waitakere Ranges and its foothills and coasts comprise an area of some 27 720 ha of public and private land located between metropolitan Auckland and the west coast of Waitakere City and Rodney District. The area is of local, regional, and national significance:
- (3) The area is outstanding in northern New Zealand for its terrestrial and aquatic ecosystems, which include large continuous areas of primary and regenerating lowland and coastal rainforest, wetland, and dune systems with intact ecological sequences. The area contains distinctive and outstanding flora, fauna, and landscapes:
- (4) The Waitakere Ranges (part of a remnant volcanic landform) are the western visual backdrop to metropolitan Auckland. Their forested hills and coastal vistas are essential to the identity of both Waitakere City and metropolitan Auckland. The foothills and coastal areas are a combination of rural, urban,

and natural landscapes that create an important transition and buffer zone to the forested part of the Ranges:

- (5) The area has a long and rich human history. It is a distinctive cultural domain for Maori and lies within the rohe of both Te Kawerau A Maki and Ngati Whatua. European settlement began more than 160 years ago with one of the first attempts at organised colonial settlement of New Zealand made in the south of the area, at Cornwallis in 1841. A century of resource exploitation followed that has left its mark on the whole area:
- (6) The area includes the Waitakere Ranges Regional Park. The Park, protected at local, regional, and national levels, is an area of some 17 000 ha, established over a period of 110 years through gifts, grants, purchases, and vestings (including legislation promoted by Auckland City Council in 1941 to create the Auckland Centennial Memorial Park, commemorating the centenary of the Metropolitan District of Auckland):
- (7) The Waitakere Ranges also contribute to metropolitan Auckland's water supply. They are a water catchment and the location for a series of storage and supply systems that have sustained, and continue to sustain, metropolitan Auckland since 1902:
- (8) In 2005, more than 21 000 people lived in the area (outside the Regional Park), mostly in forest-dominated urban, rural, or coastal communities:
- (9) The area is subject to development and urban intensification pressures. These pressures are compounded by the area's proximity to metropolitan Auckland, and threaten to undermine the unique natural, landscape, cultural, historic, and community features of the area, including its farming and rural character:
- (10) Local statutory guidance is considered desirable to better protect the Waitakere Ranges and their foothills and coasts, in particular in relation to—
  - (a) managing the cumulative and precedent effects of development on the landscape, the desired future character and amenity of the area, and the ecological and biological environment:

- (b) maintaining a rural character for the communities in the foothills;
- (c) maintaining low-density urban areas and coastal villages in which the built environment is subservient to the natural landscape;
- (d) managing activities adjacent to the boundary between urban and rural areas (particularly in relation to the Metropolitan Urban Limit boundary);
- (e) protecting heritage features:

**The Parliament of New Zealand therefore enacts as follows:**

**1 Title**

This Act is the Waitakere Ranges Heritage Area Act 2008.

**2 Commencement**

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

**Part 1**

**Preliminary provisions**

**3 Purpose**

- (1) The purpose of this Act is to—
  - (a) recognise the national, regional, and local significance of the Waitakere Ranges heritage area; and
  - (b) promote the protection and enhancement of its heritage features for present and future generations.
- (2) To this end, the Act—
  - (a) establishes the Waitakere Ranges heritage area; and
  - (b) states its national significance; and
  - (c) defines its heritage features; and
  - (d) specifies the objectives of establishing and maintaining the heritage area; and
  - (e) provides additional matters for Auckland Regional Council, Rodney District Council, Waitakere City Council, and certain other persons to consider when making a decision, exercising a power, or carrying out a duty that relates to the heritage area.

**4 Interpretation**

- (1) In this Act, unless the context otherwise requires,—
- ARC** means the Auckland Regional Council
- deed of acknowledgement** means a deed of acknowledgement entered into under section 29
- heritage area** or **area** means the Waitakere Ranges heritage area established under section 5
- heritage features** means the heritage features described in section 7
- LAP** means a local area plan prepared and adopted under section 25
- local authority** means ARC or a territorial authority
- objectives** means the objectives of establishing and maintaining the heritage area as specified in section 8
- territorial authority** means Rodney District Council or Waitakere City Council
- Waitakere Ranges Regional Park** means the Waitakere Ranges Regional Park managed by ARC.
- (2) Unless the context otherwise requires, terms and expressions used and not defined in this Act, but defined in the Resource Management Act 1991, have the same meaning as in that Act.

**Part 2****Heritage area, heritage features, planning requirements, etc****5 Waitakere Ranges heritage area established**

- (1) This section establishes the Waitakere Ranges heritage area.
- (2) The general location and boundaries of the area are shown on the indicative map in Schedule 1.
- (3) The legal description of the boundaries of the area is contained in Schedule 2.
- (4) If there is an inconsistency between the map in Schedule 1 and the legal description in Schedule 2, the legal description in Schedule 2 prevails.

**6 Boundary extension by Order in Council**

- (1) Subsection (2) applies if—
- (a) a person owns land that—
    - (i) is located in the district of a territorial authority; and
    - (ii) has a contiguous boundary with the heritage area; and
    - (iii) has features that are consistent with 1 or more of the heritage features; and
  - (b) the person makes a written request to the territorial authority concerned to include the land in the heritage area; and
  - (c) ARC and the territorial authority are satisfied of the matters in paragraph (a).
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister of Local Government, alter or substitute Schedules 1 and 2 to extend the boundary of the heritage area to include any land to which subsection (1) applies.
- (3) The Minister must not make a recommendation under subsection (2) unless he or she has first received from ARC and the territorial authority written notice of the matters in subsection (1).
- (4) An Order in Council made under this section may not be amended (except to correct an error) or revoked, and land included in the heritage area under this section cannot be excluded from it except by an Act of Parliament.

**7 National significance and heritage features of heritage area**

- (1) The heritage area is of national significance and the heritage features described in subsection (2), individually or collectively, contribute to its significance.
- (2) The heritage features of the heritage area are—
- (a) its terrestrial and aquatic ecosystems of prominent indigenous character that—
    - (i) include large continuous areas of primary and regenerating lowland and coastal rainforest, wet-

- land, and dune systems with intact ecological sequences:
- (ii) have intrinsic value:
  - (iii) provide a diversity of habitats for indigenous flora and fauna:
  - (iv) collect, store, and produce high quality water:
  - (v) provide opportunities for ecological restoration:
  - (vi) are of cultural, scientific, or educational interest:
  - (vii) have landscape qualities of regional and national significance:
  - (viii) have natural scenic beauty:
- (b) the different classes of natural landforms and landscapes within the area that contrast and connect with each other, and which collectively give the area its distinctive character:
- (c) the coastal areas, which—
- (i) have a natural and dynamic character; and
  - (ii) contribute to the area's vistas; and
  - (iii) differ significantly from each other:
- (d) the naturally functioning streams that rise in the eastern foothills and contribute positively to downstream urban character, stormwater management, and flood protection:
- (e) the quietness and darkness of the Waitakere Ranges and the coastal parts of the area:
- (f) the dramatic landform of the Ranges and foothills, which is the visual backdrop to metropolitan Auckland, forming its western skyline:
- (g) the opportunities that the area provides for wilderness experiences, recreation, and relaxation in close proximity to metropolitan Auckland:
- (h) the eastern foothills, which—
- (i) act as a buffer between metropolitan Auckland and the forested ranges and coasts; and
  - (ii) provide a transition from metropolitan Auckland to the forested ranges and coast:
- (i) the subservience of the built environment to the area's natural and rural landscape, which is reflected in—

- (i) the individual identity and character of the coastal villages and their distinctive scale, containment, intensity, and amenity; and
  - (ii) the distinctive harmony, pleasantness, and coherence of the low-density residential and urban areas that are located in regenerating (and increasingly dominant) forest settings; and
  - (iii) the rural character of the foothills to the east and north and their intricate pattern of farmland, orchards, vineyards, uncultivated areas, indigenous vegetation, and dispersed low-density settlement with few urban-scale activities:
- (j) the historical, traditional, and cultural relationships of people, communities, and tangata whenua with the area and their exercise of kaitiakitanga and stewardship:
  - (k) the evidence of past human activities in the area, including those in relation to timber extraction, gum-digging, flax milling, mineral extraction, quarrying, extensive farming, and water impoundment and supply:
  - (l) its distinctive local communities:
  - (m) the Waitakere Ranges Regional Park and its importance as an accessible public place with significant natural, historical, cultural, and recreational resources:
  - (n) the public water catchment and supply system, the operation, maintenance, and development of which serves the people of Auckland.

## **8 Heritage area objectives**

The objectives of establishing and maintaining the heritage area are—

- (a) to protect, restore, and enhance the area and its heritage features:
- (b) to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it:
- (c) to adopt the following approach when considering decisions that threaten serious or irreversible damage to a heritage feature:
  - (i) carefully consider the risks and uncertainties associated with any particular course of action; and

- (ii) take into account the best information available; and
  - (iii) endeavour to protect the heritage feature:
- (d) to recognise and avoid adverse potential, or adverse cumulative, effects of activities on the area's environment (including its amenity) or its heritage features:
- (e) to recognise that, in protecting the heritage features, the area has little capacity to absorb further subdivision:
- (f) to ensure that any subdivision or development in the area, of itself or in respect of its cumulative effect,—
  - (i) is of an appropriate character, scale, and intensity; and
  - (ii) does not adversely affect the heritage features; and
  - (iii) does not contribute to urban sprawl:
- (g) to maintain the quality and diversity of landscapes in the area by—
  - (i) protecting landscapes of local, regional, or national significance; and
  - (ii) restoring and enhancing degraded landscapes; and
  - (iii) managing change within a landscape in an integrated way, including managing change in a rural landscape to retain a rural character:
- (h) to manage aquatic and terrestrial ecosystems in the area to protect and enhance indigenous habitat values, landscape values, and amenity values:
  - (i) to recognise that people live and work in the area in distinct communities, and to enable those people to provide for their social, economic, environmental, and cultural well-being:
  - (j) to provide for future uses of rural land in order to retain a rural character in the area:
  - (k) to protect those features of the area that relate to its water catchment and supply functions:
  - (l) to protect in perpetuity the natural and historic resources of the Waitakere Ranges Regional Park for their intrinsic worth and for the benefit, use, and enjoyment of the

people and communities of the Auckland region and New Zealand.

*Matters relating to Resource Management Act  
1991*

**9 Relationship between this Act and Resource Management Act 1991**

- (1) If a conflict arises between this Act and the Resource Management Act 1991, the Resource Management Act 1991 prevails.
- (2) Subsection (1) does not apply to section 13(1)(a)(ii) or 15(2)(b).

**10 Regional policy statements and regional plans**

- (1) When preparing or reviewing a regional policy statement or regional plan that affects the heritage area, ARC must give effect to the purpose of this Act and the objectives.
- (2) The requirements in subsection (1) are in addition to the requirements in sections 61, 66, and 79 of the Resource Management Act 1991.
- (3) When evaluating a proposed policy statement, or proposed plan, change, or variation that affects the heritage area, ARC must also examine whether the statement, plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of this Act).
- (4) The requirements in subsection (3) are in addition to the requirements in section 32(3) of the Resource Management Act 1991.

**11 District plans**

- (1) When preparing or reviewing a district plan that affects the heritage area, a territorial authority must give effect to the purpose of this Act and the objectives.
- (2) The requirements in subsection (1) are in addition to the requirements in sections 74, 75, and 79 of the Resource Management Act 1991.
- (3) When evaluating a proposed district plan, change, or variation that affects the heritage area, a territorial authority must examine whether the plan, change, or variation is the most appropriate

ate way to achieve the objectives (having regard to the purpose of this Act).

- (4) The requirements in subsection (3) are in addition to the requirements in section 32(3) of the Resource Management Act 1991.

## **12 Requests for plan changes**

- (1) A local authority may reject a request, in whole or in part, if the request is inconsistent with the purpose of this Act or the objectives.
- (2) To assist the local authority in deciding whether to act under subsection (1), the person making the request must explain how it is consistent with the purpose of this Act and the objectives.
- (3) For the purposes of this section, an explanation under subsection (2) must be—
- (a) treated as if it were information required under clause 22 of Schedule 1 of the Resource Management Act 1991; and
  - (b) supplied to the local authority in accordance with that clause.
- (4) In this section, **request** means a request under section 65(4) or 73(2) of the Resource Management Act 1991—
- (a) to change a regional or district plan; and
  - (b) that relates to the heritage area or a part of it.

## **13 Resource consents**

- (1) When considering an application for resource consent for a discretionary or non-complying activity in the heritage area, a consent authority—
- (a) must have particular regard to—
    - (i) the purpose of this Act and the relevant objectives; and
    - (ii) the relevant provisions of any national policy statement or New Zealand coastal policy statement; and
  - (b) must consider the objectives having regard to any relevant policies in the regional and district plans.

- (2) The requirements in subsection (1)(a)(i) are in addition to the requirements in the Resource Management Act 1991.
- (3) When considering an application for resource consent for a controlled activity or a restricted discretionary activity in the heritage area, a consent authority must consider the purpose of this Act and the relevant objectives as if they were matters specified in the plan or proposed plan over which the local authority has reserved its control or has restricted the exercise of its discretion.

#### **14 Conditions on resource consents**

If a consent authority grants resource consent for an activity in the heritage area, it may impose conditions on the consent under section 108 of the Resource Management Act 1991 that relate to 1 or more of the heritage features or the objectives.

#### **15 Designations and heritage orders**

- (1) Subsection (2) applies to a person if the person is making a decision or recommendation that relates to the heritage area or a part of it for—
  - (a) a designation under section 168A, 171, 172, 174, 179, 181, or 182 of the Resource Management Act 1991; or
  - (b) a heritage order under sections 189, 189A, 191, 192, 195, and 196 of the Resource Management Act 1991.
- (2) The person, when making the decision or recommendation, must have particular regard to—
  - (a) the purpose of this Act and the objectives; and
  - (b) the relevant provisions of any national policy statement or New Zealand coastal policy statement.
- (3) The requirements in subsection (2)(a) are in addition to the requirements in the Resource Management Act 1991.

#### **16 Applications for declarations**

Sections 309 to 313 of the Resource Management Act 1991 apply as if the following matters were stated in section 310 of that Act as matters that a declaration may declare:

- (a) the application of section 9 of the Waitakere Ranges Heritage Area Act 2008; or

- (b) the existence or extent of any function, power, right, or duty under any of sections 10 to 15 of the Waitakere Ranges Heritage Area Act 2008; or
- (c) whether an act or omission, or a proposed act or omission, contravenes or is likely to contravene any of sections 10 to 15 of the Waitakere Ranges Heritage Area Act 2008; or
- (d) any other issue or matter relating to the interpretation, administration, or enforcement of any of sections 10 to 15 of the Waitakere Ranges Heritage Area Act 2008; or
- (e) the matters provided for in section 36 of the Waitakere Ranges Heritage Area Act 2008.

*Matters relating to Local Government Acts  
2002 and 1974*

**17 Application of section 77 of Local Government Act 2002 to this Act**

If, in complying with section 76 of the Local Government Act 2002, a local authority identifies an option under section 77 of that Act that involves a decision that relates to the heritage area, the local authority must,—

- (a) in addition to doing the things required by section 77(1) of the Local Government Act 2002, have regard to the purpose of this Act and the objectives in the course of the decision-making process; but
- (b) paragraph (a) must be read subject to section 79 of the Local Government Act 2002.

**18 Auckland Regional Growth Strategy**

- (1) To the extent of any inconsistency, this Act prevails over the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974 (the **strategy**).
- (2) When amending the strategy, ARC must ensure that its provisions are not inconsistent with the purpose of this Act or the objectives.

- 19 Management plan for Waitakere Ranges Regional Park**
- (1) ARC must prepare, adopt, and maintain a management plan for the integrated management of the Waitakere Ranges Regional Park.
  - (2) In acting under subsection (1), ARC must give effect to the purpose of this Act and the objectives.
  - (3) Before adopting or amending the management plan, ARC must use the special consultative procedure set out in section 83 of the Local Government Act 2002.
  - (4) The management plan may form part of a comprehensive management plan for all regional park land managed by ARC.
  - (5) The Regional Parks Management Plan 2003 must be treated as if it were the management plan prepared and adopted under subsection (1)—
    - (a) for the purposes of this section; and
    - (b) from the commencement of this Act.
  - (6) For the avoidance of doubt, any part of the management plan that relates to a reserve (within the meaning of section 2(1) of the Reserves Act 1977) must satisfy the management plan requirements of section 41 of the Reserves Act 1977.
- 20 Management plan must be reviewed every 10 years**
- (1) ARC must review the management plan prepared and adopted under section 19(1)—
    - (a) not later than 10 years after the date on which the plan was adopted; and
    - (b) after the first review, at intervals of not more than 10 years.
  - (2) Subsection (1) does not limit or affect section 19(6).
- 21 Watercare Services Limited**
- (1) This Act does not limit or affect the responsibilities or powers of Watercare Services Limited that relate to the heritage area under the Auckland Metropolitan Drainage Act 1960 or section 707ZZZS of the Local Government Act 1974.
  - (2) Subsection (1) is for the avoidance of doubt.

*Matters relating to other enactments***22 Local authority must have particular regard to purpose and objectives of this Act when acting under Schedule 3 enactments**

A local authority must have particular regard to the purpose of this Act and the objectives when exercising a power or carrying out a function—

- (a) under an enactment specified in Schedule 3; and
- (b) in relation to the heritage area.

**23 Waitakere Ranges heritage area covenants**

- (1) If an owner of land in the heritage area agrees to manage all or a part of the land in a manner that contributes to achieving the purpose of this Act and the objectives, the local authority concerned may enter into a covenant with the owner (to be known as a Waitakere Ranges heritage area covenant)—

- (a) to provide for the management of the land; and
- (b) on the terms and conditions as they may agree.

- (2) The covenant may include conditions specifying contributions to be made by the local authority to assist with the management of the covenanted area.

- (3) A covenant that has been entered into under this section must be treated as if it were a covenant that had been entered into under section 77 of the Reserves Act 1977, and that Act applies accordingly, with any necessary modifications.

**24 Relationship between this Act and Foreshore and Seabed Act 2004**

This Act does not limit or affect the Foreshore and Seabed Act 2004.

*Local area plans***25 Local area plans**

- (1) A territorial authority may prepare and adopt a local area plan for a local area that is within its district and the heritage area.

- (2) The purpose of a LAP is to—

- (a) promote the purpose of this Act and the objectives; and

- (b) provide objectives (particularly long-term objectives) in relation to—
    - (i) the future amenity, character, and environment of the local area to which the LAP applies; and
    - (ii) the well-being of the local community within that area (including its economic and social well-being); and
  - (c) inform decision-making processes that relate to the heritage area.
- (3) A LAP must—
- (a) define the local area to which the LAP applies; and
  - (b) identify the extent and nature of the heritage features existing in the local area; and
  - (c) state how it is intended that the objectives in section 8 will be promoted in relation to the local area; and
  - (d) identify the distinctive natural, cultural, or physical qualities or characteristics of the local area that contribute to the local area's long-term—
    - (i) pleasantness or aesthetic coherence; or
    - (ii) cultural or recreational attributes; and
  - (e) state policies and objectives in relation to the amenity, character, and environment of the local area.
- (4) A LAP may identify issues relating to the provision of future services in the local area to which the LAP applies.
- (5) The territorial authority may amend, revoke, or replace a LAP.

## **26 Preparation, amendment, revocation, and replacement of LAPs**

In preparing, amending, revoking, or replacing a LAP, the territorial authority concerned may decide for itself the process that it uses but, in doing so, it must—

- (a) ensure that the process encourages interested or affected persons to participate in and contribute to the LAP's preparation, amendment, revocation, or replacement; and
- (b) comply with the principles of consultation in section 82 of the Local Government Act 2002; and
- (c) if the LAP is for a local area that is adjacent to or includes a part of the Waitakere Ranges Regional Park,

- have regard to the current management plan for the Park prepared under section 19; and
- (d) consult with tangata whenua, namely Ngati Whatua and Te Kawerau A Maki.

#### **27 Effect of LAP**

- (1) The adoption of a LAP by a territorial authority does not constitute a decision by it to act on any specific matter included in the LAP.
- (2) However, if a decision of the territorial authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, a LAP it has adopted, it must, when making the decision, clearly identify—
- (a) the inconsistency; and
- (b) the reasons for the inconsistency; and
- (c) any intention it has to amend the LAP to accommodate the decision.
- (3) No person is entitled to require a territorial authority or any other person to implement a LAP or any provision of it.

#### **28 Relationship between LAP and Resource Management Act 1991**

- (1) A territorial authority may include in its district plan any part of a LAP that relates to managing the use, development, or protection of natural and physical resources.
- (2) For the purposes of subsection (1), the LAP or the parts of the LAP must be treated as a proposed plan change, and Part 1 of Schedule 1 of the Resource Management Act 1991 applies accordingly, with any necessary modification.
- (3) For the avoidance of doubt, a LAP or a provision of a LAP has no effect on any decision under the Resource Management Act 1991.
- (4) Subsection (3) is subject to subsections (1) and (2), and the Resource Management Act 1991.

*Deeds of acknowledgement***29 Acknowledgement of tangata whenua relationship**

- (1) A deed of acknowledgement will acknowledge the particular historical, traditional, cultural, or spiritual relationship of tangata whenua of the heritage area, namely Ngati Whatua and Te Kawerau A Maki, with any land in the heritage area.
- (2) Parties to a deed of acknowledgement will be the Crown or a local authority and tangata whenua of the heritage area.
- (3) A deed of acknowledgement will be entered into after consultation with, and with the agreement of, the parties to that deed.
- (4) The deed of acknowledgement must not—
  - (a) relate to—
    - (i) any water; or
    - (ii) land that is held in fee simple by any person, other than the Crown or the local authority; or
  - (b) be inconsistent with any registered interest in land to which it relates.
- (5) The deed of acknowledgement—
  - (a) records the Crown or relevant local authority's acknowledgement referred to in subsection (1); and
  - (b) must identify the land to which it relates; and
  - (c) may acknowledge, if appropriate, any statement of relationship by any others who claim tangata whenua status with the same land; and
  - (d) without limiting section 30, must identify any specific opportunities for contribution by the tangata whenua to whom the deed relates to the management of the land by the Crown or the local authority concerned.
- (6) The deed of acknowledgement may be amended or revoked by agreement between the parties.

**30 Purpose and effect of deed of acknowledgement**

- (1) The only purpose of a deed of acknowledgement is to identify opportunities for contribution by tangata whenua to the management of the land concerned by the Crown or the local authority concerned.
- (2) A deed of acknowledgement—

- (a) does not affect the exercise of any power or the carrying out of any function or duty by any person under any enactment:
- (b) must not be taken into account by any person in the exercise of any power or the carrying out of any function or duty under any enactment by the person:
- (c) does not permit any person, when considering any matter or making any decision or recommendation under any enactment, to give any greater or lesser weight to the statement of relationship concerned than the person would give under the enactment if the deed did not exist:
- (d) does not affect the lawful rights or interests of any person:
- (e) does not have the effect of granting, creating, or providing evidence of any estate or interest in, or any rights of any kind in relation to, any land referred to in the deed.

**31 May be more than one deed of acknowledgement for same land**

A deed of acknowledgement entered into by the Crown or a local authority with tangata whenua does not prevent the Crown or the local authority from entering into further deeds of acknowledgement for the same land with other tangata whenua who have a historical, traditional, cultural, or spiritual relationship with the land.

**32 Notice of deed of acknowledgement**

- (1) The Crown or a local authority must give notice of the following things:
  - (a) the entering into of a deed of acknowledgement:
  - (b) the amendment of a deed of acknowledgement to which it is a party:
  - (c) the revocation of a deed of acknowledgement to which it is a party.
- (2) The notice must be published—
  - (a) in the *Gazette*; and
  - (b) as soon as possible after the thing to which it relates.

*Consultation processes with tangata whenua***33 Consultation processes with tangata whenua**

- (1) In addition to any specific opportunities for contribution identified in a deed of acknowledgement under section 29(5)(d), a local authority must establish and maintain processes to provide opportunities for Ngati Whatua and Te Kawerau A Maki to contribute to the decision-making processes of the local authority in its implementation of this Act.
- (2) For the avoidance of doubt, subsection (1) does not apply to a decision of a local authority in relation to land that is held in fee simple by any person other than the Crown or a local authority (for example, a decision in relation to a consent, permit, or authorisation).

**Part 3****Miscellaneous provisions****34 Local authorities must monitor and report on certain matters relating to heritage area**

- (1) The local authorities must jointly monitor—
  - (a) the state of the environment in the heritage area; and
  - (b) the progress made towards achieving the objectives; and
  - (c) the funding impact arising from activities to be undertaken specifically to give effect to this Act.
- (2) The local authorities must jointly produce, and each adopt, a report on the monitoring undertaken under subsection (1)—
  - (a) not later than 5 years after the commencement of this Act; and
  - (b) after the first report, at intervals of not more than 5 years.
- (3) The local authorities must give public notice of having adopted a report by publishing a notice in 1 or more daily newspapers circulating in the heritage area.

**35 Preservation of existing rights**

This Act does not limit or affect—

- (a) any title or right to ownership of any land or natural resources within the heritage area, whether the title or

right is conferred by enactment, at common law, or in any other manner:

- (b) any statutory acknowledgement included in any enactment and listed in Schedule 11 of the Resource Management Act 1991;
- (c) the ability of any person to bring a claim (or continue to bring a claim) or seek a remedy in any court or tribunal—
  - (i) arising from the Treaty of Waitangi, an Act, the common law, or in any other manner; and
  - (ii) relating to heritage area land or its natural resources.

### **36 Transitional provisions**

- (1) An application for resource consent for an activity in the heritage area that has been lodged but not finally determined before the commencement of this Act must be completed (including any rights of appeal under the Resource Management Act 1991) as if this Act had not been enacted.
  - (2) A plan change or variation, proposed policy statement, heritage order, or notice of requirement for a designation that has been notified but not finally determined before the commencement of this Act must be completed (including any rights of appeal under the Resource Management Act 1991) as if this Act had not been enacted.
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**Schedule 2**

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**Description of Waitakere Ranges heritage  
area**

The Waitakere Ranges heritage area is all those areas identified as:

**North Shore Land District**

<b>Area</b>	<b>Description</b>
25 710 hectares	Area A shown on SO Plan 361780
530 hectares	Area B shown on SO Plan 361452
660 hectares	Area C shown on SO Plan 361452
820 hectares	Area A shown on SO Plan 64997

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**Schedule 3**

s 22

**Enactments to which section 21 applies**

Biosecurity Act 1993 (Part 5)

Hauraki Gulf Marine Park Act 2000

Historic Places Act 1993

Reserves Act 1977

Soil Conservation and Rivers Control Act 1941

**Legislative History**

1 February 2006	Introduction (Bill 15-1)
22 February 2006	First reading and referral to Local Government and Environment Committee
24 May 2007	Reported from Local Government and Environment Committee (Bill 15-2)
19 August 2007	Second reading
20 February 2008	Committee of the whole House
12 March 2008	Reported from committee of the whole House (Bill 15-3)
2 April 2008	Third reading

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