

**House of Representatives**  
**Supplementary Order Paper**

**Tuesday, 8 September 2009**

**Resource Management (Simplifying and  
Streamlining) Amendment Bill**

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*Proposed amendments*

Hon Dr Nick Smith, in Committee, to move the following amendments:

*Clause 4(3)*

To insert “81(2),” after “10B,” (page 13, line 2) and after “10A,” (page 13, line 13).

*Clause 4(4)*

To omit lines 19 to 20 on page 13.

To insert “37A,” after “sections” (page 13, line 21).

To omit “the person who” (page 13, line 22).

To omit lines 24 to 27 on page 13 and substitute:

- “(i) for the purposes of a review of consent conditions, the consent holder; or
- “(ii) for any matter described in section 39(1) except for section 39(1)(c), the person who initiates the matter:

*Clause 4(10)*

To omit lines 4 to 7 on page 15 and substitute:

- “(b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and
- “(c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river”.

*Clause 4A*

To insert “or proposal” after “application” (page 17, line 20).

To omit “activity (or the thing treated as if it were an activity in that section)” (page 17, lines 27 to 28 and lines 30 to 31) and substitute “application or matter” in each place.

*Clause 6*

To omit “a designation, a requirement referred to in section 178(1) or 194(1), or a heritage order” (page 20, lines 19 and 20) and substitute “section 176, **178**, 193, or **194**”.

*New clause 7A*

To insert the following on page 20 after line 29:

**7A Certain existing activities allowed**

- (1) Section 10A is amended by omitting “being notified” and substituting “taking legal effect in accordance with **section 86B or 149N(8)**”.
- (2) Section 10A is amended by omitting “is notified” and substituting “takes legal effect in accordance with **section 86B or 149N(8)**”.
- (3) Section 10A is amended by inserting “the rule in” before “the plan becomes operative”.
- (4) Section 10A is amended by inserting “the rule in” before “the proposed plan”.
- (5) Section 10A(1)(a) and (b) are amended by omitting “was notified” in both places where the words appear and substituting “took legal effect in accordance with **section 86B or 149N(8)**” in both places.

*Clause 8*

To insert the following on page 20 after line 30:

- (1) Section 10B is amended by omitting “was notified” in every place where the words appear and substituting “took legal effect in accordance with **section 86B or 149N(8)**” in each place.
- (2) Section 10B(3)(a) is amended by omitting “has been notified” and substituting “has taken legal effect in accordance with **section 86B or 149N(8)**”.

*Clause 9*

To omit “secondly” (page 21, line 5) and substitute “second”.

*New clause 17A*

To insert the following on page 24 after line 29:

**17A Certain existing lawful activities allowed**

- (1) Section 20A(1) is amended by omitting “being notified” and substituting “taking legal effect in accordance with **section 86B or 149N(8)**”.

- (2) Section 20A(1) is amended by omitting “was notified” in every place where the words appear and substituting “took legal effect in accordance with **section 86B or 149N(8)**” in each place.

*Clause 18A*

To omit lines 22 to 23 on page 25 and substitute the following:

- “(c) to decide whether to intervene in a matter, or to make a direction for a matter that is or is part of a proposal of national significance, under **Part 6AA**.”.

*Clause 21*

To omit lines 17 to 35 on page 27 and substitute the following:

- “(i) deciding whether to make a direction under **section 142(2) or 147(1)** in relation to a matter that is or is part of a proposal of national significance:
- “(ii) appointing a board of inquiry under **section 149J** to consider a matter for which a direction has been made under **section 142(2) or 147(1)(a)**:
- “(iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under **section 142(2) or 147(1)(a)**:
- “(iv) deciding whether to intervene in a matter under **section 149ZA**:
- “(v) deciding under **section 149ZC** whether to notify an application or notice of requirement to which **section 149ZB** applies:

To insert “and sections 357B to 357D” after “**Part 6AA**” (page 28, line 28).

To omit lines 29 to 38 on page 28 and lines 1 to 6 on page 29 and substitute the following:

- “(a) deciding whether to make a direction under **section 142(2) or 147(1)** in relation to a matter that is or is part of a proposal of national significance:
- “(b) appointing a board of inquiry under **section 149J** to consider a matter for which a direction has been made under **section 142(2) or 147(1)(a)**:
- “(c) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under **section 142(2) or 147(1)(a)**:
- “(d) deciding whether to intervene in a matter under **section 149ZA**:
- “(e) deciding under **section 149ZC** whether to notify an application or notice of requirement to which **section 149ZB** applies.

*Clause 23(2)*

To omit (page 29, lines 30 to 32) and substitute the following:

- (2) Section 35(5)(ga) is amended by omitting “sections 93 to 94C” and substituting “sections 37, **87CA, 95 to 95F, 198BA, and 198H**”.
- (3) Section 35(5)(h) is repealed.

*Clause 25*

To omit “a resource consent” (page 32, line 33) and substitute “an application for a resource consent or an application to change or cancel conditions under section 127”.

To omit “an applicant for a resource consent would receive” (page 33, lines 2 to 3) and substitute “would be given”.

*Clause 25A*

To omit “and” (page 33, line 18) and substitute “or”.

*Clause 26*

To omit “**147(1)**” (page 34, line 18) and substitute “**146(1)**”.

*Clause 27A*

To omit lines 3 to 4 on page 35 and substitute the following:

- “(e) a matter for which a direction has been made under **section 142(2) or 147(1)(a)**; or”.

*Clause 34*

To omit “included in an application under section 88(2)(b)” (page 40, lines 4 to 5) and substitute “provided by the applicant”.

*Clause 35*

To omit “as an office within the Ministry for the Environment” (page 41, line 5).

To omit “**Authority**” (page 41, line 6) and substitute “**EPA**”.

To omit “**146**” (page 41, line 9) and substitute “**145**”.

To omit lines 10 to 11 on page 41.

To omit “**147**” (page 41, line 13) and substitute “**146**”.

To omit “, application, or notice of requirement” (page 41, line 14).

To add the following after line 30 on page 41:

“**42D Secretary for the Environment to exercise functions of EPA**

- “(1) The Environmental Protection Authority is an office within the Ministry for the Environment.
- “(2) The Secretary for the Environment has and may exercise all the powers and perform all the functions and duties of the Environmental Protection Authority.
- “(3) The Secretary for the Environment may delegate any function, duty, or power imposed upon him or her by the operation of

**subsection (2)** to any employee of the Ministry for the Environment.

“(4) In this section, **Secretary for the Environment** means the person appointed in accordance with section 29 of the Environment Act 1986 as the Secretary for the Environment (being the administrative head of the Ministry for the Environment).”

*Clause 36*

To omit (page 41, line 31, to page 42, line 11).

*New clause 56A*

To insert the following on page 55 after line 38:

**56A Circumstance when further review required**

Section 79A(3) is amended by omitting “Section 79(4), (5), and (6)” and substituting “**Section 79(5), (8), and (9)**”.

*Clause 59*

To insert “described in **section 86B(6)**” after “change” (page 60, line 7).

To omit “**(4)**” (page 60, line 17) and substitute “**(3)**”.

To omit “**(4)**” (page 62, line 3) and substitute “**(3)**”.

To insert “before or after the proposed plan is publicly notified under clause 5 of Schedule 1” after “apply” (page 62, line 4).

*Clause 60*

To omit “**142(1)**” (page 66, line 17) and substitute “**142(2)**”.

To omit “for direct referral” (page 67, lines 29 to 30 and 36).

To omit “**87A**” (page 68, lines 9 and 13) and substitute “**87C**”.

To omit “The” (page 69, line 1) and substitute “In the report, the”.

To omit “in preparing its report” (page 69, lines 3 to 4).

To insert “in the prescribed form” after “notice of motion” (page 69, line 21).

To insert “is reasonably” after “as soon as” (page 69, line 25).

To omit “court” (page 70, line 30) and substitute “Court”.

To omit “makes a request under **section 87C(1)**” (page 70, lines 34 to 35) and substitute “receives a report under **section 87D(5)**”.

To omit “the consent authority grants the request but” (page 71, lines 3 and 8).

*Clause 61*

To omit “**146, or 149ZB**” (page 71, line 17) and substitute “**145**”.

To add (page 71, line 21) “and also by omitting ‘clause 10(3)’ and substituting ‘clause 10(1)’ ”.

*Clause 62*

To omit “**(2)**” (page 74, line 3) and substitute “**(3)**”.

To add “:” (page 76, line 12).

To omit “an applicant” (page 77, line 1) and substitute “a requiring authority or heritage protection authority”.

To omit “(i)” (page 77, line 11) and substitute “(ii)”.

To omit “(ii)” (page 77, line 13) and substitute “(iii)”.

To omit “applicant” (page 77, lines 13 to 14, 23, 34 to 35, and 36) and substitute “requiring authority or heritage protection authority”.

To omit “applicant’s” (page 77, line 17) and substitute “requiring authority’s or heritage protection authority’s”.

To omit “an applicant” (page 77, lines 15 and 24) and substitute “a requiring authority or heritage protection authority”.

To omit “**(4)**” (page 77, line 25) and substitute “**(5)**”.

To omit “applicant notifies the authority” (page 77, lines 33 to 34) and substitute “requiring authority or heritage protection authority notifies the territorial authority”.

To omit “**(b)**” (page 77, line 36) and substitute “**(a)**”.

To insert “territorial” after “notify the” (page 77, line 37).

To omit “an applicant” (page 77, line 38) and substitute “a territorial authority”.

To omit “applicant” (page 78, lines 3 and 8) and substitute “territorial authority”.

#### *Clause 68*

To omit “adverse effects of the activity on the environment may be” (page 87, lines 11 to 12) and substitute “activity will have or is likely to have adverse effects on the environment that are”.

To insert “**and (2)(a)**” after “**subsection (1)**” (page 87, line 18).

To omit “**(2)(a) and (b) do**” (page 87, line 22) and substitute “**(2)(b) does**”.

To omit “**may be**” (page 88, line 24) and substitute “**likely to be**”.

To omit “activity’s adverse effects on the environment may be” (page 88, line 27 to 28) and substitute “activity will have or is likely to have adverse effects on the environment that are”.

#### *Clause 73A*

To omit “**87C**” (page 92, lines 10, 13, and 17) and substitute “**87G**”.

#### *Clause 81*

To omit “**149P**” (page 99, line 3) and substitute “**149U**”.

To omit “**149N**” (page 99, line 6) and substitute “**149R**”.

#### *Clause 82*

To omit “**149**” (page 99, line 15) and substitute “**145**”.

#### *Clause 88*

To omit “Court” (page 101, line 25) and substitute “court”.

#### *Clause 89*

To omit lines 7 to 10 on page 102.

*Clause 90*

To omit lines 3 to 10 on page 104 and substitute the following:

- “(13) If an activity relates to a matter that is or is part of a proposal of national significance for which a direction has been made under **section 142(2) or 147(1)(a) or (b)**, a person may request a certificate from the Environmental Protection Authority and this section applies with the following modifications:
- “(a) a reference to a consent authority is to be treated as a reference to the EPA; and
  - “(b) **subsection (5)(b)** does not apply; and
  - “(c) the EPA may recover its actual and reasonable costs of dealing with the request from the person making the request.

*Clause 91*

To omit *clause 91* (page 124, line 1, to page 159, line 4) and substitute the following:

**91 New Part 6AA substituted**

Sections 140 to 150AA and the heading before section 140 are repealed and the following Part is substituted:

**“Part 6AA**

**“Proposals of national significance**

**“140 Outline of this Part**

- “(1) This section sets out the general scheme and effect of this Part. This section is by way of explanation only and does not limit or affect the other provisions of this Part or this Act.
- “(2) This Part provides the Minister with specific powers in relation to applications for resource consents, applications for changes to or cancellation of resource consent conditions, local authority plan changes or variations, requests for plan changes, requests for the preparation of regional plans, and notices of requirement that are or are part of a proposal of national significance.
- “(3) If exercised by the Minister, these powers set in motion one of 2 procedures by which the application, change, variation, request, or notice (**the matter**) is decided. Instead of the normal procedures set out in the Act, either a board of inquiry or the Environment Court decides the matter. A decision by a board of inquiry or the Environment Court may be challenged only by an appeal to the High Court on a question of law. If that decision is challenged, a further appeal may be taken to the Supreme Court or the Court of Appeal on a question of law, but only with the leave of the Supreme Court.

- “(4) There are 3 ways in which a matter may come to the Minister for his or her decision on whether to make a direction to refer a matter to a board of inquiry or the Environment Court for decision. If the matter has been lodged with a local authority, the Minister may decide to make a direction on his or her own initiative or in response to a request from the local authority or the applicant. If the matter has been lodged with the Environmental Protection Authority, the Minister may decide to make a direction after receiving a recommendation from the EPA.
- “(5) If the Minister decides not to make a direction to refer a matter to a board of inquiry or the Environment Court for decision, the matter will be processed by the local authority that, in the normal course of the Act, would be responsible for dealing with it. However, the Minister may still intervene in the process, for example, by making a submission on the matter for the Crown, appointing a project co-ordinator to advise the local authority on any thing relating to the matter, or appointing an additional hearings commissioner.

#### “141 Interpretation

In this Part, unless the context requires another meaning,—

“**applicant** means—

- “(a) the person who lodged the application, for a matter that is an application for—
- “(i) a resource consent; or
  - “(ii) a change to or cancellation of the conditions of a resource consent:
- “(b) the person making the request, for a matter that is a request for a change to a plan—
- “(i) including a request that has been accepted by a board of inquiry under **section 149M** or the local authority under clause 25(2)(b) of Schedule 1; but
  - “(ii) excluding a request that has been adopted by the local authority:
- “(c) the person making the request, for a matter that is a request for the preparation of a regional plan—
- “(i) including a request that has been accepted by a board of inquiry under **section 149M** or the local authority under clause 25(2)(b) of Schedule 1; but
  - “(ii) excluding a request that has been adopted by the local authority:
- “(d) the requiring authority that lodged the notice of requirement, for a matter that is a notice of re-



quirement for a designation or to alter a designation:

- “(e) the heritage protection authority that lodged the notice of requirement, for a matter that is a notice of requirement for a heritage order or to alter a heritage order:
- “(f) the local authority, for a matter that is—
  - “(i) a change to its plan (including a request for a change that has been adopted by the local authority); or
  - “(ii) a request for the preparation of a regional plan that has been adopted by a local authority; or
  - “(iii) a variation to its proposed plan

“**local authority** means—

- “(a) the consent authority that would process an application lodged under section 88 or 127 or, if an application is lodged with the EPA, the consent authority that would have been responsible for processing the application if it had been lodged under section 88 or 127, for a matter that is an application for a resource consent or for a change to or cancellation of the conditions of a resource consent:
- “(b) the territorial authority responsible for the district plan or proposed district plan, for a matter that is a request for a change to a district plan, a change to a district plan, or a variation to a proposed district plan:
- “(c) the regional council responsible for the regional plan or proposed regional plan, for a matter that is a request for the preparation of a regional plan, a request for a change to a regional plan, a change to a regional plan, or a variation to a proposed regional plan:
- “(d) the territorial authority responsible for dealing with a notice of requirement given under Part 8 or, if a notice of requirement is lodged with the EPA, the territorial authority that would have been responsible for dealing with the notice if it had been given under Part 8, for a matter that is a notice of requirement

“**matter** means—

- “(a) an application for a resource consent; or
- “(b) an application for a change to or cancellation of the conditions of a resource consent; or

- “(c) a request for the preparation of a regional plan (including a request that has been accepted or adopted in whole or in part by a local authority); or
- “(d) a request for a change to a plan (including a request that has been accepted or adopted in whole or in part by a local authority); or
- “(e) a change to a plan; or
- “(f) a variation to a proposed plan; or
- “(g) a notice of requirement for a designation; or
- “(h) a notice of requirement for a heritage order; or
- “(i) a notice of requirement to alter a designation or a heritage order.

“Subpart 1—Minister may make direction in relation  
to matter

*“Matter lodged with local authority*

**“142 Minister may call in matter that is or is part of proposal of national significance**

- “(1) This section applies if a matter has been lodged with a local authority and—
  - “(a) the Minister, at his or her own initiative, decides to apply this section; or
  - “(b) the Minister receives a request from an applicant or a local authority to make a direction for the matter under **subsection (2)**.
- “(2) If the Minister considers that a matter is or is part of a proposal of national significance, the Minister may call in the matter by making a direction to—
  - “(a) refer the matter to a board of inquiry for decision; or
  - “(b) refer the matter to the Environment Court for decision.
- “(3) In deciding whether a matter is or is part of a proposal of national significance, the Minister may have regard to any relevant factor, including whether the matter—
  - “(a) has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or
  - “(b) involves or is likely to involve significant use of natural and physical resources; or
  - “(c) affects or is likely to affect a structure, feature, place, or area of national significance; or
  - “(d) affects or is likely to affect or is relevant to New Zealand’s international obligations to the global environment; or

- “(e) results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or
  - “(f) involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or
  - “(g) is or is likely to be significant in terms of section 8; or
  - “(h) will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions; or
  - “(i) affects or is likely to affect more than 1 region or district; or
  - “(j) relates to a network utility operation that extends or is proposed to extend to more than 1 district or region.
- “(4) In deciding whether to make a direction under **subsection (2)**, the Minister must have regard to—
- “(a) the views of the applicant and the local authority; and
  - “(b) the capacity of the local authority to process the matter.
- “(5) A direction made under **subsection (2)** must—
- “(a) be in writing and be signed by the Minister; and
  - “(b) state the Minister’s reasons for making the direction.
- “(6) If a local authority or an applicant requests the Minister to call in a matter (by making a direction under **subsection (2)**) and the Minister decides not to do so, the EPA must give notice of the Minister’s decision to the local authority and the applicant.

“**143 Restriction on when local authority may request call in**

A local authority (whether acting as an applicant or a local authority) may not make a request to the Minister in respect of either of the following matters unless it has complied with the consultation provisions in clauses 2, 3, and, if relevant, 4 of Schedule 1 in relation to the matter:

- “(a) a change to a plan proposed by the local authority under clause 2 of Schedule 1; or
- “(b) a variation to a proposed plan.

“**144 Restriction on when Minister may call in matter**

The Minister must not call in a matter (by making a direction under **section 142(2)**)—

- “(a) more than 5 working days after the close of the last day on which submissions may be made, if the local authority has notified the matter; or
- “(b) after the local authority gives notice of its decision or recommendation on the matter, if the local authority has decided not to notify the matter.

*“Matter lodged with EPA*

**“145 Matter lodged with EPA**

- “(1) A person may lodge 1 or more of the following matters with the EPA:
- “(a) an application for a resource consent;
  - “(b) a request for the preparation of a regional plan (other than a regional coastal plan);
  - “(c) a request for a change to a plan.
- “(2) The holder of a resource consent may lodge an application for a change to or cancellation of the conditions of the resource consent with the EPA.
- “(3) A requiring authority may lodge a notice of requirement for a designation or to alter a designation with the EPA.
- “(4) A heritage protection authority may lodge a notice of requirement for a heritage order or to alter a heritage order with the EPA.
- “(5) If the matter is an application for a resource consent, section 88 applies, except that—
- “(a) every reference in that section to a consent authority must be read as a reference to the EPA; and
  - “(b) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).
- “(6) If the matter is an application for a change to or cancellation of the conditions of a resource consent,—
- “(a) section 127(1) applies, except that every reference in that section to a consent authority must be read as a reference to the EPA; and
  - “(b) section 88 applies, except that—
    - “(i) the application must be treated as if it were an application for a resource consent for a discretionary activity; and
    - “(ii) every reference in that section to a consent authority, a resource consent, and the effects of the activity must be read as a reference to the EPA, the change or cancellation of the conditions, and the effects of the change or cancellation, respectively; and
    - “(iii) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).
- “(7) If the matter is a notice of requirement for a designation or to alter a designation, section 168 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.

- “(8) If the matter is a notice of requirement for a heritage order or to alter a heritage order, section 189 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.
- “(9) If the matter is a request for a change to a plan or the preparation of a regional plan, clause 22 of Schedule 1 applies, except that every reference in that clause to a local authority must be read as a reference to the EPA.
- “(10) A person who lodges a matter with the EPA under **subsections (1) to (4)** must serve the local authority with notice of the matter and of its lodging with the EPA under this section.
- “(11) A matter may not be lodged with the EPA under this section if—
  - “(a) the same matter has been lodged with a local authority; and
  - “(b) the applicant or the local authority has requested that the Minister call in the matter.

“**146 EPA to recommend course of action to Minister**

- “(1) No later than 20 working days after receiving a matter lodged under **section 145**, the EPA must recommend to the Minister that he or she make a direction under **section 147(1)(a), (b), or (c)**.
- “(2) The EPA may also recommend to the Minister that he or she exercise 1 or more of the following powers:
  - “(a) if the EPA recommends that the Minister make a direction under **section 147(1)(a) or (b)**,—
    - “(i) to make a submission on the matter for the Crown:
    - “(ii) to extend the 9-month period by which any board of inquiry appointed to determine the matter must report under **section 149R(1)** because special circumstances exist:
  - “(b) if the EPA recommends that the Minister make a direction under **section 147(1)(c)**,—
    - “(i) to make a submission on the matter for the Crown:
    - “(ii) to appoint a project co-ordinator for the matter to advise the local authority:
    - “(iii) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters:
    - “(iv) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.

- “(3) The EPA must serve a copy of its recommendation on the applicant and the local authority.
- “(4) The 20-working day time frame specified in **subsection (1)** applies subject to **section 149(5) and (6)**.

**“147 Minister makes direction after EPA recommendation**

- “(1) After the Minister receives a recommendation from the EPA under **section 146**, he or she may make a direction to—
  - “(a) refer the matter to a board of inquiry for decision; or
  - “(b) refer the matter to the Environment Court for decision; or
  - “(c) refer the matter to the local authority.
- “(2) The Minister may make a direction under **subsection (1)(a) or (b)** only if he or she considers that the matter is or is part of a proposal of national significance.
- “(3) The Minister must apply **section 142(3)** in deciding whether the matter is or is part of a proposal of national significance.
- “(4) In deciding on making a direction under **subsection (1)**, the Minister must have regard to—
  - “(a) the views of the applicant and the local authority; and
  - “(b) the capacity of the local authority to process the matter; and
  - “(c) the recommendations of the EPA.
- “(5) A direction made under **subsection (1)** must—
  - “(a) be in writing and be signed by the Minister; and
  - “(b) state the Minister’s reasons for making the direction.
- “(6) To avoid doubt, the Minister may make a direction under **subsection (1)** that differs from the direction recommended by the EPA under **section 146(1)**.

*“General provisions for matter lodged with local authority  
or EPA*

**“148 Proposals relating to coastal marine area**

- “(1) If a proposal of national significance relates wholly to the coastal marine area, this Part applies with the following modifications:
  - “(a) references to the Minister must be read as references to the Minister of Conservation; and
  - “(b) **sections 149Q(3)(e) and (f) and 149R(4)(e) and (f)** must be read as 1 paragraph saying ‘the Minister of Conservation’.
- “(2) If a proposal of national significance relates partly to the coastal marine area, this Part applies with the following modifications:
  - “(a) references to the Minister must be read as references to the Minister and the Minister of Conservation; and

“(b) **sections 149Q(3)(e) and (f) and 149R(4)(e) and (f)** must be read as 1 paragraph saying ‘the Minister and the Minister of Conservation’.

“**149 EPA may request further information or commission report**

- “(1) **Subsection (2)** applies in relation to a matter—
- “(a) that has been lodged with the EPA under **section 145**; or
  - “(b) that the Minister has called in (by making a direction under **section 142(2)**) after it was lodged with the local authority.
- “(2) The EPA may,—
- “(a) by written notice, request an applicant to provide further information relating to the matter:
  - “(b) require an EPA employee, or commission any person, to prepare a report on any issue relating to a matter (including in relation to information contained in the matter or provided under **paragraph (a)**).
- “(3) An applicant who receives a request under **subsection (2)(a)** must, within 15 working days after the date of the request, do 1 of the following things:
- “(a) provide the information; or
  - “(b) tell the EPA by written notice that the applicant agrees to provide the information; or
  - “(c) tell the EPA by written notice that the applicant refuses to provide the information.
- “(4) If the EPA receives a notice under **subsection (3)(b)**, the EPA must—
- “(a) set a reasonable time within which the applicant must provide the information; and
  - “(b) tell the applicant by written notice the date by which the applicant must provide the information.
- “(5) If the EPA requests further information under **subsection (2)(a)** before making its recommendation to the Minister on a matter under **section 146**, the time frame referred to in **section 146(1)** (being the time within which the EPA must make its recommendation) begins on,—
- “(a) if the information is provided in accordance with this section, the day after the day on which the EPA receives the information; or
  - “(b) if the EPA receives a notice of refusal under **subsection (3)(c)**, the day after the day on which the EPA receives the notice; or
  - “(c) in any other case, the day after the day on which the deadline for providing the information expires.

- “(6) If the EPA requires a report under **subsection (2)(b)** before making its recommendation to the Minister on a matter under **section 146**, the time frame referred to in **section 146(1)** (being the time within which the EPA must make its recommendation) begins on the day after the day on which the EPA receives the report.
- “(7) The EPA must make its recommendation even if the applicant—
- “(a) does not provide the information before the deadline; or
  - “(b) refuses to provide the information.

*“How matter processed if direction made to refer matter to board of inquiry or Court*

**“149A EPA must serve Minister’s direction on local authority and applicant**

As soon as practicable after the Minister makes a direction under **section 142(2) or 147(1)(a) or (b)**, the EPA must serve the direction on—

- “(a) the local authority; and
- “(b) the applicant.

**“149B Local authority’s obligations if matter called in**

- “(1) **Subsection (2)** applies to a local authority if—
- “(a) the Minister calls in a matter by making a direction under **section 142(2)**; and
  - “(b) the local authority has been served with the direction under **section 149A**.
- “(2) The local authority must, without delay, provide the EPA with—
- “(a) the matter; and
  - “(b) all information received by the local authority that relates to the matter; and
  - “(c) if applicable, the submissions received by the local authority on the matter.

**“149C EPA must give public notice of Minister’s direction**

- “(1) The EPA must give public notice of a direction the Minister makes under **section 142(2) or 147(1)(a) or (b)**.
- “(2) **Subsection (1)** does not apply if—
- “(a) the matter is a request for the preparation of a regional plan, or a request for a change to a plan, lodged with the local authority under clause 21 of Schedule 1 and, at the time the Minister makes the direction, the local authority—



- “(i) has not yet made a decision on the request under clause 25 of Schedule 1; or
  - “(ii) has made a decision to accept the request, but has not yet prepared the proposed plan or change under clause 26(a) of Schedule 1; or
  - “(iii) has made a decision to adopt the request, but has not yet notified the proposed plan or change under clause 5 of Schedule 1; or
  - “(b) the matter is a request for the preparation of a regional plan, or a request for a change to a plan, lodged with the EPA under **section 145**; or
  - “(c) the Minister instructs that the giving of public notice be delayed under **section 149D**; or
  - “(d) the Minister decides under **section 149ZC** that the application or notice to which the direction relates is not to be publicly notified.
- “(3) A notice under **subsection (1)** must—
- “(a) state the Minister’s reasons for making the direction; and
  - “(b) describe the matter to which the direction applies; and
  - “(c) state where the matter, its accompanying information, and any further information may be viewed; and
  - “(d) state that any person may make submissions on the matter to the EPA; and
  - “(e) state the closing date for the receipt of submissions; and
  - “(f) state the address for service of the EPA and the applicant (or each applicant if more than 1).
- “(4) When the EPA gives public notice under **subsection (1)**, it must also serve a copy of the notice on—
- “(a) each owner and occupier (other than an applicant) of any land to which the matter relates; and
  - “(b) each owner and occupier of any land adjoining any land to which the matter relates; and
  - “(c) if applicable, every person who has made a submission on the matter to the local authority.

**“149D Minister may instruct EPA to delay giving public notice pending application for additional consents**

- “(1) The Minister may instruct the EPA to delay giving public notice of a direction under **section 149C** in relation to a matter.
- “(2) **Subsection (1)** applies if the Minister considers, on reasonable grounds, that—
  - “(a) resource consents, or other resource consents, will also be required in respect of the proposal to which the matter relates; and

- “(b) the nature of the proposal will be better understood if applications for the resource consents, or other resource consents, are lodged before proceeding further with the matter.
  - “(3) The EPA must, without delay, give notice to the local authority and the applicant of the instruction under **subsection (1)**.
  - “(4) The Minister may, at any time, rescind an instruction given under **subsection (1)** and instruct the EPA to give public notice of the direction concerned under **section 149C**.
- “**149E EPA to receive submissions on matter if public notice of direction has been given**
- “(1) Any person (including the Minister, for the Crown) may make a submission to the EPA about a matter for which—
    - “(a) the Minister has made a direction under **section 142(2) or 147(1)(a) or (b)**; and
    - “(b) public notice has been given under **section 149C**.
  - “(2) **Subsection (1)** applies—
    - “(a) whether or not the person has already made a submission to the local authority on the matter; but
    - “(b) subject to **subsections (5) to (8)**.
  - “(3) A submission must be—
    - “(a) in the prescribed form; and
    - “(b) be served—
      - “(i) on the EPA, within the time allowed under **subsection (9)**; and
      - “(ii) on the applicant, as soon as practicable after service on the EPA.
  - “(4) A submission must state whether it supports the matter, it opposes the matter, or it is neutral.
  - “(5) If the person is a trade competitor of the applicant, the person may make a submission only if directly affected by an effect of the activity to which the matter relates, and the effect—
    - “(a) adversely affects the environment; and
    - “(b) does not relate to trade competition or the effects of trade competition.
  - “(6) However, **subsection (5)** does not apply if the matter is a notice of requirement for a heritage order (or to alter a heritage order), a request for the preparation of a regional plan, a request for a change to a plan, a change to a plan, or a variation to a proposed plan.
  - “(7) If the matter is a change to a plan proposed by a local authority under clause 2 of Schedule 1, or a variation to a proposed plan, the person—

- “(a) must not make a submission if the person could gain an advantage in trade competition through the submission; and
- “(b) may make a submission only if directly affected by an effect of the change or variation that—
  - “(i) adversely affects the environment; and
  - “(ii) does not relate to trade competition or the effects of trade competition.
- “(8) If the matter is a request for the preparation of a regional plan, or a request for a change to a plan, a person who is a trade competitor of the person who made the request may make a submission only if directly affected by an effect of the proposed plan or change that—
  - “(a) adversely affects the environment; and
  - “(b) does not relate to trade competition or the effects of trade competition.
- “(9) The closing date for making a submission is 20 working days after the day on which public notice of the direction is given.
- “(10) Any submissions on the matter received by the local authority before the matter is called in (by a direction being made under **section 142(2)**) must be treated as having been made to the EPA under this section.

“**149F EPA to receive further submissions if matter is request, change, or variation**

- “(1) **Subsection (2)** applies if the matter for which the Minister makes a direction under **section 142(2) or 147(1)(a) or (b)** is a request for the preparation of a regional plan, a request for a change to a plan, a change to a plan, or a variation to a proposed plan.
- “(2) The EPA must produce a summary of all the submissions on the matter received under **section 149E** and give public notice of—
  - “(a) the availability of a summary of submissions on the matter; and
  - “(b) where the summary 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 **subsection (3)** may make a further submission on the matter; and
  - “(d) the date of the last day for making further submissions (as calculated under **paragraph (c)**); and
  - “(e) the address for service of the EPA.
- “(3) The following persons may make a further submission on the matter:

- “(a) any person representing a relevant aspect of the public interest; and
- “(b) any person that has an interest in the request, change, or variation greater than the interest that the general public has; and
- “(c) the local authority.
- “(4) However, a further submission may only be in support of or in opposition to the submissions made on matter under **section 149E**.
- “(5) A further submission must be in the prescribed form.
- “(6) A person who makes a further submission under **subsection (3)** must serve a copy of it on—
  - “(a) the applicant; and
  - “(b) the person who made the submission under **section 149E** to which the further submission relates.
- “(7) The further submission must be served no later than 5 working days after the day on which the person provides the EPA with the further submission.

**“149G EPA must provide board or Court with necessary information**

- “(1) This section applies if a matter is referred to a board of inquiry or the Environment Court under this Part.
- “(2) The EPA must provide the board of inquiry or Environment Court, as the case may be, with each of the following things as soon as is reasonably practicable after receiving it:
  - “(a) the matter;
  - “(b) all the information received by the EPA that relates to the matter;
  - “(c) the submissions received by the EPA on the matter.
- “(3) The EPA must also commission the local authority to prepare a report on the key issues in relation to the matter that includes—
  - “(a) any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan; and
  - “(b) a statement on whether all required resource consents in relation to the proposal to which the matter relates have been applied for; and
  - “(c) if applicable, the activity status of all proposed activities in relation to the matter.
- “(4) The EPA must provide a copy of the report to—
  - “(a) the board of inquiry or the Environment Court, as the case may be; and
  - “(b) the applicant; and
  - “(c) every person who made a submission on the matter.

**“149H Local authority may not notify further change or variation in certain circumstances**

If the Minister makes a direction under **section 142(2) or 147(1)(a) or (b)** to refer any of the following matters to a board of inquiry or the Environment Court, the local authority must not notify a further change or variation relating to the same issue until after the board or the Court, as the case may be, has made a decision on the matter:

- “(a) a matter that is a change to a plan; or
- “(b) a matter that is a variation to a proposed plan; or
- “(c) a matter that is a request for the preparation of a regional plan or a request for a change to a plan (including a request that has been accepted or adopted by the local authority or accepted by a board of inquiry).

**“149I Limitation on withdrawal of change or variation**

- “(1) A local authority may withdraw a change that was notified under clause 5 of Schedule 1, or a variation to a proposed plan, for which the Minister has made a direction under **section 142(2)** no later than 5 working days after the close of the last day on which further submissions may be made under **section 149F**.
- “(2) An applicant may withdraw the applicant’s request for a proposed regional plan, or request for a change to a plan, for which the Minister has made a direction under **section 142(2) or 147(1)(a) or (b)** no later than 5 working days after the close of the last day on which further submissions may be made under **section 149F**.

**“Subpart 2—How matter decided if direction made to refer matter to board of inquiry or Court**

*“Matter decided by board of inquiry*

**“149J Minister to appoint board of inquiry**

- “(1) This section applies if the Minister makes a direction under **section 142(2)(a) or 147(1)(a)** to refer a matter to a board of inquiry for decision.
- “(2) As soon as practicable after making the direction, the Minister must appoint a board of inquiry to decide the matter.
- “(3) The Minister must appoint—
  - “(a) no fewer than 3, but no more than 5, members; and
  - “(b) 1 member as the chairperson, who must be a current, former, or retired Environment Judge or a retired High Court Judge.

“(4) A member of a board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

“**149K How members appointed**

“(1) The Minister must comply with this section when appointing a board of inquiry under **section 149J**.

“(2) The Minister must seek suggestions for members of the board from the local authority.

“(3) However, the Minister may appoint a person as a member of the board whether or not he or she receives a suggestion for the person under **subsection (2)**.

“(4) In appointing members, the Minister must consider the need for the board to have available to it, from its members, knowledge, skill, and experience relating to—

“(a) this Act; and

“(b) the matter or type of matter that the board will be considering; and

“(c) tikanga Māori; and

“(d) the local community.

“**149L Conduct of inquiry**

“(1) A board of inquiry appointed to determine a matter under **section 149J** may, in conducting its inquiry, exercise any of the powers, rights, and discretions of a consent authority under sections 92 to 92B and 99 to 100 as if—

“(a) the matter were an application for a resource consent; and

“(b) every reference in those sections to an application or an application for a resource consent were a reference to the matter.

“(2) If a hearing is to be held, the board must—

“(a) fix a place and the commencement date and time for the hearing; and

“(b) give not less than 10 working days’ notice of the matters stated in **paragraph (a)** to—

“(i) the applicant; and

“(ii) every person who made a submission on the matter stating that he or she wished to be heard and who has not subsequently advised the board that he or she no longer wishes to be heard.

“(3) A hearing must be held at a place near to the area to which the matter relates.

“(4) A board of inquiry—

“(a) must keep a full record of any hearings or proceedings:

- “(b) may permit a party to question any other party or witness:
- “(c) may permit cross-examination.

**“149M Process if matter is request for regional plan or change and particular circumstances apply**

- “(1) This section applies if the matter before a board of inquiry is a request for the preparation of a regional plan, or a request for a change to a plan, and—
  - “(a) the request is lodged with the EPA under **section 145**; or
  - “(b) the request is lodged with the local authority under clause 21 of Schedule 1 but, at the time the Minister made the direction under **section 142(2)** in relation to the request, the local authority had not yet made a decision on the request under clause 25 of Schedule 1.
- “(2) The board may only—
  - “(a) accept the request entirely under clause 25(2)(b) of Schedule 1; or
  - “(b) reject the request entirely under clause 25(4) of Schedule 1.
- “(3) To make a decision under **subsection (2)**, the board—
  - “(a) has all the powers of a local authority under clauses 23 and 24 of Schedule 1; and
  - “(b) must consult the local authority on its views before making its decision.
- “(4) If the board accepts the request,—
  - “(a) the board must serve notice of its decision on the applicant and the local authority; and
  - “(b) the local authority must prepare the proposed plan or change in accordance with **section 149N**; and
  - “(c) the EPA must give public notice of the proposed plan or change, invite submissions on it under **section 149O**, and invite further submissions on it under **section 149F**; and
  - “(d) the board must—
    - “(i) conduct an inquiry on the proposed plan or change in accordance with **sections 149L and 149P(1)**; and
    - “(ii) apply **section 149P(6) or (7)**, as the case may be; and
    - “(iii) produce a draft report on the proposed plan or change under **section 149Q**; and
    - “(iv) produce a final report on the proposed plan or change under **section 149R**.

“(5) If the board rejects the request, the board must serve notice of its decision on the applicant and the local authority.

**“149N Process if section 149M applies or proposed plan or change not yet prepared**

“(1) **Subsections (2) to (4)** apply if—

“(a) a board of inquiry has accepted a request for the preparation of a regional plan, or a request for a change to a plan, under **section 149M**; or

“(b) a local authority has accepted a request for the preparation of a regional plan, or a request for a change to a plan, under clause 25(2)(b) of Schedule 1 but, at the time the Minister made the direction under **section 142(2)** in relation to the request, the local authority had not yet prepared the proposed plan or change under clause 26(a) of Schedule 1.

“(2) The local authority must prepare the proposed plan or change in consultation with the applicant as if clause 26(a) of Schedule 1 applied.

“(3) The local authority must then serve a copy of the proposed plan or change on the EPA,—

“(a) if the circumstances in **subsection (1)(a)** apply, no later than 4 months after the local authority was served with notice of the board’s decision under **section 149M(4)**;

“(b) if the circumstances in **subsection (1)(b)** apply, no later than 4 months after the local authority was served with the Minister’s direction under **section 149A**.

“(4) The local authority must also give notice to the EPA of any rules in the proposed plan or change that will have legal effect under **subsection (9)** on and from the date on which the EPA gives public notice of the proposed plan or change under **section 149O**.

“(5) **Subsections (6) to (8)** apply if a local authority has adopted a request for the preparation of a regional plan, or a request for a change to a plan, under clause 25(2)(a) of Schedule 1 but, at the time the Minister made the direction under **section 142(2)** in relation the request, the local authority had not yet notified the proposed plan or change under clause 5 of Schedule 1.

“(6) The local authority must, no later than 4 months after the local authority was served with the Minister’s direction under **section 149A**,—

“(a) serve a copy of the proposed plan or change on the EPA; and



- “(b) give notice to the EPA of any rules in the proposed plan or change that will have legal effect under **subsection (8)** on and from the date on which the EPA gives public notice of the proposed plan or change under **section 1490**.
- “(7) A rule in a proposed plan or change served on the EPA under **subsection (6)** has legal effect only once a decision is made by the board of inquiry or Court.
- “(8) However, a rule has legal effect on and from the date on which the EPA gives public notice of the proposed plan or change under **section 1490** if the rule—
  - “(a) protects or relates to water, air, or soil (for soil conservation); or
  - “(b) protects areas of significant indigenous vegetation; or
  - “(c) protects areas of significant habitats of indigenous fauna; or
  - “(d) protects historic heritage; or
  - “(e) provides for or relates to an aquaculture management area.
- “(9) A rule included in a proposed plan or change served on the EPA under **subsection (3)** that provides for or relates to an aquaculture management area has legal effect on and from the date that public notice of the proposed plan or change is given under **section 1490**.

“**1490 Public notice and submissions where EPA receives proposed plan or change from local authority under section 149N**

- “(1) This section applies where the EPA receives a proposed plan or change proposed by a local authority under **section 149N**.
- “(2) On receiving a copy of the proposed plan or change, the EPA must give public notice of the proposed plan or change stating—
  - “(a) the Minister’s reasons for making a direction in relation to the matter; and
  - “(b) where the proposed plan or change, accompanying information, and any other information may be viewed; and
  - “(c) any rule in the proposed plan or change that has legal effect on and from the date that public notice of the proposed plan or change is given under **section 1490**; and
  - “(d) that submissions on the proposed plan or change may be made by any person to the EPA; and
  - “(e) the closing date for receiving submissions; and
  - “(f) the address for service of the EPA and the applicant.

- “(3) Any person may make a submission on a proposed plan or change for which public notice is given under **subsection (2)** and, for that purpose, **section 149E(3), (4), and (8)** apply.
- “(4) However, the closing date for making a submission under **subsection (3)** is 20 working days after the day on which public notice of the proposed plan or change is given under **subsection (2)**.
- “(5) On receiving a copy of the proposed plan or change, the EPA must also provide the board of inquiry with a copy of the proposed plan or change.
- “(6) When the EPA gives public notice under **subsection (2)**, it must also serve a copy of the notice on—
  - “(a) each owner and occupier (other than an applicant) of any land to which the matter relates; and
  - “(b) each owner and occupier of any land adjoining any land to which the matter relates.

**“149P Consideration of matter by board**

- “(1) A board of inquiry considering a matter must—
  - “(a) have regard to the Minister’s reasons for making a direction in relation to the matter; and
  - “(b) consider any information provided to it by the EPA under **section 149G**; and
  - “(c) act in accordance with **subsection (2), (3), (4), (5), (6), or (7)**, as the case may be.
- “(2) A board of inquiry considering a matter that is an application for a resource consent must apply sections 104 to 112 and 138A as if it were a consent authority.
- “(3) A board of inquiry considering a matter that is an application for a change to or cancellation of the conditions of a resource consent must apply sections 104 to 112 as if—
  - “(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and
  - “(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.
- “(4) A board of inquiry considering a matter that is a notice of requirement for a designation or to alter a designation—
  - “(a) must have regard to the matters set out in section 171(1) and comply with **section 171(1A)** as if it were a territorial authority; and
  - “(b) may—
    - “(i) cancel the requirement; or
    - “(ii) confirm the requirement; or

- “(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and
- “(c) may waive the requirement for an outline plan to be submitted under section 176A.
- “(5) A board of inquiry considering a matter that is a notice of requirement for a heritage order or to alter a heritage order—
  - “(a) must have regard to the matters set out in section 191(1); and
  - “(b) may—
    - “(i) cancel the requirement; or
    - “(ii) confirm the requirement; or
    - “(iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).
- “(6) A board of inquiry considering a matter that is a variation to a proposed regional plan, a proposed regional plan, or a change to a regional plan—
  - “(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
  - “(b) may exercise the powers under section 293 as if it were the Environment Court; and
  - “(c) must apply sections 66 to 70B and **77A to 77D** as if it were a regional council.
- “(7) A board of inquiry considering a matter that is a change to a district plan or a variation to a proposed district plan—
  - “(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
  - “(b) may exercise the powers under section 293 as if it were the Environment Court; and
  - “(c) must apply sections 74 to **77D** as if it were a territorial authority.

**“149Q Board to produce draft report**

- “(1) As soon as practicable after a board of inquiry has completed its inquiry on a matter, it must—
  - “(a) prepare a draft decision; and
  - “(b) produce a draft written report.
- “(2) The draft report—
  - “(a) must state the board’s draft decision; and
  - “(b) must give reasons for the decision; and
  - “(c) must include a statement of the principal issues that were in contention; and

- “(d) must include the main findings on the principal issues that were in contention; and
  - “(e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement (being changes in addition to any changes that may result from the implementation of the draft decision); and
  - “(f) may recommend that a national policy statement, a New Zealand coastal policy statement, or a national environmental standard be issued or revoked.
- “(3) The EPA must provide a copy of the draft report to—
- “(a) the applicant; and
  - “(b) the local authority; and
  - “(c) any other relevant local authorities; and
  - “(d) the persons who made submissions on the matter; and
  - “(e) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and
  - “(f) the Minister; and
  - “(g) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the draft decision.
- “(4) The EPA must invite the persons to whom it sends the draft report to send any comments on minor or technical aspects of the report to the EPA no later than 20 working days after the date of the invitation.
- “(5) Comments on minor or technical aspects of the report—
- “(a) include comments on minor errors in the report, on the wording of conditions specified in the report, or that there are omissions in the report (for example, the report does not address a certain issue); but
  - “(b) do not include comments on the board’s decision or its reasons for the decision.

**“149R Board to produce final report**

- “(1) As soon as practicable after the 20 working days referred to in **section 149Q(4)**, a board of inquiry must—
- “(a) consider any comments received by the EPA in accordance with **section 149Q**; and
  - “(b) make its decision; and
  - “(c) produce a written report.
- “(2) The board must do everything under **subsection (1)** no later than 9 months after—
- “(a) the day on which the EPA gave public notice under **section 149C** of the Minister’s direction under **section**

- 142(2) or 147(1)(a)** in relation to the matter, unless **paragraph (b) or (c)** applies; or
- “(b) the day on which the EPA gave public notice under **section 1490** of the proposed plan or change, if that section applies to the matter before the board; or
  - “(c) the day on which the EPA gave limited notification under **section 149ZC(4)**, if the EPA gave that notice for the matter before the board.
- “(3) The report—
- “(a) must state the board’s decision; and
  - “(b) must give reasons for the decision; and
  - “(c) must include a statement of the principal issues that were in contention; and
  - “(d) must include the main findings on the principal issues that were in contention; and
  - “(e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement (being changes in addition to any changes that may result from the implementation of the decision); and
  - “(f) may recommend that a national policy statement, a New Zealand coastal policy statement, or a national environmental standard be issued or revoked.
- “(4) The EPA must send a copy of the report to—
- “(a) the applicant; and
  - “(b) the local authority; and
  - “(c) any other relevant local authorities; and
  - “(d) the persons who made submissions on the matter; and
  - “(e) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and
  - “(f) the Minister; and
  - “(g) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the decision.
- “(5) The EPA must publish the board’s report and give public notice of where and how copies of it can be obtained.
- “(6) Nothing in section 37(1) applies to the time periods or the requirements in this section that apply to a board.

**“149S Minister may extend time by which board must report**

- “(1) Despite **section 149R(2)**, the Minister may, at any time (including before the board is appointed), grant an extension or extensions of time in which a board of inquiry must produce its final report.
- “(2) The Minister may grant an extension only if—

- “(a) he or she considers that special circumstances apply; and
- “(b) the time period as extended does not exceed 18 months from—
  - “(i) the day on which the EPA gives public notice under **section 149C** of the Minister’s direction under **section 142(2) or 147(1)(a)** in relation to the matter, unless **subparagraph (ii) or (iii)** applies; or
  - “(ii) the day on which the EPA gives public notice under **section 1490** of the proposed plan or change, if that section applies to the matter before the board; or
  - “(iii) the day on which the EPA gives limited notification under **section 149ZC(4)**, if the EPA gives that notice for the matter before the board.
- “(3) However, the Minister may grant an extension that results in a time period greater than that described in **subsection (2)(b)** if the applicant agrees.
- “(4) The EPA must give written notice to the following persons if the Minister grants an extension under **subsection (1)**, or each time the Minister grants an extension under **subsection (1)**, as the case may be:
  - “(a) the applicant; and
  - “(b) the local authority; and
  - “(c) any person who made a submission on the matter.

*“Matter decided by Environment Court*

**“149T Matter referred to Environment Court**

- “(1) This section applies if the Minister makes a direction under **section 142(2)(b) or 147(1)(b)** to refer a matter to the Environment Court for decision.
- “(2) The matter is referred to the Environment Court by the applicant lodging with the Court—
  - “(a) a notice of motion specifying the orders sought and the grounds on which the application is made; and
  - “(b) a supporting affidavit on the circumstances giving rise to the application.
- “(3) The applicant must—
  - “(a) serve a copy of the notice of motion and the affidavit on the local authority and, if applicable, every person who made a submission on the matter; and
  - “(b) serve the documents as soon as is reasonably practicable after lodging them; and
  - “(c) tell the Registrar when the documents have been served.

- “(4) If the matter is a change to a district plan proposed by a territorial authority under clause 2 of Schedule 1, or a variation to a proposed district plan, the applicant must also serve a copy of the notice of motion and affidavit on any requiring authority that made a requirement under clause 4 of Schedule 1 in respect of the change or variation.
- “(5) The Court may at any time direct the applicant to serve a copy of the notice of motion and affidavit on any other person.
- “(6) Section 274 applies to a notice of motion lodged under this section.

“**149U Consideration of matter by Environment Court**

- “(1) The Environment Court, when considering a matter referred to in under **section 149T**, must—
  - “(a) have regard to the Minister’s reasons for making a direction in relation to the matter; and
  - “(b) consider any information provided to it by the EPA under **section 149G**; and
  - “(c) act in accordance with **subsection (2), (3), (4), (5), (6), or (7)**, as the case may be.
- “(2) If considering a matter that is an application for a resource consent, the Court must apply sections 104 to 112 and 138A as if it were a consent authority.
- “(3) If considering a matter that is an application for a change to or cancellation of the conditions of a resource consent, the Court must apply sections 104 to 112 as if—
  - “(a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and
  - “(b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.
- “(4) If considering a matter that is a notice of requirement for a designation or to alter a designation, the Court—
  - “(a) must have regard to the matters set out in section 171(1) and comply with **section 171(1A)** as if it were a territorial authority; and
  - “(b) may—
    - “(i) cancel the requirement; or
    - “(ii) confirm the requirement; or
    - “(iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit; and
  - “(c) may waive the requirement for an outline plan to be submitted under section 176A.

- “(5) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the Court—
- “(a) must have regard to the matters set out in section 191(1); and
- “(b) may—
- “(i) cancel the requirement; or
- “(ii) confirm the requirement; or
- “(iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).
- “(6) If considering a matter that is a variation to a proposed regional plan, a proposed regional plan, or a change to a regional plan, the Court—
- “(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
- “(b) may exercise the powers under section 293; and
- “(c) must apply sections 66 to 70B and **77A to 77D** as if it were a regional council.
- “(7) If considering a matter that is a change to a district plan or a variation to a proposed district plan, the Court—
- “(a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
- “(b) may exercise the powers under section 293; and
- “(c) must apply sections 74 to **77D** as if it were a territorial authority.
- “(8) Part 11 applies to proceedings under this section, except if inconsistent with any provision of this section.

### *“Appeals*

#### “**149V Appeal from decisions only on question of law**

- “(1) A person described in **section 149R(4)(a) to (f)** may appeal to the High Court against a decision under **section 149R(1) or 149U**, but only on a question of law.
- “(2) An applicant for a matter to which **section 149M** applies may appeal to the High Court against a decision under **subsection (2)(b)** of that section, but only on a question of law.
- “(3) If the appeal is from a decision of a board of inquiry, sections 300 to 307 apply to the appeal subject to the following:
- “(a) every reference to the Environment Court in those sections must be read as a reference to the board of inquiry; and



- “(b) those sections must be read with any other necessary modifications; and
- “(c) the High Court Rules apply if a procedural matter is not dealt with in the sections.
- “(4) If the appeal is from a decision of the Environment Court, section 299 applies to the appeal.
- “(5) No appeal may be made to the Court of Appeal from a determination of the High Court under this section.
- “(6) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 12 to 15 of the Supreme Court Act 2003 apply with any necessary modifications.
- “(7) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 14 of the Supreme Court Act 2003), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal.
- “(8) No appeal may be made from any appeal determined by the Court of Appeal in accordance with **subsection (7)**.
- “(9) Despite any enactment to the contrary,—
  - “(a) an application for leave for the purposes of **subsection (6)** must be filed no later than 10 working days after the determination of the High Court; and
  - “(b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this section applies as a matter of priority and urgency.

“Subpart 3—Miscellaneous provisions

“*Process after decision of board of inquiry or Court on certain matters*

- “**149W Local authority to implement decision of board or Court about proposed regional plan or change or variation**
- “(1) **Subsections (2) and (3)** apply to a local authority if—
    - “(a) a board of inquiry or the Environment Court considers a matter that is a proposed regional plan or a change to a plan or a variation to a proposed plan; and
    - “(b) the board or the Court, as the case may be, decides that changes must be made to the proposed plan, change, or variation.

- “(2) As soon as practicable after receiving notice of the decision of the board or the Court under **section 149R(4) or 149U**, as the case may be,—
- “(a) the local authority must amend the proposed plan, change, or variation under clause 16(1) of Schedule 1, and that clause applies accordingly as if the decision were a direction of the Environment Court under section 293; and
- “(b) if the decision is in respect of a proposed regional plan, or a change or variation to a district or regional plan (other than a regional coastal plan), the local authority must—
- “(i) approve the proposed plan, change, or variation under clause 17 of Schedule 1; and
- “(ii) make the plan, change, or variation operative by giving public notice in accordance with clause 20 of Schedule 1; and
- “(c) if the decision is in respect of a change or variation to a regional coastal plan, the local authority must—
- “(i) adopt the change or variation under clause 18(1) of Schedule 1; and
- “(ii) send the plan to the Minister of Conservation for his or her approval in accordance with clause 19 of Schedule 1; and
- “(iii) following approval of the change or variation by the Minister of Conservation, make the change operative by giving public notice in accordance with clause 20 of Schedule 1.
- “(3) For the purposes of **subsection (2)(c)(ii)**, clause 19 of Schedule 1 must be read as if the reference to any direction of the Environment Court were a reference to any decision of the Environment Court or a board of inquiry.
- “(4) A local authority must comply with **section 175** if a board of inquiry or the Environment Court confirms a requirement under this Part.

**“149X Residual powers of local authority**

- “(1) **Subsection (2)** applies to a resource consent that has been granted by a board of inquiry or the Environment Court under **section 149R or 149U**, as the case may be.
- “(2) The consent authority concerned has all the functions, duties, and powers in relation to the resource consent as if it had granted the consent itself.
- “(3) **Subsection (4)** applies to a requirement confirmed (with or without modifications) by a board of inquiry or the Environment Court under **section 149R or 149U**.

- “(4) The territorial authority concerned has all the functions, duties, and powers in relation to the requirement as if it had dealt with the matter itself.

*“Minister makes direction to refer matter to local authority*

**“149Y EPA must refer matter to local authority if direction made by Minister**

- “(1) This section applies if the Minister makes a direction under **section 147(1)(c)** to refer a matter lodged with the EPA to the local authority.
- “(2) The EPA must give notice of the Minister’s direction to the local authority and the applicant.
- “(3) The EPA must also—
- “(a) provide the local authority with—
    - “(i) the matter; and
    - “(ii) all the material received by the EPA that relates to the matter; and
  - “(b) inform the local authority that it must process the matter in accordance with **section 149Z**.

**“149Z Local authority must process referred matter**

- “(1) A local authority must process a matter referred to it under **section 149Y(3)** in accordance with this section, subject to any action the Minister may take under **section 149ZA**.
- “(2) If the matter is an application for a resource consent, the local authority must treat the application as if—
- “(a) it had been made to the local authority under section 88(1); and
  - “(b) it had been lodged on the date that the local authority received notification from the EPA under **section 149Y(3)**; and
  - “(c) section 88(3) did not apply to the application.
- “(3) If the matter is a notice of requirement for a designation or to alter a designation, the local authority must treat the notice as if it had been—
- “(a) given to the local authority under section 168; and
  - “(b) lodged on the date that the local authority received notification from the EPA under **section 149Y(3)**.
- “(4) However, if the matter is a notice of requirement for a designation, or to alter a designation, to which **section 168A(1)** or 181(4) applies, the local authority must instead comply with section 168A or 181 (as the case may be), with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under **section 149Y(3)**.

- “(5) If the matter is a notice of requirement for a heritage order or to alter a heritage order, the local authority must treat the notice as if it had been—
- “(a) given to the local authority under section 189; and
  - “(b) lodged on the date that the local authority received notification from the EPA under **section 149Y(3)**.
- “(6) However, if the matter is a notice of requirement for a heritage order, or to alter a heritage order, to which **section 189A(1) or 195A(5)** applies, the local authority must instead comply with **section 189A or 195A** (as the case may be), with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under **section 149Y(3)**.
- “(7) If the matter is a request for the preparation of a regional plan or a change to a plan, the local authority must treat the request as if it had been—
- “(a) made to the local authority under clause 21 of Schedule 1; and
  - “(b) lodged on the date that the local authority received notification from the EPA under **section 149Y(3)**.
- “(8) If the matter is an application for a change to or cancellation of the conditions of a resource consent, the local authority must treat the application as if it had been—
- “(a) made to the local authority under section 127; and
  - “(b) lodged on the date that the local authority received notification from the EPA under **section 149Y(3)**.

*“Minister’s powers to intervene in matter*

**“149ZA Minister’s powers to intervene in matter**

- “(1) The Minister may intervene in a matter at any time by exercising 1 or more of the following powers in relation to the matter:
- “(a) to make a submission on the matter for the Crown;
  - “(b) to appoint a project co-ordinator for the matter to advise the local authority;
  - “(c) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters;
  - “(d) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.
- “(2) In deciding whether to act under **subsection (1)**, the Minister must consider the extent to which the matter is or is part of a proposal of national significance.
- “(3) If the Minister makes a direction under **subsection (1)(c)**,—
- “(a) the local authorities must hold the joint hearing; and

- “(b) section 102 applies, with the necessary modifications, to the hearing.
- “(4) If the Minister appoints a hearings commissioner under **subsection (1)(d)**, the commissioner has the same powers, functions, and duties as the commissioner or commissioners appointed by the local authority.
- “(5) To avoid doubt, if the matter has come before the Minister by way of an application lodged with the EPA, the Minister may exercise the powers under **subsection (1)** in relation to the matter whether or not the EPA made any recommendations about the matter to the Minister under **section 146(2)**.

*“Process if related matter already subject to direction to refer to board of inquiry or Court*

**“149ZB How EPA must deal with certain applications and notices of requirement**

- “(1) This section applies to a matter that is an application or notice of requirement described in **subsection (2)** if—
  - “(a) the activity that the application or notice relates to is part of a proposal of national significance in relation to which 1 or more matters have already been subject to a direction under **section 142(2) or 147(1)(a) or (b)**; and
  - “(b) the application or notice was lodged with the EPA either—
    - “(i) before the board of inquiry or Environment Court, as the case may be, has determined the matter or matters already subject to a direction under **section 142(2) or 147(1)(a) or (b)**; or
    - “(ii) after the matter or matters have been determined by the board or the Court and the matter or matters have been granted or confirmed.
- “(2) The applications and notices are—
  - “(a) an application for a resource consent:
  - “(b) an application for a change to or cancellation of the conditions of a resource consent:
  - “(c) a notice of requirement to alter a designation:
  - “(d) a notice of requirement to alter a heritage order.
- “(3) In addition to making a recommendation to the Minister under **section 146** on whether to make a direction under **section 147(1)(a), (b), or (c)** in relation to the application or notice, the EPA must also recommend whether the application or notice should be notified under **sections 95A to 95F**.

**“149ZC Minister to decide whether application or notice of requirement to be notified**

- “(1) If the Minister decides to make a direction under **section 147(1)(a) or (b)** for an application or notice of requirement to which **section 149ZB** applies, the Minister must also decide whether to notify the application or notice.
- “(2) The Minister must apply **sections 95A to 95F** (but without the time limit specified by **section 95**), with all necessary modifications, in making his or her decision under **subsection (1)**.
- “(3) If the Minister decides that the application or notice is to be publicly notified, **sections 149C to 149E** apply.
- “(4) If the Minister decides that the application or notice is not to be publicly notified, but is to be subject to limited notification, the EPA must give limited notification of the application or notice (but ignoring the time limit specified by **section 95**).
- “(5) Any person who receives a notice under **subsection (4)** may make a submission to the EPA and, for that purpose, **section 149E(3) to (6)** apply.
- “(6) However, the closing date for making a submission under **subsection (5)** is 20 working days after the day on which the EPA gives the notice under **subsection (4)**.

*“Costs of processes under this Part*

**“149ZD Costs of processes under this Part recoverable from applicant**

- “(1) A local authority may recover from an applicant the actual and reasonable costs incurred by the local authority in complying with this Part.
- “(2) The EPA may recover from a person the actual and reasonable costs incurred by the EPA in providing assistance to the person prior to a matter being lodged with the EPA (whether or not the matter is subsequently lodged).
- “(3) The EPA may recover from an applicant the actual and reasonable costs incurred by the EPA in exercising its functions and powers under this Part (including the costs in respect of secretarial and support services provided to a board of inquiry by the EPA).
- “(4) The Minister may recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under this Part.
- “(5) The local authority, EPA, or Minister must, upon request by an applicant, provide an estimate of the costs likely to be recovered under this section.
- “(6) When recovering costs under this section, the local authority, EPA, or Minister must have regard to the following criteria:

- “(a) the sole purpose is to recover the reasonable costs incurred in respect of the matter to which the costs relate;
  - “(b) the applicant should only be required to pay for costs to the extent that the benefit of the actions of the local authority, EPA, or Minister (as the case may be) to which the costs relate is obtained by the applicant as distinct from the community as a whole;
  - “(c) the extent to which any activity by the applicant reduces the cost to the local authority, EPA, or Minister (as the case may be) of carrying out any of its functions, powers, and duties.
- “(7) A person may object under section 357B to a requirement to pay costs under any of **subsections (1) to (4)**.

“**149ZE Remuneration, allowances, and expenses of boards of inquiry**

The Fees and Travelling Allowances Act 1951 applies to a board of inquiry appointed under **section 149J** as follows:

- “(a) the board is a statutory board within the meaning of the Act; and
- “(b) a member of the board may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:
  - “(i) remuneration by way of fees, salary, or allowances under the Act; and
  - “(ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the board; and
- “(c) the Act applies to payments under **paragraph (b)**.”

*New clause 113*

To insert the following on page 162 after line 10:

**113 Appeals**

Section 174(4) is repealed and the following subsection substituted:

- “(4) In determining an appeal, the Environment Court must have regard to the matters set out in section 171(1) and comply with **section 171(1A)** as if it were a territorial authority, and may—
  - “(a) cancel a requirement; or
  - “(b) confirm a requirement; or
  - “(c) confirm a requirement, but modify it or impose conditions on it as the Court thinks fit.”

*Clause 117A*

To omit “**146**” (page 164, lines 4 and 23) and substitute “**145**”.

To omit “proposed” (page 165, lines 2 to 3).

*New clause 117C*

To insert the following on page 165 after line 17:

**117C Transfer of rights and responsibilities for designations**

Section 180(2) is amended by omitting “175(1)(e)” and substituting “**175(2)(b)**”.

*Clause 119A*

To add “, and a copy of the submission must be served on the heritage protection authority as soon as is reasonably practicable after the submission is served on the territorial authority” to line 21 on page 168.

*Clause 122*

To omit “**146**” (page 169, line 30, and page 170, line 15) and substitute “**145**”.

To omit “proposed” (page 170, line 30).

*Clause 122B*

To omit “**requirement**” (page 171, line 34) and substitute “**requirements**”.

To omit “section 141B” (page 172, line 16) and substitute “**section 142(2)**”.

To omit “a” (page 172, line 34) and substitute “the”.

To omit “for direct referral” (page 173, lines 14 and 20).

To omit “grants the application” (page 174, line 11) and substitute “confirms the requirement (with or without modifications)”.

To insert “in the prescribed form” after “notice of motion” (page 174, line 29).

To insert “is reasonably” after “as soon as” (page 174, line 33).

To insert “a copy of” after “serve” (page 174, line 34).

To omit “The territorial authority” (page 175, line 5) and substitute “A territorial authority served under **subsection (2)(b)(i)**”.

To insert “and comply with **section 171(1A)** as if it were a territorial authority” after “section 171(1)” (page 175, line 18).

To omit “modify the requirement in such manner, or impose such conditions,” (page 175, lines 23 to 24) and substitute “confirm the requirement, but modify it or impose conditions on it”.

To omit “modify the requirement in such manner, or impose such conditions,” (page 175, lines 34 to 35) and substitute “confirm the requirement, but modify it or impose conditions on it”.

To omit “makes a request under **section 198B**” (page 176, lines 11 to 12) and substitute “or heritage protection authority receives a report under **section 198C(5)**”.

To omit “the territorial authority grants the request but” (page 176, lines 14 and 19).

To insert “or heritage protection authority” after “requiring authority” (page 176, lines 15, 20, and 23).

To insert “territorial” after “advises the” (page 176, line 15).



To omit line 26 on page 176.

To add “:” (page 176, line 36).

To omit “; or” (page 177, line 4) and substitute “:”.

To omit “**142(1)**” (page 177, line 9) and substitute “**142(2)**”.

To omit “relating to direct referral” (page 177, line 19) and substitute “under **section 198H**”.

To omit “made” (page 177, line 29).

To omit “grants the application” (page 177, line 36) and substitute “confirms the requirement (with or without modifications)”.

To insert “in the prescribed form” after “notice of motion” (page 178, line 9).

To insert “is reasonably” after “as soon as” (page 178, line 13).

To omit “(6)” (page 178, line 30) and substitute “(5)”.

To insert “and comply with **section 171(1A)** as if it were a territorial authority” after “section 171(1)” (page 178, line 32).

To omit “modify the requirement in such manner, or impose such conditions,” (page 178, lines 37 to 38) and substitute “confirm the requirement, but modify it or impose conditions on it”.

To omit “(7)” (page 179, line 3) and substitute “(6)”.

To omit “modify the requirement in such manner, or impose such conditions,” (page 179, lines 10 to 11) and substitute “confirm the requirement, but modify it or impose conditions on it”.

To omit “it itself” (page 179, line 22) and substitute “the requirement itself”.

To omit “makes a decision under **section 198I**” (page 179, lines 25 to 26) and substitute “prepares a report under **section 198J**”.

*Clause 124*

To omit “subsection” (page 180, line 8) and substitute “paragraph”.

*Clause 125*

To add the following on page 180 after line 12:

- (2) Section 206(3) is amended by omitting “101” and substituting “100 and 101”.

*Clause 131*

To omit lines 26 to 28 on page 182 and substitute:

- “(c) the proceedings are commenced, in any other case.”

*Clause 134*

To omit “court” (page 183, line 31) and substitute “Court”.

To omit “court’s” (page 183, line 35) and substitute “Court’s”.

To omit “**149U**” (page 184, line 3) and substitute “**149T**”.

To omit “court” (page 184, line 18) and substitute “Court”.

*Clause 136*

To omit “(1)” (page 184, line 28).

*Clause 138*

To omit “subsections as subsections (2) to (6)” (page 185, lines 9 to 10) and substitute “subsection”.

To omit “**149W(3)**” (page 185, line 14) and substitute “**149V(3)**”.

*Clause 139*

To omit “**149C**” (page 187, line 2) and substitute “**149E**”.

To omit “Court” (page 188, line 2) and substitute “court”.

To omit “a Court” (page 188, line 3) and substitute “the court”.

*New clause 140AA*

To insert the following on page 190 after line 23:

**140AA Power of entry for inspection**

Section 332(1)(c) is amended by omitting “14(2), or 15(2)” and substituting “**14(1), 15(2), and 15(2A)**”.

*Clause 141*

To omit “Court” (page 191, line 10) and substitute “court”.

*Clause 142A*

To omit “**to local authorities**” (page 193, line 15).

To omit “a local authority” (page 193, line 20) and substitute “an authority”.

To omit “local” (page 193, line 21).

To omit “local” (page 193, lines 23 and 25) and substitute “consent” in each place.

To insert the following on page 193 after line 25:

“(3A) A person whose application or submission is declined to be processed or considered by a board of inquiry exercising the powers of a consent authority under section 99(8) has a right of objection to the board.

“(3B) A person who requests a certificate of compliance from the EPA under **section 139(13)(a)** has a right of objection to the EPA about the EPA’s decision on the request.

*New clauses 143A and 143B*

To insert the following on page 194 after line 38:

**143A Procedure for making and hearing objection under sections 357 to 357B**

(1) Section 357C(1) is repealed and the following subsection substituted:

“(1) An objection under section 357, **357A**, or 357B must be made by notice in writing not later than 15 working days after the decision or requirement is notified to the objector, or within any longer time allowed by the person or body to which the objection is made.”

- (2) Section 357C(3) is amended by omitting “local authority or consent authority” and substituting “person or body to which the objection is made”.
- (3) Section 357C(4) is amended by omitting “local authority or Minister, as the case may be,” and substituting “person or body to which the objection is made”.

**143B Decision on objections made under sections 357 to 357B**

- (1) Section 357D(1) is amended by omitting “consent authority or local authority” and substituting “person or body to which an objection is made under sections 357 to 357B”.
- (2) Section 357D(2) is repealed and the following subsection substituted:  
“(2) The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person who the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.”

*Clause 144(2)*

To omit “**section 357(6)**” (page 195, line 5) and substitute “under **section 357(3A) or (6)** or, for objections only to a board of inquiry, under **section 357(2)**”.

*Clause 145*

To insert the following on page 195 after line 7:

(1AA) Section 360(1)(ab) is repealed.

To omit “resource consents” (page 195, line 11) and substitute “applications for a resource consent and applications to change or cancel conditions under section 127”.

*Clause 148(8)*

To insert “through” after “competition” (page 197, line 10).

*Clause 150(1)*

To insert “of the principal Act” after “Schedule 1” (page 203, lines 11 and 14).

*Clause 151*

To omit “trimming,” (page 203, line 22).

To insert the following on page 203 after line 24:

- (1A) On the commencement of this section, an existing rule or part of a rule in a district plan or proposed district plan that prohibits or restricts the trimming of any tree, or group of trees, in an urban environment is revoked without further authority than this section.

To omit “**Subsection (1)** applies” (page 203, line 25) and substitute “**Subsections (1) and (1A)** apply”.

*Clause 156*

To omit “plan change” (page 205, line 19) and substitute “request for a change to a plan”.

To omit “consent” (page 205, line 21) and substitute “local”.

To omit “plan change” (page 205, line 29) and substitute “request”.

*Clause 158(1)(a)*

To insert “of the principal Act” after “Schedule 1” (page 207, lines 9 and 12).

*Clause 162*

To omit “consent authority” and substitute “local authority or a Minister” (page 209, line 20).

To insert “or a proposal” after “application” (page 210, line 1).

To insert “or (3)” after “234(1)” (page 210, line 2).

*New clause 165B*

To insert the following on page 211 after line 34:

**165B Consequential amendment to Local Government Official Information and Meetings Act 1987**

Part 1 of Schedule 1 of the Local Government Official Information and Meetings Act 1987 is amended by omitting “146” and substituting “**149J**”.

*Schedule 2*

To insert “and substitute” after “ ‘a hearing’ ” (page 218, line 23).

To insert the following on page 218 after line 25:

Section 41(1): omit “146” and substitute “**149J**”.

To omit “**(3)(b)**” (page 219, line 8) and substitute “**(3)(a)**”.

To omit lines 26 to 27 on page 219.

To omit line 7 on page 220.

To omit lines 17 to 18 on page 220.

To insert “in” before “the first place” (page 220, line 19).

To omit lines 21 to 24 on page 220.

To insert the following on page 220 after line 30:

Section 357B(a): omit “section 149B(2)” and substitute “**section 149ZD(1)**”.

To omit “section 149B(3), **(3A)**, and (4)” (page 220, lines 31 to 32) and substitute “**section 149ZD(2) to (4)**”.

## Explanatory note

This Supplementary Order Paper amends the bill mainly, but not exclusively, to make drafting corrections.

*Clause 68*, which inserts *new sections 95 to 95F*, has been amended. *New section 95A*, as reported back from the select committee, requires a consent authority to publicly notify an application for a resource consent if it decides that the adverse effects of the activity on the environment may be more than minor. *New section 95A* now requires a consent authority to publicly notify an application if it decides that the activity will have or is likely to have adverse effects on the environment that are more than minor.

*New section 95A* is also amended so that a consent authority must not publicly notify an application if a rule or national environmental standard precludes it, regardless of the authority's decision about the relevant activity's adverse effects on the environment.

*Clause 91*, which inserts *new Part 6AA*, is replaced. Many of the amendments make drafting corrections. Other amendments include the following:

- Terminology has been changed so that only a matter lodged with the local authority is considered to be called in. A matter lodged with the local authority is called in by the Minister making a direction to refer it to a board of inquiry or the Environment Court under *new section 142(2)*. A matter lodged with the EPA is referred to a board of inquiry or the Court by a direction made under *new section 147(1)(a) or (b)*.
- Some provisions and subprovisions have been moved to more logical places.

*Clause 151*, as reported back from the select committee, provides that an existing rule in a district plan or proposed district plan that prohibits or restricts the felling, trimming, damaging, or removal of any tree, or group of trees, in an urban environment is revoked on 1 January 2012. *Clause 151* now distinguishes the rules that prohibit or restrict the trimming of those trees, or groups of trees, and revokes those rules on 1 October 2009. Rules are not revoked if the exception in *clause 151(2)* applies.