

Appendix C

Legislation Dealing with Resource Management

There are a number of statutes dealing directly and indirectly with resource management. Where appropriate these Acts are referred to in the specific chapters. The list below is a summary of the legislation with references to relevant chapters:

Biosecurity Act 1993

Provides for the exclusion, eradication and effective management of pests and unwanted organisms.

See Chapter 14 – Pests.

Building Act 2004

Administered by the Department of Internal Affairs. Establishes a regulatory framework for the control, construction and maintenance of buildings to safeguard public health, safety and amenity. The Building Regulations establish a Building Code. The Building Act provides for the receipt, consideration and approval or refusal by TAs of building consents, and the issuing of project memoranda, code compliance certificates and compliance schedules.

See Chapter 11 – Natural Hazards.

Civil Defence Act 1983

Administered by the Ministry of Civil Defence. Establishes national, regional and local functions and responsibilities in relation to civil defence emergencies including the preparation of regional and district civil defence plans and to provide for restoration and rehabilitation.

See Chapter 11 – Natural Hazards.

Civil Defence Emergency Management Act 2002

Administered by the Ministry of Civil Defence and Emergency Management. Establishes a framework for national and local functions and responsibilities in relation to civil defence emergencies including planning and preparation for emergencies and for response and recovery in the event of an emergency. The Civil Defence Emergency Management Act also requires local authorities to co-ordinate, through regional groups, planning, programmes, and activities related to civil defence emergency management across the areas of reduction, readiness, response and recovery.

See Chapter 11 – Natural Hazards.

Conservation Act 1987

Promotes the conservation of natural and historic resources and establishes the Department of Conservation. The Act provides for the acquisition and management of conservation areas, protected areas and stewardship areas.

The Conservation Act provides one mechanism for establishing marine protected areas. With the approval of the appropriate minister, any foreshore area may be declared to be subject to the Conservation Act and held for conservation purposes to protect habitats. The level of protection given to plants and animals may vary, and activities such as fishing are not automatically excluded. If an activity is not damaging, or likely to damage protected habitats or other features within the area under Conservation Act status, then it is unlikely to be prohibited.

See Chapter 6 – Heritage, Chapter 7 – Coastal Environment, Chapter 18 – Esplanade Reserves and Strips.

Crown Minerals Act 1991

Administered by the Ministry of Energy. Provides for the allocation of prospecting, exploration and mining rights for Crown owned minerals, and for achieving a fair return to the Crown as owner of these resources. Crown owned minerals include petroleum, gold, silver and uranium, as well as other minerals on land owned by the Crown, but not including sand, shingle or other natural material in the coastal marine area. This Act does not provide for the consideration of environmental effects associated with mining activities, which are to be handled under the Resource Management Act 1991.

See Chapter 13 – Minerals.

Dangerous Goods Act 1974

Administered by the Department of Labour. This Act and associated regulations provide powers to regulate the packing, marking, handling, carriage, storage and use of certain dangerous goods. Local territorial authorities are licensing authorities for the purpose of the Act.

See Chapter 16 – Hazardous Substances.

Defence Act 1990

Administered by the Ministry of Defence. Identifies the purposes for which the New Zealand Defence Force has been raised and maintained and defines defence areas. The Act also enables provision for regulations restricting access to defence areas.

See Chapter 6 – Heritage, Chapter 7 – Coastal Environment.

Fisheries Act 1983

Administered by the Ministry of Agriculture and Fisheries. Establishes a framework for the management and conservation of fisheries and fishery resources within the Territorial Sea and Exclusive Economic Zone of New Zealand. The main means of implementation is through the Quota Management System which provides for the allocation and management of specified fisheries for commercial fishing purposes. Controls can also be implemented on the location, timing and methods of fishing and on the management of fish stock within marine farms. The Act provides for the establishment and operation of taiapure or local fisheries areas of special significance to Iwi.

In the Auckland Region, Fisheries Act regulations have been used to establish marine protected areas such as the Tawharanui Marine Park. The taking of any marine life is prohibited in an area of up to 800 metres from Mean High Water Springs on the northern coast of the Takatu Peninsula. Other beaches such as Cheltenham, Karekare, Long Bay and Eastern Beach have been closed for the taking of shellfish under section 85 of the Act for a two year period.

Note: Section 30(2) of the RM Act specifically excludes regional councils from controlling the “harvesting or enhancement of populations of aquatic organisms, where the purpose of that control is to conserve, enhance, protect, allocate, or manage any fishery controlled by the Fisheries Act 1983”.

See Chapter 7 – Coastal Environment.

Forests Amendment Act 1993

Administered by the Ministry of Forestry. Promotes the sustainable forest management of indigenous forest land. The Act controls the harvesting of indigenous forests for timber production and the export of indigenous forest produce.

See Chapter 6 – Heritage.

Harbours Act 1950

Administered by the Ministry of Transport. Establishes functions and powers relating to navigation, safety and pilotage.

See Chapter 7 – Coastal Environment.

Hauraki Gulf Marine Park Act 2000

The HGMPA recognises the national importance of the Hauraki Gulf and its islands and the interrelationship

between the Hauraki Gulf, its islands and catchments and the ability of the relationship to sustain the life supporting capacity of the environment.

The Act is split into three parts. Part 1 is entitled Management of the Hauraki Gulf. This part introduces a series of common management objectives for the Hauraki Gulf and establishes legislative mechanisms for their implementation across the three primary pieces of environmental legislation for the Gulf; the Resource Management Act, the Conservation Act and the Fisheries Act. Part 2 establishes the Hauraki Gulf Forum as a lead agency to direct integrated management of the Hauraki Gulf and Part 3 establishes the Hauraki Gulf Marine Park.

Health Act 1956

Administered by the Ministry of Health. Provides for the protection, promotion and conservation of public health, including public health matters relating to water supply, sanitary works, buildings and offensive trades. The Act provides wide powers to local authorities, particularly territorial authorities, to control nuisances as defined in the Act.

See Chapter 8 – Water Quality.

Historic Places Act 1993

Administered by the Department of Conservation. Establishes the Historic Places Trust and promotes the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand.

See Chapter 6 – Heritage.

Land Drainage Act 1908

Provides for the establishment of drainage districts and boards and for powers of local authorities in relation to the cleaning, repairing and maintaining of watercourses and drains. Powers are provided to order the removal of obstructions from watercourses or drains where an obstruction is likely to cause damage to property.

See Chapter 8 – Water Quality.

Land Transport Act 1998

Administered by the Ministry of Transport. Defines the functions and responsibilities of regional councils and territorial authorities, including the preparation of regional land transport strategies and district land transport programmes, to achieve an integrated, safe, responsive, and sustainable land transport system.

See Chapter 4 Transport.

Local Government Act 2002

Administered by the Ministry of Local Government. Establishes functions, powers and procedures for local government.

See Chapter 15 – Waste.

Local Government (Auckland) Amendment Act 2004

Establishes the Auckland Regional Transport Authority (ARTA) and Auckland Regional Holdings (ARH). Establishes specific requirements for the Auckland Regional Land Transport Strategy and sets out the required changes to Auckland planning documents in particular giving effect to the growth concept in the Auckland Regional Growth Strategy and changes to land transport and land use.

See Appendix G

Maori Fisheries Act 1989

Administered by the Ministry of Fisheries. This Act provides for the establishment of taiapure (through amendments to the Fisheries Act). Section 54A states that the objective is to provide for better “recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi”.

The Minister of Fisheries may vest the management of any taiapure in a management committee which is composed of representatives of the local Maori community. The regulations enacted for the management of any taiapure must apply equally to all people, Maori and non-Maori, and must be consistent with sustainable management.

See Chapter 7 – Coastal Environment, Appendix D (Definition of taiapure).

Marine Mammals Protection Act 1978

The Department of Conservation has responsibility under this Act for the protection and management of marine mammals, including whales, dolphins, seals and sea lions. The protection of particular marine mammals within a specified area can be provided for by the establishment of marine mammal sanctuaries.

See Chapter 7 – Coastal Environment.

Marine Pollution Act 1974

Administered by the Ministry of Transport. This deals with the dumping and discharge of waste and pollutants and the incineration of wastes at sea.

See Chapter 8 – Water Quality.

Marine Reserves Act 1971

Administered by the Department of Conservation. Its purpose is to preserve “as marine reserves for the scientific study of marine life, areas of New Zealand that contain underwater scenery, natural features, or marine life, of such distinctive quality, or so typical, or beautiful, or unique, that their continued preservation is in the national interest”. (Section 3(1))

Subject to any conditions and restrictions imposed on a marine reserve, to ensure the preservation of its marine life or its general welfare, the public has freedom of access and entry. For any new proposal, this Act enables the Minister of Conservation, with the agreement of the ministers of Transport and Fisheries to permit fishing, other than by commercial fishers, in cases where this is warranted.

A marine reserve can only be used to protect the foreshore and/or the seabed of the territorial sea, and/or the internal waters of New Zealand. It cannot include land above MHWS. Any marine reserve may however abut land or not abut land.

See Chapter 7 – Coastal Environment.

Ozone Layer Protection Act 1990

Administered by the Ministry of Commerce and the Ministry for the Environment. This Act controls the importation and use of a wide variety of ozone depleting substances, such as chlorofluorocarbons and halons.

See Chapter 10 – Air Quality.

Public Works Act 1981

Administered by the Ministry of Lands. Provides for the acquisition and use of land for public works.

See Chapter 2 – Regional Overview and Strategic Direction.

Rating Powers Act 1988

Provides powers for local authorities to make and levy rates. The Act makes provisions for differential rating, the payment of rates, remission and postponement of rates and rates relief.

Reserves Act 1977

Administered by the Department of Conservation. Establishes powers and responsibilities relating to the acquisition, classification and management of reserves for recreational, historic, scenic, nature, scientific or other purposes.

The Act has a comprehensive purpose which is outlined in section 3. It includes the preservation and management of public areas with special features and values (listed in section 3), ensuring the survival of all indigenous species and the preservation of representative samples of all classes of ecosystems and landscapes, and ensuring the preservation of access to and along the sea coast, lakes and rivers.

The Reserves Act provides for similar levels of protection as the Marine Reserves Act, but its provisions only extend over the foreshore down to Mean Low Water Springs. The Minister of Conservation may allow any qualified person to take specified animal or plant specimens for scientific or education purposes. However no animal or plant can be removed or destroyed for any other purpose, including fishing, unless authorised.

See Chapter 6 – Heritage, Chapter 18 – Esplanade Reserves and Strips.

Resource Management Act 1991

Administered by the Ministry for the Environment. This Act establishes a framework for the sustainable management of natural and physical resources, including land, air, heritage and water. Such management is principally done through regional councils and territorial authorities.

Soil Conservation and Rivers Control Act 1941

Administered by the Ministry for the Environment. Provides powers for regional councils as catchment boards to promote soil conservation; the prevention and mitigation of soil erosion; the prevention of damage by floods and the use of land in a manner that will help in the achievement of these purposes.

See Chapter 12 – Soil Conservation.

Toxic Substances Act 1979

Administered by the Ministry of Health. This Act establishes a Toxic Substances Board which recommends policies and regulations relating to the import, manufacture, labelling, sale, disposal and general handling of toxic substances.

See Chapter 16 – Hazardous Substances.

Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

This Act amends the Fisheries Act 1983 and enables the Minister of Fisheries to make regulations:

recognising and providing for customary food gathering by Maori and the special relationship between Tangata

Whenua and places of importance for customary food gathering (including tauranga ika and mahinga mataitai) to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade”; and declaring “any part of New Zealand fisheries waters to be a mataitai reserve”.

In providing for any customary food gathering, regard must be had to the sustainable management of the fish, aquatic life and seaweed in the reserve. As well as recognising the traditional importance of these areas to Tangata Whenua, the Act provides for the management of these areas by Iwi.

See Chapter 7 – Coastal Environment.

Wildlife Act 1955

Administered by the Department of Conservation. Provides for the protection of certain species of wildlife, including the establishment of wildlife reserves. It also provides for improving game bird habitats.

See Chapter 6 – Heritage.