



Auckland Unitary Plan

04

This is one of a series of fact sheets developed to provide an overview of the Resource Management Amendment Act 2013, the Local Government (Auckland Transitional Provisions) Amendment Act 2013, and the Local Government Official Information and Meetings Amendment Act 2013.

This fact sheet outlines the introduction of a one-time-only streamlined process to help deliver the first combined plan for the Auckland Council.

All section references are to the Local Government (Auckland Transitional Provisions) Act (LGATPA), unless stated otherwise.

Why were changes needed?

The Auckland Unitary Plan (the Plan) will be the first combined resource management plan for Auckland. It replaces the current Auckland Regional Policy Statement, four regional plans, and seven district plans. Given the scale and significance of the Plan it will have macro-economic impact, including effects on development capacity, housing affordability, and business competitiveness across Auckland and New Zealand.

Under the current Resource Management Act 1991 (RMA) processes it could take 10 years for the Plan to become operative, with a large proportion of this time being taken to resolve merit appeals on the Plan.

The streamlined process will reduce the time needed to make the Plan operative. It will also help the Auckland Council establish a coherent policy and regulatory framework that reduces the complexity and fragmentation arising from having multiple RMA plans.

How has the legislation been amended?

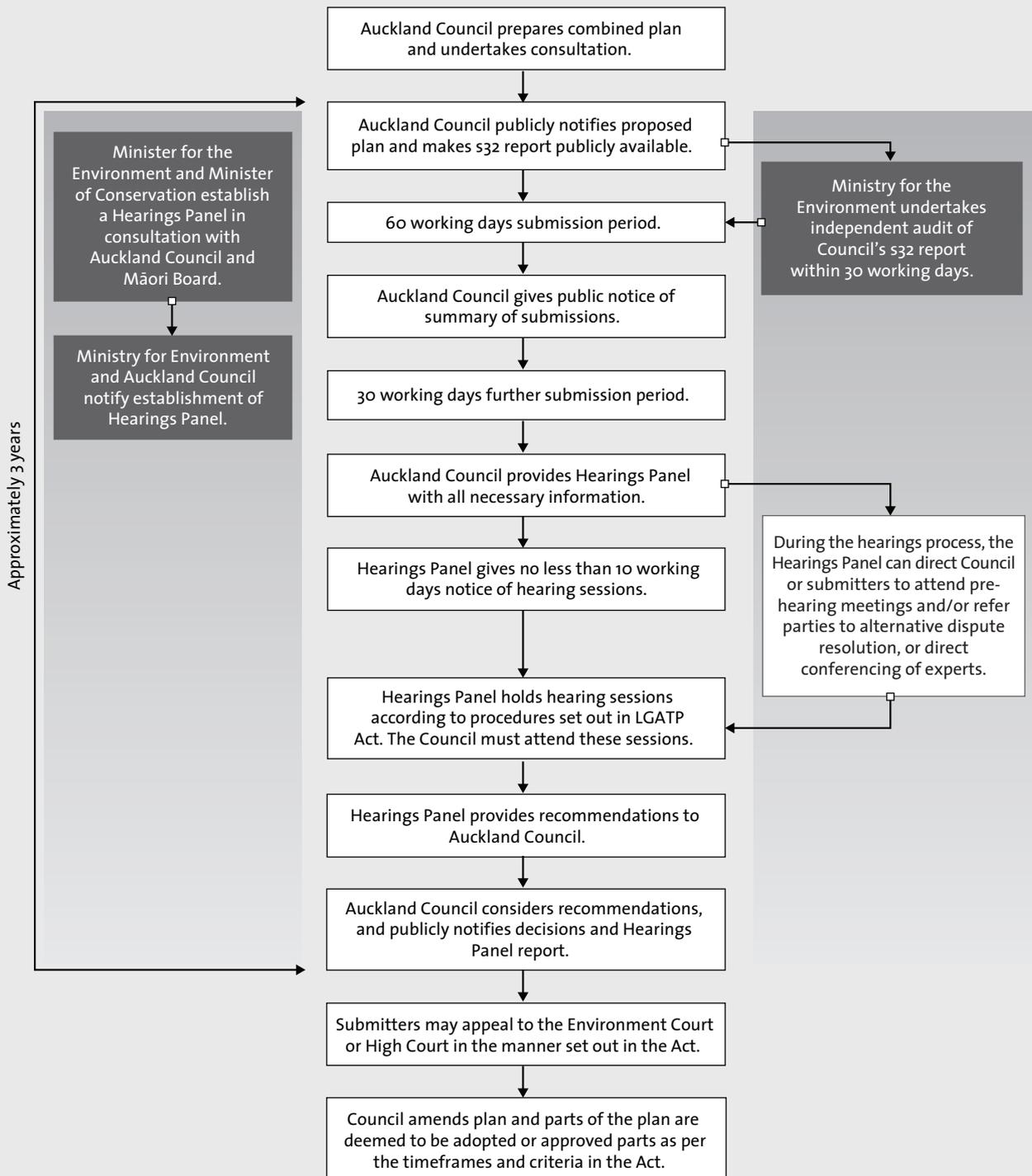
Below are some of the changes that have been made to help deliver the first combined plan for Auckland Council.

- » The RMA's Schedule 1 plan-making process has been replaced with a new streamlined process included in Part 4 of the LGATPA.
- » The hearings process will be overseen by an independent Hearings Panel appointed by the Minister for the Environment and the Minister of Conservation.
- » The Hearings Panel is responsible for making recommendations to the Auckland Council. The Auckland Council is then required to make its final decisions within three years of the proposed Plan's notification.
- » The process restricts merit appeals to the Environment Court.

The diagram on the next page shows the key steps of the streamlined plan-making process.

These amendments apply only to the development of the first Auckland Unitary Plan. For all subsequent plans and plan changes, the plan-making processes within the RMA will apply.

Streamlined process for Auckland's first combined plan



Plan development, consultation, notification and submissions

Section 120 requires the plan development process to follow the same key steps as if the Plan was being developed under the RMA, with the following changes.

- » The public notice requirements have been simplified so the Auckland Council is not required to directly notify parties directly affected by the proposed Plan unless their land is covered by a designation or heritage order.
- » The submissions period has been increased to 60 working days and the timeframe for further submissions has been increased to 30 working days.
- » The Auckland Council's section 32 evaluation report (see fact sheet 6) will be audited by the Ministry for the Environment.

Hearings Panel

The Minister for the Environment and the Minister of Conservation will appoint a Hearings Panel comprising a chairperson and three to seven other members in consultation with the Auckland Council and the Independent Māori Statutory Board to hear submissions on the proposed Plan. The Hearings Panel can split into two sub-hearings panels to consider multiple issues separately; however, there must be no fewer than three members of the Hearings Panel present.

Pre-hearing meetings

Section 127 sets out provisions intended to encourage the resolution and narrowing of matters before hearing sessions begin. The Hearings Panel has the ability to require submitters, the Auckland Council, or any person considered appropriate to attend pre-hearing meetings, and may decline to hear a person's submission if they fail to attend a pre-hearing meeting without reasonable excuse.

Hearings procedure

New sections 132 to 138A provide procedures to ensure the Hearings Panel can fairly and efficiently manage proceedings. Specific procedures include that the Hearings Panel:

- » may direct evidence to be provided within time limits
- » may permit cross-examination
- » must receive evidence written or spoken in Māori
- » may direct how submissions and evidence are presented (including that evidence and submissions be taken as read or limited to matters in dispute)
- » may place time limits on presenting submissions or evidence.

Auckland Council representatives must also attend the hearing sessions to assist the Hearings Panel.

Hearings Panel recommendations

Section 139 sets out that after hearing all submissions, the Hearings Panel must make recommendations in a report provided to the Auckland Council no later than 50 working days before the expiry of 3 years from the date the Auckland Council notified the proposed Plan, unless the Minister for the Environment grants an extension of time of up to 1 year.

In formulating its recommendations, the Hearings Panel is required to follow normal RMA plan and policy statement decision-making requirements. The Hearings Panel, however, can include recommendations for changes to the proposed Plan that are outside the scope of submissions, and must identify these in its report.

Auckland Council decisions

The Auckland Council may choose to either accept or reject a recommendation of the Hearings Panel. Where the Auckland Council chooses to reject a recommendation, it must decide on an alternative solution which must be within the scope of the submissions. The Auckland Council has 20 working days from the date it receives the Hearings Panel recommendations to make its decision, unless this is extended by up to 20 days by the Minister for the Environment.

Appeals, objections and judicial review

Sections 148 to 153 set out the provisions relating to appeals, objections and judicial review.

Appeals can be made to the Environment Court or High Court, only in the following situations.

- » Submitters can appeal to the Environment Court on the matter they submitted on where the Auckland Council's decision rejected a recommendation of the Hearings Panel.
- » Any person unduly prejudiced can appeal the Auckland Council's decision to the Environment Court where it accepted a recommendation by the Hearings Panel which is beyond the scope of the submissions.
- » Submitters can appeal to the High Court on a question of law where the Auckland Council accepts a recommendation of the Hearings Panel.
- » Appeal rights specifically about designations or heritage orders are outlined in section 151.

Restrictions to Plan variations

The LGATPA restricts the Auckland Council's ability to make variations to the proposed Plan before it notifies its decisions on the Hearing Panel's recommendations.

Section 121 allows the Hearings Panel to direct the Auckland Council to vary the proposed Plan if the Hearings Panel is satisfied that the variation is required to give effect to provisions in a national policy statement or the proposed regional policies of the proposed Plan. The Hearings Panel may also direct the Auckland Council to vary the proposed Plan to correct a substantial error.

The Auckland Council may continue to make plan changes and variations to their existing operative plans.

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