

# Departmental Disclosure Statement

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Local Government (Auckland Transitional Provisions) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry for the Environment.

The Ministry for the Environment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

14 September 2015.

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## Part One: General Policy Statement

The Bill amends the Local Government (Auckland Transitional Provisions) Act 2010 (the principal Act). The purpose of the amendment is to provide more flexibility for the Auckland Unitary Plan Independent Hearings Panel (the Hearings Panel) to help ensure that it can deliver its recommendations on the proposed Auckland Unitary Plan (the proposed AUP) to the Auckland Council by the statutory deadline of 50 working days before the expiry of 3 years from the notification of the proposed plan (i.e. 22 July 2016).

The Bill achieves this purpose by:

- reducing the quorum required for hearing sessions from 3 members to 2 members;
- allowing an increase in the possible number of appointed hearings panel members from 7 to 10 (excluding the chairperson);
- enabling the Hearings Panel to make its recommendations on the proposed AUP in stages (rather than in 1 final report) after hearings are completed on a particular topic, if it chooses to do so.

Further amendments are required to support the above policy changes. The Bill creates a requirement for the Minister for the Environment and the Minister of Conservation to consult with the Auckland Council, the Independent Māori Statutory Board, and the chairperson of the Hearings Panel prior to appointing additional or replacement Hearings Panel members.

The Bill clarifies that the Hearings Panel may hold hearing sessions concurrently and that an additional chairperson may be appointed for the purposes of chairing a hearing session when the chairperson is unavailable due to chairing a concurrent hearing session. The Bill validates any hearing sessions that were held concurrently prior to this clarification being made.

A further amendment validates 28 February 2014 as the closing date for submissions on the proposed AUP. Any submissions received between 14 January 2014 and the end of 28 February 2014 are consequently to be treated as if they were received within the statutory timeframe for submissions.

A minor and technical amendment is also required to fix an error in the drafting of the principal Act relating to the procedural requirements for the filing of appeals on questions of law with the High Court.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO

### Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	N/A

### Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	N/A

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	N/A

### Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>NO</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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<i>We consider the Bill as drafted does not impact on any of New Zealand's international obligations.</i>
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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<i>We consider that the Bill as drafted does not impact upon any of the principles enshrined in the Treaty of Waitangi. However, we note that the Bill has imposed an obligation on the Ministers for the Environment and Conservation to consult with the Independent Maori Statutory Board prior to appointing additional or replacement Auckland Unitary Plan Independent Hearings Panel members.</i>
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>YES</b>
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<i>Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is expected to be available on the Ministry of Justice's website upon introduction of the Bill. Such advice, or reports, will be accessible on the Ministry of Justice's website at <a href="http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/">http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/</a></i>
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>
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<b>N/A</b>
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## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>N/A</b>

## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p><i>Consultation occurred with the Auckland Council and the Auckland Unitary Plan Independent Hearings Panel.</i></p> <p><i>The draft Bill was emailed to the stakeholders listed above on 28 August 2015 and this draft was discussed via subsequent phone and emailed conversations. Brief comments were provided to the Ministry for the Environment on the drafting of the Bill. These comments were considered by Parliamentary Counsel Office and incorporated into the next draft of the Bill if appropriate.</i></p> <p><i>Stakeholders were provided a response to their comments by the Ministry for the Environment and agreed with any compromises to the text.</i></p> <p><i>The above stakeholders agree with the wording of the Local Government (Auckland Transitional Provisions) Amendment Bill as currently drafted.</i></p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>NO</b>

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>

### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
<p><i>Proposed section 170 validates the closing date for submissions on the proposed Auckland Unitary Plan. This section ensures that submissions received after 14 January 2014 and before 1 March 2014 are treated as if they were received within the timeframes set out in the Act. The purpose of this section is to clarify potentially ambiguous drafting in section 123(7) as to whether the timeframe for submissions was 60 working days from the date of public notification or a date 'at least' 60 working days from the date of public notification. Although this section has retrospective effect, it does not detrimentally affect rights as the result is to extend (rather than restrict) the period in which submissions were received on the proposed Auckland Unitary Plan. Upon appointment, the chairperson of the Hearings Panel provided clarity that submissions received after 14 January 2014 and before 1 March 2014 would be accepted by the Hearings Panel.</i></p> <p><i>Proposed section 171 validates any hearing session of the Hearings Panel conducted to date that was held concurrently with another hearing session. This section does not adversely affect rights. This section supports other amendments contained in the Bill that confirms that the Hearings Panel can conduct concurrent hearings.</i></p>	

### Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>



### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

### Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

### Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO