Te Parawhau Hapū Incorporation
Ngātokimatawhaorua Waka District, Te-Ika-a-Maui, Aotearoa
P O Box 85, Ruakākā, Whangarei 0151, Northland, NZ
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BEFORE THE EXPERT PANEL

FAST-TRACK APPROVALS ACT 2024

ALTERNATIVE TO THE BRYNDERWYN HILLS

FTAA-2603-1178

Further Commentary in response to MINUTE 8 -

Geotechnical Information and MINUTE 11 - Ecological Matters

Filed by:

Kōwhai Te Awhina Hapū o Te Parawhau Hapū Incorporation

Date: 20 October 2026

1. Introduction and status of earlier Commentary

1.1 This Further Commentary is provided in response to Minute 8 of the Expert Panel dated 26 August 2026 and the limited further opportunity afforded to parties who have already commented on the Application to provide additional comments on the Applicant's Geotechnical Information.

1.2 The Incorporation relies upon and maintains its Commentary filed on 10 August 2026. Nothing in this Further Commentary withdraws, limits or replaces that Commentary. The Incorporation's objection to the proposed Project remains unchanged, including its position that maintaining and improving the existing transport corridor represents the preferable outcome.

1.3 The Incorporation acknowledges the Panel's direct notification of Minute 8 and appreciates the continued recognition of the Incorporation as an independently invited commenter. This further opportunity is also consistent with paragraph 22.5.2 of the Incorporation's earlier Commentary, which recorded its willingness to provide further written comments if requested by the Panel.

1.4 The Incorporation does not purport to provide geotechnical expert evidence. Its comments are directed to the sufficiency, timing and implications of the further information now before the Panel, particularly where the Applicant's own material identifies matters that remain subject to further investigation, assessment, design refinement or mitigation.

2. Why the further geotechnical information is material

2.1 Minute 6 records that the Panel's technical adviser identified gaps in the Application material which the Panel considered should be addressed as a matter of priority. The Panel therefore requested a Geotechnical Factual Report or equivalent, a Geotechnical Interpretive Report, geomorphological and landslide mapping, analytical support for cut and fill geometries, analytical work addressing whether slope-instability effects may extend beyond the designation boundary (including spoil sites), a preliminary seismic/liquefaction assessment near Waipū, and an assessment against the National Policy Statement for Natural Hazards 2025.

2.2 The Incorporation acknowledges that the Applicant has now provided substantial further investigation material. The question raised by that material is not whether investigation has occurred; it plainly has. The question is whether the information presently before the Panel sufficiently resolves the matters identified in Minute 6 for the purposes of the approval decision.

2.3 The memorandum of Shaun Grieve dated 24 August 2026 expressly states that it is not intended to be a Geotechnical Interpretive Report, but is a targeted summary drawing upon broader geotechnical work undertaken for the Project. It also states that the geological and geotechnical conditions are considered sufficiently understood "for the current phase" and can be managed through detailed design and construction.

2.4 Those qualifications are material. They require a distinction between evidence demonstrating effects and controls at the present approval stage, and professional confidence that engineering solutions can be developed or refined during subsequent stages.

3. Identified instability and natural-hazard conditions

3.1 The Applicant's further material confirms that the Project traverses complex geological and geotechnical conditions. The geomorphological assessment identifies historical and active slope instability, including landslides, slumps, earthflows and hummocky terrain associated with Northland Allochthon materials.

3.2 The accompanying geomorphological mapping identifies, among other matters, landslides and slumps, natural slope instability, debris-flow features, springs and seepage, drainage features, swamps, and intermittent and perennial standing water. These are not abstract matters for the Incorporation. They intersect with the concerns already raised in its Commentary regarding whenua, wai, the receiving environment and the consequences of large-scale earthworks through sensitive terrain.

3.3 The Applicant records that avoidance and minimisation of identified instability features has been adopted where practicable. The Incorporation respectfully considers that this

wording also confirms that complete avoidance has not been demonstrated in all locations.

3.4 The Incorporation therefore asks the Panel to assess the new geotechnical information together with the environmental and receiving-environment matters already raised in the Incorporation's Commentary, rather than treating geotechnical feasibility as a matter isolated from effects upon whenua and wai.

4. Consent-stage information and matters deferred to later design

4.1 The Applicant's evidence describes the present design as an indicative design developed to demonstrate feasibility and identify principal geotechnical risks and design responses. It expressly states that the purpose of the indicative design is not to establish final construction solutions.

4.2 The memorandum further states that detailed design will be undertaken during subsequent project phases and supported by additional investigations, analyses and design development. The matters identified as potentially requiring further work include detailed slope-stability assessment, earthworks design, ground improvement, retaining structures, bridge foundations, settlement assessment, liquefaction assessment, and construction methodologies and mitigation measures.

4.3 The Stage 1 Ground Investigation Report similarly records a staged investigation process. Stage 1 is to inform Consent Design, including initial ground models and initial earthworks and risk assumptions. Stage 2 is to inform reference design and further refine ground models, design and risk assumptions. Stage 3 provides additional procurement-ready investigations.

4.4 The Stage 1 report also records that, as at 23 January 2026, 21 Stage 1 ground-investigation locations - comprising nine boreholes, seven test pits and five CPT locations - had been rescheduled for Stage 2 or cancelled for reasons including property access, access restrictions, site constraints, approval constraints and alignment change.

4.5 The Incorporation does not suggest that staged investigation or detailed design is unusual for major infrastructure. Its concern is narrower: where the Panel itself required further information because of identified gaps, it should be satisfied that matters material to the statutory decision are sufficiently established at the approval stage and are not left to later investigation or design in a manner that prevents the present effects from being properly understood.

4.6 Accordingly, the Incorporation respectfully asks the Panel to distinguish between: (a) matters demonstrated by the evidence presently before it; and (b) matters said to be manageable because further investigation, analysis, design refinement or mitigation will occur later.

5. Spoil placement and effects beyond the designation boundary

5.1 Minute 6 specifically required analytical work demonstrating that effects arising from construction, including slope instability associated with alignment cuts, fills and potential spoil sites, are not expected to extend beyond the designation boundary.

5.2 The Applicant's 24 August memorandum concludes that no geotechnical constraints have been identified that indicate stabilisation measures extending beyond the proposed designation boundary would be required for the indicative alignment and indicative spoil-placement areas.

5.3 At the same time, the memorandum states that the design and location of spoil sites contained in the Application are indicative only, and that material classification, reuse opportunities, spoil placement and construction methodology will be refined through subsequent investigation, detailed design and contractor input.

5.4 The Incorporation respectfully considers that the Panel should satisfy itself that the conclusion concerning effects beyond the designation boundary is adequately demonstrated notwithstanding the indicative status of the slope geometries, spoil-placement areas and associated mitigation that underpin that conclusion.

5.5 If the Panel considers that the conclusion presently depends materially upon future refinement, the Incorporation asks that the relevant uncertainty be resolved before approval or be addressed through clear, enforceable and precautionary controls that do not defer the determination of material off-site effects.

6. Waipū lowland and liquefaction

6.1 Minute 6 specifically requested a preliminary assessment of seismic and liquefaction risk for the alluvial deposits in the northern lowland area near Waipū.

6.2 The Applicant's memorandum records that investigations completed to date indicate that potentially liquefiable materials may be present within portions of the alluvial sequence and that liquefaction susceptibility varies spatially along the corridor.

6.3 The Applicant's opinion is that liquefaction-related risks are manageable through normal detailed-design processes and recognised engineering practice. The Incorporation does not dispute that professional opinion as expert evidence.

6.4 The Incorporation nevertheless asks the Panel to be satisfied that the assessment presently available is sufficient to understand the location, nature and potential consequences of that risk for the approval decision, particularly where the Applicant also identifies liquefaction assessment as work that may be undertaken or refined during subsequent design phases.

7. Natural hazards and the Panel's Minute 6 request

7.1 Minute 6 also required an assessment of the Project against the National Policy Statement for Natural Hazards 2025, including natural-hazard risk relating to landslide and liquefaction.

7.2 The Incorporation respectfully asks the Panel to confirm for itself that the Applicant's 24 August package contains a complete response to that requirement and that the policy assessment is based upon sufficiently developed information concerning the identified instability, groundwater, earthworks and liquefaction conditions.

7.3 If any element of the Minute 6 request remains outstanding or materially dependent upon Stage 2 investigation or subsequent detailed design, the Incorporation asks that this be expressly identified and resolved before the Panel reaches its substantive decision.

7A. Minute 11 – freshwater and terrestrial ecology

7A.1 In Minute 11 dated 2 October 2026, the Panel identified concerns relating to the methodology, consistency and reliability of freshwater and terrestrial ecological assessments, including the potential need for independent peer review and field verification.

7A.2 The Incorporation considers these matters material to its earlier Commentary and to the assessment of the receiving environment. The Incorporation does not purport to offer independent ecological expert evidence. It asks that the Panel address the identified assessment uncertainties on the evidence before it.

7A.3 The Incorporation understands the Applicant has undertaken further ecological work, including additional surveys, peer review and consideration of mitigation. Where that work results in materially revised assessment findings, mitigation measures or proposed conditions, the Incorporation requests disclosure and a reasonable opportunity to comment before determination.

7A.4 The Incorporation respectfully requests that the Panel not treat a later response by the Applicant to invited-party comments as resolving material ecological issues without considering whether affected commenters have had a fair opportunity to comment before determination.

8. Independent standing and integrity of the record

8.1 The Incorporation records its appreciation that the Minute 8 notification was sent directly to it on the basis that it had been invited to comment on the Application. That direct notification confirms the Incorporation's continuing and independent participation in the Panel process.

8.2 For completeness, the Incorporation records that the Applicant's memorandum dated 19 August 2026, responding to Minutes 5 and 7, did not identify the Incorporation when

listing the subsequent responses received, notwithstanding that the Incorporation's separate response had been filed on 10 August 2026 and published on the official Fast-track record.

8.3 The same record also contains references to another organisation or resource-management body acting "on behalf of Te Parawhau Hapū", while the Stage 1 Ground Investigation Report uses the undifferentiated name "Te Parawhau" when describing mana whenua involvement in utilities, cultural and heritage oversight.

8.4 The Incorporation does not seek to enlarge this Further Commentary into a dispute concerning other organisations. It records the matter solely to avoid ambiguity. Engagement with, agreement by, or representation from another organisation using or associated with the name Te Parawhau does not constitute engagement with, agreement by, or representation of Kōwhai Te Awhina Hapū o Te Parawhau Hapū Incorporation.

8.5 The Incorporation respectfully asks that its filed Commentary and this Further Commentary continue to be considered separately and on their own terms.

9. Adopted Fast-track Resolutions and Amendments 2026

9.1 The Incorporation attaches as Annexure A its Proposed Resolutions and Amendment Set concerning the Fast-track Approvals Act 2024, adopted by the Incorporation on 12 September 2026 for application within its rohe in accordance with its constitution and Māori customs and usages (tikanga).

9.2 The adopted proposed resolutions and amendments are scheduled to be tabled on 28 October 2026 for national framing through Ngā Tikanga Māori Law/Lore Society Inc. o Aotearoa (NZ), for national framing, with national adoption, enactment and sealing scheduled for 6 February 2027.

9.3 The Incorporation places Annexure A before the Expert Panel as part of its constitutional position concerning Hapū authority, environmental protection, natural and physical resources, and the protection of whenua and taonga tuku iho.

9.4 The Incorporation respectfully requests that the Panel receive and consider Annexure A together with its Commentary filed on 10 August 2026 and this Further Commentary.

10. Position and request to the Panel

10.1 The further information demonstrates substantial geotechnical investigation. It also confirms complex terrain containing identified historical and active instability, while material aspects of slope stability, earthworks treatment, spoil placement, liquefaction assessment, construction methodology and mitigation remain capable of further investigation or refinement.

10.2 The Incorporation therefore respectfully asks the Panel, before determining the Application, to satisfy itself that the further information sufficiently resolves the geotechnical gaps identified in Minute 6 and provides an adequate present basis to assess effects within and beyond the designation boundary.

10.3 In particular, the Incorporation asks the Panel to ensure that material questions concerning instability, groundwater, spoil placement, liquefaction and effects upon the receiving environment are not deferred to subsequent design stages where doing so would prevent those effects from being properly assessed before approval.

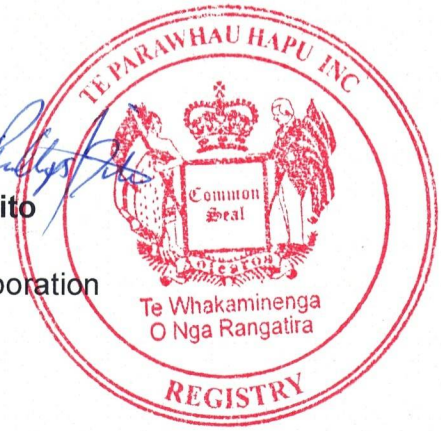
10.4 Nothing in the Applicant's further geotechnical information alters the Incorporation's objection to the proposed alternative route or its position that maintaining and improving the existing transport corridor remains the preferable outcome.

10.5 The Incorporation thanks the Expert Panel for the opportunity to provide these further comments and respectfully request that they be read together with its Commentary filed on 10 August 2026.

Date: 20 October 2026

SIGNED AND SEALED for and on behalf of

Kōwhai Te Awhina Hapū o Te Parawhau Hapū Incorporation



Tui-Dorothy/Panui-Phillips/Tito
Secretary/Registrar
For and on behalf of the Incorporation

Enclosed – Annexure A: Proposed Fast-track Approvals Act 2024 Resolutions and Amendments Set

Annexure A:

Proposed Fast-track Approvals Act 2024 Resolutions and Amendments Set

PROPOSED FAST-TRACK APPROVALS ACT 2024
Resolution and Amendment Set 2026

Protection of He Whakaputanga o te Rangatiratanga o Nu Tirani 1835, Te Tiriti o Waitangi 1840, The Preamble of Te Ture Whenua Māori Act 1993, Māori customs and usages, tino rangatiratanga, Hapū authority and unextinguished native title.

Resolutions

Resolution 1 – Recognition of Hapū Authority
Hapū authority shall be recognised in all matters arising under the Fast-track Approvals Act 2024.

Resolution 2 – Native Title and Tikanga
Nothing in the Act shall be interpreted as extinguishing, limiting or diminishing native title, tikanga or Māori customs and usages, Hapū authority or kaitiaki relationships.

Resolution 3 – Negotiation and Paramountcy
Negotiation with affected Hapū and/or Māori Incorporations shall take precedence over consultation processes. Where projects may directly or indirectly, affect customary interests, negotiation shall be the primary statutory process.

Resolution 4 – Recognition of Māori Incorporations
Māori Incorporations constituted pursuant to Te Ture Whenua Māori 1993 s211(2) shall be recognised as constitutional bodies as a Hapū authority representing collective Hapū, for the purposes of engagement under the Act.

Resolution 5 – Environmental Protection
The receiving environment, including whenua, wai, moana, flora and fauna, shall receive the highest level of protection.

Resolution 6 – Cumulative Effects
Decision-making shall take account of cumulative environmental, cultural, social and economic effects arising from multiple projects within the same receiving environment.

Resolution 7 – Public Participation and Transparency
Decision-making processes shall remain transparent, and information shall be publicly available.

Resolution 8 – Monitoring and Accountability
Monitoring, compliance and enforcement mechanisms shall remain subject to independent review and public accountability.

Resolution 9 – Continuance
This Resolution and Amendment Set shall continue in force until amended, revoked or replaced.

PROPOSED FAST-TRACK APPROVALS ACT 2024
Amendment Set 2026

Section 3. Purpose repeal and replace with section 3 with

The purpose of this Act is to –

(a) facilitate delivery of infrastructure and development projects with significant regional or national benefits; and

(b) recognise and protect unextinguished native title, Māori customs and usages, Hapū rangatiratanga, Hapū authority, and kaitiakitanga; and

(c) require negotiation with affected Hapū authorities where consultation alone is insufficient, including where a proposed project may affect their rangatiratanga, interests, whenua, wai, takutai moana, taonga tuku iho, or receiving environment; and

(d) protect the receiving environment, including whenua, wai, moana, indigenous flora and fauna, ecosystems, and biodiversity; and

(e) ensure that the exercise of powers and functions under this Act does not extinguish, limit, diminish, or override unextinguished native title or Hapū authority.

Section 4. Interpretations:

adverse effect on fishing includes:

(a) a restriction on access for fishing or a displacement of fishing; and

(b) any adverse effect on customary fishing, customary fisheries, mātaitai, mahinga kai, customary access, or the exercise of kaitiakitanga; and

(c) any adverse effect on the mauri, health, abundance, habitat, spawning grounds, or sustainability of fisheries or marine resources; and

(d) cumulative adverse effects arising from the project together with existing or proposed activities in the receiving environment.

Hapū authority means a Māori Incorporation constituted under tikanga representing the collective Hapū and exercising Hapū rangatiratanga within its rohe.

Hapū rangatiratanga means the authority exercised on behalf of whānau collectively by a Hapū in accordance with Māori customs and usages, including authority in relation to its whenua, wai, takutai moana, taonga tuku iho, customary rights and receiving environment.

Māori customs and usages means tikanga, the customs and usages stipulated and protected in the Articles of He Whakaputanga o te Rangatiratanga o Nu Tirani 1835 me Te Tiriti o Waitangi 1840, as expressed in Te Reo Māori texts.

Native title means unextinguished native title arising independently of statutory grant, recognition, registration, order or other statutory process.

Identified Māori land add after (h):

(i) land subject to unextinguished native title, whether or not that title has been recognised, registered, declared, transferred, or made subject to an order under any enactment; and

(j) land in respect of which a Hapū authority exercises Hapū rangatiratanga in accordance with Māori customs and usages.

iwi participation legislation replace with:

means legislation, including any Treaty settlement Act, including processes relevant to this Act, that provides a role for iwi or Hapū in processes for an approval under a specified Act, but does not limit or exclude the authority, rangatiratanga, interests, or inclusion of a Hapū, or the authority of a Hapū authority, arising independently of such legislation.

Māori incorporation means a Māori incorporation established pursuant to s211(2) of Te Ture Whenua Māori Act 1993, constituted under tikanga and representing the collective Hapū, and exercising Hapū rangatiratanga within its rohe.

Owner add after (b):

(c) in relation to land referred to in paragraph (i) of the definition of *identified Māori land,* includes the Hapū holding or exercising unextinguished native title in relation to that land; and

(d) in relation to land referred to in paragraph (j) of the definition of *identified Māori land,* includes the Hapū authority exercising Hapū rangatiratanga in relation to that land in accordance with Māori customs and usages.

post-settlement governance entity insert:

For the avoidance of doubt, recognition of a post-settlement governance entity under this Act does not limit or exclude the authority, rangatiratanga, interests, or inclusion of a Hapū, or the authority of a Hapū authority, arising independently of a Treaty settlement, enactment, order, or transfer of redress.

Public conservation land means land to which either or both of paragraphs (a) and (b) apply, but the holding, management, administration, or listing of land as public conservation land does not extinguish, diminish, transfer, or otherwise affect unextinguished native title, Māori customs and usages, or Hapū rangatiratanga in respect of that land.

Relevant local authority add:

For the avoidance of doubt, the identification of a relevant local authority by reference to its region or district does not, determine, limit, or exclude the rohe of a Hapū or the exercise of Hapū rangatiratanga within that rohe.

Tāngata whenua means the tāngata whenua who, in accordance with Māori customs and usages, exercise kaitiakitanga, ahi kā, and Hapū rangatiratanga within the relevant rohe, and includes Hapū whānau represented by the relevant Hapū authority.

Treaty settlement entity add after paragraph (e):

(f) does not include, and shall not be treated as replacing, representing, or exercising authority on behalf of, a Hapū or Hapū authority except to the extent expressly authorised by that Hapū in accordance with Māori customs and usages; and

(g) the recognition of a Treaty settlement entity under this Act does not limit or exclude Hapū rangatiratanga, unextinguished native title, or the authority or inclusion of a Hapū or Hapū authority arising independently of a Treaty settlement.

Add a new section:

(4) Nothing in subsection (2) permits a meaning imported from the Resource Management Act 1991 or a specified Act to limit, exclude, or displace a meaning, authority, rangatiratanga, Māori customs and usages, or unextinguished native title recognised under this Act.

Section 5 – Meaning of ineligible activity

Add after s5(1)(n):

(o) an activity that –

(i) would occur on land, waters, the coastal marine area, or other natural resources subject to unextinguished native title or Hapū rangatiratanga; and

(ii) has not been agreed to in writing by the relevant Hapū authority exercising Hapū rangatiratanga in accordance with Māori customs and usages.

Add to the beginning of subsection 5(2):

Despite subsection (2), nothing in that subsection dispenses with the agreement of a Hapū authority where an activity affects unextinguished native title or the exercise of Hapū rangatiratanga in accordance with Māori customs and usages.

Add to the beginning of subsection 5(3):

Subsection (3) does not apply to a Hapū authority exercising Hapū rangatiratanga in accordance with Māori customs and usages.

Section 7 – Obligation Relating to He Whakaputanga, Te Tiriti, Hapū Authority, Native Title and Māori Customs and Usages

(1) All persons performing functions, powers and duties under this Act must give effect to –

(a) He Whakaputanga o te Rangatiratanga o Nu Tirani 1835 (Māori text);

(b) Te Tiriti o Waitangi 1840 (Māori text);

(c) Hapū rangatiratanga; and

(d) unextinguished native title;

(e) Māori customs and usages;

(f) the obligations arising under existing Treaty settlements; and

(g) customary rights recognised under –

(i) the Marine and Coastal Area (Takutai Moana) Act 2011; and

(ii) the Ngā Rohe Moana o Ngā Hapū Ngāti Porou Act 2019.

Repeal section 7(2).

Section 9 – Act binds the Crown

Repeal and replace section 9 with:

9 - This Act shall bind the Crown UK.

Section 10 – Procedural principles

Repeal s10(3); and

Add new section 10(4):

(4) Nothing in this section permits efficiency, timeliness, cost-effectiveness, or proportionality to limit, displace, or override the obligations in section 7.

Section 10A – Government policy statements

Repeal s10A(3); and replace with:

(2) Before issuing a Government policy statement, the Minkister must –

(a) Give effect to section 7; and

(b) Consult the relevant portfolio Ministers; and

(c) Where the Government policy statement may affect Hapū Rangatiratanga, unextinguished native title, Māori customs and usages, whenua, wai, takutai moana, taonga tuku iho, or other Hapū interests, negotiate with the relevant hapū authority; and

(d) May consult any other person the Minister considers appropriate.

Add new section (7):

(7) A Government policy statement must not limit, displace, override, or be inconsistent with section 7.

Section 11 – Consultation, negotiation, and notification requirements for referral application

Repeal and replace s11(1) with:

(1) Before lodging a referral application, the applicant must-

(a) Give effect to section 7; and

(b) Where the project area is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or exercise of Hapū Rangatiratanga of a Hapū, negotiate with the relevant Hapū authority in accordance with Māori customs and usages; and

(c) consult –

(i) any relevant applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and

(ii) ngā hapū of Ngāti Porou, where applicable: and

(d) notify in writing –

(i) the relevant local authorities;

(ii) any relevant iwi authorities and Treaty settlement entities;

(iii) the relevant administering agencies; and

(iv) any holder of an interest in land proposed to be exchanged by the Crown; and

(e) give the persons, authorities, entities, and groups referred to in paragraphs (b), (c), and (d) 20 working days to respond.

Repeal section 11(1A) and replace with:

(1A) The applicant must not lodge the referral application –

(a) until each 20-working-day period under subsection (1) has expired; and

(b) where subsection (1)(b) applies, unless the negotiation required by that paragraph has been undertaken and the outcome of that negotiation is recorded in the referral application.

Section 12 – Notice of request to grant right of access

Insert a new section after section 12(2):

(2A) Despite subsection (2), where the proposed access arrangement affects unextinguished native title, Hapū Rangatiratanga, or the exercise of Māori customs and usages, the applicant must –

(a) give effect to section 7; and

(b) negotiate with the relevant Hapū authority in accordance with Māori customs and usages before lodging the referral application.

Section 13 – Referral application

After section 13(4)(j)(ii), insert

(iia) the relevant Hapū authority where the project is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority:

Repeal and Replace section 13(4)(k) with;

(k) a summary of -

(i) the consultation undertaken under section 11(1)(c), and any other consultation undertaken in relation to the project; and

(ii) any negotiation undertaken with the relevant Hapū authority under section 11(1)(b), including the matters negotiated, the position of the Hapū authority, and the outcome of that negotiation; and

(iii) how the consultation and negotiation have informed the project:

Repeal and replace section 13(4)(ka) with:

(ka) a summary of the outcome of any negotiation required under section 11(1)(b), including whether agreement of the relevant Hapū authority has been obtained.

Add after section 13(4)(o), insert:

(oa) information identifying any Hapū rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or Māori customs and usages, or the authority, rights and interests of a relevant Hapū authority that may be directly or indirectly affected by the project, together with the relevant Hapū authority:

Add to the end of 13(4)(s):

and a statement identifying whether the land is subject to unextinguished native title, Māori customs and usages, or the authority, rights and interests of a relevant Hapū authority.

Section 14 – Responsible agency decides whether referral application is complete and within scope.

Repeal and replace section 14(2)(a) with:

(a) the application complies with sections 11 and 13, including any requirement to negotiate with a relevant Hapū authority under section 11(1)(b); and

After section 14(2)(a), insert:

(aa) where section 11(1)(b) applies, the responsible agency is satisfied that –

(i) the relevant Hapū authority has been correctly identified; and

(ii) negotiation has been undertaken with that Hapū authority in accordance with Māori customs and usages; and

(iii) the outcome of that negotiation, including whether agreement was reached, is recorded in the referral application; and

After section 14(3A), insert:

(3AA) Further information requested under subsection (3A) does not remedy a failure to comply with a requirement to negotiate under section 11(1)(b).

Section 15 – Process after Minister receives referral application

Insert after (a):

(aa) be satisfied that the requirements of sections 11 and 14 have been complied with, including any requirement for negotiation with a relevant Hapū authority; and

Section 16 – Effect of Treaty settlements and other obligations on decision making

Repeal section 16(1) and replace with:

(1) This section applies where He Whakaputanga 1835, Te Tiriti of Waitangi 1840, Māori customs and usages, unextinguished native title, the authority, rightys and interests of the relevant Hapū authority apply to or may be affected by the project, or where a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngati Porou Act 2019, a Mana Whakahono ā Rohe, or a joint management agreement provides for or requires –

(a) the recognition of the authority, rights and interests of a relevant Hapū authority;

(b) the consideration of any document, instrument, right, title, interest, or other matter; or

(c) compliance with any substantive or procedural requirement.

Amend the beginning of (2) replace with:

The Minister must, where subsection (1) applies –

Add after (c), insert:

(d) give effect to any applicable requirement arising under subsection (1), including the authority, rights, interests, and Māori customs and usages of the relevant Hapū authority.

Add after subsection (2):

(2A) Nothing in this section permits a Treaty settlement entity, iwi authority, administering agency, or other statutory entity to be treated as representing a Hapū authority unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Section 17 – Minister invites comments

After 17(1)(c) insert:

(ca) the relevant Hapū authority identified under section13(4)(j)(iia); and

Repeal and replace section 17(2) with

(2) Before the Minister invites comments under subsection (1), the responsible agency must provide the Minister with –

(a) The identity of any relevant Hapū authority identified under section 13(4)(j)(iia); and

(b) The list of Māori groups referred to section 18(2).

Add a new section after subsection (6):

(6A) An invitation to provide written comments to a relevant Hapū authority under this section does not constitute, replace, or satisfy any requirement for negotiation with that Hapū authority under section 11(1)(b).

After section 17(7), insert:

(7A) In considering comments received from a relevant Hapū authority, the Minister must give effect to section 16 and must recognise the authority, rights, interests, and exercise of Hapū Rangatiratanga of that Hapū authority in accordance with Māori customs and usages.

Section 18 – Report on Treaty settlements and other obligations

Repeal and replace the heading to section 18 with:

18 – Report on Hapū authority, Treaty settlements, and other obligations

Amend subsection (2), before section 18(2)(a), insert:

(aa) the relevant Hapū authority where the project may directly or indirectly affect rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or the authority, rights and interests of the relevant Hapū authority;

(ab) the authority, rights, interests, Māori customs and usages, and any relevant instruments of that Hapū authority, including any matter arising under He Whakaputanga 1835 or Te Tiriti o Waitangi 1840;

Amend section 18(2)(h) by inserting after "who the tāngata whenua are", add:

"and the relevant Hapū authority having authority, rights and interests in relation to that area."

Repeal and replace section 18(2)(j)(i) with:

(i) the relevant Hapū authority, and any iwi authority or other group that represents a Hapū where that representative authority has been conferred by the relevant Hapū in accordance with Māori customs and usages;

After subsection 18(2), add:

(2A) Nothing in this subsection (2) permits an iwi authority, Treaty settlement entity, applicant group, mandated entity, administering agency, or other Māori group to be treated as representing or exercising the authority of a Hapū unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

After section 18(3), insert:

(3A) In preparing the report, the responsible agency must negotiate with the relevant Hapū authority on any matter identified under subsection (2)(aa) or (ab), and must accurately record the position of that Hapū authority and the outcome of that negotiation.

Section 19 – public conservation land

After section 19(2)(c), insert:

(d) whether the public conservation land is within or affects the rohe, whenua, wai, taonga tuku iho, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority; and

(e) the authority, rights, interests, and Māori customs and usages of the relevant Hapū authority in relation to that land.

After section 19(3), insert:

(4) Where subsection (2)(d) or (e) applies, the Director-General must negotiate with the relevant Hapū authority in accordance with Māori customs and usages before completing the report.

Section 20 – Minister may request information

Section 20(1), after "the relevant administering agencies", insert

", or a relevant Hapū authority,"

Section 21 – Minister's decision

After section 21(1)(c), insert:

(d) the requirements of sections 11, 14, 15, 16, 17, and 18 have been complied with; and

(e) where the project directly or indirectly affects the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority, the requirements for negotiation with the relevant Hapū authority have been complied with.

After section 21(3)(c), insert:

(d) A requirement for negotiation with a relevant Hapū authority under this Act has not been complied with; or

(e) the project would extinguish, derogate from, or materially interfere with unextinguished native title or the authority, rights and interests of a relevant Hapū authority contrary to Māori customs and usages.

Amend section 21(5)(a) with:

(i) He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, or the authority, rights, interests, and Māori customs and usages of the relevant Hapū authority;

(ii) a Treaty settlement;

(iii) the Ngā Rohe Moana o Ngā Hapū o Ngati Porou Act 2019;

(iv) the Marine and Coastal (Takutai Moana) Act 2011;

(v) a Mana Whakahono ā Rohe;

(vi) a joint management agreement:

Section 22 – Criteria for assessing referral application

Add a new section after 22(1)(b), insert:

(c) where the project is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority -

(i) the relevant Hapū authority has been correctly identified; and

(ii) any negotiation required under this Act has been undertaken with that Hapū authority in accordance with Māori customs and usages; and

(iii) the project is inconsistent with He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, Māori customs and usages, unextinguished native title, and the authority, rights, interests of a relevant Hapū authority.

Section 22(1A) – Government policy statement

After section 22(1A), insert:

(1B) nothing in subsection (1A) permits a Government policy statement to override or diminish He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, as expressed in their Te Reo Māori texts, Māori customs and

usages, unextinguished native title, or the authority, rights, interests of a relevant Hapū authority.

Section 22(2) – the benefit list

Add a new section 22(2)(a), after (x):

(xi) will protect and give effect to the authority, rights and interests of a relevant Hapū authority, Māori customs and usages, unextinguished native title; and

(xii) will protect the affected whenua, wai, takutai moana and taonga tuku iho in accordance with Māori customs and usages.

Sections 22(3) – (4) – Crown-owned reserve land exchange

After section 22(4), insert:

(4A) Where the Crown-owned reserve is within or affects the rohe, whenua, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority, the Minister must also consider and give effect to the authority, rights, interests, and Māori customs and usages of the relevant Hapū authority.

Sections 22(5) - (6) – marine space

Add to section 22(5):

(c) the authrority, rights and interests of a relevant Hapū authority, Māori customs and usages, customary fishing, mātaitai, or other customary use or authority;

Add to section 22(6):

(d) the authority, rights and interests of the relevant Hapū authority, including in relation to wai, takutai moana, customary fisheries, mātaitai, taonga tuku iho and unextinguished native title; and

(e) the effects of the proposed activity upon the authority, rights and interests of the relevant Hapū authority and Māori customs and usages.

Section 22(7) – aquaculture

Add after section 22(7), insert:

(7A) Subsection (7) does not dispense with or limit the requirements of subsection (1)(c), or any requirement under this Act concerning a relevant Hapū authority, Māori customs and usages, or unextinguished native title.

Section 23 – Minister may determine that linear infrastructure on certain identified Māori land is not ineligible activity.

After section 23(1)(b), insert:

(c) where the land is within the rohe of a Hapū, or the activity may directly or indirectly affect Māori customs and usages, unextinguished native title, or the authority, rights or interests of a Hapū, the requirements of subsection (2) have been satisfied.

Repeal and replace section 23(2) with:

(2) Before making a determination under subsection (1), the Minister must –

(a) Identify the relevant Hapū authority; and

(b) Give effect to He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840 as expressed in their Te Reo Māori texts, Māori customs and usages, unextinguished native title, and the authority, rights and interests of the relevant Hapu; and

(c) Negotiate with the relevant Hapū authority in accordance with Māori customs and usages; and

(d) Consider the effects of the activity on the whenua and on the authority and affected owners.

Repeal and replace section 23(3) with:

(3) The Minister –

(a) Must decline to make a determination if –

(i) the requirements of subsection (2) have not been complied with; or

(ii) the activity would adversely affect Māori customs and usages, unextinguished native title, whenua, taonga tuku iho, or the authority, rights or interests of the relevant Hapū authority; or

(iii) agreement required through negotiation with the relevant Hapū authority has not been obtained; and

(b) May decline to make a determination for any other reason.

Section 24 – Minister may determine that electricity infrastructure on certain Schedule 4 land or in national reserve is not ineligible activity

After section 24(1), insert:

(1A) Despite subsections (2) and (4), the Minister must not determine that an activity is not an ineligible activity where the activity is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, taonga tuku iho, unextinguished native title, or the authority, rights, interests of a relevant Hapū authority

unless -

(a) the relevant Hapū authority has been correctly identified; and

(b) negotiation has been undertaken with that Hapū authority in accordance with Māori customs and usages; and

(c) the Minister has given effect to He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, Māori customs and usages, unextinguished native title, and the authority, rights and interests of the relevant Hapū authority; and

(d) agreement of the relevant Hapū authority has been obtained where the activity would materially affect those authority, rights and interests.

After section 24(4)(c), insert;

(e) the Minister is satisfied that all reasonably practicable alternative routes or locations have been considered in negotiation with the relevant Hapū authority where subsection (1A) applies.

Section 26 – Referral of project if referral application accepted

Add new sections after 26(3):

(4) A project must not be divided, staged, partially referred, or referred by way of an alternative for the purpose or effect of avoiding or limiting any requirement relating to a relevant Hapū authority, the authority, rights and interests of that authority, Māori customs and usages, unextinguished native title, whenua, wai, takutai moana, or taonga tuku iho.

(5) Where only part of a project is referred, the Minister must consider the direct, indirect, and cumulative effects of the whole project when determining the requirements applicable to the referred project under this Act.

Section 27 – Minister specifies matters for accepted referral application

Add new sections after 27(2):

(2A) Where the project is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or the authority, rights, interests of a relevant Hapū authority, the Minister must identify the relevant Hapū authority in the referral.

(2B) In a case to which subsection (2A) applies, the Minister must specify that the substantive application include –

(a) the outcome of negotiation with the relevant Hapū authority;

(b) the position of that Hapū authority on the project;

(c) the effects of the project upon the authority, rights and interests of the relevant Hapū authority, Māori customs and usages, unextinguished native title, whenua, wai, takutai moana and taonga tuku iho; and

(d) the measures agreed with the relevant Hapū authority to avoid, remedy, or otherwise address those effects.

(2C) The Minister must specify the relevant hapū authority as a person or group from whom the panel must invite comments, in addition to any persons or groups required under section 53.

(2D) An iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group must not be treated as satisfying subsection (2C) unless authority to represent the relevant Hapū has been conferred by that Hapū in accordance with Māori customs and usages.

Section 35 – Director-General of Conservation's report on land exchange

After section 35(1)(c), insert:

(ca) the relevant Hapū authority where the land proposed to be exchanged is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, taonga tuku iho, unextinguished native title, or the authority, rights, interests of a relevant Hapū authority; and

And after section 35(1)(d), insert:

(da) an entity referred to in paragraph (d) , or any iwi authority, Treaty settlement entity, mandated entity, or other Māori group, must not be treated as representing a Hapū for the purposes of this section unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

After subsection (2A), insert:

(2B) Where subsection (1)(ca) applies, the Director-General of Conservation must negotiate with the relevant Hapū authority in accordance with Māori customs and usages before preparing the report under subsection (3).

(2C) An invitation to provide comments under this section does not constitute, or substitute for, negotiation required under subsection (2B).

After section 35(3)(b), insert:

(c) where subsection (1)(ca) applies -

(i) the identity and position of the relevant Hapū authority; and

(ii) the authority, rights and interests of the relevant Hapū authority affected, Māori customs and usages, and unextinguished native title; and

(iii) the outcome of negotiation undertaken under subsection (2B), including whether agreement was reached; and

(iv) any measures agreed with the relevant Hapū authority.

After section 35(5), insert:

(5A) Where comments on the draft report are received from a relevant Hapū authority, the Director-General must accurately record and address those comments before finalizing the report.

Replace section 35(9) with:

(9) The applicant must not lodge the substantive application for the report until –

(a) the applicant has received the report; and

(b) where subsection (1)(ca) applies, the requirements of subsections (2B), (2B), (3)(c), and (5A) have been complied with.

Section 53 – Panel invites comments on substantive application

Add to section 53(2), insert after paragraph (b):

(ba) the relevant Hapū authority where the substantive application is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or exercise of Hapū authority; and

(bb) a Māori incorporation that makes a written request to provide comments on its own behalf, or on behalf of another Māori incorporation under a recorded amalgamation or authority, before the closing date for comments; and

Add to the end of subsection (2):

(2B) Nothing in this subsection (2) permits an iwi authority, Treaty settlement entity, protected customary rights group, applicant group, administering agency, mandated entity, or other Māori group to be treated as representing or exercising the authority of a Hapū unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Amend section 53(2)(g) to finish:

"and the relevant Hapū authority having authority, rights and interests in relation to that area; and"

Add a new subsections:

(2C) Where subsection (2)(ba) applies, the panel must be satisfied that any negotiation required with the relevant Hapū authority under this Act has been undertaken and that substantive application accurately records the position of that Hapū authority and the outcome of that negotiation.

(2D) An invitation to provide comments under this section does not constitute, or substitute for, any negotiation required with a relevant Hapū authority under this Act.

(2E) A Māori incorporation invited under subsection (2)(bb) must not be treated as representing a relevant Hapū authority, or exercising that Hapū authority, unless authority has been expressly conferred by that Hapū in accordance with Māori customs and usages.

Section 81 – Decisions on approvals sought in substantive application

After section 81(2)(a), add:

(ab) must, where the substantive application is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, Māori customs and usages, unextinguished native title, or authority, rights or interests of the relevant Hapū authority –
(i) identify and recognise the relevant Hapū authority; and
(ii) be satisfied that every requirement under this Act for negotiation with that Hapū authority has been complied with; and
(iii) give effect to He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840. Māori customs and usages, unextinguished native title, and the authority, rights and interests of the relevant Hapū authority; and
(iv) consider the position of the relevant Hapū authority and the outcome of negotiation with that authority.

(ac) must not grant the approval if –
(i) a requirement under this Act to identify or negotiate with the relevant Hapū authority has not been complied with; or
(ii) the approval would extinguish, override, diminish, or materially interfere with Māori customs and usages, unextinguished native title, or the authority, rights, and interests of the relevant Hapū authority.

Section 82 – Effect of Hapū authority, Treaty settlements, and other obligations on decision making

Repeal and replace subsection (1) with:

(1) This section applies where an approval is relevant to –
(a) He Whakaputanga o te Rangatiratanga 1835; or
(b) Te Tiriti o Waitangi 1840; or
(c) Māori customs and usages; or
(d) unextinguished native title; or
(e) the authority, rights and interests of the relevant Hapū authority; or
(f) a Treaty settlement; or
(g) the Marine and Coastal Area (Takutai Moana) Act 2011; or
(h) the Ngā Rohe Moana o Ngā Hapū o Ngati Porou Act 2019.

Add new subsections:

(2A) Where subsection (1)(a) to (e) applies, the panel must give effect to the applicable Māori customs and usages, unextinguished native title, and the authority, rights and interests of the relevant Hapū authority in its decision making.
(2B) Nothing in this section permits an iwi authority, Treaty settlement entity, protected customary rights group, applicant group, or other Māori group to be treated as representing or exercising the authority of a Hapū unless that

authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Add new subsection after subsection (3) with:

(3A) Compliance with section 7 does not dispense with or limit any requirement under this Act relating to a relevant Hapū authority, Māori customs and usages, or unextinguished native title.

Section 83 – Conditions must be no more onerous than necessary

In section 83, number the existing provision as subsection (1), and after subsection (1), insert:

(2) Nothing in this subsection (1) limits the imposition of a condition necessary to comply with or give effect to a requirement of this Act concerning a relevant Hapū authority, Māori customs and usages, unextinguished native title.

Section 84 – Conditions relating to Hapū authority, Treaty settlements and customary rights

Repeal and replace subsection (1):

(1) For the purposes of section 7, the panel –

(a) must set any conditions necessary to comply or give effect to a requirement of this Act concerning a relevant Hapū authority, Māori customs and usages, unextinguished native title; and

(b) may set conditions to recognise and protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011 or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

Add new subsections:

(1A) Where measures have been agreed through negotiation with a relevant Hapū authority under this Act, the panel must incorporate those measures into the conditions of the approval to the extent necessary to give effect to that agreement.

(1B) A condition recognizing or protecting an iwi authority, Treaty settlement entity, protected customary rights group, mandated entity, or other Māori group does not satisfy subsection (1)(a) unless authority to represent the Hapū has been conferred by that relevant Hapū in accordance with Māori Customs and usages.

Section 85 – When panel must or may decline approvals

After section 85(1)(h), insert:

(i) a requirement of this Act to identify, recognise, negotiate with, or give effect to the authority, rights or interests of a relevant Hapū authority has not been complied with; or

(j) granting the approval would extinguish, override, doiminsh, or materially interfere with Māori customs and usages, or unextinguished native title contrary to a requirement of this Act.

After section 85(3), insert:

(3A) Subsection (3) does not permit the panel to balance a failure referred to in subsection (1)(i), or an effect referred to in subsection (1)(j), against the regional or national benefits of the project.

After section 85(4), insert:

(4A) Subsection (4) does not limit the operation of subsection (1)(i) or (j), or any requirement of this Act concerning a relevant Hapū authority, Māori customs and usages, or unextinguished native title.

Section 86 – Decision on land exchange is conditional

After section 86(1), insert:

(1A) Where the land exchange directly or indirectly affects Māori customs and usages, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority, the conditional decision must not become final unless tne appropriate Minister is satisfied that –

(a) the relevant Hapū authority has been correctly identified; and

(b) every requirement under this Act for negotiation with that Hapū authority has been complied with; and

(c) the outcome of that negotiation, including any measures agreed with the relevant Hapū authority, has been given effect to.

(1B) Compliance with conditions imposed by the panel does not cure or otherwise remedy a failure to comply with subsection(1A).

Section 87 – Content of panel decision documents

After section 87(2)(a), insert:

(aa) where the approval directly or indirectly affects Māori customs and usages, unextinguished native title, or the authority, rights or interests of the relevant Hapū authority, must –

(i) identify the relevant Hapū authority; and

(ii) record the position of that hapū authority on the approval sought; and

(iii) record the outcome of any negotiation required under this Act, including whether agreement was reached and any measures agreed; and

(iv) state the panel's findings as to compliance with the requirements of this Act concerning the relevant Hapū authority; and

(v) state how those matters were reflected in the decision and any conditions imposed.

Section 88 – Issue, service, and publication of decision documents

After section 88(1)(d), insert:

(da) the relevant Hapū authority where the substantive application directly or indirectly affects Māori customs and usages, unextinguished native title, or the authority, rights, interests, whenua, wai, takutai moana, or taonga tuku iho tuku iho of that Hapū; and

Add subsection:

(1B) The requirement to serve a relevant Hapū authority under subsection (1)(da) applies whether or not that authority was identified or invited to provide comments under section 35 or 53.

Section 95 – Exercise of existing approval under specified Act while applying for approval under this Act

After section 95(4), insert:

(5) Nothing in this section _

(a) authorizes the extension, expansion, modification, or intensification of an activity beyond the authority conferred by the existing approval; or

(b) limits or dispenses with any requirement under this Act concerning a relevant Hapū authority, Maori customs and usages, unextinguished native title, or the authority, rights and interests of a Hapū in relation to the substantive application.

Section 96 – Status of approval when granted

Add a new subsection after (2);

(2) Nothing in this section causes an approval granted under this Act to –

(a) Extinguish, override, or diminish unextinguished native title, Māori customs and usages, or the authority, rights and interests of a relevant Hapū authority; or

(b) Acquire any greater force or effect under a specified Act than could lawfully be exercised consistently with the requirements of this Act concerning those matters.

Section 98 – Disapplication of matters if approval is for electricity infrastructure on certain Schedule 4 land or in national reserve

Add new sections after (4):

(5) Limitation on disapplication
Nothing in this section authorises the disapplication, limitation, extinguishment, or impairment of -
(a) the authority, rights, interests of a relevant Hapū authority; or
(b) Māori customs and usages; or
(c) unextinguished native title; or
(d) the taonga tuku iho tuku iho of a relevant Hapū
(6) This section does not apply in relation to an approval affecting the matters specified in subsection (5) unless the requirements of this Act relating to identification of, and negotiation with, the relevant Hapū authority have been complied with.
(7) An approval must not rely upon this section to overcome or cure a failure to comply with any requirement under this Act to negotiate with, obtain the agreement of, or otherwise recognise the authority of a relevant Hapū authority.

Section 99 – Appeal against decisions only on question of law
After section 99(1)(d), insert:
(e) a relevant Hapū authority where the decision directly or indirectly affects, or may affect, the rohe of the Hapū, whenua, wai. takutai maona, taonga tuku iho, unextinguished native title, Māori customs and usages, or the authority, rights, interests of a relevant Hapū authority.
Add new subsections:
(1A) A relevant Hapū authority is entitled to appeal under subsection (1)(e) whether or not –
(a) it was identified or invited to provide comments under this Act; or
(b) it provided comments; or
(c) any person or entity purported to represent the Hapū in the referral or approval process.
(1B) For the purposes of this section, a question of law includes whether –
(a) a relevant Hapū authority was correctly identified;
(b) a requirement to negotiate with a relevant Hapū authority was complied with;
(c) the authority or position of a relevant Hapū authority was lawfully recognised;
(d) another entity was unlawfully treated as representing a Hapū; or
(e) the decision failed to comply with a requirement of this Act concerning the authority, rights, interests of a relevant Hapū authority, Māori customs and usages, or unextinguished native title.
Repeal and replace section (2), with:

(2) A party to an appeal under this section may appeal a determination of the High Court to the Court of Appeal in accordance with the Senior Courts Act 2016.

Section 100 – Procedural matters

Add to section 100(4) a paragraph after (d):

(e) any relevant Hapū authority directly or indirectly affected by the decision appealed against.

Section 101 – Judicial review

Repeal and replace section 101(1)(b):

(b) within any further time allowed by the High Court where the interests of justice require.

Add a new section:

(1A) In determining whether to allow further time under subsection (1)(b), the High Court may have regard to –

(a) whether the relevant Hapū authority was identified, notified, consulted, or invited to participate in the process under this Act;

(b) whether a requirement to negotiate with a relevant Hapū authority was complied with;

(c) when the relevant Hapū authority became aware, or could reasonably have become aware, of the decision and its effects;

(d) the effects of the decision upon the authority, rights, interests of a relevant Hapū authority, Māori customs and usages, unextinguished native title, whenua, wai, takutai moana or taonga tuku iho; and

(e) the interests of justice.

Section 102 – Right of appeal, review, or reconsideration under specified Act

Repeal and replace section 102 with:

(1) Except as provided in subsection (2), no right of appeal, review, or reconsideration under a specified Act applies to a decision under this Act,

(2) Nothing in this subsection (1) –

(a) limits any right arising under sections 99 to 101; or

(b) prevents a relevant Hapū authority from challenging a failure to comply with a requirement of this Act concerning its authority, rights and interests, Māori customs and usages, unextinguished native title, whenua, wai, takutai moana or taonga tuku iho; or

(c) permits a decision under this Act to extinguish, override, or cure a failure to recognise or comply with those matters.

Section 114 – Notices in relation to Māori land

After section 114, insert new sections:

(2) Where a notice under this Act concerns land that is within, adjacent to, or may directly or indirectly affect a rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or authority, rights and interests of a Hapū, the notice must also be served on the relevant Hapū authority.

(3) Service of a notice on an owner of Māori land, an iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group does not constitute service on the relevant Hapū in accordance with Māori customs and usages.

(4) Nothing in this section limits or substitutes for any requirement under this Act to negotiate with a relevant Hapū authority.

Section 116 – Regulations

After section 116(2), insert:

(2A) Regulations made under this section must not –

(a) limit, exclude, modify, or dispense with any requirement of this Act relating to a relevant Hapū authority, Māori customs and usages, or unextinguished native title; or

(b) treat an iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group as representing a Hapū unless that authority has been conferred by the relevant hapū in accordance with Māori customs and usages; or

(c) limit or dispense with any requirement under this Act to identify, notify, consult, or negotiate with a relevant Hapū authority.

Section 117 – changing the authorised person for a listed project

After section 117(2), insert new subsections:

(2A) Where the listed project is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, Māori customs and usages, unextinguished native title, or authority, rights and interests if a Hapū, the Minister must not make a recommendation under subsection (1) unless –

(a) the relevant hapū authority has been identified and notified of the proposed change; and
(b) the relevant Hapū authority has been given a reasonable opportunity to consider the proposed change; and
(c) any requirement under this Act for negotiation with the relevant Hapū authority has been complied with in relation to the proposed authorised person

(2B) A change of authorized person under this section does not transfer, satisfy, or cure any obligation to negotiate with a relevant Hapū authority, and any negotiation undertaken by or with a previous authorized person must not be treated as agreement by the relevant Hapū authority to the participation of the proposed authorised person.

Section 118 – Order in Council to amend Schedule 4

After section 118(2), insert subsections:

(2A) Where a proposed amendment to Schedule 4 directly or indirectly affects the rohe, whenua, wai, takutai moana, taonga tuku iho, Māori customs and usages, unextinguished native title, or authority, rights and interests of a Hapū, the Minister of Conservation must –
(a) identify the relevant Hapū authority; and
(b) negotiate with that authority in accordance with Māori customs and usages before making a recommendation under subsection (1); and
(c) give effect to the authority, rights and interests of the relevant Hapū authority in determining whether to make the recommendation.

(2B) An iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group must not be treated as representing a Hapū for the purposes of subsection (2) or (2A) unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

(3A) Nothing in this section authorises an Order in Council to limit, extinguish, override, or otherwise adversely affect Māori customs and usages, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority.

SCHEDULE 4

Land on which non-mining activities are ineligible

After clause 12, add:

13 Any land where the proposed activity would extinguish, override, or materially interfere with –

(a) unextinguished native title; or
(b) Māori customs and usages; or
(c) the authority, rights and interests of a relevant Hapū authority.

SCHEDULE 5
Approvals relating to Resource Management Act 1991

Clause 2(1)(a), insert:

(c) where the project is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or the authority, rights and interests of a relevant Hapū authority -
(i) identification of the relevant Hapū authority; and
(ii) an assessment of the project against Māori customs and usages and the authority, rights and interests of that Hapū authority; and
(iii) the outcome of any negotiation required under this Act with that hapū authority.

Clause 5(1)(b), insert after (iii):

(iv) the rohe, whenua, wai, or takutai moana of a relevant Hapū authority, including any area in which unextinguished native title may be affected.

Clause 5(1)(i), insert after (j):

(ja) identification of every relevant Hapū authority whose rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or the authority, rights and interests of the relevant Hapū authority may be directly or indirectly affected by the activity; and
(jb) information concerning –
(i) the authority, rights and interests of that Hapū authority; and
(ii) the applicable Māori customs and usages; and
(iii) the outcome of negotiation undertaken with that Hapū authority under this Act.
(jc) an iwi authority, Treaty settlement entity, customary marine title group, protected customary rights group, mandated entity, or other Māori group must not be treated as representing a Hapū unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Clause 5(2)(g), repeal and replace with:

(g) a planning document, instrument, resolution, or other relevant document of a relevant hapū authority; and

(ga) a planning document recognized by a relevant iwi authority and lodged with a local authority

Clause 5(5)(c) – mātaitai, replace the ending with:

"...an assessment of the effects of the activity on the use or management of the area, customary fishing, Māori customs and usages, and the authority, rights and interests of the relevant Hapū authority."

Clause 6(1)(e) and (f), repeal and replace with:

(e) identification of persons who may be affected by the activity and any response to the views of persons consulted, and where a relevant Hapū authority is affected -

(i) identification of that hapū authority; and

(ii) the position of that hapū authority; and

(iii)the outcome of negotiation undertaken with that Hapū authority in accordance with Māori customs and usages:

(f) where a relevant Hapū authority does not agree to a proposal, or does not participate in a proposed consultation or negotiation process, an accurate statement of its position and any reasons provided by that Hapū authority.

And after (h) add:

(i) an assessment of any actual or potential effects of the activity on Māori customs and usages, unextinguished native title, and the authority, rights and interests of the relevant Hapū authority:

(j) an assessment of any actual or potential effects on whenua, wai, takutai moana and taonga tuku iho of the relevant Hapū.

After Clause 7(g), add :

(h) any actual or potential effect on Māori customs and usages, unextinguished native title, or the authority, rights and interests of the relevant Hapū authority:

(i) any actual or potential effect on whenua, wai, takutai moana, and taonga tuku iho of the relevant Hapū:

(j) any cumulative effect of the activity, together with existing or proposed activities, on the matters referred to in paragraphs (h) and (i).

Clause 8 – subdivision and reclamation

After Clause 8(1)(g), add:

(h) whether any land, river, lake, bed, coastal marine area, or other area affected by the subdivision is subject to unextinguished native title or the authority, rights and interests of a relevant Hapū authority; and

(i) the effects of any proposed vesting, reservation, access strip, new road, or alteration of boundaries on Māori customs and usages and the whenua, wai, takutai moana and taonga tuku iho of the relevant Hapū.

After Clause 8(2)(c), add:

(d) whether the area to be reclaimed is subject to unextinguished native title or affects the authority, rights or interests of a relevant Hapū authority; and

(e) the effects of the proposed reclamation, and on the whenua, wai, takutai moana and taonga tuku iho of the relevant Hapū authority; and

(f) the outcome of negotiation with the relevant Hapū authority concerning the proposed reclamation.

Clause 9 – standard freshwater fisheries activity

After (d), add:

(e) the effects of the activity on customary fisheries, Māori customs and usages, and the authority, rights and interests of the relevant Hapū authority in relation to the affected wai and freshwater species; and

(f) the outcome of negotiation with the relevant Hapū authority where those matters may be affected.

Clause 12 – notice of requirement

After Clause 12(1)(a), add:

(aa) whether the site is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana or taonga tuku iho of a relevant Hapū;

After (e), add:

(ea) identification of the relevant Hapū authority and information concerning Māori customs and usages, unextinguished native title, and the authority, rights and interests of that Hapū authority in relation to the affected area;

Repeal and replace Clause 12(1)(j) with:

(j) a description of –

(i) any consultation undertaken with parties likely to be affected by the project or work and the designation; and

(ii) any negotiation undertaken with the relevant Hapū authority, including the matters negotiated, the position of that Hapū authority, and the outcome of the negotiation.

And after 12(1)(k), add:

(k) an assessment of the effects of the proposed designation on Māori customs and usages, unextinguished native title, and the whenua, wai, takutai moana and taonga tuku iho of the relevant Hapū.

Clause 13 – persons invited to provide written comments

Repeal and replace Clause 13(b) and add (c):

(b) each relevant hapū authority whose rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, authority, rights and interests are or may be directly or indirectly affected by the application; and

(c) an iwi authority or other group that represents a Hapū that is a party to a relevant Mana Whakahono ā Rohe or joint management agreement, where authority to represent that Hapū has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Clause 14 – Chief executive may seek information or consult certain persons

After 14(1)(c), add:

(d) the relevant Hapū authority where the proposed coastal permit, or any change or cancellation of its conditions, is within, adjacent to, or may directly or indirectly affect the rohe, wai, takutai moana, customary fisheries, taonga tuku iho, unextinguished native title, or authority, rights and interests of the relevant Hapū.

Then insert sections:

(1A) Where paragraph (1)(d) applies, the relevant chief executive must seek information from, and negotiate with, the relevant Hapū authority in accordance with Māori customs and usages.

(1B) A person or organization referred to in subclause (1)(c) must not be treated as representing a hapū unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Clause 15 – chief executive recommendation on aquaculture decision

After Clause 15(2)(d), add:

(e) the information supplied by, and the outcome of negotiation with, the relevant Hapū authority under clause 14; and

(f) the effects of the proposed aquaculture activity on Māori customs and usages, customary fisheries, unextinguished native title, and the wai, takutai moana and taonga tuku iho of the relevant Hapū.

After Clause 15(3), add:

(3A) In making a recommendation on an aquaculture decision, the relevant chief executive must give effect to the authority, rights and interests of the relevant hapū authority and Māori customs and usages in relation to the affected wai, takutai moana, customary fisheries and taonga tuku iho.

Amend Clause 15(4), add:

(e) record the position of the relevant Hapū authority and the outcome of negotiation undertaken under clause 14.

Clause 17 – criteria for assessment of consent application

After Clause 17(1)(c), add:

(d) where the application is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, takutai moana, taonga tuku iho, unextinguished native title, or authority, rights and interests of a relevant Hapu`, the panel must give effect to -

(i) Māori customs and usages; and

(ii) the authority, rights and interests of a relevant Hapū authority; and

(iii) the outcome of negotiation with that Hapū authority.

After Clause 17(4), add:

(4A) Subclause (4) does not apply to, or permit the panel to disregard or override, a requirement of this Act concerning a relevant Hapū authority, Māori customs and usages, unextinguished native title, or the authority, rights and interests of a relevant Hapū.

Amend Clause 17(2)(b) with:

"... the effects of the activity on the relevant land and on Māori customs and usages, unextinguished native title, and the authority, rights and interests of the relevant Hapū authority..."

Clause 18 – conditions on resource consent

Add after (b):

(c) conditions necessary to give effect to the outcome of negotiation with a relevant Hapū authority must be included in the consent; and

(d) conditions may be imposed to protect Māori customs and usages, unextinguished native title, and the whenua, wai, takutai moana and taonga tuku iho of the relevant Hapū.

Clause 19 – freshwater fisheries conditions

After Clause 19(2)(b), add:

(c) Māori customs and usages and customary fisheries in relation to the affected wai; and

(d) the authority, rights and interests of the relevant Hapū authority and the outcome of any negotiation with that authority.

After Clause 19(3), add:

(3) Subclause (3) does not operate to extinguish, override or diminish unextinguished native title, Māori customs and usages, or the authority, rights and interests of a relevant Hapū authority.

Clause 20 – panel makes aquaculture decision

After Clause 20(3)(b), insert:

(c) where the aquaculture activity is within, adjacent to, or may directly or indirectly affect the rohe, wai, takutai moana, customary fisheries, taonga tuku iho, unextinguished native title, or authority, rights and interests of a relevant Hapū, give effect to -

(i) Māori customs and usages; and

(ii) the authority, rights and interests of the relevant Hapū authority; and

(iii) the outcome of negotiation with that Hapū authority.

Repeal and replace clause 20(4) with:

(4) An aquaculture decision may differ from the recommendation made by the relevant chief executive, but must not –

(a) Depart from or diminish any matter agreed through negotiation with the relevant Hapū authority; or

(b) Extinguish, override, or diminish unextinguished native title, Māori customs and usages, or the authority, rights and interests of the relevant Hapū.

Clause 20(7), add:

(d) where a relevant Hapū
authority is affected, record the position of that Hapū authority, the outcome of negotiation, and how those matters have been provided for in the decision.

Clause 22 – Content of decision document

After Clause 22(3), add

(4) Where the coastal per it directly or indirectly affects the rohe, wai, takutai moana, customary fisheries, taonga tuku iho, unextinguished native title, or a relevant Hapū authority, the decision document must record -

(a) the relevant Hapū authority; and

(b) the outcome of negotiation with that Hapū authority; and

(c) any conditions, protections, restrictions, or other matters agreed through that negotiation.

Clause 23 – Change or cancellation of conditions

After paragraph (b), insert:

(ba) where the condition was imposed to protect or provide for Māori customs and usages, unextinguished native title, whenua, wai, takutai moana, taonga tuku iho, customary fisheries, or the authority, rights and interests of a relevant Hapū authority, the panel must negotiate with that Hapū authority before changing or cancelling the condition; and

(bb) the panel must not change or cancel a condition arising from an agreement with a relevant Hapū authority without the agreement of that Hapū authority; and

Clause 24 – Notice of requirement/designations

Repeal and replace Clause 24(2)(b):

(b) if the notice of requirement relates to an activity that is the subject of a determination under section 23 of this Act, the panel must -

(i) identify the relevant Hapū authority; and

(ii) give effect to Māori customs and usages; and

(iii) recognize and protect unextinguished native title and the authority, rights and interests of the relevant Hapū authority; and

(iv) give effect to the outcome of negotiation undertaken with the relevant Hapū authority under section 23.

Clause 25 – Conditions on designation

Add (2):

(2) Where a designation directly or indirectly affects matters referred to in clause 24(2)(b), the panel must impose any conditions necessary to give effect to the requirements of clause 24 and to any outcome agreed through negotiation with the relevant Hapū authority.

Clause 27 – Certificate of compliance

Clause 27(1), add:

(1A) Subclause (1) does not authorize the grant of a certificate of compliance where the activity would extinguish, override, or diminish unextinguished native title, Māori customs and usages, or the authority, rights and interests of a relevant Hapū authority.

Clause 29 – Panel may waive outline plan

Add:

(c) The panel must not waive the requirement for an outline plan where the

outline plan is necessary to identify, assess, protect, or give effect to matters concerning a relevant Hapū authority, Māori customs and usages, unextinguished native title, whenua, wai, takutai moana, or taonga tuku iho.

Clause 31 – Status after approval

After Clause 31(3), add subclauses:

(3A) Nothing in this clause gives an approval, resource consent, certificate of compliance, designation, or change or cancellation of a condition any force or effect to the extent that it –

(a) extinguishes, overrides, or diminished unextinguished native title, Māori customs and usages; or the authority, rights and interests of a relevant Hapū authority; or

(b) Is inconsistent with an agreement reached through negotiation with the relevant Hapū authority under this Act.

(3B) In exercising functions, powers, or duties under subsection (2), a local authority must continue to give effect to any conditions, protections, restrictions, or agreements concerning the relevant Hapū authority arising under this Act.

Clause 33 – Fisheries Act Part 9A

After Clause 33(3), add:

(4) Nothing in this clause, or in the application of subpart 4 of (A of the Fisheries Act 1996 under this clause, permits a panel reservation, aquaculture agreement, compensation declaration, or other process to extinguish, override, or diminish -

(a) Māori customs and usages; or

(b) unextinguished native title; or

(c) the authority, rights and interests of a relevant Hapū authority in relation to customary fisheries, mātaitai, wai, takutai moana, or taonga tuku iho.

Clause 35 – Aquaculture agreement or compensation declaration

After Clause 35(1), insert:

(1A) Subclause (1) does not apply to the extent that commencement of the coastal permit in the area previously subject to the reservation would materially affect the exercise of Māori customs and usages, unextinguished native title, customary fisheries, mātaitai, wai, takutai moana, taonga tuku iho, or the authority, rights and interests of a relevant Hapū authority unless –

(a) the relevant Hapū authority has been identified; and

(b) negotiation has been undertaken with that hapū authority in accordance with Māori customs and usages; and
(c) the outcome of that negotiation has been given effect to before the permit commences in that area.

SCHEDULE 6
Approvals Relating to Conservation Act 1987 and Reserves Act 1977

1. Resolution
That Schedule 6 of the Fast-track Approvals Act 2024 be amended to recognise and protect the authority, rights and interests of a relevant Hapū authority, Māori customs and usages, taonga, and any unextinguished native title affected by a proposed land exchange or the amendment or revocation of a conservation covenant, and to require negotiation with the relevant Hapū authority at each material decision point before an approval is granted or given effect.

For the purposes of this amendment set, references to He Whakaputanga o te Rangatiratanga 1835, Te Tiriti o Waitangi 1840, Māori customs and usages, unextinguished native title are proposed legislative requirements and are not statements that the existing Fast-track Approvals Act presently gives those matters the operative effect expressed below.

2. Part 2 — Land exchanges

Clause 27 — Information required under section 43 for land exchange application
Amend clause 27 by inserting after paragraph (a):

"(aa) must contain—
(i) information identifying any relevant Hapū authority where the land proposed to be exchanged is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, taonga, unextinguished native title; and
(ii) a record of negotiation undertaken with that Hapū authority in accordance with Māori customs and usages, including the position of the Hapū authority and whether agreement has been reached; and
(iii) an assessment of the effects of the proposed land exchange on Māori customs and usages, taonga and any unextinguished native title; and"

In paragraph (b), after "further information", insert:
"other than information required under paragraph (aa) or necessary to establish compliance with this Act in relation to a relevant Hapū authority".

Clause 28 — Grounds for ministerial call-in of decision
Amend clause 28 by inserting after paragraph (b):

"(c) the land exchange could materially affect the authority, rights or interests of a relevant Hapū authority, including Māori customs and usages, taonga or any unextinguished native title; or
(d) there is a material dispute as to whether the relevant Hapū authority has been correctly identified or whether negotiation required by this Act has been completed."

Clause 29 — Criteria for panel
Amend clause 29(1)(a) by inserting:

"(viii) where applicable, He Whakaputanga 1835, Te Tiriti o Waitangi 1840, Māori customs and usages, any unextinguished native title, and the authority, rights and interests of the relevant Hapū authority; and
(ix) the outcome of negotiation with the relevant Hapū authority."

Insert after subclause (1):

"(1A) An iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group must not be treated as representing or exercising the authority of a Hapū unless that authority has been conferred by the relevant Hapū in accordance with Māori customs and usages."

Insert after subclause (2A):

"(2B) The panel must not grant the approval where—
(a) a relevant Hapū authority has not been correctly identified; or
(b) negotiation required under this Act has not been undertaken with that Hapū authority; or
(c) the land exchange would extinguish or materially derogate from any unextinguished native title or Māori customs and usages; or
(d) agreement of the relevant Hapū authority has not been obtained where the land exchange would materially affect the authority, rights or interests protected by this clause."

Clause 31 — Preconditions for land exchange
Amend clause 31(1) by inserting:

"(d) where the land exchange materially affects the authority, rights or interests of a relevant Hapū authority, the panel must impose a condition that any agreement required under clause 29 has been obtained before the exchange is effected."

Insert after subclause (2):

"(2A) Nothing in this clause permits payment of money, compensation, mitigation, or another condition to substitute for negotiation or agreement of a relevant Hapū authority where required by this Act."

Clause 32 — Conditions
Amend clause 32 by inserting after subclause (2):

"(2A) Where a relevant Hapū authority is affected, the panel may impose conditions agreed with that Hapū authority, Māori customs and usages, taonga, whenua, wai, and any unextinguished native title.

(2B) A condition imposed under this clause must not be treated as curing a failure to negotiate with, or obtain agreement of, a relevant Hapū authority where negotiation or agreement is otherwise required by this Act."

Clause 33 — Certain conditions specified in report must be imposed by panel
Amend clause 33 by inserting after "clause 26(2)":

", including any condition specified in that report concerning a relevant Hapū authority or arising from negotiation with that authority".

Clause 34 — Giving effect to decision of panel on land exchange
Amend clause 34(1) by inserting after paragraph (b):

"(c) all requirements of this Act relating to the relevant Hapū authority have been complied with; and
(d) any agreement required from the relevant Hapū authority has been obtained and remains in force."

Insert after subclause (1):

"(1A) The Minister of Conservation must not give effect to a land exchange where doing so would extinguish or materially derogate from any unextinguished native title or Māori customs and usages."

Amend subclause (4) so that the Registrar-General of Land is authorised to give effect to the exchange only after the requirements of subclauses (1) and (1A) have been satisfied.

Clause 36 — Effect of land exchange

Amend clause 36 by adding:

"Nothing in this clause extinguishes, overrides, or diminishes any unextinguished native title, Māori customs and usages, or authority, rights or interests of a relevant Hapū authority unless expressly agreed by that Hapū authority in accordance with Māori customs and usages."

Clauses 37 to 39 — Statutory provisions disapplied

Insert a common safeguard applying to clauses 37, 38 and 39:

"Nothing in this clause disapplies, overrides, extinguishes, or limits any requirement of this Schedule relating to a relevant Hapū authority, Māori customs and usages, taonga, or any unextinguished native title."

This safeguard is to apply notwithstanding the disapplication of specified provisions of the Reserves Act 1977, Conservation Act 1987, or Public Works Act 1981.

Clause 40 — Land exchange deemed to be disposal for purposes of Treaty settlement Acts

Amend clause 40 by adding:

"For the avoidance of doubt, treatment of a land exchange as a disposal for the purposes of a Treaty settlement Act does not confer upon a Treaty settlement entity authority to represent a Hapū unless authority to represent the Hapū has been conferred by the relevant Hapū in accordance with Māori customs and usages, and does not extinguish or diminish any separate authority, rights or interests of the relevant Hapū authority."

Part 3 — Conservation covenants

Clause 42 — Information required in application for amendment or revocation of conservation covenant

Amend clause 42 by inserting after paragraph (h):

"(i) where the covenant land is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, taonga, unextinguished native title —
(i) the identity of the relevant Hapū authority;
(ii) an assessment of the effects of the proposed amendment or revocation on Māori customs and usages, taonga and any unextinguished native title;
(iii) the record and outcome of negotiation undertaken with the relevant Hapū authority in accordance with Māori customs and usages; and
(iv) where the proposed amendment or revocation would materially affect those authority, rights or interests, the written agreement of the relevant Hapū authority."

Clause 43 — Report by Director-General of Conservation

Amend clause 43 by inserting after paragraph (c):

"(d) whether the covenant land is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, taonga, unextinguished native title;
(e) the authority, rights, interests and Māori customs and usages of the relevant Hapū authority in relation to that land;
(f) the effects of the proposed amendment or revocation upon those matters; and
(g) the outcome of negotiation with the relevant Hapū authority, including whether agreement has been reached."

Insert:

"(2) In preparing the report, the Director-General must negotiate with the relevant Hapū authority in accordance with Māori customs and usages where paragraph (d), (e), or (f) applies."

Clause 44 — Persons to be invited to provide written comments

Amend clause 44 by inserting after paragraph (d):

"(e) the relevant Hapū authority where the amendment or revocation is within, adjacent to, or may directly or indirectly affect its rohe, whenua, wai, taonga, unextinguished native title."

Insert:

"(2) An invitation to an iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group does not satisfy paragraph (e) unless authority to represent the Hapū has been conferred by the relevant Hapū in accordance with Māori customs and usages."

Clause 45 — Criteria for assessment of application for amendment or revocation of conservation covenant

Amend clause 45(1) by inserting after paragraph (c):

"(d) He Whakaputanga o te Rangatiratanga 1835 and Te Tiriti o Waitangi 1840, where applicable;
(e) Māori customs and usages;
(f) any unextinguished native title and the authority, rights and interests of the relevant Hapū authority; and
(g) the outcome of negotiation with the relevant Hapū authority."

Insert after subclause (2):

"(3) The panel must not grant the approval where—
(a) a relevant Hapū authority has not been correctly identified; or
(b) negotiation required under this Schedule has not been undertaken with that Hapū authority; or
(c) the amendment or revocation would extinguish or materially derogate from any unextinguished native title or materially interfere with Māori customs and usages; or
(d) where the amendment or revocation would materially affect the authority, rights or interests of the relevant Hapū authority, the written agreement required under clause 42(i)(iv) has not been obtained."

Clause 46 — Conditions

Amend clause 46 by inserting:

"(1A) Where a relevant Hapū authority is affected, a panel may impose conditions agreed with that Hapū authority to protect Māori customs and usages, taonga, whenua, wai, and any unextinguished native title.

(1B) A condition imposed under this clause does not cure or substitute for a failure to negotiate with, or obtain any agreement required from, the relevant Hapū authority."

Clause 47 — Giving effect to decision of panel on amendment or revocation of conservation covenant

Amend clause 47(1) so that, before the Minister of Conservation, local authority, or other body gives effect to an amendment or revocation, it must be satisfied that—

"(c) all requirements of this Schedule concerning the relevant Hapū authority have been complied with; and

(d) any written agreement required under clause 42(i)(iv) has been obtained and remains in force."

Insert:

"(1A) No person may give effect to an amendment or revocation that would extinguish or materially derogate from any unextinguished native title or materially interfere with Māori customs and usages."

Amend subclause (2) so that the Registrar-General of Land must amend or remove a registration or notation only where the requirements of subclauses (1) and (1A) have been satisfied.

General non-substitution provision

Insert, at an appropriate place in Schedule 6, a provision applying throughout the Schedule:

"For the purposes of this Schedule, consultation with, comment from, consent of, or agreement with an iwi authority, Treaty settlement entity, mandated entity, administering agency, local authority, or other Māori group does not constitute consultation, negotiation, consent, or agreement of a relevant Hapū authority unless authority to represent the Hapū has been conferred by the relevant Hapū in accordance with Māori customs and usages."

Final consistency direction

On final settlement of the amendment set, cross-references and numbering are to be adjusted consequentially. The terms "negotiation", "agreement", and "written agreement" are to be used deliberately and not interchangeably. Where an amendment or revocation merely requires participation, negotiation is required; where a proposed land exchange or removal of registered conservation protection would materially affect the authority, rights or interests of the relevant Hapū authority, agreement is required; and where the statutory mechanism

operates through a registered instrument or written consent, written agreement is required.

SCHEDULE 7
APPROVALS RELATING TO WILDLIFE ACT 1953

Clause 2 — Information required in application for wildlife approval

Amend clause 2(1)(n) by repealing and replacing it with:

"(n) provide proof and details of any negotiation undertaken with the relevant Hapū authority where the proposed activity is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wai, habitat, protected wildlife, taonga tuku iho, unextinguished native title, or authority, rights and interests of that Hapū authority, including—

(i) identification of the relevant Hapū authority;

(ii) the matters negotiated;

(iii) the position of the relevant Hapū authority; and

(iv) the outcome of that negotiation; and"

Insert after clause 2(1)(n):

"(na) identify any protected wildlife, habitat, customary use, taonga tuku iho, Māori customs and usages, or other matter of significance to the relevant Hapū authority that may be affected by the proposed activity; and"

"(nb) describe the measures agreed with the relevant Hapū authority to avoid, minimise, remedy, or otherwise address those effects."

Clause 3 — Report by Director-General of Conservation

Insert after clause 3(b):

"(c) where clause 2(1)(n) applies, the authority, rights and interests of the relevant Hapū authority, Māori customs and usages, taonga tuku iho, customary use, and the outcome of negotiation with that Hapū authority; and

"(d) whether any conditions are required to give effect to matters agreed through that negotiation."

Clause 4 — Persons to be invited to provide written comments
Insert after clause 4(d):

"(e) the relevant Hapū authority where the proposed activity is within, adjacent to, or may directly or indirectly affect its rohe, whenua, wai, habitat, protected wildlife, taonga tuku iho, unextinguished native title, or authority, rights and interests."

Insert a further subclause: "For the avoidance of doubt, inviting comments from an iwi authority, Treaty settlement entity, mandated entity, administering agency, or other Māori group does not satisfy paragraph (e) unless authority to represent the Hapū has been conferred by the relevant Hapū in accordance with Māori customs and usages."

Clause 5 — Criteria for assessment of application for wildlife approval
Insert after clause 5(c):

"(d) where clause 2(1)(n) applies, the authority, rights and interests of the relevant Hapū authority, Māori customs and usages, taonga tuku iho, customary use, and the outcome of negotiation with that Hapū authority; and

"(e) the effects of the proposed activity on matters identified under clause 2(1)(na)."

Add: "Nothing in this clause permits the purpose of this Act to displace the requirements relating to a relevant Hapū authority under this schedule."

Clause 6 — Conditions
Insert after clause 6(2)(c):

"(d) where a relevant Hapū authority is affected, ensure that conditions give effect to matters agreed through negotiation with that Hapū authority and protect affected taonga tuku iho, customary use, Māori customs and usages, and the authority, rights and interests of the relevant Hapū authority."

Clause 7 — Status, variation, replacement, or transfer of wildlife approval

Insert after clause 7(3):

"(3A) Before varying, replacing, or transferring a wildlife approval where the variation, replacement, or transfer may materially affect a relevant Hapū authority or a matter identified under clause 2(1)(na), the Director-General must—

(a) identify the relevant Hapū authority;

(b) negotiate with that Hapū authority in accordance with Māori customs and usages; and

(c) give effect to any applicable requirements and matters agreed through that negotiation."

SCHEDULE 8
APPROVALS RELATING TO HERITAGE NEW ZEALAND POUHERE TAONGA ACT 2014

Clause 2 — Information required in application for archaeological authority

Repeal and replace 2(1)(i) and with:

"(i) where the archaeological site is within, adjacent to, or may directly or indirectly affect the rohe, whenua, wāhi tapu, wāhi tūpuna, taonga tuku iho, unextinguished native title, or authority, rights and interests of a Hapū—

(i) identify the relevant Hapū authority;

(ii) provide details of negotiation undertaken with that Hapū authority in accordance with Māori customs and usages;

(iii) state the position of that Hapū authority and the outcome of the negotiation; and

(iv) identify any conditions, tikanga requirements, cultural monitoring, protection, avoidance, restoration, access, custody, reinterment, or other measures agreed with that Hapū authority."

(v) "provide an assessment of the effects of the proposed activity on Māori customs and usages, wāhi tapu, wāhi tūpuna, taonga tuku iho, customary

associations, unextinguished native title, and the authority, rights and interests of the relevant Hapū authority."

Clause 3 — Report of Heritage New Zealand Pouhere Taonga and Māori Heritage Council

Insert a further paragraph:

"(c) where a relevant Hapū authority is identified under clause 2, the report must accurately record the position of that Hapū authority, the outcome of negotiation, and any conditions or protective measures agreed with it."

Clause 4 — Criteria for assessment of application for archaeological authority

Insert after clause 4(1)(d):

"(e) the authority, rights and interests of the relevant Hapū authority; and

"(f) Māori customs and usages and the significance of any wāhi tapu, wāhi tūpuna, taonga tuku iho, customary association, or unextinguished native title affected by the proposed activity; and"

"(g) the position of the relevant Hapū authority and the outcome of negotiation undertaken under clause 2."

"(h) The panel must not treat consultation with another Māori entity as a substitute for negotiation with the relevant Hapū authority."

Clause 5 — Imposition of conditions on archaeological authorities

Amend clause 5(1)(d) by inserting after subparagraph (iii):

"(iv) the relevant Hapū authority, where the archaeological site or activity is within, adjacent to, or may directly or indirectly affect its rohe, whenua, wāhi tapu, wāhi tupuna, taonga tuku iho, any unextinguished native title, or its authority, rights and interests."

Insert a further paragraph in clause 5(1):

"(e) where a relevant Hapū authority is affected, the activity must be carried out in accordance with any protective, tikanga, cultural monitoring, access, custody, reinterment, restoration, reporting, or other requirements agreed through negotiation with that Hapū authority."

Clause 6 — Commencement and duration of archaeological authority

Insert after clause 6(1):

"(1A) Where an archaeological authority affects a matter identified under clause 2(1)(i), the authority must not commence until –
(a) any negotiation required by this schedule has been completed; and
(b) any prerequisite agreed with the relevant Hapū authority has been satisfied."

For the avoidance of doubt, the consent of a landowner under subclause (1) and any negotiation with, or agreement of, a relevant Hapū authority required under this Schedule are separate requirements, and satisfaction of one does not constitute or substitute for satisfaction of the other."

Clause 7 — Application for approval of person to carry out activity
Repeal and replace clause 7(5)(b) so that, for a site of interest to Māori, the person must:

"(i) have the requisite competencies for recognising and respecting Māori customs and usages and the values identified by the relevant Hapū authority; and"

"(ii) have access to appropriate cultural support identified or accepted by the relevant Hapū authority where that authority is affected."

Add after clause 7(5):

"(5A) Before approving a person to undertake an activity at a site to which clause 2(1)(i) applies, the panel must invite and have regard to the position of the relevant Hapū authority concerning that person's cultural competence and the arrangements for cultural support."

Clause 8 — Service and publication of decision
Insert the relevant Hapū authority among the persons to whom the decision must be served where clause 2(1)(i) applies.

Clause 9 — Status of archaeological authority
Insert:

"(2) Nothing in this clause limits, overrides, or diminishes any requirement of this Schedule relating to a relevant Hapū authority, Māori customs and usages, wāhi tapu, wāhi tupuna, taonga tuku iho, customary associations, or any unextinguished native title, and an archaeological authority granted under this Act remains subject to those requirements."

SCHEDULE 9
APPROVALS RELATING TO COMPLEX FRESHWATER FISHERIES ACTIVITIES

Clause 2 — Information required in referral application including complex freshwater fisheries activity

Insert after clause 2(b):

"(c) whether the proposed activity is within, adjacent to, or may directly or indirectly affect freshwater within the rohe of a Hapū, and, if so—

(i) identify the relevant Hapū authority;

(ii) identify any customary fisheries, mahinga kai, taonga tuku iho, Māori customs and usages, or unextinguished native title that may be affected; and

(iii) identify the nature of those effects."

Clause 3 — Information required in application for complex freshwater fisheries activity approval

Insert after clause 3(d):

"(e) where clause 2(c) applies, an assessment of the effects of the proposed activity on the authority, rights and interests of the relevant Hapū authority, Māori customs and usages, customary fisheries, mahinga kai, taonga tuku iho, and unextinguished native title; and

"(f) details of negotiation undertaken with the relevant Hapū authority, including the matters negotiated, the position of that authority, the outcome of negotiation, and any measures agreed to avoid, minimise, remedy, restore, or otherwise address the effects of the activity."

Clause 4 — Report by Director-General of Conservation

Insert after clause 4(f):

"(g) where clause 2(c) applies, the matters identified in clauses 2(c) and 3(e), the position of the relevant Hapū authority, and the outcome of negotiation with that authority; and

"(h) any conditions necessary to give effect to matters agreed through that negotiation."

Clause 5 — Criteria for assessment of applications for complex freshwater fisheries activity approval

Insert after clause 5(f):

"(g) where clause 2(c) applies, the authority, rights and interests of the relevant Hapū authority; and

"(h) the effects of the proposed activity on Māori customs and usages, customary fisheries, mahinga kai, taonga tuku iho, unextinguished native title, freshwater species and habitat of significance to the relevant Hapū authority; and

"(i) the position of the relevant Hapū authority and the outcome of negotiation undertaken under clause 3(f)."

Add: "Nothing in this clause permits the purpose of this Act or technical fish-passage criteria to displace a requirement for negotiation with the relevant Hapū authority under this schedule."

Clause 6 — Conditions on complex freshwater fisheries activity approval

Insert after clause 6(b):

"(c) the protection of customary fisheries, mahinga kai, taonga tuku iho, Māori customs and usages, and the authority, rights and interests of the relevant Hapū authority; and

"(d) any measures agreed through negotiation with the relevant Hapū authority, including monitoring, restoration, fish passage, access, protection, or other conditions relating to the affected freshwater environment."

Clause 7 — Complex freshwater fisheries activity approval deemed to be issued under Freshwater Fisheries Regulations 1983

Insert:

"(2) Nothing in this clause limits, overrides, or diminishes any requirement of this Schedule relating to a relevant Hapū authority, Māori customs and usages, customary fisheries, mahinga kai, taonga tuku iho, any unextinguished native title, or the authority , rights and interests of a relevant Hapū authority, and an approval granted under this Act remains subject to those requirements."

SCHEDULE 10

Approvals relating to Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

2 Information about marine consent required in referral application

After clause 2(1)(c), insert:

(d) where the proposed activity is within, adjacent to, or may directly or indirectly affect the rohe, wai, takutai moana, moana, seabed, taonga tuku iho, customary fisheries, or unextinguished native title of a Hapū, information—

(i) identifying the relevant Hapū authority; and

(ii) describing the nature and extent of the potential effects on those matters; and

(iii) recording negotiation undertaken with the relevant Hapū authority in accordance with Māori customs and usages, including the position of that authority and the outcome of the negotiation; and

(iv) identifying any measures agreed with the relevant Hapū authority to avoid, remedy, mitigate, restore, or otherwise address those effects.

Add a further subclause:

(3) Consultation with an iwi authority, Treaty settlement entity, statutory entity, mandated organisation, or other Māori entity does not satisfy subclause (1)(d) unless authority to represent the affected Hapū has been conferred by that Hapū in accordance with Māori customs and usages.

3 Combination of applications for marine consent and approval described in section 42(4)(a)

Retain the existing requirement for a combined impact assessment and assessment of environmental effects, but add:

(3) A combined assessment under subclause (2) must separately identify and assess the effects on the matters specified in clause 2(1)(d), and must not combine or aggregate information in a manner that obscures the position, authority, rights, or interests of the relevant Hapū authority.

4 Information required in application for marine consent

After clause 4(c), insert:

(d) an assessment of the actual and potential effects of the proposed activity on—

(i) Māori customs and usages; and

(ii) the authority, rights, and interests of the relevant Hapū authority; and

(iii) customary fisheries, mahinga kai, taonga tuku iho, and relationships with the affected marine environment; and

(iv) any unextinguished native title; and

(e) the details and outcome of negotiation undertaken with the relevant Hapū authority, including its position and any agreed measures or conditions.

Add:

(2) The impact assessment required by paragraph (b) must include the matters in paragraphs (d) and (e) where they are relevant to the proposed activity.

5 Persons to be invited to provide written comments

Number the existing provision as subclause (1)

Insert after clause 5(1)(b):

"(c) where the proposed marine activity is within, adjacent to, or may directly or indirectly affect the rohe, wai, takutai moana, moana, seabed, taonga tuku iho, customary fisheries, any unextinguished native title, or the authority, rights and interests of a relevant Hapū authority, that relevant Hapū authority."

Insert after subclause (1):

"(2) An invitation to an iwi authority, Treaty settlement entity, statutory entity, mandated organisation, or other Māori entity does not satisfy the requirement to invite the relevant Hapū authority under subclause (1)(c), unless authority has been conferred by that Hapū in accordance with Māori customs and usages."

6 Criteria for assessment of application for marine consent

Amend clause 6(1) so that, in addition to the existing matters, the panel must give effect to, where applicable—

(e) He Whakaputanga o te Rangatiratanga o Nu Tirani 1835 and Te Tiriti o Waitangi 1840; and

(f) Māori customs and usages and the authority, rights, and interests of the relevant Hapū authority; and

(g) the protection of affected customary fisheries, mahinga kai, taonga tuku iho, and unextinguished native title.

Repeal and replace clause 6(2) with:

(2) Nothing in subclause (1), including the requirement to give greatest weight to the purpose of this Act, authorises the panel to disregard a statutory requirement that would otherwise require an application to be declined, or to extinguish, override, diminish, or derogate from the matters specified in subclause (1)(e), (f) and (g).

Add new subclauses:

(3) The panel must not grant a marine consent where the relevant Hapū authority has not been correctly identified or required negotiation has not been undertaken in accordance with Māori customs and usages.

(4) Conditions must not be used as a substitute for compliance with subclause (3).

7 Conditions

Retain the application of sections 63 to 67 of the EEZ Act, subject to the following additional requirement:

(2) Where a marine consent affects matters identified in clause 2(1)(d), any conditions imposed must be consistent with the outcome of negotiation with the relevant Hapū authority and may include agreed requirements relating to protection, monitoring, access, restoration, customary fisheries, taonga tuku iho, and cultural or tikanga-based oversight.

(3) No condition imposed under this clause may be treated as curing a failure to identify or negotiate with the relevant Hapū authority where that identification or negotiation was required before the consent was granted.

8 Marine consents deemed to be issued under EEZ Act

Retain the existing status provision and add:

(2) Nothing in subclause (1) causes a marine consent granted under this Act to extinguish, override, diminish, or derogate from Māori customs and usages, unextinguished native title, or the authority, rights, and interests of a relevant Hapū authority.

(3) A marine consent granted under this Act remains subject to any applicable requirements of this Act concerning the relevant Hapū authority and the matters protected by subclause (2).

9 Variations to conditions of marine consents

Insert after 9(1):

(2) The EPA must invite the relevant Hapū authority to participate where a proposed variation or review may materially affect its authority, rights or interests, Māori customs and usages, customary fisheries, taonga tuku iho, or unextinguished native title.

(3) A variation or review under the EEZ Act must comply with the requirements of this Schedule where it may materially affect any matter referred to in subclause (2).

(4) The purpose of this Act must not be applied in a manner that overrides, diminishes, or derogates from any matter referred to in subclause (2).

SCHEDULE 11

Crown Minerals Act 1991 - Access arrangements, variations, and mining permits

New Preliminary Clause A - Application of February 2026 Crown Minerals Act amendments

Insert before Clause (1):

A - Application of Crown Minerals Act 1991 amendments

(1) Every provision of this schedule that applies, incorporates, modifies, or confers a function, power, duty, discretion, access arrangement, permit, license, approval, or authorisation under the Crown Minerals Act 1991 shall be read and applied subject to sections 3 and 4A to 4E of that Act.

(2) Nothing in this schedule, and no referral, recommendation, determination, approval, access arrangement, variation, mining permit, condition, or decision made under this Act, constitutes or substitutes for the free, prior, and informed consent required under section 4C of the Crown Minerals Act 1991.

(3) A panel, Minister, relevant chief executive, administering agency, responsible agency, or other person must not grant, vary, issue, give effect to, or otherwise authorise an access arrangement, mining permit, approval, or other authorisation that would be prohibited by, or inconsistent with, sections 4A to 4E of the Crown Minerals Act 1991.

(4) For the avoidance of doubt, the fast-track approvals process does not displace or diminish the operation of sections 3 and 4A to 4E of the Crown Minerals Act 1991.

Clause 3 - Information required in substantive application for access arrangement

After the existing requirements relating to consultation, insert:

(va) information identifying the relevant Hapū authority where the proposed access arrangement is within, adjacent to, or may directly or indirectly affect an adopting Hapū rohe or subsurface resources to which sections 4A to 4E of the Crown Minerals Act 1991 apply; and

(vb) a record of good faith negotiation undertaken with the relevant Hapū authority and whether the free, prior and informed consent required under section 4C of the Crown Minerals Act 1991 has been obtained; and

(vc) consultation with an iwi authority, Treaty settlement entity, statutory entity, mandated organisation, or other Māori entity does not constitute or substitute for the consent required by section 4C unless authority to provide that consent has been conferred by the relevant Hapū in accordance with Māori customs and usages; and"

Clause 4 - Report by chief executives administering land

Add a new subclause (3), insert after clause 4(2):

(3) Where sections 4A to 4E of the Crown Minerals Act 1991 apply, the report must –

(a) state that those sections apply; and

(b) state whether free, prior and informed consent required under section 4C has been obtained; and

(c) identify any proposed access arrangement or condition that would be prohibited by, or inconsistent with, sections 4A to 4E.

Clause 5 - Persons invited to provide written comments

Number the existing provision as subclause (1)

Insert after 5(1)(e):

"(f) the relevant Hapū authority, where the proposed access arrangement is within, adjacent to, or may directly or indirectly affect an adopting hapū rohe, or subsurface resources to which sections 4A to 4E of the Crown Minerals Act 1991 apply."

Add:

(2) An invitation to an iwi authority, Treaty settlement entity, statutory entity, mandated organisation, or other Māori entity does not satisfy the requirement to

invite the relevant Hapū authority under subclause (1)(f), unless authority to represent the affected Hapū has been conferred by that Hapū in accordance with Māori customs and usages.

Clause 6 - Ministerial call-in grounds
After clause 6(c), insert:

(d) there is a material question as to whether sections 4A to 4E of the Crown Minerals Act 1991 apply to the proposed access arrangement, including whether the free, prior, and informed consent required under section 4C has been obtained.

Clause 7 - Criteria for assessment of access arrangement under s61 Crown Minerals Act
After clause 7(5), insert subclauses:

(6) In considering an application under this clause, the panel must give effect to sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(7) The requirement in subclause (1) to give the greatest weight to the purpose of this Act does not authorize the panel to override, displace, or diminish sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(8) The panel must decline the application where the proposed access arrangement would be prohibited by, or inconsistent with, sections 4A to 4E of the Crown Minerals Act 1991.

(9) A policy statement or management plan referred to in subclause (1)(a)(iv) must not be treated as conferring authority on a Treaty settlement entity to represent the relevant Hapū unless that authority has been conferred by the Hapū in accordance with Māori customs and usages.

Clause 8 – Criteria for assessment of application for access arrangement
Insert further clauses after clause 8(4);

(5) In considering an application under this clause, the panel must give effect to sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(6) The requirement in subclause (1) to give the greatest weight to the purpose of this Act does not authorize the panel to override, displace, or diminish sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(7) The panel must decline the application where the proposed access arrangement would be prohibited by, or inconsistent with, sections 4A to 4E of the Crown Minerals Act 1991.

(8) A policy statement or management plan referred to in subclause (1)(a)(iv) must not be treated as conferring authority on a Treaty settlement entity to represent the relevant Hapū unless authority to represent that Hapū has been conferred by the relevant Hapū in accordance with Māori customs and usages.

Clause 9 - conditions

After clause 9(3), add;

(4) A condition may give effect to matters agreed with the relevant Hapū authority, but no condition may constitute or substitute for the free, prior, and informed consent required by section 4C of the Crown Minerals Act 1991 or cure a failure to obtain that consent before the access arrangement is granted.

Clause 11 - Giving effect to panel decision

Number the existing provision as subclause (1).

After clause (1), add:

(2) Nothing in subclause (1) requires or authorises a Minister, local authority, owner, manager, or other person or body to give effect to an access arrangement or variation that is prohibited by, or inconsistent with, sections 3 or 4A to 4E of the Crown Minerals Act 1991.

Clause 12 – Commencement or variation of access arrangement

Number the existing provision as subclause (1).

After clause 12(1), add

(2) An access arrangement or variation must not commence unless any free, prior and informed consent required by section 4C of the Crown Minerals Act 1991 has been obtained and the access arrangement of variation complies with sections 3 and 4A to 4E of that Act.

Clause 13 - Status and continuing effect of access arrangements

After clause 13(10), insert:

(11) An access arrangement or variation having force and effect under this clause remains subject to sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(12) The disapplication under subclause (8) of any conservation management strategy, conservation management plan, statement of general policy, or

freshwater fisheries management plan does not disapply, override, or diminish sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(13) Nothing in this clause permits the variation, replacement, or continuation of an access arrangement to avoid the consent or other requirements of sections 4A to 4E of the Crown Minerals Act 1991.

Clause 15 - Information required in referral application for mining permit

After clause 15(2), insert:

(3) Where the proposed mining permit relates to an adopting Hapū rohe or subsurface resource to which sections 4A to 4E of the Crown Minerals Act 1991 apply, the referral application must –

(a) identify the relevant Hapū authority; and

(b) identify the subsurface resources to which those sections apply; and

(c) state whether the free, prior and informed consent required by section 4C has been obtained; and

(d) include evidence of that consent where it has been obtained.

(4) Information supplied under subclause (3) does not itself constitute or substitute for the consent required by section 4C of the Crown Minerals Act 1991.

Clause 16 - Information required in application for mining permit

Number the existing provision as subclause (1)

After clause 16(1)(c), insert:

(d) confirmation that the application complies with sections 3 and 4A to 4E of the Crown Minerals Act 1991, including –

(i) identification of the relevant Hapū authority where sections 4A to 4E apply; and

(ii) evidence that the free, prior, and informed consent required by section 4C has been obtained.

Add a new subclause (2):

(2) For the avoidance of doubt, information supplied under paragraph (d) does not itself constitute or substitute for the consent required by section 4C of the Crown Minerals Act 1991.

Clause 17 - Report by relevant chief executive

After clause 17(b), insert:

(c) whether sections 3 and 4A to 4E of the Crown Minerals Act 1991 apply; and
(d) where sections 4A to 4E apply –
(i) the identity and position of the relevant Hapū authority; and
(ii) whether the free, prior and informed consent required by section 4C has been obtained; and
(iii) any conditions necessary to give effect to matters agreed with the relevant Hapū authority.

Clause 18 - Persons to be invited to provide written comment

Repeal and replace clause 18 with;

(1) For the purpose of section 53(2)(m)(vii), the persons are –
- (a) WorkSafe New Zealand; and
- (b) The relevant hapū authority, where the proposed mining permit may directly or indirectly affect an adopting Hapū rohe or subsurface resources to which sections 4A to 4E of the Crown Minerals Act 1991 apply.

Add a new section (2);

(2) An invitation to an iwi authority, Treaty settlement entity, mandated organisation, or other Māori entity does not satisfy the requirement to invite the relevant Hapū authority under subclause (1)(b), unless authority to represent the affected Hapū has been conferred by that Hapū in accordance with Māori customs and usages.

Clause 19 - Criteria to be applied by panel

Add new sections after 19(3); insert:

(4) In applying this clause, the panel must give effect to sections 3 and 4A to 4E of the Crown Minerals Act 1991.

(5) The requirement in subclause (1) to give greatest weight to the purpose of this Act does not authorise the panel to override, displace, or diminish sections 3 or 4A to 4E of the Crown Minerals Act 1991.

Clause 20 - When mining permit must not be granted

After clause 20(1)(f), insert:

(g) where sections 4A to 4E of the Crown Minerals Act 1991 apply, -

(i) the free, prior, and informed consent required by section 4C has been obtained; and (ii) the proposed mining permit is not prohibited by, or inconsistent with, sections 4A to 4E of that Act.

Add a new subclause after (3); insert:

(4) A referral, panel recommendation, determination, Ministerial decision,

approval, condition, or other authorisation under this Act does not constitute or substitute for the consent required by section 4C of the Crown Minerals Act 1991.

Clause 21 – Conditions

Number the existing provision as subclause (1), and insert:

(2) Conditions may give effect to matters agreed with the relevant Hapū authority, but conditions must not be used as a substitute for the consent required by section 4C of the Crown Minerals Act 1991 or to authorise activity prohibited by, or inconsistent with, sections 4A to 4E of that Act.

Clause 23 - Giving effect to panel decision on mining permit

After clause 23(2), insert:

(3) Nothing in subclause (2) requires or authorises the Minister to give effect to a mining permit that is prohibited by, or inconsistent with, sections 3 or 4A to 4E of the Crown Minerals Act 1991.

Clause 24 – Commencement of mining permit

After clause 24(2), insert:

(3) Nothing in this clause permits a mining permit to commence where the consent required by section 4C of the Crown Minerals Act 1991 has not been obtained, or where commencement would otherwise be prohibited by, or inconsistent with, sections 4A to 4E of that Act.

Clause 25 - Status of mining permit

Number the existing provision as subclause (1), and insert:

(2) A mining permit having the same force and effect as a permit granted under section 25 of the Crown Minerals Act 1991 remains subject to sections 3 and 4A to 4E of that Act.

(3) Nothing in this clause gives a permit any greater authority than it would have under the Crown Minerals Act 1991 as amended by sections 3 and 4A to 4E.

Clauses 28 - Disclosure of information

After clause 28, insert a new clause:

28A Disclosure to relevant Hapū authority

(1) Nothing in clauses 26 to 28 prevents the disclosure to the relevant Hapū authority of information reasonably necessary –

(a) to determine whether sections 4A to 4E of the Crown Minerals Act 1991 apply; or

(b) to undertake good faith negotiation with the relevant Hapū authority; or

(c) to determine whether free, prior and informed consent required by section 4C of that Act.

(2) Subclause (1) is subject to any lawful protection applying to genuinely confidential information.

(3) A confidentiality provision must not be applied so as to –

(a) Deem or dispense with the consent required by section 4C of the Crown Minerals Act 1991; or

(b) Prevent the relevant Hapū authority from receiving sufficient information to enable free, prior and informed consent to be given or withheld.

SCHEDULE 12

Modifications to process under Public Works Act 1981 to take or deal with land

New preliminary clause - Application of February 2026 Public Works Act amendments

Insert before clause (1):

A Application of Public Works Act 1981 amendments

(1) This schedule shall be read and applied subject to section 4A(4) and (5) of the Public Works Act 1981.

(2) Nothing in this schedule, and no referral, panel determination, approval, or other decision under this Act, constitutes or substitutes for the good faith negotiation or free, prior, and informed written consent required by section 4A(5) of the Public Works Act 1981.

(3) Nothing in this schedule authorises the exercise of a compulsory acquisition, land taking, vesting, or extinguishment power where that power may not lawfully be exercised under section 4A(4) or (5) of the Public Works Act 1981.

Clause 1 - Interpretation

Retain the existing definitions of court and land. No further Schedule-specific definition is required where the Act-wide definition of relevant Hapū authority applies.

Clause 2 - Application of this schedule

Number the existing provision clause (1)

After clause 2(1), insert:

(2) Despite subclause (1), this schedule does not apply so as to authorise or facilitate the taking of or dealing with land contrary to section 4A(4) or (5) of the Public Works Act 1981.

(3) Where section 4A(5) applies, the fast-track process may proceed in relation to other approvals, but no compulsory acquisition, taking, vesting, extinguishment, or dealing with the protected land may occur unless the requirements of section 4A(5) have first been satisfied.

Clause 3 - Court must accept determination of panel about consideration of alternative sites, etc

After clause 3(2), insert:

(3) Nothing in this clause limits, displaces, or overrides section 4A(4) or (5) of the Public Works Act 1981.

(4) The court must not treat a determination of a panel as authorising or validating a taking, acquisition, vesting, extinguishment, or dealing with land that would be prohibited by section 4A(4) or (5) of the Public Works Act 1981.

(5) For the avoidance of doubt, a determination of a panel, whether accepted under subclause (1) or considered together with material new evidence under subclause (2), does not constitute the good faith negotiation or free, prior, and informed written consent required by section 4A(5) of the Public Works Act 1981.

(6) The court may receive and consider evidence relevant to whether section 4A(4) or (5) has been complied with, notwithstanding any determination of a panel concerning alternative sites or methods.