

2017

Consent Steps

Pre-Application



This guidance has been updated to include the changes made to the consenting provisions of the RMA as a result of the Resource Legislation Amendment Act 2017 (RLAA17) which came into effect on 18 October 2017. For more information about the amendments refer to the RLAA17 Fact Sheets available from the [Ministry's website](#).

Pre-application

Before making an application for resource consent under the Resource Management Act 1991 (RMA), careful consideration needs to be given to what an application should contain. Many people look to councils to provide them with advice about the resource consent process, how to make an application and information it should contain.

This guidance note provides some best practice advice to assist councils in informing the public why resource consents are required, what the resource consent process and plan requirements are, and how to prepare a complete resource consent application.

Guidance note

Pamphlets and other guidance material

Pre-application advice to applicants

Provision of cost and time estimates

Advice on linkages to other council processes

Application forms



Pamphlets and other guidance material

Pamphlets and summary sheets can be used to provide clear and succinct advice to the public about plan provisions, the resource consent process and the requirements of the RMA. Such documentation may be based on specific topics such as:

Plan topics

- zones: rural, residential, inner city etc
- resource environments/areas
- activities: subdivision, discharge to water etc.

Resource consent topics

- resource consent - what is it and why do I need one?
- lodging a resource consent application
- how to prepare a consent application, including the preparation of an Assessment of Environmental Effects (AEE) in accordance with information required in Schedule 4
- deemed permitted activities
- consultation, affected persons and written approvals
- difference between notified, limited notified and non-notified resource consents
- making a submission on a resource consent application
- hearings and pre-hearing meetings
- after the decision - now that you have your resource consent
- appeals and objections to decisions
- compliance, monitoring and enforcement.

The following are some tips and things to remember when writing material for pamphlets/brochures and making them available:

- The person reading the pamphlet/brochure may have no experience or understanding of the RMA whatsoever.
- Keep the material simple and try to avoid the use of technical language or planning jargon.
- Keep information short and to the point. Avoid lengthy descriptions.
- Include council contact details for people wanting more guidance.
- Make the pamphlets/brochures available on the council website.
- Have a look at what other councils have done: some very good council pamphlets on RMA matters and processes already exist that may be easily adapted for your council.
- Keep the pamphlets/brochures up to date.
- Make them easily accessible to the public (eg, near the public counter and in libraries).
- Always have a good supply at hand.



THE RMA QUALITY PLANNING RESOURCE

The Ministry for the Environment has produced An Everyday Guide to the RMA series of booklets, which can be downloaded from the MfE website. It should be noted that these *Everyday Guides* have not been updated to reflect RLAA17, however, on the most part they contain relevant information that Councils may want to adapt to suit their own requirements, or refer to the public... The booklets which relate to the resource consent process include:

- [Getting in on the Act - an everyday guide to the RMA](#)
- [Applying for a resource consent](#)
- [Consultation for resource consent applicants](#)
- [Your rights as an 'affected person'](#)
- [Making a submission about a resource consent application](#)
- [Appearing at a resource consent hearing](#)
- [Resolving Resource Management Act concerns](#)
- [Your guide to the Environment Court](#)
- [You, mediation and the Environment Court](#)
- [The Environment Court: awarding and securing costs](#)

(The series also covers [enforcement](#), [making a submission about a proposed plan or plan change](#), [appearing at a council plan or plan change hearing](#), [the designation process](#), and [national level guidance and processes](#)).

Other helpful links providing guidance on the resource consent process include:

- [A beginner's guide to resource and building consent processes under the RMA 1991 and Building Act 2004](#) (produced by the Ministry for the Environment jointly with the (former) Department of Building and Housing)
- The MfE website: [RMA processes and how to get involved](#)

It is good practice to attach relevant pamphlets to outgoing correspondence from the council.

Council websites

The councils website is a very good place to provide details on how to make a resource consent application and what information needs to be provided.

Mailing Lists

Sending out information to a mailing list (email or SMS text) on a regular basis could easily be used for educating people on the resource consent process. Similar to newsletters (noted below) but via email/SMS.

Social Media

Social media sites such as Facebook, Twitter, Neighbourly and the like provide a good



THE RMA QUALITY PLANNING RESOURCE

way to reach a wide audience. This allows the public to interact with the council, and ask questions.

Forums for regular applicants

Hold forums with regular applicants such as: resource management consultants, surveyors, architects, iwi, engineers, and government and development agencies. Discussing the application process, sharing ideas and fostering relationships can make a real difference to the quality of resource consent applications and the council's ability to process resource consents efficiently.

Feature articles in the local newspaper

Placing feature articles in local papers can be a good way to reach a wide audience, and potentially educate a large proportion of the public on the resource consent process. As a general rule, the better informed the community becomes about the entire process, the easier the councils job. Some councils have a regular bulletin in their local newspaper, presenting weekly events occurring at the council. This medium could easily be used for educating people on the resource consent process.

Council newsletters

Council newsletters are likely to reach a vast majority of the people involved in the resource consent process as applicants, as submitters, or as affected persons. These newsletters could include topics covered by council pamphlets/brochures, or other sources of relevant information.

Council displays at public shows

Councils can produce displays for agricultural shows, home shows, trade shows and so on. These are useful and informative forums which not only display information but also allow the public to interact with council officers present, and ask questions.

Pre-application advice to an applicant

Prospective applicants should be encouraged to discuss their proposal with council staff before applying for resource consent. For simple projects this may just entail over-the counter advice at the council offices, an email or phone call. For more complex proposals, pre-arranged pre-application meetings are beneficial. Processing an application is generally simpler, quicker and less costly if the applicant has already sought the council's advice on the relevant plan provisions and information requirements before making an application.

Pre-application meetings in general



THE RMA QUALITY PLANNING RESOURCE

The applicant should be encouraged to bring with them to a pre-application meeting: site identification (ie, legal description or location map), site photos and a site plan and/or proposed plan. The applicant should also be encouraged to provide a brief description of the proposal in advance and any plans, even if they are indicative. This will give council officers the opportunity to identify the relevant issues and ensure all relevant council officers can be present at the meeting.

A pre-application meeting will assist with:

- confirming the need for resource consent and whether other consents are likely to be required from other councils, or whether the proposal could be considered a 'boundary activity' or a 'marginal or temporary' activity which may be exempted from needing resource consent (refer to guidance on consent exemptions and also notes below).
- identifying the type of resource consent(s) required
- explaining the resource consent process to the applicant, including the likely time involved in processing the application, including the possibility of Fast-Track consent processing for certain consents (refer to note below).
- providing detail on the application fee(s) required, the Council's charging policy and the [Resource Management \(Discount on Administrative Charges\) Regulations 2010](#) or the council's own discount policy, whichever is relevant.
- providing an estimate of likely costs
- identifying the relevant issues, scope and detail of the information required to support the application(s) so it corresponds to the scale and significance of the environmental effects
- explaining the information requirements for AEE's in Schedule 4 to ensure all the relevant requirements are met
- discussing possible alternative solutions where issues have been identified
- identifying what relevant information the council holds which may assist the applicant, including how and where to obtain the correct application forms etc
- explaining what procedures the application is likely to be subject to (ie, in determining whether the application is likely to be notified, limited notified or non-notified and the criteria to make this decision)
- identifying any parties likely to be affected and the degree of consultation recommended
- identifying tāngata whenua who may be affected by a proposal and their contact details ([Te Kāhui Māngai](#) is an iwi register held by Te Puni Kōkiri which has a national list of iwi and Māori organisations and their contact details)
- outlining the process for direct referral applications and the procedures for applicants to make a request for direct referral
- where notification may be likely, outlining the process including the ability to request independent commissioner(s) to hear and decide the application and the likely cost associated with that request
- outlining the option of lodging matters of national significance with the Environmental Protection Authority (EPA).



Advice on proposals that may qualify as deemed permitted activities or to be processed as fast track consents

Deemed Permitted Boundary Activities (for territorial authorities/unitary authorities)

For any proposals requiring resource consent due to the infringement of District Plan rules, it may be determined at this pre-application stage that the proposed activity is a 'boundary activity' (defined in section 87AAB(1) as an activity that "*requires a resource consent because of the application of 1 or more boundary rules, but no other district rules, ...and no infringed boundary is a public boundary.*"). If a proposed activity is a 'boundary activity', the council must treat the proposal as a permitted activity, and give notice to this effect, as long as written approval is provided by the relevant neighbour(s) and certain information is supplied to the council. The pre-application advice in this case will assist the applicant in determining which neighbours (ie those with an 'infringed boundary') need to provide their written approval and the information that is required to be provided to council in order for the activity to be considered as a Deemed Permitted Boundary Exemption. Refer to the Ministry's technical guidance on [deemed permitted activities](#) for further information.

Fast Track Consents (for territorial authorities/unitary authorities)

Applicants should be made aware that if their proposal is a district land use consent with a controlled activity status, then it qualifies to be processed on a fast track basis under s87AAC of the RMA i.e. within 10 working days instead of the normal 20 working days for a non-notified consent, if the applicant provides an electronic address for service. The applicant should be made aware that they are able to opt out of this fast-track process when they lodge their application if they so wish.

Deemed Permitted Marginal or Temporary Activities (for all local authorities)

The council may also determine at the pre-application stage that the proposed activity may only have a very minor breach, or very temporary "*non-compliance with requirements, conditions, and permissions specified in the Act, regulations (including any national environmental standard), a plan or a proposed plan*" (s87BB), and that the effect of the proposed activity will not be discernible from those of permitted activities. If the council is satisfied that they have adequate information in order to make this assessment, they have the discretion to provide a written notice to the applicant stating that the proposed activity is considered a permitted activity and that resource consent is not required (section 87BB). There is no application process for this process and it is completely at the discretion of the council as to whether they would like to consider the use of this tool on a case-by-case basis. Refer to the Ministry's technical guidance on [deemed permitted activities](#) for further information.

Pre-application meetings for major or complex applications

For major or complex proposals, a pre-application meeting is more important to bring



THE RMA QUALITY PLANNING RESOURCE

together the various parties likely to be involved to discuss and ideally resolve issues before the application is finalised. If it is likely there will be applications to other councils, any pre-application meeting should also involve the appropriate staff from the other councils.

The pre-application meeting should ensure when the application is lodged that it contains all the relevant detail and the detail corresponds to the scale and significance of the environmental effects from the proposal. The meeting should aim to:

- provide the council and others with the opportunity to contribute to the process
- ensure everyone involved understands how the relevant plan(s) are interpreted
- clarify any additional information requirements (eg, hazardous and contaminated sites)
- receive early feedback and advice that is agreed and recorded on file
- address the types of modelling or risk analysis to be undertaken, including any assumptions
- determine the acceptability of the baseline data to be provided
- clarify who will be involved in the application including the level of input from consultants
- clarify the timeframes for notified applications (130 working days) and limited notified applications (100 working days) and requirements for pre-circulation of evidence if the application is notified and a hearing is to be held
- discuss the option of direct referral to the Environment Court or lodging matters of national significance directly with the Environmental Protection Authority.

This should ensure applicants scrutinise their proposal as closely as possible and produce a targeted and appropriate AEE which corresponds to the scale and significance of the effects.

Try to ensure the council officers meeting with the potential applicant and their representatives will be the officers that deal with the application once lodged. This helps to retain a consistent approach to the proposal from both the applicant's and the council's point of view. It may also be beneficial for council officers to ask applicants to consider the pre-circulation of material prior to the meeting to allow council staff to undertake any necessary preparation to allow for a more efficient and productive meeting.

Arrange further meetings before the application is lodged if it will assist in agreeing to matters with the various parties, experts and council officers or if the proposal changed as a result of the first meeting. Setting an agenda and circulating the information recorded from the initial meeting to the various parties may also assist when meeting again.

Documentation of pre-application meetings/advice

It is very important that any pre-application advice given at a meeting is accurately



THE RMA QUALITY PLANNING RESOURCE

documented and filed so it can be linked to the application once it is lodged. Pre-application meeting records should be circulated to all who attended, so everyone has a record of what was discussed. Documentation of pre-application meeting and advice should:

- make the record as accurate as possible, including the date and time of meeting
- list all the participating parties and keep a record of their contact details so they can be contacted if needed before the application is lodged
- file the record in a specific location so that whoever receives the application can put a copy of the record with the application before circulating it to the reporting officer(s).

As a matter of good practice, councils should take care to accurately record what information and advice has been provided to an applicant following a pre-application meeting, particularly where the applicant is to rely on this information to refine their application. If the eventual processing officer was not present at the meeting, this information should be passed onto the processing officer to ensure consistency of advice and approach.

The applicant should be made aware that any information that they provide to a council may be required to be disclosed under the Local Government Official Information and Meetings Act 1987, unless there is a good reason to withhold the information under the Act (such as preventing unreasonable prejudice to someone's commercial position).

Provision of cost and time estimates

When the application is accepted for processing, the formal acceptance of application letter can include information on possible additional charges and timing, and let the applicant know an estimate of costs can be made available. If an applicant requests an estimate, the basis for charging fees and an estimate of the total cost and time of assessing and processing an application should be provided.

The information on costs and processing times supplied should make it clear that any figures are in fact 'estimates' and that variances may occur. Notwithstanding this, there is a responsibility to provide estimates that are as accurate as possible. If during processing an application, incurred costs are likely to exceed the estimated costs, then applicants should be advised before the extra costs are incurred. Cost estimates should state whether they are inclusive or exclusive of GST.

Applicants should also be informed about the [Resource Management \(Discount on Administrative Charges\) Regulations 2010](#) or the Council's own [discount policy](#), whichever is relevant where the consent is not processed within statutory time frames.

Advice on linkages to other council processes



THE RMA QUALITY PLANNING RESOURCE

Council staff providing advice on resource management matters should also be aware of parallel council processes, such as building consents, permits under bylaws, liquor licences, food licences, trade waste licences, dangerous goods licenses etc. They should be able to assist or at least direct applicants in the right direction for assistance, if other council regulations or processes apply.

If the council develops specific checklists for particular activities, think about including the parallel council processes that might affect that activity. For example, many temporary events (such as festivals, fairs etc) require a range of council approvals in addition to any resource consent. Some councils have prepared a temporary event checklist and/or application form which alerts applicants to the varying information requirements across the council

There is also often a close link between council RMA processes and requirements under the Building Act 2004. For example, resource consent applications for new dwellings will also require a building consent under the Building Act 2004. Refer to [A beginner's guide to resource and building consent processes under the Resource Management Act 1991 and the Building Act 2004](#) for more information.

Application forms

Preparing a good resource consent application form

[Form 9](#) of the Resource Management (Forms, Fees and Procedure) Regulations 2003 specifies the prescribed form for an application for resource consent. Section 88(2) and Schedule 4 of the RMA prescribe what information needs to accompany an application for resource consent. The level of detail provided should correspond with the scale and significance of the effects that the activity may have on the environment.

Many councils have developed their own application forms based on the prescribed form. As well as the information required by Schedule 4, effective application forms should try to include any other information that the consent authority considers necessary in order to make a decision. The following list provides mandatory information requirements for all applications as required in Form 9 and under Clause 2 and 6 of Schedule 4:

- the name of the council to which the application is being made
- the applicant's name and contact details (including electronic address for service)
- the site owner/occupier's name's and contact details (if different from the applicant details)
- a description of the activity which will generally require a site plan and supporting plans, elevations and cross-sections, and an assessment against the relevant provisions of the relevant District Plan/Regional Plan outlining the reasons resource consent is required.
- a description of the site at which the activity is to occur (this should include the location of the activity along with a description of any natural and physical characteristics of the site and any adjacent or nearby uses that may be relevant



THE RMA QUALITY PLANNING RESOURCE

- to the consideration of the application)
- a description of any other activities that are part of the proposal to which the application relates, including any permitted activities or activities addressed by other authorities or under other legislation
 - a description of any other resource consents required in respect of the activity, and whether or not an application has been lodged for such related consents
 - an assessment of the activity's effects on the environment which must cover all the relevant aspects of clause 6 and 7 of Schedule 4, including any actual and potential effects the activity may have on the environment and ways in which adverse effects may be avoided, remedied or mitigated
 - identification of any persons affected by the proposal and any consultation undertaken and the response of any person consulted, while noting there is no obligation to consult
 - a list of names and addresses of those who have given their written approval (completed written approval forms including signed plans of the proposed development attached to the application)
 - an assessment of the activity against Part 2 matters
 - an assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b), which includes NES, other regulations, NPS, NZCPS, RPS and district and regional plans
 - any information required to be included by any plan or regulations.

There are also specific requirements for the assessment of environmental effects for certain applications if it involves the following:

- the discharge of contaminants – a description of the nature of any discharges and the sensitivity of the receiving environment, and any possible alternative methods or receiving environments for the discharge
- use of hazardous substances – an assessment of the risks to the environment that are likely to arise from such a use
- permitted activities – a description of the activity that demonstrates that it complies with the relevant requirements and conditions
- the application relates to the existing consent – an assessment of the value of the investment of the existing consent holder
- the proposal falls within an area covered by a planning document prepared by a customary marine title group under section 85 of the Marine and Coastal Area (Takutai Moana) Act 2011 -an assessment of the activity against the resource management matters in that document
- for subdivision proposals, plans showing: the position of all new and existing boundaries; the area of all new and existing allotments; any new or existing reserves including esplanade strips/reserves; any areas of any part of the bed of any lake or river to be vested in a territorial authority; any land within the coastal marine areas; any land to be set aside as new roads and the existing and proposed services on site such as water and stormwater.



THE RMA QUALITY PLANNING RESOURCE

- for reclamation proposals, plans showing: the area and location of land proposed to be reclaimed; the position of all new boundaries; the portion of area (if any) to be set aside as an esplanade reserve or strip.

The application should also state whether they intend to make a request for direct referral, while noting this request can subsequently be made up to five days after submissions close (refer to the guidance note on [Direct Referral](#) for more information).

Section 88(3) states that a consent authority **may** determine an application is incomplete if it does not include all of the information prescribed by regulations or required by Schedule 4. This means consent authorities have the discretion to decide that an application is complete and to therefore formally accept it, even if some required information is not present. This may be appropriate where that information is not relevant or necessary to assess the effects of the activity. However, the more comprehensive requirements of Schedule 4 also provide consent authorities with a stronger basis to return inadequate applications if they see fit.

If the consent authority determines that the application is incomplete, it must return the application. Applications should be fit-for purpose at lodgement and applications that are deemed to be incomplete should not be accepted under any circumstances. Accepting incomplete applications does not promote efficient consent processing, as there can be costs and delays incurred later on through further information requests. A good pre-application process and guidance will help encourage a complete application at the outset avoiding such delays.

A checklist that an applicant can 'tick off' is a clear way of communicating the information that must be included for an application to be considered to be complete. An example is as follows:

- [Checklist for applicants \(MS Word 40 KB\)](#)

Different application forms can also be made for different sorts of applications. The following are some examples of these:

- [Certificate of compliance application form \(MS Word 66 KB\)](#)
- [Existing use certificate application form \(s10\) \(MS Word 77 KB\)](#)

The Resource Management (Forms, Fees and procedures) Regulations 2003 contains specific application forms and what they need to contain. The following templates are a few examples of these forms:

- [Resource consent application form \(MS Word 116 KB\) \[Form 9\]](#)
- [Change and/or cancellation of consent condition application form \(MS Word 85](#)



THE RMA QUALITY PLANNING RESOURCE

[KB\) \[Form 10\]](#)

- [Transfer of water permit application form \(MS Word 84 KB\) \[Form 11\]](#)
- [Deemed Permitted Boundary Activity application form \[Form 9A\]](#)
- [Written Approval for Deemed Permitted Boundary activity \[Form 8B\]](#)

It can be useful to develop different forms for different types of activities so that information requirements for particular types of applications are made clear. For example, developing separate application forms for an air permit, water discharge permit and land-use consent etc. Alternatively, create forms that allow applicants to indicate the variety of consents required on the same form. Ensure that your forms reflect the most up to date versions of the forms in the Regulations.



newzealand.govt.nz