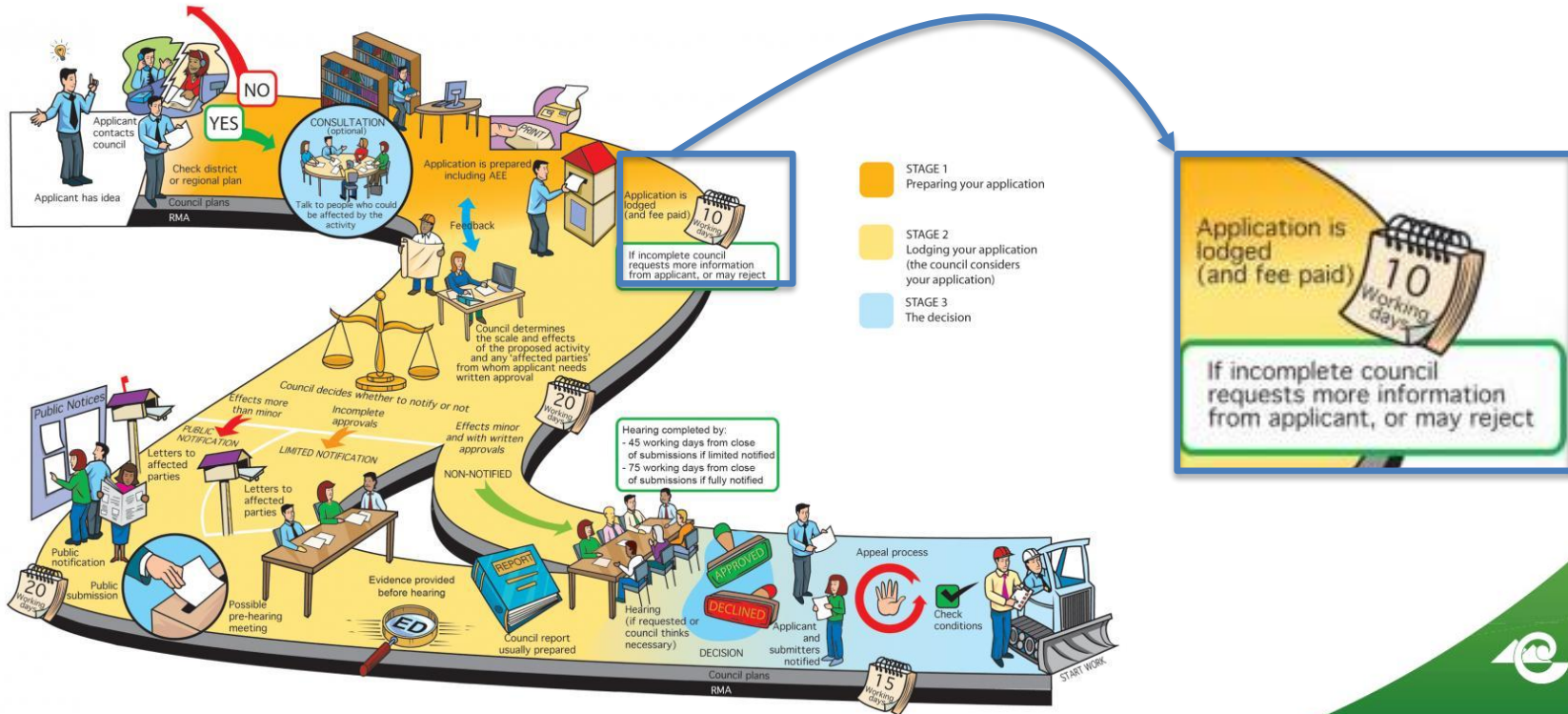


Section 88

Determining whether an application
is complete

First point in the process

APPLYING FOR A RESOURCE CONSENT



Recent(ish) changes to s88



A guide to section 88 and Schedule 4
of the Resource Management Act 1991
Incorporating changes as a result of the
Resource Management Amendment Act 2013

newzealand.govt.nz

- RMA Amendment Act 2013 changed:
 - Section 88; and
 - Schedule 4
- Took effect 3 March 2015
- Previously '**may**' return if incomplete → '**must**' return
- Still discretion as to whether application meets information requirements – s88(3)
- Applications should be fit for purpose at lodgement

<http://www.mfe.govt.nz/publications/rma/guide-section-88-and-schedule-4-resource-management-act-1991>

Key changes to s88

- ~~(3) If an application does not include an adequate assessment of environmental effects or the information required by regulations, a consent authority **may**, within **5** working days after the application was first lodged, determine that the application is incomplete and return the application, with written reasons for the determination, to the applicant.~~
- (3) A consent authority **may**, within **10** working days after an application was first lodged, determine that the application is incomplete if the application does not —
- (a) include the information prescribed by regulations; or
 - (b) include the information required by Schedule 4.
- (3A) The consent authority **must** immediately return an incomplete application to the applicant, with written reasons for the determination.
-

Why is it important?

The purpose and importance of section 88 and Schedule 4

Section 88 and Schedule 4 are the RMA's key determinants of what information needs to be included with a resource consent application. For applicants, these provisions are crucial in guiding the content of their application. For consent authorities, these provisions set the threshold tests against which their completeness check is undertaken. These provisions are important for both applicants and consent authorities because **an application's level of completeness when accepted has a significant impact on the time and expense incurred later in the process** due to additional information requests or the absence thereof.

It is important that section 88 and Schedule 4 are unambiguous, to avoid misunderstandings or disagreements about what information is required for an application to be considered complete. It is also **important that the information needed to pass the completeness test is an accurate reflection of what the consent authority will require to process the application through to a final decision.** Some flexibility is also required, reflective of the fact that the scale, complexity and environmental impacts of different proposals can vary significantly.

Shouldn't really
need section 92

Current version of RMA

Application for resource consent

88 Making an application

- (1) A person may apply to the relevant consent authority for a resource consent.
- (1A) A person may make a joint application for a resource consent and an exchange of recreation reserve land under [section 15AA](#) of the Reserves Act 1977 if the relevant consent authority—
 - (a) is also the administering body in which the recreation reserve land is vested; and
 - (b) agrees that the applications may be made jointly.
- (2) An application must—
 - (a) be made in the prescribed form and manner; and
 - (b) in the case of a fast-track application, include the prescribed information relating to the activity (if any) (see [section 360G\(1\)\(b\)](#)); and
 - (c) in the case of any other application or a fast-track application where there are no prescribed information requirements relating to the activity, include the information relating to the activity, including an assessment of the activity's effects on the environment, that is required by [Schedule 4](#).
- (2A) An application for a coastal permit to undertake an aquaculture activity must include a copy for the Ministry of Fisheries.
- (3) A consent authority may, within 10 working days after an application was first lodged, determine that the application is incomplete if the application does not—
 - (a) include the information prescribed by regulations; or
 - (b) include the information required by subsection (2)(b) or (c) (as applicable).
- (3A) The consent authority must immediately return an incomplete application to the applicant, with written reasons for the determination.
- (4) If, after an application has been returned as incomplete, that application is lodged again with the consent authority, that application is to be treated as a new application.
- (5) [Sections 357 to 358](#) apply to a determination that an application is incomplete.
- (6) If a joint application is made under subsection (1A), the application to exchange recreation reserve land must be—
 - (a) processed, with the resource consent application, in accordance with [sections 88 to 88F](#), [91\(1\)](#) and (2), [91A to 92B](#), [95](#), [95A\(2\)](#), and [96 to 103B](#); then
 - (b) decided under [section 15AA](#) of the Reserves Act 1977.

Schedule 4.

- **Sets out what Information required in application for resource consent**
- **7 clauses set out what is required in applications**
 - You won't deal with 4 (subdivisions), and not often with (5) reclamations
- **Strengthened hugely in 2013 Amendments**
- **Still has overarching scale/significance elements:**

- 1 Information must be specified in sufficient detail**

Any information required by this schedule, including an assessment under clause 2(1)(f) or (g), must be specified in sufficient detail to satisfy the purpose for which it is required.

Schedule 4..

2 Information required in all applications

- (1) An application for a resource consent for an activity (the **activity**) must include the following:
 - (a) a description of the activity;
 - (b) a description of the site at which the activity is to occur;
 - (c) the full name and address of each owner or occupier of the site;
 - (d) a description of any other activities that are part of the proposal to which the application relates;
 - (e) a description of any other resource consents required for the proposal to which the application relates;
 - (f) an assessment of the activity against the matters set out in [Part 2](#);
 - (g) an assessment of the activity against any relevant provisions of a document referred to in [section 104\(1\)\(b\)](#).
- (2) The assessment under subclause (1)(g) must include an assessment of the activity against—
 - (a) any relevant objectives, policies, or rules in a document; and
 - (b) any relevant requirements, conditions, or permissions in any rules in a document; and
 - (c) any other relevant requirements in a document (for example, in a national environmental standard or other regulations).
- (3) An application must also include an assessment of the activity's effects on the environment that—
 - (a) includes the information required by [clause 6](#); and
 - (b) addresses the matters specified in [clause 7](#); and
 - (c) includes such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.

- (b) any relevant provisions of—
 - (i) a national environmental standard;
 - (ii) other regulations;
 - (iii) a national policy statement;
 - (iv) a New Zealand coastal policy statement;
 - (v) a regional policy statement or proposed regional policy statement;
 - (vi) a plan or proposed plan; and

Schedule 4...

3 Additional information required in some applications

An application must also include any of the following that apply:

- (a) if any permitted activity is part of the proposal to which the application relates, a description of the permitted activity that demonstrates that it complies with the requirements, conditions, and permissions for the permitted activity (so that a resource consent is not required for that activity under section 87A(1));
- (b) if the application is affected by section 124 or 165ZH(1)(c) (which relate to existing resource consents), an assessment of the value of the investment of the existing consent holder (for the purposes of section 104(2A));
- (c) if the activity is to occur in an area within the scope of 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 any resource management matters set out in that planning document (for the purposes of section 104(2B)).

Schedule 4 clause 3: inserted, on 3 March 2015, by section 125 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 4....

- Schedules 6 and 7 relate specifically to Assessment of Environmental Effects (AEE)
- Listed in next two slides (sorry)

6 Information required in assessment of environmental effects

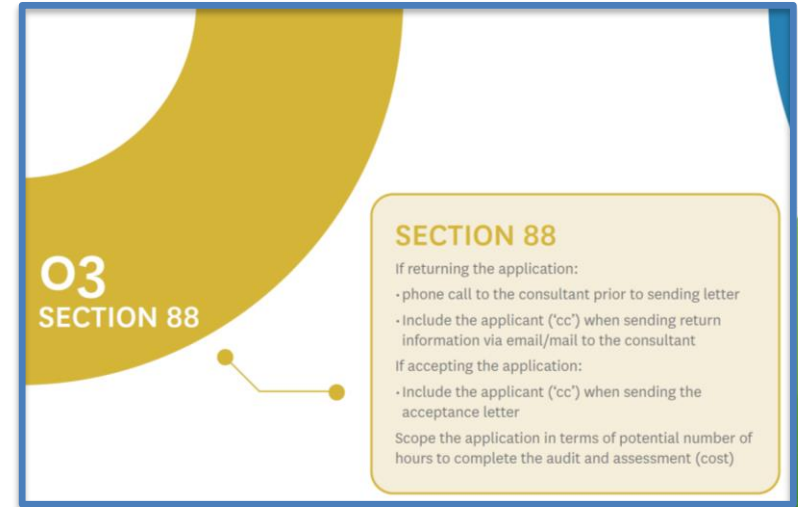
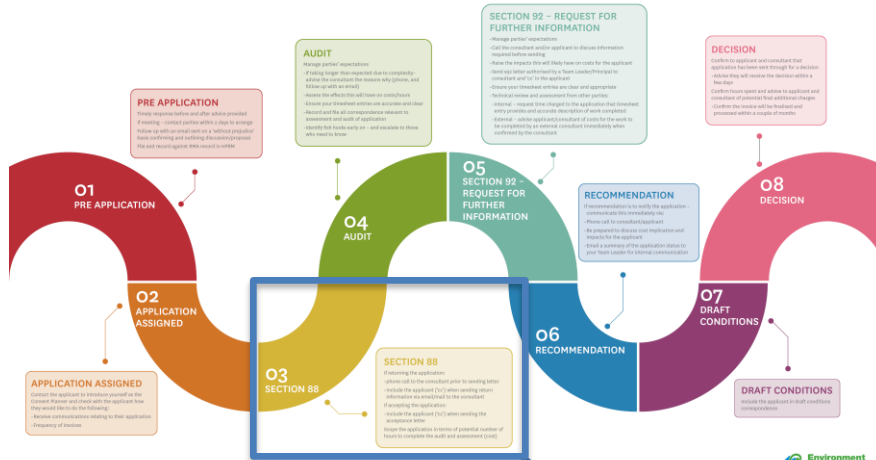
- (1) An assessment of the activity's effects on the environment must include the following information:
 - (a) if it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity;
 - (b) an assessment of the actual or potential effect on the environment of the activity;
 - (c) if the activity includes the use of hazardous installations, an assessment of any risks to the environment that are likely to arise from such use;
 - (d) if the activity includes the discharge of any contaminant, a description of—
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
 - (ii) any possible alternative methods of discharge, including discharge into any other receiving environment;
 - (e) a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect;
 - (f) identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted;
 - (g) if the scale and significance of the activity's effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved;
 - (h) if the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).
- (2) A requirement to include information in the assessment of environmental effects is subject to the provisions of any policy statement or plan.
- (3) To avoid doubt, subclause (1)(f) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—
 - (a) oblige the applicant to consult any person; or
 - (b) create any ground for expecting that the applicant will consult any person.

7 Matters that must be addressed by assessment of environmental effects

- (1) An assessment of the activity's effects on the environment must address the following matters:
 - (a) any effect on those in the neighbourhood and, where relevant, the wider community, including any social, economic, or cultural effects:
 - (b) any physical effect on the locality, including any landscape and visual effects:
 - (c) any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:
 - (d) any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural value, or other special value, for present or future generations:
 - (e) any discharge of contaminants into the environment, including any unreasonable emission of noise, and options for the treatment and disposal of contaminants:
 - (f) any risk to the neighbourhood, the wider community, or the environment through natural hazards or hazardous installations.
- (2) The requirement to address a matter in the assessment of environmental effects is subject to the provisions of any policy statement or plan.

How to go about it

TOUCH POINT Customer Contacts Checklist



Who can return ?

- Delegations sit at Tier 4 Consents in [delegations manual](#)
- Use your:
 - Activity Champions
 - Principals Team
 - Team Leader

Delegations Manual

For Environment Canterbury

Adopted 25 August 2016

Amended 14 December 2017

Amended 12 April 2018

Kia pai te whakatere i te waka,
kei pariparia e te tai,
ka mōnehu te kura nei

Steer the waka with skill,
lest the swirling tide endangers,
the wellbeing of those on board