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INCOMPLETE APPLICATIONS

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Section 88(3) of the RMA states that, if an application does not include the information required by regulations or outlined in section 88(2)(b) or (c) (as applicable), a council may determine that the application is incomplete. It should be noted that councils still have the discretion to decide an application is complete where some of the information in Schedule 4 has not been provided (i.e. when the information is not considered relevant or necessary to assess the effects of the activity on the environment).

This determination must be made within ten working days of the lodgement of the application (or as quickly as possible for fast-track applications). If it is considered that an application is incomplete, the application must be immediately returned to the applicant with written reasons for the decision. This reflects the fact that applications should be fit for purpose at lodgement and incomplete applications should not be accepted under any circumstances. Should the application be lodged again with the additional information then it is treated as a completely new application (i.e. with a new consent identifier and new lodgement date).

Under s357(3) of the RMA the applicant can object to a determination made under s88(3) that an application is incomplete. Therefore it is important to use practical judgment to determine whether the information supplied is complete and to explain that judgment in writing to the applicant.

It is important to remember that accepting incomplete applications does not promote efficient consenting, as costs and delays are incurred later on due to extensive additional information requests. This is not in the consent authority's best interests, as applications are on their books for longer and require more resources to be processed through to completion. It is also not in the

applicant's best interests to provide inadequate applications as by doing so, consent authorities send a signal to applicants that their applications are 'in-train', even though further (and perhaps significant) additional information is needed before the application can proceed. This can be a source of frustration for applicants, emphasised by a perception that the process is fully in the consent authority's hands at that point and any delays are due to the consent authority's actions.

If there is a minor information deficiency only, it is good practice to contact the applicant and provide an opportunity for providing the missing information as soon as possible. This can avoid the administrative burden and time delay involved in returning the application.

Ways to ensure that adequate information is provided in the application include:

- clearly specifying information requirements in the relevant plan
- having a checklist or other guidance available for applicants and ensuring that any checklists have been completed by the applicant
- providing different application forms for different consent types (eg, subdivision, stormwater discharge) so that the specific information required for that type of consent is known to the applicant
- using support structures such as internal guidelines, group discussions, meetings and independent auditing to ensure a consistent approach to checking for completeness
- arranging a pre-lodgement or pre-application meeting with the applicant to assist both the planner and applicant's understanding of the application and information requirements
- ensuring the applicant understands the pre-acceptance check does not assess the merit of the application but ensures the required information is provided and the AEE is adequate
- giving the pre-acceptance check an appropriate amount of resourcing and priority in the resource consent process as the pre-acceptance check is often likely to save time later on once the application is accepted for processing
- providing a written statement of what is missing, so the pre-application check does not have to be repeated when the application is re-lodged.

In some instances an applicant may lodge more than one resource consent application concurrently in a 'bundle' for one particular project. If one or more of the applications is deemed to be incomplete this presents an issue for council about how to treat the other applications that are complete. Refer to the notes on 'Bundling' section in the guidance note on To notify or not to notify for further information.

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