

Checklists for RMA Plan Writers

PLEASE READ THIS BOX BEFORE USING THE CHECKLISTS

This checklist has been developed to assist RMA plan writers in writing effective and enforceable plan provisions. However, while meeting all criteria assists in good practice, **it does not guarantee that provisions will be safe from legal challenge** (particularly on matters of merit).

While this checklist is designed to assist those preparing plans, it **does not replace the need for clear, logical thinking and careful analysis of issues and solutions**. In some cases it may not be possible to meet all the criteria, and careful thought will need to be given as to how the proposed provision can be drafted to still achieve the outcome desired in a consistent manner.

INTRODUCTION

This checklist is divided into the following sections:

- issues (not mandatory)
- objectives and policies (mandatory)
- plan rules – by activity class or type (mandatory)
- definitions, and notification rules (mandatory)
- methods, principal reasons, explanations, environmental results expected (not mandatory)
- planning maps.

The first decision for plan drafters to make is what components they will include in their plans. The first checklist acts as a reminder to establish this before provisions are drafted.

Framework Elements to Be Included in the Plan

Objectives, policies, and rules are mandatory. Tick the other boxes of the other policy framework to be included in the plan.

Issues [<i>Optional</i>]	<input type="checkbox"/>
Objectives	<input type="checkbox"/>
Policies	<input type="checkbox"/>
Rules	<input type="checkbox"/>
Methods Other Than Rules [<i>Optional</i>]	<input type="checkbox"/>
Explanations [<i>Optional</i>]	<input type="checkbox"/>
Principal Reasons [<i>Optional</i>]	<input type="checkbox"/>
Environmental Results Expected [<i>Optional</i>]	<input type="checkbox"/>
Cross Boundary Issues [<i>Optional</i>]	<input type="checkbox"/>

Where the optional boxes are not ticked above, indicate below where the information not contained in the plan will be found. Some documents can contain a range of possible provisions (shown in brackets).

Section 32 Report (in regard to issues, methods, explanations or reasons)	<input type="checkbox"/>
Section 35(2A) Monitoring Report (issues, environmental results anticipated, methods)	<input type="checkbox"/>
Long Term Council Community Plan (LTCCP) (methods)	<input type="checkbox"/>
Annual Plan (methods)	<input type="checkbox"/>
Council Activity Plans (methods)	<input type="checkbox"/>
Reserve Management Plans (methods)	<input type="checkbox"/>
Guide to the plan (issues, methods, explanations, reasons)	<input type="checkbox"/>
Design guides	<input type="checkbox"/>
Heritage inventories or strategies	<input type="checkbox"/>
Others?	<input type="checkbox"/>

ISSUES (Not Mandatory)

Identification of Issues

Ticking all boxes is not mandatory but reflects good practice.

The issue is specific to the region or district (as applicable)	<input type="checkbox"/>
The issue has been evaluated to be significant enough to require management	<input type="checkbox"/>
The cause of the issue has been identified (not just the symptoms)	<input type="checkbox"/>
The council is responsible for managing the issue (in whole or in part)	<input type="checkbox"/>
The issue is not already managed by another authority or organisation	<input type="checkbox"/>
The issue can be addressed by the council through the RMA	<input type="checkbox"/>
The plan is the best option for managing the issue	<input type="checkbox"/>

Writing Issues

The issue is not restating provisions of the RMA but applies the RMA locally	<input type="checkbox"/>
The issue identifies the cause of the problem (or the source of the opportunity)	<input type="checkbox"/>
It is clear where in the region or district the issue is of concern (or applies)	<input type="checkbox"/>
The issue identifies what is being affected and how (ie, the environmental effect)	<input type="checkbox"/>
If the issue is intermittent, the time or circumstances of occurrence are identified	<input type="checkbox"/>
The issue is not covering internal council matters (such as a lack of information)	<input type="checkbox"/>
The issue does not state the desired outcome or solution	<input type="checkbox"/>
The issue is written succinctly and in 'plain English'	<input type="checkbox"/>

OBJECTIVES AND POLICIES (Mandatory)

Objectives

The objective has been identified as the most appropriate way to achieve the purpose of the RMA	
The objective clearly relates to an issue (if stated in the plan) by subject matter	
The objective does not relate to an issue outside the scope of the RMA	
The objective aims to overcome an issue or promote a positive outcome	
The objective states what is to be achieved and where	
The objective is worded in such a way that the outcome is measurable	
The objective does not just restate the issue	
The objective does not pre-empt policy (stating how the objective is to be met)	
The objective does not set standards, terms or conditions that should be in rules	
The objective does not just repeat sections or clauses of the RMA	
The objective is written succinctly and in 'plain English'	

Writing Policies

The policy relates to, and implements, an objective	
Cross-references (if used) to the objectives it implements are clear	
The policy is not a restatement of the objective	
The policy describes how the objective(s) will be met	
It is clear where in the region (or district) the policy will apply	
It is clear who is expected to comply with the policy or implement it	
The policy relates to environmental effects that need to be addressed	
'Matters of assessment' are explicit in the policy rather than contained as criteria in rules	
Clauses, sub-clauses, and lists are clearly numbered (no bullet points)	
The policy does not change the type or class of consent required for an activity	
The policy provides clear guidance to consent processing staff in a way that allows it to be consistently applied (check with consent staff)	
The policy is written succinctly and in 'plain English'	

PLAN RULES (Mandatory)

Rule Necessity

Ticking all boxes is not mandatory but reflects good practice.

The rule will help the council carry out its functions under the RMA	
The rule is necessary to achieve, and clearly relates to, the policies and objectives of the plan	
The rule manages one or more environmental effects	

Permitted Activity Rules

Ticking all boxes is not mandatory but reflects good practice.

Rules are written from the standpoint of explicitly managing an activity (in regard to land uses) through compliance with standards, terms and conditions	
Rules are written from the standpoint of expressly permitting an activity (in regard to subdivision, using the coastal marine area, using beds of lakes or rivers, taking, damming or diverting water, or discharging contaminants)	
It is made clear that activities are permitted, provided they meet standards, terms and conditions	
It is clear what activities are permitted and where they are permitted	
The impact of the 'permitted baseline' has been considered	
The rule will not permit an activity that will, or is likely to, have a significant adverse effect on a recognised customary activity	
The following words or phrases (which convey discretion) <u>are avoided</u> in standards, terms and conditions:	
• reasonable	
• appropriate	
• approximate	
• inappropriate	
• should	
• significant	
• might	
• existing	
• 'at the discretion of'	
• 'to the satisfaction of'	
• 'avoid, remedy or mitigate'	
• 'as it sees fit'	
• 'where practicable'	
• 'best practicable option'	
• 'and/or'	
Words and phrases used in this rule (if used elsewhere in the plan) are consistent and defined words are used where appropriate	
Diagrams associated with the rule text are clearly linked to or referenced, and able to	

be understood	
The standards, terms, and conditions to be complied with are clearly identified and not ambiguous in their wording	
The thresholds for standards, terms and conditions are identified and measurable	
Activity status is not dependent on the approval of a third party	
Activity status is not dependent on a discretion exercised by the council	
The rule does not make a permitted activity subject to fulfilment of ‘consent-type’ conditions (financial contributions for example)	
Rules have been checked (by consent staff, legal review, or both)	
The rule is written succinctly and in ‘plain English’	

Controlled Activity Rules

It is clear what (or under which circumstances) activities are controlled	
It is clear where in the region or district this activity status applies	
The standards and terms that need to be complied with are clearly identified and not ambiguous in their wording	
Activity status is not dependent on the approval of a third party	
Standards, terms and conditions are related to environmental effects	
It is possible and practical to manage the environment effects through standards, terms and conditions on the consent (remembering the consent can’t be declined)	
The matters over which council reserves control are clearly identified	
The matters over which council reserves control are limited in scope to the effects of most concern	
Matters over which control is retained are not so narrow as to create a ‘de facto permitted activity’	
‘Matters of assessment’ are included in policies and not the rule	
There is a clear link (such as a cross-reference) to the relevant guiding policies	
The rule is written succinctly and in ‘plain English’	
Is a notification / service clause required? (the default is non-notification under s.93(1)(a))	

Restricted Discretionary Activity Rules

It is clear what (or under which circumstances) activities are ‘restricted discretionary’	
It is clear where in the region or district this activity status applies	
The standards, terms and conditions (if any) that need to be complied with are clearly identified and not ambiguous in their wording	
Activity status is not dependent on the approval of a third party	
The matters over which the council has retained discretion are clearly identified	
Consideration has been given to positive environmental effects and RMA Part 2 matters	
Matters of discretion are not so wide as to, in effect, make activities ‘discretionary’	
‘Matters of assessment’ are included in the policy the rule is implementing	
A statement that applications for resource consents do not need to be notified or served under s.93 and s.94(1) is clear (when used)	
There is a clear link (such as a cross-reference) to guiding policies	
The rule is written succinctly and in ‘plain English’	

Discretionary Activity Rules

It is clear what (or under which circumstances) activities are ‘discretionary’	
Activity status is not dependent on the approval of a third party	
It is clear where in the region or district discretionary activity status applies	
The standards, terms and conditions (if any) that need to be complied with are clearly identified and not ambiguous in their wording	
‘Matters of assessment’ are included in policies whenever possible rather than as criteria in the rule	
There is a clear link (such as a cross-reference) back to guiding policies	
The rule is written succinctly and in ‘plain English’	

Non-Complying Activity Rules

It is clear what (or under which circumstances) activities are ‘non-complying’	
It is clear where in the region or district non-complying activity status applies	
Activity status is not dependent on the approval of a third party	
There is a clear link (such as a cross reference) back to guiding policies	
The rule is written succinctly and in ‘plain English’	

Prohibited Activity Rules

It is clear as to what (or under which circumstances) activities are ‘prohibited’	
It is clear as to where in the region or district prohibited activity status applies	
The rule prohibits the activity or effect absolutely (no exceptions)	
Policy that supports prohibited activity status is present in the plan and linked to from the rule	
The rule includes a statement that “no resource consent can be granted”	
The rule is written succinctly and in ‘plain English’	
The prohibited activity status is only used when the activity in question cannot be contemplated in any circumstances, and should be justified in objectives and policies	

DEFINITIONS AND NOTIFICATION RULES (Mandatory)

Definitions

The definition is justified in terms of clarifying plan provisions	
The definition reflects common understanding of the term or word used	
The definitions is not a commonly understood word (eg, sky, water, hill)	
The definition does not change, repeat or paraphrase one already in legislation	
Diagrams are used to support concepts difficult to describe in words	
The definition does not inadvertently set activity status	
The definition is not expressed in a way that provides an element of discretion	
All definitions are located in the same section of the plan (except for those rules-based definitions that differ from the principal meaning)	
Definitions are expressed in a way similar to ordinary (non-specialist) English dictionary definitions	
Definitions are arranged in alphabetical order in the plan	
Cross-references to, from and between definitions are clear and unambiguous	

Rules for Notification and Service of Application (Limited Notification)

The plan clearly states when notification and service or application is to be waived or made mandatory (either through listings by activity type, or by circumstances)	
The words 'notified' and 'serve notice' are used when writing a rule that both limited and full notification requirements are being waived	
The word 'notified' is used only when writing a rule that only full notification is to be waived (or be mandatory)	
Phrasing of rules relating to notification and service is consistent throughout the plan	
Notification rules are written succinctly and in 'plain English'	

METHODS, PRINCIPAL REASONS, EXPLANATIONS, AND ENVIRONMENTAL RESULTS EXPECTED (Not Mandatory)

Methods (Other Than rules)

The method is aligned and consistent with the policies of the plan	
The method can be adequately resourced during the lifetime of the plan and are committed to by the local authority	
The method chosen complies with the law (including legislation outside the RMA)	
The method has been evaluated as being effective in achieving results	
The method is written as a discrete course of action	
The method is succinct without being abbreviated to the point of being meaningless	
The method does not restate the policy it helps implement	
The method does not state material that should be in rules	
The method does not state timeframes that may suggest it may be invalid beyond a certain date unless that is what is intended	
The method is measurable (it is evident when it has been implemented)	
The method acknowledges the plan provisions they implement	
The method is written succinctly and in 'plain English'	

Principal Reasons

The style of writing adopted is consistent throughout the plan	
The same wording is used when the reasons are the same	
Reasons for objectives describe how they manage issues or meet the purpose of the RMA without paraphrasing the Act	
Reasons for policies describe how policies meet objectives in the plan	
Reasons do not repeat other plan provisions (issues, objectives, policies, or rules)	
Reasons do not contain statements or material that should be in policies or rules	
Reasons are written succinctly and in 'plain English'	
Reasons are not worded in such a way that they provide a different interpretation to the ordinary meaning of the words in other plan provisions	

Explanations

The provision being explained cannot be written in a way that makes its meaning self-evident	
The explanation is necessary to the interpretation of the plan	
The style of the explanation is consistent with that of other explanations in the plan	
The explanation does not contain material that should be in the plan provision	
The explanation does not paraphrase or reword the provisions in a way that may lead to a different interpretation	
The explanation does not introduce new material that conflicts with the provision it seeks to explain	
The explanation is written succinctly and in 'plain English'	

Environmental Results Expected (EREs)

The EREs are linked to the provisions of the plan (particularly the objectives)	
The EREs are measurable (you are able to know when it has been achieved)	
The EREs measure results that will occur during the lifetime of the plan	
The EREs acknowledge results that may occur, but are incidental to the primary objectives of the plan (such as positive or negative side effects)	
The EREs do more than just repeat the objectives in the plan	
The EREs do not focus on administrative or process outcomes	
Each EREs is expressed as a meaningful sentence	
The EREs are written succinctly and in 'plain English'	

PLANNING MAPS

An index map is provided where there is more than one planning map in the map set	
Maps contain a clearly visible north point	
Map scales are expressed as a ratio (and in a ruler format if practicable, and an appropriate, but different scale if the maps is reproduced larger or smaller)	
Each map has a distinct identification number or name that can be found easily and referenced as necessary	
Presentation of key planning information is uncluttered and not likely to cause confusion (check if boundaries can be clearly seen, colours, and text is readable)	
Supplementary maps are used to convey information that is of a scale that would not be clear on the main map, or would otherwise clutter the main planning map(s)	
Colours and shadings are clearly able to be differentiated when photocopied (consider patterns to support shading or colours if practicable)	
Key maps or diagrams are provided to illustrate the relationship between maps	
Aerial photos or contour maps align with cadastral base or clearly state when the relationship with that base is an approximation	
Key landmarks or reference points are referred to where possible.	