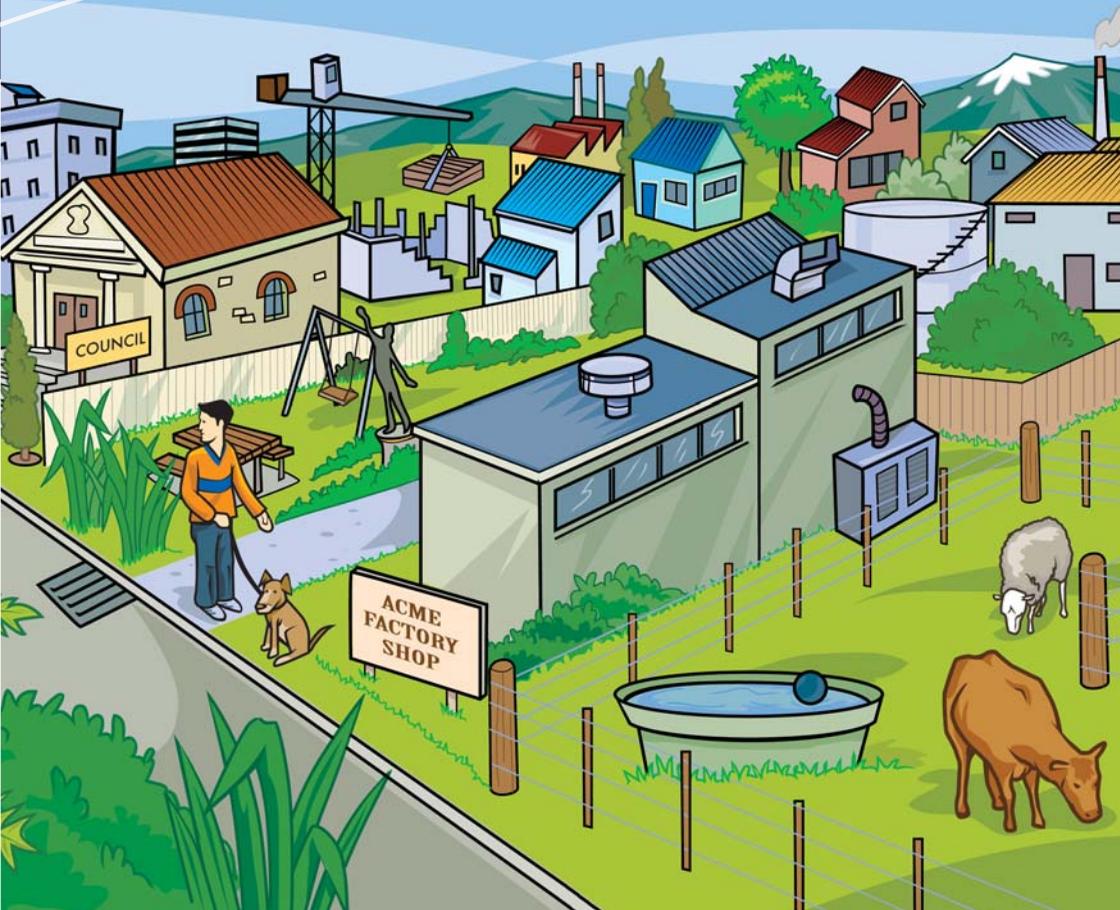




Ministry for the
Environment
Manatu Mō Te Taiao

AN EVERYDAY GUIDE TO THE RMA → SERIES 5.1

Making a Submission about a Proposed Plan or Plan Change



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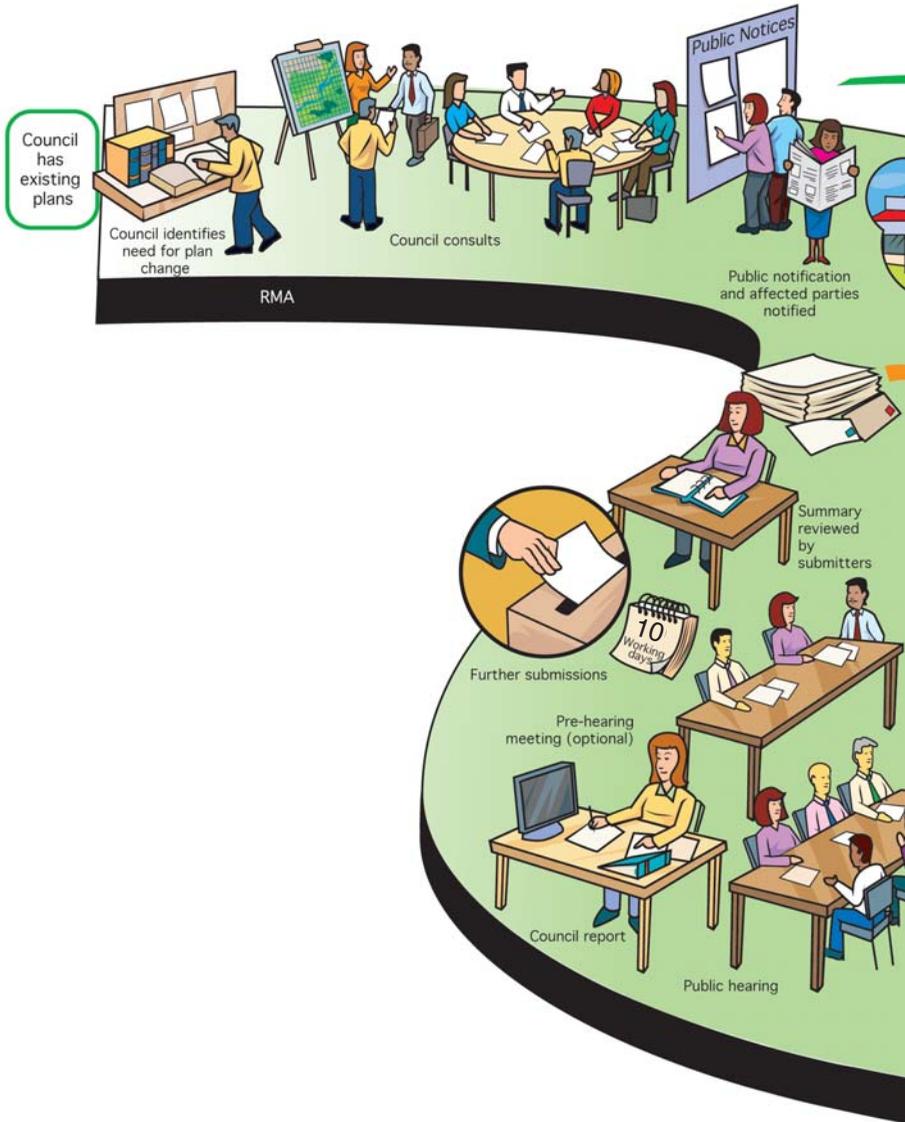
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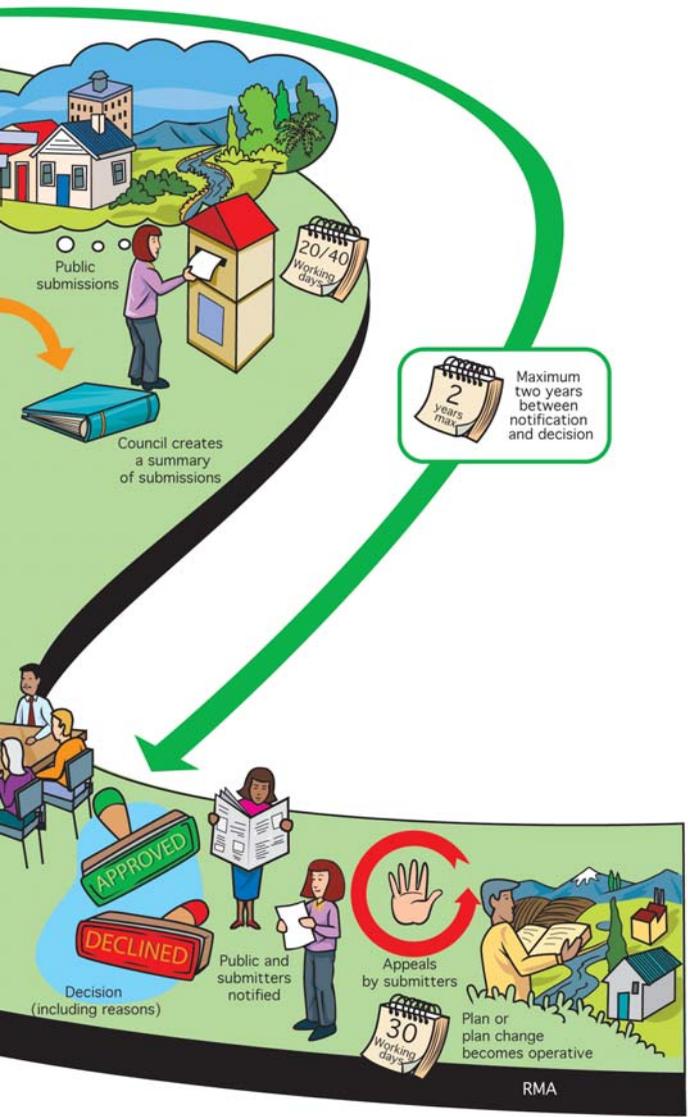
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COUNCIL PLAN PREPARATION AND PLAN CHANGE PROCESS



MAKING A SUBMISSION ABOUT A PROPOSED PLAN OR PLAN CHANGE



Introduction

The Resource Management Act 1991 (RMA) provides several ways for you to get involved in council decisions that affect the environment. One is by making a written statement (a **submission**) about a proposed plan, plan change or variation to a proposed plan.

This guide is for **submitters** – people who want to make a submission about a proposed plan, plan change or plan variation. It tells you:

- » what you need to know before you make a submission
- » how to make a good submission
- » how to make a further submission
- » what happens after the council receives your submission.

Setting the scene: district and regional plans

The RMA requires councils to create district and regional plans that explain how the council will manage the environment. Plans contain objectives, policies and rules that impose requirements on land use, subdivision, use of the coastal marine area, use of the beds of lakes and rivers, water use, discharges to the environment, noise emissions and other resource management issues within the region or district. Especially important are the rules that set out what activities people can do as of right (permitted activities), what activities require resource consent, and how certain activities may be carried out.

A district plan is created by a city or a district council. It concerns the management of land use and subdivision in a city or district. District plan rules cover things such as noise, and the location and height of buildings. A regional plan is created by a regional council. Regional councils must prepare regional coastal plans and may prepare plans for other issues that affect air, water or land. Regional plan rules cover things such as the construction of jetties, and the discharge of wastewater from factories into waterways.

To make sure that plans are up to date with what's happening in communities and across the district, their provisions must be reviewed every 10 years. Councils can also do a full plan review if they want to. The RMA sets out a process for preparing or changing a plan, which allows for public input. Participating in the

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development of district and regional plans provides the best way for you to influence the future of your environment.

A proposed plan, plan change or variation is a document that has been issued by the council and 'proposed' as the council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.

Plan changes and variations

A **plan change** is when a council changes an existing plan that is already being used (an 'operative' plan). A **plan variation** is when a council changes a plan that is still in the 'proposed stage' and has yet to be finalised.

Councils decide when to make plan changes or variations; individuals can also request that the council makes a plan change (but individuals can't request a plan variation).

You can make a written submission about any proposed plan, plan change or variation that has been publicly notified if you think it will affect you in some way, provided you do so within the time limit specified by the council. You don't have to be an expert, but you should know what is relevant for the council to consider and what is not.

What you need to know before you make a submission

Before you decide to make a submission, you need to understand what the proposed plan, plan change or variation involves, and how it might affect you.

The first step is to study the documents provided by the council. Plans can seem complex, especially if you are unfamiliar with their structure and jargon. You might want to ask council staff to help you understand what is being proposed, or to seek independent professional advice.

When considering making a submission on a proposed plan, plan change or variation you should:

- » Discuss the plan, plan change or variation with council officers. They'll help you identify what sections of the plan you need to look at.
- » Make sure you understand what plan provisions are being changed or replaced and why (if it is a plan change or variation). There will often be supporting information that explains this.
- » Identify whether the change or variation affects property you own or occupy, or whether it affects the wider environment of the community you live in.

Property concerns

District plans usually divide areas into defined management areas or 'zones'. Your property will be in at least one of these defined areas. It might even be in several overlapping areas. Each area has provisions about how the council will manage the environment.

Provisions are the council's objectives, policies and rules. Objectives and policies state the council's goals in dealing with an environmental issue. Rules state how the council will achieve those goals; sometimes, additional methods are also stated.

Check the planning maps attached to a district plan, plan change or variation to find out:

- » whether the rules and provisions that apply to the area your property is in will change
- » whether any special restrictions will be placed on your property (eg, a schedule to the plan might show that a tree or group of trees on your property may not be felled or trimmed, which could affect your building or landscaping plans).

Regional plan rules may also refer to defined areas for management. More commonly, however, they set out how particular activities are to be controlled (eg, the burning of material or the taking of water).

Check a regional plan, plan change or variation to find out whether new rules might affect an operation you run or an operation you are planning. For example, there might be new rules about the discharge of odour from an indoor farming operation which would affect you if you're running a piggery.



Ask yourself what the plan, plan change or variation will mean to you in practice. What will be the actual effect on you and the things you want to do on your property, or on an operation you run or are planning to run?

Wider environmental concerns

A plan, plan change or variation might also affect your local community, district or region more widely.

You might feel that an area on the outskirts of your town is losing its rural character because of urban development. Does the change or variation to the district plan encourage more development in this area?

You might be concerned at the potential impact of marine farming in your local harbour. Does the proposed regional coastal plan, or change or variation to that plan, allow more marine farms? Or does it restrict their establishment to certain parts of the harbour?

Conversely, a proposed plan, plan change or variation might have positive community benefits – such as improving the water quality of your local river, or promoting the redevelopment of an urban area that is currently run down. When you're reviewing a proposed plan, plan change or variation to a plan, you should:

- » identify the wider environmental issues you are concerned about that might be affected, either positively or negatively, by what's proposed
- » check the relevant zoning and rules and identify what effect they will have
- » check whether there are any new objectives and policies that concern you (eg, a change or variation in a regional coastal plan might restrict access along certain parts of the coast)
- » check whether there are any new objectives or policies that you agree with. The proposed plan, plan change or variation might, for example, allow you to subdivide your section when you previously couldn't. Or it might provide protection to an area of native forest you've always liked. If so, you might like to make a submission supporting these moves.

Your submission needs to identify what real effect the proposed plan, plan change or variation will have. It needs to say why you support or oppose it. Or, if you have a neutral stance, you can use your submission to provide information that you think the council should consider in making its decision.

Trade competition issues

There are some specific restrictions that apply to people or organisations with a trade or business interest in a plan change or plan variation. You can't make a submission about a proposed plan, plan change or variation on trade competition grounds. For example, if you own a business and a new commercial zone is proposed across the road, you can't put in a submission stating that this will impact on your business profits. However, if your concern is about the environmental effects of what's proposed (such as too much traffic on the road or parking outside your property), then this may be accepted.

If you have a trade or business interest in a plan change or variation, and are considering making a submission, then you should seek legal advice. In some cases, if it is proven that you are a trade competitor and you have acted inappropriately, then legal action may be taken and costs and/or damages awarded against you.

How to make a written submission

Once you've learned as much as you can about the proposed plan, plan change or variation, and carefully thought about the effects it will have, you are ready to make a written submission.

- » Get a submission form (Form 5 of the Resource Management [Forms, Fees, and Procedure] Regulations 2003 or similar) from your council, council website or the Ministry for the Environment website (www.mfe.govt.nz).
- » Fill out all the required information including:
 - the name of the council you're sending the submission to
 - the name of the plan concerned
 - the name and reference number of the proposed plan, plan change or variation

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- the specific parts of the proposed plan, plan change or variation your submission is about
- whether you support or oppose these provisions or have a neutral stance, whether you want amendments to the provisions, and your reasons why
- the decision you would like the council to make
- whether you want to speak at the public hearing
- whether you will consider presenting a joint case with others who have made similar submissions
- your full name, address, telephone and fax numbers, and email address (or the name and address of your agent if you have employed someone to act for you).

Make sure you state in your submission if you want to speak at a hearing. You don't have to, and while speaking at a hearing can help to highlight what you write in your submission, your submission is just as valid if you don't speak.

- » Sign and date your paper submission (electronic submissions do not require a signature).
- » Send your submission by post, hand delivery, fax, email or lodge through the council's website (if available) before the closing date and time. The notification advertisement will tell you the final day and time the council will receive submissions. The closing date is always at least 20 working days after notification of a proposed plan, plan change or variation.

Try to get your submission to the council well before the closing date and time. If you send your submission by post close to the closing date, check to make sure it has arrived in time.

Tips for writing a good submission

Good writing needs good planning! Think about what needs to go in your submission, organise it in a logical order, and stick to the facts. A clear and well-written submission is more effective than an unstructured and emotional one. Facts supported by evidence, not emotion, is what the council will use when making decisions.

A well-written submission has two key elements: the right content, and a readable style.

Include the relevant content

- » Remember that the RMA is concerned with managing and protecting the environment.
- » Focus on what you see as the positive or negative environmental effects of the proposed plan, plan change or variation.

Examples of negative effects:

- » the proposed rules might mean a factory could operate in your neighbourhood and generate a lot of noise
- » the proposed rules might mean a night club with late opening hours could open next door to you.

Examples of positive effects:

- » the proposed rules might ensure older heritage buildings are protected in your part of town
 - » the proposed rules might protect trees in your neighbourhood.
- » Clearly state your concerns about any environmental effects, and how you want these concerns to be addressed.
 - » Stick to issues that are relevant to the proposed plan, plan change or variation.
 - » If you run a business, identify only the likely environmental effects on your business. The RMA doesn't allow councils to consider the effects of trade or business competition.

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In a submission you should also:

- remember that if you speak at a hearing you'll only be able to talk about issues that you included in your written submission – make sure you include everything you want to speak about
- be specific and use examples where you can, especially if you are requesting the council to change the wording of provisions
- be clear about how you want parts of the proposed plan, plan change or variation to be modified to address each concern you have
- where appropriate, include maps, diagrams and professional opinions that support your submission.

Make it clear and easy to read

Planning your submission carefully makes it a lot easier to write and for the council to understand the points you are making. Unclear and confused writing is often the result of the writer not thinking carefully first.

- » Create an outline of points you want to make before you start to write. Decide what point you will make in each paragraph, and the order you will put them in.
- » Write short sentences and short paragraphs.
- » Stick to one point per paragraph.
- » Use lists with bullet points to break up long sentences and make a number of related points.
- » Use simple, everyday words. Try not to use lots of jargon or flowery language.
- » If you're having trouble writing something down, ask yourself: 'How would I say it face-to-face'?
- » Type out your submission if possible, and number the paragraphs.

What *not* to do in your submission

Make sure that your submission does not:

- » include any personal feelings you have about the council or its officers
- » refer to issues or effects that are not related to the proposed plan or plan change
- » raise the issue of the commercial success of your business being affected by the establishment of a competitor in your area. This is not a valid environmental concern.

To write a clear and effective submission:

- » **stick to the facts**
- » **focus on the environmental effects**
- » **be specific and provide examples**
- » **tell the council what you want – don't leave them to guess**
- » **write in clear, simple, everyday language.**

Making a 'further submission'

After the closing date for submissions, council officers create a summary of decisions that have been requested by submitters. This describes all the submissions that have been made and the reasons for them.

The council will let you know when and where you can view the summary of submissions. You may be able to make a further submission on matters which have been raised in the original submissions.

It is important to consider other people's submissions: they may seek changes to the proposed plan, plan change or variation that will affect you in a way not mentioned in the original document. When you read the summary of submissions, you may see some that you agree or disagree with.

However, you can only make a further submission on those submissions in which you have an interest in the proposed policy statement or plan that *is more than the public in general*, or if you are representing a relevant aspect of the public interest. A further submission must be made in opposition or support of a particular original submission. For example, if there are submissions on rural subdivision rules but you do not have any particular interest in rural land, then you may not be able to make a further submission. If, on the other hand,

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someone has proposed a change to the zoning next to your property, then you clearly have more of an interest than the general public, and will be able to make a further submission.

Any further submissions made must be made within 10 working days of the day public notice of the summary of submissions and decisions requested is given. They must support or oppose a matter in an original submission(s).

If you are unsure whether you can make a further submission, talk to the council staff first as they may be able to provide some guidance. If you are still unsure, or have questions about the advice from council staff then you need to talk to a lawyer or resource management specialist.

A person who has an interest greater than the public in general or is representing a relevant aspect of the public interest can make a further submission on a proposed plan, plan change or variation. It's not necessary to have made an original submission.

- » Contact your council if you want to see a copy of the whole submission you are making a further submission on. There is usually a small charge for copying.
- » Get a further submission form (Form 6 or similar) from your council, council website or the Ministry for the Environment website (www.mfe.govt.nz). This form requires the same standard information as the original submission form. However, it also asks you to state:
 - which submission you oppose or support – state who made the original submission, their name and address, and the submission number if known
 - the particular parts of the submission you support or oppose, and your reasons.
- » Sign and date your further submission and send it straight back to the council. Check to see if your council accepts electronic submissions by email or lodged through its website.
- » Send a copy of the further submission to the person who made the original submission within five working days of lodging it with the council.

What happens next?

Once the council has received all the submissions and further submissions, council officers will usually prepare a report that includes:

- » a summary of submissions and further submissions
- » an analysis of all the submissions and further submissions
- » recommendations about which parts of the plan, plan change or variation should be adopted, removed or modified.

The council will then hold a hearing if submitters have indicated they want to be heard. A hearing is not required where there is no one wishing to be heard, or where requests to be heard are withdrawn.

Before the hearing is held, the officer's report is sent to members of the hearing committee and to everyone who made a submission or further submission. The hearing is made up of councillors and/or independent commissioners who make the final decisions about the proposed plan, plan change or variation.

A hearing is a formal meeting where you can present your submission directly to the council. All hearings are open to the public. You can speak at the hearing if you have made a written submission, and told the council in your written submission that you want to speak at the hearing. You will be given at least 10 working days notice of a hearing. For more information see 'An Everyday Guide to the RMA' booklet *5.2 Appearing at a Council Plan or Plan Change Hearing*.

Let the council know if you want to withdraw your request to speak at the hearing. Your written submission will still be considered if you don't speak.

If there is a hearing, you will be notified afterwards of the council's decisions on submissions. The council will give reasons for accepting or rejecting submissions, and these reasons may be grouped according to the provisions or matters they relate to. The council will also publicly notify its decision.

You can lodge an appeal with the Environment Court if you're unhappy with the decision. The Environment Court will hear the case again.

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If you're thinking of appealing a decision, get professional advice before acting.

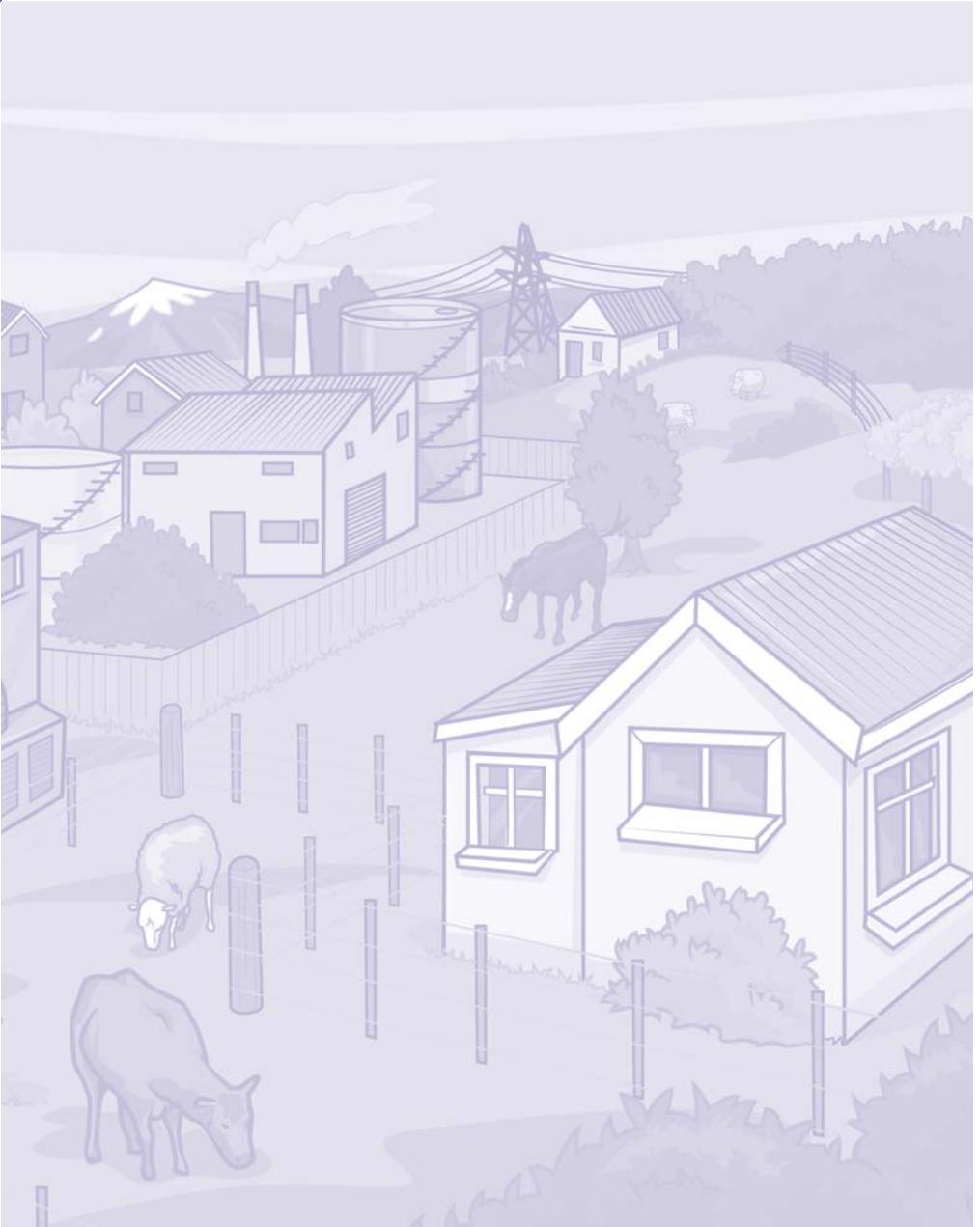
A lawyer or resource management professional should be able to tell you if an appeal is likely to be successful. Appeals are often complex, expensive and take time. They need to be well thought through. Getting professional advice early can save you significant time and costs later.

If you decide to go ahead, you must lodge your appeal with the Environment Court within 30 working days of receiving the decision. For more information see 'An Everyday Guide to the RMA' booklet *6.1 Your Guide to the Environment Court*.

If no one appeals against the council's decision, the proposed plan, plan change or variation becomes operative in line with the council's decision. If appeals are lodged with the Environment Court, they have to be resolved before the proposed plan, plan change or variation can become fully operative.

Making a submission on a proposed plan, plan change or variation is a key way to get involved with council decisions under the RMA. If you're thinking about making a submission, make sure you're well informed, that you understand the proposed plan, plan change or variation, and that your submission gets to the point and sticks to the relevant facts.

Ask the council for help if you need to – the RMA aims to achieve a better environment by getting councils and communities working together.





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Disclaimer

Although every effort has been made to ensure that this guide is as accurate as possible, the Ministry for the Environment will not be held responsible for any action arising out of its use. This includes the diagram on page 2 which is a very generalised overview of the council plan change process. The diagram is intended to be indicative only and should not be relied upon. Direct reference should be made to the Resource Management Act and further expert advice sought if necessary.

Third edition published in March 2015 by the
Ministry for the Environment
Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

ISBN: 978-0-478-41280-2
Publication number: ME 1188

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