

QUALITY AND CONSISTENCY OF RESOURCE CONSENT DECISIONS ISSUED BY THE COMMISSION

Report to: Mr Blair Devlin, Manager Planning Practice, Queenstown Lakes District Council
Report on: The quality and consistency of resource consent decisions issued by the Commission
Report by: Jane Sinclair, resource management consultant

My name is Jane Sinclair. I am a consultant planner and independent commissioner contracted to the Queenstown Lakes District Council (QLDC) to undertake resource management services. I have over 20 years experience having worked for various city, regional and district Councils. For the last 17 years I have been associated with resource consenting in the Queenstown Lakes district working for CivicCorp as a resource consent planner and Principal: Resource Management, and on contract to Lakes Environmental as an independent Commissioner for 10 years. I have a Bachelor of Resource and Environmental Planning from Massey University, graduating in 1996. I hold a valid certificate from the Making Good Decisions program run by the Ministry for the Environment.

1.0 REPORT BRIEF

I was asked to review the resource consent decisions issued by the Commission, to ascertain if the decisions are consistent in terms of quality and content. The review period covered all resource consent decisions issued by the Commission from March 2015 to June 2016. During this period, 23 decisions were issued and included a mix of land use, subdivision, section 357A objections, Section 127 variation to consent conditions, and an application under section 25 of the Housing Accord and Special Housing Areas Act 2013. The Council provided me with a copy of the resource consent decisions.

A list of the decisions reviewed can be found in Attachment 1:

The reasons for undertaking the review include:

1. That Council wants to engage in a continued improvement process for resource consent decisions; through ensuring the decisions are reviewed for quality and consistency; with the Plan, the RMA, with other decisions issued by the Commission, and
2. That this report may assist the Councils understanding of the effectiveness of the District Plan. The Council has a responsibility under the Resource Management Act (RMA) in this regard.

This report focuses on the quality and consistency of the decisions; with the plan, the RMA, and other decisions issued by the Commission.

To assess the quality and consistency of the decisions, I compared the decisions with the requirements of section 113 of the RMA, the "General Principles of Written Decisions" as promoted on the Quality Planning website and with the other decisions issued during the

review period. Attachment 2 contains a copy of the “General Principles of Good Written Decisions”.

2.0 SECTION 113 of the RMA

This section of the Act specifies the matters, which need to be covered in a written decision. It sets out the content that is required, but does not specify a particular structure or order. It makes a distinction between what needs to be included in notified and non-notified decisions.

For notified and limited notified decisions, every decision must be in writing and include:

1. the relevant statutory provisions considered,
2. the relevant provisions of a national environmental standard, policy statements and plans,
3. the principal issues in contention,
4. a summary of the evidence heard,
5. the main findings of the principal issues that were in contention,
6. a statement of decision to grant or decline,
7. the reasons for granting or declining the consent; and
8. if consent is granted for a shorter duration than specified in the application, the reasons for declining the shorter duration must be stated.

In addition to the above, decisions usually also contain:

1. the names of the Commissioners (including statement of appointment),
2. a statement on procedural matter rulings,
3. an acknowledgement of appearances by the parties (including hearing dates),
4. a description of the proposal (refer to plans and documents considered),
5. notification date,
6. identification of all issues,
7. a summary of submissions,
8. the site visit (when undertaken, who present),
9. conditions, and
10. signatures of decision maker(s)

3.0 GENERAL PRINCIPLES OF GOOD WRITTEN DECISIONS (SOURCED FROM QUALITY PLANNING WEBSITE)

The principles identify the matters that need to be included in every written decision. The principles are split into two groups, general principles and those principles specific to notified and limited notified decisions. For ease of reference, this report follows the same structure as that contained in the Quality Planning document.

The general principles are grouped under three headings:

- Structure & Presentation of Decisions,
- Content of Decisions, and
- Expression of Decisions

3.1 Structure and Presentation of the Decisions

Principle 1: Ensure a professional presentation

The decisions were written to a high standard, were very comprehensive and all had a professional appearance.

The decisions are all issued on Council letterhead, with the Commissioner's decision attached on plain paper, reflecting Council's use of independent decision makers.

The decisions varied in length and detail, reflecting the complexity of the issues considered and the number of parties involved in the hearing process.

The decisions are consistent with structure and formatting, with very few spelling mistakes or grammatical errors found.

All decisions were signed and dated.

All conditions were all numbered correctly.

Only some of the decisions used page numbers.

Overall, the decisions are consistent with this principle.

Principle 2: Provide the decision at the start

All decisions stated the overall decision on the Council letterhead (cover page). The overall decision is stated in a summary box, allowing the reader to easily see if the decision has been granted or refused.

Further to this, resource consent decisions *RM141047 Varina Proprietary Ltd*, *RM150607 Shotover Hamlet Investments Ltd*, *OB150216 Delta Utility Services Ltd* and *RM150810 J Nicol and K Nicol*, also stated the overall decision at the start of the Commissioner's decision, either in either a shaded box with bold font, or in bold font as part of the text.

The remainder of the decisions stated the overall decision at the end of the document.

The decisions are consistent with this principle.

Principle 3: Use a fluent structure that supports a logical argument

The decisions all followed a similar structure, (although different headings were used). The structure was logical and supported the flow of the arguments, enabling the reader to understand the links between the principal issues in contention, the main findings, the overall decision and the reasons for making the decision.

Although there were differences in the headings used, such as "Principal Issues in Contention and Main Findings" compared to "Assessment of Effects", the decisions all covered the required matters of section 113.

The decisions are consistent with this principle.

3.2 Content of the Decisions

Principle 4: The decision length and level of detail should reflect the complexity of the application

The decisions all had an appropriate length and included an adequate level of detail reflecting the number of participants at the hearing and the complexity of the issues under consideration. The decisions appropriately cross-referenced to the section 42A report, all or part of an experts assessment report, or the applicant's assessment of environmental effects where appropriate.

There was evidence that section 113 was not restricting the content of the decisions, in that where appropriate matters were included such as affected party approvals, amendments to the application, receipt of legal advice, introduction and abbreviations etc.

The decisions are consistent with this principle.

Principle 5: The written decision should endure both time and involvement

The decisions are all written in a way that they will be able to be clearly understood by future readers who were not involved in the application or the hearing. They recorded where appropriate the reasons that lead to the decision being granted or refused including any assumptions and knowledge that the Commissioners had that were relevant to the their decision.

The decisions are consistent with this principle.

Principle 6: Be mindful of scope

The decisions were all worded to not grant consent for an activity greater in scope than that applied for. Similarly, the conditions did not extend the scope of the consent and advice notes did not cover matters that should be conditions of consent.

The decisions are consistent with this principle.

Principle 7: Provide reasons for the decision (Section 113(1)(a))

The decisions all gave clear and adequate reasons why a certain decision had been made, enabling the reader to understand why the matter was decided as it was, and what conclusions were reached on the key issues. It was consistent practice to include reasons as to why a certain condition had been imposed where it wasn't immediately apparent. All decisions made specific reference to Part 2 of the Act.

The decisions are all consistent with this principle.

Principle 8: Include the basic application details

The decisions all contained the required basic application details, including the file reference, site address, legal description, consent status, and the date the decision was made. The written decisions did not include the date the decision expires or lapses, unless specifically conditioned.

The decisions also included, a description of the existing environment, hearing dates, site visit dates and who attended, and who made the decision. Some of the decisions also included the valuation number and notification details.

A number of decisions contained a useful table, which in addition to the summary box on the cover page included information on the hearing commencement date, panel details, appearances, hearing adjournment date, site visit, and close of hearing date. This information was included in all decisions, but the use of the table was clearer.

3.3 Expression of the Decision

Principle 9: Take ownership of the decision

The decisions were all consistent with this principle, they were all written by the Commissioner/s who attended the hearing, and all took ownership of the decision. The decisions all referenced the members of the Commission who were in attendance and were either signed by the Chair, a sole Commissioner acting alone or on behalf of the Commission.

The decisions are consistent with this principle.

Principle 10: Use plain English

The decisions were all well written, in a style that was concise, well reasoned and easily comprehensible to explain the decision that was made.

The decisions are consistent with this principle.

Principle 11: Ensure consistency of expression

The terms or people were referred to in a consistent manner throughout the decisions. All participants in the hearing were referred to with a Mr, Mrs or Ms before their names and that excessive use of abbreviations was avoided. Decisions RM150118 *TJ Investments Pte Limited & Ta Property Trust Limited* and RM140372 *I and S Todd* contained an abbreviations section at the beginning of the decision for commonly used abbreviations.

There were a couple of examples found where the decisions referenced Mrs then Ms, and an error was found in the spelling of a consultant's company name.

The decisions are consistent with this principle.

Principle 12: Keep the decision effects focus

The decisions all reflected the effects based approach of the RMA. They were all expressed in terms of the scale and significance of the actual and potential adverse effects and whether these effects could be appropriately avoided, remedied or mitigated. It was common practice to link the findings to the conditions, which were imposed, where appropriate.

The decisions are consistent with this principle.

Principle 13: Provide an overall evaluation leading directly to the decision whether to grant or refuse consent

All decisions were structured to give clear and compelling evaluations on why a particular decision had been reached, all provided reference to the scale and significance and relevant statutory and plan provisions. The decisions all contained an assessment of Part 2 of the RMA.

The decisions are consistent with this principle.

4.0 NOTIFIED DECISIONS: ADDITIONAL PROVISIONS

4.1 Principle A: Include objection and/or appeal options, procedural rulings and details of the hearing

In addition to the matters listed under Principle 7 above, information relating to appeal options and deadlines should be included as part of the written decision. This information is not contained in the written decision, however all the decisions are accompanied with a covering statement from Council outlining the appeal options and timeframes for the applicant and submitter where appropriate.

Where applicable, the decisions included rulings on procedural matters. Procedural matters found in this review included issues such as the completeness of an application, Regional Council consent requirements, insufficient information, incorrect activity status for notification, petitions and priority issues.

An inconsistency was found in relation to the treatment of late submissions. Decisions *RM150294 Central Machine Hire Limited*, *RM150776 iFly Indoor Sky Diving New Zealand Limited* and *RM150361 Inderlee Ltd* all had submissions received after the closing date of the submission period. *RM150294 Central Machine Hire Ltd* and *RM150776 iFly Indoor Sky Diving New Zealand Ltd* correctly considered the matters specified in section 37 of the RMA, and a decision was made to accept the late submission. In comparison decision *RM150361 Inderlee Ltd* contained two late submissions and the decision did not include any reference to the matters specified in section 37, nor did it contain any decision on whether the late submissions were accepted or not.

4.2 Principle B: Identify the principal issues in contention (section 113 (1)(ac))

Nine of the decisions used a structure, consistent with this heading. These decisions clearly identified the principal issues in contention and stated which issues were considered in determining the application. Two decisions, (*RM150118 TJ Investments Pte Limited & Ta Property Trust Limited* and *RM140372 I & S Todd*) used a heading "Assessment of Effects" which also clearly identified at the outset of the assessment, what the key issues were. The principal issues of contention were clearly stated within this group of decisions.

A number of decisions followed a structure that used an "Assessment of Effects" heading. Decisions *RM150766 iFly Indoor Skydiving New Zealand Limited*, *RM150434 Wanaka Community House Charitable Trust Inc*, *RM150361 Inderlee Ltd*, *RM150185 Flax Trust* and *RM140648 Willowburn Arrowtown Ltd*, considered the actual and potential effects of the proposal in the order in which they were addressed in the planner's section 42A report. The

decisions stated that this structure was used given the level of agreement on the effects of the proposal among the experts. Although the principle issue/s were not stated as clearly in these decisions, the assessments did consider all the relevant matters.

The decisions are generally consistent with this principle.

4.3 Principle C: State the main findings on the principal issues that were in contention (section 113(1)(ae))

The main findings are the points that the decision-maker or decision-makers consider are important in reaching their decision on the application. They address the issue in contention, and state which facts are relied on in the event of conflicting evidence.

Three of the decisions, *RM150810 J Nicol & K Nicol*, *RM141047 Varina Proprietary Ltd*, and *RM150607 Shotover Hamlet Investments Ltd*, contained a heading consistent with the principle 'Main Findings on Principal Issues in Contention' and set out clearly the main findings, and the reasons for the findings.

The other decisions incorporated the findings into the general assessment of environmental effects.

The decisions all identified the main findings of fact that led the decision makers to their decision, although the decisions, which contained a heading on the main findings, had a clearer structure.

Where there was contrary or opposing evidence, the decisions all identified the differences and stated which argument or evidence took precedence and why, such as resource consent decisions *RM150361 Inderlee Ltd* and *RM150607 Shotover Hamlet Investments Ltd*, and *RM141047 Varina Proprietary Ltd*. In addition, the decisions all clearly stated which experts were in agreement and whether the reporting planners issues has been satisfied or not.

There was evidence that the Commissioners are using expert witnessing procedures when dealing with conflicting or opposing opinions between the experts, such as *RM150434 Wanaka Community House Charitable Trust Inc*.

The main issues in contention were commonly arguments over landscape classification, position of landscape lines, scale and significance of actual or potential effects, differing views on activity status and interpretation and relevance of the statutory provisions.

When a recommendation by the reporting planner, was not accepted by the Commission, it was commonly attributed to:

- presentation of additional evidence at the hearing by the applicant,
- differences of opinion between the reporting planner and the Commission on subjective issues such as landscape and visual amenity assessment and landscape classification, or
- the Commission did not accept that the effects were as significant, or as minor as the reporting planner had concluded.

An example where there was a dispute over relevant District Plan provisions was in the consideration of a section 357A objection (*OB150216 Delta Utility Services Ltd*) relating to the imposing of a condition requiring two power poles to be finished in a dark grey tone with a light

reflectivity value of less than 15%. The applicant objected, arguing that the condition was outside the matters of Council control as specified in the rule. The section 42A report relied on and adopted the advice from Council's consultant landscape architect. The Commissioner had a difference of opinion on the interpretation and relevance of the District Plan rule, in that the matters considered that lead to the imposing of the condition were outside the stated matters of control. The Commissioner correctly stated that *"the role of the reporting planner is to critically appraise such advice within the context of the provisions of the Act and the District Plan, and in doing so, should have identified that reflectivity was outside of the matters of control, and that the poles were located on road reserve."*

The decisions are consistent with this principle.

4.4 Principle D: Provide a succinct summary of the evidence heard (section 113(1)(ad))

The decisions all provided a summary of the attendees present at the hearing and a summary of the evidence heard, including introduction by Council officers, applicant's evidence, submitters, Council's response and the applicant's right of reply. A number of the decisions stated that the summary did not detail everything that was advanced at the hearing, but captured the key elements of what the Commissioners were told (*RM150434 Wanaka Community Charitable Trust Inc, RM150361 Inderlee Ltd, RM140648 Willowburn Arrowtown Ltd, and RM150766 iFly Indoor Skydiving New Zealand Ltd*).

The decisions are consistent with this principle.

4.5 Principle E: Provide reference to relevant statutory provisions (section 113(1)(aa))

The decisions all correctly referenced the relevant statutory provisions considered as part of the application, including Part 2 and Part 6 matters. However, there was an inconsistency found between decisions *RM150231 Little Stream Limited and RM150361 Inderlee Ltd* relating to the consideration of a cancellation of an existing amalgamation condition.

Resource consent decision *RM1500231 Little Stream Limited* refused consent for a new building platform, create a separate lot, vary a consent notice and undertake earthworks. At the hearing the applicant argued that a subdivision consent was not required for Lots 2 and 9 to be contained within their own Computer Freehold Register, stating that all that was required was approval to cancel the amalgamation condition holding the two lots together, pursuant to section 241(3) of the Act. In the right of reply, the applicant elected not to pursue the argument, but noted that all Land Information New Zealand would require from Council was a certificate issued pursuant to section 241(3). The Commissioners stated that they did not have the necessary delegations to issue such a certificate and would need to recommend this to Council. I understand that the matter of delegations has now been clarified, and that Commissioners do hold the necessary delegation to determine the cancellation of an amalgamation condition.

The Commissioner's determined that subdivision consent was required as section 218(3) applied to the land and, notwithstanding that the land is in two parts, separated by other land, all the land is a single allotment. They were of the view that, *"it would be an abuse of process if an allotment could be created by boundary adjustment on the basis that it will be amalgamated with an existing allotment, thereby removing any need for evaluation of the consequences of*

creating the allotment, and subsequently separated into its own certificate of title by a mere administrative procedure.”

The Commissioner’s correctly identified that resource consent was required for *the subdivision of the site and the location of a building platform as a **discretionary activity** under Rule 15.2.3.3(vi).*

They also identified that approval was required under section 241(3) of the Act to cancel the amalgamation condition. They separated the approvals from the resource consents required, referencing:

- Section 220 relating to imposing conditions,
- Section 221 relating to issuing of a consent notice, and
- Section 240 relating to amalgamation of land and subsection (3) providing for the cancellation of amalgamation conditions.

In comparison, resource consent decision *RM150361 Inderlee Limited*, granted consent to subdivide and establish and operate a commercial salmon and recreation centre, including the cancellation of an amalgamation condition under Section 241 of the RMA. In this decision, no reference was made to the relevant statutory provisions of section 240 of the RMA relating to the amalgamation of land or section 240(3) relating to the cancellation of an amalgamation condition.

With the exception of this inconsistency, the decisions are all consistent with this principle.

4.6 Principle F: Provide reference to relevant policy statements or plan provisions (section 113(1)(ab))

The decisions, where relevant contained reference to the relevant national environmental standard, regional policy statement, proposed regional policy statement, plan or proposed district plan.

Some of the decisions specifically mentioned that relevant policy statements or standards had been considered, but were not relevant to the application under consideration.

The decisions all avoided unnecessary length being added to the decision by referring to the relevant provisions rather than including large amounts of information in the decision or when the provisions were not a source of contention, they referenced what had been considered, and referred to the relevant assessment in the section 42A planning report.

The decisions are consistent with this principle.

4.7 Principle G: Avoid repeating material from the application or supporting reports by making cross- references to these reports and adopting them where appropriate (section 113(3))

The decisions all cross-referenced to various reports where appropriate. As with 4.6 above, the decisions all avoided unnecessary length being added to the decisions.

The decisions are consistent with this principle.

5.0 OTHER MATTERS

5.1 Conditions

It is common for applications to be for both subdivision and a land use activities. In this review, there were five applications that sought both land use and subdivision consents, of which, three were granted and two were refused. Of the three that were granted, *RM150361 Inderlee Ltd*, *RM150118 TJ Investments Pte Ltd and Ta Property Trust Limited* and *RM160148 Willowburn Arrowtown Ltd* an inconsistency was found in the imposing of conditions pursuant to sections 108 and 220.

RM150118 TJ Investments Pte Limited and Ta Property Trust Limited sought a subdivision and the creation of residential building platform and land use to establish and operate a polo club. This consent was granted and conditions were imposed pursuant to section 220 and 108 of the RMA. A set of conditions was imposed for the subdivision activity and a separate set of conditions was imposed for the land use activity. This approach is consistent with normal Council practice.

In comparison, resource consent decision *RM140648 Willowburn Arrowtown Limited* granted consent for a subdivision creating a residential building platform and a land use consent to breach earthworks and setback requirements. A single set of conditions, was imposed, pursuant to section 108 and 220 of the Act. Similarly, resource consent decision *RM150361 Inderlee Ltd* granted consent for a subdivision, establish and operate a salmon farm and identify a residential building platform and undertake earthworks and landscaping. A single set of conditions was imposed pursuant to section 108 and 220 of the Act. This approach is not consistent with Council practice.

5.2 Summary Box

There are some inconsistencies with the headings contained in the summary box on the first page with some decisions including the use of headings 'Valuation Number' and 'Activity Status'.

5.3 Recommendation to Council by the Commission

In decision *RM150231 Little Stream Limited* which was refused, the Commissioners made a recommendation to the Council to seek to have the District Land Registers error in cancelling several consent notices be rectified. This matter needs to be attended to, and a process established, for when this type of recommendation is made, even though the decision in this case was refused.

5.4 Objection References

An inconsistency was found regarding the objection reference numbers, some of the objections are referenced *OB150216 Delta Utility Services Limited* and *OB150585 JF Investments Limited*, whereas some are referenced *RM150049 Orchard Road Holdings Limited* and *RM140567.02 Lakes Edge Developments Limited*.

6.0 CONCLUSIONS

In conclusion, the Commissioner decisions issued during the review period are consistent in terms of quality of the decision and content of the decision. They all contained the required information, and addressed the relevant considerations. They are consistent with the requirements of section 113 of the RMA, the General Principles of Good Decision Writing, and with the other decisions issued by the Commission during the review period.

The Council can have confidence that the Commission's decisions are consistent in terms of quality and content.

The minor inconsistencies related to:

- a) Numbering pages,
- b) Stating the overall decision at the start of the Commissioner's decision,
- c) Stating the principal issues of contention either in a separate heading, or if using an 'Assessment of Effects' heading, stating what the principal issues are at the start of the assessment,
- d) Clearly identifying the main findings if using an 'Assessment of Effects' heading,
- e) Having consistent headings in the summary box,
- f) When late submissions are received as part of an application, reference needs to be made to section 37, and a determination made in regard to section 37 in the decision.
- g) If the application involves both a subdivision and a land use activity, a separate set of conditions need to be imposed for the land use activity as well as the subdivision activity,
- h) The statutory provisions need to reference sections 240 and 240(3) of the RMA, if considering the cancellation of an amalgamation condition,
- i) File references for section 357A objections should be consistent, and
- j) A procedure needs to be established to ensure that any recommendation made by the Commission to the Council, are carried out.



Jane Sinclair
Resource Management Consultant
14 August 2016

APPENDIX 1 - Resource Consent Decisions Reviewed

RM150361 Inderlee Ltd
RM150231 Littles Stream Limited
RM150810 J Nicol and K Nicol
RM150294 Central Machine Hire Limited
RM140648 Willowburn Arrowtown Limited
RM150766 iFly Indoor skydiving New Zealand Limited
RM150441 G Beazley
RM140798 James Lloyd Developments Limited
RM140372 I and S Todd
RM150550 P Dunstan
RM150607 Shotover Hamlet Investments Limited
RM150434 Wanaka Community House Charitable Trust Inc
RM141047 Varina Proprietary Ltd
RM150476 C & J Paddon
RM150185 Flax Trust (Mr Fred van Brandenburg)
RM150118 T J Investments Pte and Ta Property Trust Limited
OB150216 Delta Utility Services Limited
OB150335 Game Over Queenstown Limited
OB150585 JF Investments New Zealand Limited
RM150049 Orchard Road Holdings Limited
RM140567.02 Lake Edge Developments Limited
RM140567 Lake Edge Developments Limited
SH150001 Bridesdale Farm Developments Limited

APPENDIX 2 - Quality Planning Website

General principles of good written decisions

Notwithstanding the requirements of s113, there are general principles that should underlie the drafting of every written decision.

The principles are set out below and are presented in no particular order of importance. The principles have been developed from the perspective of the end user (such as the applicant, submitters, or council staff not involved in processing the application), who may not always have an intimate knowledge of the RMA and its processes.

Structure & Appearance

Principle 1: Ensure a professional appearance

The finished decision document must have a professional appearance befitting of the time, effort and expense that the parties have gone to and its status as an important legal document. A professional appearance can be achieved by ensuring:

- the decision is on council letterhead
- formatting is consistent throughout the document
- there are no obvious spelling or grammatical errors (including ensuring names of parties and hearing participants are spelt correctly)
- the decision has numbered pages
- consent conditions are correctly numbered
- the decision has been signed and dated by the decision-maker.
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Principle 2: Provide the decision at the start

The majority of consent decision readers want to know immediately the overall consent decision, in terms of either the granting or refusing of consent. This should be provided at the outset, in bold.

Principle 3: Use a logical structure that supports a fluent argument

The finished decision document should be expressed in a fluent manner from start to finish. It should have a logical structure and sequence that supports a flow of argument; one that enables the reader to easily understand the reasons for the decision.

Decisions on notified applications need not follow the sequence of matters as set out in section 113(1) (which relate to the required content for notified decisions). No one single structure or template fits all decisions. However, fluency can be enhanced through the use of descriptive headings and by avoiding the use of large sections of unbroken text. Descriptive headings can help a reader know where they are in a document. A contents page should be used for lengthier decisions.

Content (in no particular order)

Principle 4: The decision length and level of detail should reflect the complexity of application

As a general principle, the length and amount of detail of a written decision should reflect the complexity of the issues raised by the application and the number of participants involved in the hearing (where one is held).

Written decisions should be as succinct as possible and for non-notified decisions this may equate to a concise set of bullet points outlining the reasons for the decision

Principle 5: The written decision should endure over time and involvement

The final written decision should be able to be picked up in five years' time (the normal consent duration) by someone who was not involved in the application or hearing, and be clearly understood. A decision writer should be mindful to record or refer to in the decision any assumptions or knowledge they have that are relevant to the decision, and that may not be immediately apparent in five years' time when the consent may be given effect to.

Principle 6: Be mindful of scope

The final written decision must be worded so that it does not grant consent for an activity greater in scope than that requested in the resource consent application. Similarly, conditions must not extend the scope of the consent or the way in which it is exercised. The written decision must be within the confines of the application, and advice notes must not cover matters that should be conditions of consent.

Principle 7: Provide reasons for the decision

The written decision should give clear reasons why the consent has been granted or refused. The decision must provide a clear overall evaluation, in which a conclusion is reached with reference to the scale and significance of effects and relevant statutory and plan provisions. They must enable the decision reader to understand why the matter was decided as it was and what conclusions were reached on the key issues.

Specific reference should be made to Part 2 of the RMA; in other words, whether the sustainable management purpose of the RMA will be better addressed by granting consent (subject to conditions) than by withholding consent.

Reasons can be briefly stated; the degree of particularity required depending entirely on the nature of the issues being decided. The reasons need not repeat earlier statements but it may be useful to link to a discussion on the principal issues in contention or the main findings on the principal issues in contention, particularly for notified decisions.

It may be appropriate to include reasons for the imposition of certain conditions where this is not immediately apparent. Such reasons can follow the individual conditions to which they relate, or can be referred to in the reasons for the decision (where they relate to the discussion on the avoidance, remedy or mitigation of particular adverse effects - see principle

12 below).

In a case where a resource consent is granted for a shorter duration than specified in the application, the reasons for deciding on the shorter duration should be included.

Principle 8: Include the basic application details

A written consent decision must clearly state:

- the basic application details, which includes the consent number(s)
- the property address and legal description
- consent status of the activity for which consent is required
- the file reference(s)
- the date the decision was made
- the date the consent expires or lapses.

It may also be useful for the decision to record:

- a brief description of the existing environment
- the date(s) of the hearing (if held)
- site visit(s) (when undertaken, who present)
- who or what hearing entity or council has made the decision.

Expression

Principle 9: Take ownership of decision

The written expression of the decision should be that of the decision-maker(s), so they should take ownership of its content and be confident in the final wording and able, if necessary, to defend the decision. The decision should make reference to the decision-maker whether this is an officer with delegated authority, a sole commissioner or a hearing panel (where the members should be referred to and the decision should be signed by the chair).

Principle 10: Use plain English

Good decision writing will result in a simple, concise, well-reasoned and easily comprehensible explanation of why the decision was made. The tone, grammar and flow of the written decision must be appropriate for the audience (ie, the applicant and submitters and members of the general public), and should be written using plain, simple English. Having said this, it is not necessary to simplify or substitute terms or definitions used in the RMA.

Principle 11: Ensure consistency of expression

Terms or people must be referred to consistently throughout the written decision document. For example all submitters should be addressed consistently, either with or without a Mr, Mrs or Ms before their name. Excessive use of abbreviations should be avoided. Where abbreviations or terms such as "the Act" are used, these should be expressed in full at their first use.

Principle 12: Keep the decision effects-focused

The written decision should reflect the effects-based approach of the RMA in terms of the overall written style. The decision should be expressed in terms

of whether actual or potential adverse effects can be appropriately avoided, remedied or mitigated. It is good practice to link those findings to the conditions which have been imposed

Principle 13: Provide an overall evaluation leading directly to the decision whether to grant or refuse consent

The final written decision whether to grant or refuse consent should be immediately prefaced by a clear and compelling overall evaluation, in which a conclusion is reached with reference to the scale and significance of effects and relevant statutory and plan provisions. Specific reference should be made to Part 2 of the RMA.

In practice, where the application lends itself, this part of the decision may actually comprise the entire discussion relating to principal issues in contention and main findings of fact.

There are also some principles which relate specifically notified decisions. These principles reflect the matters addressed in s113(1) to (3) of the RMA.

Notified decisions: additional principles

Principle A: Include objection and/or appeal options, procedural rulings and details of the hearing

In addition to the statutory requirements listed under principle 7 above, information regarding objection and appeal options and deadlines should form part of a written decision. Any rulings on procedural matters (eg, late submissions) should be addressed.

Principle B: Identify the principal issues in contention (s113(1)(ac))

The final written decision for notified applications must clearly identify the principal issues that were in contention and which were considered in determining the application. Where there is contrary or opposing evidence on these issues, the decision should identify those differences and show which argument or evidence takes precedence and why.

The principal issues that were in contention might include not just arguments over the scale and significance of any actual or potential environmental effects, but differing views on the interpretation and relevance of statutory provisions and the provisions of policy statements and plans, for example.

Principle C: State the main findings on the principal issues that were in contention (s113(1)(ae))

The final written decision must identify the main findings on the principal issues of contention and explain how this has led the decision-maker(s) to their decision. The main findings on these issues will be what the decision maker(s) considers important in reaching the decision on the application. These findings should clearly address the principal issues in contention, and should state which facts are relied on in the event of conflicting evidence.

Principle D: Provide a succinct summary of evidence heard (s113(1)(ad))

When a hearing has been held, the final written decision should provide a succinct but accurate summary of the evidence presented or, as a minimum, refer to the main matters addressed by witnesses during their presentations of evidence (particularly where they relate to the principal issues in contention). Acknowledging appearances and making specific reference to each person who spoke enhances public confidence in the decision and helps satisfy parties (especially submitters) that submissions and evidence have been properly considered.

Setting out in great detail the arguments advanced by the parties and the evidence of the witnesses can obscure the principal issues that have to be decided and can make the reasoning process difficult to follow. Nevertheless, it may be appropriate to include a brief summary of submissions and reference to the decision on notification, for the benefit of those who did not attend the hearing (where one was held). Alternatively, the decision may refer to the relevant officer report in these circumstances.

Principle E: Provide reference to relevant statutory provisions (s113(1)(aa))

The final written decision should make reference to the relevant statutory provisions that were considered by the decision-maker(s) (ie, those on which their decision turns). These provisions must include Part 2 matters as well as those set out in Part 6 (such as the relevant statutory tests). The former may be particularly important where the relevance of particular provisions has been a principal issue in contention.

Principle F: Provide reference to relevant policy statement or plan provisions (s113(1)(ab))

Where appropriate, key RMA policy statement or plan provisions should be specifically referenced supported as appropriate by an explanation as to what the relevant objectives or policies are seeking to achieve. This is especially appropriate in dealing with applications for non-complying activities, or where the arguments over the relevance of those provisions have been a principal issue in contention.

Relevant provisions can include national, regional and local-level objectives and policies. Where provisions were not a source of contention, it will be unduly onerous to identify every relevant provision. As an alternative, reference to the relevant provisions can be made in the discussion in the officer's report.

Principle G: Avoid repeating material from the application or supporting reports by making cross-references to these reports and adopting them when appropriate (s113(3))

Section 113(3) allows material in the assessment of environmental effects and any report prepared under ss 41C, 42A or 92 to be cross-referenced in the decision. This provision also allows the assessment or reports to be adopted in the decision.

Decisions on notified applications should therefore avoid duplication of material in the assessment of environmental effects, hearing reports or further

information reports by making appropriate cross-references. It will only be appropriate to do this when the information in the assessment or report is considered accurate and relevant to the decision. This will help to save time in the reporting requirements for decisions and reduce administration costs.

On occasions, it may also be also be appropriate to adopt part of the assessment of environment effects, hearing report or further information report in the decision. Where this is done, it is important to ensure that that material is accurately cross-referenced in the decision.