

Applying for a Resource Consent

**An Everyday Guide to the
Resource Management Act Series**

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Introduction

The Resource Management Act 1991 (RMA) requires local councils to ensure that effects on the environment are managed sustainably. One of the council's jobs is to decide whether to grant a resource consent for someone to undertake an activity that might affect the environment.

Every day, people apply to their local council for a resource consent to do something such as build a new house or garage, subdivide their property, discharge wastewater into a stream, move earth or discharge pollution into the air.

Applying for a resource consent does not have to be complicated. This guide is written for resource consent **applicants** – people who apply to their council for permission to do something that might affect the environment. It tells you:

- how to find out whether you need a resource consent
- what you need to do to apply
- what you can expect from the council
- what you can do to help the process along.

Setting the scene: council plans

The RMA requires councils to create plans that help them manage the environment. These plans contain all sorts of rules and conditions for activities that might affect the environment.

Plans, usually through rules, state whether an activity is permitted, meaning you can do it as of right, or whether it requires a resource consent. When the council considers your application for resource consent, it follows the processes set out in the RMA.

Regional plans manage water, air, soil, the coast and discharges.

District plans manage the use and subdivision of land.

Sometimes you'll need to apply for a resource consent from both the regional and district/city council.

How do I know whether I'll need a resource consent?

Whether you'll need a resource consent, and what type of consent you'll need, depends on the type of activity you want to do, and how it's classified in your local district or regional plan. Every council plan is different, so it's important that you don't assume that just because you did not need a consent in one locality, that means you don't need a consent in another. There are also likely to be differences between areas within a district/city or region.

Before you start any activity that might affect your neighbours, your wider community, or your environment, contact your local council.

Council staff will tell you whether you need to apply for a resource consent. They will also tell you if the activity is prohibited, which means that it is expressly prohibited in the plan. The council cannot grant consent for a prohibited activity.

Activities that need a resource consent are classified as **controlled, restricted discretionary, discretionary** and **non-complying**. The council has to grant a resource consent for a controlled activity, but can refuse to grant a resource consent for a restricted discretionary, discretionary or non-complying activity.

There are five types of resource consent: land use consent; subdivision consent; water permit; discharge permit; and coastal permit.

If you do need to apply for a resource consent, council staff will also tell you:

- how your activity is classified in the plan, and what kind of resource consent you need to apply for
- whether you need to apply to both the district/city and the regional council for a resource consent (or will refer you to check with the other council)
- what information you need to supply in support of your application
- how long the process is likely to take, and how much the council is likely to charge.

The amount of information the council requires will depend on the activity proposed and the kind of resource consent you need.

Council staff might tell you whether or not you will need to get approval from affected persons if you are to avoid your application being notified. And, if so, who those persons are. The council will confirm whether affected person approvals are required once the application is lodged, and the initial assessment is complete.

The first step is always to contact the council to discuss the activity you want to do. If you're unsure whether your activity will affect your neighbours, community or environment, check with the council; don't just go ahead.

Once you've learned you need a resource consent, the council process has three main stages.

Stage 1: You apply for a resource consent

When you learn that you need to apply for a resource consent, you need to:

- get the application forms from the council
- complete an Assessment of Environmental Effects (AEE). Every resource consent application has to have an AEE. Refer to the district or regional plan for a guide about what to include
- identify who might be interested in or affected by the activity and how they might be affected (this might require consultation). An affected person is a person or organisation who the council thinks could be adversely affected by your activity. Your council may give you Affected Party Approval forms to get signed
- get any affected person approvals that the council has asked for
- get any other information that the council has asked for
- send all the completed forms and relevant information to the council along with the application fee.

Council staff can guide you with what to include in your application – but you might be charged for their time. Make sure you ask about any costs when you make an appointment, or ask for copies of documents.

The key to a good resource consent process is to get things started early, and make sure you provide all the information the council requires.

Prepare a thorough AEE

Every activity has some effect on the environment. These effects can be positive or negative. Redevelopment of an old commercial area might produce a more pleasant shopping environment. A new building might cause loss of privacy for its neighbours and/or an increase in traffic.

An Assessment of Environmental Effects (AEE) describes all the environmental effects of the activity on the environment and the ways any negative effects are to be mitigated. Every resource consent application must include an AEE.

The amount of information you need to include in the AEE will depend on how significant the environmental effects will be. Sometimes the district or regional plan will tell you what and how much detail you need. Most councils want you to provide at least:

- a description of the proposal
- a description of the site and locality
- a site plan that is drawn to scale and other plans such as elevations of new buildings
- a description of the possible environmental effects of the activity
- a description of ways in which adverse environmental effects can be avoided, remedied or mitigated
- a record of your consultation with neighbours and any other affected parties
- a discussion of any monitoring of environmental effects that might be required.

To help you prepare an AEE, you can:

- meet with council staff first to find out what you need to include
- look at the relevant sections in council plans
- think about what changes you could make to the activity if the environmental effects cause too much concern to you, the council, or the people you consult with.

Taking the time to prepare a careful and thorough AEE will save you time and frustration later.

Depending on the scale of the activity, you may wish to obtain assistance from an expert to prepare your application.

Remember that any activity needing a resource consent will have some environmental effects. The council won't accept an AEE that says there are no environmental effects from the activity.

Consult the people who might be affected

The council doesn't only think about effects on the natural environment when deciding whether to grant a resource consent. The council also thinks about how the activity will affect other people's enjoyment of the environment.

Ask yourself: 'What effect will the activity have on neighbours or any other people?' and then talk to the people who might be affected.

Consultation lets you find out what people think about the activity, and if they think it will have an effect on them, and whether there are any problems that can be solved. While you are not required by law to consult anyone, it is often in your best interests to do so. Your AEE needs to include a record of any people you've consulted about the activity.

Consult early, and consult well. Early consultation can help you:

- **give people a clear understanding of what you want to do**
- **get their support for your application**
- **identify the effects and matters that will concern the council**
- **make any changes that will solve people's concerns about the activity before lodging the application**
- **get your application processed faster**
- **save costs in the long run.**

For more information refer to *A Guide to Consultation for Resource Consent Applicants*, available on the Ministry's website.

Stage 2: The council considers your application

The council officer(s) dealing with your application will check your application and application fee, and let you know if anything more is needed. You'll have the chance to provide more information if necessary. The council can request further information at most points through the process.

A council officer will most likely prepare a report on your application (called an officer's report). The report will usually include recommendations about whether the council should grant a resource consent, and what conditions should be placed on it. You can ask council staff if you can provide informal feedback on the recommended conditions in the council officer's report.

Sometimes the council will approve or decline your application right away. In other cases, the council will notify your application so it can hear other people's views. Sometimes an application is notified to the public generally. Other times it might just be notified to people the council has identified as affected persons.

A **hearing** is a public meeting where a panel or a commissioner hears evidence for and against your application, and decides whether to approve it. Only you or anyone who has made a submission is allowed to speak at the hearing. You'll have the chance to comment on an officer's report about your application, and on any submissions that have been made.

If a council has a conflict of interest over an application, staff will arrange for someone who is not a council officer to consider it. This might happen, for example, when the council owns land next to an application site.

Notified applications

The council will decide whether or not to publicly notify your application based on what the plan says, and the **scale and effects** of the activity. Whether you have obtained the written approval of people the council thinks may be adversely affected by the resource consent may also affect whether the council notifies your application.

Notification means that the council advertises the application in the newspaper and calls for written statements (submissions) from people who support or oppose it. The council also sends copies of your application to all the people it thinks might be affected by the activity.

In some cases the council may choose to serve notice of your application to a limited number of people. These will be people who were identified as affected persons. In these cases, the application is not advertised in the newspaper.

Anyone can make a submission about an application that is publicly notified. But if an application is notified only to affected persons, only those persons may make a submission.

Submissions can also include suggested conditions for the resource consent.

A hearing

Sometimes the council also holds a formal hearing about a notified application. A hearing allows you and anyone who has made a submission to explain their views about the application.

You might also be invited to a pre-hearing meeting. This is an informal way for you and any submitters to discuss your application. You don't have to go to a pre-hearing meeting, but it can be a useful way to save time at the hearing itself, or even avoid the need for a hearing altogether. You can suggest to the council that a pre-hearing meeting may be useful.

Non-notified applications

If the council decides not to notify your application, it won't advertise the application and won't call for submissions. Councils generally don't notify applications when the environmental effects of the activity will be minor, and all affected parties have provided written approval. Applications will only be notified to affected persons when one or more affected persons has not given their written approval.

Only about 5% of applications are currently publicly notified. These tend to be applications for activities with significant effects.

Is my application confidential?

No. Once you've sent your application to the council, it becomes public information. The council might agree to keep some material private if it is commercially sensitive. You need to identify that material clearly. Otherwise, if asked, the council will provide copies of any application.

Do I have to pay?

Yes. Councils almost always charge for processing resource consent applications. If your application needs to be publicly notified, you'll probably be charged more, because of the advertising costs and extra work involved. You'll also have to pay for any printing or copying costs.

Discuss costs with the council early on, and ask for a schedule of charges. Regardless of whether your consent is granted or declined, if you paid a deposit, you may be charged additional costs. If you withdraw your application later on, you may not get your money back and may still be charged for time spent and costs incurred by the council. You can help to keep the costs down by making your application and AEE as thorough as possible.

If the council grants the resource consent with monitoring and supervising conditions, you might also have to pay an annual charge for those activities.

How quickly does the council decide?

Councils need to comply with the timeframes contained in the RMA. If you've provided all the necessary information, the council should be able to make a decision about non-notified applications within one month, and about notified applications within four months. The council will decide whether to notify your application within two weeks of receiving it.

There might be a delay in processing your application if:

- you don't supply all the information the council needs
- you need other consents for the activity, and the council decides to consider all the applications as a single package
- the activity is large and complex
- there's disagreement about the conditions for the resource consent.

You can help to avoid delays by talking to council staff early in the process.

Stage 3: The resource consent is approved or declined

You'll get a letter in the mail telling you whether your application has been approved or declined. The time taken to inform you will depend on whether the application was notified and whether there was a hearing.

If the resource consent is approved

Your resource consent will tell you:

- what conditions the council has put on the way you may carry out the activity. These conditions will aim to reduce the environmental effects of the activity
- whether you or the council need to monitor the environmental effects of the activity. If your resource consent lets you take water from a stream, for example, you may be required to keep records of the amount of water you take
- whether your resource consent has an expiry date, and what it is. Some resource consents last forever, while others have a limited life. You have to apply to the council at least six months before the expiry date if you want to extend it.

You generally have to wait until an appeal period of 15 days has passed before you start work on the activity. This gives people time to lodge an appeal with the Environment Court if they still oppose your application. The resource consent isn't officially issued until any appeals have been resolved. If there are no appeals, you can start work at the end of the appeals period. Bear in mind that only 1% of all decisions are appealed.

Once a resource consent has been issued, in most cases you need to make significant progress on your activity within a certain timeframe, or else it will lapse and you will need to apply again. Unless specified otherwise in the resource consent, the consent will lapse after five years. Make sure you understand what applies in your case.

If the resource consent is declined

If you think the council's decision to decline the consent is unfair, you may be able to formally object to the council (depending on the circumstances), or you can lodge an appeal with the Environment Court. You have to make your objection or appeal in writing within 15 days of receiving the council's decision. You can also object or appeal if you don't like the conditions on a resource consent.

If you formally object to the council, you may be invited to a meeting of councillors and officers where you can explain your objections. If you appeal to the Environment Court, judges and commissioners will review the case and confirm or overturn the council's decision.

Get professional advice before you lodge an appeal. It can be expensive and time-consuming, and you might not win. A lawyer or other resource management professional should be able to tell you whether your appeal is likely to be successful.

Can the conditions ever change?

The council has the right to review the conditions in your resource consent but only under certain circumstances. In some cases a council might also include a specific condition on the approval providing for the review of conditions at set times.

You can also apply to the council to change or cancel any condition (except the duration) at any time. You need to outline your reasons and the changes proposed. The council will be concerned about any additional effects and the effect on affected persons, including whether any new persons are affected (compared with when the consent was initially granted).

Can I transfer the resource consent?

This depends on the type of consent. Any consent to do something on the land (called a land use consent) is attached to the land and transfers to any new owner when you sell the land.

Other types of consent (for example, a consent to take water) are able to be transferred with the land to any new owner. Whether this applies depends on what the consent, and sometimes what the plan, says. It's not automatic. If you're not sure about whether your consent can be transferred, ask council staff.

You can also give up (surrender) your resource consent. This will mean that you no longer have the right to do the activity, and you no longer have to pay any monitoring or supervision charges to the council.

Doing everything properly at the start can save a lot of time, money and possible misunderstandings later on. Treat your application as the start of your project, not an obstacle to be dealt with at the last minute.

Summing it up

