



Notification process

Resource Consents



Environment Canterbury regional council works with the people of Canterbury to manage the region's air, water and land. We are committed to the sustainable management of our environment while promoting the region's economic, social and cultural well-being.

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What does notification mean for me?

Public notification

The Resource Management Act requires that consent applications be publicly notified where:

- The effects on the environment are deemed more than minor
- The applicant requests that the application be publicly notified
- Special circumstances exist, or
- The district or regional plan says that it must.

Notification decisions are usually made by Environment Canterbury senior staff, on the recommendation of Investigating Officers who audit the application.

If your application is to be publicly notified, Environment Canterbury will place a notice in the newspaper advising the public of the application and inviting written submissions. We will also advise those parties who we consider to be adversely affected by the application.

Limited notification

Often the effects of an activity on the environment will not be more than minor but there are some people who may be adversely affected. If these people all approve of the application in writing (known as written approval), the application can proceed without notification. If one or more do not provide their written approval, the application is notified to all affected persons and they are invited to make a submission on the application. Notification is limited to affected persons and only those people who are deemed to be adversely affected can make a submission.



What will it cost?

The cost for a notified application can be high, depending on the complexity of the application and the length of the hearing, if required. If a hearing is required, Environment Canterbury will require a further deposit fee to cover the increased processing costs. In addition to costs passed on by Environment Canterbury, you will also have to pay for any legal or technical experts that you engage. Advice on how to reduce the costs of a publicly notified application is provided later in this booklet.

What is the process for notification?

Affected parties

People who will be adversely affected by an activity are known as affected parties. While the applicant should identify who they think will be affected as a result of their proposed activity, the final decision is up to Environment Canterbury. Affected parties are notified in writing of the application for both limited and public notification. If they provide written approval, the effects on them cannot be considered when a decision is made on the consent application. Written approvals can, however, be withdrawn at any time before the final decision is made.

Advertising in papers

Publicly notified applications are advertised in newspapers covering the area closest to the activity. The wording of the advertisement is usually sent to the applicant, who checks it for factual correctness. The costs of the advertisement are passed on to the applicant.

Site notices

If the application is of public interest, or if there are difficulties identifying affected parties, a site notice may be required to be placed on, or adjacent to the site of the proposed activity. The site notice will be prepared by Environment Canterbury and will contain the same wording as the newspaper advertisement. It is the applicant's responsibility to ensure that the site notice remains in place for the duration of the submission period.

Submissions

A submission is a written statement supporting, opposing or providing general information to the council regarding any issues they should be made aware of when considering a resource consent application.

A submission must be in writing and include the following:

- The full name, address and phone number of the submitter
- The name of the applicant and application number
- Whether the submission supports or opposes the application
- The reasons for making the submission
- The decision sought, including any conditions that should be placed on the consent if it is granted
- Whether the submitter wishes to present at a hearing.

Submissions should be written clearly and succinctly and be directly relevant to the proposed activity. The submission should not refer to any trade competition concerns, because under the Resource Management Act these cannot be considered.

Submissions must be received either by post, fax, e-mail or in person to an Environment Canterbury office no later than 5pm on the closing date for submissions. A copy of the submission must also be forwarded to the applicant by the submitter as soon as practicable after serving the submission on Environment Canterbury.

Council officer's report

Following the close of submissions, council officers will complete a report for the decision makers. The report will include:

- A summary of outcomes sought by submitters
- The officer's audit of the effects of the activity
- A recommendation on the consent decision, usually including draft consent conditions.

A copy of the report is provided to the applicant and all submitters who wish to be heard at least five working days before the hearing. Those submitters who do not wish to be heard will be informed of the report's availability. The consent decision-makers will receive a copy of the report, along with complete copies of the consent application and submissions.

Who will make the decision on my application?

A hearing is usually held within 25 working days of the submission closing date, unless further information is required or the applicant requests more time. The applicant and submitters will receive at least 10 working days notice of the time, date and venue of the hearing.

Councillor Committee

If there are no submitters who wish to be heard and no outstanding issues that you would like to address, there is no need for a hearing. In those cases a decision will likely be made by Environment Canterbury's Regulation Hearing Committee (RHC). The RHC will be comprised of three Environment Canterbury Councillors, who will make their decision based on the application, the officer's report and any written submissions.


Public hearing

The decisions at public hearings are made by elected councillors or independent commissioners appointed by Environment Canterbury.

Anyone can attend a hearing as an observer, whether they have made a submission or not. However, only the applicant and submitters who wish to be heard, or their respective representatives, can speak at the hearing. Only hearing committee members or the appointed Commissioner may question any party or witness; there is no cross-examination.

To make their presentations more effective, applicants and submitters should consider:

- Not reading out the written application or submission word-for-word – the decision-makers have already read these and taken note of their content
- Clearly explaining their desired outcome, any amendments and suggested consent conditions
- Keeping their case clearly focused on the consent application.



The applicant or submitter can show pictures or charts to illustrate their point, providing copies for the Committee and others at the hearing. They can also call witnesses to provide technical evidence to support their case, although they need to advise Environment Canterbury at least five working days beforehand to ensure enough time will be provided.

The hearing committee will probably ask questions to ensure they have a clear understanding of the application, its effects on the environment and the desired decision. Evidence can be written or spoken in English or Maori – a Maori interpreter will be provided if a participant at the hearing requests it, but the request must be made at least two weeks before the hearing.

What happens if I disagree with the decision?

The decision

Where a hearing is required, a decision will be made within 15 working days of the hearing closing. If a hearing is not required, a decision will be made within 20 working days of the closing date for submissions on the application. Both the applicant and submitters will receive a letter from Environment Canterbury detailing the final decision. If the decision is not appealed, the resource consent is granted or refused in line with that decision. If appeals are lodged with the Environment Court, the consent cannot take effect until the appeal has been resolved.

Appeals and the Environment Court

The applicant or a submitter can appeal the decision if they are not happy with it. The appeal must be lodged with the Environment Court and served on Environment Canterbury within 15 working days of receiving the Council's decision. A copy of the appeal must also be served on all submitters and the applicant if the appellant is a submitter, within 5 working days of the appeal being lodged.

The Environment Court is a specialist court with the same powers as the District Court. An appeal will usually be heard by at least one judge and one or more commissioners, who have expertise in areas such as resource management, environmental science and the Treaty of Waitangi.

If you are considering appealing a decision, you may wish to seek legal advice. Appeals need to be well thought through – obtaining professional advice early can save you significant time and cost later. Costs may be awarded against you if an appeal is lodged and later withdrawn, or if there is little basis for the appeal. This is to compensate other parties for the expenses that they have incurred in preparing their case.

How can I reduce costs and speed up the process?

Consult with parties or hold a pre-hearing meeting

At a pre-hearing meeting, the applicant and submitters can exchange ideas and give each other feedback. Sometimes, solutions to problems can be found and an agreement reached, potentially avoiding the need for a hearing. Even if all issues are not resolved, a pre-hearing meeting often results in a shorter hearing due to fewer outstanding issues. Environment Canterbury can organise a pre-hearing meeting, providing a facilitator and pre-circulating a report summarising the issues. Alternatively, an applicant may choose to meet with submitters independently.

Get good advice

Often an applicant or submitter will engage a relevant legal or technical expert to assist them with their case. While such expertise is expensive, it can be invaluable. However, if you receive bad advice, the process can be unnecessarily delayed and costly. Choose your team carefully.

Be prepared early

Avoid late changes to your application. This causes extra work for council staff and therefore additional cost for you. Changes made at the hearing often require extra hearing time and can result in the hearing being adjourned to allow staff and submitters to review the changes.



Reduce hearing time

Hearings are expensive, with hearing decision makers, council officers, and legal and technical experts all charging by the hour. You can reduce hearing time by:

- Encouraging the circulation of relevant information and evidence before the hearing. This will enable sufficient time for review and can avoid delays during the hearing
- Focusing on key issues at the hearing and not wasting time on minor matters
- Making sure your evidence is clear and easy to understand
- Narrowing the issues prior to the hearing. This can be done through consultation with submitters, including through pre-hearing meetings, and through regular and open dialogue with council officers.

Glossary

Affected Parties

People who may experience an effect as a result of a proposal which is significantly greater than or different from the effect on the general public.

Commissioner

An external expert appointed by Environment Canterbury to hear the application proposal and make a decision.

District Plan

Plans that are prepared by territorial authorities to help manage the environment within their area, and concern the use and development of land, setting out the policies and rules a council will use to manage the use of land in its area.

Environment Court

A specialist court with the powers of the District Court, which considers appeals on decisions made by councils on resource management matters.

Investigating Officer

An Environment Canterbury staff member with the appropriate skills and knowledge to process the application and make a recommendation.

Limited Notification

Where only the individuals or organisations who are considered adversely affected by a proposed activity are notified of the application by the Council and are able to make a submission.

Public hearing

A public meeting where a consent applicant and submitters are able to put forward their cases to consent decision makers.

Public Notification

Where an application is advertised in a newspaper and any person can make a submission on the proposal.

Regional Plans

Prepared by regional councils to help manage those parts of the environment for which they have responsibility.

Regulation Hearing Committee

(RHC) A committee of councillors with the delegated power to decide on a notified consent application.

Submissions

Outline of any written comments, opinions or concerns that may support or object to a proposed activity, policy statement or plan.

References

The Environment Court
PO Box 5027, Lambton Quay, Wellington.

Phone: 04 915 8300 Fax: 04 915 8303

Information booklets available through the Ministry for the Environment website
www.mfe.govt.nz:

“You, mediation and the Environment Court”

“Your guide to the Environment Court”

“Appearing at a Resource Consent Hearing”



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